BUSINESS MEETING

BEFORE THE

CALIFORNIA ENERGY COMMISSION

In the Matter of:)
)
Business Meeting)
)

DOCKET
Business Meeting
DATE May 18, 2011
RECD June 14, 2011

CALIFORNIA ENERGY COMMISSION

HEARING ROOM A

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 18, 2011

10:05 A.M.

Reported by:
Peter Petty

ORIGINAL

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WEDNESDAY, MAY 18, 2011

10:05 A.M.

Reported by:
Peter Petty

Commissioners Present

Robert B. Weisenmiller, Chair
Karen Douglas
Carla J. Peterman

Staff Present:

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

	Agenda Item
Akasha Kaur Khalsa	2
Brian Neff	4
Aleecia Macias	5
Matt Coldwell	6
Sarah Pittiglio	7,8
Jamie Patterson	10
Jonah Margolis	11
Joanne Vinton	12
Peter Ward	13
Christine Stora	14
Kevin Bell	14, 15
Kourtney Vaccaro	15
Kenneth Celli	16
Kerry Willis	16

Also Present (*on phone)
Interested Parties

	Item #
Andrew Panson, CA EPA: ARB	5
Chris Keithley, CalFire	8
Richard Bode, CA EPA: ARB	8
*Byron Washon, UCSD	10
Vincent Visco, Quallion LLC	11
Sarah McQuaid, Solazyme, Inc.	12
Sean Edgar, Clean Fleets Coalition and Autocar, LLC	13
Greggory Wheatland, Ellison Schneider & Harris, LLP	14, 16
Barbara McBride, Calpine	14
Robert Sarvey	14-16
Scott Galati, Galati & Blek	15
Greg Lamberg, Radback Energy	15
Chris Curry, Mariposa Energy, LLC	16
Andy Wilson, Ca Pilots Assoc.	16

Interested Parties

	Item #
Morgan Groover, Mountain House Community Services District	16
Edward Mainland, Sierra Club, CA	16
Rajesh Dighe, Intervener	16
April Rose Sommer, Attorney at Law, Representing Rob Simpson	16

Public Comment

Edward Mainland , Sierra Club, CA	15
Paul Seger	15
Eve Diamond, Oakley Citizens for Responsible Growth	15
Dorothy Rothrock, California Manufacturers Assoc.	15
James Lamb	16
Guy Colton, Resident of Mountain House	16

I N D E X

Page

Proceedings

Items

1. CONSENT CALENDAR 10

a. CITY OF NAPA. Possible approval of the City of Napa's locally adopted energy standards to require greater energy efficiency than the 2008 Building Energy Efficiency Standards.

b. UNIVERSITY OF CALIFORNIA, DAVIS. Possible approval of Amendment 1 to agreement PIR-08-007 with the Regents of the University of California, Davis, to reallocate funds within the agreement and add three additional case studies of cities that are exploring local policy initiatives to reduce greenhouse gas emissions in order to highlight achievements and barriers. The proposed amendment will not change the contract term or overall budget amount.

c. CSU FULLERTON AUXILIARY SERVICES CORPORATION. Possible approval of Amendment 1 to Contract 500-09-007 with California State University Fullerton Auxiliary Services Corporation for a six-month, no-cost time extension to allow additional measurements of fugitive methane emissions at natural gas facilities in California.

d. CITY OF ORLAND. Possible approval of Amendment 1 to Agreement CBG 09 049 with the City of Orland to reallocate $3,802 from the Labor budget to Non-Labor Contract Expenses category.

e. COUNTY OF NEVADA. Possible approval of Amendment 1 to loan agreement 006-09-ECD with the County of Nevada to change the scope of work, and reduce the loan amount by $94,641. Installation of larger HVAC units than originally proposed results in lower annual energy cost savings. The new maximum amount of the loan is $1,392,226.

I N D E X

Page

Items

1. CONSENT CALENDAR (Continued).

f. PORTLAND ENERGY CONSERVATION, INC. Possible approval of Amendment 1 to Contract 400-09-014 to reallocate budget from labor expenses to travel and program management categories, and to increase the budgeted "Leveraged Funding" to reflect $175,000 of new match funding.

g. EV CONNECT, LLC. Possible approval of Amendment to approval of Grant Award ARV-10-006 with EV Connect, LLC and to Resolution 10-1006-14, substituting EV Connect, Inc., as the Grant Recipient and novating the Agreement to EV Connect, Inc., for a project to install, upgrade, and expand public plug-in chargers at five end-of-the-line transit facilities in the Los Angeles County Metropolitan Transit Authority service area.

2. CITY OF CALIMESA. Possible approval of agreement 009-10-ECE-ARRA for a $65,292 loan to the City of Calimesa to replace six HVAC heat pump units. One unit is for the City Hall Annex, and the remaining five units are for the Senior Center, a Riverside County designated "Cool Center". (ARRA funded.) 10

3. THE RESULTS GROUP. Possible approval of Contract 400-10-014 for $75,000 with The Results Group for strategic planning service to assist the Energy Commission's Efficiency and Renewable Energy Division's evaluation and implementation of strategic priorities, structural re-alignment, project management protocol and stakeholder engagement efforts. (ERPA funding.) **Postponed**

4. UNIVERSITY OF CALIFORNIA, BERKELEY. Possible approval of Agreement FED 10 001 for a grant of $122,000 with the Regents of the University of California, Berkeley, to conduct directed outreach, field performance and implementation assessment activities related to further deployment of combined heat and power in California. 12

I N D E X

Items		Page
5.	CALIFORNIA AIR RESOURCES BOARD. Possible approval of Contract 600-10-010 for an interagency agreement with the California Air Resources Board for $4 million to provide funding for the Hybrid Truck and Bus Voucher Incentive Project for qualified battery electric vehicles. (ARFVT funding.)	14
6.	REGENTS OF THE UNIVERSITY OF CALIFORNIA. Possible approval of Contract 500-10-044 for $478,457 with the Regents of the University of California to develop innovative technologies and approaches to inspect and monitor the integrity of natural gas pipelines. (PIER natural gas funding.)	20
7.	UNIVERSITY OF CALIFORNIA, SANTA BARBARA. Possible approval of Contract 500-10-045 for $600,000 ~~with the Regents of the University of California, Santa Barbara,~~ to estimate the effects of climate change on fire frequency and vegetation in California watersheds. Fire and altered vegetation can substantially modify hydrologic conditions, and have significant impact on hydropower generation. (PIER electricity funding.)	23
8.	UNIVERSITY OF CALIFORNIA, BERKELEY. Possible approval of Contract 500 10 046 for $400,000 ~~with the Regents of the University of California, Berkeley,~~ to determine the effect of forest disturbances, such as bark beetle infestations, on carbon stocks and the potential for forested lands to provide carbon offsets for California's energy sector. (PIER electricity funding.)	25
9.	UNIVERSITY OF CALIFORNIA, BERKELEY. Possible approval of Contract 500 10 047 for $900,000 with the Regents of the University of California, Berkeley, to develop long-term energy scenarios for California using a geographical information system framework and high temporal resolution to properly model intermittent sources of electricity. (PIER electricity funding.)	**Postponed**

I N D E X

Page

Items

10. UNIVERSITY OF CALIFORNIA, SAN DIEGO. Possible approval of Contract 500 10 043 with the Regents of the University of California, San Diego, for $1,394,298 to perform four projects in solar insolation forecasting, demonstrate distributed energy systems, provide observability microgrid operations, and demonstrate renewable energy charging of electric vehicles. (PIER electricity funding.) 32

11. QUALLION LLC. Possible approval of Amendment to approval of Grant Award ARV 10-010 with Quallion LLC and to Resolution 10-1006-11 to add $5,888,000 for a total grant award of $6,914,072. The project is to develop a pilot automated manufacturing line capable of producing 10,000 one-kilowatt-hour lithium ion modules that can be used as the building block for many types of battery systems, including electric vehicles. (ARFVTF funding). 36

12. SOLAZYME, INC. Possible approval of Agreement ARV-10-047, for a grant of $1,472,638 to Solazyme, Inc., to develop and test the feasibility of a pilot production plant that will convert algae feedstock into renewable oil for vehicle use. (ARFVTF funding.) 44

13. VEHICLE BUY-DOWN INCENTIVE RESERVATIONS. Possible approval of a total of $4,755,000 in vehicle buy-down incentive reservations (ARFVT funding). 51

a. SOUTH BAY FORD, in the amount of $357,000.00 for the buy-down of 119 natural gas vehicles (up to 8,500 pounds gross vehicle weight).

b. BIG VALLEY FORD, in the amount of $192,000.00 for the buy-down of 32 propane vehicles (8,501 to 14,000 pounds gross vehicle weight).

c. GALPIN MOTORS, INC., dba GALPIN FORD, in the amount of $150,000 for the buy-down of 25 propane vehicles (8,501 to 14,000 gross vehicle weight).

I N D E X

Page

Items

13. VEHICLE BUY-DOWN INCENTIVE RESERVATIONS (Continued):

d. TUTTLE CLICK FORD, in the amount of $24,000.00 for the buy-down of 8 natural gas vehicles (up to 8,500 pounds gross vehicle weight) and $8,000 for the buy-down of 1 natural gas vehicle (8,500 to 14,000 pounds gross vehicle weight). for a total reservation amount of $32,000.

e. HANSEL FORD, INC., in the amount of $64,000 for the buy-down of 8 natural gas vehicles (8,501 to 14,000 pounds gross vehicle weight).

f. SERRAMONTE FORD, in the amount of $120,000 for the buy-down of 15 natural gas vehicles (8,501 to 14,000 pounds gross vehicle weight).

g. AUTOCAR, LLC, in the amount of $1,280,000 for the buy-down of 40 natural gas vehicles (26,001 pounds gross vehicle weight and greater).

h. KENWORTH TRUCK COMPANY, in the amount of $1,280,000 for the buy-down of 40 natural gas vehicles (26,001 pounds gross vehicle weight and greater).

i. DAIMLER TRUCKS NORTH AMERICA LLC, in the amount of $1,280,000.00 for the buy-down of 40 natural gas vehicles (26,001 pounds gross vehicle weight and greater).

14. LOS MEDANOS ENERGY CENTER (98-AFC-1C). Possible approval of a petition to amend the California Energy Commission Decision to modify the Los Medanos Energy Center, to make efficiency improvements to the Advance Gas Path on the existing turbines S-1 and S-3. No Conditions of Certification are proposed to change as part of this petition. 62

I N D E X

Items	Page
15. OAKLEY GENERATING STATION PROJECT (09-AFC-4), AND ERRATA. Possible adoption of the Presiding Member's Proposed Decision, and Errata, on the Oakley Generating Station Project. The project is a natural gas-fired, combined-cycle facility with a nominal generating capacity of 624 megawatts located in Contra Costa County.	68
16. MARIPOSA ENERGY PROJECT (09-AFC-3). AND ERRATA. Possible adoption of the Presiding Member's Proposed Decision on the Mariposa Energy Project, and Errata. The project is a simple-cycle peaking facility with a generating capacity of 200 megawatts in northeastern Alameda County.	107
Commission Committee Presentations and Discussion	174
Chief Counsel's Report	175
Executive Director's Report	175
Public Adviser's Report	175
Public Comment	175
Adjournment	176
Certificate of Reporter	177

P R O C E E D I N G S

MAY 18, 2011 10:05 a.m.

CHAIRMAN WEISENMILLER: Good morning. Let's start today's Business Meeting with the Pledge of Allegiance.

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

CHAIRMAN WEISENMILLER: Good morning. We're going to hold Items 3 and 9 to the next business meeting. And the other action has been delayed for those of you who came today to welcome Commissioner Everett back. He has not been sworn in. Hopefully at the next business meeting you'll all have the opportunity to have Commissioner Everett back and his energy and enthusiasm and bicycle knowledge as part of our family. With that let's go on to Item 1.

CHAIRMAN DOUGLAS: Move the consent calendar.

COMMISSIONER PETERMAN: I second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes) This has been passed unanimously.

Let's go to Item 2. City of Calimesa. Possible approval of Agreement 009-10-ECE-ARRA for a $65,292 loan to the City of Calimesa to replace six HVAC heat pump units, one unit is for the City Hall

Annex and the remaining five units are for the Senior Center in Riverside County Designated “Cool Center.” This is ARRA-funded and the contact is Akasha, thanks.

MS. KHALSA: Hello. My name is Akasha Kaur Khalsa. I’m with the Special Projects Office with the Fuels and Transportation Division. This is a request for a loan for the City of Calimesa for $65,292. It’s an American Recovery and Reinvestment Act three percent energy conservation assistance account program loan for replacing of six HVAC heat pump units. Heat pumps are much more efficient than ordinary central air conditioners. As we said, they’re for two different buildings on City Hall campus. The Riverside County does have extremely hot weather in the summer so they have designated this Senior Center as a Cool Center and in the winter as a Heat Center for weather extremes. The total project, the installation is projected to cost $68,000 which the majority of which will come from this loan. The rest comes from the Block Grant, also from ARRA funds. This will reduce the city’s annual electrical energy use by an estimated 43,000 kilowatt hours. This upgrade will save the city approximately $8,000 annually. The carbon-dioxide equivalent reduction is estimated at 15.2 tons per year. The simple payback

is 8.2 years based on the loan amount.

CHAIRMAN WEISENMILLER: Commissioners, any questions or comments?

CHAIRMAN DOUGLAS: Just a comment that this looks like an excellent project. So I'll move this item.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This has passed unanimously. Thank you.

Item 4. University of California – Berkeley. Possible approval of agreement FED 10-001 for a grant of $122,000 with the regents of the University of California, Berkeley to conduct directed outreach, field performance and implementation assessment activities related to further deployment of combined heat and power in California. This is DOE funding. The contact is Bryan.

COMMISSIONER PETERMAN: Chair, before we hear this Item I need to disclose that I have a nonfinancial relationship with the University of California in Berkeley. I'm currently finishing my PhD there. Thanks.

MR. NEFF: Thank you Chairman and fellow Commissioners. Good morning. I'm Bryan Neff and I

work in the Electricity Analysis Office. I'm here to present this proposed grant and it's with the Regents of the University of California, not with UC Berkeley. So to make that distinction. This $122,000 grant is from the Department of Energy and will fund the Pacific Region Combined Heat and Power Regional Application Center, also known as the PRAC, one of eight regional centers throughout the United States.

The PRAC was originally established by the Department of Energy and the Energy Commission in 2005 to encourage the development of environmentally sound combined heat and power resources and distributed generation projects throughout region indication.

The PRAC is a key resource in promoting and working towards California clean energy goals including the Governor's target of 6,500 megawatts of new CHP over the next 20 years.

Education institutions involved with the PRAC are UC Berkeley, UC Irvine, California State University San Diego and California State University San Francisco.

I request your approval of this grant and I am available to answer any questions.

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

CHAIRMAN DOUGLAS: Move on Item 4.

COMMISSIONER PETERMAN: I second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) Thank. This has passed unanimously.

Item 5. California Resources Board. Possible approval of contract 600-10-010 for an interagency agreement with the California Air Resources Board for a $4 million to provide funding for the Hybrid Truck and Bust Voucher Incentive Program Project for qualified battery-electric vehicles and this is ARFVT funding. Contact is Aleecia. Thanks.

MS. MACIAS: Good morning Commissioners. My name is Aleecia Macias. I'm with the Emerging Fuels and Technologies Office. I'm requesting your approval today for a $4 million dollar interagency agreement with the Air Resources Board for the Hybrid Truck and Bus Voucher Incentive Program otherwise known as HTBVIP.

The purpose of this funding is to provide additional incentives to fleets with zero emissions, all electric medium and heavy duty vehicles once those qualify under HTBVIP. The funding also includes a 20 percent additional incentive for those vehicles

manufactured in California. The funding is expected to cover incentives for approximately 145 to 200 vehicles. The Energy Commission funding does not cover the full incremental costs, there's still incremental costs in addition to the Air Resources Board and Energy Commission Incentive. These incentives are critical in influencing fleets to choose all-electric applications over hybrid applications. The current program, HTBVIP program, provides the same incentive level for those both hybrid applications and all electric applications.

There are approximately 65 vehicles in the HTBVIP queue that would qualify for this incentive. We're expecting that the funding will go fairly quickly based on the industry input.

We have today to present Andy Panson from the Air Resources Board and I'd be happy to answer any of your questions.

CHAIRMAN WEISENMILLER: Thank you, Aleecia.

MR. PANSON: Hi. Thanks. I'm Andy Panson as Aleecia said. I'm ARB's lead staff on the AB118 Incentive Programs and I'm here to testify in support of the interagency agreement. We're really excited. This will help bring more electric trucks to California. I was last before the Commission in

February when you approved funding for light-duty all electric passenger cars through ARB's Clean Vehicle Rebate Project and I'm really happen to be back here again as you consider an additional investment to bring zero emission vehicles to California.

I thank Aleecia and the rest of the staff for their hard effort and hard work in putting this together. And I thank the Commissioners for their leadership on AB118. Before concluding, I also want to acknowledge your complimentary investments in electric vehicle charging infrastructure. That's a critical part of all of this and the deployment efforts don't really work without the complimentary infrastructure support so we thank you for your past and future investments in that area. Just to conclude, ARB supports the agreement and we're very excited to administer this money for you.

CHAIRMAN WEISENMILLER: Thank you. Commissioners?

CHAIRMAN DOUGLAS: Thank you. Just a brief comment. Thanks for being here, Andy. It's good seeing you again. I do remember the last time that you were here with the other agreement. I had the pleasure of serving on the Transportation Committee for two years so I'm reasonably familiar with these

issues as they've developed. It's really good to see us moving forward with deployment of hybrid vehicles in the truck and bus space because this is where we get pretty significant savings in terms of criteria pollutants as well as greenhouse gases, so it's good to see.

COMMISSIONER PETERMAN: I'd like to add that as a relatively new member of the Transportation Committee, happy to see this project as well as happy to see us working well with another sister agency. Particularly this focus on buses I find especially interesting as we need to think about additional ways to support those within cities who don't have vehicles and allow them to have access to clean transportation. I'm happy to move this Item.

CHAIRMAN DOUGLAS: Second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This Item passed unanimously. Thank you.

MS. MACIAS: Thank you.

Item 6 Regents—

MR. LEVY: Chair Weisenmiller, before—while they're coming forward on Item 6, may I take a moment for personal privilege?

CHAIRMAN WEISENMILLER: Sure.

MR. LEVY: I'd like to introduce the team of law students to you from my own Alma Mater the University of San Diego. Would you folks please come forward? Commissioners, the Energy Policy Initiatives Center, EPIC, is a non-profit academic and research center at the University of San Diego School of Law. It studies energy policy issues effecting the San Diego region and California. EPIC integrates research and analysis, law school study and public education and serves as a source of legal and policy expertise and information in the development of sustainable solutions that meet our future energy needs. EPIC currently offers a Law School course on Energy Law and Policy and is in the process of conducting legal and policy research into the following areas: Renewable Energy Credits, Distributed Generation, Solar Laws, Advanced Electricity Grid Technology and Public Interest Program Funding. In addition, EPIC monitors regulatory and legislative activity related to energy policy issues affecting the San Diego region and California. The students here today have spent the last five months conducting legal research into several complex jurisdictional issues raised in litigation over the Energy Commission's power plant licenses. This team includes Professor Mike Reed,

Derek Onysko—excuse me if I mess up your name, Brittany Krupica, Danny Goodrich, Noah Buxton, Doug Hale and the Program Director Scott Anders. I'd like to introduce them to you. They're here today to present a lot of their findings to the Office of Chief Counsel about their research over the last five months. They're witnessing your business meeting and also taking a tour of the facilities.

CHAIRMAN WEISENMILLER: That's very good. We'd like to thank everyone for their efforts. It's good, certainly, to see Scott Anders again. I had the opportunity to work with Scott for awhile and actually with other members of his faculty. Certainly appreciate your help in this area.

MR. LEVY: Thank you very much. Thank you for your support.

COMMISSIONER PETERMAN: I'd just like to add also that it's an exciting time to be in state government and so when you finish your law degrees, consider working at an agency like the Energy Commission or one of our other esteemed sister agencies. Thanks.

CHAIRMAN DOUGLAS: Yeah. I can't emphasize enough—that strongly enough. You have a real opportunity working in the State of California in

energy to make a big different in the world. We're glad to see you already doing that. We hope you'll continue on this path.

MR. LEVY: Thank you.

COMMISSIONER PETERMAN: So before we hear Item 6, I once again must disclose that I have a nonfinancial relationship with the University of California, Berkeley albeit not the Regents because I'm finishing my Doctoral Studies there.

