

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:
Business Meeting

)
)
)
)
)
)
)
)

 ORIGINAL

DOCKET	
BUS MTG	
DATE	<u>7/29/2009</u>
RECD.	<u>8/18/2009</u>

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

WEDNESDAY, JULY 29, 2009
10:00 A.M.

Reported by:
Peter Petty CER**D-493

CALIFORNIA REPORTING, LLC
52 LONGWOOD DRIVE
SAN RAFAEL, CA 94901
415-457-4417

COMMISSIONERS PRESENT

Karen Douglas, Chairperson

Jeffrey D. Byron

Julia A. Levin

Arthur H. Rosenfeld

STAFF AND CONTRACTORS PRESENT

Melissa Jones, Executive Director

Arlene Ichien, Assistant Chief Counsel

Michael Smith

Gary Flamm

Eric Knight

Chris Davis

Matt DalSanto

Linda Spiegel

Ken Koyama

PUBLIC ADVISER

Loreen McMahon, Associate Public Advisor

ALSO PRESENT:

Patrick Splitt, App-Tech

Ross Metersky, BP Alternative Energy

Jeff Harris, Ellison Schneider & Harris

Richard Weiss, Starwood Energy Group

Jane Luckhardt, Downey Brand

Joe Garuba, City of Carlsbad

Matthew Frome, Solazyme, Inc.

I n d e x

	Page
Proceedings	
Items	
Commission discussion on adding an item to the agenda	5
1 Consent Calendar	
B Green Tech Connect Forum	14
A Energy Pro Nonresidential	14
2 Watson Cogeneration Steam and Electric Reliability Project	20
3 Mariposa Energy Project	23
4 Starwood Power Project	29
5 Avenal Energy Project	33
6 City of Los Angeles	41
7 City of Carlsbad	45
8 NHTSA Tire fuel Efficiency Consumer Information Program	49
9 Lawrence Livermore National Laboratory	51
10 UC Riverside Center for Environmental Research and Technology	53
11 Makel Engineering	54
12 NASA Ames Research Center	56
13 Solazyme, Inc.	57
14 Minutes	60
15 Commission Committee Presentations/ Discussion	64
16 Chief Counsel's Report	70

I N D E X (CONT.)

	PAGE
17 Executive Director's Report	72
18 Public Adviser's Report	75
19 Public Comment	76
20 ICF Incorporated, LLC	61
Adjournment	79
Certificate of Reporter	80

P R O C E E D I N G S

10:00 A.M.

CHAIRPERSON DOUGLAS: Good morning, welcome to the California Energy Commission Business meeting of July 29th, 2009.

Please join me for the Pledge of Allegiance.

(Whereupon the Pledge of Allegiance was recited in unison.)

CHAIRPERSON DOUGLAS: Good morning. Before we begin, we got a comment card from an individual who would like to comment on an item on the consent calendar. So I will pull that item from the consent calendar, that's Item 1a, I believe, and we'll deal with that item first, after we deal with the consent calendar.

Secondly, staff would like to ask the Commission to add an item to the agenda, so I would like to ask staff to bring that forward.

EXECUTIVE DIRECTOR JONES: We are asking to have the item, which is ICF, Incorporated, Contract 600-09-002, added to the agenda.

This is a circumstance where we've been working with the Department of Finance in terms of dealing with our contracts and some other issues. We were not able to get direction until after the agenda had already been posted.

This work is essential to our AB 118 program in

1 making sure that we get that money out the door. We're
2 using this money in AB 118 to leverage ARRA dollars. So
3 it's important that we have this contract in place as soon
4 as possible so we can get the money on the street and we
5 don't end up being a bottleneck to releasing that money.

6 Normally, we don't request this, it's only when an
7 item isn't known in advance.

8 CHAIRPERSON DOUGLAS: Actually, in my time here we
9 have never requested this.

10 Let me ask you a question. My understanding is
11 this was posted on a prior agenda but we pulled it because
12 of the --

13 EXECUTIVE DIRECTOR JONES: Yes.

14 CHAIRPERSON DOUGLAS: -- at that time confusion
15 over what the process would be for approving contracts?

16 EXECUTIVE DIRECTOR JONES: Correct.

17 CHAIRPERSON DOUGLAS: Okay.

18 EXECUTIVE DIRECTOR JONES: So it has been on the
19 agenda before.

20 CHAIRPERSON DOUGLAS: And so the two-part prong in
21 the Open Meeting Act to add items, a need to take immediate
22 action and that, you're saying, is our strong desire not to
23 be a bottleneck in the process of getting 118 and ARRA
24 funding out into the economy.

25 EXECUTIVE DIRECTOR JONES: That's correct.

1 CHAIRPERSON DOUGLAS: And the approval was
2 received after or came to your attention after the agenda
3 was posted?

4 EXECUTIVE DIRECTOR JONES: We got an approval but
5 we needed additional clarification and it has to do with the
6 15 percent cut and those issues.

7 CHAIRPERSON DOUGLAS: Very good. Commissioners,
8 are you -- questions, comments?

9 COMMISSIONER BYRON: Ms. Jones, are you aware of
10 any public interest or controversy around this subject?

11 EXECUTIVE DIRECTOR JONES: This particular
12 contract? Not that I'm aware of, but I'll turn it to Mike.

13 MR. SMITH: Good morning, Commissioners, my name
14 is Mike Smith, I'm the Deputy Director for Prison
15 Transportation. And thank you for the opportunity to at
16 least consider adding this to the agenda.

17 I'd like to give you just a little bit of detail
18 about the contract and why we think it's important that the
19 Commissioners add this to the agenda and, ultimately,
20 approve it.

21 Specifically, it's a contract with ICF,
22 Incorporated, and it's a technical assistance contract for
23 \$721,000. It's the work that's being -- that will be done
24 in this contract directly supports the development of the
25 revised second investment plan for the alternative fuels,

1 alternative and renewable fuel and vehicle technology
2 program.

3 The Commission approved the first investment plan
4 back, just this past April 22nd. That plan covers the first
5 two fiscal years, which was last year and then the current
6 year.

7 So the statute requires that the investment plan
8 be updated annually, so we had begun the process in working
9 with the Executive Office and with the Transportation
10 Committee in laying out a schedule and a process for
11 revising that -- the investment plan for fiscal year '10-
12 '11.

13 The schedule is very tight. The Transportation
14 Committee has asked staff to have a draft prepared for
15 review.

16 EXECUTIVE DIRECTOR JONES: I think that's enough
17 for now because we'll talk about that item.

18 Let me just interrupt because we will bring up the
19 item and you'll get to hear those details.

20 I now have in front of me, this item was on a June
21 Business Meeting, it was pulled because it was caught up in
22 the DOF exemption process.

23 We did get approval on the Thursday, when the
24 agenda came out, it came late in a day, we were on a
25 furlough on Friday, therefore nobody was in the building,

1 and on Monday that's when we identified it and got an
2 additional notice out and sent an e-mail blast out to all
3 parties who received the agenda.

4 COMMISSIONER BYRON: Well, the only real criteria
5 is that there exists a need to take immediate action, so
6 that's really the key question is what's the consequence of
7 delaying this to a future agenda item?

8 EXECUTIVE DIRECTOR JONES: It's a two-week delay
9 in us being able to move forward with the contract.

10 COMMISSIONER LEVIN: I'm sorry, I don't think that
11 answers the question. What's the repercussion of that,
12 what's the immediate need, what does the two-week delay
13 mean?

14 EXECUTIVE DIRECTOR JONES: Mike, programmatically,
15 can you --

16 MR. SMITH: Well, the program -- the issue that
17 we're facing is revising this and we're already a month --
18 this contract should have been approved a month ago, if not
19 for the process associated with the Governor's Executive
20 Order. So we're already now behind in our efforts to revise
21 that.

22 This contract, the work that's going to be done in
23 this contract is actually essential to providing us with the
24 information we're going to need to revise the plan and the
25 schedule that the Transportation Committee has asked us to

1 adhere to.

2 So a two-week delay at this point becomes all the
3 more critical.

4 COMMISSIONER LEVIN: I understand it sets us back
5 two weeks on the schedule the Committee has adopted. But
6 none of that actually to me explains our answer to the legal
7 requirement that there be some urgency about it.

8 What are the repercussions about it, that's what I
9 think we're trying to get at.

10 CHAIRPERSON DOUGLAS: Well, I think, Commissioner,
11 if I can add a note, being on the Transportation Committee,
12 I think that we see staff working in increasingly difficult
13 circumstances because of furloughs, and because of the
14 intense workload, and it's quite intense in Transportation
15 Division right now.

16 We have a very strong interest in getting the
17 investment plan to the Legislature in a timely fashion.
18 They've asked for it quite a bit sooner than we think it can
19 be comfortably be delivered, although we're trying to
20 deliver it as soon as possible.

21 And I think one of the questions, as you interpret
22 immediate need, is will the world end tomorrow? I don't
23 think Mr. Smith would say yes. But under the difficult
24 circumstances in which they're working, adding this to the
25 agenda because of an important need for them to move forward

1 and not be delayed another two weeks, on top of a month
2 delay, is a contribution to helping keep the work on track
3 in the division and on the Commission.

4 I don't think the world will end if we defer this
5 contract another couple weeks, but I also think that it
6 could hurt our timing in terms of delivering the product
7 that the Legislature wants. It could potentially impact
8 quality. And remember, this is a hundred plus million
9 dollar program, this is something where quality is
10 paramount.

11 COMMISSIONER BYRON: Ms. Ichien, because I have
12 not seen this before, either, I'm really only concerned
13 about the consequences of our actions here, what's the
14 potential downside of adding an item to the agenda that
15 hasn't seen sufficient public scrutiny?

16 ASSISTANT CHIEF COUNSEL ICHIEN: The Open Meeting
17 Act does allow you to vote. In this case you would have to
18 vote unanimously to add this to the item -- to the agenda,
19 but it does allow you to add it to the agenda despite the
20 lack of a full-day, 10-day notice, if you determine that
21 there is a need. It doesn't require an emergency to be
22 found, but a need to take action immediately on this item.

23 And so, you know, an explanation has been provided
24 as to why there is a need today, some believe, to take
25 action.

1 COMMISSIONER BYRON: Right, and this Commission
2 does an excellent job, the staff does an excellent job of
3 properly noticing everything we do, and this is just an
4 exception where we have an item that is being added back
5 onto the agenda for administrative reasons.

6 ASSISTANT CHIEF COUNSEL ICHIEN: Yes.

7 COMMISSIONER BYRON: What's the consequences to
8 the project if we were to take action, if someone were to
9 take exception to adding this item to the agenda at this
10 late date?

11 ASSISTANT CHIEF COUNSEL ICHIEN: Well, I don't
12 think there would be grounds to challenge the decision.

13 COMMISSIONER BYRON: Okay, thank you.

14 ASSISTANT CHIEF COUNSEL ICHIEN: Assuming you make
15 the determination of needing to act today, for the reasons
16 given.

