



Commissioners Present

Karen Douglas, Chair  
James D. Boyd, Vice Chair  
Jeffrey D. Byron

Staff Present:

Melissa Jones, Executive Director  
Michael Levy, Chief Counsel  
Kristen Driscoll, Chief Counsel's Office  
Kevin Bell, Senior Staff Counsel  
Dick Ratliff, Staff Counsel  
Jennifer Jennings, Public Advisor  
Harriet Kallemeyn, Secretariat

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Adel Suleiman	1A
Pablo Gutierrez	1B
Emily Oren	1C
Miles Roberts	1D
Golam Kibrya	2
Kiel Pratt	3
Joseph Fleshman	4
Misa Milliron	5
Paul Roggensack	6
Bill Kinney	7
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Rhetta deMesa	9
Mike Trujillo	10
Joanne Vinton	11
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Larry Rillera	13
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Postponed	15
Joe Loyer	16
Madeleine Meade	17
Postponed	18
Postponed	19
Mike Monasmith	20
Christina Snow	21
Michael Levy	22
Michael Levy	23
Ken Celli	24

**Also Present**

Interested Parties

Public Comment

Edson Ng, G4 Insights

Greg Hayes, Clean World Partners, President

Ian Wright, Wrightspeed, Inc., Founder and CEO

Russell Teall, Biodiesel Industries, Founder & President

Michael Cassidy, Biodiesel Industries, COO

Ella Foley Gannon, Counsel for Calico Solar

Felicia Bellows, Calico Solar

Jason Holder, California Unions for Reliable Energy  
(CURE)

Mike Carroll, Latham & Watkins

John Foster, CPV Sentinel, LLC and parent company,  
Competitive Power Ventures, Inc.

Angela Johnson Meszaros, California Communities  
Against Toxics

Lauren Nebitt, South Coast AQMD

John Kessler, CPV Sentinel, Project Manager

Mosan Nazimy, South Coast AQMD

Barbara Baird, South Coast AQMD

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P R O C E E D I N G S

DECEMBER 1, 2010 10:00 a.m.

CHAIRPERSON DOUGLAS: Good morning. Welcome to the California Energy Commission December 1st, 2010 Business Meeting.

Please join me in the Pledge.

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

CHAIRPERSON DOUGLAS: Commissioners, I believe we have a member of the public who would like to speak to one of our Consent Calendar items, but I am not sure which one. Russell Teall? Is there a specific item that you wanted to speak on? Oh, number 11, alright, it is written as "Item 1." Okay, good. So there is no public comment on the Consent Calendar. But, before we take up the Consent Calendar, just a couple comments on the agenda. Items 15, 18 and 19 are being moved to the December 15<sup>th</sup> business meeting, so if anyone is here for Items 15, 18, or 19, we're terribly sorry, but we're moving it to December 15<sup>th</sup>.

MR. LEVY: And Item 32.

CHAIRMAN DOUGLAS: Item 32 is going to be set for December 15<sup>th</sup>, as well, that's right. I was going to say that next. All right, so Consent Calendar, Item 1.

COMMISSIONER BYRON: Madam Chair, I move

1 approval of the Consent Calendar.

2 VICE CHAIR BOYD: Second.

3 CHAIRMAN DOUGLAS: All in favor?

4 (Ayes.)

5 Item 2. University Of California, Davis.

6 Possible approval of Contract 500-10-028 for \$1,995,032  
7 with the Regents of the University of California, Davis,  
8 to develop and demonstrate whole building retrofit  
9 solutions for multi-tenant light commercial buildings.  
10 Mr. Kibrya.

11 MR. KIBRYA: Good morning, Chairman Douglas and  
12 Commissioners. My name is Golam Kibrya and I work in the  
13 Buildings Energy Efficiency Group within the Research and  
14 Development Division. I am here to request your approval  
15 for this project, which was selected through a  
16 competitive solicitation and it has been approved by the  
17 RD&D Committee. The goal of this project is to develop  
18 and demonstrate energy efficiency upgrades for multi-  
19 tenant light commercial buildings. This multi-tenant  
20 light commercial building, this sector, includes  
21 structures like strip malls, small office complexes, and  
22 other mixed-use type commercial buildings. Typically  
23 these buildings have multiple tenants and wide varieties  
24 of lease agreements, and also, you know, multiple  
25 decision makers. And the owners, not the tenants, have

1 an incentive to do any energy efficiency upgrades. As a  
2 result, this sector has remained relatively untapped, and  
3 there is quite a bit of opportunity to improve the energy  
4 efficiency of these buildings. So, this project is going  
5 to develop integrated whole building retrofit packages  
6 for multi-tenant commercial buildings, which will include  
7 both interior and exterior lighting, building envelope,  
8 heating, ventilation, and air-conditioning upgrades, and  
9 controls. The technology packages will be first tested  
10 in-lab to assess their performance, and then they will be  
11 demonstrating a minimum of three buildings representing  
12 the various sub-segments within this building sector, as  
13 well as different climate zones in California.

14           The expected benefits of this project is it is  
15 expected to produce 25-30 percent reduction in energy  
16 usage, which amounts to about 1,200 gigawatt hour per  
17 year. In addition, it is going to produce about 286,000  
18 tons of CO<sub>2</sub> emission reduction, and about a 470 megawatt  
19 reduction of the peak demand.

20           Now, the contractor has formed a strong  
21 alliance with the three investor-owned utilities in  
22 California, as well as about a dozen industry partners,  
23 so they are going to work with the industry partners to  
24 develop the technologies, and then work with the Energy  
25 Efficiency Programs of the IOUs to implement the results

1 of the project in the field.

2           The total budget of the project is about \$3.2  
3 million, out of which the contractor and its partners is  
4 going to provide about 38 percent in-kind match funds.  
5 The project term is three years. And I would like to  
6 request your approval of this project. And if you have  
7 any questions, I'll be happy to answer them.

8           CHAIRMAN DOUGLAS: Thank you. Questions,  
9 Commissioners?

10           COMMISSIONER BYRON: Madam Chair, just a  
11 comment, I think. Clearly, addressing the correct  
12 incentives for energy efficiency for multi-tenant  
13 buildings is extremely important. We know that part of  
14 the solution is sub-metering, dynamic pricing, but I  
15 think this project will go a long way in demonstrating  
16 the benefits of the cost savings to customers, and that's  
17 going to really win the day. This went through the PIER  
18 - I'm sorry, the RD&D Committee and I would like to  
19 recommend it to this Commission for approval.

20           VICE CHAIR BOYD: Madam Chair, I'll second the  
21 motion, but I want to just comment and ask a question,  
22 perhaps of Mr. Kibrya. I am interested in the outreach  
23 we make to local building officials and the efforts that  
24 will be made to educate local government building  
25 officials in dealing with these kinds of activities.

1 Some of us lately have been visited by a new association  
2 of local government folks who have really asked that we  
3 reach out more, reach out better, to building officials  
4 in helping get them informed, advised, and even trained  
5 to some extent, in how to deal with all of these  
6 efficiency measures, and what have you. So, is that  
7 built into this project? I mean, I know they are because  
8 we asked these questions in the R&D Committee, but for  
9 folks to come and say that, it just makes me feel, well,  
10 maybe we're not quite getting as far as we need to be  
11 with the outreach.

12 MR. KIBRYA: Yes, it is built into the project,  
13 Commissioner. Like the industry partners that I  
14 mentioned, actually, that does include not just industry,  
15 but also building owners, manufacturers, and different -  
16 like the building owner type of agencies that you  
17 mentioned. So it is part of the alliance that they have  
18 formed as part of the project team.

19 MS. JONES: And I would just add to that, that  
20 this is the research phase and, if these things work out,  
21 what we do, then, is we roll them into our Building  
22 Standards, and that is where we primarily train building  
23 officials.

24 VICE CHAIR BOYD: Thank you.

25 CHAIRMAN DOUGLAS: Well, we have a motion and a

1 second. All in favor?

2 (Ayes.)

3 The item is approved.

4 MR. KIBRYA: Thank you.

5 CHAIRMAN DOUGLAS: Thank you. Item 3.

6 Federspiel Controls. Possible approval of Agreement PIR-  
7 10-052 for a grant of \$250,000 to Federspiel Controls to  
8 demonstrate and field test energy efficient cooling  
9 control technologies at multiple State of California data  
10 centers. Mr. Pratt.

11 MR. PRATT: Thank you. Good morning,  
12 Commissioners. My name is Kiel Pratt. I'm with the  
13 Research Office's Industrial Agriculture and Water  
14 Program. My item this morning is a grant to provide cost  
15 share with the Department of Energy Grant that Federspiel  
16 Controls received under the American Recovery and  
17 Reinvestment Act of 2009. This DOE grant is for  
18 \$548,000. This project would be to retrofit eight State  
19 of California operative Data Centers in Los Angeles and  
20 in the Sacramento Area to make their cooling systems more  
21 efficient. Twenty-six percent savings is estimated.  
22 Now, some of the technology that can be used here is  
23 distributed remote temperature sensors, wireless mesh  
24 network, and intelligent control software with dynamic  
25 closed loop feedback, to respond to real time variations

1 in data center load and cooling conditions. They will  
2 also use variable speed fans and best practices such as  
3 hot aisle, cold aisle containment. Now, for this  
4 project, itself, it is estimated that 4.7 million  
5 kilowatt hours per year could be saved, resulting in  
6 \$470,000 of savings annually. To get an idea of the  
7 potential market for this type of technology, recent  
8 Energy Information Administration estimates U.S. energy  
9 use for data centers at about 1.5 percent, whereas in  
10 PG&E's service territory in 2007, it is 2.4 percent,  
11 significantly higher because California is very  
12 technology intensive. With this figure and assuming the  
13 consumption of energy each year in California, it could  
14 be that, on the order of 2,000 gigawatt hours per year or  
15 so could be saving, which would be \$200 million a year,  
16 assuming 100 percent market penetration. I am happy to  
17 answer any questions you have.

18 CHAIRMAN DOUGLAS: Thank you. Questions or  
19 comments, Commissioners.

20 VICE CHAIR BOYD: Just a positive comment.  
21 This is in my mind a very good project and of course we  
22 discussed it on the Research Committee, and I like it,  
23 well, for a host of reasons, one is California, from the  
24 data in the item, California is a more intensive consumer  
25 of electricity for its heavy technology data operations,

1 and I don't mean just the State, I mean all the industry  
2 in the State, than even the national average. And  
3 secondly, this involves State facilities where, finally,  
4 we can say, you know, "Do as we do," rather than just  
5 say, "Do as we say, but don't do ourselves." So we are  
6 finally doing something within State facilities that is a  
7 very positive thing and that is hopefully a model of what  
8 should and can be done throughout a wide part of  
9 California, as indicated, the potential savings in  
10 energy, and thus dollars, is fairly significant. So, I'm  
11 very supportive of this item.

12 CHAIRMAN DOUGLAS: Commissioner Byron.

13 COMMISSIONER BYRON: I am supportive, as well,  
14 but I do have a question. And I think we take it for  
15 granted at this Commission that most every single project  
16 that comes before us, our staff is initiating it and/or  
17 leading in the development of the project. This  
18 particular one, it looks as though we are late to the  
19 table. Is that correct?

20 MR. PRATT: That is correct. There is a hard  
21 time limit on the Department of Energy deadline for the  
22 money to be expended, so it's from great team work from  
23 our contract preparation team and the contract managers,  
24 all of us who came together to bring this item so soon  
25 after the NOPA was released.

1           COMMISSIONER BYRON: So, could you remind us  
2 all, as well, I don't think you said, what is the co-  
3 funding associated with this project?

4           MR. PRATT: Well, the Department of Energy  
5 grant is \$548,000 and, for the total term of this  
6 project, there is additional match funding of  
7 approximately \$370,000 in addition to our \$250,000 CEC  
8 grant. For the term of this project, foreseen from the  
9 execution of this grant onward, the total budget there  
10 would be \$500,000, as some of the DOE money, and most of  
11 the match money has been spent to this point.

12           COMMISSIONER BYRON: Thank you, Mr. Pratt. I  
13 second Commissioner Boyd's motion to approve.

14           CHAIRMAN DOUGLAS: Thank you, Commissioner  
15 Byron. We have a motion and a second. All in favor?

16           (Ayes.)

17           This item is approved. Thank you, Mr. Pratt.

18           MR. PRATT: Thank you.

19           CHAIRMAN DOUGLAS: Item 4. Portland Energy  
20 Conservation, Inc. Possible approval of Agreement PIR-  
21 10-051 for a grant of \$120,000 to Portland Energy  
22 Conservation, Inc. to develop an educational curriculum  
23 for building commissioning. Mr. Fleshman.

24           MR. FLESHMAN: Good morning, Commissioners. My  
25 name is Joe Fleshman. I'm with the Pier Buildings End

1 Use Energy Efficiency Team. I am here to ask your  
2 approval for a \$120,000 grant to Portland Energy  
3 Conservation, Inc., or PECEI, to develop curriculum for  
4 commissioning energy efficient buildings. This grant was  
5 selected through competitive solicitation and it  
6 leverages as Department of Energy American Recovery and  
7 Reinvestment Act of 2009 cost share award. The  
8 Department of Energy award was \$749,153, cash match from  
9 others totals \$703,874, which makes a total cash budget  
10 between PIER, DOE and the other match, \$1,573,027. In  
11 addition, the Building Commissioning Association will be  
12 providing an in-kind contribution of \$25,000.

13           The problem to be addressed is that there  
14 aren't enough trained commissioning professionals to meet  
15 demand in our policy goals. Current practice is  
16 typically informal, on-the-job training, where engineers  
17 learn from experience from senior level practitioners.  
18 This can be inconsistent and it really places limitation  
19 on how many skilled commissioning professionals it can  
20 produce. So, the solution proposed is a formal  
21 technically sound widely available curriculum for  
22 training programs that teach commissioning professionals  
23 advanced skills relating to auditing, testing, and  
24 diagnostics, design issues, measurement and verification,  
25 in new and existing buildings.

1           The purpose of this grant, then, is to develop  
2 a curriculum for teaching commissioning professionals  
3 those skills that can be consistently and widely adopted.  
4 So, despite the national nature of this project,  
5 California has a lot to gain from a relatively small  
6 grant. First, PEGI has letters of commitment from  
7 community colleges in Northern and Southern California,  
8 which have offered their facilities for Alpha and Beta  
9 testing of the curriculum. Second, anticipated  
10 curriculum developers include Enovity and EnerNoc in San  
11 Francisco, and EMC Engineers in Los Angeles. Finally,  
12 due to the demand for commissioning in California, a  
13 large number of the commissioning professionals trained  
14 by this curriculum would end up finding jobs here in  
15 California. So, at this point, I'm happy to answer any  
16 questions that you have.

17           CHAIRMAN DOUGLAS: Thank you, Mr. Fleshman.  
18 Questions or comments.

19           COMMISSIONER BYRON: Quick question. It's  
20 always difficult for this Commission to continue to award  
21 funds to Portland Energy Conservation, I note they're in  
22 Portland.

23           MR. FLESHMAN: Right.

24           COMMISSIONER BYRON: And, of course, I've never  
25 asked this question before, Mr. Fleshman, but do they

1 have some of our former employees? I mean, we like this  
2 expertise to be here in California, and these guys have  
3 obviously demonstrated to this Commission and many other  
4 organization, that they've got a great deal of  
5 capability. Do you know, do they have any of our former  
6 employees?

7 MR. FLESHMAN: I don't believe that they have  
8 any of our - not to my knowledge.

9 COMMISSIONER BYRON: Ms. Jones, did they steal  
10 any of ours?

11 MS. JONES: Not that I can recall.

12 COMMISSIONER BYRON: Okay, I was just curious  
13 because it seems to often be the case.

14 MR. FLESHMAN: Yeah, I didn't recognize any of  
15 the names on this project.

16 COMMISSIONER BYRON: Okay, obviously this  
17 project was reviewed through the RD&D Committee and  
18 carefully considered, a number of these issues that I've  
19 just touched upon. But I still recommend that this  
20 commission approve this contract, I think it's highly  
21 leveraged funds, and there is significant benefit to  
22 California, so I would move Item 4.

23 VICE CHAIR BOYD: I will second the motion.

24 CHAIRMAN DOUGLAS: All in favor?

25 (Ayes.)

1           Item 4 is approved.

2           MR. FLESHMAN: Thank you, Commissioners.

3           CHAIRMAN DOUGLAS: Thank you, Mr. Fleshman.

4 Item 5. U.S. Geological Survey. Possible approval of  
5 Contract 500-10-027 for \$223,755 with the U.S. Geological  
6 Survey to provide new and enhanced habitat suitability  
7 models for predicting the potential distribution and  
8 habitat of the Mohave ground squirrel. Ms. Milliron.

9           MS. MILLIRON: I'm Misa Milliron from the Pier  
10 Environmental area, and I'm pleased to bring you the last  
11 of six desert research projects to come before the  
12 Commission this year. As a reminder, this research came  
13 out of a competitive request for agreements with agencies  
14 and other governmental entities to facilitate renewable  
15 energy in the desert while minimizing biological impacts  
16 and filling key data gaps that would hinder environmental  
17 review and permitting. The goal was to select projects  
18 that would have direct benefit and utility to the Energy  
19 Commission Siting Division, as well as other agencies  
20 involved in the Desert Renewable Energy Conservation  
21 planning process. Reviewers of the proposals included  
22 staff from the Siting Division, PIER Environmental and  
23 PIER Renewables, as well as the Department of Fish and  
24 Game.

25           This project focuses on the Mojave Ground

1 Squirrel, which is State listed as threatened, and it has  
2 a patchy distribution and can be difficult to detect due  
3 to its elusive nature. More Mojave Ground Squirrel  
4 information is needed to identify compensation land, and  
5 assess impacts of renewable energy throughout its range.  
6 This lack of information has been a key gap that has  
7 hindered current renewable energy siting cases here at  
8 the Commission, as you may be aware.

9           The objectives of this particular project would  
10 be to provide data on the distribution, the potential  
11 habitat, and habitat corridors in the Mojave Ground  
12 Squirrel, through modeling of field and genetic data.  
13 The researchers will identify key populations and  
14 corridors that allow connectivity among the populations.  
15 And limiting the impact on these corridors of the Mojave  
16 Desert is important because the connections are the basis  
17 for minimizing the species fragmentation and population  
18 fragmentation. The researchers will also provide  
19 recommendations for current conservation corridors and  
20 evaluate the impacts of energy development within the  
21 range of the Mojave Ground Squirrel. Products they'll  
22 produce will include locality and distribution data that  
23 will be available to the public, as well as to the DRECP  
24 planning process, and they will also produce habitat  
25 suitability and corridor maps, both present and modeled

1 future climate change forecasts for the maps. They will  
2 also provide suitability and landscape connectivity  
3 models and reports. And I would just like to note that  
4 this research has a high priority to the Department of  
5 Fish and Game, and happens to be one of the recommended  
6 research projects that the recent Independent Science  
7 Advisors had published for the DRECP this month. This  
8 project has been approved by the RD&D Committee, and I'm  
9 happy to answer any questions you may have.

10 CHAIRMAN DOUGLAS: Thank you, Ms. Milliron.  
11 Questions or comments?

12 COMMISSIONER BYRON: Madam Chair, I think this  
13 is another key piece in the puzzle that we've got going  
14 on with all these large renewable projects. I'm pleased  
15 to see that our staff is out in front, understands that  
16 this endangered species is not well understood, so what  
17 do we do when we don't understand? We try and model it,  
18 we try and figure out what they're going to do, where we  
19 should be building. I'm pleased to see that the staff  
20 was in front of the DRECP recommendation and Fish and  
21 Game endorsement for the need for this information. It  
22 looks like it's very timely, and again, this went through  
23 the RD&D Committee, and I would recommend it. Excuse me,  
24 I'll move it for approval.

25 VICE CHAIR BOYD: Well, I'll ditto the comments

1 of my fellow Commissioner and second the motion, and just  
2 indicate that obviously, those of us who have sat through  
3 a host of solar thermal power plant siting cases of late  
4 would look anxiously forward to any and all additional  
5 data that will help us with that process. So, as the  
6 other member of the R&D Committee, most of our questions  
7 have been handled in that setting, so I'll gladly second  
8 and encourage the speedy execution of this project.

