BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY COMMISSION

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In the Matter of:)
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Business Meeting)
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CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

ORIGINAL

WEDNESDAY, August 26, 2009

10:00 A.M.

Reported by:
Peter Petty CER**D-493

COMMISSIONERS PRESENT

Karen Douglas, Chair

James D. Boyd, Vice Chair

Jeffrey D. Byron

Julia A. Levin

STAFF PRESENT

Claudia Chandler, Assistant Executive Director

Bill Chamberlain, Chief Counsel

Loreen McMahon, Public Advisor's Office

Harriett Kallemeyn, Secretariat

	Agenda Item
Eileen Allen	2, 3, 4, 5
Matt Layton	5
Richard Ratliff	5
Ron Yasny	5
Mike Smith	6, 7, 8, 13, 15
Virginia Lew	9
Gary Flamm	10
Panama Bartholomy	11
Adam Gottlieb	13
Jim McKinney	15
Gary	15
Charles Smith	15

Also Present (* via WebEx)

	Agenda Item
Greggory Wheatland, Esq., Ellison, Schneider & Harris	2
Gregory Skannal, Hydrogen Energy	3
Maria De Lourdes Jimenez-Price, SMUD	4
Ross Gould, SMUD	4
Brewster Birdsall, Aspen Environmental	4
Scott Galati, Esq., Galati & Blek, LLP	5
Gary Rubenstein, Sierra Research	5
Lucas Williams, Environmental Law and Justice Center	5
Rob Simpson, CARE	5
Mike Boyd, CARE	5
Robert Sarvey	5

I N D E X

		Page
Proceedings		1
Items		
1	Consent Calendar	1
2	Mariposa Energy Project (09-AFC-03)	1
3	Hydrogen Energy California (08-AFC-8)	4
4	Campbell Co-Generation Project (93-AFC-3C)	9
5	Gateway Energy Project (00-AFC-1C)	16
6	Clean Energy Fuels Corporation (FED-03-007)	41
7	Department of Mental Health	42
8	California Department of Corrections and Rehabilitation	43
9	University of California Irvine (MRA-02-082)	44
10	L'Monte Information Services, Inc. (09-409.00-004)	47
11	Employment Training Panel (180-09-002)	48
12	Minutes: Approval of the August 12, 2009, Business Meeting Minutes	52
13	Commission Committee Presentations/Discussion	52
14	Chief Counsel's Report	55
15	Executive Director's Report	55
16	Public Adviser's Report	72
17	Public Comment	72
Adjournment		73
Certificate of Reporter		74

P R O C E E D I N G S

AUGUST 26, 2009 10:04 a.m.

CHAIRPERSON DOUGLAS: Welcome to the California Energy Commission Business Meeting of August 26th, 2009.

Please join me in the Pledge.

(Whereupon, the Pledge of Allegiance was received in unison.)

CHAIRPERSON DOUGLAS: Again, good morning. We will start with Item 1, the Consent Calendar.

COMMISSIONER BOYD: I move the consent calendar.

COMMISSIONER BYRON: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Item 1 is approved.

Item 2. Mariposa Energy Project, 09-AFC-03). We do not appear to have staff yet. We will pause a moment and wait until staff arrives.

COMMISSIONER BYRON: You did not miss the Pledge of Allegiance, did you?

MS. CHANDLER: We were pledging in there.

CHAIRPERSON DOUGLAS: Very good. Ms. Allen.

MS. ALLEN: Good morning, CHAIRPERSON Douglas.

CHAIRPERSON DOUGLAS: So please begin with Item A, possible approval of the Executive Director's data adequacy recommendation for the Mariposa Energy Project.

MS. ALLEN: Good morning, CHAIRPERSON Douglas and Commissioners. I am Eileen Allen. I am the Manager of the Siting and Compliance Office. On June 15th, 2009, the Commission received an application for certification from Mariposa Energy to construct and operate the Mariposa Energy Project. This project would be a natural gas-fired simple-cycle peaking facility with a proposed generating capacity of 200 megawatts. The proposed project site is in northeastern Alameda County, approximately seven miles northeast of Tracy, 7 miles east of Livermore, and approximately 2.5 miles west of the community of Mountain House in San Joaquin County. This project is very close to the Alameda County - San Joaquin County boundary. This application was reviewed for data adequacy and, on July 29th, the Energy Commission found the AFC inadequate and adopted a list of deficiencies in eight areas. The Applicant provided supplemental information on July 31st in order for the AFC to be reviewed by the staff for adequacy. We have completed the data adequacy review and we ask that you find the project data adequate and appoint a committee to oversee the Mariposa Project in that all of the data adequacy deficiencies have been addressed.

CHAIRPERSON DOUGLAS: Thank you, Ms. Allen. Can we hear from the Applicant?

MR. WHEATLAND: Good morning, I am Gregg

Wheatland, attorney for the Applicant. I would like to thank the staff for its recommendation here this morning. We have an excellent project and we are very excited about working with the staff and the Commission in this proceeding. Thank you.

CHAIRPERSON DOUGLAS: Okay. Is there a motion on the data adequacy recommendation?

COMMISSIONER BYRON: Madam Chair, I move that we accept staff's recommendation on behalf of the city for the Mariposa Energy Center.

VICE CHAIR BOYD: I will second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

That item is approved and we moved on to Item B. Possible appointment of a Siting Committee for the Mariposa Energy Project. And my recommendation is Commissioner Levin presiding, Commissioner Byron, Associate.

VICE CHAIR BOYD: Move approval.

COMMISSIONER BYRON: You make it difficult to get a second. Well, despite the fact that it is in or near the town of Byron, I have no relationship to that City, so I feel comfortable moving this item -- or seconding this item.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

That item is approved.

MR. WHEATLAND: Thank you.

CHAIRPERSON DOUGLAS: Item 3. Hydrogen Energy California, 08-AFC-8. Item 3A, possible approval of the Executive Director's data adequacy recommendation for Hydrogen Energy California project, a nominal 350 MW power generating facility proposed in the Elk Hills region of western Kern County. Ms. Allen.

MS. ALLEN: I have already introduced myself on the preceding item. On May 28th of this year, Hydrogen Energy International filed an application for certification, seeking approval from the Commission to construct and operate the proposed Hydrogen Energy California project. The Hydrogen Energy California project is a nominal 335-megawatt power generating facility proposed in the Elk Hills region of western Kern County, near the community of Tuttman. Technically, it has a 250-megawatt net base load capacity plus 100-megawatts of simple-cycle peaking power. The project will be fueled by petroleum coke or coal, and includes capture of approximately 90 percent of the carbon dioxide produced for enhanced oil recovery and sequestration.

On July 15th, 2009, the Commission determined that the hydrogen energy project did not meet all of the data adequacy requirements and specifically the AFC was

deficient in four of the 23 technical areas -- air quality, biological resources, cultural resources, and transmission system design. On July 13th, Hydrogen Energy filed an AFC Data Adequacy Supplement for the staff's review, we reviewed all four of the technical areas, and believe the project is now data adequate. Staff's evaluation of the Supplement was submitted to the Executive Director with the recommendation before you. We are recommending that you accept the Hydrogen Energy California project with the supplemental information, as complete, and appointing Siting Committee to preside over the data adequacy and data analysis phase of the project.

CHAIRPERSON DOUGLAS: Thank you. Could we hear from the Applicant?

MR. SKANNAL: Good morning, Chair Douglas and Commissioners. My name is Gregory Skannal, S-k-a-n-n-a-l, and I am the Manager for Health Safety, Security and Environment, and I am responsible for the permitting of the project. I also have with me Dale Shileikis, S-h-i-l-e-i-k-i-s, he is the Project Manager with URS. Again, good morning. We look forward to working with the staff and the Commissioners in this wonderful project that we are developing. We thank you for the approval, the recommendation for the approval, and we look forward to the Commissioners approving that recommendation.

CHAIRPERSON DOUGLAS: Thank you. Are there questions or comments?

VICE CHAIR BOYD: I have a question of either Ms. Allen or the Applicant. Ms. Allen, in your summary of the project, you said it would be fueled by coke or coal. The staff memo to the Commissioners says the project would be gas-fired petroleum coke (or blend petroleum coke and coal, as needed). Is that the intent? Because a statement that says coke or coal could send shudders through some people. And I just want to clarify the record on what is intended here.

MS. ALLEN: Our understanding from the Applicant is that it could be burning petroleum coke for the most part, but that coal is also a possible fuel. So staff will be evaluating both options.

MR. SKANNAL: Commissioner Boyd, it is a blend, so we can run up to 100 percent pet coke, or a blend of petroleum coke and coal.

VICE CHAIR BOYD: Okay, I will let the Siting Committee dig deeper into that, but you set the record a little more straight.

COMMISSIONER BYRON: If I may, Ms. Allen, I think you also said 350-megawatts, but the gross -- but it was at 390? Is that correct? That is what is in the literature -- 390-megawatts?

MR. SKANNAL: Yes.

COMMISSIONER BYRON: Okay. I remember or hearing about this project long before I was with this Commission. When did we first see press regarding this project?

MR. SKANNAL: Around -- I believe it was February 2007.

COMMISSIONER BYRON: Oh, I think I remember reading even further back than that. But have you generally been associated with it that long?

MR. SKANNAL: Yes, again, I think what you are referring to, there was a Carson project --

COMMISSIONER BYRON: Yes.

MR. SKANNAL: -- that was the earlier project. And so that project no longer exists, and the new project is the Hydrogen Energy California, that is the one in the western Kern County area.