17 EXECUTIVE DIRECTOR JONES: And I would just add
18 that this is not the first time that the Commission has done
19 this, this has been done many times over the 32 years.

20 COMMISSIONER BYRON: Oh, I didn't want to hear
21 that.

22 (Laughter.)

23 COMMISSIONER BYRON: Okay, thank you.

24 Madam Chair, I'd make a motion that we add this
25 item to today's Business Meeting agenda.

1 CHAIRPERSON DOUGLAS: Is there a second?

2 COMMISSIONER ROSENFELD: Second.

3 CHAIRPERSON DOUGLAS: All in favor?

4 (Ayes.)

5 ASSISTANT CHIEF COUNSEL ICHIEN: Aye. But
6 actually, before we vote, I wanted to make a comment that I
7 hope that this will be a rare exception. I agree with
8 Commissioner Byron that the fact that this has happened many
9 times before is not comforting. The public notice is there
10 for a reason and I think delivering something to the
11 Legislature on time, keeping a program moving are important,
12 but those aren't unique circumstances. That I think the
13 public notice should only be reduced when there really are
14 overriding unique circumstances.

15 So I am voting on it because I know we need a
16 unanimous vote, but I do want to express that I think this
17 should be a rare exception to the Public Notice Statute.

18 EXECUTIVE DIRECTOR JONES: And I will just tell
19 you that I agree and we'll try to avoid this circumstance in
20 the future.

21 COMMISSIONER LEVIN: Thank you.

22 CHAIRPERSON DOUGLAS: Very good, this item is now
23 added to Item 20 on the agenda.

24 MR. SMITH: Thank you.

25 CHAIRPERSON DOUGLAS: Item 1, consent calendar.

1 Actually, Item 1b is the only consent calendar item.

2 COMMISSIONER ROSENFELD: I move Item 1b on the
3 consent calendar.

4 COMMISSIONER BYRON: Second.

5 CHAIRPERSON DOUGLAS: All in favor?

6 (Ayes.)

7 CHAIRPERSON DOUGLAS: Next we will take up item 1a
8 as a regular item.

9 EXECUTIVE DIRECTOR JONES: Item 1a is the Energy
10 Pro Nonresidential; correct?

11 CHAIRPERSON DOUGLAS: Yes.

12 EXECUTIVE DIRECTOR JONES: Okay, we need Gary
13 Flamm.

14 COMMISSIONER BYRON: We may have to take it up
15 later.

16 CHAIRPERSON DOUGLAS: We'll take it up later if we
17 don't have the right people in the room to do that.

18 EXECUTIVE DIRECTOR JONES: Yes, there he is.

19 CHAIRPERSON DOUGLAS: Okay, come forward, please.

20 EXECUTIVE DIRECTOR JONES: Thank you, Gary, I knew
21 you were here somewhere?

22 MR. FLAMM: Right, I wasn't -- I didn't understand
23 that you wanted me to come up here.

24 I'm Gary Flamm, a Supervisor at the Energy
25 Commission, I'm here because Bill Pennington could not be

1 here.

2 This is the Energy Pro software for non-res 2008
3 building standards, and it was proposed to be on the consent
4 calendar to approve this software and it's just an update
5 from the 2005 standards, which is version 4.4, to the 2008
6 standards, which go into effect January 1st, 2010. And so
7 this is the request to approve that.

8 CHAIRPERSON DOUGLAS: Thank you for that
9 presentation. I'd like to ask the commenter on this item,
10 if he's here, if he'd like to come forward, Mr. Splitt?

11 MR. SPLITT: Good morning, everyone. I see, now,
12 that I should have asked to arm wrestle the staff here, the
13 decision here today.

14 COMMISSIONER BYRON: It looks like somebody
15 already has done that.

16 (Laughter.)

17 MR. SPLITT: I got a hold of this version, the
18 5.0, the program, I've been experimenting with it and I've
19 been finding some problems.

20 COMMISSIONER BYRON: Sir, could you identify
21 yourself, please?

22 MR. SPLITT: Oh, I'm Pat Splitt, from App-Tech,
23 Energy Consultant.

24 Actually, you may remember I was here at the last
25 meeting and had some issues, and Bill Pennington met with

1 me, and I thought he agreed that we would be meeting to
2 discuss these programs before now, but we never had the
3 meeting, so that's why I'm just coming here now, I was
4 waiting for him to call.

5 So I've discovered some problems with the program.
6 One in particular is that I've been modeling heat pump
7 systems and I've discovered that the program ignores any
8 supplemental auxiliary electric strip heating.

9 This would mean that if somebody wanted to put an
10 all-electric home up in Tahoe and maybe, you know, fill the
11 roof full of photovoltaics, in general we wouldn't allow
12 that because they -- if they wanted to use electric strip
13 heating because that would use huge amounts of energy.

14 But the way the program is set up, they could put
15 in the smallest two-ton heat pump that they could find and
16 then put electric strip heating, maybe 60 kilowatts or
17 something, so their house is actually, really is only heated
18 by electric heat, resistance heat.

19 But not only would they pass, but this small unit
20 is probably a fairly efficient unit, so they'd be getting
21 credit for an efficient heating system. Now, this is just
22 totally wrong, you can't allow this to happen.

23 CHAIRPERSON DOUGLAS: Mr. Splitt, I'd like to give
24 you fair warning that we'd like to keep public comments to
25 two minutes and so --

1 MR. SPLITT: Well, it's not a public comment, I'm
2 discussing the issue.

3 CHAIRPERSON DOUGLAS: Can you discuss the issue in
4 two minutes?

5 MR. SPLITT: I was trying to discuss it with Bill
6 Pennington, but he didn't want to listen, so this is why
7 you're hearing it.

8 This is a problem not just with this program, I
9 feel, but with the ACM. I don't believe the ACM procedure's
10 adequate, it does not test these programs correctly. It did
11 not find this huge error.

12 I believe that it's not just an error in this
13 program, but all the programs, even your Certified Public
14 Domain programs have the same error.

15 I also discovered other errors in this program
16 where I could go in and just change a thermostat set point
17 that should have nothing to do with the results of the
18 program, and I can change the results of the program by a
19 hundred percent.

20 You just tell me what number you wanted that
21 program to generate and I can change the thermostat and give
22 you that number.

23 This program just doesn't work and it's because
24 the ACM procedures are inadequate.

25 CHAIRPERSON DOUGLAS: Mr. Splitt, I think

1 Commissioner Rosenfeld is trying to get a work in edgewise.

2 COMMISSIONER ROSENFELD: I'm sorry, you're
3 probably right that there are some problems with the ACM,
4 but this is -- and the program, but this is just too
5 technical an issue to discuss commas and phrases.

6 I'm sure that Bill -- Bill Pennington has been off
7 on the road trip on the ARRA, State Energy Programs, all
8 week. I'm sure he's very regretful. But I think this
9 discussion just has to go on offline with Gary Flamm and
10 Bill Pennington.

11 Gary, can you meet Pat Splitt, perhaps right after
12 this meeting?

13 I regret that the staff hasn't been able to talk
14 with you, but the staff is pretty swamped with Friday
15 furloughs and field trips.

16 MR. SPLITT: Okay, I'll wind it up, now, if we're
17 going to talk, you know, I want to talk for another hour.

18 COMMISSIONER ROSENFELD: But I'm --

19 MR. SPLITT: I just want to mention that this has
20 great implications for other things, other than just the
21 energy code. The utilities base their rebates on these
22 numbers.

23 COMMISSIONER ROSENFELD: It's certainly very
24 important, but I --

25 COMMISSIONER LEVIN: Mr. Splitt, I think we would

1 like your comments and your feedback, and I assume that
2 programs are not set in stone. If there is agreement that
3 changes need to be made, that that could still happen.

4 I think what we're all trying to say is if you put
5 some of these in writing and meet with staff, this is not
6 the place to have a --

7 MR. SPLITT: I've submitted a stack in writing
8 like this over the years and it's gotten me nowhere.

9 COMMISSIONER LEVIN: We will ensure that there is
10 an in-person meeting with staff and, you know, possibly
11 Commissioner Rosenfeld or I, who are the Efficiency
12 Committee --

13 MR. SPLITT: Well, I'd prefer that, that I meet
14 with one of the Commissioners.

15 COMMISSIONER LEVIN: Okay, but we need to do that
16 in a follow-up meeting though, but not this morning. But
17 thank you.

18 MR. SPLITT: All right. Okay.

19 MR. FLAMM: This is Gary Flamm. There is a time
20 issue here in that we're -- you know, we agree that there's
21 an issue with the ACM that was already adopted, that we're
22 looking into.

23 But there's an attempt to get -- you know, the
24 standards were supposed to go into effect on August 1st, 2009
25 and we've already pushed that back to January 1st, 2010, and

1 so it's important that we get this software approved so that
2 we can have that six-month window with the software on the
3 street before the standards go into effect.

4 COMMISSIONER LEVIN: Mr. Flamm, I assume that
5 changes can still be made in the software, it's not set in
6 stone, if we adopt it now or --

7 MR. FLAMM: That is correct.

8 COMMISSIONER LEVIN: Okay, I would move the item
9 then.

10 COMMISSIONER ROSENFELD: Second.

11 CHAIRPERSON DOUGLAS: All in favor?

12 (Ayes.)

13 CHAIRPERSON DOUGLAS: That item's approved,
14 Commissioner.

15 Okay, Item 2, Watson Cogeneration Steam and
16 Electric Reliability Project. Mr. Knight.

17 MR. KNIGHT: Good morning, Chairman Douglas and
18 Commissioners, I'm Eric Knight, from the Siting Division,
19 representing staff. With me is Christine Hammond, staff's
20 counsel.

21 On March 19, 2009 the Energy Commission received
22 an application for certification from Watson Cogeneration
23 Company, that's docket number 09-AFC-01. The Watson
24 Cogeneration Steam and Electric Reliability project is a
25 proposed expansion of the steam and electrical generating

1 facility located in the City of Carson, Los Angeles County.

2 The project site is a two and a half acre brown
3 filled site located within the existing Watson Cogeneration
4 facility.

5 The existing Watson facility was originally
6 licensed by the Commission in 1986.

7 If approved, the Watson Cogeneration facility's
8 output would increase from 85 -- or would increase 85
9 megawatts to the total output of 470 megawatts.

10 Staff's initial data adequacy review of the AFC
11 determined that the project was deficient in nine areas. At
12 the April 22nd Business Meeting the Commission accepted
13 staff's recommendation and found the AFC, at that time, data
14 inadequate.

15 On June 29th, the Watson Cogeneration Company filed
16 an AFC supplement to address the deficiencies. As stated in
17 the Executive Director's memorandum, dated July 21st, 2009,
18 staff now believes the AFC to be complete.

19 So staff is requesting that you find the AFC
20 complete today and assign a committee to oversee the
21 proceedings.

22 CHAIRPERSON DOUGLAS: Thank you. Can we hear from
23 the applicant?

24 MR. METERSKY: Yes, I'm Ross Metersky, with BP,
25 here on behalf of Watson Cogeneration Company. I just want

1 to thank the staff for their recommendation and for the
2 efforts they've put in to date, and I look forward to
3 working with them on our application going forward.

