RENEWABLES COMMITTEE HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of: )
Developing Statewide Avian ) Docket No.
Guidelines ) 06-OII-1

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

FRIDAY, JUNE 9, 2006
10:05 A.M.

Reported by:
Peter Petty
Contract Number: 150-04-002

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
COMMISSIONERS PRESENT
John Geesman, Presiding Member
Jackalyne Pfannenstiel, Associate Member

ADVISORS PRESENT
Melissa Jones
Timothy Tutt

STAFF PRESENT
Rick York
Susan Sanders
John Mathias

PUBLIC ADVISER
Mike Monasmith

ALSO PRESENT
John McCamman
California Department of Fish and Game

Julia Levin
Audubon California

Mark Sinclair (via teleconference)
Clean Energy States Alliance

Andy Linehan
PPM Energy

Brenda LeMay
Horizon Wind Energy

James A. Walker
enXco
American Wind Energy Association
ALSO PRESENT

Gary George
Los Angeles Audubon Society

Anne E. Mudge, Attorney
Morrison and Foerster, LLP
California Wind Energy Association

V. John White
Center for Energy Efficiency and Renewable Technologies

Kim Delfino
Defenders of Wildlife
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PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
PRESIDING MEMBER GEESMAN: This is a workshop of the California Energy Commission's Renewables Committee in our initial efforts to develop advisory guidelines for the development of wind projects in California.

I am John Geesman, the Presiding Member of the Renewables Committee. To my right, Commissioner Jackalyne Pfannenstiel, the Associate Member of the Committee and the Vice Chair of the Commission. To my immediate left, Melissa Jones, my Staff Advisor. To Commissioner Pfannenstiel's right, Tim Tutt, her Staff Advisor.

I'm not going to try to restate the notice that went out which does provide a lengthy description of the background of this effort and its purpose. I think most of you realize the Commission vowed to develop such guidelines in its Integrated Energy Policy Report which we adopted last November. This is our initial public session.

We'll be conducting workshops throughout the process, and I suspect that most of your interaction between workshops will be with our
staff. Commissioner Pfannenstiel and I envision
coming in and out of the process, but always in a
public workshop. And I suspect you should look at
us primarily as punctuation points to the process.

This is a difficult issue, as I think
everybody understands. And there's some fairly
deeply held views. My efforts will be to try and
get people to distinguish between opinions and
hypotheses and actual empirical data or results.
And to move us along.

Most of the substantive heavy lifting I
suspect will be done in interactions which the
various parties have with each other and with our
staff. But Commissioner Pfannenstiel and I look
forward to our role as punctuation points.

Commissioner Pfannenstiel?

ASSOCIATE MEMBER PFANNENSTIEL: Nothing,
thank you.

PRESIDING MEMBER GEESMAN: Rick, do you
want to start us off then?

MR. YORK: First I'd like to start, my
name is Rick York; I'm on staff here at the Energy
Commission. I supervise the biological resources
unit here at the Energy Commission.

I wanted to go through very quickly some
housekeeping points. The bathrooms, all-important
bathrooms, are out in the foyer in that corner of
the building. If you have cellphones on, please
turn them off or on stun or on vibrate, whatever.

If you are planning to speak today -- is
there anyone here from the Public Adviser's
Office? The Public Adviser's Office just walked
in. Do you want to make a statement about the
process?

MR. MONASMITH: Certainly, if you
think --

MR. YORK: Definitely.

MR. MONASMITH: Good morning, I'm Mike
Monasmith with the Public Adviser's Office. Just
quickly, if any of you are planning on making
comments at the end of today's session, please try
to fill one of these blue forms out. If you don't
have one I'll bring one by later. And just
quickly fill them out. We will give them to the
Commissioners and they will call you up at the end
for public comment.

Unless there's direct comment you want
to make, at which point just ask the
Commissioners. So, that's about it, thanks.

MR. YORK: Thank you. There is phone-in
capability, so we will be joined by folks on the phone. And John Mathias down here will be coordinating that. How many folks do we have on the phone right now, John?

MR. MATHIAS: Five.

MR. YORK: Five. I believe that their phones are muted right now; they can only listen in. And at times, if they do want to make a statement, John will make that connection.

I hope all of you were able to pick up copies of the presentations, the agenda for today's meeting, some of the background material. It's at the desk, the table, as you came into the building here this morning.

I guess I'm giving the first presentation. I'd like to give you some -- what button do I push to turn the lights out? Kevin will take care of it. Thank you.

I want to give you a very brief overview of a variety of things today. And then turn the presentation over to Susan Sanders, who's going to talk to you about the outline that we sent out a month ago.

Ah, that's correct, I'm a little out of step here. We do have Chief Deputy Director John
McCamman from the Department of Fish and Game who
would also like to make an opening statement
before I get rolling here.

MR. McCAMMAN: Appreciate the
opportunity to meet with you folks today, on
behalf of the Department of Fish and Game, for
developing statewide guidelines for reducing
wildlife impacts for wind energy development. And
I wanted to make sure that our comments were on
the public record, so thank you for the
opportunity.

The Department of Fish and Game's
overall mission is to preserve and protect,
restore and enhance fish and wildlife resources
and their habitats for the use and enjoyment of
the citizens of California.

Under the California Environmental
Quality Act, Fish and Game has a role as a state
trustee for fish, wildlife and habitat resources.
And is mandated to consult with CEQA lead agencies
to advise and recommend measures to avoid and
reduce project impacts to fish, wildlife and
habitat resources, review environmental documents,
recommend mitigation measures and develop and
perform monitoring for purposes of CEQA.
In addition, Fish and Game recognizes
the many environmental benefits of wind power as a
clean renewable source of energy and the need to
develop new energy generation capacity to maintain
California's high standard of living.

In our role under CEQA, and as a public
trustee, we have a goal for our participation in
this effort to develop and make available a set of
guidelines and recommendations which will assist
project proponents and local agencies in
evaluating potential impacts to avian wildlife; to
identify necessary information and studies needed
to inform the CEQA process; local project
approvals, project permitting and post-project
monitoring.

To reduce effects on avian wildlife
through the repowering of existing facilities;
better project design, siting and operation to
insure compliance with environmental laws.

To identify a framework to develop
workable CEQA and permit mitigations for
unavoidable project effects; and assist local
agencies in successful CEQA compliance for
proposed projects.

Fish and Game Staff is here, and Fish
and Game pledges to work cooperatively with the Energy Commission, the wind energy industry, environmental groups and other stakeholders to produce a useful guidance document.

We've retained a technical coordinator and assembled a staff team to provide input and review and oversight of the proposed guidelines and guideline development process.

Our staff team is headed by Scott Flint, who's here today. And I promised him I wouldn't tell anybody it's his birthday, so.

(Laughter.)

MR. McCAMMAN: So, on behalf of Fish and Game I thank you very much. I appreciate the ability to participate.

PRESIDING MEMBER GEESMAN: John, thanks for your comments. And thanks for being here. We're committed to work hand-in-hand with the Department of Fish and Game in this effort. And we want to be certain that whatever its ultimate output is, those guidelines are useful to Fish and Game and are considered appropriate by Fish and Game.

I met with our Executive Director and your Department Director some months ago to assure
that there would be adequate resources for your
department to fully participate in this. And I'd
ask you, if you perceive in the months ahead any
resource issues limiting your participation, that
you bring that to Commissioner Pfannenstiel's and
my attention so that we can get that resolved
quickly.

