

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification for) Docket No.
the GWF Tracy Combined Cycle Power) 08-AFC-7
Plant Project)
_____)

COUNCIL CHAMBERS
TRACY CITY HALL
333 CIVIC CENTER PLAZA
TRACY, CALIFORNIA

MONDAY, NOVEMBER 30, 2009

2:07 P.M.

Reported by: Peter Petty, CER**D-493
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Contract No. 170-08-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Karen Douglas, Presiding Member

HEARING OFFICER AND ADVISORS

Raoul Renaud, Hearing Officer

Galen Lemei, Advisor

David Hungerford, Advisor

Kourtney Vaccaro, Hearing Officer

STAFF AND CONSULTANTS PRESENT

Kerry Willis, Senior Staff Counsel

Alan Solomon, Project Manager

Matthew Layton

APPLICANT

Michael J. Carroll, Attorney
Latham and Watkins, LLP

Doug Wheeler, Vice President
Hal Moore, Director of Engineering
GWF Power Systems

Jerry Salamy, Senior Project Manager
CH2MHILL

INTERVENORS

Annette Tusó Elissagary

Charles Tusó

Steve Tusó

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P R O C E E D I N G S

2:07 p.m.

HEARING OFFICER RENAUD: Good afternoon, ladies and gentlemen. I'm calling to order the evidentiary hearing for the GWF Tracy Combined Cycle Power Plant Project, which has an application for certification before the California Energy Commission.

I am Raoul Renaud; I'm the Hearing Advisor assigned to this matter. I will introduce the people who are up here on the dais.

To my far right is Kourtney Vaccaro, a Hearing Advisor observing today. To my immediate right is David Hungerford, Advisor to Commissioner Art Rosenfeld. To my immediate left is Karen Douglas, Chair of the Energy Commission and Presiding Member of the Committee assigned to hear this matter. And to her left is Galen Lemei, her Advisor.

The Commission consists of five members, and in a power plant siting case the Commission assigns two Commissioners to form a Committee to oversee the proceedings and prepare a proposed decision. The Committee Members, as I mentioned, are Chairman Douglas, Presiding, and Arthur

1 Rosenfeld, Associate Member. Commissioner
2 Rosenfeld was unable to be present today.

3 Let me ask now that the members of the
4 Commission Staff who are present introduce
5 themselves.

6 MS. WILLIS: Good afternoon. My name is
7 Kerry Willis; I'm Senior Staff Counsel. And with
8 me is Project Manager Alan Solomon. Also in the
9 audience we have Matt Layton for ghg if there's
10 any questions. And Marie McLean that covered the
11 visual testimony.

12 HEARING OFFICER RENAUD: Thank you.
13 And. Did you introduce Mr. Solomon? You did,
14 okay. I was thinking about something else.

15 And to their far right we have
16 representatives of the applicant. Mr. Carroll,
17 would you please make introductions.

18 MR. CARROLL: Yes. Good afternoon, I'm
19 Mike Carroll, with Latham and Watkins, on behalf
20 of the applicant. To my left are representatives
21 of GWF Energy, the applicant. And I'll allow them
22 to introduce themselves.

23 MR. WHEELER: Yes. Doug Wheeler, GWF,
24 as the Project Manager.

25 MR. MOORE: Hal Moore, Director of

1 Engineering for GWF.

2 MR. SALAMY: Jerry Salamy, CH2MHILL; an
3 environmental consultant to GWF.

4 HEARING OFFICER RENAUD: Okay, thank
5 you. We also have intervenors in this case. And
6 they are the Tusso and Elissagary families, and
7 Robert Sarvey. Any of you present and wish to
8 indicate your presence?

9 All right, I see Janette, is it?

10 MS. ELISSAGARY: It's Annette --

11 HEARING OFFICER RENAUD: Annette
12 Elissagary, thank you. And Mr. Tusso?

13 MR. TUSO: Yes.

14 HEARING OFFICER RENAUD: All right,
15 thank you. And?

16 MS. ELISSAGARY: Mr. Tusso.

17 HEARING OFFICER RENAUD: And another Mr.
18 Tusso. Thank you. All right, good.

19 Are there any elected officials present
20 today? All right, very good.

21 The evidentiary hearing is the final
22 step, next-to-final step in a long process
23 involving the certification of applications to
24 build thermal power plants in the State of
25 California.

