STATUS CONFERENCE

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Application for Certification	)	Docket No.
for the Colusa Power Plant	)	01-AFC-10
Project	)	
_____	)	

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

TUESDAY, NOVEMBER 27, 2001

10:09 a.m.

Reported by:
Valorie Phillips
Contract No. 170-01-001

COMMITTEE MEMBERS PRESENT

Arthur Rosenfeld, Presiding Member

Garret Shean, Hearing Officer

STAFF PRESENT

Darcie Houck, Staff Counsel

Kristy Chew, Project Manager

Keith Golden

PUBLIC ADVISER

Roberta Mendonca

APPLICANT

Scott A. Galati, Attorney
Grattan and Galati

Brian D. Walker, Manager, Project Development
Reliant Energy Wholesale Group

INTERVENORS

Sky C. Stanfield, Legal Assistant
Adams, Broadwell, Joseph and Cardozo
California Unions for Reliable Energy

ALSO PRESENT

Douglas White, Supervisor
County Board of Supervisors
County of Colusa

ALSO PRESENT

Les Fife
Colusa County Air Pollution Control District

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1 P R O C E E D I N G S

2 10:08 a.m.

3 HEARING OFFICER SHEAN: Good morning,

4 ladies and gentlemen. I'm Garret Shean, the

5 Hearing Officer for the Colusa Power Project AFC.

6 With me this morning is Commissioner Rosenfeld,

7 who is the Presiding Member. And he just has a

8 brief remark or two.

9 PRESIDING MEMBER ROSENFELD: Welcome.

10 HEARING OFFICER SHEAN: About as brief

11 as you can get and still have a remark.

12 Our purpose today is to conduct a

13 project status hearing. We are not going to be

14 dealing with anything substantive. This is

15 largely procedural in scheduling. It follows a

16 petition by the staff to have this proceeding

17 removed from the six-month process, and placed in

18 what I will call our standardized process.

19 To call it a 12-month process, I think

20 to some degree, is misinforming because it sort of

21 assumes or suggests that you go from handling the

22 proceeding, whether it's this one or any other,

23 from an expedited point of view to a more relaxed

24 pace that could take all of 12 months.

25 So I just would like everyone to keep in

1 mind that when we talk about 12-month or a
2 standardized Commission process, we're not
3 necessarily talking about all 12 months.
4 The papers we're working off here today
5 include staff position, plus I have some recent
6 filings by the applicant which include letters
7 enclosing U.S. Fish and Wildlife Service comments,
8 as well as an emission offset credit procurement
9 plan. And other than that, I have the original
10 documents filed by them in response to the staff
11 petition, I don't have anything else. So that
12 just is the limit of what we're working on for the
13 moment.
14 At this point we'd like the parties to
15 introduce themselves, and get a sense of who our
16 guests are. And we'll get underway.
17 MR. GALATI: Mr. Commissioner and Mr.
18 Hearing Officer, my name is Scott Galati. I
19 represent the applicant, Reliant Energy. And to
20 my left is Brian Walker with Reliant Energy. We
21 have additional consultants and other members of
22 Reliant in the audience available if need be. I
23 don't think I'll take the time, unless you'd like
24 me to, to introduce them.
25 HEARING OFFICER SHEAN: Perhaps as we

1 get to them, --

2 MR. GALATI: Okay.

3 HEARING OFFICER SHEAN: -- if it appears

4 to be necessary, we'll be happy to do that.

5 MR. GALATI: Thank you.

6 HEARING OFFICER SHEAN: Okay, Commission

7 Staff.

8 MS. HOUCK: Yes, Mr. Hearing Officer and

9 Mr. Commissioner. My name is Darcie Houck; I'm

10 Staff Counsel for the Energy Commission. To my

11 right is Kristy Chew, the Project Manager for the

12 Colusa Power project.

13 We do have staff available in the areas

14 of land use, transmission system engineering,

15 biology and air quality that are present today,

16 also.

17 HEARING OFFICER SHEAN: Okay, do we have

18 any members of the audience who are parties to the

19 proceeding? Would you mind coming forward and

20 identifying yourself, please.

21 MS. STANFIELD: Hi, I'm Sky Stanfield

22 here representing the California Unions for

23 Reliable Energy.

24 HEARING OFFICER SHEAN: Thank you. And,

25 Ms. Mendonca.

1 MS. MENDONCA: Mr. Shean and
2 Commissioner, my office received a phone call this
3 morning from John Gabrielli, who is representing
4 one of the intervenors, to say that they would not
5 be attending today, but should any issues arise
6 that you wish to consult with them, he would be
7 available by telephone.
8 HEARING OFFICER SHEAN: Okay. I would
9 urge -- yes, sir?
10 SUPERVISOR WHITE: I'm indirectly a
11 party.
12 HEARING OFFICER SHEAN: Okay.
13 SUPERVISOR WHITE: My name is Doug
14 White, and I'm here to represent the Board of
15 Supervisors. I'm one of the elected members of
16 that board for Colusa County.
17 HEARING OFFICER SHEAN: Right, and, Mr.
18 White, we --
19 SUPERVISOR WHITE: We're in support of
20 this project, by the way.
21 HEARING OFFICER SHEAN: Okay, and we
22 recall having met you up in Colusa at our
23 informational hearing.
24 SUPERVISOR WHITE: It was my pleasure.
25 HEARING OFFICER SHEAN: Thank you for

coming down.