9 CHAIRMAN DOUGLAS: Thank you. We have a motion  
10 and a second? Or -

11 VICE CHAIR BOYD: That was a second.

12 CHAIRMAN DOUGLAS: That was a second -

13 VICE CHAIR BOYD: I did say the word, I  
14 believe, second.

15 CHAIRMAN DOUGLAS: Very good. All in favor?

16 (Ayes.)

17 Thank you, Commissioners and Ms. Milliron, and  
18 I strongly agree that, as we look at desert renewable  
19 energy development, particularly in the West Mojave where  
20 there is more disturbed land, and the potential for  
21 development on private land, it's very important to get  
22 our arms around the issues of Mojave Ground Squirrel.

23 Item 6. Utility Savings and Refund, LLC.  
24 Possible approval of Agreement PIR-10-023 for a  
25 competitive grant of \$400,000 to Utility Savings and

1 Refund, LLC to demonstrate the integration of battery  
2 storage and fuel cell power generation. Mr. Roggensack

3 MR. ROGGENSACK: Good morning, Commissioners.

4 My name is Paul Roggensack with the Industrial  
5 Agriculture and Water Program within the PIER Program. I  
6 am requesting approval of this \$400,000 agreement with  
7 Utility Savings and Refund for a term of 36 months for  
8 the application of high capacity electric energy storage  
9 via Vanadium Redox flow batteries in conjunction with  
10 fuel cells to wastewater treatment facilities.

11 This project was selected through a competitive  
12 solicitation by the IAW Team. There is \$2.5 million in  
13 match funding, part of it is coming through the  
14 California Public Utilities Self-Generation Incentive  
15 Program. The project will integrate a Vanadium Redox  
16 flow battery with two existing fuel cells run by  
17 anaerobic digester gas at the Dublin San Ramon Regional  
18 Wastewater Treatment Facility. This battery is a type of  
19 storage battery used for load leveling, so when the fuel  
20 cells are generating more electricity than demand, they  
21 will charge the battery, which then can augment the fuel  
22 cells during peak demand, so this will help reduce peak  
23 demand charges to the utility by approximately 80  
24 percent. The project will also address the problem of  
25 fuel cell sizing. Currently, fuel cells cannot be sized

1 larger than the base load of a facility because they have  
2 no turndown capacity. The Vanadium Redox flow battery  
3 ability to charge and then re-use excess power generated  
4 by the fuel cells will enable them to be sized larger  
5 than the facility's base load. So, this will increase  
6 the use of renewables, in this case, digester gas, and  
7 lower dependence on the Grid.

8 This additional capacity will help the facility  
9 reduce its energy bill by 20-25 percent. I would be  
10 happy to answer any questions you have.

11 CHAIRMAN DOUGLAS: Thank you. Questions or  
12 comments, Commissioners.

13 COMMISSIONER BYRON: Not really a question, Mr.  
14 Roggensack, but it looks like a very good project. The  
15 notion of a renewable fuel with fuel cells and now  
16 batteries that add this turndown capability so that the  
17 equipment can be sized to meet the full demand of the  
18 load, has a lot of interesting research aspects to it,  
19 and again, it went through the RD&D Committee. I would  
20 recommend approval.

21 VICE CHAIR BOYD: Well, I will second the  
22 motion and just say this project is music to my ears, the  
23 fact that it involves digester gas and everybody knows my  
24 passion for using our waste stream for energy, of battery  
25 storage, energy storage, are a very high priority, and

1 fuel cells, another advanced technology that we're  
2 solidly behind, so this is an excellent project.

3 CHAIRMAN DOUGLAS: Thank you, Commissioners.  
4 We have a motion and a second. All in favor?

5 (Ayes.)

6 The item is approved.

7 MR. ROGGENSACK: Thank you.

8 CHAIRMAN DOUGLAS: Thank you, Mr. Roggensack.

9 Item 7. G4 Insights. Possible approval of Agreement  
10 ARV-10-023 for a grant of \$1,229,966 to G4 Insights, Inc.  
11 to demonstrate a forest waste biomass to methane fuel  
12 conversion process in Placer County. Mr. Kinney.

13 MR. KINNEY: Good morning, Chairman Douglas,  
14 Commissioners Boyd and Byron. I am Bill Kinney with the  
15 Emerging Fuels and Technology Office, and I am here to  
16 request your approval of a grant agreement with G4  
17 Insights for a low temperature thermo-chemical conversion  
18 of forest biomass to biomethane technology testing in  
19 Placer County. This project was selected from AB 118  
20 solicitation 09-604 for biorefineries. G4 will partner  
21 with Placer County to build and operate a demonstration  
22 and test unit, and a bench-top unit to test and refine  
23 their thermo-chemical process technology for converting  
24 forest biomass to pipeline quality biomethane for  
25 transportation end uses. They will conduct biomethane

1 product testing using California Standards, Pipeline  
2 Distribution Standards, California Emission Standards,  
3 and will also test the performance of vehicles using  
4 their biomethane.

5 G4 will also partner with TSS Consultants and  
6 Worley-Parsons to determine the technical, economic, and  
7 environmental feasibility of commercial scale plants and  
8 several other candidate sites in California. This  
9 project will demonstrate the feasibility of a forest  
10 biomass conversion technology with the potential to  
11 divert a large fraction of the growing backlog of woody  
12 biomass waste streams generated from forest restoration  
13 and forest fuel reduction treatments. G4's thermal-  
14 chemical process technology offers a very promising and  
15 cost-effective alternative to cellulosic technology.

16 G4 and partners are asking the Energy  
17 Commission to provide \$1,229,966 in Alternative and  
18 Renewable Fuel and Vehicle Transportation Program funds.  
19 The project participants are providing \$1,232,257 in  
20 additional match funding.

21 Project benefits include the foundation for a  
22 significant forest biomass production capacity in  
23 California. G4 projects a conversion yield of over 100  
24 gasoline gallon equivalence per bone dry ton, at a net  
25 energy conversion efficiency of over 70 percent. With a

1 14.3 million bone dry ton per year supply of woody  
2 biomass in California, G4 technology could produce up to  
3 1.5 billion gallon gas equivalence per year of  
4 biomethane, displacing approximately eight percent of our  
5 current gasoline and diesel usage, with a project cost of  
6 \$1.20 per gallon of gas equivalent. At full commercial  
7 roll out in 2020, G4 projects 541 full-time jobs for four  
8 plants, with a total direct and indirect economic benefit  
9 of \$707 million, and \$24 million in State and local tax  
10 revenues. G4 and Placer County will test the  
11 biomethane's performance in one of Placer County's CNG  
12 vehicles. You will also assess the feasibility of  
13 serving over 50 CNG vehicles operating in the county,  
14 including 12 CNG buses. G4 has signed a preliminary term  
15 sheet with Clean Energy Fuels of Seal Beach, to sell  
16 their biomethane to CNG vehicle customers in Southern  
17 California.

18           The greenhouse gas emissions for this  
19 technology are estimated to be 14.4 grams CO<sub>2</sub> equivalent  
20 per megajoule or an 85 percent reduction from the  
21 gasoline baseline. And so we recommend that you approve  
22 this project. Do you have any questions?

23           CHAIRMAN DOUGLAS: Thank you. We have a member  
24 of the public, I believe, on the phone who would like to  
25 speak on this - oh, let me ask if Legal has something to

1 say on this item.

2 MS. DRISCOLL: Thank you, Madam Chair. This is  
3 Kristen Driscoll from the Chief Counsel's Office. The  
4 Energy Commission's Chief Counsel's Office reviews all  
5 proposed awards under AB 118 to identify whether review  
6 and analysis under the California Environmental Quality  
7 Act is necessary. Based on my review of this project and  
8 further due diligence, I recommend that the Commission,  
9 if it approves this award, include a finding that the  
10 project is categorically exempt from further  
11 environmental review under CEQA Guidelines Section 15301  
12 for Existing Facilities, and under the Common Sense  
13 Exemption in Section 15061(B)(3).

14 CHAIRMAN DOUGLAS: Thank you, Ms. Driscoll.  
15 And can you tell me, does that comment and analysis apply  
16 to any of the items, say, eight through 11?

17 MS. DRISCOLL: Eight through 12.

18 CHAIRMAN DOUGLAS: Eight through 12, so, Mr.  
19 Levy, can we consider that comment made for items eight  
20 through 12?

21 MR. LEVY: Certainly.

22 CHAIRMAN DOUGLAS: Thank you. All right, now  
23 we have a member of the public who would like to speak on  
24 this item. I can't read the last name, but Edson - are  
25 you on the phone?

1 VICE CHAIR BOYD: Ng.

2 CHAIRMAN DOUGLAS: Ng?

3 VICE CHAIR BOYD: Yes, Edson Ng.

4 CHAIRMAN DOUGLAS: I have a note that you might  
5 be on the phone.

6 MR. NG: Hello?

7 CHAIRMAN DOUGLAS: Yes.

8 MR. NG: Hi. It's Edson Ng from G4 Insights.  
9 I apologize for not being able to join in person this  
10 morning. Just briefly, I just wanted to thank the  
11 Commission for the opportunity to work on this project  
12 and we believe there is a very large potential to  
13 commercialize and create economic benefit and jobs in  
14 California. So, thank you again.

15 CHAIRMAN DOUGLAS: Well, thank you, Mr. Ng, and  
16 Commissioners, comments or questions?

17 VICE CHAIR BOYD: Oh, yes, thank you. If the  
18 last item was music to my ears, this is a symphony  
19 because this is a poster child, this is something that  
20 many people have labored around and over for a long long  
21 time, moving more and more biomass into our energy  
22 stream, and it continues to be, has been and continues to  
23 be, quite a struggle as we address technology and lots of  
24 other perceptions that, in some cases, are not correct  
25 about the use of biomass. So I'm very encouraged by this

1 project. I want to commend Placer County for their  
2 diligence and patience in this whole arena, not only this  
3 project, but others they have persevered in pushing  
4 forward in terms of utilizing the significant amounts of  
5 biomass available in Placer County, including some areas  
6 of the Lake Tahoe Basin, which remain very threatened in  
7 many ways, but by far, in particular. So this is a great  
8 project and I was glad to see it finally materialize and  
9 I will be using it as the poster child and I do wish the  
10 proponents luck in their demonstration project and hope  
11 that it bears the fruit that they think that it can, that  
12 I think that it can, so a very strong motion of support  
13 from me.

14 CHAIRMAN DOUGLAS: Thank you, Commissioner  
15 Boyd.

16 COMMISSIONER BYRON: Madam Chair, shall we  
17 consider that a motion to approve?

18 CHAIRMAN DOUGLAS: Commissioner, is that a  
19 motion?

20 VICE CHAIR BOYD: That is a motion.

21 COMMISSIONER BYRON: Commissioner Boyd, I  
22 second.

23 CHAIRMAN DOUGLAS: All in favor?

24 (Ayes.)

25 This item is approved.

1 MR. KINNEY: Thank you, Commissioners.

2 CHAIRMAN DOUGLAS: Thank you. Item 8. And  
3 there is a small edit in the name on this. Mendota  
4 Advanced Bioenergy Beet Cooperative. Possible approval  
5 of Agreement ARV-10-028, for a grant of \$1,499,000 to  
6 Mendota Bioenergy, LLC to conduct lab tests, pilot tests,  
7 and feasibility studies for an advanced bioenergy center  
8 in Mendota. Mr. Kinney.

9 MR. KINNEY: Thank you. So, I'm requesting  
10 approval of the Grant Agreement with Mendota Bioenergy,  
11 LLC for a predevelopment activities project for the  
12 Advanced Bioenergy Center in Mendota. This center will  
13 perform predevelopment work for the design and  
14 construction of the Advanced Bioenergy - I'm sorry, the  
15 company will perform this work for the Center. This work  
16 will include exploring the project's technical  
17 feasibility, economic viability, and environmental  
18 impacts by assessing properties of sugar beets and other  
19 feedstock materials, developing and optimizing integrated  
20 biomass processing and conversion technologies, pilot  
21 scale digester operations, and analyzing lifecycle  
22 environmental impacts and sustainability. Once  
23 completed, the Center will incorporate four different  
24 technologies in one facility to produce ethanol,  
25 renewable biomethane, compost and fertilizer, and green

1 electricity. These technologies include advanced ethanol  
2 production, anaerobic digestion, biomass gasification,  
3 water recycling, and waste water treatment. Primary  
4 feedstocks will be sugar beets and almond orchard  
5 prunings. The facility will convert 840,000 tons per  
6 year of locally sourced sugar beets up to 22,000 acres,  
7 as well as 80,000 additional tons of almond prunings and  
8 other agricultural waste into 33.5 million gallons of  
9 advanced ethanol, 6.3 megawatts of certified green  
10 electricity, 1.6 million standard cubic feet of renewable  
11 biomethane for conversion into transportation fuel, and  
12 high nutrient compost and liquid fertilizer. The project  
13 will also reclaim one million gallons of treated water  
14 per day that will be used for biorefinery operations and  
15 operate at an annual net water balance of a plus 365-acre  
16 feet per year. Overall, the project is expected to  
17 maintain a carbon neutral and water positive footprint.

18           The Applicant is asking the Energy Commission  
19 for \$1,499,148 in Alternative and Renewable Fuel and  
20 Vehicle Technology Program funds. The project team will  
21 provide match funding of \$1,553,461.

22           If feasible, this project will create  
23 approximately 250 direct and 50 indirect jobs during  
24 construction. The facility will then sustain 50 long  
25 term positions in biorefinery operations and an

1 additional 50 full time positions for feedstock  
2 operations. Approximately 160 labor and agricultural  
3 positions will be created to support sugar beet harvest  
4 and production on 40 area farms. All jobs created will  
5 be located in the Fresno County Enterprise Zone. When  
6 fully operational, the Center is anticipated to reduce  
7 gasoline and diesel use by 23 million gallons per year,  
8 with GHG reductions of 86 percent and 45 percent,  
9 respectively for gasoline and diesel. They will use co-  
10 generation to produce steam and green energy to run the  
11 plant. Additional benefits will include the decreased  
12 air quality impacts associated with the burning of  
13 agricultural waste. And our office recommends you  
14 approve this project.

15 CHAIRMAN DOUGLAS: Thank you, Mr. Kinney. We  
16 have a representative of Mendota Advanced Bioenergy  
17 Cooperative here. Jim Tischer? I think there's a good  
18 chance I mispronounced his last name, but we'll soon see.

19 MR. TISCHER: Chair Douglas, members of the  
20 Commission, my name is Jim Tischer, California Water  
21 Institute, California State University, Fresno, serving  
22 as the Project Coordinator for the Mendota project. We  
23 were honored and humbled by the selection of your staff  
24 for our integrated biorefinery. We are looking forward  
25 to carry this out. This ties together a number of areas

1 that the Commission and the Cooperative members are in  
2 harmony with, moving forward, and we want to make it  
3 happen. So, thank you for your confidence in us, we'll  
4 carry it out.

5 COMMISSIONER BYRON: Mr. Tischer, this is a big  
6 idea. Whose idea is this? It's a good one.

7 MR. TISCHER: Well, thank you. We have a  
8 pretty highly evolved team that's been working on it and  
9 we've been hammering on it for probably 15 years to bring  
10 the pieces together, particularly the water element, to  
11 be able to recycle the water, but also the beets and, you  
12 know, it was sad that the sugar beet factory, the  
13 Spreckels Factory, closed down in September. The  
14 Cooperative came together, they originally were going to  
15 buy it, but it was 50-years-old and it was at a time when  
16 staffing was inexpensive and energy was inexpensive, and  
17 so that was put aside. But all the pieces fit together  
18 and one waste product is a raw material for another one,  
19 just through the process, and it all synergizes. The  
20 trick is the integration to bring it together and that's  
21 what we want to make happen with it.

22 COMMISSIONER BYRON: Well, as I read this and  
23 understand it based upon the presentation from Mr.  
24 McKinney - Mr. Kinney, excuse me - this looks like a very  
25 attractive project. And would this, then, become one of

1 the primary sources of income for this collaborative?  
2 Or, I'm sorry, this Cooperative?

3 MR. TISCHER: It would be a portion. This  
4 would be - the sugar beets would be part of their  
5 rotation, maybe 15 percent of the rotation, it is not the  
6 primary source of income for the Cooperative members,  
7 they have other ongoing farming operations, but sugar  
8 beets are an excellent crop in California in the '70s,  
9 1970's, there were 300,000 acres of sugar beets. They  
10 are excellent because they can use lower quality water  
11 and do quite well, also lower quality soils, and you'll  
12 notice that, on our team, that Dr. Steven Kafka is an  
13 advisor to the project and he also wears a dual hat,  
14 advising us on the biomass component, so we get double -  
15 triple duty out of everybody that is involved in the  
16 project.

17 COMMISSIONER BYRON: Well, it certainly fits  
18 well with many of the policies of this State, and I hope  
19 the feasibility study is very successful and you'll be  
20 able to move forward with it quickly. I'm going to look  
21 to my fellow Commissioner Boyd because I'm just guessing  
22 he has a comment or two.

23 VICE CHAIR BOYD: Thank you, Commissioner, yes,  
24 this is another part of my symphony today, this is a  
25 great project. Mr. Tischer addressed the AB 118 Advisory

1 Council meeting yesterday and he called them "energy  
2 beets" all day, I'm surprised he didn't repeat that term  
3 today, rather than sugar beets, but, as already  
4 indicated, this advances our production of Bioenergy in  
5 the State. It utilizes an energy crop and waste  
6 material, it utilizes a crop that is going to sustain a  
7 farming operation that otherwise would be in a difficult  
8 economic position in light of the closure of the sugar  
9 beet factory, and it utilizes technologies and  
10 capabilities that our PIER program has helped develop at  
11 UC Davis over the years in the biomass arena, all the  
12 advisors coming together, and all the technology, are  
13 going to indeed provide, we hope, a model of a  
14 biorefinery that could be replicated in other parts of  
15 the state, not having ever touched upon the issue of food  
16 vs. fuel, but rather existing crops, utilizing waste  
17 water and waste materials, as well, so, again, I am very  
18 gratified that we are in a position to be able to support  
19 this project and I certainly would move approval of this  
20 grant agreement.

21 COMMISSIONER BYRON: Madam Chair, I second  
22 approval.

23 CHAIRMAN DOUGLAS: All in favor?

24 (Ayes.)

25 This project is approved. Thanks for being

1 here, Mr. Tischer.

2 MR. TISCHER: Thank you.

3 CHAIRMAN DOUGLAS: Item 9. Clean World  
4 Partners, LLC. Possible approval of Agreement ARV-10-026  
5 for a grant of \$1,315,800 to Clean World Partners, LLC to  
6 conduct technical and economic feasibility studies for a  
7 proposed biorefinery that will convert food and green  
8 waste into compressed natural gas. Ms. deMesa.

9 MS. DEMESA: Good morning, Chairman Douglas and  
10 Commissioners. My name is Rhetta deMesa. I'm with the  
11 Emerging Fuels and Technologies Office, and I am  
12 presenting for your approval today a project entitled  
13 Sacramento Biorefinery No. 1. This project was proposed  
14 for award under PON-09-604 for Biofuel Production. The  
15 Applicant, Clean World Partners, develops innovative and  
16 advanced anaerobic digestion systems and is proposing to  
17 design, build, and manage a biomethane production  
18 facility at the Sacramento Recycling and Transfer Station  
19 here in Sacramento, California. The facility will  
20 utilize an advanced anaerobic digestion system known as  
21 Anaerobic Phased Solids to product a high quality  
22 biomethane transportation fuel. Using Energy Commission  
23 grant funds, Clean World Partners plans to conduct pre-  
24 development activities and complete feasibility studies  
25 to further evaluate technical, economic, and

1 environmental impacts of the facility, evaluate and  
2 reduce associated risk, perform tests and material  
3 assessments to verify operating characteristics, and to  
4 refine and improve waste collection processes. Once  
5 operational, the Sacramento Biorefinery No. 1 is expected  
6 to divert 75 tons per day of food waste and 25 tons per  
7 day of green waste from local landfills that will be  
8 converted into 71 million standard cubic feet of  
9 compressed natural gas, displacing 584,000 gallons of  
10 gasoline annually.

