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A P P E A R A N C E S

BILL KEESE, Commissioner & Chairman

MICHAEL MOORE, Presiding Member

SHAWN PITTARD

LOREEN McMAHON, Western

AL McCUEN

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MAGDY BADR, Air Quality Engineer

KENNETH CORBIN, Air Pollution Control Officer

PAUL RICHINS, Project Manager

For the Applicant:

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JERRY SALAMY, Air Quality Engineer

CURT HILDEBRAND, Project Director Calpine

GARY RUBENSTEIN, Sierra Research

1 TUESDAY, DECEMBER 1, 1998

2 MORNING SESSION

3
4 MR. FAY: We can go on the record. Good
5 morning. And we are here today again for an
6 evidentiary hearing on the Sutter Power Plant Project.
7 To my left is presiding Commissioner, Michael Moore,
8 and to my right is Commissioner and Chairman of the
9 Energy Commission, William Keese. And they make up the
10 committee. Also with Mr. Keese is Cynthia Praul, who
11 is an advisor. She's not up here right now. And on my
12 far left -- oh, yes, she is, sorry. On my far left is
13 Loreen McMahon from Western, representing the Western
14 Area Power Administration.

15 And so we'd like to get started. I apologize
16 for the delay. We had to be sure that the Air District
17 was familiar with some of the things that we will be
18 doing today, and I'll just mention that today's hearing
19 was subject to a revised notice that went out November
20 18th, identifying it as beginning at 9:00 a.m. And we
21 will start again at probably 6:30 p.m. for an evening
22 session tonight.

23 All right. What that notice includes is a
24 summary of the way we'd like to proceed. And I'd just
25 like to make a little correction. Rather than start

1 with a continuation of Calpine's cross-examination of
2 the staff's witness on visual resources, we will hold
3 that till later, and we will begin with air quality
4 testimony on that, and then public health, and then
5 move in to the supplemental testimony that the
6 committee asked for on facility closure,
7 socioeconomics, land use, especially sequencing
8 questions and alternatives. And then we will return to
9 visual resources last.

10 So with that, I would like to ask Calpine
11 representatives if they are ready to present their air
12 quality testimony. Mr. Ellison?

13 MR. ELLISON: Mr. Fay, we are. We had
14 some discussion with Staff in the Air District that it
15 might be more efficient and easier for the public to
16 follow if the Staff and the Air District were to
17 precede Calpine's witnesses, but we can go in any order
18 that the parties desire.

19 MR. FAY: Is that all right with you, Mr.
20 Ratliff?

21 MR. RATLIFF: That's fine with us.

22 MR. FAY: Why don't we go ahead and move
23 to the Staff then.

24 MR. RATLIFF: The Staff witness is Magdy
25 Badr.

1 MR. FAY: Would the Court Reporter please
2 swear the Staff witness?

3 MAGDY BADR

4 Having been first duly sworn, was
5 examined and testified as follows:

6

7 DIRECT EXAMINATION BY MR. RATLIFF

8 MR. RATLIFF: Q. Mr. Badr, did you
9 prepare the Staff air quality section and final Staff
10 assessment?

11 A. Yes, I did.

12 Q. Did you also prepare a document titled
13 revised air quality testimony for the Sutter Power
14 Project?

15 A. Yes, I did.

16 Q. Did you also prepare the errata for the
17 air quality testimony filed on November 17th, 1998?

18 A. Yes, I did.

19 Q. Do you have any changes to make in that
20 testimony?

21 A. Nothing beside that that I supplemented
22 this morning.

23 Q. Could you briefly describe what is in the
24 errata and the purpose of the errata?

25 MR. FAY: Mr. Ratliff, before we get into

1 his summary, I wonder if we could just mark for
2 identification both the Staff supplemental testimony
3 and the errata on air quality. Marked for exhibit, and
4 the next number in order for the supplemental Staff
5 testimony packet filed November 24th, would be Exhibit
6 42. And the final Staff assessment errata for air
7 quality testimony filed on November 17th, 1998 by Magdy
8 Badr would be Exhibit 43.

9 Is there any objection to marking these
10 accordingly? I hear none, so -- excuse me for
11 interrupting you, go ahead.

12 MR. BADR: The reason for submitting the
13 errata this morning is to reconcile some of the
14 differences between the FSA, or Final Staff Assessment,
15 and the Feather River Air Quality Management District,
16 DOC for Determination of Compliance. The changes are
17 minor and have been adopted by the Feather River, as
18 far as I know.

19 (Staff Supplemental
20 Testimony Packet marked as
21 Exhibit 42 at this time.)
22 (Final Staff Assessment
23 Errata marked as Exhibit
24 43 at this time.)

25 MR. RATLIFF: Q. Could you briefly

1 summarize your testimony?

2 A. Yes. Oh, the testimony, not the errata?

3 Q. I think you can summarize the testimony
4 first and then go through the high points of the
5 errata.

6 A. In carrying out my analysis, I identified
7 the potential air quality impacts associated with the
8 Sutter Project, evaluated the project's conformance
9 with all applicable air quality laws, ordinances,
10 regulations, and standards of law. Evaluated the
11 adequacy of the proposed mitigation measures and the
12 need for alternative or additional mitigation measures,
13 and proposed specific conditions of certification,
14 including those recommended by the local air pollution
15 control district.

16 During my analysis as well I worked closely with
17 California Air Resources Board Staff and U.S. EPA,
18 Environmental Protection Agency. The project -- my
19 analysis concludes that the project will, as proposed,
20 will comply with all local state and federal LORS.

21 A brief description of the project, Calpine
22 project, basically will consist of two Westinghouse
23 turbin generators, Model 501 FC, generate approximately
24 170 megawatts each. Each turbin would be equipped with
25 a duct burner and a HRSG or heat recovery steam

1 generator, and one steam turbin will generate
2 approximately 160 megawatt. Dry low NOx will have no
3 emissions associated with it. The dry cooling tower
4 does not have any emissions associated with the -- that
5 component, the dry cooling tower.

6 Continuous emission monitoring system, we would
7 refer to them as CEMS, C-E-M-S, emissions control
8 systems, which will include dry NOx combusters to
9 control NOx from the turbin to 25 PPM, selective
10 catalytic conductions to control NOx to 2.5 ppm and
11 oxidized catalyst to control CO and VOC.

12 The project basically will generate emissions
13 from two phases; during the construction of the project
14 and during the operation of the project.

15 The air emission associated with the
16 construction are generated from the -- basically the
17 construction of the project itself as well as the
18 linear facilities such as natural gas pipeline, drip
19 stations, natural gas dehydrators, transmission lines
20 and switch yards.

21 There are two main sources of emissions during
22 construction; the exhaust of the heavy construction
23 equipment such as excavators, tractors and dozers. The
24 second source is fugitive dust which will be generated
25 from the activities such as grading and preparations of

1 the site.

2 The project will generate air emissions as well
3 during the operation. Such as oxides of nitrogen, call
4 it NOx, N-O-x, carbon monoxide, CO, and particulate
5 matters I'll refer to as PM10, and volatile organic
6 components which is VOC. Sulphur dioxide, refer to it
7 as SOx. All these emissions will be referred to as
8 criteria pollutants.

9 The Staff assessed the maximum hourly, daily,
10 and annual emissions of the project, which are
11 summarized in the FSA air quality table 8, 9 and 10.
12 Furthermore, the Staff assessed the project impacts and
13 the cumulative impacts of these emissions on ambient
14 air quality, and those are summarized in the FSA air
15 quality table 15.

16 The applicant, Calpine, is proposing full
17 mitigation of the project during construction as well
18 as during the operation of the project. During
19 construction they are taking all the measures
20 necessary, and they are summarized in the air quality
21 condition one to six.

22 And during the operation of the project, they
23 are basically providing emission offsets or ERC,
24 Emission Reduction Credits, for NOx, approximately 165
25 percent of the liability of the project or the project

1 emissions itself for VOC. They are providing 122
2 percent of the emission project. And for PM10 they are
3 providing 120 percent of the emission or the project
4 liability.

5 And the reason they are much higher is because
6 of the distance where these emissions have been
7 obtained. For example, for NOx emissions, not all
8 emissions are coming out from the local area, which is
9 the Feather River Air Quality Management District
10 banking system. One third of the emissions are coming
11 from the banking system, and two-thirds are coming from
12 the Sacramento Air or Sacramento Metropolitan Air
13 Quality Management Bank.

14 My understanding as of this morning is that the
15 Feather River Air Quality Management District has
16 finalized their FDOC, Final Determination of
17 Compliance.

18 Based upon the evidence in the record, assuming
19 implementation of the conditions of certification and
20 the conditions contained in the Final Determination of
21 Compliance by the Feather River Air Quality Management
22 District, the Staff concludes the Calpine project will
23 meet all applicable air quality requirements and will
24 not cause any significant air quality impacts. Thank
25 you.

1 MR. RATLIFF: Q. That concludes your
2 summary of your November 17 testimony?

3 A. That's correct.

4 Q. Could you briefly summarize the errata --

5 A. Sure.

6 Q. -- Exhibit 43 as it's been identified
7 today?

8 A. Yes. On page 2 in the FSA, I'm basically
9 adding PM10 in that second paragraph in two places. On
10 page 5 of the FSA, I'm striking the 12 acres and it's
11 16 acres instead. On page 22, Table 8, we changed the
12 numbers in the tables based on the new information we
13 have. On page 27, there is two changes under -- in the
14 table, limiting standards for PM 2.5.

15 On page 30, basically we are adding a language
16 to be consistent with the DOC, the first two lines in
17 the first paragraph. On page 42, air quality condition
18 33, we are striking the first line because the numbers
19 are basically the maximum numbers. On page 43, air
20 quality 33, part 16, we changed this table to reflect
21 what will be the source test will look like if they
22 were to conduct a soils test tomorrow. So actually
23 there is no change in the substance of this table, just
24 basically adding numbers together.

25 On page 44, part 17, we are striking some of the

1 different components' maximum daily emissions. We are
2 limiting it to be for every CTG, two-ton emissions for
3 CTG or compression term generator or the daily maximum
4 cap basically.

5 On page 45 we are doing very similar part to
6 part 19. Total emissions on an annual basis for the
7 CTG and for the whole project. And we are striking
8 those.

9 On page 46, basically in air quality 35, we are
10 striking the E, which refers to the condition in the
11 district and become AQ-35 to the 31st FSA, very similar
12 corrections in AQ-36. In page 47, air quality or
13 AQ-38, we are adding, under normal operating
14 conditions, and adjusted in the same line, and we are
15 striking the set at lower limit.

16 On page 48 of my testimony, air quality 42, we
17 are adding the language as you see it here, alternative
18 sources of offsets may be used if the needed criteria
19 apply to these sources and are approved by the district
20 and CPM. Also in the table, we are adding the footnote
21 there. ERCs are based on the appropriate offset
22 distance ratio calculations.

23 Q. Just to clarify that last change you were
24 mentioning, on air quality 42, the applicant has
25 proposed to satisfy the offset requirement using option

1 contracts; is that correct?

2 A. Yes.

3 Q. And these are identified in that
4 condition; is that right?

5 A. Yes, they are.

6 Q. And the change would allow them, if they
7 were for some reason -- did not provide these
8 particular option contract offsets, they would be able
9 to do so, but only with the approval of the district
10 and the Staff; is that right?

11 A. That's correct.

12 Q. Okay.

13 A. That's basically the reason for the
14 language.

15 Q. Does that conclude your summary of your
16 errata?

17 A. Yes, it does.

18 MR. RATLIFF: The witness is available for
19 questioning.

20 MR. FAY: Mr. Ellison, do you have any
21 questions of the Staff --

22 MR. ELLISON: No.

23 MR. FAY: -- this witness? Okay. Mr.
24 Foster, does Farm Bureau have any questions of the
25 Staff air quality witness?

1 MR. FOSTER: Just one.

2 On the PM10S, how do you come to the amount of
3 PM-10s, like dust on Boulton Road, the amount you need
4 to offset for the dust?

5 MR. BADR: Are you talking about when we
6 are paving roads basically, how we come up with that?

7 MR. FOSTER: Yeah.

8 MR. BADR: Basically an equation is
9 available in the AP-42. That's the one we use. We
10 take records of the traffic on these particular roads,
11 basically 24 hours, to see what the traffic, how heavy
12 the traffic is, the number of cars, and then we take
13 the average of that. And then we use it in that
14 particular equation and we come up to pounds per day or
15 tons per year.

16 MR. FOSTER: What time of year was that
17 done?

18 MR. BADR: I believe it was September, one
19 week in September, a whole week in September.

20 MR. SALAMY: I believe it was the 23rd
21 through the 30th.

22 MR. BADR: That's correct.

23 MR. FOSTER: Well, next question, did you
24 notice the traffic being particularly heavy that time
25 of year?

1 MR. SALAMY: During some periods of the
2 day it was; other periods it was light.

3 MR. FOSTER: Being the neighbor and
4 talking about traffic patterns, you are talking about
5 the middle of rice harvest. That road is surrounded by
6 rice fields. You'll have more traffic on that road in
7 September and October, more than other times of the
8 year. So I don't think we have correct information
9 about the amount of dust on Boulton Road. Thank you.

10 MR. SALAMY: Strangely, there was a lot of
11 traffic as well. You tend to harvest rice on Sunday?

12 MR. FOSTER: We harvest rice, if possible,
13 seven days a week.

14 MR. FAY: All right. We'd like to now
15 invite Mr. Corbin from the Feather River Air Quality
16 District to come forward and present his final
17 determination of compliance, if you will. Mr. Corbin,
18 if you don't mind, we'd like to have you sworn as a
19 witness.

20 MR. CORBIN: Sure.

21 KENNETH CORBIN
22 Having been first duly sworn, was
23 examined and testified as follows:

24

25 MR. CORBIN: I'm not sure what the best

1 procedure is presenting our -- making our presentation
2 today. The District has been working with the
3 applicant with the Energy Commission Staff with Air
4 Resources Board, with the U.S. EPA, for a number of
5 months to try to put together a determination of
6 compliance that would meet all of our requirements and
7 take into consideration those requirements that the
8 other agencies and the public felt was appropriate as
9 well.

10 We did complete and make a determination of
11 completion on November 13th of this year, and that did
12 go out to all the public agencies that had requested to
13 review and to make comments on. We really haven't
14 gotten a lot of comments back as far as our final
15 determination of compliance. I don't recall that we
16 really had directly any comments from the California
17 resources board or from the U.S. EPA, or from the
18 public. So we have looked at some suggested changes by
19 the Energy Commission Staff and also some from the
20 applicant.

21 I was gone all of last week, so I didn't really
22 have a chance to do as much as I would like to review
23 some of those recommended changes. The errata sheet
24 that was provided to you by Magdy Badr, I have had a
25 chance to review that yesterday and again some this

1 morning. The changes that have been requested are ones
2 that we feel will help to clarify some of the questions
3 that were raised. They have been agreed to by the
4 applicant, and at this time I do not have a written
5 errata sheet that I can provide you with for changes
6 that we will make on our determination of compliance
7 that was done November 13th. I do agree in concept
8 with the errata changes that were done by the CEC, and
9 those changes will be made to our final determination
10 of compliance.

11 MR. FAY: So you agree with the changes
12 made in Exhibit 43 --

13 MR. CORBIN: Yes, I do.

14 MR. FAY: -- staff errata? If I may, I'd
15 just like to ask you a couple questions. As I think
16 Staff counsel has reviewed with you, the Warren Alquist
17 Act requires the Energy Commission to make certain
18 findings in the written decision, and it says that the
19 Commission may not find that a facility conforms with
20 applicable air quality standards unless the applicable
21 air pollution control district or air quality
22 management district certifies the complete emission
23 offsets for the proposed facility have been identified
24 and will be obtained by the applicant prior to the
25 Commissions licensing of the project. And this is so

1 that the Commission can determine the extent that the
2 facility complies with local, regional, state or
3 federal air quality standards.

4 Are you able to advise us on whether the
5 proposed facility has identified a complete offset?

6 MR. CORBIN: Yes, they have.

7 MR. FAY: They have?

8 MR. CORBIN: Yes.

9 MR. FAY: And will those be available
10 prior to anticipated licensing of the facility by the
11 Commission, if the Commission decides to do that?

12 MR. CORBIN: We currently have copies of
13 the ERC --

14 MR. FAY: Excuse me, I have to correct
15 myself. Not will they be available, will they be
16 obtained by the applicant prior to licensing?

17 MR. CORBIN: Excuse me, the applicant is
18 provided copies of letters of intent, and we also
19 have -- I guess the only issue as far as emission
20 reduction credits at this point would lie with the
21 particulate matter offset credits that will be provided
22 by paving of roads in Sutter County. I have discussed
23 that with the counsel for Sutter County. There is
24 agreement that those would be provided. The County
25 wishes to wait to finalize that agreement until after

1 this Commission has made its preliminary
2 determination. Therefore, that agreement wouldn't be
3 available prior to the final determination having been
4 made. So I can certify at this point that all of the
5 credits would be available prior to your final
6 decision.

7 MR. FAY: I'm sorry, so you can't?

8 MR. CORBIN: I can.

9 MR. FAY: In the affirmative?

10 MR. CORBIN: Yes.

11 MR. FAY: And as to the PM10 question, is
12 it just a matter of how many miles of road are paved?

13 MR. CORBIN: No. The question is really a
14 matter of the County taking some action on those prior
15 to this Commission making its preliminary
16 determination. It had to do with the final Staff
17 assessment being complete so that what is the
18 equivalent environmental review is equivalent to the
19 County taking action. So it wasn't a matter of
20 agreement with the contract.

21 It's really a matter of completing the
22 environmental review, which the County doesn't do,
23 which this Commission does do, if they wanted that to
24 be completed before they took that action.

25 MR. FAY: I see. Okay. Thank you.

1 Mr. Ellison, do you have any questions of Mr
2 Corbin?

3 MR. ELLISON: I do have just one
4 question.

5 EXAMINATION BY MR. ELLISON

6 MR. ELLISON: Q. Mr. Corbin, when you
7 gave a presentation to the Planning Commission
8 recently, you addressed the question of the impact of
9 this project on the amount of offsets that would be
10 available to the County for future development after
11 this project were to go forward, and I would ask you if
12 you could address that same issue in this hearing.

13 A. See if I brought those notes. I think so.
14 In reviewing the question of what would be left in this
15 district in the way of emission reduction credits after
16 this project, I looked at what we currently have in our
17 emission reduction credit bank, as well as some
18 additional credits that have been applied for for
19 biofuel emission reductions, and the amount that would
20 be left if you take out those that would be used by
21 this project, and you add together the amount that was
22 left from both what's in the bank and what's been
23 applied for for reactive organic compounds, there would
24 be 350 tons for nitrogen oxide to 165 tons and for
25 particulate matter 310.2 tons.

1 So that actually is the amount that would be
2 from the biofuel offset credits from stationary
3 sources, 30 tons of reactive organics, 96 tons of
4 nitrogen oxides, and 50 tons of PM10. So certainly if
5 those were all made available to another applicant,
6 there would be sufficient credits for another project
7 of this size. I think that was pretty much what I had
8 addressed at that time.

9 Q. As I recall, you also had some percentage
10 figures for the percentage of the available offsets
11 that this project was using compared to the total
12 amount that are available. Do you have those notes
13 with you?

14 A. What I looked at was the emission
15 inventory for our district done by the California Air
16 Resources Board 1994. The total emission inventory of
17 reactive organics in the tons was 5,073, and the
18 reactive organic offset requirement for this project is
19 24. So the total of this project would be one half of
20 one percent of reactive organics. For nitrogen oxides
21 the total is 3,358 tons and the inventory of this
22 project, 205 tons, that would be 6.1 percent of the
23 total. For carbon monoxide, from the inventory, 31,974
24 tons and this project 483, which is one and a half
25 percent. For sulfur oxides from the inventory, 146

1 tons, from this project 31. It's actually 21 tons.
2 For PM10 from the inventory 13,140, from this project,
3 92, which is seven-tenths of one percent. So other
4 than sulfur oxides, the amount of emissions for this
5 project are very small percentage of the overall
6 inventory.

7 MR. ELLISON: That's all I have. Thank
8 you.

9 MR. FAY: Mr. Ratliff, do you have any
10 questions of Mr. Corbin?

11 MR. RATLIFF: No.

12 MR. FAY: Mr. Foster, would you like to
13 come up? I'm afraid we'll have to take turns here.
14 You pose your question and Mr. Corbin can respond.

15 MR. FOSTER: On the issue of how many credits would be
16 left in the bank after this project, could you tell us
17 how many of those are available? Maybe I should reword
18 that. Are any of those earmarked for other projects
19 already?

20 MR. CORBIN: I can probably speak from
21 here if that's all right.

22 MR. FAY: Can you hear in back? We want
23 the audience to be able to hear.

24 MR. CORBIN: I'll share the podium.

25 MR. FOSTER: That's fine.

1 MR. CORBIN: As far as the credits being
2 spoken for, it's difficult to say. The way our bank
3 works, anyone can own those credits, and they can use
4 them for any project that they would like so long as
5 they are within our district. And I think -- what Brad
6 is probably referring to is the fact that there was a
7 project that was scheduled about five years ago. It
8 was called the Sutter ethanol. I believe the Energy
9 Commission, Sacramento ethanol. The Energy Commission
10 did review an application from them. It was for a rice
11 straw project that would produce power as well as get a
12 lot of the straw. And that project, which never went
13 forward, is still on the back burner as far as I know.

14 There was a company, I believe, a company that
15 bought some of the credits that were in our bank
16 proposing to use them for that project. As I said, the
17 project never went forward. They still own those
18 credits, and how they will be used is beyond my ability
19 to predict at this point at least.

20 MR. FOSTER: What are the consequences if
21 the air standards are not met, emissions of the plant?

22 MR. CORBIN: The ambient air quality
23 standards currently, our District has maintained the
24 State standards for ozone and for PM10, and the
25 consequences of not being on a team are that when a

1 project like this tries to locate, it becomes a little
2 more difficult than if you were a team.

3 In our case, they are required to offset, if
4 it's a new project, anything over 25 tons per year. So
5 if we were to continue as not a team status, we can
6 improve on that. In the future the offset trigger
7 would be at a lower level, 15 tons per year and
8 eventually, perhaps five tons per year.

9 As far as this project, it's considered as a
10 modification. Therefore, it has to offset from zero
11 already. So it just depends on where it goes from
12 there.

13 MR. FOSTER: You meet a standard of 2.5.
14 Say after it's running a year it's only capable of 3.0,
15 what steps are taken then?

16 MR. CORBIN: I have to frankly admit I
17 don't know what the process would be. If they are
18 required to meet a two and a half and they start the
19 plant up and it's unable to -- and it would be tested,
20 source tested to determine what their nitrogen oxide
21 emission levels would be and parts per million.

22 If they can't meet that, then they would have
23 to, I believe in our case, would have to apply for a
24 variance in order to continue operating the plant.
25 They could look at improving the control equipment,

1 adding some additional catalyts, perhaps get it down
2 to a lower level.

3 And I think your question is, if it totally is
4 not feasible for them to be able to, if they are not
5 able to meet a two and a half, what would the
6 consequences of that be, and I'm not sure. I think
7 they could apply through the Commission and through our
8 district to modify their permit and to allow for a
9 limit that they can meet, if there is no possible way
10 that they can meet a two and a half. Whether or not
11 that would be allowed, I'm not sure.

12 MR. FOSTER: When was the last time we had
13 a change in our air quality standards?

14 MR. CORBIN: The State air quality
15 standards I believe are reviewed about every six years,
16 and there have been some minor changes, none that would
17 affect the -- our district's status as far as attain or
18 not attain. The federal standards have been reviewed.
19 Recently I believe the federal admitted their standards
20 for particulate matter and oxides a couple of years
21 back, and some of those standards are currently in
22 effect, but there is not enough data to determine at
23 this point whether our district or any of the other
24 districts are attained or not attained for those
25 standards.

1 MR. FOSTER: That's all. Thank you.

2 MR. FAY: Okay. Thanks very much, Mr.
3 Corbin, for coming and submitting your final
4 determination of compliance. And will you be
5 submitting a corrected version of that based on the
6 changes that you've indicated in your testimony?

7 MR. CORBIN: Yes, I will. I will have
8 that available by next week.

9 MR. FAY: Okay. Thank you. All right.
10 Then we'll move to the applicant's witness.

11 MR. ELLISON: The applicant has submitted
12 two different pieces of testimony on air quality. One
13 sponsored by Mr. Jerry Salamy and one sponsored by Mr.
14 Gary Rubenstein. Mr. Rubenstein's testimony, which has
15 been identified in this proceeding as Exhibit 28,
16 addresses issues which are now resolved with respect to
17 at the time he prepared his testimony were differences
18 between Calpine's position and that of the Staff.

19 It is our intention at this point, in order to
20 move this proceeding along more efficiently, to
21 withdraw Mr. Rubenstein's testimony, which is no longer
22 relevant to any contested issue in this case and which
23 has also raised some concerns among a potential
24 intervenor. Probably no longer necessary for Mr.
25 Rubenstein to present his testimony and would move the

1 hearing along more quickly in order to do that. So we
2 would, with the committee's permission, withdraw
3 Exhibit 28 at this time.

4 MR. FAY: Any objections from the Staff?

5 MR. RATLIFF: No.

6 MR. FAY: Farm Bureau? Any objection?

7 All right. We'll strike Exhibit 28 then as withdrawn
8 in the evidentiary record.

9 MR. ELLISON: I've asked both Mr.
10 Rubenstein and Mr. Salamy to appear here as a panel,
11 however, as witnesses on the air quality issues for
12 Calpine, given that both of them have participated in
13 the review of the final determination of compliance and
14 the final Staff assessment. But since Mr. Salamy is
15 the applicant's chief witness at this point, I will
16 call upon him to address these issues, although Mr.
17 Rubenstein will be available to answer any questions.

18 Q. Mr. Salamy, you have before you Exhibit 26
19 which is the testimony of Calpine in this proceeding?

20 A. Yes, I do.

21 Q. And at the beginning of page two, air
22 quality, do you see Exhibit 26?

23 A. Yes, I did.

24 Q. Did you prepare the air quality portion of
25 Exhibit 26?

1 A. Yes, I did.

2 Q. On the declaration that is attached to the
3 air quality section, do you see that?

4 A. Yes, I do.

5 Q. Is that your signature on the
6 declaration?

7 A. It is.

8 MR. FAY: Mr. Ellison, hold on and swear
9 both your witnesses first.

10 MR. ELLISON: Pardon me.

11 JERRY SALAMY,

12 Having been first duly sworn, was
13 examined and testified as follows:

14

15 GARY RUBENSTEIN

16 Having been first duly sworn, was
17 examined and testified as follows:

18

19 DIRECT EXAMINATION BY MR. ELLISON

20 MR. ELLISON: Q. Mr. Salamy, I asked you
21 a number of questions before you were sworn. If I were
22 to ask you the same questions now, would you give the
23 same answers?

24 A. Yes, I would.

25 Q. Do you have any additions or corrections

1 to the air quality portion of Exhibit 26?

2 A. I do not.

3 Q. Mr. Salamy, rather than asking you to
4 summarize your testimony, let me ask you this, you have
5 heard this morning the summary by Mr. Corbin and Staff
6 regarding their position in the final determination of
7 compliance and the final Staff assessment, correct?

8 A. Yes, I did.

9 Q. Do you have any disagreement with the
10 conditions that would be imposed by the Staff or by the
11 District on this project?

12 A. No, I do not.

13 Q. Mr. Salamy is available for
14 cross-examination.

15 MR. FAY: Staff have any questions of the
16 witness?

17 MR. RATLIFF: No.

18 MR. FAY: All right. Mr. Foster, any
19 questions from the Farm Bureau?

20 MR. FOSTER: No.

21 MR. FAY: All right. No questions from
22 Staff or Farm Bureau or committee. Thank you very
23 much.

24 Is there any objection to receiving that
25 testimony into evidence? And just for housekeeping, I

1 would like to identify the final determination of
2 compliance as submitted by Mr. Corbin to the record.
3 It was received at the Energy Commission November 25th
4 into the docket. That will be identified as Exhibit
5 44. Is there any objection to receiving Exhibits 42,
6 which was the Staff supplemental testimony, Exhibit 43,
7 the Staff errata on air quality, and Exhibit 44, the
8 final DOC into the evidentiary record at this time? I
9 hear none, so they are so moved.

10 (Exhibits 42, 43 and 44
11 admitted into evidence at
12 this time.)

13 MR. FAY: Thank you all. That concludes
14 taking of evidence on air quality, and we would like to
15 invite members of the public to comment on subject air
16 quality if they would like. And I have just had a blue
17 card from Mr. Massey but it was regarding something
18 else. Could anybody indicate by raising their hand if
19 they wish to comment on air quality? Please, come
20 forward.