Let me also indicate for members of the audience, we have in the back on the table near the door, a sign-up sheet. If you would like information concerning this particular project and have not already done so, I urge you to sign up and you can receive information via our mailing list, and that will be by U.S. Postal mail.

If you choose to do so, you can also get on the Commission's website and join our list server which will give you instantaneous notification of what's going on in the proceeding.

If you'd like an explanation of how to do that I'd be happy to give that to you after the conclusion of the meeting.

I think there's one thing that needs to be said because I know it's a matter of concern to applicants, and to some degree, the staff, the legal staff. And it has become that to the Hearing Office, therefore. And that is the whole notion of the LORS compliance, or the presence of potential significant environmental impacts as the grounds for shifting a proceeding from the six-month process to the standardized process.

And I think there's been concern that

1 there's an implication being carried with such a
2 conversion that necessarily that means there are
3 findings that a particular project does not
4 conform to applicable law, ordinance or
5 regulation, or that it has an environmental
6 impact.
7 I think we need a broader concept of
8 what constitutes LORS, and specifically that it
9 include an understanding that one of the LORS that
10 is applicable to this proceeding as a six-month
11 proceeding is that the information be timely and
12 available so that it can be completed in six
13 months.
14 And therefore there is not only
15 substantive matters that need to be complied with,
16 as far as LORS are concerned, but an obvious
17 procedural matter that would need to be complied
18 with. And as I say, that is the readiness and
19 availability of information so that the proceeding
20 can be processed within six months, or within
21 nearly six months.
22 We have attempted, through the Hearing
23 Office, in preparing what we believe are
24 appropriate standardized schedules that will give
25 us a handle to determine whether or not any

1 proceeding is being to fall behind so that we know
2 whether or not it can be completed in the six-
3 month period or something close to it.
4 Therefore I just want to emphasize to
5 the applicant most particularly that in the event
6 the Committee determines that there are
7 informational gaps, or informational questions of
8 timeliness, that there is no shame in moving from
9 one to the other, and it would not -- and the
10 Committee is not going to contort what amounts to
11 a procedural or time issue into a substantive
12 issue just to try to make it fit what has been a
13 suggested interpretation of compliance with
14 applicable LORS.
15 So, I think also that the Commission
16 inherently has the power to assure that
17 proceedings are conducted in a timely fashion, if
18 it is applied for under the six-month statute.
19 So that will just give you a general
20 idea of the mindset of the Committee at this
21 particular point.
22 What I had intended to do was to go
23 through the comments of the parties with respect
24 to the status of the proceedings. But ultimately
25 to get to the calendar that appeared on the back

1 of the notice.

2 And, as I say, identify those critical

3 path items that are required from the applicant

4 that have been provided to date, and those that

5 have not been provided to date. And then have the

6 applicant indicate when it believes all of those

7 matters will be filed with the Commission Staff.

8 And if there are disagreements with the

9 Commission Staff as to whether or not a particular

10 item is required, we obviously will get into that.

11 Once we establish that date, we will be

12 able to establish a schedule for much of the

13 remainder of the proceeding. And I think part of

14 our job here as a Committee is to provide all the

15 parties some guidance as to what the schedule of

16 the proceeding is, and that we are not proceeding

17 haphazardly or randomly, but we actually have a

18 plan.

19 So, with that, what I'd like to do is

20 have the Commission Staff, as the moving party,

21 begin. And then we'll hear from the applicant and

22 any other parties.

23 And it may be, since I've heard from the

24 staff, that the applicant and the staff and others

25 might like to discuss this in an even less formal

1 setting than where we are today, or where we are
2 right now this morning, break into a recess and
3 allow you to do that. And then to come back to
4 the Committee using basically this format to
5 inform us of what you think needs to be provided
6 and when.
7 So, with that, let's go to the
8 Commission Staff.
9 MS. HOUCK: Yes, Hearing Officer Shean.
10 Commission Staff's position is outlined in both
11 the initial petition that we filed for removal, as
12 well as staff's reply to the applicant's answer.
13 Staff would request that the project be
14 placed in the 12-month schedule at this time. We
15 would actually appreciate an opportunity to speak
16 with the applicant a little more informally, as I
17 think there are some issues that we could resolve.
18 So I don't know if you'd like me to
19 finish making initial comments, or if it would be
20 appropriate to ask for the recess now.
21 HEARING OFFICER SHEAN: I think for the
22 benefit of the members of the audience who may not
23 have read your staff position, or the staff reply
24 to applicant's answer, I think you should go
25 forward, at least in a summary fashion.