11           Fuel produced from this project will have an  
12 estimated greenhouse gas reduction of over 80 percent  
13 below the diesel baseline, and will be sold to the Yolo  
14 County Transit District CNG bus fleet, meeting 84 percent  
15 of their annual demand for their transit vehicles. Other  
16 useful byproducts produced from this project will be high  
17 in nutrient compost, liquid fertilizer, renewable  
18 hydrogen, and clean water. It is estimated that this  
19 project will result in the creation of 137 direct and 87  
20 indirect jobs through the construction phase and 16 full  
21 time permanent jobs through 2030. Once operational, the  
22 project will also divert 36,500 tons of organic waste  
23 from landfills and reduce greenhouse gas emissions by  
24 over 15,000 metric tons annually. Staff is recommending  
25 a funding of \$1,315,800 in Alternative and Renewable Fuel

1 and Vehicle Technology Program funds, and the project  
2 team will provide a match of \$1,852,100. This concludes  
3 my presentation.

4 CHIARMAN DOUGLAS: Thank you, Ms. deMesa. Greg  
5 Hayes, the President of Clean World Partners is here, if  
6 you could come forward now, please.

7 MR. HAYES: Thank you, Commissioners, and thank  
8 you for the opportunity to present today. Ms. deMesa did  
9 a great job of sort of presenting the project benefits,  
10 but I wanted to just speak briefly to the macro sense and  
11 what the funds are allowing us to do. Previously, as  
12 Commissioner Boyd noted, the Commission has provided  
13 funds to help create a demonstration project of this  
14 technology on U.C. Davis' campus. What these funds are  
15 allowing us to do is to bridge the infamous valley of  
16 death and take this project to commercial state. And so,  
17 as we all know, and all the conversion technology is a  
18 critical leap, and this is a very very important infusion  
19 at a critical time to make that possible. I'd also like  
20 to add that another benefit of the staff's  
21 recommendation, and we hope that we'll gain your  
22 approval, is for our company, which is a start-up company  
23 here in Sacramento looking to commercialize this  
24 technology, and a nod to Commissioner Boyd, we'd like to  
25 eliminate the word "waste," we believe this is

1 "resource," and so we try not to use the word "waste."  
2 We believe these organics are a great resource that can  
3 be used for things like transportation fuel. But the  
4 staff's recommendation helped establish some credibility  
5 that has led to a rather large investment in our company,  
6 and I believe that we can continue to commercialize these  
7 projects beyond just this one. So, we appreciate your  
8 consideration and we hope for your ratification.

9 CHAIRMAN DOUGLAS: Thank you for being here.  
10 I'm sure there are questions. I guess I'll just ask one,  
11 which is, how close would you be and what would the  
12 timeframe be for commercializing other projects, in  
13 addition to this one?

14 MR. HAYES: Well, these particular funds are  
15 being used to design the integrated system. As you know,  
16 a digester doesn't sit on its own, there's both pre-  
17 processing and then the conversion of fuel on the back  
18 end, so the funds are being used in terms of feasibility  
19 to analyze the feedstocks, do the testing, and then begin  
20 to design the system, and we are in discussions with  
21 several entities as we know, partially due to the work of  
22 the Commission and, thankfully, the defeat of Prop. 23,  
23 there is a lot of commercial interest in these types of  
24 things. The G4 Insight project was exciting to hear  
25 about, as well as the Mendota project, and so on. So,

1 there is a demand for it, so we have several private  
2 entities, as well as some public entities, interested in  
3 developing these projects, so they're looking to see the  
4 execution of this first one with the use of these funds.  
5 And so more specifically answer your question, we're  
6 looking to have this project open in early 2011, but, as  
7 we move along the lines, we're negotiating concurrently  
8 with other projects to develop at the same time.

9 CHAIRMAN DOUGLAS: That's great. Thank you.  
10 Commissioner Boyd.

11 VICE CHAIR BOYD: This day just gets better.  
12 This is a big day and I hope our Information Office takes  
13 note of this, not only a substantial distribution of  
14 funds under the fairly new AB 118 program, but an awful  
15 lot of work on Bioenergy and, while I agree that the  
16 biomass and the other materials we're talking about are  
17 indeed a resource for political reasons, sometimes using  
18 waste and eliminating the "waste" issue sells and markets  
19 good, so I agree with you, and I've used the fact that  
20 these are a resource in the state, and sometimes it's  
21 better to talk about using the waste and putting it to  
22 good use, but I get your message and I appreciate it. I  
23 won't keep repeating, but I could say project after  
24 project after project, this is just another major step  
25 forward and we're very excited about it and very

1 appreciative of the fact that we get to play a role,  
2 finally after all these years, in providing just enough  
3 Economic Stimulus to not only through PIER, lead people  
4 to the edge of the valley of death, but through AB 118,  
5 to walk them into, if not through, the valley of death,  
6 and into successes in the future. So, if people wonder  
7 the payoffs for some of the PIER research, we've had  
8 continuing examples today of having the opportunity to  
9 have another program in operation that picks up some of  
10 this research and walks it into economic growth and jobs.  
11 And I appreciate the reference to jobs repeatedly here,  
12 which make the idea that green is good for the economy  
13 and jobs a realization today through some of these  
14 activities. So, this is a motion to approve this item,  
15 and, of course, Ms. Driscoll's caveat applies to this, as  
16 it has to all the others, lest we forget.

17 CHAIRMAN DOUGLAS: Thank you, Commissioner  
18 Boyd. Commissioner Byron.

19 COMMISSIONER BYRON: I don't have any  
20 questions, really, for Mr. Hayes, but I thank you for  
21 being here. I'll add a comment to Commissioner Boyd's  
22 accolades around these projects and I think we actually  
23 have three more to go, but I think the timing is  
24 appropriate since he mentioned AB 118, the Assembly Bill  
25 that created this fund, this source of funds. I ran into

1 Speaker Nuñez earlier this week - former Speaker Nuñez -  
2 and thanked him for carrying this legislation forward.  
3 Actually, I also thanked him on your behalf, Commissioner  
4 Boyd.

5 VICE CHAIR BOYD: Oh, thank you.

6 COMMISSIONER BYRON: And I let him know that I  
7 think it's making a real difference in the developing  
8 alternative fuels. I think it shows a great deal of  
9 foresight on his part and on the Assembly's in creating  
10 this fund. And I made a commitment to him that this  
11 Commission would continue to judiciously apply these  
12 funds, and I think all of these projects demonstrate that  
13 we are doing that. So, just a little bit of shout-out to  
14 the Assembly member and to the Legislature, again, for  
15 creating this fund and for trusting this Commission for  
16 allocating it. I second the motion for the approval of  
17 this project.

18 CHAIRMAN DOUGLAS: Thank you. All in favor?

19 (Ayes.)

20 This project is approved. Thank you for being  
21 here.

22 MR. HAYES: Thank you.

23 MS. DEMESA: Thank you.

24 CHAIRMAN DOUGLAS: Item 10. Wrightspeed, Inc.

25 Possible approval of Agreement ARV-10-025 for a grant of

1 \$1,197,064 to Wrightspeed, Inc. to verify the  
2 manufacturing, testing, and installation of a range-  
3 extended electric vehicle drive system for medium- and  
4 heavy-duty trucks. Mr. Trujillo.

5 MR. TRUJILLO: Good morning, Chairman Douglas,  
6 Commissioners. I'm going to keep it brief because I see  
7 you've got a pretty heavy agenda here, too. I am Mike  
8 Trujillo with the Emerging Fuels and Technology Office  
9 and we're looking for possible approval of Grant No. ARV-  
10 10-025, for \$1,197,064 with Wrightspeed, Inc.  
11 Wrightspeed was selected through the PON-09-605 for the  
12 proposal to verify the manufacturing, testing, and  
13 installation of a range-extending plug-in hybrid electric  
14 drive system for medium- and heavy-duty trucks.  
15 Wrightspeed is a Silicon Valley company that plans to  
16 manufacture digital drive systems and retrofit kits for  
17 Class 3 through Class 6 trucks -- or Class 6 vehicles, I  
18 shouldn't just say "trucks." With a capability of using  
19 plug-in power for the first 40 miles, and then operation  
20 on a generator range-extender for the remainder of that,  
21 up to a 400-mile range on these vehicles. Wrightspeed  
22 anticipates the project would double the mileage over a  
23 comparable diesel vehicle only, so if it was the 10-mile  
24 per gallon vehicle, it would increase it to about 20  
25 miles to the gallon vehicle, and it would also decrease

1 or reduce the carbon intensity by about 64 percent over a  
2 conventional diesel vehicle. Capstone Turbine is a  
3 participant in this in or out of Chatsworth, California,  
4 and they would be supplying the microturbine for the  
5 generator for these vehicles. Wrightspeed will assemble  
6 the sophisticated software and integrate this into the  
7 vehicle and they plan to do this in a facility in San  
8 Jose. They will also bring with their project team an  
9 additional \$1.5 million to help in the testing and  
10 verification of this system. It is anticipated that this  
11 program would bring initially 10 jobs into the market,  
12 and it is anticipated that, over the next 10 years, to  
13 bring about 120 jobs. And if the technology were  
14 adopted, we're talking thousands of jobs at that point  
15 for sales, distribution, and other sources. With that, I  
16 conclude and I will answer any questions you might have.

17 CHAIRMAN DOUGLAS: Thank you, Mr. Trujillo.  
18 Before we get to questions, Ian Wright, the founder and  
19 CEO of Wrightspeed, Inc. is here. We would love to hear  
20 from you.

21 MR. WRIGHT: Good morning, Chairman Douglas,  
22 fellow Commissioners, thank you. My name is Ian Wright,  
23 I am the CEO of Wrightspeed. Mike pretty much said  
24 everything I was planning to say, so I just have a couple  
25 of comments to add. A lot of focus on biofuels and

1 biogas, one of the reasons we're using a microturbine  
2 generator for this range-extended hybrid system is that  
3 we can burn all of those fuels, including biogas up to  
4 seven percent sulfides, and that is not something you can  
5 do with piston engines. There are a lot of other  
6 reasons, but that is one topical one, I think, for today.  
7 And the last comment I wanted to make was that, you know,  
8 just to say that we really appreciate the vision of the  
9 CEC in focusing on the high fuel consumption vehicles and  
10 the high emitting vehicles, rather than the ones that are  
11 already efficient and clean. We agree with that and we  
12 think that vision is going to result in faster  
13 commercialization, and therefore bigger impacts at the  
14 end of the day. And I'd also like to say that, in all of  
15 our dealing with the CEC, so far, we've been very  
16 impressed with their professionalism and the efficiency  
17 of the staff. So, thank you.

18 CHAIRMAN DOUGLAS: Well, thank you very much  
19 for being here and for your comments. I'm sure there  
20 would be questions for you. Commissioner Boyd.

21 VICE CHAIR BOYD: Well, actually, I have no  
22 questions, again, being fairly familiar with this. I want  
23 to compliment the company and I want to agree with the  
24 comments that this is moving a technology into an arena  
25 of medium-duty and heavy-duty where there is the

1 potential of very significant payoff in an area that  
2 utilizes significant amounts of petroleum fuel to move  
3 these vehicles around; you heard the references to 10  
4 miles a gallon and doubling that. And I am thrilled to  
5 see that Capstone Turbine Corporation is part of this  
6 and, of course, within the framework of the  
7 Transportation Fuels Committee which I chair, we've  
8 reviewed all these projects, so I knew this was coming,  
9 of course, and this was endorsed by that committee. But  
10 Capstone is a company that I remember being incubated by  
11 Cal Start many many many many years ago when it was  
12 almost first started, the not-for-profit, to take  
13 advantage of the technology available in California as  
14 the Aerospace and Defense industries were significantly  
15 reduced in financing and business, a lot of new  
16 technologies were developed. So, this is a great  
17 marriage of things done here in California, and I'm  
18 certainly glad to see that, and it will, once  
19 demonstrated to many people, I'm sure, move fairly  
20 significantly into being a technology available to many  
21 movers of goods and services that will be looking for the  
22 economies that this kind of technology can bring us. And  
23 while this is not a product of our work with University  
24 of California at Davis on plug-in hybrid technologies for  
25 light-duty vehicles, it's just an extension of that, and

1 again, another kudos to my friends at Cal Start. This is  
2 a technology that they have pushed very hard for many  
3 many years. So, I'll make a motion to approve this item  
4 with great enthusiasm, and it is using the fuels that  
5 we're generating in the Alternative Technologies that  
6 this program, AB 118, is also supposed to help give birth  
7 to.

8 CHAIRMAN DOUGLAS: Thank you. Commissioner  
9 Byron.

10 COMMISSIONER BYRON: A quick comment, Mr.  
11 Wright. Thank you for being here and for your kind words  
12 regarding our staff. I know it is a difficult and  
13 arduous process to get through the contracting rigors  
14 with the State of California and, in fact, even before  
15 these requests came out, I know Commissioners Boyd and  
16 others - other Commissioners spent a lot of time meeting  
17 all the requirements of the legislation, so it's very  
18 nice to have you here because it closes the loop  
19 eventually with the founder and developer of a company  
20 that is receiving these grants. I hope you're very  
21 successful.

22 MR. WRIGHT: Thank you very much.

23 COMMISSIONER BYRON: I will make the second on  
24 the motion by Commissioner Boyd.

25 CHAIRMAN DOUGLAS: Thank you. We have a motion

1 and a second. All in favor?

2 (Ayes.)

3 This item is approved. Thank you for being  
4 here. Item 11. Biodiesel Industries. Possible approval  
5 of Agreement ARV-10-024 for a grant of \$886,815 to  
6 Biodiesel Industries, to conduct pilot studies on the  
7 feasibility of an integrated biorefinery. Ms. Vinton.

8 MS. VINTON: Good morning. My name is Joanne  
9 Vinton and I'm with Emerging Fuels and Technologies.  
10 This proposal was submitted to 09-604 Biofuel Production  
11 Plants.

12 VICE CHAIR BOYD: Joanne, would you pull the  
13 microphone a little closer to you?

14 MS. VINTON: Sure. Is this okay? Closer,  
15 okay. Biodiesel Industries plans to build an automated  
16 system that includes their portable biodiesel production  
17 unit and anaerobic digester microturbine, and a  
18 greenhouse and tanks for growing algae. Water and  
19 glycerin from biodiesel production will be fed to the  
20 digester, biomethane from the digester will be burned in  
21 the microturbine to produce heat and power. Power from  
22 the microturbine will be used to produce more biodiesel,  
23 effluent from the digester will feed the algae, and oil  
24 from the algae will be converted to biodiesel. This  
25 whole process will be controlled by a microprocessor.

1 The system will be built at Naval Base Ventura County and  
2 Port Hueneme. In full production, the system will  
3 produce 3 million gallons per year and create 58  
4 permanent jobs. Biodiesel Industries is asking for  
5 \$886,815 and their match is \$1.826 million. And we've  
6 got Russ Teall here, who would like to speak.

7 CHAIRMAN DOUGLAS: Thank you. I will ask Mr.  
8 Teall to come up now.

9 MR. TEALL: Commissioners, thank you very much  
10 for this opportunity to address you. Joanne has covered  
11 most everything, but I thought I would give a little bit  
12 of an overview. I am here today with our chief operating  
13 Officer, Michael Cassidy. This project is designed to  
14 address what I've seen are some of the problems with  
15 biofuels production over the last 16 years. To  
16 paraphrase *A Tale of Two Cities*, it can be the best of  
17 fuels and the worst of fuels. The Low Carbon Fuel  
18 Standard recognizes that you've got at one end some  
19 biofuels that have a more greenhouse gas impact than  
20 petroleum diesel, and some are the very best. And what  
21 the project tries to do is take the two most highly rated  
22 fuels under the Low Carbon Fuel Standard, which is  
23 biodiesel made from yellow grease and biogas. One of the  
24 problems in our industry is that, as we succeed and  
25 produce more biodiesel, we also produce more glycerin,

1 and the market for glycerin is glutted, the value that is  
2 has gone down almost 80 percent in the last five years.  
3 At our plant in Texas, three or four years ago, we had  
4 the opportunity to work with Micro-G, which is reputed to  
5 be the largest anaerobic digester in North America. And  
6 they were buying our glycerin, which is a sugar, as an  
7 accelerant. Their primary substrate was manure, but  
8 glycerin as a sugar digests much more quickly, stimulates  
9 the microbes, and so their overall process went much more  
10 quickly. So, the idea here is to take the byproduct,  
11 glycerin, mix it with other residual biomass so we'll be  
12 looking at a range of waste products from agriculture,  
13 seeing what the production rates are, seeing what the  
14 feed-in rates are, see what the gas composition is,  
15 burning the gas, which can range from 40-60 percent  
16 methane to 40-60 percent CO<sub>2</sub> and capturing the CO<sub>2</sub> and  
17 running it through an algacultural system - that is the  
18 term we used for mixed species of algae and other  
19 symbiotic species that make it easier to harvest,  
20 extracting the oil, and then using it for biodiesel. If  
21 you use a Buswall formula, which is used for predicting  
22 what the biogas output is going to be for different  
23 substrates, the potential is to actually generate about  
24 nine times more electricity than is consumed by the  
25 biodiesel production, so the possibility for creating

1 what we call "energy ions" exists, it can feed-in the  
2 electricity in a distributed way throughout California,  
3 which is where ARRTIIES comes in. ARRTIIES, working with  
4 the Navy, who is one of our partners, they love acronyms,  
5 right, so it stands for the Automated Remote Real Time  
6 Intelligent Integrated Energy System, and basically what  
7 that does is take all the monitoring and process controls  
8 that exist in biodiesel and makes them real time, and  
9 creates an interface for the users and operators to  
10 control that system. Under this grant, we'll be  
11 extending that technology to incorporate the anaerobic  
12 digestion, combined heat and power, and algacultural into  
13 an overall integrated system, that can be remotely  
14 monitored, so it's possible to have a centralized command  
15 and control structure that can help provide the technical  
16 support to a number of plants. Generally, what we say in  
17 the biomass industry is that the problem with biomass is  
18 mass. You know, you've got huge amounts of materials  
19 that you have to move, and frequently the economies of  
20 scale are eaten up by transportation. So, if you can  
21 make a reasonably sized facility that has the same  
22 advantages technologically as a larger facility, you can  
23 actually consolidate the advantages into much smaller  
24 distributed networks. So, that's what our objective is.  
25 Hopefully, over the next 29 months, we'll be able to

1 report back to you what the status is and hopefully have  
2 a huge impact on greenhouse gasses in California.

3 CHAIRMAN DOUGLAS: Well, thank you. That was  
4 very interesting and very helpful. Commissioners,  
5 questions or comments?

6 VICE CHAIR BOYD: Well, again, we have a  
7 project that is going to exercise - well, that takes a  
8 systems approach, and it is going to exercise a broad-  
9 based system that has multiple benefits to us in terms of  
10 the things we look out for, both energy, environmental  
11 impacts, greenhouse gas emissions, and what have you,  
12 while working to displace our over-dependence on single  
13 petroleum products. So, I salute the courage of the  
14 company venturing into this arena and I'm glad that we  
15 can be part of helping bring this system forward. It is  
16 more of a closed loop system than we've been introduced  
17 to in the past, and I think that's a very positive  
18 approach to this. So I appreciate very much, Russ, what  
19 you and your folks are doing, and I thank you for being  
20 at our Advisory Committee meeting yesterday with your  
21 comments, and I'll make a motion to approve this item.

22 COMMISSIONER BYRON: I, too, thank Mr. Teall  
23 and Mr. Cassidy for being here today, and second approval  
24 of Item 11.

25 CHAIRMAN DOUGLAS: We have a motion and second.

1 All in favor?

2 (Ayes.)

3 The item is approved.

4 MR. TEALL: Great, thank you.

5 CHAIRMAN DOUGLAS: Thank you. Item 12. Cal  
6 Poly State University, San Luis Obispo. Possible approval  
7 of Agreement ARV-10-027 for a grant of \$250,000 to Cal  
8 Poly State University, San Luis Obispo to conduct and  
9 assess pilot-scale production of low-cost, oil-rich algae  
10 biofuel feedstock using wastewater nutrients. Ms.  
11 Vinton.

