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BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY COMMISSION

In the Matter of:)
)
Business Meeting)
_____)

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

MONDAY, FEBRUARY 14, 2011

2:00 P.M.

Reported by:
Peter Petty

 ORIGINAL

Commissioners Present

Robert B. Weisenmiller, Chair
James D. Boyd, Vice Chair
Jeffrey D. Byron
Karen Douglas, Chair

Staff Present:

Melissa Jones, Executive Director
Michael Levy, Deputy Chief Counsel
Jennifer Jennings, Public Advisor
Harriet Kallemeyn, Secretariat

Agenda Item

Lisa DeCarlo, Staff Counsel	1
Kristen Driskell	1
Marcia Smith	2, 3
Gabe Herrera	2, 3
Kevin Barker	4

Also Present

Interested Parties:

Lisa Belenky, Senior Attorney, Center for
Biological Diversity
Scott Galati, Galati & Blek, Representing
Solar Millennium
Alice Harron, Solar Millennium, LLC

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P R O C E E D I N G S

FEBRUARY 14, 2011 2:04 p.m.

CHAIRMAN WEISENMILLER: Please join me in the Pledge.

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

CHAIRMAN WEISENMILLER: Good afternoon. Welcome to the Energy Commission Business Meeting of February 14th. The first item is the Palen Solar Power Project (Docket No. 09-AFC-7). Possible approval of a Petition for Reconsideration of the Energy Commission's decision of December 15, 2010, to approve the Application for Certification of the Palen Solar Power Project. This petition asks the Commission to cure errors of fact and law by withdrawing its Order and Decision until the Bureau of Land Management approves the project right of way and an amendment to the California Desert Conservation Area Plan. I am looking for the Petitioner. They're on the phone? Ms. Belenky.

MS. JENNINGS: She is intending to participate by phone, but it's not clear to me that we're connected with WebEx yet. I just tried calling, so perhaps if you could take it out of order?

CHAIRMAN WEISENMILLER: Why don't we do that?

1 Why don't we take that out of order? Oh, wait a
2 minute, okay. She's on the line, so we will move this
3 item. Ms. Belenky, do you want to start by discussing
4 your Petition? She'll be back, let's hold on. [Pause
5 proceeding]

6 Ms. Belenky, do you want to discuss your
7 petition at this time?

8 [Pause proceeding]

9 MS. BELENKY: Hello? Hello?

10 CHAIRMAN WEISENMILLER: Ms. Belenky,
11 welcome.

12 MS. BELENKY: Yes, hello. Thank you.

13 CHAIRMAN WEISENMILLER: I understand your
14 voice is - or do you have a cold?

15 MS. BELENKY: I do have the flu.

16 CHAIRMAN WEISENMILLER: So we were hoping
17 you could summarize briefly your petition.

18 MS. BELENKY: Yes, I can do that. I'll try
19 to be as brief as possible. I think it's all in our
20 papers, I think. The Center brought this
21 reconsideration motion for rehearing motions,
22 specifically because we felt that the way that the -
23 particularly the Multiple Species Wildlife Habitat
24 Management Area and the area set aside for
25 connectivity for Desert Tortoise were dealt with did

1 not actually track with the way the Federal law is
2 written, and that there was not sufficient recognition
3 of these areas and their importance. And I have to
4 say, I don't want to go through every point in our
5 rehearing petition and the opposition, but I would say
6 that, in the staff's response, as well as from the
7 Applicant, and in the Proposed Order, there continues
8 to be the same problem, that the staff has identified
9 the multiple use class, which is "M" as somehow
10 overriding the very important designation of this area
11 as a multiple species wildlife habitat management
12 area, and the areas for connectivity as well as other
13 important resources of these areas. So, the question
14 is not just whether the area is multiple use and
15 whether the Bureau of Land Management, if it so chose,
16 could change the plan designation; the question is
17 that the project that was applied for is a single use,
18 that would completely wipe out the values of this area
19 as a multiple species wildlife habitat management
20 area, and will significantly impair the connectivity,
21 and that none of this is reflected in the documents.

