



COMMISSIONERS PRESENT

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Jeffrey D. Byron

Anthony Eggert

Robert B. Weisenmiller

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Michael Levy, General Counsel

Harriet Kallemeyn, Secretariat

Ruben Tavares

Zhiqin Zhang

Ken Koyama

David Weightman

Joseph Wang

Cheng Moua

Karen Perrin

Jim Bartridge

Larry Rillera

Eugenia Laychak

Ashley Conrad-Saydah

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1 P R O C E E D I N G S

2 9:00 A.M.

3 CHAIRPERSON DOUGLAS: Welcome to the California  
4 Energy Commission Business Meeting of December 15<sup>th</sup>, 2010.

5 Please join me for the Pledge of Allegiance.

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

8 CHAIRPERSON DOUGLAS: Before we take up the  
9 consent calendar, Ms. Jones, I understand you have some  
10 awards to present.

11 EXECUTIVE DIRECTOR JONES: Good morning. It's my  
12 pleasure, today, to present to the Commission the CESA  
13 awards that we received.

14 California Energy States Alliance is a national,  
15 nonprofit organization that works with public and State  
16 agencies to advance clean energy technologies.

17 They had their annual awards in Washington D.C.,  
18 in November. Seven State Leadership Awards in Clean Energy  
19 were given to 200 2010 programs and projects demonstrating  
20 leadership, effectiveness, innovation in clean energy.

21 The California Energy Commission received two of  
22 these awards.

23 The first award we received was for a PIER  
24 program. It was the Gills Onions Program. We invested into  
25 a partnership with Gills Onions for a sustainable-waste

1 energy-system for agricultural products with high sulfur  
2 content. The process can easily be adapted for other  
3 agricultural and food waste products.

4 The researchers developed and implemented a  
5 project that eliminates 14,500 tons of carbon dioxide  
6 equivalent omissions and saves to 112,000 standard cubic  
7 feet of natural gas.

8 The biogas in the fuel savings is 50 to 60  
9 thousand per year. And the project is being demonstrated  
10 with fuel cells.

11 The person from the Energy Commission who worked  
12 on this project is Prab Sethi. And I don't think Prab is  
13 here, but let me go ahead --

14 (Presents award to the Commissioners.)

15 Our second award, the SLICE award, was for the  
16 Renewable Energy Transmission Initiative, also known as  
17 RETI.

18 RETI, in collaboration with the Public Utilities  
19 Commission, the California Independent System Operator, the  
20 Northern California Power Agency, Southern California Power  
21 Authority, the Sacramento Municipal Utility District formed  
22 the RETI as an informal stakeholder collaborative to develop  
23 a conceptual statewide transmission plan that minimizes  
24 environmental impacts, economic costs, and supports the 33  
25 percent renewable portfolio goal.

1           The 30-member stakeholder collaborative includes  
2 state, federal, local agencies, investor- and publicly-owned  
3 utilities, environmental organizations, renewable generation  
4 developers, ratepayer advocates, American Tribal  
5 representatives, and others.

6           RETI is an innovative, collaborative, proactive  
7 approach to renewable energy transmission siting. This  
8 stakeholder group has influenced the California Independent  
9 System Operator Transmission planning process and the PUC's  
10 long-term procurement process for renewable energy.

11           And with that, the staff person who was directly  
12 involved in that -- there were several. Roger Johnson, Jim  
13 Bartridge, Ean O'Neill, Mark Hesters, Michael Snyder, Jacque  
14 Gilbreath, Terry Rose, Don Kondoleon, Chuck Najarian, Clare  
15 Laufenberg Gallardo.

16           So, at this time I'd like to present the award.

17           (Presents award to the Commissioners.)

18           COMMISSIONER BOYD: Well, commendations to the  
19 staff for this, it's their work that brought us this  
20 occasion. So, it's much appreciated and probably will be  
21 needed as we move forward before certain audiences to  
22 demonstrate that the Energy Commission is well worth the  
23 investment that's been made in it.

24           EXECUTIVE DIRECTOR JONES: Okay. I have one last  
25 acknowledgement --

1           COMMISSIONER BYRON: Excuse me. Excuse me, if I  
2 may just a moment, may I comment as well?

3           I'm not as familiar with the Gills Onion award and  
4 I don't mean to sidestep it, but I am very familiar with the  
5 Renewable Energy Transmission Initiative issue and there was  
6 obviously a lot of staff involved.

7           I'd like to thank the staff very much for their  
8 work in that in the last three and a half, or four years, it  
9 seems.

10           Commissioner Weisenmiller and I were in a lengthy  
11 meeting yesterday with the Coordinating Committee of RETI,  
12 including the ISO, and the Public Utilities Commission, and  
13 others.

14           And I think everyone would agree, that's been  
15 involved with this effort, it's had tremendous successes,  
16 but it would not have been successful had it not been for  
17 the stakeholder involvement.

18           I believe you'd indicated, Ms. Jones, about 30  
19 different stakeholders have been participating in this. So,  
20 my shout out goes to them, whose volunteer efforts, to a  
21 great extent, is what has made that effort successful over  
22 the years.

23           It will go -- it will continue in some capacity  
24 because I think everyone agrees that it's necessary.  
25 However, funding for that effort has become certainly

1 limited.

2           So, we've made some decisions just recently,  
3 yesterday, and we will be announcing those over the course  
4 of the next month or so.

5           But my congratulations to the staff, but my real  
6 thanks would go to the volunteer stakeholders.

7           Thank you for the opportunity to comment.

8           CHAIRPERSON DOUGLAS: Thank you, Commissioner  
9 Byron.

10           And Ms. Jones?

11           EXECUTIVE DIRECTOR JONES: Okay, great. So, I  
12 would like to present or at least recognize an Energy  
13 Commission staff person.

14           The Department of Finance recently sent me a  
15 letter expressing their thanks and appreciation for the  
16 excellent work of Kyle Emigh. Kyle manages our Budget and  
17 Accounting Office.

18           Kyle has been with the Commission for 16 years,  
19 primarily working in the Budget Office.

20           He is our Budget Officer and has been for about  
21 the last 18 months. In this role he balances the divergent  
22 needs of the Energy Commission while responding to inquiries  
23 from the control agencies and the Legislature.

24           The Department of Finance letter commends Kyle on  
25 his responsiveness to both administrative and programmatic

1 questions, willingness to be available evenings and  
2 weekends, and concludes that much of the Energy Commission's  
3 success with budget change proposals is likely due to Kyle's  
4 ability to respond quickly and effectively to proposal  
5 inquiries.

6 Let me close by saying that the type of written  
7 recognition from the Department of Finance is unprecedented  
8 in my 24 -- or in my 34 years in State service.

9 And I would like to thank Kyle for his continued  
10 excellent customer service and professionalism.

11 COMMISSIONER BOYD: Did you say the Department of  
12 Finance sent such a letter?

13 EXECUTIVE DIRECTOR JONES: Yes, they did.

14 COMMISSIONER BOYD: That is -- I mean, as a long-  
15 time veteran of State service, that is highly unusual.

16 EXECUTIVE DIRECTOR JONES: Yes.

17 COMMISSIONER BOYD: So, Kyle, definitely  
18 congratulations, Finance is very closed with its  
19 recommendations.

20 (Applause.)

21 MR. EMIGH: Well, thank you for those kind words  
22 and acknowledgement. Seriously, this is a lot to be  
23 applauded to my predecessors, who kind of laid the  
24 groundwork that relationships are very important not only  
25 inside the building, but outside the building.

1 I think this is just an acknowledgement of decades  
2 long, solid relationships. So, thank you.

3 EXECUTIVE DIRECTOR JONES: Thank you, Kyle.

4 COMMISSIONER BOYD: Thanks, Kyle.

5 CHAIRPERSON DOUGLAS: Thank you.

6 All right, beginning now with the consent calendar  
7 there are two changes. Item 1-b is off the agenda for this  
8 Business Meeting.

9 Item 1-d will be moved to a discussion item, so  
10 we'll take up Item 1-d after the consent calendar.

11 So, with those changes, is there a motion for this  
12 consent calendar?

13 COMMISSIONER BOYD: I'll move consent with the two  
14 exceptions notes.

15 COMMISSIONER WEISENMILLER: Second.

16 CHAIRPERSON DOUGLAS: All in favor?

17 (Ayes.)

18 CHAIRPERSON DOUGLAS: The consent calendar is  
19 approved.

20 COMMISSIONER BYRON: Madam Chair, are there any  
21 other changes to the agenda this morning?

22 CHAIRPERSON DOUGLAS: There are a couple -- there  
23 are a couple of changes to the agenda this morning. In  
24 addition to the ones I just mentioned, Items 11-a, b, c, d,  
25 g and h are moved to the December 29<sup>th</sup> Business Meeting. And

1 that's the only other change.

2           Actually, I'm sorry, Item 2 is also off the  
3 agenda.

4           So, with those changes, let's take up Item 10-d.

5           COMMISSIONER WEISENMILLER: Okay. Commissioner --  
6 or Chairman, I have had a variety of business dealings with  
7 George Lippman over a number of years. He's the owner of  
8 Lippman Consulting, Incorporated. And while I have had no  
9 business dealings with Lippman Consulting, Incorporated, out  
10 of an abundance of caution, I believe it is prudent to  
11 recuse myself from participating in this item.

12           CHAIRPERSON DOUGLAS: Very well. Thank you,  
13 Commissioner Weisenmiller.

14           And as Commissioner Weisenmiller makes his way out  
15 of the room, I'll read the item into the agenda.

16           Item 1-d. Lippman Consulting, Incorporated,  
17 possible approval of purchase order 10-445.03-005 for  
18 \$400,500 to Lippman Consulting, Incorporated, for a one-year  
19 subscription to natural gas pipeline and production  
20 databases.

21           Let's see, is staff available to answer questions  
22 on this item, if necessary? Mr. Tavares?

23           COMMISSIONER BOYD: Rueben, do you want to say  
24 anything about this, or Ivan?

25           MR. TAVARES: Good morning, Commissioners. My

1 name is Rueben Tavares and I would like to seek your  
2 approval for a renewal of agreement with Lippman Consulting  
3 for one year. It is a subscription of a database that we  
4 receive every day, actually. We get data and we use that  
5 data for different purposes, including calculations for the  
6 IEPR, almost every day. So, I would like to seek an  
7 approval for that item.

8 If you have any questions, I will be willing to  
9 answer some of those questions.

10 COMMISSIONER BYRON: Commissioners, we reviewed  
11 this in the Electricity and Natural Gas Committee. Correct.

12 MR. TAVARES: Correct.

13 COMMISSIONER BYRON: And vetted it there. I would  
14 recommend this item for your approval.

15 COMMISSIONER BOYD: Well, I'll second your motion.  
16 As a long-time chair of the Natural Gas Committee, before we  
17 merged it back into electricity, I'm very familiar with the  
18 staff and the activities in this operation and highly  
19 recommend it. The data has been invaluable to us.

20 CHAIRPERSON DOUGLAS: Very well, we have a motion  
21 and a second. All in favor?

22 (Ayes.)

23 CHAIRPERSON DOUGLAS: The item is approved, with  
24 Commissioner Weisenmiller abstaining and out of the room,  
25 and now he's returning to the dais.

1           So, Item 2 is off this agenda.

2           Item 3, Fiscalini Farms, L.P. Possible approval  
3 of Agreement PIR-10-053 for a grant of \$1.5 million to  
4 Fiscalini Farms, L.P. to develop the best available emission  
5 control technology for biogas-fueled combined heat and power  
6 system.

7           Mr. Zhang -- or Ms. Zhang.

8           MS. ZHANG: Good morning, Commissioners. This is  
9 a research proposed through a PIER, public interest energy  
10 research program, competitive solicitation to study emission  
11 control technologies for biogas CHP, combined health and  
12 power systems.

13           This proposed research will be conducted at  
14 Fiscalini Farms, located at Modesto, California.

15           Currently, California is the only state that  
16 requires biogas CHP systems to meet NOx emission level at 9  
17 ppm, while other states and countries are meeting much  
18 higher NOx emission levels for biogas CHP systems.

19           California is leading the nation in bioenergy  
20 development and has developed a number of biogas systems.  
21 However, most of biogas systems developed are not operating.

22           One of the significant issues is to operating SCR,  
23 selective catalytic reduction, equipment to meet NOx  
24 emission level at 9 ppm.

25           This proposed research will accomplish three

1 objectives. First, collect performance and cost data of  
2 operating SCR for biogas CHP systems to determine if 9 ppm  
3 NOx emission level can be feasibly achievable.

4 Second, modify the design and operating conditions  
5 for anaerobic digester, engine settings, and SCR systems to  
6 reduce emission factors and improve biogas CHP system's  
7 reliability, affordability, and market penetration.

8 Third, design and build a bioreactor to grow algae  
9 from biogas fueled engine exhaust gases to reduce emission  
10 factors through biological and biochemical conversions to  
11 advance science and technology.

12 This proposed PIER grant is \$1.5 million and the  
13 match fund is \$375,000. The agreement term is 4 years,  
14 effective January 2011.

15 Thank you.

16 CHAIRPERSON DOUGLAS: Thank you. And I want to be  
17 sure that I clarify. The agreement number on this is PIR-  
18 10-053. I think that's what I read. It's actually  
19 different than what is printed in the agenda.

20 Commissioners, do you have any questions or  
21 comments on this item? I'm looking at the R&D Committee, in  
22 particular, or Commissioner Eggert.

23 COMMISSIONER EGGERT: Oh. Well, actually, maybe a  
24 question. And I want to thank the R&D Committee for  
25 bringing forward what appears to be a really interesting and

1 potentially valuable project.

2           You know, I know that the use of biogas for power  
3 generation does have this challenge of meeting the local air  
4 quality requirements. And if I'm reading this correctly,  
5 the idea here is that this is a technology that then could  
6 be applied to other applications, because I know one of the  
7 challenges is a lot of these installations tend to be one-  
8 off designs.

9           So, how do we make this -- if this is successful,  
10 how do we make it easily replicable to other facilities?

11           MR. KOYAMA: Ken Koyama, with the PIER Program.  
12 This requirement is likely to be the standard for small  
13 generator and CHP kind of systems across the State.

14           The San Joaquin Air Pollution Control District has  
15 indicated, about two years ago, that they were looking at  
16 this standard as being what they would apply for dairy  
17 digesters, and other small generator systems.

18           So, if this works, this can open up quite a few  
19 additional bioenergy systems within the State.

20           COMMISSIONER EGGERT: Okay, thank you.

21           And then I was interested, very interested to see  
22 the application or the use of an ALGAL, basically, a  
23 biological system for I believe it's hydro generation, and  
24 that is then put into the combustion to reduce NOx. Is that  
25 right?

1 MS. ZHANG: Oh, actually, you know, I think you  
2 mentioned -- this is not going to be -- you know, it's not  
3 involved with hydrogen generation.

4 COMMISSIONER EGGERT: Okay. Let's see, the work  
5 statement here says, "The ALGAL reactor and hydrogen  
6 generator" as one of the items for exhaust gas cleaning. Is  
7 that a proper description or is that -- am I reading that  
8 wrong? This is on page, I guess, 16 of 18 of the work  
9 statement?

10 MS. ZHANG: Yeah, I think this was proposed  
11 before, will be conducted by Tiask Company.

12 But later on, because this research has been  
13 conducted by SMUD, so it has determined to, instead of --  
14 instead of conduct this hydrogen generation technology and  
15 waste modified into grow algae, and build a new reactor, so  
16 it goes through a biological and a chemical conversation,  
17 instead of hydrogen generation.

18 COMMISSIONER EGGERT: Okay. All right. Yeah,  
19 again, I guess I would again thank the R&D Committee and  
20 look forward to voting on this.

21 COMMISSIONER BYRON: Commissioner Eggert, good  
22 questions, all.

23 I'm going to make a comment, if I may, from a  
24 policy perspective. Commissioner Boyd and I have spent a  
25 lot of time on this particular issue over the last number of

1 years, it's been a, if you will, quagmire of sorts, that  
2 we're trying to promote this renewable fuel technology. It  
3 fits in very well with the policies of the State.

4 We know that Governor-Elect Brown has indicated he  
5 wants to see as much as -- I believe the number's 12,000  
6 megawatts of distributed renewable energy.

7 But, yet, the emissions issue is extremely  
8 important, how do we address this? So, a research project  
9 like this will definitely help.

10 But I wanted to speak to another issue related to  
11 this. We know there's been -- Senator Padilla's recently  
12 introduced legislation to renew public interest energy  
13 research. I know the Chairman has been on a panel  
14 discussion with him recently.

15 There's a lot of interest around this subject  
16 because public interest research is up for renewal this next  
17 year.

18 And I can tell you that having worked at the  
19 Electric Power Research Institute for ten years, which is  
20 the private research funding -- research arm of the utility  
21 industry, and the interest that the utilities have in doing  
22 research that benefits their corporate interests, this is  
23 exactly the kind of project that does get funded, that is  
24 necessary in order to see renewable energy, distributed  
25 renewable energy move forward.

1           So, I just wanted to emphatically state that this  
2 is another very good example as to why public interest  
3 energy research is so important.

4           Really, I'm stating that for my fellow  
5 Commissioners, so they'll vote in favor of this project.

6           CHAIRPERSON DOUGLAS: Thank you, Commissioner  
7 Byron.

8           Additional questions or comments? Commissioner  
9 Boyd?

10          COMMISSIONER BOYD: Well, I was going to say,  
11 Commissioner Byron, you'll have no trouble with your fellow  
12 member of the Research Committee here, in terms of voting.

13          But I just want to point out that this is not only  
14 addressing a significant hurdle that we've been trying to  
15 clear for some time in just the production of bioenergy into  
16 power, in small locations because of the air quality  
17 consideration, but as this is the marriage of bioenergy and  
18 CCHP, which this Agency has repeatedly supported the  
19 development of in its Integrated Energy Policy Reports, and  
20 just as a matter of policy.

21          So, as indicated, the Research Committee was very  
22 interested in seeing this move forward and, hopefully, it  
23 will prove to be the benchmark for future development in the  
24 San Joaquin Valley, which has had difficulty because of  
25 their, admittedly, serious air quality problems. And the

1 San Joaquin Valley District has been extremely helpful and  
2 cooperative in the last year or two in working with us on  
3 trying to get past some of this.

4 And you'll hear more from me at the end of the  
5 meeting about yesterday's Bioenergy Interagency Public  
6 Workshop, which discusses issues like this.

7 But this is -- this should help us very much if it  
8 proves to be a successful research project.

9 And I certainly join Commissioner Byron in the  
10 feelings that without public agencies pushing subjects like  
11 this, I question whether we'd see them.

12 So, if there's been a motion, I'll make -- I'll  
13 second it.

14 CHAIRPERSON DOUGLAS: I actually think we're still  
15 waiting for a motion.

16 COMMISSIONER BYRON: Go right ahead, Commissioner.

17 COMMISSIONER BOYD: Well, I'll move it then.

18 COMMISSIONER BYRON: And, Ms. Zhang, thank you for  
19 bringing this to us. I will second the motion.

20 CHAIRPERSON DOUGLAS: There's a motion and a  
21 second. All in favor.

22 (Ayes.)

23 CHAIRPERSON DOUGLAS: Item's approved. Thank you,  
24 Ms. Zhang.

25 Item 4, University of California, California

1 Institute for Energy and Environment. Possible approval of  
2 Work Authorization MRA-02-084, for \$1 million with the  
3 Regents of the University of California, CIEE, to expand the  
4 Public Interest Energy Research Technology Demonstration  
5 Program.

6 Mr. Weightman.

7 MR. WEIGHTMAN: Good morning, Commissioners,  
8 Directors, and Attendees. My name is David Weightman and  
9 I'm a contract manager with the PIER Buildings Program.

10 Before I get started, I've been asked to ask you  
11 if you had received the correct memo for this item?  
12 Because, apparently, there was a mix up and I just found out  
13 about this, this morning.

14 COMMISSIONER BYRON: I understand, Mr. Weightman,  
15 that the online documents were correct, it's just the  
16 Commissioners that may have gotten the wrong one.

17 MR. WEIGHTMAN: Right.

18 COMMISSIONER BYRON: Everyone should have the one  
19 that's got Mr. Weightman's name on it, and the amount is for  
20 a million dollars.

21 MR. WEIGHTMAN: Okay, thank you.

22 This agreement, that seeks your approval today, is  
23 an amendment to an existing work authorization for the  
24 Energy Commission's State Partnership for Energy Efficient  
25 Demonstrations Program.

1           This program is initiated under a Master Services  
2 Agreement with the UC Office of the Regents, the President's  
3 Office. And it's implemented -- the program's implemented  
4 on the ground by the California Institute for Energy and  
5 Environment. We call it CIEE for short. CIEE was  
6 originally established in 2004 and since it was established  
7 we've done approximately 110 demonstrations.

8           And this amendment would allow us to do  
9 demonstrations at California-based Naval and Marine  
10 facilities. And they have oodles and oodles of buildings  
11 down there. They told us that we had, in San Diego, 1,800  
12 buildings, alone, in the San Diego Metro Region.

13           So, it's a wonderful opportunity to expand markets  
14 for PIER technologies.

15           Recently, President Obama issued Executive Order  
16 13515 and that order requires federal agencies to set  
17 greenhouse gas emissions reduction targets to increase  
18 energy efficiency and to leverage federal purchasing power  
19 to promote environmentally responsible products and  
20 technologies, and to purchase those technologies.

21           The federal government aims to reach a 28 percent  
22 reduction in GHG emissions by the year 2020.

23           As I noted, they have a large -- the Naval and  
24 Marine Corp have a large number of facilities in California  
25 and to meet the intent of the order they're going to need to

1 implement the best energy efficiency technologies and best  
2 management practices out in the market today.

3           So, through our history we've developed a  
4 portfolio of best practice lighting, HVAC, and data center  
5 technologies that can help the Navy and Marines achieve  
6 their energy efficiency and greenhouse gas emission  
7 reduction goals.

8           So, we're going to work with the Navy and Marines  
9 to identify high priority facilities for technology  
10 upgrades, make assessments as to what is appropriate  
11 technology for the different sites.

12           And then we will purchase materials and install  
13 them.

14           And, lastly, we'll do some post-installation  
15 monitoring of their performance.

16           Our larger goal with the PIER Program is to  
17 successfully demonstrate these technologies and have the  
18 Navy and Marines deploy them worldwide, so it's a huge  
19 market opportunity.

20           I guess that's it. I'm here to answer any  
21 questions you might have.

22           CHAIRPERSON DOUGLAS: Thank you. Commissioners,  
23 questions? Commissioner Weisenmiller.

24           COMMISSIONER WEISENMILLER: Yeah. I was going to  
25 thank the R&D Committee for focusing on this. Since I've

1 been at the Commission I've been working on these areas.  
2 I've met with Major General Jackson, of the Marines, was  
3 very -- he was very impressive.

4 I also met at the Pentagon with Dorothy Robyn,  
5 who's Secretary Gates' person on these issues, and also the  
6 similar people from all the services. So, we had a very  
7 good conversation.

8 They are very focused in this administration,  
9 first on using -- setting up a test bed for innovative  
10 technologies on energy efficiency and renewables for the  
11 military.

12 Dorothy's example was to say if you look at Wal-  
13 Mart, I mean, they have a test bed where they're trying to  
14 test out their technologies and move those out into their  
15 stores. And by that I mean all the energy efficiency and  
16 renewables.

17 And so, certainly, that's the model the Pentagon's  
18 trying to use and they do have a very large purchasing  
19 power.

20 And talking to Major General Jackson, I think most  
21 people are aware that California is where the Desert  
22 Training Centers are for our military services. They've  
23 gone through a massive expansion. Actually, if we're  
24 looking at construction in California, there's a fair amount  
25 going on at the bases, now.

1           But they're very focused on renewables there.  
2 Part of it is to deal with their greenhouse gas emissions  
3 and part of it is also to develop the technology for the  
4 forward bases.

5           They're very clear that when you look at  
6 Afghanistan and you have to move fuel in there, that there's  
7 one fatality for every 22 trucks going into Afghanistan,  
8 going through the Khyber Pass, and there's another fatality  
9 within Afghanistan.

10           So, there's a very clear linkage between getting  
11 renewables in the forward bases and reducing fuel  
12 consumption, and saving lives of our sons and daughters.

13           So, again, anyway we can, with our activities,  
14 find ways to complement and extend what DOD's doing there is  
15 very important for this Commission.

16           COMMISSIONER BYRON: Commissioner, have you come  
17 across former Chairman Pfannenstiel in your meetings in  
18 Washington D.C.?

19           COMMISSIONER WEISENMILLER: Actually, she was in  
20 Guam that day but she -- but I've certainly talked to her a  
21 lot on these issues.

22           COMMISSIONER BYRON: In case everyone doesn't  
23 know, I believe she's Undersecretary of the Navy on  
24 Renewable Energy.

25           COMMISSIONER WEISENMILLER: That's correct.

1                   COMMISSIONER BOYD: Assistant Secretary for  
2 Facilities and Environment, I believe is the title.

3                   And Commissioner Eggert and I were having a side  
4 discussion here, wondering if former Commissioner  
5 Pfannenstiel was being felt in this proposal. I would think  
6 so.

7                   CHAIRPERSON DOUGLAS: Good. Are there any more  
8 questions or comments? Is there a motion?

9                   COMMISSIONER EGGERT: Well, I guess I'll just, you  
10 know, chime in and say that I think the Navy and Marines  
11 have been leaders in a whole number of different energy  
12 areas, including alternative fuels, as well. And so, and  
13 having worked with some of them in the past, they make great  
14 partners and they have the potential for significant  
15 procurement which, you know, I think is a good match for  
16 this activity.

17                   So, I'd move the item.

18                   COMMISSIONER BYRON: And, Madam Chair, I'd second  
19 it with a comment. In case you all don't know, there's big  
20 transformations going on in the federal government with  
21 regard to renewable energy that could change -- change  
22 policy to a great extent, as Commissioners Weisenmiller and  
23 Eggert have indicated.

24                   So, this is a big deal and it's good for this  
25 Agency to be associated with it and sharing its technologies

1 in all the federal build out that Commissioner Weisenmiller  
2 indicated.

3 That's a long second.

4 CHAIRPERSON DOUGLAS: We've a motion and a second.

5 All in favor?

6 (Ayes.)

7 CHAIRPERSON DOUGLAS: Item's approved.

8 MR. WEIGHTMAN: Thank you.

9 CHAIRPERSON DOUGLAS: Thank you, Mr. Weightman.

10 COMMISSIONER BOYD: And, Madam Chair, I would also  
11 comment. I think we're going to be doing more of this.  
12 That, to me, this is another research project that -- that  
13 represents government-to-government activities that I just  
14 don't think would fit in a different model of conduct of  
15 energy research in California.

16 CHAIRPERSON DOUGLAS: I think that's absolutely  
17 right.

18 Item 5, Town of Hillsborough. Possible approval  
19 of Agreement 007-10-ECE-ARRA for a loan of \$37,812 to the  
20 Town of Hillsborough to install a new energy efficient pump  
21 and new energy efficient interior lights.

22 Mr. Wang.

23 MR. WANG: Good morning, Commissioners. My name  
24 is Joseph Wang and I'm with the Special Projects Office.

25 The Town of Hillsborough is applying for a \$37,812

1 loan to install a new energy efficient pump, to raise the  
2 pump efficiency from 48 percent to 70 percent, and to  
3 retrofit the interior lights at the police department  
4 building.

5 This loan is to be used in conjunction with its  
6 EECBG Block Grant funds and PG&E rebates to improve the  
7 citywide energy efficiency of the town facilities.

8 These projects are expected to save over \$3,400  
9 annually and reduce about 7.2 tons of CO2 emissions.

10 And this project will have a simple payback of  
11 10.9 years.

12 And staff has reviewed the technical information  
13 of the project and recommend the approval of this loan.

14 CHAIRPERSON DOUGLAS: Thank you, Mr. Wang.

15 Questions, Commissioners? Commissioner Byron?

16 COMMISSIONER BYRON: None. I'm prepared to move  
17 the item.

18 COMMISSIONER BOYD: Second.

19 CHAIRPERSON DOUGLAS: All in favor?

20 (Ayes.)

21 CHAIRPERSON DOUGLAS: The item's approved.

22 Thank you, Mr. Wang.

23 Item 6, City of Hawaiian Gardens. Possible  
24 approval of Agreement 005-10-ECE-ARRA for a loan of \$446,192  
25 to the City of Hawaiian Gardens to implement energy

1 efficiency measures, including HVAC upgrades, lighting  
2 equipment and controls, computer control software, and  
3 vending machine misers.

4 Let's see, Mr. -- how do you say your last name?

5 MR. MOUA: Moua.

6 CHAIRPERSON DOUGLAS: Moua.

7 MR. MOUA: Yeah. Thank you and good morning,  
8 Commissioners. My name is Cheng Moua and I'm with the Fuels  
9 and Transportation Division, Special Projects Office.

10 This item is a request for approval of an ECCA-  
11 ARRA loan with the amount of \$446,192 for the City of  
12 Hawaiian Gardens.

13 The City of Hawaiian Gardens has requested this  
14 loan to help fund energy efficiency improvements to their  
15 facilities. The energy efficiency measures include  
16 retrofitting over 1,200 lighting fixtures, which most are  
17 going from T-12s to T-8s, installing occupancy sensors,  
18 replacing approximately 50 tons of HVAC equipment,  
19 installing vending machine controls, and also installing  
20 computer power management software.

21 The annual energy savings by implementing the  
22 energy efficiency measures is calculated to be 257,727  
23 kilowatt hours. This results in an annual cost savings of  
24 \$40,595 for the City.

25 The total cost for the project is approximately

1 \$550,000 and the City of Hawaiian Gardens has already been  
2 approved for an Energy Efficiency and Conservation Block  
3 Grant of \$85,105, which they will be using as part of the  
4 funding for this project.

5 And they also anticipate receiving over \$18,000  
6 from utility rebates.

7 The rest of the funding is expected from the  
8 approval of this loan.

9 The simple payback for this project is 11 years,  
10 based on the loan amount and the interest rate of 3 percent.

11 Staff has determined that this loan request  
12 complies with all the program requirements. I am here today  
13 to seek your approval. Thank you.

14 CHAIRPERSON DOUGLAS: Thank you.

15 Questions, Commissioners, or comments, or a  
16 motion.

17 COMMISSIONER BYRON: Move the item.

18 COMMISSIONER BOYD: I'll second the item with a  
19 comment that for any who get concerned about where Hawaiian  
20 Gardens is, it really is a California city. We're not  
21 reaching out to another state.

22 (Laughter.)

23 CHAIRPERSON DOUGLAS: Thank you, Commissioner  
24 Boyd.

25 All in favor?

1 (Ayes.)

2 CHAIRPERSON DOUGLAS: Item's approved.

3 MR. MOUA: Thank you.

4 CHAIRPERSON DOUGLAS: Thank you.

5 Item 7, City of Richmond. Possible approval of  
6 Agreement 001-10-ECD for a loan of \$621,558 to the City of  
7 Richmond to replace high pressure sodium and mercury vapor  
8 streetlights with more efficient LED streetlights.

9 Ms. Perrin.

10 MS. PERRIN: Good morning, Commissioners. I'm  
11 Karen Perrin, with the Special Projects Office.

12 And this is also a request for a loan for the City  
13 of Richmond to replace 929 streetlight fixtures. The loan  
14 amount is \$621,558, of which \$131,900 will be a rebate  
15 incentive from PG&E.

16 This project is expected to save the City  
17 approximately \$62,000 in annual energy costs and has a  
18 payback of 9.9 years.

19 Staff is seeking approval of this loan.

20 COMMISSIONER BYRON: Madam Chair, I'm prepared to  
21 move this one, but I think I would note on all three of  
22 these projects it's interesting to see that cities of all  
23 kinds, wealthy cities, not so wealthy cities, and obscurely  
24 located cities are all interested in energy efficiency. And  
25 it's a great program, I'm glad to see it continues at the

1 Commission.

2 I move approval of Item 7.

3 COMMISSIONER EGGERT: Actually, just a quick  
4 question. So, this is under the ECCA. Is this using money  
5 that has come in from repayment or is this first-time money?

6 MS. PERRIN: Yeah, this is from our ECCA fund so  
7 it is a revolving loan fund.

8 COMMISSIONER EGGERT: So, this is money that's  
9 come back in from previous loans. Okay. It looks, again,  
10 like another -- yeah, good example of partnership of local  
11 government to advance our energy efficiency goals.

12 So, I second.

13 CHAIRPERSON DOUGLAS: All in favor?

14 (Ayes.)

15 CHAIRPERSON DOUGLAS: The item's approved. Thank  
16 you, Ms. Perrin.

17 Item 8, Memorandum of Understanding for Renewable  
18 Energy Systems. Possible approval of Memorandum of  
19 Understanding 400-10-007 between the Energy Commission and  
20 the Department of General Services, Department of Water  
21 Resources, Department of Transportation, Department of Fish  
22 and Game, and the Department of Corrections and  
23 Rehabilitation to collaborate on research and planning for  
24 renewable energy systems to be installed on state buildings  
25 and rights of way.

