

Commissioners Present

Robert B. Weisenmiller, Chairperson
Karen Douglas
J. Andrew McAllister
Janea S. Scott

Staff Present:

Rob Oglesby, Executive Director
Michael Levy, Chief Counsel
Alana Mathews, Public Advisor
Harriet Kallemeyn, Secretariat
Pippin Brehler, Senior Staff Counsel
Jared Babula, Staff Counsel

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Martha Brook	3, 4
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Also Present

Interested Parties (* Via WebEx)

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*George Nesbitt	3, 4
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P R O C E E D I N G S

SEPTEMBER 11, 2013 10:00 a.m.

CHAIRPERSON WEISENMILLER: Oh, let's start the Business Meeting with the Pledge of Allegiance.

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

CHAIRPERSON WEISENMILLER: Good morning. Obviously, our Business Meeting is on 9/11. And this week also the other anniversary was -- on Monday was San Bruno three years.

So, I thought it would be appropriate to start with a minute of silence for the victims of both of those.

Okay, let's go back to the consent items. I'll just go back to the Business Meetings.

Yeah, I was going to say first on the consent items, first I'm going to hold Item Number h, okay.

COMMISSIONER MC ALLISTER: So, I just do not have to recuse on anything at this meeting but I wanted to do what -- given that the UC system is involved in lots of things across the State this will be relatively common, I think. But on Items 1.b, 9.a, 9.b and 9.c I just want to disclose that my wife is a faculty member at UC Davis King Hall School of Law.

And none of the items we're voting on today have

1 to do with King Hall, so I'm not recusing myself, but just
2 by way of disclosure wanted to make that clear.

3 CHAIRPERSON WEISENMILLER: Thank you.

4 A motion?

5 COMMISSIONER MC ALLISTER: I'll move the consent
6 agenda, Item 1.

7 COMMISSIONER DOUGLAS: Second.

8 CHAIRPERSON WEISENMILLER: Okay, all those in
9 favor?

10 (Ayes)

11 CHAIRPERSON WEISENMILLER: The consent calendar,
12 except for Item h is moved unanimously.

13 Item 2, no items today.

14 So, let's go on to Item 3. This is the 2013
15 Public Domain Residential Compliance Software. And we'll
16 have a presentation that covers both 3 and 4, although we
17 will vote separately on Items 3 and Items 4.

18 So with that, Martha Brooks.

19 MS. BROOK: Good morning Commissioners. We're
20 here today to seek approval of the 2013 Standards and
21 Compliance Software, both the tool for residential
22 buildings and the tool for nonresidential buildings.

23 And, hopefully, this will work.

24 So, what I'd like to do is provide you with a
25 little bit of background in terms of public domain

1 compliance software, which is the topic of these agenda
2 items.

3 I'll briefly explain the vision we had going
4 forward for these projects and then explain to you the
5 details of the status and efforts going forward.

6 So, first of all, for background public domain
7 software is required by the Warren/Alquist Act to be
8 delivered by the Energy Commission for the purposes of the
9 Buildings Energy Efficiency Standards.

10 Public domain software is needed to estimate the
11 energy use of buildings considering the aspects of Title
12 24, Part 6 and Title 24, Part 11.

13 This software needs to be able to estimate the
14 energy use for building envelope, space heating, cooling,
15 lighting, ventilation, water heating and some process loads
16 in buildings.

17 It's used during the standards development
18 process to understand the impact of proposed changes.

19 Public domain software is also needed to
20 implement the performance compliance approach which is
21 specified in the standards. And this is actually what
22 we're asking for your approval on today is this second
23 need.

24 This compliance software needs to model the
25 performance of building designs using the building energy

1 simulation tools which produce hourly energy estimates,
2 some to annual building energy budgets and proposed
3 building energy budget as compared to a standard design,
4 which is basically that same building that meets the
5 prescriptive requirements of our standards.

6 Public domain software, you know, what does that
7 mean? What does that term mean?

8 It's Energy Commission staffs' opinion that
9 public domain software needs to be available to the public
10 for its intended use at no or low cost.

11 The public needs to have access to the source
12 code for development of derivative works.

13 So, because we're providing this public domain
14 software there are, actually, many things that could be
15 done with it outside of the limited compliance use that
16 we're responsible for. And so, public domain software
17 should have the ability to provide that leverage for
18 private parties to innovate with.

19 Access to all data, logic and code is necessary
20 to understand, review and critique the implementation of
21 the performance compliance approach.

22 And the other important, you know, thing that we
23 need to remember is that public domain software will always
24 be limited based on the available public resources.

25 So, that means that we need to focus our limited

1 resources on the essential parts of the software and really
2 think about a system that -- where we can start to build
3 public and private partnerships.

4 The current issues that we have with probably the
5 last 15 years of our provision of public domain software is
6 that we've been constrained by the type of software
7 licenses that we obtain for the public domain software.

8 So, we've had limited licenses to distribute only
9 proprietary software. We don't own the software that we
10 use now and have used for the last 15 years, which means
11 that we have no ability to fix bugs or update the software
12 without ongoing, noncompetitive contracting.

13 And we have no ability for the technical staff of
14 the Energy Commission to contribute to the software updates
15 needed for standards development or other building science
16 research.

17 There's a very constrained ability for new,
18 third-party vendors to enter the compliance software
19 market. We've had the same two software vendors in the
20 residential compliance software market for the last 20 plus
21 years.

22 And though they've provided excellent service to
23 the industry there have been multiple organizations,
24 companies that have come to the Energy Commission wanting
25 to enter this market and have it -- the barriers to that

1 entry just insurmountable.

2 The other situation we have today is that there's
3 multiple interpretations of the rules for implementing the
4 performance compliance approach because third-party vendors
5 are actually making those interpretations, and then the
6 Energy Commission reviews and approves that software. And
7 it's virtually impossible to eliminate multiple
8 interpretations or to test the software to the extent
9 necessary to actually identify each and every possible
10 multiple interpretation.

11 Most importantly for our work going forward with
12 energy efficiency, the standard compliance tools are
13 completely separate from architectural and mechanical
14 design tools, especially in the nonres marketplace.

15 So that means that code compliance efforts are
16 not integrated in design practices. Typically, the design
17 process goes along using their own set of tools and then a
18 compliance analysis is done near the end of the process.

19 And this basically means that energy efficiency
20 decisions can only be incremental because most of the big
21 decisions have already been made. And any really
22 innovative changes are pretty much impossible.

23 So, finally, for our policy goals going forward
24 in the State we really need to update the underlying
25 building energy analysis tool within the compliance

1 software to include technologies and building practices
2 necessary to achieve zero net energy buildings.

3 The current residential building simulation
4 software has simplifying assumptions that limit the ability
5 to model solar gains, thermal mass, ventilation,
6 infiltration and HVAC system performance.

7 The current nonresidential building energy
8 simulation software has not been updated or supported for
9 over 15 years so there are many limitations to the modeling
10 envelope and mechanical building energy components.

11 So our vision going forward, in terms of like
12 where we were three years ago when we were thinking about
13 how to achieve where we are today, in terms of seeking your
14 approval for compliance software was to collaborate with
15 other publicly-funded entities to develop and update rule-
16 based building energy analysis software.

17 So, this diagram on the screen now sort of
18 identifies the core kind of blue -- blue-colored boxes is
19 what we are bringing forward today and what we've developed
20 over the last three years, which is a core set of software
21 tools to implement rule-based building energy analysis.

22 We've separated the rules engine from the
23 simulation engine on purpose so that there is, potentially,
24 more innovation available to third-party vendors.

25 So, for example, if a third-party vendor has a

1 really slick user interface with a lot of bells and
2 whistles, but they don't have compliance functionality in
3 their tool, they can hook into our software and provide
4 that compliance functionality within their design tool that
5 meets other needs for the marketplace.

6 And, similarly, there's the potential for the
7 rules engine and the reporting module to work with other
8 simulation engines. So, this will be explained more when
9 we get to the nonres details.

10 So, this modular rule-based software architecture
11 also allows for modifying performance compliance rules,
12 which is needed during the standards update cycle.

13 So, with this architecture we'll be able to
14 actually model standards updates that are proposed during
15 the pre-rulemaking activities for future updates during the
16 pre-rulemaking and rulemaking activities.

17 So, we won't have to wait, like we have in the
18 past for, really, determination of performance options to
19 offset prescriptive requirements.

20 Another key benefit of this architecture is that
21 it allows for multiple rules to be implemented without
22 recompiling or reprogramming source code.

23 So, for example, you can imagine a different rule
24 set for beyond-code programs, like our REACH Standards, or
25 Utility New Construction Programs.

1 National and international standards could use
2 this architecture to implement their own rules for
3 performance compliance. And you could even think of other
4 existing building policies, like a rating system could be
5 implemented with this architecture.

6 So, again, we think that this vision should
7 encourage integration of performance compliance and
8 architectural mechanical design tools, and we're also -- we
9 also see where if we stick to data exchange standards in
10 the industry then there's again this ability to facilitate
11 and streamline connections with this software architecture
12 with other tools.

13 And, finally, we think it's important to
14 distribute the software under an open source license. So,
15 the license that we're choosing for the software that we're
16 seeking approval for today is a very liberal open source
17 license, there's no obligation for derivative works to
18 contribute back to our software code base.

19 So, this really facilitates market adoption.
20 People can take our software and innovate, and really
21 benefit from the public investments we've made.

22 And there's no costs for access and use of the
23 CEC-funded software under the assumption that we've already
24 paid for it with public funds and, therefore, it's sort of
25 already been paid for.

1 So, our plan for 2013 software is to leverage all
2 appropriate public investments in building energy software
3 tools.

4 So, what we're doing for this set of software
5 tools is using a rule-based software architecture
6 originally developed in 1997 for ASHRE 90.1 Code
7 Compliance, funded by U.S. Department of Energy via the
8 Pacific Northwest National Laboratory.

9 We're using the same software architecture for
10 both residential and nonresidential compliance software
11 programs.

12 So this really allows us, going forward, to have
13 a really -- you know, a core set of support for the
14 software. We don't have to have a separate support team
15 for both software programs. And the ability to learn it,
16 and understand it, and leverage it is extended because of
17 this commonality between residential and nonresidential
18 tools.

19 We have a web-based report generator that's
20 separate from the analysis software. So, we're using the
21 same report generator for both the residential and
22 nonresidential compliance reporting.

23 We have better, more secure connections with HERS
24 and nonres registries going forward.

25 And we have the ability to generate third-party

1 reports for other purposes, for example utility incentive
2 programs.

3 And this is important because historically the
4 compliance software report, the compliance report has been
5 used for multiple purposes and there's always this urge to
6 change the compliance report to add information and to
7 change information. Not for compliance purposes, but for
8 other purposes beyond code compliance.

9 So, with this web-based report generator, that's
10 also open source, it allows anybody to generate a separate
11 report using the same results that come out of compliance
12 software.

13 COMMISSIONER MC ALLISTER: Who are those any
14 bodies?

15 MS. BROOK: Well, for example --

16 COMMISSIONER MC ALLISTER: Local jurisdictions,
17 things like that?

18 MS. BROOK: Local jurisdictions, utility
19 programs. You know, you can imagine there might be a LEAD
20 report that could come out of the nonresidential software,
21 for example.

22 And we do intend to distribute the software under
23 an open source license.

24 And we're naming the software for the 2013
25 software California Building Energy Code Compliance, or

1 CBECC. So, I'll be referring to CBECC Res and CBECC Com
2 for the two tools that I'll explain next.

3 So, the 2013 residential compliance software,
4 sort of a high level architecture here, everything in the
5 blue box we're naming the Compliance Manager.

6 That includes the rules engine, the report
7 generator, the simulation tool called CSE, standards for
8 California Stimulation Engine.

9 And we have a separate Title 24 domestic hot
10 water algorithm module.

11 So, all of that in the blue box is hooked to our
12 CBECC Res user interface and that is also how other third-
13 party vendors will hook into this compliance functionality.

14 We do require, for 2013, that all third-party
15 programs use this Compliance Manager to eliminate the
16 multiple interpretations of the performance compliance
17 approach.

18 We've already got -- we've been spending time
19 with one software vendor who's successfully done this
20 integration, and is now testing his software and getting it
21 ready for certification.

22 The California Simulation Engine is an energy
23 analysis engine focused on residential construction in
24 California. It was co-funded by the Energy Commission,
25 including PIER, and the California Investor-Owned

1 Utilities' Codes and Standards Program.

2 It focuses on building envelope heat and mass
3 transfer, and the impact of heating and cooling systems
4 from typical California constructions, for example ducts
5 and hot attics.

6 It incorporates best in class building energy
7 modeling. We are using a Windows algorithm from ASHRE. We
8 have a new Air Flow Network Model to account for natural
9 ventilation, mechanical ventilation and infiltration.

10 We have a detailed Attic and Crawl Space Model.
11 We have a brand-new Heat Pump Model that accounts for the
12 climate specific benefits and limitations of this
13 technology.

14 We also have a Water Heating System Model named
15 Title 24 DHW, developed and supported by Energy Commission
16 staff. And it includes new, more detailed modeling of
17 multi-family recirculation systems.

18 The version of the software that we're seeking
19 approval from you today is only for newly constructed
20 homes, single family and low rise multi-family, with
21 conventional building construction materials, conventional
22 and ventilated cooling, heating and cooling systems, and
23 good coverage of water heating system options.

24 It passes a suite of tests designed to check that
25 the performance compliance rules are implemented correctly.

1 The test results are publicly available on our website.

2 And the Compliance Manager software is also fully
3 operational. And as I said, third-party vendor support is
4 ongoing.

5 The CBECC Res software installation includes a
6 quick start guide which opens upon successful installation.
7 And it includes instructions for reporting issues, reusing
8 a Google code site process for logging issues with the
9 software. We've been doing this within the project team
10 for the full development cycle of the software and now
11 we're opening up the issues process to the public. So that
12 if there's a problem that they find with the software,
13 we'll be able to really support that well and resolve it
14 quickly.

15 The installation also includes a user's manual
16 and detailed example files to get people started with the
17 new software.

18 For the 2013 Nonresidential Compliance software
19 we have a similar high level architecture. In this case
20 the Compliance Manager can be used by third-party software,
21 but it's not required to be used.

22 And this is typically because Energy Plus is
23 still relatively new in terms of compliance analysis. And
24 there are also innovative building energy analysis tools in
25 the nonresidential market that we don't want to eliminate

1 from joining us and being able to do compliance processing.

2 MR. BREHLER: And we should also note for the
3 record and for the audience that this presentation, if it
4 hasn't already been posted to the backup materials, will be
5 for the record. And that way these diagrams and things --
6 we'll know what we're talking about later.

7 MS. BROOK: Okay, thank you.

8 Energy Plus is an energy analysis engine focused
9 on commercial buildings. It's supported by U.S. Department
10 of Energy over the last 15 years, including the
11 prioritization of U.S. Department of Energy to focus on the
12 work needed in Energy Plus to facilitate our adoption of
13 the 2013 standards of this energy analysis tool.

14 It includes contributes from PIER-funded research
15 and development for several technologies applicable to
16 California climates, including natural ventilation
17 modeling, displacement ventilation, under-floor air
18 distribution modeling, and evaporative cooling modeling.
19 And it is distributed under an open source license.

20 We're also using Open Studio as a layer on top of
21 Energy Plus. It's also developed by U.S. Department of
22 Energy through the National Renewable Energy Laboratory.
23 It's used to complete the Building Energy Model
24 translations between our rules engine and Energy Plus. And
25 so it spawns Energy Plus simulations and retrieves results.

19

1 And it's also distributed under an open source license.

2 For water heating systems we're using Energy Plus
3 for simple systems and the same Title 24 DHW module for
4 central systems that is in the CBECC Res tool.

5 One fundamental thing that we've established for
6 CBECC Com is because we have limited resources and we
7 didn't feel that public resources should be spend on a
8 slick and glossy interface we're trying to use, you know,
9 best practice workflow technology in terms of data exchange
10 standards to allow geometry, which is the hardest thing to
11 describe in a building energy simulation tool, to be
12 imported from other architectural and design tools.

13 So, we're using Green Building XML which, again,
14 a first version was co-funded by PIER 13 years ago, and
15 that's continued to thrive in the marketplace and has
16 become the industry standard for geometry data exchange.

17 So, we're using that process to get geometry into
18 CBECC Com.

19 You can also do it the hard way. We have the
20 interface capabilities for you to -- you know, for every
21 wall and window to define the dimensions the old-fashioned
22 way. But we think this work flow will be adopted widely.

23 COMMISSIONER MC ALLISTER: So, Martha, just to be
24 clear, so long-time users of Energy Plus may actually do it
25 that way, the old-fashioned way, right, or the long-time

1 users of sort of the core software that this would be
2 layered onto or used with.

3 MS. BROOK: It really depends. Most of the
4 mechanical design tools that are partnering with us to
5 integrate the compliance functionality already have their
6 own -- either they import geometry into their tool and then
7 can pass it along to the compliance processing piece, or
8 they have their own innovative way to enter geometry. And
9 again, as long as they use that data exchange standard that
10 will work for this, also.

11 COMMISSIONER MC ALLISTER: Good. Okay, thanks.

12 MS. BROOK: The first version of CBECC Com that
13 we're asking approval on today is, again, only for newly
14 constructed buildings. It covers the most common heating,
15 and cooling, and ventilation systems for nonresidential
16 buildings. It supports the full range of expected envelope
17 constructions. There is multiple compliance approaches for
18 indoor lighting supported.

19 But the current first version would not include
20 water heating or daylighting in the performance budget and
21 so those two items would need to be complied with
22 prescriptively.

23 The first version of the software passes two
24 suites of tests. The test designed to check that the
25 performance compliance rules are implemented correctly and

1 tests designed to check that the underlying energy analyses
2 are relatively accurate.

3 And again, these tests are publicly available on
4 the Energy Commission Website.

5 MR. BREHLER: And those are part of the backup
6 materials showing that the software meets the standards.

7 MS. BROOK: Uh-hum. Thank you.

8 CBECC Com software installation also includes the
9 same three things, a quick start guide, including
10 instructions for reporting issues, a detailed user's manual
11 and example files.

12 Ongoing CBECC activities, we're focusing over the
13 next three months to complete additions and alternations
14 performance approach for CBECC Res and add additional
15 construction materials and assemblies to the capabilities
16 list.

17 For CBECC Com we're going to complete water
18 heating very quickly and also add HVAC system types and
19 control options, daylighting controls, and makes sure that
20 it works for additions and alterations.

21 We've also committed to providing a simplified
22 tradeoff approach for roof replacements within that CBECC
23 Com tool.

24 For both the tools we're continuing to support
25 third-party compliance software vendors. We're planning

1 to release source code under an open source license by
2 January. And we're committed to providing support to HERS
3 providers and building departments to improve the
4 compliance reporting, if necessary.

5 And kind of the long-term view for this suite of
6 tools is to continue to improve it over time. We have the
7 ability, now, and the resources allocated to have ongoing
8 fixes of any bugs that occur, and provide vendor support,
9 add functionality, and consider new compliance options.