MR. McCAMMAN: Certainly will do, thank
you very much for the opportunity.

PRESIDING MEMBER GEESMAN: And, again,
we certainly welcome the Department's heavy
involvement in this process.

MR. McCAMMAN: Good, thanks.

MR. YORK: Thanks, John. Okay, as I
said, I'd like to give you a little overview on a
variety of things, bring you up to speed as to
where we are today.

First, I'd like to identify what the
2005 Energy Report said about wind energy
development and avian issues. I want to talk
about the project goal; a little bit about the
proposed process for developing the monitoring
protocols and mitigation guidelines; talk briefly
about the desired outcome; recent contacts that
we've made; a very tentative schedule; how to
access information from today's proceedings and all future proceedings; and some of the staff contacts that you may need to utilize in the future.

First, what did the 2005 Energy Report state. It stated that taking advantage of California's substantial wind resources requires that two related issues be addressed. Repowering of the state's aging wind facilities, and reducing avian deaths associated with the operation of wind turbines.

Also it stated that California has an important opportunity to more carefully site new turbines, thereby reducing and avoiding bird deaths from wind turbines. It also stated that statewide protocols for studying avian mortality to address site-specific impacts in each individual wind resource area need to be developed.

So, the project goal is to develop statewide voluntary wind avian monitoring protocols and mitigation guidelines. We want them obviously to be science-based. We'd like to have them used by local permitting agencies. Applied by the Department of Fish and Game and wind...
developers. We'd like to see it done in such a way so we do see a reduction in bird and bat impacts. But we also wanted this to be done so it does encourage new wind development and the repowering of existing facilities.

General statements about the process that we see. We obviously are going to be doing this under very regular collaboration with many people that we've already communicated with in emails or through phone calls.

We're going to be working closely with agency staff, obviously wind developers, county and city representatives. Made a lot of contacts there. Been working with environmental organizations such as Audubon, and obviously with the public.

We anticipate two or more public workshops, probably two or more maybe public hearings. We'll see how that unfolds.

What we actually will see as far as the actual writing of the protocols and guidelines, the Energy Commission Staff will be collaborating with Fish and Game on the writing of the guidelines and protocols. And we'll have peer review of what we write by the Science Advisory
Committee.

And drafts along the way will be obviously shared very regularly and we'll be seeking public comment on those drafts.

So the overall desired outcome will be that the monitoring protocols and mitigation guidelines are consistently applied by local permitting agencies to facilitate the permitting environmental review process and wind energy development, while minimizing impacts to birds and bats.

Recent contacts that have been made. We called -- Susan Sanders called all of the attendees of the January 2006 forum that was put on by California Audubon and the American Wind Energy Association. We were seeking their ideas on the protocols, themselves, and the guideline development process. How we should set up criteria for establishing who will be good candidates for the Science Advisory Committee that we're developing.

We got a lot of good input and we're taking many of the suggestions -- can't take all of them, but many of them were very very helpful to us, and we wanted to thank all of you for
participating in this lengthy discussion about the Science Advisory Committee. We also contacted many counties.

This is a very tentative schedule. This is, in general, how we see things today unfolding. Obviously this will change over time. We sent out the draft outline for the protocols and guidelines in April; asked you to look them over. Today is June 9th, the first Committee hearing.

We'd like to have written comments on what you hear today and the outline that we presented to you in April. We'd like to have them in about a week. We're actually going to start writing here fairly soon. And may have at least one workshop between now and mid-September where we'll actually present for public review and comment the first draft of the guidelines and protocols.

And the end date we hope is in mid-December, when we hope there is adoption of the guidelines.

We have set up a website for this proceeding, and a docket. So, all this information will be available. The sorts of things you could expect to find there will be
workshop and hearing notices, various draft
protocols and mitigation guidelines that will be
developed.

Any additional materials such as
elements of what other countries and states have
developed, we're obviously going to be looking at
those things for ideas. And reports, studies,
data that we actually did use in the development
of the guidelines.

And last, but not the least, here's some
contact information for some of the key staff
folks here. We'll take your calls; we'd love to
talk to you. But this really is just a start.
There actually was quite a much longer list of
folks who have been working behind the scenes on
this, and I wanted to acknowledge them right now
very quickly.

If you'd raise your hand so people can
see you. John Mathias; Misa Ward; Paul Richins;
and Kerry Willis. Kerry's our staff attorney.

From the Energy Commission's PIER
program Linda Spiegel and Melinda Dorin.

And from Fish and Game, Scott Flint, Joe
Vinsenty, David Sterner and Kevin Hunting.

So, if there are any questions I'll try
to answer them. If not, we can go right to Susan Sanders who wants to talk to you briefly about the outline that people have been asked to review and come to talk about.

Susan.

(Pause.)

MS. SANDERS: I'd like to thank all of you who I've talked to over the past couple of months. Your input has been very helpful in giving us some guidance on how to have this process work; and it will help shape how the public input comes in and how we incorporate good science into that.

I'm going to take about ten minutes now and go over the draft outline. And I repeat, this is just a draft. And then after that we'll spend the rest of the hearing listening to you and answering questions.

Rick described the need and purpose for these guidelines which will be part of the introductory chapter. Chapter one will describe the relationship of these guidelines to state laws like the California Environmental Quality Act and federal laws like the Migratory Bird Treaty Act.

This section will also refer the reader
to guidelines from other states and countries, as Rick mentioned. Canada, UK, Vermont and Washington. We'll be looking closely at those existing guidelines for some ideas for our own, and we'd like to hear from you if you have suggestions for elements of those that would be good to incorporate.

Chapter two will address the pre-permitting assessment and studies. Early in the siting process a preliminary environmental screening is essential to determine if there's any obvious conflicts, including wildlife issues, that might make the site unsuitable for development.

Information is needed at this stage to determine how the site's used by resident, wintering and migratory species.

The next step is to collect information that can be used to fine-tune the placement of turbines and other infrastructure, to predict the effects of wind development on birds and bats, and to provide the before data to compare to the post-construction data.

Preliminary information gathering makes use of existing data, and if the site's adjacent to a well studied windfarm, then most of that work
has already been done. If not, then the project biologist can make use of agencies like Fish and Game and Fish and Wildlife Service; and databases like the California Natural Diversity database, Wildlife Habitat Relationship System. And also local birders Audubon Chapters, experts knowledgeable about the area.

And, of course, the reconnaissance survey by a project biologist is really important before developing a detailed study plan, which is the next step.

The guideline recommendations for pre-permitting studies need to be flexible while still providing consistent, scientifically sound methods to collect data and assess impacts. This objective will be reflected in chapter two. We'll have recommendations on how to decide on the frequency, duration and scope of the preconstruction field studies.

We do not envision a one-size-fits-all recommendation, but rather a process that allows the user to determine the study effort that will be required based on the sensitivity of the site, the level of information available on the site, and the size of the project.
This chapter will provide the reader with an evaluation of the field methods and statistical tools available to design those studies, including the ones listed here. Daytime surveys with point counts or transects; nocturnal surveys with radar and other techniques; and recommended sampling protocol.

The preconstruction studies provide the basis for evaluating direct and indirect impacts of the project to birds and bats. It also lays the groundwork for mitigation. Chapter three will also provide some recommendations on how to establish the context for a cumulative impact analysis that will be considered adequate by state and federal agencies.