21 MR. SHANNON: I'm Mike Shannon. I farm
22 out in that area. There is one comment, one thing I
23 read. You put those tests along those gravel, around
24 the roads for traffic, and you put one on Boulton Road
25 right by my shop. And I believe that was in the last

1 week of August and it went through probably October, if
2 I recall. And my question is, if you're using these,
3 if you're using this data off that road for the travel
4 you got and the dust that that road made during that
5 period of time, you did use probably the busiest six
6 weeks of the year.

7 And the other question, what kind of keeps me
8 thinking about it, is the amount of traffic that you
9 registered use on that road that period, is that over
10 you guessing that's going to be on a 12-month period?
11 And then if you are going to pave a gravel road like
12 that, are you saying that the amount of dust created
13 from that traffic on that period of time is over a
14 12-month period? Because once it starts raining out
15 there, there is no more dust, and once you get rid of
16 the rice harvest, except for the spring when everyone
17 is planting, that road gets basically no use at all.
18 Except for the locals who live there and the trucks
19 that service the gas wells, there is almost no traffic
20 on the road at all. But if you identify that you
21 register traffic on the last week of August through
22 September and October, I'd say that's probably as busy
23 as many of the paved roads in the area close to the
24 city. Because I'll guarantee you myself, I go up and
25 down that road 30 times a day, and a lot of days I

1 don't go up it at all, and I own that property there.

2 So I guess the point I'm making, if you're using
3 the amount of traffic on that road in reflection to the
4 amount of dust that's made, so how much are we going to
5 save by paving that road? You have to realize that
6 that road doesn't make any dust for about four months
7 out of the year. See my point?

8 And the other thing we were talking about, the
9 pollution credits, Mr. Corbin didn't touch on this, is
10 how many of the pollution credits that he's talking
11 about that Calpine is buying are the same type of
12 pollution credits that I would be using on my ranch
13 when I farm in relation to dust and emissions from my
14 diesel tractors. And the other thing that I haven't
15 heard anybody say and I'd like somebody to clear it up,
16 is the air quality -- I know they are getting tighter
17 and tighter. So are there going to be less credits
18 available in the future? And if the credits that are
19 being bought by Calpine today, do they have to buy
20 credits every year? And if they operate, are they
21 going to have any effect on my ability to farm on hot,
22 low inversion days where everything stays low? Because
23 we are, I know I do transmit -- I put a lot in the
24 atmosphere through my tractors. Thank you.

25 MR. FAY: Just in the interest of keeping

1 everybody informed, Mr. Badr, can you respond to his
2 first question about measuring the PM10 or the Calpine
3 witnesses? How was that particular road selected, and
4 is there a chance that that's not representative
5 because of the time?

6 MR. SALAMY: There were a number of
7 campers, I believe four, two campers on Boulton Road to
8 cover the entire road. The equations used to generate
9 the emission estimates do take into account rain.
10 That's part of the equation. So the issue of rain is
11 addressed in the equation.

12 MR. SHANNON: Then why did you only pick
13 the month of September, instead of going out and
14 putting one there in March and May and then in June?
15 Again, if you're going to do a study, and you wanted to
16 know what the accurate results of the study are, they
17 should be done two or three times a year, not right in
18 the middle of harvest season. So it seems to me the
19 rules you are trying to get favor Calpine instead of
20 getting what a normal use of that road is.

21 MR. FAY: Mr. Shannon, we've got your
22 comment on the record. Now I'd like to give the
23 witness a chance to --

24 MR. SALAMY: That was when we scheduled to
25 do the work. We hired a subcontractor to perform the

1 two counts. That was when he could get out there to do
2 the work.

3 MR. FAY: Okay. Any other comments on the
4 subject of air quality? Yes, Mr. Akin.

5 MR. AKIN: I'm Jim Akin, farmer in the
6 area. The last summer has been one of the, should I
7 say highest pollution in visibility -- in the
8 visibility aspect as I've experienced in my years in
9 the county. I can't in all fairness imagine why the
10 state would allow more pollution to come to Sutter
11 County and be generated in Sutter County when we have
12 an abundance of it already, particularly bringing air
13 pollution credits that have been garnered in years past
14 and haven't been used for a long time. I know Sutter
15 County goes over the edge of accepted air quality quite
16 often, particularly when we have south winds.

17 I can't see, if we are exposed to -- and the air
18 pollution czars in Sacramento that run this whole
19 thing, I can't see what they are thinking about when
20 they are allowing more pollution instead of trying to
21 reduce it. It's counterproductive to the whole
22 system. Thank you.

23 MR. FAY: Thank you, sir. Any other
24 comments on air quality concerns? All right. I see no
25 indication -- did you have something further?

1 MR. BADR: I believe the -- Mike Shannon
2 asked multiple questions. We answered only one which
3 has to do with the roads.

4 MR. FAY: Do you have a response to his
5 questions?

6 MR. BADR: Yes.

7 MR. FAY: On the roads or --

8 MR. BADR: No, that was one part was the
9 roads.

10 MR. FAY: Other available --

11 MR. BADR: The other part was the ERCs,
12 and if the ERCs can be purchased once or every year --
13 am I correct? Basically, they would be purchased once
14 and they would be purchased back, of course. So by
15 shutting down the sources -- the applicant is shutting
16 down the sources, it will be permanent. The sources
17 will not emit every year. So in a way it's been
18 purchased every year because you are shutting down that
19 source altogether, and it's not emitting anymore.

20 MR. FAY: He also raised a question about
21 how it might affect his ability to farm. And is the
22 answer to that, does that lie with the response Mr.
23 Corbin gave to Mr. Ellison's question about the
24 percentage of available offsets that the project uses?
25 Does that affect other commercial and farm activity in

1 the county?

2 MR. BADR: Yes, sir, it does. So
3 basically if the amount of emissions is not -- compared
4 to the inventory is not significant, it shouldn't
5 affect the farming ability or other activities in the
6 area.

7 MR. FAY: I see. Okay.

8 MR. SALAMY: I have a comment. Currently,
9 other than burning, agricultural burning, farming
10 activities are not regulated by the air district other
11 than burning.

12 MR. FAY: Okay. I see two more
13 indications. We'll just take two more comments on air
14 quality and then we'll move to public health.

15 MR. BURKE: My name is Jerome Burke. I'm
16 a Sutter County resident. Did I understand correctly,
17 if I take a machine that is putting out ten tons of
18 pollution off line, I can buy ten tons of pollution
19 credits? Is that correct, or I can be issued that?
20 Not buy it, I'm taking it off line.

21 MR. BADR: If you take a piece of
22 equipment that was emitting ten tons and you are
23 willing to shut it down, for whatever reason, you can
24 take the ten tons, apply to the district, and the
25 district will assess these ten tons, then will issue a

1 certificate that you have ten tons of emissions -- it's
2 a commodity now, you can buy or sell. You can sell it
3 basically.

4 So if an operator came into the area and he
5 would like to have offsets because he's going to emit
6 ten tons or more, he can come to you and purchase that
7 ten-ton certificate from you and do it, clear it
8 through the District and come to the ERC.

9 MR. BURKE: So if I take that ten tons off
10 this year and somebody comes and puts ten tons back in
11 by buying my ERC, it's a wash?

12 MR. BADR: No increase in emissions, yes.

13 MR. SALAMY: That's -- I'm sorry, that's
14 actually not correct. When you apply to the District
15 for an ERC certificate, they will take five percent of
16 that ten tons right off the top.

17 MR. BURKE: Oh, okay.

18 MR. SALAMY: Now, when someone buys them
19 from you to apply to a project, they have to buy more
20 than what they have emitting. So they have to buy at a
21 rate of at least 1.1 to 1.

22 MR. BURKE: 1.1 being the five percent?

23 MR. SALAMY: No, this is something in
24 addition. In addition to having to mitigate their
25 emissions, they are required to pay or buy additional

1 offsets I don't want what they are emitting.

2 MR. BURKE: Okay.

3 MR. SALAMY: So you would actually have
4 approximately a 15 percent reduction of those ERCs?

5 MR. BURKE: If I do it this year, there
6 would be an actual reduction. If I take one off, put
7 one back on, there would be an actual reduction by the
8 15 percent?

9 MR. SALAMY: That's correct.

10 MR. BURKE: What if I take it off two
11 years ago or six years ago, and now there hasn't been
12 any pollution put out by my ten tons over that period
13 of time, but the air has gotten worse. And now the
14 operator wants to come in and buy my ten tons or 8.5
15 tons apparently at this point. Now I'm putting 8.5
16 tons back into the air that wasn't there at the
17 beginning of the year. How does that reduce the air
18 pollution?

19 MR. RUBENSTEIN: Mr. Fay, I'd be happy to
20 answer that question.

21 MR. FAY: I'll just put this in context.
22 These, I welcome Mr. Rubenstein's explanation, but
23 these are sort of basics that are not specific to this
24 power plant.

25 MR. BURKE: Right.

1 MR. FAY: But we do want everybody to
2 understand how it works.

3 MR. BURKE: The basics, since they are
4 basics, are applicable to this power plant.

5 MR. FAY: And anything else that comes to
6 Sutter County; all industry.

7 MR. BURKE: That's why I'm asking the
8 question.

9 MR. RUBENSTEIN: Mr. Burke, when you would
10 have gotten that credit, say six years ago for those
11 ten tons, Mr. Corbin, in preparing his air quality
12 plans and figuring how to bring the County into
13 attainment would have treated those ten tons as if you
14 were still emitting.

15 So all the air quality plans take into account
16 that those credits, whenever they are banked, may come
17 back in the form of real emissions. So that's all
18 taken into account and he still has to figure out a way
19 to bring the County into compliance. And so when a new
20 source comes in and uses those credits, and because of
21 the ratios that Mr. Salamy talked about, only emits
22 eight and a half tons, they will continue to be a small
23 real reduction in emissions, and you will make just a
24 little bit of progress, even though you're adding a new
25 source and even though the County is continuing to

1 grow.

2 MR. ELLISON: If I could add one comment,
3 and in invite Mr. Rubenstein to correct this if it is
4 wrong, make two other points here. One is that there
5 is a fixed period of time during which you can bank
6 these credits. They don't last forever.

7 MR. BURKE: How long is it?

8 MR. RUBENSTEIN: Well, for a fixed or
9 piece of industrial equipment that's bolted to the
10 ground, you have to apply for credits within a fairly
11 short period of time after you create them. Once those
12 credits are created, however, they do have an
13 indefinite life. If you were to use a piece of farm
14 equipment, for example, that has a life of five or ten
15 years, then the credits themselves will only have a
16 finite life which might be only three or four years.

17 MR. ELLISON: The other point, and perhaps
18 the more important one to understand why this system
19 came about, when the original concept of the Clean Air
20 Act was that people would, in order to permit a source
21 of emissions, would have to go out and purchase an
22 offset in real time to more than offset the emissions
23 that they were putting into the air. That created a
24 value in emissions, if you will. In other words,
25 somebody now had something that they could sell. But

1 what the air quality policy makers then had to deal
2 with was the problem that if they didn't allow this
3 banking that we've been talking about, we would then be
4 encouraging people to continue to emit, because if they
5 stopped emitting, they would lose the value of that
6 emissions credit.

7 And that was a very real problem at the outset
8 of the Clean Air Act. It was actually potentially
9 having an opposite effect of what it was intended to
10 have. It was encouraging people to not shut down
11 equipment, because if they did so, there was no way to
12 bank it and preserve the value that had been created in
13 that. So that the purpose of this whole banking
14 operation and the issue you've been talking about is to
15 allow people to reduce their emissions without losing
16 the value of those emission credits for the purpose of
17 reducing the clean air.

18 MR. BURKE: I think I understand. So
19 based on what I heard, the air should have been getting
20 better in Sutter County over a period of time as
21 emission credits were issued. Is that correct? I mean
22 that's the idea?

23 MR. FAY: That's the idea.

24 MR. BURKE: And I wasn't here for Mr.
25 Corbin's testimony, but is that indeed the case? Or is

1 this a system --

2 MR. FAY: It's still a non-attainment
3 area. I don't know if it's improved over time. Maybe
4 Mr. Corbin can answer your question.

5 MR. CORBIN: As you indicated, still
6 non-attainment.

7 MR. BURKE: Is it closer to attainment?

8 MR. CORBIN: Pardon me?

9 MR. BURKE: Is it closer to attainment?

10 MR. CORBIN: I couldn't say it's closer to
11 attainment.

12 MR. BURKE: Would you say it's worse?

13 MR. CORBIN: Year to year the factors --

14 MR. BURKE: I'm not --

15 MR. FAY: Excuse me, Mr. Burke, let him
16 finish answering the question.

17 MR. CORBIN: Year to year the factors that
18 affect how many times we exceed the standard which is
19 an indication of whether the air quality is getting
20 better or worse have a lot to do with meteorology, so
21 you have to kind of look at a period of maybe five or
22 ten years, is it getting better or worse. I would say
23 if you look at the data, it's probably stayed about
24 where it was. We still exceed the standard enough
25 times to be considered non-attainment, and there is a

1 lot of factors that affect that.

2 MR. BURKE: So if I looked at this over
3 the next 30 years, I could sort of think that we'll
4 probably be about where we are now in 30 years or maybe
5 a little worse, because there is other factors, maybe
6 get a little better.

7 MR. CORBIN: Could be either way. There
8 is going to be growth, more people come in, more cars,
9 more houses, more everything, more collusion
10 pollution. So if we're able to make some reductions in
11 some areas, it's offset by increases in other areas.
12 And I'd like to say that five or ten years from now
13 we'll attain all the standards, but I'm not sure that
14 we can say that.

15 MR. BURKE: And will the standards stay
16 the same, or are they being updated and changed?

17 MR. CORBIN: Federal standards have
18 changed. Two years ago, they are tighter for both
19 ozone and particulate PM10. And it's likely that
20 Sutter County will be in violation of both of those new
21 standards.

22 MR. BURKE: Thank you.

23 MR. FAY: Thank you.

24 MR. BURKE: I guess it's -- we can't say
25 whether it was worse or better in 30 years. I'm

1 reminded of the old fable that the race is not always
2 to the swift or the battle to the strong, but that's
3 the way to bet it. So -- thank you.

4 MR. FAY: Thanks, Mr. Burke. Mrs.
5 Amarel?

6 MRS. AMAREL: Cookie Amarel. My question
7 is, if Calpine's putting out X-amount of pollutions a
8 day, does that mean that when it comes to rice burning
9 time that it will be less acres to burn of a day when
10 we seem to have only three or four days a year that we
11 can burn now? Does that lower our burn days? Because
12 it's --

13 MR. FAY: Well, that's the kind of
14 question you would have to direct -- I believe Mr.
15 Corbin regulates that; is that correct?

16 MRS. AMAREL: Since their pollution
17 credits come from out of the county, does that mean
18 that it doesn't matter then?

19 MR. CORBIN: The criteria for burn days is
20 not tied to a daily measurement of the air quality
21 levels. It's based on, for example, probably the
22 larger pollution emissions from Calpine would be
23 nitrogen oxides. Those don't affect whether or not it
24 would be a burn day. Particulate matter does affect
25 whether or not it would be a burn day. Particulate

1 levels are looked at again as meteorology. But this
2 plant would not have many of the impact on whether or
3 not it would be a burn day.

4 MRS. AMAREL: So next year we can look for
5 the same thing we have this year if the weather is the
6 same?

7 MR. CORBIN: That's true.

8 MRS. AMAREL: Okay, thanks.

9 MR. FAY: Thanks. All right. I said we'd
10 take two more questions or comments, and we did. And
11 we allowed questioning. I encourage you to give your
12 questions, if they are from members of the Farm Bureau,
13 to Brad Foster or Russell young, representatives of the
14 Farm Bureau, because they are representing the Farm
15 Bureau as intervenors, and your intervenor has a right
16 to cross-examine. We've been very flexible, but we're
17 going to have to limit that because we really have a
18 lot to cover.

19 So now I'd like to ask Calpine if they are ready
20 to move ahead for their testimony on public health?

21 MR. ELLISON: Yes, we are. Ms. Wardlow
22 will sponsor the public health portion of Calpine's
23 testimony.

24 MR. FAY: Ms. Wardlow has previously been
25 sworn, and I'll remind you you are still under oath.

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MS. WARDLOW

Having been previously sworn, was
examined and testified as follows:

CROSS-EXAMINATION BY MR. ELLISON

MR. ELLISON: Q. Ms. Wardlow, do you have
the public health portion of Exhibit 26?

A. Yes, I do.

Q. And for the record, that begins at page 13
of Exhibit 26.

A. Yes, it does.

Q. And as environmental manager for Calpine,
was this testimony prepared under your direction?

A. Yes, it was. The preparer was Mark K. Jones of
Foster Wheeler Corporation.

Q. Do you have any additions or corrections
to that testimony?

A. I do not.

Q. And is it true and correct to the best of
your knowledge?

A. It is.

Q. Okay. Ms. Wardlow is available for
examination.

MR. FAY: Does the Staff have any
questions of the witness?

1 MR. RATLIFF: No.

2 MR. FAY: Does the Farm Bureau have any
3 questions of Calpine's witness on public health? Mr.
4 Foster? No? All right.

5 MR. FAY: Thank you, Ms. Wardlow. Now
6 move to the Staff to present their testimony on public
7 health.

8 MR. RATLIFF: Staff witness is Michael
9 Ringer.

10 MR. FAY: I believe Mr. Ringer needs to be
11 sworn. Would you please administer the oath?

12 MICHAEL RINGER

13 Having been first duly sworn, was
14 examined and testified as follows:

15

16 DIRECT EXAMINATION BY MR. RATLIFF

17 MR. RATLIFF: Q. Mr. Ringer, did you
18 prepare the portion of the final Staff assessment
19 entitled public health?

20 A. Yes.

21 Q. Is that -- do you have any changes to make
22 in that testimony?

23 A. No, I don't.

24 Q. Is that testimony true and correct to the
25 best of your knowledge?

1 A. Yes, it is.

2 Q. Could you summarize it briefly?

3 A. Yes. The purpose of my testimony was to
4 determine whether routine emissions from the power
5 plant had the ability to either impact public health or
6 violate existing health based standards. Due to this,
7 I looked at two different types of emissions, the first
8 being criteria pollutions.

9 (Pause in proceedings.)

10 MR. RATLIFF: As I was saying, the first
11 type of emissions I looked at was criteria emissions,
12 which have ambient air quality standards associated
13 with them. Based on the air quality testimony, no
14 standards will be violated from this plant or because
15 of this plant's operation, and there will be adequate
16 offsets available for the pollutants emitted from this
17 plant. So I concluded that there would be no
18 significant public health impacts from criteria
19 pollutants.

20 The other category would be non-criteria
21 pollutants, or those which have no air quality
22 standards associated with them and are sometimes called
23 toxic air contaminants. In order to determine whether
24 there are any public health impacts from this category
25 of pollutants, it's commonly used in a risk assessment

1 procedure to determine whether there would be impacts.

2 The risk assessment procedure consists of a
3 number of steps which include identifying which
4 substances are hazardous, which would be emitted from
5 this plant, estimating the ambient concentrations of
6 these substances estimating the exposure level of
7 people who would breathe in these substances and then
8 comparing those exposure levels to health-based
9 standards.

10 This is done for three categories of those types
11 of pollutants, and that would be cancer, or long-term
12 would be one category, and then non-cancer health
13 effects which include both short term and long term.

14 Taking into account meteorology air quality
15 modeling, worst case assumptions on operation of the
16 plant for the three categories that I described, short
17 term and long term non-cancerous and cancer. Public
18 health table two lists the results of those
19 calculations, and in most instances, the plant
20 emissions will be either one or two percent of
21 applicable health-based criteria that we determine
22 significance from.

23 So my final conclusion for non-criteria
24 pollutants would be that the plant would not have any
25 significant public health impacts.

1 MR. ELLISON: Q. Does that conclude your
2 testimony?

3 A. It does.

4 MR. RATLIFF: Witness is available.

5 MR. FAY: Does Calpine have any questions
6 of this witness?

7 MR. ELLISON: No.

8 MR. FAY: Does Farm Bureau wish to
9 question public health issues of this witness?

10 MR. FOSTER: With the prevailing winds
11 being southeasterly, is the town of Sutter going to
12 have a higher health risk that say people that live
13 south of the plant?

14 MR. ELLISON: Higher being used on a
15 relative basis, the numbers that I quoted, one to two
16 percent of applicable standards are for the maximum
17 impacted location. In other words, if you take the
18 results of the air quality modeling, the absolute worst
19 point that would be affected at all was only at those
20 levels. So -- and that's well below significant
21 levels. So any other point other than the maximum
22 point would be even lower than that in all likelihood.

23 MR. FOSTER: Thank you.

24 MR. FAY: Mr. Ringer, just to follow up on
25 some local concerns, if, for instance, the sampling for

1 PM10 were to overestimate the amount of particulates
2 produced by certain roads and, therefore, underestimate
3 the amount of mitigation that needed to be done, how
4 would that fit in to your assessment in terms of health
5 impacts of fine particulates? Can you give us some
6 rough quantifications? Are there conservatives built
7 in to the assessment that might give some comfort to
8 the community about this type of thing?

9 A. From the PM point of view, I think that
10 there may be some basis for concern if it were grossly
11 overestimated at certain times of the year, but I don't
12 do anything different than the air quality modelers as
13 far as the PM10. I just look at their results. So
14 it's possible. I couldn't quantify the degree to which
15 existing methods are conservative or not.

16 MR. FAY: Okay. Thank you. All right.
17 That concludes our taking of testimony on public health
18 aspects of the project, and I'd like to ask if there's
19 any public comment. I do want to make clear, my
20 previous recommendation, that if you have questions,
21 you funnel them through either Mr. Foster or Mr. Young,
22 does not suggest in any way that we're going to limit
23 comments. I think the difference is obvious. Come up
24 and state your piece, we understand, we've got it on
25 the record. But if you want to get some answers,

1 essentially cross-examine the witnesses, you really
2 need to do that through the intervenors. So I'm
3 inviting comments on the public health aspects of the
4 project. Anybody? Yes, sir. Please come forward and
5 state your name.

6 MR. HUNT: I'm Harry hunt. I farm right
7 adjoining to the plant, and I don't know if you just
8 ruled out me asking you questions or not. Is that what
9 you said?

10 MR. FAY: Well, it's not a
11 question-and-answer time. It's time to hear your
12 comments and concerns.

13 MR. HUNT: I had a concern and question
14 about, he's talking about cancer, et cetera. We're
15 half a mile from there, and my kids and my grandkids
16 and all, and I'm a family -- I'm the youngest of seven
17 boys. My father was a family of 12, and my mother was
18 also a family of 11, I guess. And as far as I can
19 figure out, we've never had any cancer in the family
20 until that Greenleaf opened up over there. And now we
21 have Hodgkin's disease that came on to my son about two
22 or three years ago, after Greenleaf had been there for
23 six or seven years, I guess. And apparently Greenleaf
24 is just about as dirty as this new one is going to be
25 as far as the NOx goes.

1 And you tell me that that didn't cause my son's
2 cancer? That's my question. I mean I can't tell you
3 it did, but I can tell you, you know, everybody says
4 it's kind of hereditary and everything else. My son
5 doesn't smoke, never has, but it's Hodgkins disease,
6 and it's lymph node cancer. Can say for sure that it
7 wasn't any happy thing to go through and we still --
8 he's still taking tests every three months and all
9 that, and I'd still like to have an answer to this
10 question. Could that be caused from Greenleaf?

11 MR. FAY: Why don't we take that as a
12 rhetorical question, and I'll ask the witness to
13 respond. Thank you.

14 Mr. Ringer, if you were posed a question like
15 that, do you have a way of answering it?

16 MR. RINGER: I would just say that the
17 uncertainties surrounding that are so great as to
18 overwhelm any possible conclusion that I could make
19 regarding causality.

20 MR. FAY: You couldn't say one way or the
21 other?

22 MR. RINGER: No.

23 MR. FAY: Any further comments on public
24 health? Okay. Thank you. All right. We'll take a
25 short break. Let people stretch a minute, and try to

1 return about five to seven minutes.

2 (Break taken.)

3 MR. FAY: We're going to continue by
4 taking testimony that was requested by committee order
5 of November 13th. And the committee asked for
6 supplemental testimony in a number of areas, including
7 alternatives, land use, socioeconomics, plant closure
8 and sequencing county and Commission actions.

9 So the sequence of topics we will take is we
10 will begin with Staff presentation on facility closure,
11 then we'll go to socioeconomics. I understand that
12 both Staff and applicant have testimony on that. We'll
13 address the land use status questions, be posed to the
14 county as well as sequencing questions, and then
15 conclude supplemental testimony with alternatives,
16 because that tends to be a rather broad and inclusive
17 subject. Then after that we will go back to the
18 conclusion of Calpine's cross-examination of the Staff
19 witness on visual resources. So at this point I'll ask
20 the Staff if they are ready to present their
21 supplemental testimony on facility closure.

22 MR. RATLIFF: Staff witness will be Steve
23 Munro, but I think we should also swear his office
24 manager, Chuck Najarian.

25 MR. FAY: Will the Court Reporter please

1 administer the oath to the two witnesses?

2 STEVE MUNRO

3 Having been first duly sworn was
4 examined and testified as follows:

5

6 CHUCK NAJARIAN

7 Having been first duly sworn, was
8 examined and testified as follows:

9

10 MR. RATLIFF: Q. Mr. Munro, did you
11 prepare the testimony entitled plant closure?

12 A. Yes.

13 Q. Which was filed on November 24th, 1998?

14 A. That's correct.

15 Q. Is that testimony true and correct to the
16 best of your knowledge and belief?

17 A. Yes, it is.

18 Q. Could you summarize it briefly?

19 A. Yes, I would. First I'd like to thank Mr.
20 Fay, Commissioner Moore, Chairman Keese for this
21 opportunity to clarify this issue of facility closure,
22 members of the public and interested parties here
23 today.

24 In the original testimony that was provided, as
25 a condition of certification, we clarified that. Staff

1 requires all power plant project owners to submit
2 proposed closure plans about 12 months prior to closure
3 of the facility. We do not require such a closure plan
4 initially for a couple of reasons.

5 One of the principal reasons is the difficulties
6 and uncertainties in trying to predict what the closure
7 factors are going to be in the 30 years or so expected
8 life of a facility once it's normally expected to
9 close.

10 So what we do is we require the closure plan 12
11 months before the period of closure, which is very
12 close to the period of closure when we can have a
13 definitive idea of what's going on. When the closure
14 plan is submitted, there is a public review process
15 very similar to this AFC process, where the whole
16 proposed closure plan is examined, the public and
17 interested parties are given an opportunity to comment
18 on it.

19 Now, historically, closure funds have been
20 included as a condition of certification, only when
21 there is a compelling reason to do so. Some examples
22 of this would be a known history of financial
23 irresponsibility of the project applicant's previous
24 project or dealings. Another example would be
25 quantities of -- or types of hazardous materials stored

1 on site, which the securing or removal would require an
2 unusual cost. Those are the kinds of situations that
3 we would look at as possibly requiring a closure fund.

4 Now, we had a closure fund required for only one
5 previously Commissioned certified power plant. That
6 was the Section Eight solar electric generation
7 station. And the reason for that was because of an
8 unusually large volume of a petrochemical heat transfer
9 fluid that is used to convert the solar energy to
10 electricity. It was determined that there would be an
11 unusual cost to removing and securing that material.
12 So we required a relatively small closure fund, in the
13 neighborhood of about fifty thousand dollars.

14 Now, we do require in our citing regulations
15 that the applicant describe the plans regarding
16 permanent or temporary plant closure. And in Section 4
17 of the AFC -- Section 4 of the AFCs, Calpine has in
18 fact demonstrated a clear understanding of the issues,
19 contingencies, and steps necessary to remedy and
20 prevent environmental hazards and protect workers and
21 public safety in the event of a planned or unexpected
22 closure and the clear commitment to carry them out.

23 Another issue is what if the plant is sold at
24 some period after it was certified? In that case,
25 there would have to be an amendment request, a request

1 to approve, for the Commission to approve that sale,
2 and the Commission would then look at that proposed new
3 owner with regard to their agreement to carry out all
4 of the facility closure requirements and their
5 commitment to do so. And then the Commission would
6 have to vote to approve that or not approve it, the
7 transfer.

8 Now, we asked the Staff to examine facility
9 closure with regard to each of their technical areas.
10 And we asked them to look at any unusual factors in
11 their particular areas that they felt would require a
12 closure fund. They did that, and they indicated they
13 did not find a need for a closure fund.

14 Returning to what I was talking about at the
15 beginning of this testimony, uncertainties greatly
16 complicate the identification of specific closure
17 measures and costs at this particular point in time.

18 First, it is not known what the characteristics
19 of the environs of the plant will be in 30 years. And
20 that's simply because we're not able to predict the
21 future. So we don't know what kind of facilities would
22 be there, if any, what the nature of the area would be,
23 and this is an important factor in determining whether
24 there would be an environmental impact.

25 Also, it is not known what specific LORS will be

1 in place. LORS, meaning laws, ordinances, regulations
2 and standards would be in place at the time of
3 closure. They may be possibly more strict than what
4 they are now. In that case, the closure plan that
5 would be submitted at the time would have to conform to
6 those LORS that we don't know right now.