10 For the 2016 standards we will modify the rule
11 set and other components to analyze the impacts of the
12 standards. And our plan is to update this during the
13 rulemaking, as I had previously said.

14 We also have a project starting with the
15 California Joint Utilities, Southern California Edison,
16 Pacific Gas & Electric, San Diego Gas & Electric and SMUD
17 are working together to develop full building energy
18 analysis tools for their Savings by Design and other
19 calculated incentive programs. And they're planning to use
20 this CBECC architecture in their work going forward.

21 They also have interests from national and
22 international code bodies to take advantage of this
23 software architecture.

24 The U.S. Department of Energy is planning to fund
25 a rule set for ASHRE 9.1, probably in the next year or so.

1 And India and Canada have also expressed interest
2 in this software architecture for nonresidential building
3 code compliance.

4 So, that concludes my presentation. We're here
5 to request approval for CBECC Res Version 1.0 and CBECC Com
6 Version 1.0 as the public domain computer programs required
7 by the Warren/Alquist Act under Public Resource Code
8 Section 25402.1(a).

9 The project lead for CBECC Res, Bruce Wilcox, is
10 here and I'm here. And I don't know what happened to
11 Dimitri. He was planning to be here. He's here. Okay,
12 good.

13 So, we're here to answer any questions that you
14 have at this time.

15 CHAIRPERSON WEISENMILLER: Thank you. Let's
16 first hear from the public. Let's start with Bob Raymer.

17 MR. RAYMER: Thank you, Mr. Chairman and
18 Commissioners. I'm Bob Raymer with the California Building
19 Industry Association.

20 I'd like to start off by saying we strongly
21 support approval of both of these programs today. And I
22 guess, through the Chair, if I could ask staff a question?

23 CHAIRPERSON WEISENMILLER: Sure, sure, go ahead.

24 MR. RAYMER: How do we go about getting our hands
25 on this, now? For example, how would a builder in Folsom

1 or a building official in Folsom gain access to this
2 program?

3 MS. BROOK: So, what we're planning to do is
4 there's a few things we have to button up in terms of --
5 like one of the requirements for the user's manual is to
6 get a resolution from the Commission that says that the
7 software is approved and that has to be placed into the
8 user's manual.

9 We have to do the final checks on all of the
10 security issues with the software. But we are planning to
11 do all that by the end of the week and have the software
12 posted at the project websites, with links from our
13 website, by the end of the week.

14 MR. RAYMER: Well, that's very timely because
15 every Monday we have sort of an e-Alert that goes out to
16 our 4,000 builder members and associate members.

17 And if possible, if you could provide me with the
18 content of that and whatever links are possible, we would
19 like to get the word out very quickly.

20 And the reason being, and I think this problem is
21 perhaps going to take care of itself, given the description
22 that we just had -- one of the biggest concerns I have in
23 the development of rulemakings in the future, we have for
24 the last 15 years been sort of at a disadvantage.

25 As we develop a set of regulations we have to use

1 the existing certified computer software. And while that
2 can get you in the ballpark, it's difficult to get a very
3 accurate picture.

4 But from the description that Martha just
5 provided it seems like as we approach the 2016 adoption
6 we'll actually have access to a somewhat accurate tool that
7 can help us.

8 So, unlike back in May of 2012, where we were
9 supporting a set of regs that we are now going to be able
10 to accurately figure out exactly we bought into, that won't
11 be the case down the road.

12 Now, one concern I'd like to point out --

13 CHAIRPERSON WEISENMILLER: Well, actually, just
14 one second.

15 MR. RAYMER: Sure.

16 CHAIRPERSON WEISENMILLER: Martha, would you say
17 "yes" on the record instead of just nodding?

18 MS. BROOK: Oh, yes.

19 MR. RAYMER: Let the record -- well, one concern
20 that we've had, and forgive me for those of you that, you
21 know, have heard this before. It would be best for
22 industry to have access to this, as well as the building
23 officials to have access to these tools about nine months
24 in advance of the effective date.

25 And if I could give you an example that's close

1 to us right now, while I've been contacted by four of our
2 largest production buildings, here in town Elliott Homes,
3 based out of Folsom. They've got three projects right now
4 going in in Folsom, one in Lincoln, and one in Rancho
5 Cordova.

6 All five of these are sort of in concert with
7 SMUD. They're doing their best to try to produce a zero
8 net energy home. And they're very close, from what I can
9 see, in at least three of those Folsom projects. They're
10 going to have a nice chunk of solar on.

11 But more importantly, they're going to have
12 probably about a 45 to 50 percent increase in stringency
13 above today's standards.

14 Okay, now, given that the new standards will take
15 us about 25 percent more stringent on a statewide basis,
16 they're clearly going to be in compliance with the new
17 standards.

18 Here's the problem. The local building
19 department, particularly in Folsom, doesn't have access to
20 the certified program to show compliance. They don't have
21 access to the certified documentation that is needed to
22 show compliance.

23 So, even though everybody's shaking their heads
24 going, Mr. Elliott, we understand your homes go way above
25 code, he can't submit plan check right now.

1 He's stuck. And so it's a very frustrating place
2 to be in. He can certainly submit under the current regs
3 but, obviously, he's going to be building out, now, the
4 economy's getting better. He's going to be building out
5 these homes for the next two to three years.

6 And so he would much rather submit under one set
7 of plan check design. In essence, he wants to comply early
8 with the new 2013 regulations. It's just for lack of the
9 certified program and for lack of the certified compliance
10 documentation he's unable to do that right now.

11 So, once again, it seems like you're hearing in
12 the right direction down the road. We just have to get
13 through this hiccup right now.

14 CHAIRPERSON WEISENMILLER: Now, Bob, one question
15 is obviously the good news is the resurgence of the housing
16 industry. Are there specific areas we could target or
17 focus our activities to try to help?

18 MR. RAYMER: Yes.

19 CHAIRPERSON WEISENMILLER: Or is this a statewide
20 phenomenon? I guess I'm trying to understand.

21 MR. RAYMER: I would have to say that we probably
22 have in the top ten of the production builders. For a
23 custom home this isn't an issue. You build to whatever is
24 in effect the day you submit your permit application.

25 But for these long-range projects I would have to

1 think that four builders come to mind. In addition to
2 Elliott, I've been contacted by KB Home, Lennar and Shea,
3 who also happen to be builders who are avidly using solar
4 right now, and so all of this works together.

5 To the extent that I can make contact, once I
6 have the information that Martha will be providing at the
7 end of the week, I can get in contact with their people
8 and, basically, we could all work together.

9 It will probably involve some kind of contact
10 between the CEC and local building departments.

11 But the local building departments just want to
12 hear from the regulatory agency all is well. And that will
13 be of enormous help.

14 But we'll cross that bridge over the next couple
15 of weeks. It's frustrating right now but it sounds like in
16 2016 you may well have this taken care of.

17 CHAIRPERSON WEISENMILLER: Right. And if there's
18 anything we can do to sort of deal with the bottlenecks,
19 now, certainly we'll commit to do that.

20 COMMISSIONER MC ALLISTER: Yes, I really
21 appreciate your coming, Bob. And, really, you know, I
22 think my overall interest here is making sure that the
23 marketplace has some predictability and consistency going
24 forward.

25 And, you know, I know that we're all taking this

1 extremely seriously. You can hear it in Martha's voice,
2 absolutely. And, you know, it's a big lift this time. You
3 know, frankly, we are refreshing this whole system and so
4 it is a particularly big lift. You know, the vision here
5 is fantastic and the execution to now I think has been
6 excellent on staff's part.

7 You know, certainly, with a quarter to go, or so,
8 a little more to January 1st, you know, definitely under
9 the gun. I think we all acknowledge that.

10 But if there are particular market issues that
11 you're aware, you know, that's the customer for all of this
12 is the building departments, and the builders, and the
13 folks who really use this thing day in and day out.

14 And going forward, you know, I think it's clear,
15 as Martha indicated, you know, this is a living process. I
16 mean this is open source software so it will improve over
17 time and that's to be expected. So, also just going
18 forward we have a path that is relatively clear.

19 And so your and your industry's feedback along
20 the way is really critical to just make it the best it can
21 be on an ongoing fashion, not just before January 1st. But
22 in the meantime we're definitely under the gun to get this
23 thing done.

24 And we want to just make sure that when you see a
25 flag that gets raised and you hear a concern that we hear

1 about it as quickly as possible, and can do our best to
2 solve it.

3 MR. RAYMER: Fantastic. And we appreciate that
4 and we'll definitely be taking you up on the offer to sort
5 of bring everybody together in the case of Folsom.

6 I'm meeting with the Folsom building official
7 Friday, along with the builders at issue here. And I'll be
8 informing them, of course, assuming that certification
9 happens today, that this is well on its way to being taken
10 care of. And we'll find the appropriate people to link up
11 with the staff, so thank you very much.

12 COMMISSIONER MC ALLISTER: I do want to -- at
13 some point, it doesn't have to be right now, but I just
14 want to make sure not to forget that, you know, Martha, if
15 you can describe at some point, and perhaps it will come up
16 in some of the other comments, but just what the
17 stakeholder input, and involvement, and engagement has been
18 up to now, you know, on each of the two tools. That would
19 be helpful to have, too.

20 MS. BROOK: Okay. So, did you want me to do that
21 now or later?

22 COMMISSIONER MC ALLISTER: Let's go ahead and do
23 public comment, yeah.

24 MS. BROOK: Okay.

25 CHAIRPERSON WEISENMILLER: We have at least two

1 more. So, Patrick.

2 MR. SPLITT: Good morning Commissioners and
3 everyone else. I basically just have one particular topic
4 that I want to talk about.

5 CHAIRPERSON WEISENMILLER: Actually, just for the
6 record, for our reporter would you introduce yourself
7 and --

8 MR. SPLITT: Patrick Splitt. I'm President of
9 App-Tech, Incorporated in Santa Cruz. We're energy
10 consultants and residential and mechanical designers.

11 CHAIRPERSON WEISENMILLER: Okay, thank you, yeah.

12 MR. SPLITT: Certainly. So, I sent a little
13 "miss" about a couple of days ago and it was basically
14 based on the latest beta version of the software that just
15 came out last Thursday, so that's why you just got this, I
16 just got the software.

17 I'm particularly interested, in my area, Coastal
18 California, we don't have production builders. All the
19 homes are considered custom homes, even homes built by
20 Habitat for Humanity, they're all one-offs.

21 And in my area the zero net energy or low energy
22 homes don't use mechanical systems based on forced air
23 furnaces. The real low energy homes are all based on some
24 sort of a hydronic system, ground source heat pump, air to
25 water heat pumps, or mini-split heat pumps.

1 And I'm particularly interested in ground source
2 heat pumps and air to water heat pumps because I've been
3 working on that for three years.

4 And, currently, there's a method for modeling
5 those in residential standards so you can input, model EER
6 and COP. But as far as I've been able to determine the new
7 software you can't do that.

8 And in my paper I enumerated a bunch of problems.
9 One, you can't qualify for rebates and this is more
10 expensive equipment where you need the rebate to offset the
11 cost.

12 If you're going to a city like San Francisco,
13 that has a REACH Code, you have to be able to do
14 performance calculations to even get a building permit.

15 So, you can't tell somebody who's spent all this
16 money on this new, advanced, high-tech equipment that,
17 well, that's all very good but if you can't model it, we
18 can't give you a building permit.

19 So, there's a lot of problems. And I spoke to
20 Bruce about a year ago about this, and it seemed like it's
21 not -- it wouldn't be that difficult to actually do this,
22 get the ability to input COP and EER for combined hydronic
23 systems. And it has to happen or else there's just going
24 to be huge amount of problems.

25 It should happen by the end of the year, and it's

1 possible, but I don't know the workload. I'm sure Bruce is
2 going to say hmmm --

3 But in a practical matter, if it was available by
4 the end of January that would be soon enough.

5 MS. BROOK: Okay.

6 MR. SPLITT: Because what's going to happen in
7 residential construction, everybody who has a project that
8 they can possibly get even halfway together they're going
9 to submit for a permit in December.

10 Because it's not only the energy code that's
11 changing, all the codes are changing, so there's a huge
12 expense if they have to go over that line.

13 So, they're going to submit in December and then
14 they'll be all January going over the plan check comments
15 and finishing the plans that they really didn't finish.
16 So, there really won't be any new jobs coming in in
17 January, anyway.

18 So, if it was by the end of January that would
19 work. And it just has to happen.

20 CHAIRPERSON WEISENMILLER: Let me first ask
21 Martha and then Bruce to respond.

22 MS. BROOK: Okay, so I feel like I somehow like
23 set this up because I really like what Pat's saying.

24 So, one of the things that I did mention is that
25 we do have a brand-new heat pump model and one of the

1 things that it requires is additional metrics for
2 performance at two key outdoor air temperature settings.
3 And we actually have verified that the heat pump model
4 meets the national kind of comparative testing for that
5 technology. So, we're pretty confident that it's working
6 well.

7 But the problem with ground source heat pumps is
8 that it's not air temperature, it's ground temperature.
9 And, you know, we are working with the ground source heat
10 pump industry to kind of work through the performance
11 issues, and what metrics we need, and how they can be
12 verified so that we can get them into our performance
13 compliance approach because we agree and know the need to
14 do that for low energy buildings.

15 So, we think we -- we have the architecture to do
16 it. And what Pat is exemplifying is exactly one of the
17 benefits we hope to get out of this new architecture is
18 that we can work with industry and we can work with
19 stakeholders, together, to figure out how to model new
20 technologies so --

21 COMMISSIONER MC ALLISTER: Well, this was also --
22 you know, in the IEPR we had a heat pump workshop --

23 MS. BROOK: Right.

24 COMMISSIONER MC ALLISTER: I'm sorry, that was
25 geothermal heat pumps, I'm sorry. But we had -- you know,

35

1 we definitely -- in various industry categories we're
2 definitely -- this is a model for the Energy Commission to
3 really get it right.

4 MS. BROOK: Right, right, right.

5 COMMISSIONER MC ALLISTER: And so I think working
6 with industry to figure out what the technical strengths
7 are, are really important.

8 MS. BROOK: Right. And so the thing we have to
9 work out with Pat and others is that we actually do have
10 that simplified approach where you do some modifications of
11 an EER and a COP to get an HSPF or the other metric that
12 you need to model it.

13 COMMISSIONER MC ALLISTER: Yeah.

14 MS. BROOK: But we're really uncomfortable with
15 that. It just seems like that really isn't grounded in
16 true, you know, actual performance and we need to make sure
17 that we're treating ground source heat pumps the same way
18 we're treating every other technology.

19 COMMISSIONER MC ALLISTER: Right.

20 MS. BROOK: So, we just need to work through that
21 with Pat and others.

22 You know, I think that the architecture that we
23 have and the resources that we have available, there's a
24 good chance that we could do it within his time frame.

25 Now, in terms of the combined hydronic systems,

1 we do have the simplified combined hydronic implementation
2 already done.

3 And probably what Pat needs next is the -- if
4 you've got extensive pipe losses, we haven't integrated
5 that level of detail into our model, yet, but it's
6 certainly on our list.

7 So, I don't know, Bruce, did you want to add
8 anything?

9 MR. SPLITT: Well, let me just mention about the
10 combined hydronic. Right now, if I read the manual
11 correctly, the only way to do a combined hydronic with a
12 heat pump is to say it's a heat pump water heater, in which
13 case you need to input an energy factor.

14 MS. BROOK: Right.

15 MR. SPLITT: So, I want to be able enter EER and
16 COP just, you know --

17 MS. BROOK: Okay, so we'll have to work out those
18 details. I appreciate that.

19 So, I guess what you're witnessing in front of
20 your eyes, hopefully is, you know, the beginning of a
21 collaboration which is sort of the vision that we started
22 out with.

23 And the other thing I guess I would mention is
24 that nobody knows how to use the software, yet. So, we
25 have had one public webinar on the residential tool, but we

1 probably need to do another one or figure out maybe a
2 better, more streamlined way to record a webinar session,
3 or something, that's just available at all times for people
4 to have some sort of tutorial.

5 The user's manual is good but, you know, we can
6 continue to find ways to support the new users of the
7 software.

8 COMMISSIONER MC ALLISTER: So, I mean, I think
9 that in general -- well, all of the points you've mentioned
10 absolutely are right on and I think the process is very
11 important going forward, the collaborative nature, the
12 really sound, technical fundamentals that are in the core
13 tool, and then the ability to interface with the
14 marketplace to do the APIs and sort of let people use it
15 how they need to.

16 But, you know, I think the big thing on
17 everybody's mind is timing and just getting this done. And
18 so I think, you know, in previous Business Meetings and in
19 our briefings back and forth, and kind of just ongoing work
20 on this, you know, I think that's always front of mind,
21 that's always top of the mind with everybody is get it done
22 on time.

23 And if we have constraints, you know, trying to
24 overcome them.

25 And so, I think, you know, very much appreciate

1 the task at hand, for sure, but also we're pretty much on
2 the critical path and we've got to keep on the critical
3 path. So, I just want to make that clear as well.

4 So, really appreciate all of your effort on this,
5 Martha.

6 MR. SPLITT: Yeah, I just want to make one
7 comment to what Martha brought up is that I'm also more
8 involved with air to water heat pumps than with ground
9 source, so I'm mainly considering those.

10 And I'm right now working with the Appliance
11 Standards Group to try to implement a new standard, which
12 actually the Commission has already adopted as a reference
13 standard, HRI 5-5590 (phonetic) for air to water heat
14 pumps, and make that the standard for all air to water heat
15 pumps.

16 And that is an ANCI approved national standard
17 and it does test to both the 47 and the 17, so it will be
18 the numbers that you're looking for.

19 MS. BROOK: Great, great. Thank you, Pat.

20 MR. SPLITT: Okay, thank you.

21 CHAIRPERSON WEISENMILLER: Okay, thank you.

22 I don't believe there's anyone else in the room
23 with comments on this, but I believe we have George Nesbitt
24 on the line.

25 MR. NESBITT: Can you hear me?

1 CHAIRPERSON WEISENMILLER: Yes.

2 MR. NESBITT: Yes, George Nesbitt, Environmental
3 Design Build. I'm a building performance contractor, HERS
4 rater, energy consultant.

5 And I have supported the idea of having the core
6 calculation engine as a required part of any software from
7 the beginning because I am both a Micropath and an Energy
8 Pro user. And having inputted the same buildings into
9 those programs and having gotten different answers I find
10 very unacceptable.

11 Since code compliance, as well as above-code
12 compliance, and the rebates, and such things are calculated
13 off of the answer you get, one program may or may not give
14 you a better or worse answer, and sometimes it changes.

15 I have been reviewing the CBECC Res since late
16 May and June, and I have found it very easy to use. It's
17 very familiar, say, to people that use Energy Pro more than
18 Micropath, but it has the structure, a lot of the structure
19 of Micropath.

