In the Matter of: )
)
Application for )
Certification of the ) Docket 97-AFC-1
High Desert Power Project )
____________________________)
COMMITTEE MEMBERS PRESENT

Robert A. Laurie, Presiding Member

STAFF PRESENT

Stanley Valkosky, Hearing Officer
Caryn Holmes, Staff Counsel
Richard Buell, Project Manager

APPLICANT

Allan J. Thompson, Attorney
CEC Project Counsel
21C Orinda Way
Suite 314
Orinda, CA 94563

Thomas Barnett, Vice President and Project Manager
High Desert Power Project LLC
3501 Jamboree Road, South Tower, Suite 606
Newport Beach, CA 92660

INTERVENORS

Gary A. Ledford, Builder
Jess Ranch
11000 Apple Valley Road
Apple Valley, CA 92308

ALSO PRESENT

John Roberts, City Manager, City of Victorville
Peggy Sartor
Bob Almond
<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proceedings</td>
<td>1</td>
</tr>
<tr>
<td>Opening Remarks</td>
<td>1</td>
</tr>
<tr>
<td>Introductions</td>
<td>1</td>
</tr>
<tr>
<td>Background Summary</td>
<td>2</td>
</tr>
<tr>
<td>Presentation of Comments</td>
<td>3</td>
</tr>
<tr>
<td>Applicant</td>
<td>3</td>
</tr>
<tr>
<td>CEC Staff</td>
<td>5</td>
</tr>
<tr>
<td>Questions by Committee</td>
<td>6</td>
</tr>
<tr>
<td>Intervenor Mr. Ledford</td>
<td>7</td>
</tr>
<tr>
<td>Questions by Committee</td>
<td>27</td>
</tr>
<tr>
<td>Public Comment</td>
<td>43</td>
</tr>
<tr>
<td>John Roberts, City Manager, City of Victorville</td>
<td>43</td>
</tr>
<tr>
<td>Peggy Sartor</td>
<td>45</td>
</tr>
<tr>
<td>Bob Almond</td>
<td>48</td>
</tr>
<tr>
<td>Future Procedure</td>
<td>49</td>
</tr>
<tr>
<td>Adjournment</td>
<td>52</td>
</tr>
<tr>
<td>Certificate of Reporter</td>
<td>53</td>
</tr>
</tbody>
</table>
P R O C E E D I N G S

1:00 p.m.

PRESIDING MEMBER LAURIE: Ladies and gentlemen, this is a public hearing on the High Desert Power Project.

My name is Robert Laurie; I'm Presiding Commissioner on the Committee hearing the case.

To my right is Mr. Stan Valkosky, the Hearing Officer assigned to the case.

This meeting is being transcribed, so anybody desiring to speak, we will ask that you speak slowly so that the words can be recorded properly. If there's any challenge with that recordation we will interrupt you.

We'll have some introductions. Mr. Valkosky will make some opening comments. And then we'll talk about the agenda that we're going to follow today.

Mr. Valkosky.

HEARING OFFICER VALKOSKY: Thank you, Commissioner Laurie.

Before we begin I'd like the parties to introduce themselves. Mr. Buell.

MR. BUELL: Yes, my name is Richard Buell. I'm the Energy Commission Staff's Project
Manager. To my right is Caryn Holmes, our Staff Attorney.

HEARING OFFICER VALKOSKY: Mr. Ledford.

MR. LEDFORD: My name is Gary Ledford, and I am an intervenor in this proceeding with my primary interest in water.

HEARING OFFICER VALKOSKY: Mr. Thompson.

MR. THOMPSON: Thank you. My name is Allan Thompson. I'm CEC Project Counsel. To my right is Mr. Tom Barnett, representing Constellation and the project.

HEARING OFFICER VALKOSKY: Thank you.

By way of background, I'd like to note the Committee issued its revised Presiding Member's Proposed Decision, of which there are a few copies up here at the table, and scheduled today's conference on March 31st of this year.

The following parties submitted written comments on the revised proposed decision: Staff, Intervenor Gary Ledford, and Intervenor California Department of Fish and Game.

The purpose of today's conference is to provide an opportunity to present any comments on the revised Presiding Member's Proposed Decision.

The parties may assume that the
Committee will incorporate appropriate technical and minor editorial revisions as suggested. And should therefore focus primarily on those comments which affect the substance of the revised document, with special emphasis on any modifications necessary to the conditions of certification.

The Committee will consider the comments made today, along with the previously filed written comments and may prepare an errata to the revised PMPD.

The way in which I'd like to proceed is to have the applicant, the staff, and then Mr. Ledford make their comments. At the conclusion of that we will open it up to any comments from members of the public here present.

With that, unless there are any questions? I see none.

Mr. Thompson.

MR. THOMPSON: Thank you. Those of you listening will note that when Mr. Valkosky read out the names of those submitting comments the applicant was noticeably absent. The reason for that is that we thoroughly reviewed the revisions made to the PMPD that appear in the revised
Presiding Member's Proposed Decision, and agree;
not only with the language, but the changes that
were made to the conditions of certification.

The primary changes in the conditions of
certification came about with an agreement between
the parties as to the wording of a couple of the
water resources conditions and verifications.

So we really have no comments, and
wholeheartedly endorse the conclusions and
discussion contained in the revised PMPD.

With regard to the material submitted by
the other parties, our reading of California Fish
and Game comments are that they raise some issues,
or some points, but in the end, agreed that the
revised PMPD, as written, was acceptable.

Mr. Ledford raised a number of issues,
all of which we believe have been heard before and
addressed in the revised PMPD. We believe that
the Committee and Mr. Valkosky correctly weighed
the evidence on those issues raised by Mr.
Ledford, and endorsed the conclusions contained in
the revised PMPD.

