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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

ENERGY COMMISSION

APR 15 1985

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BUSINESS MEETING

1516 NINTH STREET
FIRST FLOOR HEARING ROOM
SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 20, 1985

10:40 AM

REPORTED BY:

DAWN LOFTON

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COMMISSIONERS PRESENT

- Charles R. Imbrecht, Chairman
- Barbara Crowley, Vice Chairman
- Geoffrey D. Commons, Commissioner
- Arturo Gandara, Commissioner
- Warren D. Noteware, Commissioner

EX OFFICIO

- William Foley

STAFF PRESENT

- William Chamberlain, Staff Counsel
- Randall Ward, Executive Director
- Kent Smith
- Bob Therkelson
- William Pennington
- John Chandley, Staff Counsel
- Gary Heath, Public Advisor
- Ernesto Perez, Public Advisor
- Michael Smith
- Ralph Chandler
- Norman Wilson
- Scott Matthews
- Cindy Sullivan
- Lorri Gervais, Secretariat

ALSO PRESENT

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Patrick Splitt, APP-TEC
Philip Vermeulen, SMACNA
Bob Lucas, Carrier Corporation
Laurence J. Peck, Pacific Management Waste, Inc.
Terry O. Kelly, Attorney for Miller Brewing Company
Michael D. Berk, Attorney for Miller Brewing Company
L.D. "Bud" Franklin, County of Lake

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P R O C E E D I N G S

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3 CHAIRMAN IMBRECHT: Okay, we will call the
4 meeting to order. Will you please rise for the flag
5 salute? Commissioner Noteware, would you please?

6 (FLAG SALUTE)

7 CHAIRMAN IMBRECHT: The first item to come
8 before the Commission today is Commission Consideration
9 and Possible Acceptance or Nonacceptance of a Petition
10 for Rulemaking filed by Patrick L. Splitt of APP-TECH,
11 to amend Section 1403(a)(1) of the energy building
12 regulations pertaining to permit and enforcement
13 requirements. The Petitioner is requesting the Com-
14 mission delete the requirements that the signer of the
15 various documents necessary for building and construc-
16 tion permits must be licensed or registered to practice
17 by the State of California. Mr. Ward.

18 EXECUTIVE DIRECTOR WARD: Thank you, Mr.
19 Chairman.

20 CHAIRMAN IMBRECHT: Commissioner Commons.

21 COMMISSIONER COMMONS: I'd like to move that
22 we take the item of Committees first.

23 COMMISSIONER GANDARA: I'll second it.

24 CHAIRMAN IMBRECHT: Well, Commissioner
25 Commons, I think that will be highly inappropriate.

1 because obviously additional conversations are
2 necessary. I had been under the impression that some
3 of those had been conducted with various staff members
4 of the Commission. Apparently, that is not the case.
5 I would oppose the motion and ask for an opportunity to
6 try to rationally converse with you about these topics.

7 COMMISSIONER COMMONS: If you would like to
8 put the item over into another Business Meeting,
9 following the procedures that have been established by
10 Commissioner Crowley whereby there is supposed to be a
11 package put together timely for the Commission to
12 consider, I would find that perfectly acceptable and
13 that would take care of the matter.

14 CHAIRMAN IMBRECHT: I am not willing to
15 accede to that request at this point in time. I would
16 like not to have further conversations with you.

17 COMMISSIONER COMMONS: I believe Commissioner
18 Crowley, two Business Meetings ago, asked that a motion
19 be tabled and that there was not a package timely
20 available. As of 5:20 p.m. last night, my office did
21 not have a copy of the Order. Our office had no input
22 and we requested that as of last Thursday and every day
23 last week that we be given this information. Maybe
24 Commissioner Crowley would like to have one set of
25 standards for items that come from your office and a

1 different set of standards for items that come from my
2 office, but I would like to know her position on this
3 issue.

4 VICE CHAIRMAN CROWLEY: Mr. Chairman. The
5 item that I asked to have tabled for backup dealt with
6 a policy matter before the Commission. This is, as I
7 understand it, a matter of procedural arrangement and
8 not a policy matter. So, I don't think the two are
9 comparable. The other matter as well, as I recall, was
10 an attempt to deal with that matter in a manner
11 consistent with what we have established as policy
12 directives. So, again, I don't see that there is any
13 comparability.

14 CHAIRMAN IMBRECHT: Any further discussion on
15 the motion? Commissioner Gandara.

16 COMMISSIONER GANDARA: Yes, Mr. Chairman, I
17 seconded the motion. I was not here for the time, I
18 guess, that Commissioner Commons indicates that his
19 item was tabled for lack of follow-up. My objection
20 isn't with respect to any such comparison but rather
21 simply that I was not presented with a copy of the
22 proposed Committee assignments until this morning when
23 I walked into my office. Any verbal conveyances of
24 what these Committee assignments might have been were
25 substantially different from what I saw in the

1 Committee assignments this morning.

2 So that I do believe we were not provided
3 with adequate time and adequate information to be able
4 to proceed with these Committee assignments. I believe
5 we have a motion before the floor to hear this item
6 first. I have seconded that motion. I think we should
7 proceed to resolution of that. I believe that
8 certainly this item could be resolved by you in a fair
9 and considerate fashion, as we have in the past, in
10 acceding to your request for courtesy when a
11 Commissioner has a concern to postpone an item. There
12 were numerous times when you have asked for a
13 postponement of an item that there is no reason for
14 haste and that every Commissioner ought to be accorded
15 enough time to feel comfortable with the decision. I
16 would ask you to respond with the same courtesy and to
17 in fact, moot the motion that is before us by
18 essentially postponing the item which is your item
19 which you have calendared.

20 CHAIRMAN IMBRECHT: Commissioner Gandara, I
21 just want to indicate that I certainly was willing to
22 take that request under advisement, and since we
23 weren't to confront this item until presumably after
24 our luncheon recess. I had hoped to have an
25 opportunity for some further discussions with various

1 members of the Commission. I want to indicate to you
2 that I continue to take that under advisement and as I
3 indicated to you a few moments ago, I appreciate your
4 advise and counsel in these matters. I think that, all
5 things being equal, if we are not able to resolve these
6 differences, I would probably accede to that request.
7 The reason I think it's inappropriate to pass this
8 motion now is obviously there has been little
9 opportunity for that kind of dialogue and I am not
10 going to engage in that kind of public discussion at
11 this point in time. For that reason, I continue to
12 oppose the motion, but I want to indicate to you that I
13 continue to take your request seriously and under
14 advisement, and I am not suggesting in the slightest
15 that I might not accede to it before the course of the
16 day has passed or some additional time in today's
17 hearing.

18 COMMISSIONER GANDARA: Just a short comment,
19 Mr. Chairman. I think we have an important calendar
20 before us and I don't think we should cloud the rest of
21 the day's proceeding for an item that really can be
22 disposed rather easily. If, in fact, there is what has
23 been indicated and communicated to you immediately
24 prior to this meeting, is a considerable unhappiness
25 and disagreement ...

1 CHAIRMAN IMBRECHT: I only heard brief pieces
2 of it ...

3 COMMISSIONER GANDARA: I do believe that
4 rather than sort of have the rest of today's proceeding
5 be clouded with an item that is going to raise some
6 substantial concerns when it will be discussed later
7 this afternoon, and possibly postponed as you indicate
8 you're disposed or considering that in fact we settle
9 it now by either disposing of it by either consider it
10 now and/or postponing it. There have been many
11 occasions on which we have started off our Business
12 Meetings by you indicating which items have been
13 postponed for some reasons or other; or at which time
14 there has been a Commission request to postpone an
15 item. It's not unusual. We have not had to wait for
16 the item to be brought up to consider its postponement.
17 In fact, that's the more unusual course of action than
18 to postpone it at this point in time, which clearly is
19 posing some difficulties.

20 CHAIRMAN IMBRECHT: I understand your point
21 of view and I have expressed my own. Further
22 discussion on the motion? Commissioner Commons.

23 COMMISSIONER COMMONS: Mr. Chairman. Last
24 year, when we attempted to put together the Commission
25 Order when Commissioner Crowley came on board, you made

1 the request to me, not for one meeting for an
2 extension, but for a second meeting for an extension.
3 Then you third asked for a third extension. It took us
4 six weeks, all at your request, in terms of having an
5 extension as to the adoption of the Committee Order.
6 It was also you who made the motion last year to accept
7 the Committee Order. So, clearly you would not have
8 made the motion supporting it unless you thought that
9 it was at least a reasonable consensus. But, the main
10 point I am making is last year when you were not
11 satisfied with the original draft of the Committee
12 Order, you requested a postponement and you received a
13 postponement three times. You were not also presented
14 with a Commission Order or proposed Commission Order
15 the day of the Business Meeting, you were presented
16 that weeks ahead of the Business Meeting and had ample
17 opportunity to discuss with others your own particular
18 concerns and also Commissioner Crowley was afforded the
19 same opportunity. The exact difference--100%--180
20 degrees difference in style, as to what you are
21 attempting to do today.

22 CHAIRMAN IMBRECHT: You and I have an
23 extremely different recollection of the events that
24 lead to the adoption of last year's Committee
25 assignments ...

1 COMMISSIONER COMMONS: We also had a
2 difference ...

3 CHAIRMAN IMBRECHT: If not 180 degrees,
4 certainly 170 degrees difference in terms of
5 recollection, so ...

6 COMMISSIONER COMMONS: We also had a
7 difference as to our recollection on the Felando Bill
8 as to when that occurred and we will get into that
9 later, too.

10 CHAIRMAN IMBRECHT: Well, in any case, the
11 motion is before us and the motion is to take Item #6
12 up at this time. Would you please call the roll?

13 MS. GERVAIS: Commissioner Commons.

14 COMMISSIONER COMMONS: Aye.

15 MS. GERVAIS: Commissioner Gandara.

16 COMMISSIONER GANDARA: Aye.

17 MS. GERVAIS: Commissioner Noteware.

18 COMMISSIONER NOTEWARE: No.

19 MS. GERVAIS: Vice Chairman Crowley.

20 VICE CHAIRMAN CROWLEY: No.

21 MS. GERVAIS: Chairman Imbrecht.

22 CHAIRMAN IMBRECHT: No.

23
24 CHAIRMAN IMBRECHT: Motion is defeated.

25 Ayes: 3; noes: 2. The item remains on the Agenda as

1 originally noticed. We will turn to the item that I
2 have just announced. I don't think I need to go
3 through it again. Mr. Ward, would you like to begin
4 presentation?

5 EXECUTIVE DIRECTOR WARD: Thank you, Mr.
6 Chairman. John Chandley from the General Counsel's
7 office and William Pennington from the Conservation
8 Division are prepared to discuss the specific aspects
9 of this item and their relationship to our proceedings.

10 MR. PENNINGTON: If I might begin, the
11 petition requests rulemaking hearings to revise Section
12 1403 of the Title 20 Administrative Requirements
13 associated with our building standards, to not require
14 energy analysts who do energy performance calculations
15 to be obligated to be licensed. It recommends that if
16 the Commission finds that that licensing requirement is
17 necessary that the Commission specify qualifications
18 necessary for the license and establish a licensing
19 procedure. The petition actually misunderstands the
20 section that is being discussed here. The section
21 doesn't require an energy analyst to be licensed,
22 rather it requires the responsible party, either the
23 building owner or a licensed professional who is
24 responsible for the whole project, to sign off on
25 various documentation that's supplied to the Commission

1 to show compliance. So there isn't really an
2 obligation for the energy analyst to be licensed, per
3 se, by this section.