22 The statutory requirement under the Warren-
23 Alquist Act that these issues be actually identified
24 in that the Commission should wait until the agency
25 with control over the land first makes a decision, we

1 believe, is applicable. I understand the other
2 parties believe is it not applicable. But, in either
3 case, I would say that the importance of these areas
4 has been really dismissed by the Commission in a way
5 that is very very disturbing.

6 And then, lastly, I would just say to the
7 extent that the staff and then the proposed order from
8 staff rely on legislative history, that they did not
9 provide to the parties at the time that they provided
10 their rebuttal, you know, it really should be struck.
11 We have not had an opportunity to look at all of the
12 legislative history, I understand most of that is only
13 available in the archives, and we have not been given
14 a fair opportunity to look at all of that and to look
15 at an argument that could perhaps go the other way,
16 having not had access to all of the same documents as
17 staff. So, those would be the points I would like to
18 make. Thank you.

19 CHAIRMAN WEISENMILLER: Thank you. Would
20 the Applicant like to respond?

21 MR. GALATI: Yes. First of all, Scott
22 Galati on behalf of Solar Millennium. We support the
23 Proposed Order and Staff's Responses. I would like to
24 make a few brief comments in contrast to what Ms.
25 Belenky just said. First of all, I think that it is

1 not fair to say that the Commission dismissed the very
2 important nature of these land use classifications.
3 You can look at how the mitigation was adopted, it was
4 adopted based on the different mitigations, and a full
5 connectivity study was done with a couple of different
6 data requests. These issues were looked at
7 extensively and, including when the project was
8 reconfigured, it was reconfigured in a way to also try
9 not to move further east because that would impair
10 connectivity, and that's all in the record, as well.
11 The time to have had that discussion of whether the
12 Commission appropriately treated the land use
13 classifications, as well as the biological mitigation
14 and the findings was during evidentiary hearing on
15 both of those subjects. CBD did put in some testimony
16 and they thought the mitigation ratio should be
17 different, but the Commission found otherwise. We
18 support the Commission decision. We believe that the
19 sole question before you is the sole question raised
20 by Ms. Belenky. It isn't whether you should approve
21 the Palen Project, it isn't whether it is mitigated,
22 it isn't what the land use designations it is, it is
23 whether 25527 actually is applicable, and we believe
24 for the Federal preemption issues and specifically how
25 the wording is done with 25527, it is not applicable

1 in this case, or any other, that involves Federal
2 land.

3 Lastly, with respect to providing
4 information, you know, the burden is on the Petitioner
5 to bring their best case and their moving papers, or
6 to move for additional briefing. Just to recap
7 everybody here, we had this conversation at the PMPD
8 comments and conference hearing in which authority was
9 asked for and was not provided; we had it at the
10 business meeting in which authority was asked for, and
11 it was not provided; and then, there was a Petition
12 for Reconsideration that failed to find the
13 legislative history. That's not something I believe
14 the Commission, or Applicant, or anybody has to
15 provide, that's pure legal research and I don't think
16 that should be a reason for the Commission to believe
17 that there was any unfairness extended to this
18 particular Petitioner, who, quite frankly, should have
19 had this denied on the ground that it didn't bring up
20 anything new. We support the Proposed Order.

21 CHAIRMAN WEISENMILLER: Staff, do you have
22 any comments?

23 MS. DECARLO: Good afternoon, Lisa DeCarlo,
24 Energy Commission staff counsel for the Palen
25 proceeding. A couple of points. I agree with Mr.

1 Galati that the Commission did analyze the project's
2 potential impacts on biological resources, fully
3 mitigated those impacts that were identified
4 sufficiently, that is not the question before the
5 Commission today. The question is, as raised by CBD,
6 does Public Resources Code Section 25527 prohibit the
7 Energy Commission from having adopted the
8 certification for the Palen Solar Power Project on
9 December 15th, prior to an official determination by
10 BLM. And, as I indicated in our response to CBD, I
11 believe that decision should be no, that 25527 does
12 not apply in this proceeding, it applies in a limited
13 circumstance where there is city, state, regional
14 land, that is not the case here, this is all Federal
15 land. Additionally, staff believes that the provision
16 only applies to lands that have been designated by
17 1975, and not any lands designated thereafter. So, we
18 believe that, based on a reading of the statutory
19 provision, 25527 does not present a prohibition to the
20 Commission's actions on December 15th.