1 And then we can have the applicant
2 essentially address that and start the proceeding
3 off that way.
4 MS. HOUCK: Thank you. Staff's position
5 is that at this time, based on the current
6 information, that the project no longer qualifies
7 for the six-month project.
8 Staff's particularly concerned regarding
9 the area of land use. At the time of the initial
10 filing of the application staff had received a
11 letter from Colusa County indicating that the
12 local land use decisions would be made and
13 finalized by early November.
14 Based on community concerns and concerns
15 that the County's raised, particularly in the
16 areas of potential industrial growth and air
17 quality, the County has been talking with the
18 applicant regarding filing a revised land use
19 application.
20 To staff's knowledge that application
21 has not yet been filed, so the County has not yet
22 begun its review to make a determination on local
23 land use issues.
24 So the project currently is not in
25 compliance with LORS, and clearly won't be within

1 the six-month timeframe set out in the
2 regulations.
3 Staff also believes there are concerns
4 in air quality, biology and transmission system
5 engineering, which will further delay the project.
6 And that at this time the project could
7 not be licensed until a minimum of nine months
8 after the acceptance, possibly longer, depending
9 on what information and when that information is
10 received.
11 So at this time staff is asking that the
12 project be removed from the six-month schedule,
13 placed into what the Committee's indicated is the
14 standardized schedule. Staff fully concurs with
15 the concept that this project could be certified
16 in less than 12 months, based on receipt of
17 critical information.
18 Staff also understands that the
19 applicant is working diligently with the County,
20 and it's not a matter of the County not supporting
21 this project as the Board of Supervisors as
22 indicated.
23 They do support this project, but they
24 do have concerns and they want additional
25 information provided both in the staff assessment

1 that they're going to use for their environmental
2 document, as well as additional verification,
3 particularly on air credit issues, that they've
4 outlined in a letter they've sent to staff dated
5 November 16th.
6 And this is going to cause significant
7 delays. And, again, the project is not currently
8 in compliance with LORS, so that would be staff's
9 request, that the project be placed in the
10 standardized process so that the procedural
11 timeframes and concerns are clear to the
12 applicant, staff, and the public regarding what
13 schedule we are on.
14 Thank you.
15 HEARING OFFICER SHEAN: Okay, thank you.
16 Mr. Galati.
17 MR. GALATI: Applicant responded to
18 staff's initial petition in writing on November
19 5th, and I think that's before you, the positions
20 outlined.
21 Very briefly, we understand that staff
22 needs a certain amount of time to be able to
23 complete an analysis. We disagree on, to the
24 level of detail of information that is necessary
25 for the initial staff assessment.

1 We would like to point out that the six-
2 month process is and was intended and outlined for
3 those projects that were designed in such a way, I
4 think, to take it to be environmentally
5 responsible and efficient as this project is, it's
6 a dry cool plant. It is located, I think it's 1.7
7 miles to the nearest receptor. It is a project
8 that is zero liquid discharge. And it's a project
9 that's well designed, well thought out, and has
10 significant environmental benefits.
11 And we would like to just remind the
12 Committee that it does, so that they keep that
13 mind, with respect to what type of project that is
14 before it.
15 Rather than go through each one of the
16 issues on air quality and land use and
17 transmission and biology, I think I'd like to
18 focus, if the Committee doesn't mind, on the
19 standardized six-month AFC schedule that was
20 attached, and the initial critical path items --
21 HEARING OFFICER SHEAN: Okay.
22 MR. GALATI: -- that were identified due
23 by October 19th. Would that be okay?
24 HEARING OFFICER SHEAN: That would be.
25 MR. GALATI: Okay. The preliminary

1 determination of compliance is out and it is
2 circulating, and I believe, I don't know the
3 actual date that the close of comment period is on
4 the PDOC -- December 3rd.
5 The second item is the biological
6 opinion, or equivalent demonstration of compliance
7 with applicable LORS. Our position is outlined as
8 to whether or not a biological opinion is
9 necessary for staff to do their initial staff
10 assessment.
11 I think that we have some agreement with
12 staff that we may be able to work out in detail.
13 But I would like to point you to a letter that was
14 docketed on November 26th, a letter dated November
15 20th. Mr. Shean, do you have that? I have copies
16 here.
17 HEARING OFFICER SHEAN: Is this the Fish
18 and Game -- I'm sorry, the Fish and Wildlife
19 Service letter?
20 MR. GALATI: Correct. And, as --
21 HEARING OFFICER SHEAN: Of November
22 20th.
23 MR. GALATI: Correct. And we believe
24 that that meets that requirement specifically that
25 U.S. Fish and Wildlife has put in writing that

1 their preliminary review of the biological
2 assessment is that the mitigation measures
3 contained in there are likely to offset the
4 impacts to federally listed species. And to
5 reduce the significance of those impacts to a low
6 level.
7 We believe that is sufficient for the
8 initial staff assessment to conclude that the
9 project is likely to comply with federal LORS once
10 that biological opinion is obtained.
11 In addition, the third is the Cal-ISO
12 transmission interconnection review approval. The
13 biology and the transmission system engineering
14 are somewhat interconnected.
15 One of the reasons that the biological
16 opinion has been delayed was a dispute on whether
17 or not the project would have to reconductor
18 approximately 15 miles of line. The transmission
19 system impact study has been done, and there is --
20 Cal-ISO has agreed when the project was redesigned
21 to actually do a looping interconnection that the
22 project does not need to reconductor.
23 There is, as staff pointed out in their
24 supplemental filing, there is some disagreement
25 between PG&E and Cal-ISO, but we believe that we