12 MS. VINTON: This proposal was also submitted  
13 to 09-6094 Biofuel Production Plants. Cal Poly plans to  
14 construct ponds at the San Luis Obispo Water Reclamation  
15 Facility. They want to demonstrate algae production  
16 while treating wastewater using their trademark Renew  
17 process, which enhances algae growth with carbon dioxide.  
18 They will run experiments to optimize both algae oil  
19 production, and the quality of the treated wastewater.  
20 The algae will be separated from the water using a simple  
21 low-cost settling process. For full scale system, the  
22 greenhouse gas contribution would be negative, it would  
23 absorb carbon dioxide from flue gas, and 52 full time  
24 jobs would be created. The City of Fresno has offered  
25 their wastewater facility as a scale-up location. Other

1 supporters are U.S. EPA Region IX, and the State Water  
2 Resources Control Board. Cal Poly is asking for \$250,000  
3 and their match is \$442,000.

4 CHAIRMAN DOUGLAS: Thank you. Questions or  
5 comments, Commissioners?

6 VICE CHAIR BOYD: Another innovative approach  
7 in an effort to demonstrate the value of algae biofuels,  
8 again, using the output of a wastewater or a resource  
9 water operation, that again will hopefully demonstrate to  
10 a large number of folks the viability of these kinds of  
11 approaches. So, again, another banner day for this  
12 fairly new program of ours, in launching yet another  
13 possible technology into California and into meeting our  
14 needs. So, once again, I will say I enthusiastically  
15 make a motion to approve this item and look forward to  
16 the results from it.

17 CHAIRMAN DOUGLAS: Thank you. Commissioner  
18 Byron.

19 COMMISSIONER BYRON: A quick comment. I had  
20 the opportunity about a month ago to visit the algae  
21 biofuel lab that is at UC San Diego and I have to say I'm  
22 very encouraged by the developments that are taking place  
23 in this field. Not too long ago, we weren't very  
24 optimistic about this as a potential alternative fuel  
25 source, but it's looking much better because of the

1 developments that are taking place. So, I'm likewise  
2 optimistic that this will prove an incremental success,  
3 maybe some breakthrough technologies development here, as  
4 well. So, Ms. Vinton, I don't have any questions for  
5 you, but I will second approval.

6 CHAIRMAN DOUGLAS: All in favor?

7 (Ayes.)

8 The item is approved. Thank you, Ms. Vinton.  
9 Item 13. Pacific Ethanol Madera, LLC. Possible approval  
10 of Agreement ARV-10-029, for a zero cost Participant  
11 Agreement with Pacific Ethanol Madera, LLC to establish  
12 the program requirements for participation in the  
13 California Ethanol Producer Incentive Program. Mr.  
14 Rillera.

15 COMMISSIONER BYRON: And I note, Madam Chair,  
16 that Items 13 and 14 are pretty closely linked. Is that  
17 correct, Mr. Rillera?

18 MR. RILLERA: Yes, Commissioner. Item 13 and  
19 14 are two different facilities with the same company.

20 CHAIRMAN DOUGLAS: All right, Mr. Rillera, why  
21 don't you present on Item 13 and we'll plan on being  
22 brief when we come to Item 14, then.

23 MR. RILLERA: Good morning, Chairman and  
24 Commissioners. My name is Larry Rillera with the  
25 Division of Fuels and Transportation Division. In 2009,

1 the Commission approved the first AB 118 Investment Plan  
2 that identified development of Ethanol producer  
3 facilities in the state. Subsequently, the Commission  
4 approved the California Ethanol Producer Incentive  
5 Program, or CEPIP, with initial allocation of \$6 million.  
6 The CEPIP is designed to stimulate in-state Ethanol  
7 production while charting a course for reduced carbon  
8 intensity in the production process, and incorporating  
9 the use of alternative feedstock through what is referred  
10 to as the Biorefinery Operational Enhancement Goals, or  
11 BOEG. CEPIP has the benefit of job creation and  
12 retention, local and regional economic development, while  
13 meeting the objectives of the AB 118 program. It should  
14 be noted that eligibility for the CEPIP payments will not  
15 begin until facilities are fully operational. The CEPIP  
16 further requires repayments back to the state when market  
17 conditions are favorable. In June of 2010, the  
18 Commission released Program Opportunity Notice No. 09-607  
19 to solicit Applicants to the CEPIP. Also in June of  
20 2010, the Commission approved Inter-Agency Agreement No.  
21 600-09-017 with the California Alternative Energy and  
22 Advanced Transportation Financing Authority, or CAEATFA,  
23 to provide financing assistance needed to implement the  
24 CEPIP. In July 2010, the CAEATFA Board approved the  
25 Inter-Agency Agreement with the Commission to effectuate

1 the CEPIP. Today, the Commission will consider two zero  
2 dollar participant agreements to eligible producers, the  
3 participant agreements have the following construction:  
4 Exhibit A is the Work Statement that contains five  
5 administrative tasks related to meetings, reporting, and  
6 data analysis. Exhibit A also provides five additional  
7 tasks detailing the milestones of the BOEG, such as the  
8 draft and final plan, a detailed budget, obtaining  
9 permits, regulatory review, and construction timeline and  
10 initiation and completion. Exhibit A also includes three  
11 tasks, including the calculation of an Ethanol Crush  
12 Spread, or ECS, terms on payments and reimbursements, and  
13 conditions that trigger formal communications between the  
14 Commission and CAEATFA. Exhibit B contains the terms and  
15 conditions consistent with the applicable Commission  
16 grant Awardees. It should be noted that safeguards have  
17 been included in the participant agreements to ensure  
18 that the initial \$6 million dedicated to the CEPIP will  
19 be equitably available to all qualifying participants, as  
20 well as covering the cost for CAEATFA's administration of  
21 the program. It should also be noted that the agreements  
22 contain provisions requiring that a participant has a  
23 continuing obligation to meet the BOEG timelines, even if  
24 CEPIP funds should run out.

25 The Commission will specifically consider under

1 Item 13 an approval of a Zero Cost Participant Agreement  
2 with Pacific Ethanol Madera to establish the program  
3 requirements for participation in the CEPIP. The Program  
4 requirements in the agreement will include the  
5 participant's eligibility for CEPIP payments from, and  
6 reimbursements to, CAEATFA. Pacific Ethanol Madera  
7 projects to begin production in the first quarter of  
8 2011, and has the capacity to produce up to 40 million  
9 gallons of Ethanol per year, but providing both short and  
10 long term jobs and economic benefit, something critical  
11 to this area of the state.

12 We have a representative of Pacific Ethanol in  
13 the audience available to you, Commissioners. Staff asks  
14 for the Commission's support to approve Item 13, a Zero  
15 Cost Participant Agreement with Pacific Ethanol.

16 CHAIRMAN DOUGLAS: Thank you, Mr. Rillera. Mr.  
17 Koehler with Pacific Ethanol is here. If you would like  
18 to come forward now, please?

19 MR. KOEHLER: Thank you. My name is Tom  
20 Koehler with Pacific Ethanol, and I just wanted to  
21 appreciate your consideration for this program and to say  
22 that it is really critical, this policy is critical, it  
23 is critically linked with the Low Carbon Fuel Standard  
24 and the Bioenergy Action Plan, to get these facilities up  
25 and running. We are the lowest - California is the home

1 to the lowest carbon fuel commercially produced in the  
2 country. And that is what these facilities represent.  
3 This program, along with these other policies, is  
4 successfully spurring innovation, and so we look forward  
5 to getting these facilities up and running, the 700 jobs  
6 that go with each facility economy-wide, are huge. And  
7 we look forward to making these facilities even lower  
8 carbon and contribute to the Low Carbon Fuel Standard and  
9 the displacement of petroleum. We appreciate your  
10 consideration and also your participation in making this  
11 really a model program. It's not a hand-out, it's there  
12 only when needed, there's a pay-back revision and it's  
13 really spurring innovation in terms of lowering the  
14 carbon.

15 CHAIRMAN DOUGLAS: Thank you, Mr. Koehler. I  
16 just have one question. What are some of the measures  
17 that you're looking at to make the facilities lower  
18 carbon?

19 MR. KOEHLER: We are specifically looking at  
20 the possible inclusion of a co-gen unit, that's probably  
21 our number one target, also some internal efficiencies,  
22 as well.

23 CHAIRMAN DOUGLAS: Thank you. Commissioners,  
24 other questions or comments on this item?

25 VICE CHAIR BOYD: Well, a comment only in -

1 this is a very complex program, therefore it's very  
2 complicated as evidenced by the size of the piles of  
3 paper that constitutes Exhibit A and Exhibit B, which  
4 also reflect on the amount of staff work that it took to  
5 create a workable program, and to provide the necessary  
6 documentation, and agreements, and commitments, all of  
7 which were intended to, as indicated by the witness, Mr.  
8 Koehler, to help us retain and expand California  
9 business, and therefore jobs, and to produce something we  
10 need in the state in the way of an alternative fuel here  
11 in the state, which ultimately does have the advantage of  
12 having the lowest carbon footprint in terms of the  
13 Ethanol that California will use, more than a billion  
14 gallons a year in its transportation sector. And so, as  
15 we analyze this, and therefore came to the conclusion  
16 that this would be a good program for California, we of  
17 course analyzed that question about the carbon footprint,  
18 and even though we're bringing corn in at the present  
19 time from the Midwest, and turning it into Ethanol here,  
20 the types of technologies and the use of the byproduct  
21 materials result in a more positive carbon footprint than  
22 just continuing to receive Ethanol manufactured in the  
23 Midwest in tank cars from the Midwest. So, that, coupled  
24 with doing something for California business, California  
25 jobs, revenues to California, taxes paid in local

1 community, incited us to struggle our way through to  
2 devising a program that we think is fair and equitable  
3 and does protect the taxpayers, let's just say, of  
4 California, or the folks who pay into the fund that  
5 provides for the AB 118 program. So, we look forward to  
6 these businesses getting up and running, and contributing  
7 to California's economy and, frankly, standing on their  
8 own two feet as soon as possible while continuing to make  
9 reductions in their carbon footprint. So, on that note,  
10 I will move approval of this Item 13.

11           COMMISSIONER BYRON: Commissioners, I continue  
12 to have some concerns, perhaps misgivings about the value  
13 of Ethanol as an alternative fuel in this state, and this  
14 is a very complicated arrangement that has been  
15 established, but I agree with Commissioner Boyd, its  
16 assessment that it is well-designed and constructed such  
17 that it will assist these companies in getting on their  
18 own two feet. I'd also like to point out, Mr. Rillera,  
19 that you win the award today for the project description  
20 with the most acronyms, and having said that, I will say  
21 thank you, and also move to second approval of the item.

22           CHAIRMAN DOUGLAS: Thank you. We have a motion  
23 and a second. All in favor?

24           (Ayes.)

25           This item is approved.

1                   VICE CHAIR BOYD: May I make just one  
2 additional comment spurred by Commissioner Byron's  
3 comment about the question about using the value of  
4 Ethanol in California as an alternative fuel, whether we  
5 like it or not, under the Federal law and programs, you  
6 know, the renewable fuels standard for the nation, we  
7 have an obligation, a mandate, to use significant volumes  
8 of Ethanol, so we saw this as "if we have to do it," if  
9 we can do it here at home, it's better for us. Enough  
10 said. Thank you.

11                   CHAIRMAN DOUGLAS: Thank you. Very well, as  
12 Commissioner Byron pointed out, Item 14 is nearly  
13 identical to Item 13, so, Mr. Rillera, if you could keep  
14 your presentation to anything that is expanding on or  
15 different than your first presentation for Item 14,  
16 Pacific Ethanol Stockton, LLC. Possible approval of  
17 Agreement ARV-10-030, for a zero cost Participant  
18 Agreement with Pacific Ethanol Stockton.

19                   MR. RILLERA: Chairman and Commissioners, this  
20 item is simply another facility of Pacific Ethanol in the  
21 state to conduct the same activities that are identified  
22 in Item 13.

23                   CHAIRMAN DOUGLAS: Thank you, Mr. Rillera. Do  
24 we have a motion on Item 14?

25                   VICE CHAIR BOYD: I move approval.

1 COMMISSIONER BYRON: Second.

2 CHAIRMAN DOUGLAS: All in favor?

3 (Ayes.)

4 Item 14 is approved. Thank you. Item 16.  
5 Town Of San Anselmo. Possible approval of the Town of  
6 San Anselmo's locally adopted energy standards for  
7 residential and nonresidential newly constructed  
8 buildings and additions, and alterations to existing  
9 buildings, to require greater energy efficiency than the  
10 2008 Building Energy Efficiency Standards. Mr. Loyer.

11 MR. LOYER: Commissioners, Joe Loyer from the  
12 High Performance Building and Standards Development  
13 Office. On September 21<sup>st</sup>, 2010, the Town of San Anselmo  
14 submitted an application to the Energy Commission for  
15 approval of a local ordinance that meets or exceeds the  
16 2008 Building Energy Efficiency Standards Title 24, Part  
17 6 of California Building Code. The proposed ordinance  
18 applies to residential and non-residential newly  
19 constructed buildings and additions and alterations to  
20 existing buildings. The ordinance requires newly  
21 constructed residential buildings greater than 500 square  
22 feet to exceed the energy efficiency requirements of  
23 Title 24, Part 6, by at least 15 percent. Additions and  
24 alterations to existing residential buildings are  
25 required to comply with Part 6, plus install a number of

1 other measures, many of which may produce improved energy  
2 efficiencies. Additionally, the Home Energy Rating  
3 System, HERS II audit, or a specific score, is required  
4 for some additions and alterations to existing  
5 residential buildings. The ordinance also requires newly  
6 constructed and additions to existing non-residential  
7 buildings greater than 5,000-square-feet to exceed the  
8 energy efficiency requirements of Title 24, Part 6, by at  
9 least 15 percent, alterations to existing non-residential  
10 buildings are required to comply with Part 6 plus several  
11 elements of LEED. Staff has reviewed the ordinance and  
12 has determined that it complies with all necessary  
13 requirements of Title 24, Part 1, Section 10106, and  
14 recommends the application be approved and the Energy  
15 Commission Resolution be signed. I am available to  
16 answer any questions you may have.

17 CHAIRMAN DOUGLAS: Thank you, Mr. Loyer.  
18 Questions or comments, Commissioners?

19 COMMISSIONER BYRON: No real question, Mr.  
20 Loyer. We've obviously seen a number of these this year.  
21 And I think, in the interest of time, I'll be very brief,  
22 we like these, we want to continue to see these coming  
23 forward, I would like to thank the City of San Anselmo,  
24 and I would certainly move approval of this item.

25 MS. JONES: And, Commissioners, just so you

1 know, there will be another batch of these coming up at  
2 our next Business Meeting.

3 CHAIRMAN DOUGLAS: That's great.

4 MR. LOYER: Eight on the 15<sup>th</sup>, three on the 29<sup>th</sup>,  
5 10 more in the wings.

6 CHAIRMAN DOUGLAS: That's wonderful.

7 Commissioner Boyd, any -

8 VICE CHAIR BOYD: Kudos to San Anselmo and to  
9 the staff for continuing to market these activities  
10 locally and getting more and more local agencies to  
11 exceed the Standard State Energy Efficiency Requirements.  
12 So I'll second the motion.

13 CHAIRMAN DOUGLAS: All in favor?

14 (Ayes.)

15 The motion is approved. Thank you, Mr. Loyer.

16 Item 17. Renewable Energy Program Annual  
17 Report to the Legislature. Possible approval of the  
18 Renewable Energy Program 2010 Annual Report to the  
19 Legislature and associated Appendix. Ms. Meade.

20 MS. MEADE: Good morning. I'm Madeleine Meade  
21 with Renewable Energy Office. Since 1998, the Renewable  
22 Energy Program has been reporting to the Legislature on  
23 program activities and expenditures. These have taken  
24 the form of quarterly, annual, and biennial reports. In  
25 2004, legislation consolidated these reports into a

1 single annual report and this year's reporting period is  
2 July 1<sup>st</sup>, 2009 through June 30<sup>th</sup>, 2010. The 2010 report  
3 summarizes renewable energy program accomplishments,  
4 funding allocations, and expenditures, it is not a policy  
5 report. Specifically, the report discusses allocation of  
6 a renewable resource trust fund dollars and any  
7 reallocations among the Renewable Energy Program  
8 elements, information on cash flow, expenditures and  
9 encumbrances, transfers, loans, and repayments, summaries  
10 of program activities and results, projects and funding  
11 awards, allocation of interest earned on the renewable  
12 resource trust fund. Also included is a discussion of  
13 renewable energy program activities aligned with  
14 achieving Renewables Portfolio Standard Goals. In  
15 addition, the report responds to the legislative  
16 requirement to identify the types and quantities of  
17 biomass fuels used by facilities receiving funds from the  
18 existing renewable facilities program and their impacts  
19 on improving air quality. The report's appendix itemizes  
20 the various projects and contract activities that have  
21 been funded by the renewable energy program, along with  
22 their status and award amounts. It also lists facilities  
23 that have been certified as RPS eligible, which is a  
24 responsibility of our program. I would like to request  
25 approval of this item and I'm happy to answer any

1 questions.

2 CHAIRMAN DOUGLAS: Thank you. Are there any  
3 questions on this item, or comments?

4 VICE CHAIR BOYD: I have no questions. I will  
5 just comment that the Renewables Committee spent some  
6 time with the staff on this subject, and I'm very pleased  
7 with this report, and I'll move its approval with the  
8 additional caveat that it be moved fairly immediately to  
9 the Legislature, or transmitted to the Legislature, so  
10 they may have the benefit of this information. That  
11 hasn't always been the case that they have immediate  
12 benefit of this information, but, as indicated, it is not  
13 a policy report, and hopefully we can move it quickly  
14 into the public arena and to the Legislature.

15 MS. MEADE: Thank you, Commissioner, I will do  
16 that.

17 COMMISSIONER BYRON: Madam Chair, two questions  
18 and a comment. Not having the opportunity, because I'm  
19 not on the Renewables Committee, to see a lot of this  
20 material, I really got a lot out of reading this report  
21 and I found it just informative as to, again, the hurdles  
22 that our staff goes through. I'll bet you're real glad  
23 this is just an annual report, these days.

24 MS. MEADE: Quite, actually.

25 COMMISSIONER BYRON: Yes. And I found it very

1 informative and helpful for this Commission in  
2 understanding where you are with regard to all of the  
3 regulatory requirements, legislative requirements. I  
4 guess I'll ask an obvious - hopefully, an obvious answer,  
5 a question, have we complied with all the legislative  
6 requirements that are outlined in this report?

7 MS. MEADE: Yes, we have.

8 COMMISSIONER BYRON: That is extraordinary.

9 MS. MEADE: Yes.

10 COMMISSIONER BYRON: So just one more question  
11 and then a comment. I note that the Energy Commission  
12 and the contract with the Automated Power Exchange ended  
13 in October of this year and there was to be a  
14 continuation of the contract, I don't recall who it was  
15 supposed to be signed with. Do you know, was that  
16 contract approved?

17 MS. MEADE: I apologize, Commissioner, which  
18 contract is that?

19 COMMISSIONER BYRON: I'm reading from page 22,  
20 the Energy Commission and APX Contract will end on  
21 October 5<sup>th</sup>, 2010, WECC is in negotiations, the Western  
22 Energy Coordinating Council, is in negotiations with the  
23 Automated Power Exchange to enter into a separate  
24 contract. Do we know, was that contract consummated?

25 MR. GONSALES: Tony Gonsales, Manager of the

1 Renewable Energy Office. I'm not certain whether it has  
2 been executed, but I do know that APX and WECC were  
3 working on signing a contract. The Commission would no  
4 longer be a party to that.

5 COMMISSIONER BYRON: Okay, Mr. Gonsales, I  
6 don't want to waste anybody's time on this. I'll get the  
7 answer to my question elsewhere, it's not germane,  
8 really, to the approval of this report, but I just noted  
9 that in there and was curious to know how that might  
10 continue. Also, I note that the Investor-owned utilities  
11 have signed contracts to date that expect them to be at  
12 about 18 percent at the close of this year on RPS and 21  
13 percent at the close of 2011, and that is substantial  
14 progress from what this Commission has reported on in the  
15 past. Of course, I think it's only because of flexible  
16 compliance that we would consider that to be in  
17 compliance with legislation, but some kudos to the PUC  
18 and the Investor-owned utilities, they've done an  
19 extraordinary job over the last couple of years in trying  
20 to move renewables forward. I suppose I could ask, do  
21 you agree with that, Ms. Meade, or have I interpreted  
22 that incorrectly?