21 In terms of whether or not legislative
22 history was provided to Ms. Belenky, I was absent, I
23 was on vacation. It is my understanding the Chief
24 Counsel's Office did provide her with the materials
25 that staff had used and had referenced. We provided

1 explicit citations in our brief, in our response;
2 those were provided much earlier than the Commission
3 had set a deadline for, which gave CBD even more time
4 to review. Additionally, Ms. Belenky has raised this
5 issue with regards to the application of 25527 for the
6 last several months. It's incumbent upon any attorney
7 when they do raise a statutory issue that they might
8 foresee that that matters, regarding the
9 interpretation of that statute, it might be raised by
10 other parties. And so, Ms. Belenky argues that she
11 was out of town and not able to go to archives,
12 personally, to review this, however, she had several
13 months prior to the Petition being filed to have done
14 so. But, as I mentioned before, the materials, it is
15 my understanding, were provided to Ms. Belenky last
16 week, I believe.

17 CHAIRMAN WEISENMILLER: Are there any
18 parties on the phone that want to address this issue?

19 MS. BELENKY: No one except for me, the
20 Center for Biological Diversity. I'm sorry; I would
21 like to respond if there is an opportunity.

22 CHAIRMAN WEISENMILLER: No other parties?
23 Certainly, why don't you respond?

24 MS. BELENKY: Well, first of all, the
25 Petition was brought specifically to cure what we see

1 as an error of law, so there's nothing wrong with
2 bringing a petition on that basis. And I don't accept
3 Mr. Galati's statement on that effect. As far as the
4 legislative history, the staff did not - staff counsel
5 did not provide those documents, it was actually the
6 Public Advisor who went out of her way to provide some
7 documents to me last week, on Thursday, but only the
8 documents that the staff had relied on, and I had no
9 way of knowing that the staff was going to raise this,
10 raise legislative history, because during the actual
11 hearing on this matter, they completely dismissed this
12 out of hand and never raised anything about the intent
13 of the statute. That said, you know, I will take that
14 at its face value; certainly, it would have been
15 incumbent upon me to find the files in the archives
16 and to research them more thoroughly, had I had time
17 to do so. Nonetheless, we believe that it is not a
18 question of legislative history, that is the plain
19 language on the face of the statute shows that it is
20 applicable, and that's why legislative history is, in
21 fact, immaterial in this matter.

22 Lastly, as I said, we raised this as a
23 question of law and it is a mistake of law, and it is
24 not an attempt to re-raise any issues, any other
25 issues, as Mr. Galati and staff have implied. We

1 believe that this statutory provision is applicable on
2 its face. So...

3 CHAIRMAN WEISENMILLER: Thank you. Are
4 there any public comments on this issue? Hearing
5 none, I was going to ask the Hearing Officer if he has
6 any comments.

7 MR. RENAUD: Well, I'm here mostly because I
8 was there during the entire proceedings for Palen in
9 case anybody had any questions about what occurred,
10 but I think I'll point out one thing, and that is
11 that, at the time of the adoption hearing, we had a
12 discussion about all of this, and what it really came
13 down to was suppose we agreed with CBD and did as they
14 asked, and reversed things so that, in fact, we waited
15 for the Federal Government, what would the difference
16 be? The outcome would be exactly the same; the
17 Decision requires that there be Federal approval
18 before any construction can begin. So, I think
19 everybody is correct here, all the staff and the
20 Applicant and the Proposed Order are correct on the
21 law, but even if they weren't, we're talking about a
22 case where it doesn't make any difference. I am here
23 to answer any questions, though, if anybody has any.