CHAIRMAN WEISENMILLER: Okay. So Item 6. The University of California. Possible approval of contract 500-10-044 for $478,457 with the Regents of the University of California to develop innovative technologies and approaches to inspect and monitor the integrity of natural gas pipelines. This is PIER natural gas funding. Matt, do you want to go forward?

MR. COLDWELL: Good morning, Commissioners. My name is Matt Coldwell. I'm Energy Commission staff. I'm here to request approval of a contract with the Regents of the University of California. It's an 18 month contract for $478,457. The purpose of this project will be to prototype the pilot test, what are called electromechanical system platforms or MIMS for short. These have the potential to improve the monitoring of the integrity of California's

natural gas pipeline system infrastructure. Three separate MIMS prototypes will be developed. One will be a device that will monitor the pressure in a natural gas pipeline and through wireless communications, it can guard against over pressuring. The second device is going to be a laser-based system for inspecting seam welds. The third is a device that is a communicating micro-sensor that will detect corrosion in the pipeline.

Additionally, a database, a three-dimensional GIS system will be developed to support these conditioned based monitoring technologies.

The end product of the work will be the designed platforms of three new sensors and also the database. This project has a companion project that will be in front of the Commissioners at the next business meeting. We'll be doing a current state assessment of how California is currently monitoring and assessing the integrity of the pipeline system. And an advisory board for both projects will be created to oversee it and we hope to get utility participation.

I'm happy to answer any questions.

CHAIRMAN WEISENMILLER: Commissioners, any questions or comments?

COMMISSIONER PETERMAN: I think the Chair will comment just on the important of this work so I'll defer to him.

CHAIRMAN WEISENMILLER: I was going to say that I think after San Bruno happened it was pretty clear to all of us Commissioners was one of the things that we needed to do was look through our programs, try to understand what the instant meant and how we could help respond. Obviously, some of the most fundamental things regulations deals with are health and safety and sort of system reliability, we've spent a lot of time on sustainability but basically we have to make sure that safety is dealt with and so we really want to talk to the then R&D committee which was Commissioner Boyd and Commissioner Byron and they agreed with me that it was a good time to go back and reevaluate PIER funding, look for opportunities to help on San Bruno and work with the PUC for that sort of shift. So again, it's a very important project and I appreciate the staff's timely response.

COMMISSIONER PETERMAN: With that, I'll move the item.

CHAIRMAN DOUGLAS: Second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This passed unanimously. Thank

you.

Item 7. Possible approval for—University of California Santa Barbara. Possible approval of contract 500-10-045 for $600,000 with the Regents of the University of California, Santa Barbara to estimate the effects of climate change on the fire frequency and vegetation in California. The watersheds and alternate vegetation can substantially modify hydroelectric conditions and could have significant impact on hydropower generation. This is PIER electricity funding. Sarah?

MS. PITTIGLIO: Good morning, Commissioners. My name is Sarah Pittiglio. I'm with the Environmental Group in PIER. I want to start off by noting that we should strike the Regents of University of California from the text in the agenda because this agreement is with the UC campus of Santa Barbara and not the UC Regents.

Hydropower supplies about 15 percent of California's energy and the demand for this energy will be increasing in the future. Since the water that drives these facilities flows from forests, it's important for us to know how disturbances to forests effect the hydrologic cycle. We know that fire and the influx of invasive species alter natural fire

regimes but we don't have field data to quantify changes in infiltration, runoff and ground water recharge. The results from this study will provide important information for water managers to improve their ability to predict the effect of land coverage change and climate change on the availability of water for hydropower operations.

An additional benefit of the results from this project will be the identification of problematic watersheds that should priority sites for forest thinning to reduce fire danger. Results from this project could also help with the identification of locations for regional biomass plants or the need for cogeneration plants that provide a place to sell woodchips from forest waste.

If you have any questions, I'd be happy to answer them.

CHAIRMAN WEISENMILLER: Commissioners, any questions or comments?

COMMISSIONER PETERMAN: No questions. I move this Item.

CHAIRMAN DOUGLAS: Second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) Approved unanimously.

Item 8.

COMMISSIONER PETERMAN: Chair, before we hear Item 8, I need to disclose that I have a nonfinancial interest with the University of California, Berkeley where I'm still finishing my PhD.

CHAIRMAN WEISENMILLER: University of California – Berkeley. Possible approval of contract 500-10-046 for $400,000 with the Regents of the University of California, Berkeley to determine the effect of forest disturbances such as the Bark beetle infestations on carbon stocks and the potential for forest and lands to provide carbon offsets for California's energy sector. This is PIER Electricity Funding. Sarah?

MS. PITTIGLIO: Thank you. Again, I'd like to strike the language that says the Regents of the University of California. This agreement is with UC Berkeley and not with the Regents.

There are currently no estimates of greenhouse gas emissions from disturbances other than wildfire for California forests. However, emissions from insect outbreaks and disease have the potential to cause landscape scale tree mortality. Projected changes in climate may make insect outbreaks and disease more common, potentially changing California's forests from a carbon sink to a carbon source.

Utilities are currently looking for carbon offsets in the forest sector but need updated information on uncertainties for these projects. It is also necessary to predict the capacity of California's forest to store and sequester carbon, provide offsets for utilities in order to keep energy prices low for consumers in future cap and trade markets.

This project is part of a coordinated effort between California Air Resources Board and CAL FIRE and the Energy Commission. Our unified goal is to create a statewide geo-referenced land use, land covered database, to represent conversions between land categories over time using remotely sensitive data to have an in-house method for developing the greenhouse gas inventory.

The Air Resources Board will be focusing on identifying methods to develop this greenhouse gas inventory method in-house and be looking at emissions from wildfires. The role of CAL FIRE will be to provide a semblance of annual CO2 uptake in greenhouse gas emissions from urban forests.

Through this contract the Energy Commission will be providing essential data on the specific effects of catastrophic tree mortality on greenhouse gas emissions from the forestry sector.

Together, this data will be used to develop an approved method to determine potential carbon offsets for the energy sector by providing essential carbon offsets available in the forest sector.

Today, representatives from the Air Resources Board and CAL FIRE have come to speak on their behalf of their role in this coordinated research effort. So, if they'd like to come forward.

CHAIRMAN WEISENMILLER: Please step forward.

MR. KEITHLEY: Hi. I'm Chris Keithley from CAL FIRE. As Sarah stated this is a joint effort between PIER and ARB and CAL FIRE. We have been working as a group for a couple of years now to try to improve inventory methods of greenhouse gases. I would like also to mention that we have a State Forest Assessment Report where we do collect information on pest and insect outbreaks and this is a great addition to that by helping us quantify the implications of the disturbance that occurs periodically and quite naturally in forests as well. As Sarah said, we are working on quantifying the urban forest contribution as well.

CHAIRMAN DOUGLAS: Can I ask a quick question?

MR. KEITHLEY: Sure.

CHAIRMAN DOUGLAS: I would like to thank you for being here. I always like to see these interagency partnerships in doing research in areas that are of importance to the state. I just wanted to ask if you could give us a sense of how widespread Bark beetle infestation is in California and what measures can be taken or are being taken to reduce that spread?

MR. KEITHLEY: It is widespread, particularly in Southern California, following six or seven years of extensive drought. The trees became more susceptible to pest outbreaks. The beetles were hungry and they expanded. There's also a presence in the South Sierra. I'd like to emphasize, as I mentioned, that disturbance from insects is a natural form of disturbance in forests. There's quite a lot of work done to protect communities in Southern California that have been hard hit by this. There's secondary interests in what can be done with the biomass that's left over from excessive mortality of trees in those areas. I think that this project is designed to improve the monitoring of the forest's conditions and the—both the carbon sources and syncs the event from natural forms of disturbance.

CHAIRMAN DOUGLAS: Thank you.

MS. PITTIGLIO: I'd also add just that the U.S. Forrest Service is doing a significant amount of research on Bark beetle and they're looking at ways of identifying stands that will potentially have a problem and then doing whatever they need—

MR. KEITHLEY: Sorry. You triggered a thought. In our State Forest Assessment Report we include data from the Forest Service that estimates areas that are at future risk of pest outbreak and will certainly work with Sarah on providing that information for the project.

CHAIRMAN DOUGLAS: Thank you.

COMMISSIONER PETERMAN: I'd just like to add that our ability to verify the quality of carbon offsets is going to be very important if we're using the energy sector and so I think that this is a good project and will be valuable to ratepayer and consumers as well as we start to invest. Thanks.

MS. PITTIGLIO: Yeah. Before Richard speaks, I also just wanted to say that meeting together and creating this coordinated project we've also included the U.S. Forest Service in the discussions and we're keeping them up to date on what we're doing.

MR. BODE: Good morning. I'm Richard Bode

with the Air Resources Board and as Sarah mentioned that the Air Resources Board staff, UC, CAL FIRE and every once in a while the US Forest Service join us in a kind of steering committee on forest issues related to greenhouse gases. The Air Resources Board is responsible for maintaining an annual greenhouse gas inventory. And it includes the Forest Sector that's both carbon emissions from things like fires to decay of down wood as well as sea crustacean of some CO2 in the wood and trees.

So the contract that you're hearing today from Sarah is actually going to be an integral part of a new methodology we're looking to develop. Air Resources Board right now is looking to finalize an interagency with John Battles at UC Berkeley to create for us a statewide better updated estimate of statewide forest infestation and forest emissions. He's going to use methods, both a combination of land based survey methods as well as satellite remote sensing data. One area that we have left out of our current inventory in the contract we're looking for on methodology is pests and disease and the impacts. I think that this contract is going to have a vital interest in updating our inventory and helping us.

CHAIRMAN WEISENMILLER: Commissioners, any

questions or comments?

CHAIRMAN DOUGLAS: Just a brief comment. From some of the work that I've done in the climate area in the past, I'm acutely aware of the debate that pushes both directions on whether offsets are appropriate and how much and how many safeguards. I think a project like this is very important for helping us to be more certain. If we have more offsets in the program, the forests that we think we're preserving are quite likely to actually make it over the long-term and not succumb to something like pests shortly after we think they have been preserved and are sequestering carbon in the future. Yesterday, I spend the day in Southern California working with the Desert Renewable Energy Conservation Plan, which is a stakeholder group, that's looking at planning over the long-term to meet our long-term climate goals, let's say our 2050 climate goals in the electricity sector and what does that mean for desert renewable energy development. One of the—and a tool that we were playing with and one of the factors that you can change is offsets allowed from the electricity sector to other sectors with rich productions and so obviously in a zero offset scenario you've got to build a lot more renewable energy and you've got more

of a footprint then you do in a scenario say that allows you even, say, 10 percent offsets. This is discussion has pretty substantial real world implications as ARB goes forward with the AB-32 implementation, especially looking longer term than 2020.

I'll move Item 8.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This item passed unanimously. Thank you.

Okay. Now we're up to Item 10. We've again held Item 9 for the next meeting.

University of California, San Diego. Possible approval of contract 500-10-043 with the Regents of the University of California, San Diego for $1,394,298 to perform four projects in solar installation forecasting, demonstrate distributed energy systems, provide observability microgrid operations and demonstrate renewable energy electric charging vehicles, This is PIER electricity funding and Jamie is the contact. Want to go forward?

MR. PATTERSON: Good morning, Commissioners. I'm Jamie Patterson with the Research and Development Division. In these four projects, we'll start with

explaining the talk about the renewable charging electric vehicle project. This involves using a DC, direct current, link charge cord. It will be tied in with some PV solar. The idea behind the particular project is to see if we can cut the losses that would normally be experienced by having both of these devices go through inverters. We have high hopes for this one and will hopefully make greater use of the PV power, which is of high value.

The second project is a distributed energy storage project. We will be looking at an integrated solution where we couple the energy storage with photovoltaics to mitigate the intermittency of this renewable generation resource.

Our third project is a microgrid observability project. We will be working with UCSD, we will be working with the CA ISO to provide some monitoring capability for their microgrid. A communication link will be installed and established between the Cal ISO and UCSD which will provide full observability of the operation of the microgrid that’s located down at UCSD.

We see that the evolution of the smart grid may involve a series of microgrid developments and the microgrids will need to be coordinated at the ISO

level so that way they can share resources across the grid. I'd like to introduce a letter of support for the particular project by the Cal ISO. They will be providing in-kind support services and helping us with that project to ensure that it is successful.

The last one that I would like to talk about is the forecasting research. The ISO along with our utility partners within the program have identified forecasting as being of high priority to deal with emerging renewables and our vision for 2020 goals of the RPS.

What you will be seeing is the project today and at our next business meeting we will have three more projects that will deal with renewable forecasting methods. These projects are closely intertwined and linked. Staff will be working with each other to ensure that the results from one project, for example the project today will be used in the subsequent project that you will hear about at our next business meeting. And we will be working closely to ensure that the results are transferred and the research is not duplicative. Okay. This particular research project will develop better interhour forecasts for photovoltaics. We are looking primarily at 15 minutes or less for that. It will be making use

of the UCSD developed device that they have called the Sky Imager that will be tracking the cloud movement near solar PV rays and also this will be in development of some of the algorithms using that device. And those algorithms will be further defined in some of the other projects that you will be seeing at our next business meeting. That is it. I ask for your approval of this. Do you have any questions?

CHAIRMAN WEISENMILLER: First, I believe that Byron Washon is on the line from UC San Diego.

MR. WASHON: Yes, I am.

CHAIRMAN WEISENMILLER: Do you want to say a few words?

MR. WASHON: I just appreciate the Commission's support of these four vital projects to examine our renewable energy program and they represent the cornerstone of our microgrid going forward.

CHAIRMAN WEISENMILLER: Thank you. Some of us had the opportunity to hear a discussion of this at one of the IEPR Workshops and we certainly appreciate the impressive work being done at UC San Diego on this issue. We would also note that letter from the ISO is from Petar Ristanovic, their Chief Technology Officer, and note that Cal ISO has a Board meeting today so we

certainly appreciate the letter from an officer of the Cal ISO and sure they're all tied up there at this moment.

Any other questions or comments from the Commissioners?

CHAIRMAN DOUGLAS: I'll just say that some of the microgrid work that's being done in San Diego is exciting and interesting and as we think about how to integrate large levels of renewables into our system and how to build a system that works differently with higher levels of renewables in distributed generation this is some of the work that will be foundational for that, so I'm in strong support. Commissioner Peterman, you have comments or if not, I'll move Item 10.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This passed unanimously. Thank you Jamie.

Item 11. Quallion LLC. Possible approval of Amendment to approve of Grant Award ARV-10-010 with Quallion LLC and to Resolution 10-1006-11 to add $5,888,000 for a total grant award of $6,914,072. The project is to develop a pilot automated manufacturing line capable of producing 10,000 one-kilowatt-hour

lithium ion modules that can be used as the building block for many types of battery systems, including electric vehicles. This is ARFVTF funding. Jonah?

MR. MARGOLIS: Good morning, Commissioners. I present for your approval additional funds to be added to Quallion's agreement in the amount of $5,888,000 from fiscal year 2010-2011. Under the initial agreement, Quallion only received $1,026,000 of their initial $9,000,000 requested. The reason for this is that the $19,000,000 in a solicitation was depleted by higher ranking projects so there was only remaining $1,000,000 for Quallion's pilot line. This pilot line is going to manufacture one-kilowatt modules which are not just for battery packs in electric vehicles but can be a building block for any number of transportation applications.

By automating the manufacturer process, Quallion hopes to drop the price point down of these battery packs to a more affordable level right here in California as both a California based company as far as headquarters and manufacturing and the largest producer of lithium modules in the United States.

It will create between 100-200 permanent jobs here in California over the next three years. In addition, Quallion uses only—the vast majority of its

supplies come from local suppliers within California. We have a representative here from Quallion who would like to speak on their behalf.

CHAIRMAN WEISENMILLER: Please come forward.

MR. VISCO: Good morning, Commissioners. I'm Vincent Visco, Vice President of Aerospace and Industrial Power Group. Like Jonah said, we are one of the largest lithium cell manufacturers in the United States primarily for medical and aerospace work. We're grateful that the CEC is looking at the modification to add additional funds to our original award of $1.1 million, with our cost share we're looking at moving California to a state where alternative stored energies are a key cornerstone to helping out renewable energy and also helping out the transportation and the anti-islanding markets. With this support Quallion aims to be one of the first lithium-ion manufacturers to have an actual pilot module manufacturing line for large scale batteries and then leveraging our core competencies in the medical and aerospace field. We're going to be manufacturing these modules to be safe and reliable for a variety of industrial and green applications. We are currently—most of the U.S. relies on oversea manufacturers for lithium energy storage products for

consumer goods and advanced energy however with California's adoption—early adoption of renewable energy and new regulation for anti-islanding and fuel economy they'll be a need for local advanced battery manufacturer plants to enable the use of these green technologies. This grant will help demonstrate the feasibility and competitiveness for this advanced battery manufacturing for such applications as electric vehicles, anti-islanding technologies and grid sustainability. The benefits of the California facility in Sylmar, California include reduced shipping cost, local service support and sustainment of local industry. Some of the automated manufacturing lines will also be sourced from local California companies as well. And this lithium-ion module will allow us to play an integral role in the establishment of drastic energy savings solutions for California applications as well as be a forefront of the clean energy storage technology and clean transportation. If there's any questions?

CHAIRMAN WEISENMILLER: Commissioners, any questions or comments?

COMMISSIONER DOUGLAS: Not but I'd really like to thank you for being here. It's great for us to hear from you directly as well as hear about your

applications. I'm very glad that we were able to supplement this agreement and able to really see your expansion into the manufacturing for the clean energy side. And as much as possible we'd like to be able to foster economic development and deployment of manufacturing of clean energy technologies here in the state. I've been pleased to have been able to see a few facilities manufacturing PV panels. As you get this online, I'd love to see what you're doing with batteries in the Los Angeles area, is that correct?

MR. VISCO: That's right. We're about 10 miles north of Burbank.

COMMISSIONER DOUGLAS: Excellent. I guess my only question would be as you think about—you're starting out with a pilot or demonstration manufacturing line in this area, what does the next step look like and what sort of factors would need to come together to go from that to larger scale production?

MR. VISCO: The next step is really for these modules lines, we are going to be targeting key customers in some of the transportation markets that can afford a kind of pilot line type prices. As we start establishing and getting that thorough put in, we'll probably end up investing our own dollars to

make it even more automated and get the kind of touch labor from the actual assembly down but still, obviously, have technicians and quality engineers to be watching the line and just bring up the volume. The goal is to, obviously, get a module design so one of the issues with looking at modular technologies is that it’s a very expensive type of energy storage chemistry from not only material levels from just in how you make it. And in order to really reduce the costs of those advanced batteries to maybe only four or five times the cost of the lead acid chemistry you really have to start modularizing some of these components so you’re not always redesigning on a whim of a new transportation customer and that’s really established a smart building block to go off of and be able to penetrate different markets and do a little bit of non-recurring engineering to make sure that the customers are getting 90 percent of the benefit of your automated line.

COMMISSIONER DOUGLAS: That makes sense. That’s really helpful. And I just have one more question. I saw on the materials that this will result in the creation of 100-200 jobs. Is that—can you give me a sense of both the numbers and also the kind of backgrounds of the people you’d be hiring from

engineering to technicians, like what industries they might have come from, what kind of training?

MR. VISCO: General training the technicians are folks who have—they typically get hourly workers, they come from understanding how to do welds, people from ITT and stuff like that, little bit more electrical engineering, electrical backgrounds, could even be electricians who understand how to put these modules together. And there is a set of engineers that actually have to look from a quality and manufacturing line to ensure that the technicians are following their processes line and the manufacturing engineers are watching to make sure that the thoroughput is doing what they need to do. There's also a certain amount of engineers that are involved for just getting the plant set up, going through that we would be using those engineers to help set that up as well. And depending on how much volume is, we need to scale up technicians because while it's automated, it's not fully automated so there is going to be some, as you move from process to process, some handholding of that gear. And you're also dealing with workers who work in the supply chain of the materials as incoming and receiving, looking at our vendors, going to our vendors for quality control. So it's an

organic growth and we're currently at 180 folks right now so boosting up to about 300, 320 is definitely our stated goal with this line.

COMMISSIONER DOUGLAS: That's great. What's your online date? What's your goal for that?

MR. VISCO: We're looking at, the equipment is about a six to eight month lead time with the design, we're looking at this project to be online between 14-18 months.

COMMISSIONER DOUGLAS: Thank you. Thanks for being here.

MR. VISCO: Thank you.

CHAIRMAN WEISENMILLER: Yes, thanks for being here. Commissioners, any other questions or comments?