COMMISSIONER BYRON: Well, we are certainly intrigued by the technology and I was intrigued when I first read it, and even more so now being on this Commission, but it does present some, I am sure, new and interesting challenges for this Commission and review, although, just like the solar projects that started coming in a couple of years ago, they also presented some challenges for us and that we are dealing with. And I said this a couple years ago, on the first solar project -- and

I will say it now -- gentlemen, I hope you are being extremely responsive to staff requests for data and they are going to do a very thorough job on this on behalf of the State of California, and we will not be cutting you any slack, despite the new technology. We are keen and interested in the sequestration aspect of this, but as Commissioner Boyd points out, it will have other challenges here in California. So good luck, but we are certainly eager to see and learn more about this project.

VICE CHAIR BOYD: You are right, Commissioner Byron, this is the successor to the much heralded Carson project that was -- well, interestingly, I have never seen a project that had barely been dreamed up have such a ribbon cutting ceremony as the project that took place in Carson with the Governor and everyone else, but it did not survive, and this is the successor and, indeed, it will be an interesting project to deal with. I should say no more since we, as a Commission, have to deal with that and adjudicate the whole issue.

MR. SKANNAL: Commissioners, you have my commitment that we will be very responsive to the staff. I think we have a good record to this date of working cooperatively and being very responsive, and that will continue.

COMMISSIONER BYRON: Good. Thank you very much.

VICE CHAIR BOYD: I see the staff shaking their heads positively.

COMMISSIONER BYRON: I am prepared to move the item, accepting staff's recommendation on approval for data adequacy on the Hydrogen Energy California project.

VICE CHAIR BOYD: I will second the motion.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

That item is approved.

Moving on to 3B, possible appointment of a Siting Committee for the Hydrogen Energy California project. And the recommendation is Commissioner Boyd presiding, Commissioner Byron, associate.

COMMISSIONER LEVIN: I will move that item.

COMMISSIONER BYRON: And it is not in the City of Byron, but I will second it.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Thank you. The item is approved.

Item 4. Campbell Co-Generation Project, 93-AFC-3C, possible approval of Sacramento Power Authority's petition to modify the air quality conditions for the Campbell Co-Generation Project. Ms. Allen.

MS. ALLEN: This is an amendment to the Commission's existing license for the Sacramento Power

Authority's Campbell Co-Generation project. The facility that the Commission licensed is a 172-megawatt co-generation power plant within the City of Sacramento. It is owned and operated by the Sacramento Municipal Utility District. The Commission certified it on November 30th, 1994. The facility uses a combine cycle power block, including natural gas-fired combustion turbine generators, incorporating NO_x combustors, heat recovery steam generator, and a separate steam generator. Natural gas is supplied by Sacramento Municipal Utility District, which I will refer to from here on as SMUD. The Sacramento Power Authority is an affiliate of SMUD.

Summarizing the petition, the petition by the Sacramento Power Authority is to add air quality Conditions of Certification, providing for a new commissioning period which had been necessitated by the replacement of the control and operating system for the gas turbine and duct burner equipment. The petition seeks to modify Conditions of Certification Air Quality 11, Air Quality 15, and Air Quality 19, to indicate that shutdowns are not subject to these emission limit conditions, and to make some non-substantive changes for consistency. It also seeks to delete the hourly mass emission limits in Condition of Certification Air Quality 11, applicable to the gas turbine alone, and retain the current hourly mass emission limit

for the combined gas turbine duct burner, in accordance with the current Sacramento Metropolitan Air Quality Management District Operating Permit. It further seeks to modify Condition of Certification Air Quality 31 to provide a 60-day turnaround time for submitting annual air emissions source testing results, in accordance with the current Air District's Operating Permit, and make other non-substantive changes for consistency. There is also a proposed addition of new re-commissioning items associated with the change in the control and operating system and the re-commissioning process, those would be Conditions of Certification AQS 1 and AQCM 1 through AQCM 12. The petition finally seeks to delete existing Conditions of Certification that are obsolete now and renumber conditions for consistency with current air district permits.

The staff analysis has concluded that changes requested by Sacramento Power Authority and SMUD would confirm with applicable federal, state and air district air qualities laws, ordinances, regulations, and standards, and the amended project would not cause significant air quality impacts, provided that the recommended conditions are included as provided in the analysis. We have also concluded that the reliability of the facility will improve with replacement of the current obsolete system. Staff is also proposing the addition of new re-commissioning

Conditions of Certification AQS 1 and AQCM 1 through AQCM 12, the deletion of the existing conditions that are obsolete, and the renumbering of the conditions. I have a minor correction to note on staff's analysis regarding the modified AGSC 4. On page 17 of staff's analysis, Part B, it states that the owner or operator shall provide the Air Pollution Control Officer 60 days' prior notice of an emission performance test. This should be 30 days instead of 60 days. The verification also states the project owner shall notify the district and perform the source test described above and submit to the district and the Commission the results of the source test within 30 days from the completion of the test. Instead, SMUD has noted that this should be 60 days. So we inadvertently reversed the time on that.

Staff's findings are that this Petition meets all the filing criteria within the California Code of Regulation concerning post-certification project modifications, the modifications will not change the findings in the Energy Commission's final decision, it will remain in compliance with all applicable laws, ordinances, regulations, and standards. We believe it will be beneficial to the project owner since the current system is obsolete, and with replacement parts no longer available, and the changes made will reflect the current terms of the

air district permit. Staff recommends modifying a number of the Air Quality Conditions of Certification, as I have noted, as well as adding additional Conditions of Certifications specific to the re-commissioning period.

This has been a rather technical item that I have presented, so thank you for bearing with me on all the detail. We are available for questions.

CHAIRPERSON DOUGLAS: Thank you. Can we now hear from the Applicant?

MS. JIMENEZ-PRICE: Sure. My name is Lourdes Jimenez-Price, and I am --

COMMISSIONER BYRON: Excuse me. Would you make sure your microphone is on and bring it closer to you? Thank you.

MS. JIMENEZ-PRICE: Will do. Sorry about that. My name is Lourdes Jimenez-Price and I am counsel for the Applicant, the Sacramento Power Authority. Good morning, Commissioners and staff. I want to thank staff for the review of our application and also for your analysis and findings. And we concur with staff's findings and are hopeful that the Commission will consider the approval of this petition.

COMMISSIONER BYRON: Is there any difficulty with -- I just want to make sure I understood what Ms. Allen said -- you accept and agree to the different -- the change

on the 30 to 60 days that she mentioned?

MS. JIMENEZ-PRICE: We do. It was actually made at our request.

COMMISSIONER BYRON: Okay, that is what I thought. Well, we did review with the Siting Committee at length. This is another interesting project for me. I was aware of this project at Campbell Soup many years ago, and I am glad to see that you are upgrading the project. It looks as though staff has done a thorough analysis on this application -- I should say this amendment -- so I would recommend approval, so I will move the item.

VICE CHAIR BOYD: I will second the item as amended and subject to all the conditions the staff put forth to us with respect to its meeting all of the LORS and not exacerbating any air quality problems. And I would also say that, quite frankly, we have a very positive view of SMUD and their activities, so that certainly bodes well for the proposal as made.

CHAIRPERSON DOUGLAS: Commissioners, before I call the question, we have one member of the public who would like to comment on this item, Mr. Birdsall with Aspen Environmental, and he is on the phone.

MR. BIRDSALL: I do not know if I am on active --

CHAIRPERSON DOUGLAS: It certainly is.

MR. BIRDSALL: Oh, thank you. This is Brewster

Birdsall of Aspen Environmental Group, and I am sorry, I am not here to comment on the analysis, I am the staff that prepared the analysis and I am available to the Commissioners for questions. That is all.

CHAIRPERSON DOUGLAS: Thank you for clarifying that. Very well, I have a motion and a second. All in favor?

(Ayes.)

That item is approved.

COMMISSIONER BYRON: And before you move on, I do not mean to put the Applicant on the spot here, but I would be interested if some time in the future, maybe touring the facility and maybe it would be best after the construction took place, but whatever is convenient. And you do not have to respond, maybe you do not want me there, but I am interested in seeing it.

MR. GOULD: Good morning, my name is Ross Gould. I am Superintendent of Thermal Generation at SMUD. This is one of the assets in my portfolio and I personally would be happy to take you on a tour of the facility any time that you would like.

COMMISSIONER BYRON: Good, thank you. We will be in touch.

MS. ALLEN: The staff is pleased to hear that Campbell Soup activity continues on, continues to be a fuel

efficient power facility.

VICE CHAIR BOYD: Frankly, this is an example of the kind of distributed generation and co-generation that this agency is very supportive of, so all the positive comments you are hearing are in that vein, in addition to the reputation of the project. I may join you on that tour.

COMMISSIONER BYRON: Uh oh. Commissioner Levin also expressed interest, so now we have trouble.

VICE CHAIR BOYD: I will defer to my --

COMMISSIONER BYRON: Commissioners get together in large groups.

CHAIRPERSON DOUGLAS: Except here. Very well. Moving on to Item 5. I wanted to make a couple brief comments before we start Item 5. We are reviewing a possible amendment to Gateway Energy Project, and I will read that into the record so that we are there.

Item 5, Gateway Energy Project, 00-AFC-1C. Possible approval of Pacific Gas and Electric Company's May 7, 2009, petition to the Gateway Generating Station, requesting modifications to certain Air Quality conditions of certification to include the installation of a diesel-fueled fire pump.

The Siting Committee received a complaint about -- alleging that PG&E had been operating this facility

without having obtained necessary approvals, they also made a number of other allegations. I wanted to mention or state upfront that the Siting Committee has opened a proceeding to address that complaint. We have held an evidentiary hearing, we have set a briefing schedule, and we expect briefs submitted to the Committee within 60 days, with the evidentiary held, which was on August 5. So I wanted to start this item by acknowledging that this proceeding is ongoing, but I believe that we can address the amendment requests on its merits and without prejudice in the Siting Committee's potential actions or decisions in this other proceeding. And with that introduction, Ms. Allen, could you please present the proposed amendment?