24 CHAIRMAN WEISENMILLER: Any other questions?
25 I was going to turn to the Chief Counsel's Office, to

1 Kristen Driskell.

2 MS. DRISKELL: I will start. This is
3 Kristen Driskell from the Chief Counsel's Office. I
4 circulated the Proposed Order on behalf of the Chief
5 Counsel's Office, recommending that you deny the
6 Petition. If you would like, I can highlight a few of
7 the major points of that Order before we continue?

8 CHAIRMAN WEISENMILLER: Please do so on the
9 record.

10 MS. DRISKELL: Okay. The Order Denying
11 Reconsideration begins with Section 1720 as Center for
12 Biological Diversity had to not only allege in there a
13 factor of law, but they also had to explain why they
14 couldn't raise this issue in an evidentiary hearing,
15 and why it substantively affects the Decision under
16 the rules of 1720. They deny they are in the
17 Petition, and for that reason alone, we could deny
18 this Petition. Nonetheless, the Order goes on to
19 address the merits of their argument. We begin with
20 Section 25527 of the Public Resources Code, which we
21 suggest - or decided - does not apply here because it
22 does not apply to Federal agencies. We don't have to
23 turn to the legislative history; the plain language of
24 Section 25527 discusses the lands of the State and
25 discusses different State areas which would suggest

1 that 25527 only applies to State agencies. Moreover,
2 25500, which gives the Energy Commission its
3 preemptive authority, only applies to State, local,
4 and regional agencies, and only to Federal agencies to
5 the extent allowed by Federal law. Federal law here
6 would preempt us if they had a contrary decision, that
7 is, if the Bureau of Land Management decided not to
8 approve the right of way grant and the amendment to
9 the California Desert Conservation Act Plan, or Area
10 Plan. Then, our approval would have no further
11 validity over those lands. This is why we suggest
12 that 25527 does not apply in this proceeding, since we
13 are preempted if BLM came up with a contrary decision.

14 Finally, we also included a Condition of
15 Certification, Land 1, in our Decision, which requires
16 the Applicant to obtain approval before it can begin
17 construction. So, in any case, the Decision takes
18 care of the issues that Center for Biological
19 Diversity raises.

20 CHAIRMAN WEISENMILLER: Thank you.
21 Commissioners, any questions or comments?

22 COMMISSIONER DOUGLAS: None. We reviewed
23 this issue thoroughly during the case and it was
24 extensively argued at that point.

25 COMMISSIONER WEISENMILLER: Can I have a

1 motion?

2 COMMISSIONER DOUGLAS: I will move that we
3 adopt the Order drafted by the Chief Counsel's Office
4 to deny the Petition.

5 COMMISSIONER BYRON: Mr. Chairman, I second
6 the motion.

7 CHAIRMAN WEISENMILLER: All in favor?

8 (Ayes.)

9 Let's look at Item 2, which is Revisions to
10 ARRA SEP Guidelines. Possible adoption of revisions
11 to the American Recovery and Reinvestment Act (ARRA)
12 State Energy Program (SEP) Guidelines to allow for the
13 reimbursement of expenses incurred after the award
14 agreement approval, but prior to the award agreement
15 execution. Current Guidelines prohibit reimbursement
16 for expenses incurred prior to the award agreement
17 execution. Marcia Smith.

18 MS. SMITH: Good afternoon. I'm Marcia
19 Smith and I work in the Energy Commission's Fuels and
20 Transportation Division on the Clean Energy Business
21 Financing Program, or the CEBFP. With me today is
22 Gabe Herrera from the Energy Commission's legal office
23 and my [inaudible] [00:27:49], Jacob Orenberg. And
24 we're here to request approval for proposed revisions
25 to the Energy Commission's State Energy Program