COMMISSIONER PETERMAN: I'll just make one comment. First of all, the line of questioning was very interesting to me, Commissioner Douglas so thank you. I attended a workshop on storage we held here at the Commission a few weeks ago and a recurring theme was the importance of volume and so it's good to see this project trying to do more automation and increase the deployment of storage technologies. It was also nice to see that this would be of use not only to our transportation sector but our electricity sector as

well. Thanks.

COMMISSIONER DOUGLAS: Move Item 11.

COMMISSIONER PETERMAN: I'll second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This passed unanimously. Thank you.

MR. VISCO: Thank you.

CHAIRMAN WEISENMILLER: Item 12. Solazyme, Inc. Possible approval of Agreement ARV-10-047, for a grant of $1,472,638 to Solazyme, Inc., to develop and test the feasibility of a pilot production plant that will convert algae feedstock into renewable oil for vehicle use. This is ARFVTF funding and Joanne?

MS. VINTON: Good morning, Commissioners. My name is Joanne Vinton, I'm with the Emerging Fuels and Technology Office. Solazyme submitted this proposal in response to PON-09604 Biofuel Production Plants. Solazyme plans to design and build a pilot scale algae oil production facility in South San Francisco. The algae will grow in the dark by eating sugars from a California feedstock which can include switchgrass, waste glycerol and sugar beets. Solazyme will analyze the oil that the algae produce, identify the best operating conditions and ship the oil to a refiner to produce renewable diesel. The diesel will

be sent to an engine testing facility to analyze performance and emissions. Solazyme will demonstrate that renewable diesel can be produced at commercial scale for a cost ranging from $1.45 to $2.75 per gallon depending on type of feedstock and location. The company's renewable diesel will reduce greenhouse gas emissions by 71 percent compared to petroleum. The company is requesting $1,472,638 out of $19 million total for this solicitation. Their match is more than $2.7 million. Sarah McQuaid was going to be here—ah, she is here.

CHAIRMAN WEISENMILLER: Please step forward.

MS. MCQUAID: Good morning, ladies and gentlemen. Thank you so much for considering our request for reward. I'm sorry I didn't prepare formal remarks but I did want mention that Solazyme is a leading producer of renewable oils from algae. We use a unique technology. To-date we are the only algae company which grows algae in standard industrial fermentation tanks in the dark. We have, so far, produced hundreds of thousands of gallons of renewable diesel under contract for the DOD. So we really understand how to do this but what we're trying to do with this grant is both to understand how we can—how we may be able to utilize idle death in all plants in

California and retrofit them for uses as algae oil producing plants. Also, how we may be able to use California feed stocks. Specifically at least at this moment, sugar beets. And in addition, by building this pilot plant at our South San Francisco facility, we are adding to our ability to understand how to do this. We have so far been using contract facilities scattered across the country. We are building an integrated pilot plant elsewhere in the country on a much larger scale but this particular grant would allow us to backfill a smaller scale capacity that allows us to really to do a lot of research and understand how best to bring down the costs, how to optimize fermentation on these feedstocks and again, as I mentioned before, how we might be able to retrofit idle death in all plants in California. So I hope that you will support our application. Thank you very much.

COMMISSIONER DOUGLAS: Thank you also for being here. It's great. I really like having the opportunity to learn more and ask you a couple more follow-up questions about what you're proposing and what—I guess, let me ask the level of production that you would get from the pilot facility, the level of employment that it represents, the backgrounds that

people would need to have to get into that and finally kind of what it takes to take to get to scale. Going from this pilot project, other pilots you say you have in other places, so what does it take beyond that to really scale up?

MS. MCQUAID: Obviously, there are multiple staffs involved. Solazyme has a pretty unique business model in that we understand that it requires—that there's sort of a valley of death between this very small scale at this particular plant, the intention of this pilot plant is not to produce at scale but it is a research facility, but Solazyme's model if to fill the valley of death by producing high-value oils, tailored oils that can be used for multiple other applications. For instance, skin care, food, chemicals and other renewable based oil products. And we believe that will allow us to scale to the commercial scale that is needed; hundreds of millions of gallons of oil ultimately. Our larger scale pilot plant is in another location in the U.S. and it is in more of the thousands of gallons of oil whereas this plant would be hundreds or even tens of gallons but the primary goal of this pilot plant is to gather together in one place, multiple elements to produce an integrated small scale pilot plant where

many perimeters can be tested in very, very controlled circumstances.

COMMISSIONER DOUGLAS: Well that's great and I'm interested to hear that you see the market for this well beyond vehicle fuels to other cosmetic products and other products that definitely is a huge market, that would be a huge contribution, so I'm very interested by some of the algae to biofuel proposals that come before us. It definitely sounds like a production process that can both come to scale and come to scale with fewer potential environmental impacts and/or pretty strong environmental benefits. Such as using nitrogen sources that are causing problems in our water bodies or our oceans and actually doing something productive with them. Thank you. I don't think that I have any more questions but I'm in strong support of this Item.

COMMISSIONER PETERMAN: I have one follow-up question. Can you comment on the advantage of doing this process versus converting the feedstocks directly to fuel?

MS. MCQUAID: Meaning or other techniques?

COMMISSIONER PETERMAN: Right versus using the sugar beets or the grass and converting those

directly to biofuel versus using them as food for the algae.

MS. MCQUAID: Yes, I believe there are very high capital costs involved in pryolysis. It's not really a proven process. Obviously there will be multiple technologies required for us as a nation to get to our sustainability goals but we certainly believe that the technology that we are using is extremely viable as proven by the fact that we are already producing hundreds of thousands of gallons of renewable oil which is readily and easily converted into standard transportation fuels which are dropping to current distribution networks and current vehicles. We certainly believe that our technology is superior and has a greater chance of success.

COMMISSIONER PETERMAN: I must admit that I didn't actually understand the first couple of words that you said because they were quite technical but it was nice to hear the greater discussion and I think that it's my understanding that with algae, the energy density and the concentration in what you can grow in a relatively small footprint is one of the advantages. Thanks.

MS. MCQUAID: Absolutely.

COMMISSIONER DOUGLAS: And I guess, I'll

just follow on with a question. I heard you say that this fuel can be used in existing vehicles and this does not require turnover of the vehicle fleet or the fuel infrastructure.

MS. MCQUAID: That's absolutely right. Our algael oil can be refined in a standard refinery to standard renewable diesel which meets all of the specifications of normal diesel and can be used to drop in neat in standard diesel vehicles. In fact, we have a couple of vehicles that sit in front of our building that run around on this fuel all the time.

COMMISSIONER DOUGLAS: That's great. And your costs per gallon seem to be pretty low.

MS. MCQUAID: Obviously we have to scale up in order to meet those numbers but our current modeling supports that.

COMMISSIONER DOUGLAS: That's great. All right. I will move Item 12.

COMMISSIONER PETERMAN: I will second Item 12.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This passed unanimously.

Thank you. Thanks for being here.

MS. MCQUAID: That's very much.

CHAIRMAN WEISENMILLER: Item 13. Vehicle

buy-down incentive reservations. Possible approval of a total of $4,755,000 in vehicle buy-down incentive reservations. This is ARFVT funding. The list of those are South Bay Ford in the amount of $357,000 for a buy-down of 119 natural gas vehicles, up to 8,500 pounds gross vehicle weight; Big Valley Ford in the amount of $192,000 for a buy-down of 32 propane vehicles, 8,501 to 14,000 pounds gross vehicle weight; Galpin Motors, Inc., dba Galpin Ford, in the amount of $150,000 for the buy-down of 25 propane vehicles, again 8,501 to 14,000 gross vehicle weight; Tuttle Click Ford, in the amount of $24,000 for the buy-down of 8 natural gas vehicles, up to 8,500 pounds gross vehicle weight and $8,000 for the buy-down of 1 natural gas vehicle, 8,500 to 14,000 pounds gross vehicle weight for a total reservation amount of $32,000; Hansel Ford, Inc., in the amount of $64,000 for the buy-down of 8 natural gas vehicles, 8,501 to 14,000 pounds gross vehicle weight; Serramonte Ford, in the amount of $120,000 for the buy-down of 15 natural gas vehicles, 8,501 to 14,000 pounds gross vehicle weight; Autocar, LLC, in the amount of $1,280,000 for the buy-down of 40 natural gas vehicles, 26,001 pounds gross vehicle weight and greater; Kenworth Truck Company, in the amount of

$1,280,000 for the buy-down of 40 natural gas vehicles, 26,001 pounds gross vehicle weight and greater; Daimler Trucks North America LLC, in the amount of $1,280,000 for the buy-down of 40 natural gas vehicles, 26,001 pounds gross vehicle weight and greater. Pete?

MR. WARD: Thank you, Commissioners. Good morning. I'm here to present this item for approval for the second Business Meeting of these incentives for the buy-down vehicle incentive program. These are reservations that are reserved and will be encumbering the funds if approved today. The manufacturers, the OEMs, or their designated dealers or distributers will have 120 days to sell these vehicles and then to produce the registration and the sales transaction information to claim the funding from the Office of the State Comptroller. All of the funds covered here will be going to vehicles and provide good leverage in the marketplace and we think that this is going to be a very successful solicitation going forward, it is fairly simple and very straightforward. So far we have had very good reactions from all of the OEMs designated dealers and distributors for the sale and purchase of alternative fuel vehicles. I recommend approval of this Item and I thank you for reading all

of the designations and saving me from doing that.

CHAIRMAN WEISENMILLER: I believe we have one member from the public here.

MR. EDGAR: Good morning, Commissioners and staff. My name is Sean Edgar. I'm the Executive Director of the Clean Fleets Coalition. I want to thank you for attending to this very important item to really propel CNG vehicles forward. I'm privileged to have had a 15 year relationship with the Commission, first as an alternative fuel retailer and second as a contributor to your IEPR Process over the years. Commissioner Boyd used to lament that I would come in front of him, telling him all sorts of things about the Air Resources Board and the advanced technologies that they wanted our vocational truck users to deploy and we just didn't have the funding to do it. This, I think, will be a critical piece toward being able to deploy alternative vehicles so my compliments to the staff for working very closely with us. I'm here on behalf of AutoCar Truck LLC. I know OEM manufacturer of our vocational trucks and really a market leader in advanced technologies and we're very grateful to offer our support as well as three critical items that I want to bring to your attention that I think today's funding does.

First, it allows us to strategically deploy trucks and we understand that the subtext and the intent of your program announcement is really toward allowing us to leverage resources wisely and staff has obviously prepared us for that so our intent is to identify key customers in order to utilize the incentive wisely to make it a meaningful program.

Secondly, you'll be able to track our progress over time and we're very excited about the prospect to be able to have a look back on how the program funds were spent with the goal of really making sure that your reports to other authorities under AB118 are absolutely reflect transparently what the funds were used for.

And then finally our success in this initial funding effort will really, hopefully, justify program funds to come to get more alternative fueled vehicles deployed so we're really looking forward to utilizing this program successfully if we can hit the ball out of the park here, so to speak, and really make it a meaningful program that we'll see additional program funds flow into here working with you all and your staff.

So just in closing, I just have a few handouts for you just to recognize that AutoCar Truck

with this technology provider Parker Hannifin has a really exciting hydraulic hybrid project that we're going to come back to you over the summer months with your program announcement under AB118 Advanced Technologies and so I just have a brief handout to leave you with the thought that getting to this level of natural gas vehicle deployment and then being able to perhaps combine it with an efficiency system as we're talking about with the AutoCar Truck project, which you'll hear more over the summer about, really allows us to take from diesel to alternative fuel and then hopefully take that to the next level as well working with you on the AB118 program over time. With that I'll just be happy to answer any questions you might have. But we'd like to be strategic, transparent and hoping for your additional support when we hit the ball out of the park with this program.

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

COMMISSIONER PETERMAN: I have a question. Specifically, what type of customers are you targeting? And then more generally, and perhaps Mr. Ward can answer this, is there a component for consumer education, awareness marketing, in order to

attract a larger pool of customers going forward?

MR. EDGAR: I can answer the first question. We're looking at—there's a heavy amount of interest on behalf of public agencies who today's budgets are stretched and their ability to get into alternative fuel vehicles with the price point still being higher so we have a lot of interest expressed from public agencies, some of the larger cities. AutoCar Truck makes a vocational truck which is well suited to solid waste collection and recycling collection so larger cities that operate those types of fleets have expressed interest. Also companies, both large and small, who utilize those vehicles to really deploy some of the high recycling programs that AB32 called for. So those are the mix of customers, private entities and also public agencies.

COMMISSIONER PETERMAN: Mr. Ward, anything else?

MR. WARD: In response to your question, Commissioner. Yes, in the alternative of fuel available—alternative fuel vehicle technology program, we are about to launch a website and a marketing effort to provide consumers from citizen consumers to public and private fleets as well, the advantages and possibilities from this program of helping them make

choices to embrace non-petroleum fuels and those fuels that have lower carbon emissions, lower criteria emissions, provide economic development and jobs for California.

COMMISSIONER DOUGLAS: Just a brief follow up question or different question, really. When I was on the Transportation Committee, we had a pretty robust discourse about the propane vehicles and where they were best deployed and I think I at least walked away with the conclusion that they're best deployed in areas that do not have easy access to the natural gas infrastructure in the state and therefore are really good alternative to be a cleaner burning vehicle in those areas. Is the propane deployment geographically targeted in any way or is it pretty much statewide?

MR. WARD: I would say that it's more state wide at this point and as an energy resource here in California we are exporting propane right now. This fuel can replace gasoline and diesel on a gallon per gallon basis. It has lower carbon footprint of about 20 percent, like most alternative fuels do. It also reduces criteria emissions as well. It has had a longstanding relationship with agriculture and with construction. But I think the possible have opened up for shuttle buses as well in metropolitan areas as

ROUSH, ROUSH has had a cooperative relationship with Ford and initially they would be converting four Ford pickup trucks of various sizes but they're also going to do even up to the larger sizes of shuttle buses that can be used as transport in cities and in airports.

COMMISSIONER DOUGLAS: That's helpful. Is there a specific breakdown on public agencies versus private, say commercial, users? Is it available to just individuals who want to get a rebate? How are the rebates targeted?

MR. WARD: It's available to anyone who purchased a vehicle from the dealership. Currently they can come into a Ford, in the case of the propane, into a Ford dealership and buy a pickup truck or a shuttle from them. That's true for the natural gas as well. We are trying to target the OEMs and their designated dealers and distributors as the highest point of us providing funding and it eases the administrative overhead for us to be deploying these incentives for the deployment of these vehicles but it is pretty much available to anyone who walks into a dealership, most of the vehicles that are sold there.

COMMISSIONER DOUGLAS: And just a last question, when we talk about leverage per vehicle.

What's the kind of private or what's the leverage share versus the rebate? Is there an average? Does it vary pretty substantially between the different classes of vehicles?

MR. WARD: All the different classes, of course, have a different incentive level. All of the incentives that we are providing are targeted to provide the incremental cost above a gasoline or diesel vehicle and that's current now. The levels for this solicitation are fixed now. But in the future we expect that those differentials will be going down. I fully expect with more entrance into the market, we would be providing a lesser amount per vehicle as the differential costs of these vehicles decreases with the increase in supply and production of the vehicles.

COMMISSIONER DOUGLAS: I guess one more follow up question just based on that. Do we see the market changing? Do we see more auto manufacturers or truck manufacturers moving into this space? Is there a case behind the argument that we see increasing supply in these alternative fuel vehicles?

MR. WARD: We definitely do. In the past there has been just one heavy duty natural gas engine. Now there are two. It is from the main manufacturer, Cummins Westport, but there are American manufacturers

developing natural gas engines as well in the medium and light duty sector there are—in the past there have been, they've gone out of the business for awhile and now they're coming back. I know that General Motors and Ford are keenly interested in this market again and I think this program has brought together those entities that would up fit their vehicles and bring them closer to the OEMs in setting the stage, basically, for larger volumes of these vehicles to be produced. In the past, it's been kind of a one-off and I think in the future we'll see scale up of this and, of course, this is good news for us as well as we scale up the number of vehicles that are sold and purchased in the state, the incremental cost should and will be going down per vehicle.

COMMISSIONER DOUGLAS: That's great. And you mentioned Cummins. Are there others of these vehicles or engines that are manufactured in the U.S.?

MR. WARD: Yes. The manufacturer that escapes me now, I'd hate to say the wrong one in a public meeting but one of the manufacturers, one of the OEMs, in the United States is anticipating producing its own natural gas engine as well.

COMMISSIONER DOUGLAS: That's great. Sometime, not at the Business Meeting, I'd love to

hear more about this and how the market is changing. It's something that we wanted to see for a long time, of course natural gas is cleaner burning and produced here in the United States and with a fairly low price right now, hopefully as we build more and more renewable energy we might even free up some natural gas to go in vehicles.

MR. WARD: That's right. Of course natural gas, and there might be an aspect for renewable propane in the future, but natural gas we have a large investment in California biomethane production and that fuel can be utilized by these vehicles without any modification as well.

COMMISSIONER DOUGLAS: So I can't resist. How is renewable propane produced?

MR. WARD: Um, well.

COMMISSIONER DOUGLAS: Sorry, I just can't resist.

(LAUGHTER.)

MR. WARD: It can be produced through a DME process that we can take renewable materials and produce that and can be blended into propane as its permissible in the liquid propane fuel. It also, DME, in the future can be utilized as a direct diesel replacement in heavy duty trucks as well. So there is

that aspect. There is some limited research going on in that area.

COMMISSIONER DOUGLAS: Okay. Well, thank you. After all of those questions, I feel obligated to move Item 13.

(LAUGHTER.)

COMMISSIONER PETERMAN: I just want to make one follow up comment before I second that motion and that is that I was particularly happy to hear your comments Mr. Ward about the website and the public information. There’s been research that shows that when you offer incentives to dealerships, one of the factors that affects how much of that incentives actually falls through to the bottom line and the price the customer sees is the information that is available. So the more transparent we can be with that the better. With that, I will second the motion.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This passed unanimously. Thank you.

MR. WARD: Thank you.

CHAIRMAN WEISENMILLER: Item 14. Los Medanos Energy Center 98-AFC-1C. Possible approval of a petition to amend the California Energy Commission Decision to modify the Los Medanos Energy Center, to

make efficiency improvements to the Advance Gas Path on the existing turbines S-1 and S-3. No Conditions of Certification are proposed to change as part of this petition. Christine?

MS. STORA: Yes, thank you Commissioners, and good morning. My name is Christine Stora and I've overseen the amendment process for the Los Medanos Energy Center. With me today is Senior Staff Counsel Kevin Bell as well as Commission Technical Staff and a reprehensive from Calpine.

Los Medanos Energy Center is a nominal 500 megawatt combined cycle power plant which was certified by the Commission on August 17, 1999. On April 19 of this year, Calpine filed a petition with the Energy Commission requesting to make efficiency improvements to the advanced gas path on existing turbines S-1 and S-3. Fire and temperature is proposed to increase to make these improvements. No conditions of certification are proposed to change as part of this petition.

Specifically, the proposed changes include replacing turbine blades with ones that will be fabricated from a new metal alloy that can withstand higher temperatures. Nozzles will also be replaced by ones that are fabricated from temperature resistant

alloys. There will be reduced clearance between parts in the combustor section of the turbines and installing low pressure drop combustors.

Fuel efficiency of the power plant would increase slightly as a result of these changes. There is no possibility that the changes would have any effect on the environment or on public health and safety as the proposed changes will not result in the exceedance of any limits set forth in the Conditions of Certification.

This project will remain in compliance with all applicable laws, ordinances, regulations and standards subject to the provisions of Public Resources Code Section 25525. The Bay Area Air Quality Management District has reviewed the amendment request and has issued a draft proposed engineering evaluation. The draft analysis is favorable to the changes and is considered to be an alteration of the project's permit to operate.

A Notice of Receipt was mailed to the post-certification mailing list and to affected public agencies, docketed and posted to the Commission website on April 26. A notice of staff improved modification pursuant to Title 20 1769 (A) (2) was posted on the website on April 29. Public comments

were received from James McDonald with CARE concerning the firing temperature and NOx emissions. These comments have been docketed and posted to the website. Staff has opted to treat these comments as an objection to the staff improved modification. The staff analysis was prepared and posted to the Commission website on May 9. Staff recommends that the Energy Commission approve this petition to mend, based upon staff's findings in accordance with Title 20 1769(A)(2). At this time, staff would be happy to address any questions you might have.

CHAIRMAN WEISENMILLER: Commission, any questions—

Well, first of all, I guess we have one public member who'd like to speak. Bob Sarvey? And actually, let's start with the applicant. Excuse me. And then Bob.

