MANDATORY STATUS CONFERENCE

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of the:	)	
	)	
Application for Certification	)	Docket No.
for the Rio Mesa Solar	)	11-AFC-04
Electric Generating Facility	)	
	)	

California Energy Commission
DOCKETED
11-AFC-04
TN # 2828
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CALIFORNIA ENERGY COMMISSION

HEARING ROOM B

1516 NINTH STREET

SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 20, 2012

11:00 a.m.

Reported by:
John Cota
Contract No. 170-09-002

COMMITTEE MEMBERS PRESENT

Carla Peterman, Presiding Member

Karen Douglas, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Kourtney Vaccaro, Hearing Officer

Kenneth Celli, Hearing Officer

Eileen Allen, Technical Advisor for Facility Siting

Jim Bartridge, Advisor to Commissioner Peterman

Galen Lemei, Advisor to Commissioner Douglas

CEC STAFF AND CONSULTANTS PRESENT

Lisa De Carlo, Staff Counsel

Pierre Martinez, Project Manager

APPLICANT

Christopher T. Ellison, Esq.
Brian Biering, Esq. (via WebEx)
Ellison, Schneider & Harris

Todd Stewart
BrightSource Energy, Inc.

Kevin Bertrand
BrightSource Energy, Inc.

Andrea Grenier
Grenier & Associates, Inc.

Angela Leiba (via WebEx)
Arleen Garcia-Herbst (via WebEx)
John Dillon (via WebEx)
URS

INTERVENOR

Lisa Belenky (via WebEx)
Center for Biological Diversity

ALSO PRESENT

Cedric Perry
Bureau of Land Management

Janna A. Scott
ESA Energy
Consultant to Bureau of Land Management

Tiffany North (via WebEx)
Office of Riverside County Counsel
County of Riverside

Jody Fraser (via WebEx)
U.S. Fish & Wildlife Service

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P R O C E E D I N G S

11:04 a.m.

PRESIDING MEMBER PETERMAN: Welcome to the Committee Meeting for the Mesa Solar Electric Generating Facility. This is Commissioner Peterman; I am Lead Commissioner on this case. The Associate Commissioner on this project is Commissioner Douglas. She is sitting to my left. To my immediate left we have our Hearing Officer Kourtney Vaccaro. I'll just introduce everyone here from our side and then we will turn to all the parties to introduce themselves.

To my right I have my advisor, Jim Bartridge. Also here we have Galen Lemei, advisor to Commissioner Douglas, and we also have Eileen Allen, the Commissioners' technical advisor for facility siting. We also have Ken Celli here who will be the Hearing Advisor going forward and I guess we'll speak more to that later. So let's take a second now and have everyone introduce themselves. Applicant, would you like to start first?

MR. ELLISON: Thank you, Commissioner Peterman. Good morning to the entire Committee. My name is Christopher Ellison, Ellison, Schneider & Harris, representing the applicant, BrightSource.

MR. STEWART: Good morning, my name is Todd Stewart, I am the project manager for BrightSource.

MS. GRENIER: Good morning, Andrea Grenier, permitting consultant to BrightSource.

MR. BERTRAND: Good morning, Kevin Bertrand, assistant project manager for BrightSource.

MR. MARTINEZ: Pierre Martinez, project manager for the Energy Commission.

MS. De CARLO: Good morning, Lisa De Carlo, Energy Commission staff counsel.

HEARING OFFICER VACCARO: And I believe Lisa Belenky, do we have you on the phone line?

MS. BELENKY: Yes, this is Lisa Belenky for the intervenor Center for Biological Diversity. And I will be on mute most of the time so it might take a second to respond.

HEARING OFFICER VACCARO: Great, thank you. One thing I would ask, though. When you do speak if you could project just a bit. I think we were all having a little bit of difficulty hearing you, the court reporter in particular.

MS. BELENKY: Okay.

HEARING OFFICER VACCARO: Thank you.

MS. BELENKY: I'll try to speak up more. Is that better?

HEARING OFFICER VACCARO: Yes, that's much better, thank you.

I think we have heard from the parties,

introductions from the parties. At this stage we like to know if we have any representatives of local, state or federal agencies in the room or on the line who would like to introduce themselves. I believe we do have such individuals today so we'll start with the room first, if you would like to introduce yourself, anyone. We have a microphone on the other side of Ms. De Carlo, it's go the red light already on.

MR. PERRY: Yes, Cedric Perry, Bureau of Land Management, California Desert District.