1 Guidelines. These Guidelines were originally adopted
2 by the Energy Commission on September 30th, 2009, and
3 have been revised several times since then. The
4 Guidelines were developed to help implement and
5 administer specific program areas funded by the State
6 Energy Program under the American Recovery and
7 Reinvestment Act of 2009, or ARRA. One of these
8 program areas is the Clean Energy Business Financing
9 Program, which the Energy Commission has allocated
10 approximately \$30.6 million of the \$226 million in
11 ARRA funding the Energy Commission received from the
12 U.S. Department of Energy. The Clean Energy Business
13 Financing Program was developed to provide low
14 interest loans for eligible clean energy technology
15 manufacturers for fixed asset financing. Late last
16 year, in August and September, the Energy Commission
17 approved loan awards to the first eight CEBFP
18 applicants, totaling approximately \$29 million at an
19 interest rate of 2.75 percent. Since that time,
20 program staff has been working with Awardees to
21 finalize and execute the loan agreements and various
22 related documents. The proposed Guidelines revisions
23 before you today will clarify the conditions under
24 which the Energy Commission may reimburse CEBFP
25 Awardees for expenses incurred after the Energy

1 Commission's approval of an Awardee's Loan Agreement,
2 but prior to the agreement's execution.

3 Under the current Guidelines, the Energy
4 Commission may only reimburse an Applicant for
5 expenses incurred after the agreement has been signed
6 and executed, as specified in Chapter 1, Section C,
7 page 8 of the Guidelines. In at least two cases,
8 Awardees began incurring appropriate expenses after
9 the Energy Commission's approval of the loan, but
10 before the loan agreement was executed. These
11 expenses were incurred by Awardees in an effort to
12 expedite the implementation of their CEBFP projects.
13 The proposed revisions of Chapter 1, Section C of the
14 Guidelines are similar to changes the Energy
15 Commission adopted for its Energy Efficiency and
16 Conservation Program Guidelines, which govern another
17 ARRA funded Energy Commission program. The Energy
18 Commission's Federal Stimulus Program Ad Hoc Committee
19 was briefed on the proposed Guideline revisions and
20 recommends these revisions to be adopted by the Energy
21 Commission. Staff requests the Commission approve
22 Agenda Item 2 to adopt these revisions to the ARRA SEP
23 Guidelines, to allow reimbursement of grant and loan
24 Awardees for expenses incurred after approval of a
25 funding award agreement, but before execution of the

1 agreement. And we're available to answer any
2 questions that you might have. Thank you.

3 CHAIRMAN WEISENMILLER: Thank you. Gabe, do
4 you have a statement?

5 MR. HERRERA: Commissioners, good afternoon.
6 Gabe Herrera with the Commission's Legal Office. As
7 is typically the case when the Commission considers
8 adoption of Guideline revisions such as these, the
9 Legal Office takes a look at the act of adopting its
10 guidelines to determine if that act constitutes a
11 project under the California Environmental Quality
12 Act, commonly referred to as CEQA. In this case,
13 these Guideline revisions, are not a project under
14 CEQA because the Guidelines fall within a list of
15 excluded activities under Title 14, California Code of
16 Regulations Section 15378(B)(2) and (4) in that the
17 activity relates to general policy or procedure
18 making, or the creation of governmental funding
19 mechanisms, which do not involve any commitment to a
20 specific project, which may result in a potentially
21 significant physical impact on the environment. In
22 addition, the adoption of the Guideline revisions is
23 exempt from CEQA under what is commonly referred to as
24 the Common Sense Exception in Title 14, California
25 Code of Regulations Section 15061(B)(3). Thanks.

1 CHAIRMAN WEISENMILLER: Thank you. Any
2 questions or comments?

3 COMMISSIONER DOUGLAS: Just a brief comment.
4 This was reviewed by the ARRA Committee, which at this
5 time is composed of me. The issue presented with
6 these awards is an important one. Because of the
7 tremendous amount of funding and agreements moving
8 through the Energy Commission with the ARRA program,
9 with AB 118, and with the PIER Program, we did have
10 some lag time between Business Meeting approvals and
11 executions of contracts, and in the market environment
12 in which a number of the loan recipients operate, they
13 just were completely unable to hold off on some of
14 their obligations to move forward and to carry out
15 these projects that are important to the state, and
16 that we really want to see happen. So, I am in strong
17 support of doing this and recommend it for your
18 approval.

19 COMMISSIONER BYRON: Commissioner Douglas,
20 if that's a motion -

21 COMMISSIONER DOUGLAS: Thank you,
22 Commissioner Byron. I will move approval of that
23 item.

24 COMMISSIONER BYRON: And I'll second it.

25 CHAIRMAN WEISENMILLER: All in favor?

1 (Ayes.)