Chapter four will include a discussion of the purpose of post-construction surveys, which generally includes counting fatalities and comparing it to preconstruction estimates. These surveys are really the only way we have to see if the impact assessment that was done for the environmental document accurately predicted the impacts to wildlife, to see if the mitigation measures are working, or if something is needed to be adjusted to meet the goals of the mitigation.
This chapter also will provide recommendations for standardized metrics and reporting which will improve our ability to consistently report data and make comparisons between different wind sites.

The carcass count is the most commonly used tool for monitoring, and it's a topic that must be thoroughly address when designing the post-construction studies. This section will provide guidance on all the components that affect a carcass count, such as how to assess search or bias, scavenger removal and appropriate intervals between searches.

In addition to carcass searches, chapter four will talk about ongoing use surveys by bats and birds, because it's important to evaluate fatalities in the context of ambient levels of use.

In addition to discussing the science of the survey techniques for post-construction studies, we want to provide recommendations on interpretation, reporting and review of the reports by the public and resource agencies. This is particularly important if management actions need to be taken as a result of the data.
Some guidelines have dealt with the use of the issue of report interpretation and post-construction mitigation by calling for a technical advisory committee of experts that make recommendations using an adaptive management approach.

Which brings us to mitigation and a discussion of site-specific ways to avoid or minimize impacts with appropriate design and operations planning.

Post-construction mitigation measures that have been discussed in existing guidelines include habitat modifications like prey reduction, changes to grazing regime, changes in lighting, seasonal changes in operation.

Compensatory mitigation involves providing habitat protection or acquisition to compensate for unavoidable impacts to wildlife.

And finally, the guidelines will need to be updated as we learn more about wind, wildlife turbine -- or wind turbine/wildlife interactions and get feedback from users of the guidelines.

We'd like to hear suggestions from you as to what kind of process would work for updating and revising the guidelines.
And we'd like to hear from you on everything that we've talked about today. Have we left topics out? Have we included topics you think should not be in the guidelines? What do you think would be good subjects for future workshops for in-depth discussions.

We ask for your comments today, and remember also you have another week to submit written comments, by June 16th.

Thank you.

PRESIDING MEMBER GEESMAN: I'm going to ask for blue cards for people that wish to speak to us today. I've got several already.

Let me start with Julia Levin, Audubon, California.

MS. LEVIN: Good morning, Commissioners; my name is Julia Levin; I'm the State Policy Director for Audubon, California.

I want to start by thanking you for beginning this guidelines process. I think that you are, as you have in many areas, showing great leadership. And you will be solving a very important issue in California that I hope other states, and then the federal government in the future iteration of guidelines, and perhaps other
countries will follow, as they have followed the Commission in so many other areas.

We do believe that it's possible to operate and significantly expand wind power in California, and we hope to see that happen. I want to be very clear about that. But we think that it needs to be done sensitive to wildlife needs and other environmental concerns. And, again, we think that those can be balanced and they can be addressed without harming the wind industry. And, again, we applaud your efforts for trying to find that balance and practical solutions to these issues.

In order to balance these two things it's very important that the guidelines be science-based. And I want to make the point here, because there's been a lot of controversy around the science, particularly at Altamont, but elsewhere, as well.

Science is not a stakeholder process. It's very important that the scientists involved in this effort, as in other efforts involving wind, do not have any conflicts of interest.

And, Commissioner Geesman, I know you're an attorney by background, you know that receiving
financial compensation from the regulated
industry, which is, in this case, the wind
industry, is a very clear conflict of interest.
And I hope that the Commission will continue to
rely on scientists that are objective, that create
good, unimpeachable science.

And where there are gaps, we continue to
try to fill those in. But not continue to look
backward at scientific work that's already been
done. And not create scientific advisory groups
that are, in fact, stakeholder groups. The policy
decisions should be left to you and to the public
and the policymakers, not the scientists.

I also think it's very important that
the group rely on the members, both of the
industry and the conservation groups and others,
that are solutions-oriented. And I would like to
commend a number of the wind companies here in the
room and elsewhere. We've worked very closely
with PPM and enXco, with John White at CEERT and
many of his clients and staff.

And there are a number of industry
members that are working very proactively trying
to identify sensitive sites. They're coming to
Audubon and Sierra Club and other conservation
groups to ask our advice; to try to find out what
the concerns will be; asking who they should
consult with; and then actually consulting with
those biologists.

So that we feel a great deal of
confidence in what they're doing and can stand up
and say that's a good project. We think that's a
good project. The impacts are minimal; they've
done the right scientific work; and support it.

And we would like to see more of those.

And I hope that as this process unfolds, you will
rely for advice on those companies that are really
looking for solutions and looking to get ahead of
this issue, not the few that continue to deny that
there's a problem here.

So, on the guidelines, themselves, I
think that your staff and consultants have done a
great job with the initial outline. The devil, of
course, will be in the details. But I think it's
a very good starting point.

I have just a few specific suggestions
and additions, and then a couple of ideas for
workshop topics.

So, actually before I get to that I do
want to underscore, because it's easy when push
comes to shove, to say we need wind power. And certainly Audubon agrees with that and supports it. We don't want to have to deal with birds. Birds are out there, they're quiet, they fly, we don't, you know, -- how can we be asked to spend millions of dollars to protect birds or bats, which are even, you know, harder to find and see, for most of us.

And I just want to underscore the importance of birds. Aside from the fact that there are more than a dozen state and federal laws that require us to protect birds and other wildlife, they're a very important economic factor in California. Californians spend billions of dollars, $2.5 billion a year, on wildlife-related activities. Much of which is related to birds. They're important for recreation, for bird watching, for hunting. They help propagate crops; they help control rodents and other pests; and they're a very important resource in California for aesthetic and moral reasons. So, we do need to keep that in perspective as we move forward on the guidelines.

So my specific suggestions are very few. I think it's important in the preliminary
assessment -- this is where a lot of the meat of the guidelines needs to be -- that as much data as possible is made available to the public as early as possible.

This may require confidentiality agreements in some areas, but I think that the early consultations and the preliminary assessment of what level of further study will be required should be made publicly available, or at least available to whatever is the scientific review committee, maybe to Audubon members or other wildlife experts, so that that preliminary decision about what the in-depth field study, the amount of study that needs to occur, is made with a sufficient level of expertise and public buy-in.

We also think that given the realities of the state budget, particularly Fish and Game's budget -- and I know your staff and you are working hard to find resources for Fish and Game -- but we do believe that it's appropriate for the wind companies who should be consulting with Fish and Game to pay some sort of cost-sharing arrangement in that regard.

And I don't know exactly, I don't have a more concrete suggestion, but I think there should
be some sort of a preliminary application fee or a
cost-sharing arrangement for the preliminary
assessment. Because that assessment could be
fairly time consuming, should be, for Fish and
Game and others.

Then three areas that I would suggest
workshops. And they all kind of relate to the
idea of getting ahead of the curve, which I think
is very important here to reduce the level of
conflict between wind and wildlife.

The first is I think it would be great
to hold probably a multi-day workshop on all the
range of incentives for wind companies. As I
said, some of them are already really being very
proactive in this regard. Others less so.