23 MS. MEADE: No, actually. The percentages that  
24 we did cite were from the CPUC's latest quarterly report  
25 that falls within the reporting period of this report.

1 And they have reported recently that there have been a  
2 significant number of contracts that they have entered  
3 into, somewhat recently in the past year.

4 COMMISSIONER BYRON: Okay, well, I will provide  
5 the second for approval of this item. Commissioner Boyd?

6 VICE CHAIR BOYD: I would note that we all,  
7 though anxiously, follow those statistics to see which of  
8 the facilities actually materialize, I think, as I know  
9 you know in our IEPRs, Integrated Energy Policy Reports,  
10 in the past, we've raised the concern that the contracted  
11 amount and the actual delivery have varied significantly  
12 because of difficulties of actually constructing and  
13 operating some of the facilities, so we are all hopeful  
14 that we're able to deliver more and more on the contracts  
15 that are being executed. So I will move approval of the  
16 item.

17 COMMISSIONER BYRON: And second.

18 CHAIRMAN DOUGLAS: All in favor?

19 (Ayes.)

20 The item is approved. Thank you. Item 20.  
21 Power Plant Siting Lessons Learned (Docket 10-SIT-OII).  
22 Possible adoption of an Order Instituting Informational  
23 (OII) proceeding to examine the lessons learned in the  
24 review of both the American Recovery and Reinvestment Act  
25 (ARRA) solar projects and the natural gas-fired power

1 plants reviewed by the Siting, Transmission and  
2 Environmental Protection Division during 2009 and 2010.  
3 Mr. Monasmith.

4 MR. MONOSMITH: Good morning, Commissioners.  
5 Mike Monasmith, Siting Transmission and Environmental  
6 Protection Division. This proceeding will examine the  
7 lessons learned in the review of both the American  
8 Recovery and Reinvestment Act solar projects and the  
9 natural gas-fired power plants reviewed during 2009 and  
10 2010. It will assess the Energy Commission's siting  
11 processes and examine critical issues common among solar  
12 thermal and conventional power plants. Critical issues  
13 that this proceeding will potentially examine include the  
14 timing and coordination of Federal Permits, local agency  
15 and public participation, biological resources analyses,  
16 land use constraints, visual resource analyses, water  
17 supply and reliability, and transmission line  
18 constraints. Importantly, stakeholders, including the  
19 Interveners, project proponents, and environmental  
20 organizations, local governmental agencies, and others,  
21 will be engaged, solicited, and involved in this  
22 proceeding, both in the determination of the scope of the  
23 process, as well as issues and discussions that will take  
24 place during publicly noticed workshops. The information  
25 gathered during this proceeding will be used to prepare a

1 report describing the topics examined, actions needed to  
2 avoid or address any problems identified. It is  
3 anticipated that there will be recommended changes to the  
4 Energy Commission Siting Regulations, which will be  
5 addressed in an Order Instituting Rulemaking, OIR,  
6 Proceeding that will be initiated in 2011. And before I  
7 take questions, I just wanted to note there were two  
8 minor changes to the authority and purpose draft that was  
9 available out front, and that you were provided with  
10 earlier. On the first page, the first word of the last  
11 sentence should be changed from "additional" to  
12 "addition," just one minor change; and then, on the last  
13 page, the change should be in the third sentence, it  
14 should actually be my e-mail address, Mike Monasmith, as  
15 opposed to the Public Advisor. As Project Manager, I  
16 will be responsible for docketing and posting public  
17 comments that come in, and I will be working with Public  
18 Advisor Jennings, obviously, in this process. And we  
19 already have to do a great deal, but that should read  
20 Mike Monasmith. That is about it for now. I've got  
21 copies of the changed draft for you, as well.

22           CHAIRMAN DOUGLAS: Thank you, Mr. Monasmith.  
23 And I just have a brief comment before I ask  
24 Commissioners Boyd and Byron for their thoughts and  
25 questions on this item. I think that all of us recognize

1 that the circumstance of getting nine, or really more  
2 than nine, solar thermal projects before the Commission  
3 after a 20-year hiatus, with strict deadlines, and a long  
4 queue of projects here before us, both natural gas and  
5 solar, was a challenging situation for us, and we had to  
6 work quickly, we had to address issues that were new, or  
7 that came with a very different spin than the natural gas  
8 plants that we were more accustomed to working with,  
9 although we did have the experience of having the Ivanpah  
10 Project and the Beacon Project in-house, and the  
11 experience of working with BLM and working on those  
12 project, but it certainly has occurred to the Siting  
13 Committee, really numerous times, that we were addressing  
14 issues sometimes for the first time, that we had a lot to  
15 learn from seeing how air-conditioners actually work,  
16 from hearing from members of the public, these  
17 proceedings really brought Interveners and members of the  
18 public into our cases who had no experience before with  
19 our process, or very little experience, and so we wanted  
20 to hear from them and we wanted to hear from Applicants,  
21 and we really wanted to create a forum and an opportunity  
22 for us to evaluate everything from substantively how did  
23 we address issues, and was it successful, was it  
24 appropriate, to procedurally, are there better ways to do  
25 what we're doing, did everybody get heard, did we spend

1 hours on minutiae, and only minutes on important issues,  
2 what can we do better to ensure better processes and  
3 better results? And out of that, we certainly anticipate  
4 proposing potential changes to our regulations. We  
5 certainly anticipate stakeholders proposing issues that  
6 might be changed, whether through regulation or through  
7 statute, so it will be a large undertaking, we haven't  
8 actually amended our Regulations in quite some time, and  
9 Mr. Monasmith, I don't know if you know, or Ms. Jones,  
10 when the last times is that we updated our Regs?

11 MS. JONES: I think we updated the Regs. about  
12 five years ago.

13 COMMISSIONER BYRON: Well, it was certainly  
14 during my time on this Commission. I would say it was  
15 about four years ago, or maybe even less, but prior to  
16 that, I think it had been probably many more years.

17 MS. JONES: Right.

18 CHAIRMAN DOUGLAS: So, in any case, I think  
19 it's an important proceeding and there is a lot that we  
20 have to gain from taking it on, so, Commissioners, I  
21 would be very happy to have you ask questions of staff,  
22 or provide your thoughts or your guidance on this  
23 exercise.

24 COMMISSIONER BYRON: Madam Chair, thank you for  
25 that explanation, that is very helpful. And I'm also

1 very pleased to see this Commission will undertake this  
2 effort to understand how we can conduct our siting  
3 process better. I note that the report will result in  
4 recommendations for improvements, possibly in our own  
5 Regulations, but I would also like for your consideration  
6 this morning that we consider adding to this. I really  
7 think this is the right Commission to be making  
8 recommendations on improving the provisions in CEQA, and  
9 that could be done for consideration by the Legislature,  
10 but I also think Governor-Elect Brown is very interested  
11 in those kinds of recommendations, and this Commission  
12 could serve to perhaps inform both Executive and  
13 Legislative Branches on how CEQA might be improved going  
14 forward. So, I bring that up for discussion, but I'm  
15 inclined to make a recommendation that we add that to  
16 this OII.

17 CHAIRMAN DOUGLAS: Thank you, Commissioner  
18 Byron. I think that I had been thinking that our  
19 recommendation would focus on the Warren-Alquist Act,  
20 CEQA equivalent process, however, I do see that, in some  
21 areas where CEQA as the over-arching structure that we  
22 function within, might impact the process, or we might  
23 recommend a change. I guess I'll ask staff whether the  
24 OII is draft broadly enough that we could address those  
25 issues. Maybe I'll give staff a moment to answer that

1 question, and then turn to Commissioner Boyd and then  
2 come back to this.

3           VICE CHAIR BOYD: Okay, well, I too appreciate  
4 your description of what the committee, the Siting  
5 Committee, had in mind in putting forth this OII. I  
6 would commend the committee for doing so. This is  
7 something I would call kind of a lessons learned exercise  
8 in light of this significant caseload and all the new and  
9 varying kind of issues that the Commission staff and the  
10 Commissioners faced in dealing with these, so we just had  
11 our first public workshop yesterday in this room, kind of  
12 a lessons learned workshop for the AB 118 program with  
13 our Advisory Committee in attendance and several  
14 Awardees, some of whom were here today, to talk about  
15 these various same kinds of issues, and I think it was  
16 very helpful. So, I think it is a very helpful thing to  
17 do and I think it will be very beneficial to the  
18 Commission as a whole. Commissioner Byron's reference to  
19 CEQA is intriguing. As a long time veteran of  
20 environmental programs in the state, I've been reluctant  
21 to ever entertain or encourage anyone's suggesting that  
22 we need to look at CEQA, I often say we need to look at  
23 the interpretation of CEQA, and look at the execution and  
24 implementation of CEQA, and I would suggest maybe we  
25 broaden the view you take in looking at CEQA issues to

1 include that. And, of course, as you get into the CEQA  
2 equivalent process in siting, you'll do some of that.  
3 The reason I say this is, yesterday in our workshop,  
4 there were a number of discussions of CEQA, nobody really  
5 attacking the law, per se, but quite concerned about the  
6 lengthy delays perhaps that were involved in the  
7 processing of all those wonderful grant agreements that  
8 we just processed today. Some of the timeframes were  
9 very significant and, whenever you have a physical  
10 facility involved, a CEQA analysis is invoked, and  
11 there's a lot of question about certain things and also  
12 slightly different than this OII, but in our undertaking  
13 the AB 118 program, we're bound by regulations that the  
14 Air Resources Board passed that require a Public Health  
15 and Safety review. And we got into quite a debate about  
16 the value of the time invested in a Public Health and  
17 Safety review of an electric vehicle charging station, or  
18 point vis a vis the obvious necessity to do that for a  
19 biorefinery, or what have you. And it probably wouldn't  
20 hurt to look to ways that things can be interpreted. And  
21 I would say that members of our 118 Advisory Committee  
22 who have been active in the environmental community for  
23 years were open to the idea of understanding some of  
24 these issues and perhaps being willing to deal with and  
25 be supportive of changes if they would help with process

1 and not in any way, you know, do any damage to  
2 environmental protection. So it may be something worth  
3 doing.

4           COMMISSIONER BYRON: Madam Chair, if I may.  
5 Just to respond to Commissioner Boyd before counsel  
6 provides a response, let me be clear, I'm not  
7 recommending changes to CEQA, I'm recommending that we  
8 add language to this OII that would include this  
9 Commission making recommendations to the Governor-Elect  
10 by the time it comes out, the Governor, and the  
11 Legislature, in a private conversation with the Chief  
12 Counsel of the Resources Agency, Kirk Miller, and  
13 Governor-Elect Brown. I know that he's very interested  
14 in streamlining CEQA if that can be done through  
15 regulations, our regulations, great. But I think we also  
16 have an opportunity, this being the right place to do it,  
17 to make recommendations that could be far more reaching  
18 in their scope. And so, all I'm suggesting is that we  
19 make sure that we add that provision to this OII so that  
20 this Commission, next year, understands that it's in that  
21 position to make those recommendations.

22           CHAIRMAN DOUGLAS: Thank you, Commissioner  
23 Byron. I'm going to ask staff to respond to the question  
24 about whether the OII is itself broad enough. And then  
25 we have a member of the public who was apparently

1 inspired enough by this discussion to wish to speak, so  
2 we'll ask him to speak next.

3 MR. LEVY: Thank you, Chairman and  
4 Commissioners. First of all, the Order itself is  
5 extremely broad already, it's talking about the project  
6 review process, and the pertinent language as the  
7 Commission leaves to the Committee which particular  
8 project review issues to pursue and how best to frame  
9 them for the workshops and the resulting Committee  
10 Report. In terms of what comes out of that proceeding,  
11 maybe recommendations to the Governor will come out of  
12 it, it may be that whatever CEQA recommendations come out  
13 of that proceeding are more properly directed to our own  
14 certified regulatory program in our own internal  
15 interpretations and applications of CEQA in that context  
16 under our own regulations. It may be other things come  
17 to light specifically on how CEQA is implemented  
18 generally, but that need not be decided in advance, and I  
19 think the Order is broad enough to include it. If you'd  
20 like to add language to the Order, we can certainly do  
21 that.

22 CHAIRMAN DOUGLAS: I'm certainly open to adding  
23 order to the language. Let's ask - and I'm sorry, I'm  
24 having trouble reading your last name - Will - is it  
25 Mitchell? It's not Mitchell, but I'm sorry, maybe you

1 can help me.

2 MR. MITCHELL: It is Mitchell.

3 CHAIRMAN DOUGLAS: It is Mitchell. All right.

4 MR. MITCHELL: Good morning, Commissioners. I  
5 apologize for the late notice; I was inspired by the  
6 Agenda item. I am with Competitive Power Ventures, we're  
7 actually here for a small item to be addressed later in  
8 the agenda. But I was wondering if you would consider  
9 introducing this OII into the existing IEPR process. It  
10 would appear that that ongoing process covers a lot of  
11 these issues and, in the interest of potentially  
12 streamlining the process and stakeholder involvement,  
13 they both could be covered under one umbrella.

14 CHAIRMAN DOUGLAS: Thank you, Mr. Mitchell.  
15 It's a good suggestion and we actually are looking at  
16 that, we're looking at the scope of the 2011 IEPR, and  
17 what we may want to change in that, and what we may want  
18 to bring in from this OII into that IEPR. So, thank you  
19 for that suggestion, it's a good one, I think, and it's  
20 something that we're looking at. So we certainly do not  
21 want to have people going to multiple proceedings. What  
22 we tend to do when there is an overlap between the IEPR  
23 and another proceeding that a policy committee is doing  
24 is have the key workshops be jointly held by the IEPR and  
25 the Policy Committee.

1 MR. MITCHELL: Great. Thank you very much.

2 CHAIRMAN DOUGLAS: Thank you.

3 COMMISSIONER BYRON: So, Madam Chair, I'm  
4 satisfied with Chief Counsel's response. I would only  
5 ask that he also verify that we can indeed conduct joint  
6 workshops as a result of this OII. I know in some cases  
7 we've had proceedings where we've been limited to the  
8 number of Commissioners that can attend. I think you  
9 would find widespread interest amongst all Commissioners,  
10 so that would be the only other thing I would verify,  
11 that the language is appropriate for that, and I would be  
12 happy to move for approval of this item.

13 CHAIRMAN DOUGLAS: So, yes, we hope there would  
14 be widespread interest and participation. The OII  
15 itself, it's the workshop notices, to make sure we notice  
16 for multiple Commissioners?

17 MR. LEVY: That is correct.

18 CHAIRMAN DOUGLAS: So we are certain of -

19 MS. JONES: And, Commissioners, I think the way  
20 we've handled this in the past, we do the joint  
21 workshops, but we link both of the dockets together, so  
22 we docket everything that is done in the OII into the  
23 IEPR, that way, we're able to access all that information  
24 and address it.

25 CHAIRMAN DOUGLAS: And regardless of whether

1 these are joined with IEPR Committee, I think that these  
2 workshops have to be noticed for all Commissioners to be  
3 able to attend because all Commissioners do siting. All  
4 right, well, thank you, Commissioners for this  
5 discussion. Do we have a motion on this item?

6 COMMISSIONER BYRON: Yes, I move the item.

7 VICE CHAIR BOYD: I will second the item and  
8 just agree that we have boilerplate in most of our  
9 hearing notices now that indicate that all Commissioners  
10 may attend almost every hearing, so I presume that is  
11 easily handled.

12 CHAIRMAN DOUGLAS: Second?

13 VICE CHAIR BOYD: That was a second and I  
14 believe I seconded and then made my comment, I'm losing  
15 it today.

16 CHAIRMAN DOUGLAS: You may have, I may have  
17 just missed it. We have a motion -

18 VICE CHAIR BOYD: The symphony we had earlier  
19 has drowned out all my thinking.

20 CHAIRMAN DOUGLAS: We have a motion and a  
21 second. All in favor?

22 (Ayes.)

23 This item is approved.

24 MS. JONES: One last clarification, our first  
25 workshop will be held on December 14<sup>th</sup>, so we're getting a

1 notice out for that and we hope everybody comes.

2           CHAIRMAN DOUGLAS: That's right and, in fact,  
3 there are a number of people in the room or on the phone  
4 who almost certainly have an interest in that. The first  
5 workshop is intended to be wide ranging and really help  
6 us with scoping and help us understand what topics the  
7 public would particularly like to have us focus on, or  
8 like to have a voice on, so if you're thinking about  
9 coming to the workshop on the 14<sup>th</sup>, it's a real  
10 opportunity to help us scope out topics that we then will  
11 know that the public would like to spend time on.

12           All right, Item 21. Blythe Energy Project  
13 Phase II (02-AFC-1C). Possible approval of a petition to  
14 extend the deadline for the commencement of construction  
15 from December 14, 2010, to December 14, 2011. Let's see,  
16 Ms. Snow.

17           MS. SNOW: Thank you, Madam Chair and fellow  
18 Commissioners, and good morning. With me today, I have  
19 Kevin Bell, Senior Staff Counsel, and also technical  
20 staff are available later for any questions. The Blythe  
21 Energy Project Phase II, or BEP II, is a 520 megawatt  
22 combined cycle power plant located in Blythe, California.  
23 Caithness, LLC was granted a license on December 14<sup>th</sup>,  
24 2005, to construct and operate the BEP II project. To  
25 date, their power plant has not been constructed. In

1 October 2009, Caithness submitted a petition to amend the  
2 BEP II project and staff is still in the process of  
3 analyzing this 2009 petition. During this time, it  
4 became clear that staff would not be able to complete the  
5 analysis of the 2009 petition to amend and make a final  
6 recommendation to the Energy Commission prior the  
7 expiration of a construction start date, and informed the  
8 Caithness representative. On October 29<sup>th</sup>, 2010,  
9 Caithness, LLC filed a petition to extend the  
10 commencement of the construction deadline by one year,  
11 from December 14<sup>th</sup>, 2010 to December 14<sup>th</sup>, 2011, providing  
12 information in their petition relative to Section 1720.3,  
13 of the Siting Regulations regarding Good Cause. A Notice  
14 of Receipt was mailed to the BEP II post-certification  
15 mailing list and posted to the Energy Commission website,  
16 and docketed on the same day. Staff's analysis was  
17 mailed, docketed, and posted to the Energy Commission  
18 website on November 1<sup>st</sup>, 2010, for a 30-day public review.  
19 Staff received a request for staff's analysis by two  
20 interested parties, and no comments have been received to  
21 date. Staff is neutral with regard to the one-year  
22 extension for commencement of construction and is  
23 deferring to the Energy Commission to determine good  
24 cause and approve the extension. Staff has included  
25 information in your back-up materials and the Applicant

1 is also here to provide additional information. Thank  
2 you for your time and if you have any other questions,  
3 staff would be happy to answer them.

4 CHAIRMAN DOUGLAS: Thank you. Let's hear from  
5 the Applicant.

6 MR. WEISMAN: Good morning, Commissioners,  
7 staff. My name is David Weisman, counsel to Caithness  
8 Blythe II, LLC, and to my left here, I have Mr. Robert  
9 Luper, Vice President of Caithness Blythe II. I would  
10 like to first start out by saying, yes, we initially  
11 filed for this amendment in 2009 and staff has spent some  
12 effort and spent some time processing our amendment. So  
13 I'd like to start out by thanking them, Kevin Bell, Mark  
14 Hesters, and AJ Gooa, who definitely can identify with  
15 some of the transmission issues that go on down there in  
16 the Blythe area. And since the project was initially  
17 brought before the Energy Commission, Mary Dyas was our  
18 initial Project Manager, and she has a considerable  
19 amount of knowledge in the area, as well, but  
20 unfortunately, as you know, the renewable projects, as  
21 they begin coming in and turning to the compliance phase,  
22 Mary was redirected into a different aspect or a  
23 different role, and we had the benefit of receiving  
24 Christina Snow as our Project Manager, who has been - and  
25 I know that term gets thrown around in terms of

1 petitioning requests for extension, but she has been  
2 extremely diligent in processing our amendment, and  
3 really exceptional in turnaround times, and conscientious  
4 with her reviews, so we would like to thank her for that,  
5 as well. And with that, should the Commission have any  
6 questions regarding our extension, we would like to turn  
7 the floor over and we are available for questioning.