2 Let's take up Item 3. The Amendments to
3 CEBFP Agreements. Possible adoption of a resolution
4 to allow the Executive Director or her designee to
5 amend Clean Energy Business Financing Program (CEBFP)
6 loan agreements, as necessary, to permit borrowers to
7 be reimbursed for expenses incurred after the loan
8 agreement approval, but before loan agreement
9 execution, and to also permit borrowers to invoice for
10 loan proceeds on a cost incurred basis in order to
11 enhance collateral for the loan. Ms. Smith.

12 MS. SMITH: Thank you. Agenda item 3 is a
13 proposed resolution related to the Clean Energy
14 Business Financing Program. The proposed resolution
15 would authorize the Executive Director to amend
16 existing CEBFP loan agreements, if needed, to
17 accomplish two purposes, 1) permit a borrower to be
18 reimbursed for expenses incurred after the Energy
19 Commission's approval of the loan agreement, but prior
20 to the agreement's execution, consistent with the
21 State Energy Program Guidelines revisions approved
22 under Agenda item 2; and 2) enhance the collateral of
23 a CEBFP loan by permitting the borrower to invoice for
24 loan proceeds for equipment purchases based on the
25 Borrower's costs incurred, rather than a reimbursement

1 basis. In securing CEBFP loans, staff is making every
2 effort to ensure that the Energy Commission obtains
3 the best available collateral to protect the
4 investment of Recovery Act State Energy Program funds.
5 The proposed resolution will allow the Energy
6 Commission to pay out CEBFP loan proceeds on a cost
7 incurred basis, rather than on a reimbursement basis,
8 to secure a Purchase Money Security Interest, or PMSI,
9 on the equipment purchased by the borrower, and
10 thereby improving the Energy Commission's collateral
11 on the loan.

12 Generally speaking, a borrower may invoice
13 the Energy Commission for cost incurred expenses after
14 the borrower has legally incurred those expenses,
15 whereas reimbursable expenses may be invoiced for
16 payment only after the borrower has paid for the
17 expenses. It may be difficult to secure a PMSI in
18 equipment purchased by the borrower if the Energy
19 Commission pays out loan proceeds on a reimbursement
20 basis; hence, to improve Energy Commission's
21 collateral position via a PMSI, it may be necessary to
22 pay out loan proceeds on a cost incurred basis.

23 Please note that the proposed resolution
24 includes provisions that allow loan proceeds to be
25 paid out for equipment purchases only after the

1 equipment is delivered to the borrower. This is an
2 added safeguard to protect the Energy Commission when
3 making payments on a cost incurred, rather than
4 reimbursement basis, because it precludes the issuance
5 of payments for equipment while the equipment is still
6 in the vendor's possession. If loan proceeds are used
7 to make payments for equipment that is still in the
8 vendor's possession and something happens to the
9 vendor, or something happens to the equipment, the
10 borrower may not be able to complete the project,
11 thereby affecting both the borrower's ability to repay
12 the loan, as well as the Energy Commission's
13 collateral in the lost equipment.

14 Staff requests that the Energy Commission
15 approve the proposed resolution to permit the
16 Executive Director to amend existing CEBFP loan
17 agreements as necessary, to reimburse borrowers for
18 equipment purchased consistent with the changes in the
19 SEP Guidelines approved today, and/or reimburse
20 borrowers for equipment purchased on a cost incurred
21 basis. The Energy Commission's Federal Stimulus Ad
22 Hoc Committee was briefed on the proposed resolution
23 and supports its approval. And, once again, we're
24 available for questions. Thank you.

25 MR. HERRERA: Chairman Weisenmiller, I have

1 no comments concerning this particular agenda item.

2 Thank you.

3 CHAIRMAN WEISENMILLER: Thank you. Any
4 questions or comments, Commissioners?

5 VICE CHAIR BOYD: No questions.

6 COMMISSIONER DOUGLAS: No questions or
7 comments. I will move approved.

8 VICE CHAIR BOYD: Second.

9 CHAIRMAN WEISENMILLER: All in favor, say
10 aye.

11 (Ayes.)