1 The parties, that is the applicant and
2 the staff, have labored for over a year gathering
3 information and exchanging information, and
4 preparing to submit all of their evidence into the
5 record. And today is the day we do that as a
6 formal matter.

7 The Commission will eventually issue a
8 final decision on this case. And the Commission
9 decision can only be based upon evidence that is
10 in the record. And that's why today is so
11 important, is because today is the day that all
12 the evidence that the Commission can consider will
13 go into the record.

14 It's considered an administrative legal
15 proceeding. We generally follow the technical
16 rules of evidence, but we can also consider other
17 evidence as long as it is the type of evidence
18 that responsible persons are accustomed to rely on
19 in the conduct of serious affairs.

20 All witnesses are sworn and testify
21 under oath. Each party has the right to present
22 and cross-examine witnesses, introduce exhibits
23 and rebut evidence by any other party.

24 In preparation for this hearing we held
25 a prehearing conference on November 17th in

1 Sacramento. And at that time each party, that is
2 the applicant and the staff, submitted their
3 exhibits and proposed testimony, and provided
4 copies to one another.

5 That gave them the opportunity to review
6 that evidence and submit any responsive comments
7 or corrections or additions or changes. And they
8 both did that on November 23rd and 25th
9 respectively.

10 The submissions of the parties, of the
11 applicant and the staff, indicate that they are in
12 agreement on all of the topic areas that are
13 considered under an application for certification.
14 And have stipulated that all evidence and
15 testimony may be submitted by written declaration.
16 And that they do not wish to cross-examine each
17 other's witnesses.

18 We have prepared an exhibit list. It is
19 actually labeled a tentative exhibit list in case
20 anybody wants to introduce anything further.
21 Copies were distributed to the parties and there
22 were some additional copies left on the table
23 outside for those in attendance today.

24 The exhibit list shows 98 exhibits
25 entered on behalf of the applicant. And one

1 exhibit entered on behalf of the staff. That one
2 exhibit, however, is very large. It is the entire
3 final staff assessment, which is this. So you can
4 see it's not just one piece of paper, it's a very
5 large document covering the entire analysis of
6 this application.

7 Neither of the intervenors submitted any
8 exhibits, nor did they submit any prehearing
9 conference statement. And it is therefore assumed
10 that they will not be introducing evidence,
11 because they would have had to exchanged it with
12 the other parties in fairness to be allowed to do
13 that.

14 Let me proceed first then with the
15 applicant. Mr. Carroll, we have before us the
16 tentative exhibit list based upon your submission
17 of your exhibit list containing 98 exhibits. Does
18 that appear to be correct to you.

19 MR. CARROLL: It is correct, with one
20 addition, which would be applicant's exhibit 99.
21 And that would be the declaration of Doug Wheeler
22 regarding power plant efficiency and greenhouse
23 gas emissions, which is dated November 19, 2009.
24 It was docketed on November 20, 2009.

25 HEARING OFFICER RENAUD: Thank you.

1 Yes. And we do have that. It was entered into
2 the Energy Commission Docket in this case on
3 November 20, 2009. The proof of service shows
4 also that it was distributed to all parties and
5 other persons on the proof of service.

6 And do you wish, at this time, to move
7 that into evidence?

8 MR. CARROLL: Yes.

9 HEARING OFFICER RENAUD: We'll mark that
10 as exhibit 99. Let me ask counsel for the staff
11 if you are familiar with this document?

12 MS. WILLIS: Yes, we are.

13 HEARING OFFICER RENAUD: And do you have
14 any objection to its admission into evidence in
15 this matter?

16 MS. WILLIS: No, we don't.

17 HEARING OFFICER RENAUD: That exhibit
18 then, exhibit 99, will be admitted into evidence.
19 Thank you.

20 Mr. Carroll, is there anything else you
21 wish to enter into the record, or testimony you
22 wish to offer at this time?

23 MR. CARROLL: We would just ask that the
24 other 98 exhibits sponsored by the applicant be
25 entered into the record. Beyond that we have no

1 additional testimony to offer today.