1 have Cal-ISO's approval of that interconnection
2 agreement, and that reconductoring is not
3 necessary.
4 Therefore, any biological impacts
5 associated with the reconductoring, which is
6 alluded to in the Fish and Wildlife letter, are
7 basically taken off that table.
8 The will-serve letter was obtained and
9 docketed. The demonstration of discharge NPDES
10 permit compliance, the project zero liquid
11 discharge, and with the application a low-threat
12 permit for construction water, a copy of that
13 permit application with the Regional Board was
14 filed. We don't believe that that is -- we
15 believe that that item is complied with.
16 Responses to data requests not
17 previously submitted. This is an area, I think,
18 that we could work with staff on specifically with
19 respect to the definition of the offset package
20 for the project.
21 And if we had some time to go over that
22 issue and the land use issue, I think that we
23 might be able to come to an agreement on the
24 schedule.
25 HEARING OFFICER SHEAN: Okay, and as I

1 understand, the offset issue is that staff wants
2 more specificity and you're in a situation where
3 you believe you've provided sufficient
4 information, at least for the PDOC to have been
5 issued and noticed for public comment.
6 And I guess understand that ultimately
7 you're going to have to provide to the Air
8 District the final list; and then acquire those
9 offsets in order for you to receive your -- or at
10 least commit to acquire them before you receive
11 your FDOC.
12 MR. GALATI: That's correct, and we do
13 understand that. As well as we have, since the
14 time of our filing, we have further clarified and
15 limited the list that we had initially submitted
16 to staff.
17 And we believe that if we had an
18 opportunity to go over that list with staff and
19 the information accompanying it, that that would
20 satisfy staff's need to be able to come out with
21 an initial staff assessment.
22 However, I would like to point out that
23 we do not have option agreements on those
24 particular items yet, but we are committing to
25 have option agreements, and understand we need to

1 before the FDOC can be issued.

2 HEARING OFFICER SHEAN: Okay. And is

3 that offset credit procurement plan the one that

4 you filed in this letter dated 26 November?

5 MR. GALATI: I believe that it's even

6 been further refined since then of some more

7 detailed information that staff needs. But that

8 is an outline of and identification of the

9 particular offsets.

10 HEARING OFFICER SHEAN: Okay.

11 MR. GALATI: But we do recognize staff

12 needs more than that.

13 HEARING OFFICER SHEAN: And can you

14 describe this amended application for your general

15 plan change and zoning ordinance change, or

16 whatever is the combination of stuff that you need

17 from them?

18 MR. GALATI: Yeah, basically what had

19 happened was there was a disagreement as to the

20 scope of the project. With a 200-acre rezone

21 there was an issue about whether the County had to

22 do its own environmental analysis to look at other

23 potential industrial uses.

24 What we've done -- and that was the

25 concern of the intervenor. We've been working

very closely with the intervenor, and we now have addressed the intervenor's concerns. And it has taken a bit of time to agree on the specific language.

But what we will be doing, and we'll be doing it by the middle of next week, is filing an application for a conditional rezone that would allow only 75 acres to be rezoned, and the only use on that 75 acres would be for this one power plant site.

We believe that that also addresses maybe the County's process concerns about what level of CEQA analysis they need to do. They no longer need to look at all the other potential industrial uses that could be put to the site, because it's only this power plant.

So we believe, also, that the land use issues and the processing time at the County -- I think we can streamline that because they can use the Energy Commission's document, rather than prepare their own.

HEARING OFFICER SHEAN: Okay. Do we have comments from any other parties?

Okay, I guess I would just say two things, and then we'll open this up for public

1 comments. And then we'll have a brief recess and
2 allow staff and the applicant to, in an open
3 setting, discuss whatever scheduling matters. And
4 then we'll set a time to come back.
5 First of all, with respect to the matter
6 of the PDOC and the FDOC, as the standardized
7 schedule indicates, and it's the Committee's
8 belief, and experience bears this out, that the
9 way to conduct an expedited proceeding under
10 circumstances where the project is deserving of
11 that, is to initially base the staff's assessment
12 and the Presiding Member's Proposed Decision on a
13 validly issued preliminary determination of
14 compliance.
15 It is then that the comment period
16 begins to run on that, so that the Air District
17 can prepare a final DOC which may or may not have
18 changes before the Commission -- the end of the
19 Committee's public comment period on its document.
20 And in that way the Committee assures
21 that we come before the full Commission with a
22 final and completed determination by the Air
23 District. And that we have been able to
24 incorporate any changes that may have occurred.
25 So that's the process that we envision

1 and expect to have occur here.
2 With respect to the changes in the
3 general plan or zoning ordinance or other
4 conditions or conditional uses permits required by
5 the County, I think the Committee takes the view,
6 and it's reflected again in this standardized
7 schedule, that the staff will conduct its analysis
8 based upon the first preliminary responses or
9 draft documents issued by the County in response
10 to what will be your amended application.
11 And the Committee will do the same. We
12 will base our initial determinations on that and
13 issue our PMPD which, depending upon your point of
14 view, serves as -- either the staff's assessment
15 will serve as the documentation sufficient for the
16 County, but clearly the PMPD, with the CEQA-
17 prescribed public comment period, is more than
18 adequate to be the environmental documentation
19 that the County should require in order for it to
20 take final action.
21 And it would be the Committee's
22 expectation that final County action will occur
23 before the Committee takes the matter to the full
24 Commission. I think that's reflected in the
25 schedule.