8           CHAIRMAN DOUGLAS: Thank you. Commissioners, I  
9 would like to make a brief comment on this on behalf of  
10 the Siting Committee. In the Tesla Decision, which, of  
11 course, Commissioner Byron and I sat on and recommended  
12 to the Commission, we sent a signal and we articulated  
13 some criteria to look at in good cause because we did  
14 want to send a signal that we don't want Applicants to  
15 sit on licenses for a long time without acting on them,  
16 and ask for long extensions without clear signals, or  
17 clear enough signals that there will be action on the  
18 plants. In this case, we're looking at a request for a  
19 one year extension and we're also looking at the  
20 extension being requested in at least some part because  
21 our own staff weren't able, or this particular extension,  
22 because our own staff weren't able to get to the  
23 Applicant's application, because of policy decisions made  
24 by this Commission to have them focus on solar projects,  
25 because of the Recovery Act. So, in this case, I think

1 there is a record of diligent efforts to build the  
2 project, there are also, frankly, obstacles in place that  
3 the Applicant has not overcome in terms of getting a  
4 Power Purchase Agreement, you know, finalizing the  
5 transmission, although they're making progress on that  
6 point. And also, to some degree, the world on the ground  
7 is changing and, with the approval of the Blythe Solar  
8 Project, which is moving forward, there are environmental  
9 issues that need to be looked at, particularly with  
10 regard to the Airport, which staff has noted in their  
11 report. So, it's not - I mean, this is an issue that  
12 will need to be reviewed, but my recommendation to you  
13 would be that we grant the one-year extension and we ask  
14 staff to work on this and see where they are, see where  
15 they come on these issues.

16 COMMISSIONER BYRON: Madam Chair, thank you,  
17 that is very helpful. A couple of quick questions. I  
18 take it, then, based upon the request for only one year  
19 extension that the applicant does indeed intend to start  
20 construction within the next year?

21 MR. WEISMAN: Actually, Commissioner, that is a  
22 great question. I'd like to respond to that. That comes  
23 more - from my understanding and my reading from the  
24 Tesla Decision, and we addressed this with staff at a  
25 pre-conference meeting, or a meeting prior our filing,

1 where I felt, to essentially play it safe, the Tesla  
2 Decision had mentioned that a substantial extension may  
3 not be granted until the Commission was fully aware of  
4 the project in which was being approved. So, in light of  
5 that, we thought it might be best to come before you and  
6 simply ask for a year-long extension, to enable us to  
7 complete processing the amendment, at which time we've  
8 had discussions with staff about what length of an  
9 extension we would come back for at the conclusion of the  
10 amendment, where we have a fully defined project to bring  
11 before you.

12 COMMISSIONER BYRON: And maybe a question or  
13 two for our staff. And I think you indicated that you've  
14 had some requests for staff's analysis, but no objection  
15 from the public yet at this point?

16 MS. SNOW: That's correct, we have not had any  
17 comments thus far, and today was the 30-day cutoff at  
18 9:00 a.m. and we have not received any comments.

19 COMMISSIONER BYRON: And am I correct to assume  
20 that the reason the staff is neutral is because you've  
21 had limited time to review this? Or is there another  
22 reason the staff position is neutral?

23 MR. BELL: That's a good question,  
24 Commissioner. Kevin Bell, Senior Staff Counsel. Staff  
25 has had limited time to review this, but mostly, staff's

1 concern is that staff doesn't want to appear to be pre-  
2 judging any of the issues for the underlying petition.  
3 There are two separate petitions before the Commission,  
4 but only one that is being decided today, which is the  
5 one-year extension. That one-year extension would allow  
6 staff additional time to complete its analysis for this  
7 project. The other petition, of course, is the Petition  
8 to Amend the project itself, that staff still needs time  
9 to analyze, but that petition also includes a request for  
10 an additional three-year extension to begin construction.  
11 Staff has done its best to try to separate these two  
12 issues out, even though I know that's very difficult to  
13 do, which is the reason why staff has taken the position  
14 that it has.

15 COMMISSIONER BYRON: So you're leaving it to  
16 the Commissioners to make this determination today.

17 MR. BELL: We trust the Commissioners to do  
18 that, yes.

19 COMMISSIONER BYRON: And to counsel, is there  
20 any finding that we need to make, that you're aware of,  
21 before we can grant this extension?

22 MR. WEISMAN: I just don't recall from our -

23 COMMISSIONER BYRON: Just a good cause finding.

24 MR. BELL: It's a finding of good cause. And  
25 staff is submitting on the Petition to extend the

1 deadline to commence construction, based on the  
2 representations made by the Applicant.

3 COMMISSIONER BYRON: Thank you, Madam Chair.  
4 That's the extent of my questions.

5 CHAIRMAN DOUGLAS: Thank you. Commissioner  
6 Boyd.

7 VICE CHAIR BOYD: Well, frankly, having read  
8 this material and then listening to your comments and the  
9 recommendation of the Siting Committee, I move to agree  
10 with you and to agree to the idea of a one-year  
11 extension, so I'll make a motion to that effect.

12 COMMISSIONER BYRON: And I will second it.

13 CHAIRMAN DOUGLAS: All in favor?

14 (Ayes.)

15 The extension is approved. And I'm just  
16 getting my public comments in order. I have got one  
17 person listed as commenting on Item 22, so if there is  
18 anyone else who would like to - of course, the Applicant  
19 will, as well, but if there is anyone else who would like  
20 to, please get your blue card in or indicate on the phone  
21 system.

22 Item 22. Calico Solar Project (Docket No. 08-  
23 AFC-13). Possible approval of a Petition for  
24 Reconsideration or the Energy Commission's own motion for  
25 reconsideration, or both, asking the Energy Commission

1 to reconsider the effective date of its decision of  
2 October 28, 2010 to coincide with the date of re-filing  
3 of the Notice of Decision. Ms. Driscoll.

4 MS. DRISCOLL: Commissioners, Michael Levy is  
5 actually going to present on this item.

6 CHAIRMAN DOUGLAS: Ah, thank you, Mr. Levy.

7 MR. LEVY: Commissioners, thank you very much.  
8 After the Calico decision on October 28<sup>th</sup>, it has been -  
9 let me back up a little bit - it has been the practice of  
10 the Commission throughout the solars that have been  
11 coming through the Commission over the last seven months,  
12 and in recognition of the Recovery Act deadlines to  
13 determine that the deadline, the effective date of your  
14 decisions, is on the date of the decision having been  
15 made at the Business Meeting. Our regulations specify  
16 that the decision is final and effective on the date that  
17 it is docketed, unless the Commission specifies a  
18 different date. And as I said, in recognition of the  
19 Recovery Act deadlines, the Commission is specifying the  
20 business meeting date is the effective date of the  
21 decision. In this particular case, that was October 28<sup>th</sup>,  
22 there was a 99-page Errata that was circulated on October  
23 28<sup>th</sup>, which was a very long document, I think the entire  
24 Order is in excess of 485 pages, and the decision didn't  
25 actually get docketed until November 12<sup>th</sup>. On November

1 11<sup>th</sup>, we received a letter from Californians for Unions  
2 for Reliable Energy and another commenter asking about  
3 the filing of the Notice of Decision, that's the other  
4 issue, there are two Statutes of Limitations that are  
5 implicated, one is by the effective date of the Decision,  
6 it triggers the Warren-Alquist Act 30-day Statute of  
7 Limitations to file a Petition for Reconsideration, and  
8 also to file a Petition for review in the Supreme Court  
9 to challenge the certification. There is also a separate  
10 Statute of Limitations under CEQA, a 30-day statute,  
11 which is triggered by the filing of the Notice of  
12 Decision under CEQA - what was the date of the NOD - oh,  
13 it was -

14 MS. DRISCOLL: November 3<sup>rd</sup>.

15 MR. LEVY: -- November 3<sup>rd</sup>. And so what we had  
16 was a circumstance where CURE filed a letter wondering  
17 about, first of all, the contents of the Notice of  
18 Decision, which specified that the Final Decision had  
19 been circulated, and it had not yet, and also wondering  
20 about the effective date, the significance being that  
21 members of the public may not have had an adequate time  
22 to evaluate the full Decision in order to assess fully  
23 whether or not to file a Petition for Reconsideration or  
24 a Petition for Review. The Hearing Office and staff has  
25 made it a practice, also, trying to file the Notice of

1 Decision on the same date as the Decision is docketed or  
2 final, whichever date that is, so that there are no  
3 competing statutes of limitations. In view of the letter  
4 that was sent in, the Decision was recommended to the  
5 Chairman, and the Chairman made the decision to treat  
6 that letter as a Petition for Reconsideration of the  
7 effective date of the Order, not to address any changes  
8 to the Order itself, but to ensure that everybody had an  
9 equal understanding and a level playing field in deciding  
10 what the contents of the Final Order were, and what the  
11 decision actually said before they are forced to consider  
12 whether or not to file proceedings either to the  
13 Commission, or the Court, and challenge the Decision.

14 COMMISSIONER BYRON: Do we know, Mr. Levy, is  
15 that indeed what CURE intended?

16 MR. LEVY: To file a Petition?

17 COMMISSIONER BYRON: That our treating their  
18 Petition for Reconsideration - treating it as a Petition  
19 for Reconsideration, do we know if CURE intended that or  
20 not?

21 MR. LEVY: They didn't intend that, and we  
22 don't believe they intended that, we don't know one way  
23 or another. They were raising an issue about which, in  
24 the Chief Counsel's view, and in the Chairman's view,  
25 raised an issue basically of access and notice and public

1 participation. And trying to ensure, because the  
2 Commission's longstanding practice in public engagement  
3 and an open transparent process, is to make sure that  
4 everybody had the ability to view what the actual Order  
5 was before making decisions about whether or not to  
6 challenge it. So, on that basis, the recommendation of  
7 the Chief Counsel, the Chairman treated it as a Petition  
8 for Reconsideration, and noticed it as of today, and also  
9 stayed the effective date of the Decision so that the  
10 Statute of Limitations would not run during the time  
11 between the Chairman's Order and today. And so, there is  
12 a two-step process now, which is you can decide whether  
13 or not to grant the motion for the Petition for  
14 Reconsideration, or what the Chairman is considering as a  
15 Petition for Reconsideration and/or order reconsideration  
16 on your own motion. And if you decide that that is  
17 appropriate, subsequently to have a hearing to decide  
18 whether or not to designate the effective date to be  
19 today, and instruct staff to file a Notice of  
20 Determination as of today, as well, which would re-start  
21 the Statute of Limitations as of today. The Final  
22 Decision was actually circulated and docketed on November  
23 12<sup>th</sup>, so everybody has had it now since that time,  
24 however, again, since the Statute of Limitations to  
25 challenge your actions is short, or to ask you to

1 reconsider them in short, and it's a long document, the  
2 decision was made just, as I said, out of an abundance of  
3 interest in openness in public government and  
4 transparency.

5           CHAIRMAN DOUGLAS: Thank you, Mr. Levy. I  
6 think that, well, normally we would go straight to the  
7 Applicant; because this was my Order, staying the  
8 Decision, and setting this item for reconsideration, or  
9 potential reconsideration, I want to say a few words in  
10 explanation of the action, and ask the Commission to vote  
11 to reconsider the effective date of the Calico Decision.  
12 I took this action because I was concerned the parties  
13 and stakeholders might not have had sufficient  
14 opportunity to review the full Decision, including the  
15 large 99-page Errata that was released the morning of the  
16 Decision, and the oral amendments to that Errata that  
17 were made on the day of the Decision, but not posted  
18 until November 12<sup>th</sup>. And so, I was concerned that the  
19 public have sufficient time to read the Final Decision in  
20 its entirety. In addition, there was confusion that was  
21 caused by the fact that the CEQA, the Statute of  
22 Limitations, which was triggered by the filing of the  
23 Notice of Decision, was running. We try to make sure  
24 that the Notice of Decision is filed on the same day that  
25 the Decision is final, or effective, but in this case,

1 there was confusion about that, that potentially affected  
2 the stakeholders in considering when they might file, if  
3 they chose to file, for Reconsideration, or to challenge  
4 the Decision. The Decision was also based on the  
5 practical difficulty of stakeholders being subject  
6 potentially to the 30-day Statute of Limitations that  
7 overlap by two weeks; you know, the Commission has a long  
8 history of public accountability, public transparency,  
9 and so it wasn't that any one of these items was  
10 necessarily determinative or absolutely required that we  
11 take this action, or that I take the action I took, but  
12 looking at everything together, it seemed that what I  
13 wanted to recommend to you was that, first, we stay the  
14 Order so that the statute would not run before we had the  
15 opportunity to have this Business Meeting, and to  
16 consider the effective date of the Decision and,  
17 secondly, that we consider setting the clock today for  
18 both the effective date of the Order and that we have the  
19 Executive Director file the Notice of Decision today so  
20 that these two periods run concurrently and the public  
21 have in this case, now, well over 30 days to review and  
22 consider the Decision in its entirety.

23           So, I think I would like to ask the Applicant  
24 to speak and then -

25           COMMISSIONER BYRON: Madam Chair, if I may,

1 prior to the Applicant responding, is there anyone here  
2 from CURE that might be in a position to address their -

3 CHAIRMAN DOUGLAS: Would you like to speak on  
4 this item? Okay, let's hear from the Applicant first,  
5 and then CURE.

6 MS. GANNON: Thank you, Commissioners. Ella  
7 Foley Gannon, Counsel to the Applicant, and I have with  
8 me Felicia Bellows from Calico Solar, the Applicant. We  
9 agree with your assessment that this was not necessary or  
10 may not have been necessary by any of the factors that  
11 you just outlined, however, we do not object to having  
12 the effective date changed to today.

13 CHAIRMAN DOUGLAS: Thank you. Let me hear from  
14 CURE now.

15 MR. HOLDER: Thank you, Chairman Douglas and  
16 Commissioners Boyd and Byron. I filled out a card to  
17 participate in this meeting, so you may not have received  
18 that.

19 COMMISSIONER BYRON: Would you please identify  
20 yourself?

21 MR. HOLDER: My name is Jason Holder and I  
22 represent California Unions for Reliable Energy. Thank  
23 you for scheduling this meeting to consider an  
24 appropriate response to the concerns we expressed on  
25 behalf of our client, concerning the Notice of Decision,

1 and the effective date for the Final Decision for the  
2 Calico project. As we stated in our letter, the NOD  
3 incorrectly states the that Final Decision was available  
4 to the public at the time the NOD was issued. Also, the  
5 Final Decision incorrectly states that the Decision was  
6 available to the public as of the date that it was  
7 signed. Instead, the Final Decision was not available to  
8 the public until mid-November. The Order issued by  
9 Chairman Douglas takes several positive steps to correct  
10 these errors, as appropriate. The Order requires the  
11 Executive Director to withdraw the original NOD,  
12 scheduled this meeting to consider whether to modify the  
13 effective date of the Final Decision to coincide with the  
14 date of the re-filing of the NOD and stays the effective  
15 date of the Final Decision pending reconsideration. Each  
16 of these initial steps is required to address, first, the  
17 lack of a Final Decision both at the time the Commission  
18 voted to approve the project, and when the NOD was  
19 issued, and it also addresses the confusion regarding the  
20 applicable deadline for bringing the legal challenge.  
21 Mr. Levy already summarized some of the competing  
22 statutes of limitation, so I won't repeat those. I will  
23 note that the Executive Director has not yet withdrawn  
24 the NOD pursuant to the Commissioner's Order, so we  
25 therefore request that the Commission grant our Petition

1 for Reconsideration and not vacate the Chairman's Order  
2 unless the proposed Commission's Order also directs the  
3 Executive Director to withdraw the original NOD.  
4 Otherwise, we agree with the proposed Commission's Order,  
5 which sets today as the effective date of the Final  
6 Decision and ensures the effective date coincides with  
7 the date of the re-filing of the NOD, and it requires the  
8 Executive Director to issue a new NOD. Thank you for  
9 considering our petition and I'm happy to respond to be  
10 any questions you have.

11           CHAIRMAN DOUGLAS: Thank you. So,  
12 Commissioners, we circulated a Draft Order on 11/24/2010,  
13 and the Draft Order in Item 5 - and we did that to make  
14 it clear to the public what, at least, I intended to put  
15 in front of the Commission for action. On Item 4, the  
16 Draft Order says the Executive Director shall re-file the  
17 Notice of Decision today. That presumed that the  
18 Executive Director would have withdrawn the NOD, and that  
19 I guess we are saying is that action has not been taken  
20 yet, so we can easily amend the Draft Order if we chose  
21 to do so, we can ask counsel to opine on that issue.  
22 Commissioners, do you have questions before we go any  
23 further?

24           COMMISSIONER BYRON: Mr. Holder, I take it  
25 you're an attorney?

1 MR. HOLDER: That's correct.

2 COMMISSIONER BYRON: I am not, so I'm having  
3 difficulty following a great deal of this. Let me ask  
4 you a question or two if I may. I met recently with the  
5 President of CURE and he's very proud of the  
6 accomplishments that CURE has, in his words, in improving  
7 the projects that have been before this Commission. And  
8 I'm just trying to grasp what the significance of all  
9 this is. This seems to me to be pretty mired in  
10 technicalities here at this point. My question is, why  
11 are you so interested in getting these dates all correct?

12 MR. HOLDER: Because, procedurally, there's a  
13 pretty significant ramifications and implications to  
14 having two different statutes of limitations, it causes a  
15 lot of confusion to anyone viewing the Final Decision, as  
16 to when they would have to file a Petition for  
17 Reconsideration, or a Petition for Writ of Mandate to the  
18 California Supreme Court to challenge the project if they  
19 decided to do so, and it's a very important decision to  
20 make, so it would be something that we'd want to have the  
21 full 30 days to be able to make that decision, and the  
22 way this process occurred, we didn't see the Final  
23 Decision until half way through that statute of  
24 limitations period, leaving us very little time to  
25 determine whether we wanted to do anything about it.

1                   COMMISSIONER BYRON: Can I ask, has CURE  
2 decided if they will be filing a Petition for the Supreme  
3 Court?

4                   MR. HOLDER: We haven't decided. We're still  
5 considering those options and you'll be the first to  
6 know.

7                   COMMISSIONER BYRON: Okay -- not necessarily.  
8 Madam Chair, I guess I would just ask before we take any  
9 action on this, for a brief clarification from our  
10 counsel so I'm clear on what we're doing here.

11                  CHAIRMAN DOUGLAS: Commissioner Byron, it may  
12 assist our counsel to know more precisely what you'd like  
13 clarified.

14                  COMMISSIONER BYRON: I can wait for the motion.

15                  CHAIRMAN DOUGLAS: So the first item, the item  
16 we're on now is Item 22. We actually have another member  
17 of the public who would like to speak on this item. And  
18 this item is asking whether we either treat CURE's letter  
19 as a Motion for Reconsideration and grant that, or  
20 whether we reconsider on our own motion. So that's the  
21 first decision point for Item 22. And I do have one  
22 member on the phone, Travis Ritchie from the Sierra Club,  
23 who indicating an interest in speaking on Item 22.

24                  MR. RITCHIE: Yes, am I unmuted now?

25                  CHAIRMAN DOUGLAS: You are.

1                   MR. RITCHIE: Thank you, Chairman Douglas.  
2   Actually, I believe that my comment is more directed  
3   towards Item 23, as opposed to Item 22, but I can go  
4   ahead and summarize right now and potentially answer  
5   Commissioner Byron's question, as well. Sierra Club is  
6   also very involved in the Calico project and we are also  
7   interested in the possibility of addressing the Decision  
8   in a Petition to the Supreme Court. What we appreciated  
9   about the Draft Order was that it does create clarity for  
10  when the statute of limitations start, when they will  
11  end, and it puts both the CEQA and Warren-Alquist Act  
12  statute of limitations on the same day. This  
13  procedurally just makes it - it takes away the ambiguity  
14  that would otherwise exist in a petition, and this is  
15  particularly important, I think, for a Commission  
16  Decision because they are original Petitions to the  
17  Supreme Court, in other words, there is not a lower court  
18  that will look at these issues and sort them out.  
19  Therefore, it would be up to the California Supreme Court  
20  to sort out these statute of limitations issues and,  
21  frankly, we think it is a better use of everyone's time  
22  for the Supreme Court to be looking at the substantive  
23  issues that would be involved in a petition and the date  
24  of whether the effective date is November 1<sup>st</sup>, October  
25  28<sup>th</sup>, November 12, the various dates that one could argue

1 that might be applicable, that's not really the heart of  
2 the matter, so we're just trying to take that away as an  
3 issue of confusion so that we can focus on the  
4 substantive issues. So, to that end, we do support the  
5 Draft Order that Chairman Douglas issued to the public on  
6 this.