1 Mr. Bartridge.

2 MR. BARTRIDGE: Good morning, Commissioners. This  
3 MOU is an agreement between five State agencies and the  
4 Energy Commission to collaborate on research and planning  
5 for the installation of renewable energy projects on state  
6 buildings, excess lands, and rights of way.

7 You've read the Agency's -- the only clarification  
8 I'd add, State Lands Commission is not a party to the MOU at  
9 this time. Although they've expressed interest in  
10 continuing to work with the other agencies, they were unable  
11 to take this before their Commission for approval in  
12 December.

13 As called for in the MOU, the agencies will also  
14 coordinate consistent procurement strategies and contract  
15 language in one or more statewide RFP solicitations to  
16 facilitate the development of renewable energy projects on  
17 State properties.

18 The MOU identifies the Energy Commission as the  
19 lead coordinating agency in this effort and is effective  
20 through June 30<sup>th</sup>, 2014.

21 Finally, the MOU originally included an  
22 indemnification provision that not all agencies could agree  
23 to. The provision has been removed and we are awaiting  
24 concurrence from Corrections at this time, otherwise all of  
25 the agencies have signed.

1           We seek your approval for this MOU.

2           CHAIRPERSON DOUGLAS: Thank you, Mr. Bartridge.  
3           Commissioners? Commissioner Weisenmiller?

4           COMMISSIONER WEISENMILLER: Yeah, I was going to  
5 say this memorandum comes out of a meeting Commissioner  
6 Eggert and I had, back in the summer, with Business and  
7 Transportation on the question of trying to look at solar  
8 highways in California.

9           And based upon that we asked the staff to dig  
10 into -- sort to start developing an inventory of  
11 opportunities for DG in state buildings, highway right of  
12 ways, and also property.

13           And this has gotten to the point, now, of trying  
14 to establish a working group with the state agencies we've  
15 been having, for at least the last month or so, more or less  
16 weekly meetings in the Governor's Office to get this along  
17 critical mass.

18           Certainly, Jim, and Kevin Barker, my advisor, have  
19 really ran with this. And I think it's laying a very good  
20 foundation for the DG efforts of the new administration in  
21 the state buildings.

22           COMMISSIONER EGGERT: Yeah, just to add to that.  
23 I think the response from the other agencies has been  
24 excellent. I think, you know, the idea of doing renewables  
25 or distributed generation on state properties is not a new

1 concept. But the idea of doing it sort of systematically,  
2 looking across all the different properties that the State  
3 has some level of control over, you know, look at that  
4 against other constraints, like interconnection, and the  
5 ability to actually put renewables I think will allow us to  
6 consider projects that are at a much greater scale than has  
7 been previously contemplated.

8 So, I think this is the next step in a project and  
9 a program that could have significant benefits to the State.

10 So, move the item if it hasn't been moved, but go  
11 ahead.

12 CHAIRPERSON DOUGLAS: Do you have a motion,  
13 Commissioner Byron?

14 COMMISSIONER BYRON: Question for counsel. I'm  
15 glad to hear that our Commission's been very involved in  
16 this. I did not know that Commissioners Weisenmiller and  
17 Eggert had participated in this until now.

18 But I have to ask, is this normal, do the agencies  
19 have to get together to do these kinds of MOUs in order to  
20 cooperate and get things done?

21 CHAIRPERSON DOUGLAS: Is that a question for  
22 counsel?

23 COMMISSIONER BYRON: Yes.

24 CHAIRPERSON DOUGLAS: Mr. Levy?

25 GENERAL COUNSEL LEVY: It's always nice when

1 agencies get together and cooperate, and plan an agenda  
2 together.

3 Sometimes, agencies have different constraints or  
4 different operating procedures and an MOU can help align  
5 their processes with each other to make it easier to  
6 facilitate a joint agenda.

7 COMMISSIONER BYRON: Well, I know it's taken me a  
8 while to accept this notion that MOUs are necessary between  
9 the agencies, and I certainly accept the answer.  
10 Cooperation is not only important, I think it's expected on  
11 behalf of all the citizens of this State.

12 COMMISSIONER EGGERT: I think there's one other  
13 benefit I would add, Commissioner, is the -- it sort of  
14 defines the nature of the partnership and it allows for some  
15 continuity in between administrations. So, you know, the  
16 next leadership can look back at this and see, you know,  
17 some of what was agreed to before.

18 COMMISSIONER BYRON: Good point.

19 COMMISSIONER EGGERT: I think it kind of helps  
20 with that understand.

21 COMMISSIONER BOYD: Commissioner, I think your  
22 question was well answered, but I'm going to join you in  
23 stating a concern that, unfortunately, it takes an MOU  
24 between State agencies, oftentimes, to get them to  
25 collaborate and cooperate. It's taken me many years to

1 reluctantly accept the tribal nature of government and the  
2 fact that it does take written agreements, chiseled in  
3 tablets of stone, often, to do this.

4 But I think this is a good MOU.

5 COMMISSIONER BYRON: Yes.

6 COMMISSIONER BOYD: And have accepted the fact  
7 that we have to do these kinds of things. And I think the  
8 answers have been very diplomatically handled by the  
9 Commissioner and the Chief Counsel.

10 COMMISSIONER BYRON: I agree.

11 CHAIRPERSON DOUGLAS: Well, thank you,  
12 Commissioner.

13 GENERAL COUNSEL LEVY: If I may, Commissioners?

14 COMMISSIONER BYRON: Yes, go ahead.

15 GENERAL COUNSEL LEVY: An MOU does allow other  
16 agencies to join.

17 COMMISSIONER BYRON: To add later.

18 Mr. Bartridge, thank you for bringing this to us.  
19 I know it takes a lot of effort on behalf of staff to pull  
20 these things together.

21 So, I second the motion.

22 CHAIRPERSON DOUGLAS: We have a motion and a  
23 second.

24 I just want to make the briefest comment that this  
25 is not just a general MOU to work together, generally

1 stated, but an MOU with very specific provision to do  
2 specific joint efforts to get distributed generation on  
3 State properties. And that means not four different  
4 solicitation processes that look different, and are  
5 inconsistent, and have different requirements, but rather  
6 one process which will allow us to make it easier for  
7 developers and make it easier for the State to achieve its  
8 goals.

9 So, it's a very specific type of partnership.

10 So, we have a motion and a second.

11 All in favor?

12 (Ayes.)

13 CHAIRPERSON DOUGLAS: The item's approved.

14 Thank you, Mr. Bartridge.

15 Thank you, Commissioner Weisenmiller, for lending  
16 an advisor to this effort for quite a while, actually.

17 COMMISSIONER WEISENMILLER: He spent a lot of time  
18 in on this.

19 CHAIRPERSON DOUGLAS: Yes, he did.

20 Item 9, AE Advanced Fuels Keyes, Incorporated.  
21 Possible approval of Agreement ARV-10-031, for a zero cost  
22 Participation Agreement with AE Advanced Fuels Keyes,  
23 Incorporate, to establish the program requirements for  
24 participation in the California Ethanol Producer Incentive  
25 Program.

1 Mr. Rillera.

2 MR. RILLERA: Good morning, Chairman and  
3 Commissioners. My name is Larry Rillera, with the Division  
4 of Fuels and Transportation.

5 In 2009 the Commission approved the first AB 118  
6 Investment Plan that identified the potential development of  
7 ethanol producer facilities in this State.

8 Subsequently, the Commissioner approved the  
9 California Ethanol Producer Incentive Program, or CEPIP,  
10 with an initial allocation of \$6 million.

11 The CEPIP stimulates in-State ethanol production,  
12 charts a course for reduced carbon intensity in either their  
13 production processes or in the use of alternative feed  
14 stocks.

15 CEPIP has the benefit of job creation and  
16 retention, local and regional economic development, while  
17 meeting the objectives of the AB 118 program.

18 It should be noted that eligibility for CEPIP  
19 payments will not begin until facilities are fully  
20 operational.

21 The CEPIP further requirements repayments back to  
22 the State when market conditions are favorable.

23 In June 2010, the Commission release Program  
24 Opportunity Notice No. 09-607 to solicit applicants to the  
25 CEPIP.

1           Also in June of 2010 the Commission approved  
2 Interagency Agreement 600-09-017 with the California  
3 Alternative Energy and Advanced Transportation Financing  
4 Authority, or CAEATFA, to provide financing assistance  
5 needed to implement the CEPIP.

6           In July of 2010 the CAEATFA Board approved the  
7 Interagency Agreement with the Commission to effectuate the  
8 CEPIP.

9           Under this item, the Commission will consider  
10 approval of a zero cost participant agreement with AE  
11 Advanced Fuels Keyes, Incorporated, to establish the program  
12 requirements for participation in the CEPIP.

13           The program requirements in the agreement will  
14 include the participant's eligibility for CEPIP payments  
15 from and reimbursement to CAEATFA.

16           AE Advanced Fuels Keyes, Incorporated projects to  
17 begin production in the first quarter of 2011. It also has  
18 a capacity to produce up to 60 million gallons of ethanol  
19 per year, while providing both short- and long-term jobs,  
20 and economic benefits, something that's critical to this  
21 area of the State.

22           Staff would ask for the Commission's support to  
23 approve this item, a zero cost participant agreement with AE  
24 Advanced Fuels, Incorporated.

25           Thank you.

1 CHAIRPERSON DOUGLAS: Thank you, Mr. Rillera.  
2 Commissioners?

3 COMMISSIONER BYRON: Question.

4 CHAIRPERSON DOUGLAS: Commissioner Byron.

5 COMMISSIONER BYRON: I know we've approved some  
6 other participants in this program, Mr. Rillera -- oh,  
7 sorry, we have public comment.

8 CHAIRPERSON DOUGLAS: I just got a card for this  
9 item. Mr. White, V. John White.

10 MR. WHITE: Good morning, Madam Chair and Members.  
11 I hadn't intended to speak on this item, but I just want to  
12 note for the record that this is an unusual procedure and  
13 policy that we're being -- discussing today.

14 And there was a significant amount of intervention  
15 in the budget around this, organized by the Governor's  
16 Office, and with particular interests in mind.

17 I would also note that I don't believe the program  
18 is exactly consistent with the recommendations in the plan  
19 of the 118 Plan, other than the word "ethanol" is involved.

20 Okay. So, I think this is one that you're also  
21 entering into a relationship with CAEATFA, where they're  
22 going to be actually the disbursers, and that's an unusual  
23 procedure.

24 So, I just want to note that for the record. And  
25 that as this goes forward, I trust the Commission and staff

1 will conduct a reasonable amount of oversight about what  
2 exactly we're getting for this money and what, exactly, this  
3 represents in terms of a mechanism.

4 I think that ethanol has a role to play in the  
5 California biofuels future, but all of the ethanol is not  
6 created equal and all the uses of it are not created equal.

7 E 85, and that bunch of existing FFVs that don't  
8 have fuel is a really nice logical thing, and the main  
9 recommendation I recall from the 118 plan, supporting  
10 individual producers that have made business decisions that  
11 turn out to be at variance with the market, it is a  
12 different mechanism.

13 And I just wanted to note that for the record and  
14 hope that as this goes forward there will be some  
15 understanding and appreciation for exactly what we're doing  
16 here. Okay?

17 CHAIRPERSON DOUGLAS: Yeah. Thanks for speaking.  
18 And, obviously, oversight is really important in a program  
19 like this, in particular.

20 Commissioner Byron?

21 COMMISSIONER BYRON: I think I'd rather wait to  
22 hear from those more closely associated with the 118 Bill.

23 CHAIRPERSON DOUGLAS: Commissioner Boyd or Eggert?

24 COMMISSIONER BOYD: Well, let me say that we  
25 certainly recognized as an Agency, and as a Committee, and

1 the staff as well, this was an unusual undertaking. And  
2 this isn't the first time this issue's been before you, now.  
3 This, I believe, is the third project that has come before  
4 you with a recommendation from the staff for approval.

5           And it has been vetted by the Transportation and  
6 Fuels Committee, consisting of myself and Commissioner  
7 Eggert.

8           I would assure the audience that many, many long  
9 hours and incredible amount of staff time was invested in  
10 putting this program together in order to assure the public  
11 and ourselves that we would be getting -- we would be  
12 utilizing funds in the best interest of the State of  
13 California, recognizing that there is a national mandate, a  
14 renewable fuels standard, to use significant volumes of  
15 ethanol in what other form, either blended with gasoline, or  
16 in E 85, as referenced by Mr. White.

17           And like it or not, we're either going to get tank  
18 cars of ethanol coming to California from the Midwest, with  
19 corn-derived ethanol, or in the case of some business  
20 investments, for better or for worse, that were made in  
21 California, gondola cars with corn in them, coming from the  
22 Midwest to be processed here, in California, into ethanol.

23           The analyses that were done, among the many by the  
24 staff, of this was that it was a net positive carbon  
25 footprint effort because the facilities in California are

1 newer, more modern and, secondly, because in the Midwest a  
2 substantial amount of the -- of the so-called distiller's  
3 grain, that's a byproduct of the process is dried in order  
4 to turn it into animal feed that is often sent long  
5 distances to feed lots, dairies, and what have you.

6           In California it's going to remain wet and is just  
7 delivered down the road apiece to the dairy farms, of which  
8 we have more dairy cattle in California than any other state  
9 in the nation.

10           So, on the -- with the idea that, one, it's net  
11 positive carbon-wise, number two, a substantial investment  
12 had been made in California facilities that were sitting  
13 idle and, number three, people had lost their jobs and could  
14 regain those jobs, and a tax base in local communities would  
15 benefit, and not tax bases in the Midwest, we concluded that  
16 with the design that the staff provided, which has some  
17 guarantees that California facilities will be modified to  
18 improve their carbon footprint to perhaps convert to  
19 cellulosic sources for the ethanol production, and to repay  
20 the funds if business is good, we finally determined as a  
21 Committee that it was worth the time and effort of this  
22 Commission to proceed.

23           And also, with the checks, and balances, and the  
24 experiences of other government agencies, such as CAEATFA,  
25 with disbursing funds, we felt comfortable enough to make

1 this recommendation.

2           There are significant checks and balances and,  
3 yes, to the extent that this Agency has the adequate  
4 staffing there will be -- there will be follow up and  
5 audits, so to speak, of the program activities.

6           That's why we recommend it to you.

7           COMMISSIONER EGGERT: So, I think you've stated  
8 all of the points quite well, Commissioner.

9           And I guess I would just offer that as a member of  
10 the Transportation Committee, appreciate the comments of Mr.  
11 White and certainly will be providing oversight of this  
12 program to make sure that it actually does deliver the  
13 benefits that we -- we expect it to. And, in particular,  
14 the benefits and the modifications that are required of the  
15 facilities to reduce their greenhouse gas emission profile  
16 and convert to non-food feedstocks for the purposes of  
17 ethanol generation.

18           CHAIRPERSON DOUGLAS: Thank you, Commissioners.

19           Commissioner Byron?

20           COMMISSIONER BYRON: Thank you. And thank you,  
21 Transportation Committee, both Commissioners Eggert and  
22 Boyd.

23           I'm convinced that -- my questions have been  
24 answered and I'm convinced that there are a sufficient and  
25 appropriate safeguards in this loan program to go forward

1 with it. To continue to go forward with it, as Commissioner  
2 Boyd indicated, we've already approved a couple of companies  
3 for participation.

4 I want to thank Mr. White for his comments. It's  
5 not just about environmental issues here. Obviously, we're  
6 interested in job retention and maintaining businesses in  
7 this State that are hurting at this time.

8 So, Commissioners, if it's all right, I'll move  
9 the item. I move Item 9 for approval.

10 COMMISSIONER BOYD: Second.

11 CHAIRPERSON DOUGLAS: All in favor?

12 (Ayes.)

13 CHAIRPERSON DOUGLAS: Item's approved.

14 Item 10, Best Management Practices and Guidance  
15 Manual: Desert Renewable Energy Projects. Possible approval  
16 of "Best Management Practices and Guidance Manual: Desert  
17 Renewable Energy Projects." This report is produced by the  
18 Energy Commission with the U.S. Bureau of Land Management,  
19 Fish and Wildlife Service, and the California Department of  
20 Fish and Game, as required by Executive Order S-14-08 and  
21 U.S. Department of Secretarial Order 3285 directives.

22 Ms. Laychak.

23 MS. LAYCHAK: Good morning, Commissioners. I am  
24 Eugenia Laychak, I'm Special Projects Manager with the  
25 Siting and Environmental Protection Division.

1           The Renewable Energy Action Team Agency staff  
2 developed the manual over the last 18 months. The  
3 California Department of Fish and Game, the U.S. Fish and  
4 Wildlife Service, and the Bureau of Land Management have all  
5 signed the manual.

6           What I'd like to do, also, is introduce here on my  
7 right, two people who have been very active in the  
8 development of the manual, Ashley Conrad-Saydah, from the  
9 Bureau of Land Management, and Bill Condon from the  
10 California Department of Fish and Game. Amedee Brickey, I  
11 believe is available on the phone for questions.

12           The manual continues to be a living document and a  
13 group effort. The Energy Commission took the lead in  
14 developing the manual, but it's development was only  
15 possible through the cooperation, coordination and consensus  
16 of the Renewable Energy Action Team Agency staff over the  
17 last 18 months.

18           Those staff members are listed on the manual's  
19 author page and we thank them for their diligent,  
20 professional and valuable contributions, reviews, comments,  
21 and patience.

22           The REAT Agency staff request and recommend that  
23 the Energy Commission approve and sign the manual. The  
24 manual is a comprehensive resource for project developers  
25 and permitting agencies.

1           It recommends strategic actions, a process for  
2 initiating permitting discussions, permit application  
3 guidance and best management practices for timely processing  
4 of solar, wind, geothermal and biomass facility permits  
5 within established regulatory frameworks.

6           It complements existing NEPA and CEQA guidance and  
7 the information contained in it is flexible to accommodate  
8 various technologies, and agency, and local issues.

9           There have been several opportunities for public  
10 and stakeholder participation, in addition to today.

11           The Energy Commission consideration of the manual  
12 was postponed from the September 22<sup>nd</sup> meeting to allow for a  
13 six- to seven-week public comment period.

14           The manual was revised and posted along, with the  
15 cover notice, on the DRECP.org website, on November 23<sup>rd</sup>.

16           The latest public comment periods were preceded by  
17 opportunities in January 2010 and, also, October and  
18 November of 2009.

19           In addition, the REAT Agency sponsored a public  
20 workshop in October of 2009.

21           We received comments from the environmental  
22 community, local government, Native American, utility,  
23 project developer, and public agency interests. And we  
24 thank them for their constructive participation. Their  
25 comments led to necessary clarifications and improvements to

1 the manual.

2           Since November 23<sup>rd</sup>, the REAT Agency's received  
3 written comments from the U.S. EPA, the Mojave Trails Group,  
4 the Quechan Tribe, and jointly from Defenders of Wildlife,  
5 Natural Resources Defense Council, the Sierra Club, and  
6 Center for Biological Diversity.

7           In addition, there have been communications with  
8 the California Wind Energy Association and the Large Scale  
9 Solar Association.

10           The package that was handed out today, and I  
11 believe also to you late yesterday, includes the written  
12 correspondence received since November 23<sup>rd</sup>.

13           The earlier comments are posted on the DRECP  
14 website.

15           The package also contains a December 15<sup>th</sup> Errata,  
16 which responds to comments from CalWEA, EPA, and the Mojave  
17 Trails Group.

18           The REAT Agencies approved the listed revisions.

19           The comments from the environmental groups and  
20 Quechan Tribe would be more appropriate considered during an  
21 after-the-lessons-learned process.

22           As noted earlier, the manual is a living document.  
23 The REAT team will revisit the manual after the lessons-  
24 learned process is completed and consider the comments, and  
25 others received, and possibly make appropriate changes to

1 the manual.

2 Thank you.

3 CHAIRPERSON DOUGLAS: Thank you, Ms. Laychak.

4 We have a number of people who'd like to speak on  
5 this item, let's go to them.

6 And let me just ask you, for clarification, who  
7 did you say was on the phone?

8 MS. LAYCHAK: Ashley Brickley from the --  
9 Brickey --

10 MS. CONRAD-SAYDAH: Amedee Brickey.

11 MS. LAYCHAK: Amedee, sorry. Amedee Brickey from  
12 the U.S. Fish and Wildlife Service.

13 CHAIRPERSON DOUGLAS: Great.

14 MS. LAYCHAK: And also I believe that Bill Condon,  
15 from Fish and Game would like to make some opening remarks,  
16 as well.

17 CHAIRPERSON DOUGLAS: Are there people on the  
18 phone? Well, that's fine. They're just there to speak, if  
19 needed, I think.

20 Mr. Condon, would you like to speak now?

21 MR. CONDON: Good morning, Commissioners. I'm  
22 Bill Condon, with the Department of Fish and Game Renewable  
23 Energy Program, and I've been asked to relay the  
24 Department's support for the Commission to adopt the "Best  
25 Management Practices Manual."

1           We, the Department, regards the manual as a living  
2 document, to be modified, updated, changed over time based  
3 on our experience on how the various elements of the manual  
4 play out as we implement the manual.

5           I'm here to answer any questions that the  
6 Commissioners, or anybody else, may have. Thank you.

7           CHAIRPERSON DOUGLAS: Thank you, Mr. Condon.

8           And Ms., let's see, Conrad-Saydah, is that your  
9 name?

10          MS. CONRAD-SAYDAH: Saydah, yeah.

11          CHAIRPERSON DOUGLAS: Could you -- is there any  
12 opening statement that you'd like to make?

13          MS. CONRAD-SAYDAH: No need, really, for an  
14 opening statement. I'm here for the same reason that Bill  
15 is here, to answer any questions from the perspective of the  
16 U.S. Bureau of Land Management, and just to echo support  
17 from both the BLM and from the Secretary of Interior.

18          CHAIRPERSON DOUGLAS: Thank you.

19          All right, let's go to public comment. We'll  
20 start with Nancy Rader.

21          MS. RADER: Good morning, Chair Douglas and  
22 Commissioners. My name is Nancy Rader, Executive Director  
23 of the California Wind Energy Association, which represents  
24 about 25 wind energy companies engaged in the California  
25 market in the hopes of helping the State achieve its

1 renewable energy and greenhouse gas reduction goals.

2           We had hoped that the DRECP would, as advertise,  
3 streamline the permitting process in California, which takes  
4 wind energy projects on the order of several years and \$10  
5 million each to get through.

6           In particular, we had recommended a few ways in  
7 which the BMP Manual could simply the process around the  
8 edges, just a little bit, but these suggestions were not  
9 taken.

10           For example, it would be nice to not have to go  
11 through a full-blown environmental review process to put up  
12 a temporary met tower to measure the wind resource.

13           So, giving up on the idea that the BMP might  
14 actually simplify things, our hope was that it would not  
15 make matters worse.

16           Unfortunately, that's not the case with the  
17 document before you. As one example, the BMP encourages  
18 project developers to initiate consultations with regulatory  
19 agencies, including the Cal-ISO, utilities, and permitting  
20 agencies very early in the process, as much as one or two  
21 years before filing a permitting application.

22           While it is good practice and, in fact, standard  
23 practice for developers to engage with all entities related  
24 to a project as soon as possible, the time frames that this  
25 document is suggesting are just not realistic. If you go to

1 the Cal-ISO or to a utility to discuss a project, they'll  
2 want to see that you've filed a permit application before  
3 they want to talk to you.

4           No one wants to waste time talking about a  
5 speculative project.

6           So, the reality is that developers need to proceed  
7 with the various forms largely in parallel and, generally,  
8 it's not meaningful to do that earlier than six months  
9 before filing a permit application.

10           Now, our specific concern with the recommendations  
11 that we do this consultation as much as two years in advance  
12 is that it could end up extending an already lengthy  
13 application review process if permitting agencies wait for  
14 these time frames to pass before beginning to process an  
15 application.

16           So, we ask that a simple statement be added to the  
17 document to the effect that the suggested early consultation  
18 time frames are not intended to extend the time frames  
19 within which agencies are expected to act after a complete  
20 application is filed.

21           The fact that the Wildlife Agency's considered the  
22 straight forward request and rejected it underscores our  
23 concern that the recommendation will, in fact, be used as an  
24 excuse to delay the processing of permit applications.

25           And again, this is just one example of our

1 concerns.

2 Another example would be the suggestion that  
3 unlimited curtailments of wind energy production is a  
4 tenable mitigation measure. More likely such a  
5 recommendation, if taken, would prevent a project from ever  
6 being built.

7 Now, this may be a living document, but that  
8 doesn't mean it can't do damage in the meantime.

9 Yes, we've had an opportunity to comment, but  
10 there has been really no dialogue, there has been no  
11 discussion about these things so that we can, you know,  
12 express our concerns and talk about them.

13 So, I guess I would ask that you -- really, you  
14 should hit the pause button and not adopt this document.

15 But at a minimum, you should direct your staff to  
16 fix the problems as soon as possible. Thank you.

17 CHAIRPERSON DOUGLAS: Thank you, Ms. Radar.

18 We'll go through public comment and then we'll ask  
19 staff to respond to questions Commissioners may have.

20 Kristin Burford, Large Scale Solar Association.

21 MS. BURFORD: Madam Chair, Commissioners, thank  
22 you for the opportunity to talk with you today about the  
23 "Best Management Practices Manual."

24 There's been great progress in permitting utility-  
25 scale solar over the past year. However, we have just now

1 reached the point where we can assess this permitting  
2 process and understand how to move forward on a more  
3 efficient and effective permitting approach.

4           We believe that adopting this manual at this point  
5 doesn't give the opportunity to take into account the  
6 lessons learned and possibly correct some inappropriate or  
7 erroneous, even, recommendations that might be in the  
8 manual.

9           Even delaying just a few, short months will give  
10 the Commission and the other REAT Agencies the opportunity  
11 to take from these lessons learned and benefit from the  
12 experience of the utility-scale solar projects that are just  
13 now getting to the point where they are learning about site  
14 access and construction needs.

15           Even just a month from now developers could have  
16 much -- very important knowledge that would benefit the  
17 agencies and benefit the development of this manual.

18           As we've heard, there has not been much of an  
19 opportunity to comment -- to engage in a dialogue, excuse  
20 me. There has been opportunity to comment, but there hasn't  
21 been an opportunity to engage in dialogue.

22           And we believe there is a very important benefit  
23 to that dialogue and having a really robust stakeholder  
24 process, where the stakeholders can talk with one another  
25 and vet there concerns in front of the agencies.

1           We urge the Commission to refrain from acting on  
2 the document today and hold the document open until the  
3 completion of its lesson-learned process, which was just  
4 begun yesterday in a workshop.

5           We're confident that the work of staff, developers  
6 and other parties in the lessons-learned process will yield  
7 important information that deserves to be taken into account  
8 in the development of this BMP manual.

9           We understand that it's supposed to be a living  
10 document, but there are -- there's a serious potential for  
11 delay of projects and, I guess, even making recommendations  
12 that are inappropriate in the meantime. It could delay  
13 projects and we could make decisions about projects based on  
14 information that is either incorrect or inappropriate.

15           And, finally, we wanted to comment on the  
16 inclusion of the environmental community's siting criteria  
17 in the BMP Manual as an attachment.

18           We certainly appreciate the effort of the  
19 environmental stakeholders to develop this criteria, but  
20 we're concerned that giving credence and giving the Agency's  
21 endorsement of a single group of stakeholders, over all  
22 other stakeholders, is inappropriate at this point.

23           So, we'd request that that be removed from the  
24 document.

25           Thank you.

1 CHAIRPERSON DOUGLAS: Thank you, Ms. Burford.

2 COMMISSIONER BYRON: If I may -- if I may, Ms.  
3 Burford, a question. You indicated that if we were to wait  
4 another month or two that there would be additional  
5 information.

6 Were you referring to the -- to the lessons  
7 learned order instant -- the OII that we're working on, or  
8 was there some other information that you were relying upon.

9 MS. BURFORD: The utility-scale solar projects  
10 that are kind of in the process, that have recently gotten  
11 their permits, a lot of those developers are just now  
12 reaching some of the challenges of beginning site  
13 construction, sit access, and I think that there's a value  
14 in waiting, to allow those developers to kind of experience  
15 those challenges and see what that might add to this  
16 process.

17 COMMISSIONER BYRON: Okay, thank you.

18 CHAIRPERSON DOUGLAS: Thank you.

19 Lisa Belenky, Center for Biological Diversity.

20 MS. BELENKY: Good morning, Commissioners. Thank  
21 you for letting me speak on this item.

22 The Center For Biological Diversity supports the  
23 adoption of this item today. And, actually, we think it's  
24 probably kind of late in the process, so it's interesting to  
25 hear people say that they think it's too soon.

1           The Commission has already approved a large number  
2 of solar projects this year, and today is slated to approve  
3 two more. So, although we think that this set of best  
4 management practices probably doesn't go far enough, we  
5 think it is certainly time to adopt at least these basic  
6 measures which are, in fact, voluntary.

7           It's true that the groups, including the Center,  
8 and some of the other environmental groups, our comments  
9 came in quite late. We've all been quite busy, you've kept  
10 us running from pillar to post.

11           And I just wanted to say that, you know, for us, I  
12 think we support this because it is a set of guidance and it  
13 is -- it allows to have guidance across the spectrum, from  
14 all of the agencies, that they at least have some baseline.  
15 We don't believe it's enough, but at least it's a baseline.

16           And, clearly, the Commission can impose stronger  
17 measures for any site-specific project. And that's very  
18 important because when you get out on the ground you're  
19 going to learn a lot.

20           I wanted to respond about the question of the  
21 siting criteria, which was worked on by, actually, a very  
22 broad coalition of environmental groups. And I think that  
23 those are, you know, really, again, guidance.

24           If you look at these areas, you're probably going  
25 to have issues. If you go in these areas, you may not.

1           And to a large extent that's -- they very much fit  
2 with the set of the best management practices.

3           I also just wanted to respond on the wind question  
4 and the met towers, in particular. Now, the met towers are  
5 generally put up on -- at least on public lands using very,  
6 very minimal environmental review.

7           And so, having any kind of guidance at the  
8 beginning of the process we think would be very important,  
9 because what we're seeing is that some of the wind projects  
10 have been tested in areas that we believe, as the  
11 environmental community, and for specifically the Center,  
12 are probably completely inappropriate.

13           And so, at least the wind developers should be  
14 given that feedback at the beginning. Perhaps they may  
15 still wind up putting some met towers in those areas, but  
16 they need to understand at the beginning that these are  
17 areas that may very well be high conflict and inappropriate  
18 for this kind of industrial development.

19           So, I think that really what the BMPs do, they're  
20 not -- you know, they're very broad in a lot of ways,  
21 perhaps too broad, but they give people a sense of what the  
22 issues are and it's something that everyone can point to and  
23 say, well, did you at least look at these issues?

24           So, we very much support the Commission adopting  
25 them today. Which doesn't mean that we couldn't look at

1 changing them in the future, as the lessons learned, and as  
2 the projects, we learn more from each of the projects, not  
3 just at their construction stage, but also as they go into  
4 production and we learn more about all of this.

5 So, thank you very much.

6 CHAIRPERSON DOUGLAS: Thank you, Ms. Belenky.

7 Commissioner Byron.

8 COMMISSIONER BYRON: Ms. Belenky, I read through  
9 the comments that you provided last night. I note they're  
10 signed from you, then by you, National Resource Defense  
11 Council, Sierra Club, and Defenders of Wildlife, as well as  
12 the Center for Biological Diversity.

13 They're very good comments. I see your hand in  
14 these comments which, obviously, it didn't take much  
15 difficulty for the others to sign onto.

16 They're very good. Whether they're late or not, I  
17 certainly think this Commission should consider them  
18 carefully in future revisions to this BMP.

19 I appreciate your endorsement here, today, of the  
20 document.

21 Also, I suspect we'll be hearing from you later  
22 on, on other things that you've been running to pillar to  
23 post on.

24 MS. BELENKY: Yes. And I just have to thank you  
25 for the compliment but, actually, the bulk of the comments

1 were written by excellent staff, both in my organization and  
2 other organizations, but not by me.

3 COMMISSIONER BYRON: Very constructive, thank you.

4 MS. BELENKY: Thank you.

5 CHAIRPERSON DOUGLAS: Thank you.

6 The last card I have on this item, if there's  
7 anyone else in the room who'd like to speak on this item,  
8 please fill out a card.

9 If there's anyone on the phone who'd like to speak  
10 on this item, please indicate that you would so we'll know  
11 to call on you.

12 V. John White.

13 MR. WHITE: Good morning, again, Madam Chairman  
14 and Commissioners. I'm John White, with the Center for  
15 Energy Efficiency and Renewable Technologies.

16 First of all, I want to take this occasion to  
17 thank the Commission and especially its staff for the work  
18 that you all have done this year, under incredibly trying,  
19 and difficult, and resource-constrained circumstances.

20 I understand the Governor had a party the other  
21 night to specifically say thank you for all the work, and  
22 also, the REAT Agencies as a team.

23 This has really been an extraordinary and  
24 important success for California and for our country. So,  
25 this is -- I don't know that everybody fully appreciates how

1 hard it's been, given the furloughs, and given the amount of  
2 overtime that people have had to endure. And, first of all,  
3 I'm glad everybody's still here.