I think that there are a whole range of
incentives currently available that it would be
helpful to identify more clearly and really have a
menu that is obvious to the wind companies and the
wildlife groups that would encourage all of us to
work together more closely and more proactively.

Things like sales tax waivers, property
tax waivers. I hate to get into the RPS, you
know, REC world, I used to work in that world and
I know John White's probably cringing to hear me
even mention it, but you know, some sort of extra
credit, you know, maybe it's an RPS world, maybe
it's in the tax world. There's probably other
incentives available.

I also hesitate, as a conservationist,
to mention fast-tracking in terms of permits, but
I think that we should really consider the whole
range of incentives both for early action, for
experimental mitigation measures. And depending
on who you ask, there are a lot of those. For
different technology.

And perhaps most importantly, for
access. Access to the properties, themselves, and
access to data.

I know there have been some questions at
Altamont and elsewhere about allowing non-industry
biologists on the property. Again, I think the
more we can encourage these sorts of behavior
through whatever incentives are appropriate, the
better. And I think that could easily be a multi-
day workshop topic. There are a lot of different
options and ramifications of each.

The second area that I think sort of
related to incentives, but just maybe even more
generally is how to get ahead of these issues; and
is directly related to the third, which is I think
eventually there will be a system where we have, I
don't know whether it's red, green and white, or
pink, purple and blue, whatever the appropriate
color scheme is, to let the wind companies know
ahead of time for particular areas there's going
to be a higher expectation for preconstruction
surveys. And a higher expectation for mitigation.

You know, rather than the position that
the wind companies are in now where they know
where the wind resources are, but don't
necessarily know, you know, where there are going
to be red flags, or yellow flags or, you know,
whatever color scheme you choose in the future.
Letting them know ahead of time.

You know, we have good wind resource
maps. Not as good, but, you know, gradually
developing wildlife inventories. The more we can
move the wildlife inventories into the wind
resource maps and have some sort of a scheme that
really identifies very clearly, this is an easy-go
zone; you're going to have to do minimal work
before and after. This is a difficult, but you
can probably still do it. And this is a
nonstarter, you know, there are just too many too
Those sorts of tools, the more that we can all work together to develop them and make them available so that we can get everyone ahead of the curve here, I think would be enormously helpful.

So, sorry for long comments. Again, I just really cannot thank you enough for being responsive to the controversy and the request to find solutions here. And I have every confidence that you will.

Thank you.

ASSOCIATE MEMBER PFANNENSTIEL: Julia, may I just follow up on something. Thank you very much for your very positive helpful suggestions. But you talked about three different workshop topics. And the one being incentives and the third one being to sort of classify or characterize more vulnerable areas.

I sort of missed what the second one was, if you can help me with that.

MS. LEVIN: I think the second and third are probably two parts of the same issue. The second one was just sort of generally looking for ways to get ahead of this issue.
And then specifically developing some of the tools and maps, databases, things like that that help show the wind companies in particular, but also conservation groups and wildlife agencies which areas are going to require more or less work.

And that may be all part of the same topic or not. There may be other ways to get ahead.

ASSOCIATE MEMBER PFANNENSTIEL: Thank you.

PRESIDING MEMBER GEESMAN: Thanks, Julia. I think Mark Sinclair from the Clean Energy States Alliance is on the phone. Can you connect him?

MR. SINCLAIR: Hello.

PRESIDING MEMBER GEESMAN: Mark?

MR. SINCLAIR: Yes.

PRESIDING MEMBER GEESMAN: Go ahead.

MR. SINCLAIR: Hi. Thank you. I apologize for not being there in person. My name is Mark Sinclair. I represent a organization called the Clean Energy States Alliance, which is a coalition of 17 state clean energy funding programs including the California Energy
Commission, that works on challenges and opportunities for facilitating renewable energy markets.

So we represent a particular state public interest perspective in terms of fostering clean energy.

Through our work with this coalition we have become quite involved in the issue of the wildlife, and in particular, avian impacts of onshore, and now offshore, wind sitings. And we, over the last year, have been working with a number of states to insure that this issue is dealt with in a timely and responsible fashion. Because we believe that we all need wind power siting to be successful. And at the same time we need to insure that this technology is promoted in a responsible way so that it can spread as far as possible and help with our energy needs.

So we've been working in several different fora to make some very specific recommendations on regulatory and policy approaches to insure that wildlife laws are complied with in the wind siting area.

And in particular we've been working with the U.S. Fish and Wildlife Service and with
the wind industry to attempt to create a federal
forum, a collaborative, if you will, to advise the
U.S. Fish and Wildlife Service on their approach
to this issue at a national level.

And one of the -- and I am encouraged to
say that that national collaborative looks like it
will be launched in the early fall under a formal
Federal Advisory Committee Act, and there will be
a Federal Register notice to that affect fairly
soon. And the California Energy Commission will
be, I strongly suspect, asked to participate in
that national discussion.

The relevance of this to California I
think is this, that from my perspective and my
organization's perspective, it's important that a
federal and state approach to this issue is
coordinated. And that there is partnership
between the federal approach and the state
approach that recognizes state habitat
differences.

But at the same time it gives wind
developers and federal and state regulators the
ability to look at this issue together. And to
create a streamlined and coordinated approach so
that you're not having guidance or recommendations
that differ between the federal government and the state government.

I think there's an opportunity for state and U.S. Fish and Wildlife Service to partner in much the same way that we do with some of the federal environmental laws, such as the Clean Air Act and the Clean Water Act, where states are allowed to work with the federal government, meet some general principles, and then either meet the minimum bar or strengthen their approach beyond the federal bar, with the federal government then giving the states the primary driver's seat for dealing with environmental regulations.

And I think we should be using that approach in this area of wildlife protection with wind siting.

So I would encourage the Commission and the Fish and Wildlife Department in California to plug into the federal approach, and to insure that your approach has buy-in and input from the U.S. Fish and Wildlife Service. And in some ways, you could be a leader in terms of creating a pilot project where your approach would be done in coordination with the federal thinking on this regulatory challenge.
And you, in some sense, could be an innovative opportunity for thinking about the federal/state coordination. So I would encourage you to make sure the U.S. Fish and Wildlife Service is at the table, and that they are giving you some indication that your approach will also satisfy the federal laws, the Migratory Bird Treaty Act and the Endangered Species Act.

I think that's a partnership that will help wind developers and regulators to this -- come up with an approach that is streamlined and efficient. And that still takes a good decision.

I want to make just a couple of other points. And I will provide more specific comments in writing before next week's deadline.

Because of our work with U.S. Fish and Wildlife Service in other states we are very involved in similar collaboratives occurring in several other leading wind states, including New York State, Pennsylvania, Massachusetts and Vermont.

So I would offer our time and our resources to provide the Commission Staff with insights as to how those states are tackling this issue so that California can pick the best
practices and consider what already is happening
in this space.

While I think California has put an
awful lot of resources already into dealing with
this issue, and probably other states can learn
more from California than vice versa, there are
some interesting models emerging in places like
Washington State, New York, that I think will have
relevance to your deliberations.

And I would offer my resources in
providing you with what's happening in those
states so that you can see what makes -- what's of
relevance to California.

A third, I guess a third point that I
want to make is that I think it's important that
the Commission understands that there is going to
be avian mortality inevitable with wind projects.
And that we have to come up with a practical
approach that allows wind projects to go forward
based on good baseline data and with the use of
adaptive management.