7 CHAIRMAN DOUGLAS: Thank you, Mr. Ritchie. So,  
8 on Item 22, we are just facing the question of whether we  
9 approve reconsideration of this item, and then we'll get  
10 to the Draft Order in Item 23.

11 MR. LEVY: Yes, and I would recommend that  
12 whoever's motion, if they choose to make one, include  
13 both treating CURE's letter as a Petition for  
14 Reconsideration and an Order on your own Motion for -

15 CHAIRMAN DOUGLAS: You're recommending that we  
16 do both?

17 MR. LEVY: Do both, yes.

18 CHAIRMAN DOUGLAS: Why?

19 MR. LEVY: Well, it's somewhat redundant, but,  
20 to the extent that CURE's letter might not have met all  
21 the procedural requirements of a Petition for  
22 Reconsideration, or you can just order it on your own  
23 motion not -

24 CHAIRMAN DOUGLAS: If we just order it under  
25 our own motion -

1 MR. LEVY: You could do that.

2 VICE CHAIR BOYD: I was just prepared, until  
3 Mr. Levy spoke, to make a motion to, on our own motion,  
4 adopt the effective date to coincide with the date of the  
5 re-filing.

6 CHAIRMAN DOUGLAS: Second?

7 COMMISSIONER BYRON: I second the motion.

8 CHAIRMAN DOUGLAS: All in favor?

9 (Ayes.)

10 Thank you, Commissioners, so we have changed  
11 the effective date and now we'll consider the Draft  
12 Order, Item 23. Possible approval of a Petition - no,  
13 I'm sorry, I'm reading the wrong one.

14 MR. LEVY: Commissioners, I'm not sure if I  
15 misheard Commissioner Boyd. What was the motion? Was it  
16 to reconsider or was it to change the effective date?

17 VICE CHAIR BOYD: Well, if I can read my own  
18 handwriting, [Reading:] "...on our motion consider adopting  
19 the effective date to coincide with the date of re-  
20 filing."

21 CHAIRMAN DOUGLAS: I think it would just be to  
22 reconsider.

23 MR. LEVY: Right. Item 22 was whether or not  
24 the Commission should issue an order reconsidering the  
25 effective date.

1                   CHAIRMAN DOUGLAS: Re-say your motion.

2                   VICE CHAIR BOYD: My motion was, on our own  
3 motion to reconsider the adoption date to be effective to  
4 coincide with the date of re-filing.

5                   MR. LEVY: Okay, the motion is that the  
6 Commission, on its own motion, order a reconsideration to  
7 consider the effective date to be December 1<sup>st</sup>.

8                   VICE CHAIR BOYD: You got my intent.

9                   MR. LEVY: Got it, so that's fine. That is the  
10 preliminary -

11                  VICE CHAIR BOYD: When I write this fast, then  
12 I can't read my own handwriting sometimes.

13                  CHAIRMAN DOUGLAS: All right, so that is  
14 clarified. We'll to go Item 23. Calico Solar Project  
15 (Docket No. 08-AFC-13). Possible approval of amending  
16 the effective date of the Commission's decision of  
17 October 28, 2010 to coincide with the date of re-filing  
18 of the Notice of Decision and termination of the  
19 temporary stay. Ms. Driscoll, or Mr. Levy.

20                  MR. LEVY: And one more item before you vote on  
21 that, which has to do with - I apologize, it's fraught  
22 with procedural issues - it is better that you do both,  
23 that you treat CURE's letter as a Petition for  
24 Reconsideration, as well, both for timeliness issues.  
25 So, the Commission has authority on its own motion and

1 CURE could file a Petition for Reconsideration, it may be  
2 redundant, it may not be, but I would recommend that you  
3 just do both.

4 COMMISSIONER BYRON: So, Mr. Levy, are you looking for  
5 another motion here?

6 CHAIRMAN DOUGLAS: On Item 22.

7 MR. LEVY: A combined motion, if you please.

8 COMMISSIONER BYRON: Well -

9 MR. LEVY: Or two separate motions.

10 COMMISSIONER BYRON: Madam Chair, I will move  
11 on Item 22 the additional motion that we treat CURE's - I  
12 don't know what it was - a letter?

13 VICE CHAIR BOYD: Don't you just want me to amend my  
14 motion to include that, and I am so willing after the  
15 persistence of the Chief Counsel that this is the right thing to  
16 do.

17 CHAIRMAN DOUGLAS: Shall I call the question,  
18 is there a second on the Amended Motion?

19 COMMISSIONER BYRON: I second the Amendment.

20 CHAIRMAN DOUGLAS: All in favor?

21 (Ayes.)

22 All right, Item 22 is amended and it is  
23 approved. Now, to Item 23. Calico Solar Project (Docket  
24 No. 08-AFC-13). Possible approval of amending the  
25 effective date of the Commission's decision of October

1 28, 2010 to coincide with the date of re-filing of the  
2 Notice of Decision and termination of the temporary stay.  
3 Ms. Driscoll, or Mr. Levy.

4 MR. LEVY: And thank you for your indulgence on  
5 this, I understand there is some procedural hoops I  
6 suppose we're jumping through, but we're trying to find a  
7 mechanism to fix an issue. I wanted to point out I  
8 disagree with CURE's legal assessment, I don't think any  
9 of this is legally required, I think this is just a  
10 matter of good governance, as the Chairman said, and for  
11 clarity, and for the sake of open government and  
12 transparency, not as a legal requirement. It makes sense  
13 to do it. Thank you.

14 CHAIRMAN DOUGLAS: Thank you, Mr. Levy. Is  
15 that your presentation for Item 23? Or is that going to  
16 be done by Ms. Driscoll?

17 MR. LEVY: With the exception of the request to  
18 the draft Order on Paragraph 4, if you change the order  
19 of Item 4, it would say the Executive Director shall  
20 withdraw and re-file the Notice of Decision today.

21 CHAIRMAN DOUGLAS: All right, I am happy - I  
22 would like to propose that the Commission make that edit  
23 to number 4, to Item 4 on the Draft Order.

24 MR. LEVY: Paragraph 4 was styled to read, "The  
25 Executive Director shall re-file the Notice of Decision

1 today, December 1<sup>st</sup>, 2010." And if we add the words  
2 "withdraw" and "re-file," that carries forward from the  
3 Chairman's Order in view of the fact that the NOD was not  
4 withdrawn yet.

5 CHAIRMAN DOUGLAS: Mr. Levy, what Commissioner  
6 Byron and I are looking at is that he has one version of  
7 a Draft Order where that paragraph is numbered 5, and I'm  
8 holding the actual Order the Commission is signing, and  
9 the findings - we've got the order, and that provision is  
10 - I'm not sure I see that provision anywhere.

11 COMMISSIONER BYRON: Madam Chair, I would  
12 recommend we go off the record for a moment.

13 CHAIRMAN DOUGLAS: Yes, we're off the record.

14 (Off the record at 12:35 p.m.)

15 (Back on the record.)

16 CHAIRMAN DOUGLAS: We're back on the record.  
17 We had some document confusion. The draft order that I  
18 have in my hand on Item 4, and let me just ask, is this  
19 Draft Order that I have in my hand, is this the Draft  
20 Order that was mailed out to the public? And is this the  
21 Draft Order posted for the public that is no doubt in the  
22 room, on the table? All right, and Item 4, "The  
23 Executive Director shall and will add "withdraw and,"  
24 then it goes on, "...re-file the Notice of Decision today,  
25 December 1<sup>st</sup>, 2010."

1           MR. LEVY: That is correct, Chairman. The  
2 other Order that Commissioner Byron was referring to is  
3 how the final Adoption Order would read with today's date  
4 instead of October 28<sup>th</sup>, 2010, so that is the confusion  
5 for the two Orders. The one you were just holding up  
6 with Paragraph 4 is the Order on Reconsideration.

7           CHAIRMAN DOUGLAS: All right, thank you. So,  
8 then, we are considering whether there is a motion to  
9 adopt this Draft Order? Then the Draft Order makes the  
10 Final Decision effective today, requires the Hearing  
11 Advisor to amend the Final Decision to state this  
12 effective date, vacates the stay that I issued on  
13 November 19<sup>th</sup>, and directs the Executive Director to  
14 withdraw and re-file the NOD.

15           COMMISSIONER BYRON: So, Commissioner Boyd,  
16 I'll give it a try this time. There are times, I  
17 suppose, when there is a disadvantage to not being an  
18 attorney, being on this Commission. I believe that the  
19 language as stated in the Agenda is the correct language  
20 for the motion. Is that right, counsel?

21           MR. LEVY: That is correct.

22           COMMISSIONER BYRON: So, Madam Chair, I move  
23 approval of Item 23 on the Agenda.

24           CHAIRMAN DOUGLAS: Thank you, Commissioner  
25 Byron, for that motion. Is there a second.

1           VICE CHAIR BOYD: I'll second it, but also  
2 indicating for the past nine years, not being an  
3 attorney, I thought, was an advantage.

4           COMMISSIONER BYRON: I'm with you on that,  
5 Commissioner.

6           CHAIRMAN DOUGLAS: There is a motion and a  
7 second. All in favor?

8           (Ayes.)

9           Item 23 has been approved.

10          COMMISSIONER BYRON: May I add a comment, Madam  
11 Chair? You know, I wanted to say this while Mr. Holder  
12 and Mr. Ritchie was still on the line, I also noticed Mr.  
13 Lam is here with us, as well, and there may be others  
14 that were Interveners in this project, and I think we  
15 covered this before, but I again would like to thank them  
16 for their participation, even here today. They certainly  
17 made this a much better project as it was reviewed and  
18 approved by this Commission. I had an opportunity to  
19 meet recently with the Executive Director of the Sierra  
20 Club, Mr. Ritchie, and I also expressed my appreciation  
21 to him, as well, for their intervention on this project.  
22 I don't think we can say enough that, as a result, we got  
23 a much better project from the Applicant. And, of  
24 course, we thank the lovely ladies here for being here  
25 once again today to be before this Commission, I'm

1 referring to the Applicants.

2 CHAIRMAN DOUGLAS: Thank you, Commissioner  
3 Byron. And before we dismiss the Applicants and staff, I  
4 neglected to notice that we have one other person who  
5 would like to speak on Item 23, Lauren Nevitt, are you on  
6 the phone?

7 MS. NEVITT: Hi there. Actually, I was on the  
8 line for Item 24.

9 CHAIRMAN DOUGLAS: Oh, I'm sorry. Well, good,  
10 then we haven't missed you yet.

11 MS. NEVITT: No, you haven't.

12 CHAIRMAN DOUGLAS: All right, thank you. Then  
13 we are done with Item 23.

14 MS. GANNON: Thank you.

15 CHAIRMAN DOUGLAS: Thank you.

16 Item 24. CPV Sentinel Energy Project (Docket  
17 07-AFC-3). Possible adoption of the Presiding Member's  
18 Proposed Decision on the CPV Sentinel Energy Project,  
19 and Errata. Mr. Celli - Hearing Officer Celli.

20 HEARING OFFICER CELLI: Good morning, Chairman  
21 Douglas and Commissioners. Kenneth Celli -

22 VICE CHAIR BOYD: Good afternoon, Mr. Celli.

23 HEARING OFFICER CELLI: Good afternoon,  
24 everyone. Kenneth Celli appearing on behalf of the  
25 Sentinel AFC Committee. Originally, Commissioner

1 Pfannenstiel was the Presiding Member and then  
2 Commissioner Boyd was the Associate Member, however,  
3 Commissioner Boyd was later appointed the Presiding  
4 Member and is the only member on this Committee. The  
5 PMPD reflects the Committee's careful consideration of  
6 all evidence submitted by the parties, as well as all  
7 public comments. The PMPD recommends that the Commission  
8 grant certification because the Sentinel Project is  
9 consistent with laws, ordinances, regulations, and  
10 standards, pursuant to CEQA, any direct, indirect, and  
11 cumulative impacts from the Sentinel Project will be  
12 mitigated to less than significant levels. The CPV  
13 Sentinel LLC submitted an AFC, an Application for  
14 Certification, to the California Energy Commission to  
15 construct and operate a simple cycle peaking power plant  
16 on June 25<sup>th</sup>, 2007. The site is situated approximately  
17 eight miles northwest of the center of Palm Springs and  
18 4.5 miles west of the center of Desert Hot Springs,  
19 approximately 1.3 miles east of State Route 62, also  
20 known as the 29-Palms Highway, and 1.7 miles north of  
21 Interstate 10, and 1.3 miles west of Indian Avenue. The  
22 37-acre power plant site and surrounding area is  
23 primarily characterized by industrial use with extensive  
24 development of wind energy and transmission  
25 infrastructure. Southern California Edison's Devers

1 Substation is approximately 700-feet to the west of the  
2 proposed project site, and the 135 megawatt Indigo Energy  
3 facility is approximately 1.8 miles to the southeast.  
4 The Sentinel Project is proposed to be not only rated 850  
5 megawatts, the project will supply quick start peaking  
6 capacity and ancillary services to the Los Angeles Basin  
7 Local Capacity Requirement Area. CAISO has identified  
8 this region as one needing additional peaking capacity to  
9 meet resource adequacy requirements and ensure greater  
10 reliability. The project site arrangement consists  
11 generally of eight natural gas-fired General Electric  
12 LMS-100 combustion turbine generators, operating in  
13 simple cycle mode. The main project features will  
14 consist of a 37-acre power plant site, a 14-acre  
15 construction lay down area, 2,300-feet of new  
16 transmission line in a configuration that follows  
17 property lines to the Dever Substation, and 2.6 miles of  
18 new natural gas pipeline. The project will use  
19 groundwater for cooling from on-site wells, the average  
20 total annual water usage for power plant is estimated to  
21 be about 550-acre-feet per year, with a maximum allowable  
22 1,100-acre-feet per year for the entire Sentinel Project.  
23 Sentinel will offset its water use by replenishing  
24 groundwater in the Mission Creek Groundwater Sub Basin  
25 with fresh water imported from the Colorado River, equal

1 to the amount of project water extracted from on-site  
2 wells. The project owner will also fund the installation  
3 of a recycled water line to serve the Palm Springs  
4 National Golf Course and convert the Golf Course  
5 irrigation water supply from groundwater to recycled  
6 water, from desert water agencies and water treatment --  
7 wastewater treatment program. Along with other  
8 mitigations, Sentinel will also fund the replacement of  
9 existing residential irrigation controllers with new  
10 water conserving irrigation controllers within the  
11 Mission Creek groundwater sub-basin and adjoining sub-  
12 basins on at least 4,800 existing homes. The record  
13 indicates that the Sentinel project will offset its  
14 groundwater use by about 108 percent. In the course of  
15 Sentinel's AFC proceedings, the project encountered  
16 difficulty obtaining ERC's. Sentinel is located in the  
17 Salton Sea Air Base and within the South Coast Air  
18 Quality Management District, and an evidentiary hearing  
19 on all subject areas, except Air Quality, was conducted  
20 on November 3<sup>rd</sup>, 2008. On October 11<sup>th</sup>, 2009, the  
21 California Legislature adopted AB 1318, which went into  
22 effect on January 1<sup>st</sup>, 2010. AB 1318 requires that South  
23 Coast Air Quality Management District transfer sulfur  
24 oxides and PM10 emissions offsets from its internal  
25 offset accounts to eligible electric generating

1 facilities after making specific findings of eligibility.  
2 The required findings for the electric generating  
3 facility must, 1) be subject to the jurisdiction of the  
4 Energy Commission, 2) have a Power Purchase Agreement  
5 executed on or before December 31<sup>st</sup>, 2008, and 3) be under  
6 the jurisdiction of South Coast Air Quality Management  
7 District, but not within the South Coast Air Basin. CPV  
8 Sentinel Project met all three of these eligibility  
9 requirements and I believe it is the only project in  
10 South Coast that does or would. After the passage of AB  
11 1318, the Committee granted Petitions to Intervene  
12 brought by California Communities Against Toxics, or  
13 CCAT, and Communities for a Better Environment, or CBE.  
14 The Evidentiary Hearing on the limited area of air  
15 quality was heard on July 19<sup>th</sup>, 2010, and as usual, the  
16 public was presented a full opportunity to participate at  
17 every stage of these proceedings. The Committee received  
18 no public comments on the PMPD other than those submitted  
19 by the Riverside County Fire Department, and there is a  
20 representative here today, South Coast Air Quality  
21 Management District, and there is also another  
22 representative from South Coast here today, the  
23 Applicant, and the staff. The Committee did not receive  
24 comments from either Intervener on the PMPD. The  
25 Committee recommends that the Commission adopt the PMPD

1 on the CPV Sentinel Energy Project, along with the  
2 Committee Errata dated November 24<sup>th</sup>, 2010, which was  
3 served on all parties. The Errata incorporates the  
4 parties and public comments, and the PMPD, and it  
5 includes clarifications of the record. I am going to ask  
6 that the Commission acknowledge that the record should  
7 also reflect that an amendment to the Errata on page 5,  
8 item 21, this was brought to my attention this morning,  
9 item 5 on page 21, where there is the year 2013 is  
10 mentioned, 2013 should be stricken, and 2019 should be  
11 inserted and underlined. With that, the matter is  
12 submitted. I am happy to answer any questions or  
13 procedural matters, or the PMPD, otherwise, the parties  
14 are here to address the Commission.

15 CHAIRMAN DOUGLAS: Thank you, Mr. Celli. Can  
16 we hear from the Applicant?

17 MR. CARROLL: Good afternoon. I'm Mike Carroll  
18 with Latham and Watkins on behalf of the Applicant, and  
19 here with me today is John Foster, with the Applicant,  
20 CPV Sentinel, LLC, and its parent company, Competitive  
21 Power Ventures, Inc. And at this time, I would turn the  
22 mic over to Mr. Foster to make some remarks on behalf of  
23 the Applicant.

24 MR. FOSTER: Thank you. It's a privilege to  
25 come before the Commission, Chairperson Douglas,

1 Commissioner Byron, Commissioner Boyd. Competitive Power  
2 Ventures is a company that believes it has an obligation  
3 to help this country and the state to move to a cleaner,  
4 more reliable, and cost-effective energy future.  
5 Approximately half of our development business is in the  
6 renewable area, developing wind and solar projects, and  
7 about half in the gas-fired development area, developing  
8 high efficiency, low emission gas-fired power plants,  
9 which we believe can help bridge us to a clean energy  
10 future. The CPV Sentinel Project itself, as I think is  
11 represented in the record, is a peaking generation  
12 facility, which will help California specifically  
13 integrate solar and wind projects in the Southern  
14 California region, as well as to provide high efficiency,  
15 low-emission technology for reliable electric generation  
16 in that area. We, here today, really want to express  
17 our thanks and appreciation to the CEC and South Coast  
18 staff, and the AFC Committee on this project, for their  
19 hard work and perseverance, and their efforts in  
20 addressing often difficult issues and providing a very  
21 comprehensive and thorough PMPD for consideration by the  
22 Commission. With that, I really appreciate your  
23 consideration in this matter.