With regard to staff, we take the
phrase, do not disagree, as, as close to an
agreement as we can get. We believe that while we
may disagree with some of the characterizations in
the body of the staff comments, at the end of the
staff presentation when they raise and put forth
the -- this is under Roman IV -- the suggested
changes that they wish to be incorporated, I
assume by errata, we have no objection to those.

So, I guess in summation, we do disagree
with Mr. Ledford, but have no disagreement with
either staff or Fish and Game comments.

HEARING OFFICER VALKOSKY: Thank you,
Mr. Thompson.

MS. HOLMES: Thank you. We don't have
anything to add to our prefiled comments with the
exception that one of the minor clarifications
that we had recommended be made under section 4
need further clarification.

We had pointed out that the verification
for soil and water 19 and soil and water 2 are
identical. Upon re-reading the conditions
closely, it appears to me that what the Committee
was doing was using soil and water 19 to reference
a storage agreement that would be between Victor
Valley Water District and the Mojave Water Agency
on behalf of Victor Valley, itself. And that the
storage agreement referred to in soil and water 2
would be the storage agreement that VVWD would
enter into on behalf of the project.

The only recommendation I would have is
that the Committee might wish to add language to
soil and water 2 to make sure that it's clear the
storage agreement there is the one that's entered
into on behalf of the project.

HEARING OFFICER VALKOSKY: Okay. Thank
you. Before we move off staff, I'd like to note
for clarification that the Committee received
earlier this week a letter from a Mr. Bagwell
contacting the routing of the project's
transmission line.

And my understanding -- well, our
understanding is it's composed of two parts. One,
the project's transmission line will not go
through the area of concern. And the second part
is that Mr. Buell has spoken with Mr. Bagwell, is
that correct?

MR. BUELL: That is correct, and that is
my understanding, also, that the project does not
enter the area where he would be concerned.

HEARING OFFICER VALKOSKY: Okay. Mr.
Thompson, are you familiar with that letter, Mr.
Bagwell's concern?
MR. THOMPSON: We are. And we could not find his location on our project map, so we make the assumption that he is some distance away. Plus the fact that we take some comfort in the fact that everybody within, I think it's 500 feet of the corridors, received notice in this proceeding. And I guess he didn't. So, I'm making the assumption that he is some distance away.

HEARING OFFICER VALKOSKY: Okay. Mr. Buell, is that your understanding, that he is, in fact, sufficient distance away as to not be affected by the project's transmission lines?

MR. BUELL: That's correct, and we had both looked at -- I had looked at the project map that's in the proposed decision and described that to him, and he has identified that based upon that location he was not concerned.

HEARING OFFICER VALKOSKY: Okay, thank you. Is Mr. Bagwell present? Okay, he is not present, so we'll leave the matter with clarification for the parties. Thank you.

Mr. Ledford.

MR. LEDFORD: Thank you. I'd like to start again by saying what the decision says in
it, that I'm not opposed to this project, per se.

But, for some reason I feel that I've been inept in communicating adequately. And I would like to take one more chance at this time to review these items in some detail.

I believe the opportunity has presented itself somewhat uniquely today in that the decision had a footnote that somehow when I was doing my comments I overlooked. However, staff was gracious enough to point it out.

And I ended up doing some research, most of which I have just done in the last two days. The primary part of that is a letter, I believe, that was sent to Randy Hill -- was addressed to Randy Hill, and is footnoted, I believe, as footnote number 51 in the decision.

The letter is from Tom Dodson & Associates, and attaches some 200 pages of documents, which are reported to be portions of the environmental documents for the regional water management plan of the Mojave Water Agency, as well as the environmental impact study for the Barendra-Mesa acquisition of water.

I have an argument that I'll probably make in a moment or two about whether or not this
is appropriately included in the decision,
although I believe that there are probably a
number of issues that I have raised in the past
that are in these documents that appropriately
support the position of consumptive use.

And this has been the argument from the
very beginning, that this particular project, in
utilizing 4000 acrefeet of water at 100 percent
consumptive use, does not treat all of the rest of
the parties involved in water management, in the
regional water management of a high desert, the
same.

I believe these documents, and even in
fact the letters sent to Mr. Hill and incorporated
in the decision, and even a finding made in the
decision supports my position over the position
taken by the Commission.

In that regard I'd like to read a few
excerpts from the letter. In the first paragraph,
and he's addressing himself to the fact that he
has talked to Mr. Buell. And he says: As you
describe the current situation to me, the
Commission Staff reviewing the High Desert Power
Project has raised concerns regarding potential
growth-inducement related to imported water that
will be recharged to the Mojave River Basin by High Desert Power.

I think this raises the first argument. There is no recharge. The water that is being proposed to be placed in the ground is a part of a proposed water storage agreement, it is not a part of a recharge agreement.

And yet, as he goes further in his letter, he talks about the Mojave River Basin is in over-draft. In order to eliminate this over-draft a combination of imported water resources and in-basin transfers will be necessary. And the management of these sources will allow growth projections for the Mojave River Basin, particularly the Victor Valley, through the year 2015 to be met.

Again, the problem is the cure of the over-draft. And the Mojave regional water management plan addresses the water resources, the critical nature of the over-draft. It was developed as a part of the physical solution, and it was developed as a mechanism to cure the over-draft and recharge the basin.

These are the issues that the Commission has stated that they don't believe that they have
an obligation to consider. And yet, they make a finding in their decision that says that this work has been done.

I think one of the significant deficiencies in the decision, although the staff had recognized that there was 75,000 acrefeet of entitlement now with Barenda Mesa, that there's only about 60 percent of the time that the -- they can only deliver on average about 60 percent of that water.

So, when you begin to make conclusions based on the total numbers, they simply don't add up.