2 HEARING OFFICER RENAUD: Very well,
3 thank you. Does the staff have any objection to
4 the admission into evidence of all 99 exhibits?

5 MS. WILLIS: No, we don't.

6 HEARING OFFICER RENAUD: Thank you.
7 Those will be admitted, then.

8 MR. CARROLL: Thank you.

9 HEARING OFFICER RENAUD: All right,
10 let's move to the staff testimony. The tentative
11 exhibit list shows that your exhibit is exhibit
12 200, the final staff assessment, dated October 30,
13 2009. Do you have any further exhibits to offer
14 into evidence today?

15 MS. WILLIS: Yes, we do. We have two.
16 The first would be staff's errata to the FSA, and
17 that was dated November 23, 2009, as exhibit 201.

18 HEARING OFFICER RENAUD: The staff
19 errata will be 201. Any others?

20 MS. WILLIS: And we have a further
21 errata. It's air quality errata. And that was
22 dated November 24, 2009. And it's exhibit 202.

23 HEARING OFFICER RENAUD: All right,
24 thank you. We'll mark those as exhibits 201 and
25 202, respectively.

1 Mr. Carroll, is the applicant familiar
2 with those two exhibits?

3 MR. CARROLL: Yes, we are.

4 HEARING OFFICER RENAUD: And do you have
5 any objection to their being entered into the
6 record and admitted into evidence?

7 MR. CARROLL: No, we do not.

8 HEARING OFFICER RENAUD: All right,
9 thank you. Then I take it the staff would move to
10 enter into the record and have admitted into
11 evidence exhibits 200, 201 and 202?

12 MS. WILLIS: Yes, staff moves those
13 three exhibits into the record.

14 HEARING OFFICER RENAUD: Thank you. Mr.
15 Carroll, again, no objection by the applicant?

16 MR. CARROLL: No objections from
17 applicant.

18 HEARING OFFICER RENAUD: Those will be
19 admitted. Thank you.

20 I'll ask one final time before we close
21 the evidentiary record if either party has any
22 further evidence or testimony to offer at this
23 time.

24 MS. WILLIS: We do not.

25 HEARING OFFICER RENAUD: All right.

1 MR. CARROLL: None from the applicant.

2 HEARING OFFICER RENAUD: Are there any
3 questions from the Committee? All right, thank
4 you. We will then close the evidentiary record.

5 We can now move into the public comment
6 period. This is the time when we allow members of
7 the public to address the Committee and make
8 comments or statements for the record.

9 Now, public comments are not evidence in
10 the technical sense. That is they are not part of
11 the formal evidentiary record. But they are
12 considered by the Committee, and we look forward
13 to public comment and encourage it.

14 I have one paper submitted by Annette
15 Tusso Elissagary seeking to submit public comment.
16 And I invite you to come forward to the
17 microphone.

18 MS. ELISSAGARY: Thank you. Over the
19 past year and a half or so that this applicant has
20 been in the works there's been a lot of emphasis
21 put on mitigation and the concern for the plant
22 and wildlife of the area that the plant is
23 located. But not so much for the human aspect of
24 it.

25 And I cannot stress enough the impact we

1 feel that this power plant, running 24 hours a
2 day, 365 days a year, could have on my family's
3 quality of life and property values.

4 I have read a statement to you before,
5 in July, regarding our concerns as a family. And
6 without it being redundant, I would like to have
7 them entered again in this hearing if you don't
8 mind.

9 HEARING OFFICER RENAUD: That's fine.
10 Please go ahead.

11 MS. ELISSAGARY: Thank you. Again, my
12 name is Annette Tusso Elissagary, and I'm here
13 today representing myself, my two brothers,
14 Charles Tusso, Steve Tusso and their families. We
15 feel we need to make our concerns heard and on
16 record.

17 In 2001 and in 2002 we, along with San
18 Joaquin County, the City of Tracy, St. Bernard's
19 Catholic Church, Surland Development, many of our
20 neighboring property owners and many concerned
21 citizens of Tracy voiced our concerns against the
22 placement of the Tracy peaker plant in our
23 community.