4 COMMISSIONER BYRON: Madam Chair, I move we adopt
5 staff's recommendation for data adequacy for the Watson
6 Cogeneration Steam and Electric Reliability project.

7 COMMISSIONER ROSENFELD: Second.

8 CHAIRPERSON DOUGLAS: All in favor?

9 (Ayes.)

10 CHAIRPERSON DOUGLAS: That brings us to Item B,
11 possible appointment of a siting committee. And I have
12 myself, Douglas, presiding, and Commissioner Levin,
13 associate, if the Commission agrees.

14 COMMISSIONER BYRON: Oh, I move that item.

15 (Laughter.)

16 COMMISSIONER ROSENFELD: And I second it.

17 CHAIRPERSON DOUGLAS: All in favor?

18 (Ayes.)

19 CHAIRPERSON DOUGLAS: That item's approved, thank
20 you very much.

21 MR. KNIGHT: Thank you.

22 CHAIRPERSON DOUGLAS: Item 3, Mariposa Energy
23 Project, Mr. Knight.

24 MR. KNIGHT: Okay. On June 15th, 2009 the Energy
25 Commission received an application for certification from

1 Mariposa Energy to construct and operate the Mariposa Energy
2 Project, this is 09-AFC-3.

3 The Mariposa Energy Project would be a natural
4 gas-fired central cycle peaking facility, with a generating
5 capacity of 200 megawatts.

6 The proposed project site is located northeast of
7 Alameda County. The site's approximately seven miles from
8 the City of Tracy.

9 Staff's initial data adequacy review, as reflected
10 in the Executive Director's July 9th memo, found AFC
11 inadequate in eight areas.

12 Staff's Project Manager, Alan Solomon, has been in
13 contact with the applicant to discuss the areas that are
14 inadequate, and the applicant understands what's needed, and
15 we understand it's something that may be submitted to the
16 Commission in approximately six weeks.

17 But today we're asking that you find the AFC
18 inadequate and not accept it until a supplement is filed,
19 and staff is before you with a new recommendation.

20 CHAIRPERSON DOUGLAS: Thank you. Can we hear from
21 the applicant, please?

22 MR. HARRIS: Good morning, it's Jeff Harris on
23 behalf of the applicant, and to my right is Doug Urry, who's
24 the Environmental Compliance Project Manager for the
25 Environmental Manager for the project.

1 We want to thank staff, and Alan in particular,
2 for their hard work to date, they've done a very good job of
3 getting the information to the staff, we are collecting that
4 data.

5 I actually don't believe it will be six weeks, but
6 actually it might even be this week. But staff has
7 requested that we provide a single package instead of
8 multiple iterations and so the lighting item will obviously
9 drive schedule there and we're working hard on the lighting
10 item, and so that should be relatively quickly done.

11 This is an important project for the company. It
12 is contracted with PG&E, it has an approved PVA for the
13 project. It's a natural gas-fired project that will provide
14 that fast-starting, flexible power that we all that we're
15 going to need to integrate renewables into our systems for RPS
16 and greenhouse gas goals objectives.

17 And so notwithstanding the fact that it's a gas
18 project, I think it's a very important project for the
19 State's overall completion of those objectives.

20 So again, thank you very much for the staff's work
21 so far and thanks for the time this morning.

22 COMMISSIONER LEVIN: I would just like to make a
23 couple of comments and also ask a question. You mentioned
24 that part of the reason for this peaking plant is to better
25 integrate renewables, but is it coupled with any renewables

1 that have come online or are going to be coming online
2 shortly?

3 MR. HARRIS: No, it's a system support, it's not
4 directly linked to any other project, it's a stand-alone
5 project.

6 COMMISSIONER LEVIN: Okay, so it won't necessarily
7 be used to better integrate renewables in the Bay Area or
8 Central Valley?

9 MR. HARRIS: I think it will provide system
10 support, which will allow intermittent resources to move
11 forward. You know, that's a debate about power flow that
12 I'm definitely not qualified to have.

13 But the reason PF&E put the RFO on, my understand,
14 is to be able to support system reliability. And that's why
15 this project is configured as a single -- a simple-cycle
16 project, with the quick ramping rates, and that's what the
17 product was that sought by the utility.

18 COMMISSIONER LEVIN: And my comment is really for
19 beyond this project, but there are other project applicants
20 and attorneys in the room. I think as a State, given our
21 renewable portfolio standard, and climate change goals, and
22 air quality, very, very serious air quality problems still
23 in many parts of the State, including where this plant will
24 be located, I realize that the Warren-Alquist Act doesn't
25 require a peaker plant in an urban area to do an

1 alternatives analysis, but I think it behooves all of us at
2 this point to make sure that we leave no stone unturned in
3 looking for renewables, greater efficiencies, ways to reduce
4 peak demand.

5 We seem to be reviewing a proliferation of peaking
6 power plants at the Commission these days and I think as a
7 State that's not the direction we are supposed to be moving
8 in.

9 So I want to be very clear that while we will move
10 forward on a number of peaking plants and we absolutely need
11 to be concerned about reliability, and the ability to
12 integrate renewables, that we really ensure that that's what
13 we're doing going forward and not use what should be a rare
14 exception in the Warren-Alquist Act to move forward on a
15 peaker without an alternatives analysis. Make sure that
16 remains the exception and really need it for system
17 reliability and other purposes.

18 MR. HARRIS: Commissioner, if I may, you confused
19 me a bit. There is an alternatives analysis that will be
20 included in this project, like every other project that
21 comes before you.

22 COMMISSIONER LEVIN: Good.

23 MR. HARRIS: The only instance that I'm aware of,
24 under the Warren-Alquist Act, where you can avoid an
25 alternative analysis at an existing site, where you can make

1 an argument that it's so closely related to the existing
2 project that there's no need, an alternative's not feasible.

3 That's not the case for this project, it is
4 definitely a stand-alone project that will go through a full
5 alternatives analysis.

6 Mr. Wheatland, myself, Mr. Urry, and a whole bunch
7 of people spent hours on that section. There are many
8 sections of this AFC that require additional time and I
9 think there's a very good alternatives analysis for the
10 project.

11 COMMISSIONER LEVIN: I'm glad to hear that. We
12 are also reviewing peaking power plants that don't, are not
13 required to do an alternatives analysis and don't do one.

14 But my point is much broader than the alternatives
15 analysis, it is that we have a loading order in California,
16 and multiple policy, and public health, and economic reasons
17 to be moving more rapidly toward renewable energy and away
18 from fossil fuels.

19 And I think that that means that moving forward we
20 need to ensure that we really need each and every new
21 natural gas plant for system reliability, or renewables
22 integration, we need to be sure that they really are
23 needed and hold them to a higher standard, which I
24 believe State policy requires at this point.

25 MR. HARRIS: I appreciate the comments and I

1 actually look forward to participating in some of your
2 IEPR workshops, to have these discussions about the
3 need to firm and shape intermittent resources.

4 I, by the way, am involved in several solar
5 projects so I hear you and I appreciate those comments.

6 I do think from a system perspective this is
7 a very important project because one of the other goals
8 is to keep the lights on. And I think from a
9 reliability perspective natural gas projects are going
10 to continue to be part of that mix.

11 And I'm speaking now more for myself and my
12 client and probably ought to be shut up, so I will.

13 Thank you.

14 COMMISSIONER BYRON: Commissioner, I'd also note
15 this morning I read that FERC is now apparently working on a
16 tariff to look at energy storage, revenue streams I should
17 say, for properly compensating for energy storage going
18 forward, which could open up a new area to us that we've
19 been struggling with.

20 I would move -- having been on this Commission for
21 a while and note that Mr. Harris does a very good job of
22 counting days after the adequacy is determined, I would
23 recommend we accept staff's decision to find this project
24 not data adequate at this point.

25 MR. KNIGHT: Thank you. Could I just add that

1 once they do file they're supplement, we'll be back here
2 within 30 days.

3 COMMISSIONER BYRON: I hope so.

4 COMMISSIONER LEVIN: I second the motion.

5 CHAIRPERSON DOUGLAS: All in favor?

6 (Ayes.)

7 CHAIRPERSON DOUGLAS: That item's approved, thank
8 you.

9 MR. KNIGHT: Thank you.

10 CHAIRPERSON DOUGLAS: Item 4, Starwood Power
11 Project. Possible approval of Starwood Power-Midway, LLC's
12 amended petition to change one of the two monitoring sites
13 and the duration of the noise survey required by Condition
14 of Certification NOISE-4.

15 Mr. Davis?

16 MR. DAVIS: Good morning, my name is Chris Davis
17 and I am the Compliance Project Manager for the Starwood
18 Power Plant.

19 With me this morning, from our engineering staff,
20 is Shahab Khoshmashrab.

21 Starwood is a 120-megawatt, simple-cycle, natural
22 gas-fired peaking power plant, located in Western Fresno
23 County near Mendota.

24 Starwood was certified on January 16th, 2008,
25 construction is complete and the facility's been in

1 commercial operation since May 5th.

2 On February 26th, the Starwood Power-Midway, LLC,
3 the owner, filed a petition requesting modifications to
4 conditions of certification NOISE-4. NOISE-4 requires a 25-
5 hour continuous Noise Monitoring Survey to be conducted
6 after the plant is in operation, from two residences that
7 are near the power plant.

8 The petition requests modification to the duration
9 of that survey and to one of the monitoring sites.

10 As a peaker, Starwood is not likely to operate for
11 25 continuous hours and the petition requests, therefore, a
12 Noise Survey to be conducted for four continuous hours
13 during the quietest hours of the nighttime.

14 Staff has concluded a four-hour continuous
15 nighttime Noise Survey would supply sufficient data to
16 determine compliance with the Fresno County Noise Code at
17 those two residences nearby.

18 There are the two residences that are the
19 monitoring sites, one of which is located 1,300 feet from
20 the plant, the other 1,600 feet away. Between the
21 residence, 1,300 feet from Starwood and the plant, itself,
22 is a barn. It acts as a sound barrier, therefore, noise
23 monitoring at that site would not capture the full noise
24 that would be there if the barn were not.

25 The petition requests that that monitoring site be

1 located 400 feet from the plant, so closer to the plant.
2 The result of it being mathematically extrapolated to
3 determine what the noise level would be at the site, 1,300
4 feet away, should the barn ever not be there for some
5 reason.

6 The notice of receipt was docketed, mailed to the
7 post-certification mailing list, and posted to the Energy
8 Commission website on March 16th of this year.

9 On May 22nd the staff analysis was docketed, mailed
10 to the post-certification mailing list and posted to the
11 website. We have received no comments.

12 Staff has concluded that NOISE-4, as modified,
13 would comply -- or would, rather, determine compliance with
14 the Fresno County Noise Code, the noise levels at the two
15 residences near the plant.