4           And I know that there has also been -- it's been  
5 rough and difficult for the stakeholders and for the  
6 applicants. You know, this has been an enormous amount of  
7 pressure that folks have been under.

8           And how we're trying to sort of take a deep breath  
9 and lessons learned are going on all over the place.

10           This document comes at a time when those  
11 discussions are intensifying in some respects, in part  
12 because I think of how difficult the year has been, and some  
13 of the unhappiness that we haven't all been able to fully  
14 express on all the different sides.

15           I think there's been, along with a sense of  
16 accomplishment, there's been a sense of frustration, also.  
17 And so, I think there's a temptation, now, to sort of --  
18 everybody has their own take on the lessons learned and I  
19 think these are important things to share with each other,  
20 and also to kind of do a little bit of healing a little bit.  
21 Not that the wounds are very deep but, you know, it's been  
22 hard.

23           And I think the thing that we have to maintain is  
24 the ability to keep having dialogue and so forth.

25           So, in that spirit, we had some thoughts to offer

1 about the document. First of all, we think it should be  
2 postponed for final adoption until after the conference is  
3 scheduled. There are some lessons still being learned and  
4 still being identified and I think it would be a more robust  
5 document if it had the benefit of that additional time.

6           Secondly, the pre-application guidance I think  
7 needs to be separated from the BMPs, or at least the role of  
8 the pre-application guidance to be clarified.

9           If, in fact, these are suggestions and  
10 recommendations, and for the general application, I think  
11 that's one thing.

12           If they're going to be sort of an informal that  
13 becomes formal screening criteria, that's something else,  
14 because there are specific aspects of the guidance that  
15 don't always square with what really might happen in the  
16 real world.

17           For example, particularly in terms of the  
18 scheduling of the interconnections that the applicant is  
19 responsible for identifying when, in fact, it may be not  
20 within the applicant's power at the time.

21           So, that's an example. While in the general rule  
22 it would be nice to have this together, I think if those are  
23 sort of suggestions, a way of getting people to pay  
24 attention to things that are likely to be issues, that's  
25 different than sort of becoming a screening criteria.

1           So, having them separated from the BMPs or at  
2 least have this clarified as a suggestion that we have.

3           Third, the reference to SBX834, Padilla, in  
4 chapter three, should be removed because the legislation,  
5 unless it's amended, doesn't apply to projects except that  
6 were on the February 2010 list. So, there isn't any going  
7 forward application of SBX834 projects that weren't on that  
8 list.

9           So, I think that's a reference that can be  
10 deleted.

11           Next is the observation, a document that we should  
12 avoid changes to the application late in the process. And  
13 again, this is an observation that, while generally we want  
14 to have the changes as early as we can for all kind of  
15 reasons, particularly on the federal side because of the  
16 hazards of changing the right of way applications, for  
17 example, late.

18           On the other hand, changes in the application that  
19 come about through interaction of the stakeholders, in the  
20 process, are actually a good thing if they make the project  
21 less controversial or if they take issues off the table.

22           So, I think that's -- that's something that,  
23 again, generally it's fine to say that we want it to be done  
24 as early as we can. But, in fact, and practically speaking,  
25 changes may be absolutely necessary to prevent litigation,

1 or to solve a problem and to establish a policy that may be  
2 important, if it's agreed to.

3           So, I think that's an observation I'd further  
4 make.

5           And then, lastly, the attachment 5 we don't think  
6 is ready to be included in the document, it reflects one set  
7 of views.

8           On the other hand, they are legitimate and  
9 important ideas in that list and I think those discussions  
10 are ongoing.

11           Again, further opportunity. You know, everybody  
12 has different lessons learned in terms of which side of the  
13 street they've been working on. And so, I think if these  
14 criteria can be made more broadly-based, and more broadly  
15 supported, they would be appropriate to add, but I don't  
16 think that's where they are today.

17           So, those are the suggestions we have. Again, I  
18 can't say enough about how proud I am and happy I am of all  
19 the hard work that everybody's done. And I do think if we  
20 can keep this collaborative spirit -- you know, the  
21 Commission's process has been criticized a lot, by a lot of  
22 different people, but it really has helped make these  
23 projects better and reduce the opportunity for litigation  
24 and controversy in ways that other proceedings don't.

25           On the other hand, this is still something that we

1 need to make work better. And so, I really appreciate  
2 everybody being in this mood of reflection and consideration  
3 of all the views, and we appreciate you listening to us this  
4 morning.

5 CHAIRPERSON DOUGLAS: Well, thank you, Mr. White.  
6 I see that Commissioner Byron has a question.

7 COMMISSIONER BYRON: Thank you, Mr. White. You  
8 had indicated the Commission's received a lot of criticism.  
9 I'm not aware of any criticism, Commissioners, that we've  
10 received.

11 (Laughter.)

12 COMMISSIONER BYRON: Mr. White, I do have a  
13 question. You referred to waiting to release this document  
14 until after a conference and I'm not sure I understood what  
15 you meant by that.

16 MR. WHITE: Well, I believe there's a conference  
17 that's scheduled, involving both the state and the federal  
18 agencies, that's sponsored by the Department of Interior,  
19 that is coming to a theater near you, or maybe in D.C.

20 So, there are more than one conferences planned  
21 and I don't -- the Commission, itself has it's own --

22 COMMISSIONER BYRON: Ms. Conrad-Saydah, do you  
23 know of a conference?

24 MR. WHITE: The Commission also has it's own  
25 process of -- just yesterday, I believe, there was a hearing

1 on this subject.

2 COMMISSIONER BYRON: Correct.

3 MR. WHITE: So, it may be the combined processes  
4 we're hoping to complete by the end of next month.

5 CHAIRPERSON DOUGLAS: So, Commissioner Byron, I  
6 believe there's an early February time frame for an attempt  
7 to have a conference in Washington D.C., that the Department  
8 of Interior would convene.

9 COMMISSIONER BYRON: I see. Okay, thank you.

10 MS. CONRAD-SAYDAH: There's a suggestion of that  
11 meeting, but nothing actually scheduled to date.

12 MR. WHITE: But for the record, certainly our ROI  
13 will not be done by the end of next month.

14 CHAIRPERSON DOUGLAS: Absolutely not.

15 MR. WHITE: Just to be clear.

16 CHAIRPERSON DOUGLAS: That's right. The RIO --  
17 thank you -- going further than that.

18 COMMISSIONER BYRON: Thank you, Mr. White.

19 CHAIRPERSON DOUGLAS: Mr. White, I wanted to say I  
20 appreciate your comments, I appreciate your help, and  
21 support, you know, in times of need during this process.  
22 And we -- you know, we all, and I'll sort of collectively  
23 include the room in that, the staff, the Commissioners, the  
24 intervenors, the parties had to struggle through a very  
25 difficult year. And, hopefully, the next time a great wave

1 of projects comes along, and we certainly hope one does,  
2 everybody will be better prepared and on a firmer footing.

3 And I appreciate a lot of the comments and  
4 suggestions you've made, which I think will inform some of  
5 our questions, and the staffs of the four agencies as we go  
6 on. So, thank you.

7 MR. WHITE: And we'll try to write those up and  
8 get them in, even though we didn't have the time to do it  
9 before today.

10 CHAIRPERSON DOUGLAS: That would be great.

11 MR. WHITE: Thank you.

12 CHAIRPERSON DOUGLAS: And I just -- I'll start  
13 with a question for staff, actually. We've heard a lot of  
14 concern expressed about the pre-application -- oh-oh.

15 PUBLIC ADVISOR JENNINGS: Sorry, may I interrupt?  
16 We're having technical problems, as you might see the  
17 collection over here. We've lost telephone and some WebEx  
18 connections.

19 CHAIRPERSON DOUGLAS: Okay. Well, we will --

20 PUBLIC ADVISOR JENNINGS: And people are not able  
21 to hear.

22 CHAIRPERSON DOUGLAS: All right. Let's go off the  
23 record for a couple minutes and try to solve the problem.

24 (Off the record at 10:30 a.m.)

25 (Back on the record at 10:42 a.m.)

1 CHAIRPERSON DOUGLAS: We'll go back on the record.

2 So, I had a question based on the public comment  
3 we got from the room. And we've heard a lot of anxiety  
4 about some of the pre-application guidance. Now, my  
5 understanding from, you know, working on this and reviewing  
6 this on the Siting Committee, is that it's in the form of  
7 advice, not requirement.

8 So that if somebody had everything together, but  
9 hadn't contacted the ISO two years prior, and maybe it had  
10 only been eight months prior, that wasn't going to be held  
11 against them. Now, is that correct with your understanding?

12 MR. O'BRIEN: Chairman Douglas and Commissioners,  
13 I think this exercise started based upon a desire to  
14 identify ways that developers could move through the process  
15 of review by the government agencies, by the REAT Agencies  
16 in the most expeditious and economic, efficient way  
17 possible.

18 As a result, we prepared these best management  
19 practices to provide guidance to developers on issues to  
20 consider, as they began the process of developing projects  
21 in California that would be reviewed by the REAT Agencies.

22 And so, what we have come up with is simply that,  
23 guidance.

24 Developers are free to reject all of that  
25 guidance. They're free not to have any conversations with

1 the agencies and to show up one day with an application in  
2 hand.

3 But the point is that if they do that and, of  
4 course, the agencies would not hold that against them, but  
5 if they do that, or any way penalize them, they should  
6 understand that they may have a more difficult time going  
7 through the application process, and it may be more  
8 difficult for the agencies to expeditiously review their  
9 application.

10 So, this was an attempt on the part of the REAT  
11 Agencies to provide developers with information that we  
12 thought would help them have a easier time in the regulatory  
13 review process, and a faster time.

14 CHAIRPERSON DOUGLAS: Thank you, Mr. O'Brien.

15 Do any of the other REAT Agency representatives  
16 have anything to add on that question?

17 MS. BRICKEY: I'm sorry, I was out of the room  
18 when the question was asked, but if you could repeat that,  
19 again?

20 CHAIRPERSON DOUGLAS: The question was about the  
21 pre-application advice. It clearly has prompted anxiety  
22 among the developers, some of whom expressed the concern,  
23 the associations expressed the concern that developers might  
24 be penalized if they came into a permitting process and they  
25 hadn't followed the advice as closely as the agencies might

1 have wanted, for example, I think that's really the concern.

2           And so, you know, now I have seen the disclaimer  
3 language throughout the document which, of course, we  
4 strengthened, in part as a result of the last comments, that  
5 really try and emphasize that this is advice and this is not  
6 a requirement.

7           But I wanted to ask you that question, as well.  
8 So, would you handle an application differently if it was in  
9 all other ways equal, but somebody had not contacted a  
10 particular agency two years beforehand?

11           MS. BRICKEY: No, this is speaking from the Bureau  
12 of Land Management perspective. Our applications come into  
13 us on a first-come, first-served basis.

14           And so, as Terry mentioned, if an application did  
15 come into us and there had been none of that pre-application  
16 meeting, it would still be processed if it came in ahead of  
17 time of the next application.

18           It's just that through the application process  
19 there may be a slow down in order to actually complete some  
20 of that pre-application consultation after the fact. And  
21 that it wouldn't be a penalty, it would just be a natural  
22 effect that you have to take the time to actually speak to  
23 those other agencies once the application has come in. So,  
24 it would just be a natural process and nothing intentional.

25           CHAIRPERSON DOUGLAS: So, applicants who, for

1 example, decide not to take the time to do everything up  
2 front that the REAT Agencies would recommend that they do in  
3 order to move the process faster, because they want to get  
4 in line at BLM because it's a first-come, first-served  
5 process, and that's a pretty obvious incentive to get your  
6 application in quickly, as soon as you have a pretty good  
7 inkling that you want to build a project in a certain place,  
8 wouldn't be penalized aside from the natural consequences of  
9 having then to take steps that might have been taken prior  
10 to entering the process?

11 MS. BICKEY: Correct.

12 CHAIRPERSON DOUGLAS: Now, so Mr. White suggested  
13 what really almost sounded like a formatting change, that  
14 you take the pre-application guidance, and put it in a  
15 different chapter, and don't call it a BMP.

16 And let me just ask you, is the pre-application  
17 guidance, or the BMP, is anything more mandatory than  
18 anything else as you consider the document?

19 MR. O'BRIEN: Well, once again, I guess I would  
20 just emphasize the word "guidance." So, I don't think  
21 there's anything mandatory in there, it's just providing  
22 information to developers that we think, if they look at  
23 that, will help them understand how to develop an  
24 application and move through the review process as  
25 efficiently and expeditiously as possible.

1           And, you know, it obviously raises issues that  
2 they should be concerned with. It's not going to be used by  
3 the agencies to say, well, you filed this application and  
4 you didn't do certain things, or you filed, you know, an  
5 application in a certain area and we told you that would  
6 have, you know, problems and, therefore, you're out of luck.

7           You know, it's simply trying to lay out for  
8 developers issues for them to consider closely, if they want  
9 to move through the process as efficiently as possible.

10           And, obviously, it's going to improve their  
11 chances for having a affirmative decision by the agencies.  
12 But in no way will the agencies penalize any developer if --  
13 if, in fact, they choose not follow these -- you know, this  
14 guidance.

15           CHAIRPERSON DOUGLAS: Let me ask --

16           MR. O'BRIEN: And I don't think one part of the  
17 document is -- you know, there's a difference in terms of,  
18 you know, do this more so than something else.

19           CHAIRPERSON DOUGLAS: Okay. Are there any other  
20 questions about the pre-application advice before I ask a  
21 question on another topic? No, okay.

22           Okay, do they want to speak or are they just on  
23 the phone? All right. Okay, they both want to speak.

24           All right. Before I switch to another topic, I  
25 understand there are two other people on the phone who would

1 like to speak.

2 Kevin Emmerich, are you on the phone?

3 All right. Arthur Haubenstock, are you on the  
4 phone?

5 MR. HAUBENSTOCK: We very much appreciate the  
6 interim nature of this guidance and would ask that the  
7 Commission make absolutely clear that this is intended as  
8 interim.

9 As one of the few projects that has actually  
10 commenced construction, we are painfully aware and  
11 pleasantly aware of how much we're learning by doing. And I  
12 think it's important to take stock here and to recognize  
13 that we are, first, now learning how to really best manage  
14 the application process, the actual implementation of these  
15 projects, and how to manage them and operate them going  
16 forward.

17 And for -- it's a little bit concerning to adopt  
18 what is termed "best management practices" at a point where  
19 we're first beginning to gather the experience that really  
20 should be used to inform what those best management  
21 practices actually are.

22 It's helpful to have guidance. It's helpful to  
23 have some structure. But it's critically important, as BLM  
24 did, when it was talking about best management practices  
25 with its own guidance, to recognize that this guidance will

1 necessarily change going forward.

2           And that we would ask, again, of the Commission to  
3 very carefully, and direct staff to consider that as  
4 experience is being gained that these guidance may turn out  
5 not to actually be the best management practices at all, and  
6 that departure from these guidance may be absolutely  
7 appropriate and may be in the best interests for all  
8 concerned.

9           CHAIRPERSON DOUGLAS: Thank you, Mr. Haubenstock.  
10 I think those points are well taken. And I think it was Mr.  
11 White who brought up the potential circumstance of a  
12 project, you know, the general advice being try to get your  
13 project right the first time and don't make late changes,  
14 and the specific circumstance of negotiations with  
15 stakeholders, and work through the agencies actually might  
16 necessitate a big change in a project rather late in the  
17 game.

18           So, I think that the point -- the points are well  
19 taken.

20           Let me ask another question. A number of  
21 stakeholders have brought up concerns with, I think it is,  
22 let's see, the -- is it attachment number five, the  
23 attachment that includes the kind of environmental siting  
24 criteria? And as Ms. Belenky said, I think correctly, a  
25 pretty broad cross-section of the environmental community.

1           It was my sense that this addition was meant to be  
2   informative of the views of an important stakeholder  
3   constituency and not adoption of that criteria -- those  
4   criteria, necessarily by the agencies, themselves. And that  
5   was the spirit in which I interpreted that inclusion.

6           But I wanted to ask, you know, explicitly, what  
7   the REAT Agencies had in mind in including that language?

8           MR. O'BRIEN: I think the rationale was to provide  
9   potential developers with as much information as possible  
10  for their consideration as they developed applications.

11          And, clearly, the environmental groups have been  
12  major stakeholders in the regulatory proceedings and we just  
13  wanted to make that information available to developers.

14          By including it as an appendix, we in no way --  
15  the agencies are not endorsing it, but we're making it  
16  available as information.

17          CHAIRPERSON DOUGLAS: Okay. And is that clear  
18  from the way the information is presented? Okay. So,  
19  there's language in there that says this is for your  
20  information?

21          MS. LAYCHAK: Yes. Short answer.

22          We refer to that attachment on page 17 of the  
23  document, of the manual, and it says that "attachment 5" and  
24  we title it, and it says it "provides information from a  
25  broad cross-section of the environmental community."

1 CHAIRPERSON DOUGLAS: Okay. All right. One more  
2 question and then maybe a comment, and then I'll ask other  
3 Commissioners ask their questions.

4 Do you agree with Mr. White's assertion that SB  
5 348X will not apply to future projects?

6 MR. O'BRIEN: I think that depends as to whether  
7 or not the ARRA deadline is extended.

8 CHAIRPERSON DOUGLAS: Oh, okay.

9 MR. O'BRIEN: If it's extended by the Congress, I  
10 believe SB 34X would apply going forward to December 2011.  
11 But if it's not, I believe that that statement is correct in  
12 terms of its applicability ends, you know, this year.

13 CHAIRPERSON DOUGLAS: So, I guess we won't know  
14 for another week or so.

15 All right. I don't have anymore questions. I  
16 think I just have a comment.

17 You know, we've heard from stakeholders saying  
18 this document is too early and others say it's, frankly, too  
19 late. And I think there are elements of truth to both  
20 views.

21 It was too late to inform the first major wave of  
22 solar thermal projects that came through the Energy  
23 Commission, and BLM, and Fish and Game, and Fish and  
24 Wildlife Service in 20 years. And, yet, it comes at a time  
25 when we are still -- agencies, environmental stakeholders,

1 applicant stakeholders, and others, you're coming to grips  
2 with our experiences and what we've all learned from those  
3 experiences and, hopefully, going to make some sense out of  
4 what we've learned from those experiences through some  
5 public processes, such as the Energy Commission's OII, and  
6 the Department of Interior's conference, and more.

7           So, we have a lot to learn. I think Mr.  
8 Haubenstock's observation that we -- as we move forward,  
9 provided that we move forward and adopt this document today,  
10 we really need to understand that we may be looking at  
11 revisions under a shorter time frame than we might normally  
12 for a document that we would adopt because we are at the  
13 middle of -- or at the beginning, really, in an effort to  
14 learn from these projects.

15           And at the same time, I guess it's my view that  
16 it's better to have information out to guide applicants than  
17 to not have such information. And it is incumbent on us to  
18 make sure that we keep this current and keep this reflective  
19 of the best knowledge out there.

20           Commissioners, what questions do you have for  
21 staff?

22           Oh, I'm sorry, Harriet, is Kevin Emmerich  
23 available, able to speak now?

24           Kevin Emmerich.

25           MR. EMMERICH: Ma'am?

1 CHAIRPERSON DOUGLAS: Yes, is that --

2 MR. EMMERICH: We were going to comment on the  
3 Palen Solar Power Project today.

4 CHAIRPERSON DOUGLAS: All right, you're early.  
5 This is Item 10. So, please hang on the line and we'll get  
6 there.

7 MR. EMMERICH: Thank you.

8 CHAIRPERSON DOUGLAS: Commissioners?

9 COMMISSIONER BOYD: I have no questions. You've  
10 raised the couple that I had, and I have only comments, so  
11 I'll wait for that, for the questions to be exhausted.

12 COMMISSIONER WEISENMILLER: No.

13 COMMISSIONER EGGERT: I do have sort of a general  
14 question and I guess maybe I'm looking just for a very brief  
15 summary.

16 So, we did have this item was potentially going to  
17 come before us maybe ten weeks ago, or a few months ago and  
18 it was put off to accommodate more input and changes.

19 Is it possible to summarize, just very briefly,  
20 what major changes have been made as a result of that  
21 further input?

22 MS. LAYCHAK: Probably what you're alluding to is  
23 there is a three-page Errata that was attached to the  
24 notice, okay, and you'd like us to try to summarize that.  
25 Okay.

1           Mainly what we did was we added generally  
2 clarifying, just clarifying language throughout --  
3 throughout the document.

4           We also added information to add more detail about  
5 how we responded to different public comments during the  
6 entire development of the manual.

7           And, also, we did respond specifically, as a --  
8 and I'll provide a couple of examples because Nancy Rader,  
9 from CalWEA, raised a couple of specific points and we  
10 believed we had addressed the points raised in the CalWEA  
11 letter that we received after September.

12           And so, in that case, I'll just provide a couple  
13 of examples of how we responded and then we'll go from  
14 there, if you'd like more detail.

15           On page -- with respect to her comment regarding  
16 the met towers, on page seven of the manual we added a  
17 sentence at the end of the first paragraph that says,  
18 essentially, that the guidance is intended to apply to  
19 project development related applications, rather than to  
20 applications for pre-project resource and facility location  
21 assessments.

22           So, we thought we had addressed the point in the  
23 letter.

24           Also -- excuse me -- on pages 13 and 14, to  
25 respond to her comment regarding their concern that the

1 initial -- the information in the initial permitting  
2 processes may possibly encourage agencies to extend their  
3 review time for applications.

4           What we did is we added clarifying language, on  
5 pages 13 and 14, to try to address that.

6           And the clarifying language is, in the first  
7 paragraph we added a phrase to the second to the last  
8 sentence that says, essentially, before submitting permit  
9 applications to agencies, and we added the same language at  
10 the top of page 14.

11           COMMISSIONER EGGERT: So, those are helpful  
12 examples. I guess part of my reason for the question is  
13 that we're hearing from some of the stakeholders that they  
14 want more time. And I think there probably is a threshold  
15 question which is, you know, is this sufficiently well-  
16 baked. Is it, you know, more -- providing more help, in  
17 terms of a publication, at this point versus, you know,  
18 causing more concern, perhaps.

19           And I know it's sort of difficult to understand  
20 when you've passed that threshold.

21           I guess I do have some concerns, and I think most  
22 of my questions have been addressed. I do want to make sure  
23 that if we do adopt at this point that we do follow through  
24 on the commitment to continually evaluate how this is  
25 actually being applied to draw lessons from the projects

1 that are underway currently, and to make sure that we are  
2 actually providing helpful assistance and guidance to the  
3 project developers, making it actually easier for them to  
4 properly site and permit projects into the future.

5 I think I'll stop there, now.

6 COMMISSIONER BYRON: I know there are other  
7 comments, as well, I don't believe the comments from EPA  
8 have been mentioned, yet. I don't think you've probably had  
9 opportunity to include those in this Errata, have you?

10 MS. LAYCHAK: Okay. Yes, we did.

11 COMMISSIONER BYRON: Excellent.

12 MS. LAYCHAK: We --

13 COMMISSIONER BYRON: You don't have to go any  
14 further, that's fine.

15 MS. LAYCHAK: Okay.

16 COMMISSIONER BYRON: So, Mr. O'Brien, I believe  
17 there was an Executive Order that required this BMP to be  
18 produced. Is that correct?

19 MR. O'BRIEN: Yes, going back to I think November  
20 2008.

21 COMMISSIONER BYRON: And when were these  
22 guidelines supposed to be out?

23 MS. LAYCHAK: Last December.

24 COMMISSIONER BYRON: No, I was hoping Mr. O'Brien  
25 would take the heat for this answer.

1 (Laughter.)

2 MR. O'BRIEN: Last December.

3 COMMISSIONER BYRON: That's what I thought.

4 MR. O'BRIEN: Yeah.

5 COMMISSIONER BYRON: So, you know, you've been  
6 getting a lot of accolades for you and your staff, and all  
7 the hard work you've been doing this last year. I don't  
8 know what you've been doing.

9 (Laughter.)

10 MR. O'BRIEN: Commissioner Byron, let me just say  
11 in terms of that deadline, the deadline was extended, I  
12 think on a couple of occasions, to provide more opportunity  
13 for stakeholders to provide input.

14 And let me just kind of follow up on a comment  
15 that, you know, Commissioner Eggert made in terms of further  
16 opportunities.

17 I think one of the opportunities that will be  
18 available to the stakeholders will be in another item that  
19 was, you know, established in the Executive Order, just  
20 mentioned, which is the Desert Renewable Energy Conservation  
21 Plan.

22 And, of course, the DRECP has been meeting on a  
23 monthly basis, and there will be also opportunities for  
24 stakeholders at the DRECP meetings to bring up issues vis-à-  
25 vis, you know, the best management practices.

1           So, in addition to lessons learned, you know,  
2 that's going forward.

3           In addition to work that's being done by BLM under  
4 the Interior Department, in terms of their look at, you  
5 know, ways to improve the processes, there's also the DRECP.

6           So, there's multiple forums --

7           COMMISSIONER BYRON: Right.

8           MR. O'BRIEN: -- available going forward for  
9 stakeholders to provide input and for the agencies, the REAT  
10 Agencies to make changes.

11           COMMISSIONER BYRON: Okay. I'll cut to the quick.  
12 Mr. O'Brien, that was my poor attempt at being humorous. I  
13 know that you've been extremely busy. And this Commission,  
14 of course, has granted that extension.

15           But I think there's some misconceptions here on  
16 the part of the public. You've answered my primary question  
17 and that is, this is a guidance document.

18           Whether or not we adopt it here today, whether or  
19 not it incorporates all the latest comments, we've heard  
20 from the other agencies it's a living document, it will be  
21 revised.

22           We have the benefit of Commissioner Weisenmiller's  
23 OII that he's created on lessons learned, that will come  
24 into play here.

25           Regardless of when all that gets in and whether we

1 adopt it, this information is being used, these best  
2 management practices, by your staff, by everyone to help  
3 inform our understanding of how to go about permitting these  
4 projects in the most expeditious way we can, and  
5 implementing compliance towards construction, et cetera, et  
6 cetera.

7 That's not going to stop. What we're trying to do  
8 is put this in writing. These are not underground  
9 regulations, these are guidance. And I think we've spent  
10 entirely too much time on this today.

11 I'm prepared to vote for this item.

12 CHAIRPERSON DOUGLAS: Thank you, Commissioner  
13 Byron.

14 Is there any other comments?

15 COMMISSIONER BOYD: Well, let me join Commissioner  
16 Byron somewhat, although I'm glad you clarified your  
17 compliment to the staff. I was ready to give you the Grinch  
18 award here for a minute.

19 (Laughter.)

20 COMMISSIONER BOYD: But where I'm coming from is,  
21 you know, having heard words like delay, pause, damage will  
22 be done, and the reasons for some people's feelings for  
23 making those recommendations, I weigh that against, and this  
24 is going to be a little repetitive, I think of where others  
25 are finding themselves, the emphasis on guidance, the

1 emphasis on it's a living document, the emphasis on lessons  
2 learned.

3           And I was pleased and much taking into account Ms.  
4 Belenky's comments. She's right, we've seen her clinging to  
5 many pillars and posts as we sit in this room or others,  
6 multiple hearings, and lots of lessons learned have gone on  
7 all these months on the subject, and I appreciate her  
8 recommendations.

9           I think her point about guidance is guidance, and  
10 project-specific criteria can be applied as you deal with  
11 each individual project. And if the guidance doesn't fit,  
12 that will be appropriately noted and taken into account.

13           I think I agree with what I believe Commissioner  
14 Byron is saying is that without action today things will  
15 continue to move, being guided by the same criteria that  
16 exists today, it just isn't documented anywhere, and  
17 everyone is still of a mind they're going to be absorbing  
18 lessons from the lessons learned exercise, or even OII, and  
19 that will be assimilated into the process.

20           But being a living document, the document can be  
21 changed.

22           So, I think it's better to at least publish the  
23 rules of the game that exist, that have come together over a  
24 substantial period of time, with the full acknowledgment of  
25 everybody that this is a living document and we're still

1 designing the game.

2           So, it's not like my favorite pet peeve of  
3 changing the rules of baseball when you're in the middle of  
4 the game, this is a game yet to be totally defined.

5           So, I'm prepared to join with at least  
6 Commissioner Byron in supporting the adoption of this  
7 document today, so we can move on.

8           CHAIRPERSON DOUGLAS: Thank you.

9           Commissioner Weisenmiller?

10           COMMISSIONER WEISENMILLER: Yeah, I'm going to  
11 move this item and let me explain my reasons. First, this  
12 is a document that reflects the partnership we've had with  
13 the other agencies. And it certainly reflects their input  
14 and experience, some of which is more substantial than  
15 others in some of these areas, and at the same time it's  
16 important to them.

17           I mean, certainly, Steve Black has asked me -- or  
18 to the extent they are relying on this in the Solar PEIS,  
19 they've asked us to get this done. And so, I think it's  
20 incumbent on us to move on this.

21           In terms of it's obviously, as I've indicated in  
22 the past, we haven't found a perfect power plant, this is  
23 not a perfect BMP by any means.

24           But I think it's time to move forward. I think on  
25 the delay, as you recall a number of the organizations

1 requested that we delay, back in the fall, because of all  
2 the workload that they were undergoing and all the workload  
3 that we were undergoing. We gave them that delay.

4           The current refrain is why not wait for the  
5 lessons learned to work through. And I'm afraid, frankly,  
6 if we tie it to that, the next refrain will be to wait for  
7 the DRECP to be done.

8           And so, I think it's important to get out a living  
9 document. It's certainly not perfect, but to get it out and  
10 to provide guidance.

11           Because I think one of the lessons we have learned  
12 is that it's important to provide the guidance on what  
13 really makes a good application, what really makes a good  
14 project.

15           Now, these are imperfect, but they're better than  
16 nothing there.

17           I think what we've found is some of our most  
18 difficult projects were ones where, in fact, you know, they  
19 came in, we marched through them and then we found that they  
20 were not good locations and we had to spend a lot of time  
21 cleaning things up, and trying to figure out ways of  
22 mitigating those.

23           So, I think, certainly, the refrain from our  
24 environmental friends is that it's time to be more smart  
25 from the start. And I think this document provides at least

1 some ways people can do that.

2 I know we've also heard about Smart Grids, Smart  
3 Meters, and we've found some failings in some of our -- the  
4 utilities, in terms of how smart they were. But if we can  
5 get smarter developers out of this process, that will help  
6 all of us and presumably make things move more efficiently  
7 and effectively.

8 Again, I think it's time to move on. I think, you  
9 know, the example people use a lot is the ISO in a  
10 connection queue.

11 Those of us on this side of the dais remembered  
12 when we were in cases in June, getting the interconnection  
13 studies, and then trying to figure out how to deal with it  
14 at that stage.

15 And certainly if -- and I realize the ISO has it's  
16 own process and you have to fit that timing. But if we had  
17 gotten that information in a much more timely fashion, these  
18 cases would have been much easier.

19 So, again, in terms of lessons learned, certainly  
20 the message to the development community is that these  
21 things have to be interconnected, and that has to be part of  
22 the siting process. So, trying to nail that down sooner, as  
23 opposed to later, is very, very important.

24 So, I think, anyway, with that I'm definitely  
25 moving this item.

1 CHAIRPERSON DOUGLAS: Thank you, Commissioner  
2 Weisenmiller.

3 Do we have a second?

4 COMMISSIONER BYRON: Second.

5 CHAIRPERSON DOUGLAS: All in favor?

6 (Ayes.)

7 CHAIRPERSON DOUGLAS: Item 10 is approved.

8 COMMISSIONER BYRON: Madam Chair, if I may? Just  
9 so I'm clear, Mr. O'Brien, if I was handing out awards for  
10 government service, you would get the highest award. I have  
11 the highest regard for you and your staff, and what they've  
12 done this year. And I'd also like to thank the other  
13 agencies for just being here and sitting through all this.  
14 No, more than that, thank you very much for your cooperation  
15 on all this, too. I hope this document's helpful.

16 COMMISSIONER WEISENMILLER: Yeah, and I'll second  
17 what you said.

18 CHAIRPERSON DOUGLAS: All right. Well, thank you  
19 very much.

20 Item 11, Locally Adopted Building Energy  
21 Standards. Possible approval of locally adopted building  
22 energy standards to require greater energy efficiency than  
23 the 2008 Building Energy Efficiency Standards.

24 Mr. Loyer?

25 MR. LOYER: Chairman, Commissioners, nice to be

1 back.

2 CHAIRPERSON DOUGLAS: Oh, and I'm sorry, we're  
3 only taking up Item 11-e and f.

4 MR. LOYER: Yes, that's correct.

5 The County of Santa Clara ensures that residential  
6 and non-residential newly constructed buildings, and  
7 additions, and alterations to existing buildings under their  
8 jurisdiction will achieve 15 percent exceedance of the State  
9 standard.

10 Santa Clara will achieve these energy efficiency  
11 improvements by requiring certification with a green point  
12 rated design by Build it Green, and leadership in energy and  
13 environmental design lead developed by the U.S. Green  
14 Building Council.

15 Staff has reviewed this ordinance and has  
16 determined that it complies with all necessary requirements  
17 of Title 24, part 1, section 10106, and recommends the  
18 application be approved and the Energy Commission Resolution  
19 be signed.