There's an awful large amount of
information yet to be learned about this issue.
We shouldn't hold wind projects hostage to the
lack of information. While gaining more
scientific data and information is key, we're
never going to have sufficient information to
eliminate this risk and this inevitable mortality.

So I think it's important that the
approach that California takes insures that the
projects are allowed to go forward even with some
unknown risk. And that there are adjustments
based on compensatory mitigation if we find that
the risk is greater than what we know upfront.

I think we have to begin to learn from
wind projects and insure quality monitoring, which
I'm pleased to see that your outline embraces the
use of adaptive management and good post-
construction monitoring for that purpose.

I also -- one thing I missed on the
outline that I would ask you to consider is
there's been some increasing analysis in thinking
about an ecological risk assessment approach to
this issue by the National Wind Coordinating
Committee. They've actually had a framework
document put together on this issue of ecological
risk assessment.

And I would recommend that the
Commission and the Department look at the risk
assessment approach. And I can get you those
background documents. You probably already have
them. I think it's a tool that would encourage
consistency among ecological assessment by
providing a structured framework for
decisionmaking. And I think it will encourage
good science. And it will encourage the
development of a solid knowledge base as we go
forward.

PRESIDING MEMBER GEESMAN: Mark, if you
would provide those documents to our docket it
would be appreciates.

MR. SINCLAIR: I will do so. And I
guess the final comment I want to make, so that
I'm not misusing my time, is while I think science
is obviously critical and good information, I also
think that it's important for the Commission and
the Department to consider the framework that the
guidance will use, the approach that the guidance
will use to apply that science to actual decisions
that will be made by your counties and by wind
developers.

And we've done some work with U.S. Fish
and Wildlife Service in coming up with some fairly
practical approaches that provide kind of the
policy framework for applying the science, the
decision. And borrowing from some other legal frameworks in the environmental field that have worked.

And just quickly, the three approaches that we've been talking about are an approach that is used. Number one, model one is what's been used by the avian power line interaction committee, which dealt with this very issue with transmission facilities in the late '80s and into the '90s and into the early -- in to a couple years ago.

And they came up with basically rather than a hard set of guidelines, they came up with an avian protection plan concept that gives a utility, in this case, and the regulator, a lot of flexibility to allow for approaches that work for a particular developer and for a particular habitat area.

And I can again provide you with the avian protection plan that that industry has come up with, which the U.S. Fish and Wildlife Service has endorsed. And it's a -- you still have guidelines, but it's an approach where you get buy-in upfront from wind developers, in your context, to deal with certain principles which
provides them with basically a framework for being
responsible in terms of doing assessments and
reporting the information. And then doing
adaptive management if they find that they are
causing significant risk problems.

A second approach we've been asking
regulators to consider is use of best management
practices. BLM has been doing that with their
western wind development program in this very
field of avian protection. Coming up with a
series of best management practices.

And then finally there is a -- we've
asked regulators to consider the approach that is
used under the Endangered Species Act, which is
more of a tool kit and consultation process.

And I think in this area of wind and
wildlife there's an awful lot we need to learn
about mitigation approaches, what works and what
doesn't work. And so the ESA tool kit approach
allows for some creative exploration of mitigation
in partnership with developers. And this is a
fairly rigorous process, as many of you know.

So I would ask that you think about not
only the scientifically based guidelines, but also
how you're going to apply them to make this
approach workable in a voluntary fashion.

With that I just want to say that I commend the Commission and the Department for taking this issue on, and doing it in a responsible fully public way. And I think that partnership between the two agencies is key to success.

And I offer our organization's resources and ideas, as they're useful, to California. And I wish you all the best of luck in this very important enterprise, because you're being looked at by many other states for how you deal with this. Especially with the highlighted conflict over Altamont.

Thank you for your time.

PRESIDING MEMBER GEESMAN: Thanks, Mark. I think those are good points. And I want to make certain that our staff makes every effort it can to enlist the U.S. Fish and Wildlife Service into this process.

Mark, I did want to ask, with respect to the avian powerline study and mitigation approaches that you mentioned, connected with that study, do you have an opinion one way or the other as to whether the utility model involved in...
powerline ownership suggests a different array of mitigation strategies than a developer model or a project finance model likely to be seen in third-party windfarm ownership?

MR. SINCLAIR: Yeah, I mean that's a very good point. I think the APLIC (phonetic) model -- if I understand your question right, I think the APLIC model, there is some potential carryover value, but there are potential limitations with that model in the wind context. I mean there are -- a few of the transmission projects require a full-blown avian review at this point, which is troubling to me. I actually think wind is being given an unlevel playing field and the attention is being given to wind and wildlife issues. But that's another long discussion.

But I think in the transmission field, the industry can implement reasonably priced physical changes and configurations that significantly reduce mortality pretty readily. And I think that the wind siting challenge in the field is much greater. And there's not a set of easily verified mitigation approaches.

And it's a different industry,
obviously. The transmission industry can
typically include those prices, those protection
costs into the ratebase.

But I also think that there are some --
I think the APLIC approach has some carryover
because it puts responsibility on the wind
industry to upfront come up and think very
carefully about their approach to their project
and this issue of avian protection.

And it calls for them creating, at the
first instance, a project policy, a training
program, a permit compliance requirement,
construction design standard, management for avian
resources, a reporting system. One of my
frustrations is that a lot of the information
that's being collected is not standardized, not
verified and not reported. And it's hard to get
wind companies to do that.

And so this approach would require them
to, as a condition of getting an approval, come up
with an avian reporting system that passes the
laugh test. It would also require them to come up
with a risk assessment methodology; quality
control; avian enhanced options.

And i think it would give the industry
both flexibility and some responsibility upfront
to really think through this issue and take some
of the weight off the overworked regulators in the
Fish and Wildlife agencies.

But that's a long way of saying I think
it's not a perfect approach, but it has some
elements that could be of use to your guide.

PRESIDING MEMBER GEESMAN: Thanks for
your comments.

MR. SINCLAIR: Thank you.

PRESIDING MEMBER GEESMAN: Andy Linehan,

PPM Energy.

MR. LINEHAN: Good morning,
Commissioners and Staff. My name's Andy Linehan;
I'm the Director for Permitting for PPM Energy.
PPM Energy is one of the largest developers of
wind energy around the U.S. Among other things,
we own California's newest utility scale wind
project, the 150 megawatt Shiloh wind project in
Solano County.

And we have projects in various stages
of development in several existing, and some of
the newer wind resource areas in California.

I wanted to start by thanking the
Commission for engaging in this process. And that
goes back to before your involvement in supporting
the January conference in Los Angeles. That
conference that was jointly sponsored by the
California Audubon Society and the American Wind
Energy Association.

That conference initiated a dialogue
among the wind industry environmental stakeholders
and state agencies which, if it continues in a
positive way, could help assure the success of
this process that you're starting on now.

I wanted to echo many of the comments of
Julia Levin from Audubon, and also to remark that
she has been a very constructive participant in
this, and has been kind of a model of working
constructively with the wind industry and with
state agencies. And I'm hoping that that tone
will continue through the rest of this process.

My company's perspective is that
guidelines have the potential to assist the state
in achieving its RPS goals while protecting the
state's wildlife resources. Guidelines can do so
by supporting counties that have less experience
with wind power through the CEQA process, and
helping them in their CEQA responsibilities.