HEARING OFFICER VACCARO: Thank you. Is there anyone else? I see a number of people in the room and I am not sure what the affiliation is but I suspect we'll find out soon enough. But if any of you represent an entity other than the Energy Commission and wish to introduce yourselves at this time this would be a good time to do so.

I see absolutely no takers, blank faces trying to avoid eye contact, so I'll turn to the telephone. If there are any such individuals on the phone who would like to introduce themselves at this time we appreciate that.

MS. NORTH: Good morning, Tiffany North for Riverside County.

HEARING OFFICER VACCARO: Thank you. Anyone else?

MS. LEIBA: You've got Angela Leiba, Arleen Garcia-Herbst and John Dillon from URS.

MR. BIERING: Brian Biering with Ellison, Schneider & Harris on behalf of the applicant.

HEARING OFFICER VACCARO: Okay. And you know -- thank you. I don't mean to do a round robin on everyone on the phone but thank you, those of you who did state your appearances. Right now I am just trying to stick with the local, state and federal agencies. So do we have any more of them on the telephone?

MS. FRASER: Hi, this is Jody Fraser with the US Fish and Wildlife Service.

HEARING OFFICER VACCARO: Thank you.

Okay, it sounds like we don't have anybody else rushing to the microphone or to their telephone at this time so I think we'll just go ahead and get started with today's proceedings.

I think there is a little bit of foreshadowing when we did the introductions this morning and identified Hearing Advisor Celli. For those of you who aren't aware, this Friday is my last day here with the Energy Commission so we are transitioning this case to another hearing advisor. So I guess basically from this day forward turn all, you know, procedural and other questions over to Hearing Advisor Celli. Of course it will be formalized in a memorandum of assignment within the next few days.

Sometimes I think you will notice when we have

status conferences we ask the parties to go ahead and prepare a status conference statement, give us all kinds of information. Generally, it's bounded by specific topics or questions that are pertinent.

I think all of you know sort of where we are as we sit here today but the Committee may not be as up to speed as the parties are. And that really is one of the primary purposes for today's proceeding. To make the formal transition, to get the lay of the land so that Hearing Advisor Celli starts off, you know, hitting the ground running.

But also getting, I think, a better understanding of some proposed changes that the applicant is looking to make, what the timing is. Because I think that goes directly to a recent request by staff for an extension of the discovery period. So far folks have indicated they have no objection to that.

I don't have an objection but I have a concern with an extension of time for something that hasn't yet been filed or relating to something that hasn't yet been filed. So I just want to talk about that a little bit today. The Committee wants to understand that a little bit more as well. And to find out what we think some of the next steps might be once we hear from the applicant and what its plans are for filing a new project description and changes to the

project.

So I think with that we are going to start with you, Mr. Ellison. And if you can sort of touch on all of those topics and anything else that you think is pertinent.

MR. ELLISON: Thank you, Ms. Vaccaro, I'd be happy to do that. Let me begin by thanking you for your exemplary service, not just in this case but in other cases that we have worked with you on and we wish you well. And to welcome Mr. Celli, who we have also worked with I know will be a more than capable replacement.

As Ms. Vaccaro has alluded to, since the Committee last met, as I am sure all parties are aware, the applicant has proposed a significant reduction in the size of the project. We did that essentially eliminating the third project, RMS III. We did that at the suggestion of the Bureau of Land Management to streamline the permitting and stay on schedule.

There are certainly a loss of benefits when we do this in the project but there was also a significant reduction in impacts, which we believe helps address some of the concerns that have been raised so far. And we believe it should make the staff's task easier rather than more complicated. But that being said, it is a significant change and we are filing some significant documents documenting that change and Mr. Stewart is prepared to

discuss in detail exactly what is going to be filed and when.

We do not object to the staff's request for an additional 60 days of discovery given the change. With the understanding, and this is important, that staff is not proposing to change the overall schedule of the proceeding but only the discovery period. We concur with that.

So that being said, we are certainly available for any questions. And in particular we are prepared to discuss at the Committee's pleasure the details of what we are submitting, when we are submitting it and those sorts of things.

HEARING OFFICER VACCARO: Okay, thank you. Just as a point of clarification before we hear a little bit more about what's going to be filed and when. I think I had just mentioned that there was this request from staff for an extension of the 180 day period within which data requests can be submitted.