7 And finally, we don't know what the conversion,
8 asset and salvage value of the plant equipment would be
9 in 30 years. And, however, there is reason to believe
10 that there is a probability they would have significant
11 value. And that would be offset against any closure
12 costs.

13 Now, the assumption that the project might
14 contain significant value at the time of closure is
15 supported by recent experience at the Commission and
16 elsewhere. We recently went through the entire closure
17 process with a facility which is called the Cool Water
18 gasification facility. And that the actual closure and
19 removal of equipment is in process now and nearly
20 complete. The experience there has been that the
21 closure costs pretty much have been offset by the value
22 of the equipment and the land of the project, so that
23 there has been no net closure costs.

24 For example, Southern California Edison, who is
25 the project owner, made a deal with Texaco for the

1 gasification equipment where they basically gave them
2 the gasification equipment in return for their removing
3 all of the equipment. There was also a gas turbin on
4 the facility, and that was sold for a substantial
5 amount of money, and that amount included removing
6 equipment.

7 In addition, recent divestiture by utility
8 companies in California show that they can retain
9 significant value 30 or 40 years out in the future. So
10 there is a reasonable expectation that there will be
11 value of the equipment and the facilities.

12 So getting back to our closure, so 12 months
13 prior to the planned closure, we would basically
14 reconvene, consider a proposed closure plan, including
15 the proposed costs, and would again have a process very
16 similar to the AFC process where we would be able to --
17 we would have a compliance mailing list on which we
18 keep the names of everyone interested in the project
19 and we keep it as an amount of when the closure plan is
20 so we would notify everybody there is a planned
21 closure. We would provide a copy of the closure plan,
22 and if anyone indicated that they had any questions on
23 it, we would proceed with workshops and possibly
24 hearings, and essentially complete a process very
25 similar to the AFC process to determine the final

1 closure plan and even the possibility of additional
2 closure conditions specific to that closure plan in
3 that specific time.

4 So it's only after going through this process
5 that we can know what the cost is. And finally, the
6 Commission itself would have to approve the final
7 closure plan.

8 Now, our conclusion is that Staff does not
9 believe that the closure fund is necessary to be sure
10 that the closure requirements in the proposed
11 conditions of the facility closure or condition
12 certification will be carried out by the applicant.
13 Staff believes that the proposed facility closure
14 certification will prevent significant environmental,
15 health and safety impacts at the time of project
16 closure under reasonable foreseeable circumstances.

17 Now, this is not necessarily the final word on
18 the facility as an issue. There are other things to
19 examine and look at with regard to future projects, and
20 we believe that these should be in fact looked at
21 through the Commission's electricity policy form. Some
22 of these issues might be additional regulations, might
23 be deemed necessary or additional legislation. But for
24 this project, we've examined this specific project with
25 regard to a need for facility closure fund and found

1 that one is not needed. Thank you.

2 MR. RATLIFF: Mr. Munro, if I could ask a
3 couple of additional questions just to try to clarify
4 some things.

5 If the operator of this project were to suddenly
6 go bankrupt, is it your understanding that there would
7 be -- would there or would there not be chemicals that
8 would require cleanup that would constitute a public
9 hazard if it were suddenly abandoned, for instance?

10 MR. MUNRO: We had Staff look at this, and
11 there were not -- there was not an inordinate cost to
12 securing removing these materials.

13 MR. RATLIFF: So -- go ahead.

14 MR. MUNRO: We did not feel that a
15 facility closure fund was necessary.

16 COMMISSIONER MOORE: I'm sorry, Mr.
17 Ratliff, I'm going to have to follow up on that. Who,
18 under the conditions where the owner went bankrupt, who
19 would pay? Insignificant or not, who would pay?

20 MR. MUNRO: Even in bankruptcy, the assets
21 would retain their value, and it's not that there would
22 be no money to take care of that.

23 COMMISSIONER MOORE: Well, the assets have
24 value when they are liquidated. They don't have any
25 value in an illiquid state, so that takes operating

1 capital. Where would that come from?

2 MR. MUNRO: I'm not sure right now where
3 that would come from.

4 COMMISSIONER MOORE: Is that not an item,
5 if you had a plan that someone signed on to, would that
6 be an item that would be included in such a plan?

7 MR. MUNRO: Yes. Now, the applicant has
8 described in Section 4 of their AFC what they would do
9 in the event of an unplanned closure. And we were
10 satisfied with what they described, that they would
11 carry it out. We've not had this situation that you
12 brought up in any previous of the 30 or so facilities
13 that we've had that we've certified.

14 COMMISSIONER MOORE: Over the 30-year life
15 span and 20-plus years of the Commission's
16 inexperience, that seems pretty likely that you
17 wouldn't. So that's not surprising.

18 MR. MUNRO: There's been an opportunity
19 for unforeseen closures or bankruptcies. They have not
20 occurred.

21 COMMISSIONER MOORE: Such as Luce
22 (phonetically)?

23 MR. MUNRO: Well, Luce has occurred, but
24 there has not been a problem with hazardous materials.

25 COMMISSIONER MOORE: Really?

1 MR. MUNRO: No.

2 COMMISSIONER MOORE: There were no
3 hazardous materials --

4 MR. MUNRO: In fact, the project remained
5 operating throughout that bankruptcy, so there has not
6 been a problem. But we did have -- that's one project
7 where I think there was some concern about the possible
8 solvency, and there was a fund established to cover an
9 eventuality if it occurred. Now, in this case, we have
10 no indication of any likelihood that there would be any
11 insolvency.

12 COMMISSIONER MOORE: Mr. Ratliff, I'm
13 sorry I interrupted.

14 MR. RATLIFF: No, that's fine.

15 Does that complete your testimony on plant
16 closure, Mr. Munro?

17 MR. MUNRO: Yes.

18 MR. RATLIFF: Mr. Najarian, do you have
19 anything to add to that?

20 MR. NAJARIAN: No.

21 MR. RATLIFF: The witnesses are available
22 for questioning.

23 MR. FAY: Mr. Ellison, any questions?

24 MR. ELLISON: No questions.

25 MR. FAY: Mr. Foster?

1 MR. FOSTER: Without a closure fund, how
2 can you guarantee removal of the project due to
3 bankruptcy in a timely manner?

4 MR. MUNRO: We did not look at this -- we
5 looked at this with regard to reasonable expectation
6 and not a guarantee, because our analysis did not
7 provide a guarantee.

8 MR. FOSTER: Are you aware that in Yuba
9 county and Feather River boulevard there is an
10 abandoned power plant site?

11 MR. MUNRO: No, I'm not.

12 MR. FOSTER: To me, it appears that they
13 sold everything that was worth selling and left the
14 remaining. Here I believe there is a brine pond on
15 this site that we're talking about today. Is that
16 considered, you know, a hazardous material?

17 MR. MUNRO: Evaporation pond?

18 MR. FOSTER: Yes.

19 MR. MUNRO: I guess it's not clear whether
20 there is going to be an evaporation pond the last I
21 knew; is that correct? If there was an evaporation
22 pond, that is something that would be looked at by the
23 local regional water quality control board. And it's
24 been common practice that they establish a closure fund
25 for that specifically. I can't say exactly what would

1 happen in this case, but that's their jurisdiction, and
2 they have done that in numerous cases in the past.

3 MR. FOSTER: Okay. But without a closure
4 fund, how can you guarantee that when the plant is
5 closed, it will be back to what it is today, the site?

6 MR. MUNRO: We don't look at whether the
7 plant or whether the area will be back to what it is
8 today, because as I talked about, in my testimony, with
9 we look at the area at the time and the character of
10 the area at the time could be different in 30 years.
11 We look at what the environmental impact is in relation
12 to the characteristics of the area at the time. So we
13 would not necessarily be restoring it back to what it
14 is now. That's not a requirement that we have.

15 MR. FOSTER: Thank you.

16 MR. FAY: All right. I thank the Staff
17 for their testimony. Mr. Ellison, did you have
18 anything you wanted to submit on this topic, facility
19 closure?

20 MR. ELLISON: Commissioner, that's really
21 up to the committee. Last -- in the spring,
22 specifically April 15th, the committee asked for the
23 parties to address this issue, and we did. We filed a
24 statement on the 15th of April addressing the impact of
25 closure funding, the need for closure funding, that

1 sort of thing.

2 Let me briefly summarize what that said, and if
3 the committee desires, we can enter that into the
4 record and have a witness to sponsor it. It is,
5 however, largely redundant of what the Staff has said,
6 and so it's entirely up to the committee as to whether
7 they want that additional material or not as far as
8 Calpine is concerned.

9 To briefly summarize, we took a look at the
10 experiences that have occurred in California with power
11 plants and the closure of those facilities and the
12 closure issues that have arisen for those facilities.
13 And we found a sharp distinction between the issues
14 that have arisen with respect to power plants that are
15 dependent upon either some government subsidy, like a
16 tax credit, for example, or some other similar
17 government policy.

18 Or, for example, power plants that are dependent
19 upon a specific site, specific fuel, such as
20 geothermal, versus power plants like the Sutter power
21 plant which are not dependent for their economic
22 viability on either a site specific fuel or a
23 government policy.

24 With respect to power plants like Sutter, we not
25 only were unable to find any plants that had been

1 abandoned and caused any public hazard, we were unable
2 to find any experiences in California with plants like
3 that being closed at all. And the reason for that is
4 that those types of projects and those types of sites,
5 when they reached their useful life, retained
6 significant value as sites for repowering and future
7 power plant development.

8 And as the Staff just pointed out, the best
9 example of this is both PG & E, Edison and San Diego
10 have recently put on the market a variety of power
11 plants, gas fired power plants generally that are in
12 some cases 40, 50 years old, well beyond 30 years. And
13 are among the least efficient projects out there.

14 Q. And nonetheless, they, without exception,
15 were able to market those plants, and in some cases,
16 obtain values as much as two and a half times the book
17 value of these projects. What that illustrates is that
18 projects like Sutter, based on historical experience,
19 don't pose the kind of closure problems that would be
20 posed by other kinds of projects.

21 The last comment I would make is that prefunding
22 of closure is a policy that has been developed, based
23 on our review, in two specific kinds of circumstances.
24 One, and really, they are the same circumstance, but in
25 two areas.

1 One, the nuclear regulatory Commission requires
2 pre funding funds for nuclear power plants, and
3 hazardous waste disposal facilities are subjected to
4 prefunding closure requirements. And the issue is the
5 same in both cases, from Calpine's point of view at
6 least. The issue is that because of the spent nuclear
7 material in the case of nuclear power plants, and
8 because of the hazardous waste in the case of hazardous
9 waste disposal facilities, there is a real danger that
10 contamination of the site could occur such that the
11 cost of cleaning up the site is much higher than the
12 value of the site. And in that circumstance, one needs
13 to be worried about the prospect that, not only will
14 the owner go bankrupt, but that nobody else will step
15 forward to take responsibility for that site because it
16 is a net economic loss to do so.

17 That's sharply distinguishable from the
18 situation where someone goes bankrupt but owns an
19 industrial facility that has significant value. In
20 that circumstance, even though the present owner may
21 have financial problems, the asset is still very
22 valuable.

23 Somebody, as in the case of the divestiture of
24 the California power plants as we've seen, will step
25 forward and take economic responsibility for those

1 sites. It is the latter circumstance that I think
2 describes what we have here and not the former. There
3 are no nuclear materials here. This is not a hazardous
4 waste disposal site. There is no reason to distinguish
5 the Sutter power plant in terms of the need for closure
6 funding from any other industrial facility in
7 California like a steel mill, power plant or anything
8 else.

9 So based on that, and also based upon the
10 quantification of what prefunding closure would be,
11 Calpine submitted this information, suggesting that we
12 felt it was not in the public interest for this
13 prefunding of closure to occur.

14 The last point that we made on the point of
15 public interest is that to the extent the Commission
16 imposes prefunding of closure on these types of power
17 plants, it makes them less competitive in the
18 marketplace. These types of requirements are not
19 imposed on existing power plants. They are not imposed
20 on power plants outside of the Energy Commission's
21 jurisdiction.

22 If you chose to do that, you have the ironic
23 public interest effect of discouraging the development
24 of new, cleaner resources, and instead encouraging the
25 continued operation of older, dirtier resources,

1 because you've imposed an economic requirement on the
2 new ones that's not imposed on the old ones. And in
3 that circumstance, particularly where the benefit of
4 that closure fund is so speculative and in fact
5 probably nonexistent, the overall effect of prefunding
6 of closure is to actually harm the public by
7 discouraging people to modernize California
8 infrastructure. If the committee wishes that summary,
9 we would put this information in the record or have Mr.
10 Hildebrand sponsor his testimony or do nothing. It's
11 entirely up to you.

12 COMMISSIONER MOORE: Thank you, Mr.
13 Ellison. I appreciate that. Let me come back to your
14 point in just a second. Let me ask a couple of
15 questions of Staff first. And part of the difficulty
16 comes, I think because I was trying to ask some
17 questions and the effect of asking questions in the
18 committee order and the translation through
19 intermediaries results in perhaps not being, not
20 expressed as clearly and in as focused a way as I had
21 intended.

22 So let me turn back to Mr. Munro and ask you,
23 Mr. Munro, let's speculate that there is a new, very
24 cheap, super conducting technology that appears in the
25 horizon in ten years, drives the value of this facility

1 effectively to zero, what's the procedure that
2 encompasses. The company goes bankrupt, there is no
3 residual value for all intents and purposes. I'm not
4 asking you about a fund or anything else, I'm asking
5 you about the procedure. What procedure gets
6 followed?

7 MR. MUNRO: I'll not sure that --

8 COMMISSIONER MOORE: They walk away from
9 the plant.

10 MR. MUNRO: I'm not sure that's a scenario
11 that we examined as a reasonable foreseeable
12 circumstance. So I don't think we specifically covered
13 that. However, I can speak to it to some degree
14 because I know that in the case of the Cold Water
15 facility, the gas turbin sold for three million
16 dollars, approximately, plus the cost of removal. And
17 that turbin I know has been shopped all over the
18 world. So even if such a technology came into being
19 here in the United States, it's quite likely that in
20 Latin America, China, Europe, places like that, that
21 the technology from the Sutter Project would retain
22 significant value and it still have an asset value.

23 COMMISSIONER MOORE: Okay. You're not
24 answering my question, but I'll come back to it. Let
25 me go back to something that you mentioned, and that is

1 the transfer responsibility. It doesn't appear in the
2 final staff assessment. Where do we outline the
3 procedure that happens when, let's say Calpine has a
4 successor interest. How does the responsibility for
5 maintaining the conditions that we outlined, for
6 instance, in closure one, two and three, how do those
7 conditions transfer? How do we specify that they have
8 to include that in the transfer of deed?

9 MR. MUNRO: That is contained in the
10 general conditions of compliance.

11 COMMISSIONER MOORE: So it doesn't have to
12 be in conditions of closure, it can be in the general
13 condition?

14 MR. MUNRO: Right.

15 COMMISSIONER MOORE: Where do we site the
16 teeth that we have in terms of enforceability? For
17 instance, when we come back in and they say, or we
18 indicate they shall maintain a contingency plan
19 required by condition closure one, two or three. Where
20 are the sanctions contained? Are those also in the
21 general conditions? What sanctions can we impose if
22 they or any successor interest failed to comply, failed
23 to maintain these conditions? Where are the teeth?

24 MR. MUNRO: Actually, it would be the
25 penalties for failing to comply with any Commission

1 requirement, any requirement of the decision. It's
2 not -- there is nothing specific to a closure fund.
3 However, they are required to maintain all of the
4 requirements continuously complying with all of the
5 requirements of the decision. Mr.

6 COMMISSIONER MOORE: Let's say they
7 don't.

8 MR. MUNRO: They don't?

9 COMMISSIONER MOORE: What authority should
10 we be using, and maybe I should be referring to Mr.
11 Ratliff for this. I don't know. What authority do we
12 site when we call them in to court, or some successor
13 interest, saying you didn't comply, we expected you to,
14 but you didn't, so therefore, under section so and so,
15 we now meet you in court, and we compel you, or we'll
16 sue you with the objective of compliance. Where are
17 the teeth?

18 MR. RATLIFF: There are provisions in the
19 Warren Alquist Act, which is Section 5225, if there is
20 any failure to comply with the terms of conditions and
21 approval of the application, the Commission may
22 administratively impose a civil penalty up to fifty
23 thousand dollars per violation, and may be increased by
24 an amount not exceeding one thousand dollars per day
25 for each day the violation occurs or persists and so

1 forth. That complaint is to be brought to the
2 Commission, and it is administratively handled. It's
3 imposed by the Commission itself, not a court.

4 COMMISSIONER MOORE: So if these
5 conditions are simply not met, then by reference to the
6 overriding Warren Alquist Act, they are subject to the
7 sanctions that you just mentioned?

8 MR. RATLIFF: Yes.

9 COMMISSIONER MOORE: Now, let me return
10 back, Mr. Ellison, and I'll answer your question. When
11 I issued the order, what I had in mind in this section
12 was a procedure as redundant, and I'm using your word
13 from earlier, as it may seem, it occurs to me that a
14 future Commission, Commissioners 30 years down the line
15 are foreseeing some unforeseen event, might find it
16 helpful to refer back to a document that said, in the
17 event that there is an unforeseen closure, the
18 following steps will be taken.

19 Step one, assets will be identified and valued.
20 Step two, and it's literally the same kind of
21 procedural manual that we would use in an emergency,
22 State emergency. We dictate who is responsible, where
23 the authority for non-compliance comes from. In a
24 sense, it's kind of a table. That's what I had in
25 mind.

1 What I didn't have in mind was that a future set
2 of Commissioners would pick up the transcript of this
3 record and find out that there was speculatively a
4 probable market in Latin America for some of the turbin
5 facilities, if they could be carted off, and probably
6 if someone had thought of it, we could get around to
7 asking the Water Quality Control Board to negotiate a
8 closure plan for the brine pond.

9 I'm looking for something that, yes, I believe
10 is probably redundant. But it spells out the
11 responsibilities, and in a sense, it's the kind of
12 thing that I guess what I expected would be a booklet
13 that we would hand you and say, look, this is a typical
14 closure plan. Just meet -- are you okay with this? Do
15 you agree these are the steps you would take if there
16 was an unforeseen closure? And you and your clients
17 would look at them and go, yes, fine.

18 I wasn't looking for a fund. All I was looking
19 for was a set of procedures that identified who is
20 responsible, under what conditions, and what set of
21 actions click in in the event that something happened.
22 That's really where I was going. Frankly, I wasn't
23 looking to you to prepare that, I don't think that's
24 your responsibility.

25 So just to make clear, that's what I had in

1 mind. You answered my question about the fund.
2 Frankly, I didn't have in mind setting up a fund. I
3 simply want to identify where the teeth are, what the
4 responsibilities are in sequence, and what people can
5 expect. You sign on to it, your successor in interest
6 signs on to it. Seems to me the public interest is
7 satisfied. So I'm trying to be a little more
8 systematic about it. So if I was unclear in my
9 comments to Staff, I apologize, but that's what I had
10 in mind.

11 MR. ELLISON: Commissioner, let me just
12 clarify, when I use the word redundant I meant to refer
13 to a redundancy between the Calpine brief that I was
14 describing and staff's testimony. I certainly didn't
15 mean to suggest that this inquiry is in any way
16 redundant.

17 COMMISSIONER MOORE: I didn't take it
18 pejoratively. But in a sense, because it repeats a lot
19 of information that's in there already in the AFC or in
20 the final -- the preliminary document or the final
21 document, it is redundant. But it seems to me it's
22 kind of a clear-cut set of responsibilities that we
23 ought to have. And frankly, once we had it, it seems
24 to me that it's repeatable for just about anything that
25 comes up, and frankly, saves a lot of time probably

1 going through this kind of a discussion. So that's
2 what I had in mind. I don't have any other questions.

3 MR. MUNRO: Commissioner Moore, I would
4 like to refer you to closure conditions one and two
5 where we have in fact set out --

6 COMMISSIONER MOORE: Where are you?

7 MR. FAY: Repeat the reference, please.

8 MR. MUNRO: It's page 575 of the same,
9 closure one. Closure one and closure two where we
10 speak to situations unplanned and steps which must be
11 taken by the project owner at that time. Prior to the
12 start up of the project, the required plan.

13 COMMISSIONER MOORE: Right. And as I
14 said, we don't identify where the sanctions are in
15 this. We don't -- and I'm familiar with the points on
16 574 through 577. In fact, they were what I was
17 referring to earlier.

18 MR. MUNRO: Okay.

19 COMMISSIONER MOORE: And it seems to me
20 these are -- well, they are very generic.

21 MR. MUNRO: Right.

22 COMMISSIONER MOORE: They are not specific
23 to the project. Anyway, you've answered my questions.

24 MR. MUNRO: Thank you.

25 MR. FAY: Mr. Foster, do you have any

1 cross-examination of the -- well, we didn't have
2 testimony from Calpine. Do you have any questions of
3 Mr. Ellison regarding his comments on what they --

4 MR. FOSTER: Well, there was one question
5 brought up to me and I would just like clarification.

6 MR. FAY: Sure.

7 MR. FOSTER: Without a closure fund, and
8 let's say there was bankruptcy, would there be like a
9 one time \$50,000 fine and then they walk away from this
10 whole project?

11 MR. FAY: Well, what I heard was that was
12 per violation.

13 THE WITNESS: Correct.

14 MR. FAY: And a violation would be of a
15 requirement. So if you had a whole power plant with
16 five hundred pages of requirements, there's a lot of
17 potential violations there.

18 MR. MUNRO: Right. Plus a thousand a
19 day.

20 MR. FOSTER: The other thing was, as one
21 of the neighbors of the plant, we all locals know what
22 the old plant site in Yuba County looks like, and we're
23 wondering how you can protect from us that same issue
24 here. It's on Feather River Boulevard. Maybe when you
25 guys drive back to Sacramento tonight, you might drive

1 through Yuba City and take Feather River Boulevard and
2 look at the plant site. That's our concern here. The
3 plant was dismantled and shipped overseas. All the
4 foundation, the parcel's just afoul with weeds. That's
5 what's left at that plant site over there. And no one
6 wanted to take responsibility for it. Thank you.

7 MR. ELLISON: Mr. Foster, perhaps I could
8 comment on that. When I mentioned earlier that Calpine
9 had prepared the brief, they looked at the closure
10 experiences in California. And I drew this distinction
11 that plants without support are viable without any
12 government support tax credits and that kind of thing.
13 And plants that are dependent upon that kind of
14 support, my understanding is that plant you're
15 referring to is that biomass facility that second kind
16 of plant that was dependent upon government support in
17 order to maintain their economic viability. And that
18 makes that kind of plant much more vulnerable to being
19 closed. And also, if you lose that government support,
20 much less marketable than a plant that is inherently
21 economic without that kind of support.

22 And also, that plant was not under the energy
23 Commissions jurisdiction.

24 MR. FAY: Thank you for that
25 clarification. Any comments about facility closure

1 from members of the public? Okay.

2 COMMISSIONER KEESE: I notice that Staff
3 has a recommendation that the Commission itself is
4 considering a blanket policy in this area.

5 MR. NAJARIAN: That's correct.

6 COMMISSIONER KEESE: Have you submitted
7 that to the committee yet, or is this meant to be the
8 submission?

9 MR. NAJARIAN: We're working through the
10 Commission, citing committee in this regard. We
11 propose, just to get the ball rolling in this area,
12 propose specific regulation changes which would address
13 this on a broader basis.

14 COMMISSIONER KEESE: I guess my comment
15 would be that while this is not restricted to this
16 hearing, I think the discussion we've had to do on
17 these issues have been enlightening, and I think that
18 we have the -- I see the possibility that we have some
19 kind of a blanket discussion of this at the Commission
20 level and come up with something that will remove it
21 from future site cases. And it's particularly
22 important, as we now recognize that we may have 15 of
23 these exciting hearings going at the same time, that we
24 attempt on some of these issues to have a uniform
25 applicable standard that we can apply as a template.

1 And I would urge you to get it up to the Commission as
2 fast as possible.

3 MR. NAJARIAN: We're going to do that.

4 COMMISSIONER KEESE: We're not doing it
5 here through this project. Thank you.

6 MR. FAY: All right. Thank you. There
7 was no indication of comment on facility closure.

8 We've taken the supplementary evidence. The
9 next topic is socioeconomic, and that's likely to be a
10 long one, longer, because both Staff and Calpine have
11 witnesses on top of testimony. And it's a matter of
12 great interest to the public I know. So we want to
13 take our lunch break now, and we will return at 1:15.

14 (Lunch recess taken at this time.)

15 MR. FAY: We'd like to go back on the
16 record now. Mr. Ellison, you submitted some
17 supplemental testimony on behalf of Calpine. Did you
18 want to offer that in conjunction with the
19 socioeconomic testimony? If so, now is the time for
20 that.

21 MR. ELLISON: Yes, Mr. Fay, we do. In
22 fact, we have two witnesses on these issues. The first
23 is James Saare. James Saare is the crop duster for
24 whom we submitted an affidavit as part of our original
25 testimony. And that affidavit has been identified in

1 this record as Exhibit 29.

2 MR. FAY: And let me stop you there, too.
3 I think just for the purposes of identification, we
4 would mark your supplementary testimony of Thomas
5 Priestley dated November 24th, 1998 as Exhibit 45.

6 MR. ELLISON: Okay.
7 (Supplementary Testimony
8 of Thomas Priestley marked
9 as Exhibit 45 at this
10 time.)

11 MR. ELLISON: With respect to Mr. Saare,
12 his affidavit has been on file since the original
13 filing of our testimony in October, but as I had
14 mentioned in a previous hearing, Mr. Saare had some
15 surgery and was unable to appear originally. But he is
16 available today, and so we thought it would be
17 appropriate to present his testimony on the impact of
18 the transmission line on crop dusters.

19 And first of all, let me say, before I go any
20 further, Calpine very much appreciates the willingness
21 of Mr. Saare to appear here today so shortly after his
22 surgery. So thank you, Mr. Saare, for that.

23 So what I'd like to do, with the Committee's
24 permission, is to present Mr. Saare. And then
25 subsequent to that, we would present Mr. Priestley with

1 respect to Exhibit 45.

2 MR. ELLISON: So, first of all we need to
3 have you sworn in.

4 JAMES SAARE

5 Having been first duly sworn, was
6 examined and testified as follows:

7

8 MR. ELLISON: Q. Mr. Saare, do you have
9 the affidavit that you prepared and signed and which
10 has been identified as Exhibit 29 in this proceeding in
11 front of you?

12 A. Yes, I do.

13 Q. And there is a signature on that affidavit
14 under oath with a notary stamp. Is that your
15 signature?

16 A. Yes, it is.

17 Q. And are the statements in that affidavit
18 true and correct, to the best of your knowledge?

19 A. Yes, they are.

20 Q. Could you very briefly summarize your
21 experience with respect to the aerial application in
22 the vicinity of the Sutter power plant?

23 A. Well, my experience in the agricultural
24 aviation industry spans about 35 seasons, 35 years.
25 And I've worked primarily in the Sutter basin, Woodland

1 area, and up and down the valley from the Delta up to
2 about Willows. And over on this side in the areas
3 adjacent to this property that is in question, and have
4 dealt with the wires and all the other things on a
5 daily basis. I'm currently semiretired. I fly air
6 tankers in the summertime, so I'm gone during that time
7 of the year, and so I just do fill in the rest of the
8 year. And this affidavit pretty well sums up what my
9 background is. I'm currently part-time employed with
10 the Sunrise Dusters at Knights Landing.

11 Q. Mr. Saare, well, first of all, you have
12 reviewed and are familiar with the proposed route of
13 the transmission line associated with the Sutter Power
14 Project?

15 A. Yes, I am.

16 Q. In paragraph nine of your affidavit, you
17 state, "In my professional opinion the transmission
18 line proposed by Calpine will have an acceptable impact
19 on aerial application operations in the vicinity of the
20 new line, and it will not significantly increase the
21 risks of an accident during such operations when
22 compared to the current situation.

23 With the new line in place as proposed, I am
24 confident that aerial application operations in the
25 area can continue without significant changes. I would

1 be personally willing to conduct such operations in the
2 vicinity of the new line and believe that other pilots
3 would also be willing to do so."

4 Do you see that statement?

5 A. Yes, I do.

6 Q. And is that still your opinion?

7 A. Yes, that is. We have looked at these
8 things. When we look at the valley, the whole valley
9 area here, there's thousands of miles of various
10 transmission lines that we have to deal with on a daily
11 basis, and this would be, with the planning that's gone
12 in to it, be probably lesser impact than most of the
13 other stuff that we have to deal with on a daily
14 basis.

15 MR. ELLISON: Thank you. With that, Mr.
16 Saare is available for examination.

17 MR. FAY: Does the staff have any
18 cross-examination of the witness?

19 MR. RATLIFF: Yes. Just a little.

20 EXAMINATION BY MR. RATLIFF

21 MR. RATLIFF: Q. Mr. Saare, one of the
22 mitigations that staff proposed in this proceeding was
23 to move the corner pole away from the corner of
24 O'Banion and South Townsend Drive. That way it would
25 have cut across the edge of the field and would not

1 have been perfectly rectangular. In your view, does
2 that increase the hazard for crop dusting, or would
3 that be an acceptable mitigation?