20 CHAIRPERSON DOUGLAS: Okay. Thank you. Anything  
21 else?

22 MR. LOYER: You want to do them both or you want  
23 to take them individually?

24 CHAIRPERSON DOUGLAS: Let's take them together.

25 MR. LOYER: Okay.

1 COMMISSIONER BYRON: So, Mr. Loyer, 6 dropped off  
2 the agenda. Will we see them, again?

3 MR. LOYER: Yes, December 29<sup>th</sup>.

4 COMMISSIONER BYRON: Thank you. Madam Chair, I'd  
5 move approval of Items 11-e and f.

6 COMMISSIONER EGGERT: I'll second that and just  
7 note another good example of local government leadership on  
8 efficiency.

9 CHAIRPERSON DOUGLAS: Thank you. We have a motion  
10 and a second.

11 All in favor?

12 (Ayes.)

13 CHAIRPERSON DOUGLAS: Item 11's approved.

14 Thank you, Mr. Loyer.

15 MR. LOYER: Thank you.

16 CHAIRPERSON DOUGLAS: Item 12, Electricity Demand  
17 Forecasts. Possible approval of proposed Forms and  
18 Instructions for electricity demand information prepared in  
19 support of the 2011 Integrated Energy Policy Report.

20 Mr. Fugate?

21 MR. FUGATE: Thank you, Chairman. Good morning,  
22 Commissioners.

23 My name is Nick Fugate, with the Demand Analysis  
24 Office, and I'm here requesting that the Energy Commission  
25 adopt the December 2010 version of the Forms and

1 Instructions for electricity demand forecasts.

2           As you're all aware, the Energy Commission  
3 regularly assesses all aspects of energy demand and supply  
4 in California. These assessments serve as a foundation for  
5 the analysis conducted for the policy recommendations made  
6 as part of the Integrated Energy Policy Report.

7           And the item before you is one such assessment.  
8 The Forms and Instructions request electricity demand  
9 forecasts, demand side management impacts, economic and  
10 demographic projections, and other related information from  
11 load-serving entities with annual peak demand greater than  
12 200 megawatts.

13           This data will allow staff to consider a broad  
14 range of trends and perspectives as we prepare our own  
15 demand forecast.

16           The Forms and Instructions have been reviewed by  
17 stakeholders. The Energy Commission hosted a staff workshop  
18 on October 14<sup>th</sup> of this year to present and discuss the  
19 forms. Staff received some helpful comments from the  
20 utilities and we were able to revise the forms to reflect  
21 those comments.

22           Once approved, staff will issue the final version  
23 of the Forms and Instructions to the LSEs. Responses will  
24 be due April 15<sup>th</sup>, prior to the release of our own  
25 preliminary forecast.

1           Between now and then staff will be in contact with  
2 utility forecasters, primarily through the Demand Analysis  
3 Working Group, which is a regular meeting of State agencies,  
4 utilities, and other interested parties who wish to share  
5 information and discuss issues related to demand  
6 forecasting.

7           So, thank you. I'd be happy to answer questions.

8           CHAIRPERSON DOUGLAS: Thank you.

9           Commissioners?

10          COMMISSIONER EGGERT: Just maybe one very brief  
11 question. Does the information provided allow us to -- from  
12 the parties, allow us to give an estimate or provide an  
13 estimate of sort of upper and lower bounds of what they  
14 think the demand will be? Do they give ranges or are they  
15 giving sort of point estimates?

16          MR. FUGATE: We are requesting a most likely  
17 scenario for their demand forecasts. But our staff will be  
18 conducting a scenario analyses.

19          COMMISSIONER EGGERT: Okay, thank you.

20          So, I'll move the item.

21          COMMISSIONER WEISENMILLER: Yeah, I was going to  
22 say this item has gone through the Electricity and Natural  
23 Gas Committee and, certainly, both of us agree that this is  
24 a comfortable item. So, I'd also second.

25          CHAIRPERSON DOUGLAS: All in favor?

1 (Ayes.)

2 CHAIRPERSON DOUGLAS: Item's approved.

3 MR. FUGATE: Thank you.

4 COMMISSIONER BYRON: Mr. Fugate, you've given our  
5 investor-owned utility friends another reason to hate April  
6 15<sup>th</sup>.

7 (Laughter.)

8 MR. FUGATE: Well, I think, I'm pretty sure it was  
9 their idea so --

10 CHAIRPERSON DOUGLAS: Item 13, Electricity  
11 Resource Plans. Possible approval of proposed Forms and  
12 Instructions for electricity supply information in support  
13 of the 2011 Integrated Energy Policy Report.

14 Mr. Woodward.

15 MR. WOODWARD: Good morning, Madam Chair,  
16 Commissioners. I'm Jim Woodward and I serve in the  
17 Electricity Supply Analysis Division.

18 For the 2011 IEPR the 2009 supply forms were  
19 modified only slightly.

20 In September, staff provided draft forms and  
21 instructions to all load-serving entities from whom we  
22 expect filings next year.

23 Based on their comments, the biggest change has  
24 been to extend the due date to April 29<sup>th</sup>, next year.

25 The November 19<sup>th</sup> staff workshop was brief and went

1 well. Southern California Edison Company provided the only  
2 comments during the workshop and afterwards.

3 Staff believes the concerns have been addressed to  
4 everyone's satisfaction.

5 The 2009 supply forms, adopted by this Commission,  
6 were used to assess long-term supply trends in utility  
7 ownership, development of new renewable resources, and the  
8 plans of publicly-owned utilities to remain resource  
9 adequate.

10 We expect the 2011 supply forms will be similarly  
11 useful and will also provide information on an assessment of  
12 infrastructure needed in local reliability areas,  
13 particularly in Southern California.

14 Staff is pleased to present, for your approval,  
15 these forms and instructions for submitting electricity  
16 resource plans in support of the 2009 IEPR.

17 CHAIRPERSON DOUGLAS: Thank you.

18 COMMISSIONER WEISENMILLER: Okay. Once more, I  
19 just want to indicate that these have gone through the  
20 Electricity and Natural Gas Committee and approved -- and  
21 are approved by the Committee.

22 And so, I'd move it.

23 COMMISSIONER BYRON: And I will second it.

24 CHAIRPERSON DOUGLAS: All in favor?

25 (Ayes.)

1 CHAIRPERSON DOUGLAS: The item's approved. Thank  
2 you.

3 MR. WOODWARD: Thank you.

4 CHAIRPERSON DOUGLAS: Item 14, Subpoena to  
5 California Independent System Operator. Possible approval  
6 of a Commission-issued subpoena to the California  
7 Independent System Operator Corporation for confidential  
8 data on the inertia provided by generation resources in the  
9 interconnection queue.

10 Ms. Holmes.

11 MS. HOLMES: Thank you and good morning.

12 As you just noted, the subpoena before you is one  
13 that would require the Cal-ISO to provide, to the Energy  
14 Commission, data about inertia that is in turn provided to  
15 the ISO by prospective generators.

16 This information is needed to assess potential  
17 reliability implications associated with the statewide water  
18 quality policy on the use of coastal and estuarine waters  
19 for power plant cooling that was recently adopted by the  
20 State Water Resources Control Board.

21 You may remember that you approved a subpoena in  
22 June of this year for other generation-related data, and you  
23 may also be aware that the ISO has recently indicated that  
24 some information that we used to be able to obtain  
25 informally will not be required to be provided pursuant to a

1 subpoena.

2           The ISO was provided a copy of the subpoena, has  
3 indicated no concerns with providing the data, as long as  
4 the formal subpoena process is completed.

5           The Electricity and Natural Gas Committee has also  
6 indicated that the subpoena is appropriate, that this  
7 information is needed for purposes of the assessment.

8           Because of this change in the ISO process, it's  
9 possible that there will be a need for the Commission to  
10 adopt more subpoenas for information that we used to be able  
11 to obtain informally.

12           The staff will be investigating trying to  
13 consolidate information requests, as well as exploring with  
14 the committees the potential for having committees indicate  
15 their approval of the subpoenas and then simply placing them  
16 on the consent calendar. And, hopefully, that will make  
17 this process go a little bit faster.

18           But for today it's a discussion item and I'm  
19 available, and Ivin Rhyne, of the Electricity Office, is  
20 also available to answer any questions that you may have.

21           COMMISSIONER BOYD: So, Ms. Holmes, this is  
22 another one of these "friendly subpoenas" we've gotten used  
23 to dealing with through the years?

24           MS. HOLMES: It is. And as I said, I believe that  
25 there will be more because of change in the ISO process.

1 COMMISSIONER BOYD: Thank you.

2 COMMISSIONER BYRON: A question, if I may.

3 Commissioner Boyd asked the first half of the question I was  
4 going to ask, so I'll turn to our Chief Counsel here, unless  
5 Ms. Holmes is going to take this one up.

6 You had indicated consent calendar in the future.  
7 Is it possible, since these are really rote, to a great  
8 extent, in order to fulfill, I believe, FERQ obligations  
9 that the ISO might have, can we empower the Chairman of the  
10 Electricity and Natural Gas Committee, going forward, to  
11 make these subpoenas, such that we don't have to go through  
12 this cycle of bringing it to a full business meeting?

13 MS. HOLMES: Both the Warren Ahlquist Act and our  
14 implementing regulations do provide committees with the  
15 authority to issue subpoenas, as long as that authority has  
16 been identified in the orders that delegate the Commission's  
17 powers to committees.

18 However, it raises concerns about the Open  
19 Meetings Act requirements and I don't think that we would  
20 like to get into a situation where we need to be concerned  
21 about complying with Open Meeting Acts requirements for  
22 committee meetings.

23 And, therefore, we came up with a compromise  
24 approach or would like to discuss a compromise approach.

25 COMMISSIONER BYRON: And I'm not suggesting

1 committee meeting, but I'll respond to that in a second.

2           Go ahead, Mr. Levy, you wanted to add something to  
3 this?

4           GENERAL COUNSEL LEVY: Well, in terms of consent,  
5 there's no reason we can't place it on consent if there's no  
6 need for a discussion amongst the Commission or  
7 stakeholders.

8           COMMISSIONER BYRON: Because I think we're getting  
9 wrapped up around the axle here a little bit. This is the  
10 ISO that's requiring us to do this.

11           But if you look at what these requests are, this  
12 information is almost all publicly available information in  
13 the first place, and we're working to try and get this in a  
14 timely way so that we can do the business of the State.

15           And I just -- I'm looking for ways to get things  
16 off the business agenda that are completely unnecessary,  
17 that's all.

18           MS. HOLMES: In this instance, this information is  
19 not publicly available. But, certainly, staff will commit  
20 to making sure that we don't -- making sure that we don't  
21 bother the Commission with requests for information that is  
22 otherwise capable of being attained. So, we will make that  
23 commitment to you.

24           COMMISSIONER BYRON: I'm sorry --

25           MS. HOLMES: But in this instance, it's not

1 publicly available.

2 COMMISSIONER BYRON: -- you are correct, it is not  
3 publicly available.

4 What I mean to say is that there's really nothing  
5 secret or proprietary about this information. These are  
6 ranking orders of dispatch.

7 And I suspect -- all I'm trying to say is I  
8 certainly would be fine empowering a single Commissioner, if  
9 we have that authority, or if we can do so in the future to  
10 get this information in a more timely way.

11 GENERAL COUNSEL LEVY: We'll look into your  
12 delegation authority on that.

13 CHAIRPERSON DOUGLAS: So, do we have a motion?

14 COMMISSIONER WEISENMILLER: I was going to  
15 mention, this has gone through the Committee, the Committee  
16 certainly thinks it's an appropriate subpoena, and so I'd  
17 move it.

18 COMMISSIONER BYRON: Second.

19 CHAIRPERSON DOUGLAS: All in favor?

20 (Ayes.)

21 CHAIRPERSON DOUGLAS: The subpoena, the item is  
22 approved.

23 Item 15, Renewables Portfolio Standard Eligibility  
24 Guidebook, Fourth Edition. Possible approval of the  
25 "Renewables Portfolio Standard Eligibility Guidebook, Fourth

1 Edition.”

2 Ms. Zocchetti.

3 MS. ZOCCHETTI: Thank you. Good morning,  
4 Commissioners. I’m Kate Zocchetti, with the Renewable  
5 Energy Office.

6 I’d like to present an overview of the main  
7 revisions to the “Renewables Portfolio Standard Eligibility  
8 Guidebook” being proposed today for possible adoption.

9 Senate Bill 1078 established the RPS in 2002 and  
10 directs the Energy Commission to determine eligibility for  
11 the RPS.

12 In response to this directive, the RPS Eligibility  
13 Guidebook was developed to provide the eligibility  
14 requirements and the process for certifying renewable  
15 resources as eligible for California’s RPS, and to describe  
16 how the Energy Commission verifies Compliance with the RPS.

17 Once the Energy Commission approves revisions to  
18 this guidebook at a publicly noticed meeting, the changes  
19 take place immediately.

20 The current version of the RPS Eligibility  
21 Guidebook was adopted by the Commission in December 2007.

22 The revisions to the Guidebook being proposed  
23 today are a result in changes in law since that time, CPUC  
24 decisions, the transition to WREGIS for RPS tracking, and  
25 ongoing work to clarify the guidelines based on lessons

1 learned and stakeholder input.

2           The staff released the first draft of the proposed  
3 changes in August, in preparation for a workshop which was  
4 held on August 30<sup>th</sup>.

5           Staff incorporated party comments and under the  
6 guidance of the Renewables Committee released a Committee  
7 draft on November 19<sup>th</sup>, with the expectation of possible  
8 adoption at the December 1<sup>st</sup> business meeting.

9           However, to allow time to address additional  
10 public comments received in response to that Committee  
11 draft, consideration of the Guidebook revisions was  
12 postponed until today.

13           The proposed Guidebook revisions presented today  
14 incorporate changes to address the additional comments  
15 received after release of the Committee draft Guidebook.

16           Before I summarize the main revisions, I'd like to  
17 mention the following issues that are noted in the  
18 Guidebook, however, they are not being addressed until we  
19 have a future Guidebook revision process.

20           The first is that new legislation was passed this  
21 year that is not being implemented in these proposed  
22 Guidebook revisions.

23           Some of these new laws require the CPUC to have  
24 proceedings before the Energy Commission can implement its  
25 eligibility rules for the RPS, while other laws will require

1 additional public proceedings to gather more extensive  
2 stakeholder input.

3           For example, Assembly Bill 1954 requires the  
4 Energy Commission to set the de minimus quantity of fossil  
5 fuel used at an RPS facility at two percent, and still to  
6 count 100 percent of its generation as RPS eligible.

7           However, it permits the Energy Commission to  
8 adjust this de minimus quantity to a maximum of five percent  
9 if certain conditions are satisfied.

10           Before the Energy Commission can implement  
11 Assembly Bill 1954 these criteria must be developed, along  
12 with the process for facilities to seek greater than two  
13 percent de minimus fossil fuel use.

14           Another issue is that as part of our workshop on  
15 the Guidebook revisions we sought public input on the use of  
16 municipal solid waste as a potential biomass feedstock for  
17 purposes of RPS eligibility.

18           Additional work will be required to further  
19 explore the complexities of this issue in consultation with  
20 CalRecycle and other interested stakeholders.

21           Also, customer side renewable distributed  
22 generation facilities remain ineligible for the RPS until  
23 the CPUC adopts a decision authorizing tradable renewable  
24 energy credits for the RPS and the Energy Commission adopts  
25 revisions to this Guidebook to incorporate those changes.

1           Lastly, although the Air Resources Board recently  
2 adopted regulations for the renewable electricity standard  
3 for 33 percent renewables by 2020, the Energy Commission  
4 staff must continue working with the ARB and CPUC staff, as  
5 we have been doing, and as the ARB finalizes these  
6 regulations so that the agencies can determine their  
7 respective roles in implementing the RES.

8           So, while we mentioned these issues in the  
9 Guidebook, we have not implemented these provisions in this  
10 Guidebook.

11           So, I'd like to briefly summarize the high level  
12 issues that are our proposed revisions.

13           COMMISSIONER BYRON: Ms. Zocchetti, if I may, are  
14 the revisions you're going to highlight the differences  
15 between the December 1 version, that we may have all read,  
16 and the one that's before us now?

17           MS. ZOCCHETTI: I was planning to just highlight  
18 all the revisions in totality, but I can do the latter if  
19 that would work.

20           CHAIRPERSON DOUGLAS: Why don't you do the latter.

21           MS. ZOCCHETTI: Okay. So, this is a summary of  
22 the changes we have made subsequent to the first staff draft  
23 Eligibility Guidebook.

24           The first is in 1-B-II, under customer side  
25 renewable distributed generation. We were just asked to

1 clarify that a sentence concerning ratepayer-funded  
2 incentives, under the RPS -- we were asked to clarify that  
3 those are those that fall under Senate Bill 32 tariff.  
4 That's what we meant to say, and I can read the paragraph if  
5 you like, but we just clarified that those were under that  
6 bill.

7 Under the Biogas Section we added that what is  
8 required to be included in green attributes, so that for  
9 biogas, for example, these attributes are conveyed, along  
10 with the biogas, to the renewable electric generating  
11 facility, such that the REC is whole and eligible for the  
12 RPS.

13 We made just a clarification under Municipal Solid  
14 Waste to site a revision in the statute to correct the  
15 number of the code.

16 We added, pursuant to public comment, that multi-  
17 jurisdictional facilities, with procurement that is claimed  
18 for California and another state, are not automatically  
19 required to retire their REC, like we do for all the other  
20 QFs. Under the statute it's required that QF RECs go  
21 automatically to the retail seller and be retired for their  
22 RPS.

23 And so, there's a provision in WREGIS that helps  
24 us implement that part of the law. However, Pacific Corp  
25 came to us and said that because they cannot know until the

1 end of the year what their allocation will be for California  
2 -- California's RPS, because they also participate in other  
3 states, excuse me, we allow them to kind of delay that  
4 automatic retirement until they know that information, if  
5 that makes sense.

6 Another change was just to put that information in  
7 the WREGIS instructions, in Appendix A.

8 I don't know how much detail you want, I do have  
9 several more pages.

10 CHAIRPERSON DOUGLAS: Why don't you keep it high  
11 level, we've all looked at this.

12 MS. ZOCCHETTI: All right. We added that a letter  
13 could come from CalRecycle regarding municipal solid waste  
14 facilities, as a way they can demonstrate they're meeting  
15 their CalRecycle requirements.

16 We did add another clarification that out-of-state  
17 facilities can see if they meet certain limiting thresholds,  
18 such that they might not need to present a whole, very large  
19 documentation that they meet California's LORS ordinances,  
20 regulations and standards, and we just clarified that up  
21 from earlier in the Guidebook.

22 We found out that there are there NERC E-tag  
23 summary reports available in WREGIS that we weren't aware of  
24 before, so we included that as a requirement to be submitted  
25 to the Energy Commission as part of our RPS verification

1 process.

2           So, several of these are just to incorporate that  
3 same information in several sections in the Guidebook.

4           The other change was that we initially had deleted  
5 a section -- oh, I'm sorry, that's in the overall Guidebook,  
6 that's the next item.

7           I think that's the sum of the high level issues.

8           CHAIRPERSON DOUGLAS: All right, thank you. We  
9 have three --

10           MR. HERRERA: Chairman Douglas, if I could make  
11 just a quick comment. What --

12           CHAIRPERSON DOUGLAS: Mr. Herrera, how could I  
13 have forgotten?

14           MR. HERRERA: Gabriel Herrera, with the  
15 Commission's Legal Office.

16           What the Commission is considering for adoption  
17 today include not only those items that Ms. Zocchetti just  
18 summarized, but the items that were addressed and included  
19 in the Renewables Committee notice that was published on  
20 November 19<sup>th</sup>.

21           So, what Kate just -- Ms. Zocchetti just named off  
22 were those additional changes that were made on top of the  
23 Committee proposed changes on the 19<sup>th</sup>, and these additional  
24 changes were made as a result of comments, public comments  
25 that we received since the Committee's November 19<sup>th</sup>

1 Guidebook.

2           So, the Commission is -- what it has before it is  
3 a Guidebook that includes all these proposed changes.

4           CHAIRPERSON DOUGLAS: Thank you.

5           MS. ZOCCHETTI: In addition, however, we do have a  
6 few staff proposed Errata --

7           CHAIRPERSON DOUGLAS: Okay.

8           MS. ZOCCHETTI: -- since the last Guidebook went  
9 out. These are just, are conforming and nonsubstantive  
10 changes that we have not yet posted to the website, but we  
11 did provide copies on the table, and we have copies before  
12 you.

13           CHAIRPERSON DOUGLAS: Thank you.

14           MS. ZOCCHETTI: Would you like me to read those  
15 into the record?

16           CHAIRPERSON DOUGLAS: No, thank you.

17           All right. So, we have three members of the  
18 public who would like to speak on this item.

19           Michael Theroux, are you here?

20           MR. THEROUX: Good morning. Michael Theroux,  
21 JDMT. I'll keep this brief.

22           But first, to commend excellent work on the  
23 development of the proposed guidelines.

24           I'll focus specifically on Section 46.2.1 and on  
25 3, below that.

1           The clarification and reinterpretation of the  
2 piece of law that we're working with here regarding  
3 municipal solid waste is an excellent management of what we  
4 have to work with.

5           The provision for -- in number 1, for a two-step  
6 process, does three things and they aren't obvious.

7           First, for those who are trying to permit, in the  
8 context of CalRecycle, this allows that the conversion  
9 retort be separated from whatever you do with the product.

10           And let's just focus on, as we would for hazardous  
11 waste containment, the berm, if you will, the bright line  
12 around the retort, itself.

13           Secondly, the -- in the context of separation, in  
14 the European standards what we saw was that there needs to  
15 be an ability to interrupt and interpret what the  
16 characterization of the syngas or the byproducts are in  
17 order to get a feedback mechanism that will allow us to  
18 modify that and clean it, if necessary.

19           You can't do that with a direct combustion  
20 straight through, too close coupled. So, this is a subtle,  
21 but very critical interpretation.

22           And, thirdly, the -- it allows us to identify the  
23 syngas as a product, which is very critical for how we  
24 market that management. I applaud the sensitivity to the  
25 issue.

1           There's a minor clarification on the last line of  
2 this section that I would add in the paragraph, in addition  
3 to certification.

4           You've added C, Section 3. I would say see  
5 Section 3 certification process, and part C. I found it all  
6 over the place for that last piece. So, there's a two-step  
7 process there, within the Appendix B, if you see what I'm  
8 saying on that?

9           MS. ZOCCHETTI: I think we mean it's not --

10          MR. THEROUX: See Section 3, certification  
11 process, C, additional requirement information. Okay?

12          MS. ZOCCHETTI: Oh, I see. Yes, thank you.

13          MR. THEROUX: Just a little clarification on that.

14          MS. ZOCCHETTI: I see.

15          MR. THEROUX: And the work in that appendix to tie  
16 back to the permitting process at CalRecycle is well-  
17 handled, as well.

18           But all in all that's my comments for today.

19 Thank you very much for the work you've done.

20          CHAIRPERSON DOUGLAS: Well, thank you very much.

21 Thanks for your comments, thanks for being here.

22           Now, let's see here, Danielle Osborn Mills, are  
23 you here?

24          MS. OSBORN MILLS: Good morning, Commissioners.

25 I'm Danielle Osborn Mills, with the Center for Energy

1 Efficiency and Renewable Technologies.

2 CERT greatly appreciates the hard work of the  
3 staff and the Commissioners in updating the RPS Eligibility  
4 Guidebook, particularly the attempts to reflect recent  
5 events and proposed decisions at the Public Utilities  
6 Commission to authorize tradable renewable energy credits.

7 I just want to make one additional formal request  
8 for some interagency coordination here.

9 Commissioner Byron, early in the meeting, asked  
10 whether MOUs are required for better coordination, and we  
11 certainly appreciate the sentiment that such coordination  
12 should not require a formal agreement.

13 But given the uncertainty surrounding the topic of  
14 out-of-state delivery in tradable renewable energy credits,  
15 and the multiple venues for these discussions, CERT strongly  
16 recommends that the CEC, in coordination with the Public  
17 Utilities Commission and Air Resources Board, hold a public  
18 meeting to resolve and address some of the apparent  
19 conflicts between the recent modifications to Decision 10-  
20 03-021 at the PUC, the CEC's Eligibility Guidebook, and the  
21 AIRB's 33 percent renewable electricity standard.

22 We feel that uniformity and certainty within the  
23 rules are paramount for RPS procurement and to achieving  
24 California's ambitious renewable energy and climate goals,  
25 and we believe that some public discussion is necessary in

1 order to resolve these conflicts.

2 Thanks.

3 CHAIRPERSON DOUGLAS: Thanks for your comments.

4 COMMISSIONER BYRON: Madam Chair, I have no  
5 problem committing this Commission to having a public  
6 meeting on that subject after January of next year.

7 CHAIRPERSON DOUGLAS: Thank you, Commissioner  
8 Byron.

9 (Laughter.)

10 COMMISSIONER BOYD: Excuse the laughter,  
11 Commissioner Byron's history come then and he won't be  
12 encumbered with this responsibility.

13 I've got two cards for people who would like to  
14 speak on Items 15 and 16. If you'd like to make that  
15 comment now, as opposed to at the end of Item 16, please  
16 come forward. Otherwise, we'll take you up at the end of  
17 Item 16.

18 All right. We have two people we're waiting for,  
19 for Item 16.

20 Commissioners, Renewables Committee, questions,  
21 comments?

22 COMMISSIONER BOYD: Yeah, let me speak for the  
23 Renewables Committee, first, and just repeat the well-worn  
24 phrase that this item has been reviewed and is recommended  
25 to you by the Renewables Committee, myself and Commissioner

1 Weisenmiller.

2 I do want to say thanks to the staff for the work  
3 that has gone into this effort. And in light of the lengthy  
4 discussion of another guidance document earlier today, I  
5 think a lot of what we heard there applies here, now, for  
6 better or for worse.

7 This was delayed a couple of times to receive more  
8 comments. We've had appeals or suggestions to delay further  
9 to absorb even more things that are happening.

10 And I think this, too, is becoming a living  
11 document. I think the Committee and staff reached the  
12 conclusion let's get this out and immediately take into  
13 consideration the other points that keep flowing in.

14 And, admittedly, with the ever-accelerating pace  
15 of everything and things that are happening in this State,  
16 it will become kind of a real-time review effort, not an  
17 every-once-in-a-while-it's-time-to-catch-up.

18 So, with that understanding that there are issues,  
19 as indicated, that need to be explored and the staff has  
20 indicated they are, indeed, exploring them, one can expect  
21 to revisit this Guidebook in the not too distant future with  
22 other changes. And Lord knows, that may just continue on  
23 into the future as California works on its electricity, and  
24 waste, and natural gas/renewable natural gas processes.

25 But in any event, we do recommend approval. The

1 CERT witness brought up the uniformity and certainty desire.  
2 I think that's a good point. I think we recognize the need  
3 for the ARB, the PUC, and the CEC to work pretty closely on  
4 issues that are so intertwined, such as carrying out the  
5 Renewable Energy Standard Program, TRECs, everything that  
6 we're all involved in that affects renewables and the  
7 renewable portfolio/renewable energy standard work that  
8 we're engaged in.

9 So, enough said. I'll move approval, but there  
10 may be more questions and discussion.

11 MR. HERRERA: Chairman Douglas, if I could just  
12 say some comments on the record concerning CEQA, as I  
13 typically do, and I would like to --

14 CHAIRPERSON DOUGLAS: I had kind of expected you  
15 to do that.

16 MR. HERRERA: I didn't expect Commissioner Boyd to  
17 jump right in and I apologize for not interrupting sooner.

18 (Laughter.)

19 MR. HERRERA: And these comments would apply both  
20 to the adoption --

21 COMMISSIONER BOYD: You're a lawyer, what the  
22 heck.

23 MR. HERRERA: -- of the RPS Eligibility Guidebook,  
24 as well as the next item which is up for consideration,  
25 which are the overall program guidebook guidelines.

1           When the Commission proposes changes to the  
2 guidelines, the Legal office takes a look at the guideline  
3 changes to determine whether they're a project under CEQA  
4 and, if so, more comprehensive environmental review is  
5 required under the California Environmental Quality Act.

6           We did that here in this case and we do not  
7 consider the adoption of these guidelines, guideline  
8 revisions as a project under CEQA because they fall within  
9 several exceptions for excluded activities in Title 14 of  
10 the California Code of Regulations, Section 15378(b)(4), and  
11 that the activities relate to general policy and procedure  
12 making, and also touch on the creation of governmental  
13 funding mechanisms, particularly with respect to the overall  
14 guidebook, which do not involve any commitment to any  
15 specific project, which may result in a potentially  
16 significant fiscal impact on the environment.

17           In addition, it can be argued that the adoption of  
18 these guideline revisions are exempt under what is commonly  
19 known as the "common sense exception" under Title 14, CCR  
20 Section 15061(b)(3). And that concludes my remarks.

21           CHAIRPERSON DOUGLAS: Thank you, Mr. Herrera. And  
22 that covers Items 15 and 16.

23           MR. HERRERA: It does.

24           CHAIRPERSON DOUGLAS: Thank you.

25           Commissioner Weisenmiller.

1           COMMISSIONER WEISENMILLER: Okay. I have some --  
2 as the other member of the Renewables Committee wanted to  
3 again thank, certainly Commissioner Boyd, for his long hours  
4 on this topic, and the staff, particularly Gabe, in trying  
5 to walk through these issues.

6           I think the common refrain I hear from outside of  
7 the building on the staff in this area is, one, they're very  
8 concerned about maintaining integrity of the renewable  
9 system in our State, which is very important.

10           But, also, they're very helpful for people to try  
11 to work through issues and get clarity on stuff. So, again,  
12 I think we appreciate that.

13           I think this has been a complicated process, but  
14 the details -- this is one where the details really matter  
15 and the staff's done a good job on this.

16           So, certainly, I'd be happy to second this.

17           I would note that, as Commissioner Boyd indicated,  
18 I mean this is -- this bus leaves the building periodically.  
19 There are some things which did not make the bus, which are  
20 important and we need to move forward on.

21           One of the issues I guess I would hope that, as we  
22 close this chapter, that we start moving forward on  
23 implementing the Skinner Bill. That we've sort of worked  
24 through the notion of saying, well, we're looking at the  
25 TREC decision at the PUC. I think most people in the room

1 know that that decision's held for tomorrow. That will push  
2 it into next year.

3 Obviously, as of January 1<sup>st</sup> two of the  
4 Commissioners will not be there, so they'll be down to a  
5 three-person Commission. I think one of the Commissioners,  
6 whose term expires this year, actually has an alternate  
7 decision. And my understanding, from her, is that as of  
8 January 1<sup>st</sup> that decision will no longer be on the table.

9 So that I assume if they're going to do any  
10 decision other than what are called the Peevey Alternative,  
11 they would have to reissue that and ask for comment on that.

12 And I would also assume if anyone happened to be  
13 appointed to be a new Commissioner at the PUC, that given  
14 the history and controversy of this item they might want to  
15 spend some time to really dig into it before voting.

16 So, we could see a substantial delay on the TREC  
17 decision at the PUC.

18 And so, I think it's important that on some of our  
19 items we start moving forward on those, that I think it's  
20 important to tee up workshops fairly early on -- on, as I  
21 said, the Skinner Bill and the dual fuel.

22 And I think given the Governor-Elect's priority on  
23 DG that we at least have to have everything set so that when  
24 the DG bill goes through, or when the TREC decision is done  
25 we can implement the REC part for DG.

1           So, again, I would hate to have us really hold  
2 everything off on our process until the PUC reaches more  
3 certainty.

4           CHAIRPERSON DOUGLAS: Thank you, Commissioner  
5 Weisenmiller.

6           Other comments or questions?

7           COMMISSIONER BYRON: Yes.

8           CHAIRPERSON DOUGLAS: Commissioner Byron.

9           COMMISSIONER BYRON: Madam Chair, I, too, extend  
10 my thanks to the Renewables Committee, and to Ms. Zocchetti  
11 for only reviewing the changes since December 1, besides  
12 writing the document.

13           Because having read it in preparation for that  
14 meeting I was very impressed with this document. The  
15 details are important and I think it does a very good job of  
16 addressing them.

17           I appreciate Commissioner Weisenmiller's comments  
18 with regard to the tradable renewable energy credits  
19 decision that's pending before the Commission. And I think  
20 this Commission certainly has an opportunity for some input  
21 to that, given the delay.

22           I don't fully appreciate all the political reasons  
23 by the TRECs can be being kicked down the road at this  
24 point, but it is a wider spread problem than just dealing  
25 with the investor-owned utilities. We want to make sure we

1 get that right for the State, as well.

2           There was one other issue with regard to this  
3 document. I can't remember what it is right now.

4           But I'm certainly prepared to vote for this and  
5 endorse its -- the guideline document at this point.

6           Forgive me, Commissioner, did you move it?

7           COMMISSIONER WEISENMILLER: I seconded it.

8           COMMISSIONER BYRON: Thank you. Thank you for  
9 allowing my comment.

10          CHAIRPERSON DOUGLAS: Thank you.

11          All in favor?

12          (Ayes.)