But I think by staff's admission and by my own calculations, that day ran -- I mean, the cutoff was 6/11/2012, wasn't it? So we are really not truly talking, I think, about extending the discovery period for 60 days for a document that really might not come in until the 58th day of the 60 day extension. I think more precisely we are talking about having a period of time after this

documentation comes in that would allow staff and Center for Biological Diversity to submit data requests. I just want to make sure that's really what we're talking about. And that if that is the clarification, to make sure that that, that you have no objection to that. So, Ms. De Carlo.

MS. De CARLO: Yes, and I apologize if our filing wasn't clear. We did request 60 days from the date of submittal of the official project change document.

HEARING OFFICER VACCARO: So basically it's a reopening of the discovery period to allow you to conduct discovery on this newly filed submission.

MS. De CARLO: Correct.

HEARING OFFICER VACCARO: Okay.

MS. De CARLO: And we have -- in our filing we indicated that as of the date of our filing of the request we didn't anticipate a change to the PSA date. However, we have recently received additional information that has caused us to reconsider that. And Mr. Martinez, our project manager, can go into more detail about that.

HEARING OFFICER VACCARO: Yes. I'm curious, especially because we haven't received a filing yet. So why don't we turn back over to the applicant and hear what you need to tell us about what is going to be filed and when so I think that we get a better sense of the time line and then it will be interesting to hear what Mr. Martinez has to say.

MR. ELLISON: Okay, let me preface -- and Mr. Stewart can talk about exactly what's going to be filed and when but let me preface this by saying that this is news to us. We did not understand the discovery request extension to be as it is now described, nor did we understand until literally this morning that staff was going to propose a change in the PSA date. So at least for the moment as we consider this new information we would have to file an objection to those -- to that, to preserve all our options and preserve our rights.

That being said let me say one other thing. The changes that we are making are all within the scope of the original project and are reducing it. There is essentially no significant -- there is certainly no significant new land, there's no significant new impacts, there's nothing of that nature that we are aware of.

So we do understand that the staff may have some questions but this is not the kind of change that we think should do anything other than reduce the scope of the previously filed data requests. I don't think there should be any significant new issues.

That being said, let me ask Mr. Stewart to address what we're filing. And it's not going to be just one document, we're trying to get staff as much information as we can as fast as we can. So as soon as something, a

chapter is ready, we're giving it to staff. So it's going to come in not in one document but in multiple documents.

MR. STEWART: Thank you. We had a teleconference with the staff a number of weeks ago to review the specific methodology and format in which we were to submit our updated information to staff. And I submitted an example of the project description as modified to remove Unit III and went over that with staff and staff counsel and received an affirmative that that would be an acceptable way to submit the information.

Subsequent to that I submitted to staff a schedule for submittal of electronic documents ahead of our formal submittal so that the staff would not be quite as anxious awaiting all of the information that is upcoming. That was provided to staff last week.

In summary, we are looking at submitting the information in four tranches. The first submittal, the first five chapters, will actually be submitted tomorrow.

HEARING OFFICER VACCARO: The first how many?

MR. STEWART: The first five chapters. The second seven chapters will be submitted on July the 10th and the balance of the chapters will then be submitted electronically on the 23rd and then all of the hard copies will be in Sacramento by no later than the 25th of July.

HEARING OFFICER VACCARO: Just sort of as a point

of clarification. My understanding, and please correct me, Mr. Ellison, if I'm wrong, is that what you're doing is focusing now solely on On-site Alternative 3; is that correct, in terms of the revised project description? Isn't it On-site Alternative 3?

MR. ELLISON: There are a couple of nuances to that but I believe that's correct.

HEARING OFFICER VACCARO: But maybe you could tell us what some of those nuances are.

MR. ELLISON: Well, there are some what I would characterize, and Mr. Stewart you can jump in and correct me, But there are some slight reconfigurations in the nature of substation areas and the layout of the gen-tie line, some things like that. That are made possible by the elimination of RMS III. You want to expand on that?

MR. STEWART: Yes, thank you. The nuances are the relocation of the common, the permanent common area facilities from east of the Western, the Western transmission line and North Baja gas transmission line over to the west side of those facilities and locating them in the very northeastern reach of our Unit I Solar Field.

What this does is it removes all of the permanent facilities for the project from the east side of the western area transmission line. Which opens up the BLM north/south corridor on that site completely as we don't have any, any

permanent facilities that would encroach upon that side of the corridor.