16 And staff, therefore, recommends approval.

17 COMMISSIONER BYRON: Commissioners, we reviewed
18 this on the Siting Committee and I think it shows a very
19 thorough approach by the staff on doing the analysis, and I
20 concur with it.

21 However, I note, as I speak, that the applicant is
22 sitting at the table and perhaps I should allow him to speak
23 first.

24 MR. WEISS: Thank you, Commissioner Byron. I'm
25 sorry I'm here, I appreciate your time. This is something,

1 this particular issue we picked up late in the process and
2 felt as if 25 hours of operation was unnecessary for a
3 peaker plant.

4 And, unfortunately, I gather the way your system
5 works, if the hours are in a condition, the only way to
6 change them is to come and visit. So apologize for taking
7 the time on this.

8 I'd just point out we did go commercial May 5th,
9 we've been in operation as a peaker. We were online
10 extensively during the past two weeks, during the heat wave,
11 so we're here serving the energy needs of California. It is
12 a peaker plant, though.

13 COMMISSIONER BYRON: So I apologize for not
14 allowing you to go first.

15 And I think, as I indicated, the staff analysis is
16 thorough and the request is reasonable and, as the applicant
17 indicates, it's essential our compliance be met and we
18 appreciate your coming forward with this change.

19 So I would move the item.

20 COMMISSIONER ROSENFELD: Second.

21 CHAIRPERSON DOUGLAS: All in favor?

22 (Ayes.)

23 CHAIRPERSON DOUGLAS: That item is approved.

24 Item 5, the Avenal Energy Project, 08-AFC-1,
25 consideration of Intervener Rob Simpson's appeal of the

1 Avenal Siting Committee's denial of his request to stay the
2 proceeding.

3 Mr. Ratliff?

4 MR. RATLIFF: Good morning, Commissioners, I'm
5 Dave Ratliff, with the Office of Counsel.

6 This is an appeal by Mr. Robert Simpson, or Rob
7 Simpson, on the order of the Avenal Siting Committee. That
8 order was an order granting intervention, but denying an
9 accompanying request for a stay of that proceeding.

10 Mr. Simpson's petition for intervention was filed
11 on the very final day during which intervention could be
12 granted, and after the close of discovery.

13 The order granting intervention specified that the
14 grant of intervention could not delay the proceeding,
15 including additional discovery.

16 Mr. Simpson has now appealed the second portion of
17 that order, which is the request for stay.

18 The relevant Commission regulations, which are
19 relevant to this request, are sections 1203, 1712, and 1716.

20 Section 1203 provides that the Presiding Member of
21 a Commission committee has authority to regulate the conduct
22 of the proceedings and the hearings over which the committee
23 that Presiding Member presides, including the scheduling
24 matters and procedural requests.

25 Section 1712 provides that any person seeking

1 intervention, whose intervention is granted, is not
2 permitted to reopen discovery dealt with in the proceeding
3 prior to the time the person became a party, without a
4 showing of due cause.

5 Section 1716 provides that all party data requests
6 shall be submitted no later than 180 days from the date that
7 the application was found complete, unless the committee
8 allows requests for information later, for good cause shown.

9 The 180-day date in the Avenal proceeding was
10 October 13, 2008.

11 Mr. Simpson's request for a stay included a
12 variety of material pulled from other documents, that
13 appears to be based on two points.

14 First that the Commission did not promptly post
15 the Air District's final determination of compliance on its
16 website and, secondarily that the project does not yet have
17 a Federal Prevention of Significant Deterioration Permit.

18 Although in his appeal Mr. Simpson has now
19 appended numerous other documents, which he believes support
20 a finding of good cause for a stay of proceeding, whatever
21 good cause those documents may represent were not before the
22 Committee when it made its ruling.

23 I would add, finally, that there is no legal
24 requirement that the Commission post the Air District's
25 Final Determination of Compliance on its website.

1 Such documents, when docketed, are provided to all
2 parties in the proceeding and become public documents that
3 may be viewed or obtained from the Commission, as well as
4 from the Air District.

5 Secondarily, the Federal Prevention of Significant
6 Deterioration Permit is not a legal or typical prerequisite
7 for the Commission license, which is a State law license.
8 And it is typical EPA practice to choose such permits at the
9 conclusion of the State proceedings.

10 CHAIRPERSON DOUGLAS: Thank you. Can we hear from
11 the applicant?

12 COMMISSIONER BYRON: Actually, is Mr. Simpson
13 around?

14 CHAIRPERSON DOUGLAS: I don't have a card from him
15 so I guess I assumed not. But I don't see him. Is anyone
16 on the phone? There doesn't seem to be.

17 Very well, the applicant.

18 MS. LUCKHARDT: I believe Mr. Ratliff has covered
19 most of the issues that I was going to cover. Therefore,
20 just to add to what he has stated is kind of go through a
21 timeline on this case, because I think that helps to put it
22 in perspective.

23 The application was filed on February 21st, of 2008
24 and was considered data adequate on April 16th, of 2008.

25 The ending of discovery ended in October of 2008.

1 The preliminary staff assessment was filed in February of
2 2009. There was a detailed and open public workshop on the
3 preliminary staff assessment in February of this year,
4 February 18th of 2009, in which remaining issues were
5 resolved and discussed with all who were at the workshop,
6 including some of the issues that Mr. Simpson raised about
7 the biological opinion.

8 In that workshop there were representatives of the
9 Department of Fish and Game, the U.S. Fish and Wildlife
10 Service, your staff, biological witnesses or experts, as
11 well as those from the applicant, from Avenal.

12 And at that point, the major issues that were in
13 contention were resolved and agreed upon by the various
14 entities.

15 And that resolution was reflected in the FSA.

16 There was a status conference on March 23rd, of
17 2009 in which the Committee heard from the concerns that the
18 project had about the schedule and the timing of the
19 schedule, and issued a scheduling order on April 24th, of
20 2009, which laid out the timing for the FSA, the filing of
21 testimony, and the hearings.

22 So this project has been going on for quite some
23 time and it has been proceeding in an orderly, and we would
24 say not expedited manner, reflecting the staff workload, and
25 yet moving along and proceeding through the process

1 nonetheless.

2 The FSA was issued on June 2nd, 2009. Mr. Simpson
3 filed his petition to intervene on June 8th, of 2009, which
4 was the same day that testimony was due from all parties in
5 this proceeding.

6 His petition to intervene was granted on June 11th,
7 and the evidentiary hearings occurred on July 7th.

8 And so, you know, our concern primarily is with an
9 intervener, who appears on the very last day and files this
10 petition to intervene, and then requests to halt the
11 proceedings to give him time to go back and ask additional
12 questions, or reopen issues that had been discussed and
13 resolved over in excess of a year's work on this proceeding.

14 And, therefore, we ask that this Commission
15 support the decision made by the Committee and deny Mr.
16 Simpson's request for a stay.

17 COMMISSIONER LEVIN: Could I ask a question of Mr.
18 Ratliff, please?

19 Did the Intervener provide a reason or a notice
20 that he would not be able to be here today?

21 MR. RATLIFF: Not that I'm aware of.

22 COMMISSIONER LEVIN: Was he aware that this item
23 was on the agenda, do you know; or should he have been?

24 MR. RATLIFF: I don't know.

25 CHAIRPERSON DOUGLAS: Well, it was posted, so I

1 would say he should have been, he's an intervener and active
2 participant in a number of our cases. And I believe he has
3 appealed Siting Committee decisions to the full Commission
4 before, I think at least once.

5 So I think he's experienced in our process and had
6 notice.

7 COMMISSIONER BYRON: Mr. Ratliff, do we know, is
8 Mr. Simpson an attorney?

9 MR. RATLIFF: He is not.

10 COMMISSIONER BYRON: And is he representing
11 himself or an interested party?

12 MR. RATLIFF: His petition in intervention did not
13 list any other organization, so I assume that he is
14 representing only himself.

15 COMMISSIONER BYRON: Okay. May I comment?

16 CHAIRPERSON DOUGLAS: Please.

17 COMMISSIONER BYRON: We, the Committee, allowed
18 Mr. Simpson in on the last day. But, however, his request
19 to extend this process any further was not allowed and I
20 don't think we need to defend the decision, except to say it
21 was pretty clear during the evidentiary hearing Mr. Simpson
22 was not really prepared to present anything of substance,
23 most of the issues were procedural, as was this one.

24 I think I'd like to say, I believe there's almost
25 40 million people in California, and I'm glad there's only

1 one Mr. Simpson, at least at this point.

2 And I would recommend that we not grant this
3 petition before the full Commission and reopen the Avenal
4 evidentiary project -- evidentiary hearing any further.

5 CHAIRPERSON DOUGLAS: As the other member of the
6 Avenal Committee, I would -- who also participating in this
7 Siting Committee decision, I will just say that I think
8 there is an important showing that needs to be made by an
9 intervener who wants to come in at the very last minute, and
10 get actually a stay on our processing of a siting case in
11 order for that intervener to have the opportunity to come up
12 to speed and to go through issues that have been, as Ms.
13 Luckhardt says, considered and disposed of through the
14 regular process.

15 And I think given the inconvenience and
16 uncertainty to the applicant, and to the public, that
17 allowing that to happen causes, as well as the prospect of
18 reopening up issues, and using up scarce staff time,
19 repeating workshops, potentially, or reopening issues, that
20 this sort of petition requires a very, very, very strong
21 showing of good cause that, frankly, my opinion was in
22 reviewing it was not there.

23 So I just wanted to add my two cents as a member
24 of this Siting Committee, as well.

25 MS. LUCKHARDT: If it would be helpful, Mr.

1 Simpson, himself, and his petition to intervene references
2 his participation in the Russell City Energy Center
3 proceeding, the East Short Energy Center proceeding, the
4 East Altamont Energy Center proceeding, the Humboldt Bay
5 Repowering Project, and currently Carlsbad Energy Center
6 proceeding, as well as Avenal.

7 COMMISSIONER LEVIN: I just want to emphasize
8 Chairman Douglas's comments, and Commissioner Byron, I
9 absolutely agree, I think there needs to be a very high
10 showing to postpone or cause delay.

11 Our staff is already so overloaded and forced not
12 to work three days a month because of budget reasons, and we
13 have an incredibly unprecedented siting workload.

14 It should be a very, very high standard for an
15 intervener to allow delays as a result.

16 And it doesn't sound, from the Siting Committee,
17 that this Intervener meets that standard or even comes
18 close.

19 CHAIRPERSON DOUGLAS: Is that a motion,
20 Commissioner?

21 COMMISSIONER LEVIN: What am I moving, to deny the
22 petition to intervene? No, that's already been granted,
23 it's an order to stay the proceeding.

24 I move that we deny the petition to stay the
25 proceedings in the Avenal case. Is that the correct -- have

1 I said it correctly?

2 MR. RATLIFF: I think it would be a motion to deny
3 the appeal of the Committee's decision.

4 COMMISSIONER LEVIN: Okay, I move to deny the
5 appeal of the Committee's decision.

6 COMMISSIONER ROSENFELD: Second.

7 CHAIRPERSON DOUGLAS: All in favor?

8 (Ayes.)