24 Contrary to all our hard work,
25 exorbitant expense, countless hours of time and

1 logical argument, our concerns fell on deaf ears,
2 and the CEC Commissioners approved the Tracy
3 peaker plant.

4 Never would we have imagined that a few
5 six and a half years later we would be here again,
6 backed into the corner, again fighting for our
7 property rights and quality of life against this
8 towering menace of our neighborhood.

9 For 60 years my family has owned, farmed
10 and lived on the property next to where the Tracy
11 peaker plant is located. We own 275 acres of
12 transitional farmland. And our four custom homes
13 are directly downwind and in direct view of the
14 plant.

15 We farm our land, we mow our laws, we
16 walk our dogs. Every morning we go for a run
17 around our property and farm. And our children
18 play and swim in their backyards. We love and
19 live to be outdoors.

20 We are now power plant developers. We
21 are farmers and business people. And I am sure we
22 are the very few people here today that are not
23 being paid to be here.

24 We don't have the time; we certainly
25 don't have the finances nor the expertise to fight

1 the big, powerful, experienced company such as
2 GWF, with all their high-priced expert consultants
3 and scientific reports. But we are neighbors who
4 live and work next door to this plant every day of
5 the year.

6 For over seven years my family has had a
7 theory regarding the effects this plant would have
8 on our way of life. We feel and we know the Tracy
9 peaker plant has taken -- and I emphasize the word
10 taken -- many of our private property rights
11 without any compensation.

12 For one, they have taken and impacted
13 our view from every point on our land and our
14 homes. With their proposed expansion our view of
15 Mt. Diablo will be diminished to nothing.

16 On October 23rd of 2008 GWF conducted a
17 site tour of their facilities, explaining their
18 proposed expansion. Standing inside their fenced
19 grounds, it seemed that they were out in the
20 middle of nowhere. There doesn't seem to be much
21 to see or to impact.

22 We do invite you to view the power plant
23 from our property. We are sure you will have an
24 entirely different perspective of this visual
25 impact that it brings to our neighborhood.

1 They have taken our quiet use and
2 enjoyment of our land and our homes. How will it
3 be peaceful and tranquil with two massive 140
4 megawatt steam turbine generators roaring next
5 door 24 hours a day?

6 At the October '08 site tour the
7 generators were conveniently not running. We can
8 only assume the noise level would have been
9 deafening to have conducted the tour. We are
10 directly downwind from these turbines. And that
11 is the direction the sound travels, straight to
12 our homes.

13 The taking of number three is the
14 quality of our air. We have all heard your
15 studies regarding air credits purchased in
16 neighboring states and counties; how much less
17 pollutants will be generated and registered in
18 Visalia, 175 miles from the power plant. And how
19 clean and safe it seems to be.

20 But to us, we know the heaviest and most
21 cancer-causing pollutants will fall shortly after
22 leaving the power plant site, and fall directly on
23 the land we farm and in the homes we live in. We
24 are concerned with every breath we take what the
25 impact will be on our health and our well being.

1 This does create a stress and anxiety that is also
2 health-damaging.

3 The taking of number four, the taking of
4 the value of our homes. We don't know anyone who
5 would consider an obstructive view, the loud noise
6 and potentially deadly air an amenity to increase
7 the value of their home.

8 These are all very negative disclosures
9 that deteriorate the value and create huge
10 liabilities for future sales.

11 Taking number five, the taking of our
12 land value. Our property is in the City of
13 Tracy's sphere of influence, meaning that it will
14 transition from farmland to a higher and better
15 use. Once again, the factors mentioned, view,
16 noise, air quality will all be negative
17 disclosures that will undermine the value of our
18 land.

19 The sixth taking is the quality of our
20 life. When you take away the person's quality of
21 view, quality of peace and quiet, quality of the
22 air they breathe, the value of their home, the
23 value of their land, create daily stress and
24 anxiety, you are robbing them of their quality of
25 life.

1 If this project is for the public good
2 and something has been taken from neighboring
3 property owners, then compensation is due to those
4 who suffer the impacts and loss. For us this
5 could be in the hundreds of thousands to the
6 millions of dollars. It's hard to put a price on
7 the quality of life.