MS. ALLEN: PG&E has petitioned the Commission with its proposed amendment to the Gateway Generating Facility. This is a 530-megawatt project which was certified by the Energy Commission on May 30th, 2001. Construction of the facility started late in 2001 and was suspended in February of '02, due to financial difficulties of the owner, Mirant Delta, LLC. A new owner, PG&E, re-started construction in February of '07, and the facility began operating the construction of approximately 99 percent complete on January 4th of this year. The facility is located just east of the City of Antioch in Contra Costa County. The current amendment request would modify several

air quality conditions -- air quality definitions and conditions of certification. The major items in this amendment request are to replace the permitted natural gas-fired pre-heater with a smaller dew point heater, and increase the allowable daily hours of operation, to replace an electric motor driven fire water pump with a 300-kilowatt diesel engine driven fire water pump, and to revise the facility's PM10 emission limit to reflect the permitted use of dry cooling through an air-cooled condenser, instead of the original decision's wet cooling tower. That change to dry cooling was handled in a separate amendment that was approved by the Commission on August 1st, 2007. So we are just dealing with a minor item as a result of the change to dry cooling here. Those are the major items in the amendment request.

Moving to a summary of the staff analysis, we concluded that the changes requested by PG&E will cause no significant air quality or public health impacts because there would be no increase to daily and annual emission limits that would result from the proposed modifications. Staff reviewed the PG&E and the district health risk assessments for the proposed diesel engine and the addition of the diesel engine to the project, and overall facility, and concluded that the result was a combined project incremental cancer risk that is well below staff's

significance level. The proposed change, along with the implementation of staff's proposed changes to the existing air quality definitions and Conditions of Certification, which are outlined in the staff analysis, would bring the project license into agreement with the project as currently built, and the final district permit when issued. Staff has proposed a number of other minor numerous changes to the existing Air Quality Conditions of Certification, which are listed in your briefing material on this item. It is a very extensive list and they are all minor changes from thereon, so I am not going to list them here, but we are available to answer questions on them.

Highlights of the public review process are that, as of August 5th of this year, no comments have been received on the amendment item itself. Comments have been received separately on the complaint, which Commissioner Douglas addressed, and then the staff did receive two requests for hard copies of the analysis, which we sent out.

Concurrent with the staff activity, the air district has notified us that it may fine PG&E for installing the diesel fire pump prior to approval. Mitigating circumstances are that PG&E reported this and stopped its use upon realizing the violation, and it had installed the pump upon the request and requirement of the

Contra Costa Fire District, so we are noting that those are the facts associated with the installation of the fire pump. Staff is working with the Air District to ensure overall conformity with the District rules.

Staff's findings are that the Petition meets all of the filing criteria of Title 20, Section 1769, concerning post-certification project modifications. It would not change the findings in the Energy Commission's final decision. Project would remain in compliance with all applicable LORS. The proposed change in staff's view would be beneficial to the public because the project permit would reflect the project as currently built. And finally, the change is based on information that was not available to the parties prior to Commission certification in 2001 because the project was redesigned by PG&E after its original start by Mirant.

Staff recommendation for this amendment is that you approve the petition and the revisions to the Conditions of Certification as presented in the attached Staff Analysis and Proposed Order. We are available for questions.

CHAIRPERSON DOUGLAS: Thank you. Can we now hear from the Applicant?

MR. GALATI: Yes, Madam Chair, Commission, Scott Galati, counsel to PG&E.

MR. RUBENSTEIN: Gary Rubenstein at Sierra Research, Air Quality Consultants for PG&E.

MR. GALATI: We have reviewed staff's analysis of our petition. We agree with the Conditions of Certification that they propose, both the changes that we requested and the additional conditions, and we ask that you recommend approval.

COMMISSIONER BYRON: Madam Chair, may I ask a question?

CHAIRPERSON DOUGLAS: Absolutely.

COMMISSIONER BYRON: Actually, it is two. Our chief counsel, Mr. Chamberlain, I just want to make sure that this decision that we take today does not have any influence upon the ongoing complaint that is before the siting committee, or I should say, before the full Commission, at this time.

MR. CHAMBERLAIN: I cannot say that it would not have an influence. It would not preclude any appropriate remedy that that complaint might result in.

COMMISSIONER BYRON: Thank you. And you answered a better question, but thank you.

CHAIRPERSON DOUGLAS: Before we ask questions, Commissioners, we have three members of the public who would like to comment. I suggest that we give them that opportunity. I believe they are all on the phone. Before

calling their names, I would like to ask, and this is standard process here, the commenters to keep their comments to two minutes and try to avoid duplication, or repetition, if it is possible, to coordinate. The first caller I have is Lucas Williams. Could you please identify yourself and your affiliation for the record?

MR. WILLIAMS: Good morning. This is Lucas Williams. I am a fellow at the Environmental Law and Justice Clinic. So, first, I would like to point out that we did submit comments, we had a comment on behalf of ACORN on this amendment that we submitted August 13th.

COMMISSIONER BYRON: Is there anything we can do to turn the volume down?

MR. WILLIAMS: I will step away from the phone. Sorry about that.

COMMISSIONER BYRON: Well, we still want to hear from you. It is not you, it is the machine which is quite loud here in the room. So just give us a second and go ahead and try again.

MR. WILLIAMS: Sir, how is the volume now?

CHAIRPERSON DOUGLAS: It is quite loud. Why don't you give us 30 seconds and we will let you know when we have this problem resolved. Please try again. Mr. Williams?

MR. WILLIAMS: How is this?

CHAIRPERSON DOUGLAS: Much better.

MR. WILLIAMS: Great. So, again, first I just want to point out that we did submit written comments on behalf of ACORN on this amendment. Those comments were submitted on August 13th. The comments detailed the reason the Commission should deny this amendment. And in light of those comments, I will keep my comments today brief. PG&E has constructed and operated a facility that does not comply with the Conditions of Certification, and now at this late stage it asks the Commission to approve those changes. The Commission should reject PG&E's backwards approach to compliance with the Warren-Alquist Act and Commission siting regulations. But most significantly for the proceeding today, this proposed amendment will not bring PG&E into compliance with the applicable air quality laws. Among other failures to comply with air quality laws, this facility is operating without a current valid prevention of significant Puriation (phonetic) Permit under the Federal Clean Air Act. As a result, the proposed emission limits do not reflect the most effective pollution control technology. The amendment, therefore, will not bring PG&E into conformance with the applicable laws, ordinances, regulations and standards as required by the Warren-Alquist Act. In summary, the Commission should reject PG&E's attempt to amend the certification after it

has already implemented the very changes it is seeking approval for, and should first, at a minimum, require PG&E to come into compliance with the applicable air quality laws. I thank the Commission for the opportunity to provide these comments.

CHAIRPERSON DOUGLAS: Thank you, Mr. Williams. I am sure that your comments may, in fact, spar questions for staff, but why don't we -- if Commissioners are in agreement -- hear from the other two commenters. Rob Simpson, are you there?

MR. SIMPSON: Yes, I am.

CHAIRPERSON DOUGLAS: Please introduce yourself for the record and make your comment.

MR. SIMPSON: Oh, good morning. This is Rob Simpson. I am representing CARE. CARE has been an intervener in this process from the beginning, I believe. I heard the introduction, but I got disconnected a couple of times, but the introduction said that there have been no comments. I did, in fact, file comments on the amendment with the complaint, so I would like to have those considered. Then, in the complaint proceeding, it was disclosed, and you received evidence that there are no air permits for this facility, there is no valid ATC, there is no PSD permit, there is no permit to operate, there is no Title 4 or Title 5 permit. EPA is in enforcement

proceedings regarding this facility's non-compliance. I do not think that the Commission, in light of the interest of this, that there is no -- Sandy Crockett (phonetic)admitted at the complaint proceeding that there are in fact no current valid permits, so I do not think the Commission could make the finding that the project would be in compliance with all applicable laws. I do want to clarify that I am, pursuant to a 17693 of the Warren-Alquist Act, I am objecting to this amendment and pursuant to A2 of that section, that this must be processed to the formal amendment to this decision and must be approved by the full Commission at a Business Meeting, based on its objection. I also believe it is inappropriate to approve the amendment without adjudication of the pending complaint. On page 2 of the staff report, it states that the project setting has not changed, and it offers Air Quality Table 1 that says that has been [inaudible] for a Federal P and 2.5. Was not in the payment for Federal PM 2.5 standards. And so the staff purported it is incorrect on that item, so it should be reconsidered. So those are my comments. Thank you.

CHAIRPERSON DOUGLAS: Thank you very much. And finally, Michael Boyd, are you on the line?

MR. BOYD: Yes, ma'am. I am here.

CHAIRPERSON DOUGLAS: All right, please --

MR. BOYD: I am Mike Boyd, President of CARE. I

want to duplicate what Rob said. I also would like to incorporate for the record on behalf of CARE, the comments of ACORN, that they submitted, as well. My comments are that I do not believe that the Commission has authority to approve this amendment because you have knowledge and have known for a significant amount of time that this facility is operating without a federal permit. And because of that, if you do decide to approve this, I wish to let you know that I am going to give you a notice that under the Clean Air Act, to take you guys to federal court for violating the Clean Air Act by giving them the permit to operate when, clearly, they do not have their federal permit. That is all I have to say. Thank you.

CHAIRPERSON DOUGLAS: Questions from Commissioners.