9 CHAIRPERSON DOUGLAS: Thank you, that item is
10 approved.

11 And we're onto Item 6, City of Los Angeles.
12 Possible approval of a \$3 million loan to the City of Los
13 Angeles to convert a portion of the City's residential
14 streetlight fixtures from incandescent lamps to induction
15 lamps.

16 Mr. Smith.

17 MR. SMITH: Good morning, Mike Smith, the Director
18 of Fuels and Transportation Division.

19 Just a few additional points to make on this loan
20 request from the City of Los Angeles. Specifically, the
21 loan will be used to convert 5,750 street lights from
22 incandescent lamps to the higher efficiency induction lamps.

23 The loan amount -- or excuse me, the payback year,
24 the payback term is a little bit longer than we typically
25 see in these sorts of lighting projects and I just want to

1 point out that the reason for that is that the project
2 includes a significant amount of rewiring of the system,
3 from a series configuration to a parallel configuration and
4 improves efficiency and reliability in the system.

5 So it does extend -- increased the cost and extend
6 the payback term a bit. So that's why you see the ten-year
7 payback.

8 Also, just to point out that the total project
9 cost is 6 million, of which 3 million is the loan amount
10 from the Energy Commission.

11 The City is using 2.84 million from its own
12 lighting assessment fund and the LADWP is providing another
13 160 thousand in incentives.

14 And the last point I'll make on this project also
15 is the agenda states that the funding will be coming from
16 ECCA. In fact the Commission, as a result of the passage
17 and enactment of the budget and the trailer bill language,
18 provides the Commission with authority to use ECCA as well
19 as ARRA funds in supporting these loan programs.

20 So in this case we are, indeed, going to use \$3
21 million from the ARRA funding to move this project forward.
22 So I just wanted to make sure the Commission was aware on
23 those points before you vote on the project.

24 CHAIRPERSON DOUGLAS: This is the ARRA SEP account
25 or which account is this?

1 MR. SMITH: The SEP account, I believe. Yeah, the
2 SEP account.

3 COMMISSIONER LEVIN: I'm a little bit concerned
4 that we haven't approved a formal, overall ARRA spending
5 plan, if this money's going to come from ARRA.

6 I mean, I think this is a very important project.
7 I was certainly ready to vote in favor of a loan from ECCA.
8 But to switch it entirely to ARRA funding when I don't
9 believe, as a Commission, we've formally approved what
10 categories will be used for what, seems to put this at the
11 head of the line for stimulus funding, when I don't think we
12 discussed it in that context before.

13 EXECUTIVE DIRECTOR JONES: Commissioner, I'd just
14 like to say that I believe you're correct that it is
15 premature for us to use ARRA funding. We have ECCA funds
16 and we should be using the ECCA funds. And that's the
17 funding source that's identified in the business --

18 CHAIRPERSON DOUGLAS: Right, that's what's
19 identified in our binders.

20 EXECUTIVE DIRECTOR JONES: In the agenda.

21 CHAIRPERSON DOUGLAS: And I'd also prefer to see
22 it go forward with ECCA funds.

23 I do hope that we will be in a position to start
24 moving ARRA funds out the door quickly. And one of the
25 preferred mechanisms that we are looking at is in fact

1 putting SEP money into the ECCA account, so that we can move
2 forward with low-interest loans to local governments and
3 local agencies to allow them to do these upgrades.

4 However, that process is not yet underway. I hope
5 it will be underway soon and I hope we'll be able to, in
6 fact, bring that to the business meeting.

7 COMMISSIONER LEVIN: I think that would be great.
8 And I hope that when we are ready to do that, this could be
9 a matching grant, perhaps.

10 One of the other reasons I'm concerned about it,
11 just to give you a heads up, Mr. Smith, is there will be
12 very serious -- I was going to say onerous -- onerous and
13 serious reporting requirements, and things like that. And I
14 think until we have a chance, really, to make those clear to
15 applicants and to recipients, it really would be premature
16 to use that funding now.

17 But I do hope, as well, that we'll be ready very
18 soon and this, potentially, could be used as matching funds.

19 MR. SMITH: I certainly understand.

20 COMMISSIONER LEVIN: Okay.

21 MR. SMITH: That's perfectly fine.

22 COMMISSIONER LEVIN: With that, I'm ready to move
23 the item for approval.

24 COMMISSIONER ROSENFELD: Second.

25 CHAIRPERSON DOUGLAS: All in favor?

1 (Ayes.)

2 CHAIRPERSON DOUGLAS: That item is approved.

3 Item 7, City of Carlsbad, possible approval of a
4 \$1,543,000 loan to the City of Carlsbad to convert the
5 City's residential and commercial streetlight fixtures from
6 high-pressure sodium lamps to induction lamps.

7 Mr. Smith?

8 MR. SMITH: Again, this project, just to point out
9 a few additional points, 7,000, over 7,000 lamps will be
10 converted. And the total project cost is approximately,
11 just over \$3 million, of which the Commission's \$1.54
12 million.

13 The other contributors to this project, there's
14 \$938,000 that the City is using from the Federal -- from its
15 Federal stimulus monies.

16 There's a \$265,000 contribution from a Community
17 Development Block Grant, and San Diego Gas and Electric is
18 providing incentives of \$285,000 for this project.

19 So again this has a -- you'll notice the payback
20 period on this is considerably shorter, due in large part
21 again due to they're just changing out lamps as opposed to
22 doing significant wiring.

23 I ask for your approval of the project.

24 CHAIRPERSON DOUGLAS: I believe before we go
25 forward we have Mr. Joe Garuba, from the City of Carlsbad,

1 here to speak.

2 MR. GARUBA: Yes, Chairman. Good morning,
3 Commissioners and Chairman Douglas. My name is Joe Garuba
4 and I'm with the City of Carlsbad, and Carlsbad's a city
5 located in Northern San Diego County, a population of about
6 a hundred thousand people.

7 And we really appreciate the Commission's
8 consideration of this project.

9 This project, as it goes forward, will reduce our
10 electrical consumption annually by 20 percent and will help
11 achieve the City's vision of becoming carbon net neutral by
12 the year 2015.

13 We're aggressively pursuing renewable energy, such
14 as hydroelectric, and photovoltaics, and so we really see
15 that as a possibility for our direction.

16 So we really appreciate the Commission's
17 consideration.

18 And also I'd like to say thank you to staff. As a
19 fellow civil agency, they were just a pleasure to work with.

20 COMMISSIONER LEVIN: I think this is a --

21 COMMISSIONER BYRON: Mr. Garuba -- I'm sorry,
22 excuse me.

23 Mr. Garuba, what do you do for the City?

24 MR. GARUBA: I'm the Municipal Projects Manager
25 so, let's see, I work in the City Manager's office. And

1 lately it's trying to figure out ways to make us carbon net
2 neutral.

3 So we've been working on a large hydroelectric
4 project for the City and then, also, working on
5 desalination. You might have heard, we have a desalination
6 going forward that's going to provide our drinking water,
7 which is kind of important in Southern California.

8 COMMISSIONER BYRON: Very good, thank you for
9 being here.

10 MR. GARUBA: Yes.

11 COMMISSIONER LEVIN: Mr. Garuba, it sounds like a
12 great project. And also, thank you to the staff. These are
13 some of the most fun things, I think, that we do, most
14 important and easy to say yes to.

15 I would love, at some separate time, to hear about
16 the City's plans to go carbon neutral. That's also really
17 exciting and inspiring, and I think it would be helpful to
18 us to hear more about.

19 So I hope, if you still have time while you're in
20 Sacramento, maybe we could sit down together.

21 MR. GARUBA: Absolutely, Commissioner, thank you.

22 COMMISSIONER LEVIN: And thank the City for its
23 leadership.

24 MR. GARUBA: Yes, ma'am.

25 COMMISSIONER ROSENFELD: I move the item.

1 COMMISSIONER BYRON: Second.

2 CHAIRPERSON DOUGLAS: All in favor?

3 (Ayes.)

4 CHAIRPERSON DOUGLAS: This item's approved, thank
5 you.

6 COMMISSIONER BYRON: Commissioner Rosenfeld, when
7 are you going to develop a compact fluorescent big enough
8 for these city streetlights?

9 COMMISSIONER ROSENFELD: I think the induction has
10 the lead.

11 CHAIRPERSON DOUGLAS: Item 8, NHTSA Tire Fuel
12 Efficiency Consumer Information Program. Possible
13 delegation of authority to the Energy Commission's
14 Transportation Committee to participate in the National
15 Highway Transportation Safety Administration proposed
16 rulemaking for the Tire Fuel Efficiency Consumer Information
17 Program.

18 MR. DalSanto.

19 MR. DAL SANTO: Good morning, Madam Chairman and
20 Commissioners. My name is Matt DalSanto; I'm a law student
21 at Holt Hall and a summer intern in the Office of the Chief
22 Counsel.

23 This item is a resolution for the Commission to
24 delegate authority to the Transportation Committee to
25 participate, on its behalf, in a Federal rulemaking

1 proceeding that involves fuel efficient tire information for
2 consumers.

3 The Transportation Committee and Commission staff
4 have been working to develop a fuel efficient tire program
5 pursuant to AB 844.

6 On May 29th, staff published its proposed draft
7 regulations for the first phase of the State program, and on
8 May 10th the Transportation Committee held a workshop where
9 the staff proposal was presented.

10 Approximately two weeks later, the Highway Safety
11 Traffic Administration issued a notice for its Tire Fuel
12 Efficiency Consumer Information Program.

13 The purpose of the Federal program is similar to
14 that of the staff's program, but there are differences in
15 how each program provides information on fuel efficiency to
16 consumers.

17 The Transportation Committee asked the legal
18 office to prepare and present this item today. Comments on
19 the NHTSA proposal are due on August 21st.

20 Thank you. Do you have any questions?

21 CHAIRPERSON DOUGLAS: A comment, as the sole
22 member of the Transportation Committee, participating here
23 today.

24 Our participation in this proceeding is -- the
25 Energy Commission is undertaking a rulemaking that would do

1 work that would or could significantly overlap, in various
2 ways, with the Federal action.

3 And so we have been working informally with them
4 to try to ensure that we are consistent and complimentary,
5 but I believe that participation is quite important at this
6 stage, as well.

7 COMMISSIONER LEVIN: I think this is a great issue
8 for the Committee to work on and I'm really grateful you
9 guys are doing it.

10 This is one of those low-hanging fruits that's
11 been low hanging for a decade at least.

12 I move the item.

13 COMMISSIONER ROSENFELD: I second.

14 CHAIRPERSON DOUGLAS: All in favor?

15 (Ayes.)