On the second page of his letter, Mr. Dodson's letter, he says by adopting and implementing this stipulated judgment the regional water management plan has already committed the water producers within the Mojave River Basin to a program designed to eliminate the over-draft, and to meet the needs of growth. And yet it's clear in this decision that no water is being purchased under this commitment.

In the next paragraph down it states:

As in the case of the regional water management plan the effect of approving MWA's acquisition of
25,000 acrefeet, giving MWA 75,000 acrefeet of table A entitlement, again there is not that much water available.

And staff's report, which is the only I would say credible evidence of the actual amount of water available is what's important.

And the last paragraph on page 2, Mr. Dodson states: The analysis mandates -- I think this is a key word -- the analysis mandates that imported water or internal water transfers must fully offset water consumption so as not to increase the over-draft. That is the mandate.

The regional water management plan envisions both percolation of imported water into the Mojave River Basin aquifers and direct use of imported water after appropriate treatment.

I again submit to you that the judgment that is on appeal to the California Supreme Court argues that the reason that the judgment is equitable to all of the parties is because of return flows.

And if you avoid placing water in the ground and use it directly for 100 percent consumptive use, there will be no return flows.

I'm going to jump over to the staff's
comments, and I kind of have a little argument here as to whether or not utilizing this document is -- I'd like to say it's just plain not fair.

On two very separate occasions in these proceedings we discussed the creating of evidentiary material of the underlying Base re-use EIR, does everybody remember that? I remember it quite well.

Because at the first hearing I questioned Mr. Buell as to whether or not it was available and the staff would put it in the record, and I thought my understanding was fairly clear that that was what was going to happen.

And then between that time and the next hearing we found that Mr. Buell actually didn't have the EIR, and none of his staff had it, although it had been referred to in the various staff's testimony before the Commission.

In order for me to have that document in the record, and the key reason for having it in the record was to demonstrate that although water had been studied, and although there had been a lawsuit filed, and although there had been a settlement entered into, that the idea or even the conception of a power plant using 4000 feet of
consumptive use water was never considered.

This project is part and parcel of the base re-use. That particular EIR is now over five years old and even if it had been part of the original EIR, would still have been required to be restudied in accordance with CEQA.

I think the unfairness is that when I found that I felt personally that that particular document needed to be in the record, that this Committee said, Mr. Ledford, if you want that in the record or some part of it, you'll have to file it and serve it on all the parties, which I did.

I think that these environmental documents that came in after the proceeding was closed, and I haven't had a chance to read them because I was just given them, to me, a few minutes ago, will probably have additional material that would support the position that I've just argued.

And if that is deemed to be the case I would think that it would be appropriate to amend the record to include these documents, to have people testify on the documents.

HEARING OFFICER VALKOSKY: Mr. Ledford, let me just add, I think, a clarifying point here.
You reference staff's comments concerning a paragraph on page 226, I believe it is, of the PMPD. I'd like to indicate the Committee does not agree with staff's interpretation of that portion of the decision. I think it's specifically lines 3 to 5 or 3 to 7.

To the Committee's reading staff seems to be interpreting the documents, the Committee's reference to the documents from Mr. Dodson as having included an analysis of the High Desert Power Project's water usage. That simply is not the case. I mean that was not an intended reading. The Committee doesn't believe that's a fair reading.

What that sentence was included for, as was the reference to Mr. Dodson's comments, is solely to indicate that the general matter of the importation of state water project water into the basin, the 50,000 and then the 75,000 foot entitlement, had been studied, that's it. That's the sole purpose of that reference. It has nothing to do with the particular impacts of the project.

MR. LEDFORD: Well, I mean with all due candor, sir, there may be many other things that
are in this particular document that would say
other things. And maybe exactly the thing that I
have been saying. And would be supported by the
letter that I have just read excerpts from that
say things like the basin needs to be recharged,
and that there's a mandate to recharge.

And that these environmental documents,
in each and every case, my point would be that in
each of these documents there is no reference or
indication of a power project using 4000 acrefeet
of consumptive use from the regional water
management plan.

This is a significant change. This is
-- now, I know your position has been, well, fine,
let MWA figure it out, that's their job. And,
of --

HEARING OFFICER VALKOSKY: Right.

MR. LEDFORD: -- course, we will make
that argument there.

HEARING OFFICER VALKOSKY: No, but I
think the points you're making are points that are
accepted. I mean there is no dispute. The
decision clearly states that the basin is over-
drafted. I mean that's not a secret. That's not
something that has to be established.
MR. LEDFORD: This version of the decision also states --

HEARING OFFICER VALKOSKY: No, no --

MR. LEDFORD: -- that there's 75,000 acrefeet to fix it. That's just not the case.

HEARING OFFICER VALKOSKY: -- no, that there's an entitlement to 75,000 acrefeet.

MR. LEDFORD: I'm probably jumping ahead of myself, so maybe I could just work through it.

HEARING OFFICER VALKOSKY: Yes, okay. You bet.

MR. LEDFORD: Doesn't look like there's going to be a whole lot of people talking. Until you cut me off I'll just keep working.

HEARING OFFICER VALKOSKY: Go ahead.

MR. LEDFORD: All right.

And I would also re-point out that the staff has highlighted findings and conclusions, they say, on page 32. It's on page 232. It's conclusion number 20.

And that particular conclusion is that these environmental documents were prepared. But it has an inference of being prepared in support of what your position is.

I suggest to you, even though I haven't
read what documents have been submitted, they may
say something entirely different. That would give
rise to a motion for reconsideration or reopening
the record, I'm sure. I haven't had a chance to
look at that.

But I would point out, and I think my
frustration with the fairness issue is that no
other party was served with this document. As
innocuous as the one-page letter from a nonparty,
from a member of the public who has an interest in
the transmission lines, that was docketed about
three days ago, I received that in the mail
yesterday.