4 A. Most of the work done in this area is
5 done, the companies that operate here, everybody in the
6 Sutter basin, on Stott, Sue, everybody but Gary Dibble,
7 flies the Grumann Cat biplane.

8 The biplane, when you deal with any of these
9 wires that are on an angle with your flight path, as
10 you come to the wire, you lose sight momentarily of the
11 wire under the center section of the airplane as you're
12 approaching. And as you enter the field, you also lose
13 it. When you pitch down, why the wire disappears, if
14 you're going to go under the wire.

15 And I've interviewed a few of the pilots that
16 work this part of the country, and they all would
17 rather see the wire go right to the corner and make a
18 right-angle turn, because that is the standard
19 practice. And also, from the biplane's standpoint, the
20 hazard of getting too close to the tower and coming up
21 underneath and catching that wire with the top wing is
22 the most hazardous part of dealing with an angled wire
23 with a biplane.

24 Case in point, we lost a very experienced pilot
25 over on the west side about eight -- seven, eight years

1 ago. He went under the two main lines that run down
2 through north -- north of Elverta. He caught the right
3 wing on that angle wire. It tore the wing off the
4 airplane. Of course, it came through the windshield
5 and hit him, and then it went in and subsequently
6 burned. We don't know exactly why this happened. The
7 guy was highly experienced and had flown this field a
8 lot. But he was in a biplane, and I've done the same
9 field. And the steel to your lines go through at an
10 angle. And this is the hazard that everybody worries
11 the most about.

12 In my opinion, I would go straight to the corner
13 and go down, because if the line is going to be tall
14 enough, which seems to be the proposal, the Township
15 Road can be dealt with by flying north and south
16 underneath the line at O'Banion in that corner and then
17 go straight on up, say, three half-mile fields, if my
18 memory serves me, and then a short bit before the
19 Calpine's property.

20 So you could go all the way through running a
21 north/south parallel in the wire. And that way two or
22 three of the guys said, "Oh, no." That's all they
23 said, "don't do that." If this was a different area
24 and there were all air tractors and thrushes which are
25 Monoplanes, and you could see that wire, it probably

1 would be a fine idea. But due to the fact that this is
2 biplane country, and will remain so for many years, I
3 would think that it would be in the interest of safety
4 to go the other way.

5 MR. RATLIFF: Thank you.

6 MR. FAY: Anything further?

7 MR. RICHINS: Gary, I had one question.
8 The Committee at within of the hearings had asked the
9 staff to develop a map showing the north, southeast,
10 west direction of flight, and I thought this witness
11 might be a perfect person to ask about his knowledge of
12 the direction. Staff has prepared a map, and it's
13 figure two in our supplemental testimony showing
14 predominantly north and south spraying application for
15 most of the fields, and then to the east side of South
16 Township west. And I was wondering if this witness
17 could maybe provide some information to the Committee.

18 MR. FAY: Mr. Saare, do you have a copy
19 of that figure two?

20 MR. SAARE: Yes.

21 MR. FAY: All right. Mr. Richins, what
22 was your question?

23 MR. RICHINS: The Committee asked staff to
24 identify the predominant north/south or east/west
25 manner in which the fields are sprayed. We have put

1 figure two together based on our understanding and what
2 we've heard at workshops, but we're not experts in the
3 area. And we thought that this witness might be able
4 to shed some light and provide information to the
5 Committee on what's the normal way of applying both
6 seed and herbicide.

7 MR. SAARE: Well, starting with the --
8 let's start where the Calpine's plant is at this time
9 and go down Township Road. And if you look at your
10 map, the drainage in those fields generally runs to the
11 west. In other words, the water starts at Township and
12 runs to the bypass, which is low part of the country.
13 So in rice ground, with the straight checks, the checks
14 would run north and south. Pardon?

15 MR. RICHINS: No.

16 THE WITNESS: Okay. In that instance,
17 unless there was set aside like we had during the pilot
18 program, where part of the field is left out, usually
19 that would be done by leaving either the top or the
20 bottom of the checkout. But those fields would
21 naturally be flown, they are predominantly half mile
22 square is the map that I had looked at would indicate.

23 So in a half mile square field, the direction of
24 flight is not as important because it's the same run no
25 matter which way you go. So those fields could be

1 flown north and south, parallel to the line. If the
2 line that goes out O'Banion is clear underneath, then
3 an exit can be made underneath that wire in the corner
4 of O'Banion and Township. So these fields -- now,
5 these towers are going to be approximately a hundred
6 and a few feet tall. And if you make an approach into
7 a field, that's going to put you down to spray height
8 about two hundred feet out, and spraying width is
9 approximately 50 feet. That's four passes. And normal
10 headlands are about 50 feet wide. So if you made four
11 passes parallel to the wire, you could turn around and
12 go east and west and still have some room to get up
13 over the wire if you didn't chose to go underneath.

14 Now, Township Road has a wooden pole line that
15 will stay in existence, which will make for a very
16 difficult east and west entry and exit, but all those
17 fields can be flown north and south. Does that help
18 you with that?

19 MR. RICHINS: Yes, and I was just asking
20 it basically for the Committee.

21 MR. SAARE: Yeah. Well, if -- most all
22 the others, because of the drainage, they probably are
23 predominantly flown north and south. And the most
24 important thing is the line down the end. If that is
25 clean underneath, there is no problem going under it.

1 MR. RICHINS: Now, there are orchards to
2 the south of O'Banion. Does that cause any problem
3 with exiting?

4 MR. SAARE: Well, right now there are
5 prunes in there, and they will probably be there for a
6 few years. Prunes, peaches and the low orchards like
7 that with the height of this wire, 42 plus feet, there
8 is still enough room to go under there. If you were to
9 plant walnuts in there, why probably in about 30 years
10 or 40 years, those would get too big to get underneath
11 in that one particular corner.

12 MR. RICHINS: Okay. Thank you.

13 MR. FAY: Thank you, Mr. Richins, for that
14 clarification.

15 Mr. Foster, do you have any cross-examination of
16 the Calpine witness?

17 MR. FOSTER: Are you being paid for your
18 testimony? Are you being paid for your testimony?

19 MR. SAARE: Not at this time. No
20 arrangements have been made.

21 MR. FOSTER: Thank you. You stated that
22 after clearing a hundred foot wire that you would be
23 back to working height within two hundred feet?

24 MR. SAARE: Approximately, if you're
25 entering the field. You come over a line, you can

1 usually get down in about, maybe double the height of
2 the towers. When we deal with the five hundred KV,
3 which is 160 feet tall, and it depends on the weight,
4 but the other way of handling that is to go ahead and
5 hand land it. We have Satlock, S-a-t-l-o-c-k, and
6 other types of GPS locating devices. We can go out
7 there and measure out whatever you want, three hundred
8 feet, which would be about six passes at 50 feet, and
9 then fly in to that point and go ahead and turn around
10 and go the other way.

11 If you can't get under the big tall wire, you
12 can fly parallel to it, and these fields here, that's
13 the way I would do it if I had the -- you came to me
14 and said you got to put MCP -- not anymore, MCP on the
15 rice. And that's exactly the way I would handle it. I
16 would just go out here and headland out north and
17 south, if I had to go the full mile east and west, and
18 then start flying it that way.

19 MR. FOSTER: How would you recommend doing
20 the corner at Township and O'Banion when you have a
21 90-degree with a hundred foot lines on each side?

22 THE WITNESS: Township and O'Banion where
23 the prune trees are across the street?

24 MR. FOSTER: In some locations, yes.

25 THE WITNESS: If these wires are placed as

1 they are proposed with a 42 to 50-foot minimum height,
2 and if the twelve five is underground, which has been
3 proposed, then you just fly in underneath a wire and
4 start spraying when you get to the corner.

5 MR. FOSTER: If they are at the proposed
6 height -- I read 30 foot. Can you fly under a 30-foot
7 line?

8 THE WITNESS: Thirty foot would be a
9 little low, but they have got to go up because of the
10 irrigation district's requirement.

11 MR. FOSTER: If the irrigation district
12 doesn't give an easement, maybe the lines would be
13 placed into the rice fields themselves, and I'm having
14 concerns where we're trying to fly under the wire for
15 one application, and then in the prune orchards we're
16 trying to fly over the wires.

17 MR. SAARE: Well, the prune orchard on the
18 south side of O'Banion?

19 MR. FOSTER: That would be one, and also
20 the east side of Township.

21 MR. SAARE: You could fly parallel north
22 and south on the east side and fly east and west
23 parallel the two blocks of prunes that I see right
24 there, the way the property seems to be divided. Of
25 course, these maps are probably not that accurate. But

1 the long way or nearly -- the longest way is east and
2 west upon the south side of the Township -- I mean on
3 the south side of O'Banion, pardon me. And so I would
4 attempt to fly those prunes east and west.

5 MR. FOSTER: About half a mile,
6 three-quarters of a mile north of O'Banion on Township
7 there is a prune orchard required to be flown east and
8 west. The house has large trees around it, there is a
9 line running out to a pump. How would you get coverage
10 on the front of this property?

11 MR. SAARE: Well, I haven't really looked
12 at it that recently that close. But I would imagine
13 there has got to be some way to get to it. But that
14 particular incident, I can't give you a direct answer
15 without looking at the property.

16 I've flown a lot of very wired up stuff in the
17 Napa Valley, in Lodi, much more wired up than anything
18 we have got up here, and there is almost always a way
19 to pick up the corners. If you fly the thing east and
20 west, and you leave out that front, you can approach
21 it -- can you approach from the north at all or from
22 the south? Can you -- when you get light, and you
23 understand enough about what we're talking about, when
24 the airplane gets light, you can go into a lot of
25 places and do free speed pull up. You're familiar with

1 that. And if that has any opening at all, that can be
2 picked up that way.

3 MR. FOSTER: With the Gramoxones and the
4 ten-foot flying level, for Gramoxones you have to stay
5 ten foot off of the product -- the crop, like in the
6 rice, would it be easier to climb over these 50-foot
7 lines and get coverage instead of a hundred foot? I
8 mean by adding these lines, you are adding an impact
9 for your job.

10 MR. SAARE: Yeah, but there's -- when you
11 look at the several thousand miles of these lines that
12 are scattered all over this valley and the San Joaquin
13 Valley, we deal with them every day. And there are few
14 places that these lines cause -- pose a big problem.
15 But they can be negotiated, or there is a few places
16 where you just can't do it. But there is no -- at
17 least not in this neck of the woods.

18 MR. SHANNON: I think you'll find one of
19 those bottlenecks you're referring to that you can't
20 get to is 5872 South Township would be the exact
21 address.

22 MR. SAARE: Say it again, please.

23 MR. FOSTER: One of these bottlenecks you
24 wouldn't be able to get coverage on is 5872 South
25 Township. You might want to take a look at this

1 location. You'll see the existing homes and hundred
2 foot trees on the front yard and a hundred foot power
3 line on the east/west flown property. Thank you.

4 THE WITNESS: I can't give you a specific
5 without looking at it.

6 MR. FOSTER: That's what I'm saying. You
7 need to look at it to understand.

8 THE WITNESS: I've been out there, I've
9 flown some of those fields over the years. But, you
10 know, in a lot of years, why you don't remember like
11 that on everything that you've ever done. But there
12 might be places that it would be pretty difficult. But
13 as a general run of the mill -- where is that address
14 on the map?

15 MR. FAY: Do you have a copy of the map in
16 front of you, the one they put up?

17 MR. FOSTER: Yeah. They have the one for
18 the slide screen there. It doesn't show the residence
19 or the landscaping of the residence with the
20 established tree height and growth to where the --
21 there is a bottle neck where an aircraft cannot cover.
22 Right about where his finger is those double arrows.
23 It would be KOP-4 on your visual. But there is two
24 residences there. One is right on the street. One is
25 set back 200 feet off the road. Both are fully

1 landscaped with large trees. The orchard extends to
2 the front of the property. Now they have to, when they
3 fly, they fly over the 50-foot wires and they get
4 fairly good coverage, now we're talking about flying
5 over 105 foot and we're leaving two hundred foot on the
6 orchard on that headland.

7 MR. SAARE: There is no way to go south
8 there?

9 MR. FOSTER: Not the way the existing
10 homes are laid, no.

11 MR. ELLISON: At this point I'm going to
12 have to register an objection. In light of the Farm
13 Bureau and Mr. Foster being intervenors, they take on
14 certain responsibilities, one of which is to
15 cross-examine without testifying. And what you're
16 doing, Mr. Foster, is testifying as to facts as opposed
17 to asking questions of the witness. Whether in fact
18 this can be flown east/west or north/south or that sort
19 of thing, as an intervenor you have a responsibility to
20 present a witness to present that. You can't present
21 that as a form of question of another witness.

22 So if this sort of -- I'm saying this in part,
23 I've ignored this in previous questions, but I'm saying
24 this in part to register an objection to this kind of
25 questioning generally. If you have a question of the

1 witness, that's appropriate. If you have a statement
2 to make, you can make it as public comment, but you
3 can't testify in the form of cross-examination.

4 MR. FAY: Yeah. I'm going to have to
5 sustain that objection for that reason, but one other
6 as well. That is, once you've asked the witness a
7 question, if the witness can't answer because he
8 doesn't have personal experience, that pretty much
9 establishes it. Nothing else you give him to say is
10 going to help much because he's told us he doesn't know
11 the spot. And if he's not familiar with it, then his
12 testimony wouldn't be very valuable.

13 MR. FOSTER: Okay. Thank you. That's all
14 the questions.

15 The question was just brought up. Is there an
16 added cost to, when you have to fly separate
17 directions, set up costs?

18 MR. SAARE: Some companies charge
19 different rates for different length of run. Others
20 don't, they just have a flat rate for the number of
21 acres in the job. So it would be dependent on your
22 individual service. Some of them will charge a certain
23 amount for less, say a quarter of a mile or
24 three-tenths of a mile, and then again at six-tenths of
25 a mile and so on like that. And others will charge

1 more for 20 acres than they will for a hundred acres.
2 But each service is individual or a combination of
3 both.

4 MR. FOSTER: Thank you.

5 MR. FAY: Now, Mr. Ellison, did you want
6 to present your next witness as well?

7 MR. ELLISON: That's fine. I take it we
8 can excuse Mr. Saare?

9 MR. FAY: Yes.

10 MR. ELLISON: Thank you.

11 MR. FAY: Thank you for your testimony,
12 Mr. Saare.

13 MR. ELLISON: Calpine's next witness is
14 Dr. Thomas Priestley who has been previously sworn.
15 Mr. Priestley is presenting the supplemental testimony
16 filed in response to the Committee's order which has
17 been identified, I believe, as Exhibit 45.

18 MR. FAY: That's Exhibit 45.

19 MR. ELLISON: We do have some extra copies
20 of Mr. Priestley's supplemental testimony if the
21 Committee or anybody needs them.

22 THOMAS PRIESTLEY

23 Having been previously sworn, was
24 examined and testified as follows:

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DIRECT EXAMINATION BY MR. ELLISON

MR. ELLISON: Q. Dr. Priestley, do you have a copy of Exhibit 45?

A. Yes, I do.

Q. Was this provided by or at your direction?

A. Yes, it was.

Q. Do you have any additions or corrections you'd like to make to this testimony?

A. Yeah, there are a few corrections I'd like to make.

On page 3, top of the page, second line, at the end of the line there is a reference to 115 or 1230 KV. If you would please change the 1230 to 230.

Then on page 6, it would be the third full paragraph, second line, there is a reference to field crop. And if you would scratch field crop and replace it with rice.

Okay. And then move over to page 7. The first paragraph under the section at the top of the page, it says potential effects on the local agricultural economy. Third line. It says taken out of field crop. Scratch field so it reads taken out of crop production. And then the line right under that, the first word is small. Right after that, in parentheses,

1 it says less than a hundred pounds, please scratch that
2 material so it reads small decrease in total rice
3 yields. And those are my changes.

4 Q. With those changes, is this testimony true
5 and correct, to the best of your knowledge?

6 A. Yes.

7 MR. ELLISON: And Dr. Priestley is
8 available -- well, let me ask this, Dr. Priestley.

9 Q. Could you very briefly summarize the
10 conclusions that you've reached in this testimony?

11 A. Yes. The approach that I took was to pull
12 together all the emperical research that has been done
13 and is available on the effects of transmission lines
14 on agricultural operations and agricultural yields.
15 And I reviewed that material and then replied --
16 applied the findings of this research to the situation
17 related to the Sutter Power Project. And the
18 conclusion is that the presence of the proposed
19 transmission lines would have an insignificant effect
20 on agricultural costs, agricultural production, the
21 local agricultural economy.

22 MR. ELLISON: Okay. Thank you. With
23 that, Dr. Priestley is available for
24 cross-examination.

25 MR. FAY: Mr. Ratliff, any questions?

1 MR. RATLIFF: No questions.

2 MR. FAY: Mr. Foster, does the Farm Bureau
3 wish to cross-examine Mr. Priestley on his testimony?

4 MR. FOSTER: No.

5 MR. FAY: Okay. All right. I see no
6 questions from the Committee either, so thank you for
7 your testimony, Mr. Priestley, and we'll turn to the
8 staff then because the staff also has supplementary
9 testimony on socioeconomics.

10 MR. RATLIFF: The staff witness is Amanda
11 Stennick. She's been sworn.

12 AMANDA STENNICK

13 Having been previously sworn, was
14 examined and testified as follows:

15

16 DIRECT EXAMINATION BY MR. RATLIFF

17 MR. RATLIFF: Q. Ms. Stennick, did you
18 prepare the supplementary testimony in socioeconomics?

19 A. Yes, I prepared it with Gary Walker.

20 Q. Do you have any changes to make in that
21 testimony at this time?

22 A. No changes.

23 Q. It is true and correct, to the best of
24 your knowledge and belief?

25 A. Yes, it is.

1 Q. Could you summarize it very briefly?

2 A. Okay. Staff was asked to do further
3 analysis on the project on the following issues, the
4 impact of the project on the local agricultural
5 economy, and the impact of the project on the value of
6 property in the area. Staff was asked to address these
7 points and include factors such as the potential for
8 diminution of property values, increased costs to
9 growers, and reduction in agricultural yield which may
10 be caused by the project and the transmission lines.

11 Staff was further directed to specify
12 appropriate mitigation measures and/or available
13 alternatives to the resulting analysis of the economic
14 impacts to the ag economy or property values conclude
15 that there is a significant and quantifying impact.

16 To address the impact of the project on the
17 local ag economy, staff calculated the acreage that
18 would be lost due to the Sutter Power Project. Staff
19 takes a position that the 77-acre parcel would not be
20 lost to production because due to Greenleaf 1, the
21 parcel hasn't been farmed since 1986.

22 Staff estimated the acreage that would be lost
23 to production due to the proposed transmission line and
24 used the worst case assumptions that the proposed line
25 would remove all land within 125 foot right of way from

1 production. Based on a four-mile proposed transmission
2 line the acreage lost would be 61 acres.

3 Staff did not use the approach of quantifying
4 the precise acreage that would be lost due to
5 particulate cost elements such as pole foundations.
6 This approach was not used because it would not capture
7 all farming costs and reduction in crop yields, and
8 these include increased costs due to additional
9 cultivating efforts in aerial applications. And
10 this -- therefore, this approach would not meet the
11 requirement in the Committee's order that the staff
12 consider increased costs to growers in production and
13 agricultural yield.

14 Staff calculated the loss in crop production
15 value due to the proposed transmission line. The
16 resulting loss in crop production value was
17 approximately \$42,137 for 1997. Staff then contacted
18 Dr. George Goldman at the UC Berkeley Agricultural
19 Extension Office who calculated the reduction in
20 production output and the income using the IMPLAN
21 input-output model. The estimate of \$42,137 reduction
22 in production value for the proposed transmission line
23 results in an output reduction of \$69,526 for 1997 and
24 an income reduction of \$35,247 for 1997.

25 Q. And just to clarify -- I'm sorry, did that

1 finish your summary?

2 A. No.

3 Q. I'm sorry.

4 A. That's okay.

5 Staff then took several steps to address the
6 impact of the project on the value of property in the
7 area. Staff made several attempts to contact the
8 Sutter County assessor's office, and those phone calls
9 were not returned. Staff then attempted to evaluate
10 the change in property values in the vicinity of the
11 existing Greenleaf 1 project as an indication of
12 potential effect of the proposed project on property
13 values in the area, using property sales before and
14 after construction of Greenleaf 1. And we used parcel
15 maps and sales data for properties in the vicinity of
16 the project site.

17 The data that we found indicated that 14 parcels
18 were sold between 1976 and 1996. Of this number five
19 parcels were sold as part of larger sales, so price
20 data is not available for the specific parcels. Of the
21 nine remaining parcels, four were sold before
22 construction of Greenleaf 1 and have not been sold
23 since then. Five parcels sold after construction of
24 Greenleaf 1 and were not sold in the period from 1976
25 to the construction of Greenleaf 1. Therefore, no

1 comparison between land values before and after
2 construction of Greenleaf construction is possible from
3 this data.

4 Staff's conclusions and recommendations are as
5 follows: In regard to effects on the local
6 agricultural economy, staff finds that the SPP and its
7 related facilities will not have a significant
8 quantifiable impact on the local agricultural economy
9 because the reduction in crop production value will be
10 a tiny fraction of the gross value of agricultural
11 production in Sutter County.

12 In regards to the effects of -- on the value of
13 property in the area, in the time available, staff was
14 not able to determine whether the project will have a
15 significant quantifiable impact on the value of
16 property in the area and, therefore, staff does not
17 recommend mitigation measures in regards to this
18 issue.

19 Q. Just to clarify one point. Your testimony
20 is that there is a loss in crop production value in
21 1997 for \$42,137.

22 A. Yes.

23 Q. And you stated that that was based on a
24 worst-case assumption. What did you mean by that?

25 A. As I stated earlier, staff used a

1 worst-case assumption that the proposed transmission
2 line would remove all of the land within the 125-foot
3 right of way from production, and based on a four-mile
4 transmission line, the acreage lost would be 61 acres.
5 And using the 61 acres represents the worst case.

6 Q. Do you have anything else to add to your
7 testimony?

8 A. No.

9 MR. RATLIFF: The witness is available.

10 MR. FAY: All right. Mr. Ellison, any
11 questions?

12 CROSS-EXAMINATION BY MR. ELLISON

13 MR. ELLISON: Miss Stennick, in terms of
14 the worst-case assumption that you've made that all the
15 acreage within the 125-foot right of way would be lost
16 completely to production, you visited the area of the
17 site; have you not?

18 A. That's true.

19 Q. And you've observed that there are
20 distribution and transmission lines near the vicinity?

21 A. Yes.

22 Q. Have you observed farming and crop
23 production in the vicinity of those transmission and
24 distribution lines?

25 A. Yes.

1 Q. Have you also observed crop production
2 within the same distances that we're referring to here,
3 120 feet of those transmission and distribution lines?

4 A. You mean have I witnessed crop reduction
5 within the 125 feet of the existing transmission
6 lines?

7 Q. Yes.

8 A. Yes.

9 MR. ELLISON: Thank you. That's all I
10 have.

11 MR. FAY: Mr. Foster, any questions of the
12 staff witness?

13 MR. FOSTER: On your testimony here it
14 states the resulting loss in crop production value is
15 \$42,137 in Sutter County, which gross value was
16 \$277,169,700. This loss in crop production is less
17 than .015 percent of the '97 production. This is not a
18 large issue county wide, but to the immediate farmers
19 in the area, this would be a significant loss, wouldn't
20 it?

21 MS. STENNICK: Based on the research that
22 we did, we were not able to make this -- to take a look
23 at the impact on the agricultural economy as parcel
24 specific or specific to individual growers. The only
25 thing that we could take a look at was the overall

1 agricultural economy of Sutter County.

2 MR. FOSTER: Yes, but this loss would be
3 to the growers immediate to the project; am I correct?

4 MS. STENNICK: This represents, the
5 42,000, approximate \$42,000 represents the value that
6 would be lost in rice production for 1997. So all of
7 the land within that proposed transmission line right
8 of way, in other words, all of the land that would
9 equal 61 acres in rice, is represented by this
10 \$42,000.

11 MR. FOSTER: Thank you. In figuring
12 losses like the easements around the transmission
13 lines, the land is going to be left foul for weeds to
14 grow and whatnot. The farmer, you know, he doesn't
15 want to ding his equipment up, getting too close to
16 it. The applicators can't get in to corners to protect
17 from the weeds, then Mother Nature has a way of moving
18 seeds from one parcel to another.

19 MR. ELLISON: I'm sorry, I'm going to have
20 to register the same objection that I registered
21 earlier, that this is an appropriate time for asking
22 questions but not for testifying.

23 MR. FAY: Well, I'm going to overrule your
24 objection if this is leading to a question.

25 MR. FOSTER: It is.

1 MR. FAY: All right.

2 MR. FOSTER: I'd just like to know, how
3 did you put the added impact on the values to the
4 neighboring farmers who are now having added costs to
5 their operation because of these areas that can no
6 longer be farmed?

7 THE WITNESS: That's why we decided to use
8 the worst-case analysis of the 61 acres, because based
9 on the time element involved and the resources at hand,
10 we were unable to quantify the precise acreage that
11 would be lost due to production, or we were unable to
12 quantify the increased loss to individual farmers.

13 MR. FOSTER: But there is an increased
14 cost, isn't there?

15 MS. STENNICK: There has been a discussion
16 of increased costs to farmers, yes, for extra labor,
17 other costs associated with farming around transmission
18 lines.

19 MR. FOSTER: Thank you.

20 MR. ELLISON: Mr. Fay, with your
21 permission, I'd like to ask one follow-up question to
22 Mr. Foster's question.

23 MR. FAY: Sure.

24 RE-CROSS-EXAMINATION BY MR. ELLISON

25 MR. ELLISON: Q. Miss Stennick, in doing

1 your analysis, did you consider that in acquiring the
2 easement that the farmers would be compensated for any
3 income loss or lost production?

4 A. Well, in doing the analysis, are you
5 referring to any compensation that Calpine may propose
6 as mitigation for the loss of ag land?

7 Q. Referring to compensation that Calpine
8 would be required to pay to acquire the easement which
9 would include compensation for the lost production.

10 A. Did we consider that in this analysis?

11 Q. That's the question.

12 A. No.

13 MR. ELLISON: That's all I have. Thank
14 you.

15 COMMISSIONER MOORE: Thank you. I have a
16 couple of questions on the methodology.

17 When you went to George Goldman and used this
18 plant, did you give George the total acreage you
19 calculated or did you give him the parameters of the
20 line and say you calculate the impact? Did you give
21 him an interest figure?

22 MS. STENNICK: I gave him a dollar value.

23 COMMISSIONER MOORE: Gave him a dollar
24 value?

25 MS. STENNICK: Yes.

1 COMMISSIONER MOORE: And that dollar
2 figure then was derived from you by taking acreage?

3 MS. STENNICK: We used the 1977 Sutter
4 County crop report for rice and multiplied the number
5 of acres times unit of production times value.

6 COMMISSIONER MOORE: So George didn't say
7 what's the amount getting taken out of, physically
8 taken out of production. The only thing he had to work
9 with was the dollar figure?

10 MS. STENNICK: That's correct. I
11 explained how we arrived at that figure to him.

12 COMMISSIONER MOORE: In the calculations
13 of impact on property values, I just want to make sure
14 I understand. When you went to the appraiser in order
15 to try and assign values to the properties, did you go
16 back to the assessment records and use records of the
17 stored records to create values when these calls were
18 not returned?

19 MS. STENNICK: I can't answer that
20 question because I was not the staff person who dealt
21 with Sutter County.

22 COMMISSIONER MOORE: Did you go to any
23 other sites or similar power plants in any other areas
24 or agricultural areas and look for shifts in property
25 values plus or minus in the vicinity of any other power

1 plants, other than Greenleaf 1?

2 MS. STENNICK: No, not -- no.

3 COMMISSIONER MOORE: And in the case of
4 the five parcels that were sold as parts of larger
5 sales, I'm not quite sure what that means. What's a
6 larger sale where -- and APN or assessor's parcel
7 number is not identified. How do you get a larger sale
8 where the APN is not called out?

9 THE WITNESS: I'm going to have to ask
10 Gary Walker to answer that question. I did not do the
11 research on that part of that.

12 COMMISSIONER MOORE: Mr. Walker was also
13 previously sworn.

14 GARY WALKER

15 Having been previously sworn, was
16 examined and testified as follows:

17

18 MR. WALKER: I think I have your question
19 in mind, Commissioner. The form in which the data on
20 sales was available from the county was in lists of
21 parcels sold, and acreage, and date sold, and value of
22 different components such as lands and improvements.
23 In that list, there were numerous sales that were of
24 numbers of parcels per sale. And the only information
25 given was the total dollar value of the sale for all of

1 those parcels, not the breakdown between the individual
2 parcels. So we couldn't assign particular values to
3 particular acreages because they weren't always the
4 same nature, such as orchards mixed with rice and
5 things like that. So there were too many variables we
6 couldn't control to give a reliable value for those
7 parcels.