16 CHAIRPERSON DOUGLAS: That item is approved.

17 Item 9, Lawrence Livermore National Laboratory,
18 possible approval of Contract 500-09-005 for \$400,000 with
19 Lawrence Livermore National Laboratory to prepare a report
20 on how the State can develop parameters to accelerate the
21 adoption of cost-effective geologic carbon sequestration.

22 Ms. Spiegel?

23 MS. SPIEGEL: Good morning, Commissioners, I'm
24 Linda Spiegel, with the PIER program.

25 And in 2006 AB 1925 required the Energy

1 Commission, in coordination with the Department of
2 Conservation, to develop recommendations for how the State
3 can move forward to accelerate the adoption of geologic
4 carbon sequestration in the State.

5 The Energy Commission and the Department of
6 Conservation worked with Lawrence Livermore Lab -- National
7 Lab, and they engaged subject matter experts and prepared
8 some of the white papers, and they held several technical
9 workshops and then two public workshops, and prepared a
10 preliminary report that the Commission submitted to the
11 Legislature in 2007.

12 The report examined such things as the geologic
13 potential for carbon sequestration in the State, capture
14 technologies, reservoir management, economic considerations,
15 and regulatory issues.

16 The results of the workshops and the paper were
17 discussed in the 2007 IEPR, and more recently this topic was
18 the subject of the 2009 IEPR -- a workshop for the 2009
19 IEPR.

20 The outcome of the first report is that there were
21 technical challenges with carbon sequestration and the
22 primary barriers are economic viability and regulatory
23 barriers.

24 So this report will further examine those economic
25 and regulatory issues and it will also look at the

1 technological advances that have occurred since the first
2 report. Particularly, it was all the ongoing demonstration
3 projects throughout the United States, including the West
4 Cart Project.

5 And the report is due to the Legislature November
6 2010.

7 CHAIRPERSON DOUGLAS: Questions, comments,
8 motions?

9 COMMISSIONER ROSENFELD: I move the item.

10 COMMISSIONER BYRON: Second.

11 CHAIRPERSON DOUGLAS: All in favor?

12 (Ayes.)

13 MS. SPIEGEL: Thank you.

14 CHAIRPERSON DOUGLAS: Thank you, Ms. Spiegel.

15 Item 10, UC Riverside Center for Environmental
16 Research and Technology, possible approval of contract 500-
17 09-008 for \$994,524, with the UC Riverside Center, to
18 develop and demonstrate a new technology and process that
19 will produce transportation fuel from waste biomass.

20 Mr. Koyama.

21 MR. KOYAMA: Thank you. I'm Ken Koyama, I'm the
22 manager of the Energy Generation Research Office.

23 This project is a project with UC Riverside to
24 develop a new technology called steam hydro gasification
25 that will use bio-solids or other biomass forms of energy

1 and convert them to clean diesel. This, again, it goes
2 towards the goal of producing in-state, using in-state
3 resources for the production of biofuels within California.

4 As you know, California's goal is by 2020 to have
5 20 percent of its fuel, biofuels produced in-state. And
6 this process hopes to be part of that vision there.

7 We would ask for your approval of this project.

8 CHAIRPERSON DOUGLAS: Any questions or comments?

9 COMMISSIONER BYRON: No.

10 CHAIRPERSON DOUGLAS: The R&D Committee reviewed
11 this and the R&D Committee actually overlaps with the
12 Transportation Committee, which is also very excited about
13 the prospect for these types of projects.

14 There's tremendous public interest in this way of
15 producing fuel.

16 COMMISSIONER ROSENFELD: I move the item.

17 COMMISSIONER BYRON: Second.

18 CHAIRPERSON DOUGLAS: All in favor?

19 (Ayes.)

20 CHAIRPERSON DOUGLAS: That item's approved.

21 Item 11, Makel Engineering. Possible approval of
22 Grant PIR-08-042 for \$300,000 to Makel Engineering to
23 develop and demonstrate a market-ready generation system.

24 Mr. Koyama?

25 MR. KOYAMA: Thank you. This project with Makel

1 Engineering is our last of the 13 projects that came out of
2 our renewable energy secured community solicitation.

3 This project is a scale-up of their homogenous-
4 charged compression ignition technology, essentially
5 converting a diesel engine to run on landfill gas.

6 The current project was a successful 30-kilowatt
7 system that operates in Chico, California.

8 Our goal, now, is to scale it up to a 200 kilowatt
9 system, again using landfill gas.

10 This helps us meet our renewable portfolio
11 standard for 2020.

12 CHAIRPERSON DOUGLAS: I understand, Mr. Koyama,
13 that this and the next two items also have a connection to
14 ARRA funding, the Stimulus Act funding.

15 MR. KOYAMA: Correct, they will be requesting some
16 funding from the ARRA program.

17 CHAIRPERSON DOUGLAS: Using this as match share?

18 MR. KOYAMA: Correct. Yes, sorry.

19 CHAIRPERSON DOUGLAS: Comments.

20 COMMISSIONER BYRON: Mr. Koyama, is funding -- is
21 our funding contingent upon selection for ARRA funding?

22 MR. KOYAMA: No, this solicitation came before the
23 ARRA funding came out, so this is an independent project, it
24 would go forward even without ARRA funding.

25 But with ARRA funding, you can expand the project

1 so that additional activities could be done, additional
2 functions could be carried out with Makel Engineering.

3 COMMISSIONER BYRON: Good, you answered my second
4 question as well.

5 EXECUTIVE DIRECTOR JONES: And so just to clarify,
6 these are the ARRA competitive funds, not the block grant or
7 SEP funds.

8 COMMISSIONER BYRON: Right, understood.

9 CHAIRPERSON DOUGLAS: And this is, in my mind, a
10 very good example of how the existing PIER program, which
11 has helped fund these types of programs and get them off on
12 the ground on sometimes a smaller scale, are a very
13 important part of our infrastructure as we look to compete
14 for Federal money.

15 I think the PIER project has definitely
16 facilitated, if not made possible, this application, these
17 types of applications.

18 So I'm very pleased that we're in a position to do
19 that.

20 COMMISSIONER LEVIN: I move the item.

21 COMMISSIONER ROSENFELD: Second. Second.

22 CHAIRPERSON DOUGLAS: All in favor?

23 (Ayes.)

24 CHAIRPERSON DOUGLAS: Item 11 is approved.

25 Item 12, NASA Ames Research Center. Possible

1 approval of Grant PIR-08-047 for \$793,576 to NASA Ames
2 Research Center to advance and develop algae fuel
3 technology.

4 Mr. Koyama?

5 MR. KOYAMA: This project and the next project
6 came from our advanced biosynthesis fuel production
7 solicitation, which we released back in February of this
8 year.

9 NASA Ames was a project that ran first in the
10 scoring. They will develop their -- they'll test their
11 Algae OMEGA System, OMEGA standing for Offshore Membrane
12 Enclosures for Growing Algae. And it's NASA.

13 COMMISSIONER BYRON: Algae OMEGA.

14 MR. KOYAMA: This system uses a membrane -- a
15 membrane that allows them to get treated wastewater, use it
16 as a medium where algae will be put into the wastewater and
17 the bag, or this membrane, consisting of this membrane,
18 allows for CO2 to be brought into the medium, and allows for
19 algae to produce the oils necessary to make biodiesel.

20 It's called an Innovative Forward Osmosis Membrane
21 that de-waters and concentrates the algae.

22 And NASA will be matching it -- will provide match
23 funding, and also will be asking for ARRA funding for
24 biofuel production.

25 The oils that the algae produce will then be used

1 to produce biodiesel.

2 We'd ask for your approval?

3 COMMISSIONER BYRON: No questions.

4 CHAIRPERSON DOUGLAS: No questions.

5 COMMISSIONER ROSENFELD: I move the item.

6 COMMISSIONER BYRON: Second.

7 CHAIRPERSON DOUGLAS: All in favor?

8 (Ayes.)

9 CHAIRPERSON DOUGLAS: That item is approved.

10 Item 13, Solazyme, Incorporated. Possible
11 approval of Grant PIR-08-048, for \$789,697 to Solazyme,
12 Incorporated, for a pilot project aimed at creating
13 commercially viable algae-based biofuel from cellulosic feed
14 stock.

15 Mr. Koyama?

16 MR. KOYAMA: This project will again use algae,
17 but instead of photosynthesis, they plan to use cellulosic
18 material, to metabolize the cellulosic material and produce
19 oils from that process, rather than photosynthesis.

20 This is an innovative system. It utilizes
21 heterotrophic algae for the creation of diesel fuel. So
22 it's a -- this project also will be going for ARRA funding
23 for match, as well, and we request your approval for this
24 project.

25 CHAIRPERSON DOUGLAS: Questions or comments?

1 COMMISSIONER ROSENFELD: Sounds so close to the
2 Item 12, I guess we are convinced, are convinced on 13.

3 I move the item.

4 COMMISSIONER LEVIN: I'd like to know what
5 heterotrophic means.

6 MR. KOYAMA: I was hoping you would not ask. But
7 heterotrophic --

8 COMMISSIONER LEVIN: You can tell me later, if you
9 want.

10 MR. FROME: Well, I'm from Solazyme, if you have
11 specific questions.

12 CHAIRPERSON DOUGLAS: If you'd like to.

13 MR. KOYAMA: Oh, thank you very much.

14 CHAIRPERSON DOUGLAS: We're pleased you can be
15 here, please come explain the term heterotrophic and maybe
16 say a brief word about your project.

17 COMMISSIONER BYRON: And your company. I thought
18 that was "so lazy me," it sounds really --

19 (Laughter.)

20 MR. FROME: My name is Matthew Frome, I'm Director
21 of Development for Solazyme.

22 So algae are either photosynthetic, and that's
23 called autotrophic, they make their own energy, or
24 heterotrophic where they can, in fact -- they don't have to
25 grow in open ponds, they can be fed, in essence, carbon

1 source of sugars, generally.

2 And so when you talk about cellulose, or cellulose
3 ethanol, you'll probably hear that term a lot, but it's
4 really two different processes. One is breaking down plant
5 matter to turn it into sugars and the second is turning it
6 into something useful.

7 And in our case, since algae naturally make oil,
8 that's what we do, we go ahead and break down the plant
9 matter and we feed that to the algae and they just grow
10 very, very quickly that way.

11 So heterotrophic just means using other energy
12 sources, rather than autotrophic, making it themselves.

13 COMMISSIONER LEVIN: Thank you.

14 MR. KOYAMA: That's what I was going to say, too.

15 (Laughter.)

16 CHAIRPERSON DOUGLAS: And then a brief word about
17 your company, since Commissioner Byron asked.

18 MR. FROME: Sure. So Solazyme was founded back in
19 2002, I think that makes us the oldest algae energy company
20 in the world. And we're based in South San Francisco.
21 We've been growing very rapidly since our more recent
22 successes in terms of making diesel fuel and jet fuels. And
23 so we're about 55 employees now and still growing.

24 CHAIRPERSON DOUGLAS: Well, thank you very much
25 for being here, thanks for your good work.

1 MR. FROME: Thank you.

2 COMMISSIONER BYRON: I move the item.

3 COMMISSIONER LEVIN: Second it.

4 CHAIRPERSON DOUGLAS: All in favor?

5 (Ayes.)