4 Based on that misunderstanding and a recent
5 discussion with the building industry about how this
6 section would be applied in concurrence with a number
7 of parties from the building industry, that that is a
8 feasible and workable approach to apply this section,
9 staff will be inclined to recommend denying the
10 petition.

11 However, there has been quite a bit of
12 comment about Section 1403 of the regulations.
13 Relating to a need for, perhaps, of taking another look
14 at it as it applies to residential buildings. In
15 particular, another portion of this section exempts
16 residential buildings from having to supply
17 construction documents as part of the filing with the
18 Building Department. We have had comments from Carrier
19 Corporation that they think that that's inappropriate.
20 I have also had comments from SCAQMD that they think
21 that is inappropriate. There also has been discussion
22 suggesting that there may be some problems with the
23 performance of energy analysts who are documenting
24 compliance under the performance standards that would
25 suggest that the Commission ought to take another look

1 in terms of whether there ought to be certification
2 obligations on those people's parts or perhaps even a
3 licensing requirement.

4 At this point, staff is recommending that
5 there be rulemaking hearings conducted to review this
6 section, not necessarily to accept the petition as
7 written, but to encourage the Commission to open
8 rulemaking hearings.

9 CHAIRMAN IMBRECHT: Alright, fine. Further
10 discussion? Are you the petitioner, sir? Yes, fine,
11 please.

12 MR. SPLITT: I would just like to make a few
13 statements. Maybe I did misunderstand the wording, but
14 I think then that the wording is not very clear. As
15 far as I am concerned, I have been doing both
16 residential and non-residential calculations for over
17 two years and I have never had to have my calculations
18 signed by any licensed professional -- even
19 nonresidential.

20 In the past, all the building officials in my
21 area, realizing the fact that there is no license
22 available to do a Title 24 compliance calculation,
23 except that the fact that they couldn't require a
24 license. What they have required for compliance with
25 the regulations was the design statement on the plans

1 by the person applying for the permit that indeed, he
2 swore that the bulding met the Title 24 calculation.

3 So, that's the way it has been in the past.
4 I don't think having a licensed person sign my
5 calculations, if he isn't aware of the proper method of
6 performing the calculations, that's going to get
7 anybody anywhere.

8 Licensing -- going out and having persons
9 become licensed energy consultants isn't going to do
10 anything--it's not going to ensure confidence. I mean
11 there are a lot of people around who are doing these
12 calculations now and are not doing them correctly, I
13 think even fraudulently. A great percentage of them
14 are already licensed. The worst abusers that I have
15 seen are licensed civil engineers. I call up the Civil
16 Engineering Board and they don't care about how this
17 guy fills out a Title 24 or Compliance approach. It
18 has nothing to do with civil engineering. That license
19 isn't protecting anybody. But what happens if somebody
20 turns in a bunch of calculations for the building
21 department and they are stamped with a license? That's
22 all the building official cares about. It's no longer
23 his responsibility. He's not going to check those
24 calculations. He's going to say, 'it's this guy's
25 problem, not mine.' Your compliance goes down because

1 this guy's license--not up. So, if you are concerned
2 about compliance, then you should worry about how to
3 increase compliance. Licensing, I don't think, is
4 going to help you at all. It is going to decrease
5 compliance.

6 As far as the wording of who, indeed, can do
7 this. It's not clear at all here that someone who
8 isn't licensed by the State of California to drive an
9 automobile, isn't qualified to sign it off. It
10 doesn't say what the qualifications are. It just says
11 licensed by the State of California. Is a California
12 Driver's License sufficient? It's really confusing.

13 It says specialty contractors are okay. You
14 can get a specialty contracting license in this state
15 if you have had five years experience running around
16 building sites picking up garbage. You are a licensed
17 specialty contractor. Does it give that guy the
18 authority to sign off and be responsible for these
19 energy calculations? It is ridiculous. I mean if you
20 are going to say that people have to be licensed
21 because they have proof of confidence, then you have to
22 come up with some method of determining what knowledge
23 he has. I mean just to say that he licensed and not
24 saying what kind of a license the person has to have is
25 crazy. It's not going to stop anybody. If I have to

1 go out and get--I'll find a licensed engineer who is
2 retired and pay him \$50 a signature and my things will
3 be signed. Is that going to do anything except increase
4 the cost to the people I am doing the calculations for?
5 No. It's just a waste. I'm not very good at this, but
6 if I keep at it, one of these years I will be a good
7 public speaker.

8 CHAIRMAN IMBRECHT: Take your time.

9 MR. SPLITT: Okay. There was an HCD Report.
10 I think it was HCD, stipulating that the residential
11 compliance isn't really where it should be. But, like
12 I said before, if indeed you do require that the
13 residential calculations be stamped or signed by
14 somebody licensed, the compliance is just going to go
15 down. In my opinion, the problem with the residential
16 calculations and compliance now is that a lot of them
17 don't make any sense. The building officials are
18 confused. They don't know what's going on, so they
19 just let it go through. If you want compliance, what
20 you have to do is fix the regulations, not just say
21 that if somebody licensed signs the calculations, it's
22 okay.

23 I'm not sure about this but I think there is
24 some sort of an exemption for licensing requirements
25 for people who do work on residential buildings under

1 three stories. You don't have to be a registered
2 architect to do residential work. I'm not sure
3 whatever that law is that gave building designers the
4 exemption where they don't have to be licensed. I'm
5 just wondering if that doesn't also apply to these
6 energy calculations.

7 CHAIRMAN IMBRECHT: I guess my response would
8 be that that would be an appropriate subject for
9 inquiry, assuming the Commission were to grant your
10 petition and institute a hearing process on your
11 petition. Is that accurate, Mr. Chamberlain or Mr.
12 Chandley? All those would be issues which you would be
13 entitled to raise in the course of such a proceeding.

14 MR. CHAMBERLAIN: Yes.

15 MR. SPLITT: Okay, well I have another issue
16 or two.

17 CHAIRMAN IMBRECHT: Alright, fine.

18 MR. SPLITT: The next one is I am not sure,
19 from reading this Title 20 regulation, exactly what
20 calculations and what building types these calculations
21 signature requirements are for. I keep, at least up
22 until recently, I kept getting the response of well if
23 I had just attended the hearings and I had plenty of
24 time to do all this, and I would know and that staff
25 has very carefully worked all this out--there are no

1 problems with it. But, I can't understand it. My
2 understanding is now that if I were going to do a point
3 system compliance on a little 600-square foot
4 residential cabin, that calculation would have to be
5 signed by a licensed professional, is that right?

6 MR. PENNINGTON: Or the building owner.

7 MR. SPLITT: Or the building owner if he's
8 allowed by law to do this. Right? But now, isn't the
9 Energy Commission the body who would determine whether
10 or not the building owner is enabled by law to do it?
11 We are talking about energy calculations. So, has the
12 Energy Commission determined when an owner can sign
13 these documents and when it can't? It sounds to me
14 like the Energy Commission is saying, "Well, it's
15 alright for the owner to sign it if we ever decide it's
16 alright for the owner to sign it."

17 MR. CHANDLEY: No, that's a very general
18 phrase intended to capture any kind of statutory
19 authorization or exception that would allow building
20 owners to take responsibilities for those documents.
21 It is designed to include everything without having to
22 track down every single statutory section that might
23 mention that fact.

24 MR. SPLITT: So, I don't know what buildings
25 an owner can sign and what buildings an owner can't

1 sign? We are talking about energy ...

2 MR. CHANDLEY: Well, I'm not aware of any
3 particular restrictions on that. I think there is
4 someone here who might be more knowledgeable on that
5 from CCAIA, but I am not aware of any restrictions on
6 their ability to have the owner sign off on those
7 documents. I don't regard it as a significant
8 impediment to a non-licensed energy designer.

9 MR. SPLITT: No, well if you are saying that
10 the owner can always sign off on them, then there is no
11 requirement that somebody licensed sign off the
12 documents, ever--I mean a ten story office building,
13 school building ...

14 CHAIRMAN IMBRECHT: Would this be a proper
15 matter for inquiry as well?

16 MR. CHANDLEY: Yeah, I think Mr. Splitt is
17 raising the appropriate issue, which is how do we
18 ensure more adequate enforcement of the building
19 standards. I think we are all receptive to examining
20 that whole issue in the context of this particular
21 petition.

22 CHAIRMAN IMBRECHT: I think you put your
23 finger very correctly on some issues that need to be
24 considered. The point is the process by which we
25 change our regulations and rules requires that we

1 institute hearings and they are supporting your
2 position on that. I would suggest that these
3 particular topics would be most appropriately raised
4 during the course of that proceeding.

5 MR. SPLITT: Well, I think it's important to
6 just mention them now because I'm not sure everyone is
7 aware of them. Once you are aware of them, you can do
8 what you want. Okay, back to residential point system.
9 A guy's gotta sign it.

10 CHAIRMAN IMBRECHT: Okay.

11 MR. SPLITT: Alright. In the past, I have
12 been doing commercial buildings and not having the
13 calculations signed, people saying, "that's wrong, that
14 was illegal--it should have been signed." My
15 interpretation of the regulations now is that you have
16 deleted that requirement. I can now do calculations
17 for a ten-story office building and not one of my
18 energy calculations has to be signed by anybody. That
19 is because ...

20 CHAIRMAN IMBRECHT: I am going to insist,
21 once again. I really think this is appropriate
22 information that should be brought before a workshop in
23 the course of a hearing ...

24 MR. SPLITT: Well, it's going to take several
25 months though, so I want to know in the meantime if my

1 interpretation is correct so that I am not breaking the
2 law. I am trying to do this thing correctly. My
3 interpretation is that since most of the office or any
4 non-residential calculation compliances that I have
5 done in the past have been like what used to be called
6 Divisions 4 through 9. Divisions 4 through 9 are
7 prescriptive approaches. The only requirements now in
8 Title 20 for any signing of any calculations are if
9 there are performance approach.

10 MR. PENNINGTON: I would request that the
11 Petitioner make these questions of staff in a written
12 document and that we respond to him through an advice
13 letter, as we typically do.

14 CHAIRMAN IMBRECHT: What we will do is answer
15 all those which we can answer within the context and
16 scope of the existing regulations and the remainder of
17 those which are not answered or where you dispute the
18 answer you receive, would be proper subjects for
19 inquiry in that process.

20 MR. SPLITT: Okay, I am just going to make a
21 statement, then. I am going to proceed, if no one is
22 going to tell me that I am wrong with my own
23 interpretation is now, there is definitely no legal
24 requirement for any, other than residential energy
25 calculations, be performed unless it's a performance

1 approach. The new packages for the new office
2 requirements, once they go into effect, that require
3 all these energy calculations for heating performance
4 index, for lighting--they do not require signature by
5 anybody.

6 MR. CHANDLEY: I'll tell you right now you
7 are wrong. If you want to have that clarified, why
8 don't you put it down in a proper letter and we will
9 respond to it properly. I don't want you to go off and
10 do those things and get yourself in trouble.

11 MR. SPLITT: It's real clear here. It says
12 that it's only a performance approach where a signature
13 is needed. This is a prescriptive approach ...

14 MR. CHANDLEY: This is not the forum to argue
15 that issue ...

16 CHAIRMAN IMBRECHT: Right. Simply you
17 stating that that's your interpretation doesn't make it
18 correct, and so if you are suggesting you are getting
19 advice from that perspective, I don't want you to be
20 mislead ...