1 So that those are the protections being
2 afforded by the process to the public, to the
3 interested agencies, and ultimately to the people
4 of the State of California to insure that both the
5 environmental laws and the procedural open
6 planning and open process laws applicable to the
7 Energy Commission are being followed.
8 So, with that, let me just see if
9 there's any public comment from any member of our
10 audience.
11 Okay. Why don't we take -- what do you
12 think you're going to need, about 20 minutes, or
13 half an hour?
14 MR. GALATI: Better give us a half hour.
15 HEARING OFFICER SHEAN: Okay. Yes?
16 Yeah, I was going to get to you, Mr. White.
17 SUPERVISOR WHITE: Thank you, Mr.
18 Chairman.
19 HEARING OFFICER SHEAN: Sure. So you
20 could --
21 SUPERVISOR WHITE: I've said before --
22 my name is Doug White, of course, Board of
23 Supervisors in Colusa -- the Board unanimously
24 voted to put this project on a six-month fast
25 track basis. That is we had hoped that this is

1 what would be the ultimate decision by yourself.
2 I can't imagine anything that would
3 cause me to change my opinion of this project, but
4 then, of course, something might. I have withheld
5 publicly acknowledging my complete support for
6 this project basically because I'm going to be
7 sitting as a judge when it finally comes to a
8 Board decision. And no one likes to be judged by
9 somebody who's predetermined his position.
10 So, I have the caveat that something in
11 the CEQA process might turn up that would make
12 this less desirable. I don't think it will, and I
13 certainly hope it doesn't.
14 But my feelings of positiveness relative
15 to this issue have been with me from the very get-
16 go. And I think it's the same with all the other
17 Board Members.
18 So we may -- the reservations we have
19 are reservations that CEQA might turn up some
20 issue that we don't know about now that would
21 totally make this an inappropriate project. But I
22 don't envision the CEQA process doing that, and I
23 rather think it won't.
24 So I want to make that perfectly clear,
25 that the Board of Supervisors, and the people with

1 whom I have spoken in Colusa County are almost
2 unanimously in favor of this project.
3 Thank you, Mr. Chairman.
4 HEARING OFFICER SHEAN: Thank you, Mr.
5 White.
6 Okay, we'll take a break until about ten
7 past eleven, and then we'll return here. Let me
8 again state what, at least for the Committee, is
9 our goal.
10 We'll be able to put out an order, the
11 fundamental thing we want to do is to establish
12 this schedule. And so what we would like you to
13 do is to focus on that. Give us what I have
14 referred to in other cases as the N date, that
15 will be the one on which all the critical path
16 items will have been provided.
17 From that point on we will attempt then
18 to fill in the N-plus dates so that it's clear
19 where we will be going, and when. And it is my
20 intention to use the same relatively compacted
21 schedule, not by virtue of anything that may occur
22 trying to expand this.
23 And so initially we're looking at trying
24 to find that N date, which is your promise date
25 that as much of this stuff, identified as a

1 critical path item, is here. And then we will
2 move on from there.
3 So, that's what the Committee's
4 intention is. This is not an accordion here. We
5 have in mind the schedule we can run on. We think
6 the project deserves expedited treatment. We're
7 just not going to go forward until we know that
8 the preliminary areas are lined up, essentially
9 the ducks are lined up in a row, that allow the
10 staff to go ahead and do its staff assessment, and
11 the remainder of the proceeding to go on.
12 So, with that in mind, we'll take a 20-
13 minute break, be back at ten past eleven.
14 Thank you.
15 (Brief recess.)
16 HEARING OFFICER SHEAN: All right, back
17 on the record. And we've given the parties an
18 opportunity to discuss further the items to be
19 submitted, as well as the schedule. Why don't we
20 get a progress report.
21 MR. GALATI: I'll go ahead and --
22 HEARING OFFICER SHEAN: Go ahead.
23 MR. GALATI: -- take a shot at it. As
24 you know, Mr. Hearing Officer, there were four
25 issues, if I would start with biology.

1 Biology, the Energy Commission Staff
2 requested a description of the Cortina loop line
3 that will be -- that is part of the transmission
4 system, a description of that that would be
5 necessary for them to understand that before they
6 could write their initial staff assessment. The
7 applicant has committed to do that by Friday,
8 November 30, 2001.
9 So, from the perspective of --
10 HEARING OFFICER SHEAN: And that loop
11 line is not the reconductoring; it's part of the
12 project?
13 MR. GALATI: That's correct. It's
14 actually what the applicant believes mitigates
15 such that it does not need to reconductor the 15
16 miles.
17 HEARING OFFICER SHEAN: Understood.
18 Okay, --
19 MR. GALATI: And with respect to
20 transmission system engineering, the applicant has
21 committed to give to the Energy Commission Staff
22 by Friday, November 30, 2001, the transmission
23 studies conducted by Reliant, and Cal-ISO's
24 comments on those studies specifically regarding
25 the Cortina loop end.

1 HEARING OFFICER SHEAN: Okay.

2 MR. GALATI: Then on land use, the

3 Energy Commission Staff requested a copy of the

4 amended application for the conditional rezone.

5 And the applicant has committed to December 10,

6 2001, to have that application delivered to the

7 Energy Commission, and filed with the County.

8 I'd also like to inform you that I think

9 we've made some tremendous progress with the

10 County process by doing the conditional rezone and

11 limiting the actual project that the County would

12 be considering, which is a rezone of just a single

13 power plant on 75 acres; that the Energy

14 Commission's staff assessment would be looking at

15 only exactly the same issues as the County would

16 need to look at to comply with CEQA.