20 And so, hopefully, especially when we get to
21 existing-plus-alteration, hopefully, we'll have full
22 functionality to be able to alter every component.

23 The biggest problem I've had is the calculation
24 time. What used to take ten seconds can take four minutes.
25 And a larger, more complicated file takes even longer. Ten

40

1 minutes for the small, multi-family example, which is not a
2 very --

3 I am concerned about when we get to other
4 interfaces and whether those interfaces will work right
5 with the calculation engine, and whether we will maintain
6 full functionality in being able to use things.

7 I could use this tool as it is for basic
8 compliance. I'm going to probably -- I'm going to have to
9 use a different program in order to probably do utility
10 rebate programs, and all the other things, since that won't
11 be built in.

12 I don't think that the tool should be necessarily
13 free to the end-user, like me. I mean, that would
14 certainly -- it helps to sway -- in fact, I think it's
15 already swayed one person from staying in the market.

16 Obviously, we need the features that are not
17 functional, yet, to be added in, but I'm really happy
18 overall with what I've seen and played with.

19 Although, I just looked at the CF1R yesterday for
20 the first time and it's very hard to read. We definitely
21 need to work on output of a compliance form so it's easy to
22 read, it's clear what HERS measures are required.

23 You know, so thank you.

24 CHAIRPERSON WEISENMILLER: Thank you.

25 Okay, Commissioners any questions, comments?

1 COMMISSIONER MC ALLISTER: I have just a couple
2 more questions, a couple of comments.

3 So, just I wanted to highlight, you know, I'm not
4 sure whether the other Commissioners have all gotten
5 briefings on this. This is a highly technical -- a lot of
6 history behind this.

7 The progression here gets highly technical pretty
8 quick and does take some digging into.

9 So, you know, I wanted to just highlight the
10 benefits of the vision and sort of where we're going here,
11 in particular the keying off of some DOE tools. I think
12 that is really a great collaboration, you know, energy, the
13 DOE tools that open -- what is it?

14 MS. BROOK: Open Studio.

15 COMMISSIONER MC ALLISTER: Yeah, Open Studio,
16 Energy Plus. Those are long-term tools that are
17 acknowledged in the market, I think really accurate, could
18 really do what's needed. And our collaboration with DOE on
19 these tools I think just really -- it means that the Energy
20 Commission and California, in general, doesn't have to
21 reinvent another wheel and put State resources into this.
22 So, we can collaborate with existing tools, existing
23 stakeholders and we already just speak the same language
24 and we can move on from there and write the novel, right.

25 So, I think that's really key and it's very

1 different from some of the ways we've approached things in
2 the past.

3 And I want to credit, you know, Martha and staff,
4 and Dave's team for moving this direction in the very
5 forefront because I think it's very positive.

6 And so, for a long-term gain there's a little bit
7 of short-term trauma and so that just means that we're
8 inventing something that allows this progression to take
9 place.

10 And it's an investment that going forward is
11 really going to pay off in spades, I think, both with
12 better buildings and, also, you know, being able to have a
13 solid foundation to improve upon going forward.

14 So, the next code cycle won't look a lot like
15 this because we'll be improving where we've already gotten
16 to, which I think is worth noting.

17 I did want to just ask a couple of questions.
18 So, since it's open source how will the open source-ness be
19 managed, I guess? And by that I just mean sort of who --
20 you know, who do you anticipate would be taking it? You
21 know, how would potential modifications be suggested and
22 then vetted by staff, and sort of to improve it going
23 forward?

24 I guess, it's sort of a process question, really.

25 MS. BROOK: So, we don't have all the answers to

1 that, you know, but we have adopted a very liberal open
2 source license. So, we don't actually require --

3 COMMISSIONER MC ALLISTER: Right.

4 MS. BROOK: -- anybody to contribute back to the
5 code base. But, of course, if it's innovative and great we
6 would love them to do that.

7 COMMISSIONER MC ALLISTER: Yeah.

8 MS. BROOK: You know, we are using kind of best
9 in class kind of software management processes, you know,
10 with the Google code site. So, we will set up an open
11 source, you know, website that allows people to download it
12 at their will.

13 And we can use either -- well, I haven't really
14 thought this out in the long term but, you know, we could
15 definitely set up a collaborative process where there's
16 prioritization and suggestions made by interest parties on
17 the evolution of the code base.

18 COMMISSIONER MC ALLISTER: Uh-hum.

19 MS. BROOK: So, for example, there's always
20 decisions to make about whether we do ground source heat
21 pumps first or, you know, heat recovery first, or what are
22 the next advancements and that's certainly where a
23 collaborative body would be great.

24 So, at first we're planning that that would be
25 informal. If there is interest and a need to make that a

1 formal kind of advisory board for the software, you know,
2 architecture we could do that as well.

3 COMMISSIONER MC ALLISTER: I think that's a great
4 possibility for innovation and sort of tapping folks who
5 have good input, I think, is really important, so having a
6 forum there. So, I'd just encourage that after January.

7 And then, really, the other point I wanted to
8 make was just to -- you know, I definitely hear
9 stakeholders wanting to get their hands on this thing and
10 put it through its paces, like George just described. And,
11 you know, I guess I would invite you to just talk about
12 who -- sort of what that interaction with the marketplaces
13 already look like and sort of who's been -- who's had
14 touched on the res and nonres and kind of what feedback
15 we've already gotten.

16 Because I think we feel like we're in a very good
17 position, and we have a good tool, and that we're
18 definitely hitting the milestone today. Staff does, I
19 know.

20 And I think, you know, for somebody who doesn't
21 have all the details sort of you fill in with your own
22 ideas of what it might look like, and let's just try to
23 orient folks about where we're at sort of in the
24 interaction with the marketplace already to date.

25 MS. BROOK: Okay. So, we set up a Project

1 Advisory Committee for each of the software projects, for
2 both residential -- separate committees for both res and
3 nonres, so there was a lot of overlap in terms of
4 membership based on just the industry and the marketplace.

5 And, you know, we met with each of those groups
6 several times. And for the residential tool we've been
7 sharing beta versions of the software since around
8 February, the January/February timeframe.

9 And then we eventually, in July, did a public
10 beta version that had passed a set of tests that we felt
11 comfortable was ready for public review.

12 On the nonresidential tool we didn't get an
13 opportunity to do that beta testing so there's certainly a
14 little, you know, discomfort from the industry in that
15 regard. And we completely understand that.

16 But we also have the resources in place to
17 provide the support that they need from this day forward.

18 And Dimitri can speak about that, if he chooses
19 to.

20 But, you know, compliance software always has
21 bugs and always needs continued support and so we're not --
22 what gets approved today, if it gets approved today, is not
23 going to be perfect. There's going to be things that need
24 to be fixed.

25 And I think what we want to communicate to you is

1 that we have a plan, we have the resources, you know, in
2 place, and the commitment from a really great set of teams
3 that have really sunk their heart into this work, and
4 really have their reputations on the line to deliver. And
5 I think that that's going to go a long way to meeting
6 everybody's needs in the next three months and in the long
7 term.

8 Did you want to add anything to that, Dimitri?

9 MR. CONTOYANNIS: Yeah, also -- excuse me, this
10 is Dimitri Contoyannis from AEC, the lead on the
11 nonresidential software project.

12 Through our public -- or our Program Advisory
13 Committee we've also reached out to a number of the third-
14 party vendors and provided them with specifications on the
15 data exchange protocols, dating back to earlier this year,
16 in the February or March timeframe. So, we've shared the
17 specification of the XML file format and given them the
18 kind of path to start to develop inputs for the Compliance
19 Manager and the nonres tool.

20 Informally, we've had a number of demonstrations
21 of the software over the past few months with industry
22 groups, including local energy modeling -- IBPSA chapters,
23 and that's the International Building Performance
24 Simulation Association.

25 So, you know, they've been highly interested in

1 this project for quite some time, so we've had some in-
2 person and web demonstrations with them. We've had some
3 demonstrations, hands-on demonstrations with the IOUs, as
4 well, who are also part of our pack.

5 So, you know, people are definitely excited to
6 get their hands on the software and we're excited to get it
7 out there this week.

8 COMMISSIONER MC ALLISTER: Yeah, I can totally
9 understand their desire to see the software.

10 I'm really happy to learn another acronym. That
11 just makes my day.

12 (Laughter)

13 COMMISSIONER MC ALLISTER: Yeah, but this just
14 goes to show this is highly specialized stuff. And so, you
15 know, you've got to have the right people in the room.

16 And, you know, our customers are down there at
17 the local building departments and, really, they're going
18 to see all the output from this and have to approve these
19 projects. And I just want them to have faith that what
20 they're getting is certainly ready for live time but, you
21 know, but goes beyond -- you know, sort of meets and
22 exceeds their expectations with respect to how they use
23 their time and how they can execute their jobs.

24 So, anyway, we all need to keep those guys in
25 mind, and I know you are. I mean, we've had this

1 conversation a number of times.

2 But, you know, I'm trying to put some gravitas on
3 this and I know you feel personal and professional pressure
4 to get this done, but I think I just want the stakeholders
5 in the world, and the builders, and everybody to know that
6 we're really serious about getting a good product to them
7 on time.

8 MS. BROOK: The one thing we did do on the nonres
9 side is we spent a solid two weeks really seriously chewing
10 on the compliance report format.

11 We have very experienced staff here, at the
12 Commission, that have done plan review and also done energy
13 consulting, and on the AEC team we have that same
14 expertise. So, we basically just, you know, really
15 reviewed the compliance report.

16 Because the problem with the current compliance
17 reporting is that it's too much information. It's like
18 gobs of information and so you really have a hard time
19 figuring out what's useful in that gigantic dataset.

20 And so we've really, clearly articulated key
21 summary information that could support plan checking. And
22 then we also will be providing a very detailed building
23 report that can be used for -- you know, if needed but,
24 hopefully, won't be needed.

25 COMMISSIONER MC ALLISTER: Great. Okay, well

1 thanks. I've kind of exhausted my current questions and
2 want to pass it to any other Commissioners who have
3 questions or comments.

4 COMMISSIONER DOUGLAS: I just want to say I
5 appreciate the hard work on this. The compliance software
6 is really a critical point in the implementation of the
7 standards and so I thank you for bringing that to us. I
8 know it's been a heavy lift and I know it's been long
9 awaited by some of our stakeholders.

10 COMMISSIONER MC ALLISTER: So, I will move Item
11 3.

12 MR. BREHLER: Excuse me, Commissioners --

13 COMMISSIONER MC ALLISTER: Oh, I'm sorry.

14 MR. BREHLER: I'm sorry.

15 COMMISSIONER MC ALLISTER: Go ahead.

16 MR. BREHLER: This is Pippin Brehler, Senior
17 Attorney with the Commission.

18 Martha mentioned in her presentation that there
19 may be a requirement that there actually be a resolution
20 that gets published. And I have a one-paragraph resolution
21 to read into the record for you and then that -- and then
22 we will memorialize that.

23 And if you vote on that, we'll memorialize that
24 and just in an abundance of caution we'll have everything
25 covered.

1 COMMISSIONER MC ALLISTER: Okay, great. So,
2 yeah, go ahead.

3 MR. BREHLER: So, "The Energy Commission approves
4 the California Building Energy Code Compliance Residential,
5 or CBECC Res version 1.0 and California Building Energy
6 Code Compliance Commercial, or CBECC Com version 1.0 for
7 estimating energy consumed by residential and
8 nonresidential buildings, respectively, under Public
9 Resources Code Section 25402.1(a), and for demonstrating
10 compliance respectively with the residential and
11 nonresidential provisions of the 2013 Building Energy
12 Efficiency Standards, California Code of Regulations Title
13 24 Parts 1 and 6."

14 Thank you.

15 COMMISSIONER MC ALLISTER: Okay, great. Thanks
16 Pippin.

17 So, I want to just finalize by saying I'm really
18 excited about getting to this milestone. It's pretty huge.
19 And I know I've been putting the screws to you guys and I
20 apologize, but I think we all recognize that this is really
21 important.

22 But, really, it's a big step forward and I want
23 to just thank Martha and staff for all of their hard work
24 on this. It's really quite a bit deal and I think it's
25 really good for California and, you know, the contractors

1 that we've got on board, Bruce and AC (phonetic).

2 So, I will move Item 3 with the resolution.

3 MR. BREHLER: And Item 4.

4 COMMISSIONER MC ALLISTER: So, I think we're
5 voting separately on the two items, so we'll include the
6 resolution on both, I think.

7 MR. BREHLER: Excellent.

8 COMMISSIONER DOUGLAS: Second.

9 CHAIRPERSON WEISENMILLER: Okay, all those in
10 favor?

11 (Ayes)

12 CHAIRPERSON WEISENMILLER: Item 3 passed
13 unanimously.

14 Let's talk about Item 4.

15 COMMISSIONER MC ALLISTER: All right, so I'll
16 move Item 4 with the previously read resolution.

17 COMMISSIONER SCOTT: Second.

18 CHAIRPERSON WEISENMILLER: All those in favor?

19 (Ayes)

20 CHAIRPERSON WEISENMILLER: Item 4 also passed
21 unanimously.

22 Thank you, Martha.

23 MS. BROOK: Thank you very much.

24 CHAIRPERSON WEISENMILLER: Let's go to Item
25 Number 5, which is California Community Colleges

1 Chancellor's Office.

2 And this is an amendment to an existing contract,
3 600-08-009.

4 And this is an additional million dollars, and
5 this is ARFVTP funding. And Dave Nichols.

6 MR. NICHOLS: Good morning Chair, good morning
7 Commissioners.

8 We're here today seeking -- my name is David
9 Nichols and I'm with the Fuels and Transportation
10 Department, with the Emerging Fuels and Technology Office.

11 We are here seeking today the approval for
12 Amendment 2 to Contract 600-08-009 with the California
13 Community Chancellor's Office to augment the agreement with
14 an additional \$1 million to revise the scope of work to
15 extend the interim date.

16 This amendment will allow the Chancellor's Office
17 to continue to develop and provide community college
18 workforce training in alternative fuels and alternative
19 fuel vehicle technology areas under our AB 118 program.

20 As background, the Commission entered into an
21 interagency agreement with the community colleges to
22 provide workforce development in alternative fuels and
23 vehicle technologies.

24 The Chancellor's Office is a vital link to
25 training in alternative fuels and vehicle technology

1 workforce delivery throughout multiple regions in
2 California.

3 To inform the program and workforce development
4 needs, the Chancellor's Office has performed multiple
5 surveys through their Advanced Transportation Technology,
6 and Energy Group, and through the Centers of Excellence
7 that have helped to establish a baseline of information for
8 current and future workforce needs.

9 The current deliverables are divided into two
10 parallel initiatives through the ATT assessments derived
11 from surveys of current community colleges' alt fuel and
12 vehicle program needs the performance and recommendations
13 were made based off their expertise.

14 Through COE, scans for labor market information
15 and research to provide occupational and industry
16 information to help identify training needs by regions were
17 performed.

18 Through the work of ATT and in conjunction with
19 the solicitation for EDD, community college sub-grantees
20 \$2.6 million was recommended and approved for funding by
21 the Commission.

22 These awards are used to enhance curricula
23 development, new curricula, support existing programs, the
24 purchase of specialized equipment and to enhance advanced
25 training for trainers.

1 Currently, we have funded the community colleges
2 at Long Beach, American River, Solano, Cerritos, San
3 Joaquin, Rio Hondo and Imperial Valley.

4 Through COE, scans and surveys of regional job
5 markets for alt fuel vehicles technologies were performed
6 across multiple regions in California.

7 COE delivered a key advanced transportation
8 industries and occupations in California report that
9 informed the program of the status of current jobs in this
10 market.

11 This report, as well as subsequent reports,
12 includes cluster analysis, emerging job trends, and
13 opportunities for the community colleges to advance
14 training in the alternative and vehicle fuel technology
15 categories.

16 The \$1 million that staff is recommending you
17 approve today will be used to enhance current programs and
18 will add additional funding for the regions of San Diego,
19 San Francisco, Imperial Valley and Los Angeles.

20 Staff recommends that the Commissioners adopt and
21 vote for the approval of this amendment.

22 I have with me today, to my left, Cris
23 McCullough, from the Chancellor's Office. Ms. McCullough
24 is currently the Dean of Policy Alignment and Outreach for
25 Workforce and Economic Development.

1 She is a strong advocate in the alternative fuels
2 world and in workforce training.

3 I have relied upon her from the time she was at
4 American River College and I first came on, and I'm looking
5 forward to the work we do in the future.

6 Dean McCullough.

7 DEAN MC CULLOUGH: Thank you, David. And
8 Commissioners, thank you for consideration of this
9 amendment and also for the previous funding that you've
10 given to the community colleges.

11 As you're probably aware, there are community
12 colleges throughout the State of California, 112 of them.
13 And most of them have automotive programs. Many of them
14 have aviation, motorcycle and other programs that are
15 transportation related.

16 And many of the people that work in our economy
17 were trained at a community college in the field of
18 transportation.

19 However, historically, those programs have been
20 very traditional and so the funding that's been brought to
21 bear at the community colleges and through the good works
22 of David Nichols, and staff, we find that we have a number
23 of programs that have been transformed.

24 I spoke with an auto mechanic this morning who
25 has taught traditional transmissions, and who is now

1 teaching transaxles to electric vehicles.

2 In the summer he gave a class to a very diverse
3 group of faculty from the community colleges, from high
4 schools, from SMUD, from BAR (phonetic), from the city and
5 county, from dealers, from independent shops.

6 So, the funding that's going out, that is ending
7 up on the shores of the community colleges is very
8 transformational.

9 I don't want you to think that we're not making a
10 parallel investment. That while we have purchased the --
11 over the years, the taxpayers, I use the word "we" loosely,
12 the taxpayers have purchased facilities and equipment for
13 our shops, and have also hired faculty who are excellent
14 trainers.

15 We recognize that the industry has changed, the
16 sector has changed. You talk about a survey that is saying
17 that there are clusters, now, of advanced transportation
18 and fuel throughout the State and we've been able to
19 identify where they are.

20 Our investment is, using the funding that comes
21 to us through grants for workforce, is that we've
22 identified the sectors in the State that have the greatest
23 impact, ten of them. And two of them relate to energy.

24 One of them is advanced transportation and the
25 other is energy.

1 In the advanced transportation we've put
2 resources into the four regions that you've just heard
3 referenced, San Diego, Imperial, the Inland Empire, San
4 Francisco Bay Area, and Los Angeles, Orange to have people
5 working specifically on the ground in partnership with
6 community college faculty, high school faculty and
7 employers to bring in curriculum, in-service training, and
8 raise the standards for advanced transportation to meet
9 that workforce need in those four regions.

10 That's not to say that there isn't a need
11 throughout the State. If you're talking about the North
12 State, we all know that propane is a hugely important
13 investment in the far north where they don't have access.

14 We know that the transit industry, with CNG and
15 LNG, we know that electric delivery vehicles and also
16 hybrid trucks, which change the profile of the cross-state
17 interstate and intrastate transportation of goods and
18 materials are all huge impacts for transportation and
19 fuels.