13          CHAIRPERSON DOUGLAS: The item is approved.

14          Item 16, Overall Program Guidebook for the  
15 Renewable Energy Program. Possible approval of the "overall  
16 Program Guidebook for the Renewable Energy Program, Third  
17 Edition."

18          Ms. Zocchetti.

19          MS. ZOCCHETTI: Thank you. The Overall Program  
20 Guidebook governs not only the RPS Program, but all the  
21 elements of the Renewable Energy Program.

22          And we have made some changes to the glossary of  
23 terms that are enumerated in the notice.

24          And for brevity's sake, I'd like to just skip  
25 those for now, unless you would like me to read those.

1           But I do want to say that the final Committee  
2 draft of the Overall Program Guidebook does retain the  
3 Energy Commission's current payment dispute process as it  
4 is, including the appeals to the Energy Commission.

5           This section was removed in the previous version  
6 that was released for the August 30<sup>th</sup> workshop, but we have  
7 since removed that deletion and it remains as it was.

8           CHAIRPERSON DOUGLAS: Thank you, Ms. Zocchetti.

9           MS. ZOCCHETTI: You're welcome.

10          CHAIRPERSON DOUGLAS: So, we have two members of  
11 the public who would like to speak now, beginning with Dan  
12 Patry, PG&E.

13          MR. PATRY: Thank you, Madam Chair, Commissioners,  
14 Dan Patry for PG&E. I'll keep my comments brief.

15          PG&E would like to commend the CEC staff for its  
16 thorough work and dedication in developing the current  
17 revisions to the RPS Eligibility Guidebook and Overall  
18 Program Guidebook.

19          We appreciate staff's efforts in working with  
20 stakeholders and for their understanding that the RPS  
21 Program is an evolving and complicated process, one that  
22 requires the CEC to be flexible in achieving its RPS  
23 responsibilities, while managing the realities and growing  
24 pains of an RPS -- of RPS supporting systems.

25          While PG&E expects these Guidebooks will continue

1 to evolve and need further refinement as the program  
2 develops, we believe these current revisions represent a  
3 positive step forward and we support their adoption today.

4 So, thank you.

5 CHAIRPERSON DOUGLAS: Thank you, Mr. Patry.

6 Tamara Rasberry, Sempra Energy Utilities.

7 MS. RASBERRY: Good morning, Commissioners.

8 Tamara Rasberry, Sempra Energy Utilities.

9 I just wanted to take the time to thank the staff  
10 that worked on this, to Kate and to Mark. We have several  
11 conversations and we appreciate the time that they took to  
12 meet with us and discuss some changes that we would like to  
13 see.

14 And we appreciate the work that they did and we  
15 are pleased with the language that they not only reviewed,  
16 but expanded upon, but the added definition of pipeline  
17 biomethane.

18 And we support the adoption of the Guidebook.

19 Thank you.

20 CHAIRPERSON DOUGLAS: Thank you, Ms. Rasberry.

21 Commissioners, questions, comments?

22 COMMISSIONER BYRON: Madam Chair, I'm certainly  
23 going to support this as well, similar comments with regard  
24 to Item 15.

25 And I would like to add maybe one comment. If I

1 understood correctly, there is legislation that would have  
2 to be addressed to future revision AB 1954.

3 CHAIRPERSON DOUGLAS: Yes.

4 COMMISSIONER BYRON: And I'd like to caution, I  
5 suppose, the Legislature, around this issue of allowing  
6 latitude with regard to what counts as renewables.

7 I think Commissioner Weisenmiller said this  
8 earlier, the definitions are extremely important to maintain  
9 the integrity of the renewable program in this State.

10 We all fully understand the reason why it may be  
11 necessary to do co-firing with natural gas to maintain the  
12 ability of a renewable energy provider to supply energy on a  
13 continuous basis.

14 But this is an accounting issue and we really  
15 don't want to head down the slippery slope of watering down  
16 these renewable energy resources.

17 So, I'd like to suggest to our friends in the  
18 Legislature, who give us many good laws, and some that  
19 clearly are one-offs, as I call them, that benefit perhaps  
20 someone for some reason. This is not -- this is not good  
21 law.

22 And I hope this Commission is able to hold the  
23 line so that the public will continue to regard renewables  
24 as truly renewables. We can account for the three percent  
25 or five percent of natural gas firing without having to

1 allow it in as part of legislation.

2 COMMISSIONER EGGERT: Just a follow on to that. I  
3 appreciate and also agree with the idea that we do need to  
4 have a program that has great integrity. And I suspect  
5 that -- actually, a question, perhaps.

6 Given the fact that we are operating within a  
7 region, with other states that also have RPSs, to what  
8 extent do they sort of follow our lead on definitions and  
9 structure of their programs?

10 MS. ZOCCHETTI: That is true. I don't know, I'll  
11 have to look at other states as we move forward in  
12 implementing this.

13 However, we have looked at other states and what  
14 they have done as we were deliberating these issues, and  
15 continue to do so, and we did not find any other state that  
16 had the concept of de minimus fossil fuel use and allowing  
17 it to be RPS eligible.

18 That being said, some states do allow co-firing.  
19 They don't call it de minimus.

20 But most states have only renewable energy  
21 counting for RPS.

22 We will look at that as we move forward.

23 COMMISSIONER EGGERT: And then I know there's an  
24 ongoing discussion in Washington, D.C. about a potential  
25 federal RES, and I'm sure they'll be looking to our rules

1 for guidance. So, our influence is well beyond our borders,  
2 I suspect.

3 I have no further questions and I support the  
4 item.

5 COMMISSIONER BYRON: I'll move approval of the  
6 item.

7 COMMISSIONER WEISENMILLER: I'll second. But I  
8 will note that the Legislator has spoken, and the Governor  
9 has signed the Skinner Bill, and we will implement it as  
10 such.

11 We had struggled with the issues, Commissioner  
12 Byron, all three of us talked about it earlier as we were  
13 going through the development of these regulations, but once  
14 the Legislature spoke we felt --

15 COMMISSIONER BYRON: No question.

16 COMMISSIONER WEISENMILLER: -- they simplified  
17 Boyd and my role here.

18 COMMISSIONER BOYD: Yes, we labored mightily over  
19 this one issue. So, rest assured, we did the best we could.

20 CHAIRPERSON DOUGLAS: Thank you, we appreciate you  
21 doing that.

22 Now, we have a motion and a second, is that  
23 correct?

24 COMMISSIONER WEISENMILLER: Right, that's correct.

25 CHAIRPERSON DOUGLAS: All in favor?

1 (Ayes.)

2 CHAIRPERSON DOUGLAS: Item's approved.

3 MS. ZOCCHETTI: Thank you.

4 CHAIRPERSON DOUGLAS: Thank you. Thanks for your  
5 hard work on this.

6 So, Commissioners, it's about five minutes to  
7 12:00 and we have five siting items on the agenda. Two are  
8 amendments and three are projects. So, if the time  
9 estimates on the agenda turn out to be accurate, we're  
10 looking at going to about two o'clock.

11 I think that we've done that before. Is that fine  
12 or would anybody like to take a lunch at some point?

13 COMMISSIONER BYRON: Well, we started on daylight  
14 savings time this morning, I noticed as well.

15 CHAIRPERSON DOUGLAS: Well, yes, that is probably  
16 helpful. I'm glad we did.

17 COMMISSIONER BYRON: Are you suggesting we take a  
18 lunch break?

19 CHAIRPERSON DOUGLAS: Well, I was just asking if  
20 folks would like to get a sandwich at some point or if you'd  
21 like to push through?

22 COMMISSIONER BYRON: I think it's more than just  
23 five of us. I think we should take a lunch break and come  
24 back, Madam Chair.

25 CHAIRPERSON DOUGLAS: Are there -- is there

1 anybody in this room who would miss out on something that  
2 they need to do, or miss a plane, or otherwise objects to us  
3 pausing to take a half-hour lunch break?

4           What item are you here on?

5           (Audience member speaks.)

6           CHAIRPERSON DOUGLAS: All right, that's a good  
7 suggestion. All right, so we'll do the amendments and that  
8 will free a large number of people to go.

9           All right. So, Item 17, Inland Empire Energy  
10 Center, 01-AFC-17C. Possible approval of a Petition to  
11 Amend the California Energy Commission Decision to adjust  
12 its Air Quality Conditions of Certification for the Inland  
13 Empire Energy Center Project.

14           Mr. Rundquist.

15           MR. RUNDQUIST: Good morning, Commissioners. It's  
16 still morning, so I can still say that.

17           CHAIRPERSON DOUGLAS: You can.

18           MR. RUNDQUIST: My name is Dale Rundquist and I am  
19 the Compliance Project Manager for the Inland Empire Energy  
20 Center.

21           The Inland Empire is an 800 megawatt facility,  
22 certified on December 17<sup>th</sup>, 2003, and owned by Inland Empire  
23 Energy Center, LLC.

24           The facility is located in the jurisdiction of the  
25 South Coast Air Quality Management District, in the City of

1 Menifee, in Southern Riverside County.

2           The facility was originally licensed with two  
3 traditional GE Frame 7-F combustion turbines, but was  
4 amended prior to construction to use two new technology, GE  
5 H Class turbines.

6           These H Class turbines, among the most efficient  
7 in the world, are the first gas turbine combined cycle  
8 systems capable of achieving greater than 60 percent thermal  
9 efficiency.

10           In contrast, today's most efficient Frame F-7  
11 combined cycle plants can operate with thermal efficiencies  
12 up to the high 50s, and that's depending on configuration  
13 and duty.

14           The high efficiency of the H Class turbine means  
15 less fuel is used, resulting in fewer greenhouse gas  
16 emissions for each megawatt of electricity produced.

17           Unit 1 began operation on June 29<sup>th</sup>, 2009 and Unit  
18 2 on May 5<sup>th</sup>, 2010.

19           Since the licensing of the project in 2003, and an  
20 amendment in 2005 to upgrade to the newer technology  
21 combustion turbines, air regulatory agencies have  
22 implemented changes to air quality standards that affect the  
23 area of the Inland Empire Energy Center Project.

24           These changes include lower allowable  
25 concentrations of PM 2.5, nitrogen dioxide, sulfur dioxide,

1 and lead.

2           The new federal one-hour nitrogen dioxide  
3 standard, which is the most challenging of these new  
4 standards, became effective on April 12<sup>th</sup>, 2010.

5           On February 19<sup>th</sup>, 2009 the Applicant filed a  
6 request with the South Coast Air Quality Management District  
7 for a revision of the district air permit.

8           This request would allow an increase in the carbon  
9 monoxide, or CO emissions during turbine start ups.

10           Since the gas turbines at this facility are the  
11 first GEH class turbines operating in the United States, the  
12 original CO start up emission limits were based on very  
13 limited information available from the vendor.

14           The recent commissioning data from Inland Empire  
15 Unit 1 indicate that the actual CO emissions during the  
16 turbine start ups and shut downs are higher than the  
17 original emissions allowed in the permit.

18           On November 10<sup>th</sup>, 2009 the Applicant requested  
19 amendment of the CO limits in the Commission decision.

20           They proposed changes to conditions for  
21 certification for both Units 1 and 2, including changes to  
22 permitted levels do not affect the project's compliance with  
23 ambient air quality standards. Therefore, there will be no  
24 adverse health effects.

25           The current amendment request also addresses the

1 differences between the Energy Commission's most recent  
2 amendment decision of April 11<sup>th</sup>, 2007 and the current South  
3 Coast Air Quality Management District reclaimed Title 5  
4 permit requirements, resulting in proposed changes to Energy  
5 Commission staff conditions of certification and six South  
6 Coast Air Quality Management District conditions of  
7 certification.

8           The changes have all been approved by the South  
9 Coast Air Quality Management District.

10           The project, as amended, will continue to comply  
11 with all laws, ordinances, regulations and standards.

12           Staff recommends approval of the Inland Empire  
13 Energy Center's petition to amend.

14           CHAIRPERSON DOUGLAS: Thank you, Mr. Rundquist.  
15           Questions, Commissioners, or comments?

16           COMMISSIONER WEISENMILLER: I was going to note,  
17 again, that this went through the Siting Committee, and we  
18 reviewed it with the staff, particularly the finding of no  
19 adverse impacts.

20           And we recommend -- actually, I'll move this item  
21 based upon that analysis.

22           COMMISSIONER BYRON: Madam Chair, I think we all  
23 understand the difference between continuous operation at  
24 these levels and start up, and I applaud the staff's  
25 thoroughness on making sure that the Applicant's in complete

1 compliance. But I'd be more than happy to second this item.

2 I note the Applicant may be at the table and might  
3 want to make comments as well.

4 CHAIRPERSON DOUGLAS: Thank you for reminding me  
5 that, in fact, the Applicant is at the table.

6 Could you please make your comments now?

7 MR. ESCOBEDO: Yes, my name is Francisco Escobedo  
8 and I'm the Director of Asset Management at the Inland  
9 Empire Energy Center.

10 And as Mr. Rundquist just explained, we are  
11 introducing new technologies. The first technology, the H  
12 Class technology that we're introducing in North America.

13 So, while we have a significant amount of data and  
14 information from our engineering organizations, obviously,  
15 things are a little bit different when they actually put it  
16 into practice.

17 My colleague here, Mr. Tom Andrews, of Sierra  
18 Research, has been involved with the permitting and the  
19 modifications, and probably more specifically equipped to  
20 answer any technical questions.

21 But we've worked, you know, hand-in-hand with the  
22 Energy Commission throughout this process and been  
23 collaborating with them all along the step. It's been a  
24 little bit of a longer process than we'd anticipated. But,  
25 like anything else, I think it's well worth it in the long

1 run.

2 CHAIRPERSON DOUGLAS: Thank you. Thanks for being  
3 here.

4 MR. ANDREWS: I'm Tom Andrews, with Sierra  
5 Research. We're the air quality consultant that's helped  
6 Inland with this project.

7 And it's taken a longer time than we initially  
8 thought to go through the Commission in the initial start up  
9 phase, but we're finally clear of that period and running  
10 fine.

11 So, I just want to thank the CEC staff for all  
12 their help with this through the amendment process.

13 CHAIRPERSON DOUGLAS: Thank you.

14 All right. We have a motion on this item, do we  
15 have a second?

16 COMMISSIONER BYRON: Second.

17 CHAIRPERSON DOUGLAS: We have a motion and a  
18 second. Do we have any other questions or comments?

19 All right, all in favor?

20 (Ayes.)

21 CHAIRPERSON DOUGLAS: The amendment's approved.  
22 Thank you.

23 Item 18, Palomar Energy Center, 01-AFC-24C.  
24 Possible approval of Petition to Amend the California Energy  
25 Commission Decision to allow San Diego Gas & Electric

1 Company to install and operate one 1,945 brake horsepower  
2 emergency-use internal combustion engine.

3 MR. RUNDQUIST: Good morning, again,  
4 Commissioners.

5 My name is Dale Rundquist and I am also the  
6 Compliance Project Manager for the Palomar Energy Center.

7 On November 28<sup>th</sup>, 2001 Palomar Energy, LLC filed an  
8 application for certification with the California Energy  
9 Commission, seeking approval to construct and operate the  
10 Palomar Energy Center, a 500 megawatt combined cycle power  
11 plant located in the City of Escondido, in San Diego County.

12 The project was certified by the Energy Commission  
13 on August 6<sup>th</sup>, 2003.

14 On March 15<sup>th</sup>, 2006 Palomar Energy Center, LLC,  
15 transferred ownership of Palomar Energy Center to San Diego  
16 Gas & Electric Company.

17 Palomar Energy Center began operation, commercial  
18 operation on April 1<sup>st</sup>, 2006.

19 On April 27<sup>th</sup>, 2010 San Diego Gas & Electric  
20 Company filed a petition to amend the Energy Commission  
21 decision to install a 1,945 brake horsepower emergency use  
22 engine at Palomar Energy Center.

23 This engine would provide emergency power to the  
24 plant to keep certain systems in a ready mode when  
25 electricity is unavailable from San Diego Gas & Electric

1 Company.

2           The engine will be fired exclusively on pipeline  
3 quality natural gas and will drive a 1400 kilowatt  
4 electrical generator.

5           The San Diego Air Pollution Control District  
6 approved the installation and operation of this emergency  
7 engine for the Palomar Energy Center on May 11<sup>th</sup>, 2010.

8           The original Energy Commission decision required  
9 that emission reduction credits in the amount of 149.3 tons  
10 per year be submitted to the San Diego Air Pollution Control  
11 District to offset 124.4 tons per year of NOx.

12           The minute increase of approximately 0.12 tons per  
13 year of NOx from the emergency engine will be fully  
14 mitigated by the original emission reduction credits and the  
15 overall plant emission limits would not change.

16           Staff also concludes, due to the conservatism of  
17 the analysis, the new federal one-hour NO2 standard would  
18 not be exceeded during emergency situations.

19           Energy Commission Air Quality Staff has proposed  
20 several additional conditions of certification so that the  
21 project will remain in compliance with all laws, ordinances,  
22 regulations and standards, and have no significant adverse  
23 direct or cumulative impact on the environment.

24           The project owner has agreed to the new proposed  
25 Energy Commission staff condition of certification AQSC13.

1           This condition states that testing and maintenance  
2 of the emergency engine shall only be performed between the  
3 hours of 10:00 a.m. and 3:00 p.m. and shall not exceed one  
4 hour per week.

5           AQ56 through 66 are new San Diego Air Pollution  
6 Control District conditions of certification that apply  
7 directly to the emergency engine and will be incorporated  
8 into the Energy Commission decision

9           Staff recommends approval of this amendment  
10 petition.

11           CHAIRPERSON DOUGLAS: Thank you, Mr. Rundquist.  
12 Can we hear from the Applicant?

13           MR. RUNDQUIST: I'm here to answer any  
14 questions --

15           CHAIRPERSON DOUGLAS: All right, so the  
16 Applicant's not here in this case or here, but not needing  
17 to speak?

18           MR. RUNDQUIST: Taylor Miller was here.

19           MR. MILLER: Thank you. Taylor Miller, with  
20 Sempra Energy. I hadn't intended to present any comments  
21 because I really -- but now that I'm here, I'll especially  
22 thank you for postponing your lunch. And also to thank  
23 staff for their work on this throughout.

24           So, we're completely in agreement with the  
25 conditions and would urge your approval of the change.

1                   COMMISSIONER BYRON: Madam Chair, a quick  
2 question. I'm obviously going to support this. But I'm  
3 guessing that you learned a lot from maybe perhaps the fires  
4 that you had in the last year, as to why you need this  
5 backup generator, is that correct?

6                   MR. MILLER: I don't know that it was specifically  
7 in response to the fires, but the process since SDG&E took  
8 over the facility in 2006 has been a continual review and  
9 upgrading, essentially, of its reliability to make it more  
10 of a utility grade, you might say, power plant.

11                   It does serve as a key component of the local grid  
12 in support of the San Onofre Nuclear Plant, so it has some  
13 importance from the ISO perspective.

14                   And there's four or five hundred thousand people  
15 depending on the output of the plan so that reliability, of  
16 course, is a key concern.

17                   So, the purpose of this, as long as I've got the  
18 floor for a second, is that in the event of a grid shut  
19 down, which is very rare, of course, the plant was already  
20 designed to have a four-hour battery supply of backup power  
21 to keep certain systems going.

22                   But in the event that the grid outage would be  
23 longer than that, then we didn't have a plan B.

24                   So, this engine is really only for that purpose.  
25 And, of course, whenever it's operating for any length of

1 time, which we wouldn't ever think would be more than a day  
2 or two at the longest, the plant, itself, would not be  
3 operating.

4 So, there's really no concern, we don't think, as  
5 to air quality impacts from the engine.

6 CHAIRPERSON DOUGLAS: All right. Well, thanks for  
7 answering those questions.

8 Commissioner Weisenmiller.

9 COMMISSIONER WEISENMILLER: Yeah, again, this item  
10 has gone through the Siting Committee, we've reviewed it and  
11 recommend this be adopted. I move the item.

12 CHAIRPERSON DOUGLAS: Is there a second?

13 COMMISSIONER BYRON: Second.

14 CHAIRPERSON DOUGLAS: All in favor?

15 (Ayes.)

16 CHAIRPERSON DOUGLAS: The item's approved.

17 MR. MILLER: Thank you very much.

18 CHAIRPERSON DOUGLAS: Thank you.

19 All right, we will break for lunch. Let's come  
20 back at a quarter to 1:00, so 12:45.

21 (Off the record at 12:15 p.m.)

22 (Back on the record at 12:16 p.m.)

23 CHAIRPERSON DOUGLAS: Back on the record.

24 GENERAL COUNSEL LEVY: Since we're breaking for an  
25 early lunch, if it's okay with the Commission, why don't we

1 take out of order an executive session? I'd like to request  
2 an executive session on Items 24-a and 24-f.

3 CHAIRPERSON DOUGLAS: Thank you, Mr. Levy, we will  
4 meet in my office.

5 (Whereupon, the Executive Session was held off the  
6 record, at 12:16 p.m.)

7 (Back on the record at 12:57 p.m.)

8 CHAIRPERSON DOUGLAS: Welcome back, everybody.  
9 Sorry, we were a little too optimistic about when we would  
10 get back. When we decided to handle Executive Session over  
11 lunch, that spread it out a little bit more.

12 And now that I've said that, we'll go back on the  
13 record.

14 Item 19, Palen Solar Project, 90-AFC-7. Possible  
15 adoption of the Presiding Member's Proposed Decision on the  
16 Panel Solar Power Plant Project and possible Errata.

17 Hearing Officer Renaud.

18 HEARING OFFICER RENAUD: Good afternoon, Chairman  
19 Douglas and Commissioners.

20 This is the Palen Solar Power Project. The  
21 application of certification was submitted on August 24,  
22 2009 by Solar Millennium, LLC and Chevron Energy Solutions.

23 The Applicant is Palen Solar 1, LLC, which is a  
24 wholly owned subsidiary of Solar Millennium, LLC.

25 The Commission found the project data adequate on

1 November 18<sup>th</sup>, 2009 and Commissioner Weisenmiller was  
2 appointed as the Presiding Member and Chairman Douglas as  
3 the Associate Member.

4 We held the site visit and informational hearing  
5 in Blythe, on January 25<sup>th</sup>, 2010 and the staff issued the  
6 staff analysis/DEIS on March 18, 2010.

7 The RSA, revised staff analysis was submitted in  
8 part one on September 1<sup>st</sup>, 2010 and part two, September 16,  
9 2010.

10 Shortly after that we held the pre-hearing  
11 conference, it was on October 5<sup>th</sup>. And then we held  
12 evidentiary hearings on two different days, October 13 and  
13 27. Those were held here, in Sacramento.

14 The Deciding Member's proposed decision was issued  
15 on November 12<sup>th</sup> and the Committee held a Committee  
16 conference on December 2<sup>nd</sup>. At that time the comments of the  
17 staff, and the Applicant, and Intervenor, The Center for  
18 Biological Diversity, were discussed.

19 The Committee then issued the Errata on December  
20 10<sup>th</sup>.

21 The 30-day public comment period ended December  
22 13<sup>th</sup>. And during the period between the Committee conference  
23 and December 13<sup>th</sup> two comments were received, one from Mojave  
24 Desert Land Trust, in a letter dated December 13<sup>th</sup>, which you  
25 have.

1           And, yesterday, further comments from CBD  
2 regarding the proposed adoption order.

3           As to the project, itself, the site is  
4 approximately 5,200 acres. It's about 35 miles west of  
5 Blythe and on the north side of Interstate 10.

6           The project footprint or disturbed area is about  
7 4,300 acres for the recommended alternatives, either  
8 reconfigured alternative two or reconfigured alternative  
9 three.

10           The Applicant is seeking a right-of-way grant from  
11 the Bureau of Land Management.

12           The project consists of two independent, 250  
13 megawatt units of parabolic solar troughs for a total of 500  
14 megawatts. It is dry-cooled and the water consumption is  
15 about 300 acre feet a year.

16           During the course of the proceedings several  
17 intervenors appeared, California Units for Reliable Energy,  
18 Californians for Renewable Energy, the Center for Biological  
19 Diversity, and Basin and Range Watch.

20           All of those intervenors are still with us, except  
21 for CURE, which issued a statement on October 5<sup>th</sup> to the  
22 effect that it was satisfied that all of its environmental  
23 concerns had been or would be met with implementation of the  
24 conditions.

25           During the review process significant impacts to

1 biological resources were identified due to the project's  
2 intrusion on a sand transport corridor on the northeast  
3 corner. The transport corridor basically runs diagonally  
4 from north -- from northwest to southeast and the upper  
5 right corner of the project intruded into that, blocking, or  
6 having the potential to block some of the sand transport.

7 And the import of that was that it was deemed to  
8 possibly affect the habitat of the Mojave Flat-tailed Horned  
9 Lizard, right, MFTL.

10 MR. GALATI: Fringe.

11 HEARING OFFICER RENAUD: Fringe Toad. That's  
12 right, the Mojave Fringe Toad Lizard, MFTL.

13 As a result of that determination the Applicant  
14 went to work and developed two reconfigured alternatives,  
15 both of which avoided much of that intrusion into the sand  
16 transport corridor.

17 One is -- they've been called, respectively, the  
18 reconfigured alternative number two and the reconfigured  
19 alternative number three.

20 Number two involves the use of, roughly, 240 acres  
21 of private land and number three involves the use of  
22 approximately 40 acres of private land.

23 Staff analyzed both and determined that the  
24 impacts would be similar and that both would reduce the  
25 biological impacts to below the level of significance with

1 appropriate mitigation.

2           The Applicant request and the Committee is  
3 recommending in the PMPD that both of these configurations  
4 be approved.

5           As I said, both were determined by staff to have  
6 similar impacts and which one Applicant builds apparently is  
7 dependent largely on its success in obtaining the control of  
8 the private parcels.

9           As to other environmental areas, they have been  
10 determined to be fully mitigated, including biological  
11 resources, and there is a comprehensive mitigation scheme  
12 set forth in the PMPD.

13           Immitigable impacts were determined to exist with  
14 respect to cultural resources, visual resources, and land  
15 use. There's no LORS inconsistency, these are CEQA impacts.  
16 And in light of those impacts, the Committee considered the  
17 benefits of the project, its contribution toward integrating  
18 renewable energy and greenhouse gas reduction goals, and  
19 weighing the benefits against the impacts the Committee  
20 determined that overriding considerations warrant the  
21 approval of the project as mitigated, and that the project  
22 is required for public convenience and necessity, and that  
23 there are no more prudent and feasible means of achieving  
24 such public convenience and necessity.

25           The Committee set forth the basis for these

1 overrides with respect to those three topics in each of  
2 those sections of the PMPD, and has also issued a separate  
3 override findings document compiling those findings which,  
4 if you approve the project, would be incorporated into the  
5 Commission final decision.

6           The PMPD reflects the Committee's consideration of  
7 thousands of pages of evidence in the record, and testimony  
8 at the hearings, and the comments received, and the  
9 Committee recommends that you adopt the PMPD, the override  
10 findings, and the Errata effective today as the Commission's  
11 final decision.

12           If you have any questions for me, I'll be happy to  
13 answer them. Otherwise, we have the parties present.

14           COMMISSIONER BYRON: Well, Commissioners, if  
15 you'll allow me one at this point.

16           You'd indicated that CURE, one of the Intervenors  
17 is no longer participating, they've written that they're  
18 satisfied, all the biological and environmental concerns  
19 have been met. Is that correct?

20           HEARING OFFICER RENAUD: That's correct. They  
21 issued a joint statement of Palen Solar 1, LLC and CURE on  
22 October 5<sup>th</sup>.

23           COMMISSIONER BYRON: And do you know, Mr. Renaud,  
24 did they also get a project labor agreement concurrent with  
25 this?

1 HEARING OFFICER RENAUD: That's not knowledge that  
2 I have and it's not in the record, to the best of my  
3 knowledge.

4 COMMISSIONER BYRON: Oh, well, I'll turn to the  
5 Applicant and ask if they wouldn't mind answering that  
6 question?

7 MR. GALATI: What I can tell you, Commissioner, is  
8 that I am bound by confidentiality agreements on what  
9 agreements the client has.

10 I can tell you that -- I can tell you that we  
11 signed an environmental agreement, which we read into the  
12 record, a statement about what mitigation that would  
13 include, at the evidentiary hearing.

14 COMMISSIONER BYRON: Thank you.

15 CHAIRPERSON DOUGLAS: All right. Let's hear from  
16 staff. Is there anything that staff would like to say?

17 MS. DE CARLO: No, no comments on the record. We  
18 agree with Hearing Officer Renaud's summary of the  
19 proceedings and we support the Commission's adoption of the  
20 Presiding Member's proposed decision, and we're available to  
21 answer any questions the Committee may have.

22 CHAIRPERSON DOUGLAS: Thank you. Let's hear from  
23 Applicant.

24 MR. GALATI: Scott Galati, representing Palen  
25 Solar 1, which is a wholly owned subsidiary of Solar

1 Millennium.

2 MS. HERRON: Alice Herron, Solar Millennium.

3 MR. GALATI: I'd like to first tell you that we  
4 thank the Committee for working very diligently to get us  
5 this decision. We agree with the Errata as changed. We ask  
6 that you adopt the PMPD.

7 I would like to point out that as is the case with  
8 many cases is we believe the decision is chock full of  
9 compromises and we wanted to make sure that -- give you an  
10 example, a compromise on the sand transport corridor issue.  
11 It's important that you understand that it is a compromise.  
12 We know that it's been -- that particular issue is being  
13 used at the Public Utility Commission right now as if it  
14 were fully adjudicated, the sanctity of such modeling, and  
15 it's becoming an issue on the Colorado River Substation  
16 expansion.

17 And we just wanted to make sure that the record  
18 reflect that we -- we didn't agree that the impacts were as  
19 identified, but we did reconfigure the project as a  
20 compromise and that reconfiguration cost us some time and in  
21 one of the areas.

22 We lost a lot of engineering that we did in laying  
23 out the project and we're continuing to try to work to bring  
24 that back.

25 But I've been asked to specifically address that

1 we -- that this project will not be able to qualify for the  
2 ARRA Grant unless extended. It is continuing to work  
3 towards DUE loan guarantee and that was something that we  
4 worked out with staff. We knew that going in, in  
5 reconfiguring the project, that that was likely.

6 And but we appreciate the decision, and the  
7 decision at the end of the year, I think -- before the end  
8 of the year is very, very helpful to us, so we appreciate  
9 the work that's been done.

10 CHAIRPERSON DOUGLAS: Thank you, Mr. Galati.

11 Can we hear from Intervenor, Center for Biological  
12 Diversity.

13 MS. BELENKY: Thank you. Good morning,  
14 Commission. Oh, it's afternoon. Sorry, good afternoon.

15 Last night we filed an opposition to the proposed  
16 Commission order and I brought copies I can pass out. I  
17 think you all received them on the e-mail, as well.

18 Intervenor is -- the Center for Biological  
19 Diversity has a couple of points, I guess, to make at this  
20 time.

21 First, I appreciate that the Applicant has now  
22 confirmed, which I think was known, that they cannot meet  
23 the ARRA deadline, even if you approve the project today,  
24 unless ARRA is extended. And if ARRA is extended, it will  
25 be extended for at least a year and there's no question that

1 they probably then could meet it.

2           So, the need for this decision to happen today,  
3 there really isn't any in our opinion, and we have -- the  
4 Center has consistently said that this process was moving  
5 far too fast and that there was no reason to do so.

6           And I just wanted to confirm that this isn't new  
7 information that we're bringing to you now.

8           I also wanted to stress that there was no briefing  
9 in this matter, that the Committee specifically said they  
10 didn't particularly want any briefing, and the other parties  
11 agreed.

12           So, we raised the issues that we raised at the  
13 PMPD stage because that is the stage at which it was  
14 appropriate to raise these, basically, legal issues.

15           At this time, I mean, the Center has several  
16 problems with the project that we believe need to still be  
17 addressed, including the fact that we believe the mitigation  
18 is far too low.

19           And let me get my list. Well, there's several  
20 other issues. I don't want to necessarily go through all of  
21 them right now because we have provided them as far as the  
22 alternatives analysis and so forth.

23           The mitigation, in particular, there's a statement  
24 in the -- at least in the staff documents that says that  
25 they believe that this sand habitat, this very rare,

1 actually, and unique sand habitat is available for  
2 mitigation. But what isn't clear is whether it actually can  
3 be obtained.

4           So, I think that's a big question and very  
5 important.

6           The Mojave Fringe Toad Lizard, which is sort of  
7 the key species for these sand areas is already a special  
8 status species, it's already in decline, one of the  
9 populations is already being considered for listing as an  
10 endangered species. And we're hoping that not all of the  
11 population needs to be considered.

12           And that is part of the reason that we really want  
13 to stress that avoidance is the most important thing.

14           So, then just getting on to our opposition, at  
15 this point there are two bases for our opposition for the  
16 Commission to adopt the decision today. And one of them is  
17 that the lands on which this project is sited are actually  
18 lands that are set aside for wildlife protection under the  
19 plan, the NICO plan, which is an amendment to the California  
20 Desert Conservation Act Plan, and they were specifically set  
21 aside in 2002 and designated for wildlife. It's a wildlife  
22 habitat management area.