8 COMMISSIONER MOORE: How did such a list
9 come to be constructed? I assumed, for instance, that
10 you started with a map that had all the assessor's
11 parcel numbers identified by parcels, and then you went
12 back to the list, crafted the list and it gave
13 characteristics of each parcel. Are you telling me you
14 did something different than that?

15 MR. WALKER: Yes, the way the information
16 was available for non-urban parts of the county was by
17 general types of crop, and that included orchards in
18 one category and open fields or open land in another
19 category which included rice.

20 As it says in the footnote of the testimony, we
21 did not include the orchard acreages because there were
22 so many different factors in evaluating each particular
23 parcel such as the time of the crop or age of the crop
24 that made those values vary substantially. So we
25 looked at the open land designation which included the

1 rice production.

2 COMMISSIONER MOORE: Okay. So just to
3 make sure I'm totally clear on this, you did not go to
4 a map of surrounding parcels around the Greenleaf 1
5 site and say what is the change in the value of these
6 parcels? You went to a compiled or aggregate list
7 available from the county that classified use code rice
8 fields, orchards, et cetera, and took those averages?

9 MR. WALKER: We looked in those lists for
10 the parcels that were near the Greenleaf 1 project.

11 COMMISSIONER MOORE: Okay. So now a
12 summary question, either you or the other witness can
13 answer this. And that is, in the end of all this, do
14 we have any reliable indicator about whether or not
15 parcel values in the vicinity of a power plant or a
16 transmission line go up or down?

17 MR. WALKER: We do not have that
18 information.

19 COMMISSIONER MOORE: Okay. Thank you.

20 MR. FAY: Miss Stennick, did you hear Mr.
21 Saare's testimony regarding aerial application close to
22 transmission lines?

23 MS. STENNICK: Yes.

24 MR. FAY: And I got the impression
25 listening to him that it was possible to serve the

1 fields with an aerial application of seeding and
2 herbicide or whatever fairly close to these lines and
3 perhaps be able to serve the field within this 125-foot
4 corridor that you had excluded. Would you agree?

5 MS. STENNICK: I heard him say that he has
6 had several years experience crop dusting in situations
7 worse than Sutter County as far as transmission lines.

8 MR. FAY: And did you have a chance to
9 hear and review Dr. Priestley's testimony regarding the
10 effect of the transmission lines on property values?

11 MS. STENNICK: I read Dr. Priestley's
12 testimony a few days ago.

13 MR. FAY: Based on your research, do you
14 have any reason to challenge the conclusions that he
15 reached?

16 MS. STENNICK: No, I don't.

17 MR. FAY: Would it be fair to assume that,
18 and I think you just testified, that you've in fact
19 observed agriculture within the 125-foot exclusion zone
20 that you assumed in your testimony; is that correct?

21 MS. STENNICK: That's correct.

22 MR. FAY: And if that were the case, that
23 you can carry out some level of agriculture within that
24 zone, would that tend to reduce the figure you came up
25 with, 42,137 crop production loss figure?

1 MS. STENNICK: It would -- logic tells you
2 that it would reduce it. By how much, we really don't
3 know. We did a worst-case analysis.

4 MR. FAY: I understand. That's all I
5 have.

6 Okay. I would like to ask if there is public
7 comment on socioeconomics or the topics you've heard
8 regarding the crop dusting, the effect of transmission
9 lines on crop value, that sort of thing.

10 Yes, ma'am, would you like to come forward? We
11 need your comment delivered on the record, please.
12 Right into the microphone. Please give your name.

13 MS. LaPERLE: My name is Wilma Crepps
14 LaPerle. There has been no reference to our duck club,
15 and I wondered if anybody remembers that we do have
16 this duck club there right where the trans -- where the
17 switching station is. It's not -- if the transmission
18 line goes on this route, it's going to terminate right
19 next to our duck club. And that's certainly going to
20 have an economic impact on us. I don't think anybody
21 wants to come from San Francisco to be surrounded by
22 power lines and a switching station.

23 COMMISSIONER MOORE: Well, the answer to
24 your question is it's still on our mind. We haven't
25 forgotten any of the earlier testimony, even though it

1 doesn't get repeated. It's already on the record and
2 is available to us as we begin our deliberations.

3 MRS. LaPERLE: Thank you.

4 MR. ELLISON: Mrs. LaPerle, I would also
5 mention that Dr. Priestley's testimony that we put in
6 this morning does have a section on the duck club.

7 MR. FAY: Page 6 he refers to the duck
8 club.

9 Yes, sir, please come forward.

10 MR. BOYCE: My name is Louis Boyce. On
11 the value of the duck club that this lady is talking
12 about, I went all through the records at the assessor's
13 office, and on this property, they have no record
14 whatsoever of a duck club.

15 MRS. LaPERLE: Although the duck club is
16 on our property, there was a fire and the clubhouse
17 burnt down. And the man -- the club has been there for
18 70 years. The man who operates it, Lucky Turner,
19 replaced the building and built it himself. And we
20 said that it's his club, even though it's on our
21 property. The clubhouse is his. And so he pays taxes
22 on that under his name. His name is Mr. Turner.

23 MR. FAY: Yes, we have that clarified.
24 There is no question on the record that there is a
25 building there that the applicant has identified as a

1 duck club. I'll note that. Mr. Priestley did include
2 that in his review on page 6 of his testimony, yes.

3 MR. SHANNON: I'm Mike Shannon, a local
4 grower. I'd like to make a couple of comments about
5 Mr. Saare's testimony. I won't ask any questions
6 either. I'll be good this time.

7 He made the comment that you should fly that
8 field north and south which would take out the effect
9 of those wires. But what got me was he made the
10 statement of, as an example, using MCPA which is a,
11 which is an Phenoxy herbicide, and the makers of the
12 phynoxy took it off the use of rights. It's still
13 available for use on wheat and barley. It's no longer
14 used on rice in California because of the cotton.
15 That's a whole nother story.

16 So we no longer have the Phenoxies, so now the
17 herbicide we use went to Londax. The broad-leaf
18 herbicides now have a taller institute agent chemical.
19 So the rice growers are looking for new chemicals, and
20 the two new ones on the market today for broad leaf
21 herbicides is called Shark and Grandstands. And they
22 work, they are very deadly to woody substances, okay.

23 So if you use Grandstand which I used last year,
24 and it drifted on to my ditch bank where there is some
25 trees growing, it burned them. It also drifted onto

1 the Fish and Wildlife Service, and it burned those
2 trees. The refuge got very upset.

3 So my point is, if he's flying that field, he
4 cannot fly that field north and south with a north
5 wind. There is no way. So if those wires run north
6 and south, he's going to have to go east and west. He
7 has to take the wind into fact if he's going to put
8 Grandstand or Shark or a combination of the two on that
9 field. And when he said MCPA, that told me that he's
10 been retired long enough that he has not sprayed the
11 new chemicals. Otherwise he would not have used MCPA
12 as an example. So that changes the way you fly that
13 field. You cannot fly that field north and south with
14 a five mile an hour north breeze if you're using
15 Grandstand or Shark. It will burn those prune trees
16 across the road. Thank you.

17 MR. FAY: Thank you.

18 MR. HENSON: My name is Leonard Henson.
19 On page 11 of the final staff assessment shows the
20 power pole and it says, 30-foot maximum conductor
21 citing. And you slip a 12-foot prune tree, even an
22 18-foot prune tree under there, you're going to have
23 one heck of a time getting a crop duster between that
24 prune tree and that power line.

25 The other thing was, the other thing that would

1 be impacted by this would be the duck hunting itself.
2 I drove out there for a sightseeing trip Sunday and I
3 counted 17 cars parked out by that duck club area on
4 the road there parked alongside. People go out and go
5 hunting. So there is a lot of duck hunters go out in
6 that area and use that. It's going to be a
7 socioeconomic impact right there.

8 MR. MASSEY: I'm David Massey. I live at
9 3936 O'Banion Road. I want to challenge what Mr. Saare
10 said about aerial application. I've been a pilot for
11 28 years. I don't know if any of you realize that the
12 speeds the crop dusters fly now is 95 miles an hour
13 plus, usually over a hundred. And if you come over a
14 hundred five foot power line with a 20-foot minimum
15 clearance, which would be really minimum at 125 feet,
16 you tell me at a hundred miles an hour you're going to
17 dive down within two hundred feet and get to
18 application height? Baloney. It's going to be at
19 least double that. So I think he's got some things to
20 learn there. He's been in business for 36 years. I
21 don't want to ride with him.

22 Also, in the supplemental testimony for the
23 Sutter power plant project on page two of the
24 socioeconomics, it is stated that the staff called the
25 Sutter County Assessor's office and the Sutter County

1 appraiser's office, and that the staff will not be able
2 to determine what effect this project will have on
3 local property values which could be significant. I
4 don't feel the subject has been adequately addressed.
5 I know this will definitely affect at least some of the
6 properties in the area. The Sutter County assessor's
7 and appraiser's did not return the phone calls,
8 obviously, because they do not intend to reassess any
9 properties in that area, and that the local land owners
10 will quite simply take it in the shorts when it comes
11 to diminished property values. Thank you.

12 MR. FAY: Other comments on the
13 socioeconomic aspects of the project that you heard
14 where today? Mr. Foster.

15 MR. FOSTER: I'll try and follow the
16 rules.

17 If my crop -- my personal crop is not within a
18 half mile of any of the easements for this project, but
19 the project will impact on view of the Sutter Buttes.
20 I don't know if it will -- it means a whole bunch, but
21 we built our home there for that reason. We bought it
22 in that part of the county that my wife grew up in, and
23 it means a lot to us down there.

24 But like I said, we're not within a quarter mile
25 or half a mile of any of the easements, but we're going

1 to be affected by it. I think you'd notice O'Banion
2 Road, there is five ten-acre parcels, all of them with
3 beautiful view of the Buttes. All of them are going to
4 be impacted by this plant and transmission lines. And
5 I realize no one has been able to figure out how much
6 it's going to impact us, but the impact is going to be
7 there. Thank you.

8 MR. FAY: Thank you. Any other comments?
9 Well, ma'am, we've heard from you once before. Is this
10 something different?

11 MRS. LaPERLE: This is about the
12 transmission line.

13 MR. FAY: All right. Please come up. By
14 the way, maybe you can clarify something for us. Do
15 the duck hunters actually hunt right at the clubhouse,
16 or do they hunt --

17 MRS. LaPERLE: They hunt in the bypass.

18 MR. FAY: In the bypass?

19 MRS. LaPERLE: Right. I don't know if
20 they hunt right near the clubhouse or not. They could
21 if they wished. Our crop is harvested then.

22 But I'm concerned that once this plant is
23 established, that you'll discover that the lines, that
24 the Western line, isn't adequate to carry these
25 megawatts, and that Calpine's or Western will want to

1 put in an additional line north and south across our 50
2 acres. And we're all already dreadfully impacted --
3 well, we're already impacted by the two lines that are
4 there, PG & E's and Western's, and if you put a third
5 line going north and south, plus this line going east
6 and west on our property, I don't know how we're going
7 to be able to farm our 50 acres.

8 MR. FAY: Thank you. All right. Any
9 other comments? I see no indication.

10 So the next item on our agenda is to hear from
11 Sutter County an update on the land use decisions that
12 they have been making and also hear from the parties on
13 the question of sequencing these decisions.

14 Mr. Carpenter, can you briefly bring us up to
15 date on where the County is?

16 MR. CARPENTER: Yeah, I'm George Carpenter
17 of the Sutter County Community Services Department. On
18 November 18th, the Planning Commission held their first
19 hearing on the proposed general plan amendment and
20 rezone, and they took testimony both in favor and
21 opposition to the project. They were provided with the
22 final staff assessment air quality section that
23 evening, and so they wanted to continue the meeting
24 until December 2nd, tomorrow night at 7:00 p.m. here at
25 the Vets Hall to consider the air quality section and

1 take additional testimony on that topic. And at the
2 end of the public hearing tomorrow night they may be
3 able to make a decision as far as their recommendation
4 to the Board of Supervisors of either an approval or a
5 denial.

6 If they approve -- if they recommend for
7 approval, then it would go to the Board of Supervisors
8 who would make a decision sometime after the Energy
9 Commission made a decision. If there is a denial, it
10 would be up to Calpine to appeal the denial to the
11 Board of Supervisors for it to get to that stage.

12 MR. FAY: Is the timing about the same
13 either way, or if there is a denial by the Planning
14 Commission, would Calpine have to seek some reaction
15 from the Board of Supervisors at a sooner time?

16 MR. CARPENTER: Calpine would need to file
17 their appeal within a statutorily set time period, but
18 the time for the Board's consideration of the matter
19 would still be the same.

20 MR. FAY: Okay. All right then, I
21 believe -- excuse me. Ms. Woods?

22 MS. WOODS: I am confused. I need to know
23 one thing. I'm Mary Woods. Is it etched in stone now
24 that this line is going to go down O'Banion, or is it
25 still up in the air?

1 MR. FAY: Okay. Just -- one more time for
2 the record, I'd like Mr. Ellison to just clarify this
3 since there is still some confusion. I understand
4 there is one proposal by Calpine, and maybe you can
5 identify what that is.

6 MR. ELLISON: Calpine has one proposal.
7 It's to go south on South Township to O'Banion, west on
8 O'Banion to the switch yard site. There is no party to
9 this proceeding that is proposing any route different
10 than that. So that is the only proposal in front of
11 this Commission.

12 However, the Commission is required to consider
13 all alternatives to that proposal. So there is in all
14 the documents, and there will continue to be,
15 discussion of the different alternatives routes. But
16 there is only the one proposal of Calpine and staff who
17 had originally made a proposal for a different route
18 has withdrawn it. So in terms of there being any
19 confusion about what's being proposed, there shouldn't
20 be any. The South Township O'Banion route is the only
21 proposal on the table. There are still alternatives
22 that are available for discussion.

23 MRS. WOODS: But you are not going to use
24 the alternatives? It's going to be O'Banion Road or
25 nothing? Is that where we're at?

1 MR. ELLISON: Well, if the Commission were
2 to approve this project with the approval of an
3 alternative route, which I think is very unlikely, but
4 if that were to happen, Calpine would have to make a
5 decision as to whether to use that or not, and they
6 haven't made that decision at this point.

7 The way the process works, though, is the
8 Commission considers the applicant's proposal and the
9 recommendations of other parties in looking at those
10 alternatives. And at this point in the proceeding, the
11 applicant's proposal is clear, and no other party to
12 the proceeding is proposing that one of the
13 alternatives is better. So I can't absolutely say that
14 Calpine would never build another route if it received
15 approval for that. But given that nobody is
16 recommending any other route than that, I think the
17 chances that a route other than what we are proposing
18 be approved is extremely low.

19 MRS. WOODS: Okay. Thank you.

20 MR. TURNER: I've spoken before. My name
21 is Hollis Turner. I have a duck club on the David
22 Crepps land. There is one question, I don't know who
23 to direct it to. Are you aware of the water level in
24 that area?

25 MR. FAY: What is it? Why don't you tell

1 us what the water level is?

2 MR. TURNER: Well, you go out there now,
3 it's flooding. You'll find water about two and a half
4 feet. How are you going to build --

5 MR. FAY: Excuse me, you're saying at the
6 site, the proposed site of the switch yard?

7 MR. TURNER: The site that you have
8 planned on the Crepps land, if you get it. I don't
9 understand why you are fighting it so much at that
10 place when you got higher ground and a better place all
11 around here. It's going to foul up my duck club. Mr.
12 Crepps does not want to sell any of his land, and the
13 towers are going to be destructive to the water foul
14 area in there.

15 And there is so many things already. O'Banion
16 Road is a very narrow road. The County is going to
17 have to widen that thing out. You can't hardly get two
18 cars down there now passing. And you add it all up
19 with the road, objections to it, the water level in
20 that area, if you put it right there and don't do
21 anything else, Gilsizer (phonetically) is going to
22 flood you.

23 And the water company there, every year the big
24 pumps go out, electricity is dead, and it takes two
25 hours if you don't get it going by then, Gilsizer

1 (phonetically) will flood you. It floods my duck club
2 there. If lightning hits it, out, you're flooded.
3 Last year it came up to the door before they finally
4 got it fixed. And the electricity wasn't -- it wasn't
5 lightning, the electricity just blew. Now, I don't see
6 why your engineers, with all this objection, don't
7 start considering another spot real, real seriously. I
8 don't want it there, Mr. Crepps don't want it there,
9 the farmers around there don't want it there. I think
10 it's incumbent upon the people here that's running this
11 thing to listen very carefully to your people. Thank
12 you.

13 MR. FAY: Excuse me, sir, one question
14 before you leave. I understand the duck club is
15 located on the Crepps property. Is the hunting also
16 done right there on the same property where it's
17 proposed for the switching station?

18 MR. TURNER: That's the clubhouse. The
19 clubhouse there, and right now, let's see, there is
20 one, two, three, four, five, six, seven, eight, nine,
21 ten -- about 15 -- 13 to 15 trailers there where people
22 come up. I have customers from Redding to Santa Cruz.

23 MR. FAY: But my question is, is hunting
24 actually done on the piece of ground where the switch
25 yard is proposed?

1 THE WITNESS: Do I propose?

2 MR. FAY: No, where the company proposes
3 to put the switch yard you said is flooded now?

4 THE WITNESS: Yeah.

5 MR. FAY: Is hunting done right there? As
6 part of your duck club operation, is hunting done right
7 there?

8 MR. TURNER: Well, that floods every year
9 in that area.

10 MR. FAY: Is it hunted right there?

11 MR. TURNER: It's flooded now inside the
12 bypass, and that brings the water table up.

13 MR. FAY: Right. Is that particular place
14 hunted?

15 MR. TURNER: Is it what?

16 MR. FAY: Do duck hunters hunt -- do your
17 club members hunt that spot where the switch yard is
18 proposed?

19 MR. TURNER: Yeah. That club -- my club
20 is right in the corner of where this property -- where
21 it is -- I'm not hearing you. I wear a hearing aid.

22 MR. FAY: Do the duck hunters go to the
23 place where they want to put the switch yard? Do they
24 hunt at that exact spot?

25 MR. TURNER: Pheasants, yes.

1 MR. FAY: For pheasants.

2 MR. TURNER: We hunt on the inside of the

3 bypass.

4 MR. FAY: So the duck hunting is on the

5 inside --

6 MR. TURNER: That is the hub of the duck

7 club right there.

8 MR. FAY: Okay. Thank you. Thank you for

9 your comment.

10 MR. FOSTER: Mr. Fay?

11 MR. FAY: Mr. Foster, we've heard from you

12 on this topic.

13 MR. FOSTER: I wanted to ask a question of

14 Mr. Carpenter.

15 MR. FAY: Regarding the plan?

16 MR. FOSTER: Yes.

17 MR. FAY: Okay.

18 MR. FOSTER: Is Sutter County going to

19 require the easements for the switching station and the

20 transmission lines to be in place before this is voted

21 on at the Planning Commission level?

22 MR. CARPENTER: That is not included in

23 the recommendations made to the Planning Commission.

24 But if the Board of Supervisors is going to do that

25 eventually, I do not know.

1 MR. FOSTER: Who makes the recommendations
2 to the Planning Commission?

3 MR. CARPENTER: Our office does.

4 MR. FOSTER: Thank you.

5 MR. FAY: Okay. What I'd like to do now
6 is entertain a discussion particularly among counsel
7 for the applicant and staff on -- and including Mr.
8 Carpenter's counsel as well on just how this decision
9 would be made. Mr. Ratliff submitted something in the
10 staff testimony in Exhibit 42 on the sequence of the
11 decision. Since the County is relying on a final
12 document from the Energy Commission before it makes its
13 decision, it looks like that is what the County wants
14 and what staff recommends; is that correct, Mr.
15 Ratliff?

16 MR. RATLIFF: That's correct.

17 MR. FAY: Anything further to add?

18 MR. RATLIFF: No.

19 MR. FAY: Mr. Ellison, anything further on
20 that?

21 MR. ELLISON: No.

22 MR. FAY: All right. There seems to be no
23 question then that the recommendation is that the
24 County Board of Supervisors will act after the Energy
25 Commission has acted. The Energy Commission has to

1 make a finding that the project conforms. So obviously
2 they would put some sort of condition in there that
3 would make the decision effective only if Sutter County
4 did make that conforming change.

5 MR. BURKE: Could I ask one question?

6 MR. FAY: Yes, Mr. Burke.

7 MR. BURKE: Do I understand correctly that
8 the final decision by the Energy Commission includes a
9 30-day written comment period? In other words, would
10 the Board of Supervisors act after that, or after the
11 decision has been made and then the 30-day comment
12 period?

13 MR. FAY: You may be confusing --

14 MR. BURKE: I probably am.

15 MR. FAY: The next big event that would
16 be -- once the evidentiary record is closed, the
17 Committee deliberates and produces the presiding
18 members' proposed decision, and that document will be
19 out for a 30-day comment period.

20 And you can file written comments, and the
21 Committee may schedule a Committee conference to
22 receive oral comments as well close to the end of the
23 comment period. Then the Committee either changes the
24 proposed decision and reissues it 15 days before the
25 final act by the Energy Commission, or it, having taken

1 the comments, if it decides not to change the proposed
2 decision, it sends it up to the full Commission, and
3 there would be another opportunity to comment in front
4 of the full Energy Commission.

5 MR. BURKE: Then the final energy decision
6 would be made? Is that correct?

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

8 MR. BURKE: I guess I'm asking Mr.
9 Carpenter, then subsequent to that would be the
10 consideration by the board of supervisor's?

11 MR. CARPENTER: That's correct.

12 MR. BURKE: Okay. Thank you very much.

13 MR. FAY: Okay. Our next topic is
14 alternatives, so we'd like to get started. Mr.
15 Ellison, you don't have further testimony, do you?

16 MR. ELLISON: No, we do not.

17 MR. FAY: Okay. We'll turn to the staff
18 and ask Mr. Ratliff if he's ready to present his
19 witnesses.

20 MR. RATLIFF: Staff witness is Mr.
21 Richins, who has not been sworn. We also have Mr.
22 McCuen, who has been sworn, and testified on
23 transmission planning -- I'm sorry transmission system
24 engineering. I don't know if you want them
25 sequentially or together. It's for you to decide. But

1 they both are addressing the request for an
2 alternatives analysis in the Committee order.

3 MR. FAY: I guess my view would be to have
4 them both up here. And they can summarize
5 sequentially, but if they are both available during the
6 cross-examination period, it would be helpful.

7 Mr. McCuen, could you come forward, please? In
8 the meantime, I'd like to Court Reporter to please
9 administer the oath to Mr. Richins.

10 PAUL RICHINS
11 having been sworn, was examined
12 and testified as follows:

13
14 DIRECT EXAMINATION BY MR. RATLIFF

15 MR. RATLIFF: Q. Mr. Richins, did you
16 prepare the supplemental staff testimony on
17 alternatives?

18 A. Yes, I did.

19 Q. Do you have any changes to makes in that
20 testimony at this time?

21 A. Just real quickly. Three changes on page
22 6. The third bullet should include the phrase South
23 Sutter County industrial commercial reserve, and then
24 likewise on page 6, the fifth bullet under
25 disadvantages, that was a double indication and that

1 should be deleted completely. And then on page 11, the
2 sixth line should add a parenthetical and the
3 parenthetical should read with the exception of the
4 O'Banion Road site.

5 Q. Does that include all your changes?

6 A. Yes, it does.

7 Q. Mr. McCuen, did you prepare the staff's
8 transmittal and --

9 A. That's correct.

10 Q. -- that's entitled transmission systems
11 alternatives?

12 A. That's correct.

13 Q. Is that testimony -- do you have any
14 changes to make to that testimony?

15 A. No, I do not.

16 Q. Is it true and correct to the best of your
17 knowledge and belief?

18 A. Yes, it is.

19 Q. With the changes you made, is the
20 testimony you gave true and correct to your knowledge,
21 Mr. Richins?

22 A. Yes.

23 MR. RATLIFF: I would propose that we have
24 Mr. Richins go first at some point, what he did for his
25 testimony, and then have Mr. McCuen do the same, if

1 that's acceptable to you.

2 MR. FAY: Please, go ahead.

3 MR. RICHINS: I'd just like to go over,
4 taking a look at the hearing order and the direction to
5 staff, we organized the material in a way to show an
6 overview of the, in bullet form, of the Sutter Project
7 site just in descriptive nature. And then from that
8 then we prepared -- and that was a fully mitigated
9 project.

10 And then what we did was we took a look at the
11 four alternatives that staff had reviewed earlier and
12 identified in descriptive format the site. And then in
13 addition to that, we identified advantages and
14 disadvantages to each site. We identified any of the
15 specific lengths of linear facilities, such as the
16 length of the natural gas line, the length of the
17 transmission lines. We also identified if there were
18 any fatal flaws or potential show stoppers, and also
19 emphasized the number of residents that were nearby,
20 either along the transmission line route or within one
21 mile radius of the project site.

22 Originally in our analysis we held some
23 workshops. We received input from the public here on
24 which alternative sites were available here in the
25 community. We also had worked with Sutter County on

1 identifying alternative sites, and they identified two
2 industrial park areas that are included in the
3 analysis.

4 We also looked at, quite extensively, the Sepco
5 case. That was the project that was approved by the
6 Energy Commission in 1994. Under that proceeding there
7 were 77 different alternative sites that were looked
8 at, so we used that also as a base. And then also
9 Calpine, in their AFC, provided, I believe it was three
10 alternative sites.

11 We looked at all of those sites and used a
12 criteria on proximity to natural gas line, proximity to
13 transmission line, and also took a look to see if the
14 land was appropriately zoned. Based on that criteria
15 then, the list that we gathered which reduced to four
16 primary candidates, and those four primary candidates
17 are up on the overhead. They are also figure one of
18 staff's supplemental testimony.

19 Starting in the south, there's the one that's
20 labeled Sacramento. That's the Sepco site that, as I
21 indicated earlier, was approved by the California
22 Energy Commission in 1994. That site was approved for
23 a small, relatively small plant, 113 megawatt base load
24 plant up to 148 megawatt peaking plant. That's a 19
25 acre site. Would require about a one-mile transmission

1 line, and 16 miles of natural gas pipeline.

2 The next site due north of that that we looked
3 at was in the South Sutter Industrial Commercial
4 Reserve. That's a 33-acre site. It's about -- there
5 is several ways that the transmission line route could
6 go. The transmission line could go due east for about
7 one mile and interconnect with Western's line, or in
8 the alternative, it could run south along the existing
9 Western line for about five miles and interconnect with
10 the Elverta substation.

11 Then moving to the north, you'll see the
12 O'Banion site just south and west of the proposed
13 Sutter Project. The O'Banion site is a 56-acre site.
14 It would be adjacent to Western's transmission line, so
15 there would be no connecting transmission line would be
16 necessary, and the natural gas route would be about the
17 same as it is under the proposed project, about 16
18 miles.

19 And then to the north of -- and a little bit to
20 the west of the Sutter power plant site is the Sutter
21 Buttes industrial area. There is a site that is
22 available for sale right next to Highway 20. It's a
23 67-acre site. Under that site, the transmission line
24 would be about five miles long and the natural gas
25 pipeline would be 28 miles long.

1 On page 3 of my testimony, I just indicate the
2 high points of the Sutter Power Project. This is the
3 high points that we used in which to do the comparative
4 analysis. This assumes that the project is fully
5 mitigated as proposed by Calpine in the last middle.

6 The difference, on original testimony, we did a
7 comparative analysis, and the plant was not fully
8 mitigated. And so the difference here the plant is
9 mitigated with dry cooling, zero discharge and 2.5
10 parts per million on the air quality. So that's the
11 major difference on what we've done here as opposed to
12 what was done on the original analysis.

13 MR. FAY: Does that conclude your
14 testimony?

15 MR. RICHINS: If the Committee would like,
16 I could go through the pros and cons on each one of the
17 sites or we could just skip over that just to the
18 conclusions. It's at the pleasure of the Committee.

19 MR. FAY: No, that's fine. The Committee
20 has your written supplemental and can review it.

21 MR. RATLIFF: Then I think I'll have Mr.
22 McCuen summarize his testimony at this point.

23 MR. FAY: Okay.

24 MR. RATLIFF: Q. Mr. McCuen, can you
25 briefly summarize what you did in your supplemental

1 testimony?

2 A. Yes. The November 13th, 1998 order
3 required a definitional information on the alternatives
4 that were being studied by the Sacramento Area
5 Transmission Planning Group the SATPG. They have
6 evaluated over about the last year, year and a half, 20
7 alternatives up until last night. I'll tell you about
8 some new ones.