20 And so, this investment is important to us. We
21 really appreciate the fact that you're working with the
22 community colleges. We believe we have the infrastructure
23 that aligns with you.

24 And the in-service, the purchase of components
25 and equipment, and the curriculum is hugely important to

1 us. So, thank you for this investment.

2 CHAIRPERSON WEISENMILLER: I'd like to thank you
3 for the community college's focus on it.

4 As the scientist/engineer on the Commission, one
5 of the things I'm really concerned about is technical
6 training.

7 And actually, the day I went before the Rules
8 Committee one of the things that -- there was a *Washington*
9 *Post* article that talked about how in Fresno, on the one
10 hand there's very substantial unemployment that came from
11 the collapse of the housing industry.

12 At the same time there was a lot of unfilled
13 jobs, particularly in the healthcare industry.

14 And, obviously, the missing ingredient was
15 training.

16 And, you know, certainly everyone I've talked to
17 in the energy sector, particularly the utilities, have said
18 the community colleges do a marvelous job preparing people
19 for their workforce.

20 Obviously, the Union Apprentice Training also
21 does a marvelous job for other types of training.

22 But, again, it's very important that we give our
23 citizens the skills they need to take advantage of the
24 opportunities in the green technology space. And I think
25 the community colleges have a huge role in doing that.

1 So, again, thank you for your emphasis on that.

2 DEAN MC CULLOUGH: Thank you very much.

3 COMMISSIONER SCOTT: And I would just add, I'd
4 like to echo what the Chair just said. You know, as the
5 public member I also think it's really exciting to be able
6 to train our citizens on how to -- and our students on how
7 to be able to work on these advanced technologies.

8 The other thing, you know, so this is one of the
9 categories that we all fund under the ARFVTP program. It's
10 in our investment plan.

11 And, you know, this is about just taking a step
12 back and, you know, transforming our transportation system
13 so that we can meet our clean air goals, our climate goals,
14 our energy security goals.

15 And, you know, I would just add a highlight to
16 this. I mean it really is, we're preparing our students
17 and the folks that train the students for how to work on
18 the technologies that we're trying to advance and speed the
19 transition to, so it's a nice synergy.

20 COMMISSIONER MC ALLISTER: Also, I guess, and
21 maybe you can highlight this from within the community
22 colleges, my understanding is that there are very rigorous
23 needs assessment for figuring out where to invest these
24 kinds of resources and what workplace -- what workforce
25 needs are actually in the economy.

1 And, you know, clearly I think with alternative
2 fuel vehicles that's one of them.

3 But, you know, we also want these trainees, when
4 they come out, to actually go into a sector that needs that
5 workforce that they're going to be trained and then have a
6 job afterwards.

7 And so, maybe you could talk a little bit about
8 the needs assessment, itself.

9 DEAN MC CULLOUGH: Yeah, that's near and dear to
10 our hearts because in our framework for the Economy and
11 Workforce Development Division, which is doing what matters
12 for jobs in the economy, our sectors are carefully chosen
13 that they align with needs that we know that there's going
14 to be jobs at the end. And alternative transportation is
15 one of those places where we know that there's going to be
16 jobs.

17 But it isn't enough to know that. You have to,
18 one, do the needs assessment to find out where those areas
19 are so you invest carefully.

20 And two, you have to have metrics that at the end
21 you've determined that people in fact have achieved those
22 goals.

23 We have two primary sources. The first one just
24 came out, it's the Wage Tracker, which we can look at every
25 automotive program in the State and we can tell how much

1 people were making when they went into that program, two
2 years before, when they were in the program, and three
3 years after.

4 And what we're seeing is tremendous wage growth
5 if anybody goes into a transportation program. That's also
6 true for all of the other transportation programs.

7 But that's not specific enough. So, what we're
8 doing is in January we're doing something called the Launch
9 Board. And we've aligned with the K-12 system for Cal Pass
10 Plus and our MIS system to be able to follow students from
11 middle school all the way into either a four-year
12 institution or into work, and to see what kind of wages
13 that they've gained if they are in work, and also aligned
14 with external third-party credentials.

15 So, if somebody picks up an ACE certification we
16 can show that in our Launch Board.

17 So, we understand that it's not just enough to
18 know it's there and to prepare the workforce, but we also
19 have to have metrics that tell us that we're hitting that
20 target and the people that we're preparing in those
21 programs are actually going to work, and have the skills to
22 be able to make not just a living wage, but advanced beyond
23 that.

24 COMMISSIONER MC ALLISTER: Thank you very much.
25 Statewide coverage, with all these different campuses is

1 really fantastic, so thank you.

2 DEAN MC CULLOUGH: Thank you.

3 COMMISSIONER SCOTT: And I'd just add thank you
4 for joining us, it's good to have you here.

5 DEAN MC CULLOUGH: Oh, it's a pleasure.

6 COMMISSIONER SCOTT: Are there other questions?

7 Okay, I'll move Item 5.

8 COMMISSIONER MC ALLISTER: I'll second.

9 CHAIRPERSON WEISENMILLER: All those in favor?

10 (Ayes)

11 CHAIRPERSON WEISENMILLER: This item passes
12 unanimously.

13 Thanks, thanks for being here.

14 MR. NICHOLS: Thank you, Commissioners.

15 CHAIRPERSON WEISENMILLER: Let's go on to Item
16 Number 6, which is Delta Diablo Sanitation District,
17 possible approval of Agreement 002-13-ECD, a \$700,000 loan,
18 and this is ECCA funding.

19 Haile, please.

20 MR. BUCANEG: Good morning, Commissioners. My
21 name is Haile Bucaneg and I'm with the Special Projects
22 Office.

23 The Delta Diablo Sanitation District is
24 requesting a \$700,000 loan through the California Energy
25 Commission's ECCA Loan Program to install a fats, oils and

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1 grease receiving facility at an existing wastewater
2 treatment plant in the City of Antioch.

3 Fats, oils and grease will be collected from a
4 number of different sources in the District's Contra Costa
5 County service area, including restaurants, rendering
6 plants, or waste collection businesses.

7 The collected fats, oils and grease will be
8 introduced into the wastewater treatment process and will
9 increase the quantity and quality of biogas that is
10 produced during the anaerobic digestion of wastewater.

11 The District will use the biogas produced to run
12 an existing cogeneration system which currently provides
13 electricity and heat for the plant.

14 The increased biogas output will reduce the
15 wastewater treatment plant's natural gas consumption by
16 137,900 therms. This will result in annual energy cost
17 savings of \$54,500 and a 12.8 year payback on the loan
18 amount.

19 At this time I would be happy to answer any
20 questions you have on the project.

21 CHAIRPERSON WEISENMILLER: Thank you.

22 Commissioners, any questions or comments?

23 COMMISSIONER MC ALLISTER: No, I think -- yeah,
24 we're looking at each other here.

25 Thanks for the presentation. You know, ECCA I

1 think is a pretty known quantity at this point. It's got a
2 good track record. I know the staff who evaluate these
3 projects are fantastic, so I don't have any qualms here.

4 So, I'll move Item 7 -- or I'm sorry, move Item
5 6.

6 COMMISSIONER SCOTT: Second.

7 CHAIRPERSON WEISENMILLER: All those in favor?

8 (Ayes)

9 CHAIRPERSON WEISENMILLER: Item 6 passes
10 unanimously.

11 Let's go on to Item Number 7, which is
12 Victorville 2 Hybrid Power Plant Project.

13 We have consideration of a complaint. And let's
14 start with Rebecca, would you, Westmore, summarize the
15 complaint?

16 MS. WESTMORE: Good morning Commissioners. My
17 name is Rebecca Westmore. I'm an Assistant Chief Counsel
18 with the Chief Counsel's Office.

19 On August 16th, 2013 Robert Landwehr filed a
20 complaint with the Chief Counsel's Office.

21 Mr. Landwehr's complaint addresses two issues.
22 Number one that an ex parte communication was sent to
23 Commissioner Douglas by the City of Victorville's manager,
24 Douglas Robertson and, two, that the ex parte communication
25 was not provided to Mr. Landwehr by the Energy Commission

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1 in response to his Public Records Act request.

2 Mr. Landwehr is here today to present his issues
3 to you and has requested that the Commission, one, conduct
4 an honest, thorough and complete investigation.

5 Two, reopen the hearing on the City of
6 Victorville's petition to extend the construction deadline
7 on the Victorville 2 Hybrid Power Plant project.

8 Three, disqualify Commissioner Douglas from the
9 hearing.

10 And four, fully comply with his Public Records
11 Act request.

12 On September 6th, 2013 counsel for the City of
13 Victorville submitted comments to Mr. Landwehr's
14 complaints, which you should have in front of you, and
15 copies of which are on the table in the back of the room.

16 We suggest that you hear from Commissioner
17 Douglas, Jared Babula, who was responsible for responding
18 to PRA requests for the Commission, Mr. Landwehr and any
19 other stakeholders.

20 After hearing the evidence and pursuant to
21 California Code of Regulations Title 20, Section 1232,
22 within 30 days of receipt of the complaint the complaint
23 must either be dismissed for insufficiency or lack of
24 merit, or served upon the respondents.

25 Thank you, Commissioners. If you have any

1 questions, I'm happy to answer those.

2 COMMISSIONER DOUGLAS: So, Mr. Chair and
3 Commissioners, I am obviously going to recuse myself from
4 this item because it pertains to me, in part.

5 I wanted to say a few words before I step out of
6 the room.

7 First of all, I asked the Chair to notice this
8 complaint for a Business Meeting as quickly as possible,
9 really, because I think that a public discussion of the
10 issues raised is important given the issues that are
11 raised.

12 I wanted to share a few thoughts with you and
13 then I will leave the room.

14 CHAIRPERSON WEISENMILLER: Sure.

15 COMMISSIONER DOUGLAS: So, the first thing is
16 that I was actually not aware of the PRA. I was not made
17 aware of the PRA by the legal office. And I think Jared
18 Babula, when he speaks to that, can speak to who he
19 requested search their e-mail and the records for records.
20 But I did not get that request.

21 Secondly, pertaining to the e-mail that I clearly
22 did receive, because I saw a copy in the complaint, I was
23 not aware of the e-mail.

24 And I wanted to say a few things about how my
25 office handles mail and e-mail pertaining to siting matters

1 and, really, other matters.

2 When I get mail on any matter, the mail is opened
3 by my executive assistant. And there have been times when
4 I've gotten mail pertaining to a siting case and if we see
5 that I'm the only recipient or it's pretty clear that it's
6 something that's not part of the record, we go ahead and we
7 docket those items. And sometimes I see them and
8 sometimes, really, I don't, they just go to dockets.

9 When my office receives -- when I receive e-mail,
10 it's really different because my e-mail address is on the
11 web and anyone in the world can pull my e-mail address down
12 and send me an e-mail, and often do.

13 And as a result, I get a lot of e-mail. I think
14 that I'm probably not the only person in this room who
15 doesn't read all of my e-mail.

16 And in fact, I've got to say that despite my best
17 efforts I read probably less than half of the e-mail that I
18 get.

19 And in particular, I don't read e-mail on the
20 siting matters in particular because we actually have a
21 record created, a docket, and that's the most convenient
22 and the most logical place to get information.

23 When I am considering a siting matter, I will set
24 up a meeting with the hearing officer, or with key people
25 in my office and we'll pull the information we need off of

1 dockets, and that's what we'll do.

2 So, I think a rather large percentage of the e-
3 mail that actually does come in my inbox pertains to siting
4 cases, or has some reference to a siting case and is part
5 of our -- currently part of our e-filing, or related
6 systems. And when those come in, I tend to assume that
7 they are not for me, and not read them because I do my
8 siting work on my own time and not when people happen to
9 hit the send button on their e-mails in their filing.

10 So, those are my comments. I obviously think
11 that we need to take complaints like this seriously. I'm
12 glad this is at a Business Meeting.

13 And with that, I am now going to step out of the
14 room.

15 (Commissioner Douglas leaves the room)

16 CHAIRPERSON WEISENMILLER: Okay. Yeah, no that's
17 good.

18 I would say one thing again, just for public
19 context, is that to the extent our names are on, available,
20 or e-mail addresses that means that anyone who is looking
21 for opportunities to send us information on anything, any
22 conference, anything else in the world, we get on those
23 lists.

24 And so our spam filters are not particular good
25 and so, again, it's not unusual for us to ignore a certain

1 amount of this stuff.

2 But anyway, with that notion I guess the one
3 question for the staff was that in that e-mail that came
4 through was there any information that was not publicly
5 available? The e-mail that went to Commissioner Douglas,
6 I'm just trying to understand the gravity of the e-mail, or
7 the importance of the e-mail.

8 MR. LEVY: Chairman, for the --

9 CHAIRPERSON WEISENMILLER: For the record it's
10 here, I know, but I'm not looking for it.

11 MR. LEVY: I don't see the relevant project
12 manager in the room. Are they here?

13 I would say the substance of the e-mail, itself,
14 kind of speaks for itself about what the contents are.
15 It's referring to the published staff report. It appears
16 to be, essentially, a thank you note for the work that the
17 staff, not Commissioner Douglas' staff, but Rob's staff,
18 the Executive Director's staff is deciding advocacy in the
19 independent party.

20 So, it's attached to the complaint and the
21 pertinent part leads out, "As your staff attests in their
22 report" which is a reference to the staff report that was
23 just released on the petition for the extension of time.

24 CHAIRPERSON WEISENMILLER: Okay, thank you.

25 I was also now going to ask Michael, would you go

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1 through the process for responding to PRAs?

2 MR. LEVY: Yeah, I think Mr. Babula, who's the
3 lead in our office for Public Record Act requests, is
4 available to speak about both the process, generally, and
5 what happened on this case.

6 MR. BABULA: Yeah, thank you. My name is Jared
7 Babula. I'm the Senior Staff Counsel here. I've been the
8 Public Records attorney here for over six years.

9 So, I just want to briefly talk about the process
10 and then specifically what happened in this case.

11 The purpose of the Public Records Act is to
12 provide access to information concerning the conduct of the
13 people's business. And we take that seriously here. We
14 have a comprehensive effort to ensure that we collect all
15 our documents.

16 When a Public Records request comes in, it's
17 directed to me. It comes in through our website. And then
18 at that time I would assess what the request is. If I have
19 any questions or it's not clear, I will contact the
20 requester so that I ensure I understand what the person's
21 looking for.

22 Oftentimes I know right off the bat kind of what
23 types of materials the person's interested in.

24 Then, the key then is for me to assess who here,
25 out of the 600, over 600 employees potentially has

1 responsive materials.

2 That generally requires some discretion to look
3 at the type of request, what departments, what divisions
4 might have responsive materials.

5 Once I assess my target I will work with staff to
6 obtain responsive documents, collect them and then get them
7 to the requester. So, that's kind of the general process.

8 Now, in this case, this was Mr. Landwehr's second
9 request. He had previously requested some documents
10 showing payments made from Victorville for compliance,
11 compliance fees.

12 So, since I'd previously worked on a prior
13 request, I already knew who the compliance project manager
14 was. And because I'm a siting attorney, familiar with the
15 process of siting, the compliance project manager is really
16 the point person for all communications when it's revolving
17 around a staff type document and a staff process.

18 So, I targeted the compliance project manager,
19 asked her if she had any responsive materials. She
20 inferred she did and that she had a number of
21 communications that were responsive, and that she would
22 happily provide those to me.

23 I did ask her if she thought any other staff
24 person might have responsive documents. She indicated that
25 she would have -- she would be the main person to contact

1 and didn't think anyone else had any.

2 Now, I also did do a couple of other things to
3 ensure a comprehensive review. I checked with the staff
4 counsel for the Compliance Division because oftentimes
5 attorneys may have some communications with some outside
6 parties. He indicated he did not have any communications.

7 And then on top of that, as Commissioner Douglas
8 just referred to, the docket log. The docket log is an
9 essential component of our siting process. That's where
10 all documents generally flow to or especially documents
11 essential for what's like being used to develop the
12 assessment and so forth.

13 So, I checked to the docket log to confirm
14 whether there were any documents that had come in through
15 that.

16 And finally, I also checked on the project pages
17 website. Documents are posted there, frequently.

18 So, in conjunction with working with the
19 compliance project manager, receiving her documents,
20 looking at the docket log, looking at the project webpage I
21 felt that because I did in fact receive over 27 documents
22 from that search that that was a comprehensive, robust
23 search that would have included all the documents.

24 Obviously, one was missed, an unsolicited e-mail
25 that wasn't even reviewed.

1 But the Public Records Act is not a hundred
2 percent. I mean our process isn't a hundred percent, but
3 we try to really strive to balance the level of
4 investigation with interfering with the functionality of
5 the agency.

6 I know there's a lot of people who, from the
7 public's perspective, believe that agencies feel public
8 records are a nuisance and they do the minimum. That's not
9 the case here.

10 I've been doing this for six years and I've had
11 excellent cooperation from staff. I think in general, as a
12 culture, the Commission feels that Public Records requests
13 and transparency is an essential mission of this agency,
14 and that I feel confident that our process is robust and
15 that we do capture the documents.

16 One final note is that the Public Records Act
17 isn't a one-time shot. The requester is always free to
18 receive the documents. If they get documents from other
19 sources that provide additional information, they can
20 certainly come back and say, look, I have this other
21 document you didn't produce, can you check again.

22 And, in fact, that's what happened in this case.
23 Mr. Landwehr did, after he provided the compliant, did ask
24 for us to follow up and we did make a second effort where
25 we checked with the Commissioners' offices. I checked with

1 the Public Adviser's office and the executive offices to
2 ensure that there were no further documents and nothing has
3 come up since then.

4 So, in closing, although this document was
5 missed, I think overall the process is still comprehensive.
6 I provided over 27 documents to him and, in fact, he was
7 able to receive this document by using the Public Records
8 Act towards the city.

9 And so, comprehensively he did receive all the
10 materials.

11 I'm available to answer any questions, thank you.

12 CHAIRPERSON WEISENMILLER: Thank you.

13 Mr. Landwehr, do you want to -- again, we're
14 addressing the two issues, the disqualification and the
15 Public Records Act request.

16 Do you want to comment on what you've heard from
17 Commissioner Douglas and now Jared?

18 MR. LANDWEHR: Thank you, I do. There's other
19 documents that still were not released by the Commission
20 and I'm concerned because I'm being told that there was
21 only one and that's not correct.

22 Is the Commission aware that none of the property
23 owners were ever noticed about this development for
24 Victorville 2?

25 CHAIRPERSON WEISENMILLER: Okay, but again we're

1 just dealing with two issues right now. We'll get the
2 notice question later, but the two issues of
3 disqualification and the Public Records Act request.

4 MR. LANDWEHR: It goes to maybe the integrity of
5 the City of Victorville even sending this document to the
6 Commission is my point.

7 The City of Victorville has never noticed us as a
8 family, as property owners, and other property owners about
9 this development.

10 I'll address it further. The City of
11 Victorville, the attorney, has referred to this as a thank
12 you note. And I have a different perspective on it.