This 200 pages of environmental
documentation and a letter that explains it, that
is somehow incorporated into the record I never
saw. And as of yesterday I found out, although it
was docketed stamped, it has never been docketed.
Docketed means logged into the docket register.
As of yesterday this document was not docketed.
It has a docket stamp on it, albeit I believe a
mistake. It had not gotten to all the right
people. It did get to some. It got to the
Committee, it got to the lawyers. But it never
got to dockets, and it certainly never got to
somebody that has a significant interest in water.

And I think that's --

HEARING OFFICER VALKOSKY: Okay.

MR. LEDFORD: -- a pretty unfair issue.

HEARING OFFICER VALKOSKY: Okay, understood.

MR. LEDFORD: Okay. Try to get on.

Talking about growth-inducing impacts, the issue of growth-inducing impacts and I'll look at this more specifically in the PMPD, but the point of this project is to be growth-inducing. Everyone that has testified from the public, including the Mayor of the City of Victorville, believes this project is going to be growth-inducing. It's going to generate some additional tax base.

And that is the benefit to the community of the project. That would be the case. The problem is, is it going to compete with other types of growth that were never studied. That is the significant separate issue. And that is what has not been studied.

You've indicated in your decision that there's no expectation in growth. And that simply isn't the case. All of the land planning...
documents, the regional water management plan all
expect growth, and all show growth.

And in all of those documents that we
have before us, and are now in the record,
indicate how that water is an important part of
that growth, and how the costs will be shared.

I would point out that in your staff’s
comments that they spelled it out. The documents
referred to do not contain the analysis required
by the California Environmental Quality Act for
High Desert Power Project relative to growth-
inducing impacts.

Going on to PM10 and the staff’s
comments, and to highlight those to some degree,
the witness, who I believe was Mr. Balentine,
stated at page 51 in the transcript, that it was a
limited analysis and that he had not completed a
total analysis. It was preliminary.

And you were talking in your PMPD about
stack height. I'd just like to refer you once
again to the dry cool process. This dry cool
plant, which is in operation, gives us an
inaccurate description, is no more than 100 feet
high. The stack height on this plant is no higher
than 100 feet.
And that the fan cooling towers for the air cool process is not above the stack height. So the issue of stack height in a dry cool process is inaccurately described.

And I would also like to point out that at the very end of Mr. Balentine's testimony I asked him the question, I said, Mr. Balentine, if we use dry cooling then we wouldn't have any air quality issues relative to cooling towers, is that correct?

And his testimony was there would be no particulate matter emissions from the dry cooling tower. Your staff also says the elimination of state water project water would be a significant benefit. This is a quote from their comments.

They go on to say that the reduction of health risk associated with exposure to additives and make-up water, public health, would also be a benefit.

I think the most significant issue relative to water, other than the issues of consumptive use, is that we have a project before us and my initial involvement in the project was to see a will-serve letter employed from one qualified vendor.
It's unfortunate that you don't understand what goes on amongst the water purveyors up here. But, you can probably get a hint from as much litigation as has gone on. You don't have a will-serve letter, sir.

The aquifer storage and recovery agreement, which you indicate is the equivalent of a will-serve letter, looks nothing like any will-serve letter that I have ever seen. And, in fact, the components that will go into providing water service to this project are a long ways away. We will carry our arguments on consumptive use before the Mojave Water Agency, and any other court that we need to, to exhaust our remedy.

I believe that I have quoted significant portions of the record that support this position.

What I would like to do is to look at, specifically at the conditions, and the first comment that I have that is, I think, important to me is that when the record is complete that at least the public knows the issues that I was concerned about.

And the first thing that I'm concerned about is on page 16 of my comments. And I would hope that the Committee would do an errata that
would clearly state what my issues are. Because
what your interpretation of my issues are in the
PMPD is not correct.

There are four -- pardon me, there are
five. Allowing the project to use imported water
for its intended consumptive use gives High Desert
Power Project twice the amount of water -- the
words "twice the" would be inserted -- at a
reduced rate than all other -- inserting the words
"all other" -- producers in the basin, and thus
creates an inequity.

Adding the next four paragraphs,
paragraph 2, no will-serve letter providing for a
continuous and uninterruptible source of water for
the power project has been provided.

Number 3, as required by law, a CEQA
analysis has not been conducted by the water
agencies that intend to provide water to the
project.

Number 4, the pipelines, wells, and
treatment facilities planned to serve this project
are over-sized for the purpose of providing water
service to the redevelopment of George Air Force
Base, and has not been studied under CEQA.

And number 5, article 10, section 2 of
the California Constitution prohibits 10 percent
or more of the annual limited water entitlements
of the Mojave Water Agency not be used for 100
percent consumptive use for evaporative cooling.

Those, gentlemen, are my issues.

At page 210 the issue of water
availability, I've asked that you incorporate the
words that the staff has advised you that on the
average, only 65 percent of the state project
water will be available in any one year, or
approximately 50,000 feet per year.

Based upon the evidence in the record,
50,000 acrefeet of water will not be enough to
cure the regional over-draft. I don't believe
that there's anything in the record that states
anything but that.

And on page 18, and this was in your
finally overall, you state the key concerns in
evaluating applicant's water supply plan are
insuring, one, that only imported water will be
used for the project so that the project will not
cause the groundwater basin to be further
depleted; and two, that the water plan be used to
supply water for only the High Desert Power
Project.
I ask that you insert the following:

Mr. Ledford disagrees with this contention because he feels the evidence presented by staff clearly shows that the Victor Valley Water District is continuing to over-draft the regional aquifer, for which there is no recharge. I refer to exhibit 87.