21 MR. SPLITT: Okay, so anyway, the idea is at
22 least ...

23 CHAIRMAN IMBRECHT: There has been no advice
24 offered to you today that ratifies, in any sense, nor
25 is the adoption of this petition, should it be

1 construed as ratifying the interpretations which you
2 are offering today. We are saying to you that those
3 are valid points to be raised and they will be
4 considered appropriately; and you will have the full
5 opportunity to raise those arguments.

6 MR. SPLITT: Okay, well then, I would at
7 least like to have this meeting, whatever it is going
8 to be, not be narrowed down to just residential, I
9 would like it to encompass the whole thing. I've got a
10 whole long list here and I don't want to have to, for
11 each item come here and have to get another hearing.
12 If you don't want me to go down the list, then we
13 should be able to discuss the whole list.

14 MR. PENNINGTON: Section 1403 relates to both
15 residential and non-residential buildings, so I don't
16 have a problem with the request.

17 CHAIRMAN IMBRECHT: Alright, fine. Is there
18 a motion before the Commission? Well, I would move
19 that we accept the petition, if I can hear a second.

20 VICE CHAIRMAN CROWLEY: I seconded it.

21 MR. HEATH: Chairman Imbrecht, I believe
22 there are two other people who wish to make comments.

23 CHAIRMAN IMBRECHT: Oh, I'm sorry; excuse me.
24 Is there further public comment on this issue? Please
25 come forward. That really doesn't preclude us from

1 putting a motion on the floor, but ...

2 MR. VERMEULEN: Good morning. My name is
3 Phil Vermeulen and I am Director of Governmental
4 Affairs for the California Association of Sheet Metal
5 Heating and Air Conditioning Contractors National
6 Association, better known as Cal SMACNA. I have heard
7 a lot of half truths, quarter truths and eighth truths
8 by Mr. Splitt. I appreciate what you were saying about
9 waiting until we have an opportunity during a Committee
10 Meeting to bring all these things out. My original
11 contention was that we were adamantly opposed to Mr.
12 Splitt's Petition Request this morning. I will support
13 the staff 100%.

14 However, I would like to open up that
15 section. We are having a lot of problems with it also.
16 I think there are problems of the Building Inspection
17 Departments up and down the state. There is no
18 consistency whatsoever. As a matter of fact, I was
19 visiting the City of Moore Park, I believe it is,
20 yesterday down in Southern California on a brand new
21 building tract that the building inspector is off in
22 left field on. So, it is a continual problem that we
23 have. For those reasons, I would support the staff
24 100%.

25 CHAIRMAN IMBRECHT: Alright, thank you.

1 Further public comment? Yes.

2 MR. LUCAS: Bob Lucas representing Carrier
3 Corporation. I will keep it brief, very brief.
4 Carrier, too, has some concerns about enforcement of
5 this section and would also concur with the staff and
6 would urge you to adopt the Petition.

7 CHAIRMAN IMBRECHT: Alright. Further public
8 comment? Alright, I will move and Commissioner Crowley
9 will second that we accept the Petition, institute
10 rulemaking on these matters. Is there further
11 discussion? Commissioner Gandara.

12 COMMISSIONER NOTEWARE: Mr. Chairman, ther's
13 just a question. During the process of these hearings,
14 what will be the status of the requirement?

15 CHAIRMAN IMBRECHT: Mr. Chamberlain.

16 MR. CHAMBERLAIN: The requirement would
17 remain in effect until it was repealed and that repeal
18 was approved by the Office of Administrative Law and
19 the repeal was published in the Administrative Code.

20 COMMISSIONER NOTEWARE: Thank you.

21 CHAIRMAN IMBRECHT: Thank you. Commissioner
22 Gandara.

23 COMMISSIONER GANDARA: I have a question. I
24 don't know to whom it's directed, either staff, counsel
25 or Mr. Pennington. But, as I understand it, the motion

1 is to initiate rulemaking proceedings to lead to the
2 Commission's consideration of licensing requirements.

3 Is that correct or did I misunderstand something?

4 MR. CHANDLEY: I understood the motion to
5 grant a petition to initiate a rulemaking to examine
6 the licensing provisions and other matters relating to
7 enforcement in Section 1403.

8 COMMISSIONER GANDARA: Okay, but would that
9 possibly lead to licensing requirements as an option?
10 It doesn't preclude that?

11 MR. CHANDLEY: Well, I realize that the
12 staff's recommendation is that we examine that. It's
13 not clear to me that they recommend that we adopt
14 regulations on those recommendations. We have not
15 fully examined whether the Commission even has the
16 authority to adopt licensing requirements for building
17 designers, per se. I think that's a very legitimate
18 question and we ...

19 COMMISSIONER GANDARA: That's the point I was
20 trying to make. I see no problem with proceeding with
21 the motion. I only have a concern as to whether, if
22 that is one of the elements to be considered that
23 whether we should examine very carefully whether we
24 have that jurisdictional authority, because I think
25 that most licensing occurs under Consumer Affairs.

1 Before we enter into a new business here, I would be
2 reluctant for us to really enter into that activity.
3 But, I think that can be examined in the context of
4 proceeding with that.

5 CHAIRMAN IMBRECHT: I would agree with that.
6 Okay, further discussion? Is there objection to a
7 unanimous roll call? Hearing none, ayes: 5; noes,
8 none. The petition is adopted. Thank you very much.

9 The second item to come before is
10 Consideration and Possible Acceptance of the
11 Application for Certification (AFC) for the Irwindale
12 Resource Recovery Project.

13 (Agenda Item #2 - Irwindale Resource Recovery
14 Project -- Submitted under Separate Cover)

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1 interest in terms of MSW and have worked in the area.
2 I think I could add to the case. I am interested in
3 the case and I think it would make it a case also that
4 would be less partisan than if yourself and
5 Commissioner Crowley were the only two members. I also
6 think, Mr. Chairman, that you should be presiding over
7 a siting case rather than a second over one, and that
8 we only have one siting case, at this time.

9 CHAIRMAN IMBRECHT: Well, I anticipate that
10 will be changing very quickly because of the workload
11 that is before the Commission. I would just note that
12 a week ago you requested to be removed as a second
13 member of the Crockett siting case on the grounds that
14 you had less than ten months remaining in your term on
15 the Commission. The Crockett case was likely to be one
16 that reflected to a certain degree of public
17 controversy, and that in fairness to the applicant and
18 parties that we attempt to assign committees that are
19 likely to be in residence when the matter is brought to
20 a conclusion.

21 Frankly, it seems to me that the enunciation
22 of characteristics of the Crockett case fit this one in
23 every respect. It's for that reason that the
24 recommendation, by virtue of my motion, was made. I
25 frankly think that's appropriate. I understand that we

1 have another item on our Agenda today to accede to your
2 request on the Crockett case and it seems to me that we
3 ought to, if we are going to proceed on that basis, we
4 ought to be consistent in the manner in which we make
5 assignments.

6 COMMISSIONER COMMONS: Well, in the Agenda
7 package, I have not requested to drop off the Crockett
8 case. One of the issues I raised is, again--it was
9 Commissioner Gandara and myself on the Crockett case
10 and I again considered that also a partisan committee
11 and I did not think that was appropriate. I did not
12 feel that the two of us, who had some problems in terms
13 of accepting the case, should be the only two members
14 of that case.

15 In terms of the Presiding Member. The
16 Presiding Member, of course, has to write the report in
17 terms of the Committee's deliberations. It has not
18 historically in the Commission been a grave difficulty
19 of the second members on siting cases to change either
20 because a Commissioner leaves the Commission prior to
21 the completion of his or her term or for any other
22 reason. The responsibilities of the second member are
23 to follow the issues as they proceed and does not have
24 the same type of responsibility, a second member,
25 particularly in a siting case as compared to other

1 committees. The Presiding Member has very definite and
2 specific responsibilities that are very clear and
3 distinct in the legislation and would make it much more
4 difficult to switch the first Commissioner. But, that
5 has also happened fairly often in the Commission.

6 CHAIRMAN IMBRECHT: I would just note that
7 the suggestion somehow of partisanship, I consider to
8 be completely unfounded and without any merit. I would
9 just note that for the first eight years of the
10 Commission, by that criteria, then every Committee of
11 the Energy Commission was partisan. Certainly, for the
12 ninth year of the Commission, a substantial number of
13 the Committees were partisan. That's by the very
14 nature of the fact that you have a Commission in
15 transition. The bottom line is that that's the way the
16 statute and a bipartisan legislative proposal with the
17 public and Governor who signed it and created the
18 Energy Commission originally contemplated by virtue of
19 having staggered terms appointed by the particular
20 sitting Governor.

21 We are going to get to some point, obviously,
22 where at least there is a reasonably fair assumption
23 that the tables might swing completely in the other
24 direction and there would be no way to avoid that
25 circumstance. That's simply the fact of life and it is

1 reflected in the fact that we have a Commission in
2 transition. There is no way that I see, as a practical
3 matter, to avoid that in all these instances. Those
4 comments can always be made, but frankly they are
5 without foundation from my perspective. So, we have
6 each expressed our point of view on it. Are there any
7 further discussions? Alright, the substitute motion.
8 Commissioner Gandara.

9 COMMISSIONER GANDARA: Just again in line
10 with my earlier comment. This is an historic first for
11 the Commission--more than one member being issued in a
12 siting case. So, again, it would seem to me that we
13 have more than enough siting cases that the workload
14 can be evened out and everybody's desire can be
15 accommodated. Unless there is again a reason to assign
16 the full Committee today or, that we could, at least
17 that we have done with one other case, assign half the
18 Committee, the Presiding Member, and leave the rest for
19 later. But, again, my interest here is that we can
20 sort of have a harmonious partitioning of siting case
21 responsibilities.

22 CHAIRMAN IMBRECHT: Well, if we all brought
23 the same criteria that is--responsibilities, I think
24 that might be the case, but I don't sense that is
25 likely to be the case. I don't really, frankly, care

1 necessarily about signing a second membership right
2 now. But, my viewpoint is unlikely to change in the
3 next few weeks, so ...

4 COMMISSIONER COMMONS: I think Commissioner
5 Gandara that I understand the motivation. But if you
6 listen to what the Chairman's comment would be in all
7 cases that would come before us, he would assume that I
8 should not serve on them. That would be the consistent
9 perspective ...

10 CHAIRMAN IMBRECHT: I would just go back and
11 read the transcript and see what conclusion we can
12 draw, by virtue of the comments you made relative to
13 the Crockett case. All of these cases are difficult
14 and to, in essence, suggest that you want to pick the
15 case that you consider to be the most interesting or
16 the least controversial or most convenient from the
17 perspective geographic location or any of the other
18 obvious considerations that go to that, seems
19 unreasonable and unfair to me. We all have to take our
20 fair share of the workload. Let me suggest this. I
21 will withdraw the portion of my motion relative to the
22 second membership. For now, I think we should just
23 designate the Presiding Member and see whether there is
24 a reflection on your part to accept your fair portion
25 of the workload around the Commission.

1 COMMISSIONER COMMONS: I withdraw my
2 substitute motion. I withdraw my subsequent motion.

3 CHAIRMAN IMBRECHT: That's what it boils down
4 to. The motion then that is before us is to designate
5 Commissioner Crowley as Presiding Member of this case.
6 Is there further discussion? Hearing none, is there
7 objection to unanimous roll call? Hearing none, ayes:
8 5, noes: none. The motion is carried. Commissioner
9 Crowley is Presiding Member and I am sure we will
10 expeditiously consider the intervention petitions.
11 Thank you. I think that completes our consideration of
12 the Irwindale matter for today. The next item to come
13 before us is ...