17 So that the County can rely on the

18 initial staff assessment and go to the planning

19 commission without having to do its own initial

20 study and prepare its own mitigated negative

21 declaration, and go through those circulation

22 periods.

23 So I think that we have significantly

24 reduced the County's obligations by relying on the

25 Energy Commission Staff's document.

1 HEARING OFFICER SHEAN: And I want to
2 commend you, because it was very clear from the
3 informational hearing that we were going to have
4 an issue with that. And you've moved toward the
5 resolution of that in, I think, the appropriate
6 way. So, good job.
7 MR. GALATI: Thank you. The last issue
8 then is air quality and I'm not sure that we
9 actually have agreement on what needs to be
10 submitted for air quality.
11 We understand that staff's position is
12 that before the initial staff assessment that they
13 need the FDOC. We would commit to, by Friday,
14 defining the offset package -- I have to actually
15 step back here.
16 We had submitted all the offsets that
17 were available. We now have refined that to those
18 who are actually negotiating with. And there are
19 basically three groups.
20 There is road paving, which there is
21 information already submitted to the Energy
22 Commission on road paving.
23 There is also agricultural burning
24 credits which we commit to by Friday, November 30,
25 2001, to describe how the actual emission

1 reductions occur, and the amounts. As well as who
2 we're negotiating with in a confidential filing.
3 And there are some banked credits that
4 we will also deliver the certificate number --
5 excuse me, the ERC certificate by November 30,
6 2001.
7 And then there is the PG&E, which is the
8 real time offset that we're trying to pursue for
9 most of our credits. The real time offset for
10 most of our credits, the emission reductions were
11 based on what was reported to us from PG&E.
12 We understand that source test data,
13 source tests have been done on both turbines, and
14 we believe that that information has been
15 transmitted to the Air District. And we will get
16 copies of that information as whatever is
17 available and transmit it to the Energy
18 Commission, as well, to confirm the reported
19 emissions.
20 Actually, only one unit has been -- the
21 source test has been finished. And the other, I
22 guess the testing has been done, but it hasn't
23 been reported? That's correct. So, --
24 HEARING OFFICER SHEAN: Okay.
25 MR. GALATI: So those are the N dates

that we would put into the schedule that attached the Committee order for the hearing.

HEARING OFFICER SHEAN: You had three at November 30th, and one at December 10, right?

MR. GALATI: Correct.

HEARING OFFICER SHEAN: Okay. Let's see how the staff --

MR. GALATI: And we would support the rest of the proposed Committee schedule.

HEARING OFFICER SHEAN: Okay. How about staff?

MS. HOUCK: Yes, would you like me to go through them from transmission through air quality, or --

HEARING OFFICER SHEAN: Well, they gave me four.

MS. HOUCK: Okay.

HEARING OFFICER SHEAN: Why don't you indicate first -- well, let's just do it this way. Does the bio seem sufficient for you?

MS. HOUCK: Yes.

HEARING OFFICER SHEAN: Okay, and the transmission system engineering?

MS. HOUCK: Transmission system engineering for the initial assessment, the N date

1 is sufficient. I just know that staff wanted me
2 to comment that they still have concerns that
3 reconductoring may be required.
4 We had received an email as of this
5 morning that will be docketed that PG&E is still
6 insistent that reconductoring is necessary. And
7 absent a consensus from PG&E, the applicant and
8 Cal-ISO, an interconnection will not occur.
9 I know that staff wanted me to insure
10 that those comments were made to the Committee
11 that they still have concerns regarding where PG&E
12 stands on what mitigation is needed for an
13 interconnection.
14 But we can do an initial assessment
15 based on the information Reliant provides, and
16 we'll address our concerns regarding PG&E's
17 position within that initial assessment.
18 But we would need the final mitigation
19 in order to do the final staff assessment.
20 HEARING OFFICER SHEAN: Okay, and I
21 would understand that the Committee, itself, would
22 take into account the essentially admonition that
23 PG&E has issues with this. What exactly the form
24 of the resolution between Cal-ISO and PG&E and the
25 applicant would be, I'm not sure.

1 You suggested it might require a FERC
2 filing, this, that and the other. All that's
3 clear is that either the schedule blows up or some
4 other thing happens in the event that the
5 reconductoring ultimately either has to become
6 part of the project or something else.
7 So, we'll sort of anticipate that we
8 have this thing that could affect the analysis and
9 ultimately the decision.
10 MS. HOUCK: Thank you.
11 MR. GALATI: And the only thing I would
12 comment is to offer the little ray of hope in the
13 PG&E letter that they do also invite Reliant to
14 talk about other mitigation measures, other than
15 reconductoring.
16 What was proposed was a RAS scheme, and
17 it may be that the RAS scheme needs to be
18 adjusted. It may need to have more roundtable
19 discussions and Reliant is committed to continue
20 to resolve that issue.
21 HEARING OFFICER SHEAN: Yeah, there just
22 may be some alternatives other than new
23 transmission line.
24 MR. GALATI: That's correct.
25 HEARING OFFICER SHEAN: Okay. Then we

have the land use.

MS. HOUCK: I think staff and applicant and the County came to agreement regarding the land use issues, and that the 12/10 date for the copy of the actual filing with the County is sufficient for staff to do an initial assessment.