VICE CHAIR BOYD: Well, I would like to hear from our attorney again with regard to -- and the Applicant, frankly -- with regard to these allegations that there is no valid permit, that there are no valid permits in existence. That point was not made.

COMMISSIONER LEVIN: I think the question was whether the attorney and the applicant can respond -- I had the same question, but actually I would ask staff first to respond about the air quality issue and federal law.

MR. LAYTON: This is Matt Layton.

VICE CHAIR BOYD: Get close. All of a sudden the system is going berserk.

MR. LAYTON: I will not speak to the legal issue, but the air permit, that it was a determination of compliance issue by the Air District, which in turn became an authority to construct. At a certain point in time, that authority to construct does become a permit to operate. Those permits are part of the district process, however, our Conditions of Certification are what we are talking about and what we are amending today.

COMMISSIONER LEVIN: Could you elaborate a little more on that, please, what the distinction was that you are making?

MR. LAYTON: Again, our Conditions of Certification are what you issue as the license that controls the operation of that facility.

COMMISSIONER LEVIN: So on the Air Quality Permit, staff's finding is that there is a federal air quality permit that is valid today?

MR. LAYTON: We did not make a finding about the federal permit.

CHAIRPERSON DOUGLAS: Commissioner, the matter -- maybe our Chief Counsel would like to say something.

MR. CHAMBERLAIN: I think there may be some confusion here over the fact that there are certain laws

they have done what they need to do at this point?

MR. CHAMBERLAIN: I have no knowledge as to whether they have done what they need to do. That is between the Applicant and the Bay Area Air Quality Management District.

CHAIRPERSON DOUGLAS: But the issue -- some of the substantive issues that have been raised are before the Siting Committee, and the proceedings, so what we are looking at today is narrowly focusing on the state permit and the amendments that have been proposed, without prejudicing what the Siting Committee may find in terms of some of these larger issues in the adjudicatory proceeding. I see that one of our attorneys, Mr. Ratliff, is standing at the podium looking like he may like to make a comment, and I also have one more public commenter on the phone, so after Mr. Ratliff, we will go back to the phone if we could.

MR. RATLIFF: Yeah, Commissioners -- yes, Richard Ratliff, staff counsel. I think both the General Counsel and the CHAIRPERSON, I think, summarized it correctly, that the federal permit is issued by the Bay Area District. When it issues that permit, it is a federal permit, issued by the District under a delegation agreement by which it is, to use the term the EPA itself uses, it stands in the shoes of EPA when it issues that permit. So it is a

strictly federal permit. Typically, that permit is issued after the conclusion of our state permitting process. When we issue our permit, we make a finding that the project complies with all the laws and ordinances that are relevant to the project. In this case, of course, we did make a finding that it complied with all LORS. The Applicant in this case, which at that time was Mirant, I believe, did apply for and receive a federal PSD permit and initiated construction of the project and discontinued it subsequently. When PG&E took over the project it was, as I understand it, I have the impression the permit was valid. And by the Bay Area District's rules, it was able to continue construction and it completed the project and began to operate it. More recently, for reasons that I will not go into, the Bay District has been meticulously examining its PSD authority rules to make sure that it is being, you know, [inaudible] about how it issues PSD permits. In doing so, it realized that there is a disagreement between its rules about lapses between initiating and continuing the construction, and those of EPA's -- those that are federal requirements. And due to that, they asked EPA to clarify whether or not the time -- whether or not the permit was in fact still valid, given the length of time there was no construction on the project. For that reason, EPA initiated an enforcement

proceeding, and that proceeding is ongoing at the present time to determine whether or not some sanction would be appropriate for the project. The 60-day Notice of Intent letters that Mr. Boyd and others have filed in this regarding the PSD permit, are filed with EPA, and are with regard to lawsuits against EPA for failure to enforce the Clean Air Act, and certainly those Citizen Act provisions are ones that are available recourse for those who believe the law has not been enforced correctly. I believe I have given you the gist of the situation here. I do not know if the Applicant wanted to comment on that, but that is the situation as I understand it.

COMMISSIONER BYRON: Thank you.

CHAIRPERSON DOUGLAS: Thank you.

MR. GALATI: I want to first start by saying --

CHAIRPERSON DOUGLAS: Mr. Galati, we wanted to get just all the potential issues from commenters on the table. We will turn to the phone one more time and then we would like to hear from you. Mr. Sarvey?

MR. SARVEY: Good morning, Commissioners. This is Bob Sarvey. I have filed comments on this amendment and the Energy Commission relies on the Bay Area Air District to issue the FDOC, which is required by the Warren-Alquist Act to approve the project. In this particular case, the diesel fire pump was not part of the FDOC process and they

1 are now seeking that authority to construct for the diesel
2 fire pump. The fact is, the Energy Commission should
3 probably wait until the Authority to Construct at issue,
4 that is essentially the FDOC for the entire project, would
5 be incomplete without the Authority to Construct for the
6 fire pump, so this project probably is not fully -- it does
7 not have all its permits necessary for the Commission to go
8 ahead and approve the amendment at this point. That would
9 be the position that I would take on that. Thank you.
10 CHAIRPERSON DOUGLAS: Thank you. Now, Mr.
11 Galati.
12 MR. GALATI: Yes, I first want to state that PG&E
13 believes that it has all appropriate permits and the first
14 thing we want to say is there is a state issued air permit,
15 there is a federal NSR review permit, then there is also a
16 separate federal PSD permit, so there are sort of three
17 things that deal with air quality. In this particular
18 case, the Bay Area Air Quality Management District was
19 delegated from the EPA the ability to issue the two that
20 they normally issue, which is the state and the federal NSR
21 permit, and the PSD permit. And the sole issue, which I
22 believe is appropriate for the complaint proceeding, not
23 this proceeding, is how does that PSD permit affect and is
24 there non-compliance with it, and you know that I filed
25 some motions on those grounds on what is the appropriate

are now seeking that authority to construct for the diesel fire pump. The fact is, the Energy Commission should probably wait until the Authority to Construct at issue, that is essentially the FDOC for the entire project, would be incomplete without the Authority to Construct for the fire pump, so this project probably is not fully -- it does not have all its permits necessary for the Commission to go ahead and approve the amendment at this point. That would be the position that I would take on that. Thank you.

CHAIRPERSON DOUGLAS: Thank you. Now, Mr. Galati.

MR. GALATI: Yes, I first want to state that PG&E believes that it has all perfect permits and the first thing we want to say is there is a state issued air permit, there is a federal NSR review permit, then there is also a separate federal PSD permit, so there are sort of three things that deal with air quality. In this particular case, the Bay Area Air Quality Management District was delegated from the EPA the ability to issue the two that they normally issue, which is the state and the federal NSR permit, and the PSD permit. And the sole issue, which I believe is appropriate for the complaint proceeding, not this proceeding, is how does that PSD permit affect and is there non-compliance with it, and you know that I filed some motions on those grounds on what is the appropriate

authority. But it is important to note that we got an FDOC, we had an Authority to Construct from the Bay Area, which is the two permits I am talking about, and the Authority to Construct was extended, that we have complied with that Authority to Construct, the Authority to Construct acts as a permit to operate for a certain amount of time, it has been, through the Bay Area, extended through a Compliance Agreement to continue to be the permit to operate, and that is currently what we are operating under, a valid permit. The last comment by Mr. Sarvey about the fire pump requiring an FDOC and an Authority to Construct, it is very common for this Commission to have the -- it is very common for the District to wait for this Commission's action to be done, so that they can use it for CEQA compliance of issuing an Authority to Construct, and I believe that is what is going to occur in this case, is the fire pump Authority to Construct is intended -- the Bay Area is intentionally waiting for the Commission staff analysis and the Commission action to be done. And I am going to turn it over to Mr. Rubenstein to fill in the huge blanks I am sure I left.

MR. RUBENSTEIN: Thank you, CHAIRPERSON Douglas. I do not want to get into too much the issues from the enforcement proceeding, about the compliance proceeding, but I would be happy to address those questions. I just

want to reinforce what Mr. Galati just said. As I am sure you are aware from other amendment cases that it is quite normal for this Commission to act in advance of local air districts. I have seen that reversed on occasion, unusual circumstances, but typically the Commission will act first and then the local air district will amend its permit in order to address the proper sequence under CEQA. And that is all I really have to add. Mr. Ratliff, I thought, did an excellent job of summarizing the issues with respect to that permit status.

MR. GALATI: We would like to just bring it back to what we are asking you to approve today. We are asking you to approve the fire pump amendment in your decision, to allow the fire pump, which was at the request of the local Fire Marshal. And if that had been known during the original licensing procedure, that is probably what you would have approved at that time, under the same analysis. The second thing that we are asking you to approve is the dew point heater which, as staff analysis shows, results in an emissions reduction. And then everything else that we are asking you to approve are clean-ups, amendments to the conditions that have no effect, but, for example, there are some places where it still says "Contra Costa 8," there are places where it says we still have to measure the total emissions of the wet cooling tower, that was not taken out,

and many of the amendments that are in this petition deal with that. The only two substantive ones are to do with the fire pump, and the staff analysis shows that there are impacts and the project will comply with LORS for those two pieces.

COMMISSIONER LEVIN: I just have a couple more questions, actually mostly for our staff and counsel. For the staff, I just want to be sure there have been public comments filed, that those do make it into the record. It sounds like both ACORN and CARE -- CARE, I think -- has filed comments. Have we received those? Will they end up in the record?

MR. YASNY: This is Ron Yasny, Compliance Project Manager. I do believe that there were comments that were docketed and they were not sent to me, they were docketed and I interpreted those to be comments towards the complaint, and so they are already docketed, unless there is something else that I am unaware of.