14 COMMISSIONER COMMONS: Mr. Chairman. Point
15 of procedure. I submitted an item on through the
16 normal procedures to be put on the Agenda and it does
17 not appear on the Agenda.

18 CHAIRMAN IMBRECHT: What item are you
19 referring to?

20 COMMISSIONER COMMONS: I put an item on the
21 Agenda concerning Crockett.

22 CHAIRMAN IMBRECHT: It's Item #7,
23 Commissioner Commons.

24 COMMISSIONER COMMONS: No, that's not it. It
25 was not concerning the...it was a change in the

1 correction...I put an item on the Agenda to correct one
2 of the statements that were made concerning Crockett at
3 the previous hearing and that was different than the
4 item concerning possible change in the Committee
5 assignments, which was duly submitted to the
6 Secretariat.

7 CHAIRMAN IMBRECHT: Will you advise me? I
8 have no recollection of having seen such a memorandum
9 ...

10 MS. GERVAIS: I don't recall ever having
11 received a memorandum (inaudible).

12 COMMISSIONER COMMONS: Alright, my secretary
13 is not here this week. I will follow up on it.

14 CHAIRMAN IMBRECHT: It never came before me,
15 Commissioner Commons. So, I never acted on it in any
16 respect. Okay, the fourth item before us is Commission
17 Consideration and Possible Designation of a Commission
18 Committee to preside over the application for a Small
19 Power Plant Exemption for the Spreckle's cogeneration
20 projects. I will try another motion, here. I would
21 like to move that Commissioner Noteware be designated
22 as Presiding and Commissioner Gandara as second. Do I
23 hear a second?

24 COMMISSIONER NOTEWARE: I will second the
25 motion.

1 VICE CHAIRMAN CROWLEY: I'll second that.

2 CHAIRMAN IMBRECHT: Okay, the motion is
3 properly before us. Is there discussion? Does anyone
4 wish to be heard on this matter? Is there objection to
5 unanimous roll call? Hearing none, ayes: 5; noes:
6 none. The designation is approved.

7 Next item to come before us is is Item #5,
8 Commission Ratification of Commission cosponsorship of
9 the Renewable Energy Technologies Symposium &
10 International Exposition. The symposium will be held
11 in Anaheim on June 3-6, 1985. You would like to take
12 #7 first? Well, #6 we are not quite ready on, I want
13 to have a few further discussions.

14 Alright, that's a good idea. Commissioner
15 Gandara recommends that we take #7, #8 and #9. I think
16 we can probably dispose of those fairly quickly. Item
17 #7 is Commission Consideration and Possible
18 Reappointment of a Commission Committee to preside over
19 the Crockett Cogeneration Application for
20 Certification. I don't think it's really necessary to
21 go into a long explanation. It's fairly self-evident.
22 There has been some expression of concern by the
23 Commissioners assigned to that particular case. I
24 believe we have a satisfactory resolution of this
25 matter. I will, therefore, move that Commissioner

1 Noteware be substituted for Commissioner Gandara as
2 Presiding Member on the Crockett case and that
3 Commissioner Gandara be substituted for Commissioner
4 Commons as the Second Member on the case. Do I hear a
5 second?

6 COMMISSIONER GANDARA: Mr. Chairman, I would
7 gladly second that, but I would first want an
8 expression of interest in Commissioner Commons' part.
9 If he wishes to serve on the Committee, I would defer
10 to that request as well.

11 COMMISSIONER COMMONS: Thank you. Since you
12 were the Presiding Member, I have no objection as to
13 continuing on that case as a Second Member since you
14 were the Presiding Member, and I think you would, by
15 precedent, have the first opportunity. So, I would
16 leave it at your discretion. I am willing to accept
17 second. I am also willing not to be on the case as per
18 your wish.

19 COMMISSIONER NOTEWARE: The only
20 consideration as I see it, Commissioner Commons, is the
21 very strong likelihood that this will last a full year
22 and I can't help but relating to some of the on-going
23 water rights hearings that I was participating in when
24 all of a sudden I was no longer a member of the Water
25 Resources Control Board. It seemed almost futile that

1 I had spent so much time leading up to a decision that
2 I couldn't participate in. I can relate to that in
3 this case.

4 COMMISSIONER COMMONS: The Chairman is
5 questioning is to whether I was ducking. I am clearly
6 not ducking here.

7 COMMISSIONER GANDARA: Okay, well let me just
8 say fine, if it's fine with everybody else.

9 CHAIRMAN IMBRECHT: Alright, fine, is that a
10 second, Commissioner Gandara to our motion?

11 COMMISSIONER GANDARA: I second it.

12 CHAIRMAN IMBRECHT: Alright. The motion is
13 properly before us. Is there discussion? Does anyone
14 wish to be heard on this matter? Is there objection to
15 unanimous roll call? Hearing none, ayes: 5; noes:
16 none. The designation is approved.

17 The next item is Item #8, Commission
18 Consieration and Possible Approval of three projects
19 recommended for funding under the Geothermal Grants
20 Program. Mr. Ward.

21 EXECUTIVE DIRECTOR WARD: Thank you, Mr.
22 Chairman. As you will recall, the total of all the
23 proposed Geothermal Development Grants were brought
24 before you last week, after having been ratified by the
25 Loans & Grants Committee. But for the three projects

1 before you today, all were approved.

2 As you will recall, I believe it's the 1st of
3 April and we have a statutory requirement that the list
4 of projects be provided to the Legislature. The list
5 in total would then equate to the amount we have
6 requested under the program from the funds available in
7 that account. I think that there was a fairly clear
8 enunciation of the process that we have for the
9 Geothermal Development Grant Program. There is a
10 handbook, there is also some specific policy guidelines
11 that have been provided by the Commission for how that
12 program is to be administered in the ultimate selection
13 of the grant. In the context of that, very generally
14 there is a number of point totals that are tied to
15 various criteria that are then used by six individuals.
16 Some within the Commission and some outside the
17 Commission, to evaluate all requests for expenditures
18 of this money within the various categories allowed for
19 expenditure under the legislation.

20 I think that although there may well be
21 concerns about the level of matching requirements that
22 are contained under the existing policy and the
23 handbook that guides that program, that's more than any
24 concern about specific projects and their level of
25 matching phones from a local source, is probably a more

1 appropriate discussion within the debate of the
2 mechanics of how the program operates. I am a little
3 bit concerned that somehow we are going to get involved
4 in a process that has already unfolded with a fairly
5 good faith outlines to applicants under a process that
6 they would follow, that now would be abridging, by
7 taking some action independent from that process that's
8 been explained to you.

9 If you have any specific questions about
10 those projects and the criteria and the point value
11 selection, Mike Smith and Ralph Chandler from the Small
12 Power Producers are available to discuss it.

13 COMMISSIONER GANDARA: I do have a question.
14 I guess I am a little bit confused by the lengthy
15 introduction because I don't quite know what the
16 recommendation is. It was my understanding that
17 entering today's hearing that of the three that were
18 held over, there were no issues with respect to two of
19 those and we could at least to act on those. In
20 respect to the third one, there was a minor issue. So,
21 where are we really? Did something change?

22 MR. SMITH: Staff recommendation is still the
23 same as the March 6th Business Meeting. We have
24 provided Commissioner Commons with the information he
25 requested regarding the three grants that were held

1 over and we have since then briefed the Commissioners
2 and the advisors as to our recommendations, which were
3 then the same from the March 6th Business Meeting.

4 COMMISSIONER GANDARA: Well, Mr. Smith,
5 perhaps I'm misunderstanding. I thought that you were,
6 at least with respect to--there was only one issue that
7 was remaining. Am I wrong that with respect to two of
8 those grants, there is not an issue and we really are
9 only talking about the third one, and we are really
10 only talking about a portion of that grant? It was my
11 understanding that you were trying to reach an
12 alternative solution than that which was presented last
13 time. Am I misunderstanding something here?

14 MR. SMITH: No, I believe your assessment is
15 correct. The issue that remains is the matched
16 contribution on the City of Clear Lake grant. The
17 Technical Advisory Committee had recommended increasing
18 the amount request and at the March 6th Business
19 Meeting, Commissioner Commons had raised the concern
20 that in doing that. The corresponding match from the
21 city was decreased on a percentage basis.

22 COMMISSIONER GANDARA: If I may, perhaps,
23 with some inquiries of Commissioner Commons, and I
24 think that we only have one item that's an issue. We
25 should proceed with the approval of the other items and

1 then leave that item go ...

2 COMMISSIONER CROWLEY: If, indeed, we still
3 have, would you comment as to what ...

4 COMMISSIONER COMMONS: Yes, I want to thank
5 the Division for updating us. We can support the three
6 projects. They are very marginal as far as I am
7 concerned. They barely pass the criteria of 80% and I
8 think as our Executive Director, Randy Ward, said the
9 problem may be going back into the criteria where the
10 matching is only given 15 points. I do not think it's
11 appropriate that we'll be spending \$80,000 with a match
12 of only \$10,000. However, that's the way the criteria
13 currently works and I don't think it's fair to change
14 that procedure in the middle of the ballgame. So, my
15 my vote will be to approve the three loans but to ask
16 the Loans & Grant Committee if they feel that the
17 matching fund criteria should either be increased to
18 20% or 25% rather than just 15%.

19 VICE CHAIRMAN CROWLEY: This deals with
20 around five applications--#11, #15 and #19. The one to
21 you is still--was left clear as #19 and now, and at
22 this point, you would vote for that one, correct? Is
23 that a motion?

24 COMMISSIONER COMMONS: I have no objection to
25 the staff report.

1 VICE CHAIRMAN CROWLEY: Is that a motion to
2 this?

3 COMMISSIONER COMMONS: I think the Presiding
4 Member should ...

5 COMMISSIONER GANDARA: I will move the staff
6 recommendation.

7 VICE CHAIRMAN CROWLEY: A motion has been
8 made to accept the staff recommendation on Items #11,
9 #15, and #19 of ratified applications for the
10 Geothermal Grant Program. Is there a second to that
11 motion?

12 COMMISSIONER NOTEWARE: I second the motion.

13 VICE CHAIRMAN CROWLEY: The motion has been
14 seconded by Commissioner Noteware. Is there any
15 discussion on the question? Is there any opposition to
16 the motion? The motion passes unanimously.

17 COMMISSIONER GANDARA: Let me just state that
18 the Committee will take under advisement Commissioner
19 Commons' concern and request the staff to highlight for
20 the Committee in the future those project proposals
21 that might be different from, in some way or other,
22 than past ones.

23 VICE CHAIRMAN CROWLEY: I have a note here
24 requesting to be heard regarding the funding of the
25 Lake County Geothermal Grant Proposal, Item #8. This

1 had been, as I understand it from staff, dealt with at
2 our previous meeting, is that correct? That was on the
3 list that we approved at that time?

4 MR. SMITH: No, the Lake County Grant
5 Application had been recommended by the Technical
6 Advisort Committee but for no funding.

7 VICE CHAIRMAN CROWLEY: I see ...

8 MR. SMITH: At the March 6 meeting, Mark
9 Dellinger, the Geothermal Coordinator from Lake County,
10 spoke in its behalf. As a result, the application was
11 held over for consideration at today's meeting.

12 VICE CHAIRMAN CROWLEY: So, then we were not
13 really just only dealing with these three that have
14 been held over--by being pulled from the previous
15 stats?

16 MR. SMITH: We were dealing with just these
17 three. The only fifteen that staff had recommended for
18 funding, either full or partial funding, had been
19 approved at the previous Business Meeting.