8 Our big question is how will all this
9 taking and negative impacts be mitigated to
10 satisfy our losses. We are firm believers in
11 private property rights. And we know one thing,
12 no one has the right to come into a neighborhood,
13 create negative life-changing impacts, disturb the
14 quality of life, make huge financial benefits for
15 themselves at the expense, deterioration and well
16 being of the surrounding property owners without
17 drastic mitigation and fair compensation.

18 Any compromise less than fair is
19 stealing. And stealing is a crime.

20 For anyone here to say our concerns are
21 unfounded, we say, you do not live and work next
22 to this plant as we do. To us, this is every-day,
23 real life, not studies, graphs and models.

24 The high-priced consultants and fancy
25 reports are nothing more than a smoke screen of

1 abstract theory and twisted legal jargon to make
2 this project seem a benefit to the area.

3 Common sense tell us before GWF and the
4 Tracy peaker plant were our neighbors, we had a
5 zero view issue, a zero noise issue, a zero air
6 quality issue, a zero quality of life issue.
7 Anything above zero is a hundred times greater
8 than it was. And that is what our towering
9 neighbor has created to us, contrary to all the
10 high-priced studies.

11 I can assume that 95 to 100 percent of
12 you who are either applicants or applicants' paid
13 consultants, or are part of the decisionmaking
14 process, do not live in the Tracy area. Possibly
15 not even San Joaquin County. But your influence
16 here -- and your influence here will not
17 negatively impact your life.

18 So, please keep in mind, we are here and
19 we have been here for over 60 years, farming our
20 land, growing up, living here, raising our
21 families and minding our own business.

22 But once again we have been put into the
23 ring to fight a very experienced, well trained
24 professional and all of their well-paid
25 consultants. We get no public defense. We are

1 here left to battle on our own. It is not a fair
2 fight.

3 At the end of this process we need to be
4 made whole, compensated for our damages. And not
5 left any less than before GWF came into our lives.
6 After all, we are the ones left here to suffer the
7 burden of your decision and the impacts that come
8 with it for the rest of our lives.

9 And I do thank you for your time and
10 allowing me to read -- this is a true, heartfelt
11 sentiment of my family.

12 Thank you.

13 HEARING OFFICER RENAUD: Thank you very
14 much for your comment.

15 Are there any other persons in
16 attendance who wish to address the Committee?

17 Mr. Carroll.

18 MR. CARROLL: Hearing Officer Renaud,
19 there is one additional item that we realized that
20 we did not address. And that was the entry of the
21 final determination of compliance into the
22 evidentiary record.

23 Applicant did not identify that on its
24 exhibit list, and I don't believe CEC Staff did --

25 MS. WILLIS: No, we did not.

1 MR. CARROLL: -- either. I believe
2 there's a representative of the Air District
3 available by phone. But I also think --

4 MS. WILLIS: You can move --

5 MR. CARROLL: -- staff witness or
6 applicant's air quality witness is here, and would
7 be happy to sponsor the FDOC, as well.

8 HEARING OFFICER RENAUD: Which phone are
9 they available on? Because we've been having
10 trouble with our phone here.

11 MR. CARROLL: Oh, I meant they were
12 available on their phone. I don't know about
13 here.

14 HEARING OFFICER RENAUD: To be called,
15 all right. Okay. Well, availability is what
16 we're looking for, and they're available.

17 Are there any concerns or questions or
18 issues pertaining to the FDOC before we consider
19 admitting it into the evidence?

20 MR. CARROLL: No.

21 HEARING OFFICER RENAUD: All right.

22 MS. WILLIS: No.

23 HEARING OFFICER RENAUD: The Chair would
24 entertain a motion to reopen the evidentiary
25 record for the purpose of entering the FDOC.

1 L-a-y-t-o-n.

2 DIRECT EXAMINATION

3 BY MS. WILLIS:

4 Q Mr. Layton, for the purposes of this
5 entry could you please tell the Committee your
6 position in this hearing?

7 A I'm the Office Manager of the
8 Engineering Office. I oversaw the preparation of
9 the staff assessment on air quality and reviewed
10 the PDOC and FDOC as they were prepared by the
11 District.