9 In an effort to meet lump growth and satisfy
10 some voltage problems in the Sacramento Valley area.
11 Last year alone there were between six and eleven
12 instances where the system was either deficient or very
13 nearly deficient in power. I can document some of
14 those instances where the California ISO either had to
15 call what's called a no-touch day, where no maintenance
16 can be done, or in two instances, where curtailable
17 load was dropped in order to keep the system intact and
18 keep the problem from spreading to an adjacent system.
19 So there are some real problems out there right now.

20 I learned just last night or night before that
21 SMUD's load is already reached twenty-seven hundred
22 megawatts. In order to keep the system together for
23 next year, when I say SMUD's load, I'm talking about
24 the Sacramento Valley area.

25 Using SMUD, it's kind of a surrogate. At

1 present, there is only a cat's whiskers difference
2 between the twenty-seven hundred megawatts and the
3 voltage criteria they have to meet. If one
4 transmission is out of service, they have to drop at
5 least 50 megawatts to handle it. So this coming summer
6 they will install capacitors to try to help keep that
7 voltage up.

8 Continuing on, I evaluated four 230 KV
9 alternatives. Two of them were originals proposed to
10 the SATPG. One is from switching line, from the Sutter
11 switching station down to alternative. Originally I
12 looked -- just mention briefly that I was recently
13 advised that there are now an additional three
14 Alternatives under study. One of them is a generating
15 unit, possibly at Rancho Seco. No details on that, and
16 two of them are 500 KV transmission lines. In
17 addition, there are eight permutations of eight
18 possibilities. Combine one with three and three with
19 five of that nature.

20 Ultimately, with the information I had, I looked
21 at the degree to which each of the alternatives,
22 including the SPP, could provide power into the system
23 and allow for load growth. That was done based on a
24 voltage criteria rather than simply looking at
25 megawatts. I also indicated the cost for each of those

1 and ultimately wound up with a cost per megawatt.

2 I should mention that all of the transmission
3 alternatives are conceptual. There are no proponents,
4 no excuse me for building those right now, and they are
5 quite speculative at this time.

6 On the other hand, the Sacramento Area
7 Transmission Planning Group and its members have to
8 have something on the table basically that's ready to
9 go forward so that they are in a position to meet load
10 growth in the future.

11 MR. FAY: That completes your summary?

12 AL McCUEN: That concludes my summary.

13 MR. FAY: Witnesses are available.

14 COMMISSIONER MOORE: Mr. McCuen, you just
15 stated that Sacramento was going to have to add
16 capacity this next summer. What's the nature of that
17 capacity?

18 AL McCUEN: I'm sorry. They expected
19 their load is going to be twenty-seven hundred
20 megawatts. You said capacity. And I didn't quite --

21 COMMISSIONER MOORE: You used the phrase,
22 "they will have to add capacity next summer." Oh,
23 capacitors. Excuse me.

24 AL McCUEN: Yes, capacitors. They
25 installed capacitors last year to keep up, and they

1 intend to do some more this summer in order to --

2 COMMISSIONER MOORE: The function of a
3 capacitor is basically short-term storage?

4 AL McCUEN: That's a way of putting it.
5 Basically, they help keep the voltage up. They allow
6 the system to handle more load and more motors and so
7 on in the system than if they weren't there. They also
8 produce problems, however, and are considered band-aid
9 because they are not long term. When you install
10 capacitors in a system, although you fix one problem,
11 you cause other minor problems when you operate. They
12 have to be switched in and out. It's doable, but not
13 the kind of plan we'd like to see.

14 COMMISSIONER MOORE: Let me ask you about
15 your report, page two, almost down to the bottom, more
16 transmission lines does not resolve voltage problems.
17 Only voltage sources can mitigate the problem. What's
18 the source of that comment?

19 MR. McCUEN: A transmission line can
20 redirect resources into an area. It can take available
21 resources at one end and transfer as part of those to
22 an area. It cannot be rand up and down. It basically
23 does what it wants to on systems and voltages. In
24 other words, it's not corroboratable.

25 Additionally, especially a long transmission

1 line, is not effective in transmitting reactive power.
2 Reactive power is what the system has to have in order
3 to handle voltages and motors. Sacramento area and
4 others, many other areas in California have a very high
5 motor load. So comparing that to generation,
6 generation can be rand up and down, both for real power
7 and megawatts and for reactive power. It can be
8 setting there at three hundred megawatts and megabars
9 and be rand up to three hundred megabars to take care
10 of the problem. So that's the basic difference.

11 COMMISSIONER MOORE: So that line then
12 represents your professional opinion, it's not derived
13 from the report which we haven't seen from the --

14 MR. McCUEN: What was the last few words?

15 COMMISSIONER MOORE: I said this line
16 represented your professional opinion and not something
17 that's published or going to be published in the Sac
18 area report?

19 MR. McCUEN: This kind of thing has been
20 published for 20 or 30 years. I mean in terms of the
21 difference between transmission and generation and what
22 long transmission lines can provide. I mean that's --
23 that's basically common in the industry.

24 COMMISSIONER MOORE: On the following
25 page, at the end of the first paragraph you say, in

1 general, the area needs five hundred to a thousand
2 megawatts of additional generation and/or transmission
3 imports to meet load growth and maintain system
4 security. That's a hundred percent range.

5 And so let me ask you, what is the source of
6 that statement? You have a footnote but not a source.
7 Is that coming out of the SATPG report?

8 MR. McCUEN: The five hundred to a
9 thousand megawatts is a number that's basically kicked
10 around by SATPG members in terms of a basic need, a
11 general need. The electricity report '96 way back when
12 indicated a need of something on the order of a
13 thousand four megawatts to two thousand three. Since
14 then it appears that those estimates were low.

15 COMMISSIONER MOORE: Low, so the five
16 hundred figure is not accurate, it's something over a
17 thousand megawatts?

18 MR. McCUEN: That's correct. That was a
19 ballpark figure.

20 COMMISSIONER MOORE: On your page 5,
21 second paragraph, the last line, you say a megawatt
22 imported into an area is less firm, provides less
23 reactive power and redistributes power. Resources do
24 not increase. That's reflective of the comment you
25 made on the first paragraph?

1 MR. McCUEN: That's correct.

2 COMMISSIONER MOORE: That I asked you
3 about? Are we likely to get the area report before we
4 conclude our proceedings?

5 MR. McCUEN: I'm sorry, I can't --

6 COMMISSIONER MOORE: We had testimony that
7 it was still a draft coming from the Planning
8 Committee. Is that likely to be here any time sooner
9 than the original estimate?

10 MR. McCUEN: Yes, it's anticipated by the
11 end of December that the SATPG will have pulled much of
12 this together, and I anticipate by then they will have
13 five hundred KV cost estimates together. I wouldn't
14 expect that to be a fully complete report but probably
15 a good stats report at that time. I might mention with
16 regard to the 230 KV alternatives, which don't perform
17 at near the level of the others, I believe those are no
18 longer on the table, and they are talking basically the
19 five hundred.

20 COMMISSIONER MOORE: Okay. Thank you.

21 MR. FAY: Mr. Ratliff, are both witnesses
22 available for cross-examination?

23 MR. RATLIFF: Yes.

24 MR. FAY: Just normal order of things, I
25 would ask Mr. Ellison if he has any questions of the

1 panel?

2 MR. ELLISON: I do have one question for
3 Mr. McCuen.

4 CROSS-EXAMINATION BY MR. ELLISON

5 MR. ELLISON: Q. Mr. McCuen, if I could
6 ask you to turn to page 6 of your testimony in Table
7 1. This table describes various characteristics
8 including the costs of some of the transmission and
9 generational alternatives that you examined, correct?
10 Is that correct.

11 A. I heard the statement, I didn't understand
12 the testimony. I can hear you from back there, but I
13 can't hear you here. My apologies.

14 Q. Let me restate the question. This table,
15 Table 1 at page 6, among other things, describes the
16 cost of various transmissions and generation
17 alternatives that are presented in your testimony,
18 correct?

19 A. That's correct.

20 Q. For the SPP only case, you list a cost of
21 three hundred million dollars. Do you see that?

22 A. Yes.

23 Q. Am I correct that that cost would be borne
24 by Calpine's since this is a merchant project?

25 A. That's correct. That's not a rate payer

1 cost.

2 Q. And the cost of the other alternatives,
3 the transmission lines alternatives shown in Table 1,
4 those would most likely be borne by the public?

5 A. I think they likely would in some manner.
6 That manner is indeterminate.

7 Q. But it's likely they would be borne by the
8 public in some manner?

9 A. Yes.

10 MR. ELLISON: That's all I have. Thank
11 you.

12 MR. FAY: Mr. Foster, do you wish to
13 cross-examine either/or both members on the panel?

14 MR. FOSTER: Mr. Richins, do you know why
15 the Sepco site was never used after they went through
16 all the mitigations and everything?

17 MR. RICHINS: I think there is many
18 reasons, and I couldn't give you an answers.

19 MR. FOSTER: On the South Sutter County
20 Industrial Area, it says alternatively a five-mile line
21 to Elverta could parallel existing right of way but
22 would pass more than 150 residences. I take it that
23 would be from the plant to the Elverta substation? Is
24 this the last five miles of the same route that the 23
25 miles of line would run from the O'Banion switching

1 station?

2 MR. RICHINS: There's no route known on
3 that alternative that you're speaking of. But this
4 would be what's, in my testimony, is a section of
5 Western line or PG & E line that goes from the southern
6 -- South Sutter reserve to Elverta. And there is two
7 transmission lines there. One is PG & E's, and one is
8 Western. And so there is two possibilities for two
9 different corridors. But I can't speak for the
10 speculative phase two that you are alluding to.

11 MR. FOSTER: Would, if they followed the
12 corridor, the Western, would it be feasible that it
13 would be the same?

14 MR. RICHINS: If they followed the same --
15 yeah, if they followed the Western route, this would be
16 probably the same section.

17 MR. FOSTER: And down below here it says
18 on the distance, site does not have access to proper
19 public facilities; sewer, water, storm, and drain as
20 required by the general plan. Is that required by the
21 general plan?

22 MR. RICHINS: Yes. I checked with George
23 Carpenter with the County, and he told me that it was a
24 requirement, and that's what I relayed it to in the
25 change. It can be found in the South Sutter County

1 Industrial commercial reserve requirements.

2 MR. FOSTER: Okay. Thank you.

3 MR. FAY: Mr. Young from the Farm Bureau.

4 MR. YOUNG: Paul Richins, I'd like to ask
5 a question. On page 5 you state the Sacramento County
6 site shows that it is in a flood plain, but you don't
7 mention that the Sutter power site is in a -- has been
8 in a flood plain and still is. That area out there has
9 flooded. I want to know why that has not been
10 mentioned in your report?

11 MR. RICHINS: I guess it was an
12 oversight.

13 MR. YOUNG: Thank you.

14 MR. FAY: Mr. Richins, following up on Mr.
15 Young's question, is there any physical factor that
16 would make staff less concerned about the flood plain
17 for the proposed site than the flood plain at Elverta?

18 MR. RICHINS: Recalling that the
19 discussions and the proceedings in the Sepco project, I
20 believe it was requirement of that flood zone that the
21 property be raised ten feet. And it was a requirement
22 of the County in that proceeding. In this situation,
23 there is not a similar requirement of Sutter County to
24 raise the site that I'm aware of. And so I believe
25 it's -- potentially the flooding may be greater at the

1 Sepco site than here at the Sutter power plant site.

2 MR. FAY: Mr. McCuen, I know you talked
3 about this, I just wanted to get it clear in my mind.
4 If the Sacramento Area Transmission Planning Group
5 studies an alternative and you mentioned a great number
6 of Alternatives that they have studied and they seem to
7 be adding alternatives all the time, does that have any
8 relationship at all to a real proposal to build that
9 alternative transmission line?

10 MR. McCUEN: I'm not sure I understand.
11 They started with about 20 alternatives and started to
12 clean those out. They looked at the performance and
13 what happened. Sometimes they cause more problems than
14 they solve. And they boiled that down to three KV
15 alternatives, concluded those simply did not provide
16 enough power for the area and then shifted to others.

17 So if I can get to your question, they are
18 seriously looking for an alternative or alternatives to
19 put on the table so they are able to move forward
20 fairly quickly. As I indicated, it takes three to five
21 years perhaps to build something, get it certified,
22 designed, build it, et cetera.

23 MR. FAY: I'm just trying to understand
24 the process. If SATPG identifies a preferred or
25 several preferred alternatives, would they actively put

1 that out to bid? How would they make that happen?

2 MR. McCUEN: The answer is I don't know.
3 They will try to get interest. They will consider
4 financing it themselves. There's been some of that
5 discussion already. Mr. Mortesa (phonetically) of
6 Western has done a lot of work trying to get enough
7 interest to get people to work together to try to come
8 up with it. That has not been successful at this
9 time. So basically, it's not clear what might happen.

10 MR. FAY: Because you referred to -- the
11 next step after they identify all these alternatives
12 that they have to have, I believe you said something on
13 the table. It sounds like there is not a clear process
14 for them to get that transmission line in hand or
15 supplementary generation in hand; is that correct?

16 MR. McCUEN: That's correct. This is one
17 of those instances where in restructuring, the
18 requirement to serve is not nearly as clear at least.
19 Certainly SMUD has to take care of their customers as
20 does Western and PG & E. PG & E is the only one under
21 the ISO. And it's only under the ISO presently where
22 there is what is called a back stock procedure where
23 the ISO allegedly, there would be some disagreement on
24 the part of some utilities, could order PG & E to do
25 something to take care of the emergency. That does not

1 exist presently for the other members, the PTT --
2 Western, CPA, Roseville and there are some others. So
3 it isn't clear. There doesn't seem to be a process,
4 although there are planning processes out there, they
5 don't have the stick, basically. And so the stick as
6 is presently envisioned would be economics. When it's
7 economic to do something, it will happen. See a little
8 skepticism on my part.

9 MR. FAY: I understand. Your testimony
10 seems to make it clear that the Sacramento area problem
11 either cannot be solved by transmission alone or cannot
12 be solved adequately by transmission alone, that there
13 has to be some generation added; is that correct?

14 MR. McCUEN: Both of those. And that's
15 consistent with the first few pages of the Sacramento
16 Area Transmission Planning Group report. Mr. Betewin's
17 (phonetically) report makes the same statement. And I
18 notice they are now thinking of doing something with
19 the McClenehan generating station in Sacramento. And
20 there is some discussion at least, and I haven't seen
21 any details about the generating station at Rancho
22 Seco. Of course, there is also the SAP project which
23 depends on the Commission.

24 MR. FAY: Did they identify the amounts of
25 generation they need in the Sacramento area?

1 MR. McCUEN: They don't by number, or at
2 least that number has been moving around, and that's
3 why I can't reply accurately to the Commission's
4 question. That number is a moving target, but it has
5 already exceeded expectations there a year, year and a
6 half ago.

7 So the situation is becoming difficult I would
8 say. If they have a number, I don't happen to have it
9 with me is what I would have to tell you.

10 MR. FAY: Have you even seen a range,
11 estimated range of needed generation?

12 MR. McCUEN: My best estimate is something
13 on the order of twenty-eight hundred megawatts in 2001
14 and up to 2,890 or 3,000 megawatts in 2003, based on
15 knowing that it's twenty-seven hundred megawatts now.
16 And I'm not sure about the growth rate. It has
17 apparently been all over, and I'm not a forecaster. I
18 can tell there is a problem simply by looking at the
19 real numbers.

20 COMMISSIONER KEESE: Mr. McCuen, when you
21 refer generically to SMUD territory, you're talking
22 about a number of counties, are you? The SMUD area?

23 MR. McCUEN: Yes. Although we use the
24 load for SMUD and adjacent areas, includes Roseville
25 and so on, also, as a marker, a benchmark, the concern

1 really is more like a hundred miles or something of
2 that nature, because the system affects PG & E's
3 system, it affects Western's system, SMUD's system
4 because of the interconnected nature. It's basic --
5 you'll hear me say over and over the Sacramento Valley
6 area, okay?

7 COMMISSIONER KEESE: And your concern,
8 your statement, I guess, is that if there is not enough
9 generation or transmission capacity, there will be
10 curtailments in that entire area for starters?

11 MR. McCUEN: Yes. Three hundred
12 megawatts, including over a hundred I think for
13 PG & E.

14 COMMISSIONER KEESE: Then should that not
15 be satisfactory, or there is an anomaly at the same
16 time, it affects the entire state or the Western
17 period, also?

18 MR. McCUEN: That's correct. The reason
19 for the four hundred megawatt dropping scheme is to
20 keep the problem at home, not let it travel through the
21 system, because it has such a large propensity to cause
22 very large problems for citizens. That goes beyond
23 just keeping local lights on.

24 COMMISSIONER KEESE: And you indicated I
25 believe in your testimony we have a similar situation

1 in two or three other areas of the state?

2 MR. McCUEN: Yes, and even more than
3 that. PG & E, I believe, has five, and I can't recall
4 all the names. But I can think of three right off the
5 bat. Humboldt, an area just south of Oakland. San
6 Francisco itself is a special area in California which
7 has to maintain a local load, local generation because
8 of imports into the area. And there is three or four
9 other areas in PG & E itself. And, of course, when you
10 consider the Sacramento Valley area or SMUD is another
11 one of those.

12 COMMISSIONER KEESE: So when we are
13 looking at alternatives here of generation and
14 transmission, we can't take a simplistic view and say,
15 well, we'll just let the other areas support us, they
16 have their own problems, we have to solve a statewide
17 problem that is localized in what you call the SMUD
18 area?

19 MR. McCUEN: That's correct. The Bay Area
20 could provide some assistance, and I'm not sure how
21 much that is kind of theoretical. If they cited some
22 large generation size domes down there, that might free
23 up a little power for the Sacramento Valley area. I
24 wouldn't expect that to be an awful lot. Pretty much
25 at some point you really need or perhaps have to have a

1 balance between local generation and imports, and it
2 appears that it's out of balance.

3 COMMISSIONER KEESE: And the time frame
4 for the Bay Area to have significant generation is
5 2003, and I don't understand.

6 MR. McCUEN: I would say something along
7 that nature. We're seeing some AFCs, should be coming
8 in-house now. It's going to take on the order of three
9 to four years, depending on whether they decide to
10 build.

11 MR. FAY: Mr. Ratliff, any redirect?

12 MR. RATLIFF: No.

13 MR. ELLISON: Mr. Fay, can I ask just one
14 more question?

15 MR. FAY: Yes.

16 MR. ELLISON: Q. Mr. McCuen, just one
17 more follow-up on all the discussion we've been
18 having. Let me ask you this, in your opinion will the
19 Sutter Power Project help improve the reliability of
20 electric service in Sutter County?

21 THE WITNESS: Yes.

22 MR. ELLISON: Thank you.

23 MR. FAY: Mr. Young, you had a follow-up
24 question?

25 MR. YOUNG: In follow up to this question

1 over here. How?

2 MR. McCUEN: The SPP project provides
3 power into what we call the SMUD area. That area
4 backfeeds this area. When you utilize -- basically,
5 when you back down the hydrogeneration in the northern
6 part of the state and provide generation locally, that
7 generation is freed up. This area is served by a
8 combination of two fairly large hydro facilities on the
9 order of 60 or 80 megawatts and two about 50 megawatt
10 thermal plants. There is also some other lights coming
11 into the area from the north. Basically the SPP
12 displants, if you will, some of the generation, frees
13 it up.

14 MR. YOUNG: But that doesn't -- in other
15 words, electricity goes into the main grid, and we're
16 in the same pool with everybody?

17 MR. McCUEN: That's correct.

18 MR. YOUNG: We don't get any special
19 privileges.

20 MR. McCUEN: Yes, there are no islands in
21 California at present. Everybody is connected
22 together. This system is connected to the northern
23 part of SMUD, connected to the winter's, connected to
24 the PG & E's. It's connected to the hydroplants.
25 Connected over five thousand miles of five hundred KV

1 megawatts. Brings transmissions into the state.

2 MR. YOUNG: Thank you. May I follow up a
3 question I asked before to Mr. Paul Richins?

4 MR. FAY: Yes.

5 MR. YOUNG: On your Sutter power plant,
6 you got a natural gas line of 14 miles. In the Sutter
7 Buttes industrial area, you say that there has to be 28
8 miles of natural gas line. And I'm asking why, since
9 it's closer to the main source of gas.

10 MR. FAY: Are you referring to the last
11 bullet in the first paragraph on page 8?

12 MR. YOUNG: Yes. Page 8, site
13 reinstruction and over on the Sutter power plant, it's
14 on page 3, site description, about three quarters of
15 the way down.

16 MR. RICHINS: Yeah, I'm looking at figure
17 number four where we show the natural gas pipeline
18 coming from the Sutter Butte site. Just eyeballing
19 that in comparison with the route for the Sutter Power
20 Project, it looks fairly close to the same distance, so
21 I'm guessing that that might be a typo. Instead of
22 being 2 -- what did you say the number is?

23 MR. YOUNG: Twenty-eight.

24 MR. RICHINS: It may be 18 or a number
25 closer to 14. But just eyeballing it, looks like

1 following that route is a similar distance to the SPP
2 route.

3 MR. YOUNG: Okay. In regard to my former
4 question on the flooding issue, do you think it would
5 be a good idea in your report to include that and also
6 to correct the miles on this?

7 MR. RICHINS: To respond back to your
8 earlier question, probably all the sites in the valley
9 are in a flood plain, and we didn't call those out in
10 all situations. I called it out in the one at the
11 Sepco site because that was a particular problem and a
12 particular mitigation that was identified that was
13 above and beyond what would be required on the Sutter
14 power plant site. So that's why it was called out for
15 the Sepco and not necessarily called out for the
16 others.

17 MR. YOUNG: In other words, you didn't go
18 back into the history of the areas such as did you know
19 that that plant out there at Greenleaf 1, at that site,
20 was probably under about eight feet of water in 1955?

21 MR. RICHINS: I don't know that for a
22 fact, but I know the whole area probably flooded and
23 we've heard from Mary that it flooded. So we are aware
24 of that. What I was relying on was that the County of
25 Sacramento, on the Sepco site, required the elevation

1 of that site be raised ten feet. Looking at the other
2 sites, other alternative sites, we did not see a
3 requirement of Sutter County to that extent. We do
4 recognize, though, that there is flooding probably in
5 all the alternative sites, including the Sutter power
6 plant site as well. But we felt the Sepco site was
7 more acute.

8 MR. YOUNG: Thank you.

9 MR. FAY: Okay. We want to take our
10 mid-afternoon break for all our sakes and that of the
11 Court Reporter as well. And when we return, we'll take
12 public comment on the alternatives testimony, and then
13 we'll move into conclusion of cross-examination on
14 visual resources.

15 (Break taken.)

16 MR. FAY: I asked everybody to take their
17 seats so that we can go back on the record. And I
18 asked if anybody would like to make public comment on
19 the testimony offered by the staff panel. Now we'll
20 hear from Mr. Burke.

21 MR. BURKE: I do have a couple of comments
22 this time. One is lest we misunderstand, that it is
23 true that in the site alternative in the South Sutter
24 County Industrial commercial area, it's hard for me to
25 say all that, it does, the general plan does require

1 those public facilities such as sewer, water, storm
2 drain. But it was the intent of the general plan
3 update in Sutter County to have that included in all
4 new development areas. So all new construction or
5 development was to have those. It's not on the site,
6 or it's not required on the current site simply because
7 that's inaccurate.

8 Is that right, George? Anyway, so -- yes, but
9 no, so to speak?

10 The other thing is, and this goes back to the
11 site alternatives, it seems that one was mentioned,
12 fire protection emergency services were 20 miles away
13 from the S1 site, and I think if you go down there,
14 you'll see that there are fire protection emergency
15 services quite a bit closer than that, which may need
16 upgrading, but the proposed Sutter power plant site
17 fire department will also need some upgrading. Perhaps
18 not as much. But there is a fire department right
19 across the County line in Sacramento County which could
20 serve that South Sutter County site or the Sepco site,
21 either one. And I haven't contacted them to see what
22 would be required. Probably some kind of a cooperation
23 agreement.

24 Both sites in South Sutter County, the South
25 Sutter County site and the Sepco site, I can't see how

1 the visual impacts would be as much as the SPP site
2 because there is already a lot of power lines down
3 there as indicated before.

4 And I guess finally, the argument made against
5 some of these alternative sites are based on the fact
6 that they are closer to larger population groups.
7 There is more people involved. If that's going to be a
8 legitimate reason to throw these out because of
9 hazardous materials, which are a part of the design
10 rather than absolute, then I think we could expect all
11 new power plants to be going through the same process
12 that this one is going. In other words, why would you
13 put it anywhere else but in a rural area, and that
14 bothers me. So -- thank you.

15 MR. FAY: I'm going to make a comment,
16 then I'd like Mr. Richins to follow up if he has
17 anything more to add. But, Mr. Burke, I just want to
18 clarify that my understanding, because the staff lists
19 in their alternative evaluation, which is a comparative
20 evaluation of sites, if they list a disadvantage, that
21 doesn't mean that it is a statewide criteria that would
22 eliminate a site. In other words, it doesn't mean that
23 the state policy is to site power plants in rural
24 areas.

25 MR. BURKE: No, I understand. Just

1 because it's not state policy --

2 MR. FAY: Because the number of proposals
3 coming to the Energy Commission are either on existing
4 power plants or in fairly urban areas.

5 MR. BURKE: So is that argument then
6 unique to this situation, or is it just because it
7 sounds good for this situation?

8 MR. FAY: Mr. Richins, you want to address
9 why the staff listed the demographics or the
10 population --

11 MR. RICHINS: Well, it's my understanding
12 of the sequela, and that is, if there are significant
13 environmental impacts identified with a project that's
14 proposed, in this case, Sutter Power Project, staff
15 identified one significant environmental impact, and
16 that was visual. That triggers the staff or anybody
17 completing an environmental assessment to look for
18 alternative sites and alternative methods in which to
19 mitigate or minimize that significant impact.

20 And so the reason in our analysis, which Gary
21 Fay indicated is a comparative analysis, we
22 concentrated and focused primarily on visual aspects of
23 the alternative sites to determine if visual aspects
24 would be greater, the same or better, although we would
25 not limit our analysis to visual, but the primary

1 driving factor was the visual aspects of the
2 alternative sites.

3 A major function of alternative sites and the
4 visual aspect is the number of viewers and the length
5 of the transmission lines. And so that's why you'll
6 see the -- in the advantages, disadvantages of show
7 stoppers, the reference to the number of homes or
8 residents in the area as compared to Sutter power plant
9 site. And that was just used as a surrogate to
10 indicate a potential for impact to visual as compared
11 with impact at the Sutter power plant site.

12 MR. BURKE: But you mentioned as a
13 distinct disadvantage that the relationship between
14 hazardous materials potentials and population as a
15 distinction from visual. And so I'm having a little
16 difficulty understanding what you're saying here. I
17 understand the visual part, and I'm wondering, if you
18 look at those sites and they are going to -- the power
19 lines are going to follow the current, what's already
20 down there, what do you call it, corridor, are there
21 not already power plants in that area?

22 MR. FAY: Mr. Burke, I can't allow
23 questioning.

24 MR. BURKE: I'm asking questions again.

25 I will state there are power lines down there,

1 so the visual effects will be less because there are
2 more people in the area because they already have the
3 impact, whereas out here we don't.

4 MR. FAY: Okay. Thank you. Any other
5 comments on the staff alternatives panel?

6 MRS. MENDOZA: Roberta Mendoza, the Public
7 Advisor. I've just been told that Mr. Ameral was
8 planning to make a comment in this section but not come
9 until 6:30 this evening. And I've also learned that we
10 might just go on through, so we're trying to determine
11 what his comment might be and would like to be able to
12 present it at the time. I would give it for him since
13 he's not going to be here. Just wanted to let you
14 know.

15 MR. FAY: Yeah, it sure would help if you
16 could convey it for him or have Mrs. Ameral convey it
17 for him, because what we'd like to do -- it looks,
18 having checked with counsel for the two parties up
19 here, they don't envision using a great deal of time to
20 finish up on visual. So we may be able to finish by
21 6:00 o'clock rather than come back this evening. We
22 would just want to try to finish and let everybody go
23 home and have an evening. So we might not be here at
24 6:30 is the short answer. Yes, sir, Mr. Hunt?

25 MR. HUNT: Harry Hunt. And I was amazed

1 while ago when I heard that they didn't realize that we
2 have a flood around this area. We had -- where I live,
3 just a half a mile north uphill you might say from this
4 generator, we had seven or eight feet at the house.
5 The barn was out there ten feet. The water was up to
6 the eaves on it, and that's on higher ground than where
7 this Calpine is planning for. It's down south from my
8 barn. So I would imagine that down there would be ten
9 to 12 feet at least where they are talking about. Plus
10 now they have gone out there where they built Greenleaf
11 and scooped up a lot of that dirt out there and made
12 some more holes besides. That was the '55 flood that
13 was kind of large around here. Apparently don't
14 realize that those kind of things happen here.

15 MS. WOODS: There was one in '41, too.

16 MR. HUNT: Yeah, there was one in '41,
17 too, but the water didn't get as deep that year. It
18 was only about two feet instead of ten feet.