6 CHAIRPERSON DOUGLAS: That item is approved.

7 Item 14, Minutes. Approval of the July 15, 2009

8 Business Meeting Minutes.

9 COMMISSIONER ROSENFELD: I move the minutes.

10 EXECUTIVE DIRECTOR JONES: Chairman -- okay, we

11 have the ICF.

12 CHAIRPERSON DOUGLAS: Oh.

13 EXECUTIVE DIRECTOR JONES: We have the ICF

14 contract to take up.

15 COMMISSIONER BYRON: I believe that's Item --

16 CHAIRPERSON DOUGLAS: That's Item --

17 COMMISSIONER ROSENFELD: That was 20.

18 CHAIRPERSON DOUGLAS: That's the new Item 20.

19 COMMISSIONER ROSENFELD: Well, we can make it --

20 CHAIRPERSON DOUGLAS: Well, let's approve the

21 Minutes and then go to Item 20.

22 EXECUTIVE DIRECTOR JONES: Okay.

23 CHAIRPERSON DOUGLAS: We have a motion. Do we

24 have a second?

25 COMMISSIONER ROSENFELD: Second. Oh, I already

1 moved it, I better not.

2 COMMISSIONER LEVIN: Seconded.

3 CHAIRPERSON DOUGLAS: All in favor?

4 (Ayes.)

5 CHAIRPERSON DOUGLAS: The Minutes are approved.

6 Going back to Item 20, ICF, Incorporated. Mr.

7 Smith?

8 MR. SMITH: Good morning. I'll pick up where I
9 left off before, if you don't mind, just in the interest of
10 time.

11 But essentially the contract is integral to our
12 development of the revised investment plan.

13 The work that will be done under this contract,
14 we'll look at four specific areas that are going to be
15 essential to the revised investment plan, the alternative
16 and renewable fuel infrastructure and distribution
17 facilities in California.

18 We're going to be looking at what we call -- we
19 call it our first investment plan, the GAP analysis, but
20 essentially it's looking at where investments are being made
21 now so we can get a better sense of where our public funding
22 would be most effective.

23 Now, that's not the only gauge that we use,
24 there's several other steps in the investment plan to
25 ultimately determine priorities.

1 But looking at that gap in funding, where the gaps
2 are, both in the private sector and the public sector roles
3 is very important in understanding how we can most
4 effectively use our money.

5 We continue to examine the market and the
6 evolution of technology and fuels, and so this -- this
7 contract will assist us in updating the changes in the
8 market, both in the through-put of fuel in California, as
9 well as the introduction of new technologies in the
10 marketplace, so that's going to be essential.

11 And then, lastly we're looking at, we're going to
12 do a much closer examination of the existing and proposed
13 sustainability certification programs. And this is very,
14 very important and it gets sort of -- it gets to the
15 fundamental, this program, in looking at the way we develop
16 and use alternative fuels, we are trying to apply a very
17 clear, a very strong overlay of sustainability. And this
18 affects the way fuels are produced and used not only
19 domestically, but internationally.

20 Since we're still going to be reliant on imports
21 of fuels, in this case alternative and renewable fuels, we
22 need to assure ourselves and policymakers in California that
23 these fuels that are being brought into California and,
24 indeed, being produced in California meet sustainability
25 requirements.

1 And so there are program that are being developed
2 and we're going to be taking a closer look at those
3 certification programs and how they might best be used in
4 this program to assure that the projects we fund meet strict
5 environmental requirements.

6 So with that, I'll be happy to answer any
7 questions that you may have.

8 CHAIRPERSON DOUGLAS: Questions?

9 COMMISSIONER BYRON: None. I think we had more
10 questions, certainly, in putting it on the agenda than
11 getting it to this point.

12 CHAIRPERSON DOUGLAS: Is that a motion,
13 Commissioner?

14 COMMISSIONER BYRON: Yes, I move approval of this
15 item.

16 COMMISSIONER ROSENFELD: I'll second.

17 CHAIRPERSON DOUGLAS: All in favor?

18 (Ayes.)

19 CHAIRPERSON DOUGLAS: Thank you very much, Mr.
20 Smith, the Item's approved.

21 MR. SMITH: Thank you very much.

22 CHAIRPERSON DOUGLAS: Item 15, are there any
23 Commission Committee presentations or discussion?

24 COMMISSIONER BYRON: I'd like to bring up an item,
25 and I'll be brief.

1 A couple of weeks ago I joined President Peevey,
2 of the Public Utilities Commission, and Chairman Hoppin,
3 from the State Water Resource Control Board, on a site visit
4 to the Diablo Canyon Nuclear Generating Station.

5 The purpose of the tour was in preparation for the
6 promulgation of the rule the Water Resource Control Board is
7 moving on once-through cooling.

8 So I don't know if I should say, however, that we
9 did go on a furlough Friday. But the meeting was set up
10 prior to these furlough Fridays being established.

11 It was a very good opportunity to understand much
12 more closely the implications for this particular power
13 plant to address the rule as it's currently drafted, and I
14 think it was very helpful.

15 And we also had a day-long workshop on this
16 subject yesterday, which was very well attended by
17 Commissioner Bohn, of the PUC, as well as the President and
18 CEO of the system operator, Yakout Mansour.

19 I think the Agencies, the Energy Agencies, as we
20 refer to them as, are demonstrating very close cooperation
21 in moving forward on how we will assist the Water Resources
22 Control Board in establishing a reliability-based rule that
23 we anticipate they will vet and, hopefully, approve.

24 Having said all that, there's a great deal of work
25 to do. Staff here, at this Commission, has done an

1 excellent job in coordinating that activity. There's a
2 working group that will -- that includes those three
3 agencies and will likely expand to include the utilities,
4 both public and investor-owned, and other stakeholders, and
5 including the environmental community. That's yet to be
6 worked out.

7 But this is an enormous undertaking, dare I say
8 will certainly go on much longer than my term on this
9 Commission, and is a pretty serious issue if we're indeed
10 going to continue to operate these plants, or repower them,
11 or indeed shut them down, and approve and bring online
12 additional generation.

13 So I just wanted to make my Commissioners aware
14 that that activity is underway. That rule should be -- I
15 shouldn't say it should, I should say the Water Resources
16 Control Board's intent is to approve that rule in its final
17 form by the end of this year. A lot of work ahead of us on
18 this particular issue.

19 CHAIRPERSON DOUGLAS: And thank you, Commissioner,
20 for bringing that up. And it is a very important area
21 where, as you say, we're working closely with the PUC and
22 the ISO.

23 And I guess I would add I wouldn't feel too bad
24 about doing the tour on furlough Friday, as long as you're
25 fine with volunteering.

1 COMMISSIONER BYRON: And we did not incur any
2 expense on behalf of the State.

3 CHAIRPERSON DOUGLAS: Well, well done.

4 Other Committee presentations or reports?

5 COMMISSIONER LEVIN: I just have a question of Ms.
6 Jones. Given the final budget, now, and the line item
7 vetoes from the Governor, what are the implications for us
8 other than, obviously, the continuation of the furloughs?

9 EXECUTIVE DIRECTOR JONES: We did receive approval
10 for three BCPs, in addition to what's in the Governor's
11 budget.

12 COMMISSIONER LEVIN: Can you, for anyone who's
13 listening and doesn't speak internal budget language --

14 EXECUTIVE DIRECTOR JONES: Budget change proposals
15 are how we go about getting the approval for additional
16 staffing or contract resources.

17 And so two were approved dealing with the siting
18 and renewables issues, one is for siting workload which will
19 had 18 and a half PYs, positions, to work on siting cases,
20 which will help us tremendously in meeting the siting case
21 workload.

22 The other one is to do the DRECP and other work
23 associated with developing renewables in Mojave.

24 The third addition that we got was for ARRA
25 funding. And I haven't gotten the updated number, we

1 believe that the number was reduced some, so we're still
2 clarifying that. But we did get some additional resources
3 to help with the ARRA functions that we're carrying out.

4 And so that's where we are on the budget.

5 COMMISSIONER LEVIN: What about on the cut side?

6 EXECUTIVE DIRECTOR JONES: I had received
7 information, and haven't yet confirmed, but it appears that
8 the Governor blue penciled a restriction on our AB 118 funds
9 for funding hydrogen. So that was something that the
10 Legislature had put a restriction on us and the Governor
11 removed that with his blue pencil.

12 There were also two loans that are being made from
13 the ERPA fund. One -- or from funds here, actually not
14 ERPA. One is \$35 million, which will be diverted to the
15 State Park system to keep them up and running. And that
16 concerned the renewable trust fund, and that will have to be
17 repaid by the State Park system, I believe in 2011. And it
18 won't affect our program this year. When we prepared
19 information for the Leg Analyst and for the Assembly staff,
20 the Budget staff, we had gone through and identified the
21 monies that we needed for this year, the \$35 million is the
22 remaining balance that's in the fund. So it won't affect
23 programs this year.

24 And we will be looking at the issue of funding for
25 next year. But again, we had a fairly substantial amount

1 sitting in that fund from previous years, and interest, so
2 that's what was done there.

3 On the other side, we lost \$8.25 million that was
4 coming out of AB 118 funds and is being transferred, we
5 believe, to the California Conservation Corp.

6 And again, that is money from the fund balance
7 which is not anticipated at this point to have an impact on
8 our program going forward.

9 COMMISSIONER LEVIN: Thank you very much.

10 COMMISSIONER BYRON: If I may?

11 CHAIRPERSON DOUGLAS: Please.

12 COMMISSIONER BYRON: Thank you for raising this
13 issue. You know, so much has happened in recent weeks and
14 somehow I -- we forget that there's not much public comment
15 about this, but the budget represents very onerous effects
16 on operations of State government, and this Agency, and I'm
17 most concerned about this Agency.

18 And the fact now that the furlough are a permanent
19 part of our budget going forward until June of next year is
20 quite alarming and represents a serious impact to many of
21 the projects that we have, not just our siting cases, but
22 many, many of the other things that are important. And I
23 think it merits some statement and I have no problem making.

24 I know you all are used to this, going through it
25 many years here, in Sacramento, but I think this is an

1 actual terrible thing that's happened. There's no reason
2 for this Agency to be furloughed. We are not part of the
3 General Fund.

4 And I realize that perhaps because we're here, in
5 Sacramento, that that makes a difference. It certainly
6 doesn't make a difference for the other energy agencies in
7 the State that are moving forward on efforts, and we're
8 going to be greatly disadvantaged in trying to move forward
9 in the Governor's important issues around renewable energy,
10 the siting of these power -- the siting of these renewable
11 cases, some of the issues that we have an integral role in.

12 And I would feel just remiss if we did not mention
13 the fact that this has a serious impact on our ability to do
14 our job.