Further, that the water facilities designed as acknowledged by the staff to be over-designed by 100 percent. And that no CEQA analysis has been conducted. And I refer to exhibit 146A.

And finally, Mr. Ledford’s position is that the plant cannot be certified until a will-serve letter is provided. However, only one in a proposed series of five contracts has been provided, and there is no assurance that the balance of the agreements will be provided.

On page 19 I will not read this for the record, but I believe that these provisions that I have cited in the past support the fact that this facility is going to be used for other projects, other than what has been studied.

I have request that you take also a close look at the findings and conclusions on page
I've asked that you add a finding that says that the soils under the project site and the perched aquifer are seriously contaminated, and there is no current plan to cure the contamination prior to HDPP construction. I believe that is a valid concern of many. I have raised the issue in the past.

Where the words in number 3, which would change number 4, Mojave groundwater basin, I would ask that you insert the words critically and severely.

Number 4 would be number 5. And I would ask that the High Desert Power Project will use wet cooling technology, which is what you've said, and add the words which is a hotly contested controverted issue in this over-drafted basin. Water may not be available for the cooling plant in the future.

I'd like you to add the finding that the Mojave Water Agency is entitled to approximately 75,000 acrefeet of water per year, of which it is estimated that only approximately 50,000 acrefeet will be available to the agency on an annual basis.

And I'd like you to add the evidence of
record directly shows that all the proposed
project's water pipelines and water treatment
facilities is fully over-designed for the HDPP
needs. The future development of George Air Force
Base and beyond has been identified to develop
projects in the reasonably foreseeable future as a
result of the High Desert Power Project.

In addition, the conditions of
certification adequately insure the project's
water facilities will not remove an impediment to
growth, but are expected to result in growth,
inducing impacts to spur the economy of this area.

With that, gentlemen, I thank you for
bearing with me on my comments, and the
opportunity to participate in these proceedings.

HEARING OFFICER VALKOSKY: Thank you,
Mr. Ledford.

Before I turn to the parties for any
response, I've got a couple questions. First, for
staff, I notice in Mr. Ledford's comments, and,
sir, I think it's on page 16 of your submission,
you indicate a desire to be involved, to be
notified, at least, --

MR. LEDFORD: Correct.

HEARING OFFICER VALKOSKY: -- post-
certification. And, Mr. Buell, I was wondering if you could explain for the benefit of the record what the typical proceedings, or the typical public involvement post-certification would be?

MR. BUELL: It's my understanding that once the project is certified that what's called our compliance project manager will send a notice to the existing mailing list for the High Desert Project, and ask those that are on that list whether they want to maintain themselves on that list post-certification for items that may come up on compliance issues that come up post-certification.

HEARING OFFICER VALKOSKY: So that anytime there would be a project change or a workshop dealing with compliance issues, or anything, a request by applicant for a project change or something, that those items would be summarized in a notice. And the notice would then be sent to anyone such as Mr. Ledford, who would be on the list, is that correct?

MR. BUELL: That's my understanding, yes.

HEARING OFFICER VALKOSKY: Okay. And also is it not true that if any member of the
public believed that applicant was violating a
condition of certification that member of the
public could file a complaint with the
Commission's compliance unit, which would be
investigated?

MR. BUELL: That's my understanding,
yes.

HEARING OFFICER VALKOSKY: Okay.

MR. BUELL: I think that's spelled out
in the general conditions of certification.

HEARING OFFICER VALKOSKY: All right.

So, I don't know if this is precisely the nature
of the involvement you anticipated or what?

MR. LEDFORD: My interest lies along the
same lines as the California Department of Fish
and Game. And those areas where specifically the
Department has requested to be noticed, I would
like to be noticed on the same terms as the
Department. Because my interests and my
participation in the adjudication is similar to
theirs.

HEARING OFFICER VALKOSKY: Okay, would
you --

MR. LEDFORD: So to the extent that it
would be any different, I would like it to be the
same.

HEARING OFFICER VALKOSKY: When you say noticed, I think that may be an ambiguous term, because to my recollection of the conditions, there are certain instances where the California Department of Fish and Game, as a trustee agency, either jointly reviews or consults in the review with the Commission project manager for certain conditions. Isn't that true?

MS. HOLMES: That's correct, the Department of Fish and Game is going to be assisting us in review of the data that comes in, for example, the pumping tests and the annual calculations that are made with respect to the water bank. Those are areas in which the Department of Fish and Game, as you point out, has trustee agency responsibility. And we intended to work with them as sister agencies, not as co-parties in this proceeding. We're within our rule, a sister agencies, with them having jurisdiction over --

HEARING OFFICER VALKOSKY: Right, so --

MS. HOLMES: -- those resources.

HEARING OFFICER VALKOSKY: -- so it would be, in effect, a consolidated review, is
MS. HOLMES: That's our expectation.

HEARING OFFICER VALKOSKY: Right. You see, and that would be -- that's a role that frankly is typically reserved for governmental agencies.

Now, if --

MR. LEDFORD: The issue though is that there's reports. There's reports that are going to be submitted, and the --

HEARING OFFICER VALKOSKY: Right.

MR. LEDFORD: -- reports are going to be reports relative to monitoring and how the stuff is going.

HEARING OFFICER VALKOSKY: Okay.

MR. LEDFORD: And, I would like --

HEARING OFFICER VALKOSKY: Okay, now that's --

MR. LEDFORD: -- to have copies. This doesn't say anything about sister agencies and all that stuff, so --

HEARING OFFICER VALKOSKY: No, no, I understand. I'm just trying to discern exactly where your interest is. So, what you would want is notice of the fact that the reports had been
submitted, and access to them?

MR. LEDFORD: I'd just like to -- this
says the project owner shall submit to the CEC PM
and to CDFG six months prior to the start, of
pumping tests, work plan, results and methodology.
I'd just like to have that kind of thing so I know
what's going on.