MR. WHEATLAND: One second, Bob. I'll be very quick. I'm Greg Wheatland and with me is Barbara McBride. We'd like to thank the Commission for the consideration of this Item. We really have no prepared presentation and we'd be happy to address any questions the Commission may have.

CHAIRMAN WEISENMILLER: Thank you. Bob?

MR. SARVEY: Yep. Bob Sarvey. Thank you,

Commissioners. Mr. McDonald asked me to ask a few questions here and maybe clarify some issues.

One, he's interested in what the actual temperature change is going to be on this project. I personally support anything that increases energy efficiency but the fear here is that with the increase of temperature the NOx emissions will increase. And we understand that from staff that NOx emissions won't go over the current permitted limits but our concern is this is an environment justice community and we're concerned about that issue but we're also concerned that the current NOx limit on this project is 2.5 BPM and current back is 2 BPM so we think that there's an issue there and some questions that need to be answered before it's approved. And with that, that's all I had to say about that. Thank you.

CHAIRMAN WEISENMILLER: Staff, do you want to respond?

MR. BELL: No, Mr. Chairman.

CHAIRMAN WEISENMILLER: Applicant?

MS. MCBRIDE: I can respond to the temperature increase. The firing temperature is going to increase from 2,420 degrees to 2,445 so it's about a 25 degree temperature increase, about less than one percent. So that's what the temperature increase is

going to be.

MR. BELL: That I can add to, Mr. Chairman.

CHAIRMAN WEISENMILLER: Okay.

MR. BELL: And that is there are no Conditions of Certification that govern the temperature, the firing temperature, on the turbines. So since no conditions are being affected by this change that is one of the factors that staff took into consideration on recommending that this first be approved without formal Commission action and second that it be approved on the Commission's vote.

CHAIRMAN WEISENMILLER: Commissioners, any questions or comments?

COMMISSIONER DOUGLAS: When we discussed this in Siting Committee and my understanding from that discussion is that these changes would improve the plant efficiency but not effect criteria pollutant emissions. Is that correct?

MR. BELL: That is correct.

COMMISSIONER DOUGLAS: Okay. Thank you. No other questions.

COMMISSIONER PETERMAN: No questions.

COMMISSIONER DOUGLAS: All right. Move Item 14.

COMMISSIONER PETERMAN: I second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This item passed unanimously. We're going to take a five minute recess.

(Brief recess at 11:22 a.m. Workshop resumes at 11: 27 a.m.)

CHAIRMAN WEISENMILLER: Item 15. Oakley Generating Station Project 09-Afc-4, and Errata. Possible adoption of the Presiding Member's Proposed Decision, and Errata, on the Oakley Generating Station Project. This project is a natural gas-fired, combined-cycle facility with a nominal generating capacity of 624 megawatts located in Contra Costa County. Kourtney?

MS. VACCARO: Good morning, Chairman Weisenmiller and Commissioners. I'm Kourtney Vaccaro with the Hearing Advisors Office and I'm very pleased to stand before you today to present the presiding member's decision and Committee ERRATA for the 624 megawatt combined-cycle natural gas facility to be sited on previously disturbed private property in the City of Oakley.

By way of brief background, the data—this application for certification was deemed data adequate in September of 2009. So during the very long pendency of this matter before this agency, we've had

meaningful and substantive participation from three parties. We've had the applicant, staff and we've had intervener Robert Sarvey. During that time, the Committee and the Agency also received several public comments and comments from interested agencies including the United States Fish and Wildlife Service. As reflected in the PMPD, the Committee gave very careful consideration to the evidence, to all of the comments received and was in the position of having to resolve disputes, particularly disputes relating to nitrogen deposition as discussed in the biological resources section of the PMPD. The PMPD was put out for the required 30 day comment period. During that time, comments were received from only four sources. The three parties as previously identified and a comment letter from the United States Fish and Wildlife Service which essentially reiterated the comments that the agency had made throughout the process.

During the comment period on the PMPD, including the Committee conference, the Committee again carefully considered the input from those four sources and modified the PMPD as appropriate which is reflected in the ERRATA before you.

As stated in the PMPD, the Committee made

two critical findings. First, that with mitigation this project will not result in significant environmental impacts and second that the project will comply with all applicable laws, ordinances and standards. With that, the Committee is recommending approval not only to the presiding members proposed decision but also the written ERRATA before you. There is one scrivener's error in the ERRATA which, I am embarrassed but I was the scrivener, and it does need to be corrected. If I can invite your attention to page eight of the ERRATA, the second full paragraph, third line from the bottom. The important word 'not' is missing such that we need to ensure that the phrase, starting at about the fourth lines up reads: We determined that the mitigation is adequate and that the project will not result in a (indiscernible) jeopardy of the species at the Antioch NWR as those terms are defined by CESA and the Federal Endangered Species Act. I apologize for any inconvenience. The parties were given a head's up and indeed one party advised me that the word 'not' was missing.

And the second thing that I would like to do is just add for the record, a point of clarification. There are two figure referenced in the ERRATA and to

be sure that no one is confused about what those figures are, we are removing land use Figure one and replacing it with Figure 5.6-1 from the AFC. This was something specifically requested from one of the parties during the comment period. There was no objection to it when we discussed it at the Committee conference on the PMPD.

The second modification regarding the figures, is that we were introducing a news noise figure, Noise Figure one, which comes directly from Final Staff Assessment Figure one. Again this was something that as addressed during the comment period. There were no objections but I wanted to make sure that the record accurately reflects what we're doing with those figures.

So with that, I'll close my comments and answer any questions that you might have for me.

MR. LEVY: Mr. Chairman. Pardon me, Mr. Chairman. Could Ms. Vaccaro better identify where that scrivener's error was on page eight?

CHAIRMAN WEISENMILLER: That's a good idea. Please.

MS. VACCARO: Page eight, second full paragraph, third line up from the bottom.

MR. LEVY: Page eight of the ERRATA?

MS. VACCARO: I'm sorry. Yes, in the biological resources section of the ERRATA.

MS. JONES: Indiscernible (off-mic).

MS. VACCARO: It is not a condition. It is narrative that is contained within the PMPD itself, page eight of the ERRATA identifies that it has lengthy additional language. I don't know if you have the ERRATA before you. I know the Commissioners certainly received a copy of it.

MR. LEVY: Commissioners have it.

CHAIRMAN WEISENMILLER: Commissioners, any questions? No? Okay. Applicant, you want to start?

MR. GALATI: Hi. My name is Scott Galati, here representing CCGS LLC which is wholly owned by Radback Energy for the Oakley Generating Station.

Commissioner Weisenmiller, you once said when you first came to this Commission, you gave advice during a renewable energy large meeting about how applicants should do their best to try to find doors instead of mashing into walls, so to speak. This applicant did that. They had 100 percent agreement with staff and including entered into a joint stipulation, taking issues off the table when air quality public health and how air quality and public health effected environmental justice with the

intervener. So I think that this applicant has done that. This project enjoys widespread local support.

The issues with respect to nitrogen deposition are issues that were fully adjudicated, thoroughly briefed and we don't think that any of this most recent comment letter or anything else that you might hear today is going to change what happened at the evidentiary hearing but I'll reserve my comments for that if the Commissioner would like to hear a response to anything that might come up today on nitrogen deposition and, in fact, we're fully prepared to address those.

So we have reviewed the ERRATA and with the change Ms. Vaccaro just read into the record we fully support the ERRATA and urge your vote today.

CHAIRMAN WEISENMILLER: Thank you. Staff?

MR. BELL: Kevin Bell on behalf of staff. First off, I'd like to thank the Committee for their patience and their attention to the proceedings. Mr. Sarvey and the applicant for their participation and especially Ms. Vaccaro for shepherding along all the different parties through the proceedings. Staff have read and considered the PMPD and with the changes made as to that scrivener's error we would submit it for the Committee's vote and urge that you vote approval

of the Oakley Generating Station.

On the issue of nitrogen (inaudible) we have staff available that can address that if the Committee have any questions. I know that a concern has been raised that the Commission staff and the Committee have not responded to the concerns that have been voiced by U.S. Fish and Wildlife Service and Department of Fish and Game. However, I can say that staff has addressed those concerns. We have a respectful disagreement on certain issues but that disagreement does not mean that the issue has not been fully addressed and fully vetted through our proceedings.

CHAIRMAN WEISENMILLER: Thank you. Mr. Sarvey?

MR. SARVEY: Thank you, Chairman. I do have some issues with the ERRATA. I also have some issues with the decision. I don’t intend to raise those because I also raised those issues. There are a few issues in the ERRATA. And there’s one thing, and I want to apologize to Mr. Galati because we talked about this at the beginning before this Item came up. I’m concerned AQSC-8 of the decision. It is not clear on what the applicant’s obligations are and part of that is my fault because that particular condition was

something that Mr. Galati mentioned we had negotiated that. The issue that's not clear is my agreement with the applicant is that they will devote $2.5 million to the Bay Area Air Quality Management District to implement clean air plans but the condition itself doesn't spell that out and I wasn't concerned about it until I had a conversation with staff a few minutes ago and they seemed to have another feeling about that condition so I'd like to air that out here if I could. And if it's not something I can air out here, then so be it, but I would like to talk about that a little bit. Did you want me to proceed with my comments on the ERRATA or would you like to deal with that issue?

CHAIRMAN WEISENMILLER: Let's hear all of your comments.

MR. SARVEY: Okay. The first comment it says page seven, add second paragraph under public comment and it talks about me filing written comments questioning whether the project has rapid start capability but that's actually not true. It's not public comment. First of all, I raised that issue in my opening brief so I wouldn't consider that public comment. I think it's mislabeled. And then the evidence submitted by staff on page 4.1-85 of Exhibit 301 is that the OGS would provide short starting and

fast ramping power under the Cal ISO use of the terms. That's not the same as being a rapid start project and I think that the decision should clarify that.

COMMISSIONER PETERMAN: One moment, to intervene Mr. Sarvey. Can you just say that last point again of where that was? I was still noting down the second—

MR. SARVEY: Oh, it's in the ERRATA. The first item and they talk about adding a second paragraph under public comment. And that's one issue that I also want to raise here. In the future, when we have a presiding member propose decision or final decision, it should be sequentially numbered. The decisions should go 1-628 there shouldn't be a land use 1, a socioeconomic 1. It's very confusing to discuss the PMPD under those circumstances. We had a discussion at the Mariposa Project and I think that the Committee kind of agreed with that so I just want to put that forward for the future.

What I was saying here about Oakley was a short start facility. It's a 30-90 minute start up time. A rapid start facility is within 10 minutes. And I think there's an important distinction there as obviously if you have renewable generation ramping up and down, you'd like to have that project come on

within 10 minutes, not 30 minutes. So it's an important distinction and it's an important planning distinction as well. So that's one comment that I had.

Also, one the number one comment it says that Sarvey further argues, and this is labeled as public comment, that the Commission certification process does not evaluate the potential economic impact and the need. Well, I provided testimony and briefing on the need for this project and the PMPD comments that I talked about just merely to draw attention that that testimony and briefing were overlooked. So that's technically not public comment.

My testimony that I submitted in this proceeding happens to be the same testimony that I submitted at the PUC which was a critical factor in the evaluation of the project so I think that it's important to distinguish that.

And I gave you a handout today and I did want to go over that briefly with you because it supports what I'm saying that this project is not needed. I have Attachment 1 Standard Planning Assumptions for Systems Resource Plans. This is currently the planning assumptions that we're using at the PUC in this next round of procurement. And if you

look at page 17-49, it shows you that the planning reserve margin from 2011-2020 does not go below 63 percent. That's a huge planning reserve margin. And that includes all once through cooling retirements and all the other known retirements but what's significant and what's important about that is if you look on the next page, it talks about what resources they included as new resources that were probable. The Oakley Generation Station is not even in there and we're looking at planning reserve margins from 63 to 69 percent. My reading of the Warren-Alquist Act Section 1741 is that it states that the purpose of the application proceeding is to ensure that any sites and related facilities, certified provider-reliable supply electrical energy at a level consistent with the need for such energy and that's why I'm basing this project should be rejected because it is not needed and under Section 1741 you do have that authority. I understand that there's been arguments that Senate Bill 110 takes your need analysis out of your deliberations but I disagree, I think Section 1741 provides you with that authority. And under those circumstances and because the project is not needed, I think you can save the ratepayers $1.5 billion and it'd be very important for that to happen.

Now, on page 50 under agency and public comments, it says talks about something that I've argued all through this particular proceeding is that this site is not a brown field site. This site is currently a vineyard. It has a biological easement on there and to argue that this is a brown field site just doesn't add up. This clarification seems to say that it isn't a brown field site, that it's previously disturbed land. That I agree with. Brown field site I don't agree with. Why that's important is that it's one of the applicants obj8ectves of the four objectives they have is on the brown field site the other was to rapid start technology. I don't think they've satisfied either of those objectives.

And then my last issue, is on the nitrogen disposition and I've been through a lot of proceedings and when I reviewed the proceedings that I've been through, like the Metcalf project, they had to give 116 acres of land and 15 acres of land on Codie Ridge for nitrogen deposition emissions damage to butterflies. Los Esteros was 40 acres of land and they had to do many other things. And then in the Pico Power Plant it was a minimum of 40 acres of land. And then every time that this issue has come up there's been significant mitigation involved but this

one only $5,000 I believe is inadequate. I know staff and applicant disagree with me but I think one important thing is for this Commission to be consistent and I believe they're being inconsistent in this particular instance. And I believe U.S. Fish and Wildlife, Department of Fish and Game and I had Dr. Stuart Weiss provide testimony that this mitigation was inadequate. He is probably the grandfather of nitrogen deposition of buttery impacts so those are my comments. And I thank you.

CHAIRMAN WEISENMILLER: Let's go on and get the other public comments. Sierra Club?

MR. MAINLAND: Good morning, Commissioners. My name is Edward Mainland. I'm Co-Chair of the Sierra Club's California Energy Climate Committee. This is a group of some 90-100 volunteers up and down the state concentrating primarily on reducing carbon emissions by the cheapest and most expeditious means possible.

Several comments on Oakley. Sierra Club is not an intervener in this case but we were a party to the CPUC proceeding. We opposed this project and we were also a party joining a request to the CPUC to reconsider and rehear what was an abrupt reversal of their decision in December to approve the project. I

hope you have received a letter from Communities for Better Environment the two of which Sierra Club joined with regard to the endangered species and the biological aspects of this project. I won't rehearse what's in this letter but I hope you have received it and I hope that you will consider it's arguments. I'd like to associate Sierra Club with what Mr. Sarvey just said about need. You do have the legal authority to consider need in these cases as Mr. Sarvey pointed out. It's quite clear from CEC's official load forecast tables, for example those files December 3, 2010, in the CPUC's long-term procurement proceeding. This shows the overall PG&E surplus generation reaching some 69 percent by 2020 and the Oakley project is going to heap up more unneeded fossil fuel generation on this surplus. As you know, the normal reserve margin for utilities is only 15-17 percent and PG&E's latest current margin is I think nearly 40 percent. This glut of fossil fuel electrical generation in the PG&E area has two affects, it's going to create more obstacles for building clean, renewable power which are sorely needed to meet state targets for carbon emission reduction and it's going to become another unadjustified burden on ratepayers. So Sierra Club very strongly associates itself with

Mr. Sarvey's comments on need. Thank you very much.

CHAIRMAN WEISENMILLER: Thank you. We also have Paul Seger.

MR. SEGER: Good morning. I was looking at some of these pictures in here. They're really nice that the children drew up. I don't see any pictures of kids reaching down to grab a can with solar panels on it and people in black suits kicking that can further down the road every time they try to grab it. The imaginations of the children, they want to see it happen but this power plant is further kicking down the options down the road. How often is PG&E going to come back to the ratepayers and charge us for more energy sources. And with that I urge you to not approve Item 15 at this time. If you go back over the transcripts from CPUC hearings, the project proponents stated many times that they followed the rules and should be rewarded for their integrity with approval of CCGS. Regarding the—I personally have some qualms with the integrity of the process. It felt blatantly political as decisions were overturned in the CPUC.

Regarding the taking of the metal mark, mitigation set forth by the PMPD sorely missed their mark and are shockingly dismissive of the Federal Endangered Species Act. I encourage the Commission to

revisit the U.S. FWS' April 28 Responsible Statement of Mitigation recommendations before signing off on the CCGS Application.

In that, they rightly remind the CEC and or applicant, should obtain authorization for the incidental take of the endangered Lange's Metalmark pursuant to Section 7 and 10 A of the Federal Endangered Species Act prior to adoption of final environmental document.

I will draw your attention to a similar decision made by the State of Massachusetts Agency to dismiss appropriate mitigation for endangered species in case Strahan v. Trudy Coxe, Secretary of Massachusetts' Executive Office of Environmental Affairs where the Courts found that the State Body was compliant in the taking of protected species, even though they were not the actual perpetrators of the killing of the species. But their compliance was found in the mere issuance of the permits. The fishing practices were known and presented as such to result in the killing of a species deemed endangered by the U.S. FWD and the state was made to pay.

Once again I urge you to not approve the CCGS until appropriate mitigation is agreed to. Thank you for your time.

CHAIRMAN WEISENMILLER: Thank you. Would you please ensure that we have your name spelled on record for the Court Reporter.

MR. SEGER: S-E-G-E-R.

CHAIRMAN WEISENMILLER: Thank you.

MR. SEGER: Thank you.

CHAIRMAN WEISENMILLER: Eve Diamond?

MS. DIAMOND: Morning, Commissioners. My name is Eve Diamond and I live in Oakley. I'm here today representing Oakley Citizens for Responsible Growth, aka OCRG. I've spoken out against this project several times to the Oakley City Council, the CPUC and the CEC, your good selves, regarding unacceptable levels of emissions on the health issue.

However, my issues at this point regarding the proposed power plant is that first of all, I don't want the CEC to waste our tax dollars on a lawsuit which you'll more than likely to lose anyway.

Secondly, today's agenda for you to consider approval of this power plant. I don't believe that you should. By passing—by approving the power plant with the full knowledge that U.S. Fish and Wildlife Service and the California Department of Fish and Game have written testimony already submitted to the Courts regarding the mitigations, regarding the Federal

Endangered Species Act and that approving it is as tantamount to deliberately erasing three species from the planet. Is that what you really want to be remembered for? I urge you, nay I beg you not to approve Item 15 today, preferably not at all.

The proposed mitigation that Rathbacker Energy should pay $5,000 a year after the fact is an egregious and embarrassing amount because what good is it if those species are already wiped out. No price can be put upon the erasure of the life of a species. That’s absurd. If this is coming down to the erasure of three species, the Lange's metalmark butterfly, the Antioch Dunes Evening Primrose and the Contra Costa Wallflower versus a few temporary jobs, you must mitigation already submitted by the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

And finally, I want to make comment while we’re on the subject of conservation. I want to make a comment about your printed agenda here. There are six pages that are printed on, there are 12 pages altogether. If you printed them back-to-back, you’d save 75 percent. If you printed them just on single pages without the blank pages, you’d save 50 percent. So this paper is not marked as recycled paper and it’s

just a waste of paper as well. So there's no conservation here in printing six page and using 12 pages to use it.

But the most important thing is I beg you not to approve this power plant today. Thank you very much for your time.

CHAIRMAN WEISENMILLER: Thank you for your comments.

MS. DIAMOND: You're welcome.

CHAIRMAN WEISENMILLER: Dorothy?

MS. ROTHROCK: Hello, members. My name is Dorothy Rothrock. I'm with the California Manufacturers and Technology Association. And we're becoming more aware of the project and some of the issues around it. And one of the concerns that manufacturers have in the state is that we pay very high rates for electricity and we're very concerned when plants are being proposed and built in excess of what we need. It will simply add more cost to our energy rates and if it's excessive it's not needed and they shouldn't be built. In this case, my position is neutral. I told you that I have a neutral position here but I'm very concerned that the issues that I'm becoming aware of regarding the environmental mitigation as well as the need suggest that I should

step up and urge you to take whatever time you need to make sure that this is a good project since even the PUC says if it is needed, it's not for many years from now. What is the hurry especially with all of these outstanding issues. Thank you.

CHAIRMAN WEISENMILLER: Thank you.

COMMISSIONER DOUGLAS: I just thought I'd make a brief comment on Dorothy's comments. Dorothy, it's good to see you here as always. This issue came up quite a bit in Mariposa as well, which is the next agenda item, and the question to me is that it's true that we have the ability to look at some aspects of need and the question of a no action alternative and some parts of the analysis that we do but with restricting legislation was passed that prevented the Energy Commission which from its inception had a role of reviewing need and asking the questions about this power plant, is it a good investment, is it needed in the system. The legislation explicitly said the Energy Commission cannot deny a project on basis of need. At the same time, everywhere I go I hear that question asked. I think it's helpful to hear your comments and it's something that we should think about.