The other nuance that we have is we have switched our primary and secondary access roads from what they were before. Previously we were using an access road as an extension of 34th street as our primary access and the existing Bradshaw Trail as our secondary access. And with the removal of Unit III it made more sense to use Bradshaw Trail as our primary access since we are not proposing any relocation of that trail anymore, simply an improvement of that trail. It provides better and more immediate access to the project site.

And then for 34th Street we are adjusting the route of that so that it has fewer impacts on the storm water that exits a fairly substantial wash that goes across our project and goes up on the mesa on the south side of that wash, which provides -- it's an environmentally superior alternative for an access route.

The third thing is, again, because we removed Unit III is we are relocating the natural gas tap and meter station down directly east Unit I as opposed to up in the corner of -- between -- at the northeast corner of the project site. Again, for purposes of the natural gas tap and meter station, it is very similar terrain there but it lessens the amount of disturbance that we would have to do

on the project site for gas distribution pipelines. And that's it.

HEARING OFFICER VACCARO: Okay, thank you. Any questions of the applicant right now from either Committee Member?

ASSOCIATE MEMBER DOUGLAS: I think you answered this question with your response to the Hearing Officer's question but I just wanted to make sure. The modified proposal does not change the layout or location of the two towers in Units I and II. The changes you're talking about are the natural gas pipelines, the gen-tie and the access road?

MR. STEWART: That is correct. The power blocks and specifically the power towers remain exactly in the location as they were before.

ASSOCIATE MEMBER DOUGLAS: Thank you.

HEARING OFFICER VACCARO: Ms. De Carlo or Mr. Martinez?

MR. MARTINEZ: Well I think as the applicant has explained it that's, you know, a fair characterization of what's transpired over the past probably four to six weeks since they made us aware that they were going to have a change. And I think we have been working really well and cooperatively in trying to provide feedback on what would be acceptable to us and what would allow us to try to maintain

the schedule, knowing that there's going to be some changes.

And as Todd had indicated, he provided a project description kind of in Track Changes to really show us an example of what all the other subsequent sections would look like coming in so that staff would clearly know what the change is and they could focus their attention on that item.

And so we on our side as the project manager, you know, I've attempted to keep staff focused on preparing their sections now and with the understanding that there's going to be some changes, a little bit of rewriting. Maybe it's not too much rewriting, just kind of cleanup towards the end.

And some time when the applicant formally submitted their statement that they were going to -- there was going to be a project change, the expectation was that that information would be provided by early July. And some of these sections that the applicant alluded to would be coming in in a draft form earlier to the extent that that was possible but the full package would come in early July.

So even understanding that we were pressed to try to make a late August PSA, you know, filing but we were still trying to do that.

I think it was Friday of last week Todd sent me an updated schedule of when the information was going to be submitted to us. There's a good portion of sections that

deal with, you know, big issues like Biological Resources that are all the way to the latest submittal, July 25th. And I'll just take biology as an example because that's probably one of the most cumbersome and lengthier, you know, sections that you're familiar with.

We're working closely with the Fish and Wildlife Service, Fish and Game, BLM, the read group as we've referred to in the past, on a lot of issues related to biology. And our intent is to circulate draft sections or at least discussions relating to their areas of expertise so that we, we have a, you know, a good PSA that has their input. And that takes time to get to the -- you know, write the section early, get it to them for their review, get the feedback, do any rewrite if necessary and then circulate it also through our own internal process.

If we don't get that information until late July -- you know, that process takes 45, 60 days between when we draft it and give it to them to review and what have you and all the way to, you know, reviewing it at the PM level, council level and getting it formatted and prepared for filing.

HEARING OFFICER VACCARO: Well what if we shift the paradigm, right? Staff drafts based on what they have. All these other agencies are going to review the PSA and they'll also be reviewing what the applicant submits. And

they are, of course, always free and welcome; in fact in some instances have a duty to review and to make comments on the information.

So if you were able to receive their input, even if it was on the PSA as opposed to being incorporated into the PSA so that it could be incorporated into the FSA and most certainly incorporated into the evidentiary hearing, how does that affect what you're saying and your ability to meet the time line?

Because I think there are a lot of very clear statements made by the Committee in the scheduling order in terms of delineating the roles of the Committee, the Commission and the staff in presenting information. And understanding, I think it's sort of implicit that the PSA might not be entirely complete and everyone is expecting completion to the extent possible by the time of the FSA.

So I hear everything you're saying but it seems to me it is only looking at one model of how this might happen and I think we need to be looking at some other models. Because the Committee itself committed to issuing a PMPD by a certain time line after delineating everybody's roles and responsibilities. So I think with that as the framework, if we shift the paradigm a little bit let's see what that, what that does. Ms. De Carlo, you look like you're ready to answer that.