COMMISSIONER LEVIN: Did the comments specify which docket number, or if that was open to interpretation, and the filers actually intended them to be filed in this proceeding? I just want to make sure that the public comments are received and recorded where the filer intended. If it was not clear -- if they specified the other docket number, that is a different story.

MR. YASNY: It is the proper docket number, but anything that is docketed refers to the project docket number, but while this amendment was going on, the complainants were filing comments and briefings, and so that is -- the way I interpreted that was that the comments were towards the complaint. And so any comments that were made are already docketed and part of public record.

COMMISSIONER LEVIN: Okay. And then I would like to go back to our General Counsel's comment earlier in response to Commissioner Byron's question, I believe. When you say that our decision here could influence, but not prejudice, the enforcement proceeding, could you clarify, please, what you mean by "influence?"

MR. CHAMBERLAIN: Well, I believe what you have before you is a determination whether it is appropriate to make these changes in the dew point heater --

MR. GALATI: Dew point heater and the fire pump and the clean-up changes.

MR. CHAMBERLAIN: And the fire pump. Or whether they would have significant adverse environmental effects. If you decide that it is appropriate to grant a license for those changes, then that obviously would affect any violations going forward because they would no longer be in violation. If you decided that it was not appropriate to do that, then they would still be in violation for the fact

that they had done something that was not appropriately permitted. But it does not change the fact that they made these changes without getting your approval to begin with. So the complaint proceeding still has that on its docket, it is not affected by this determination today.

COMMISSIONER LEVIN: Just one final comment, I am sorry. And I do appreciate that the Applicant has come forward, has noticed the violation and has taken steps to address it, and these are both efficiency and safety measures. Personally, I do support the staff's recommendation. I am troubled that there was a violation and I do think -- I wanted to be sure that we do not fail to address that, or prejudice in a way that we cannot, but I do think that our report issue is that you are dealing with safety and efficiency issues, so I will shut up now.

MR. GALATI: Commissioner Levin, if I could just address that, because the Commission's authority under the complaint allows fines, and the fines are calculated by a certain number of days of non-compliance. I guess that it is possible that if you approve today, that if you were to calculate a fine, if you were to find non-compliance, that there would be a cap on the fine because you have approved it today. I would note, however, there is already a monetary cap, and so I do not think it would change if the Commission found in the complaint proceeding that a fine

was appropriate. I do not think today's action would change the amount you were capable of doing at the upper end, so, again, I wanted to -- and it is in no way conceding in any way, shape or form, that PG&E deserves a fine, because I do not believe they do. And we will continue to handle that in the complaint proceeding, but I do not see your decision today influencing. I really think that you should focus on the fact that a diesel fire pump is what the Fire Marshal wanted, there are no impacts, and the dew point heater reduces emissions so there are less impacts.

COMMISSIONER BYRON: Mr. Galati, it seems you have thought about this potential cap on a fine. Have you calculated what that cap is?

MR. GALATI: Uh, yes.

COMMISSIONER BYRON: Thank you. We will probably bring this up -- we may potentially bring this up in the proceeding.

MR. GALATI: I certainly hope not.

VICE CHAIR BOYD: Madam Chair, this is an unusual situation. And I am going to jump in here where maybe the Chair of the Siting Committee would normally on any amendment to our approval of a power plant application and the conditions of -- the procedural conditions that affect the construction and operation of such a power plant.

COMMISSIONER BYRON: Be my guest, Commissioner.

VICE CHAIR BOYD: But since this is subject to continuing enforcement potential action by the Siting Committee, I am going to take this opportunity to ultimately make a motion, but a few comments I want to make. I mean, I came into this knowing there was a separate enforcement action underway and that materials had been submitted to this agency and docketed for purposes of that Siting Committee potential enforcement investigation. I am going to move approval of what I consider to be these procedural amendments on the conditions, and I think Commissioner Levin and I are thinking exactly the same thing, with the understanding and the condition that the action today is really separate from the enforcement actions pending because the actions we are approving -- or I am going to recommend approval -- are 1) compliance with the desires of a fire district, a Fire Marshall, with regard to a fire pump, and an important but somewhat benign with regard to overall activities of a power plant, a piece of equipment, and the second piece of equipment, a heater change that everybody agrees is a positive change environmentally, efficiency-wise and otherwise. But my motion will also be predicated on the understanding that we intend no prejudice by an action we may take with regard to the pending investigation and potential enforcement actions

by this agency, by the Bay Area District for itself, or in the shoes of the EPA, or even by USEPA, should they enter the arena. These are somewhat -- in my mind -- separate and different, and not necessarily forgivable activities, but nonetheless, they are highly procedural. And what we are proposing to do is, I think, in the name of government efficiency, an action that indeed would exhibit no prejudice towards the case, and I am sure PG&E will be most generous in its settlement with you, Commissioner Byron. In any event, I am therefore moving approval of the staff recommendation, with the understandings and conditions that I just laid out with regard to no prejudice with respect to other actions, and approval on the basis that these are fairly minor changes to equipment added to the project, and of a number of procedural changes that are name changes, in effect, as a result of the change in ownership of the project. A lengthy motion, but it stands as a motion.

COMMISSIONER LEVIN: Seconded, I think.

VICE CHAIR BOYD: You are the lawyers.

COMMISSIONER BYRON: Yeah. I would like to make clear -- thank you, Commissioners, for the motion. I would like to make clear that the Siting Committee is taking this very seriously and my commitment to the Complainants, who I assume are still on the line, is that we will continue to evaluate the complaint, in spite of any threats for

potential additional lawsuits, we will take this very seriously, and I am so pleased that the CHAIRPERSON is on my Siting Committee because her legal expertise has been extremely helpful in sorting this all out. I welcome the motion to approve Item 5.

CHAIRPERSON DOUGLAS: Thank you. We have a motion and a second. All in favor?

(Ayes.)

The item is approved.

MR. GALATI: Thank you.

CHAIRPERSON DOUGLAS: Item 6. Clean Energy Fuels Corporation, possible approval of an amendment to grant FED-03-007 to Clean Energy Fuels Corporation to change the location of this public access compressed natural gas fueling station. Mr. Smith?

MR. SMITH: Good morning, Commissioners. My name is Michael Smith. I am the Deputy Director for Fuels --

VICE CHAIR BOYD: Pull the mic up close.

MR. SMITH: -- and Transportation Hearing. Is that -- I can hear myself now, so that must be a good sign.

VICE CHAIR BOYD: And now we can hear you.

MR. SMITH: Okay. The item before you is a simple location change that was necessitated by a street widening project in the City of Laguna --

VICE CHAIR BOYD: Mission Viejo --

MR. SMITH: No, actually it started in Mission Viejo, but the current location is in the City of Laguna Niguel, and because of the street widening project, the Applicant -- or the grant recipient, rather, Clean Energy Systems, needed to find a new location, and they have in the City of San Juan Capistrano. The necessary documentation for vehicle numbers and fuel throughput and cost, and so on, has been forwarded to DOE. We expect approval by DOE shortly. And we expect that the project will be completed by the end of this calendar year. So we are moving quickly to wrap this up, but we just simply need to make this locational change in the terms and conditions of the grant, which require this no-cost amendment to come back before the Commission. So we request your approval.

VICE CHAIR BOYD: I move approval.

COMMISSIONER BYRON: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

This item is approved.

Item 7. Department of Mental Health. Possible approval of a $1.6 million loan to the Department of Mental Health to fix leaks and damaged pipes in the stream distribution line at Metropolitan State Hospital. Mr. Smith.

MR. SMITH: This is the latest in a series of

loans through our ECAA Program, and it is a 3 percent loan to the Department of Mental Health. I will point out that the $160,000 savings to the Department comes about not only through energy savings, but also reduced water and chemical replacement costs in the system. As a result of the energy savings, the amount of carbon dioxide emissions is reduced by just over 1,100 tons annually, so it is a rather significant savings. The entire amount, the $1.6 million, is being funded through our ECAA program and this has been brought to both the Efficiency Committee and the Ad Hoc Committee for approval.

COMMISSIONER LEVIN: Do the carbon savings that you were talking about include the carbon savings from the water savings, or just from the electricity?

MR. SMITH: Just from the energy, I believe.

COMMISSIONER LEVIN: We did consider this in the Efficiency Committee and this is a really important loan, and the savings for all reasons have added benefits to California. So I would move the item.

COMMISSIONER BYRON: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

That item is approved.

Item 8. California Department of Corrections and Rehabilitation. Possible approval of the $650,000 loan to

the California Department of Corrections and Rehabilitation to retrofit the lighting system at the California Rehabilitation Center in Norco. Mr. Smith.

MR. SMITH: Thank you. Again, this is a loan through our ECAA program and, again, it also is at 3 percent. The electricity savings as a result of the improved lighting efficiency will reduce carbon dioxide emissions by about 600 tons per year. The total cost of the project is being split between the $650,000 loan from the Energy Commission and about -- not about, exactly -- $180,000 in rebates from Southern California Edison. So we have a total project payback in approximately 4.3 years. And this, too, has been approved by both the Efficiency and Ad Hoc Committees.

COMMISSIONER LEVIN: I would move this item and I wish we could solve all of the prison and corrections issues so easily.

COMMISSIONER BYRON: Yes, I am glad our task is to save energy and reduce waste and not release prisoners. I second the item.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

That item is approved.

MR. SMITH: Thank you.

CHAIRPERSON DOUGLAS: Item 9. University of

California Irvine. Possible approval of an amount not to exceed $124,985 for work authorization MRA-02-082 with the University of California Irvine, under Agreement 500-02-004. Ms. Lew.