MS. ROTHROCK: I wanted to make sure that my

comments aren't interpreted as my suggestion that you should necessarily have that authority.

COMMISSIONER DOUGLAS: I understand.

MS. ROTHROCK: Okay. Good. But maybe to the extent that that issue is important in determining in how you handle your other responsibilities because the extend that you have make a decision now opposed to maybe you can make it later given that there is more time before it is needed, that does start to intersect in your jurisdiction and could make a different in your determination.

COMMISSIONER DOUGLAS: And in the analysis that we're starting be able to do, although it's kind of far away in the South Coast Air District where you ask with efficiency, with DG, with renewables, how much natural gas generation do you need to keep the system running. So that's the sort of thing that falls really within the IEPR, within the planning function. It's multiple years away and it's a broader analysis than the project by project basis. Thank you.

CHAIRMAN WEISENMILLER: I would note that while we're not looking at need, the PUC is looking at contract approval. I would note that the last time I was at the PUC's Business Meeting, they actually went

into Executive Session on this project but it was determined, obviously I did not participate in that session so I have no idea what the outcome was, that's at least something that's being actively considered there. As a matter of policy, I'm trying to avoid the agencies all duplicating each other. In terms of business climate, I'm very concerned about giving mixed signals between this Commission and the other Commissioners so we're really working at trying to coordinate things but again to come out with the right decisions.

Any other speakers? Kourtney, do you want to help us walk through these?

MS. VACCARO: That was quite a bit of comment and quite a bit of information. I will do my best and of course where the parties might have a better answer, I'm sure the Commission would certainly like to hear from them.

I hear most of what you heard today are very thoughtful comments and considerations that have been raised throughout this process. This is not the first time that we are hearing these very thoughtful comments with respect to the nitrogen deposition issue, comments that people have raised with respect to public health. But the evidence that was presented

to the Committee as well as the comments were very carefully and thoughtfully considered by the Committee. And the Committee was persuaded, particularly with respect to the nitrogen deposition issue, by the evidence that was presented by staff. On balance, the Committee determined that staff's evidence was the most persuasive and on that basis the Committee determined that the mitigation issues proposed by staff were adequate however the Committee in no way thumbed its nose, disregarded or even dismissed the concerns of the U.S. Fish and Wildlife Service. There was extensive narrative in the biological resources section of the PMPD that addresses the concerns of Fish and Wildlife by both staff and by the Committee's own interpretation of the staff's responses to Fish and Wildlife. In addition, to the extent that Fish and Wildlife Service's recommended that a (inaudible) permit be obtained from Fish and Wildlife Service. The Committee specifically put in a provision, and this was sort of against what was suggested by both staff and the applicant, to ensure that if Fish and Wildlife Service determines that (inaudible) permits are required that that should happen through their process, outside of our process but a condition of certification was added to the PMPD

to ensure that any such permit required is included within the conditions of certification, that there's verification and that this is wrapped into this process. So I think that the PMPD does speak for itself and it really does consider all of the things that you have heard today. I think one comment that's important that Mr. Sarvey raised, I think what the Committee has intended and, I believe, has done throughout this process has followed what the hallmark of CEC proceedings are about. They've given the parties and the public a full and fair opportunity to participate and to be heard. I think that was done here. The PMPD, throughout, addressed the evidence, the abundant evidence, that was presented by Mr. Sarvey on a number of topics; however, specifically on the issue of the introduction where he's commenting that what he's stating is put under the public comments sections. The reason for that is that is directly in response not to the evidence presented by Mr. Sarvey but the comments, two separate sets of comments that were presented specifically in direction to the introduction section of the PMPD. All of his other evidence, all of his other testimony is woven throughout the PMPD and it's clearly reflected.

I think the issue of the brown field,

whether or not this is a brown field site, I think it's an issue that's not really an issue. During cross-examination, Mr. Sarvey made a point of questioning CEC staff. You say this is a brown field site, what do you mean by that? Staff said by that I mean it's a previously disturbed site. It's sited in the PMPD defining what staff intended when staff used the term brown field, it's finding its way up into the conversation again and again but I do believe that the citation to the transcript, citation to the Q&A does clarify in the PMPD and for the record how staff was intending to use that definition not withstanding Mr. Sarvey's presentation of twp particular definitions of brown field that go beyond what staff defined.

I think other than that if there's questions that you'd like me to answer, those were they points that seemed to be most pertinent and worthy of addressing at this point.

CHAIRMAN WEISENMILLER: One other question is that Mr. Sarvey talked about the difference between rapid start and quick start. Do you have a comment on that?

MS. VACCARO: Well I think my comment is best stated by the Committee in the ERRATA where we specifically call out that throughout the document,

staff and the applicant provided evidence explaining that this is designed to be a rapid start facility. And throughout the document, in the various sections, that cited the evidence is cited for that. The fact that Mr. Sarvey disputes that is I think is a place where reasonable minds might differ and perhaps this is a semantic issue but I think we've certainly called to the executive summary, project description, project alternatives, air quality, power efficiency sections just as examples within the PMPD where those terms are discussed and then we cite to the very specific evidence that supports those statements.

CHAIRMAN WEISENMILLER: Thank you. Applicant, do you have any further comments?

MR. GALATI: Yes, I'd like to address a couple of things. The first thing that Mr. Sarvey raised with respect to AQSC8, I wanted to make sure that it's clear on the record how we understand that condition works. What we were trying to do originally with that particular condition was to fund real air quality improvement programs with a preference that those air quality improvement programs be used in the City of Oakley first and expanded outward, and expanded outward and expanded outward until the appropriate emission reductions were obtained. It

also allowed us, in that particular set of conditions, to buy traditional ERCs and the agreement that we had with Mr. Sarvey, because he didn't know where those ERCs were coming from or how they would result in a net air quality real-time measureable benefit, we got rid of that requirement and agreed to just the funding opposed to having the option of buying a credit that is already created, which is far easier for us to do.

The question became how much money goes into that fund. The amount has never been of any dispute. It is the amount necessary to get particular 63.88 tons, I believe, of NOx and 12.55 tons of PM10 PM2.5. A number was derived, $32,000 or so, per ton to give to the Bay Area Clean Air Foundation for them to actually implement the program. When you multiply those numbers together, it comes almost to $2.5 million, not quite, there's some administration fees but our understanding is how that works is after that ATC is issued, we provide a check for $500,000 to get the program started. Then, as the Bay Area comes up with specific programs and projects, we fund those as we go such that the entire emission reductions are obtained prior to first turbine fire. So the numbers may not work right but the amount of reduction for each pollutant will be accounted for and that's really

what needs to be done. I think that the issue of whether it says you shall give $2.5 million is irrelevant to the operation of the condition. The condition says you shall fund and make sure that blank amount, 63.88 tons of NOx reductions are obtained, and there's a dollar amount per ton. I think that that accomplishes the goal of what we all intended and we gave up the right and the ease of going out and buying ERCs in order to get real McCoy improvements.

Second issue that I'd like to address again is the nitrogen impact. I think we have to put this in perspective, and I don't mean to be flip. But we are talking about three pounds of an actual nitrogen fertilizer, like Scott's Turf Builder, spread over 14.35 acres in a year. That's a few pellets in this room. That's what we're talking about as the worst possible case scenario modeling impact and the applicant's mitigation has been funded as if one pellet would have been an impact as opposed to a few pellets. The difference between this project and if the interveners and we had had this discussion in workshops and evidentiary hearings and you can explore this and be participating in that, what you would understand is the impacts to the butterfly are on a piece of property already preserved. You can't go buy

more land for that. So the money is being spent at that preserve, for those impacts, given to U.S. Fish and Wildlife Service through a third party who's going to work with U.S. Fish and Wildlife Services directions, implement whatever U.S. Fish and Wildlife Services chooses to implement. So the conversation measures that we're talking about – grazing, weeds, enhancement, cultivating larvae. All of those can be part of this mitigation fund which other applicants are contributing to as well. This is completely different than Metcalf, Los Medanos and Pico, which I worked on Pico, where the impacts were to private property where there were these endangered species and there wasn't any land being set aside for its management. So first you have to get the land and then you manage it right. Here, there's no contention and no evidence on the record that there's any private land with this butterfly on it that needs to be preserved. It's being preserved. What needs to happen is the enhancements measures of that particular location needs to be increased. And that's how the mitigation has been identified and our percentage of it is our percentage of the total impact that staff and others have modeled and assumed that is already existing. It's not just our percentage of what the

power plants contributed, it's our percentage of what everything is contributing, and that is the fairest way to calculate our contribution to cumulative impact. Very, very different. And in our brief, I cite cases directly on point. Very different than what is used for a technique and we are mitigating cumulating impact. We agreed to do that and we think that that is fair. But it certainly has been addressed, it's been addressed thoroughly, it's been addressed fairly. And there's no comparison to these projects, to those other three projects, who's impacts were a magnitude higher than the cumulative impacts from the projects near the Antioch Dunes. That's in the record. There's sufficient evidence here for you to go forward and we urge your vote.

CHAIRMAN WEISENMILLER: Staff?

MR. BELL: Nothing further.

CHAIRMAN WEISENMILLER: Mr. Sarvey?

MR. SARVEY: Thank you. First of all, I'd like to say Contra Costa Generating Station did do the right thing in adopting AQSC8. I congratulate them for that. That was a good move on their part. ERCs really don't benefit anybody. They're use some programs that will be implemented by the Bar Area Air Quality Management District and I think that this is a

model of how PM impacts and SO2 impacts should be mitigated and I congratulate them for that.

As far as the nitrogen deposition, basically with what's been argued is that it's a proportional amount that they're contributing to their impact in this particular method that they're using to mitigate this but the problem here is that the butterfly's population is dwindling. It's down to 25 butterflies. Obviously the mitigation that is being used now is not working so you can't use a proportionality argument with a mitigation measure that's not working. U.S. Fish and Wildlife and Department of Fish and Game have laid out specific actions that they want taken and there's nothing in the record that says that might be cheaper than the $500,000 we don't know. But when the experts are recommending specific actions and staff is not deferring to them, I believe that that is a problem and that the experts should be deferred to and that's U.S. Fish and Wildlife and Department of Fish and Game.

And I wanted to say one more thing about the need issue. SB-10 was developed during the time when, supposedly, merchant generators were going to be putting their cash money on the line to develop projects. In this particular case, that's not the

case at all. Ratepayers are putting their money on the line. SB-10 does not apply to this project. This project will be owned by PG&E and I believe SB-10 does not apply here and doesn't apply in any situation where a merchant generator or a utility is guaranteed their investment back. So I would argue that the direction that the legislature gave you in 1999 does not apply here. That's all I have to say. Thank you.

CHAIRMAN WEISENMILLER: I was actually going to ask two more questions and then go back to you. Mr. Levy, would you comment on the 1741 and the SB-10 in terms of giving us a legal opinion on it?

MR. LEVY: Generally speaking, Commissioner Douglas it correct. The need analysis is relevant to CEQA and overrides CEQA alternatives and LORs override. There's nothing in Warren-Alquist that prohibits you from certifying a facility if you determine that it's not needed, should you make that determination. So it's a reverse analysis that's being pushed on the Commission at this particular juncture.

CHAIRMAN WEISENMILLER: Okay. And Ms. Jones can you comment on the two-sided copying question?

MS. JONES: I'd be happy to. We have set all of our printers to double sided copying,

recognizing the issue that was raised by the Oakley Citizens for Responsible Growth. This was part of a program where we conduct where employees can make suggestions to improve efficiency or cut costs. They get a portion of the savings for a year. And this was implemented just a few weeks ago.

COMMISSIONER DOUGLAS: So I can’t resist pointing out that my agenda is one two pages, I don’t know how other agendas were not.

MS. KALLMEYN: That's my fault. I neglected to push the button for double-sided copies when I was making some extras for the table outside the room here. When I came back to pick them up and realized what had happened, I didn't want to waste more paper re-doing the job so I put them out as is.

COMMISSIONER PETERMAN: Well, I guess it’s a good opportunity to at least talk about the work we’re doing within the Commission on efficiency. I did have a follow up question for—

CHAIRMAN WEISENMILLER: I’m sorry. Kourtney, did you want to say anything else?

MS. VACCARO: Well, I did want to make one important point of clarification. And I think that it’s stated in the errata to the PMPD, it’s also clear by looking at the docket record for this case.

California Department of Fish and Game did submit a comment letter. They submitted a comment letter on the preliminary staff assessment. It's dated February 2011. For whatever reason it did not surface within the agency until April 2011, after contact between CEC staff and Fish and Game Staff. This is explained in the record.

Fish and Game did not repeat or echo the comments that were made by Fish and Wildlife Service rather California Department of Fish and Game recommend and urged CEC to ensure that its analysis of the mitigation measures, particularly the dollar amount, would in fact mitigate for the impacts to the three species at the Antioch Dunes NWR. That's exactly what staff did. Committee considered exactly what Fish and Game requested in addition to considering what U.S. Fish and Wildlife requested but they did not make the same exact requests of the Energy Commission. But at the end of the day what they both did urge was very careful consideration by the staff and this Committee before moving forward with this PMPD - that mitigation is in place, that mitigation be adequate and, in fact, that U.S. Fish and Wildlife Service plays a part in the implementation of those mitigation measures. That's

exactly what the PMPD and the Conditions of Certification do.

CHAIRMAN WEISENMILLER: Thank you.

COMMISSIONER PETERMAN: Ms. Vaccaro and also to Mr. Sarvey, regarding ACSC-8, do we feel then that the PMPD errata reflects the intention of that?

MS. VACCARO: Well, I certainly can’t speak for Mr. Sarvey and the applicant, they are the two that reached the agreement on the language of that condition. That language is what was put in the PMPD. Mr. Sarvey is certainly raising an important points not about what his perception was of what that condition was supposed to do but I know what the Committee did was use the language that was proposed by the parties jointly pursuant to stipulation.

COMMISSIONER PETERMAN: Mr. Sarvey?

MR. SARVEY: I believe that the Committee adopted it as we proposed it. And it was my mistake not to insist that the $2.5 million was included in that because that was our agreement. I don’t know that if anything can be done about that but I don't believe the Committee acted appropriately. They adopted the Condition of Certification exactly as proposed. I had conversations with Mr. Galati and he said don’t worry about the $2.5 million. He said that

the 63.8 tons of PM, the 22.5 tons of Sox times the $32,750 adds up to the $2.5 million so I didn't need that number in the record. My mistake but that was the intent of our agreement as I see it.

MR. GALATI: Using the term, 2.5 roughly, I think it's 2.4 something else and that's what it adds up to. So, if the emission productions are created this way, which they can only be now from the conditions, we can't get ERCs, and fixed amount per ton, that's the money that will be spent. I will tell you that it certainly isn't—I don't believe that it's a relevant mistake if that was a mistake. These were circulated between the parties, this particular condition was circulated between the parties, and then we all jointly signed it, including Mr. Sarvey. I don't think that the number $2.5 million needs to be in there to ensure that these emission reductions are actually created in the way that we all intended.

COMMISSIONER PETERMAN: Thank you.

CHAIRMAN WEISENMILLER: Commissioners, any other questions or comments?

COMMISSIONER PETERMAN: I'll offer a few comments. I was on the Committee for this case with Presiding Member Vice Chair Boyd. Unfortunately, Vice Chair Boyd cannot be with us today due to a death in

the family but he expresses his regrets for not being able to participate and I'm sure that he would have appreciated being here, hearing all the comments from the stakeholders. I'll try to offer a few comments on the Committee's behalf.

First, thank you very much to all the stakeholders that have participated in this process. Particular thanks to Hearing Officer Vaccaro who has done an excellent job in terms, as noted by staff attorney, shepherding everyone in the process and providing clarification information to the Committee. Also thank you to the applicant, staff, intervener Sarvey for the evidence that you provided for the record. Thank you also to our sister agencies, to the public who attended a number of the meetings that we had. I see some familiar faces from Oakley and I'm glad to have you back with us and thank you for making the journey to Sacramento. Also, I don't know if any city officials are here from Oakley and if so, this is an opportunity for you to speak as well. Well, then we'll just say thank you to the City of Oakley for being a good host for us when we were down there visiting site as well as to hold informational meetings.

As Ms. Vaccaro noted, the Committee

thoroughly and deliberately considered all of the evidence that was brought into the record. Again, as noted, by the number of the comments raised today were in the written record and I encourage you all to read the PMPD to see a full history of the case. We as the Committee had the privilege to be able to sit through a lot of hearings and read the material over time and in order to develop our decision. I think enough has been said about the nitrogen deposition but as noted our PMPD does not preclude further action by U.S. Fish and Wildlife. And so—one final comment about timing. We'll note again that this proceeding took approximately two years and a longer time period than you normally have for this type of case and so we did spend sufficient time, as I see it, going over the material but once again thank you for participating in our process as well as for participating in the Public Utilities Commission process because that helps add to our understanding and to the record. And so if there are no further questions, I'd like to move this Item, in particular, let me read it, I'd like to move for the adoption of the presiding member's proposed decision for the Oakley Generating Station project and move for the adoption of the Errata and the amendment to the errata.

COMMISSIONER DOUGLAS: Second.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This passed unanimously. Thank you.

CHAIRMAN WEISENMILLER: Thank you.

COMMISSIONER PETERMAN: Oh, I also wanted to say thanks to the public advisor. Thank you.

MR. LAMBERG: Just a quick word from the applicant. I wanted to thank the Committee for all of their hard work on this. Wanted to thank especially Kevin Bell, counselor at the CEC, who was the kind of glue that held it all together. Want to thank our first project manager Joe Douglas who fielded our AFC and got us through the first round of data request. I wanted to thank Felicia Miller for her work on this project and especially wanted to thank Pierre Martinez, our third and final project manager, who really pulled the heavy lifting and really did an absolute outstanding job. I wanted to thank Commissioner Boyd, Commissioner Peterman for all of their efforts and the time they spent. I wanted to thank Kourtney Vaccaro. I wanted to thank intervener Sarvey. I actually think that we have a better project due to his efforts and his input into this process so we certainly appreciate his participation.

I also want to point out that something that's been missed in all of this. This is a project that employs brand new state of the art general electric rapid response Fast Start technology specifically designed to address renewable integrations. It's the first time, to our knowledge, that this technology is going to be implemented anywhere in the world so it gives California an opportunity to lead in that front. It's a project, as Commissioner Peterman saw, in the public hearings in Oakley, enjoys a tremendous amount of public support by the over 50 comments on the record by various members of the community in support of this project. The project will create over 700 union jobs and the project was approved by the California Public Utilities Commission in December of this year.

To address some of the concerns that I've heard about greenhouse gases by the CEC's own analysis as stated in the final staff assessment. When this project comes online it hopes to reduce greenhouse gases throughout the state of California. To address some of the comments by MTA earlier, this project represents the cleanest and most cost effective gas fire technology in the state. The superior heat rate will actually result in reduced cost to consumers for their electricity. So with that, I'd like to thank

everyone who participated in this and I'll let you get on to your next item.

COMMISSIONER PETERMAN: Thank you.

CHAIRMAN WEISENMILLER: Next Item is Item 16. Mariposa Energy Project 09-AFC-3. And errata. Possible adoption of the Presiding Member's Proposed Decision on the Mariposa Energy Project, and Errata. The project is a simple-cycle peaking facility with a generating capacity of 200 megawatts in northeastern Alameda County. Ken Celli?

MR. CELLI: Good afternoon. I'm overhear Commissioner. Good afternoon, Chairman Weisenmiller and Commissioner Douglas, Commissioner Peterman. Kenneth Celli on behalf of the committee designated to conduct proceedings on the Mariposa Energy Project.

Before I begin I wanted to give you a little history of the composition of the Committee. The Committee began as Commissioner Levin as the presiding member and Commissioner Byron as the associate member. When Commissioner Levin left, Commissioner Byron took over as the presiding member and Commissioner Weisenmiller took over as the associate member. Then when Commissioner Weisenmiller was between appointments, Commissioner Douglas took over as the associate with Byron still serving as the presiding

member. And then when presiding member Bryon left the Committee, Commissioner Douglas took over as the presiding member as the sole member of the Committee and that's the sole member of the Committee at this time.