HEARING OFFICER VALKOSKY: Okay.

MR. LEDFORD: I mean I think that I've
been pretty much involved in how this process got
to this point. Because when we started out it
didn't look anything like this.

HEARING OFFICER VALKOSKY: No, I don't
think that will --

MR. LEDFORD: I'm sure the poor
applicant's looking at me saying, jeez, but --

HEARING OFFICER VALKOSKY: Okay.

Again, --
MS. HOLMES: We typically don't do --
what we've done, as the siting case has gone
along, is we've done something like notices of
availability when large documents come in that we
can't necessarily get to every single person
because it would require a long period of time or
be very expensive to copy and duplicate. And then
we let the individuals contact us if they want a copy.

We haven't typically done that in compliance, but there's no reason why we couldn't do that in compliance in this particular case. We could establish a requirement that as part of the compliance process the compliance project manager issue a notice of availability when these specific reports come in. And send it to everybody who's on that list. And if Mr. Ledford wants to request a copy, then he can do so.

I'm a little reluctant to have us be sending them out to everybody who's going to be on that compliance service list.

HEARING OFFICER VALKOSKY: No, I understand that. So, Mr. Ledford, apparently that would be the accommodation that would be reached, is that as one of these reports came in you would get a notice of availability. If it's something that you're interested in, --

MR. LEDFORD: I could just ask for it?

HEARING OFFICER VALKOSKY: -- you would then contact the compliance project manager.

MR. LEDFORD: So as long as --

HEARING OFFICER VALKOSKY: As I
interpret it, and correct me if I'm wrong, please, but as I interpret it, basically it's an easier workload burden for staff, the compliance staff, to say okay, we have the list of people that are interested in what happens to this plant after it's certified.

Now, Mr. Ledford, I assume that you would be on that list, you would want to be on that list.

MR. LEDFORD: I'm interested in the issues relative to water that CDFG is interested in.

HEARING OFFICER VALKOSKY: Right.

MR. LEDFORD: I don't care about anything else that's in the four corners of this document. Build the plant. But if the water deal doesn't work you'll hear from me.

HEARING OFFICER VALKOSKY: Okay, and that's fair. There's not a problem.

So, I'm wondering -- what staff is proposing is that, at least for what are there, probably half a dozen conditions it references, CDFG, I would imagine --

MS. HOLMES: Correct?

HEARING OFFICER VALKOSKY: In the water
section?

MS. HOLMES: Right.

HEARING OFFICER VALKOSKY: That we add
language essentially requiring the project
manager, the compliance project manager to provide
notice of availability of that report to the
people that have indicated an interest in it.
Right?

MS. HOLMES: That's fine.

HEARING OFFICER VALKOSKY: So that's
where we're at, on those -- and, again, I'm just
estimating the number of conditions, the six or so
conditions. The compliance project manager would
get the report, would send a notice to the list.
And, again, I'm assuming you're on the list. It's
then your option as to whether or not you want to
see that report.

MR. LEDFORD: Most of these aren't
voluminous documents. They're just reports.

HEARING OFFICER VALKOSKY: Okay.

MR. LEDFORD: Reports on a quarterly
basis of groundwater accounting, and --

HEARING OFFICER VALKOSKY: Right.

MR. LEDFORD: -- wells, and what-have-
you.
HEARING OFFICER VALKOSKY: But, anyway, that's the kind of procedure staff is proposing. So, I take it that's acceptable then?

MR. LEDFORD: I suppose.

HEARING OFFICER VALKOSKY: Okay. The next issue I have concerns one of the issues that Mr. Ledford brought up, and it's the plum remediation, and I'll note that in the draft EIS EPA had also made a comment to Fish and Wildlife concerning site access.

The Committee's understanding is that there is a specific condition here in the decision which would require applicant to allow access to the site for any plume remediation activities. And that was based on the testimony which, to my recollection, indicated that the project design and construction wouldn't interfere with any remediation efforts.

And I'd like to ask both applicant and staff if that still remains the case. Mr. Thompson?

MR. THOMPSON: I was trying to find the specific reference, but that is still the case. And, in fact, if I recall I think that the condition requires either not interfering or
coordinating.

MR. LEDFORD: Well, it actually says something different than that.

HEARING OFFICER VALKOSKY: Do you have a reference to the condition, again, Mr. Ledford? That would certainly help.

MR. BUELL: It's condition 14 on page 247.

MR. LEDFORD: Actually I cited it in my comments verbatim.

HEARING OFFICER VALKOSKY: Mr. Thompson, has the applicant had any further contact with the federal authorities in terms of any site remediation efforts?

Could you tell us what's transpired?

MR. BARNETT: It's our understanding that the Air Force, which is responsible for the clean-up for both defining the extent of the contamination and for the clean-up, has received funding to do so. And that they are shortly going to have a timetable out, if they don't already, for going forward with the delineation of any contamination. And that that would be followed by a plan to clean up.

And we had been coordinating with both
them and the EPA and Lahontan as to the timing for that. And I believe that all the parties involved agree that the project will not interfere with that process. That the footprint on the site is so small that it would not interfere with the ability to do the testing, or any subsequent clean-up.

So, there has been further coordination, there has been movement forward. And I think that if it's not already out, there will shortly be out a timetable from the Air Force for the first step of the delineation process.

HEARING OFFICER VALKOSKY: And, in any result, the remediation, if there was a conflict between necessary remediation and plant construction, which would take precedence?

MR. BARNETT: Yes, the necessary remediation would clearly take precedence.

HEARING OFFICER VALKOSKY: Thank you. Do you have anything further on that remediation matter, Mr. Buell?

MR. BUELL: My understanding is the same as Tom Barnett's.