HEARING OFFICER SHEAN: Okay, and air quality?

MS. HOUCK: Air quality, I believe, was not sufficiently resolved. Our staff has indicated that it would need the final determination of compliance to conduct its initial assessment, based on primarily the fact that the preliminary determination of compliance did not contain the information that ordinarily would be in that document. Staff has commented on that document and feels that it needs more specific information regarding the offsets, the numbers in order to do its calculations for the source test on the PG&E compressor station.

Also the Air District Staff is conducting an analysis to determine the calculations and figures for the PG&E compressor station. That information will not be put out until the final determination of compliance. And

it will also more specifically identify the offsets that staff needs to do its analysis. And will contain administrative conditions that were not in the PDOC that staff is going to need to have knowledge of before it can do its initial staff assessment.

I do have Keith Golden present who is our air staff assigned to the Colusa Power project, and the Air District is also here. And they may be able to give you further feedback regarding their scheduling.

It is my understanding that the FDOC will be available mid- to late-December.

HEARING OFFICER SHEAN: Okay, that's actually the clarification I wanted to get. Because the information we had from our earlier session was that the close of comment period on the PDOC was December 3rd.

So, maybe we could invite the District to inform us of what it anticipates its analytical schedule to be and production of the FDOC.

MR. GALATI: If I could just --

HEARING OFFICER SHEAN: Sure.

MR. GALATI: I just thought of this idea. I was told this idea.

1 (Laughter.)

2 HEARING OFFICER SHEAN: The guy in the

3 suit always gets credit, so that's the way it is.

4 MR. GALATI: I understand that the

5 District can provide the information regarding the

6 PG&E offset calculations to the Energy Commission

7 without waiting for the FDOC to come out.

8 And my understanding that that

9 information should be available in the next couple

10 of weeks, is that correct?

11 HEARING OFFICER SHEAN: If you don't

12 mind, sir, please just identify yourself, and

13 anything you can help us with in terms of what

14 information could be passed along to the staff,

15 and what you anticipate your schedule might be

16 would be helpful.

17 MR. FIFE: Yes, sir, my name is Les

18 Fife, and I work with the Colusa County Air

19 Pollution Control District. And I prepared the

20 FDOC -- or the PDOC, excuse me, I haven't prepared

21 the FDOC yet.

22 (Laughter.)

23 MR. SHAW: The PDOC, got my acronyms

24 mixed up. We received an application from PG&E

25 for replacement turbines on July 11th of this

year. We requested PG&E source test both their frame 3 turbines, which they've done.

I have received the source test results for one of the two turbines; the other source test report should be coming shortly.

I've set up all the spreadsheets and done the calculations for the first turbine. I have information on the replacement turbines which are going to be Solar Taurus turbines with SoLoNOx combustors.

So, as soon as I receive the second source test it shouldn't be very difficult for me to plug that data into that with those spreadsheets that I prepared, and generate the potential emission reduction credits between the replacement turbines and the old frame 3 turbines.

That data for the frame 3's, I spoke with PG&E yesterday. They promised it to me either today or tomorrow. And so it's going to be in the near future that I have all the data to be able to prepare the final calculations for credits for the frame 3 turbines.

HEARING OFFICER SHEAN: Now, just the way I think we, as a Committee, want to operate, we would pick the N date as the latest date you've

given me, which is December 10th.

And it sounds as if from both what you're offering to provide and what the District could provide, that clearly by December 10th there's a significant amount of air quality information that could be provided for the staff's analysis, and that it would even be past the close of the comment period on the PDOC, and nearing the publication of an FDOC. Right?

MR. GALATI: That's correct, and I was wondering if Mr. Fife could commit to getting the information to us to give to the Energy Commission by December 10th regarding the ERCs? Calculations on the PT determines.

MR. FIFE: I expect if PG&E's promise to me yesterday is good, I can get them to you by December 10.

MR. GALATI: Then I guess we can take an N date --

(Laughter.)

MR. GALATI: I think that's an N date we could accept for purposes of the schedule.

HEARING OFFICER SHEAN: All right. And with the clear understanding that if, for some reason it's unavailable, we're going to have to

1 fudge this. Okay.

2 MR. GOLDEN: Mr. Shean, my name is Keith

3 Golden, Senior Air Quality Staff Energy

4 Commission. You should be aware, though, that we

5 commented rather extensively on the PDOC of which

6 it focused on two general areas. One being the

7 lack of specificity of the offset package, which

8 we have been discussing, and hopefully going to

9 reach some level of resolution.

10 But we also had a number of comments

11 about the structure and form of permit conditions.

12 And, as you know, we typically incorporate the

13 District's permit conditions as part of our

14 recommended conditions for the Committee.

15 We had some significant concerns about

16 some of those permit conditions and how they were

17 structured and worded. And we would be very

18 uncomfortable to proceed with a staff

19 recommendation based upon what we have seen in the

20 PDOC as far as permit conditions until we see some

21 changes to our satisfaction as to how those

22 conditions are going to be modified.

23 So that's why, at least from my

24 standpoint, I would want to see the final

25 determination of compliance, because at that point

we would see hopefully modified permit conditions that would satisfy the concerns that we had.

And that's why, from our standpoint, I'd like to see that document before we can issue our staff assessment.