19 MR. FAY: Yeah, I think the staff did
20 assess the hundred year and five-year frequency, and if
21 you check the FSA, you'll see there is mention of
22 that. Any other comments on the staff alternative
23 panel?

24 MR. HENSON: Yes, my name is Leonard
25 Henson. I had just -- when the Commissioners read over

1 this alternate site evaluation, the advantages and
2 disadvantages weren't listed exactly right. I mean --
3 can I say this? Well, the South Sutter site has one
4 advantage. Says it has the right general plan
5 designation. It also doesn't say the transmission
6 lines are going to be shorter. If they go all the way
7 to the substation, there won't be any phase two, and
8 there will be 22 miles shorter.

9 So these are some things that when you read
10 these, you're going to have to read into it what's
11 missing. And when they pick a site in South Sutter
12 industrial area, there is 10,500 acres down there
13 designated that way. It's not my job, but seems like
14 you could have found a site that wasn't around so many
15 homes. I know there is a lot of empty country down
16 there, especially out near those power lines. Thank
17 you.

18 MR. FAY: Okay. Mr. Foster.

19 MR. SHANNON: I don't know if this has a
20 lot to do with alternative sites, but one of the
21 proposals is to bury the 12 KV line on O'Banion Road,
22 and that is the same line that supplies the pumps at
23 pumping station number two that dewateres that portion
24 of Sutter County. I've heard that when they bury
25 lines, that the repair time is much greater. Might go

1 from a day to a week. If we lose those pumps because
2 of a damaged line and we're talking weeks to repair it.

3 The power was out down there a couple of years
4 ago for 24 hours, and I don't know how many acres of
5 winter wheat -- I believe the duck club was under water
6 because of it, literally a foot deep in the club house
7 because the pumps didn't run for 24 hours. If we're
8 going to bury that 12 KV line, we need to make sure we
9 can keep it reliable to get in to repair it in a short
10 enough period of time to keep us above water.

11 As an intervenor I'd like to say something.
12 Earlier today we heard that the staff has made an
13 effort to evaluate economic impacts the Calpine project
14 will have on farm land and land values. Their
15 testimony was inconclusive. I would like to provide a
16 recent article to the parties and have it entered into
17 the record. The article details conversion of similar
18 lands in San Joaquin County. I don't have the article
19 with me today. I would have to make copies and secure
20 and docket these materials. Will this be acceptable?

21 MR. FAY: I'm sorry, what did the article
22 appear in?

23 MR. SHANNON: It was a newspaper article,
24 and I'm not positive which one it was. One of our
25 members saw it.

1 MR. FAY: You're certainly welcome to
2 submit that attached to a letter explaining your view
3 of the article and how the committee ought to view it
4 and submit it to the record.

5 MR. SHANNON: Thank you.

6 MR. FAY: Any other comments then on
7 this? Yes.

8 MRS. CREPPS LaPERLE: Well, in the
9 Calpine's book that explained the plan, let's see,
10 where's the title? It was Sutter power, published on
11 September 16th, and on the second section, or it's
12 between the second and third section, in the first,
13 second, third paragraph, it says, "The Sutter power
14 plant is the best and lowest cost alternative
15 identified." And I think because Calpine was able to
16 acquire the Greenleaf plant, that lowered their costs
17 and gave them a location without having to go out and
18 barter with somebody to buy their property. And so
19 they did. This is the lowest cost plant. But by
20 deregulating energy, I hope that we don't allow any
21 company -- I also have an article that appeared in our
22 Bakersfield Californian, and it says that four power
23 plants cast eye on Kern. And it lists many other
24 plants that are planning to appear before the
25 Commission. So I hope that we don't set a precedent to

1 allow a company to step in to an area, an agricultural
2 area, where it can produce the lowest plant and make
3 the greatest profit for its stockholders at the expense
4 of a few farmers.

5 Yes, we're not numerous, and we're not
6 influential, but I think we do deserve protection,
7 too. We are in an agricultural area, and we want to
8 remain an agricultural area. And this morning, when
9 Mr. Moore was discussing the plant closure, he said the
10 character of the area could be different in 30 years.
11 We don't want our area to be different in 30 years.
12 It's designated agriculture. We want it to stay
13 agriculture. And we're afraid that this is just
14 another movement forward to change our area. Just as
15 Greenleaf was very small, but it gave them the foot in
16 the door that's allowed them to go ahead with this
17 great big plant. So we're just hoping that by this
18 project being the least expensive way for a utility to
19 go, that it won't be set as precedent for other -- for
20 these other plants to go into areas where they are not
21 wanted. Thank you.

22 MR. FAY: Anymore comments? I'll just
23 mention that any of those Bakersfield proposals, if you
24 find that they are in an area that bothers you, that
25 there will be a similar proceeding like this to come

1 and speak your mind.

2 All right. I see no indication of more
3 comments, so now I'd like to return to our very
4 complete and even exhaustive cross-examination of the
5 staff witness on visual resources.

6 MR. ELLISON: Q. Complete exhaustive and,
7 according to the newspaper, tedious was the other one.

8 MR. FAY: I didn't say that.

9 MR. ELLISON: The truth hurts.

10 MR. FAY: I'll just note for the record
11 that Gary Walker, the staff witness, has previously
12 been sworn and remains under oath.

13 MR. RATLIFF: Commissioner, I wanted to
14 just say we have come back with another diagram of the
15 relative size of the new transmission line poles and
16 the old poles. And I think we're willing, both parties
17 are going to stipulate that new diagram.

18 MR. FAY: Mr. Ratliff, do you have copies
19 that you can submit for the record so that we can
20 identify it as an exhibit and then have it in the
21 docket? Mr. Richins is indicating in the affirmative.
22 There are more on the back table.

23 MR. ELLISON: Just to state for the record
24 with respect to this diagram, the staff and Calpine
25 have worked together to correct the scale problems that

1 were discussed previously with respect to this exhibit
2 which has been identified as Exhibit 41 in this
3 proceeding. So I would propose, subject to concurrence
4 from staff, that we stipulate that this one is correct,
5 the earlier Exhibit 41 is not correct, and that we
6 substitute the correct one. I'm not sure whether we
7 should just strike Exhibit 41 and give this a new
8 number or whether we ought to just replace them. But
9 it is important to Calpine that the correct one be
10 substituted for the incorrect one.

11 MR. FAY: Well, I would prefer, just for
12 the clarity of the record, that if staff wishes to
13 withdraw Exhibit 41, then we label this the next
14 number, which would be Exhibit 46.

15 MR. RATLIFF: That's fine. We can
16 withdraw that one.

17 MR. FAY: So I understand, staff is
18 withdrawing Exhibit 41?

19 MR. RATLIFF: Yes.

20 MR. FAY: Okay. And this new diagram,
21 titled Comparison of Typical Proposed SPP Transmission
22 Pole with an existing 48-foot tall PG & E pole on the
23 southwest corner of the intersection of South Townsend
24 Road and O'Banion Road is Exhibit 46.

25 MR. FAY: Mr. Ellison, you want to go

1 ahead with your cross-examination?

2 MR. ELLISON: Yes. You ready, Mr.
3 Walker?

4 MR. WALKER: Just a minute. Okay.

5 CROSS-EXAMINATION BY MR. ELLISON

6 MR. ELLISON: Q. Mr. Walker, I'd like you
7 to refer to page 316 of the final staff assessment. At
8 the bottom of the page under visual elements is a
9 paragraph that describes a variety of visual elements,
10 including color, form, line, texture, scale and spatial
11 character. Do you see that?

12 A. Yes.

13 Q. Could you describe what is meant by form
14 contrast?

15 A. Form contrast is an evaluation of the
16 difference in the form or shape of two objects.

17 Q. And it's a separate factor from scale; is
18 that correct?

19 A. Yes.

20 Q. So if I -- and am I correct that your
21 judgment as to form contrast in this case, and
22 specifically at KOP 5 address the contrasting form
23 between the existing distribution poles on South
24 Township and the proposed transmission poles associated
25 with this project?

1 A. Yes.

2 Q. So if I were to refer to Exhibit 46, what
3 we're talking about then with respect to form contrast
4 is the difference in the shape between the two towers
5 depicted on Exhibit 46. Is that a fair statement?

6 A. Yes.

7 Q. And not the difference in the size?

8 A. That's correct.

9 Q. So if we were to imagine, looking at
10 Exhibit 46, that the distribution pole, the one on the
11 right, were scaled up so that it was the same size as
12 the Sutter pole on the left, and then just compare them
13 as to shape, would that be a fair assessment of form
14 contrast?

15 A. Yes.

16 Q. I'm referring again to page 316. You also
17 describe there the difference between scale dominance
18 and scale contrast. Do you see that? To be specific,
19 I'm referring to the last complete sentence on page
20 316.

21 A. Yes, I see that.

22 Q. The sentence that reads sub-elements of
23 scale include scale dominance, parens, (the scale of an
24 object relevant to the visible expanse of the landscape
25 and to the total field of view of the human eye or

1 camera), close parens, and scale contrasts. For
2 instance, the scale of an object relative to other
3 distinct objects or areas in the landscape.) Close
4 parens.

5 With respect to that sentence, do I correctly
6 understand then that the contrast in the scale between
7 an object and, for example, the Sutter Buttes would be
8 a question of scale contrast as opposed to scale
9 dominance?

10 A. Would you repeat the question, please?

11 Q. The question -- well, let me rephrase it.
12 Scale contrast is described here as the scale of an
13 object relative to other distinct objects or areas in
14 the landscape, correct?

15 A. Yes.

16 Q. And an example of a distinct object or
17 area in the landscape might be the Sutter Buttes; is
18 that correct?

19 A. Yes.

20 Q. So the contrast in scale between, for
21 example, a transmission pole and the Sutter Buttes
22 would be an issue of scale contrast as opposed to scale
23 dominance?

24 A. It could be both, because, for instance,
25 the Sutter Buttes, in terms of scale dominance, the

1 scale of an object relative to visible expanse of a
2 landscape and the length of the Sutter Buttes, VOC for
3 instance is an indication of the expanse of the
4 landscape from that area. And, of course, it is also,
5 as you suggest, scale contrast between particular
6 objects such as a transmission pole and the Buttes
7 themselves.

8 Q. As I read this sentence, do I understand
9 correctly that the distinction between scale dominance
10 and scale contrast is that scale dominance is relative
11 to the entire visible expanse, the total field of view,
12 if you will, whereas scale contrast is a comparison to
13 distinct objects such as the Sutter Buttes?

14 A. Yes.

15 Q. So am I correct that an object which
16 occupied a small portion of the total visible expanse
17 of the landscape, or if you will a small portion of the
18 total field of view, but was large relative to the
19 Sutter Buttes, would be high in scale contrast but not
20 high with respect to dominance?

21 A. Yes.

22 Q. With respect to -- what I'd like to do now
23 is ask you some questions about the point of view
24 represented in figure VIS 12 and the various views
25 represented in the figures to Mr. Priestley -- I'm

1 sorry, Dr. Priestley's testimony, that being figures
2 15, 16 and 17.

3 With figures 15, 16 and 17, as you recall, are
4 views from O'Banion roughly four-tenths of a mile away
5 from the intersection of South Township and O'Banion.

6 A. Excuse me, when you say VIS 12, you don't
7 mean my figure 12, you talking about Dr. Priestley's?

8 Q. No, I do mean your testimony. That's the
9 simulation from VOC 5 showing the new and visual
10 structures. And the comparisons I want to ask you
11 about are comparisons of the view from that point, the
12 viewpoint where that observer would be observing the
13 landscape as opposed to --

14 A. Excuse me a second, I think you have the
15 wrong figure in mind.

16 Q. Well, that's possible. Just a sec.

17 MR. FAY: The staff view of KOP 5 is
18 referred to as visual resources figure 16, is that
19 correct, Mr. Walker?

20 A. Fifteen is KOP 5 without the project, 16
21 is KOP 5 with the project, not 12.

22 MR. ELLISON: Oh, I'm sorry, I was
23 referring to the figure from our testimony.

24 Q. Let's take either figure 15 or 16 with or
25 without. All I care about is the geographic point that

1 is common to both of those figures, versus the
2 geographic point represented by the residences on
3 O'Banion, roughly four-tenths of a mile away from that
4 point. You have that difference in mind?

5 A. Yes.

6 Q. Would you agree that the views from those
7 two points are different?

8 A. Yes.

9 Q. You've discussed in your direct testimony
10 the so-called tunnel effect. You recall that?

11 A. Yes.

12 Q. Could you briefly describe what you mean
13 by a tunnel effect?

14 A. The sense of confinement created by
15 objects on two different sides on a view or a route of
16 travel.

17 Q. And in this case, the funnel effect that
18 you're referring to is the result of having the new
19 transmission lines on the west side of South Township
20 and the existing transmission and distribution lines on
21 the east side; is that correct?

22 A. Correct.

23 Q. Am I correct that the tunnel effect is
24 only experienced by someone who is located on South
25 Township and looking between the new and existing

1 lines?

2 A. Yes. Northbound or southbound travelers.

3 Q. So there would be no tunnel effect from
4 the residences on O'Banion, for example?

5 A. That's correct.

6 Q. And there would be no tunnel effect from
7 any point of view other than someone who is actually on
8 South Township Road, correct?

9 A. That's correct.

10 Q. Would you agree that the proposed new
11 transmission poles would appear much larger from the
12 point represented by figure VIS 16 from your testimony
13 as opposed to near the O'Banion residences?

14 A. Yes.

15 Q. And would you also agree that the
16 screening is different for the views by the figure VIS
17 16 and views from the O'Banion residences?

18 A. Yes.

19 MR. ELLISON: That's all I have. Thank
20 you.

21 MR. FAY: Okay. Mr. Ratliff, any
22 redirect?

23 MR. RATLIFF: Yes. In my redirect I'll be
24 referring to questions that have already been asked by
25 Mr. Ellison, not just today but in the prior --

1 MR. FAY: I understand.

2 MR. RATLIFF: -- hearing. Redirect.

3 EXAMINATION BY MR. RATLIFF

4 MR. RATLIFF: Q. Mr. Walker, do you have
5 in mind, do you recall Mr. Ellison asked you a question
6 about what criteria you used to determine the
7 significant impact?

8 A. Yes, I do recall he had asked questions
9 about that.

10 Q. What was your answer?

11 A. I specified in terms of Sequa
12 (Phonetically), I used the criteria that are set forth
13 in Appendix G.

14 Q. What criteria in Appendix G made you find
15 the impact significant?

16 A. Let me find the specific wording, please.
17 Excuse me, I don't seem to find it immediately. There
18 are three criteria. One is blockage of a scenic view.
19 One is creating a substantial negative aesthetic
20 effect, and one is creating, I can't recall the precise
21 words, but an adverse effect.

22 Q. Do any of those apply in this case?

23 A. Yes, I think that although the
24 transmission line will not block or fully block the
25 view of the Sutter Buttes, that it does interfere with

1 the scenic view and the area represented by KOP 5. And
2 in terms of creating a substantial negative effect, I
3 think it also does that.

4 Q. Now, in regard to Mr. Massey's house, you
5 answered a question as posed to you whether he would
6 see the pole in front of the Buttes in front of his
7 window. And you said that he would see the pole in
8 front of the Buttes.

9 A. Yes.

10 Q. What was that answer based on?

11 A. Based on my going to that precise location
12 on his porch and looking towards the Buttes and toward
13 the intersection that intervenes between that point and
14 the Buttes.

15 Q. Now, earlier Mr. Ellison made reference to
16 a large industrial warehouse structure on an abandoned
17 road east of South Township. Can you tell us how large
18 that structure is?

19 A. Yes. I had estimated before it was 20
20 feet by -- excuse me, 40 feet by 60 feet and 20 some
21 feet tall. I would add to that.

22 Q. Okay. And you were asked if you would be
23 surprised to see large numbers of trucks related to
24 agriculture in the ear. What was your answer to that
25 question?

1 A. I said no, but as in the context of that
2 discussion, I'd been talking about the numbers of
3 trucks that could be fairly large during harvest
4 season. Other times of the year they would not be
5 expected to be large, and I would be surprised to see
6 large numbers.

7 Q. And moving back to the Applicant's figure
8 of VIS 16, I believe it's 17, I'm sorry, view from
9 O'Banion Road toward the northwest, is that a view from
10 the Foster residence toward the Sutter Buttes?

11 A. I've been to the Foster residence, and
12 although there are no well-defined control points in
13 that picture, it appears to be that that is a view from
14 in front of the residence along O'Banion Road towards
15 the Sutter Buttes.

16 Q. You were asked whether or not the new
17 transmission line would be in view of the Buttes from
18 that vantage point. Do you recollect your answer?

19 A. Yes, it will be in front of that view.

20 Q. And in your opinion, how tall would those
21 poles appear relative to the Buttes?

22 A. My opinion, some of the poles will be
23 taller than some points along the Buttes. Others will
24 be approximately the same as the height of the Buttes.

25 Q. Mr. Ellison asked you questions about

1 your choice of KOP 5. Was KOP 5 intended to represent
2 only residences?

3 A. No, it was intended to represent travelers
4 along South Township Road as well.

5 Q. Now, there were two KOP 5 exhibits at the
6 corner of O'Banion and South Township that appeared in
7 the staff's AFC --

8 A. In the applicant's or --

9 Q. No, I'm sorry, in the staff's FSA. I'm
10 sorry.

11 A. Are you talking about before -- well,
12 without the project and with the project?

13 Q. Yes.

14 A. Yes.

15 Q. Were those both provided by the
16 applicant?

17 A. Yes.

18 Q. The staff did not modify those in any way,
19 did they?

20 A. No.

21 Q. There was a series of questions you were
22 asked concerning whether this view showed had
23 protection and how meaningful that was. Do you
24 recollect those questions?

25 A. Yes.

1 Q. Are you aware of anything in Sequa
2 (phonetically) which would limit significant impact to
3 determinations to formally protected areas that have
4 been designated as scenic?

5 A. No.

6 Q. The Highway 20 corridor was established as
7 a scenic area for the Southern Buttes. Do you know
8 what year that was established?

9 A. Mr. Carpenter informed me it was in 1996,
10 general plan change.

11 Q. Did it have scenic value before 1996, in
12 your opinion?

13 A. Yes.

14 Q. One final question. In prior cases, using
15 the staff's methodology, have you ever found projects
16 not to have a significant impact?

17 A. Yes. In the majority of cases, that's
18 true. I could -- in the past eight cases that I went
19 back on the record to examine, six of those cases,
20 there was no significant impact after mitigation. In
21 one case there were two sites proposed and for one site
22 there was no significant impact after mitigation and
23 the other site there was. And in the final case, there
24 was significant impact found by staff after
25 mitigation.

1 MR. RATLIFF: I have no more questions.

2 COMMISSIONER KEESE: Will you refer to VIS
3 12, which is similar to --

4 MR. WALKER: Yes, applicant's VIS 12.

5 COMMISSIONER KEESE: And I guess the new
6 power pole you would consider, I'm not up on these
7 terms, both significant and dominant?

8 MR. WALKER: Yes, I would.

9 COMMISSIONER KEESE: If the one on the
10 left weren't there, would the rest of them, if that one
11 pole weren't there, I would assume the pole on the
12 right would be dominant, the current pole?

13 MR. WALKER: To a -- yes, to a lesser
14 degree, because relative to the other features in the
15 landscape, it's not as large as the new pole would be.

16 COMMISSIONER KEESE: Would the rest of the
17 new poles still be significant?

18 MR. WALKER: The rest of the new poles
19 along South Township Road that show --

20 COMMISSIONER KEESE: Just blocking out the
21 first pole and looking at the rest of them in that
22 view, would that be significant in your view?

23 MR. WALKER: From this particular
24 location, I would say no, but as you move farther up
25 Township Road in traveling, then those poles also

1 become larger.

2 COMMISSIONER KEESE: From this view, the
3 dominance of the pole and its significance is not that
4 it's blocking views, correct?

5 MR. WALKER: Not from this specific
6 photograph location, but from the area that this
7 photograph was taken to represent it does.

8 COMMISSIONER KEESE: From this location,
9 the vegetation on the left is blocking the views?

10 MR. WALKER: Yes.

11 COMMISSIONER KEESE: Although we can see
12 the power plant?

13 MR. WALKER: Yes.

14 COMMISSIONER KEESE: On South Township,
15 from this point to the power plant, what would you
16 estimate, how much of that road would you estimate you
17 can see the Buttes from? We have a view of the
18 Buttes?

19 MR. WALKER: All the way, about two
20 miles.

21 COMMISSIONER KEESE: Is there any
22 vegetation on the left as you approached?

23 MR. WALKER: Yes. As you get close to
24 Greenleaf 1 there is some existing trees on site.

25 COMMISSIONER KEESE: And you cannot see

1 the Buttes as you're on South Township from that
2 portion of South Township?

3 MR. WALKER: Yes, you still can.

4 COMMISSIONER KEESE: I beg to differ with
5 you.

6 If you would move down O'Banion to where the
7 homes are a thousand feet and two thousand feet down
8 O'Banion --

9 MR. WALKER: Yes.

10 COMMISSIONER KEESE: And you felt that the
11 new poles would be not dominant but significant?

12 MR. WALKER: Yes, because they interfere
13 with the view of the Sutter Buttes.

14 COMMISSIONER KEESE: From the homes?

15 MR. WALKER: Yes.

16 COMMISSIONER KEESE: Are there power poles
17 stationed in front of those homes, between those homes
18 and the Sutter Buttes on the street?

19 MR. WALKER: Not in the direct line of
20 view of the Buttes. Poles are visible from those
21 homes. They are the distribution lines that have
22 dropped poles to go to those homes, but they aren't in
23 the view of the Buttes from those homes.

24 COMMISSIONER KEESE: You couldn't look at
25 the Buttes without seeing those poles?

1 MR. WALKER: They would be on the
2 periphery of your view.

3 COMMISSIONER KEESE: And they would be
4 dominant I would imagine?

5 MR. WALKER: Well, dominant on the
6 periphery, yes. But in the main view of the Buttes,
7 they aren't in that view. They are on the side.

8 COMMISSIONER KEESE: So we ignore them and
9 deal with the other one --

10 MR. WALKER: No. I don't ignore them.

11 COMMISSIONER KEESE: I guess my problem
12 here, the question I have is, it seems that we're
13 adopting rather arbitrary -- an arbitrary scale here,
14 and we're trying to apply terms and say this is how it
15 impacts the view. I was in front of each of those
16 houses today. I drove South Township today. Any
17 places in vegetation on the left you cannot see the
18 Sutter Buttes, and I'm up in a car -- up in a jeep
19 riding a little higher than most.

20 MR. WALKER: It's possible that the
21 vegetation's higher than when I did my analysis.

22 COMMISSIONER KEESE: Currently there are
23 power poles on the left-hand side at a certain point
24 probably past the plant.

25 MR. WALKER: Yeah.

1 COMMISSIONER KEESE: And they impact the
2 view as you're driving --

3 MR. WALKER: After you get past the plant,
4 yes.

5 COMMISSIONER KEESE: It would be my
6 sense -- you can't see the whole -- you can't see the
7 whole Buttes at any one time. You have to look
8 somewhere. And I would imagine you wouldn't park in
9 front of a power pole and take their picture of the
10 Buttes. My difficulty, I think, is we seem to be
11 applying a very rigid standard to something here.

12 MR. WALKER: Can you explain in what sense
13 it's rigid?

14 COMMISSIONER KEESE: Well, we look at one
15 view here and we say this pole, if there, would be
16 dominant and significant and, therefore, we have a
17 problem with a visual impact.

18 MR. WALKER: As I was trying to explain
19 earlier, as you proceed farther north along South
20 Township, those subsequent poles become as large or
21 larger than this one. Actually, the point from which
22 this photo was taken was several hundred feet away from
23 the pole. So the closer you get to it, the bigger it
24 looks, and it would look a lot larger than this when
25 you're right up next to it. The next pole is seven

1 hundred feet away, so it is slightly larger than this
2 will look. But as you approach, it will appear as
3 large or larger than this pole.

4 COMMISSIONER KEESE: Let me ask one more
5 question. Between the visual impact of the poles and
6 the visual impact of the plant, are these given equal
7 weight in your analysis, and is the significance of a
8 pole and the significance of a plant balanced?

9 MR. WALKER: Well, it depends upon the
10 relative location of them to the public viewers and how
11 big they look and how much contrast they cause and what
12 the general setting is of them. So there is a lot of
13 variables there to consider. It really depends on all
14 those factors, but how much weight do you give to the
15 others?

16 COMMISSIONER KEESE: If you're on South
17 Township and see the plants and you're further up South
18 Township and see a pole, they would be weighted
19 equally?

20 MR. WALKER: Yes, they certainly could.

21 COMMISSIONER KEESE: Thank you.

22 MR. WALKER: The problem with the poles is
23 there is very little mitigation possible for them
24 compared to the plant.

25 COMMISSIONER KEESE: I understand.

1 MR. FAY: Anything further, Mr. Ratliff?

2 MR. RATLIFF: No.

3 MR. FAY: Okay. That concludes the

4 cross-examination of Mr. Walker, although we do have --

5 I'm sorry. I want to bring Mr. Foster in to this as

6 well if he has any cross-examination.

7 MR. FOSTER: I don't know if I'll be

8 allowed to, but I took some pictures the day after our

9 last hearing. It was a little nicer day, get a little

10 bit perspective of what's out there. May I let you

11 people see these, or do you have any objections?

12 THE WITNESS: Would you like them marked?

13 MR. FOSTER: They are fairly well marked

14 already.

15 MR. FAY: Can you submit --

16 MR. FOSTER: They are yours to do

17 whatever.

18 MR. FAY: All right. Why don't you just

19 show them to counsel and --

20 MR. FOSTER: Who is counsel?

21 MR. FAY: Mr. Ellison and Mr. Ratliff.

22 MR. FOSTER: You want to see them first?

23 MR. ELLISON: Do you only have one copy?

24 MR. FOSTER: Yeah. They can share.

25 MR. ELLISON: I don't have an objection to

1 this coming in. It would be good to have copies for
2 everybody so that, you know, we can docket it and do
3 that sort of thing. But why don't you go ahead and
4 we'll figure out the logistical problem. This is, I
5 take it this is taken from --

6 MR. FOSTER: KOP 5-B.

7 MR. HILDEBRAND: 4-B?

8 MR. FOSTER: 5-B. That's wrong.

9 MR. ELLISON: We may have to hand this
10 around.

11 MR. FAY: Is it just this one? Let's be
12 sure and show all the photos.

13 MR. FOSTER: This is Township and
14 O'Banion, KOP-4, just standing in the road.

15 MR. ELLISON: Okay.

16 MR. RATLIFF: It looks to me to be a
17 depiction of the applicant's view of VIS 16 and VIS 17
18 taken from about the same vantage point.

19 MR. ELLISON: I think that's right. I'll
20 frame it as a question. The larger one, Mr. Foster, I
21 take it, is intended to be the same view as what we
22 identified as figure 17 but on a clear day when you can
23 see the views?

24 MR. FOSTER: Yes.

25 MR. ELLISON: Okay.

1 MR. FOSTER: Mr. Walker, are you aware
2 there has been over twenty-two hundred acres of prune
3 orchards removed from Sutter County since September?

4 MR. WALKER No, I'm not.

5 MR. FOSTER: Are you aware there has been
6 an 88-acre orchard from George Washington Boulevard
7 between O'Banion and West Road?

8 MR. WALKER: I'm aware that an orchard has
9 recently been removed, but I'm not sure how large it
10 is.

11 MR. FOSTER: Can you see the existing
12 Greenleaf facility from that point?

13 MR. WALKER: Yes.

14 MR. FOSTER: Were any home sites taken in
15 your analysis on the visual?

16 MR. WALKER: No.

17 MR. FOSTER: What weight was the Ameral
18 residence given in your analysis, being it sits a
19 quarter mile off the road in an orchard?

20 MR. WALKER: Almost none.

21 MR. FOSTER: Did you realize there was a
22 two-story home at that residence?

23 MR. WALKER: At that time I did my
24 analysis, I did not. I heard that from you very
25 recently.

1 MR. FOSTER: Do you have any idea how many
2 people use the adjacent field to the transmission for
3 recreation this time of year?

4 MR. WALKER: No.

5 MR. FOSTER: I heard earlier today it was
6 stated that there was approximately 17 vehicles in the
7 vicinity during hunting weekend. Did you weigh in the
8 duck hunting activity into the visual impact being it
9 surrounds the transmission lines surrounding the entire
10 area?

11 MR. WALKER: I considered it but I didn't
12 give it great weight because of the seasonal short
13 terminate of it.

14 MR. FOSTER: Did you weigh into the impact
15 the amount of time farmers spent in the field working
16 in the fields during harvest time?

17 MR. WALKER: No.

18 MR. FOSTER: One of the pictures I gave
19 you there was of KOP 4. It's one that I took myself,
20 the smaller ones. Can you tell me what percentage of
21 the view of the Buttes will be blocked by the new power
22 plant?