It can help by facilitating agreement on
what pre- and post-construction studies are
appropriate for wind projects of various types and
in various settings. And it can provide a
framework for mitigation decisions by the CEQA
decisionmaker.

In order for guidelines to be a positive
collection to the development of environmentally
responsible wind power, we believe they need to be
built around the following understandings.

First, the guidelines should work within
the current framework of California wildlife land
use and CEQA law. Currently that law gives the
local land use authority, typically the county,
the primary role of consulting with CDFG and
determining significance and mitigation, thus an
appropriate role for the entity that best
understands the local resource and the resource
tradeoffs. And that role should not be modified
through these guidelines.

Second, California's experience of wind
power and wildlife includes many positive examples
as well as some troubled history. Guidelines
should recognize that we have gained a
considerable amount of knowledge of wildlife
effects of wind projects in a variety of settings,
both instate and out of state.

We believe the guidelines should understand and apply relevant knowledge from existing projects and should include a process for learning and change based on the lessons gained from current and future projects.

Third, it's essential that the guidelines be scaled to a range of settings with the corresponding process for evaluating risk. For example, the guidelines could specify the kinds of settings in which easily available screening information can indicate low risk and correspondingly low requirements for pre- and post-construction studies.

Similarly, the guidelines should indicate the kinds of easily identifiable risk factors that would indicate the need for more extensive field studies and post-construction monitoring.

My fourth point is that this nature of the process used to develop the guidelines is absolutely critical to their success and acceptance. I have no need to remind you of the contentiousness and the importance of the issues that will be addressed in the guidelines.
The conference back in January instituted a dialogue among stakeholders in this process that has the potential to be a positive element in the development of these guidelines.

I urge the Commission to think innovatively about how the guidelines are developed; I see some signs of that in the outline today. A standard regulatory process of hearings, followed by staff work, followed by comment on staff work product is unlikely to work in the contentious environment we find ourselves in.

I suggest that the Commission assure that the process has many opportunities for dialogue and input by all stakeholders and is structured in a way that builds on success and maintains dialogue and input among all the parties throughout the process.

And I think the idea for workshops is a good one and may need to be we add to the number of workshops. And I hope that they're all focused on specific elements of the guidelines and specific work product.

My final comment is just a reference to Mark Sinclair's comments on the APLIC model. I think that's potentially a very good model. It
has a lot of relevance.

In the case of transmission line bird impacts it's a similar technology that utilities are having to deploy across a range of habitats and circumstances. The APP, avian protection plan, model provides, as Mark has indicated, a way to proactively understand and assess risk, report risk and adapt to it.

So I think that nothing that you've laid out so far would conflict with using a kind of an APP model for guidelines in California.

Thank you.

PRESIDING MEMBER GEESEMAN: Let me ask you on that question, Andy, because I am only vaguely familiar with that approach. But it strikes me that in a utility setting there is a more continuous level of regulatory contact with the utility and a more readily available source of funding for mitigation discovered long after initial construction permits are issued.

And in a CEQA decisionmaker setting more commonly you have a very front-end loaded contact between the regulator and the developer. And you don't necessarily have the same level of ongoing financial resource to fund mitigation measures,
particularly mitigation discovered to be necessary after a construction permit is issued.

MR. LINEHAN: Well, I think, you know, there's the advantage of having that front loading, of course, is trying to discover issues and prevent them from becoming a problem later on.

But I think if you were to apply an APP model, it would of course have to stay with the project, if there's project ownership, for example, that APP commitment would have to stay on.

Yeah, there would have to be some tweaking because the APP plan is usually utility-wide, covering all of their service territory. It could work for a developer developing projects throughout, you know, the State of California.

However, again, the obligations that come under that APP would have to sort of flow through to the project, itself, and remain a project commitment. But I think there could be mechanisms for that, as well.

PRESIDING MEMBER GEESMAN: Thanks very much.

MR. LINEHAN: Thank you.

PRESIDING MEMBER GEESMAN: Brenda LeMay,
Horizon Wind Energy.

MS. LeMAY: Good morning, Commissioners and Staff. My name is Brenda LeMay with Horizon Wind Energy. I'm a Director of Development, and I focus on the State of California. I have an office here in California.

Horizon develops projects nationwide. Today we have over 600 megawatts installed in the country. We have been involved heavily in the Pine Tree Project development in the Tehachapi wind resource area, and also future projects which will help the state meet its RPS goals.

I wanted to thank you for taking a leadership role in California for renewable energy; and also on the avian issues over the past several months and prior to that.

I, too, was involved in the planning of the conference in January down in Pasadena. And I want to thank Julia Levin and her support throughout that process, as well as yours.

I agree with the comments of my industry colleague, Andy Linehan of PPM Energy. And I will follow up with more written comments on today.

I support the proactive involvement at every stage of the process that's already been
employed by Susan Sanders and the staff, as well
as Rick York. I wanted to thank you for that.

I am encouraged to see the selection of
the scientific advisory committee is upcoming and
there will be a role that we can all play in that.
It will be helpful if we can have a better
understanding of what that role is going to be,
and the roles of everyone involved.

In closing I would like to encourage us
all to keep the greater environmental issues we're
facing as a state and the role renewable energy
can play in those issues.

Thank you.

PRESIDING MEMBER GEESMAN: Thank you,
Brenda.

MS. LeMAY: Any questions? Thank you.

PRESIDING MEMBER GEESMAN: James Walker,
enXco and AWEA.

MR. WALKER: Greetings, Commissioners.

It's good to be back, it's been awhile since I've
been here. And do represent enXco, which is a
leading developer and operator of wind parks in
California. We have projects that we own and
operate in every one of the major wind resource
areas. Recently built the Oasis Project in
Mojave, and developed the Shiloh Project that we then sold to PPM Energy.

I've just come back from the AWEA annual meeting which is growing as fast as the industry is. At that time I was also appointed head of the AWEA siting committee, and so that's a responsibility that's one of the major ones in addition to getting the PTCs extended every so often.

And so I think this is an opportunity for interaction, as well, at the national level because there does seem to be a number of state level activities in this regard going on that should all, in the end, add up to a positive environment, not a multiplicity of jurisdictions.

I think the Energy Commission should be commended for initiating this process. I think it is important for the Commission to realize that, as Andy and previous speakers said, there is an existing framework of local involvement, which doesn't mean to say that there can't be improvements and other things at that level.

And I think the Energy Commission in the past has had always a leading role in providing the funding for research and advancing the state
of the arts in these areas, which is very important.

And I was struck back in Washington when I was also asked to be on the steering committee for the President's DOE initiative to define what it would take to get to a 20 percent goal penetration of wind. When you look at the incredible amount of money that's been spent on health effects and environmental effects of nuclear fuels, and how little research money there is available in one of the few consistent plots has been this, the PIER program here.

I think it's important also to realize that involving Fish and Game and the California Attorney General's Office understanding this whole process is important. The Attorney General just recently has made a contribution by reaching a settlement with the Buena Vista Repowering Project with Babcock and Brown.

And while CEQA is important, there is a broader set of state laws that also have been enforced. And if there's a place that can, you know, address that and make sure that those entities are also comfortable, that the -- is improving, that will be important.
I think the Energy Commission's traditions of the way it makes decisions are very important. It has this unique balancing act in its legislation of energy and environment and economic values. That's important as part of the policy context that's been referred to.