Now, PMPD reflects the careful consideration of all of the party's evidence and the public comments. The Committee recommends and the PMPD recommends that the Energy Commission grants certification to the—because the Mariposa Energy Project will be consistent with all laws, ordinances, regulations and standards and because there are no significant impacts to either the environment or public health pursuant to CEQA. I want to direct your attention to this map that just came up on your screen just to place it. The project's located in northeastern Alameda County. You can see the grey lines that differentiae the counties. The Contra Costa line is a mile-and-a-half north of the star that shows as the project site. The Alameda county line is two-and-a-half miles to the right or the east of the star. The town of Livermore, in the bottom left hand corner is seven miles west of the project and the town of Tracey to the east of the project is also seven miles away. To the north of the project, in Contra

Costa County is the town of Byron which is pretty small and not big enough to make the map but we did show the Byron airport. The Byron airport is two-and-a-half miles, 2.75 miles, north of the project. And the center line of the nearest approach of the runway runs approximately one mile to the east of the Mariposa project. So essentially you approach at this, if you can see my cursor, you approach at this direction and it would pass a mile to the east of the project.

The facility itself is southeast of the intersection of Bruhns Road and Kelso Road. The Mariposa project itself would take up 10 acres of a 158 acre parcel, known at the Lee property. Also on the project, and you can see a little picture of it there, is the Byron cogen power plant. It takes up two acres of the 158 acres. The remainder of the 158 acres is used as non-irrigated grazing land.

Now this parcel is subject to a land conservation agreement with Alameda County and several interveners argue that the Mariposa Energy Project was inconsistent with the agricultural uses stated in the contract however the Committee determined that the contract is not a LORs, the contract is a contract between the landowner and the county. It is

enforceable by adjacent landowners. And the Williamson Act contractors within the Alameda County. The Energy Commission does not really have a role, just does not have a role, within the enforcement of this project. The Committee took substantial evidence from Alameda County who testified for about two plus hours along with evidence from the Department of Conservation which oversees the Williamson Act. The applicant staff put on expert witnesses in support of the presiding members decision that the Mariposa Energy Project would not conflict with the requirements of the Williamson Act itself. The Mariposa Project site—the Mariposa Energy Project itself would be a natural gas fired simple-cycle peaker with a 200 megawatt generated capacity. The applicant stated that they projected the project would run about 600 hours per year, however the license would allow it run up to 4,000 hours per year. The primary equipment are four GE LM6000 PC Sprint gas fired combustion turbine generators and associated equipment. There is a power purchase agreement in place between the applicant and PG&E. The Mariposa Energy Project connects to the grid via a 230 kV transmission line at the Kelso substation which is north by about seven-tenths of a mile away. The

project—the natural gas will be conveyed via a 580 foot, eight-inch gas pipeline, which connects with PG&E line 002. The Committee took evidence on line 002 with regard to its condition and the determination of the Committee is that the Mariposa Energy Project would have no significant impacts on line 002. As to water, the service that processes water would be raw fresh water from the Byron Bethany Irrigation District, a new pump station and a 1.8 mile water pipeline that would run east of Bruhns Road, which is the road in the upper corner of the slide, at 600 hours a year which is the applicant's projection of how much this project would run. The Mariposa Energy Project would use 34.8 acre feet per year of water, at the full 4,000 hours the project would use 187 acre feet per year. Byron Bethany Irrigation District confirmed their ability to supply this water and the applicant will fund a water conservation program within the Byron Bethany Irrigation District by condition and conservation measures would conserve an amount equal to Mariposa Energy Project's use of the water thus resulting in a zero net use, zero net consumption of water.

There were seven interveners in this case. Robert Sarvey, an individual from Tracey, California,

the Mountain House Community Service District, Rajesh Dighe, an individual representing himself from Mountain House, the California Pilot's Association represented by Andy Wilson, Jass Singh an individual from Mountain House Community, the Sierra Club of California, Mr. Mainland was here and Mr. Carlton and then Rob Simpson who's represented by April Sommer.

Mr. Sarvey raised issues—and I have to say that Mr. Sarvey contributed—all of the interveners put a lot of effort into this case and we went a long time with long hours but Mr. Sarvey put in—went above and beyond by helping some of the less experienced interveners to which we were grateful and he contributed greatly to this process. Mr. Sarvey issues that he raised and put into evidence with regard to land use, air quality, hazardous materials, alternatives, worker safety and fire protection.

Mountain House Community Service Distract put in some evidence with regard to the socioeconomic with regard to the housing values in Mountain House and also participated in discussions with regard to fire safety.

Rajesh Dighe put in evidence in regard to socioeconomics and specifically on the economic condition of Mountain House we viewed video. Mountain

House, I should tell you, has the distinction of being one of the most, if not the most, underwater residential areas in the United States. And we took in evidence to show that the average property value has dropped since 2003 some 57 percent in Mountain House. So that was the gist of Mr. Dighe's evidence.

The California Pilot's Association put in evidence obviously on aviation having to do with traffic and transportation and land use.

Mr. Singh put in evidence with regard to socioeconomics on the question of economic justice. In the end, the Committee determined that the Mountain House Community was for our purposes of analysis an EJ community in terms of reaching the threshold of being a minority.

Sierra Club of California put in evidence with regard to greenhouse gases and alternatives, largely on the question of need or really to be fair, their position would be the lack of need for the Mariposa Energy Project.

And then Rob Simpson entered comments mostly to do with socioeconomics and land use.

As usual the public was given a full and complete opportunity to participate at every stage of these proceedings and the Committee received a high

volume of comments from Mountain House residents that participated, quite a bit. Not all of the Mountain House comments were opposed to the project but the overwhelming majority were, mostly having to do with fear that their already diminished property values would go down further. Also fear on health impacts due to emissions. And lots of recommendations that the project should be solar, notwithstanding the fact that this is a peaker to support intermittency of solar and wind in the area. And then we received a lot of—several comments from pilots talking about their concern of the proximity of the Mariposa Energy Project to the Byron Airport. I should tell you that we received—we had a stellar panel of experts on aviation and among them were test pilots who flew back and forth through plumes, power plant plumes, and testified that there would be no impact. In fact, they testified it was equivalent to driving over a 2x6 on the freeway at 60 miles an hour.

So with that the PMPD addressed and concerned all comments, all public comments and party comments. The Committee recommends that the Energy Commission adopt the PMPD on the MEP, the Mariposa Energy Project, with the errata dated 5/17/11 which has been served to all parties. The errata

incorporates the parties and the public comments and clarification on the record. With that the matter is submitted. I'm available to answer any questions with regard to the PMPD, otherwise the parties are here to address the Commission.

CHAIRMAN WEISENMILLER: Commissioners, any questions or comments for—

COMMISSIONER DOUGLAS: I'll hold comments until I've heard from the parties and the public.

CHAIRMAN WEISENMILLER: Okay. Good. Applicant?

MR. WHEATLAND: Good afternoon. I'm still Greg Wheatland and with me is Chris Curry. I would just like to add briefly to Mr. Celli's comments. The applicant, of course, supports the PMPD as modified by the errata. Mr. Celli has recited to you the interveners. In this proceeding I think it's also worth noting that on this case the applicant and the staff were in complete agreement with respect to all of the conditions of certification, there were no disputes between the applicant and the staff in this proceeding.

In addition this project enjoyed the support of Alameda County, the jurisdiction in which it is located. It also enjoyed the support of Contra Costa

County through its Board of Supervisors of the neighboring county. I had also received the support of the San Joaquin Valley Air Pollution Control District with which the applicant entered into a specific voluntary mitigation agreement to address air quality concerns within San Joaquin County. And I've also enjoyed the support with respect to the various agencies that commented on this project with respect to their individual jurisdictions to recommend to the Commission that the project was consistent with the LORs of the jurisdiction of those agencies, including the Department of Conservation, the Federal Aviation Administration, BVID, Alameda County and U.S. Fish and Wildlife Service which I would like to note in closing that we yesterday received the biological opinion from the U.S. Fish and Wildlife Service with respect to this project. That opinion letter has been docketed and provided to the parties.

So we'd like to thank you for the consideration of this item and Mr. Curry and I, and others that are here with us today are available to answer any questions.

CHAIRMAN WEISENMILLER: Thank you. Staff?

MS. WILLIS: Thank you. Good afternoon. My name is Kerry Willis. I'm Senior Staff Counsel and

with me is Craig Hoffman who is the project manager. Staff wishes to thank the Committee. We have no additional comments on the PMPD or the errata. We appreciated the cooperation with the applicant and input from the many interveners and members of the public who participated throughout this proceeding. Several Conditions of Certification were changed for the better based on intervener suggestions and although we haven't seen any new issues raised in any of the PMPD comments that haven't been already previously addressed either in the supplemental staff assessment, through the many public workshops or the three days and nights we held hearings, and the PMPD comment hearing, we do have staff available and presently available in the room or on the phone if there are any further questions.

CHAIRMAN WEISENMILLER: Thank you. Mr. Sarvey?

MR. SARVEY: Thank you, Chairman. First I would like to say that the applicant was very agreeable and supplied very good food.

(LAUGHTER.)

So I was very happy about that. I wanted to congratulate them about that. Unfortunately, I do disagree with the PMPD. It has no reflection on the

applicant. I also want to—I appreciate staff for adopting a condition that outlaws natural gas blows from here on in all CEC certified projects which is very, very appreciated.

That being said, I do believe that the applicant provided two sites in the alternatives analysis. Those sites were right next to the project. I believe that impermissibly narrow site selection and I take that from the Chula Vista decision where they actually had three sites. There weren't all right next to each other but all the sites were the same.

The other issues in alternatives were that the applicant defined the project objective as using natural gas which is once again impermissibly narrow. You can't consider other alternatives if one of your project objectives is use of natural gas so I think both of those things in terms of alternatives, the decision is defective in that.

We had quite a discussion on pipeline safety and I was the one that raised it. I had specific reasons for raising it. You'll note with my card, I provided some nice pictures. I hope you got them. I wanted to explain this picture to you, and I think it's something that the Commission needs to address, this particular picture depicts a fallen down fence.

That fence was erected to protect line 002, line 401 and a Standard Oil Pacific Pipeline that runs there through the same corridor 18 inches. Now this happened because the City of Tracy wanted to put in a huge sports park over these lines which I strangely objected to. PG&E, in this particular instance, asked for a first and only pipeline waiver where instead of replacing this pipeline they were going to do additional mitigation measures to make sure that everything was safe. One of those mitigation measure was this fence. And as you can see this fence fell down. But that isn't the important part. The important part, if you look closely, you'll see large earth mover tracks going over these pipelines. One of the issues of why this fence is there is because they didn't know what the depth of these pipelines were. And I'm going to urge the Commission to follow up on this because if you see in the background, that's your Tracy peaker plant. And this particular pipeline was run over by earth movers, a fence was erected to stop it but it did not work. That's one of the reasons that PG&E ultimately rescinded their SU-58 first pipeline waiver in the state of California because of this picture right here. And they agreed to replace this pipeline and examine the other ones. But since

the project didn't go forward, that hasn't been done. So I urge the Commission to follow up and make sure that this particular area of the pipeline is safe. That's why I raised the whole issue. After that came San Bruno and suddenly it became a big issue everywhere but it still is an issue.

I want to talk for a minute with the compliance with the Williamson Act here and I think the PMPD has got it totally wrong. There's a land conservation agreement, C89-1195 Exhibit Number 12. In that land conservation act, Alameda County had a public hearing limited to uses on that Williamson Act property to two things, one you could have a cogeneration distillation or you could have cattle breeding. That's all you could have on that property. Now the PMPD takes the position that the Williamson Act somehow—that that contract is an agreement between the land owner and the County of Alameda and it doesn't provide an restrictions under the Williamson Act. And that's absolutely wrong. And then the other issue is that Alameda County's Agricultural Preserves Objective Uniform Rules and Procedures, which governs their Williamson Act property, says that you can't have an electrical facility only if it's an accessory to other permitted uses on the property. That again,

once again they had a public hearing about the agricultural objectives. They made a decision. They said we're limiting power plants in this area on this Williamson Act properties and those are the overriding concerns not the PMPD—the PMPD rests on the fact that the Williamson Act says that electrical facilities are compatible and I'm not sure that's even true because if you look at the ongoing litigation on the large solar facilities that's going on on Williamson Act property, I don't think that issue is settled at all. I think that the PMPD is dead wrong there.

The other issue is this area in 2000, the voters of Alameda County saw fit to pass Measure D. Measure D is the open space initiative, agricultural preserve. Alameda County has interpreted that quite differently from what the drafters of Measure D had intended. And in fact I presented Dick Schneider, who was one of the authors of Measure D, and he explained the intent of it. I believe that there's no way you can say that the Mariposa project is compatible with Measure D because Measure D is for saving agricultural space and open space so I don't see any way that the PMPD could come to that conclusion. I think it's wrong.

The other issue, and that's in the errata, I

commented that a NOTAM is required by Conditions of Certification Trans Eight and that is the mitigation to let the pilots know don't fly over this project. PMPD does not require that that NOTAM come in place. It requires that the applicant to apply for it. But if the applicant does not get that done, then there is not mitigation for flying over that plume. And I believe that's something that should be addressed. And I also think that there's been some discussion here already by Mr. Celli that these particular pilots flew directly over this plume down south. Well if you read their report, they flew 500 feet to the side of the plume. They never flew directly over the plume. You have an opportunity to ask about it. I believe the people are here today. So running over a 1x8 on the freeway at 65 miles an hour is a pretty frightening thing to me but if I flew directly over the plume, I don't know what that impact would be and we don't know what that impact would be. So there should be some mitigation here if that NOTAM is an issue, somehow the Energy Commission should follow up and make sure it gets issued because that is the only mitigation for flying over that plume.

And then the last issue I have is that this project used 2000 census data and while the PMPD

states that it’s a possibility that it’s a minority population, you don’t know where that minority population is located in relation to the impacts of this power plant. And that’s something that’s required in an environmental justice analysis and it wasn’t done. I was also quite disturbed that the project materials were not given to the minority members of the public in languages that they knew and understood even though they requested it. They also requested interpreters at the hearings and did not receive interpreters. I think all those things are requirements of environmental justice and I think that the Commission’s got a way to go on their environmental justice analysis and how they treat these particular instances. That’s all my comments. Thank you.

CHAIRMAN WEISENMILLER: Thank you. James Lamb?

MR. LAMB: Hello, Commissioners. I particularly want to thank Mrs. Douglas for her patience and her familiar face at all of the hearings. She’s did a lot of work on this. And Mr. Sarvey in particular because he was very helpful for us to help understand the process and help out with the other interveners.

I'm speaking with you as a member of the public, not as an intervener today. I'm an elected official in Mountain House. I'm on the Board of Directors for the Mountain House Community Services District. I was appointed by our Board to be the point person on the Mariposa project. I've attended most, if not all, of the hearings that I've been aware of. I went to the site inspections that you folks went to so I'm very aware of what's gone forward.

I can say from my own perspective, I have not talked to one person in Mountain House that was an advocate for this project. Mr. Celli said that there were some who were proponents for it, I never saw that testimony or heard those comments. As far as I can tell, we're 100 percent against this project. There is a small community of Mountain House and other Mountain House right next door in Alameda County and they did have some commentary that was in support of it but that's because they received some mitigation funds for their school. So just for the record, I want to be clear that as far as I know there's no comments from Mountain House California in that regard. Our Board is still opposed to the project, mainly because the residents are still opposed to the project. I think that's all that I had to say on

that. Thank you very much for your time.

CHAIRMAN WEISENMILLER: Thank you. Andy Wilson?

MR. WILSON: Hello Mr. Chairman, Commissioners, staff and general public. My name is Andy Wilson. California Pilot's Association, or also known as CalPilots. This certainly doesn't reflect my age, or maybe it does, but CalPilots was incorporated in 1949 and is the non-profit, 501(3)(c).

What our role is that we have members throughout the state. We have a Board throughout the state. We have former FAA people. We also have professional commercial pilots and private pilots and non-pilots. Our role is that you typically don't see the FAA show up at hearings and you don't typically see CalTrans Aeronautics show up so what we do is we intervene or we show a presence with other pilots of those projects. In this case, CalPilots, as an intervener, does oppose this project and we certainly would hope that you would vote no.

A couple of points and issues. There was mention of a test over flight done by aerospace and or test pilots. That was submitted kind of at the last minute and if I read it correctly, it has not had a peer review. It's strictly their opinion, no one's

reviewed it. It was never submitted to the FAA for their review so the FAA's never reviewed it. However the staff takes it as fact. Mr. Sarvey brought up one point and was the flight—did the flight encompass all of the stacks, was the power plant operating at its maximum, did they in fact fly over the center of the stack and also there was wind that day. Wind decreases the velocity and the impact of the plume itself.

I'm also concerned, or CalPilots is concerned, in the PMPD on page 19, Item Number 15. The FAA has issued determinations of no hazard to air navigation for the MEP structures and for the potential of thermal plumes from MEP's stack to impact aviation including ultra light and gliders. That's really not true. The 7460, if you notice there's no reference here so unless you have a letter from the FAA administrator that says this is safe from the FAA we need to now go, who is it, why—who said it's not a hazard and that's not quoted here. So the 7460 that's required to be filed is a form by the FAA that's strictly, in this case, is looking at the physical height of the stack not the plume. The plume is addressed in the aeronautical information manual. And it specifically calls it a hazard.

So those are a couple of the points that CalPilots has that were not on the right track here and everybody's accepting this.

Now when the aviation issues began to come up around airports this started out with Blythe and the Blythe Airport and the Blythe Power Plant and since then, in 2006 there as referenced in the documents and during the evidentiary hearing, both the applicant, staff and CalPilots has made to the FAA risk analysis study. Part of that study was to create a page within the AIM, Aeronautical Information Manual, and it has been done. It's also my understanding that the FAA is also working on a more detailed report but I believe that the applicant has tried to get that information, CalPilots has tried to get that information and I believe other people in the aviation community have tried to get that information and it has not been released yet.

With that and also with Bob Sarvey's comment on the NOTAM, Notice to Airman, that it would be on the charts that says do not overfly the power plant. If you have in the PMPD no hazard, doesn't mean anything and now we have a comment that it could be the impact of driving over a 2x4 or a 2x6 and as Bob Sarvey said it, a 2x8. I think what you're decision

is going to do, which could be good, if you approve this power plant and with the implementation of the NOTAM you're going to reduce usable airspace by aircraft, in other words no flyover up to 1,500 feet or 1,500 feet or below. So if you're sitting in a commercial airplane, as power plants and other structure reduce airspace and the weathers fine but you hear there's a flight delay, it could potentially be trying to fit all the aircraft in the computer system and accommodate them and delays will happen. It's not only this Commission, it's cities and counties are doing the same thing.

So the FAA, to my understanding, is becoming very concerned about these NOTAMs on charts that are required on the reduction of airspace, not only about the plumes but other structures as well such as buildings. So what I think you're going to see coming down the road here in the next few months or year or so, there's already been an update on the part 77 which mentions wind generators which never had been before, it does not mention plumes. I think in the future you will see plums mentioned.

So again with that, CalPilots would request that you deny this project. Thank you very much. If you have any questions, I would be willing to answer

any.

CHAIRMAN WEISENMILLER: Thank you. Ed Mainland?

MR. GROOVER: Excuse me. My name is Ed Groover. I'm actually an intervener with Mountain House Community. Mr. Lamb spoke and he actually told you that he was speaking as a member of the public. I am actually the intervener for Mountain House. I have just a couple of quick comments if I may.

CHAIRMAN WEISENMILLER: Sure.

MR. GROOVER: As background, I'm a registered professional engineer in the state of California. I'm the Community Services District Director for Mountain House. I did my first CEQA process in California in 1984 so I'm a qualified expert on the CEQA process in the state of California.

In this process I submitted a brief that I want to go back to at this point in time. If I can ask Mr. Celli to move to his first slide. Yes, please. If you look at this slide, there are three axis points into San Joaquin County from Alameda County. There's Highway 205, right above that there's Grantline Road and above that there's Byron Highway. CalTrans operates 205. The entrance points at Grantline Road and Mountain House Roads, those are my

two roads.

Mountain House Community is a political subdivision of the state of California. We are empowered by LAFCo proceedings as required by the state of California. We have never, and to my knowledge, there's not a record that we've never been notified per public resources code. We've never been considered as a responsible agency in this process. We've actually gone to the Commission with our Board of Directors to pass a resolution and sent this to the CEC. We've actually applied to be an intervener and we've still never actually been treated as a responsible agency. In my brief that I supplied to the Board or to the Commission, I'm sorry, I pointed that out. I actually provided the LAFCo proceedings that made us a political subdivision. And I actually pointed this out, and that's one of the reasons that I had this come up, I actually pointed out that your staff notified San Joaquin County and the response that you got back from them as a responsible agency was that if you anything to our roads you have to mitigate it. Well, if you look at this map, other than CalTrans, you don't get to San Joaquin County roads until you go over my roads. In the response from the applicant to my brief, they said two things.