12 MR. LEVY: Chairman Weisenmiller and
13 Commissioners, may I ask for your indulgence for a
14 moment before you go on to the next item?

15 CHAIRMAN WEISEMMILLER: Sure.

16 MR. LEVY: Before Mr. Herrera leaves the
17 room, I'd like to announce to you that he recently
18 received, effective February 1st a rare promotion to
19 Staff Counsel IV. I don't need to describe his talent
20 and dedication to the Energy Commission for you, you
21 know it well. And we're very much looking forward,
22 though, to his leadership for our Transactions Unit to
23 help coordinate in their effort and to serve as a team
24 lead in the Chief Counsel's Office, so I wanted to
25 bring that to your attention.

1 CHAIRMAN WEISENMILLER: Very good.

2 Congratulations, both of you.

3 MR. HERRERA: Thank you.

4 VICE CHAIR BOYD: Congratulations, Gabe.

5 Now, can you apply all these speed-up provisions to
6 other programs near and dear to my heart?

7 MR. HERRERA: We'll work on that,
8 Commissioner.

9 VICE CHAIR BOYD: Thank you.

10 CHAIRMAN WEISENMILLER: Okay, so we are now
11 looking at Item 4, Energy Commission Committee
12 Appointments and possible approval of Committee
13 Appointees, appointments, and Kevin Barker is here.
14 In terms of what we're going to cover today in terms
15 of committees is myself as the Presiding Member and
16 Karen Douglas as the Associate on the IEPR, myself as
17 Presiding Member and Commissioner Boyd as Associate
18 Member on the Energy Commission's Research,
19 Development and Demonstration Committee; she, myself
20 and Commissioner Boyd as the Energy Commission's
21 Legislative and Intergovernmental Affairs Committee;
22 similarly, myself as Presiding Member and Commissioner
23 Boyd as Associate Member of the Energy Commission's
24 Budget and Management Committee; then, Commissioner
25 Douglas as the Presiding Member and Commissioner Byron

1 as the Associate Member of the Energy Commission's
2 Efficiency Committee; and then, finally, Commissioner
3 Douglas as Presiding Member and Commissioner Boyd as
4 Associate Member of the Siting Committee for the City
5 of Palmdale Hybrid Power Plant Project.

6 MR. BARKER: This is Kevin Barker speaking,
7 good afternoon, Commissioners. I believe I briefed
8 each of your offices on these appointments and ask for
9 your approval.

10 CHAIRMAN WEISENMILLER: You were - I was
11 going to say, as a matter of introduction, obviously
12 with my appointment to the Commission, and also as
13 Chair, these reflect some of the changes, obviously
14 we're waiting to see who the fifth Commissioner is, so
15 there certainly will be another round, so we have been
16 marching step by step through the Committee
17 assignments. But I think this will position us better
18 for at least the short term. Are there any questions
19 or comments?

20 COMMISSIONER BYRON: Mr. Chairman, you
21 know, I suppose I could be a little bit more outspoken
22 on this matter as an outgoing Commissioner. It does
23 represent challenges to our Commission when we don't
24 have a full complement of Commissioners. There has
25 been a great deal of uncertainty over these last few

1 months. I'm glad some of that uncertainty has been
2 resolved. Certainly, having you back on the
3 Commission is wonderful. But we're still a court low,
4 as you just indicated, and this does have impact on
5 our Applicants before us, it has impact on staff, as
6 well as the fact that we are a limited resource that
7 needs to be spread across the same amount of required
8 workload, regardless of the number of Commissioners.
9 Having said that, I think these changes make the best
10 sense of what you can do at this point with four
11 Commissioners. I certainly endorse it, and I'd like
12 to ask the staff to continue to please be indulgent
13 with us and our Applicants and public, as we sort
14 through how we can spread this - I hope it's already
15 to consider ourselves a resource - but to spread this
16 limited resource over the breadth of what we need to
17 cover. Mr. Chairman, if you are willing to accept a
18 motion, I would be more than happy to move approval of
19 Item 4.