HEARING OFFICER VALKOSKY: Mr. Ledford, does that clarify the matter in your mind?
MR. LEDFORD: Not in my mind. I mean if you're certifying the project prior to the time that you know what the plan is, I think that that seems to be a step in the wrong direction.

This says that there's soil and groundwater contamination. The Base re-use EIR indicates that there's TCP in the ground and in the soil in the northeast quadrant of George Air Force Base, which is where this project is located.

If this was a service station that had groundwater contamination and soil contamination, it certainly would be cleaned up before it ever got a permit.

I don't know, the verification says the project owner shall submit in writing a copy within two weeks of receipt of any requests by the Air Force for site access. It doesn't say anything about there's going to be some certification that the remediation is done before the project gets started.

I mean I would think that would be a condition.

When's it enough? When's it an environmental issue that's enough? When the
groundwater basin is a million acrefeet over-drafted, is it time to fix it? When it's two million acrefoot over-drafted it is time to fix it? When you have contaminated ground and contaminated groundwater under the site? When's it time to fix it?

When is it an environmental issue that's enough? I don't know. Seems like a strange process to me.

HEARING OFFICER VALKOSKY: Any response by staff on the sufficiency of the condition, talking specifically about soil and water 14?

MR. BUELL: My recollection is that these issues were dealt with in either or both the staff's testimony on water resources and soils resources. And also on waste management. And I was not the expert for those areas, but my recollection is that there was not soil contamination on the project site. But that there was contamination, groundwater contamination possible underneath the site that the Air Force Base were concerned that they'd have access to clean up, primarily to pump.

MR. LEDFORD: Well, the condition says soil and groundwater, so.
MR. BUELL: That's what it says. As I said, I was not the witness at the time of that testimony, and I can only refer the Committee back to the original staff testimony.

HEARING OFFICER VALKOSKY: Right, and I assume it says soil and groundwater just to be inclusive rather than exclusive, just in case.

MR. BUELL: I suspect so, too.

HEARING OFFICER VALKOSKY: And that would -- okay. Mr. Thompson, do you have any response to Mr. Ledford's general comments?

MR. THOMPSON: Only to reiterate a bit of what I said before. I don't think that the record has suffered because of Mr. Ledford's inability to get his point across. In fact, I think he does that very very well.

What I do think is that many of the issues that were brought to this Committee may be in the province of others, such as the MWA or other agencies.

I do believe that all of the issues that were raised have been dealt with during the evidentiary phase of the proceeding. And Mr. Ledford's input is fairly reflected in the record, in the revised PMPD, and indeed, he has had input
into the conditions of certification, which will
govern the project construction and operation.

So I think that this is a combination of
what I perceive is a bit of frustration at the
jurisdictional limits of this agency and its
relationship with other agencies in raising issues
that have been raised before and dealt with by the
trier of fact, which is the Committee.

HEARING OFFICER VALKOSKY: Does that
conclude, Mr. Thompson?

MR. THOMPSON: It does.

HEARING OFFICER VALKOSKY: Ms. Holmes,
any further comments to add?

MS. HOLMES: No additional comments from
staff.

HEARING OFFICER VALKOSKY: Okay. Before
I open it up to members of the public, anything in
conclusion, Mr. Ledford?

MR. LEDFORD: I think I've monkeyed it
up enough for one day.

HEARING OFFICER VALKOSKY: Thank you.

With that, are there any members of the public who
wish to offer any comment on this matter today?

Sir, if you could approach the
microphone and identify yourself for the record,
please.

MR. ROBERTS: John Roberts, City Manager, City of Victorville.

Committee Members Laurie and Valkosky, I would like to, on behalf of the City of Victorville and the Southern California Logistics Airport Authority, extend our gratitude to your efforts, your dedication of time and your expertise to thoroughly study this project. And to bring forth this revised Presiding Member's Proposed Decision.

I would also like to recognize the efforts of your staff, the dedication of the applicant to see through this process, and the dedication and involvement of all the various government agencies and individuals that had an interest in the outcome of these proceedings.

The primary purpose of this project is to meet the ever-increasing energy demands of the southern California region. But this project could have been located in any number of places. Although each one of those locations would have similarly required an exhaustive study, would each had their own challenges, some of which were more extensive than this project.
But by locating this project here you have served a secondary purpose, and a very important purpose. And that is to re-invigorate the very much needed revitalization of former George Air Force Base. As I have previously submitted to you, the closure of that facility had a tremendous negative impact upon the economy and the quality of life in this valley. There has been a ten-year commitment to revitalize that project, to bring back those jobs to this community that hurt this community so badly. And a major component of that project is the redevelopment plan.

The siting of this project on Southern California Logistics Airport will do more to further that project and to bring back the economy of this valley, and the jobs that are so dearly needed.

So, on behalf of the community I wish to applaud you on your dedication, your thoroughness, considering all of the impacts, certainly the water is an important impact, and we appreciate your thoughtfulness and your consideration and your time and dedication to bring this project to this point.
PRESIDING MEMBER LAURIE: Thank you, Mr. Roberts.

MS. SARTOR: Thank you for allowing us this opportunity. My name is Peggy Sartor and Victorville is my home town. I live at 14657 Rodeo Drive.

I spoke at a previous hearing in favor of the power project, and I really didn't intend to speak again today. But I was reminded yesterday by Mayor Caldwell the adage that we have lived by during the many years I've been involved, that the price of freedom is eternal vigilance. So here I am.

Lest anyone get the impression that there is little support and much opposition to the power project, I would like to state just for the record that I served 20 years on the Victorville City Council; I served three terms on the state water resources control board, Lahontan Region. I also am a past member of the Mojave Water Agency Board, the Board of the Victor Valley Wastewater Authority, the Waste Management Committee, solid waste; and I'm a recent past president of CASA, the California Association of Sanitary Agencies. I've spent a great deal of time and
effort learning all that I can about water. My
first reaction was negative about any project that
was going to use excess water, which drove me to
study the situation, conversations, background
material. And the more I get into it the more I
realize that this is going to make a great deal of
difference to the people who live in this area.