MS. De CARLO: I think our fundamental concern with the revised schedule that we have been given from the applicant about their submittals is that we won't have time internally to adjust our PSA sections to reflect a new project. That there is a limited amount of time for the significant technical sections, Cultural Resources, Biological Resources, some of the others, to ensure that what we end up publishing accurately reflects the revised project and the potential impacts.

If I could just clarify. At this point we are not asking the Committee today to make a decision on this. We just wanted to give you guys a heads-up that at some point once we receive the submittal we'll be making a request for a potential change to the PSA date and then we -- and I think it will be easier to discuss that once we have the information in front of us and once staff has a better idea of what the potential time line we would need to actually incorporate the proposed changes.

HEARING OFFICER VACCARO: Thank you for clarifying that. I think we understood that. I think what we are doing right now is probably having a discussion that is going to help inform whatever it is that the staff might submit to the Committee.

I guess I -- you know, I am not a technical person, I think I've said that many times in various

proceedings, and sometimes I feel like I might be the slowest one in the room on some of these items. But here is where I'm a little perplexed. We have an AFC that's submitted that already identifies Alternative 3 within the AFC. It's something that staff is supposed to be evaluating in the alternatives analysis anyhow. And a number of factors that are included with Alternative 3 are already within what staff is supposed to be doing.

So I understand the nuance that was raised by Mr. Stewart or the term "nuance." And I don't know that it really is a nuance. Nuance seems to sort of perhaps downplay significance and so I am just using the word that he chose. I don't know if this is "nuance" or if these really might be significant things.

And so I get those three items. Perhaps there are some more things that aren't yet known without fully seeing the document. But assuming that staff is already doing this analysis. Now we know that staff was analyzing the universe that is now -- it was originally this big, huge box that has now been reduced.

That doesn't mean that it's necessarily reduced by a third in terms of impacts and the like and I think the Committee gets that. But I am not sure what's being added to staff's workload or burden such that the original analysis that staff was doing isn't already part of this

process, but for the three items that Mr. Stewart just alluded to. So could you kind of help me understand that?

MS. De CARLO: Well one of the big things is the change in the common facilities. We don't know where they're moving. We're anticipating getting a PDOC for air quality. That'll be delayed because of the change. So that's one big component that I don't believe was reflected in the Alternative 3 proposal.

Additionally the Alternative 3 proposal is a small fraction of an analysis compared to the actual project proposal. So I think the bulk of the work is going to go through, okay, how have the impacts changed, you know, going through it? How much microfill woodland will now be impacted with the new proposal versus the old proposal? Where would those be?

I think it is just going through and determining what we can rule out as being impacted in addition to what extent the movement of the common facilities has changed any of the other, any of the other impacts. And unfortunately we don't know to what extent that is going to take time until we actually have the proposed change in writing in front of us.

MR. MARTINEZ: The other thing to consider here is just the logistics of getting the product out. I guess I'll go back and say we never thought we would have a complete

PSA anyway. That was understood. There's a lot of cultural issues, the biological surveys were not going to be completed, and so we would just give you the best that we could give you, you know, based on the schedule that we had. So that was understood, we weren't going to try to get a complete application.

But, you know, typically as a project manager I like 30 days before the filing date of the PSA to have a section for review. So technical staff has to provide it to their seniors before that, okay. So it's usually, maybe a couple of weeks when the technical staff finishes their section, gives it to their senior. It gets probably kicked back from the senior back to technical staff for some edits. Then it goes to the office manager of environmental or engineering, maybe some more technical, you know, edits or what have you. That gets cleaned up and then it comes to me.

So if we get stuff July 25th and I want to publish August 30th, okay, technical staff has to complete their analysis in mid-July internally to start giving it to their seniors and management for review. They will have not been able to incorporate this information.

Even assuming that we got the information in early July, I was giving some staff as late as mid-August to give me a section for review. Alternatives can't be done until

everyone else has done all their stuff and the Alternatives author reviews everyone's stuff to find out what's significant and what have you.

I mean, there's kind of this logistical process to preparing a document and it makes it very difficult the later the submittal is, no matter how conceptually it seem easy to understand the change is maybe conceptually minimal and less than what was anticipated. The logistics of creating the document doesn't change.