23           And part of the project is also in a DWMA, which  
24 is desert wildlife management areas which are specifically  
25 set aside for the protection of the Desert Tortoise.

1           And then another part of the project also impacts  
2 another wildlife habitat management area that was  
3 specifically set aside for connectivity, or I believe it  
4 says "continuity" in the document, in the NICO plan.

5           So, it seems very clear to us, at the Center, that  
6 this area clearly meets the standard under the Warren  
7 Ahlquist Act for an area for wildlife protection. That is  
8 what the Land Management Agency has said that this area is.

9           Now, that doesn't mean that it may not be possible  
10 to site a solar plant or some other project there, but what  
11 it does mean is that under the Warren Ahlquist Act you must  
12 first have the approval of the Land Management Agency which,  
13 in this case, is the Bureau of Land Management.

14           The Bureau of Land Management process is many  
15 months behind your process at this point and we don't  
16 believe it would be proper for the Commission at this point  
17 to make a decision that the findings cannot be made that are  
18 necessary under the Warren Ahlquist Act.

19           When we raised this issue before, Applicant argued  
20 that because the area isn't exclusively for wildlife  
21 protection but is, in fact, a multiple use area that this  
22 section didn't apply.

23           But, in fact, this section of the statute does not  
24 say anything about exclusive and we would have to argue that  
25 if it was an area that was exclusively for wildlife

1 protection, then it would be completely improper to even  
2 consider siting a solar power industrial plant there.

3 So, that's the basic first argument.

4 And the second argument is regarding the  
5 Commission's adoption of, basically, two different  
6 configurations of the project.

7 Under CEQA, as well as the Warren Ahlquist Act,  
8 and I believe several other California statutes, which I  
9 have not had time to pull out all of them, it's really clear  
10 that the Commission, any lead agency, needs to adopt a  
11 specific project. They can't adopt a general idea of a  
12 project.

13 And to adopt two projects that are essentially the  
14 same, except for in one way, one 240 acres, or whatever it  
15 is, leads to nothing but confusion. And we actually,  
16 recently saw this with another agency, with the California  
17 Public Utilities Agency, that claims that it did exactly the  
18 same thing, it adopted -- it gave the Applicant in that case  
19 a choice of where to put a substation, and there is nothing  
20 in the record that shows when the Applicant made that  
21 choice, if it was ever made, and if the public was ever  
22 informed of that choice.

23 So, I think that the kind of confusion that can be  
24 created by adopting two different overlapping, largely  
25 overlapping projects, is really -- undermines the public

1 purpose of CEQA, particularly, and also the Warren Ahlquist  
2 Act. You're supposed to give the public notice and the  
3 ability to comment on what it is you are planning to adopt.  
4 And I don't think this meets that standards. I think you  
5 can only adopt a particular project, that clearly shows what  
6 the agency has committed to, what is the design in siting,  
7 and what is the course of action that will be taken going  
8 forward.

9           So, I could talk on and on, but I won't. And I  
10 can just go ahead and pass these around then. -- undermines  
11 the public purpose of CEQA, particularly, and also the  
12 Warren Ahlquist Act. You're supposed to give the public  
13 notice and the ability to comment on what it is you are  
14 planning to adopt.

15 And I don't think this meets that standards. I think you  
16 can only adopt a particular project, that clearly shows what  
17 the agency has committed to, what is the design in siting,  
18 and what is the course of action that will be taken going  
19 forward.

20           So, I could talk on and on, but I won't. And I  
21 can just go ahead and pass these around then.

22           CHAIRPERSON DOUGLAS: Thank you for those comments and  
23 for passing those around. I think that a number of us have  
24 them. Okay, so thanks for bringing copies in any case.

25           Let me ask if staff or the Applicant would like to

1 respond to any specific point raised by Ms. Belenky?

2 MR. GALATI: Yes, with respect -- oh, oh, wait,  
3 I'm sorry. Before we go there, is Basin and Range Watch in  
4 the room or on the phone?

5 Is Kevin Emmerich here, on the phone?

6 MS. CUNNINGHAM: This is Laura Cunningham. Hello?

7 CHAIRPERSON DOUGLAS: Oh, Ms. Cunningham, are you  
8 with Basin and Range Watch?

9 MS. CUNNINGHAM: Yes, Basin and Range Watch.

10 CHAIRPERSON DOUGLAS: Okay. Well, thank you for  
11 calling in. Would you like to speak to the project at this  
12 time?

13 MS. CUNNINGHAM: Yeah, I have a comment.

14 CHAIRPERSON DOUGLAS: Okay. Please proceed.

15 MS. CUNNINGHAM: Basin and Range Watch has been  
16 intervened in this project and we urge the Commission to  
17 note adopt the PMPD. I mean, there's still outstanding --

18 CHAIRPERSON DOUGLAS: Ms. Cunningham? All right,  
19 we lost Ms. Cunningham's call. We will wait for a few  
20 minutes and see if we can reestablish connection.

21 While we're waiting for Basin and Range Watch, is  
22 CARE on the line?

23 MS. CUNNINGHAM: Okay, Laura Cunningham.

24 CHAIRPERSON DOUGLAS: Ms. Cunningham, please  
25 proceed. We're glad to have you back.

1 MS. CUNNINGHAM: All right. As I was saying,  
2 there's a lot of Mojave Fringe Toad Lizard habitats on the  
3 project.

4 Number two, we're still concerned with water use  
5 impacts on very large desert Ironwood groves in the  
6 vicinity. One Ironwood grove is actually larger than  
7 Ironwood National Monument, in Arizona.

8 And then, third, archeologists have identified two  
9 prehistoric trails that cross the project site on the way to  
10 Corn Spring, from the mountains -- Palen Mountains and Buell  
11 Mountains. The project will completely destroy part of  
12 these trails.

13 So, there are a lot of issues that have not been  
14 addressed and we just urge the Commission to not approve.  
15 Thank you.

16 CHAIRPERSON DOUGLAS: Thank you, Ms. Cunningham.  
17 Is CARE on the line? CARE?

18 All right, we'll move on.

19 Applicant or staff, are there any comments that  
20 you've heard from intervenors that you'd like to address?

21 MR. GALATI: Yeah, I'd like to address a couple of  
22 them. First of all, the technical issue of mitigation is  
23 far too low, lands are set aside for wildlife protection.  
24 First of all, there's ample opportunity in evidentiary  
25 hearings to have these discussions, which we did not have

1 the discussions about the wildlife.

2 Mitigation too low, we had that, there was  
3 testimony on both sides and the Committee made a decision,  
4 and we think the Committee made the right one.

5 With respect to the application of Public  
6 Resources Code 25527, I think that there might be difference  
7 of opinion on whether it applies, how it applies, but at the  
8 end of the day I would pose to you how it really doesn't  
9 matter.

10 There is -- the Commission has placed into, and  
11 this is how the Committee chose to address this issue,  
12 placed -- beefed up a condition that required the BLM Grant  
13 to be provided before construction, which is the natural  
14 flow of events, anyway.

15 And so, if you were to listen to CBD's argument  
16 what you would do is not decide today, we'd go back to  
17 evidentiary hearing, we'd wait for BLM to grant the right-  
18 of-way, which they have also participated in this process,  
19 and agreed, and worked on the mitigation. We've worked with  
20 the for, you know, a couple of years.

21 We expect to get approval. We helped redesign the  
22 project largely with the input of BLM and its biologists.  
23 We developed mitigation ratios where they were completely  
24 participatory.

25 They did issue a draft EIS and a draft plan

1 amendment that was seeking to grant approval to a reduced  
2 acreage alternative, which we now have moved the project.

3           So, it's very likely that it will be approved.  
4 And I'm not going to say they're pre-decisional, but it's  
5 very likely that it will be approved.

6           And so then what we would do is we'd just come  
7 back and do the same thing.

8           So, there's a maxim of jurisprudence that says the  
9 law doesn't require you to take an idle act, it would be  
10 moot if you did that.

11           So, this is form over substance. The substance,  
12 however, is that each one of these land designations was  
13 addressed in the land use section and discussed in the  
14 biology section.

15           Each one of the mitigation that were identified  
16 took into account, connectivity was studied very  
17 significantly at this site, specific connectivity to this  
18 site.

19           And all of that evidence was put into the record,  
20 and the Committee made a decision, and the Committee made a  
21 right, the correct decision.

22           Specifically, with the two projects versus one  
23 project, there is no case law that is being supported or is  
24 offered in support, in any way, shape or form, that the  
25 Committee cannot do what it has done in the past, what the

1 Commission has done in the past.

2           These are not two projects. It will be an  
3 either/or. It's one project that may be configured slightly  
4 this way or one project might be configured slightly  
5 different.

6           The Commission may remember that they have  
7 approved projects with two transmission lines. But no one's  
8 going to build two transmission lines, they're going to  
9 build one or the other.

10           We were very clear in our filing on the  
11 reconfigured alternative two and three that we asked for  
12 both, and exactly why. That's been in the public record,  
13 everybody's had an opportunity to comment on that.

14           In addition, both of those, if you want to call  
15 them two projects, have been thoroughly vetted, and the  
16 mitigation has been designed for each one of them. There's  
17 tables and the condition outlying how their acreages change  
18 slightly.

19           And so, while we called them alternatives, maybe  
20 at the end of the day that was a misnomer, maybe they were  
21 options. But from our perspective, the Commission has done  
22 this before, there is no case law that prevents them from  
23 doing this when these were thoroughly vetted and evaluated.

24           And we think -- the only reason that we did it  
25 this way is we don't have site control over part of the

1 private land and if we did, we could slightly configure the  
2 project differently.

3           So, at the end of the day what BLM would give us  
4 is a grant that encompasses the largest amount of land we  
5 could use and we would pare it back if we got the private  
6 land.

7           With respect to the Mojave Fringe-toed Lizard,  
8 it's fully mitigated.

9           With respect to archeologists and the pre-historic  
10 trails, this was fully evaluated, these issues -- that  
11 particular issue didn't come up in evidentiary hearings in  
12 any meaningful way.

13           So, I believe that the Committee has heard all the  
14 evidence that's necessary. We support and we urge approval  
15 of the project.

16           CHAIRPERSON DOUGLAS: Thank you, Mr. Galati.

17           Staff, anything to add?

18           MS. DE CARLO: I'll just briefly address Ms.  
19 Belenky's two main arguments.

20           One, with regard to the application of 25527, it's  
21 staff position that that statute does not apply into this  
22 proceeding.

23           Ms. Belenky interprets areas for wildlife  
24 protection very broadly. We believe that that's -- her  
25 interpretation is too broad for this situation.

1           Specifically, in the NICO Plan, FEIS, it states,  
2 "Much of the plan is based on model results that can change  
3 as data are improved or conditions and uses change. With  
4 this in mind, we should consider the plan as ever-changing."

5           Therefore, we believe any designations within the  
6 plan, itself, need to be looked at on a case-by-case basis  
7 with regard to application of 25527.

8           We believe that the land that the project is  
9 proposed to be sited on is not the best land and, therefore,  
10 is not deserving of the protection specified in 25527.

11           With regard to Ms. Belenky's CEQA argument, or  
12 argument in terms of adopting only one project, the  
13 Committee has analyzed both alternatives fully, has  
14 identified mitigation for either alternative, whichever one  
15 the Applicant chooses to actually implement.

16           The Commission, on several occasions, has approved  
17 alternative versions of linear facilities. In Blythe 1, the  
18 Commission approved either two natural gas lines or even  
19 allowed the Applicant to build both.

20           In addition, the Commission in the past has also  
21 approved various alternative technologies, with the ultimate  
22 decision in which technologies were to be applied left to  
23 the Applicant.

24           One incident of that was in High Desert, where I  
25 believe three turbine technologies were approved by the

1 Commission.

2           So, this is not a deviation of Commission's  
3 approach in the past. And, as Mr. Galati said, Ms. Belenky  
4 has not identified any case law that supports her argument  
5 that the Commission, here, is limited to approving only one  
6 of the identified alternatives.

7           CHAIRPERSON DOUGLAS: Thank you, Ms. DeCarlo. I  
8 thought I'd give Ms. Belenky a chance, since I've given  
9 everyone else --

10           COMMISSIONER BYRON: Yes, but I still have a  
11 question for staff with regard to Ms. Belenky's earlier  
12 comments.

13           What about the argument that BLM approval process  
14 is lagging behind us and it's required before our decision?

15           MS. DE CARLO: Well, I would argue that 25527 does  
16 not apply.

17           COMMISSIONER BYRON: I'm sorry, I don't know the  
18 numbers so I --

19           MS. DE CARLO: Oh, I'm sorry.

20           COMMISSIONER BYRON: Yeah, yeah.

21           MS. DE CARLO: The provision Ms. Belenky cites to,  
22 I would argue that that provision doesn't apply at all and,  
23 therefore, doesn't restrict the Commission in timing.

24           COMMISSIONER BYRON: That's what you were  
25 referring to earlier?

1 MS. DE CARLO: Yes, I'm sorry.

2 COMMISSIONER BYRON: Thank you.

3 CHAIRPERSON DOUGLAS: Mr. O'Brien?

4 MR. O'BRIEN: Commissioner Byron, I'd like to make  
5 a comment on that. Not from a legal stand point, but just  
6 to emphasize the fact that on this project the four REAT  
7 Agencies worked very closely together because of the  
8 concerns over the environmental impacts to sand transport,  
9 and that resulted in a reconfigured project.

10 And we had discussions with BLM, as well as Fish  
11 and Game, and U.S. Fish and Wildlife Service about the  
12 issues that Ms. Belenky raised in terms of portions of the  
13 project and having a certain designation.

14 And it's my understanding, both based upon the  
15 meetings that we have had from a management stand point, but  
16 also the fact of meetings on the ground with the biologists  
17 from all the agencies, that the agencies are satisfied that  
18 from a biological perspective the reconfiguration, you know,  
19 reduces the impacts. And I would be very surprised if  
20 there's any issue or concern going forward on the part of  
21 the BLM regarding, you know, ultimate approval of this  
22 project based upon all of the communications and meetings  
23 that we've had with them, and the two other REAT Agencies.

24 CHAIRPERSON DOUGLAS: Thank you, Mr. O'Brien.

25 Let me go back to Ms. Belenky and then we'll go

1 back to Basin and Range Watch, and then we'll go to  
2 questions.

3 MS. BELENKY: Thank you. I just wanted to respond  
4 to a few points. Actually, the Center for Biological  
5 Diversity did discuss these areas in our testimony, it was  
6 discussed at hearing.

7 We may not have raised the legal question, but  
8 hearing is an evidentiary matter. That's what I've been  
9 told repeatedly when I bring up legal questions during  
10 evidentiary hearings.

11 It does matter. It matters that the statute, the  
12 plain language of the statute says that you need the  
13 approval of the land manager, first. It does matter.

14 The only question is, then, is this the kind of  
15 area that fits within, as staff says it does not fit, within  
16 the ambit of this section.

17 However, this area is designated by the Bureau of  
18 Land Management in this way. It's quite clearly wildlife  
19 habitat protection area.

20 It is not -- if, for some reason, the Commission  
21 thinks, well, they may have designated it that way, but it's  
22 not the best habitat and, hey, we've had meetings with  
23 people where they say it's not the best habitat. I don't  
24 think you get around the statute that way.

25 BLM needs to make the decision. BLM could change

1 the plan. Absolutely, they could change these designations,  
2 that's clear.

3 In fact, a plan amendment is needed in order to  
4 allow siting of this project.

5 So, I don't think that's a decision that the  
6 Commission can make at this point, whether or not these  
7 designated areas deserve the designation that they have.  
8 That is not your choice.

9 Secondly, I just want to say, although the  
10 Applicant says they're not trying to assume approval, they  
11 clearly are.

12 BLM has not, in a public document, evaluated this  
13 configuration, either of these two new configurations.

14 There's no doubt in my mind that these  
15 configurations are superior to the original configurations.  
16 That does not, however, mean that they are good enough, that  
17 they are correct, that they are the best that we can do  
18 under alternatives, or that they are the ones that BLM will  
19 absolutely approve. And you cannot pre-decide for BLM,  
20 clearly.

21 Discussions in, you know, whatever format are not  
22 the same as the actual designation under the plan and the  
23 statute. And that is all we're asking you to do is read the  
24 plain language of the statute, we think it's quite clear  
25 that this does fall within the section of the statute.

1 Thank you.

2 CHAIRPERSON DOUGLAS: Thank you.

3 Basin and Range Watch, anything to add?

4 MS. CUNNINGHAM: Can you hear me?

5 CHAIRPERSON DOUGLAS: Yes.

6 MS. CUNNINGHAM: Yeah, just one more point on the  
7 archeology. Basin and Range Watch does not have any  
8 archeologists, but we have learned quite a lot about the  
9 cultural valley of Chuckwalla Valley, including the Palen  
10 site.

11 And a lot of people who know about the cultural  
12 areas, native people, say, living in Blythe, don't come to  
13 Sacramento, don't participate in hearings, and I think they  
14 feel that they have been ignored in this process. Thanks.

15 CHAIRPERSON DOUGLAS: Thank you.

16 Is CARE on the phone? CARE?

17 All right. Is CURE on the phone? I know that  
18 CURE is no longer fully engaged as a party, but if CURE's on  
19 the phone?

20 All right. Commissioners at this point.

21 COMMISSIONER BYRON: I do have one remaining  
22 question, Commissioner, but I'd yield to you at this point  
23 because I think you'd probably answer it as we go along.

24 COMMISSIONER WEISENMILLER: The first question I  
25 was going to have for the staff and the Applicant was we

1 received comments from Mojave Desert Land Trust on the 13<sup>th</sup>.  
2 I'm assuming you both have those.

3 And they raised a question about whether there was  
4 a deficiency in the Bio 8 and 9, in terms of a request that  
5 we include requirements for adaptive management as part of  
6 that.

7 And I wanted the staff and Applicant to -- and,  
8 certainly, CBD's welcome to comment on that suggestion,  
9 whether that's implicit in our comments or in our  
10 conditions?

11 MS. DE CARLO: Staff was a little perplexed about  
12 the comment letter in terms of what the Land Trust actually  
13 meant by adaptive management.

14 We do believe that the record is replete with  
15 evidence analyzing the connectivity issue and believe that  
16 the current conditions adequately and fully mitigate for any  
17 potential impacts to the connectivity issue.

18 So, we believe the conditions as they stand now  
19 are sufficient.

20 MR. GALATI: I would just note that I hadn't  
21 received that letter, so I'm not sure.

22 But I do know Bio 8 and Bio 9 very well. And as a  
23 matter of fact, as a matter of course there are monthly  
24 compliance reports, there's quite a bit of work with the  
25 designated biologists and the staff. And if these need to

1 change, they certainly can and often do.

2 COMMISSIONER WEISENMILLER: Okay. Can I ask,  
3 could you share that with him, just to --

4 MS. DE CARLO: Certainly.

5 COMMISSIONER WEISENMILLER: I don't know, did CBD,  
6 did you get that letter?

7 MS. BELENKY: We got it this morning.

8 COMMISSIONER WEISENMILLER: Okay. Okay, so just  
9 if you -- do you have any comment on it?

10 MS. BELENKY: Thanks. I mean, I think to the  
11 extent it raises the issues of connectivity that we've been  
12 raising throughout the process, we would certainly agree  
13 that there isn't sufficient information in the documents to  
14 date.

15 But I don't know, I think the term "adaptive  
16 management" is quite broad and I just -- I don't have an  
17 opinion on whether it would help to add that to those, Bio 8  
18 and 9 at this point.

19 COMMISSIONER WEISENMILLER: Okay.

20 MR. GALATI: I do have -- now having read the  
21 context and the question, I do have more, I'd like to  
22 supplement my answer.

23 And that is that the issue is addressed at  
24 connectivity. And what you need to understand is that there  
25 is a natural barrier along I-10. And so, what was

1 establishing connectivity between -- for wildlife, and this  
2 was discussed in detail, is we did a connectivity analysis,  
3 where we went out and actually looked at all the culverts,  
4 which culverts are being used.

5           And what we found is as you moved west that's  
6 where the animals were actually using the corridors. And as  
7 you moved close to the project, they were very rarely using  
8 the corridors, they're constrained.

9           And so, the way the project is configured, in a  
10 way the only thing that posed a connectivity problem was, it  
11 was identified by the agencies, was that our road, when you  
12 put our road in it's possible that between the Desert  
13 Tortoise fence and the road you create areas where animals  
14 have to cross that road.

15           We put in a culvert to take that small triangle  
16 between I-10 and our tortoise fence, and allow, if animals  
17 were to come into that area, allow them to be able to move  
18 back towards the west where the connectivity is the greatest  
19 and the strongest.

20           Staff evaluated that, Fish and Game evaluated  
21 that, U.S. Fish and Wildlife Service evaluated that. And  
22 the lower end of the project was designed in a way to  
23 minimize going westerly, to continue to maintain  
24 connectivity.

25           So, we don't believe there needs to be adaptive

1 management for connectivity purposes. Bio 8 and 9 deal with  
2 a lot of other things, which there is adaptive management  
3 built in.

4 COMMISSIONER WEISENMILLER: Thank you.

5 I was going to also allow Basin and Range -- I  
6 don't know, I assume, Basin and Range, you have not seen the  
7 Mojave Desert Land Trust letter. But if you have any  
8 comments on this general question, be happy to receive those  
9 now.

10 MS. CUNNINGHAM: No, we have not seen it, so I  
11 have no comments.

12 COMMISSIONER WEISENMILLER: And then on the legal  
13 issues that are before us, I was going to ask the Hearing  
14 Officer and then the General Counsel if they have any input  
15 for us on this?

16 HEARING OFFICER RENAUD: Well, the -- basically,  
17 there are two legal issues that are being raised by CBD, as  
18 I understand it, and they were raised in their comments on  
19 the PMPD and we went over them at the Committee conference.

20 Let's see, I'm open to the second one, so I'll  
21 talk to that one, first.

22 This is the question about 25527 and there's,  
23 first of all, the question of whether or not the lands in  
24 question even fall within the ambit of that statute. And I  
25 think staff has explained and Applicant has explained why

1 they believe they don't.

2           And we haven't really heard, from CBD, anything  
3 that in my view is compelling in opposition to that, it's  
4 pretty vague.

5           Even if it did apply, we then get to this  
6 technical question of approval of the other agency, in this  
7 case the BLM, before our approval.

8           If you look at that statute, what you'll see is  
9 that the idea was that we couldn't just go around approving  
10 projects and allowing them to be built without the other  
11 agency having known about it and said it's okay with us.

12           In this case we have the BLM concurrently running  
13 their process with us. There is no question that the  
14 project would -- could possibly be built without BLM  
15 approval, that cannot happen.

16           And just to add to that, in response to this  
17 comment, we added a provision to Condition of Certification  
18 Land 1, requiring that before project construction begin the  
19 BLM approval be presented to the CPM.

20           So, the -- the reason for that provision is  
21 certainly covered here. The result of following -- of going  
22 the other way, as Mr. Galati described, and going back into  
23 the evidentiary process and waiting is exactly the same.  
24 There would be absolutely not difference in the result and  
25 it would be an idle act to do so.

1           Let's see. As far as the other legal issue is the  
2 two alternative notion?

3           COMMISSIONER WEISENMILLER: Yes.

4           HEARING OFFICER RENAUD: Okay. Well, again, I  
5 mean it's an interesting idea, but there really isn't any  
6 legal support for it. We asked CBD if they had any legal  
7 support for it, at the Committee conference on December 2<sup>nd</sup>,  
8 and they didn't. They said they hadn't had time to find  
9 any. But here we are now, December 15<sup>th</sup>, and we still don't  
10 have any.

11           The fact is that these are not -- it's not two  
12 projects, it's one projects with two potential  
13 configurations on one corner of it, both of which have been  
14 fully analyzed throughout the PMPD, and both of which are  
15 completely covered by the mitigation schemes.

16           So, it just -- it doesn't seem -- it's an  
17 interesting idea, but the facts of this case just don't  
18 support that in my view.

19           And I, obviously, defer to Chief Counsel to  
20 bolster or add to what I've said.

21           GENERAL COUNSEL LEVY: And I agree with Mr. Renaud  
22 about the configuration or approving it in the alternative,  
23 I think that's fine.

24           In terms of the 25527, you might just, as a  
25 factual matter, ask staff to give a more detailed

1 explanation of why they don't consider it to fall within the  
2 ambit in the statute, and as an area of wildlife protection,  
3 and you can have a more specific factual foundation for your  
4 determination.

5 COMMISSIONER WEISENMILLER: Okay, that's fine. I  
6 think it's possible it's already in the record. But,  
7 certainly, to the extent staff, both the Hearing Officer and  
8 the staff address that, that would be good.

9 MS. DE CARLO: During the Committee conference on  
10 the PMPB, Mr. Galati actually gave a really great  
11 description of why the project areas at issue aren't --  
12 should not be qualified as areas for wildlife protection.

13 But in general, staff's position is it really --  
14 it does require a case-by-case determination and we've --  
15 the record is full of testimony by the various agencies and  
16 staff identifying why this particular area is really not  
17 suitable for preservation, for protection.

18 We believe that BLM's approach to wildlife  
19 management is very flexible. I believe even the DWMA's and  
20 the WMA's, which are particularly at issue here, still allow  
21 for a certain percentage of development on the land. We  
22 feel that that's an indication that this doesn't necessarily  
23 fall within the ambit of an area for wildlife protection as  
24 intended in the Section 25527.

25 HEARING OFFICER RENAUD: The PMPD did consider

1 this. And I think one place I can point you to is page 3 of  
2 the Land Use Section, which describes the status of the  
3 parcel or the land there. It's within the Federal  
4 California Desert Conservation Area, plan area, no question  
5 about that, and that it is in the multiple use Class M land  
6 use category, which may allow electrical generation plants.

7 That doesn't mean it couldn't allow other things,  
8 but electrical generation plants is listed as a possible  
9 use.

10 We did go over this in the Land Use Section and I  
11 don't -- I don't really hear anything new here that's being  
12 presented to you today, that the Committee didn't consider  
13 in the PMPD.

14 The land use category is -- as Ms. De Carlo said,  
15 I think the definition assigned to this by CBD is overly  
16 broad and, you know, almost any place could be deemed for  
17 wildlife, if it's a park or any kind of a designation. But  
18 it's not -- in this case there are specific provisions that  
19 are set -- that are described in the PMPD, and in the  
20 evidence, that place this land within the category that can  
21 be used for power generation.

22 GENERAL COUNSEL LEVY: I would say that to the  
23 extent it's actually an authorized use, and for purposes of  
24 the statute, an area of wildlife protection, this is not  
25 exclusively an area of wildlife protection if the land uses

1 already authorizes a power plant, electrical generation on  
2 this site.

3 COMMISSIONER WEISENMILLER: Okay, thank you.  
4 Thank you. Commissioners --

5 MS. BELENKY: Could I possibly respond?

6 COMMISSIONER WEISENMILLER: Sure.

7 MS. BELENKY: Thank you so much. I don't want to  
8 keep this debate going too long, but I just have to say it  
9 is not up to the California Energy Commission to determine  
10 whether a designation of wildlife habitat management areas  
11 and desert wildlife management areas on federal public lands  
12 is good enough. That is not your task and you do not have  
13 the power to do that.

14 These designations were made under an adopted plan  
15 by a federal agency, after notice, and comment, and NEPA  
16 review.

17 You cannot simply make them go away by saying you  
18 don't think those areas are worthwhile for habitat or for  
19 wildlife protection.

20 I do not think that the statements made here today  
21 go anywhere near showing that these areas do not fit within  
22 the ambit of the statute.

23 This area is not allowed for energy production  
24 without a plan amendment to the same plan, that would have  
25 to be adopted by the Bureau of Land Management after notice

1 and comment to the public, and adopted under NEPA and FLPMA.

2 As of today these areas maintain their  
3 designations as WHMAs and DWMAs. There's nothing that can  
4 be said in this room that will change that today.

5 And if you choose to say that that is not enough  
6 and you don't want to recognize those designations, that is  
7 certainly your prerogative. But you cannot change those  
8 designations by simply saying you don't agree with them.  
9 Thank you.

10 CHAIRPERSON DOUGLAS: I think we hear you, Ms.  
11 Belenky. I think the point is that, obviously, before  
12 anyone could begin construction of a power plan, the Bureau  
13 of Land Management would have to change those designations  
14 and would have to approve a project.

15 And so, we certainly cannot act to allow anything  
16 to go forward on federal land without -- if it's BLM land,  
17 without the Bureau of Land Management, itself, taking an  
18 action. That's been one of the more interesting  
19 requirements of this process as we've gone through the joint  
20 interagency process.

21 Let me -- Commissioner Weisenmiller, you've  
22 been --

23 COMMISSIONER WEISENMILLER: I was -- I was going  
24 to say that I was going to move this item and urge the  
25 Commission to approve it. And I was going to talk about my

1 rationale on it.

2           And I'll start out by saying I'm not an attorney,  
3 but in terms of that specific argument about the BLM, that  
4 from a policy level I am sure that this project is not going  
5 to start construction unless and until BLM approves it.

6           So, I won't get into the legal merits, but from a  
7 policy perspective I'm fairly comfortable that we're not  
8 trying to override federal law here. Can't do that.

9           In terms of why I'm urging the Commission to  
10 approve this, it's been a common refrain as we've gone  
11 through these cases, from me, but I'm very concerned about  
12 greenhouse gas issues, and I'm very concerned about climate  
13 change in the desert. You know, there was a scientific  
14 study I was reading last night that was saying we could be  
15 approaching the worst drought in our desert since the 1200s.  
16 I mean, just record levels of drought there, which are being  
17 caused, at least scientists believe, by -- and I'm obviously  
18 a scientist, being caused by greenhouse gas emissions.

19           And so, we have to take action now to reduce our  
20 fossil fuel generation, and reduce those greenhouse gas  
21 emissions, so we have to move towards renewable energy.

22           And this is a step in that direction.

23           You know, I know the Intervenors, CBD has worked  
24 on the question of, well, what about alternatives, what  
25 about rooftop, what about distributed gen?

1           And I believe we need both. I believe, you know,  
2 when we look at the Air Board's Greenhouse Gas Plan, when we  
3 look at the PUC's LTP, when I look at -- they make a very  
4 strong quantitative case that we need -- not only do we need  
5 utility scale and we need DG and, in fact, when you look at  
6 Governor-Elect Brown's program on renewables, you know, we  
7 have very aggressive goals on DG. Certainly, much more  
8 aggressive than I think much of the conventional thinking  
9 has been.

10           But there are still -- you know, we're talking  
11 12,000 megawatts of DG, but 8,000 megawatts of utility  
12 scale.

13           So, again, I think we need both. I think that's  
14 the general agreement. And I think this moves us in that  
15 direction.

16           And I think in terms of the other thing we're  
17 dealing with is the economy, you know, that we are in the  
18 great recession, that we're looking at substantial  
19 unemployment in that area.

20           You know, Riverside County is -- statistics, as of  
21 October, are 15 percent, Blythe is 17 and a half percent.

22           We're looking at construction jobs, on average, of  
23 566, peak of 1,145, and permanent 134, and we need those  
24 jobs. We need that now.

25           I mean, it's been very refreshing to get the

1 feedback in the trade press, at least, about some jobs going  
2 into Blythe from our other project. So, again, that's an  
3 area that needs that.

4 I think the project is not perfect. You know,  
5 we've gone through, certainly, a lot of effort to  
6 reconfigure it. It's a better project, I think that's the  
7 general agreement, it's better. It's not perfect.

8 But I think it's certainly something where I'm  
9 comfortable recommending the override and that we go  
10 forward.

11 CHAIRPERSON DOUGLAS: I'll just briefly add,  
12 Commissioners, as the Associate Member of this Committee,  
13 this was not one of our easier projects, it presented some  
14 fairly complex and significant environmental issues as we  
15 looked at the initial proposal, in particular.

16 And I don't know that I, in any case, would have  
17 seen my way through to recommending the original proposal.

18 But the reconfiguration was very substantial and  
19 significant in reducing the impacts of the project and  
20 making it a better project.

21 The purpose of the Committee recommending that the  
22 Commission approve the project with, essentially, two  
23 configurations is we hope the project will be able to make  
24 the deals that it needs to make to go forward using some  
25 portion of private land. And we think that it would be an

1 even greater improvement if they were able to do that.

2 We recognize that that may or may not be possible.

3 And it's at least my opinion that the project  
4 merits approval and merits the ability to proceed regardless  
5 of whether the Applicant's able to make use of that  
6 alternative.

7 But, certainly, of the projects that I've been on,  
8 this has been one of the more challenging in terms of the  
9 scope of the potential environmental impacts and the amount  
10 of effort that's had to go into reconfiguring the project in  
11 order to address those concerns.

12 COMMISSIONER WEISENMILLER: Yes, I move it.

13 CHAIRPERSON DOUGLAS: We have a motion. Do we  
14 have questions? Do we have -- oh, do we have somebody who  
15 would like to speak?

16 SECRETARIAT KALLEMYN: William Walters.

17 COMMISSIONER BYRON: He's staff.

18 CHAIRPERSON DOUGLAS: He's just staff, he's with  
19 Aspen Environmental Group. William Walters, would you like  
20 to speak?