I believe that much of the controversy
about the power project comes from a small group
of naysayers with personal agendas. I am in touch
with ten times their numbers, good citizens who
recognize that the power project is an offer we
cannot afford to refuse.

Most people are more concerned over the
location of big housing developments in the wrong
part of the desert where water may be a bigger
problem than in some of the other locations.

The question is when is enough is
enough, I think we have all addressed that. And I
certainly did, as a member of the Mojave Water
Agency, where we traveled extensively throughout
the state, into some other states studying the
situation with an open mind. And realized that a
desert is for living on, but it's how we develop
the desert that makes the difference.
I think that it's important to know that my father was the area's first licensed contractor. He installed most of the early water systems all over the Victor Valley, including the one at the Jess Ranch.

Were it not for the effort of those foresighted citizens who develop ranches, communities and infrastructure, I doubt that most of the people who live here today would have chosen to make their home here. Victorville would still be a pit stop on the way to Las Vegas.

The Mojave Water Agency is the regional water wholesaler, which also serves as a watermaster. Mojave Water Agency buys water from the state water project and sells it to their customers, who are mainly farmers and water purveyors, municipal purveyors. Or they bank it for the future through groundwater storage, which we know is a slow and costly process.

If no water is sold, if they have no product, no money is earned by the Mojave Water Agency, and the Mojave can't do its job or meet its debt service on contracts that are already agreed to. Like any other business, if they have no product to sell they face bankruptcy. And we,
the taxpayers, will end up picking up the tab.

Yes, I believe the power project is an offer we can't afford to refuse. And I would like to just commend Mr. Robert Laurie, Mr. Keese for their very succinct statement on the first page of the Presiding Member's Decision document.

I think that it's very important that we, the people in this community, look at it on the broad picture with the least rhetoric, the least attempt to divert the real cause for which we are here. And I want to commend you people for taking the time to dig into it with infinite patience and grace.

Thank you.

PRESIDING MEMBER LAURIE: Thank you, ma'am.

HEARING OFFICER VALKOSKY: Anyone further?

MR. ALMOND: I wasn't going to say anything. My name is Bob Almond, I live at 12875 Bear Valley Road.

I just would like to tell the Commission and the staff that I really don't believe that the dry process for cooling this particular power project was fully studied. And I think it's
something that should be done.

There's nobody here that's against this
power project. What we're against is the total
use of the consumptive use of the water.

And I want to see this power plant come
to fruition, but what I would like to see is I'd
like to see it cooled by the dry process, so we're
not using the taxpayers' water. By not using it,
I mean wasting it.

Four-thousand acrefeet a year
consumptive use is a total waste of water.

Thank you.

PRESIDING MEMBER LAURIE: Thank you,
sir.

HEARING OFFICER VALKOSKY: Anyone
further?

PRESIDING MEMBER LAURIE: Mr. Valkosky,
can you, at this point, talk about next steps,
please.

HEARING OFFICER VALKOSKY: Certainly,
Commissioner.

Within approximately the next week, if
not sooner, the Committee will issue an errata to
its Presiding Member's Proposed Decision
incorporating such revisions as it deems
appropriate in light of the comments made today, and the written comments.

After that, and again I'm assuming that everything remains scheduled as it is presently, the full Energy Commission will consider the Committee's recommendation at its May 3rd business meeting.

Members of the public are invited to speak at that meeting. Be aware, however, that if you wish to address the full Commission that you should file any written comments concerning the matters which you wish to bring forth to the full Commission by April 28th.

And after that, the present expectations are that at the May 3rd business meeting the full Commission will decide whether to adopt, reject or modify the recommendations that the Committee brings forth.

PRESIDING MEMBER LAURIE: Thank you. Just a final note from myself on behalf of the Committee, being myself and Commissioner Keese, I'd certainly like to extend my gratitude to the City for your assistance in providing the accommodations; they're very deeply appreciated.

My thanks to staff and other state
agencies, and the applicant for the process that
was followed.

I also wish to extend my appreciation to
Mr. Ledford for a very competent and professional
presentation.

A final opportunity for public comment?

MR. BARNETT: If I could just make a
brief comment. I, too, on behalf of the applicant
would like to add our thanks to everyone involved
in this process. It's been a long and grueling,
at times, process, but inasmuch as it would appear
this is the last of the meetings in Victorville,
we certainly want to express our appreciation, not
only to the Committee Members and to the staff,
but also to the City of Victorville for their
patience, their hospitality, their support, and
also to all of the members of the public, both
supporters and opponents who have participated in
this process. It's that kind of attention to
these very sometimes confusing and drawn-out
processes that, in the end, make them a process
that reflects the public's desires.

So we are very appreciative of it. And
we look forward to seeing those of you who can
make it at the May 3rd meeting.

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
Thank you.

PRESIDING MEMBER LAURIE: Thank you, Mr. Barnett.

I would note I'd like to reiterate Mr. Valkosky's comment that the report of this Committee is a recommendation only to the full Commission. Thus, it is the full Commission that will be acting in May, and will be the ultimate determinate of the project.

The full Commission consists of myself, Commissioner Keese and three other Commissioners.

If there are no additional comments, the meeting stands adjourned. Ladies and gentlemen, thank you very much.

(Whereupon, at 2:12 p.m., the conference was concluded.)

--o0o--
CERTIFICATE OF REPORTER

I, DEBI BAKER, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission 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 24th day of April, 2000.

DEBI BAKER

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345