I think also the Energy Commission has, in the past, recognized that essentially energy policy is an adaptive management plan. The biennial reports where you can get a need determination that would be absolutely concrete. And you had that for -- even if two years later the next biennial report said that power might not have been necessary.

You have to make commitments and move forward. And it's sort of ironically appropriate when we tend to extend the PTCs in two-year chunks, that whole cycle.

So anyway I think first as a company, and I think as an association, with the next one we'll be involved in this process, supporting it, and look forward to a continuous dialogue.

Thank you.

PRESIDING MEMBER GEESMAN: Thanks, Jim.

Let me say something about the role of local
government. Because we have alternatively
referred to these guidelines as voluntary or as
advisory.

They're voluntary or advisory to the
local permitting agency. And we look at those
local permitting agencies, principally counties,
but perhaps a few cities, as well, as one of the
principal clients of this effort.

And as a consequence I think anything
that we adopt as guidelines need to be workable
from the vantage point of those local governments.
And our staff has made efforts to be in contact
with as many of the principal local permitting
agencies as possible. And throughout this process
that's going to be a priority.

We don't envision these guidelines
changing that jurisdictional role at all. We
would envision the permitting authority remaining
vested at the local level, and hope that these
guidelines can be of service to those local
permitting entities.

MR. WALKER: Appreciate that
clarification, thank you.

PRESIDING MEMBER GEESMAN: Gary George,
Los Angeles Audubon Society.
Good morning,
Commissioners. Thank you so much for the
time to come here and speak to you today.
And thank you for taking the lead on this issue.
I'm very proud to live in the State of California.

Our emphasis is a little more specific
than our state office and Julia Levin. We support
everything she's done for us in putting the
conferences together and bringing the industry
together.

We have a specific issue with migratory
song birds and southern California. And we'd like
to see the workshops perhaps emphasize or be
solely devoted, some of them, just to the issue of
migratory song birds.

In our research, and I could be wrong,
we've found only one study using nocturnal surveys
using radar in the State of California on a wind
project, and that was in 1982 by Southern
California Edison. So that's 25 years ago.

There is publicly available radar from
Edwards Air Force Base and others that can be
interpreted to get a sense of where migratory song
birds go. Those birds belong to different
countries. They don't belong to one country. And
we think that they're a very very important issue, and that they've been overlooked.

I have some specific comments to make on the guideline workshops and I'll submit them in writing. But what I wanted to mention was that it's very very difficult to mitigate for the loss, especially the cumulative loss of migratory song birds. Two of them are endangered and fully protected in southern California.

But it's very very difficult to mitigate because you can't compensate for the cumulative loss of these migratory song birds, and you certainly can't set aside habitat in some other place. They won't go there.

So we think this is a very very important issue. We think that perhaps a workshop should be devoted to compensatory mitigation and to address this issue specifically of migratory song birds.

In the impact analysis we'd like to see that extended to the transmission towers that it takes to take the energy from the windfarms to the end user, or to the distributor to the end user. We think that those transmission towers also have impacts on birds, especially migratory song birds.
Thank you very much.

PRESIDING MEMBER GEESMAN: Thanks very much. Anne Mudge, Cal-WEA.

MS. MUDGE: Good morning, Commissioners.

My name is Anne Mudge, and I am a CEQA-permitting and land use lawyer with the lawfirm of Morrison and Foerster in San Francisco.

And I'm here today on behalf of Cal-WEA, the California Wind Energy Association, which is a trade group of wind developers in California. I am a member of the siting committee of Cal-WEA, and I'm here today in that role on a volunteer basis.

The other hat that I wear is as a local CEQA decisionmaker. I am Vice Chair of Oakland's Planning Commission. And although we don't have much occasion to review wind projects for downtown Oakland, I do have a sense of how data is presented to local CEQA decisionmakers in order to help them make the best policy decisions they can about siting projects.

As a number of people have already outlined, there is an existing framework for siting wind projects in California. And Commissioner Geesman pointed out, and I was
encouraged to hear, that this process is intended
to augment that, in that many local jurisdictions
with wind resource areas already have zoning
ordinances or wind siting elements in their
general plans, which help guide the siting of wind
projects in California. And that, of course, is
supplemented by the California Environmental
Quality Act, by CEQA.

And under CEQA local officials make
siting decisions based on data that is presented
to them by staff and consultants. And we agree
that it is important to allow that function to
continue to reside in the local CEQA
decisionmakers, particularly in their role of
determining what is a significant impact.

However, in order to do that they need
the best data possible. And to that extent we do
think guidelines could be useful in establishing
recommendations about the level of effort needed
in different resource areas to provide baseline
information to make good policy decisions. So
good policy has to be based on good science.

So, guidelines that focus on the amount
and scope of information to be provided to local
policymakers, particularly in the area of
preconstruction assessment and postconstruction monitoring, of recommendations about duration of study, methodologies, analytical frameworks. We would welcome that. We think that that would be useful to guide the local policymakers. So that they can make their siting decisions balancing environmental factors, economic factors and to support the state's stated encouragement for wind energy development.

And Cal-WEA looks forward to being actively and productively engaged in the process. Thank you.

PRESIDING MEMBER GEESMAN: Thank you very much. V. John White, CEERT.

MR. WHITE: Good morning, Commissioners. Thank you for having me, and thank you for doing this. I don't have a lot to add to the previous discussion. I think you have heard from quality people on what I hope are not two sides, but from a community of people that want to work together to help California move forward with one of the wedges in the state's energy pie, and in the struggle to reconcile our lifestyles and economy with the growing threat of climate change.

I was also in Pittsburgh this week, and
I was the beneficiary of a humorous bit of recognition by my colleagues from Texas who thanked me for the work that CEERT did in helping create the Texas RPS. We didn't tell the folks in Texas, very many of them, that we were down there helping. But we did help in forging a kind of coalition of environmental NGOs and industry that we have done in California and elsewhere.

But in addition to thanking me, they also gave me a symbol of Texas pride. They gave me a Hookam Horas orange foam finger about this big. But they took the little finger off so it was just this. And the symbol was that Texas had now replaced California as the number one wind state in the country.

And so it was a nice recognition, but there was a little edge to it, as well. And I think one of the things that California has to recognize in the national context to the extent that we're thinking about our role as a leader, and to thinking about our reputation for renewables in particular.

As the Commission's own document has reported, we are now using twice, more than twice the amount of coal as we are renewables in this
state. And, in fact, the megawatt hours of renewable generation bumps around between break-even and decline.

Ms. Levin, who I also want to commend for her diplomacy and thoughtfulness and willingness to participate in this process, pointed to the RPS and the array of incentives. But those incentives, combined with this sort of stalemate on policy at the PUC and by the actions of the utilities, have really sent a mixed message to folks that we are trying to get engaged to build our renewable infrastructure. And to help us clean our air and help us diminish our dependence on coal.

And none of this is to say there’s tradeoffs and that we don’t care about birds. I thought the testimony the Audubon gave, Julia gave, is eloquent and excellent in terms of the importance of birds to the California economy.