They said that they're not a responsible agency. If you're traveling over my LAFCo powered roads before you get to the San Joaquin County roads and all San Joaquin County is given the privilege of being a responsible agency, you can't argue that I'm not. I am the responsible agency that is directly contiguous to the land or to the jurisdiction that this is on. Public resource codes require you to treat me as a responsible agency and there's nothing in the record that says you've done that. We've come forward and provided information but at no time has this agency responded to us per CEQA requirements. Now there's been quite a bit of discussion in this what staff has and has not done. I'm not discussing that now. All I'm discussing is the public resources code. If you're looking at the LORs of what this project is supposed to do, I'm not at this point in time arguing whether this project is good, bad or anything in between but staff has not followed CEQA process. We have volunteered to be here. I've volunteered to be here but CEQA public resource code doesn't mitigate your responsibility as a lead agency by my volunteering to be here. If you look at when the staff assessment came out, we went to workshops and made comments that you haven't contacted us, you

haven't looked at us in any of your expert testimony, staff assured us that they would be in there. The revised staff assessment has not addressed our comments. CEQA process requires you to do that. We went to the hearings that were here and we made the same comments that we're saying now. PMPD is silent on us. We have been totally not addressed. Now there's been some things that residents from our community said and I understand when you have overriding consideration from those, that's fine. I'm not going to argue those points. The point is you have not followed the CEQA process with a responsible agency as you're required to do in the public resource code and that's all I have to say.

CHAIRMAN WEISENMILLER: Thank you. Mr. Mainland? With the Sierra Club.

MR. MAINLAND: Mr. Chairman, Commissioners, Sierra Club is grateful to be able to address the Commission directly at this time as you are about to make a decision that we think you should know effects the—may affect the public credibility of the Commission. Maybe a few words about the policy context in which this decision is going forward would not be amiss.

The fact is that PG&E is being allowed to

grossly overproduce fossil fuel resources. The public perception is that the state agencies involved stand aside and tolerate what is likely to become more unjustified burdens on ratepayers and in the longer term will create more obstacles building clean renewable power sorely needed to meet state targets for carbon emissions reduction.

Now some of us monitored or were present at a very good CEC workshop Monday which had to do with the Governor's proposal for 12 gigawatts for renewable distributed generation. Our concern is with this project and projects like it are far from advancing the cause of distributed renewable generation. Money going into this sort of technology and into fossil fuels will in fact impede the Governor's goals.

Now the dimensions of the state's glut of fossil fuels electric generation are really striking. In PG&E's service area for example, not only MEP but Russell City, Marsh Landing and Oakley are all completely unnecessary. Although you're legal blinders are such that SB-10 is invoked that was then and now is now. That one had to do with merchant providers and now it's the ratepayers that are going to be on the hook for surplus power and surplus fossil fuel generation. And they will realize this and they

will make this an issue with the Commission. Based on Sierra Club's calculations the fixed cost associated with these four plants I mentioned will be in the neighborhood of $600 million per year, even if no power from them is used and this $600 million per year would build over 300 megawatts per year of commercial rooftop solar at 2010 PV prices. This would be a sizable contribution to the Governor's PV goals.

The issue is that the investment going into natural gas and going into fossil fuels at this time should be going into renewables.

Now our other problem with the project and the staff's assessment of it is that the alternatives section was quite disappointing and defective. I won't go through the comments that we have made on that point. I would say that to retain credibility, for the CEC to retain credibility, the alternative section has to be a true assessment of alternatives and has to be honest and complete. Some of the deficiencies involve dismissal of alternative technologies, energy efficiency grossly dismissed, pump storage alternative resources are not considered viable options for dispatchable energy in this PG&E area.

The CEC staff fails the document in how the

MEP might replace older, less efficient generations, claims that MEP is a public facility that meets the public need, which is not a valid assertion. In our view, the pollution volume will overwhelm the county's efforts to reduce carbon emissions.

Finally, the claim that this project will somehow integrate renewable power disregards the availability of other ways to do that.

If I may, just leave you with one thought. It's unfortunate that the ratepayers are going to be responsible for something that's going to hamper California's ability to justify new investments in cleaner types of power, including DG, distributed generation, of all types. Thank you.

CHAIRMAN WEISENMILLER: Thank you. Mr. Rajesh Dighe.

MR. DIGHE: Good afternoon, everyone. I live in Mountain House. First, I'd like to thank the public and Jennifer Jennings who has been helping me a lot. This is the first time that I've been an intervener so thanks. Thanks to the Senior Intervener specifically Robert Sarvey. He's been guiding me throughout the process.

So I'll directly, without wasting any time, come to specific comments I have on the PMPD as well

as the errata that was published recently. One thing that was very clearly noted there quote unquote that I did not actually specifically say how I justified the state is going against AB 32. I think I've talked enough about that in my testimony, in my briefings but I'd like to clarify that point and want to bring it out once again.

If you look at the whole gamut of things of what's happening, we are trying to justify this natural gas power plant for renewable source and seeing that it's actually going to assist AB 32. It's an interesting argument because as a part of the whole system, the people of California too are a part of the whole system and they are also standing up for the cost. You cannot neglect the people also. If you look at the whole bigger goals of renewable energy, putting solar panels which again come back to that technologies, so I thin enough has been said about how the requirement itself poses other alternatives not to be discussed I think is an interesting argument because right during the hearings also it was kept—we would kept on saying that this is the requirement and then again it goes back to the (indiscernible) are not allowed to be discussed.

To be very frank, I would have loved to see

during the hearings as well as during the workshops more technologically savvy people being talked to so that we can do this costing. I think Sierra Club mentioned it. Bob Sarvey has mentioned it. You're looking at renewable energy but now you're saying a bigger power plant but we did not do that. How much cost would it be in (inaudible) time? People are talking 10 years back. It's okay that we're not there yet but when the CPUC actually approved—or gave this argument of power generation, it's been probably two or three years back. A lot of stuff has been changed after that. I think that it cannot be overlooked. That's my point.

I've clearly identified that the land use, I'm not going to go around that area because it's like opening a Pandora's Box. So if you guys—if anyone has the slightest doubt in their mind that there is a chance of having a peaker power plant in an alternative technology that's of an advanced fashion, I think this is the time to deny this project for the good of California. You can create an example for other states. I think we are very close to implementing a high generation for the high needs of Californians and can demonstrate that we have a solution. I think that this is the moment to think

before saying Aye to this project.

Second thing I really want to emphasize which is socioeconomic which is what I stood for. I'm still standing for that. As Mr. Celli mentioned, Mountain House is being the epicenter of foreclosure. I already mentioned in my briefs and in my testimonies. Mountain House has gotten nothing. You have the city people here, they'll tell you. Why didn't people come to Mountain House. They saw the windmills. They saw this environment. If you take this away from Mountain House, they've got nothing. There's no businesses. They came over here to live with the mindset and I want to mention that if you were here, it's real. People want to help AB 32. They want to purchase solar panels. And now three counties out there, Alameda County pushing this out. No alternative power getting discussed. This is really interesting. People of California are going to think twice, thrice. Should I put up a solar panel? And that analysis of how many solar panels are required in San Joaquin County. Sierra Club, Mr. Mainland also said it is a viable alternative. This is the chance to make an example of the Commissioners. This is the greatest chance. I'm sure Arnold Schwarzenegger, President Obama that the current

governor (indiscernible). I think we're already on the path of innovation so if you deny this power plant it's going to create an example for sure.

Before I forget, the point around limited infrastructure. If you see on the record, on this large parcel agricultural land, an electrical facility is not permissible. They kept on debating around laws but if you clearly see it. If you are logical and analytical, you'll see it. The laws are there to support CEQA as a guideline. But if you look at CEQA, doesn't it tell you that you can overlook something and then assist in breaking the law. It doesn't. It's just a guideline. That's my point. It is close to a high density population. If you look at it, I'm not a liar. Mr. Sarvey probably knows a lot about laws but I did look and I think it is one important point that I did mention in the briefings as well as during my comments to the PMPD that this open space land, which Alameda County is trying to use, is of no density. But look at it, it's at the bottom of three counties. My Mountain House community is high density. The population is going to be 45-50,000 so you cannot say that this is a low density area. I guess it is possible that they're trying to make it comfortable without looking at alternative solutions.

Going back to the 4,000 hours of maximum operations. If you look at it, my Mountain House community has not been (inaudible). My community has got three elementary schools really doing good. A lot of people. None of the schools is getting any money from this. But we are going to see the punishment. The Mountain House school that's mentioned in the PMPD is not in my community. My community doesn't have a school in Mountain House community. It has Bethany Elementary, Wheatland Elementary and (indiscernible) and probably 10 more schools coming down the line. We haven't got any mitigation that is guaranteed as a condition as a part of this project. How do I know that any money is going to come to us. But we are going to face the pollution because we are the closest high density population to the power plant. So for the record, and I had already said, we are a (inaudible) area. The applicant has clearly said that the power plant potentially cannot operate during winter seasons. It's a high possibility that we will have a high impact.

Not to forget anyone with a justice case. AB 32, I looked at it and browsed some of the—I'm a technology person so AB 32 allows—there are specific requirements and there is an item that says an

environmental justice committee. I'm not really sure that you have really done all of the work because my community is a minority community and we have to help conserve the community and we want to review alternatives. This 200 megawatt probably can be radial used (indiscernible) the amount of power generated through these solar panels over the rooftops is increasing.

Again, this is a big burden to my community and I think that there are viable alternatives for bigger power generation. And I think we need to review it, all of our leaders want us to review it. This is the time to rethink if you have the slightest doubt in your mind, rethink because this is going to be a symbol. I think we are close to developing a bigger power plant in a much more environmentally way.

Going to my last comment, going to pipeline 002. I did mention that we were not actually allowed, because PG&E did not come and testify, and for the record we were told that there was any sufficient evidence that it will bring more information. I always wonder if the risk analysis and the risk analysts explain the way that it's presented is supported by industry experts. It's an interesting argument that risk analysis experts were there and

saying it's okay. But apparently they had no knowledge of this specific line 002 because they did not see the (inaudible) of testing. They didn't see anything which is talking about the current conditions. How do you justify everything is ok. And I did mention that in my briefings as well.

CHAIRMAN WEISENMILLER: Okay. Thanks. We read your briefs. So if you wanted to summarize?

MR. DIGHE: I would summarize that I really want to make sure that you guys think twice and discourage and deny this power plant.

CHAIRMAN WEISENMILLER: Okay. Thank you for your contribution. Guy Colton?

MR. CELLI: I just wanted to point out that there are other interveners—

CHAIRMAN WEISENMILLER: I'm just working off of the blue card so—

MR. COLTON: I'll be brief.

MR. CELLI: No problem. I just wanted to say that Mr. Colton is a member of the public. The interveners that we haven't heard back from yet are Mr. Singh and Robert Simpson. And his attorney is here so I just wanted to present that to you so that you were aware.

CHAIRMAN WEISENMILLER: Okay. Sure. The

interveners can go first.

MR. CELLI: Sorry about that. I just wanted to make sure that we got all of the interveners.

MS. SOMMER: Good afternoon, Chairman and Commissioners. April Rose Sommer. Counsel for intervener Rob Simpson. Mr. Simpson concurs in the other intervener's objections to the presiding member's proposed decision. There are three specific issues which I will address in the context of the errata.

First, pipeline safety. Should the Commission approve the PMPD with the suggested errata, the Commission will have ignored its own directive that all sites include review of pipeline safety and reliability. Additionally, it would be imprudent of the Commission to approve the PMPD without ruling on Mr. Simpson's motion of consideration, the Committee's March 28, 2011 decision to not subpoena PG&E for the purposes of obtaining evidence of the safety and reliability of lines 002, a natural gas pipeline that will supply Mariposa Energy Project.

The Commission has failed to address the issues raised in Mr. Simpson's motion for consideration. Yet, the errata adds conclusions about these very issues. This is page six of the errata,

Item 19. It reads: Rob Simpson filed comments essentially claiming that the record contained insufficient analysis of a natural gas pipeline because no expert from PG&E testified. As stated above, expert testimony has established that the impact of MPE's natural gas cycling is negligible. The decision is based on substantial evidence and there was no showing that the addition of a witness from PG&E would have been anything other than needlessly cumulative.

On April 8, 2011, Mr. Simpson filed a motion for reconsideration. The Commission has taken no action on this motion in volition of California Code of Regulation Title 20, Section 1720. The Commission shall hold a hearing for the presentation of arguments on the petition for reconsideration and shall act to grant or deny the petition within 30 days of its filing. Thirty days have passed. During the March 7, 2011 evidentiary hearing, Mr. Simpson moved the committee to exercise its right to subpoena PG&E for the purposes of soliciting evidence on line 002. The Committee declined to address the motion during the hearing. At the March 9, 2011 Commission business meeting, the Chairman directed staff to include a consideration of pipeline safety and reliability

issues in their review of current and future site cases. Yet, just a few weeks later the Committee denied Mr. Simpson's motion.

As you yourself, Chairman, have confirmed, MEP and line 002 safety and reliability and effect on the environment and compliance with applicable laws are interdependent. The Committee has been remiss in its duties in refusing to conduct a full analysis of line 002 and its relationship with MEP.

In the April 12, 2011 Oakley PMPD that was just approved, Vice Chair Boyd expanded on the need for review of pipelines. He wrote: However, in light of recent publicly noted events pertaining to the PG&E gas transmission line rupture and fire in San Bruno, California on September 9, 2010, the Energy Commission determined on March 9, 2011 that pending and future AFC proceeding must include an enhanced assessment of natural gas pipeline supply and availability and safety that specifically addresses any known or anticipated risk or project interconnection with existing natural gas pipelines. The OGS AFC Committee subsequently directed the parties in this proceeding to address seven questions pertaining to PG&E lines 303 and 400 and the project's interconnection to these lines.

The Committee's decision to deny Mr. Simpson's motion to subpoena PG&E based on conclusion— is based on conclusions in contradiction to the Chairman and Vice Chairman's conclusion regarding the need to assess the safety and reliability of pipeline citing cases. The Committee's decision reads: As an initial matter, we confirm that our licensing and jurisdiction over related facilities such as view lines extends up to the first point of interconnection. And that our findings and conclusions with respect to the safety and reliability of the MEP include the site and related facilities up to that point. It is undisputed that line 002, which is the subject of Mr. Simpson's motion, is beyond that point. The Committee also improperly placed the responsibility of providing evidence of pipeline safety and reliability on interveners instead of on applicant and staff, writing: We note from the outset that neither Mr. Simpson nor Mr. Singh called any witnesses to testify about the safety of line 002. Instead, Mr. Simpson's sole argument in support of his motion for a subpoena seemed to be that the witnesses called by other parties lacked expertise to testify to the safety of line 002 and the impact of construction and operation of the MEP upon that line.

Chairman and Vice Chair are to be commended for expressing the needs to include pipeline and reliability safety in citing cases but without any evidence on specific pipelines from the entity that built, owns, operates and maintains said pipeline this is an exercise in futility. PG&E is needed to testify to the specific conditions of line 002 and the Commission has a duty to gather this information as part of the citing process, certainly before approving the PMPD.

Finally, as explained in Mr. Simpson's motion for consideration and amended declaration, Commissioner Karen Douglas engaged in prohibited ex parte communication with PG&E during the evidentiary hearing in violation of Government Code, Section 11430.10 and California Code of Regulations Title 20, Section 1216. Commissioner Douglas should have been removed from the proceedings and is improper to have her continue to make a determinations on this issue.

Next issue I will address quickly is the Williamson Act. The errata at page 19, Item 48 adds the following: Government Code, Section 512oE provides the compatible uses are defined in either local rules or by the Williamson Act itself. In this case, the Williamson Act expressly recognizes electric

facilities as a compatible use and the evidentiary record establishes that Alameda County has never made a finding to the contrary. As explained in Mr. Simpson's first comments on the PMPD, compatible uses by land covered by the Williamson Act contract are defined by the terms of the contract. If the contract allows generally for compatible uses, then the Williamson Act definition of compatible uses may apply. The Williamson Act contract at issue does not allow generally for compatible uses. The applicable Williamson Act contract defines in clear and unambiguous language that allowable uses for its subject land. This does not include electric facilities and so the PMPD conclusion that LORs have been applied is in error.

The final issue which is something that I raised at the Committee hearing which was not included in the errata is, and I will direct you to pages 9, 26 and 27 which basically offer staff opinion as fact. So I'll address just one of these. In this table you can see that on page nine discusses compliance with the Clean Water Act. And this lists the project as being in compliance yet says in the discussion that no permit has been granted and it's misleading to say that it's—that the project is in compliance when that

is a decision that has not yet been made. Similarly, on 27, there's language that's been added that addresses compliance with the Endangered Species Act and the Endangered Species Act has not been in compliance and its staff opinion that it could be compliance is misleading to include in the PMPD.

So Mr. Simpson objects to the PMPD and the errata for these reasons and again for all of the reasons that have been raised so eloquently by the other interveners and requests that the Commission does not approve the PMPD today.

CHAIRMAN WEISENMILLER: Okay. Thank you. Any other interveners who want to speak?

MR. CELLI: I believe that's all of them, Chairman.

CHAIRMAN WEISENMILLER: Okay. Mr. Colton?

MR. CELLI: Is Mr. Singh on the telephone? I don't believe any one is on the telephone.

MR. COLTON: You either have to look at my hat head or my hat, so I'll give respect to the flag and take the flag off.

My name is Guy Colton. I live at 1559 Kelso Road. Can you go back one picture before, Mr. Celli? There it is. I merely just wanted to point out that our property is adjacent to the proposed power plant.

When you look at the map, the little map that they sent out, you'll see one little green spot on it. It's a little three acre property and that's where we live.

I went to the last meeting. I was kind of behind the curveball on it. I received this the week before the meeting and I read through it and I read through it and thought I better attend. Prior to attending it, I contacted Mr. Mainland with Sierra Club because I recognized intervener being someone who intervenes and my concern was the amount of pollution and noise and nuisance that can be caused by the construction. Well, I didn't get a response until about two-and-a-half hours before the meeting and he sent me a document and I read a couple of paragraphs which kind of gave the blanket objection of the Sierra Club. Subsequent to that, I attended the meeting and after the meeting I was contacted by several people. Ms. Sommers, Mrs. Egrecki and I wanted some information because I hadn't really gotten any information out of the meeting. I've been flooded with information since then and I've been trying to read through it and get through it. I've got just a couple of purposes here today.

First of all, when I started asking for

information I quickly got in touch with Mr. Curry, the project manager, and he responded to us wonderfully. We got a lot of information from him, one of the first things I get is he came out and had a meeting with us and I made him drive Bruhns Road. I don't know how long it had been since you had driven Bruhns Road prior to that but it was in a lot worse condition than when you had driven it previously. In about six or eight weeks, the Green Volts Energy Project that's taking place a couple hundred yards down Kelso Road had literally destroyed the road. I mean literally destroyed the road. In that slalom to get around the rubble and they have patches all the way through it. He told me that they have a contract after the pipeline is put in to return the road and maintain the road. That belayed my concern. I had other concerns about noise. He gave me this very dense document and I've looked through it. There's a huge wind study that had been done and it says that the closest sense receptors include a few isolated residences, the closest of which is approximately 3,300 feet to the northwest from the center of the turbines and the second resident is approximately 3,600 feet to the northeast. That's us. They go on to discuss the very deep wind studies that they did and when I read

through the list of the various dBA levels I found that the mitigation level at our property is 45 decibels. Their wind and sound study suggest that the noise level suggest that the noise level at our property is going to be 43 decibels. And so I read through this and it says noise source at a given distance and I read 40 decibels which is right there at 43, 45. At 40 decibels they say that sound there is going to be bird calls distance—the sound of a distant bird call. I actually believed them so I'll wait and see. I've talked to the neighbors. Is there anybody here that lives on Bruhns, or Kelso or Mountain House Road? We've discussed it. We are the nearest neighbors. We are going to be the ones impacted. Those roads—Can I ask a quick question of Mr. Curry? Did you tell me that the traffic pattern is going to be down runs in a short distance? Can you move forward one picture? The little hook there is going to be the entrance road and it's going to go out to Kelso.

MR. CURRY: That's actually Bruhns Road right there. There will be some traffic on Kelso Road but it's going to be coming from the west to the east and won't be traversing in front of your property.

MR. COLTON: That's what I understood.