24 CHAIRMAN DOUGLAS: All right, I will turn now  
25 to members of the public and Interveners, beginning with

1 Angela Johnson. Are you on the phone? Angela Johnson?

2 MS. JOHNSON: I am here. Can you hear me?

3 CHAIRMAN DOUGLAS: Thank you, we can hear you.

4 MS. JOHNSON MESZAROS: Oh, I'm sorry, I've been  
5 on mute for so long, I forgot I had to turn off the mute  
6 button. Good afternoon, Chairman Douglas and members of  
7 the Committee. I am Angela Johnson Meszaros. I am here  
8 on behalf of California Communities Against Toxics, an  
9 Intervener to the proceeding. I wanted to just spend a  
10 couple of minutes of the Committee's time expressing to  
11 you how we are still in very strong opposition to the  
12 Committee's approval of this project. The reason that we  
13 are opposing the certification of the project in its  
14 current state is because we believe the facility doesn't  
15 have the emissions reductions credits that are required  
16 for the project to move forward, as Mr. Celli indicated  
17 in his opening comments. In particular, the facility is  
18 relying upon two approaches in order to present emissions  
19 reduction credits to the facility. We believe that,  
20 under Public Resources Section 25523(B)(ii) that the  
21 Commission is prohibited from finding that a proposed  
22 facility complied with all applicable air quality  
23 standards unless the Applicant obtains sufficient offsets  
24 prior to licensing. This requirement in the Public  
25 Resources Code has been interpreted by the Committee in,

1 for example, the High Desert Power Project Presiding  
2 Member's Proposed Decision, and in that decision, the  
3 Presiding Member indicated, and I'm quoting, "In our  
4 estimation, this means that an Applicant must establish  
5 that it has purchased or possesses legally enforceable  
6 requirements to sufficient quantities of offsets,  
7 required to mitigate the air impacts of the project  
8 before we may recommend that a project be certified."  
9 Sentinel has neither purchased the requirement ERC's, nor  
10 does it possess a legally enforceable commitment for the  
11 offsets. They do not have a legally enforceable  
12 commitment for two reasons, first, the statute AB 1318,  
13 currently has been challenged and it is currently on  
14 appeal before the California Appellate Court. The  
15 briefing has not yet begun in that project, and we do not  
16 know when there will be a decision from the court  
17 regarding the Constitutional and CEQA issues that have  
18 been challenged in the context of the adoption of AB  
19 1318. Secondly, the record is clear that, as current  
20 Federal law, there is no mechanism that allows the South  
21 Coast Air Quality Management District, to transfer  
22 emissions offsets to the Sentinel Project. The only  
23 information in the record indicates that there must be a  
24 SIP revision that occurs by the U.S. EPA, prior to the  
25 ability of the District to transfer those credits. In

1 the Errata to the Committee's decision on page 11, at  
2 number 5 - I am sorry, on page 11, subsection 46, in  
3 number 5, the proposed decision makes the following  
4 conclusion of law, "The offsets identified by the AB 1318  
5 tracking system are federally enforceable, or otherwise  
6 will become federally enforceable, prior to operation of  
7 the project consistent with EPA guidance." We believe  
8 that this is a misreading of what is required by Federal  
9 law, in addition to a misreading of what's required under  
10 Public Resources Code 25523(B)(ii). In particular, the  
11 guidance upon which the Committee has placed its reliance  
12 does not, in fact, say that it is appropriate to allow a  
13 project to proceed with construction prior to having  
14 federally enforceable offsets. And I'm going to finish  
15 my comments by simply quoting from the memo that the EPA  
16 released, upon which the Committee is relying. "The  
17 EPA's policy is that emissions offsets for a major or new  
18 modified stationary source must be federally enforceable  
19 prior to the issuance of the Part D new source  
20 construction permit. This position is consistent with  
21 Congressional intent as reflected in the changes made to  
22 the Act under the 1990 Amendments. The requirements that  
23 the offsets be federally enforceable is based on sound  
24 policy, as well. Federal enforceability for the source  
25 making the offsetting reductions ensures that the agency

1 may hold the reducing source responsible in an  
2 enforcement action for failure to make the reductions.  
3 It further ensures that the criteria for fully creditable  
4 offsets are addressed before construction may commence.  
5 After commencement of construction, the equity  
6 considerations shift in favor of the new or modified  
7 source meeting offsets. Once constructed, it may be even  
8 more difficult for the EPA or the State to prevent that  
9 source from commencing operation, even though the  
10 offsetting reductions are not yet identified, qualified,  
11 and secured with federally enforceable restrictions.”  
12 That is the guidance document upon which the proposed  
13 decision relies, and we believe that this guidance  
14 document makes clear that the notion that a facility  
15 should begin construction, without having in hand actual  
16 emissions offsets, is mistaken. And so we urge the  
17 Committee to consider very carefully the adoptions, the  
18 certification of this power plant for the important  
19 reasons that I have alluded, and I will also just note  
20 that there doesn’t seem to be a mechanism that would  
21 allow - that would indicate what would happen, should  
22 either the Appellate Court find that AB 1318 is either  
23 unconstitutional or the District’s actions didn’t comply  
24 with CEQA, or what would happen if the EPA decided not to  
25 approve the SIP Amendment, which is why it’s important

1 that we ensure that - which is why it's important under  
2 Public Resources Code Section 25523(B)(ii) that a  
3 facility has sufficient offsets prior to licensing.  
4 Thank you for your time.

5 CHAIRMAN DOUGLAS: Thank you, Ms. Johnson  
6 Meszaros. And I need to go back to staff, and this has  
7 certainly raised questions we'd like staff to address,  
8 but I'd like to just finish up with members of the public  
9 and Interveners, so Lauren Nebitt, are you still on the  
10 phone?

11 MS. NEBITT: Good afternoon, Madam Chair. We  
12 don't have anything in particular to add, other than we  
13 would be, if staff requires assistance, we would be  
14 prepared to address also the issues raised by Ms. Johnson  
15 Meszaros.

16 CHAIRMAN DOUGLAS: Ms. Nebitt, can you tell us  
17 who you are with?

18 MS. NEBITT: I'm sorry, yes. We're with South  
19 Coast Air Quality Management District.

20 CHAIRMAN DOUGLAS: Thank you. Let's hear from  
21 staff, then, and if you'd like to ask Ms. Nebitt to add  
22 anything, you can.

23 MR. RATLIFF: Dick Ratliff with the staff  
24 Counsel. With me is John Kessler, the Project Manager.  
25 I'm sitting in today for Karen Holmes, who is not

1 available. I believe the speaker on the phone, I meant  
2 to say, is Ms. Baird for the Air District. First of all,  
3 I would say that the Errata to the PMPD, and the PMPD  
4 itself, reflect the staff's comments and testimony  
5 effectively, and with the Errata, we support adoption of  
6 the PMPD as the Final Decision. Secondly, and perhaps  
7 Ms. Baird will want to amplify on these comments, the  
8 objections raised by Ms. Meszaros, in all respect, I  
9 disagree with them, and first of all, her reference to  
10 Public Resources Code Section 25523(D)(ii), and to the  
11 prior Commissioner statements with regard to that  
12 section, are based on a version of that statute that has  
13 been amended and no longer is reflective of the  
14 requirements of 25523(D)(ii). The Commissioner's  
15 statements to which she refers, I believe were made in  
16 1999, and the statute was subsequently amended, I  
17 believe, in 2003 to allow the much greater latitude for  
18 Applicants to determine when they purchase their offsets.  
19 They are no longer required to have their offsets in hand  
20 at the time of the Commission decision. So, I just  
21 wanted to point out that the statute has changed and the  
22 references to a provision in the statute which no longer  
23 exists. Secondly, with regard to the issue of the  
24 EPA's SIP Amendment, this was an issue that was addressed  
25 at hearing, and the Committee has heard this in its

1 entirety. The memo to which Interveners make reference  
2 is the Sites Memo from 1994, an EPA memo which, I think,  
3 quite clearly provides that it is entirely okay, it is  
4 entirely permissible for the Air District to go ahead,  
5 even though the SIP Amendment is not final so long as the  
6 SIP Amendment is approved with regard to offsets that are  
7 going to be used prior to the date of operation. And we  
8 believe that applies here, too. If for some reason the  
9 SIP Amendment were not approved, and we see no likelihood  
10 that that would occur, we believe, then, that there would  
11 be a problem for the use of these offsets, but that is  
12 provided for in the memo and basically that is - this  
13 project would be contingent on the approval of the SIP  
14 Amendment. With that, I would turn this over to Ms.  
15 Baird if she has any further comments.

16 CHAIRMAN DOUGLAS: Ms. Baird? Ms. Baird or Ms.  
17 Nebitt? Or South Coast, anyone from South Coast.

18 MR. NAZIMI: Good afternoon. I am Mosan  
19 Nazimy, Deputy Executive Officer with South Coast AQMD  
20 and I have the District - Ms. Baird on the phone, so,  
21 Barbara?

22 MS. BAIRD: Hello.

23 CHAIRMAN DOUGLAS: Ms. Baird, we -

24 MS. BAIRD: I am sorry, I think I had myself on  
25 mute.

1           CHAIRMAN DOUGLAS: I understand. Would you  
2 like to add anything to what Mr. Ratliff has said?

3           MS. BAIRD: I basically just want to agree with  
4 Mr. Ratliff and indicate that the EPA guidance that was  
5 referred to allows a permit to be issued to a facility  
6 even before the Permitees' offsets become federally  
7 enforceable, as long as the permit contains a provision  
8 assuring that the source will not operate prior to those  
9 offsets becoming federally enforceable. And so, we agree  
10 otherwise with statements made by Mr. Ratliff.

11           CHAIRMAN DOUGLAS: Thank you, Ms. Baird. We  
12 have one - I noticed in the pile of paper on my desk, I  
13 missed one member of the public from the Riverside County  
14 Fire Department, I will get to you in a moment, but I  
15 would like to ask if Applicant has anything that they  
16 would like to raise, in addition to what Applicant has  
17 already said.

18           MR. CARROLL: Yes, thank you. Mike Carroll on  
19 behalf of the Applicant. I would simply say, as  
20 Commissioner Boyd knows well because he presided over the  
21 evidentiary hearings in this matter, but for the benefit  
22 of Commissioner Byron and Commissioner Douglas, the  
23 issues raised by Ms. Meszaros were given a full airing  
24 during the proceedings on this matter. There was  
25 extensive discussion of these issues before, during, and

1 after the evidentiary hearing, and the issues were fully  
2 briefed in written briefs that were filed on the matter.  
3 And so, with all due respect, these are not new issues,  
4 these are issues that were fully aired and addressed  
5 during these proceedings. For that matter, these are  
6 issues that have been raised, or slight variations on  
7 these issues have been raised in an administrative  
8 petition filed with the EPA by the Interveners, which was  
9 rejected in State Court litigation brought by the  
10 Interveners, at which the Air District prevailed over the  
11 Interveners, and in Federal Court litigation brought by  
12 the Interveners in which the Air District prevailed over  
13 the Interveners. So, these are arguments that have been  
14 made and responded to extensively over the last couple of  
15 years, frankly. And I just wanted to assure the full  
16 Commission that these are all issues that have received a  
17 very full and exhaustive hearing in these proceedings,  
18 and elsewhere. Thank you.

19 CHAIRMAN DOUGLAS: Thank you. Dale Evenson,  
20 Riverside County Fire Department, are you still on the  
21 line? Or are you here in the room?

22 MR. EVENSON: Dale Evenson, Riverside County  
23 Fire. I generally try to sit in the back of the room and  
24 just be very quiet, I find it more useful than anything  
25 else. I wanted to comment that I was thrust in to this

1 position about seven months ago to attend these meetings  
2 for mostly the solar projects, and then this project came  
3 to us late in the game because of some notification  
4 problems, and we found a few minor editorial issues in  
5 the PMPD, and I wanted to really get up here just to  
6 thank the Commission and the Committees, and particularly  
7 Alan Solomon, John Kessler, Geoff Lesh, Rick Tyler and  
8 Dr. Alvin Greenberg, and Jennifer in the back, who I sit  
9 next to and answers my questions. Just for the speed  
10 that we were able to get the corrections into this, and  
11 that we are in full approval and agreement with the PMPD  
12 and we endorse the project. Now, stepping outside of my  
13 role as a government official, and into my role as a  
14 citizen, I happen to live in Desert Hot Springs, about  
15 two miles north of this project, about a half mile east  
16 of the replenishment basins they're talking about, from  
17 Mission Creek Reservoir, and as a citizen up there, I  
18 endorsed the project, so you have a comment from a member  
19 of the public. And then, on a side note, for Mr. Byron,  
20 when I started in this a few months ago, you spoke on  
21 acronyms, I found a link on your website because I didn't  
22 understand probably 99 percent of the acronyms you were  
23 using up here, and if you go to that link, you will print  
24 out about 30 pages of acronyms that this Commission uses  
25 that are, more often than not, identical to the ones we

1 use, but have very different meanings! So, I just wanted  
2 to thank the Commission and everybody else for the  
3 efforts that they make. Thank you.

4 CHAIRMAN DOUGLAS: Well, thank you for those  
5 comments, Mr. Evenson, and thank you for being here.  
6 Commissioners, do you have any questions for any of the  
7 parties, for any of the speakers, any comments you'd like  
8 to make at this time? Commissioner Boyd.

9 VICE CHAIR BOYD: Well, I don't have any  
10 questions because I've heard a lot of this material  
11 before, and I am the committee of one left standing on  
12 this project and, so, I would defer to my fellow  
13 Commissioners if they have any questions before you  
14 return to me and I make some concluding comments and a  
15 motion.

16 COMMISSIONER BYRON: Thank you. I do have one  
17 question based upon what I've heard today. My question  
18 is for counsel. Can we proceed with the pending - I  
19 believe Ms. Johnson Meszaros referred to it as pending  
20 litigation? And if indeed we do proceed today with a  
21 decision, is there any risk to this Commission in its  
22 decision?

23 MR. LEVY: Commissioners, the short answer is  
24 yes, you may proceed. The litigation that she is  
25 referring to, or one of them, anyways, California

1 Communities against Toxics, et al. vs. South Coast Air  
2 Quality Management District and the Energy Commission; in  
3 fact, the Superior Court dismissed that lawsuit because  
4 the Judge determined it didn't have any merit. It was a  
5 challenge as far as the Commission is concerned to AB  
6 1318 in the Superior Court on its own motion, actually,  
7 dismissed the case against us. They have appealed, but  
8 we don't see any reason why they would prevail in their  
9 appeal.

10 COMMISSIONER BYRON: All right, thank you.  
11 Commissioner, that's the only question I had.

12 VICE CHAIR BOYD: Well, I would like to just  
13 indicate that this obviously has been a long road.  
14 Commissioner Pfannenstiel has been gone quite a long time  
15 now, but as is our custom, it's not fair to burden the  
16 new Commissioner with a case that is so far done and have  
17 them read the entire records, so I willingly took on the  
18 responsibility as the Committee. And I think the PMPD  
19 speaks for itself. We have heard many of the issues,  
20 we've been through legislation, interpretation of  
21 legislation, and the implementation of that legislation  
22 by the South Coast, and oversight by the staff of the  
23 Energy Commission of the actions by the South Coast, as  
24 provided in the legislation, and the Committee was moved  
25 to make the decisions it did make, and make the

1 recommendations that are before you today. I've seen  
2 nothing change. And I'm very familiar with the Air  
3 Quality issues involved in here, one of the letters  
4 referenced John Sykes, I've known him for years, during  
5 my 20 years at the Air Board, so I see no reason to have  
6 any concern with the actions by the South Coast, nor our  
7 own staff in interpreting statute regulation, and the  
8 transactions undertaken by the South Coast District. So,  
9 I'm prepared to move the Sentinel Energy project, the  
10 PMPD, and the Committee's Errata dated November 24<sup>th</sup>, as  
11 amended, as indicated by Mr. Celli today. I propose that  
12 be adopted by a full Commission that sits here today.

13 COMMISSIONER BYRON: Commissioner Boyd, I am  
14 going to second this item, but I'd like to add that  
15 Committees of one are never a good thing, and I know how  
16 much you like big peaking power plants -

17 VICE CHAIR BOYD: There is nothing in the  
18 record for me to comment on, Mr. Byron.

19 COMMISSIONER BYRON: But I'd like to thank you  
20 for the diligence on this complicated project and getting  
21 this before the Commission today. I will second the  
22 motion to approve the Presiding Member's Proposed  
23 Decision.

24 CHAIRMAN DOUGLAS: There's a motion and a  
25 second. All in favor?

1 (Ayes.)

2 That item is approved.

3 VICE CHAIR BOYD: And thank you to the  
4 Applicant and Mr. Carroll, for your diligence.

5 COMMISSIONER BYRON: Madam Chair, if I may just  
6 add a comment here, and I suspect Commissioner Boyd might  
7 also. You know, it did take special legislation, it  
8 seems, to get the emission reduction credits for this  
9 project. There was a significant gap of time, between  
10 the time of the evidentiary hearings and when the PMPD  
11 came out. And, of course, the Legislature writes the  
12 laws and we implement them here at this Commission, but  
13 I'd like to point out that this approach is not the  
14 solution for permitting new plants in the South Coast  
15 AQMD, or elsewhere in California. This Commission, in  
16 cooperation with the many State and local agencies, are  
17 going to address the emission reduction credit issue, we  
18 are going to address the once-through cooling issue,  
19 we're going to address greenhouse gas reduction, and I'm  
20 sure there are other provisions of CEQA that I'm not  
21 stating here, but the solution to how we will combine all  
22 of these issues for future siting is not yet obvious.  
23 But I think this effort is going to either result in  
24 figuring out that solution to the intersection of these  
25 environmental issues, or it will not. And if it does

1 not, it will be necessary for the legislature to address  
2 this issue broadly and comprehensively. I've pointed  
3 this out before to this administration and this  
4 commission, I think this is a train wreck that we can see  
5 coming, and we have to address this issue in a  
6 comprehensive way, not with single pieces of legislation.

7 CHAIRMAN DOUGLAS: Thank you, Commissioner  
8 Byron.

9 VICE CHAIR BOYD: Oh, I, too, am presuming that  
10 is somewhat of an anomaly that we won't see that again.  
11 In my mind, this project goes back so far that it was a  
12 peaker - a major peak seen necessary to sustain the  
13 generating system not too long after the electricity  
14 crisis in California, and it's turned into a peaker  
15 necessary to support the huge renewable portfolio that  
16 we've accrued since then, and so I do think it's a very  
17 rare and unusual case, and I certainly agree that  
18 Commission committees of one should be an extreme  
19 exception, not the rule, however.

20 CHAIRMAN DOUGLAS: Thank you. We're done with  
21 Item 24. Thank you. Item 25. Minutes. We're only  
22 going to take up item 25B, Possible approval of November  
23 8<sup>th</sup>, 2010 Business Meeting Minutes.

24 COMMISSIONER BYRON: Madam Chair, you said B,  
25 okay, I believe I can make the motion to approve Item

1 25B.

2 VICE CHAIR BOYD: And I can second it.

3 CHAIRMAN DOUGLAS: All in favor?

4 (Ayes.)

5 Minutes for November 8<sup>th</sup>, 2010 are approved.

6 Item 26. Is there any Commission or Committee  
7 presentation or discussion? Seeing none, Item 27, is  
8 there Chief Counsel's Report?

9 MR. LEVY: No report, thank you.

10 CHAIRMAN DOUGLAS: Item 28. Executive  
11 Director's Report.

12 MS. JONES: Nothing to report today.

13 CHAIRMAN DOUGLAS: Item 29. Public Advisor's  
14 Report?

15 MS. JENNINGS: I don't have a report, but I do  
16 have two comments I'd like to make. First of all, I'm  
17 really looking forward to the Lessons Learned process,  
18 I'll try to encourage the broadest public participation  
19 that we can get. All those Interveners left standing  
20 will, I think, be anxious to come and provide their  
21 perspective. The second is on the Calico Decision, I  
22 wanted to let you know that my office had received calls  
23 from members of the public prior to the Commission's  
24 receipt of the letter from CURE asking about the  
25 discrepancy between what was posted as far as the

1 availability of the Decision and the fact that it wasn't  
2 yet completed. So, I do appreciate you taking the action  
3 you did today, and I'm hopeful that we'll pay a little  
4 more attention in the future to those notices and when  
5 they're appropriately filed. Thank you.

6 CHAIRMAN DOUGLAS: Thank you, Ms. Jennings.

7 VICE CHAIR BOYD: I trust that was a lesson  
8 learned, also.

9 CHAIRMAN DOUGLAS: Yeah, that is high up on the  
10 list of lessons learned, is exactly right, and certainly,  
11 as you interacted with the public through this entire  
12 process, you know, there are many lessons learned that  
13 you can help bring to our attention, or that you can  
14 reach out to people who have something to say that would  
15 be of value to us, and hopefully help them engage in the  
16 process. Very well, nothing on Item 31. Item 30, is  
17 there any public comment? We've been abandoned by the  
18 public in the room, so we are adjourned.

19 (Whereupon, at \_\_\_\_\_ p.m., the business meeting was  
20 adjourned.)

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