20 VICE CHAIRMAN CROWLEY: And the two were not
21 approved were #8 and ...

22 MR. CHANDLEY: We held three projects over.
23 One was staff's recommendation for no funding approval.
24 That was Project #8, I believe. The other two--the
25 Sierra County Project and the Project in Clear Lake

1 were the other two projects and they were ...

2 VICE CHAIRMAN CROWLEY: Thank you. I had
3 marked the Geotechnical ..

4 COMMISSIONER COMMON: I think it was #12 and
5 not #8 that was held.

6 VICE CHAIRMAN CROWLEY: Well ...

7 COMMISSIONER COMMONS: #8 we funded at the
8 last Business Meeting, it is my understanding ...

9 VICE CHAIRMAN CROWLEY: Well, that was my
10 understanding. Am I hearing that that isn't so?

11 MR. SMITH: Do we have the numerical
12 numbers associated with each project?

13 COMMISSIONER COMMONS: #12, I believe, had a
14 score of 65.8 with 80 being required for funding ...

15 MR. SMITH: That's the one that staff
16 recommended not funding. It's from the Lake County
17 Flood Control and Water Conservation for \$35,000.
18 That's correct.

19 VICE CHAIRMAN CROWLEY: On Geotechnical?.
20 That's #11 on this list. That's why I'm confused by
21 having Mr. Franklin speak to Item #8, which is Lake
22 ATCB Air Quality Impacts Model. What is the status of
23 that?

24 MR. SMITH: That was approved by the
25 Commission at the last Business Meeting. There has

1 obviously has been a re-ordering of the numbers.

2 VICE CHAIRMAN CROWLEY: Okay, then my
3 question is that at time was approved, is that right?

4 MR. SMITH: The Lake County ATCB ...

5 VICE CHAIRMAN CROWLEY: Okay, Mr. Franklin
6 has asked to speak to that issue. Mr. Franklin, would
7 you like to come up and speak to the Commission
8 regarding funding Lake County's Geothermal Grant
9 Proposal, Item #8, or are we on another #8?

10 MR. CHANDLEY: I think the confusion is you
11 are looking at Agenda Item #8, which is the item that
12 we are considering right now, not the back-up package.

13 VICE CHAIRMAN CROWLEY: My apology. The Item
14 that Mr. Franklin wishes to speak to would be ...

15 MR. SMITH: Item #11, which is Lake County
16 ...

17 VICE CHAIRMAN CROWLEY: Geotechnical?

18 MR. SMITH: That's correct.

19 VICE CHAIRMAN CROWLEY: Okay, and is that
20 under consideration today?

21 MR. SMITH: It was one of the three that was
22 held over for consideration.

23 VICE CHAIRMAN CROWLEY: And that we did vote
24 on?

25 MR. SMITH: That you did vote on today.

1 VICE CHAIRMAN CROWLEY: And we did approve?

2 MR. SMITH: No.

3 MR. CHANDLEY: You approved the staff
4 recommendation which was to provide no funding.

5 VICE CHAIRMAN CROWLEY: Okay, Mr. Franklin,
6 would you ...

7 MR. FRANKLIN: First of all, if you've
8 already approved it, I don't want to speak. I'm Bud
9 Franklin, Supervisor of the 5th District in Lake
10 County. I am very happy to be here, by the way. As
11 you may recall, on March 6, 1985, Lake County's
12 Geothermal Coordinator told you that Kelsey Creek Water
13 Supply Project was the #1 priority on our 1905
14 Screening Committee and Water Planning Committee.

15 Our primary goal in this project is to
16 provide water for injection in the geothermal
17 reservoirs, to prolong steam-filled production in an
18 environmental acceptable manner. Pressure reduction in
19 geyser reservoirs are occurrences which, we believe,
20 should be addressed in our long-range planning efforts.
21 Currently, the county has 270MW installed, 384MW under
22 construction, or in the permitting process, and a total
23 of 1,000 MW of identified geothermal resources to be
24 developed in the next ten to fifteen years. This
25 qualifies for funding pursuant to Public Resource Code

1 Section 3823A.3, for mitigation of adverse impacts of
2 geothermal development.

3 Other objectives to the project is to ensure
4 future geothermal water needs that will not diminish
5 agricultural water supplies. Therefore, this project
6 qualifies for funding under Public Code Section
7 3823B.6, in undertaking projects for the preservation
8 of natural resources, including water development.

9 It is important to remember that Lake County
10 continues to demonstrate its commitment to geothermal
11 development, in general, and specifically, to this
12 project in time and money. To date, approximately
13 \$235,000 has been invested. Furthermore, our Board of
14 Supervisors and Water Planning Committee contributed
15 \$10,000 each.

16 We believe that Kelsey Creek Water Supply
17 Project to be the first step in the geothermal
18 injection and water supply program. If you recall,
19 Imperial County is involved in a similar prograam which
20 includes requiring 80% of the extracted resource to be
21 injected. An aggressive acute that preventing further
22 reservoir pressure reductions will assist Lake County
23 in avoiding similar problems which exist in England, El
24 Salvador and Mexico.

25 We respect your staff's position in regard to

1 the proposed project. However, because of reasons
2 previously decided, as well as Lake County's commitment
3 of time and money in this project, we respectfully
4 request your support for funding. Our geothermal
5 coordinator is here again today if you have any further
6 questions. Thank you very much.

7 VICE CHAIRMAN CROWLEY: Mr. Smith, would you
8 recap for us briefly, the status of that application?

9 MR. SMITH: The Technical Advisory Committee,
10 when we reviewed this application, basically found that
11 although the arguments for building a dam for domestic
12 water supply or irrigation or injection water for the
13 geothermal industry, is a matter that is relevant to
14 the decision-making process at the local level, the
15 need for the dam is to be determined by the Lake County
16 Board of Supervisors and any other entity that is
17 responsible for such decisions. Their decision to
18 submit an application to us for funding to do the
19 geotechnical work for the dam falls under another set
20 of criteria.

21 When we reviewed this application, we found
22 that: 1) there was no correlation made or documented
23 in the application that in any way related the need for
24 the dam with mitigation of domestic water supplies.
25 The mitigation of impacts caused by demand on domestic

1 water supplies by geothermal development nor was there
2 any correlation between the dam and the agricultural
3 interests. which, I assume, is for your irrigation
4 purposes. Without that, the Technical Advisory
5 Committee had no choice but to deny funding.

6 Last week, it appeared to the Technical
7 Advisory Committee that if the main purpose for the dam
8 was to provide injection water for the geothermal
9 developers and irrigation water for the agricultural
10 sectors, that they should, in conjunction with the
11 appropriate authorities in Lake County, continue with
12 the project. It would be an inappropriate expenditure
13 of grant funds for this activity.

14 There is no eligibility requirement or there
15 is no statement in the law that requires us to fund
16 projects that enhance the profitability with the
17 production capabilities of private geothermal
18 developers. There are requirements that--for eligible
19 projects if the project is mitigating an impact caused
20 by geothermal development. This stand clearly does not
21 fall into this category.

22 VICE CHAIRMAN CROWLEY: Are there any
23 questions? Then the three issues that were carried
24 over -- to recap that -- were Lake County Flood Control
25 and Water Conservation District's Pomo Dam Project. Is

1 that correct?

2 MR. SMITH: I'm sorry, would you repeat that?

3 VICE CHAIRMAN CROWLEY: Which are the three
4 projects that were carried over?

5 MR. SMITH: Okay, in the back-up package,
6 Item #11, which is Lake County Geotechnical for Pomo
7 Dam.

8 VICE CHAIRMAN CROWLEY: What is your
9 recommendation?

10 MR. SMITH: Our recommendation is to deny
11 funding.

12 VICE CHAIRMAN CROWLEY: The second item which
13 is Item #15 ...

14 MR. SMITH: Item #15, which is Sierra
15 County's application. Our recommendation is to fund it
16 partially and level it at \$431,000.

17 VICE CHAIRMAN CROWLEY: And the third item?

18 MR. SMITH: The third item is from the City
19 of Clear Lake and our recommendation is to fund it at
20 \$81,520, which is \$40,000 over what they were asking.

21 VICE CHAIRMAN CROWLEY: Is there any further
22 discussion on this matter?

23 COMMISSIONER COMMONS: I think they already
24 voted.

25 VICE CHAIRMAN CROWLEY: Well, that was what I

1 had asked and I had thought we had passed too. But
2 then Mr. Franklin had a presentation. I wondered if
3 there was anything further on it.

4 COMMISSIONER COMMONS: I would guess the
5 Commission has the right of reconsideration, if they so
6 wished.

7 VICE CHAIRMAN CROWLEY: Thank you. Item #9
8 is a Contract No. 70084018 for \$60,000 for California
9 State University at Chico. Mr. Wilson.

10 MR. WILSON: Good afternoon. The contract
11 that we are proposing before you today is one of two
12 contracts which would provide us some resource
13 information for the Geysers area. The contract
14 specifically today is for some mapping work and some
15 equipment and training manuals that would go along with
16 some of the equipment for aerial photo interpretations.
17 The mapping work would be done by CSU Chico. They, in
18 addition, would also acquire the equipment for us and
19 come in and help staff get up to speed on how to use
20 this equipment.

21 The second contract that will be coming later
22 in the year is for aerial photography, which would be
23 used for resource mapping in the Geysers area.

24 VICE CHAIRMAN CROWLEY: Thank you. Are there
25 any questions? Is there any discussion on approving

1 this contract with Cal State University at Chico? Is
2 there any objection to casting a unanimous ballot on
3 the matter? Thank you. Showing the absence of
4 Chairman Imbrecht and Commissioner Commons, the three
5 remaining Commissioners voted "yes" on this contract.

6 COMMISSIONER GANDARA: May I address the
7 chair?

8 VICE CHAIRMAN CROWLEY: Please.

9 COMMISSIONER GANDARA: Just for technical
10 purposes, you should attribute a motion and a second to
11 somebody.

12 VICE CHAIRMAN CROWLEY: That's a nice thought
13 and I apologize. I'm sorry. Is there a motion on this
14 matter?

15 COMMISSIONER NOTEWARE: I'll move.

16 VICE CHAIRMAN CROWLEY: Thank you and thank
17 you for bailing me out. Motion by Commissioner
18 Noteware, is there a second?

19 COMMISSIONER GANDARA: Second.

20 VICE CHAIRMAN CROWLEY: Then let us show a
21 unanimous vote for the members present for this matter.
22 Ayes: 3; noes: none -- for the members present. The
23 contract is approved. Thank you and I apologize,
24 gentlemen.

25 Item #10, No-Cost Time Extension and

1 Amendment to Contract (500-82-001, Amendment #3) with
2 Acurex Corporation.

3 MS. SULLIVAN: I am Cindy Sullivan, the
4 Contract Manager for the Acurex contract. This
5 amendment is basically to allow us to continue revenue
6 service for the buses for an extended period of time.
7 Based on the fact that the Environmental Protection
8 Agency has agreed to fund emission testing for the
9 buses, which we had originally planned to pay for.

10 VICE CHAIRMAN CROWLEY: Is there any
11 discussion or are there any questions? Is there a
12 motion regarding a contract?

13 COMMISSIONER GANDARA: Should I ask the
14 chair's preference? Should we address Mr. Chairman,
15 Chairperson?

16 VICE CHAIRMAN CROWLEY: Not Chairperson. Can
17 we say the ones I don't want? Anything, except
18 Chairperson.

19 COMMISSIONER GANDARA: Well, I'd like to
20 address the chair. Perhaps we should wait until we
21 have everybody here. Maybe we should recess.