Again, everybody that had questions or problems here, I've been looking at this for less than nine days and I've had all of my questions and concerns answered. Mr. Curry came out and had a meeting with the property owner, me and my sister and two other adults that live on the property. We are directly downwind and we can hear the neighbors talk next door, downwind 100 years away. I still have—I'm going to believe you. I'm going to accept this. The first thing that he did when he got out of his car, I said stop and listen. And all you can hear is the wind blowing through the trees and the birds. We live a wonderful, beautiful existence out there and this project is going to be—well the Green Volts two megawatt plant is creating a nightmare. I'm guessing 200 megawatts is twice that but I'm going to accept your statement that it's not going to be 200 times worse.

Now the last thing that I would like to say here is that hypocrisy is a terrible thing. I've always been in favor of natural gas resources, it's a clean, plentiful, even more plentiful as we're getting better at getting it out of the ground. We have to stop relying on foreign oil and other sources. We need home grown energy sources. There's a lot of wind out there. There's a solar plant going up. All of these

things are being done and I'm happy to think that we're building for the future, not necessarily current need now. I've heard a lot of talk about this being surplus or unneeded or unnecessary but I would add a verb to that. It will become needed. It will become necessary and I speak as the closest neighbor downwind. My head rests, see the northern most stack? My head rests closest to that than anybody and I say go for it. Thank you.

CHAIRMAN WEISENMILLER: Thank you. Okay. Applicants? Actually, Ken Celli? Do you have any comments? We've covered a lot of ground. Is there anything that you'd like to respond to?

MR. CELLI: You know, thanks Chairman. With your permission, I'd like to have the applicant to speak to it and if he doesn't speak on any of the points that I want to speak on then I want to speak.

COMMISSIONER DOUGLAS: There's one thing that we should speak to before we go back to the applicant and that is the allegation of the ex parte communications at the hearing that had in Sacramento on the natural gas pipeline issue. We had been trying to get PG&E to testify and we had thought for a time that PG&E was going to testify but then got the message that they would not. We saw Mr. Galati late

at night hovering toward the door and hearing officer went out to see if he was going to come in and testify and or if anybody else from PG&E was going to come in and testify and so in this, I went out as well to get Mr. Galati in the room. We are permitted to make process related communications, a communication about whether they are going to testify if a process related communication. In that, which we reported on the record, Mr. Celli, because the issue was would we subpoena PG&E if they didn't come forward with their witnesses, ask the question how would you respond to a subpoena. Again, it's a process related question. It's not about the truth of the matter.

MR. CELLI: Right. I have the same statement that we received earlier and if I may—

COMMISSIONER DOUGLAS: But this is on the transcript so Mr. Celli reported out that PG&E would resist the subpoena and then Mr. Galati had came in the room and said all of this on the record so this is in the transcript.

MR. CELLI: That's correct. And specifically, it's on the transcript at 3:7:11, transcript page 403-10 through 404-20, pursuant to Government Code Section 1143020, Communications are permissible as matters of procedure or practice and

the question was would PG&E provide a witness or would they resist a subpoena really.

CHAIRMAN WEISENMILLER: Okay. Thank you. Mr. Wheatland?

MR. WHEATLAND: Well, I was going to say that all of the points that have been raised have been addressed very well already in the briefs that you have reviewed and in the PMPDs so I don't feel compelled to provide a point-by-point response. I certainly would be happy to address any questions that you would have. There are just two things that I wanted to touch on very briefly.

I wanted to agree with Ms. Sommer with respect to one issue. She had pointed out that portions of the PMPD that where the staff had (inaudible) that the project would be in compliance with the Federal Endangered Species Act. That opinion is perspective but yesterday the biological opinion was issued with respect to this project, finding that the project is in compliance with the Federal Endangered Species Act so now that has been satisfied. And I also wanted to address, very briefly, the concerns that Mr. Groover raised. That he said that Mountain House Services District was never contacted with respect to this proceeding. For the benefit of

the Commissioners who were not here at the beginning of this process, at the very first informational hearing and site visit, the Mountain House Community Services District was in fact notified of this proceeding and did attend the very first informational hearing. And they engaged in a dialogue with Commissioner Levin at that time that's part of the record of the pre-hearing transcript. The transcript of that hearing with Commissioner Levin where she did invite them to participate. She welcomed their participation. She urged them to contact the Commission staff and she invited them to file a petition for the right to intervene, which they did. They have participated fully in almost all of this proceeding from the first informational hearing as interveners. So the rights and the notices and the opportunities to participate that they have had as interveners have been greater than those that would be enjoyed as a responsible agency. I don't believe they are a responsible agency because they don't, under CEQA, that's defined as an agency that would issue a discretionary permit. But whether they're a responsible agency or not, the fact is that the Commission afforded them a full opportunity to participate. It was their choice not to issue data

requests. It was their choice not to introduce testimony. But it's not for lack of the Commission trying. They gave them every opportunity. I'd be happy to answer other questions on any points you'd like me to address.

CHAIRMAN WEISENMILLER: Staff, do you have any—

MS. WILLIS: Just a few additions to what Mr. Wheatland just said. We did address the Mountain House Community Services District's comment that they were not included in the process in our reply brief. Because that was the first time that we had ever heard that comment. The fact was that they were included in the initial agency list. They were granted intervener status in December of 2009. The staff sent the letter requesting agency comments on the staff assessment to them on November 10, 2010. As Mr. Wheatland said, Mr. Groover and or Mr. Lamb attended every meeting, workshop, all of the pre-hearing conferences, the evidentiary hearings. They did send one comment on the staff assessment and it was a letter that included an attachment from the Tracy Fire South County Fire Authority confirming Alameda County has a mutual aid agreement with Tracey Rural Fire Protection Agreement. And that the Mountain House Community Service District

would (inaudible) the impact, if any, for the delivery of emergency response to MEP. Although they never asked staff to respond to that comment, it was just basically a comment, during a subsequent workshop Mr. Sarvey brought a representative from Tracy Rural Fire to address any potential impacts to the fire safety services and the applicant and Tracy Rural worked out a condition of certification that included a payment of $70,000 to the Tracy Rural Fire. Finally, in Mr. Groover's pre-hearing conference, he indicated that there were no topic areas that remained in dispute and required adjudication so we were very confused by the comment that was in their opening brief and the comment today but we have—I think that staff did an excellent job in reaching out to the Mountain House Community and all of the agencies that you can tell they were three different counties and many agencies involved.

CHAIRMAN WEISENMILLER: Thank you. Mr. Celli?

MR. CELLI: Depending on the needs of the Commission, as I look at my list of points made by each of the commenters today – the alternatives issue, the fact that gas only was used. These were all addressed in the PMPD or the errata and I can give you

as much detail on any particular item that you want. I would say that the photo that was talked about by Mr. Sarvey, which is in evidence, the context of it—there was no verbal evidence or description of what its use or what its context was so that is extra record there.

With regard to the Williamson act, there is findings of no limitations on power plants. We've heard from the Alameda County themselves. The same with Measure D. With regard to the NOTAM, that issue was addressed both in the errata and in the PMPD. It's a requirement-it's not a requirement but it's a request by the FAA that there be an application for the NOTAM and that's the requirement of the addition. The issue has to do with what the FAA does with the application is outside the jurisdiction of the Energy Commission. The testimony was that the pilots did fly through the plumes, not astride them 500 feet. They actually flew through the plumes. As to the census data concern, the guidelines require the most recent census data to be relied upon in an EJ analysis. Unfortunately in this case, since this case came up in 2009, the most recent census was 2000. Before the inception of the Mountain House Community which came into being at 2003. However, the Committee I think,

astutely determined that in light of the evidence that we had, rather than just relay on the census they would find that this was an EJ community for the purposes of the analysis just because it was that close of a call.

I just want to make these points. We did receive comments from Mountain House Community residents who said we do not agree with these Mountain House people who are opposing the project. As to the finding number 15 raised by Mr. Wilson, the finding-I just want you to know-the finding is a summation of the analysis that comes before the section. And the analysis is on page 15, explaining how the FAA made the no hazard determinations.

CHAIRMAN WEISENMILLER: Actually, Mr. Celli. Let me ask a couple of questions to try to focus it. The first thing I wanted to do just in terms of the photo, I was going to ask the Executive Director to pass this along to Paul Canon who’s the Executive Director of the PUC and help Mr. Sarvey if necessary and contact him and explain this information so that it can be considered in the PUC gas proceedings.

MS. JONES: Yes, I will do that. I will contact Mr. Canon and get some additional information from Mr. Sarvey.

CHAIRMAN WEISENMILLER: And certainly the ratepayer concerns of the PUC. I think in terms of the next question I wanted to ask of Mr. Celli or Mr. Levy is the question of the environmental justice analysis. The allegations that the case is deficient in any rate.

MR. CELLI: Yes, the guidelines require that the—and I believe that staff has some witnesses here but we took plenty of testimony that said the NEPA guidelines say that if you are to engage in an environmental justice analysis the only credible source of information with regard to the number of actual populations and racial makeup of those populations is the census. So the census was relied upon. The staff and applicant relied on the letter of the law and fulfilled the letter of the law by relying on the census from the 2000 census. As we said though, Mountain House as a community sold its first house in 2003. It is now a community of some 9-10,000 people. SO it’s the largest community in the area. The evidence that we received from Jas Singh, who is one of the interveners, was a summary map that showed the racial makeup by zip code. This zip code included a much larger area than Mountain House. It included parts of Tracy. But we used it because it showed there

was something like a 54 percent non white population in that area. So the Committee determined that this is old information, this is a community that didn't exist in 2000 so we will rely on this information because in the end the question is is it or is it not an environmental justice community. So the Committee found that it was.

CHAIRMAN WEISENMILLER: Mr. Levy, anything you want to add to that?

MR. LEVY: Sure, just to supplement. If it's environmental justice community what you're looking at is whether or not there's an high-end adverse impact, aka a significant adverse impact that disproportionally affects the EJ community. In terms of the evidence, what was proven out, I'd have to differ to the Committee and the hearing officer about what was worn out in the proceeding. That's what the avenues are. We're subject to state and federal policies on environmental justice and we do that largely through our CEQA process. And in the end the determination was that there were no impacts on any community.

COMMISSIONER PETERMAN: One follow up on the EJ. There was also a comment raised about lack of interpreters or information in different languages.

Can you comment on that?

MR. CELLI: Thank you. Yes, Commissioner Peterman. We received evidence that the Mountain House Community had an overwhelming majority of English speaking people. And that we received demographic information to show that English was spoken in like 80 percent of the houses of Mountain House. That the income level—the average income—the mean income was $100,000 in the area. So these are highly educated people in the Mountain House area. We had a huge response. The outreach was quite successful, I would say. We had a lot of interest throughout. But just to answer your question, there was a late request for things to be translated into other languages and at that time the Committee made a determination that it just wasn't economically feasible. It was too late in the process. It was in the middle of our evidentiary hearings.

COMMISSIONER DOUGLAS: I'll just add that there was a request at a hearing and it essentially would have required stopping the hearing, reconvening another day with not one but multiple interpreters speaking in multiple languages. There was also a request to translate all documents into multiple, mostly Asian languages, but many, many of them. The

Commission tries to be able to accommodate these requests. I was—I have been in one other hearing where we've had Spanish translation. It's never out of the question but nor is it required. This was a late request that was huge in scope. To translate every document in the record into multiple languages would take a very, very long time and be quite expensive. We decided that it would not be necessary. It's always good to be able to accommodate these requests but given the timing and the nature of the request, it wasn't really feasible.

CHAIRMAN WEISENMILLER: Thank you. I guess the other was I'd ask Ken to address was the motion for reconsideration.

MR. LEVY: Yes. There was a motion for reconsideration that was a rather confused motion because it was brought to the Commission for a reconsideration of a Committee decision. The Committee's decision was not to subpoena PG&E. Let me step back and give you a little more background. The motion was brought at about 7:30 at night on the third and last day of our evidentiary hearings for a representative from PG&E to come and testify. Mr. Galati, who represents PG&E, came. We asked and he stated that he would resist those efforts and so at

that time the motion was denied, I believed, on the 7th of March which was the date of our last hearing. A subsequent motion for reconsideration went to the Commission to reconsider the Committee's decision and that was sent up to Chief Counsel's office, pursuant to our procedures, and the determination I believe was that it was going to be denied by the expiration of time.

CHAIRMAN WEISENMILLER: The last point that I was going to raise was one of the issues the Sierra Club raised was the greenhouse gas issue and renewable integration. I would note that I've testified on these sorts of issues a hundred times before the PUC or this Commission or FERC. Certainly been deemed an expert witness on those. I was one of the authors of the Energy Commission's study on Greenhouse Gas Analysis and looked at the issues of renewable integration and was appointed by the Bankruptcy Court in New York as an expert in power issues. So certainly, I'm convinced that this type of unit is going to be—first, I'm very, very, very committed to the development of renewables in this state and determined to meet or exceed the Governor's goals. Having said that, I understand the role of this type of asset to really deal with renewable integration. I

would note that I was at the Cal ISO a couple of weeks ago and they had pointed to the maximum—we've reached the maximum amount of wind in California at 2,400 megawatts in one day. But in that day, within an hour, the wind generation dropped by 800 megawatts and in another hour, it went up 800 megawatts. So there's a lot of vitality to wind. We've had a number of workshops the IEPR certainly encourages people to go into that but again I'm pretty comfortable based upon my professional judgment that we need this unit.

Other Commissioners have questions or comments?

COMMISSIONER PETERMAN: I was only going to make the comment that Chair Weisenmiller made more eloquently and with more expert background of the value of natural gas asset in terms of thinking about renewable integration. That we are continuing to look at what level of support is needed for renewables and just to clarify that we are thinking about other technologies but that this is an important one to think about in that context.

COMMISSIONER DOUGLAS: Thank you Commissioners. I wanted to make a couple of closing comments and address a couple of issues that were raised. First of all, as you can see this was a

controversial power plant proposal and there were a lot of parties and a lot of arguments and the Committee spent many, many hours in hearings going through the issues that were litigated. The Committee did look at the pipeline safety issue. We looked not only if the interconnection would be safe but also whether the power plant itself would have any negative impact on the pipeline 002 so we looked at interconnection and whether cycling of the power plant would affect safety of the line. What we did not do, and what the interveners wished us to do, was hold hearings on the safety of the line itself. We decided it was outside of the scope of the analysis that we were going to do to look at the line itself but we would look at the power plant, the interconnection and whether the fact of a power plant being proposed would cause a danger being its interconnection to the line. We did look at the line in the sense that we have evidence that the gas line is one of the newer lines. That is was built after federal regulations over pipeline safety were very significantly strengthened so we did do that, get that level of evidence before we scoped our hearings. I would have preferred if PG&E been able to, been willing to testify. We'll have to talk to PG&E more but we believe that we had

enough evidence on the pipeline safety issue. Let's see what else. You've heard a lot of argument and responses to that are laid out in the PMPD so if you don't have questions, I won't go through specific issues that were raised.

CHAIRMAN WEISENMILLER: Okay. I think I'm okay on that. I would note that obviously as the one who raised the pipeline issue, we have—PUC is doing a very thorough investigation. We've looked at a piece of the puzzle. Certainly, I will call everyone's attention to the expert panel's report which is coming out in the first week of June. There is a record being developed. We wanted to make sure that we addressed these issues but at the same time, have a very strong desire not to duplicate the record at the PUC.

COMMISSIONER DOUGLAS: Thank you, Chairman Weisenmiller. I'll just make a few more brief comments. There were a lot of members of the public, in addition to the interveners, there were a lot of members of the public who testified or who made comment in our proceeding. A lot of people raised the ratepayer concern, the question of whether this plant was needed, the question of if they might be paying for a plant that didn't actually run very much. Those

questions we deferred to the PUC on. The PUC is dealing with this issue and the ratepayer effects are squarely in their jurisdiction. The question about AB 32 and the fact that there was this community there standing up, person after person saying we'll put a solar panel on every roof in Mountain House instead of having this project was something that caused me to have a good deal of sympathy for this community. At least we have over a 100 people show up over multiple nights saying that they did not want the project. And there were people who live in a community where they have to drive 10 miles to go to the grocery store, they've got to drive hours to get to work. So it's a commuter community. It's hard probably for anyone to carve time out of their life and come to a public hearing but for this community I think it was particularly hard so I think for everyone that made it, there were many more who did not make it who probably shared those sentiments. And I think that I had additional sympathy just for their frustration that as we look at mitigation—Yes, thank you applicant. They did provide additional mitigation to the San Joaquin Air District to address air issues but if you look at the school impact, that by statute goes to the county in which the project's located so the

school impact fee goes to Alameda County so when the people of Mountain House sort of stand up and say maybe you've convinced me that maybe the power plant isn't going to kill me because the evidence showed that somebody could basically live on the site from birth to 70 years and not have a significant health impact. But you haven't convinced me that it's not going to make it harder for me to sell my house and I'm underwater and we're trying to build this community. We heard literally hours of those concerns and layered on top of that AB 32. I'm convinced that this is not going to harm the health of the people in Mountain House. The additional mitigation that's going to take place in the San Joaquin Air District is certainly going to help. Part of me wishes that something could have been done for Mountain House schools but it's not under our CEQA review. There were no significant impacts. There was an EJ community but there were not impacts and if there are no impacts then there are no impacts on the community. It's not something that we could require.

On AB 32, I think that we need to do a better job of communicating to people about how we think the system needs to look for us to meet our 2050 greenhouse gas goals because every time something's

proposed that people don't like, they talk about solar panels. Instead of this transmission line, we'll do solar panels. Instead of this power plant, we'll do solar panels. Instead of renewable energy in the desert, why don't we do more solar panels.

I'm quite serious about that last point. I spent yesterday dealing with and working with desert stakeholders, local governments, environmental groups and others and you talk about how much energy development you might need in the desert to meet our AB 32 goals and they look like deer in the headlights. We have to sprint on solar panels but it's not an alternative to everything. Somehow we have to meet our AB 32 goals and make the system work. I share Commissioner Weisenmiller's belief that peaking power plants are part of that solution. I also don't believe that we have too many of them given the renewable scenarios that we could be looking at which could be significantly above 50 percent and maybe even closer to 100 percent to meet our 2050 climate goals. I recommend this plant to the Commission for approval and I will move Item 16.

MR. CELLI: And the errata—

COMMISSIONER DOUGLAS: And the errata.

MR. CELLI: Dated May 17.

COMMISSIONER DOUGLAS: Move Item 16 and the errata dated May 17.

COMMISSIONER PETERMAN: I'll second the motion.

CHAIRMAN WEISENMILLER: All in favor?

(Ayes.) This passed unanimously. Thank you.

MR. CURRY: If I could just take one brief minute on behalf of our entire team. Thank you for the decision today and also wanted to thank staff for their hard work and professionalism on this. We're going to be good neighbors in that community and we're going to be good stewards of that local community and good stewards of the environment. Thank you.

CHAIRMAN WEISENMILLER: Thanks. Okay. Next item on the agenda is Chief Counsel, Commission Committee Presentation and Discussions.

COMMISSIONER DOUGLAS: I should report out that yesterday I went to the first of a two-day stakeholder meeting for the Desert Renewable Energy Conservation Plant. I went with Deputy Director Sylvia Bender and we presented a very, very simple and simplified calculator that can help people understand what level of renewable energy we might need in the desert to meet our AB 32 climate goals. I think the

discussion was-we were very careful to say that this shouldn't be used to project, this shouldn't be used to forecast. This is literally just we're trying to help people understand how to—how we might—various ways we might meet our AB 32 goals of an 80 percent reduction of greenhouse gases in the electricity sector by 2050 and keep the lights on. The discussion was helpful. I think we're going to be moving forward to talk more concretely about development areas and conservation strategy which we discussed but we need to work on in more detail to make the DRECP work but I was particularly pleased that the Bureau of Land Management announced that it would be working—that it would be bringing much closer together its land use amendments in the DRECP so that they would be ideally one joint environmental review document and that will speed up considerably the effective date of the DRECP.

CHAIRMAN WEISENMILLER: Great. Chief Counsel's report?

MR. LEVY: Thank you. I have no report this afternoon.

CHAIRMAN WEISENMILLER: Executive Director's report?

MS. JONES: I have no report today, thank you.

CHAIRMAN WEISENMILLER: Public advisor's report?

MS. JENNINGS: I have no report, thank you.

CHAIRMAN WEISENMILLER: Public comment? This meeting is adjourned.

(Whereupon, at 2:09 p.m., the business meeting was adjourned.)

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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 8th day of June, 2011.

Peter Petty

PETER PETTY
CER**D-493
Notary Public