MS. LEW: Good morning, CHAIRPERSON Douglas and Commissioners. My name is Virginia Lew of the Energy Efficiency Research Office. The purpose of this work authorization is to evaluate the role of very small particles on the following of membrane filters used in water to wastewater treatment facilities. Limited data suggests that very small particles have more of an impact on following membranes than large particles. And as the membranes become fouled, it takes more energy to push the water through the membranes. U.C. Irvine will be collecting water samples from three wastewater treatment plants in Southern California. They will be analyzing the incoming and outgoing concentrations of these small particles, and then evaluating the effects of these small particles on a variety of different types of membranes. They will also be estimating the amount of energy reduction associated with improving membrane performance, as well as identifying mitigation measures associated with the water treatment process that can reduce fouling. As water related energy use annually accounts for 19 percent of the state's electricity consumption and 30 percent of the non-

power plant natural gas consumption, this project supports the state's Integrated Energy Policy research goals of conducting research to identify ways to improve the energy and efficiency of water waste treatment processes. This project has been approved by the R&D Committee and staff recommends approval of the project.

CHAIRPERSON DOUGLAS: Questions or comments.

VICE CHAIR BOYD: I move approval of the item and, as indicated, it came through the R&D Committee, and I certainly am supportive of its potential to be more efficient and save energy, and the water energy nexus is a big issue in California and we probably should point out this project in some form or another to the citizens and other stakeholders of the state.

COMMISSIONER BYRON: Are you suggesting we have a press release on this research project?

VICE CHAIR BOYD: Well, I am certainly suggesting we look into that idea.

COMMISSIONER BYRON: You know, not being on the R&D Committee, and when I see these items come through, this place never ceases to amaze me, the cutting edge research that we do, and this looks very intriguing, great potential not just in California, as well. So I would certainly second the item.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Thank you. That item is approved.

Item 10. L'Monte Information Services, Inc. Possible approval of Purchase Order 09-409.00-004 for $60,000 with L'Monte Information Services, Inc., for business analyst support to determine hardware/software technical requirements for the Home Energy Rating System. Mr. Flamm.

MR. FLAMM: Good morning. This item is for approval of this purchase order. This has to do with document retention, as required in the 2008 Standards. We already have HERS raters creating documents in 2005, and that requirement has been advanced and there is a concern that we have documents that are permanent and consistent for enforcement with the Standards. So there is a requirement for a document retention that is consistent, and staff needs a consultant to help us develop the hardware and software for that project. Now, I would like to point out that this project will not affect the implementation date of the standards, although staff intends that this will be taken care of by the 1st, if it is not, there are alternate options for us; for example, we may keep physical copies of the documents until we have the software and hardware rating. Thank you.

COMMISSIONER LEVIN: The Energy Efficiency

Committee has looked at this and we think this is an important step forward. The HERS Program is a really critical pathway to AB 32 implementation and so I strongly support this item.

CHAIRPERSON DOUGLAS: Is that a motion?

COMMISSIONER LEVIN: Yes, it is a motion to approve.

VICE CHAIR BOYD: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

The item is approved.

MR. FLAMM: Thank you.

CHAIRPERSON DOUGLAS: Item 11. Employment Training Panel. Possible approval of Contract 180-09-002 for $5 million with the Employment Training Panel to provide workforce development apprenticeship and pre-apprenticeship training under the Clean Energy Workforce Training Program. Mr. Bartholomy.

MR. BARTHOLOMY: Thank you, CHAIRPERSON, Commissioners. Good morning. Sorry I was not here for the television cameras. I am here today asking for your approval of an inter-agency agreement between the Commission and the Employment Training Panel for $5 million of American Recovery and Reinvestment Act funds from the State Energy Program. These funds will be used to fund

training programs in water and energy efficiency, as well as clean energy generation, distribution, and transmission for both distributed scale, as well as utility scale renewable energy generation. This will be overseen by a group of Energy Commission staff that will help the Employment Training Panel develop the contracts with the employers, and the multiple employers will provide this training to their employees, and we look forward to a long relationship with the Employment Training Panel to deliver this kind of training in California. I will be open to any of your questions at this point. I would just note that this did go through our Ad Hoc Committee with Commissioner Levin sitting in for Commissioner Rosenfeld.

CHAIRPERSON DOUGLAS: Questions, comments?

VICE CHAIR BOYD: I have a comment, more a suggestion to Ms. Chandler. Here is another item worthy of notoriety, however, I heard the water nexus raised again, so you get a twofer if you want to do something in terms of pointing out the water and energy activities of this agency.

MS. CHANDLER: Thank you, Vice Chair. We are working closely with the Governor's Office on this because it is very possible that this is the largest award of clean job training program in the nation, and so it will make a very large splash as a result. So we are working closely

with them.

COMMISSIONER BYRON: There is the water nexus again.

VICE CHAIR BOYD: Well, I was just going to say we can take the water nexus, they can have the employment and all that --

MS. CHANDLER: I should also note that, regarding the other awards that we have made at the business meeting, we do news releases on those. We work closely with the local jurisdictions and the Legislative members to make sure that they are aware of this, and that these items get placed in the local newspapers. So we are very vigilant on the good work that we do here at the Energy Commission.

COMMISSIONER BYRON: Uh, Mr. Bartholomy, I know that you have been working on these issues very diligently on behalf of your Commissioner's office and it would seem that the Chairman is trying to employ half the state of California with all the efforts going forward. This is going to train upwards of 1,600 people or more in some pretty broad areas. Have you got jobs for all these people?

MR. BARTHOLOMY: That is an excellent question, and it is one that comes up continually about linking training programs to actual jobs that are out there in the field, and so part of the underlying framework of our Clean

Energy Workforce Training Program, the full program that the Chief Deputy just discussed, is a linkage and preference given to providing funding to those training organizations that have a partnership with either organizations or entities that are actually employing these sorts of technologies. So we will be giving preference to those, for instance, renewable energy companies that are actually going to be building here in California. This contract is for only incumbent workers, the Employment Training Panel only provides training for incumbent workers, so this would be organizations that already have plans to build in California, or retrofit in California, and these will be providing them with funds to train their employees to be ready to perform that work.

COMMISSIONER BYRON: Good. Thank you. I do not know where we are on this item, but I would be happy to move approval.

CHAIRPERSON DOUGLAS: I think that is exactly where we are on this item.

COMMISSIONER BYRON: And thank you, Mr. Bartholomy.

COMMISSIONER LEVIN: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

This item is approved.

MR. BARTHOLOMY: Thank you.

CHAIRPERSON DOUGLAS: Item 12. Minutes. Approval of the August 12, 2009 Business Meeting Minutes.

VICE CHAIR BOYD: May I ask a question of our Chief Counsel? The Minutes reflect the fact that I was a little late getting into the meeting on just a couple of items. I am presuming it is appropriate to vote on full Minutes since I was here for a majority, rather than abstaining like we do when we are not here at all?

MR. CHAMBERLAIN: Yes. You can vote.

VICE CHAIR BOYD: Thank you.

COMMISSIONER BYRON: I move approval of the Minutes.

COMMISSIONER LEVIN: Second.

CHAIRPERSON DOUGLAS: All in favor?

(Ayes.)

Unanimous approval of the Minutes.

Item 13. Commission Committee Presentations and Discussion. A discussion by Commissioners regarding Committee Oversight matters may be held. Is there discussion?

VICE CHAIR BOYD: Well, I have a question, seeing Mr. Smith in the audience. We were advised that, at 7:30 Pacific Time, the Vice President and Secretary Chu were going to make some significant announcements in Washington

that we presume to be about the Clean Cities Awards. It being past the hour of 7:30, do we know anything as it relates to awards to California, since we -- Mike is anxiously looking around the room for help here.

MR. SMITH: We do. We have seen the list of awards and it looks like California received five. I cannot remember the total dollars that California is receiving, it was something -- I am not even going to guess. Three of those projects came through the Energy Commission for match year funding, and we are preparing materials now to brief the Commissioners on these awards by DOE, and particularly the ones that came through for our match year funding because we want to move quickly in finalizing the terms and conditions and the amounts of the agreements, and move these projects quickly into the marketplace.

VICE CHAIR BOYD: Good, thank you.

CHAIRPERSON DOUGLAS: Commissioner Byron. Oh --

MR. GOTTLIEB: Commissioners, due to the passing of Senator Ted Kennedy, the Vice President and Secretary Chu declined to give more details than what might -- they passed on any formal press announcement.

VICE CHAIR BOYD: And you are for the record, sir?

MR. GOTTLIEB: I am sorry. For the record, I am

Adam Gottlieb with the Media Communications Office.

CHAIRPERSON DOUGLAS: Commissioner.

COMMISSIONER BYRON: If you are done with that item, Commissioner, I just wanted to bring up something. The Chairman sent around to us, I believe yesterday, I call it to all of you to take a look at *Science Magazine* this week's issue -- or this month's issue, it is dated August 14th, it has an interesting article on leading the efficiency gap and it features none other than our own Commissioner Rosenfeld, among many others, and I note that this gentleman continues to always have such good press. I think it shows -- it is an example to me that being a kind gentleman is the right approach to getting your message across. Commissioner Rosenfeld always -- let me back up a moment -- he and I are often here in the evening as the two bachelors in town, if you will, and go out to dinner. He never gets off point with regard to energy efficiency. All through dinner, that is all he talks about. And it is just a touching article, it is good technically, but I think you will appreciate -- I do not want to give away the ending -- but the gentleman certain conveys a message, and has all his life. I note he is not here today, taking a little time off, but even when he is not here, he still influences this place, and I just wanted to call this article to your attention. Thank you for sending it to us.