22 VICE CHAIRMAN CROWLEY: Let's do that. I
23 will declare that we are recessed until the time that
24 we have our membership.

25 (Thereupon the afternoon session of the

1 Business Meeting of the California Energy Resources
2 Conservation and Development Commission was adjourned
3 for a brief recess at 3:15 p.m.)

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AFTERNOON SESSION

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3 VICE CHAIRMAN CROWLEY: Let us re-convene.
4 Item #8, also you would like to bring out another
5 aspect of this project and this is Item #15?

6 MR. SMITH: Yes, I believe so. The Sierra
7 County grant. There was one further provision in
8 staff's recommendation that the one considered by the
9 Commission is part of the record; and at the last
10 business meeting we attempted to propose that the
11 Sierra County grant referring to the sole source
12 contract specified in the application such that when it
13 came before the Commission for approval, the Commission
14 was approving or representing an application and would
15 have no requirement for sole source contract, thus
16 forcing the county to bid the work out competitively.

17 This is in compliance under our own
18 procedures under Grant Management and we've discussed
19 this with the county and they have no objections to
20 including this as part of the Commission's
21 recommendation and approval on the grant. There are
22 two items in the application: one for the sole source
23 contract for management, and the second sole source
24 contract for geological services.

25

1 VICE CHAIRMAN CROWLEY: So, the motion would
2 be to accept the contract which would show no sole
3 source provisions as had been requested by the County,
4 but which change they do agree to. Is that correct?

5 MR. SMITH: That's correct.

6 VICE CHAIRMAN CROWLEY: And this would be
7 under Item 8, it would be the item dealing with Sierra
8 County?

9 MR. SMITH: That's correct. So the
10 recommendation that we sent to the Legislature has no
11 provisions for sole source contract.

12 VICE CHAIRMAN CROWLEY: What is the pleasure
13 of the Commission on this matter?

14 COMMISSIONER GANDARA: I have to pardon
15 myself for not having fully heard the discussion, but
16 if Mr. Smith, if it's the same issue that we discussed
17 recently when you briefed me regarding the sole source
18 aspect? This is the same recommendation you made to me
19 in my office?

20 MR. SMITH: That's correct.

21 COMMISSIONER GANDARA: That's fine. I have
22 no problems.

23 CHAIRMAN IMBRECHT: I think that resolves the
24 matter?

25 VICE CHAIRMAN CROWLEY: I think it would be

1 appropriate to have a motion indicating that.

2 COMMISSIONER NOTEWARE: I'll second that.

3 CHAIRMAN IMBRECHT: Moved by Commissioner
4 Gandara, seconded by Commissioner Noteware. Any
5 indications of staff be ratified, I guess was the way
6 to describe it. Is there objection or further
7 discussion? Hearing none, ayes: 5; noes: none. The
8 motion is carried.

9 MR. SMITH: Thank you very much, Mr.
10 Chairman.

11 CHAIRMAN IMBRECHT: Alright. So we're done
12 with items #7, 8 and 9. Okay. Yes.

13 EXECUTIVE DIRECTOR WARD: Mr. Chairman, we
14 had in the prior recess we were on Item #10. We need
15 to return at some point to Item #5.

16 CHAIRMAN IMBRECHT: Yes, I'm aware of that.
17 Thank you. Let's remove the item that has distracted
18 us today to see if we can resolve that. Let's turn to
19 Item #6, which is Commission Consideration and Possible
20 Designation of 1985 Commission Committee assignments.
21 I'm going to make the following as a motion and at
22 which time I'll invite a second. I will orally
23 enunciate a modification to the proposed assignments
24 that are included within your hearing packet. I'm only
25 going to delineate those changes from that which is

1 before you in writing since I think it's unnecessarily
2 time-consuming to go over the remainder of it.

3 First, with respect to the assignments
4 themselves, and then I'll go to the order itself in
5 terms of changes in language that we can accomplish
6 today as well as direction to the staff for additional
7 changes.

8 The assignment of membership to committees
9 would remain consistent as it is down through Committee
10 #4; however, that Committee will be re-titled Loans and
11 Grants and Economic Impacts Committee. And,
12 subsequently, I will enunciate the changes in terms of
13 jurisdiction in the accompanying order, but basically
14 the change would be that the geothermal grant programs
15 and the Biomass SAFRUA programs would remain within the
16 Loan and Grants and Economic Impact Committee.

17 The Fuels Planning Committee, the Second
18 Member would be myself, rather than Commissioner
19 Commons. On the Research Development and Demonstration
20 Committee, the Second Member will be Commissioner
21 Gandara rather than Commissioner Noteware. On the 1987
22 California Energy Plan Committee, there will be a
23 subsequent designation that Commissioner Noteware will
24 serve as a Presiding Member of the Electricity Report
25 for 1987, CFM-6; and that Commissioner Commons will

1 serve as a Second Member to Commissioner Noteware on
2 the CFM-6 Electricity Report through the remainder of
3 his term.

4 On Committee #9, the title will be changed to
5 the Appliance Programs Committee and a twelfth
6 committee will also be created known as the Building
7 and Load Management Committee to be composed as
8 Commissioner Commons as the Presiding Member and
9 Commissioner Noteware as the Second Member.

10 Not as a Standing Committee of the
11 Commission, but I believe, Mr. Chamberlain, this would
12 be appropriate. We'd neglected to notice a designation
13 of the Sycamore Siting Case Committee. Could we do that
14 within the context of this noticed item?

15 MR. CHAMBERLAIN: Yes.

16 CHAIRMAN IMBRECHT: Alright, I want to make
17 it clear. This is not as a Standing Committee, but as
18 a Siting Committee and therefore encompassed with my
19 motion, there's a designation of Commissioner Gandara
20 as the Presiding Member and Commissioner Noteware as
21 the Second Member of the Sycamore AFC.

22 Turning now to the order that delineates the
23 jurisdiction of the committees, a few changes and we
24 will direct staff to make the appropriate language
25 changes to reflect what I'm going to enunciate from a

1 policy perspective. In terms of the description of the
2 Intergovernmental Relations Committee, the clause which
3 reads "including but not limited to out-of-state power,
4 PURPA state and federal tax credits, interstate
5 transportation of natural gas", that clause be deleted.
6 And so the jurisdiction Intergovernmental Relations
7 Committee would read, "to give policy direction to
8 staff and make recommendations to the Commission on
9 inter-jurisdictional energy issues and on interventions
10 before state and federal boards and agencies.

11 With respect to Committee #4, the title and
12 word Conservation would be deleted. And if you looked
13 down to Committee #6, the fourth line which includes
14 the phrase "..direct staff in the development of
15 procedures to implement and monitor the biomass and
16 geothermal grants programs..", that language would be
17 appropriately inserted into the description of the
18 fourth Committee and we'll leave it to staff to make
19 that proper insertion. But that is the intent of the
20 change, and would be, in essence, the language that
21 deals with those two programs in Committee #6.

22 Turning to the second page of the description
23 of Committee jurisdiction, in Committee #9, the title
24 the words, "Building and" would be deleted. And in the
25 description, the "residential and nonresidential

1 building" would be deleted. And that will be covered
2 subsequently in just a moment.

3 In Committee #10, "load management" would be
4 deleted. And then finally, a twelfth committee would
5 be created known as the Building and Load Management
6 Committee and it would assume the jurisdiction over the
7 residential and nonresidential building standards
8 programs, and the load management programs which have
9 been deleted from the other two committees.

10 And that is my motion. Do I hear a second?

11 COMMISSIONER NOTEWARE: I'll second it.

12 CHAIRMAN IMBRECHT: Seconded by Commissioner
13 Noteware. Is there discussion? Does anyone wish to be
14 heard on this item? Mr. Gardner.

15 MR. GARDNER: Mr. Chairman, Mike Gardner
16 with my Kern River Cogeneration Company "hat" on this
17 afternoon. On behalf of the applicant in the Sycamore
18 case, would stipulate to the Commission's proper
19 noticing of changing the Committee today if that makes
20 you feel any better. And your recommendation is
21 perfectly acceptable.

22 CHAIRMAN IMBRECHT: Thank you. I was afraid
23 you were going to wade into some of those other issues.

24 (LAUGHTER)

25 CHAIRMAN IMBRECHT: It's very wise, Mr.

1 Gardner. Alright, Commissioner Gandara.

2 COMMISSIONER GANDARA: Since there is always
3 a reason for tea leaves here, I just wanted it to be at
4 least clear with respect to the two committees that I'm
5 presiding over. I'm continuing to preside over the
6 same committees and the jurisdictions and tasks of
7 those committees may not change.

8 CHAIRMAN IMBRECHT: Yes, with the exception
9 of the jurisdictional dispute that was involved with
10 respect to Loans and Grants. That's now been resolved.

11 COMMISSIONER GANDARA: Right, that's all I
12 need.

13 CHAIRMAN IMBRECHT: Alright, okay. Fine.
14 Hearing no discussion, is there objection to a
15 unanimous roll call? Hearing none, ayes: 5; noes:
16 none. The Committee assignments and order are hereby
17 adopted and staff is directed to make the appropriate
18 language changes in conformance with the motion.

19 COMMISSIONER NOTEWARE: Congratulations, Mr.
20 Chairman.

21 CHAIRMAN IMBRECHT: Thank you very much,
22 Commissioner Noteware.

23 We'll just note that earlier statements made
24 today were not on the record. So I'll not take any
25 further exception to them.

1 EXECUTIVE DIRECTOR WARD: Mr. Chairman, Item
2 #10, I believe....

3 CHAIRMAN IMBRECHT: Pardon me, let's turn now
4 to Item #5. Clean up our agenda. Item #5 is
5 Commission Ratification of Commission cosponsorship of
6 the Renewable Energy Technologies Symposium &
7 International Exposition. Mr. Ward.

8 EXECUTIVE DIRECTOR WARD: Mr. Chairman, this
9 is consistent with sponsorship we provided to RETSIE
10 for at least the past two years. What occurs here is a
11 trade we assist the conference and are invited to
12 cosponsor. What that technically means is some staff
13 work that goes into putting together a booth and the
14 display. In the past we've had a methanol car as well
15 as pronouncement to the number of our energy programs
16 and technologies that we're involved in for a mailing
17 where we assist the conference in mailing out their
18 brochure for invitation to specify the number of
19 recipients on our mailing list. I believe that we also
20 get some complimentary passes for the staff to the
21 conference as well. And it turns out to be very close
22 to awash. My understanding is that at least one
23 Commissioner had raised a question regarding the
24 propriety of this in terms of, I guess, legal
25 propriety. I have directed staff to have discussions

1 with the General Counsel. That has largely been
2 resolved. The cost of the mailing is something less
3 than \$3,000 given the display booth and the other
4 advantages to cosponsor that I had previously
5 enunciated. I believe you'll find the dollars to be
6 relatively equal in terms of what we're providing
7 versus what the conference is providing us aside from
8 the beneficial educational aspects, participation in
9 the seminars and those kinds of things.

10 CHAIRMAN IMBRECHT: Further, I'd just like to
11 add to that is that I have specifically spoken with the
12 organizers of the conference and made it clear to them
13 that each member of the Commission was to be personally
14 and formally invited to RETSIE and with appropriate
15 consideration for guest credentials and so forth.