12 Q And are you sponsoring the FDOC and PDOC
13 into the record at this time?

14 A I am.

15 MS. WILLIS: So I think we would like to
16 mark them, I guess, as exhibit 203 and exhibit
17 204. That would be the preliminary determination
18 of compliance is exhibit 203, and the final
19 determination of compliance is exhibit 204.

20 HEARING OFFICER RENAUD: Very well,
21 thank you. Any objection by the applicant to
22 those being entered into the evidentiary record?

23 MR. CARROLL: No objection.

24 HEARING OFFICER RENAUD: All right.

25 They will be admitted then, thank you.

1 MS. WILLIS: Thank you.

2 HEARING OFFICER RENAUD: And we will
3 then reclose the evidentiary record.

4 All right, we normally have a telephone
5 line available in case anyone wanted to phone in
6 or listen in. We had some technical difficulties
7 which I understand have been solved.

8 And I think, if you will bear with us,
9 we are going to attempt to open that line and see
10 if anybody's there. I'll do it because I've tried
11 before.

12 (Pause - Telephone contact established.)

13 HEARING OFFICER RENAUD: I hope that
14 doesn't go on too long.

15 Tracy? All right, let me keep you for a
16 moment. Are you stating that no one has phoned in
17 to this line?

18 THE OPERATOR: You are the first person
19 that has called in.

20 HEARING OFFICER RENAUD: All right. And
21 I am the conference leader. I think that -- have
22 you had anyone waiting to get in or anything like
23 that? We just want to make sure we don't leave
24 anyone out who wanted to speak.

25 THE OPERATOR: No, no one. You are the

1 first person that has called in.

2 HEARING OFFICER RENAUD: All right. And
3 you'll notify us if someone else calls in?

4 THE OPERATOR: You'll hear a beep as the
5 parties join in this phone-in conference. And do
6 you want to have the parties announced or --

7 HEARING OFFICER RENAUD: No, we'll just
8 wait for the beep.

9 THE OPERATOR: If you need assistance at
10 anytime you can press star-zero.

11 HEARING OFFICER RENAUD: Thank you.

12 THE OPERATOR: Thank you.

13 HEARING OFFICER RENAUD: Okay, we now
14 have the phone line open and I think we will just
15 give a few minutes for anyone who was trying to
16 get in to get in now while we go through the final
17 steps in ending this hearing.

18 Let me ask again if there are any
19 members of the audience who wish to address the
20 Committee at this time. All right, I see none.

21 We have closed the evidentiary record.
22 Are there any remarks from the Committee before we
23 close? All right, thank you.

24 And the next step in the process is that
25 the Committee will take all the evidence back to

1 Sacramento; go through it and prepare a Presiding
2 Member's Proposed Decision.

3 That is a document which considers all
4 of the evidence and the ways it analyzes it and
5 makes a determination concerning whether or not
6 there are any significant impacts from the
7 project.

8 That Presiding Member's Proposed
9 Decision, which we call the PMPD, will be issued,
10 we hope, in eight to ten weeks. Sometimes they
11 can get done sooner, sometimes it takes longer.
12 It just depends on the complexity of the matter
13 and the number of other cases that are going on at
14 the same time.

15 After that decision is -- that proposed
16 decision is rendered, a hearing will be noticed
17 where members of the public and the parties can
18 come and comment about the proposed decision. The
19 Committee will listen carefully to those comments,
20 and ultimately issue a final decision, which would
21 go to the Commission for adoption.

22 And the full Commission then would
23 consider it at one of its regularly noticed
24 business meetings. Again, at that meeting is
25 another opportunity for the parties and members of

1 the public to comment concerning the proposed
2 decision.

3 We haven't heard any beeps indicating
4 anyone phoning in. And I think we've allowed
5 enough time if someone was trying to phone in that
6 they would have by now.

7 So, I think we've concluded our business
8 for the day, and I will call this meeting
9 adjourned. Thank you.

10 (Whereupon, at 2:40 p.m., the
11 evidentiary hearing was adjourned.)

12 --o0o--

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of December, 2009.

PETER PETTY

AAERT CER**D-493

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

December 3, 2009

Margo D. Hewitt

AAERT CET**00480