20 CHAIRMAN WEISENMILLER: Any other comments?

21 VICE CHAIR BOYD: I will second the motion.

22 COMMISSIONER DOUGLAS: I'm in full support
23 of these appointments and look forward to moving
24 forward and, obviously, agree they probably are
25 interim and when we get our fifth Commission member,

1 we will no doubt fill this out a bit more.

2 CHAIRMAN WEISENMILLER: That's correct. All
3 those in favor, say "aye."

4 (Ayes.)

5 Thank you. I was going to say, I think
6 we've been called many things in the past,
7 Commissioner, but a resource, I'm not sure that often
8 sprang to people's minds.

9 Chief Counsel's Report?

10 MR. LEVY: Yes, really briefly, one more
11 note for your - I know I sent an e-mail out, but just
12 to note it publicly, is we also have three additional
13 promotions of significance, of serious significance,
14 in the Chief Counsel's Office. We've hired three
15 Assistant Chief Counsels, two of them started on
16 February 1st, that's Renee Webster Hawkins will be the
17 Assistant Chief Counsel for House Counsel activities,
18 Allan Ward is the Assistant Chief Counsel for
19 transactions, and a third Assistant Chief Counsel,
20 Jeff Ogata, who is coming back to the Energy
21 Commission after about 10 years, he'll be the
22 Assistant Chief Counsel for Siting Advocacy. So,
23 we're reorganizing the office into three teams that
24 make a little bit more sense. And, with that, I'd
25 also like to acknowledge the service of Arlene Ichien

1 and also Jonathan Blee, who collectively have served
2 the agency more than 70 years at this point in time,
3 who have both retired and are relinquishing those
4 positions, I'd like to acknowledge their service, as
5 well.

6 CHAIRMAN WEISENMILLER: Thank you. That's
7 good news in terms of your promotions and bringing
8 your new team, and certainly we all appreciate the
9 efforts, particularly of Arlene and obviously
10 Jonathan, but Arlene is here today. So, thanks.

11 Executive Office?

12 MS. JONES: I have nothing to report today.

13 CHAIRMAN WEISENMILLER: Public Advisor?

14 MS. JENNINGS: I have nothing to report,
15 thank you.

16 CHAIRMAN WEISENMILLER: Fellow
17 Commissioners, any comments or conversation?

18 VICE CHAIR BOYD: Nothing to report, also.

19 COMMISSIONER DOUGLAS: I should report on
20 behalf of the Siting Committee that, last week, I went
21 to Washington, D.C., where the Department of Interior
22 had a conference pulling together probably over 100
23 people from California, I think it was, more than
24 anything, people from California because that is most
25 of where the renewable energy siting has occurred.

1 There were also people from other western states, in
2 particular. But we met as part of a lessons learned
3 exercise, we had a number of Federal agencies involved
4 or present at the conference, Fish and Wildlife
5 Service, Bureau of Land Management, a number of the
6 Secretaries of these agencies to address the group,
7 and it was a really valuable occasion to meet with the
8 Federal agencies and to talk to them about our
9 process, their process, how we want the future to look
10 in terms of energy development, and in terms of any
11 changes that they might make to their rules, or that
12 we might make to ours, in order to cement the
13 partnership that we had.

14 We also had the opportunity to meet with the
15 Department of Defense, and I think we're increasingly
16 going to see them, as fairly enthusiastic and
17 interested and engaged participants on the renewable
18 energy front. So, it was a very valuable occasion
19 that I wanted to share with you.

20 CHAIRMAN WEISENMILLER: Thank you. Do we have
21 any public comment? All right, the meeting is adjourned.

22 (Whereupon, at 2:51 p.m., the business meeting was
23 adjourned.)

24
25

REPORTER'S CERTIFICATE

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

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

IN WITNESS WHEREOF,

I have hereunto set my hand this 22nd day of February, 2011.

A handwritten signature in cursive script that reads "Peter Petty". The signature is written over a solid horizontal line.

PETER PETTY
CER**D-493
Notary Public