13 And I look at it as a wedding announcement. And
14 this is why; the wedding's taking place on June 12th of
15 2013 and none of the neighbors are invited. That's the
16 property owners.

17 Now, the same thing happened at the engagement
18 announcement five years ago. We were never notified about
19 this process concerning our property.

20 It's amazing to me that in the United States that
21 a State Commission can develop someone's property without
22 giving them notice.

23 Specifically, I'd like to read this. There are
24 statements of material fact that aren't true in this
25 document, this notice.

1 "I was thrilled to receive notification from your
2 staff regarding the petition to extend the deadline for
3 Victorville 2 Hybrid Power Plant. This notification was
4 the final staff report supporting the City of Victorville
5 request for an additional five years to commence
6 construction. I would like to commend your staff in their
7 assistance in helping navigate our process, which we were
8 unfamiliar. The City recently decided to proceed with the
9 request after much internal deliberation. This decision
10 was made only after consultation with your staff that was
11 so competent and inspiring we believe this could be done
12 using city staff, rather than consultants."

13 This is an agreement. The Commissioner is being
14 told, hey we've got this agreement with your staff and
15 we're going to have this thing go through.

16 As your staff attests in their report, the City
17 has shown diligence --

18 CHAIRPERSON WEISENMILLER: Actually, we have it
19 in front of us, so if you want to point to specific areas
20 that's fine.

21 MR. LANDWEHR: I will. Diligence? Property
22 owners have never received notice about this process at the
23 California Energy Commission. That is not diligence.

24 They abandoned the taking of our property. They
25 sued us. After two and a half years, six weeks away from

1 trial and they abandon it. That's not diligence.

2 Factors outside our control -- factors outside
3 our control, they keep repeating that and they blame it on
4 the recession.

5 Right after they received their license from you
6 all in 2008, they were sued by CMP Export. And this is an
7 easy search, just type in "Victorville 2 Power Plant."

8 And CMP Export was working with the City of
9 Victorville to develop an EV-5 program to finance this
10 power plant.

11 I don't know if you all know what an EV-5
12 program, but basically it is visas for \$500,000.

13 Well, the city didn't follow through and they got
14 sued for fraud and breach of contract for trying to finance
15 Victorville 2. They paid \$200,000 to the owner and
16 \$400,000 for legal fees.

17 The City of Victorville then decided we'll just
18 team up with the United States Citizenship and Immigration
19 Services and developed their own EV-5 program. It's been
20 in existence for 20 years, this program through the United
21 States Citizenship and Immigration Services.

22 And for the first time ever they terminated
23 Victorville's program because they didn't follow the rules.

24 2012, the San Bernardino Grand Jury slammed
25 Victorville for its lack of oversight, for management, and

1 lack of transparency, and docked the loss in the
2 neighborhood of \$76 million for Victorville 2 Power Plant.

3 2013, the Securities and Exchange Commission is
4 currently suing the city manager -- excuse me, assistant
5 city manager of the city for fraud.

6 Some of these e-mails that weren't released to
7 me, and I attempted -- I would like to put them in the
8 comment section.

9 CHAIRPERSON WEISENMILLER: Well, certainly --
10 again, you can certainly file material on the record, but
11 we're dealing with sequential issues.

12 MR. LANDWEHR: Yeah, okay.

13 CHAIRPERSON WEISENMILLER: So, again, really
14 trying to get to the question of whether given -- A,
15 whether given Commissioner Douglas' statement she did not
16 review the e-mail, whether you still contended she's
17 disqualified or should disqualify herself.

18 I mean, that's the first threshold question.

19 MR. LANDWEHR: The problem that I have is you all
20 want to accept the fact that the records release was
21 accurate.

22 CHAIRPERSON WEISENMILLER: That's the second
23 question. We'll get to that in a minute.

24 But the first question I'm just trying to ask you
25 is given her statement do you still contend that she should

1 be disqualified -- her statement that she did not read that
2 e-mail?

3 MR. LANDWEHR: Well, I think we're ahead of
4 ourselves about the disqualification, sir. Well, because
5 correct me if I'm wrong, but we're just here to see if
6 there's going to be an investigation into it.

7 CHAIRPERSON WEISENMILLER: And we're trying to
8 understand the merits of the complaint. And I have
9 evidence now that she did not review it.

10 So, I'm trying to understand if you still contend
11 she should be disqualified.

12 MR. LANDWEHR: Well, my point is that there's
13 other documents that the CEC says they abided by in
14 releasing, which I know not to be true.

15 And so I have some reservation about that
16 position. And if --

17 CHAIRPERSON WEISENMILLER: Okay, but that's --
18 the second issue is the reasonableness of our Public
19 Records request search. And I'm certainly happy to hear on
20 that.

21 But again, I'm just trying to walk through the
22 issues and understand where -- you know, trying to address
23 your four points and understand where there are still
24 contentions.

25 MR. LANDWEHR: I believe that this document was

1 sent, and it was wrong to send it. They know it was wrong
2 to send it. And it was received somewhere in the
3 California Energy Commission.

4 I heard Commissioner Douglas said she didn't
5 review it.

6 CHAIRPERSON WEISENMILLER: Right.

7 MR. LANDWEHR: I've heard that. I've also heard
8 that there was a full disclosure of the public records. I
9 believe that not to be true.

10 CHAIRPERSON WEISENMILLER: Okay, so again, I'm
11 happy to dig into that. We also have -- so, on that one if
12 you have additional records, documents you want to put in
13 the record that you think we have, which were not
14 disclosed.

15 MR. LANDWEHR: Well, no, here's what I was hoping
16 to do is -- I had trouble communicating with the Public
17 Adviser regarding getting documents in front of the
18 Commission.

19 And I wanted people to read the relationship
20 between Victorville and the California Energy Commission
21 and how, if you read these e-mails, the lack of oversight,
22 the lack of review went out the window.

23 And according to --

24 MR. BABULA: Were those e-mails I produced?

25 MR. LANDWEHR: Well, hold on one second.

1 According to Title 20, California Code of Resources, 17125,
2 in case sitings the Energy Commission staff is an
3 independent objective party to the proceeding. And the
4 objectiveness and the independent went away in this process
5 and this is one of those illustrations of that.

6 And these e-mails -- or excuse me, these e-mails
7 that show that the City of Victorville needs to come up
8 with close to \$100,000 for the approval of this process,
9 almost like a quid pro quo.

10 There was no oversight into asking or any vetting
11 into finding out if what Victorville told the staff, in
12 fact the staff accepted a draft revision to review it, and
13 then gave it back to Victorville. There's a lot of
14 communication back and forth, yet there doesn't appear to
15 be any real oversight.

16 I think it was inappropriate for Victorville to
17 send it. I don't know Commissioner Douglas, as you all do.
18 I would hope that she's telling the truth.

19 I know that there's other documents that I've
20 received, that haven't been disclosed by the Commission
21 that paints this process that took place as it was just
22 almost like a rubber stamp. I'm sorry and --

23 CHAIRPERSON WEISENMILLER: Okay, but again I'm
24 just trying to -- I'm trying to understand your issues and
25 deal with them.

1 So, issue number one is the disqualification.
2 And, certainly, I think anyone who has dealt with
3 Commissioner Douglas over the years in her public service
4 would tend to believe her.

5 And so, now the next question -- so that's
6 question number one, disqualification.

7 Question number two is the reasonableness of the
8 Public Records Act. And if you have documents that we
9 should have disclosed, and we didn't, then I'd like to get
10 those on the record.

11 MR. LANDWEHR: Well, no, I think we're out of
12 place here. Correct me if I'm wrong, isn't the appropriate
13 protocol in this hearing is to decide if we're going to
14 investigate. Isn't that what's taking place, if there's
15 going to be an investigation?

16 CHAIRPERSON WEISENMILLER: Go ahead.

17 MR. LEVY: Mr. Landwehr, just to help you here.
18 The first step in the process is to decide whether or not
19 the complaint has merit on its face.

20 And based upon what we've heard already, the
21 Chairman is saying to you that it does not appear that
22 there's a basis, in his opinion, for recusal of
23 Commissioner Douglas based upon her testimony.

24 The second part of your complaint was that we
25 failed to provide records to you in response to a Public

1 Records Act request.

2 And what the Chairman is trying to get from you
3 is a statement of what records there are that would respond
4 to the request that we haven't produced.

5 So, if you could articulate for us what there
6 are.

7 CHAIRPERSON WEISENMILLER: Now, I realize there
8 are additional items, issues you're raising, but I'm just
9 trying to go through the four issues you've raised and
10 understand the merits of each of those issues.

11 MR. LANDWEHR: Okay.

12 MR. LEVY: Your second matter -- Mr. Landwehr,
13 your second matter on the agenda follows this one, which is
14 Item 8, which is your petition for reconsideration, and so
15 we'll take that up in due course.

16 MR. LANDWEHR: Okay.

17 CHAIRPERSON WEISENMILLER: Yeah, so --

18 MR. LANDWEHR: If it's strictly related, and I
19 appreciate you walking me through it. Thank you.

20 And if Commissioner Douglas said she's never
21 received it, she's never reviewed it, then I understand,
22 okay.

23 From my perspective, though, I've dealt with the
24 City of Victorville. I don't trust them. I don't trust
25 their attorney's office. They don't follow the law. They

1 don't follow ordinances and rules. And I think it was
2 inappropriate for them to send that.

3 And I understand if she doesn't know about it,
4 and that's what I'm hearing, then she has no responsibility
5 to disclose it.

6 CHAIRPERSON WEISENMILLER: Right.

7 MR. LANDWEHR: Is that correct?

8 CHAIRPERSON WEISENMILLER: That's correct.

9 MR. LANDWEHR: Okay.

10 CHAIRPERSON WEISENMILLER: I think, actually, the
11 three things I was trying to do, and the City of
12 Victorville and their attorney want to respond. But one,
13 first was just to deal with the issue of Commissioner
14 Douglas.

15 And then second to deal with the issue of the
16 adequacy of our public records request, of our response.

17 And then, third, I'm happy to move on to the
18 merits that you've raised generally on stuff, but at least
19 trying to deal with the things more sequentially.

20 MR. LANDWEHR: Okay.

21 CHAIRPERSON WEISENMILLER: And so --

22 MR. LANDWEHR: Sorry if I got out of line, out of
23 place.

24 CHAIRPERSON WEISENMILLER: No, you're not. But
25 again, if you have information that should have been

1 disclosed, documents that should have been disclosed that
2 we have, then I'd like to get those documents in the
3 record.

4 Or if these are records that Victorville should
5 have supplied, then that's a different question.

6 MR. LANDWEHR: Basically, I did identical records
7 requests.

8 CHAIRPERSON WEISENMILLER: Uh-huh.

9 MR. LANDWEHR: And I received two sets of
10 different documents, a lot more from Victorville than from
11 the California Energy Commission, a lot more.

12 What took place then, Ms. Westmore, I then made a
13 second request to fully comply with this before the hearing
14 and I was told by Ms. Westmore that after 90 days they go
15 away.

16 CHAIRPERSON WEISENMILLER: Right and there is a
17 physical reality of our systems.

18 MR. LANDWEHR: Just they're gone, okay. So, at
19 this point then I guess this issue can rest.

20 CHAIRPERSON WEISENMILLER: Okay, so let's move
21 on. Let me have the City of Victorville -- okay, so let's
22 do two things. Let me notify Commissioner Douglas that she
23 should come back.

24 MR. LEVY: Why don't you actually wait until
25 we've -- let's --

1 CHAIRPERSON WEISENMILLER: Let's let the City of
2 Victorville respond on these specific ones and then deal
3 with those two issues.

4 So, on the line I believe we have representatives
5 of the city attorney and also the project applicant.

6 MR. DE BORTENOWSKI: Yeah, this is Andre
7 DeBortenowski, City Attorney for the City of Victorville.
8 Can you hear me?

9 CHAIRPERSON WEISENMILLER: Yes.

10 MR. DE BORTENOWSKI: Yeah, good. Yeah, our
11 response and, again, we've heard nothing new from Mr.
12 Landwehr. But as you have, as part of your docket, we have
13 responded in writing.

14 Again, we don't believe there is any bias or
15 anything that would preclude Commissioner Douglas from
16 participating in the proceedings.

17 As to the public records request, again we
18 believe that's within your jurisdiction. We believe Mr.
19 Landwehr has had all of the documentation he's asked for,
20 especially any documentation that's relevant to these
21 proceedings.

22 The other extraneous issues that he is raising we
23 don't believe have any relevance to this proceeding, and
24 we've addressed that in our correspondence.

25 I'd be very happy to answer any questions that

1 the Commissioners have.

2 CHAIRPERSON WEISENMILLER: Thank you. Let's -- I
3 think on that part I'm looking -- I think in terms of the
4 motion for disqualification, you know, that basic part of
5 the complaint, I want to see where the other Commissioners
6 are, but at least I'm inclined, comfortable that we don't
7 have an issue here. We don't have to have an
8 investigation.

9 I'd like to come up with a resolution that
10 addresses this issue, realizing we will then go on to Item
11 Number 8, which is the reopening request of yours.

12 So, staff, do you --

13 MR. LANDWEHR: We can propose some findings for
14 you, if you'd like.

15 CHAIRPERSON WEISENMILLER: Would you please do
16 that?

17 MR. LEVY: Do you have something or -- you do,
18 okay.

19 MS. WESTMORE: Based on your discussions, I
20 recommend that you find, number one, that the City of
21 Victorville initiated an ex parte communication with
22 Commissioner Douglas during the pending petition to extend
23 the construction deadline of the Victorville 2 Hybrid Power
24 Plant Project.

25 Number two, that Commissioner Douglas did not

1 read the communication.

2 Number three, that upon receipt of Mr. Landwehr's
3 Public Records Act request Mr. Babula conducted a
4 reasonably diligent search consistent with the Commission's
5 existing business practices, which did not discover the
6 communication.

7 And four, that even if Commissioner Douglas read
8 the communication nothing in the communication would create
9 a reasonable basis to conclude it would prejudice her
10 objectivity as the communication vaguely referenced a
11 published staff document and otherwise only expressed
12 thanks to Commissioner Douglas and to Commission staff.

13 CHAIRPERSON WEISENMILLER: I think --

14 MR. LANDWEHR: And I object to that last part.

15 CHAIRPERSON WEISENMILLER: Okay, let's go back to
16 the first part. I think you said they initiated, and I
17 believe they tried to communicate with her. Just reread
18 the first finding.

19 MS. WESTMORE: That the City of Victorville
20 initiated an ex parte --

21 CHAIRPERSON WEISENMILLER: And I'm saying they
22 tried to initiate --

23 MR. LEVY: How about "attempted" instead of --

24 CHAIRPERSON WEISENMILLER: Or "attempted" is
25 better, yes. Okay.

1 MS. WESTMORE: Read that finding again?

2 CHAIRPERSON WEISENMILLER: Yes.

3 MS. WESTMORE: Number one, that the City of
4 Victorville attempted to initiate an ex parte communication
5 with Commissioner Douglas during the pending petition to
6 extend the construction deadline for the Victorville 2
7 Hybrid Power Plant Project.

8 CHAIRPERSON WEISENMILLER: Okay. Now, would you
9 reread the last finding?

10 MS. WESTMORE: Yes. That even if Commissioner
11 Douglas read the communication, nothing in the
12 communication would create a reasonable basis to conclude
13 it would prejudice her objectivity as the communication
14 vaguely referenced a published staff document and otherwise
15 only expressed thanks to Commissioner Douglas and to
16 Commission staff.

17 MR. LANDWEHR: I disagree with --

18 CHAIRPERSON WEISENMILLER: You have an objection.

19 MR. LANDWEHR: I disagree to that. This document
20 has false statements in it and it reinforces what's in the
21 staff report and what's in the petition.

22 And both -- they're statements of material fact
23 that aren't true in all three documents.

24 CHAIRPERSON WEISENMILLER: Okay. Now, again,
25 I'll ask you to identify the specific --

1 MR. LANDWEHR: The specific ones, "have shown
2 diligence," that's wrong, "factors outside our control"
3 definitely wrong.

4 CHAIRPERSON WEISENMILLER: Okay. City, do you
5 have any response on those two points?

6 MR. LEVY: In particular whether they raise an
7 issue of prejudice.

8 CHAIRPERSON WEISENMILLER: Yes.

9 If you want to respond, you don't have to.

10 MR. DE BORTENOWSKI: Who are you looking for the
11 response from?

12 CHAIRPERSON WEISENMILLER: The City. You've
13 heard the objection and I was at least going to give you a
14 chance to comment on the objection.

15 MR. DE BORTENOWSKI: Again, we see the
16 communication, not that it even went through, as merely a
17 correspondence of thanks for consideration. There's
18 nothing more in the communication, included in the
19 communication that has any impact on these proceedings.

20 CHAIRPERSON WEISENMILLER: Mr. Levy?

21 MR. LEVY: Yeah, I understand Mr. Landwehr's
22 point. I think Mr. Landwehr's concern is that it's
23 emphasizing something that he presumes to be in dispute.
24 But that doesn't necessarily going to mean that the reader
25 is going to take everything in the e-mail to be true, and

1 so that's the question of prejudice.

2 But, you know, the Commission doesn't really need
3 to reach the issue of whether there's prejudice. You could
4 probably just drop the finding because the fact that she
5 didn't read it would obviate any harm from it having been
6 sent and we don't need to reach the issue of prejudice.

7 CHAIRPERSON WEISENMILLER: Okay, so let's drop
8 that finding.

9 So, Commissioners do you want all the findings to
10 be read or are you prepared to act?

11 COMMISSIONER MC ALLISTER: I'm happy with just
12 the one and the two.

13 CHAIRPERSON WEISENMILLER: Okay, so --

14 COMMISSIONER MC ALLISTER: Whatever I might think
15 about the third one --

16 CHAIRPERSON WEISENMILLER: The last part.

17 COMMISSIONER MC ALLISTER: Being on siting cases,
18 you definitely take things with a --

19 CHAIRPERSON WEISENMILLER: The last one.

20 COMMISSIONER MC ALLISTER: So, let's drop it.

21 CHAIRPERSON WEISENMILLER: So that's dropped.

22 So, with that dropped I'm looking for a motion.

23 COMMISSIONER MC ALLISTER: So, this is a motion
24 on a finding.

25 CHAIRPERSON WEISENMILLER: On the resolution.

1 MS. WESTMORE: Would you like me to review the
2 findings?

3 CHAIRPERSON WEISENMILLER: Yes.

4 MS. WESTMORE: Okay. Finding one, that the City
5 of Victorville attempted to initiate an ex parte
6 communication with Commissioner Douglas during the pending
7 petition to extend the construction deadline of Victorville
8 2 Hybrid Power Plant Project.

9 Number two, that Commissioner Douglas did not
10 read the communication.

11 And number three that upon receipt of Mr.
12 Landwehr's Public Record Acts request Mr. Babula conducted
13 a reasonably diligent search, consistent with the
14 Commission's existing business practices, which did not
15 discover the communication.