CHAIRPERSON DOUGLAS: Thank you. Other comments by Commissioners? We will go on to Item 14, Chief Counsel's Report.

MR. CHAMBERLAIN: Thank you, Madam Chairman. Yesterday afternoon, I circulated a memo explaining the need for a brief closed session with respect to a litigation item.

CHAIRPERSON DOUGLAS: Very well. Thank you. Item 15. Executive Director's Report.

MS. CHANDLER: Good morning. I have two items that I would like to report on. The first will be a status on where we are with the American Reinvestment and Recovery Act Programs here at the Commission. The second item will be about one of my favorites, which is the Superior Accomplish Awards, and the Sustained Superior Accomplishment Awards.

Some business first. Our last ARRA workshop will take place on Friday, August 28th, in Los Angeles, where we will go over the Block Grant Program, the State Energy Program, very very briefly the Energy Star Appliance Rebate Program, and the Energy Assistance Plan for Enhancement, and Assurance Plan for Enhancement. The meeting will be opened by the Assembly Utilities and Commerce Chairman, Assemblyman Fuentes, and he will be welcoming staff and making the opening remarks. As you probably are aware, the

Energy Efficiency Conservation Block Grant Guidelines were posted earlier this month. We will be hearing those bringing this forward for adoption on September 23rd at the Business Meeting. The State Energy Plan Final Guidelines will be posted this Friday, and they will be up, then, for adoption on the September 30th Business Meeting. So we are proceeding very close to the schedule that we laid out over eight weeks ago, or 10 weeks ago. The staff will be working, our Energy Efficiency Block Grant folks, are going to be holding regional workshops with local jurisdictions on an appointment basis to help them fill out the application for the Block Grant Awards. We have not yet received the acknowledgement from DOE of the awards, and that is okay with us because, once the awards are provided to us by the Department of Energy, we have six months to get those out to the local jurisdictions, so we are very focused on that, that is one of our first priorities in terms of making sure that their applications are done correctly, they have all their I's dotted, their T's crossed, so we can make those awards to them. We are dealing with over 300 local jurisdictions, many of them who are very small, some of them who have never worked with us before, so we are very focused on this, making it right the first time.

Regarding the Energy Star Appliance Rebate

Program, last Friday, we were informed by the Department of Energy that our initial application has been accepted. Staff is now proceeding to develop the final application which is due in October. At the same time, staff will be working on developing the guidelines. We anticipate that we will be holding workshops on the guidelines and then bringing them to the full Commission for adoption in the November-December timeframe.

And lastly, staff is developing guidelines for the $3.6 million California State Energy Assurance Plan Enhancement. This is often referred to as Contingency Planning and Smart Grid, this award occurred earlier this month, staff is working on the guidelines for this, and will also be bringing that forward.

Also this week, we worked with the state's California Chief Information Office, the OCIO. The OCIO is responsible for pulling together all of the ARRA reporting data that is required by the Federal Office of Management and Budget and submitting it on the 10th of October. So they did a dry run with all state agencies to make sure that the data upload will be smooth because this is the first time the system will be in place, and to make sure that the data fields that we are responsible for are complete. So we did that earlier this week, it went well, and we identified that they did not have one of our

programs that we needed to report on in the system, that has been taken care of. We will be completing that responsibility. We were required to provide them the data on 10/2, October 2nd, and they will be uploading on 10/10 to the Office of Budget and Management. So that concludes my report. Any questions?

CHAIRPERSON DOUGLAS: I do have a question. Your last point brought this up to some degree, but we focused a lot on our responsibility to develop sound guidelines and get funding out on the street on time, due to the economy, and appropriately so, but as you know only too well, there is an immense layer of accountability along with this. There are reporting requirements and, in fact, multiple reporting requirements, and I think it would be helpful if you briefed the full Commission on your thinking for how we build the processes and think about how we address this issue with employees of 300 local governments and also with recipients of competitive awards.

MS. CHANDLER: We did not realize when the money came to us from the ARRA money the depth of strengths that are attached to this from the standpoint of transparency, waste, fraud and abuse. We have learned through meetings with the Department of Energy, with the Bureau of State Audits, who has come to visit us on a -- because we have been identified as an entity agency that will be audited --

in working with guidelines that are coming out, it seems weekly, by the Office of Management and Budget. We felt that we needed to have a broader understanding as to how we would approach this going forward in terms of the independent measurement and evaluation approach; we had been thinking that, on the one hand, that would be a lot about energy. Given the information that we received from the Department of Energy in an earlier meeting with us, and from the Office of Management and Budget circulars, and the Bureau of State Audits, we recognized that this money is coming with a very critical responsibility from the standpoint of transparency -- audit trails, proper processes and procedures need to be in place. Staff met with three very large firms on a market assessment to learn what they know, one of these firms works right now with state agencies already moving forward with the RO funding in their area, Transportation and Health Services, the second works with the OCIO, and the third works with the federal government in terms of the ARRA funds. So we were meeting with them just to get a better understanding about what might be expected from us, as the prime recipient of these funds, and a better understanding of what the sub-recipients will require, and the vendors below them. So in the course of that, we learned a great deal about the reporting requirements that we will have to not only meet

in terms of the OMB, but also to have in place to be able to respond to the Department of Energy's request, as well as OMB's request. So at this point in time, staff in the programmatic area, and in the financial area, are looking at developing a statement of work that would encompass this and, as I like to say to Karen, to keep her out of jail, but it is very important, it is very critical, it was stressed to us that the way that the TARP funding went out last year in the last Administration, and the lack of accountability from those funds related to the financial industry will not happen in this Administration, and there will be very stringent and heavy reporting on any federal funds, ARRA, and any future ones. So that is what we learned and will be bringing forward, more information to the committees on kind of what we are thinking as we begin to scope this project.

COMMISSIONER BYRON: Ms. Chandler, is the scope of any potential criminal proceeding for malfeasance only against the Chair?

MS. CHANDLER: I am trying to cover your back. No, it is not. It is actually, as you are probably aware, we have to report on the top five salaries for any of the prime and sub-recipients, well, yours are all posted on SACB.com, so that is not really a problem. But that will be for --

VICE CHAIR BOYD: And they are not spying.

MS. CHANDLER: But all sub-recipients, all recipients of ARRA funds have to post the top five salaries of their businesses, and then it goes -- and there are 33 fields of reporting requirements for OMB, and then there is more fields beyond that to make sure that we can meet our fiduciary responsibilities.

CHAIRPERSON DOUGLAS: Commissioners, I asked Ms. Chandler to go into some detail on this point, first of all, because we all are aware, need to be aware, that we have a tremendous responsibility here, and I expect that, from talking to staff, that this organization will be honored not once, not twice, but no doubt multiple times by multiple parties, and so, as Ms. Chandler said, initially we were thinking that a lot -- or at least some significant portion of this accountability work would be technical, would have to do with energy saved, and how do you measure it, and I believe the staff, as Ms. Chandler indicated, reached the realization that, yes, we need that, but even more than that, we need the audit trail, we need the trainings in place, and we need to train the right people at the right time in order to ensure that recipients are able to -- recipient staff, Management, and so on -- are able to play their respective roles. And so I am pleased with the way staff has taken this on with not only the

pressure to get, of course, the money out the door by deadlines, and to stimulate the economy, but also in light of constantly refined federal requirements and new information, it seems almost weekly, about new things that we might need to do. So please continue in that vein, please keep all the Commissioners in the loop and fully briefed as you move forward with that.

COMMISSIONER LEVIN: Madam Chair, can I just add to that. My incredible thanks and, even more, my incredible condolences that you all have to spend so much time and effort on this. I think most people, when they came to the Energy Commission, did not expect to have to become experts in audits and crime and fraud prevention, and things like that. I think the workload -- the burden on you and other staff -- has got to be just crushing and we are really grateful that you guys are somehow miraculously managing to stay on top of it and keep things moving on multiple tracks at the same time, getting the money out the door, and already anticipate how we are going to report on it, and make sure it is all done well, so we really -- I am enormously impressed and grateful.

MS. CHANDLER: Thank you. We have an amazing team. I mean, it has given me the opportunity to work with some very dedicated and very committed people, who, as you know, we are here at nights and weekends, and even Furlough

Fridays, because we are going to get the job done. So, yes.

VICE CHAIR BOYD: Never on Furlough Fridays.

CHAIRPERSON DOUGLAS: Not in the building.

MS. CHANDLER: Actually --

CHAIRPERSON DOUGLAS: I am a little embarrassed to admit that I bumped into Ms. Chandler the last Furlough Friday in the building. She was thinking about this issue and here to work on this issue, and I was here to work on any number of things, but thank you for your work on that.

MS. CHANDLER: Thank you.

VICE CHAIR BOYD: Commissioner Byron and I are trying to protect our legal back. I know people work out of state agencies who are barred by the security people from even entering their buildings. So we have a nice team here, including our security people, that welcome us on weekends and Furlough Fridays.

MS. CHANDLER: Well, I need to say, just to set the record straight, that the Governor's Office also recognizes the critical mass of the work that we are doing in both ARRA and the siting cases, so we are one of the few agencies that have been allowed to, on a preapproval basis, work on Furlough Fridays, and that is huge because not very agencies have that approval, but I think they recognize the importance -- I know they recognize the importance of what

we are doing here.