21 No, he would not.

22 Kevin Emmerich, you were on the phone earlier,  
23 wanting to speak on this item, are you still on the phone?

24 Is anyone else on the phone who would like to  
25 speak on this item?

1           Okay. We have a motion. We may have more  
2 questions, we may have more comments.

3           COMMISSIONER EGGERT: Just a brief comment, Chair  
4 Douglas.

5           I guess, you know, as no stranger to challenging  
6 and complicated projects, you know, I do want to thank the  
7 Committee for all the hard work on this particular project.  
8 I know there's always trade offs. As we've said many times,  
9 there's no such thing as a perfect project.

10           It's clear that there has been significant effort  
11 to try to best address those particular impacts and mitigate  
12 those impacts that were identified through the project --  
13 through the process, the CEQA process.

14           I've benefited from the discussion and the  
15 comments that have been made by the Intervenors and the  
16 responses that have been provided by the staff and  
17 Applicant.

18           I think I feel comfortable at this point, with my  
19 understanding about what's being proposed here, to make a  
20 vote in support of the project.

21           COMMISSIONER BOYD: Well, I'll join in on that  
22 theme. I was particularly reminded of the status of our  
23 planet by Commissioner Weisenmiller's comments about climate  
24 change and greenhouse gases, having spent an awful lot of  
25 time in the last week or so, it seems, in that arena, having

1 spent Sunday in a seminar on the topic, again, down at  
2 Stanford.

3 I just feel we need -- we just need to move ahead  
4 in this direction. And I'm guided by the Committee, as many  
5 of you are, when others of us are dealing with these same  
6 kind of issues. So, I'm prepared to vote in favor of the  
7 project.

8 COMMISSIONER BYRON: Madam Chair, I, too, am  
9 satisfied and I think the Committee's done a very good job  
10 of bringing this project forward to us.

11 I'll address one topic that I don't think has been  
12 addressed, and that is the concern that one of the  
13 Intervenors has raised with regard to the speed of these  
14 projects.

15 At times this Commission is criticized for going  
16 slow. I don't know if you've heard that before or not.  
17 Let's not confuse speed with making sure that we have given  
18 the public its due process. I'm satisfied that we have done  
19 that here.

20 And I thank the Applicant for bringing forward  
21 these kind of projects to us. This is exactly what this  
22 Commission has been looking for, these large renewable  
23 projects, large, meaning the ones that fall in our  
24 jurisdiction.

25 And, certainly, the Intervenors have contributed

1 greatly to making this a better project.

2 That is, all except one, but I'm under a  
3 confidentiality agreement and unable to disclose that.

4 Madam Chair, I'm prepared to vote in favor of this  
5 project as well.

6 CHAIRPERSON DOUGLAS: Thank you, Commissioners.  
7 If there's any more public comment, please come forward.

8 MR. NAZEMI: Good afternoon, Chairwoman Douglas.  
9 I apologize for not filling out a card. After all these  
10 years, I should know the process.

11 But I just want to make a clarification here. I'm  
12 Mohsen Nazemi, Deputy Executive Officer with South Coast Air  
13 Quality Management District.

14 And I'd just like to point out that the District  
15 has issued a final determination of compliance on December  
16 1<sup>st</sup>. We did publish public notice in the newspaper and  
17 received comment letters from CEC, and the Applicant, and we  
18 address all those comments in our final determination of  
19 compliance.

20 However, there was also a requirement for a public  
21 notice to be distributed to addresses within a quarter-mile  
22 radius, which is only, maybe, five or six addresses. And  
23 the Applicant has done that, now, and I think the comment  
24 period closes at the end of the year.

25 With that, we will probably not hear from those

1 because we didn't hear anything from them the last time we  
2 did a public notice.

3 But if there is anything, we will make any changes  
4 necessary and submit a revised FTOC to the Commissioners.

5 CHAIRPERSON DOUGLAS: Thank you.

6 MR. NAZEMI: Thank you.

7 CHAIRPERSON DOUGLAS: Thank you, Mohsen.

8 Commissioners, we have a motion. Do we have a  
9 second?

10 COMMISSIONER BYRON: Second.

11 CHAIRPERSON DOUGLAS: All in favor?

12 (Ayes.)

13 CHAIRPERSON DOUGLAS: The item is approved.

14 HEARING OFFICER RENAUD: May I just for the record  
15 clarify, make sure we have the wording in the motion.

16 CHAIRPERSON DOUGLAS: Ah, right.

17 HEARING OFFICER RENAUD: That you're adopting the  
18 PMPD, the override findings, and the Errata?

19 COMMISSIONER WEISENMILLER: That's correct.

20 HEARING OFFICER RENAUD: All right, thank you.

21 CHAIRPERSON DOUGLAS: Thank you.

22 COMMISSIONER WEISENMILLER: Commissioner, I'd like  
23 to make a few comments now that that's --

24 CHAIRPERSON DOUGLAS: Please, Commissioner  
25 Weisenmiller.

1                   COMMISSIONER WEISENMILLER: Sure. I wanted to  
2 thank everyone who's been involved in this. And as we all  
3 know, these are fairly complicated cases, fairly complicated  
4 undertakings. And this has certainly been a thorough  
5 process.

6                   I was going to say, we finished it in 13 months  
7 so, again, given the -- while it's been certainly times  
8 where we feel like we've been really racing fast, it still  
9 fits within the original Warren Ahlquist Act framework, or  
10 slightly beyond it.

11                  But I think, first, I'd like to certainly thank  
12 Mr. Renaud, our Hearing Officer, who -- and the Hearing  
13 Office staff who put on a phenomenal job, as you know, given  
14 the tight time frame to pull all the information together  
15 and put it into a coherent decision.

16                  Obviously, I'd like to thank the staff project  
17 manager, Alan Solomon, and the staff project attorney, Lisa  
18 DeCarlo, and along with the entire siting staff,  
19 particularly, obviously, Terry's leadership.

20                  But again, it's not been easy this year. I think  
21 all of have gone through -- all of us have gone through our  
22 paces from pillar to post. And, fortunately, we're all  
23 still standing.

24                  And, obviously, our advisor, Eileen Allen and  
25 Galen Lemei certainly, really, put in a remarkable effort on

1 this.

2           And I'd like to thank the Applicant for their  
3 willingness to work with the staff. To, when it became  
4 necessary, to step back and reconfigure, to accept that and  
5 realize that the original plan just wasn't going to work.

6           And I certainly want to thank the Intervenors,  
7 CURE, CARE, Basin and Range Watch, Center for Biological  
8 Diversity. They've all had very thoughtful participation,  
9 lots of hard work. Certainly, really contributed to a  
10 better project coming out of here and I really appreciate  
11 that.

12           And, finally, these are partnerships. I mean,  
13 we've had a very strong partnership with BLM, with all the  
14 REAT Agencies, Fish and Game, U.S. Forest Service -- or Fish  
15 and Wildlife.

16           And we particularly appreciate the BLM office in  
17 Riverside County, the staff of BLM Palm Springs Field  
18 Office, Allison Shaffer, Mark Mauser, Holly Roberts, and  
19 numerous others have contributed significantly to this  
20 project and the CEQA/NEPA process.

21           And, obviously, also the South Coast for their  
22 help. Thanks. And thanks for being here today.

23           CHAIRPERSON DOUGLAS: Thank you, Commissioner  
24 Weisenmiller for that statement.

25           All right, let's go to Item 20, Almond 2 Power

1 Plant Project -- oh, wait, wait, wait, I'm sorry.

2 Applicant, was there something that you would like  
3 to say? I see that they're not sprinting from the table so,  
4 please.

5 MS. HARRON: I'm Alice Harron, from Solar  
6 Millennium. I understand it's been a long day, so I'll try  
7 to make my comments as quick as possible.

8 I just really wanted to take the time to thank, to  
9 thank, the Commission. And I also want to thank staff,  
10 legal counsel, and our Hearing Officer.

11 I think, as Scott said, it's chock full of  
12 compromises, it was hard. And I know my demeanor at times,  
13 Alan, was not that great. So, I do appreciate you taking  
14 this through.

15 On behalf of my company, Solar Millennium, again,  
16 we're very proud to be a contributor to the new renewable  
17 power base here, in California.

18 And I want to also echo your comments on jobs. I  
19 just wanted to make a note that last week, when we were at a  
20 visit at Blythe, because our Blythe Solar Power Project is  
21 starting, we met with county and city officials, our  
22 contractor was there. And we talked about the jobs coming  
23 to the area, we talked about the economic benefits. And, of  
24 course, the City of Blythe loved the idea of the local  
25 dollars there as well, the tax dollars.

1           We also met with community colleges down there  
2 about training for our staff and about coordinating the  
3 timing and the type of training to have.

4           So, it was a very -- it was just -- you know,  
5 sometimes in these proceedings, I mentioned this yesterday  
6 in another proceeding, but sometimes in these proceedings,  
7 you know, we talk about all the impacts and we need to  
8 mitigate -- or avoid, minimize and mitigate.

9           But, also, the effect on lives here in California,  
10 not only the global issue of carbon, and greenhouse gases,  
11 but also local people's lives and bringing that kind of --  
12 that kind of economy down to Blythe.

13           And I also want to tell you that I feel that will  
14 continue with Palen.

15           And just on a more personal note, I had mentioned  
16 this at Blythe, but I also want to say that this is another  
17 -- another plant, another development and construction plan  
18 done in the memory of Ray Dracker, our colleague who passed  
19 away this past summer.

20           And again, when we do the dedication ceremony for  
21 our Blythe project, that's where his memory will be honored.  
22 But I just also want to mention that he was very, very  
23 important in developing this project as well.

24           So, thank you for allowing me the time to say  
25 this. Thank you for the permit to build and operate.

1           And as I tell you, we will meet all conditions, it  
2 will be constructed and operated in an environmentally  
3 responsible manner. So, thank you very much.

4           CHAIRPERSON DOUGLAS: Thank you, Ms. Harron.  
5 Thank you, Mr. Galati.

6           All right. Item 20, Almond 2 Power Plant Project,  
7 09-AFC-2. Possible adoption of the Presiding Member's  
8 Proposed Decision on the almond 2 Power Plant Project and  
9 possible Errata.

10          Hearing Officer Vaccaro.

11          HEARING OFFICER VACCARO: I'm on, now. Good  
12 afternoon, Chairman Douglas, Commissioners.

13          I am Kourtney Vaccaro, with the Hearing Advisor's  
14 Office.

15          And it's been a long day, I know, but, gosh, I am  
16 so pleased to present to you today two Presiding Member's  
17 proposed decisions.

18          The first item before you is a PMPD and Errata  
19 that recommend approval of the Turlock Irrigation District's  
20 Almond 2 Power Plant Project.

21          This is a proposed as a 174-megawatt, simple cycle  
22 natural gas peaking facility, which would be located on  
23 approximately five acres of previously disturbed land in the  
24 City of Ceres, which is in Stanislaus County.

25          The Turlock Irrigation District is a balancing

1 authority, it is a public agency, it is charged with  
2 responsibility for providing reliable service to its  
3 ratepayers.

4 The District has pressed upon the Committee the  
5 urgency of having its decision before the end of this year.  
6 It's AFC was deemed data adequate in July of '09 and here we  
7 are, today, moving this project forward in light of the fact  
8 that we had so many ARRA cases, as well.

9 I think an important feature of this project is  
10 that it's being sited immediately adjacent to the District's  
11 existing 48-megawatt Almond Power Plant.

12 And what's very important about that is these  
13 facilities will be able to share infrastructure and existing  
14 facilities that are already being used by the Almond Power  
15 Plant.

16 This is a process that involved, essentially,  
17 three parties, the Applicant, staff, and California Unions  
18 for Reliable Energy were the Intervenor.

19 However, by the time of the evidentiary hearing  
20 and by the time of the comments on the PMPD, we were left  
21 with the Applicant and staff as the active participants.

22 All issues in this matter were resolved by the  
23 parties. They came to much agreement after workshopping, in  
24 thorough, I think, discussions and vetting of the evidence.  
25 Such that what we're presenting to you today is an Errata

1 that encompasses corrections, clarifications, typographical  
2 errors and the like that were identified by both Applicant  
3 and staff, and with which the Committee agreed, as well as  
4 the PMPD, itself.

5 I think that's just sort of the brief summary of  
6 the project. Again, I'm very pleased to present this. And  
7 if you have any questions, I'd be happy to answer them.

8 CHAIRPERSON DOUGLAS: Thank you. Can we hear from  
9 staff?

10 MS. MAYER: Thank you, Chairman. We support the  
11 adoption of the -- the staff supports the adoption of the  
12 PMPD and Errata. And we thank the Hearing Officer for her  
13 hard work.

14 CHAIRPERSON DOUGLAS: Thank you. Applicant.

15 MR. HARRIS: Good afternoon, Jeff Harris, on  
16 behalf of the District. We're pleased to be sort of your, I  
17 guess, almond sorbet in this large solar lunch you're  
18 having.

19 So, it is a natural gas project that is before  
20 you. You guys still do those, right? But it's absolutely  
21 related to the important work that you've been doing on  
22 renewables because this project will enable the District to  
23 firm up their intermittent renewable resources, and meet  
24 their Balancing Authority obligation.

25 So, it's really been a model process in terms of

1 the interaction between staff and Applicant, and then the  
2 lesson-learned proceeding.

3 I'd be glad to talk more about some of the things  
4 that really worked well here. But tremendous respect for  
5 the staff and the staff counsel on this one. And the  
6 Hearing Officer, of course, who's done an outstanding job.

7 But before I step on my client, I'm going to  
8 probably turn this over to Brian here, but one other  
9 important thing. These are serial numbers 1, 2 and 3 for  
10 the new GE 58 megawatt LM 6000 PG turbines. These are the  
11 first of this kind of facility and it's a much more  
12 efficient LM project, and so we're very proud to have,  
13 basically, you know, serial numbers 1, 2 and 3 on the  
14 project.

15 So, let me introduce Brian, who will introduce  
16 himself, and talk about his position in the district. Go  
17 ahead, Brian.

18 MR. LAFOLLETTE: Yeah, actually, GE keeps serial  
19 number 1. These are the first three commercial units, so  
20 serial numbers 2, 3 and 4. Sorry, Jeff.

21 CHAIRPERSON DOUGLAS: All right, is your  
22 microphone on?

23 MR. HARRIS: You have to pull it closer.

24 MR. LAFOLLETTE: Oh, sorry. I'm Brian Lafollette,  
25 with the Turlock Irrigation District. And I also want to

1 say good afternoon, Commissioners.

2 On behalf of the Turlock Irrigation District and  
3 the Almond 2 Project team, I want to say thank you to the  
4 Commission and CEC staff for their hard work on and  
5 attention to this project.

6 This project's important to the TID and our  
7 community. As was mentioned before, our project represents  
8 about 150 jobs at peak, as well as other short-term and  
9 long-term economic benefits to the area.

10 The plant will assist TID in meeting our  
11 reliability obligations as a Balancing Authority. It will  
12 improve the economy, efficiency, and flexibility of our  
13 system, including the integration of intermittent renewable  
14 resources.

15 We know that during our interaction with the CEC  
16 and continuing that you've been challenged with schedule  
17 constraints associated with limited resources, and renewable  
18 project workload, and so your attention to our project is  
19 especially appreciated.

20 Specifically, we want to thank Hearing Officer  
21 Vaccaro for her expeditious issuance of the PMPD and, of  
22 course, Presiding Member Douglas and Associate Member  
23 Eggert, thank you as well.

24 Our CEC project manager, Felicia Miller, was  
25 terrific. And while there are unavoidable and perhaps even

1 inherent difficulties that arise during the process, Ms.  
2 Miller went to great lengths to be available to us and to  
3 foster communication and understanding between staff and the  
4 applicant, and that allowed for us to have a resolution of  
5 the issues at the staff level.

6           And so, furthermore, she was mindful of how  
7 important the project is to the District and how important  
8 the project schedule is to us.

9           And so, we think she's an excellent project  
10 manager and we thoroughly enjoyed working with her.

11           And that goes for Counselor Robin Mayer, as well  
12 as Counselor Kerry Willis, that was with the project for a  
13 while.

14           So, thank you there.

15           Finally, we are gearing up for construction and  
16 we've been working with the CEC Compliance staff in  
17 submitting and seeking approval of our pre-construction  
18 condition submittals. And we know that staff continues to  
19 be stretched thin, but we are hopeful that we can continue  
20 the kind of relationship that will result in construction  
21 starting in the very new future. So, thank you again.

22           CHAIRPERSON DOUGLAS: Thank you. And, now, is  
23 CURE -- I know they've dropped out of the case, but is CURE  
24 on the line as a former Intervenor? No.

25           All right, Commissioners, questions on this item?

1 HEARING OFFICER VACCARO: Excuse me, Chairman  
2 Douglas, before you go to the Commissioners there's  
3 something that I should have mentioned, and I apologize for  
4 not doing so.

5 Another important factor of this PMPD is that the  
6 Committee did determine that with implementation of the  
7 conditions of certification this project is compliant with  
8 all LORS and that all significant impacts -- or all impacts  
9 would be mitigated to less than significant levels. I think  
10 that's very important for me to ensure is on the record.

11 CHAIRPERSON DOUGLAS: Yes, thank you, Ms. Vaccaro.  
12 Commissioners?

13 COMMISSIONER BYRON: If I may. Ms. Vaccaro, you  
14 had indicated that all issues with regards to the  
15 Intervenor's concerns had been addressed during the course  
16 of the workshops, or hearings, et cetera.

17 Did you receive any letters of closure from any of  
18 the Intervenors with regard to these matters?

19 HEARING OFFICER VACCARO: No. No, I did not  
20 receive any formal notification, in any fashion, from  
21 Intervenor CURE.

22 COMMISSIONER BYRON: Okay, including CURE?

23 HEARING OFFICER VACCARO: Yes, that was the only  
24 Intervenor in this matter.

25 COMMISSIONER BYRON: All right. So, do you know,

1 did CURE also enter into a project labor agreement at this  
2 time to drop out of the intervention?

3 HEARING OFFICER VACCARO: I have no knowledge of  
4 that.

5 COMMISSIONER BYRON: I'll turn to the Applicant  
6 and ask the same question. Do you know?

7 MR. HARRIS: Actually, there is not a project  
8 labor agreement. I think the District has a very rich  
9 history, though, of working with its own union membership.

10 And just by way of example, in the Walnut Energy  
11 Case, the last project you approved, about 98 percent of the  
12 total revenue from that project went to union  
13 representations. But there is not a project labor agreement  
14 for this project.

15 COMMISSIONER BYRON: Thank you, Mr. Harris.

16 I don't have any further questions, I'm quite  
17 satisfied with this. And I would like to thank the  
18 Committee that worked on this, Commissioners -- excuse me,  
19 Chairman Douglas and Commissioner Eggert, thank you for  
20 bringing this to us today.

21 COMMISSIONER EGGERT: So, just thank you,  
22 Commissioner, and just a quick comment.

23 This has been remarkably straight forward, and I  
24 don't want to say easy because it was probably due -- it's  
25 due to the hard work and the significant effort by the staff

1 and the Applicant to make this straight forward to the  
2 Committee coming to a proposed decision. And it was a great  
3 pleasure to work with Chair Douglas and her advisors, who  
4 made my job on this very, very straight forward.

5           So, I guess my one comment is it would be  
6 excellent if we could have some renewables projects that  
7 were this straight forward. And, hopefully, the efforts  
8 that we've undertaken with respect to the guidance document  
9 and the DRECP will help enable those to occur, so that when  
10 we come to the final decision, you know, the Errata is  
11 relatively short and relatively easy to understand.

12           Also, I think that's a testament to Hearing  
13 Officer Vaccaro and her work in putting together a really  
14 tight PMPD. So, I want to thank her for that as well.

15           And I encourage you to vote for approval. I'll  
16 move the item, unless there's other comments or questions.

17           CHAIRPERSON DOUGLAS: We have a motion. Do we  
18 have a second?

19           COMMISSIONER WEISENMILLER: Second.

20           CHAIRPERSON DOUGLAS: All in favor?

21           (Ayes.)

22           CHAIRPERSON DOUGLAS: The item's approved.

23           COMMISSIONER BYRON: Congratulations.

24           CHAIRPERSON DOUGLAS: Congratulations, thank you.

25           All right, Hearing Officer Vaccaro can't go far.

1 We'll go to Item 21. Rice Solar Energy Project, 09-AFC-10.  
2 Possible adoption of the Presiding member's Proposed  
3 Decision on the Rice Solar Energy Power Plant Project and  
4 possible Errata.

5 Hearing Officer Vaccaro.

6 HEARING OFFICER VACCARO: Good afternoon, again.  
7 Kourtney Vaccaro, with the Hearing Advisor's Office.

8 I'm presenting to you the Presiding Member's  
9 proposed decision and corresponding Errata recommending  
10 approval of the Rice Solar Energy Project.

11 Just following up on the comments that  
12 Commissioner Eggert just made about a wish for a solar  
13 project that perhaps had fewer issues than many others, I'd  
14 say that this is -- this is that project.

15 The Rice Solar Energy Project is a 150-megawatt  
16 project, located on private, disturbed property within the  
17 unincorporated area of Riverside County.

18 This is a project that uses an innovative, molten  
19 salt technology in which energy is stored within the salt  
20 and it can be accessed even when the sun is not shining.

21 This is a project where there were only two  
22 parties, the Applicant and the staff.

23 And with very few exceptions, they resolved all  
24 issues between them.

25 Those exceptions were one issue relating to worker

1 safety and fire, and that had to do with the method by which  
2 mitigation payment would be made.

3           The second issue pertained to visual resources and  
4 that was an issue that the Applicant and staff were  
5 diametrically opposed, and it was an issue that the  
6 Committee resolved.

7           And, ultimately, what you'll find in the PMPD and  
8 the Errata is the Committee making the following  
9 recommendation and finding, that the project, with  
10 implementation of the conditions of certification, is  
11 compliant with LORS.

12           And as to all technical areas, with the exception  
13 of visual resources, that impacts would be mitigated to less  
14 than significant levels.

15           However, in response to a very pertinent and  
16 salient comment received during the comment period, from a  
17 group identified as Desert Survivors, the Committee made the  
18 determination that this project -- there was a reasonable  
19 argument that this project could have significant visual  
20 impacts, specifically focusing on the issues of viewer  
21 sensitivity and concern.

22           And for that reason, the Committee made the  
23 determination that not only is there a reasonable argument  
24 that there are those impacts, but that given the nature of  
25 the project and the nature of the impacts they can't be

1 mitigated and they can't be avoided.

2           Therefore, the Committee submitted, in the Errata,  
3 the documentation that includes a statement of overriding  
4 statements and findings that support a finding, should the  
5 Commission choose to approve this project, that the benefits  
6 of this project, specifically those relating to  
7 socioeconomics and greenhouse gas warrant approval of this  
8 project.

9           Stepping back, even though there were only two  
10 parties to the action, we had roughly six commenters, or at  
11 least six that we know of. Three of them, Applicant, staff,  
12 and Western Power Administration was also a commenter.  
13 That's because although the project is going to be on  
14 private property, the transmission line will traverse  
15 federal property that's managed by the Bureau of Land  
16 Management.

17           In addition, the generation tie line is going to  
18 tie into Western's transmission line. Therefore, in  
19 addition to CEC approval, federal approval would also be  
20 required for portions of this project.

21           Western submitted comments by way of staff. Staff  
22 submitted comments, as did the Applicant.

23           You have a lengthy Errata before you. But we also  
24 notice that a lot of those comments are necessary. Some are  
25 corrections, some are clarifications and some, as I noted

1 during the comment period, reflect an error on my part in  
2 moving so swiftly and putting this document together.

3           The other comments were received, as I mentioned,  
4 from the group, Desert Survivors. Those comments were noted  
5 and included in the Errata.

6           Riverside County Fire Department was also a  
7 commenter, they pointed out an error that needed to be  
8 corrected within the body of the document on worker safety  
9 and fire.

10           And further underscored and elaborated on the  
11 County's position that this project will have potential  
12 impacts to the provision of emergency medical services.

13           However, those issues were fully vetted through  
14 the evidence and in the PMPD. But the County's most recent  
15 comments, I think once again, underscore points that they  
16 had already made and that staff had made on behalf of the  
17 fire department.

18           And the final commenter was an individual  
19 identified as Dennis Morrison. And his comments were more  
20 generalized in nature. He just feels that issues of  
21 reliability, efficiency, and some of the issues related to  
22 the salt storage need to be more fully fleshed out.

23           However, I would submit that the very thorough  
24 evidence submitted by staff and the Applicant, and all of  
25 the evidence, oral, evidentiary, that came out through the

1 evidentiary process, shows that there is ample evidence in  
2 the record to support the Committee's findings that this  
3 project will be efficient and reliable.

4           And I think with that, any questions you might  
5 have, I'd be happy to answer.

6           CHAIRPERSON DOUGLAS: Thank you. Can we hear from  
7 staff?

8           MS. DYER: Thank you. Deborah Dyer, Counsel for  
9 staff, and we also have the project manager, John Kessler  
10 here today.

11           And staff commented on the PMPD and wanted to  
12 thank the Committee for considering those comments and for  
13 making the changes in the Errata that are before you today.

14           Also wanted to second Hearing Officer Vaccaro's  
15 statement that this process went extremely smoothly. We had  
16 a few glitches along the way, but this Applicant worked very  
17 well with staff and it was quite impressive to see the  
18 coordination and cooperation between the parties. So, we  
19 appreciate that. Thank you.

20           CHAIRPERSON DOUGLAS: Well, thank you.

21           Can we hear from Applicant?

22           MR. GALATI: Scott Galati, Representing Rice Solar  
23 Energy, which is a wholly owned subsidiary of Solar Reserve.

24           MR. BENOIT: I'm Jeff Benoit, I'm the project  
25 director for the Rice Solar Energy Project.

1           MR. GALATI: We'd, again, also like to extend our  
2 thanks as well to the Committee, and to staff. And,  
3 actually, I think a project like this is the model. There's  
4 a couple of things that can be approved on, but this is the  
5 model.

6           Let me explain to you, we only had one staff  
7 assessment. And we worked so well together that we were  
8 able to take that staff assessment and go to evidentiary  
9 hearing on it. We didn't need to.

10           So, that was a result of workshops where we  
11 actually discussed the issues, and conditions, and worked  
12 together to resolve issues, as opposed to information  
13 gather.

14           The second thing, we'd really like to thank the  
15 Hearing Officer, we think that she needs special recognition  
16 on this. And I've been here for a long time, and a Hearing  
17 Officer that actually has read every word is -- we know how  
18 hard that takes. And she has not only read every word, but  
19 retained it all and was very good at asking us questions,  
20 very, very detailed.

21           And I think that the Errata that you see in front  
22 of you is not -- not to be indicative of the hard work that  
23 she put together in a short number of days, not months, not  
24 weeks, in which she was able to put this together.

25           We do think though, however, that while we agree

1 with the Errata, we think you made an error. We think you  
2 got it right the first time, the project didn't have a  
3 significant visual impact.

4 And one of the things you have to be careful with,  
5 and I'm going to continue to warn you about this, staff  
6 recommended the project be denied. Let's don't forget that  
7 and what the industry thinks about that.

8 Staff hadn't recommended that projects that had  
9 biological impacts -- this project came to you on private  
10 land, private disturbed lands with all of its mitigation  
11 lands in its hand, ready to go.

12 And yet, this is the one project that staff said  
13 don't make an override. Why? Visual resources, it was too  
14 far.

15 Inadvertently, what that says, and I hope that  
16 you, on the record today, put this to rest, that visual  
17 resources are more important in your weighing process than  
18 biology or cultural.

19 This is why sometimes we get confused. Best  
20 management practices I think will be helpful, the OII will  
21 be helpful. But this is why sometimes things get confused.

22 Because we are located very remote, we did that  
23 for a reason, we had no idea that would be a bad reason. We  
24 thought be farther away from people with a 353-foot tower  
25 would be a good thing.

1           Eventually, we've got here, but we think that it  
2 was because there was no impact.

3           That being said, and I apologize to take so much  
4 of your time, but we ask you to please approve the Errata  
5 and the PMPD and, again, extend our thanks. We'd, again,  
6 also like to extend our thanks as well to the Committee, and  
7 to staff. And, actually, I think a project like this is the  
8 model. There's a couple of things that can be approved on,  
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6 got it right the first time, the project didn't have a  
7 significant visual impact.

8 And one of the things you have to be careful with,  
9 and I'm going to continue to warn you about this, staff  
10 recommended the project be denied. Let's don't forget that  
11 and what the industry thinks about that.

12 Staff hadn't recommended that projects that had  
13 biological impacts -- this project came to you on private  
14 land, private disturbed lands with all of its mitigation  
15 lands in its hand, ready to go.

16 And yet, this is the one project that staff said  
17 don't make an override. Why? Visual resources, it was too  
18 far.

19 Inadvertently, what that says, and I hope that  
20 you, on the record today, put this to rest, that visual  
21 resources are more important in your weighing process than  
22 biology or cultural.

23 This is why sometimes we get confused. Best  
24 management practices I think will be helpful, the OII will  
25 be helpful. But this is why sometimes things get confused.

1           Because we are located very remote, we did that  
2 for a reason, we had no idea that would be a bad reason. We  
3 thought be farther away from people with a 353-foot tower  
4 would be a good thing.

5           Eventually, we've got here, but we think that it  
6 was because there was no impact.

7           That being said, and I apologize to take so much  
8 of your time, but we ask you to please approve the Errata  
9 and the PMPD and, again, extend our thanks.

10           CHAIRPERSON DOUGLAS: Thank you, Mr. Galati.

11           We have public comment from Lisa Belenky, Center  
12 for Biological Diversity. Still running from pillar to post  
13 at 2:30.

14           MS. BELENKY: You'd miss me. I know you'd miss me  
15 if I wasn't here.

16           So, the Center is, you know, very pleased to see  
17 this project brought forward being on disturbed lands, and  
18 also being a conversion of an old World War II site, you  
19 know, to a modern industrial solar project, which is very  
20 exciting.

21           Nonetheless, there may be some concerns. I think  
22 that the current Errata gets it right, that you do need the  
23 override for visual. Although, visual is not an issue that  
24 we would think should stop a project, I think we do need to  
25 acknowledge those issues.

1           And then the Center particularly wanted to speak  
2 today because of our concerns with the way the issue of  
3 birds, migratory birds, and potentially other possibly  
4 invertebrates was handled.

5           We have to say that the PMPD -- well, the staff  
6 report, initially, did do a better job than we saw with the  
7 first power tower project, which basically dismissed the  
8 issue.

9           In this project they did say there are probably  
10 some issues, based on the McCreary Report, with, for  
11 example, birds running into mirrors and also possibly in the  
12 zone, the heat zone from the tower.

13           So, at this point I think what we would like to  
14 make sure and to ensure that the Commission, which we know  
15 you're interested in this, is that there's sufficient data  
16 acquisition and monitoring from this project, and reporting,  
17 so that we can use this project and the other power towers  
18 and compare the issues, and see what is the data, are there  
19 affects, do we have enough monitoring for, you know,  
20 migratory birds and other species in the area. And this  
21 will give us information down the road.

22           So, we want to say we certainly would not stand in  
23 the way of this project, but we want to make sure that  
24 that's very clearly set in these decisions, that we will get  
25 this kind of data acquisition and monitoring.

1           And because this is not on the Bureau of Land  
2 Management's land, we can't depend on the Bureau's  
3 monitoring requirements in this case. So, we want to make  
4 sure that the Commission, themselves, are going to adopt  
5 those.

6           And then, procedurally, I do want to say that  
7 having the close of intervention be before the staff  
8 assessment comes out I think is a bad process, generally.  
9 At least for the environmental groups, we generally use the  
10 staff assessment to determine whether we think that there  
11 are either unaddressed environmental issues or issues that  
12 need more evidentiary development, and that is one of the  
13 bases on which we would intervene. So, closing intervention  
14 before that point we don't think is a good practice,  
15 generally.

16           But just wanted to say that as a procedural note.  
17 So, thank you very much.

18           COMMISSIONER BYRON: Ms. Belenky, those are good  
19 comments.

20           May I ask, did I understand you then, correctly,  
21 you are supporting this project?

22           MS. BELENKY: Well, we're neutral. Which I always  
23 tell people, if you can get me to neutral, you're in very  
24 good shape.

25           So, we're not -- we're not taking an affirmative

1 position, but we are very pleased to see developers come  
2 forward on disturbed lands, and whether they're private or  
3 public but, you know, on disturbed lands, and that they  
4 really had a biological component, they had looked at those  
5 issues.

6 Obviously, there's some historic issues, but it  
7 looks like everyone has dealt with preservation of those as  
8 well.

9 COMMISSIONER BYRON: Thank you.

10 Commissioners, I was hoping that there -- before I  
11 left this Commission, we'd see an environmental group come  
12 forward in favor of a specific project.

13 CHAIRPERSON DOUGLAS: Commissioner, actually there  
14 are environmental groups that have come forward and have put  
15 our press releases, letters in favor of projects. If you'd  
16 like, I will -- in fact, I asked them to make sure that all  
17 Commissioners got the letter, and I don't know if they did  
18 or not, though.