16 MR. LEVY: Why don't you frame the motion also.

17 MS. WESTMORE: The motion would be that the
18 complaint should be dismissed for lack of merit pursuant to
19 Code of Regulations, Title 20, Section 1232(a)(1).

20 COMMISSIONER MC ALLISTER: So, this is a move the
21 findings -- the resolution with the findings and dismiss
22 the -- right, okay, dismiss the complaint.

23 MR. LEVY: So moved as recited by --

24 COMMISSIONER MC ALLISTER: Okay, great, so moved
25 as recited -- yeah, great.

1 COMMISSIONER SCOTT: Second.

2 CHAIRPERSON WEISENMILLER: Okay, all those in
3 favor?

4 (Ayes)

5 CHAIRPERSON WEISENMILLER: So, this passes
6 unanimously, or passes three to zero in terms of those
7 here, so --

8 MR. LEVY: Chair Weisenmiller, may I ask you to
9 please direct the Secretariat to generate a written order
10 from the transcript of the proceedings.

11 CHAIRPERSON WEISENMILLER: Sure.

12 MR. LEVY: Thank you.

13 CHAIRPERSON WEISENMILLER: Sure.

14 And how, hopefully, we can find Commissioner
15 Douglas before we move on to Item Number 8.

16 (Commissioner Douglas enters the room)

17 CHAIRPERSON WEISENMILLER: Commissioner Douglas
18 welcome back.

19 COMMISSIONER DOUGLAS: Thank you.

20 CHAIRPERSON WEISENMILLER: We appreciate your
21 recusing yourself and allowing us to have a thorough
22 investigation on these issues.

23 Let's go on to Item Number 8.

24 MR. LANDWEHR: Excuse me, could I make a quick
25 comment to the Commissioner?

1 CHAIRPERSON WEISENMILLER: Sure.

2 MR. LANDWEHR: My complaint or what I did was no
3 intent to disparage you or your reputation. I don't know
4 you. And so I'm hoping you didn't take any negative
5 response from this document, as the city attorney applied
6 that it was.

7 COMMISSIONER DOUGLAS: I understand that. I
8 appreciate you saying that. You had an e-mail in front of
9 you and it caused you a concern and a worry, and you filed
10 a complaint, and I don't hold that against you in any way.

11 MR. LANDWEHR: Thank you.

12 COMMISSIONER DOUGLAS: Thank you.

13 CHAIRPERSON WEISENMILLER: Yeah, I'm afraid all
14 of us have to have somewhat thick skins. You know, once
15 you step back into -- or once you step into public service.

16 Although, you know, we always try to do our best
17 I guess is the bottom line, and hope people understand that
18 part.

19 But again, we understand these are complicated
20 issues in various forums and how it would be easy for a
21 member of the public to be concerned.

22 So, we're glad you raised the issue so we could
23 walk through that.

24 But now, let's go on to Item Number 8, which is
25 consideration of a petition for reconsideration.

1 And so at this stage, Rebecca.

2 MR. LANDWEHR: It I may just, quickly, basically
3 it's a Brown Act complaint. I'm saying that -- I'll just
4 be as brief as I can because I know you're all busy.

5 But I'm saying Victorville violated the Brown
6 Act. They say they didn't. So, what I did was I turned
7 over the information to the San Bernardino County District
8 Attorney and they're currently conducting a criminal
9 investigation into this issue.

10 And so I would suggest that we postpone this
11 until the District Attorney rules on the matter.

12 MS. WESTMORE: Commissioners, maybe I can frame
13 the issue first for you in terms of the petition and then
14 we can take up Mr. Landwehr's question.

15 MR. LANDWEHR: Sure.

16 MS. WESTMORE: Thank you. On July 11th, Mr.
17 Landwehr filed a petition for reconsideration with the
18 Chief Counsel's Office.

19 Mr. Landwehr's petition requests that this
20 Commission reconsider its June 12th, 2013 decision to
21 extend the construction deadline for the Victorville Hybrid
22 Power Plant Project based on three grounds.

23 Number one, that he did not receive notice of the
24 June 12th, 2013 Business Meeting.

25 The compliance project manager has confirmed that

1 Mr. Landwehr was not notified of the Business Meeting and
2 this hearing has been scheduled to allow Mr. Landwehr to
3 address the issues he would have raised at that June 12th,
4 2013 Business Meeting.

5 Number two, according to Mr. Landwehr's petition,
6 he was not properly noticed for a hearing held by the
7 Victorville City Council and the Southern California
8 Logistics Airport Authority Board on July 15th, 2008,
9 wherein the City Council adopted a resolution to exercise
10 eminent domain over Mr. Landwehr's property.

11 This issue, however, is within the jurisdiction
12 of the City of Victorville and not the Energy Commission.

13 Number three, Mr. Landwehr has raised a
14 compliance issue relating to the Energy Commission. In
15 2006 and 2008 the project owner conducted a Desert Tortoise
16 survey on his property without his knowledge or permission.

17 Then in October 2008 the project owner installed
18 black silk screening on his property in violation of the
19 Desert Tortoise Translocation Plan.

20 Mr. Landwehr has indicated, however, that the
21 silk screening was removed and sandbags were left behind.

22 The project manager has also confirmed that Mr.
23 Landwehr did not report this complaint to the Energy
24 Commission.

25 Issues regarding compliance of the project

1 license may have fallen within the jurisdiction of the
2 Energy Commission had those concerns been reported to the
3 Energy Commission's Compliance Unit in 2008.

4 At this time, however, those matters have been
5 resolved and they are no longer at issue.

6 Pursuant to Code of Regulations, Title 20,
7 Section 1720, a petition for reconsideration must set
8 forth, one, new evidence or, two, an error in fact or
9 change or error of law.

10 The Chief Council's Office has looked at the
11 documents accompanying Mr. Landwehr's petition and believe
12 that the petition does not present new evidence or raise an
13 error in fact, or a change or error in law that would have
14 an effect upon a substantive element of your decision to
15 extend the construction deadline for the Victorville 2
16 Hybrid Power Plant Project.

17 We therefore recommend that you deny Mr.
18 Landwehr's petition and a proposed order is included in
19 your agenda backup materials. Thank you.

20 CHAIRPERSON WEISENMILLER: I had asked for this
21 draft order to be posted so you could respond back to it on
22 the specific issues.

23 MR. LANDWEHR: Well, I'm a little confused in
24 that --

25 CHAIRPERSON WEISENMILLER: Again, it's a draft.

1 It's not been accepted by the Commission.

2 MR. LANDWEHR: Yeah. And I didn't give it any
3 piece of -- or I didn't -- I read it, but my issue is a
4 criminal investigation regarding a Brown Act, which is at
5 issue here, takes precedent over this issue in front of the
6 Commission.

7 In other words, if the District Attorney says,
8 again, Victorville, you violated the Brown Act again
9 regarding Victorville 2, I think that's important for me to
10 have in hand to support this issue.

11 And again, if I had the opportunity to appear at
12 the June 12th hearing, which I was never -- I never
13 received notice of, I could have made that argument, as
14 these other arguments.

15 But I've been blackballed, in my opinion, from
16 appearing at these.

17 CHAIRPERSON WEISENMILLER: No. Well, certainly,
18 today is your chance -- obviously, this is probably over-
19 dignifying this, saying this is court.

20 You know, but today we're certainly -- we want to
21 listen to your arguments today. And I think the question
22 becomes --

23 MR. LANDWEHR: Well, I think -- I disagree with
24 your --

25 CHAIRPERSON WEISENMILLER: So this is your -- no,

1 go ahead.

2 MR. LANDWEHR: I disagree with your assessment of
3 this. You all have this in front of you, my complaint?

4 CHAIRPERSON WEISENMILLER: Yes, yes, we have your
5 complaint.

6 MR. LANDWEHR: The second one?

7 CHAIRPERSON WEISENMILLER: Yes.

8 MR. LEVY: The petition for reconsideration, not
9 a complaint.

10 CHAIRPERSON WEISENMILLER: We have the complaint
11 and the petition, but we've had the petition.

12 MS. WESTMORE: Yes.

13 CHAIRPERSON WEISENMILLER: Yeah.

14 MR. LANDWEHR: Do you have this one here?

15 CHAIRPERSON WEISENMILLER: We have it, yes.

16 MR. LANDWEHR: And you've all read it?

17 CHAIRPERSON WEISENMILLER: Yes.

18 MR. LANDWEHR: Okay. Do you not think it's a
19 Brown Act issue that I'm raising?

20 CHAIRPERSON WEISENMILLER: Well, the issue of
21 whether or not there's a Brown Act violation, as you've
22 indicated, you're taking up with the appropriate venue, the
23 appropriate courts.

24 And it's not our position to decide that or, even
25 if we did, it would sort of be irrelevant --

1 MR. LANDWEHR: I agree. I agree.

2 CHAIRPERSON WEISENMILLER: -- in some respects.

3 So, the question becomes how does that affect our decision
4 on the reconsideration.

5 And again, we're here today to listen to your
6 arguments on that and -- you know.

7 MR. LANDWEHR: My point is simply this, if the
8 District Attorney investigates the Brown Act complaint
9 which I've alleged, and they say, Victorville, you violated
10 the Brown Act, Landwehr and other people weren't given
11 notice about the development of Victorville 2 and how much
12 more money you're going to spend, and made a statement that
13 they violated it again, doesn't that tell you all that in
14 Victorville they're not listening to the landowners.

15 The District Attorney is condemning them, again,
16 for not allowing landowners to speak regarding the
17 development of Victorville 2.

18 COMMISSIONER MC ALLISTER: Can siting staff or --
19 can legal or siting staff --

20 CHAIRPERSON WEISENMILLER: Yeah, go ahead.

21 COMMISSIONER MC ALLISTER: Yeah.

22 MR. LEVY: Commissioners, perhaps I can frame
23 some of the legal issues that are going on here.

24 The first one is the Commission has a role in
25 licensing and it's a limited role relative to how the city

1 or any applicant pursues their processes.

2 The applicants come to the Commission and they
3 submit an application for certification, or in this case, a
4 petition to amend the certification to allow them an
5 extension of time to construct their power plant.

6 You have set timelines, the Commission does,
7 within which you are to do your job.

8 And then after the Commission makes a decision
9 there's a limited timeframe within which people can bring
10 to the Commission's attention things that the Commission
11 should have known, but didn't know, due to no fault of the
12 petitioner or, if there's a change in law or fact that's
13 relevant to the proceeding.

14 So, the grounds for consideration reconsideration
15 are really quite narrow.

16 The point here and the point of the draft or the
17 proposed order is to ask Mr. Landwehr to explain what it is
18 that had he received notice, and I believe the proposed
19 order concedes that it appears he didn't receive notice, a
20 side issue. As you all know, and most of the stakeholders
21 know, our list serves are self-effectuating. People sign
22 themselves up for list serves.

23 I can let staff speak to what happened in this
24 case, if they choose to do so, but apparently somebody
25 represented to Mr. Landwehr that they would put him on a

1 list serve and that didn't happen. And that's a bad thing
2 and that's a process issue that needs to be addressed
3 internally.

4 But, nevertheless, had he been there at the time
5 of the hearing, and had he had notice what is it that he
6 would have said at the time that would have beared upon
7 your decision about whether to grant or deny
8 reconsideration?

9 And the proposed order says it doesn't look from
10 the petition that even if he was there, that anything that
11 he's alleging would have weighed in, in any relevant way,
12 on your decision about whether to grant the five-year
13 extension.

14 Now, that said, if something comes up later as a
15 result of the District Attorney's investigation, the
16 Commission can modify or revoke the certificate at that
17 time under Public Resources Code 25531, if there were
18 mistakes, false statements presented to the Commission, or
19 other bases to do so, but that would be a separate
20 proceeding.

21 In this proceeding, now, it's incumbent on Mr.
22 Landwehr to explain what it is that he would have testified
23 to, essentially make an offer of proof about what he would
24 have told you and for you to decide now whether or not,
25 within the confines of the regulation for a petition for

1 reconsideration, that presents new or different information
2 that would have caused you or could have caused you to
3 reach a different conclusion on granting the extension.

4 COMMISSIONER MC ALLISTER: Is a pending lawsuit
5 anything along those lines?

6 MR. LEVY: Not a pending lawsuit, nor a pending
7 criminal investigation.

8 The purpose of the power plant licensing process
9 is to have an expedited process to go forward.

10 And I might also add there's a limited time to
11 review these petitions, too.

12 At Mr. Landwehr's request, when he filed the
13 complaint that you just adjudicated on the ex parte issue
14 and the Public Records Act issue, he asked you to delay
15 consideration of the petition for -- his petition for
16 reconsideration, which you did.

17 You are supposed to conclude an investigation on
18 reconsideration within 90 days of filing. That would be
19 October 11th.

20 Plus, the possibility of a need for evidentiary
21 hearings if he presents something now that gives you cause
22 to do that.

23 So, delaying again would put you really up
24 against the deadline in being able to respond to it. And
25 who knows what the District Attorney's Office is looking at

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1 or when they're going to form whatever conclusions they
2 form.

3 And as I said, there's recourse to address those
4 issues, if they become relevant, after the DA actually acts
5 under Public Resources Code 25531 -- or excuse me, 25531,
6 pardon me.

7 MR. LANDWEHR: Here's what I'm hearing is I'm one
8 property owner. Actually, this property is shared by my
9 brothers and sister. Why don't they have the opportunity
10 to come to a June 12th hearing and speak? Why do I have to
11 now try to explain to you all what they may have said or
12 are willing to say about this?

13 What about the other property owners of this
14 development that have never received notice and been given
15 the opportunity to speak? What about them?

16 MS. MATHEWS: Can I be heard? This is Alana
17 Mathews, Public Adviser.

18 I would request if we can perhaps table this
19 matter, pass it. I would like to explain the procedure for
20 what a petition to reconsider entails to Mr. Landwehr
21 because I think that we're reframing the issue, perhaps,
22 for the Commission. The Commission has an understanding.

23 I don't think he understands so I'd like to take
24 a few minutes to explain that, clearly, what the issues
25 are, what information the Commission is looking for, and

1 then we can resolve this issue.

2 MR. LANDWEHR: Well, I heard you say -- is it Mr.
3 Levy?

4 MR. LEVY: It is.

5 MR. LANDWEHR: I apologize.

6 MR. LEVY: That's quite all right.

7 MR. LANDWEHR: But the notice issue is a
8 problematic issue. Is that correct?

9 MR. LEVY: Lack of notice to folks who are
10 entitled to notice is always a problematic issue, yes.

11 MR. LANDWEHR: Okay. How then am I supposed to
12 be able to share with the Commission what everybody's
13 opinion about Victorville 2 is, including my own family
14 members, who have the right to come here and say.

15 What about the other property owners? Am I
16 supposed to in my head, now, be able to tell this
17 Commission and you all what their concerns were about
18 Victorville 2?

19 MR. LEVY: Chairman, it might behoove the
20 Commission to accept the Public Adviser's recommendation.

21 But in short, when I use the words "offer of
22 proof," right now it's your job to explain to them what
23 might have been said that would have changed their mind
24 back then, and then they would decide whether to have a
25 hearing on reconsideration.

1 MR. LANDWEHR: Here's what --

2 MS. MATHEWS: I would ask the Chair to make a
3 decision on my request.

4 CHAIRPERSON WEISENMILLER: Let's do a recess.
5 This is probably an appropriate time for lunch. I believe
6 we have an Executive Session at lunch?

7 MR. LEVY: Yes, I would like to request an
8 Executive Session.

9 CHAIRPERSON WEISENMILLER: And so let's try to be
10 back here by -- I was going to say 1:15.

11 MR. LEVY: If I may, Chairman, the grounds for
12 the Executive Session are to discuss whether facts and
13 circumstances warrant the initiation of litigation.

14 CHAIRPERSON WEISENMILLER: Yes. So, I'm just
15 looking at you and trying to figure out whether it's a 1:15
16 or a 1:00 restart.

17 Let's say 1:15 and, hopefully, you two can talk
18 during that period of time and can help him -- anyway,
19 clarify what the issues are or what our process is. Thank
20 you very much.

21 (Off the record for the lunch recess, during
22 which an Executive Session was held.)

23 (Reconvene in Open Session at 1:18 p.m.)

24 CHAIRPERSON WEISENMILLER: Good afternoon, we're
25 back in session.

1 I was going to ask our Public Adviser for a
2 report since we took a recess.

3 MS. MATHEWS: Yes, I have had an opportunity to
4 speak with Mr. Landwehr and I explained to him, again, the
5 procedure today, and the opportunity that he has during the
6 petition to reconsider is to present to the Commission any
7 new information that wasn't presented at June 12th, or
8 either any change of law, or change or error in fact. As
9 well as, or under the umbrella of any information he would
10 have presented had he been noticed and had the opportunity
11 to come on June 12th.

12 He did indicate that he understood that and he is
13 prepared to share that information now.

14 CHAIRPERSON WEISENMILLER: Oh, great, thank you.
15 Please.

16 MR. LANDWEHR: Thank you. The information that
17 was not heard at the hearing were statements of material
18 fact that aren't true, factors outside the product owner's
19 control that have prevented the start of construction is
20 not true.

21 It's not a build-ready site, as they said.

22 I also wanted to bring up the San Bernardino
23 Grand Jury final report of 2012, the lawsuit involving
24 Victorville and CMB Imports, the EB-5 Program failure, the
25 fact that other property owners never received notice and

1 had the opportunity to be there.

2 And the project is not viable because of the
3 contract with Inland Energy due to their 5 percent
4 operating profit clause.

5 And I believe that the California Energy
6 Commission did not do an objective review of their
7 petition.

8 CHAIRPERSON WEISENMILLER: Okay, thank you.

9 Let's start with our Chief Counsel, again. Just
10 in terms of would you review for us precisely the issues
11 that were at stake in this case, and which of these might
12 materially affect the findings we need to make on this
13 extension.

14 MR. LEVY: I think you're going to need a little
15 bit more information from Mr. Landwehr. But the question
16 is why would each of those or any of those have made a
17 difference in terms of your decision about whether or not
18 to grant the 5-year extension.

19 CHAIRPERSON WEISENMILLER: Right.

20 MR. LEVY: So, you might ask Mr. Landwehr to
21 clarify what it was that each of these items had associated
22 with it that would have caused you to reach a different
23 conclusion, or may have caused you to look at the issues
24 differently.

25 CHAIRPERSON WEISENMILLER: Okay. Please.

1 MR. LANDWEHR: My response is that the City of
2 Victorville was not truthful in its application or the
3 petition, and they were concluded by staff to be truthful
4 in and of themselves.

5 It shows a pattern, all these lawsuits, and
6 referring to the United States Immigration -- Customs and
7 Immigration, a termination of the EV-5 Program, the
8 Securities and Exchange Commission. They're finding fault
9 with the City of Victorville in trying to finance
10 Victorville 2.