16 EXECUTIVE DIRECTOR WARD: Thank you, Mr.
17 Chairman.

18 CHAIRMAN IMBRECHT: Commissioner Commons.

19 COMMISSIONER COMMONS: Yes, Mr. Chairman. I
20 think I have one question and one item on this matter.
21 If two brochures cost \$7,000, why would one brochure
22 cost \$1,840?

23 EXECUTIVE DIRECTOR WARD: It has to do with
24 the size of the brochure, it's my understanding. What
25 we have done is stipulated that there needs to be a

1 reduced size which thus has a corollary reduction in
2 the mailing cost to try to keep the cost of the mailing
3 and our benefit as equal as possible.

4 COMMISSIONER COMMONS: I think my primary
5 legal concern here is this is a private organization
6 and that so long as our costs don't exceed \$2345, and
7 we're getting tickets that have that value in the
8 booth, that has a value of, if my understanding is
9 correct, of \$945, that would not be illegal. Are other
10 sponsors having to make similar donations or are we
11 unique in this?

12 EXECUTIVE DIRECTOR WARD: I'm not
13 particularly aware of how other cosponsors handle this.
14 There are other state agencies involved. Maybe Mr.
15 Smith or Mr. Vann can respond to that, but I'm sorry, I
16 can't.

17 MR. SMITH: We know that the other cosponsors
18 have been asked to participate in mailing of the
19 Commission brochures. I can't give you a rundown on
20 what their response has been. It wouldn't surprise me
21 at all if it wasn't very similar to ours in terms of
22 approaching this with sort of a balance sheet in mind.

23 COMMISSIONER COMMONS: The last is, I have
24 the brochure that you put into our package and it lists
25 us as a sponsor and it had not yet been brought forth

1 before us. Have you talked with the sponsors as to how
2 that came to pass? Do you think a letter would be
3 appropriate?

4 MR. SMITH: No, we haven't had that
5 conversation with RETSIE staff. As I recall the
6 discussion, there was a recollection that there had
7 been some Commission discussion of it, but formally
8 there wasn't a record of any Commission action which is
9 the reason that we put it on the agenda today so that
10 it provides the opportunity to formally take an action
11 on the co-sponsorship.

12 COMMISSIONER COMMONS: Well, I do think it is
13 highly unusual for someone to list us as a cosponsor
14 prior to the time that we adopt sponsorship.

15 CHAIRMAN IMBRECHT: I think it would be
16 appropriate to inform them that that ought to occur
17 only after there's formal action of the Commission. I
18 think that there's obviously been some miscommunication
19 here, but I think also, innocent miscommunication at
20 least from my perspective.

21 COMMISSIONER COMMONS: The other point I'd
22 like to make is, I assume there will be a RETSIE '86
23 and I'd like to suggest that this be brought before the
24 Commission in the Fall sometime so we don't have a
25 similar problem next year.

1 CHAIRMAN IMBRECHT: Alright, fine. I would
2 like to move ratification. Is there a second?

3 VICE CHAIRMAN CROWLEY: I'll second it.

4 CHAIRMAN IMBRECHT: Seconded by Commissioner
5 Crowley. Commissioner Gandara?

6 COMMISSIONER GANDARA: I'm not quite clear on
7 the exchange value. We have some staff time? You said
8 we had done this in the past? Was that the estimate of
9 the staff time we put in the past by two....

10 MR. SMITH: Basically the staff time is to
11 prepare our displays, our materials that we'll be
12 taking there. There is no staff time devoted to
13 supplementing RETSIE's staff. No, this is our own
14 preparation within the Public Information Office and
15 then potentially within the division.

16 COMMISSIONER GANDARA: I'm pleased to hear
17 that Commissioner Imbrecht has talked to the organizers
18 of this conference because I do think this is one of
19 the premiere conferences in this area. And yet, I've
20 been quite astonished in that it has been occurring
21 that I have never received an invitation to the
22 conference. So, this will be a first. I guess the
23 second question that I guess I would ask is when you
24 said that each of the Commissioners would be invited,
25 the first question would be would be invited with

1 respect to the exhibition, with respect to the
2 symposium itself. And because there is a considerable
3 or hefty registration fee for this particular
4 conference, the second question I guess related to that
5 would be were those invitations in addition to or
6 included within the eight that are indicated here. And
7 I guess my third question would be if Counsel would be
8 --- is that reportable that a FPPC reportable
9 requirement of that as a gift?

10 CHAIRMAN IMBRECHT: Let me try at the last
11 question. I didn't get in all those things. I
12 basically expressed to the organizers the sense that I
13 had which again, had been an innocent one. I had
14 assumed that other Commissioners had been invited in
15 the past, and largely because of the fact that I recall
16 seeing, certainly two years ago, I believe, all five
17 members of the Commission attended and I physically saw
18 each of the Commissioners at the Conference. I assumed
19 that similar arrangements were made last year.
20 Apparently, that was not the case, and then another
21 conversation I had with him, I just told him very
22 clearly that I thought that that had been a mistake;
23 that there were certain minimum courtesies that ought
24 to be extended and I was assured that that would be
25 done. I did not get into a discussion about whether

1 that was in lieu of these other credentials or
2 whatever, so I can't answer that for you. I put to
3 them more on the basis that this was a courtesy and a
4 breach of protocol that should not have taken place a
5 year ago and it should be avoided now. On the FPPC
6 thing, I think to a large extent, it really involves
7 around whether or not you are an active participant or
8 not. At least, that's my understanding.

9 MR. CHAMBERLAIN: No, I believe -- and I will
10 check this out. But you can take this as my opinion
11 unless I get back to you. The sponsor of the
12 conference can waive the fee of the conference to you
13 without it being a source of income. If the sponsor of
14 the conference also provides your transportation
15 costs, and that's \$250 or more -- then it is a source
16 of income unless it's within the state and you provide
17 something like speaking at the conference in return.
18 But if all they're doing is giving you a credential to
19 come to the conference and not charging you the fee
20 they would charge others, I don't believe that would be
21 a reportable income.

22 COMMISSIONER GANDARA: Well, again it also
23 depends on what one is being invited to. I think
24 admission to the exhibition is \$5.00; and admission to
25 the symposium is fully reportable event. The reason I

1 raise it is because I want to make clear that we're
2 doing what I have to do in terms of invitation. I have
3 never attended the RETSIE symposium; I have attended
4 for the past two years the reception that SFICO, that
5 is a member of the board...

6 CHAIRMAN IMBRECHT: I can't believe you
7 weren't invited for that reason, much less you're
8 involved with two organizations that cosponsored.

9 COMMISSIONER GANDARA: Right, so as one of my
10 obligations with respect to the reception that the
11 SFICO does in order to promote its loans, I have been
12 there just mainly for the reception. I have always
13 felt that the fee of the conference was so substantial
14 that I'm not quite so certain that the return was worth
15 it to the state. So, if this is a way of
16 participating, it might be more accommodating to state
17 budgets, I certainly would think that it's not an
18 unreasonable request.

19 EXECUTIVE DIRECTOR WARD: Commissioner, I
20 voice some displeasure. In fact, in the past when it
21 was indicated that a certain amount of the staff's fee
22 would be waived, that I felt that it was like to some
23 extent of pulling teeth to get that accomplished.

24 CHAIRMAN IMBRECHT: Part of the problem is my
25 own understanding of the situation, is that you've got

1 several organizations involved in this. The first
2 RETSIE Conference, and this is from my personal
3 perspective, was substantially better organized and
4 conducted than was the second. There was a change in
5 the lead sponsoring organization between the first and
6 the second. The lead sponsoring agency of the first
7 RETSIE Conference is back in the saddle, so to speak,
8 for this one. And having dealt with both groups, my
9 personal perspective is that the former rather than the
10 latter is far more sensitive to these kinds of
11 considerations and I think that a large part of what
12 happened last year was a reflection of the
13 insensitivity that caused their management of the
14 conference. I understand there were complaints from a
15 lot others from aside the Energy Commission about these
16 same kinds of things.

17 Okay, the motion's before us. Is there
18 further discussion? Is there objection to a unanimous
19 roll call? Hearing none, ayes: 5; noes: none. The
20 motion is adopted and the ratification has occurred.

21 Let me just before we move off this item, as
22 a matter of information I will be bringing forward to
23 you a proposal. In some recent communication, you may
24 recall that completely separate from RETSIE, but
25 conducted at the same chronological time, has been an

1 International Roundtable on Renewable Energy that
2 attracts literally a worldwide audience and the
3 sponsors of that particular effort have been in touch
4 with me and asked about whether the Energy Commission
5 ---- they want to move the location out of Southern
6 California. We've had some discussion about appropriate
7 role, and I suggested a possibility. I'll bring it to
8 you in a formal proposal. I just want to notice this
9 to you now. But before the International Roundtable,
10 at least one day of it would be conducted here at the
11 Energy Commission, at our facility here in our Hearing
12 Room, so forth and provide an opportunity for our staff
13 and members of the Commission to have, I think, what
14 could be a very useful outreach interchange with people
15 that hold energy leadership positions from both
16 developed and non-developed countries from throughout
17 our globe.

18 So, I see this as a potentially substantial
19 opportunity for all of us on the part of this
20 institution with little or no expense involved and I
21 will bring it to you in the way of a proposal.

22 COMMISSIONER GANDARA: I would be supportive
23 of that, Mr. Chairman. I just returned from a most
24 interesting conference sponsored by the Solaris
25 Project, jointly sponsored by the Saudi Arabian

1 government, the Kingdom of Saudi Arabia, and the
2 Department of Energy and it, again, there is a great
3 receptivity for technical exchange amongst other
4 countries. We also stand to learn a lot about our
5 particular efforts made in the California industry.

6 CHAIRMAN IMBRECHT: That's exactly one of the
7 motivations and I would anticipate getting involved in
8 the Department of Commerce in such an effort such as
9 well. Finally, I understand that this idea has
10 percolated largely because the California Energy
11 Commission is so frequently sited in symposiums and
12 similar gatherings throughout the world. But there was
13 an expressed interest and curiosity, I guess, amongst
14 the participants that they have an opportunity to visit
15 the Commission.

16 Initially, the contact came to me by whether
17 it would be possible to make us part of the site visit.
18 So, I inquired further as to the plans and I suggested,
19 well if that was going to be the case rather than
20 holding their meetings at a hotel here in Sacramento,
21 that it might be just as appropriate or more so to do
22 it here at the Commission, and provide our staff a
23 greater opportunity for interchange as well. What I
24 would frankly hope that we might be able to put
25 together is an opportunity for members of our staff, in

1 smaller groups, perhaps join in a luncheon and that
2 type of thing.

3 Okay, moving on to Item #10, No-Cost Time
4 Extension and Amendment to Contract with Acurex
5 Corporation.

6 EXECUTIVE DIRECTOR WARD: Mr. Chairman, I
7 believe that most Commissioners are familiar with this.
8 It is a time extension that is largely necessary by
9 virtue of technical problems associated with the buses
10 that haven't allowed the mileage to be accumulated on
11 the buses for adequate testing, as I think you're all
12 aware of as we've gone through the process. If you'd
13 like more information on that, Ken Smith and Cindy
14 Sullivan from the Development Division are available.
15 But if there aren't any questions, it can be dropped to
16 a vote.

17 CHAIRMAN IMBRECHT: I personally am familiar
18 with the issue. Does anyone wish to have further
19 presentation?

20 COMMISSIONER GANDARA: I don't wish a
21 presentation, Mr. Chairman. I have expressed my policy
22 and technical concerns in this area. So, I'll just
23 abstain.

24 CHAIRMAN IMBRECHT: Further discussion? I'll
25 move that the No-Cost Time Extension. Is there a

1 second?