19 COMMISSIONER BYRON: Are you sure they're not just  
20 generally in favor of renewables?

21 CHAIRPERSON DOUGLAS: Specific projects.

22 COMMISSIONER BYRON: Specific projects. I would  
23 like to see that.

24 CHAIRPERSON DOUGLAS: I will.

25 COMMISSIONER BYRON: Thank you.

1 CHAIRPERSON DOUGLAS: I will ask again and see if  
2 they get that to you.

3 Commissioner Weisenmiller?

4 COMMISSIONER WEISENMILLER: I was just going to  
5 comment that, certainly, if the Center had filed a motion to  
6 intervene, even if it was after the official date, we  
7 certainly would have considered it very favorably.

8 CHAIRPERSON DOUGLAS: That's very true.

9 I wanted to make a few comments, I guess, and  
10 particularly as it pertains to visual impacts and some  
11 visual impacts in the case.

12 You know, I do think that there are circumstances  
13 under which visual impacts could serve as such a negative  
14 factor in a project that a Committee would consider denying  
15 a project.

16 Power towers are, if nothing else, highly visible  
17 for a large area.

18 In this case, it was interesting seeing how the  
19 issue of remoteness played in this case. In this case we  
20 were far from heavily used roads, we were in general far  
21 from proven vantage points. It was not on the road, a high  
22 sensitivity population, particularly. There were wilderness  
23 areas, there wasn't evidence, particularly, that people  
24 reached to the part of the wilderness areas where they would  
25 see the project.

1           But as a late commenter -- or not late, but a  
2           commenter at the last conference we had mentioned, you know,  
3           certainly, there are people who walk in the desert and it's  
4           such a highly visible construction that the odds of somebody  
5           seeing it and being in a frame of mind to be annoyed by it,  
6           or to feel that it breaks up their enjoyment of the open  
7           desert was probable enough, and that caused us to flip on  
8           the recommendation.

9           I've actually been on two committees where we've  
10          either not found a significant visual impact or seriously  
11          considered not finding a significant visual impact. And the  
12          other one that I was on was the Beacon Project.

13          And that was very different, it was not a power  
14          tower, it was a heavily disturbed parcel, with a geometric  
15          location that you could see from far away, and all the  
16          mirrors were really doing was changing the way it looked,  
17          but not necessarily positively or negatively in the  
18          Committee's view, and in the Commission's view, as we  
19          adopted that.

20          So, visual resources are one area where we can  
21          give more guidance and also an area of where -- that they  
22          can be counter intuitive. Something that's visible because  
23          it's near a heavily used road presents one set of visual  
24          issues because you've got a lot of potential receptors, a  
25          lot of people who will see it.

1           Something that's visible in a highly remote area,  
2 with wilderness areas nearby may be seen by fewer people,  
3 but we've got to consider what is the sensitivity of the  
4 population that would be seeing it.

5           And for large industrial facilities, particularly  
6 for power towers, it's hard to get to a conclusion that  
7 there's not a significant impact if you take a more  
8 conservative approach or an approach that wants to be sure  
9 to catch the possibility that at some point somebody's going  
10 to walk along and not like the way this thing looks, which I  
11 think is fairly probable.

12           So, I don't know, Commissioner Weisenmiller, if  
13 you'd like to add anything on this?

14           COMMISSIONER WEISENMILLER: Yeah, I think on the  
15 visual we both struggled on this question because I think,  
16 certainly, when you look at the photographs are -- you know,  
17 simulations are pulled together, and you're driving along in  
18 the highway and you see this cell tower that's much closer,  
19 and then you see the power tower further back.

20           And in terms of just looking at that, and I think  
21 in originally in the evidentiary record that seemed to be  
22 what people were focusing on. It's a pretty remote road,  
23 you know, I've been there. But, I mean, there wasn't a lot  
24 of track and, I mean, when you look at the infrastructure in  
25 that area, you know, there's a lot of stuff around there.

1 You know, an old Air Force base, an aqueduct. You know,  
2 just a lot of pieces of -- you know, with the cell tower it  
3 was like, okay, in perspective how does this matter?

4 And I think it is surrounded by wilderness areas  
5 but again I think, as the record is pretty clear, it's  
6 surrounded -- you know, wilderness areas have a boundary.  
7 And it isn't part of the wilderness area. In fact, I think  
8 it's zoned for industrial use.

9 So, if it wasn't this it could be -- you know, if  
10 it wasn't a power tower it could be whatever, strip mining  
11 or something there.

12 So, again, I think -- but at the same time I  
13 think, as we chatted after the conference, we were saying  
14 could we really say that that large a tower, out in the  
15 desert, surrounded by a wilderness area was not significant.

16 And, ultimately, that's where we -- that's how our  
17 thinking evolved.

18 But as you said, basically, one of the virtues of  
19 this -- well, this project has a lot virtues, but one of  
20 them is you're not putting it in downtown Sacramento, for  
21 example. And then one -- you know, and then all of us  
22 trying to say, well, what's the visual impact there.

23 It is very remote. Although, as the Chair said,  
24 if any -- you know, and certainly what came out from the  
25 commentators, if you -- they were talking about having

1 retired from I think county service, and no longer were  
2 working in some dreary basement, that for them it was really  
3 important to go to the wilderness areas and have that  
4 experience, and that this would have an impact, from their  
5 perspective.

6           So, we felt we had to say in the end that, yeah,  
7 it was significant. But again, I think certainly when we  
8 looked at the project and the virtues of the project, you  
9 know, it was pretty easy to get to the override.

10           And I know, certainly, that probably was the other  
11 issue in the case really was, I think -- as you know, we  
12 have a bunch of projects that are more clustered along I-10,  
13 and this isn't. And the question, in part, is I think the  
14 staff might have preferred more continuing to cluster.

15           But for those other projects, we were dealing with  
16 the fact that they had cumulative impacts. And, certainly,  
17 on some of the corridors and some of the other issues, I  
18 mean, I think we certainly concluded that we were happier to  
19 have this project outside of that cluster.

20           And at the same time it's where we want to be,  
21 it's on private land, it's on disturbed land. You know,  
22 like I said, I was there, I can tell you the land is pretty  
23 disturbed.

24           I mean, it certainly -- in terms of some of the  
25 more complicated issues we've had in other cases, in terms

1 of biology, this seems to be relatively clean.

2 And so, again, it was a very easy project to get  
3 to yes, and the fact that it has storage. It's really, I  
4 think in a lot of respects, moving us to where we wanted to  
5 go.

6 So, you know, we were a little surprised on the  
7 staff position because, as I said, it's on disturbed land.  
8 Again, it has all the things we're trying to figure out ways  
9 to construct our regulatory system to encourage developers  
10 to go there as opposed to just going on to BLM undisturbed  
11 land because it's "easier."

12 And so, again, I think certainly for those  
13 reasons, along with the reasons I talked about earlier, you  
14 know, in terms of greenhouse gas implications and jobs, you  
15 know, this was a very easy plan to say we should do the  
16 override.

17 CHAIRPERSON DOUGLAS: Thank you, Commissioner. I  
18 agree with that and I just wanted to also add that despite  
19 the remote location, the transmission that needed to be  
20 built in order to interconnect the project wasn't actually  
21 out of bounds compared to the average that would need to be  
22 built for other projects.

23 COMMISSIONER WEISENMILLER: Right, another good  
24 point.

25 CHAIRPERSON DOUGLAS: So, that was another issue

1 we considered.

2           It does raise, as we will reach in the lessons-  
3 learned process, you know, the question of planning to the  
4 extent that the DRECP is able to help create a stakeholder  
5 forum for planning in the desert, and the pros and cons of  
6 clustering. Clustering concentrates impacts in some areas.  
7 That's potentially good in terms of leaving other areas  
8 relatively less impacted. It's potentially bad in terms of  
9 raising more cumulative impacts in the areas where  
10 development is clustered.

11           And we certainly don't want a sprawling system of  
12 renewable energy development, where there's nowhere you can  
13 go in the desert without running into a power tower. That's  
14 certainly not what we envision as the way that renewable  
15 energy is developed in the desert.

16           So, these are, in some cases, difficult issues  
17 that will require work.

18           But this project, on private land, that was zoned  
19 industrial, in a good location, with strong support from the  
20 local government, and so on, seemed to us, you know, and we  
21 felt very strongly that it should be approved.

22           COMMISSIONER EGGERT: So, I have to ask the  
23 question, given that I understand this was also previously a  
24 military site, is this an example of turning swords into  
25 solar shares?

1                   COMMISSIONER WEISENMILLER:  At least it is  
2 conversion, right.

3                   COMMISSIONER EGGERT:  Couldn't help myself.  I'm  
4 ready to proceed.

5                   COMMISSIONER BOYD:  A quick comment, if I might.  
6 In reviewing this and now in listening to the discussion  
7 today, of course I was reminded of the other cases that I  
8 have served on, and some that Commissioner Byron and I had  
9 served on involving power towers and visibility issues.

10                  And I would certainly concur with the thought that  
11 it's very hard to not consider visibility whenever you're  
12 dealing with one of these projects when we're going into the  
13 types of lands we're going into.

14                  But nonetheless, you know, the staff and the  
15 committees have weighed that against need.

16                  And I think the points that you just made,  
17 Chairman, about crowding the desert, is something that's  
18 been going through my mind quite a bit and I was already  
19 prepared to make the following comment when you made your  
20 comment.

21                  And that is it's a little easier for us to see our  
22 way clear to these earlier projects because, one, the  
23 difficulty thing is they're breaking into an area, where  
24 nothing like them has existed before, that's difficult.

25                  But it's kind of like, well, there is room for

1 some. But there will be serious question in my mind as more  
2 and more projects are proposed, it will become more and more  
3 difficult for us, for the staff, for others to deal with the  
4 carrying capacity of various areas with regard to biological  
5 impacts, with regard to visual impacts.

6 And so, it's not going to get any easier. And  
7 Commissioner Byron and I had Ivanpah, one of the earliest,  
8 and certainly not an easy project, and Commissioner Byron's  
9 probably relishing the idea that he won't have to do that  
10 again.

11 But others of us, and particularly you who will go  
12 beyond the next year, which will be my last, will really  
13 have your work cut out as you deal with the impacts in the  
14 desert area of more and more proposals.

15 I'm prepared, again, to support this project  
16 because it is one that meets the test and is early enough  
17 on, in my mind, to offset concerns and to help us address  
18 the critical problems that have been mentioned over and over  
19 again about the desperate need for renewable energy vis-à-  
20 vis other -- well, the fossil forms.

21 And my last comment is I've been on projects, you  
22 all have been on projects where people say we just don't  
23 really need to do this because, you know, rooftop solar  
24 would take care of this. And I'm just -- I, for one, would  
25 say that while we're stimulating and pushing for the maximum

1 amount of rooftop solar we can possibly get, it won't come  
2 close to matching the ability of utility-scale renewable  
3 solar projects to contribute to the demand for energy in  
4 this State. We need them both and we'll just have to be  
5 prudent in our siting of the more major projects.

6 Thank you.

7 COMMISSIONER BYRON: Commissioner Boyd, thank you  
8 for bringing that up, I think that's a really important  
9 point that probably should be made on every project. But I  
10 do thank you for concluding with that.

11 I'll be brief. I would like to thank the  
12 Committee for bringing a well-reasoned proposed decision to  
13 us today for this project.

14 I'd join Commissioner Eggert in wishing for the  
15 perfect solar thermal project. This seems to be about as  
16 close as we might expect to get.

17 Of course, he might join me in wishing we'd have  
18 had this, ourselves, about 14 months ago. Yeah, and  
19 Commissioner Boyd would probably join us on that as well.

20 Again, my thanks to the staff and to the Applicant  
21 for bringing us projects like this. It's a pleasure to get  
22 the opportunity to review and vote on these.

23 I will miss doing that, Commissioner, because I  
24 think the work of this Commission is very -- is well done.

25 But I don't know, Mr. Galati, you always seem to

1 show up on these better projects. I wonder why that is?

2 You don't have to respond.

3 MR. GALATI: I will take a chance to do something,  
4 though, and that is the projects are good because applicants  
5 are willing to work. And this Applicant deserves that  
6 credit for being able to work with staff when, quite  
7 frankly, he had not been an Applicant in front of the Energy  
8 Commission before.

9 And if you've never been an Applicant before and  
10 you read the kinds of conditions that are standard, it is  
11 quite eye opening.

12 And I would like to thank Solar Reserve, and Jeff  
13 in particular, and his management for reading it in the  
14 appropriate light, or at least in the second time reading it  
15 in the appropriate light.

16 But that's why these projects are good.

17 COMMISSIONER BYRON: Very good.

18 CHAIRPERSON DOUGLAS: Very good, thank you.

19 COMMISSIONER WEISENMILLER: I just had a question  
20 for staff, following up on Lisa's comment. In terms of I  
21 wanted to check on the monitoring program that's in place in  
22 the compliance conditions?

23 MR. KESSLER: Commissioner, yes, indeed, there is  
24 a condition of certification, Bio 25, the avian in that  
25 protection plan that accomplishes the objectives that I

1 believe Ms. Belenky was speaking to.

2 CHAIRPERSON DOUGLAS: Good. Do we have a motion  
3 on this project?

4 COMMISSIONER WEISENMILLER: I would like to move  
5 this project. Actually, I was going to first start off with  
6 the comment that I think Commissioner Boyd did a very good  
7 set up for us on why we have to keep people focused on the  
8 DRECP going forward. It's very important to move that  
9 along.

10 But with that aside, I would like to move this  
11 project. I think it's a very important part of our move to  
12 green our economy, to deal with greenhouse gas climate  
13 change issues, and also for the jobs.

14 And again, down there, you know, we're talking  
15 about peak of 438 in there, and 40 permanent. Riverside  
16 County, City of Blythe, we're talking about major  
17 unemployment issues there, so we're looking forward to that.

18 I would also note that this is real. I mean, I  
19 guess the good news is even before this decision, the  
20 Applicant has put down the five percent money to qualify for  
21 the cash grant. So, we appreciate the confidence in our  
22 vote today.

23 So, anyway, I certainly recommend the Commission  
24 approve this decision with the appropriate Errata. I'll let  
25 Kourtney get the working correct.

1 HEARING OFFICER VACCARO: I think that motion was  
2 perfect. It is the Presiding Member's proposed decision and  
3 the corresponding Errata. We did not add anything orally to  
4 the record, so what you have before you was appropriate to  
5 put in the motion.

6 COMMISSIONER BYRON: Madam Chair, it would be my  
7 pleasure to second it.

8 CHAIRPERSON DOUGLAS: We have a motion and a  
9 second. All in favor?

10 (Ayes.)

11 CHAIRPERSON DOUGLAS: The project is approved.  
12 Congratulations. Thank you.

13 HEARING OFFICER VACCARO: Chairman Douglas, if I  
14 might just make one quick comment, and it was nothing that  
15 required a vote, but I think it's important that everyone is  
16 aware that the proposed order of adoption submitted by the  
17 Hearing Advisor's Office, does identify today's date as the  
18 proposed effective date for the decision. And we did want  
19 to ensure that all of the parties are aware of that in  
20 advance, in case anyone had concerns or questions in that  
21 regard.

22 CHAIRPERSON DOUGLAS: Thank you, Ms. Vaccaro.

23 And I'd like to just make some closing comments on  
24 this project. The Rice Solar Project is the last, but not  
25 the least, of nine, a group of nine projects that have moved

1 through the Energy Commission and actually been approved  
2 this year, really, beginning in the late summer.

3           It's been my pleasure to have been the Presiding  
4 Member in this proceeding and to have watched the project  
5 advance to the approval point today.

6           We've had a very thorough process on the Rice  
7 proceeding, we still finished the review in 13 months and  
8 that was with the workload, and with the uncertainty of this  
9 one being the last of a big group of projects that we were  
10 trying to move through here.

11           We've had -- since the application was received in  
12 August of 2009, our site visit on January 25<sup>th</sup>, we've had 12  
13 publicly noticed workshops, hearings and meetings on this  
14 project.

15           Because the Applicant and staff did such a good  
16 job of working out issues and really working through the  
17 issues, the Committee had very few issues to resolve. We  
18 did have issues that were handed to us that the staff and  
19 Applicant were not able to resolve, and we had substantial  
20 discussion of those, but those were few.

21           And so, thank you for doing such a good job of  
22 bringing us a clean project, with a few issues to  
23 adjudicate.

24           I'd like to thank Ms. Vaccaro, the Hearing  
25 Officer, Hearing Office staff, and Siting staff for this

1 work on this, the siting project manager, John Kessler,  
2 staff project attorneys, Deborah Dyer and Dick Ratliffe, in  
3 particular.

4 I'd like to thank the Applicant and thank our  
5 advisors. And I sometimes don't get around to doing that,  
6 but our advisors carry a very heavy load. Galen Lemei, my  
7 advisor, and Eileen Allen, Commissioner Weisenmiller's  
8 advisor, they've been especially, especially busy on siting  
9 projects recently.

10 I'm really glad this Applicant has brought us a  
11 project that so many in this room have called a model solar  
12 project. Not everyone has been able, obviously, to bring us  
13 projects on disturbed land, and with so few biological  
14 concerns and other concerns. And so, we appreciate your  
15 bringing this project to us.

16 And I'd like to recognize the cooperative  
17 CEQA/NEPA Project coordination from Leanna Riley, of the  
18 Western Area Power, Allison Shaffer and Holly Roberts from  
19 the BLM Palm Springs Office, and other federal partners who  
20 worked diligently with us.

21 Because, again, nothing happens without the  
22 coordination and the cooperation between us and our fellow  
23 agencies. You know, absolutely nothing happens without  
24 that.

25 So, our Public Advisor, Jennifer Jennings, who may

1 have escaped after a long morning, coming into early  
2 afternoon.

3 But in any case, our Public Advisor, Jennifer  
4 Jennings, has done an amazing job of working with the public  
5 through these processes.

6 And I'm just wondering if she's about to walk in  
7 the door. In any case, I wanted -- oh, there she is.

8 I wanted to recognize our Public Advisor, Jennifer  
9 Jennings, because it's been an extraordinarily long process.  
10 And as people noticed, I think yesterday in the OII  
11 proceeding, the Public Advisor's Office has an extremely  
12 important role. It's always struggling to keep up the case  
13 load, and particular when the case load is as high as it is,  
14 and the issues are as significant as they have been.

15 So, thank you, Jennifer.

16 And, let's see, I think that as we reach the end  
17 of the ARRA solar projects for the year, in our second to  
18 the last business meeting of the year, and I've got to say  
19 my last business meeting of the year --

20 (Laughter.)

21 CHAIRPERSON DOUGLAS: -- I want to particularly  
22 thank all of you, my fellow Commissioners, who have marched  
23 through all of this together, it's been a pleasure working  
24 with all of you and a privilege working with all of you.  
25 So, thank you.

1           So, with that --

2           MR. BENOIT: Thank you. If I may, on behalf of  
3 Solar Reserve, I would like to thank the Commission for  
4 processing our application over the last year, it's been an  
5 intensive effort. I certainly appreciate your vote of  
6 confidence today.

7           Without belaboring it, I would like to offer some  
8 personal thanks to the staff members, to Mr. Kessler, our  
9 project manager, and Staff Counsel Dyer, and also to our  
10 Hearing Officer Vaccaro for expeditiously putting the PMPD  
11 out.

12           And there has really been, as I say, intensive  
13 effort. It took everybody doing everything all the time for  
14 this to come to fruition in what's getting to be the second  
15 half of December.

16           So, as you've rightly also pointed out, there's  
17 been cooperation from the Western Area Power Administration,  
18 Mr. Riley and others, as well as Bureau of Land Management,  
19 Holly and her associates. None of this could have come  
20 together today, especially in the last effort to get the  
21 PMPD out, a lot of review from their side came in as the  
22 hours passed.

23           We look forward to putting our technology into  
24 place. We that, as you've alluded, it's going to be what we  
25 believe is a game-changing technology, we'll have storage.

1 We think this will be really a landmark in the solar field.

2 We've also made inroads with the people in Blythe.

3 We've been with the Chamber of Commerce, we have

4 recommendations from the City Council.

5 We're working closely with the college, Palos

6 Verde College, on right now they're monitoring our met

7 station, for example, and we're also hoping to get some

8 training programs established on a more in-depth basis.

9 So, we're all together looking forward to moving

10 ahead and really appreciate your concern in getting us into

11 this first round, or the A-Team, if you will, with the other

12 eight projects and making it happen this year.

13 So, with that, again thank you to all.

14 CHAIRPERSON DOUGLAS: Thank you.

15 All right, Commissioners, we'll go onto the

16 minutes. Item 20, [sic] and we'll take these separately

17 because not everybody was here for these meetings.

18 So, Item 20-a, possible approval of the November

19 3<sup>rd</sup>, 2010 Business Meeting Minutes. Is there a motion?

20 COMMISSIONER BYRON: Madam Chair, I approve --

21 excuse me, I move approval.

22 COMMISSIONER WEISENMILLER: I'll second.

23 CHAIRPERSON DOUGLAS: All in favor?

24 (Ayes.)

25 COMMISSIONER BOYD: I abstain, as being absent.

1 CHAIRPERSON DOUGLAS: All right, minutes are  
2 approved with Commissioner Boyd abstaining.

3 And Item 20-b, possible approval of the December  
4 1<sup>st</sup>, 2010 Business Meeting Minutes.

5 COMMISSIONER BOYD: Move approval.

6 COMMISSIONER BYRON: Second.

7 CHAIRPERSON DOUGLAS: All in favor?

8 (Ayes.)

9 COMMISSIONER WEISENMILLER: I'll abstain, I was  
10 absent.

11 COMMISSIONER EGGERT: I'll abstain as well,  
12 absent.

13 CHAIRPERSON DOUGLAS: All right. So, the December  
14 1<sup>st</sup> minutes are approved with Commissioners Weisenmiller and  
15 Eggert abstaining.

16 Boy, are there any Commission Committee  
17 presentations and discussion?

18 COMMISSIONER BYRON: Madam Chair, I will beg your  
19 indulgence for two quick items. One is that nine days ago  
20 the Governor's Office hosted a reception of sorts to  
21 acknowledge those here, at this Commission, that worked on  
22 these projects over the course of the last year, or two, or  
23 three, and I believe most members of the Siting Division  
24 were there, as well as a number of the Hearing Officers and  
25 Legal staff.

1           It was very thoughtful. I think it was well  
2 received on the part of our staff for a rare opportunity for  
3 some recognition. In this case, on the part of our outgoing  
4 Governor Schwarzenegger, and I applaud him and his office  
5 for doing that.

6           It was a very well received event, I think, for  
7 our staff.

8           A second item if I may, President Peevey, I  
9 believe, is hosting an event this evening for the departure  
10 of a couple of Commissioners from his Commission,  
11 Commissioners Bohn and Grueneich. I'm planning to attend  
12 that event. I understand the rest of my Commission may not  
13 be able to attend.

14           If you have any remarks or one-liners you'd like  
15 to share, I would be more than happy to quote them on your  
16 behalf.

17           COMMISSIONER BOYD: Well, I wish you would at  
18 least express not only mine, but I bet you our appreciation  
19 and best wishes to the outgoing Commissioners. And it's  
20 been a pleasure for some of us to work with them over the  
21 years of their tenure at the PUC.

22           COMMISSIONER WEISENMILLER: Exactly. I was going  
23 to note that I was -- got the occasion to be at -- actually,  
24 it was a joint event for Dian and I, both, in terms of  
25 departure of the Energy Commission, so I was part of

1 roasting her before.

2 CHAIRPERSON DOUGLAS: is there any other  
3 discussion?

4 Commissioners, I attended a -- actually, this is  
5 something Dian Grueneich was a force behind, a workforce  
6 summit that the PUC helped organize, it was held in  
7 Berkeley, California, and it was about the -- it was a  
8 really good group of diverse stakeholders in the area of  
9 energy and workforce. So, that was a very good and very  
10 interesting event.

11 Commissioner Boyd?

12 COMMISSIONER BOYD: Yes, I ask your indulgence on  
13 a couple, three items. The first of which is while we've  
14 been sitting here all day, across the hall in Hearing Room  
15 B, the California Carbon Capture and Storage Review Panel,  
16 sometimes reviewed to as the "Blue Ribbon Task Force," has  
17 been meeting in what is its fifth and probably final  
18 meeting.

19 This is the group that was created by this agency  
20 and the PUC, and the ARB to pull together what has turned  
21 out to be, or what we wished for, very distinguished,  
22 eminent folks from throughout the country to address a whole  
23 series of issues that confront carbon capture and  
24 sequestration throughout the country, not just here in  
25 California.

1           As the agencies, the three I mentioned, plus  
2 Department of Conservation and others have -- have  
3 approached and considered carbon capture for quite some  
4 time, you run into the legal questions of liability, and  
5 poor space ownership, and a whole host of complex issues,  
6 and issues of ownership between state agencies, who should  
7 be in charge of what, so on and so forth.

8           They are -- they are having their last public  
9 meeting on their recommendations. They will finish their  
10 report and present it to us all early next year, early next  
11 month. And I just wanted to make note of the fact that they  
12 have been working away over a period of not much more than  
13 six months and tackling extremely complex issues.

14           And the draft report that they're editing and  
15 discussing today is extremely impressive. And this is  
16 partly due to work of staff in this agency, in the Research  
17 Division, as well as some of the -- of help from the  
18 University of California system, and the CIEE group.

19           We have a very extensive technical advisory group  
20 that has done a lot of heavy lifting for the Advisory Panel,  
21 itself. And have written white papers addressing issues  
22 that are very complex and I have heard extremely impressive  
23 comments about the work of the Advisory Group from members  
24 of the review panel, as well as people outside of  
25 California.

1           So, we will again find ourselves, probably, on the  
2 cutting edge of this issue. I mean, the group is academics  
3 from both California and out-of-state, business people and  
4 environmentalists, the national and state leaders of carbon  
5 capture and sequestration organizations, a lawyer that I  
6 found to be extremely knowledgeable on the subject, from  
7 Washington, D.C.

8           All of these people, while having expenses paid,  
9 have donated their time to this issue.

10           And when it's -- when they're finished, I'm sure  
11 we'll be able to give them -- all agencies will give them  
12 appropriate notice.

13           But I have not spoken of them since we created  
14 them some time ago and wanted to mention this.

15           I will mention one draft recommendation because  
16 it's pretty consequential for this agency.

17           The issue of who ought to be in charge has never  
18 been pursued by this agency. Actually, pursued by at least  
19 one other. And as you read the draft report, the  
20 conclusions of the group appear to be headed towards saying  
21 that the PUC, for instance, ought to be looking at  
22 pipelines, CO2 pipeline safety issues.

23           But it really says that the best agency would be  
24 the California Energy Commission to have the overall  
25 responsibility for this and the Department of Conservation,

1 the Division of Oil, Gas and Geothermal Resources should be  
2 an asset that would work with this agency.

3 But this is something that's a policy issue that  
4 this agency will have to deal with eventually, when this  
5 comes forward.

6 So, I just wanted to be aware of that and more to  
7 follow.

8 The other item is yesterday in this room, all  
9 afternoon, the Bioenergy Interagency Working Group held a  
10 workshop on its draft 2011 update of the State's Bioenergy  
11 Action Plan. It was well attended and, actually, it was the  
12 product of all the agencies. We just are, you know, hosting  
13 and facilitating a lot of the work.

14 A lot of compliments to all of the agencies for  
15 the work they have done. This issue is being moved along,  
16 finally, after lots of years. And more will -- eventually,  
17 this will be presented to this agency for ratification and  
18 then at some point in time the new -- we hope the new  
19 administration will take notice and give us as many prompts  
20 and orders as the present administration has on this  
21 subject.

22 We have done quite well, even though we've been  
23 unable to get the attention paid to this subject that  
24 perhaps climate change has attracted in this State of late,  
25 but they supplement and complement each other.

1           A big challenge will be how the cap and trade  
2 program, that the ARB will be considering tomorrow, will  
3 affect this arena. People are pretty late in bringing some  
4 issues to our attention, as of yesterday, about some  
5 chilling effects that might occur, and we'll just have to  
6 see how that goes.

7           I've sent an impassioned plea to Mary Nichols to  
8 please pay attention to that subject tomorrow, as she hears  
9 the issue.

10           And Sunday I and Guido represented the Commission  
11 at a seminar on climate change held at Stanford University,  
12 that was held as a tribute to Steven Schneider, who passed  
13 away unexpectedly and, unfortunately, recently.

14           And it was a marvelous event and an educational  
15 event, and the attendance of this Commission was noted and  
16 much appreciated by many people, and I was very pleased to  
17 have had the opportunity.

18           There's one other event that took place this week,  
19 but since Commissioner Eggert threw his body and soul into  
20 the effort, I'll let him talk about it.

21           COMMISSIONER EGGERT: Just -- thank you,  
22 Commissioner.

23           And just very briefly, so, on Monday Commissioner  
24 Boyd and myself, as well as some of our colleagues, Mary  
25 Nichols was there, as part of a collaborative that includes

1 state agencies, utilities, auto makers, NGOs, and others,  
2 basically celebrated the release of a strategic plan for  
3 electric vehicle deployment in the State.

4 The plan was actually developed as part of a grant  
5 from the PIER Program, to the UC Plug-In Hybrid Electric  
6 Vehicle Center, and they did a marvelous job, in a very  
7 short period of time, laying out over 30 recommendations for  
8 how California can establish leadership in electric vehicle  
9 deployment.

10 Lots of press. If you want to actually read the  
11 plan, [www.evcollaborative.org](http://www.evcollaborative.org), and you can see all the  
12 recommendations. It's a good report.

13 CHAIRPERSON DOUGLAS: Thank you.

14 COMMISSIONER WEISENMILLER: I was just going to  
15 add two other things in terms of -- one is -- obviously,  
16 both of us were at the -- the Chairman and I were both at  
17 the CP conference with was, as usual, very educational and  
18 very productive.

19 And also, last Tuesday I attended a committee  
20 hearing down in San Bruno, and sort of one mile away from  
21 the explosion, and it was focused on pipeline safety issues.

22 Certainly, there was a lot of attention to the PUC  
23 and PG&E, particularly Paul Clanon.

24 I discussed how we were thinking about the  
25 implications here. I think it was well received. I mean, I

1 think so, and the general public appreciated having a  
2 Commissioner there, although they perhaps would have  
3 preferred a PUC Commissioner.

4 But, anyway, it was certainly -- that's a  
5 community that's been touched very deeply by that and,  
6 certainly, they expressed it in that hearing.

7 COMMISSIONER BYRON: Commissioner, we've adjusted  
8 budget in the R&D -- RD&D Division in order to assist the  
9 PUC with any potential research that might help in gas  
10 pipeline inspection. Did you bring this topic up or was  
11 that helpful at all?

12 COMMISSIONER WEISENMILLER: Oh, I brought that up  
13 and that was helpful.

14 I also indicated that, obviously, that was  
15 potentially an issue on our siting cases for gas plants and  
16 that, certainly, going into the IEPR that we would think  
17 about the implications of that in terms of the reliability  
18 of the gas system.

19 You know, obviously, that -- I got to be on the  
20 panel with two experts on pipeline safety issues and it is  
21 one of those things where, again -- and I know we're all  
22 pretty tired by now.

23 But the current expectation now is that it's going  
24 to be a year and a half before NTSB really has finished  
25 their investigation. And that, certainly, no one has -- you

1 know, has any understanding at this point on what went  
2 wrong. Although, I guess there was a release of a report  
3 this morning that PG&E may have faulty records there.

4 I think Jim will appreciate this, and having gone  
5 through similar issues on Humboldt, but that their records  
6 on the welding of that pipeline segment could be incorrect.

7 And it seems that that may be a general issue that  
8 they don't know, for that older pipe, exactly what its  
9 characteristics are.

10 CHAIRPERSON DOUGLAS: Thank you, Commissioners.  
11 And I just wanted to say, again, at my last Business meeting  
12 of the year, thank you to all of you. It's been an  
13 incredibly busy year with the ARRA power plants, the  
14 renewable energy power plants, the natural gas plants, the  
15 ARRA funding, the 118 Program, and the PIER Program and  
16 IEPR, and the Demand Forecast, and the work that we've done  
17 in energy efficiency programs and more.

18 We've really put out a lot of work this year.

19 COMMISSIONER EGGERT: And thank you, Chair, for  
20 presiding over an incredibly productive year.

21 CHAIRPERSON DOUGLAS: Well, thank you.

22 If -- I think, let's move on. I see that some  
23 Commissioners have closed their binders and grabbed their  
24 bags.

25 Is there -- we've lost the Executive Director,

1 she's doing interviews, and so she -- she raced out at  
2 exactly 3:00.

3 The Public Advisor's report?

4 PUBLIC ADVISOR JENNINGS: I have nothing to  
5 report.

6 CHAIRPERSON DOUGLAS: Thank you. Chief Counsel?

7 GENERAL COUNSEL LEVY: I have no further report.

8 And the Executive Director said she has no report, either.

9 CHAIRPERSON DOUGLAS: All right, thank you.  
10 There's a very obviously empty room. Is there any public  
11 comment on the phone?

12 If there's none, all right, we're adjourned.

13 (Thereupon, the Business Meeting concluded  
14 at 3:05 p.m.)

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