11 It's a pattern of consistent behavior of the City
12 of Victorville not following the rules.

13 And if they're not following the rules regarding
14 financing of Victorville 2, what makes you believe,
15 Commission that they're going to now.

16 COMMISSIONER DOUGLAS: If I could, let me just
17 ask a few follow-up questions because I think it could be
18 helpful.

19 Mr. Landwehr, you cited when you came in here, a
20 list of issues that you were pointing -- asking us to
21 consider. And so one of the issues you cited was related
22 to factors outside of a project owner's control and that
23 those factors were not there. Did I hear you correctly?

24 MR. LANDWEHR: I believe they're not true.

25 COMMISSIONER DOUGLAS: And can you give us a

1 little more detail on what factors were asserted that you
2 think are not true?

3 MR. LANDWEHR: Well, clearly, if you engage in
4 fraud, I think that's within your control. The Securities
5 and Exchange Commission is accusing Victorville of
6 conducting -- or being engaged in fraud with the financing
7 of Victorville 2.

8 COMMISSIONER DOUGLAS: Okay. Now, normally, when
9 we think about factors beyond a project owner's control --
10 when a project owner comes in here for an extension what
11 they're basically saying is, you know, Energy Commission,
12 you gave us five years. We weren't really able to build
13 the project in five years, but if you were to give us more
14 time we think we could. And we have been doing our work,
15 and our due diligence in putting the project together, we
16 haven't just been sitting on this.

17 And things happened outside of our control, you
18 know, that made it more challenging than we thought to get
19 this project together quickly.

20 And so I am -- I hear the concerns that you're
21 expressing about issues that might have occurred or you're
22 alleging occurred with the City of Victorville.

23 That type of thing is not generally what I would
24 look at or what I would think about when I'm thinking about
25 the question of has this applicant shown -- kind of met the

1 burden for an extension.

2 So, that's the connection that is very clear to
3 you, that I'm asking you to help us draw.

4 MR. LANDWEHR: I think everybody that owns
5 property has the right to appear and be heard. And our
6 family wasn't the only one, there's several property
7 owners, quite a few, that have been excluded from notice.

8 And my personal opinion, based upon e-mails, is
9 it wasn't an accident. And I think people have the right
10 to be heard when it concerns the development of their
11 property.

12 COMMISSIONER DOUGLAS: I think that every one of
13 us agrees with you on that point and we agree with you
14 strongly.

15 Let me ask you a question because we have two
16 issues. We have the issues that you've alleged regarding
17 notice or lack thereof by the City of Victorville to your
18 family and potentially others.

19 And then, very unfortunately and to our
20 embarrassment, you also didn't get notice of the Business
21 Meeting where we had the extension.

22 And so I think that both of those -- I don't want
23 to conflate those. And sometimes when you speak I wonder
24 which one you're referring to.

25 So, when you just gave that answer, are you

1 saying that the -- were you talking about you and neighbors
2 not getting notice by the City of Victorville?

3 MR. LANDWEHR: When I say neighbors, I'm
4 referring to other property owners.

5 COMMISSIONER DOUGLAS: Yes, correct.

6 MR. LANDWEHR: I know other property owners did
7 not receive notice and, in fact, the project compliance
8 manager knows that, Blake Roberts knows that, and Alana
9 Mathews knows that.

10 And I don't -- I think if people have notice that
11 there's going to be a hearing concerning the development of
12 their property, they should have the right to appear, or at
13 least have that opportunity and say things for or against
14 it. And I don't -- I can't speak to what they would say.

15 COMMISSIONER DOUGLAS: Right. And so you are
16 talking about the notice of the Energy Commission
17 proceeding at this point, right, when you talk about Blake
18 Roberts and the compliance manager. You're talking about
19 the notice for the extension?

20 MR. LANDWEHR: Correct.

21 COMMISSIONER DOUGLAS: Okay.

22 MR. LANDWEHR: Well, I don't know where you're
23 going with that. Maybe I missed it, I apologize. But we
24 never received any notice, our family, from the California
25 Energy Commission, never. And Mary Diaz (phonetic) knows

1 that and she's acknowledged that.

2 COMMISSIONER DOUGLAS: And what I understand
3 happened, and it could be helpful to hear it from you, but
4 what I understand happened is that you send an e-mail in to
5 Mary Diaz asking if you were on the list serve and she sent
6 a response saying, well, I'm looking here, I don't see your
7 name.

8 And I don't know what other communications you
9 had with her and, you know, whether you believed that you
10 would be added on the basis of a phone call or on the basis
11 of an e-mail inquiry.

12 I think that one thing I would like to see the
13 Energy Commission do differently after this is that -- and
14 in some ways it makes it -- in some ways we add a step to
15 members of the public, but I think it's better, really,
16 that we stick to our policy of saying to people that they
17 should please affirmatively add themselves to the list
18 server so that you know when you've done it and you're
19 not --

20 MR. LANDWEHR: Well, I also sent her a memo,
21 which it has a docket number, asking that the hearing of
22 the 12th be postponed, and I never received a response one
23 way or the other.

24 COMMISSIONER DOUGLAS: Uh-hum.

25 MR. LANDWEHR: I had no knowledge of the 12th

1 hearing. If I would have, I'd have been here.

2 COMMISSIONER DOUGLAS: You'd have been here.

3 And part of what we're asking you to do today,
4 and as the Chair noted, he asked that the draft order be
5 published so that we'd give you as much guidance as we
6 could, really, on what we're asking you for.

7 But we're asking you to tell us what it is that
8 you would have told us if you'd been there, because we're
9 here to listen to you now. And we want to know what it is.

10 And what we're sitting here trying to do is tie
11 what you tell us to the way that we think about extensions.

12 We don't use the extension process to re-litigate
13 substantive issues that came up in a licensing proceeding,
14 the fact that people might like, or not like, or agree or
15 not agree with something in the original licensing decision
16 is not really what we're looking at.

17 What we're really looking at are factors pro and
18 con for finding that reasonable exists to extend it. I
19 think that's probably the conversation you had with the
20 Public Adviser.

21 But I really hope that you take advantage of this
22 opportunity to lay that out for us. And I'm really, with
23 these questions, just seeing if I can build some additional
24 facts around it.

25 And I might ask a few more along those lines, but

1 do you have any comment right now or should I go on?

2 MR. LANDWEHR: No, other than I really don't
3 think there was an independent objective analysis of the
4 extension and that's based upon a hurriedness and I read it
5 in the e-mails, that they're hurried to get through this
6 process.

7 The Commission is very much eager to get its
8 compliance fees. And, in fact, one of the e-mails, if you
9 don't come up with the compliance fees, you're not going to
10 have our support in the extension.

11 The only comment that I would make is that I
12 think you can judge a company or a city's behavior based on
13 past performance, their past actions.

14 And in Victorville's way of handling the
15 Victorville 2 Power Plant construction is not positive.
16 They're being accused of operating outside the rules. And
17 the project, I believe, is not really viable.

18 COMMISSIONER DOUGLAS: Okay.

19 MR. LANDWEHR: And that's as far as I can say
20 right now.

21 CHAIRPERSON WEISENMILLER: But that's a second
22 question. If it's not viable, it's never going to get
23 built. So, whether they get an extension or not, if your
24 premise is correct that it's not viable, it's not going to
25 happen.

1 MR. LANDWEHR: Well, I agree, but I would really
2 like to be able to access our property and without the
3 influence of -- you can't do nothing because there's going
4 to be a power plant there for five years.

5 CHAIRPERSON WEISENMILLER: No, that's fair. It's
6 a fair question.

7 I mean the other issue you've raised, generally,
8 is an area which, again, is it's being looked at by the
9 courts. And so in a way, we will presume them innocent
10 until the courts decide. And if the courts decide the way
11 you think they should decide, then we will take action at
12 that point.

13 MR. LANDWEHR: I'm sorry, the court --

14 CHAIRPERSON WEISENMILLER: If the courts decide
15 that what you've said is correct on fraud then, you know,
16 obviously we will adjust our decision.

17 MR. LANDWEHR: I don't know what court you're
18 referring to, sir.

19 CHAIRPERSON WEISENMILLER: Oh, the courts, you
20 have indicated that certainly there are various
21 investigations there, a lawsuit filed, et cetera, is what
22 I'm saying.

23 MR. LANDWEHR: Oh, I got you.

24 CHAIRPERSON WEISENMILLER: Okay, you know, we're
25 not going to prejudge what they're going to decide. But,

1 certainly, if their decision matches what you've said then
2 we will certainly -- that would have -- we will revise the
3 decision.

4 MR. DE BORTENOWSKI: If I might, this is Andre
5 DeBortenoski --

6 CHAIRPERSON WEISENMILLER: Sure.

7 MR. DE BORTENOWSKI: -- City Attorney with the
8 City of Victorville. And I'd like, if possible, to address
9 some of those concerns about the other forums where
10 allegations have been made.

11 CHAIRPERSON WEISENMILLER: Sure, go ahead.

12 MR. DE BORTENOWSKI: Yeah, Mr. Landwehr has
13 alleged and continues to allege that we have violated the
14 Brown Act that we're under investigation. You know, there
15 was a Grand Jury investigation. It was fully concluded.
16 It was fully responded to. There have been no further
17 proceedings with respect to that.

18 It is true there is currently an SEC pending
19 investigation. The allegations against the City are very,
20 very weak. And as to the determination, there's been no
21 determination on that.

22 There have been no determinations in the various
23 court actions or in other forums that the City of
24 Victorville has violated any law, not followed the law to a
25 T, or failed to provide adequate notice.

1 The April 16th meeting of the City Council of the
2 City of Victorville, and the resolutions it adopted
3 addressed all of the Brown Act violations. I mean, there's
4 clearly no one can argue that we have not followed the
5 Brown Act when there's a public meeting fully and
6 appropriately noticed to consider the Council's
7 determination to seek an extension.

8 There's no merit to Mr. Landwehr's allegations
9 that the City is being investigated or that there's been
10 any determination in any forum that the City has failed to
11 comply with the law.

12 MR. LANDWEHR: Please. Yeah, I have a copy from
13 the San Bernardino County District Attorney documenting the
14 investigation that's going on now with the Brown Act.

15 And Mr. DeBortenoski has been very emphatic, and
16 in fact he's quoted in a news article with his e-mail that
17 the city manager can come to the California Energy
18 Commission and file an application -- or excuse me, an
19 application to extend construction and he doesn't need an
20 open hearing, he doesn't need Council approval. And he can
21 do that because he's the city manager.

22 I disagree. And if you would read the
23 transcripts from the June 12th hearing, the city manager is
24 very clear he received -- I can quote the minutes, I have
25 them right here.

1 This is I'm quoting Mr. Robertson, on page 111,
2 line 7, "I'd first like to thank your staff, specifically
3 Mary Diaz, earlier this year our City Council, brand-new
4 since originally filing for this, directed staff to attempt
5 to get this extension and to do so using city staff."

6 That's contrary to what Mr. DeBortenowski says.
7 And, actually, when I did a Public Records request I was
8 told that there was a hearing in closed session
9 specifically about that, but it wasn't disclosed on the
10 agenda.

11 It wasn't announced on the agenda nor was it
12 talked about afterwards. So, the City Council gave the
13 city manager supposedly direction in closed session to come
14 and file for an application to extend construction.

15 I would like to know about that so I could go to
16 the City Council of Victorville and say time out -- time
17 out, how much is it going to cost? We've already wasted
18 millions and millions of dollars in this project and
19 there's a lot of issues.

20 Can I have the Council's ear? Can the public
21 hear what the Council is doing behind closed session? And
22 this is a consistent pattern with the City of Victorville.
23 I can't attend a hearing that I don't know anything about.

24 I can't come to the Commission and attend a
25 hearing because I don't know anything about it. That's my

1 point. And so we go specifically to the credibility issues
2 that --

3 MR. DE BORTENOWSKI: Mr. Landwehr tends to ignore
4 (indiscernible) -- at these meetings that we fully noticed
5 and the resolutions that are part of the administrative
6 record.

7 COMMISSIONER DOUGLAS: If I could, I think that
8 these are the issues that were, as I understand, raised in
9 the record even though, Mr. Landwehr, at our hearing.

10 And as the Chair has said, we are really not the
11 body to adjudicate or opine on a Brown Act issue.

12 We have heard, I think, enough to have a sense of
13 what the issue is and the different views on it by you and
14 by the City, but we are not in a position to decide one way
15 or the other about it.

16 MR. LANDWEHR: No, I understand. I'm just
17 responding to --

18 COMMISSIONER DOUGLAS: I understand.

19 MR. LANDWEHR: -- Mr. DeBortenoski. He said
20 some things that, in my opinion, were not accurate.

21 COMMISSIONER DOUGLAS: I understand.

22 MR. LANDWEHR: And I have a document to refute
23 it. It happened in March and that comes from, actually,
24 the Lorraine Stevens (phonetic), the records coordinator,
25 that documented the response that it happened in closed

1 session and it wasn't agendized.

2 COMMISSIONER DOUGLAS: Yeah, I understand.

3 I think I go back, and I think other
4 Commissioners may have questions or may have comment on
5 this, I go back to the view that this is not something that
6 would have been relevant to our extension decision because
7 this is something that is outside of, which is it's outside
8 of the sort of thing that would have been a consideration
9 for us on whether or not to extend a license.

10 I have a hard time seeing, at least, the direct
11 line of relevance, and the information was in the record.

12 I want to hear what others have to say before
13 opining more on that. I just wanted to say one more thing,
14 just almost as an aside, today is the first day I heard you
15 raise an issue about work being done on your property,
16 surveys or other property without your knowledge.

17 Those are the sorts of things that you should
18 raise to our compliance staff. You don't need to file a
19 complaint to do that, although you're entitled to. But
20 those are the sorts of things that we also need to know
21 because, you know, we do exercise oversight over how these
22 licenses are --

23 MR. LANDWEHR: With all due respect, when I
24 noticed Mary Diaz that I wasn't on a mailing list what did
25 she say, "that's a problem, a property owner not being

1 noticed about what's going on."

2 MR. LEVY: Commissioners, just two more things.
3 One is in terms of the authority issue, whether the city
4 manager had authority, that's really an issue between the
5 city manager and Victorville, itself. It's not really an
6 issue for the Commission.

7 The second thing is the way our compliance
8 process works is after a certificate is granted, you've
9 acted on a license and you've approved a certificate, all
10 of the stakeholders at the time are then asked if they want
11 to stay on the list serve for the compliance process.

12 And rather than cluttering up the e-mail or
13 mailboxes of folks who don't have an interest anymore after
14 the issue has been determined, the folks who don't ask to
15 remain on the list for the compliance list serve are
16 dropped from the list serve, in accordance with,
17 essentially, with their requests.

18 And so it's not uncommon for neighbors to fall
19 off of list serves during the compliance process, even if
20 they were on the list serve for the application for
21 certification.

22 CHAIRPERSON WEISENMILLER: No, in terms of --
23 again, I'll go back and just sort of walk -- you know, I'm
24 sort of -- we gave you the draft decision and I think in
25 terms of the basic issues or basic resolution, I think

1 we're still in a position of recognizing, obviously, that
2 you had not got a hearing so we've given you the
3 opportunity. That you've raised issues of Brown Act or
4 authority, and that's really between you and Victorville.

5 And you've raised some issues on the compliance
6 side. And at least the issue you'd raised has been
7 addressed.

8 Now, going forward, what I urge you and every
9 landowner who's affected to work with the Public Adviser so
10 you get on the list serve going forward.

11 And you, and again everyone who's affected please
12 help us -- you know, she'll be very good at making sure
13 you're on that so that you've got the appropriate notice.

14 But again, we're -- for at least what's before us
15 today, you know, the fundamental question of authority, or
16 Brown Act violations is certainly not something that we're
17 going to take action based upon.

18 So I think at that stage, you know, I think I'm
19 relatively comfortable with the draft we put out.
20 Although, again, I certainly want to make sure that going
21 forward that you and everyone who's affected can be on the
22 list serve to be part of the compliance process.

23 And as Commissioner Douglas said, if there are
24 issues going forward on compliance, let us know but again,
25 starting with the staff.

1 COMMISSIONER MC ALLISTER: Yeah, I was going to
2 say something along the same lines. I mean it seems -- you
3 bring up issues that if I were a landowner in that area I'm
4 concerned about, too.

5 But, really, it's between you and the local
6 jurisdiction. You know, the local jurisdiction has the
7 authority to represent to us and they're the interested
8 party in development, and wanted to extend the license that
9 had previously been granted.

10 So, that is in no way -- you know, the fact that
11 we granted a license and extended it does not mean that the
12 project will be built, as the Chair said. And if the
13 project, itself, has fundamental flaws and, you know, your
14 and other advocacy on the ground in that community is
15 effective then maybe it won't be built. I don't know,
16 that's not up for us to decide.

17 But the issues, all of the issues except for a
18 couple that you've brought up are really between you and
19 the local jurisdiction. And, you know, we appreciate you
20 airing those out as, you know, we've given you the
21 opportunity to do.

22 But it doesn't seem like there's really any
23 conclusion on right and wrong there and, you know, it
24 wouldn't have been in June and isn't now. So, nothing in
25 that respect has really changed.

1 So, I absolutely respect you and other
2 landowners, and any interested party in that area or
3 beyond, your right, and certainly desire to organize and
4 get your voice heard is not the issue here. I think we all
5 acknowledge that that is your fundamental right and also a
6 good thing for process at any level, including here at the
7 Commission.

8 But within our sort of decision making arena,
9 which is a relatively -- which is not -- I think many of
10 the issues you brought up are in a bigger box than the box
11 that we're in, in the extension decision reconsideration.

12 You know, only a couple of them really are kind
13 of something that would -- that belong in our process. And
14 I think neither of those are compelling enough, for me at
15 least, to believe that we would have reached a different
16 decision in June.

17 But I want to just reiterate what the Chair and
18 Commissioner Douglas have said already which is, you know,
19 we do take our compliance responsibilities very seriously.
20 The Siting Division, you know, definitely wants to hear
21 about compliance violations. We hear about them regularly
22 and we act upon them.

23 And I would encourage you to -- you know, I know
24 you will stay engaged. I trust that others in the
25 community will, as well. And when issues come up that are

1 clearly compliance issues or concerns then we need to know
2 about them so that we can make sure that Victorville does
3 play within the rules, just like we would with any other
4 applicant.

5 So, I think, you know, good luck on doing that
6 going forward. I think it's a valuable thing that you're
7 doing and I understand you have a very personal interest in
8 that and I respect that very much.

9 And thanks for being here today.

10 COMMISSIONER SCOTT: I don't have anything to add
11 that the three of you haven't already raised.

12 CHAIRPERSON WEISENMILLER: Do we have a motion?

13 COMMISSIONER DOUGLAS: So, I will move to adopt
14 the proposed order.

15 COMMISSIONER MC ALLISTER: I'll second.

16 CHAIRPERSON WEISENMILLER: Okay, all those in
17 favor?

18 (Ayes)

19 CHAIRPERSON WEISENMILLER: So the resolution has
20 been adopted four to zero.

21 MR. LANDWEHR: Thank you for your time.

22 CHAIRPERSON WEISENMILLER: Thank you. Yes, and
23 thank you for being here. And, certainly, we've listened
24 to your concerns.