VICE CHAIR BOYD: One, if I may, additional comment that fits in with this discussion. I just want to ditto all the compliments that the staff has received, and comment, you know, it is tough working in public service, you work in a fishbowl full of sharks with the public being the sharks most of the time. And dealing with this economic stimulus program has been an incredible workload, and I know we probably get a few criticisms from outside people about being slow, or what have you, although I must admit, I only heard one or two. But DOE today is taking a little flack, I noticed, in some parts about walking the same fine line in terms of, you know, being responsible and executing the fiduciary responsibility for these taxpayer monies, and having adequate rules, regulations in process, and yet not getting so hung up that you end up like DOE has gotten rid of today 245 page-long applications that take days, if not weeks, to process in an effort to provide said security. So it is hard to find that meeting ground and we seem to have done a pretty good job in terms of the eyes of the public, and there is certainly plenty of auditing follow-up that we are all learning about. But the staff has mightily turned out program opportunity notes, notices, as well as all the paperwork you have to send to the federal government for applications. So good job done by

all. And it is not something that many people even recognize, that an energy agency would be so deeply engaged in, itself, and perhaps we get some notoriety for the awards that come our way, including the ones that Mike Smith will figure out what they were, when we get the information, so just my kudos, as well.

MS. CHANDLER: Well, I would be remiss if I did not acknowledge the Transportation Division staff and the PIER staff because they are working very hard on trying to make us be more competitive and more successful in bringing manufacturing jobs and business to California with those awards, and I am very focused on the Block Grant and the SEP, and the ones that are coming to the Energy Commission, but our team that has been working on the transportation and on the research and development of PIER are equally challenged, and got their day jobs and still are committed to bringing those monies to California. So may we live in challenging times, huh?

COMMISSIONER BYRON: Good, well, Ms. Chandler, let's get on to the best part of the day. Can we acknowledge some of those individuals?

MS. CHANDLER: Yes, this is the best part of the day in my experience because I am going to be able to call forth some very wonderful people. I just want to explain a little bit, give you some background in what this is. Each

year, the Commissioners and the Energy Commission Management Team work together to identify those employees that have performed above and beyond their normal work to accomplish an important challenge or responsibility for the Energy Commission. We have two types of awards, one award is the Superior Accomplishment, which recognizes 12 months of work, something really outstanding, but the second award is for the sustained superior accomplishment, and the timeframe on that is for 24 months. My observation has been, however, for those folks who receive the sustained superior accomplishment, that their work sustains much longer than that 24 month period. So first, I am going to -- we are working this up, and so I am going to call forth today employees from the Transportation Division and the Electric Supply Analysis Division, the Office of Governmental Affairs, and then the Media and Public Communication Office. So first I would like to call up Mike Smith, and then we will take his folks first. Mike? With Mike coming forward, I would like to invite Jim McKinney to come up. You can stand right at that mic. Jim McKinney received his award for superior efforts, abilities, and leadership, which contributed to the first time in California's energy sector, a set of quantifiable and defined goals by which to measure a project's contribution to sustainable environment. In addition, Jim

was able to accomplish this effort and meet the program's mandate and milestones and products. Jim, congratulations. Would you like to say anything to the Commission?

MR. McKINNEY: I am supposed to say something here?

MS. CHANDLER: If you would like.

MR. McKINNEY: I guess I would just like to say it was a privilege and a challenge to try to take one paragraph, maybe one key statute, requiring us to develop sustainability goals for alternative fuels and renewable vehicle technologies, and translate that into a working program through our public proceeding, you know, with the support and encouragement and sharp elbows from some of our stakeholders, and I think we did a really good job, and I think, as Claudia said, I think we are the first government agency at the state or federal level to really have operative sustainability criteria, and goals, and program guidelines for alternative transportation funding awards. So it is has been, I guess, a privilege and a challenge to work on this, and it was a team effort all the way around, and some of those people have since left the Commission. But thanks very much.

COMMISSIONER BYRON: Congratulations. [Applause]

MS. CHANDLER: Next I would like to ask Liz Shirakh to come up. No Liz? She was here. I will go to

the next. Joseph Wang. Joseph? Oh, Joseph is on vacation. Okay. Well, I know Liz was here because her husband, Mazeh (phonetic) was here just a while ago to acknowledge her. I will go ahead and go on to the next division. And I am looking to make sure that Mr. Occiuzzo is in the audience, there he is. Mr. Occiuzzo, would you please come up to the podium? And Ms. Bender, could you please come up, as well? I have the privilege of awarding Gary his award and he was quite surprised, so I will say to Gary and to you all, Gary was nominated for his superior performance in improving and streamlining data collection for the Demand Analysis Office. The Energy Commission's Energy Consumption Data is an integral part of developing electricity and natural gas demand forecast throughout California. Gary worked tirelessly to make improvements to the data collection and analysis process that will serve DAO for many many years. Gary, would you like to say something?

MR. OCCIUZZO: Only to repeat what I said when I was surprised. I am fortunate to work with a great group of people that are at least equally as deserving of this award, but I am honored and I thank you. [Applause]

MS. CHANDLER: Would you like to say something?

MS. BENDER: No.

MS. CHANDLER: No? Okay. Now, the Office of

Governmental Affairs. That would be Charles Smith. Charles? [Applause] And Chris Marxen, your boss, his boss at the time, could you come up? Charles is a legacy. His father worked at the Energy Commission and I had the pleasure of working with his father many years ago. I remember when he was born. Am I dating myself?

VICE CHAIR BOYD: We are raising second generation employees now.

MS. CHANDLER: Charles Smith received an award for his superior performance for the excellent work he produced on a daily basis and for his extraordinary contribution to the administration and Commission's Legislative proposals related to federal energy stimulus funding. Charles was required to research, draft, and coordinate the federal stimulus legislative proposals related to energy for the Governor's administration. Charles' unequaled personal effort with this ongoing project will ultimately result in the Energy Commission receiving the maximum federal stimulus dollars, which will pump up much needed jobs in California's economy. Charles?

MR. SMITH: Thank you. I really just would like to thank everyone that I have worked with, whether in OJA or my new office at Emerging Fuels, or in my older office, the Demand Analysis Office. And I guess I would just like to echo what Gary was saying, it has been quite the

privilege to work with very knowledgeable people, very involved people, and, like Gary says, there are so many of them that probably they deserve the award just as much as I do. But thank you. [Applause]

MR. CHAMBERLAIN: I would just like to add with respect to Charles that he leads and is lead guitarist for a rock band that I heard the other day, and you would all be missing something if you did not come to the CEC picnic.

COMMISSIONER BYRON: There is potential for another award, then.

MS. CHANDLER: You know, Bill is all about the band, you know? He has like negotiated that the band members get to eat first at the picnic, he has negotiated the hearing rooms, he has commandeered them. But we love our bands, and I think you have eight of them now? Is that right -- six. Six bands. Yes, you will be missing something if you do not come to the picnic. We have a lot of talented people at the Energy Commission. The next office is the Media and Public Communications office, one that is near and dear to my heart. Susanne Garfield Jones, the Manager of the Office, is in the Grand Tetons right now, but I will ask Adam Gottlieb to come forward. In addition to getting married this Sunday, we are all family here, right, Adam?

MR. GOTTLIEB: And then some.

MS. CHANDLER: Adam Gottlieb was recognized for his exceptional professionalism and personal vigilance in performing many duties. His technical expertise in research and development program areas and energy efficiency, coupled with his knowledge of the media, helped the Commission gain national recognition for the States, Buildings and Appliance Efficiency Standards, Climate Change, and the PIER Program. Many of you know that Adam is Commissioner Rosenfeld's personal publicist. He is the advocate and he makes it happen in many cases. So, Adam?

MR. GOTTLIEB: As unaccustomed as I am to public speaking, I am honored to work with a very talented and creative bunch at the Media Office, and I would not be standing in front of you today if it was not for the team work that all of the other recipients have mentioned today. I am honored and I thank you. [Applause]

MS. CHANDLER: Thank you. Amy Morgan. Amy is sick? Oh, Amy is very shy. Is Liz back? No. I am not going to let these people off the hook, so we will bring them back to the next meeting because I feel that what they have accomplished is so important, that it is worthy of your acknowledgment and understanding, and I love the family here, you know, I really love the fact that it is not just about the people, but it is about the teams. So with that, I am going to close my presentation, then.

VICE CHAIR BOYD: Thank you. Don't we get a group photo up here with all the Awardees like last time?

MS. CHANDLER: You do, you absolutely do. Yes.

CHAIRPERSON DOUGLAS: Well, if we could, I guess let's do the photo quickly, and in the time it takes, then we still have the Public Advisor's Report and can I see a hand if there is any public comment? I do not see any public in the room. Good, so we will -- let's do the Public Advisor's Report, sorry, before the photo.

Item 16. Public Advisor's Report.

MS. McMAHON: Good morning, Chairman and Commissioners. I just have one item to report. During the next two-week period, there is going to be a site visit and informational hearing for the Watson Co-Gen Project. That is going to be on September 3rd in Carson.

CHAIRPERSON DOUGLAS: Thank you. Let's take our group photo, then.

MS. CHANDLER: I think a group photo would be a good -- there is kind of smallish group here, so if we could do that.

VICE CHAIR BOYD: We did it last time, so the precedent has been set.

MS. CHANDLER: Okay, great. We have Kevin Kidd standing in for Adam Gottlieb on this. Kevin, can you see the Chairman behind --

CHAIRPERSON DOUGLAS: You cannot see me? Oh.

MS. CHANDLER: So, Jim, maybe if you come around to the -- yeah, on the end. There we go. And now can you see Commissioner Levin?

VICE CHAIR BOYD: Thank you. Congratulations.

MS. CHANDLER: Very nice.

CHAIRPERSON DOUGLAS: Thank you. All right, with that, the meeting is adjourned. We will move on to closed session.

(Whereupon, at 11:55 a.m., the business meeting was adjourned.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of August, 2009.

Peter Petty