But we need this process to be part of a restoration of our leadership and a restoration of our eagerness to be successful, not only in talking about renewables, which we have the best talk in the country, but the words-to-megawatt ratio is a problem that we have.
MR. WHITE: Okay? These words are not matched by megawatts. And everybody has a role to play, whether it's the turbine manufacturers who keep seeming to index the price of their turbines to the price of natural gas, or to the utilities who have lots of excuses and not too much actual activity.

I think the Commission's recommendation in its IEPR to PG&E to follow the example of Edison in terms of repower guidelines that Nancy Rader proposed, those are useful. We need to keep -- I'm sorry, I haven't seen anybody from PG&E here today. I hope they come and participate and help us put an economic underpinning, not only under the Altamont, but under Tehachapi.

Because if we're talking about doing three years of surveys and all this upfront work, having people pay now; you're going to have a fee on wind companies to pay for Fish and Game. Let's recognize there's also got to be a business here that we're building. And that part has seemingly gotten lost in the course of events.

And yet part of the reason we're here, I think, is that we're almost ready to see some
projects getting built. But, you know, the only
experience on Pine Tree was four years, and a not
happy outcome completely at the end.

So I don't want to speak just from an
industry point of view, because our group
represents all of the major NGOs that work in the
energy field, as well as several of the companies.
There are incentives. Those incentives, I think,
could be particularly useful in helping solve the
data gap problem and helping -- we know the areas
of the state that we're going to be seeing new
development in that we haven't seen before, where
there is a need for data.

We need to have that maybe be the first
thing that we try to get at. But I really think
this process and how we all handle ourselves going
forward will be a test.

And so rather than think of this as
sides in a debate, I'd like to think of us as a
community that's dedicated to making California
the renewable and wind energy leader that it once
was, at the same time that we set new standards
and new good examples of workable solutions to the
problem of protecting our biological and wildlife
resources.
So, I thank you for your putting this all together. I thank you for the fine work of the staff. We're very encouraged by the way this has started and look forward to doing everything we can to help. Thank you.

PRESIDING MEMBER GEESMAN: Thanks, John. You know, Commissioner Pfannenstiel and I have been pretty candid in our assessment of progress or lack thereof in the RPS program. And we'll be holding hearings later this summer on possible retunings of that effort.

And I certainly agree with you that the words-to-megawatt ratio in California is a bit out of line. I don't think the birds-to-megawatt ratio is, though. And I'm not convinced at all by anything that I've seen that avian considerations in California thus far have been a significant barrier. I think they hold the potential to be an extraordinarily significant barrier.

And I think that we ought to, in this process, try and determine if we can have it both ways. I don't think every site is going to be an acceptable site. And I think we need to recognize that.

Hopefully we can develop guidelines that
can provide assistance to local governments in reaching their permit decisions in a timely fashion. And hopefully we can avoid some of the problems that have gone on in the earlier permitting decisions over wind development.

But I'm not convinced, myself, thus far that we can't have it both ways.

Kim Delfirio (sic), Defenders of Wildlife.

MS. DELFINO: Good morning. My name's actually Kim Delfino; sorry, my printing --

PRESIDING MEMBER GEESMAN: I'm sorry.

MS. DELFINO: -- is terrible. And I'm the California Program Director with Defenders of Wildlife here in Sacramento. And I'll make my comments brief because they're very similar to the very good comments that were already given by Julia Levin and Gary George with Audubon.

I do want to, though, mention that we do applaud -- Defenders of Wildlife works on wind energy issues at the national level, as well -- we really applaud the Energy Commission's leadership to move forward with guidelines. And believe this is very important, both at the state level, and also at the national level.
We also are very strong supporters of renewable energy and increasing our renewable energy. We do, though, agree with the excellent comments you just made, and that is this is an opportunity to get ahead of the game to try to reduce conflicts, because there are conflicts with siting of wind energy projects with wildlife. And we're here to try to minimize those and aggressively move forward with wind development, but not at the expense of our wildlife resources.

I just want to make a couple comments. One, I just wanted to underline Julia Levin's comment regarding the independence of science. We do believe that that is a really important issue that she raised, and we also do understand the fact that the world of avian scientists is small. And that there is not an endless supply of independent scientists out there.

So, we understand the confines in which we're operating. But we do think it's important to try to find those who will be the scientists providing the input on this who are, you know, have the least amount of conflict as possible. So that when we're moving forward with the science it is as independent and peer-reviewed and as good as
possible.

A couple things on the outline.

Overall, we think the outline presented looks very good, the guidelines. Want to highlight a couple of things. One, we just want to make sure that there's adequate attention paid to incompatible land uses.

Not just, you know, what's out there on the ground now, but that if you put a wind energy project somewhere where there's potentially grazing, how that could impact wildlife. That is something that needs to be -- the synergy of what's going on out there needs to be considered.

We also, similar to what Gary was saying, or actually exactly what Gary was saying, really want to look closely at the proximity to existing transmission lines. That's a very big issue. Trying to site wind energy projects so that you are not having to build a lot of new transmission lines.

The other thing on the impact analysis we just wanted to make sure that there is close attention paid to modeling for predicted mortality. And also looking at displacement effects. So that you're not just looking at the
effects of turbines hitting wildlife, but you're also looking at when you're putting turbines up there, wind energy projects up there, what does that mean for the wildlife that will move through there, but aren't being impacted. How are you displacing them? Are they moving over to another area? You have to look at it in a larger context.

And then the other thing I want to just conclude with, and that is the issue of sort of lack of information, the lack of science that's out there. This is a real opportunity, through putting these guidelines together, to look at framing a very aggressive research agenda.

And we're not saying that you shouldn't move forward until you have all the perfect science there, but this is an opportunity to actually start looking at what is not out there that would be useful in siting these projects. And structure a prioritization of research so that, you know, Fish and Game and other agencies can start directing dollars in the most efficient and effective way possible.

So that research isn't sort of willy-nilly, but it's more direct, more directed. And the guideline process can really do that. And I
would suggest that there be workshops focusing on
that, if not one, but maybe a couple, a bird
workshop and a bat workshop.

And that leads me to this last comment.

There's a lot of information, or there is
information out there on avian impacts. Bats, you
know, that is a real issue in California. A lot
of times we're hearing about it as discussion of
impacts in the east. But there are impacts to
bats here in California, and we don't want bats to
be, just similar to what Gary was saying with
respect to they're here to talk about migratory
song birds, we just want to make sure that the bat
issue is also addressed. It's an important
resource as well, and one that we really should
not pay short shrift to.

And with that, in conclusion, we just
really want to thank the Commission for the
opportunity to provide public comment. We will be
submitting more detailed written comments. And we
really look forward to moving forward and creating
some cutting-edge guidelines that will create --
put California back in the number one role on wind
energy development, but also where I don't think
maybe Texas is sort of there yet, but number one
in wildlife protection, as well.

Thank you.

PRESIDING MEMBER GEESMAN: Most of the
Texas wildlife takes place in saloons.

(Laughter.)

PRESIDING MEMBER GEESMAN: I've
exhausted my supply of blue cards. Is there
anyone else in the audience who cares to address
us? Anyone on the phone?

Well, I think we're done. As I said,
this is the first of a series. Probably the next
time you're gathered here will be for a staff
workshop. But Commissioner Pfannenstiel and I
will remain involved in the process and appear
periodically as punctuation points.

I want to thank you all for your
participation.

(Whereupon, at 11:30 a.m., the Committee
Hearing was adjourned.)

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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 21st day of June, 2006.

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