25 MR. LANDWEHR: Have a good day.

1 CHAIRPERSON WEISENMILLER: Okay.

2 So, let's move on to Item Number 9, Regents of
3 the University of California on Behalf of the California
4 Institute for Energy and Environment, possible approval of
5 three highest grant applications; total \$449,808, PIER.
6 Matt Fung, please.

7 MR. FUNG: All right, good morning Commissioners.
8 Again, I'm Matt Fung with the Energy Efficiency Research
9 Office. And I seek approval for the top three projects for
10 the enabling technologies EDT-1301 competitive grant
11 solicitation totally \$449,808.

12 It's being administered by the California
13 Institute for Energy and Environment. Three research
14 opportunity notices for transmission grid, distribution
15 grid, and Smart Home research areas were released in
16 January of 2013.

17 CIEE performed a two-stage evaluation process,
18 accepting pre-proposal abstracts and then full proposals.
19 Thirty-seven total abstracts were received and the top 15
20 were invited to submit full proposals. And of those 15
21 full proposals, the top three are being proposed for
22 funding, which are the top proposals from each research
23 area.

24 So, the first proposed project is the Arc Fault
25 Circuit Interrupter development for residential DC

1 electricity project from California Air Quality techs at
2 University of San Luis Obispo.

3 This project proposes developing an arc fault
4 circuit interrupter for DC circuits operating between 24
5 and 48 volts.

6 The AFCI will be incorporated into a Smart DC
7 plug that can detect DC arcing on either the load or supply
8 side of the DC electrical outlet which will increase
9 safety, security, quality and reliability of the electric
10 power system.

11 The second proposed project is the Repetitive and
12 Data Control of Distributed Generation for Seamless
13 Transitions Between Grid-Tied and Off-Grid Modes.

14 This project's proposed by UCLA, which they
15 propose to develop a predictive control methodology for
16 micro grids to seamlessly transition between distributed
17 generation and the electric power system, which improves
18 micro grid safety and reliability.

19 The final proposed project is the proposed
20 Silicon-Based Lithium Ion Anodes for Secondary Batteries
21 Project from UCSD.

22 That proposed to optimize the silicon anode
23 structures and manufacturability at scale to improve the
24 lithium ion battery lifecycle and storage capacity.

25 The proposed project will also test the silicon

1 anode materials and validate the ultimate formulations.

2 With that, I respectfully ask for approval for
3 these three projects and I am now open for taking any
4 questions.

5 The Project Administrator for CIEE, Theresa
6 Proffer (phonetic), I believe she is on the line to also
7 take questions.

8 CHAIRPERSON WEISENMILLER: Okay, great.
9 Commissioners, any questions or comments?

10 COMMISSIONER MC ALLISTER: I mean I believe these
11 are good projects. I know, the -- if you could talk about
12 the process a little bit, how many proposals you got and
13 sort of what the -- I mean what the overall outcome of that
14 is. I know these three were sort of the highest rank, but
15 sort of what did the rest look like.

16 MR. FUNG: Okay, so initially 37 total abstracts
17 were received. They went through a review process through
18 the Technical Advisory Committee and CIEE staff, as well.
19 And of those 37, the top 15 were invited to submit full
20 proposals and then they went through the same review
21 process.

22 And then, now we are here to -- or CIEE provided
23 recommendations for which projects that they would like to
24 be funded. And of those six that they recommended, we are
25 picking the top three.

1 CHAIRPERSON WEISENMILLER: Yeah, and I was going
2 to say this has gone through the normal Presiding Member
3 review but --

4 COMMISSIONER MC ALLISTER: Right, okay. I mean,
5 I like the mix of -- you know, there's one that's very
6 localized, you know, at the end-user level, there's another
7 one that's in the distribution grid and another one in the
8 transmission grid, and it's sort of up and down the food
9 chain there. We know that all of those areas are very
10 important, you know, for many different reasons so it's
11 good to have that coverage.

12 You know, distributed resources, you know, end-
13 use, distributed at the distribution level, localized grid
14 impacts and then transmission system issues are all on the
15 docket and all -- again, they're all very important.

16 So, it's good to see the funds being used in a
17 broad way like that.

18 COMMISSIONER SCOTT: I did have one question. I
19 see from the backup materials that we expect some of these
20 to be completed in 12 months, up to 18 months. And that,
21 you know, one of them is going to construct and test the
22 anode materials and different things.

23 What type of data will we get back? Do we get a
24 report, do we get to see what they've built or what they've
25 tested at the end of these terms for the projects?

1 MR. FUNG: We'll simply get a final report at the
2 end of the term.

3 COMMISSIONER SCOTT: Uh-hum.

4 COMMISSIONER MC ALLISTER: So, I'll move Item 9.

5 COMMISSIONER SCOTT: Second.

6 CHAIRPERSON WEISENMILLER: Okay, all those in
7 favor?

8 (Ayes)

9 CHAIRPERSON WEISENMILLER: Item 9 passes four to
10 zero.

11 Let's go onto the minutes. I'm going to abstain
12 from the minutes since I wasn't here on August 27th.

13 COMMISSIONER DOUGLAS: Move the minutes.

14 COMMISSIONER MC ALLISTER: Second.

15 CHAIRPERSON WEISENMILLER: All those in favor?

16 (Ayes)

17 CHAIRPERSON WEISENMILLER: I abstained, so three
18 to zero.

19 Okay, let's go on to Lead Commissioner, Presiding
20 Member Reports.

21 COMMISSIONER SCOTT: So, I had -- it actually
22 hasn't been very long since we last met, but I do have a
23 couple of things to report on to you all.

24 I got to go on a tour of the Union Pacific Rail
25 Intermodal Yard, and also the Port of Oakland, in Oakland,

1 which was great. It was a nice opportunity to see some
2 goods movement in action, but also to see the different
3 things that both of these, both the UP and the Port are
4 doing to either electrify the transportation, electrify the
5 cranes at the Port. They showed us how you plug in the
6 ship.

7 And they actually developed their own -- plug is
8 not quite the right word because it's a very complex system
9 of charging there, but they developed their own box for
10 that. They didn't have a ship that was plugged in at the
11 time, so that was kind of a bummer we didn't get to see
12 that part.

13 And the UP Rail Yard they've got a really neat
14 system where they can sort of both check the security of
15 the driver, so that it's the right driver, in the right
16 truck, with the right container, and to get them -- direct
17 them to exactly where they need to be, either to drop off a
18 container or pick it up, and have appointments and things
19 like that. And so, that just avoids a lot of idling time
20 and it helps them move the goods more efficiently.

21 And so it was just kind of neat to see some of
22 the things that they are working on to help move goods more
23 efficiently, help clean the air, help us with some of the
24 climate challenges and see that kind of in action.

25 I also got to go visit AC Transit and that was

1 pretty neat what they've got down there. Well, they've got
2 a huge fleet, but they've got 12 fuel cell busses that they
3 have in operation. And so we got to see how they fuel one
4 of those up. We got to see what it was like to ride on
5 one. We actually got to drive one, which was pretty cool.

6 And it was -- not very far, I didn't pick up any
7 passengers or anything.

8 But it was just neat to see the technology. The
9 folks there are really happy with it. And so I hope to see
10 more.

11 I also got to go and visit Santa Clara Valley
12 Transportation Authority, and that's one of the places
13 where we have one of our Alternative and Renewable Fuel,
14 and Vehicle Technology Program Workforce Grants.

15 And it was just really neat to see the folks who
16 are there. And, you know, it's actually quite complex,
17 they have both busses and light rail. They're always
18 looking to make improvements.

19 And, basically, the money that we're giving,
20 similar to the community colleges, helps the workforce
21 train and be ready for the advanced technologies that we
22 are, you know, trying to get out there to transform our
23 transportation system.

24 They also had a great message about the
25 importance of transit and how they have been working with

1 the folks that live around the county to really just say,
2 you know, this is our transit. This is great for -- again,
3 it's good for clean air, it's good for climate if they can
4 get more people onto transit and just the importance of
5 transit in our system.

6 And so, it was neat to go there and see that, and
7 talk to some of the folks who have gotten trained with the
8 funding that we've provided.

9 And then I wanted to look forward to next week
10 and just let you all know, I think you probably already do,
11 on Monday, September 16th, there is the Drive the Dream
12 event that the Plug-In Electric Vehicle Collaborative is
13 putting together.

14 It is looking at making some major commitments to
15 workplace charging. And I just pulled it from the media
16 advisory, basically what they say is; "It's going to be
17 business leaders joining Governor Brown to announce
18 partnerships around plug-in electric vehicles in incentives
19 and infrastructure to spur growth in California."

20 And so, that's going to be taking place on
21 Monday, the 16th, in San Francisco.

22 So, that's my report.

23 COMMISSIONER MC ALLISTER: I'll be very brief.
24 Just a couple of things that I've done of some note, just I
25 think along the theme of seeing what kind of innovation is

1 happening out there, I had the opportunity to go down to
2 Southern California, but it was at Edison's Advanced
3 Technology Lab.

4 They're doing a lot of good stuff, mostly related
5 to distribution grid, but a lot of looking at home area
6 networks and how to incorporate, how to potentially do
7 demand response and monitoring at a very granular level,
8 pretty interesting research there.

9 A lot of EV research; how to incorporate plug-in
10 vehicles into the grid reliably, and looking at different
11 models for doing that, and reducing the cost of the
12 technologies involved in doing that.

13 So, my staff and I went down there and spent a
14 day looking at some of what they've been working on, so it
15 was very interesting.

16 Also went and did a tour of EnerNOC, which is one
17 of the nation's leading demand response providers, and they
18 have a dispatch center in San Francisco. So, they have an
19 impressive amount of megawatts under monitoring and
20 potential control, with customers on various continents,
21 more on the East Coast than in California but also in
22 California, and Australia, and other places.

23 So, it's the technology platform they've put in
24 place, and they're one of a number of those kinds of
25 providers, and I think they're providing a lot of

1 innovation to the marketplace, that it's going to help us
2 down the road. It's helping is already, but it's going to
3 help us even more down the road.

4 And along those lines I wanted to highlight one
5 of the recent IEPR workshops that we have, which was with
6 the heads of all of the various agencies. So, just this
7 past Monday -- yeah, exactly, just this past Monday,
8 including Chair Weisenmiller, who presided for our
9 Commission, but which had -- I won't even list them all,
10 but all of the various agencies, including South Coast, and
11 the Water Quality Control Board, and the main energy
12 agencies.

13 CHAIRPERSON WEISENMILLER: I would note that
14 every seat on the dais was full.

15 COMMISSIONER MC ALLISTER: Yes, exactly.

16 CHAIRPERSON WEISENMILLER: And Pickard (phonetic)
17 as in the audience so --

18 COMMISSIONER MC ALLISTER: Yeah, so another --
19 and we were talking about issues really central to energy
20 policy going forward in California, and particularly
21 stimulated by the various issues that are coming to
22 confluence in Southern California, SONGS, renewables
23 integration, the once-through cooling retirements, and
24 possible re-powers.

25 But a very robust discussion and I think there's,

1 you know, increasingly the agencies and many others are on
2 increasingly similar page on what needs to happen going
3 forward. And so, it was another kind of step in the
4 direction of having the high-level direction that we need
5 for going out there to execute, so a very interesting
6 discussion.

7 And let's see, lots going on in my wheelhouse on
8 energy efficiency, and with the staff moving forward on
9 various fronts. The Proposition 39 guidelines are getting
10 close, which I'm very happy about.

11 And, certainly, Rob, Marsha and team are working
12 hard on that, still, across the agencies that are involved
13 in Prop 39.

14 But it's interesting we have just a lot of other
15 themes, a lot of recurring themes here in my shop about how
16 to make better policy decisions, with an increasingly kind
17 of granular understanding of the energy system. And so
18 it's information management, it's grid reliability at an
19 increasingly local level.

20 We're moving that way in the forecast to try to
21 have a more localized understanding.

22 And all of these technologies that we're funding,
23 promoting, understanding, learning about they're so
24 critical for being able to execute properly.

25 And I think that's one of the things that really

1 gets me excited is helping -- you know, is working with the
2 marketplace and interface with the marketplace to
3 understand what the best solutions are going to be, and
4 then try to map over into the policy arena and try to do
5 things in a way that facilitates that.

6 So, a lot of the conversations along these sort
7 of the broad strokes are along these lines.

8 CHAIRPERSON WEISENMILLER: Yeah, I'm just going
9 to hit two topics. I mean, one is, as Commissioner
10 McAllister indicated we've got a pretty solid working group
11 among the various affected agencies on life
12 without -- post-San Onofre, and certainly UC and the Cal-
13 ISO are pretty closely aligned on a lot of the technical
14 issues.

15 And working very closely with the Water Board,
16 Mary Nichols at the Air Board, and the South Coast, so
17 again pretty -- you know, we've all seen any number of
18 reports saying -- calling into question the agency
19 coordination or whatever. And I guess part of the answer
20 is that the proof is in the pudding. I mean, we dealt with
21 keeping lights on last summer successfully. We're dealing
22 with it this summer, knock on wood, you know, that we don't
23 have any more horrendous fires, particularly near
24 substations or lines in Southern California.

25 And we've a plan going forward. You know, I'm

1 certainly -- so I feel fairly -- very good about that. I
2 mean, our top priority was reliability and will continue to
3 be reliability. You know, that's certainly the basic
4 message of, no, we're not going to repeat what happened
5 before in terms of reliability, but we're trying to do it
6 in a very -- in a fashion that really respects the State
7 and builds off of the State policies.

8 You know, I'm not going to go through my speech
9 at the end of saying, you know, it's a challenge and an
10 opportunity. And the challenge is really to keep the
11 lights on and the opportunity is really transform our
12 system down there.

13 And we're making some very, very aggressive goals
14 on preferred resources, 50 percent.

15 But we will have in place contingency plans for
16 everything. It's not just preferred resources
17 transmission. I mean, God knows, in terms of things that
18 we're losing sleep overnight is trying to get some of the
19 transmission facilities we need done in a timely fashion.
20 And I guess we could bet on whether that's going to happen,
21 but I'm probably more pessimistic on that, than some of the
22 preferred resources, or the conventional generation.

23 So, it's a very belt and suspenders approach, but
24 I think we have to just be prepared to deal with the
25 reality of the things that are going to happen that we

1 don't anticipate now, and a lot of those are not
2 necessarily going to be good, so that part.

3 And then I'll talk a little bit -- I mean, the
4 one thing that's interesting and sort of the -- in terms of
5 talking to the Governor on climate issues, and it's really
6 the thing that he's most impassioned about is climate
7 change and trying to respond to that challenge in terms of
8 mitigation and adaptation.

9 But we realize very much that California is
10 really a small piece of the puzzle, it's only like 1
11 percent of the world's greenhouse gas emissions.

12 And so, if we have these things to take it to
13 zero, it's not going to really change much unless we can
14 leverage our actions in other areas.

15 And so, we're really focusing a lot on how to
16 leverage what we're doing well here elsewhere, and that's
17 why we went to China. That's why we're going back to China
18 at some stage.

19 You know, certainly, we're looking at China,
20 India, Mexico, you know, just trying to say how do we
21 leverage what we're doing elsewhere in the United States
22 and outside the United States because that's the only way
23 we're going to make a difference down the line.

24 COMMISSIONER DOUGLAS: So, just briefly, I wanted
25 to note that we had two public meetings. Actually, the San

1 Bernardino County held two public meetings on the Desert
2 Renewable Energy Conservation Plan, one in Lucerne Valley
3 and one in Morongo Basin.

4 San Bernardino County is a planning grant
5 recipient and so, you know, actually those meetings, in
6 addition to providing information on the DRECP were a very
7 nice launch to the County's work to update its planning
8 documents and engage the public in planning around
9 renewable energy at the local government level.

10 One, on last Friday we had a meeting in the
11 Lucerne Valley, on Saturday morning we had a meeting in the
12 Morongo Basin. Both of those meetings were very well
13 attended. We heard from a lot of people and we heard some
14 really valuable perspectives for us to reflect on and, you
15 know, certainly for the County to work on as well.

16 So, I'm looking forward to being able to do,
17 hopefully, a few more of these meetings before the draft
18 goes out, potentially, and also certainly after the draft
19 goes out.

20 And it's really nice in a lot of ways to be at a
21 point where we are able to engage with desert residents and
22 counties really directly on our joint efforts of doing the
23 DRECP, and also of supporting the local governments in
24 their planning work.

25 So, I think that's my only report for now.

1 CHAIRPERSON WEISENMILLER: Chief Counsel's
2 Report.

3 MR. LEVY: Thank you, Commissioners. I'd like
4 to -- if I may introduce two of our new staff attorneys to
5 you.

6 CHAIRPERSON WEISENMILLER: Great.

7 MR. LEVY: If you could stand up, please?

8 The first is Ha Kyung Sarah Kim. Say hello.
9 There you go.

10 Ha Kyung graduated from McGeorge School of Law in
11 December 2012. She has an undergraduate degree, a Bachelor
12 of Science in business from George Mason University, in
13 Virginia.

14 She clerked for the Office of Administrative
15 Hearings, the Sonoma County District Attorney's Office, the
16 private firm of Chan and Lee, and also the California
17 Department of Personnel Administration.

18 Our other new attorney is Samantha Arens. She
19 graduated from the UC Davis School of Law in May of 2012.
20 She has an undergraduate Bachelor of Arts degree in
21 sociology, from Haverford College in Pennsylvania.

22 She most recently worked at the private law firm
23 of Churchwell White. Has worked at Legal Services in
24 Northern California, had an externship at Cal-EPA, an
25 internship at the California Attorney General's Office, and

1 a semester-long internship at the American Gas Association
2 in Washington, D.C.

3 Both of them, for the short term at least, or the
4 foreseeable future will be working on AB 118 and EPIC.

5 And please join me in welcoming them to the
6 Commission.

7 CHAIRPERSON WEISENMILLER: Yes, welcome, great to
8 have you on board.

9 Executive Director's Report?

10 MR. OGLESBY: Nothing to add today.

11 CHAIRPERSON WEISENMILLER: Public Adviser?

12 MS. MATHEWS: I actually have a short report. I
13 have an opportunity to go to South Africa, leaving next
14 week, and I will return October 7th.

15 And while I am there I will have the opportunity
16 to meet with some governmental officials. There's
17 hydraulic fracturing going on in the Karu area, so I want
18 to learn how they are reaching out to the rural community,
19 as well as very impoverished community members and
20 residents to see how they're informing them of the
21 environmental impacts, and getting the involvement from
22 those residents, and that's it.

23 COMMISSIONER MC ALLISTER: Fabulous.

24 CHAIRPERSON WEISENMILLER: That's very good.

25 Public comment?

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Okay, this meeting is adjourned.
(Whereupon, at 2:07 p.m., the business
meeting was adjourned.)

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