23 MR. WALKER: The reason I hesitate is
24 because it appears that this photo shows a different
25 expanse, somewhat different expanse from KOP 4 in the

1 application. Was that intentional?

2 MR. FOSTER: No, I was standing in the
3 front of their driveway on Township.

4 MR. WALKER: Okay.

5 MR. FAY: Identify where you were
6 standing.

7 MR. FOSTER: KOP-4 in front of Don
8 Donaldson's residence.

9 MR. FAY: Is that KOP-4?

10 THE WITNESS: Yes. We can provide copies
11 of this photo to the Committee and if Calpine counsel
12 doesn't have them. I think the most accurate way for
13 me to respond to you would be to look at the simulation
14 provided by the applicant in this KOP. That would be
15 figure 8.11-5A in the application for certification.
16 It's KOP 4, and then 5-B. shows the simulation of the
17 project from that location.

18 COMMISSIONER MOORE: And then the original
19 question that was asked was, is it possible for you to
20 make an estimate of the marginal loss in percentage
21 terms? Are you able to do that?

22 MR. WALKER: Generally, yes. From that
23 position -- actually, excuse me, there's been a revised
24 simulation that I put in my testimony for that key
25 observation point. And looking at that, my figure 14

1 in my testimony, it would appear that about a third of
2 the Buttes is blocked by the power plant from that
3 specific location.

4 MR. FOSTER: One of the mitigations is
5 vegetation screen around the power plant?

6 THE WITNESS: Yes.

7 MR. FOSTER: What is the time frame for
8 this screen to be in place?

9 THE WITNESS: As revised by my proposed
10 change for attempting to maximize the effectiveness of
11 the screening, it's now proposed, and Calpine has
12 stipulated that they will agree to plant the
13 landscaping in the first fall of the year in which they
14 start construction.

15 MR. FOSTER: And how many years you think
16 it will be before it reaches it's 50 to 60-foot
17 screening ability?

18 MR. WALKER: I would say 20 to 30 years.

19 MR. FOSTER: And the life expectancy of
20 the plant?

21 MR. WALKER: Well, economic life is now 30
22 years.

23 MR. FOSTER: What measures are there, or
24 what measures will be taken if we cannot get the
25 vegetation to grow in that soil and the soil

1 conditions?

2 MR. WALKER: There are other species that
3 could be plant. They might not be the optimal species
4 in terms of maximum height. There is a provision in
5 the condition that the actual landscaping plan include
6 provision for replacing any plantings that don't
7 survive.

8 MR. FOSTER: Let's say that they survive
9 but -- they remain green but they don't grow because
10 their feet are water logged is what we found with other
11 things in this area. What measures are we, the locals,
12 going to be able to take to get a screen in place?

13 MR. WALKER: You could come to the
14 Commission and ask for some redress. I'm not sure if
15 you would ask for an amendment -- that's a legal
16 question that I really can't answer. In terms of
17 replanting, as I was saying, other species could be
18 used that could survive higher water tables. They
19 probably would not be every green species, but they
20 would be species that are common to local areas, such
21 as sycamore and alders.

22 MR. FOSTER: When the plant was first
23 designed, the transmission line was a single circuit
24 line. Could you explain to me the physical differences
25 between a single circuit and double circuit line?

1 MR. WALKER: Well, as proposed originally,
2 a single circuit line would have had, instead of cross
3 arms they would have had single arms going out from the
4 main pole on alternating sides. Now there are cross
5 arms that go on both sides, three of them, to hold the
6 six circuits.

7 MR. FOSTER: Would a single circuit pole
8 have less of a visual impact than a double?

9 MR. WALKER: They have the same
10 capacity -- well, with the same size conductor, yes.
11 It would also be generally shorter as also was
12 originally proposed.

13 MR. FOSTER: So by upgrading the
14 transmission line to a double circuit, we haven't
15 mitigated the visual issue, we've added to it?

16 MR. WALKER: Yes.

17 MR. FOSTER: That's all my questions.
18 Thank you. Oh, one more. From KOP 5-B. or my
19 residence, which was brought up earlier, there is a
20 picture there looking out our dining room window. It's
21 not the best of photography, but the other picture I
22 have, the larger one, you can see in there the height
23 of the existing power poles. Would the new power
24 transmission lines, will the height be actually higher
25 than the Sutter Buttes themselves?

1 MR. WALKER: In some points it appears
2 they will.

3 MR. FOSTER: That's all. Thank you.

4 MR. FAY: Mr. Foster, before you leave,
5 I'd like to get these photographs identified for the
6 record as exhibits. And I want you to help me identify
7 them.

8 MR. FOSTER: That one you're looking at
9 there I was standing in the driveway of 3530 O'Banion.

10 MR. FAY: O'Banion Road?

11 MR. FOSTER: Yes.

12 MR. FAY: And you've labeled this KOP
13 4-B.

14 MR. FOSTER: It's supposed to be 5-B.
15 That's what we were talking about. VIS and 18, earlier
16 KOP 5 was in front of Dave Massey's home, and then they
17 were talking about 5-A which was the Chohan
18 (phonetically) property. And then they were talking
19 about 5-B. which is in front of our residence.

20 MR. FAY: Okay. So we'll designate the
21 taped-together photograph, string of four separate
22 photographs that you've labeled 3530 O'Banion Road KOP
23 5-B, that will be Exhibit 47. And other photographs
24 that you want submitted to the record? You want them
25 all in?

1 MR. FOSTER: Those aren't necessary.

2 MR. FAY: How about the ones you

3 questioned Mr. Walker about?

4 MR. FOSTER: That's fine.

5 MR. FAY: Is that just this one?

6 MR. FOSTER: Yes.

7 MR. FAY: Could you describe that for the

8 record?

9 MR. FOSTER: Looking out our dining room

10 window at 35 --

11 COMMISSIONER KEESE: Is Greenleaf on

12 the --

13 MR. FOSTER: Greenleaf would be right in

14 here. The existing stacks are just a little taller

15 than the Ameral shop.

16 COMMISSIONER MOORE: That's exhibit now

17 48.

18 MR. FAY: Living room window. Yeah.

19 About an eight and a half by 11 photograph designated

20 3568 O'Banion Road from -- taken from inside the house

21 looking out at the Sutter Buttes?

22 MR. FOSTER: Yes.

23 MR. FAY: And that will be Exhibit 48.

24 All right. Thanks very much.

25 MR. FOSTER: Well, one more question, Mr.

1 Walker. Why would there be a picture of the Sutter
2 Buttes on the County logo?

3 MR. WALKER: It would be speculative for
4 me to answer definitively, but my assumption is it's
5 considered a symbol of the County.

6 MR. FOSTER: Thank you.

7 MR. ELLIOTT: Brad, before you leave, I've
8 got to ask you a couple of questions.

9 First of all, normally an intervenor would be
10 required to make enough copies of the photographs and
11 docket them and serve everybody. Does the Farm Bureau
12 plan to do that?

13 MR. FOSTER: If they give me those back I
14 will. No, I can get more.

15 MR. FAY: We'd like you to do that. If
16 there is a hardship problem, let us know.

17 MR. FOSTER: We're prune farmers here,
18 hardship.

19 MR. ELLISON: If it's not a hardship, that
20 would be the normal practice.

21 MR. FOSTER: That's fine.

22 MR. ELLISON: The question I had, no, was
23 can you tell us what lens you used on taking that 5-B
24 photograph? We're just trying to equate it to the one
25 that we took.

1 MR. FOSTER: 5-B?

2 MR. ELLISON: That's the panorama.

3 MR. FOSTER: I think I just used my
4 regular 35-millimeter camera, but I had them blown up
5 eight by ten, and I had that copy made off eight by
6 tense.

7 COMMISSIONER MOORE: If it's just regular,
8 probably 35 millimeter.

9 MR. ELLISON: Okay.

10 MR. FOSTER: I'm no photographer.

11 MR. ELLISON: And I don't have a copy of
12 it. Maybe we can take a five-minute break, but I need
13 to look at that photograph to see if we have any
14 follow-up questions.

15 MR. FAY: Let's do that now and give you
16 an opportunity. Then we can return for comments.

17 (Break taken.)

18 MR. FAY: Mr. Ellison, do you have any
19 further questions?

20 MR. ELLISON: I do have just a couple of
21 follow-up questions in response to Exhibit 47, which is
22 a view on a clearer day of what we had tried to portray
23 in our figure 17 to Dr. Priestley's testimony. And
24 since it is a clearer picture, I wanted to ask Mr.
25 Walker just a couple of questions based on it.

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RECROSS-EXAMINATION BY MR. ELLISON

MR. ELLISON: Q. First, Mr. Walker, when you've testified earlier that the new poles would be as high as the Buttes, I understand that you meant that they would be as high as the Buttes in the line of site of the pole that you're referring to as distinct from as high as the tallest point of the Buttes; is that correct?

A. Yes. It would not be as tall as the tallest point of the Buttes. It appears that from the new exhibit that the poles could be taller than the Buttes, a small portion of the poles would actually stick up and skyline above the Buttes at some locations, but they would not be as tall as the tallest point of the Buttes.

Q. And we had a discussion off the record in looking at this exhibit about the number of new poles that from this vantage point would be in the line of sight of the Buttes. And I believe that we agreed that would be three to four poles; is that correct?

A. Yes.

MR. ELLISON: That's all I have, thank you.

MR. FAY: All right. Thank you. And I understand, Mr. Ellison, that the Farm Bureau has given

1 you copies of Exhibits 47 and 48; is that correct?

2 MR. ELLISON: We have a copy of Exhibit
3 47. We don't yet have a copy of Exhibit 48, but I
4 understand they will be providing one.

5 MR. FAY: Okay. Fine. And I will be sure
6 that Exhibit 47 and 48 are docketed and will be in the
7 exhibit file. The Committee has no questions of Mr.
8 Walker. Do you have any redirect?

9 MR. RATLIFF: No.

10 MR. FAY: Does Farm Bureau have any
11 cross-examination of Gary Walker?

12 MR. FOSTER: No.

13 MR. FAY: Mr. Foster is indicating no.
14 Then I would like to open it up to public comment on
15 visual. And this would wrap up our taking of evidence
16 in the case. Anybody want to make any public comment
17 regarding visual?

18 MRS. MENDOZA: I don't think it was
19 specifically visual he wanted to address but Mr. Ameral
20 has arrived.

21 MR. FAY: While he's coming up, I will
22 just indicate that I've spoken with counsel for the
23 staff and Calpine, and I believe they will be prepared
24 to file their closing brief a week from tomorrow. So
25 that would be -- a week from tomorrow would be December

1 9th. So closing briefs are due December 9th, if the
2 Farm Bureau chooses to file one. And that's by close
3 of business at the Energy Commission on December 9th,
4 not post marked, but received.

5 All right. Mr. Ameral.

6 MR. AMERAL: Okay. I don't really have a
7 whole lot to say. I just had a couple of comments I
8 wanted to make. First, dealing with the visual, I was
9 taken aback a little bit, Commissioner, when you said
10 you drove down the road and all you could see was the
11 weeds, and the neighbors, we all kind of looked at each
12 other a little bit because we said -- we drive up and
13 down that road every day, and we didn't have any
14 trouble seeing.

15 COMMISSIONER KEESE: Why don't I clarify
16 that. I was pointing to a specific photo that's an
17 exhibit. And I said from that point, because of the
18 orchards, you cannot see the Buttes.

19 MR. AMERAL: I'm sorry. I understood as
20 you were driving down the road.

21 COMMISSIONER KEESE: And I probably was
22 driving north on Township.

23 MR. AMERAL: Okay.

24 COMMISSIONER KEESE: On South Township.
25 Where the orchards are on the left, and that's probably

1 just past the plant, you cannot see the Buttes. There
2 are orchards on the left side of Township as you
3 proceed north.

4 COMMISSIONER MOORE: He was driving north,
5 he stopped.

6 MR. AMERAL: Okay. We're not even in the
7 area where any of these photographs were taken then.

8 COMMISSIONER KEESE: Correct. All I'm
9 saying, there are point of the Township where you
10 cannot see the views. Most of the area from here to
11 the plant you can see the views.

12 MR. AMERAL: Okay. Now I understand.
13 Because I'm going, you know, I mean unless he's -- I've
14 seen some of those low riders, you know. I'm sorry.

15 Okay. Then the second -- I guess I need to ask
16 kind of a general question. We go back to how much
17 weight does the County have in this thing? In other
18 words, if the County decides that this is not really
19 where we want to put this thing, I know it was
20 mentioned at the Planning Commission meeting the other
21 night that if the County turns it down, that basically
22 you guys can turn around and overrule it.

23 Now, I got the impression from the people
24 sitting in front of me that that was probably highly
25 unlikely, unless there was some kind of a really

1 important mitigating circumstance. I guess I would
2 like to have a little feedback. Can I ask that
3 question? I don't know if I'm out of line here.

4 COMMISSIONER MOORE: Mr. Ameral, you may
5 be referring to a comment that I made way earlier on in
6 the proceedings where we outlined the kind of power
7 that we have. And so the potential is there to do just
8 that. And I indicated that it was not very likely that
9 we would attempt to override them.

10 MR. AMERAL: The only reason I'm bringing
11 this up is because when it was brought up at the
12 Planning Commission meeting, it was almost like really
13 what the County does is of no consequence.

14 COMMISSIONER MOORE: No, not true. In
15 fact, we devoted a fair amount of time to just that
16 topic today. And I know you were out working when we
17 did it. But what we tried to do was to say the County
18 process is very important to us. And what they come up
19 with and their recommendations are integral and key to
20 our process. So I think if the tenor of those comments
21 you heard was we were indifferent to or we could behave
22 flippantly towards County actions, we can disabuse you
23 of that. We're not likely to take those things
24 lightly.

25 MR. AMERAL: That was my impression.

1 That's the way I understood the process.

2 COMMISSIONER MOORE: I'm glad you asked.
3 Gives us a chance to clarify. We wouldn't act
4 capriciously.

5 MR. AMERAL: Okay. That's what I
6 thought. Like this was possible, like do your own
7 thing. And if it doesn't come out right, we'll just do
8 it again. But I understand what you're saying.

9 Okay. I have a problem, and again, I guess this
10 is an individual comment, so I'm making an individual
11 comment. I have a problem when asked about alternative
12 sites. The only response that I've ever gotten from
13 anybody is the fact that they remain committed to the
14 existing site. Not that we've really taken a good hard
15 look at the rest of the sites or anything else other
16 than we remain committed.

17 I submit that they really are -- the plant is a
18 good plant. I think it's just being built in the wrong
19 place. I've said that from the beginning. I just
20 wanted to reiterate it at the end of these proceedings
21 now. I can't help but get the feeling that Calpine has
22 basically taken on a bully image, at least in our area,
23 simply because they are saying, it's my plant, I want
24 to build it where I want to build it. The hell with
25 the rules of the local area. We're paying the bills so

1 we should be able to do what we want to do.

2 I think they knew when they started this thing
3 that the County had a plan, they had a place to put
4 that plant. They knew where they could have gone that
5 they didn't even require a permit. But, no, they chose
6 to go outside of that area and, hence, we have to deal
7 with all the rest of this that probably would have
8 never even become a problem. That deals with the land
9 use issues and the visual issues. Most all of those
10 would have been solved.

11 I basically say that I think that's wrong, that
12 local ordinance should hopefully -- maybe that's where
13 it will end up being solved. That's why I asked the
14 other question. So that's all I really have to say. I
15 just think that it's wrong if we basically build, use
16 our rules, we use these rules and then we throw them
17 away.

18 COMMISSIONER MOORE: Mr. Ameral, just let
19 me correct one point. No matter where they would have
20 gone or chosen to go, they need a permit. So they
21 can't escape this process.

22 MR. AMERAL: Let me ask you a question
23 again. Even the south part of the County, I'm going to
24 go into the next county. I understand there is a
25 permitted location that exists today that this plant

1 could just basically go right there.

2 COMMISSIONER MOORE: Not without going
3 through our process. Not without this kind of a public
4 process.

5 MR. AMERAL: What I'm saying is most of
6 this process has already been gone through for that
7 location.

8 COMMISSIONER MOORE: They would have to go
9 through it again.

10 MR. AMERAL: Go through it again. Okay.
11 Well, at least it would be in a place where the County
12 said it belongs.

13 COMMISSIONER MOORE: Well --

14 MR. AMERAL: Thank you anyway for the
15 opportunity to say that.

16 COMMISSIONER KEESE: Since you weren't
17 here, they have to acquire the report from the current
18 owner. It was cited about one third of the size of
19 this plant, so they would have to -- this is three
20 times bigger, I believe.

21 MR. FAY: Let's be sure we're talking
22 about the same thing. Are you talking about the site
23 approved for Sepco?

24 MR. AMERAL: Yeah, Sepco I think it is.

25 COMMISSIONER KEESE: Which I think is 163

1 megawatt plant, very small plant. So it would be a
2 totally new process.

3 I guarantee you, for every power plant that
4 we're going to site, we are going to be going through
5 processes like this with people in the audience. There
6 are going to be some people in the audience that feel
7 it shouldn't be there.

8 MR. AMERAL: Right. Yeah. It's just
9 that if you have agreed to a plan, locally now I'm
10 speaking, if you have agreed to a plan, then it's
11 pretty tough to argue against that when you've said
12 hey, look, we know growth is coming. We have to plan
13 for it, we're stupid if we don't, okay.

14 So we know it's coming. We've planned for it,
15 where it needs to go. And for a company to be in the
16 community already and to already know the existing
17 rules, and then to basically fly in the face of that, I
18 just have a problem. Thank you.

19 MR. FAY: Other comments either on visual
20 or closing, wrap-up remarks? Mr. Massey?

21 MR. MASSEY: I'm David Massey. I just
22 wanted to clear up one point that was made the other
23 day, and I want to clear that up. Mr. Ellison made one
24 point when we were talking about elevating my building
25 pad, that the County required me to build it up at

1 least two feet above the road. And I believe the
2 requirement was ten inches, and at my expense, I opted
3 to build it up three feet above the highest part of the
4 road. And then I built my house up another two feet at
5 the lowest portion. My house is split level. And part
6 of the house is up two feet above the pad. The other
7 partly of the house is up three feet above the pad. So
8 this would make the floors in my house five feet and
9 six feet respectfully higher than the roadway.

10 So you could see that the view from my house
11 would be considerable better than the view from
12 Township Road. That -- and my house is also about 150
13 feet to the east of the road. So you wouldn't be right
14 next to the orchard, which is only about 12 feet high.
15 And that's as high as it will be allowed to grow. They
16 keep them pruned at that height.

17 The other thing, the proposed Calpine plant will
18 range in height from about 85 feet to 145 feet. And
19 this will dominate the skyline and will have a
20 traumatic impact on the scenic views of the Sutter
21 Buttes from many locations. The four miles of 105-foot
22 high transmission lines will further spread the visual
23 impact to this project over a wider area. The people
24 driving the roads, the people living in their homes and
25 working in the areas will be negatively impacted 365

1 days a year.

2 The proposed plant should be built where it
3 doesn't require four miles of transmission lines and
4 should be placed in a designated industrial site, not
5 in a prime agricultural area. Thank you.

6 MR. FAY: Thank you, Mr. Massey. Would
7 anybody else like to make comments to the Committee
8 before we close?

9 MRS. FOSTER: I'm Rosie Foster. They have
10 got questions, so here I am. They want to know if this
11 plant is cited and we have decided that apparently
12 there is a visual impact, how do you decide what a
13 visual impact -- what it's worth, and how do you
14 reimburse people that live in that area? How do you
15 fairly take care of something like that.

16 And I don't know if you guys have done something
17 like that before, but we chose our home site very
18 carefully and built our home where we built it, just
19 like Mr. Massey, very carefully. We knew what we were
20 doing when we did that. We knew we were in an ag
21 area. And we also knew, we thought we knew, that the
22 county knew what they were doing and was going to put
23 ag in one spot, industrial in another.

24 So what I would like to know is if you have done
25 this before, and you've had any experience with visual

1 mitigation, how do you do this as far as repairing
2 something like that that you take from someone?

3 MR. FAY: Well, I think I'll have to
4 interject. Mr. Walker went through his methodology,
5 and that's how he analyzes the impact. And then he
6 proposes mitigation which he's proposed in his
7 testimony.

8 And as I understand it, after doing all the
9 mitigation, such as planting around the plant and
10 painting the Greenleaf matching color, et cetera, that
11 he still found there was a significant visual impact
12 left even after all the visual mitigation was done.

13 MR. WALKER: That was in regards to
14 transmission line, Mr. Fay. That was in regard to the
15 transmission line, not the power plant.

16 MR. FAY: I'm sorry. The transmission
17 line --

18 MRS. FOSTER: Well, I can see where it
19 will come down to Imminent Domain. I can see where
20 that file is coming. So I understand where that path
21 goes. What I'm questioning is, if the Amerals have a
22 two-story home that faces the transmission line and the
23 Buttes, and if we have one, and not to mention the home
24 that we own next door to that, and Mr. Massey and the
25 Chochans (phonetically) own a small home between Mr.

1 Massey and us, how do you take care of those people? I
2 mean where does that enter into this?

3 MR. FAY: Mainly your input in this
4 process, to let the Commission know what you believe
5 the impact of the project is going to be on you.

6 MRS. FOSTER: Well, we've done that, I
7 guess. Thank you.

8 MR. FAY: Mrs. Woods?

9 MRS. WOODS: I'm Mary Woods, I have a
10 comment, something that's been bugging me for a while.
11 More doesn't equal less. More is always more. We have
12 the Calpine thing with 194 tons of emissions. We've
13 got the -- I mean the Greenleaf thing. We've got the
14 one over here at Sunsweet that's got I think somebody
15 said like 31 tons because it was supposed to be
16 cleaner. This one is 204? You add all those together
17 you've got over 800,000 pounds of emissions.

18 Because they are particles, nobody seems to
19 realize what 800,000 pounds looks like. If we had
20 800,000 pounds of apples in here and you were told that
21 they were -- had poisonous gases or whatever with them,
22 I couldn't get none of you within this place. You
23 wouldn't come near it. Say huh-uh, we're going to die,
24 because you could visually see these things. You could
25 see the apples. But because these are particles,

1 everybody seems to think, well, I guess they go up in
2 the air and they blow away.

3 I was always told anything that goes up comes
4 down somewhere, and I do have a problem with this
5 800,000 pounds of emissions. I have a big problem.
6 And I hope everybody else takes this into
7 consideration. We're doubling the emissions with this
8 Calpine thing that we're talking about. Think it
9 over. Thank you.

10 MR. FAY: Thank you for your comment. Any
11 other comments? Mr. Hunt?

12 MR. HUNT: Oh, I was just thinking about
13 all the time today and other days about these three
14 homes, and I feel for them. But there's a lot more
15 than just three homes around out there. I mean there
16 might be north of the plant, but we still got to look
17 at it, we still got to smell it, and we still got to
18 see it, we got to hear it, and the whole works. Nobody
19 seems to think of the importance of that part of it,
20 even though you're not looking towards the Buttes
21 possibly. I just wanted to make that comment.

22 MR. FAY: Thank you. Mr. Akin.

23 MR. AKIN: Jim Akin again. Gentlemen, as
24 you well know, the mind set of the public is something
25 that makes a product easy to sell or impossible to

1 sell. And this power plant here in Sutter County is a
2 product that's very hard to sell because we don't need
3 it.

4 The people in Sacramento do need it. I think it
5 would be in a lot better -- a lot easier to sell it to
6 those people. They would probably put up with the
7 power plant. They would probably put up with the noise
8 of the plant because they know they need their
9 electricity. That's about all I have to say. I think
10 it would keep you out of a lot of trouble.

11 MR. FAY: Any other comments? Mr.
12 Foster?

13 MR. FOSTER: I should have brought this up
14 during air quality, but hindsight. So maybe if I bring
15 it up at the very end, it will be easy for you to come
16 back and find it.

17 In 1993 Sutter County burned 67,000 acres of
18 rice. '94 they burnt 50,000 -- 57,000. '95, 57,000
19 acre of rice. In '96 it was cut down to 39,000. This
20 past year, '97 with El Nino, I believe they only burned
21 24,000 acres of rice. So on average, in the past five
22 years we've cut our rice burning from 67,000 down to
23 let's say 47,000 to be fair. We've cut it down 30,000
24 acres. Our air quality hasn't changed. This plant as
25 far as NOx emissions will be equivalent to burning

1 another 20,000 acres of rice. So I don't know how
2 adding this plant to our air basin, when the rice
3 farmers cut down over 30,000 acres, and it hasn't
4 cleared our air yet, but we're going to put another
5 20,000 back into it? I don't know how that's supposed
6 to clean our air. Thank you.

7 MR. BOYCE: I realize --

8 MR. FAY: Your name, sir?

9 MR. BOYCE: Pardon?

10 MR. FAY: Your name for the record.

11 MR. BOYCE: Oh, Louis Boyce. Any kind of
12 industrial plant or anything that's going to give off a
13 little bit of pollutant, I'm not questioning that. But
14 everybody is crying about the pollutant, but the
15 farmers in Sutter County last year sprayed 375,000
16 pounds of methylbromide on the fields of Sutter County,
17 and this stuff kills everything it touches. It's a
18 gas. You can't see it, you can't smell it. If you
19 happen to be in the area where it's at and you get it
20 on you, it's known to kill people. Kills all kinds of
21 insects, animals and everything else. So I don't know
22 where they can complain that much about a little power
23 plant out here with the emissions that it gives off.
24 This chemical has been outlawed by the federal
25 government, and they have just extended the use of it

1 for a couple of years. But the federal government is
2 putting fourteen million dollars into research for a
3 replacement for this chemical.

4 MR. FAY: Thank you. Okay. Anybody else
5 who hasn't had an opportunity to comment?

6 MR. ELLISON: Mr. Fay, we actually do have
7 two housekeeping matters, if we're about to close the
8 record.

9 MR. FAY: Yes, we're about to close the
10 record, so why don't you go ahead.

11 MR. ELLISON: The first one, earlier in
12 the hearings we had a discussion about tax revenues and
13 how they would be allocated. And Mr. Carpenter from
14 the county agreed he would try and get the details on
15 that, and he has provided a letter that shows how the
16 tax revenues would be allocated. So let me pass that
17 around and ask that it be marked as the next exhibit in
18 order.

19 MR. FAY: It will be exhibit 49.

20 (Letter marked as Exhibit
21 49 at this time.)

22 MR. FAY: Has this been docketed, Mr.
23 Ellison? Has the letter been docketed?

24 MR. ELLISON: No, it will be. We'll
25 docket it tomorrow. Mr. Carpenter gave it to me this

1 to the Commission and you'll be able to go down to
2 Sacramento and address the Commission, all five
3 Commissioners directly before they make their final
4 decision. Commissioner Moore?

5 COMMISSIONER MOORE: I only want to wrap
6 up by saying I very much appreciate the public
7 participation we've had. If you consider the number of
8 people who have stuck with us hearing after hearing
9 after hearing into the evenings and taken the time and
10 really the interest to read the documents thoroughly,
11 I'm impressed. I think at the County level, I never
12 had people take that kind of clear, dedicated interest
13 in a document. And I think that you're to be commended
14 as a community. It reenforces my belief in the concept
15 of community, and for that I want to thank you. And I
16 think my fellow Commissioners will appreciate the
17 amount of work that has gone in to making whatever
18 decision Commissioner Keese and I come up with the
19 right one and fair one. We'll take all of your
20 comments into account, I promise you, and I think that
21 you can commend yourself on being not only persuasive
22 but reflective. And an example of good judgment. So
23 thank you all for coming.

24 Commissioner Keese, do you ever any closing
25 comments?

1 COMMISSIONER KEESE: No, I would say I
2 think the applicant did a great job of presenting their
3 case, and staff did an excellent job. I thank the
4 County for their involvement and certainly the audience
5 who have participated more fully as we've gone along
6 and brought some very interesting things to our
7 attention. I think it's been a -- well, it's hard to
8 say it's a good process, but it's an absolutely
9 necessary process, and everything is out on the table.
10 So I thank you all.

11 MR. FAY: We're adjourned. Thank you.

12 MR. AMERAL: One question. When is the
13 vote going to be? When is the Commission going to
14 actually --

15 COMMISSIONER MOORE: The five
16 commissioners will actually act on this sometime in
17 late January or February.

18 MR. AMAREL: Okay.

19

20 (The Hearing was concluded at 5:35
21 o'clock p.m.)

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CERTIFICATE OF TRANSCRIPT

I, GAIL BLANKENSHIP, Certified Shorthand Reporter of the State of California, hereby certify that the foregoing proceedings before Chief Hearing Officer Gary Fay, California Energy Commission,

In The Matter of:)
Application For Certification) Docket No. 97-AFC-2
For The Calpine Power Project)

were held as herein appears, and that this is the Original transcript thereof and that the statements that appear in this transcript were transcribed by me to the best of my ability.

I further certify that this transcript is a true, complete, and accurate record of said proceedings.

GAIL BLANKENSHIP, CSR 3980