15 EXECUTIVE DIRECTOR JONES: And I would definitely
16 agree, it's extremely challenging with three days of the
17 month eliminated from work schedules to do the kind of
18 workload that we're currently carrying, which I believe is
19 the highest workload the Commission's ever had in its entire
20 34 years of history.

21 But we're trying to meet those challenges and
22 press forward.

23 CHAIRPERSON DOUGLAS: We certainly are. And we're
24 also working with the Administration on a number of fronts
25 to see what can be done to ensure that we do have the

1 resources to meet not every critical objective, but some of
2 our burning top priorities. And so we'll continue to move
3 forward and we got strong support from them, certainly, for
4 the BCPs from the Governor's Office, the Legislature and,
5 frankly, the stakeholders for the BCPs, so that's a positive
6 side.

7 Moving on then, Item 16, Chief Counsel's report.

8 ASSISTANT CHIEF COUNSEL ICHIEN: Chairman Douglas,
9 Commissioners, I understand that you may have an interest in
10 reconvening a Closed Session that was held previously, and
11 so under the Open Meeting Act I would recommend that you
12 consider adopting an order of adjournment of this meeting to
13 a date, time, and place that you identify on the record, and
14 then have that be reflected in the order of adjournment, and
15 then we would post that order on the door of Hearing Room A.

16 CHAIRPERSON DOUGLAS: Very well. You have kindly
17 drafted an order for us, I see, and the date, time, and
18 place noted are August 5th, 2009, at noon. And you've noted
19 it down as the Energy Commission. It will in fact be in my
20 office.

21 So appreciate your work. This is to discuss
22 personnel matters, as allowed by Government Code Section
23 11126(a).

24 ASSISTANT CHIEF COUNSEL ICHIEN: And just to
25 clarify, because closed sessions are allowed only during a

1 regular or special meeting, adjourning this meeting would
2 allow you to then continue holding your closed session.

3 CHAIRPERSON DOUGLAS: Is there --

4 COMMISSIONER ROSENFELD: I so move.

5 COMMISSIONER BYRON: Is it necessary for us to
6 approve the order to be signed by the Chairman?

7 ASSISTANT CHIEF COUNSEL ICHIEN: It doesn't hurt
8 to have it be reflected in the record.

9 COMMISSIONER BYRON: Second.

10 CHAIRPERSON DOUGLAS: All in favor?

11 (Ayes.)

12 CHAIRPERSON DOUGLAS: This item's approved.

13 Item 17, Executive Director's report.

14 EXECUTIVE DIRECTOR JONES: Good morning,
15 Commissioners and Chairman. I wanted to give you an update
16 on where we are with our ARRA activities.

17 To date we've completed ten workshops with
18 stakeholders on both the Energy Efficiency Block Grants and
19 the State Energy Program.

20 Staff has completed all the Block Grant workshops
21 that we had anticipated having and is currently modifying
22 the proposed guidelines based on the input that we have
23 received through those workshops.

24 The proposed final guidelines will be posted the
25 week of August 3rd, for a 30-day review prior to adoption.

1 We're proposing adoption at the Business Meeting on
2 September 9th.

3 So I think that the staff has really done an
4 excellent job of expeditiously moving forward on this
5 program.

6 Related to the State Energy Program, the Energy
7 Efficiency Retrofit program, staff completed a workshop
8 yesterday in Stockton; they're doing a workshop today in San
9 Francisco, and another one in San Diego. We are trying
10 to -- we are looking at whether we can have an additional
11 forum or workshop in Los Angeles, working with Fuentes'
12 office.

13 And so yesterday we did have 25 people attend, we
14 had 85 participating by WebEx. That's turned out to be a
15 very handy thing for people in these days, in this economy.

16 We plan to adopt or we plan to post the final
17 guidelines, proposed final guidelines the week of August
18 17th, and we're proposing adoption at the September 23rd
19 business meeting for them.

20 The third prong of the ARRA activities is related
21 to clean energy systems. This is also a part of the State
22 Energy program. We are moving forward with developing the
23 guidelines based on the direction that we've received from
24 the Electricity and Natural Gas Committee.

25 We'll post the draft guidelines and hold a

1 workshop in August. Our plan is to adopt these guidelines
2 also in December -- I mean, also in September, excuse me.

3 Earlier this week our staff met with a number of
4 representatives from the Department of Energy, who provided
5 us some insights about the reporting requirements. There
6 are Federal requirements, not just by Department of Energy,
7 but also the Office of Budget and Management. These two
8 reporting systems are not going to be -- they'll be separate
9 systems, they will have to be handled separately, they have
10 not consolidated or coordinated those.

11 There are some fairly onerous reporting
12 requirements that we're facing, as well as the recipients of
13 any of our grants, loans, or contracts.

14 So but we were, you know, working well with DOE.
15 And we are looking at making sure that all of the
16 requirements for reporting are included in any of the flow-
17 down grants, contracts, or vehicles for us to move the money
18 in ARRA.

19 According to the Governor's Office, yesterday the
20 Governor did sign into law AB X411, which is the trailer
21 bill language to amend the Commission's existing Block Grant
22 for ECCA. It now allows us additional authority and
23 establishes a new SEP authority within the ECCA program.
24 This is absolutely excellent news. This is very important
25 for us in terms of moving money quickly out the door to be

1 able to use this existing and fairly successful program, the
2 ECCA program.

3 We're planning to incorporate changes authorized
4 by AB X411 into the final guidelines, so that we can make
5 those revisions before they are adopted by the Commission.

6 The next steps we're looking at are finalizing the
7 guidelines and posting, as I outlined in the schedule that I
8 addressed earlier.

9 Once these are posted, staff will begin developing
10 applications for the Block Grant program and solicitations
11 for the SEP program, so that once the guidelines are adopted
12 we can move very quickly into putting requests for funds and
13 other applications for the Block Grants out on the street
14 and get people applying.

15 CHAIRPERSON DOUGLAS: Thank you for that update.
16 I know that in this work we are -- staff has been working
17 very hard, we're under directives, and strong pressure, and
18 desire from DOE to move quickly, move the funding quickly,
19 and at the same time and in the same breath, but with great
20 accountability and rather stringent reporting requirements.
21 And, in fact, double reporting requirements.

22 And so we have to find a way of balancing that in
23 moving forward, in giving the assistance to grant recipients
24 so that they will be able to do the reporting.

25 And staff has been doing a great job moving

1 forward on all of these fronts. So thank you for that.

2 Other questions or comments from Commissioners?

3 COMMISSIONER LEVIN: Just a huge thank you to you
4 and all the staff. It's incredibly impressive and important
5 what everybody's been doing to pull this all together so
6 quickly.

7 EXECUTIVE DIRECTOR JONES: Thank you very much.

8 CHAIRPERSON DOUGLAS: Item 18, Public Advisor's
9 report.

10 ASSOCIATE PUBLIC ADVISOR MC MAHON: Good morning,
11 Commissioners. No issues to report. Just from the Public
12 Advisor, that despite her being off this week so she can
13 move, she will be at the site visit and informational
14 hearing tomorrow for Almond 2 in Ceres. So she's trying to
15 juggle it all.

16 COMMISSIONER BYRON: Is that one of yours?

17 CHAIRPERSON DOUGLAS: Yeah, that is. Well, thank
18 you for that.

19 Item 19, Public Comment, Ms. Luckhardt.

20 MS. LUCKHARDT: Hi, I don't mean to take a lot of
21 time, but I just thought since I'm one of those individuals
22 who appears in front of you and consistently asks for
23 expedited treatment, for more staff time, for faster turn
24 around, that I should also show up and thank you when things
25 do get turned around quickly and we are able to go forward.

1 As you know, I've been working with the Orange
2 Grove Project for some time, and just getting the project
3 through the siting process was quite an effort for all
4 involved. And there are many staff members, including
5 Felicia Miller and Jared Babula, who worked very hard, along
6 with the rest of the specific subject area staff, to get
7 that project to the point where this Commission actually
8 approved it and it went forward into the compliance process.

9 But, unfortunately, that wasn't the end. It was
10 appealed through writ to the Supreme Court and then we
11 worked very hard, along with many members of your legal
12 staff, including Bill Chamberlain, Jonathan Bles, Dick
13 Ratliffe, Jared Babula, again, to respond to that, and we
14 really appreciated the filings that your staff made in
15 support of your decision because that really helps out.
16 That decision was important to the company and to have your
17 support is key, I think, to maintaining the strength of
18 those decisions that you make and having the Supreme Court
19 continue to deny those writs.

20 I also wanted to say thank you to those who have
21 worked so hard in the Compliance Office to actually get the
22 project under construction. There are -- all those
23 conditions of certification, that you approve in your
24 permits, take an awful lot of effort to be completed just to
25 begin construction.

1 There are a whole set of them, all those things
2 that say "prior to construction" have to be provided to your
3 staff, reviewed and approved. And that is a huge effort,
4 especially given the furloughs and the time constraints that
5 your staff is facing.

6 And for this particular project, because San Diego
7 Gas and Electric wants to count on it in order to remove the
8 RMR contract for the South Bay Power Plant, it was critical
9 that this project move forward and get under construction to
10 give the California independent system operator some
11 confidence that the project would be online in supporting
12 San Diego over the summer for 2010.

13 And you have a compliance individual, Ron Yasny,
14 who has spent hours and hours, and gone way above and beyond
15 to help us out.

16 We had some difficulties getting fire protection,
17 which I found incredibly surprising, since the project was
18 willing to pay for that service in this economic climate.
19 But we had difficulty impressing upon the County of San
20 Diego how important that was to move quickly. Your staff
21 stepped up and helped us out.

22 In addition, we needed some help convincing
23 CalTrans that it was important to move forward, despite the
24 fact that we had encroachment permits sitting in front of
25 them for many, many months. Again, your staff stepped up.

1 There are times when we can post people outside of
2 folks' offices and have them sit there for days on end,
3 hoping that someone will act on their permit application.
4 But when they get a call from another State Agency it really
5 helps to focus their attention.

6 So I just wanted to say thank you and thank your
7 staff, and let you all know how important it is that they're
8 out there doing things, even in light of furloughs and heavy
9 workloads.

10 COMMISSIONER ROSENFELD: That's certainly an
11 impressive praise.

12 CHAIRPERSON DOUGLAS: Thank you. Thank you very
13 much for bringing that to our attention. I think it's
14 important for us to hear it and it's also important for
15 staff to hear it, so we really appreciate it.

16 COMMISSIONER BYRON: Ms. Luckhardt, thank you.
17 And thank you for being here, it means a great deal for our
18 staff to hear those kind of words and that response. I
19 think, in general, our siting and compliance folks only seem
20 to draw ire from this Commission, as well as management and
21 other sources, shall we say, so it does mean a great deal.

22 I don't usually get to have much contact with our
23 Siting Division, except in public settings, evidentiary
24 hearings and such, and I think they do a tremendous job even
25 on those projects that don't have favorable outcomes.

REPORTER' S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF,

I have hereunto set my hand this 11th day of August, 2009.


Peter Petty CER**D-493