2 COMMISSIONER NOTEWARE: I'll second it.

3 CHAIRMAN IMBRECHT: Seconded by Commissioner
4 Crowley. I'll give her a change this time. Is there
5 further discussion? Is there objection beyond
6 Commissioner Gandara's abstention to a unanimous roll
7 call? Hearing none, ayes: 4; noes: none; abstention by
8 Commissioner Gandara. The No-Cost Time Extention
9 Amendment to the contract is hereby approved.

10 Item #11 is approval of the minutes. Is there
11 objection to the minutes as they are presented?

12 Without objection, they're approved as presented. Are
13 there Policy Committee Reports? Commissioner Commons.

14 COMMISSIONER COMMONS: Yes, Mr. Chairman. On
15 the Electricity Report, I believe we have a schedule
16 conflict that needs to be resolved today.

17 CHAIRMAN IMBRECHT: Since you have it on your
18 calendar, why don't you enunciate it? It has to do
19 with a memorandum we received from Commissioner Gandara
20 as to his conflicts.

21 COMMISSIONER COMMONS: Commissioner Gandara,
22 I believe you're not going to be at the Commission
23 proceeding on the 17th and 24th?

24 COMMISSIONER GANDARA: I will be here the
25 24th. If the 24th is a Wednesday, I will be here.

1 Right now, I have a commitment, made last Fall, where
2 it takes me out of the Commission from April 17th, a
3 Wednesday, through the following Tuesday, which is the
4 22nd. Is it not?

5 CHAIRMAN IMBRECHT: No, it's 23rd. The
6 meeting would be Wednesday, the 24th.

7 COMMISSIONER COMMONS: We were supposed to
8 have a special meeting of the Commission on the 24th,
9 and you've been discussing having one on the 29th,
10 which is a Monday. If Commissioner Gandara is here on
11 the 24th, that would not cause a conflict with that
12 meeting and at that time we could adopt the Demand
13 Forecast and we could still hold our regularly
14 scheduled meeting on May 1st and adopt both the
15 Electricity Report and the Biennial Report.

16 CHAIRMAN IMBRECHT: Well, I'm going to hold
17 open the option of holding a special meeting on that
18 rather than going right up to the first. That's right.
19 The reason for that is the statute says we should
20 deliver the report to the Governor on the first, rather
21 than just simply adopt it on the first. Plus, I'm sure
22 that he would be amenable to a few days difference if
23 that becomes necessary, but I personally would like to
24 try to stay on that schedule.

25 COMMISSIONER COMMONS: When does Commissioner

1 Gandara return?

2 CHAIRMAN IMBRECHT: He's coming back I
3 understood him to say.

4 COMMISSIONER GANDARA: Evening of the 23rd.

5 COMMISSIONER COMMONS: Alright, so then
6 instead of adopting the Demand Forecast on the 17th, we
7 were to adopt it on the 24th. We could still keep the
8 special business meeting on the 29th.

9 CHAIRMAN IMBRECHT: That's correct.

10 COMMISSIONER GANDARA: Again, I appreciate
11 your being able to accommodate that date. I would only
12 make one additional request and that is, that it's fine
13 by me if the documents to be considered on the 24th are
14 available to me in sufficient time to read and consider
15 them particularly before I leave. I hope that it isn't
16 the situation that there won't be documents that will
17 be considered the 24th that won't be issued until after
18 the 17th or 18th. And I come back....

19 CHAIRMAN IMBRECHT: Will you be in the
20 country so we can get something to you by federal
21 express if necessary?

22 COMMISSIONER GANDARA: Yes. I tell you my
23 experience with Federal Express is not 24 hours, but
24 yes, I will be.

25 CHAIRMAN IMBRECHT: It might be conceivable

1 that it might be a few days after you leave, but we
2 will certainly try to get it to you.

3 COMMISSIONER GANDARA: Yes, I will leave my
4 itinerary.

5 CHAIRMAN IMBRECHT: Fine. Okay. Alright,
6 then I think we...

7 COMMISSIONER COMMONS: I have one other
8 procedural question. When we adopted the schedule of
9 Commission meetings which was rather late this year,
10 you said you'd give me the courtesy that there would be
11 nothing of major concern to myself on the next business
12 meeting. I have not yet seen that agenda, but I'd like
13 to have the opportunity to review it before you sign
14 off.

15 CHAIRMAN IMBRECHT: That's fine. Okay, are
16 there any other Policy Committee Reports? I would
17 offer on our Committee that we've now completed six of
18 our around-the-state hearings and with one exception, I
19 think we've had very excellent attendance and several
20 of the hearings have been personally very, very
21 fascinating and also a clear demonstration of the
22 importance attached to the process by the participants.
23 Just once again, I encourage other members of the
24 Commission except that your schedule will accommodate
25 such that we would welcome your participation at the

1 remainder of our hearings and in particular, I would
2 like to stress the last two hearings, I believe, that
3 are scheduled for Sacramento that we basically see as
4 wrap-up hearings to take care of issues that are
5 outstanding where there either has been an insufficient
6 record generated to date in other hearings, or to the
7 extent that there are outstanding questions that have
8 been raised by those hearings. Are there further
9 Policy Committee Reports? Okay. General Counsel?

10 MR. CHAMBERLAIN: The only thing Mr. Chairman,
11 is I wanted to be sure that each Commissioner received
12 a memo that I distributed yesterday relating to the
13 Ninth Circuit case, CEC vs. BPA involving the Trojan
14 contracts lawsuit. As I indicated in the memo, I filed
15 a petition for a re-hearing on your behalf and should
16 there be a need for any further direction on it, I'm
17 available to closed session.

18 CHAIRMAN IMBRECHT: Commissioner Gandara.

19 COMMISSIONER GANDARA: Yes, I received the
20 memo and the court decision and let me say that I'm not
21 disagreeing with the action itself. However, I am
22 concerned about the procedure by which the filing was
23 made and that is that according to the information
24 provided to us, the information of the decision was
25 available ahead of the decision. I think it should

1 have been communicated to the Commissioners. Secondly,
2 though I was away last week, and if you received the
3 opinion on Thursday, that nonetheless I was reachable
4 or my advisors were reachable. I communicated to them
5 everyday.

6 In addition to that, I was present then in
7 the building on Monday and Tuesday, and both as
8 Commissioner and Second Member of the Intergovernmental
9 Affairs Committee, which would oversee this, I was not
10 consulted by the General Counsel nor anybody else.
11 Then I think that action does need to be taken, and I
12 think it was the appropriate one. But to the extent
13 that we do at least have the courtesy of walking the
14 halls and informing the Commissioners of important
15 matters, it does meet a certain commitment of the
16 General Counsel's times and even possible additional
17 budgetary implications. So, to that extent, I think we
18 should all be informed or our offices informed. I would
19 just request that in the future, that somebody take
20 responsibility for so communicating such information to
21 the Commissioners.

22 MR. CHAMBERLAIN: I think your point is well
23 taken and I certainly have no disagreement with it.
24 The situation was that I received it on Thursday
25 afternoon, I had Friday to basically put together the

1 petition. And I perhaps should have taken the time to
2 try to call all the Commissioners' offices, but I did
3 discuss it briefly with the Chairman.

4 CHAIRMAN IMBRECHT: Let me just indicate to
5 the extent that I authorized Mr. Chamberlain's actions,
6 it was in the context of recognizing that we had
7 consistently taken a position on this, I felt in this
8 instance concerning the time constraints involved that
9 this was one example of where I was quite confident and
10 I hope accurate in understanding what the Commission's
11 policy had been on that point. So under that
12 stipulation, I exercised my authority to direct the
13 staff consistent with adopted Commission policy. And
14 it was after briefly reviewing the decision myself, or
15 in essence, the judge found with us all the substantive
16 arguments and then for what I would characterize
17 extraneous considerations, chose to rule to the
18 contrary. Under those circumstances, I think you're
19 acknowledging as the most appropriate. At least effect
20 our potential remedies at that point. This was, in
21 essence, a petition for a re-hearing. The extent to
22 which we choose to pursue it, and staff commitments, et
23 cetera, associated with that, obviously there're topics
24 that could be brought back to the Commission for
25 further consideration in Executive Session. We were

1 basically faced with a deadline at that juncture, and I
2 think the real sense in Mr. Chamberlain's defense that
3 there are some substantial problems that this agency
4 has problems in terms of service of some of its
5 documents, I would suggest that Federal Courts have
6 those same problems and sometimes in even more profound
7 way.

8 Even though we were the party of interest,
9 the Plaintiff, apparently there is no process or
10 procedure by which we are formally served a copy of the
11 decision. Or, if it is...

12 MR. CHAMBERLAIN: I did finally receive a copy
13 from the court yesterday. The day after the petition
14 was due.

15 CHAIRMAN IMBRECHT: We first became apprised
16 that a decision had even been rendered and this is I
17 think a far more testament to their process than to our
18 own by virtue of the press' inquiry to a couple legal
19 journals as to our reaction to the decision. It was
20 only then that we initiated inquiries to find out what
21 in fact had been done and what decision had been
22 rendered.

23 COMMISSIONER GANDARA: Mr. Chairman, I'm not
24 taking great issue with...

25 CHAIRMAN IMBRECHT: Your point's well taken.

1 COMMISSIONER GANDARA: Apart from procedural,
2 there is a substantive point that I would have hoped to
3 discuss with General Counsel and with you and the other
4 Commissioners. And that is, perhaps one that would not
5 have changed anything here, but I have closely followed
6 the litigation in the Ninth Circuit and in searching my
7 memory, I can't find a decision that has been favorable
8 towards us. Every time that we seem to file something
9 there, the outcome seems to be, let's say an additional
10 definition in favor of against us, so that I would have
11 only raised the consideration as to whether we want to
12 take the risk again of even asking for an additional
13 legal opinion from the Ninth Circuit if, in fact, the
14 risk is that the additional clarification is also now
15 going to be negative again. So, again this is just a
16 point of strategy. It might not change anything, but
17 the only question that I raise, you know, I'm afraid of
18 asking the legal questions of the Ninth Circuit. And
19 in fact, not asking might have some virtue, given that
20 it seem to be prevailing on any point. I can see that
21 there's a mixed bag here on the standing issue, which I
22 think was important, on the moot issue. I couldn't
23 agree more with Counsel's argument on unusual
24 circumstances as really being very vague and
25 ridiculous, but I think again, as a point of strategy,

1 we should consider whether we want to ask this
2 particular court for it. We're presented with the
3 opportunity to clarify issues against us.

4 CHAIRMAN IMBRECHT: Alright, Executive
5 Director.

6
7 (Agenda Item #14 - Executive Director's
8 Report - Sent Under Separate Cover)

9 (The Commission then retired into the
10 Executive Session. At the conclusion of the Executive
11 Session, the Business Meeting of the California Energy
12 Resources Conservation and Development Commission was
13 adjourned at 5:15 PM.)

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REPORTER'S CERTIFICATE

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2 THIS IS TO CERTIFY THAT I, Dawn Lofton,
3 Reporter, have duly reported the foregoing proceedings
4 which were had and taken in Sacramento, California on
5 Wednesday, March 20, 1985, and that the foregoing pages
6 constitute a true, complete and accurate transcription
7 of the aforementioned proceedings.

8 I further certify that I am not of counsel or
9 attorney for any of the parties to said hearing, nor in
10 any way interested in the outcome of said hearing.
11

12
13 
14 Reporter

15 Dated this 12th day of April, 1985.
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