HEARING OFFICER SHEAN: Okay.

MR. FIFE: I just heard the comments from the Energy Commission went to the Air District. I haven't seen those yet, but I'm going to pick them up from Keith this afternoon.

The Air Resources Board had commented on some of the permit conditions, as well, and I've already incorporated the Air Resources Board's comments and changed some of those permit conditions.

So, perhaps they might be the same types of comments, but I'll get those written comments from Keith today.

HEARING OFFICER SHEAN: Okay. I think we understand the nature of what you're talking about, and the Commission regularly will take whatever PDOC and FDOC documents that we receive and put the conditions and the language that either have used in the past, or are adaptable to a verification process. And I think the Committee

1 is aware of what we're trying to grapple with
2 here.
3 Now, assuming you have the information
4 that we're talking about, the critical path items,
5 do you need -- how much time do you think you need
6 from that point to get your initial staff
7 assessment out?
8 MS. HOUCK: Staff believes that we need
9 30 days to issue an initial staff assessment from
10 the date that it received the last piece of
11 critical information.
12 HEARING OFFICER SHEAN: Now, given the
13 fact that December 10th precedes, you know, the
14 holiday season, if we were to follow to the letter
15 the schedule that we have here, we'd have stuff
16 being attempted to be done in the holiday season.
17 I think it's unrealistic, given the
18 workload that the Commission Staff has had, to
19 also kill off their holiday season. So, do you
20 have any problem with our coming up with a January
21 date for the preparation of staff's initial
22 assessment?
23 MR. GALATI: As the Grinch, I would say
24 we would prefer to have the initial staff
25 assessment out prior to the holidays. And if that

means we need to revisit the December 10th date, -- but what I'm hearing is staff's position is they need 30 days, there's no way we're going to get it before the holidays.

We would -- the best thing I can do is encourage the Committee to adopt a swifter schedule.

HEARING OFFICER SHEAN: Okay, we'll just deliberate that matter, because we're going to have to figure out something that will work.

The gentleman who is with the District, can we just ask you to come back, please. When do you contemplate you're likely to have your FDOC?

MR. FIFE: The day that we were looking for really coincides a lot with the Energy Commission's information request, and that is we need the contracts for the agricultural burning credits, we need specifics there; and we anticipate getting that mid-December.

The PG&E information that's forthcoming. And with that, the combination of those two offset packages, PG&E and the agricultural burning credits, some language, perhaps changes to the permit conditions, we would be ready to do that by the end of December.

1 HEARING OFFICER SHEAN: Okay. All
2 right.
3 (Pause.)
4 MR. GALATI: Mr. Hearing Officer, if the
5 FDOC can't come out until contracts are provided,
6 the PG&E contract is not likely to be provided in
7 December.
8 And we would -- that's why we support
9 the Committee's schedule that shows the FDOC being
10 able to be provided at a much later date in the
11 schedule.
12 We do understand that in order for staff
13 to do the analysis, they do need the information
14 about the PG&E credits, which we believe they
15 should do their initial staff assessment based on
16 the information that the District gives them
17 regarding that credit, without the actual option
18 contracts.
19 So that would be the only thing that I
20 would like the Committee to consider if they're
21 considering the FDOC somehow being before the
22 initial staff assessment.
23 HEARING OFFICER SHEAN: Well, we were
24 weighing that. So, if you're indicating that the
25 contracts with PG&E are not going to be available

1 to the District in a timeframe for him to complete
2 the FDOC by the end of December, and I'm just
3 trying to look here where that would get us.
4 Well, let me just go through some
5 calculations here on dates, because it may be that
6 in the absence of certain information we'll give
7 them either a little bit more time, or something
8 like that, so we kind of compensate that.
9 But, --
10 MR. GALATI: if I could also offer up
11 one other potential solution is Mr. Golden was
12 talking about information about the offsets
13 sufficient to analyze them, as well as addressing
14 the structure of the permit conditions. If that's
15 something that we could get the District to do in
16 time for the initial staff assessment without
17 tying it to the FDOC, and I don't know if I can
18 promise or obligate the District, but I guess I
19 would ask the District if they could address the
20 comments that the CEC Staff -- I know you did say
21 that he was going to receive them and look at
22 them, but maybe we can get some addressing of the
23 permit conditions.
24 HEARING OFFICER SHEAN: Okay. Well, --
25 MR. GALATI: The structure of them.

1 HEARING OFFICER SHEAN: -- since we know
2 that whatever date we put as the N date, if
3 there's some additional time required to actually
4 satisfy that, then I think we can all operate with
5 that.
6 All right. Is there anything further,
7 because I'm prepared to take the matter under
8 submission and the Committee will come out with a
9 draft of the schedule, as well as an order. But
10 we're here to hear anything else that you need to
11 tell us.
12 Anything from the staff?
13 MS. HOUCK: No, thank you.
14 HEARING OFFICER SHEAN: Applicant?
15 MR. GALATI: No, thank you.
16 HEARING OFFICER SHEAN: CURE? Anybody
17 else?
18 Okay, thank you very much for your
19 participation and help. We will get this out to
20 you as soon as we can.
21 (Whereupon, at 12:07 p.m., the status
22 conference was concluded.)
23 --o0o--
24
25

CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; 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 conference, nor in any way interested in outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of November, 2001.

VALORIE PHILLIPS