HEARING OFFICER VACCARO: Okay, that completely resonates with me. I mean, I'm obviously not the decision-maker here, I'm just sort of the facilitator.

But let's assume then that we go with the model that I presented. You don't have the full amount of time to get all of the comments from all the reviewing agencies in order to incorporate it into the PSA but we know that we will be getting those comments from those entities but they are very involved in this process and I think sort of they are going to continue to work in a fashion where their comments are accounted for by both the applicant, Center for Biological Diversity and staff. So let's pretend we are going to do that.

You are saying no matter what, even if we do that, you have got a bureaucratic issue that you have got to deal with that really goes to the ability to put out hard copy or

to put out an e-version of a document.

MR. MARTINEZ: Yeah. I mean, I wouldn't refer to it as a bureaucratic issue, it's a logistical issue. I mean, it's the same thing, you know, on the applicant's side if they need to put a document together. There's just --

HEARING OFFICER VACCARO: Okay, you have a hierarchy of review.

MR. MARTINEZ: Exactly.

HEARING OFFICER VACCARO: Does that sound a little less pejorative?

MR. MARTINEZ: Yes.

HEARING OFFICER VACCARO: Okay. (Laughter.) I mean, to me, I wasn't using it as a pejorative but clearly it was being taken that way. So I guess what I'm saying is you've got a problem with process that you see that's impacted by these documents coming in so late in your time line of check-offs for sections being able to get out of the door.

MR. MARTINEZ: That's correct.

HEARING OFFICER VACCARO: Okay.

MR. MARTINEZ: And the other thing I might add. Again, we were trying to do it with an early July -- it was going to be very tight even with an early July submittal from the applicant. This is not the only work that staff is working on. I know you know that.

You know, the Hidden Hills project FSA is due in August as well and there's other competing priorities. And so again, even with an early July expectation for submittal of the information we were squeezed, in my opinion, as much as we can be squeezed.

This document likely is going to be on the order of 1,000 pages or more. I have to review every single page of that, you know. Ms. De Carlo has to review all that as well. You just don't flip, you know, sections that are, you know, 200 pages, in one day and then the next person in one day and then the next person in one day and then get it rewritten. It just logistically is very, very difficult and there's an opportunity for errors.

You know, certainly the proposal or the suggestion that Ms. Vaccaro is suggesting that maybe a PSA that is not complete will catch up with it in the FSA is a scenario that could be, you know, taken. There's just going to be more holes than there would have been otherwise, and there was that understanding.

PRESIDING MEMBER PETERMAN: Hearing Officer, if I may. Applicant, can you remind the Committee what sections actually are coming in at the end of July? Are these the cultural and biological ones with the most concern?

MR. STEWART: Thank you, Commissioner. The sections that are coming in, I'll start with the ones on the

10th. Cultural Resources is coming in on July the 10th. Land Use, Noise, Paleontological, Project Description, Transmission System Engineering and Natural Gas Supply all coming in on the 10th. The ones that are coming in --

MS. BELENKY: I think the WebEx is maybe cutting out.

MALE SPEAKER: Yeah, I'm having the same thing.

HEARING OFFICER VACCARO: Are you not hearing us or it's fading in and out?

MALE SPEAKER: It's cutting on and off.

HEARING OFFICER VACCARO: Okay, we'll get that looked into as best we can. I think we'll continue to move forward, we will have people project, and in the meantime we'll try to get this worked out.

PRESIDING MEMBER PETERMAN: Ask them what they last heard.

HEARING OFFICER VACCARO: Commissioner Peterman would like to know what it is that you last heard. So, Ms. Belenky, could you tell us what it is that you heard when it started to cut out?

MS. BELENKY: I did hear the discussion from staff about the issues with creating the document. It just cut out like little pieces a couple of times.

HEARING OFFICER VACCARO: Okay, so --

MS. BELENKY: And I also would like to make a

comment at some point on this towards the end of the session.

HEARING OFFICER VACCARO: Of course. We start with the applicant, we move to staff and, of course, the other parties always get their opportunity to speak and ask questions as well. I think -- we just haven't gotten to that part yet, Ms. Belenky.

Okay, so Mr. Stewart, if you would, just start again. You were identifying for us that on July 10th there are a number of technical sections that will be submitted to staff. If you could please project. Be as close as you can to the microphone. And if you would start again from there we'd appreciate it.

MR. STEWART: Thank you. Can everyone hear me now? Okay, good.

HEARING OFFICER CELLI: No, it's not showing. Keep talking, I just want to --

MR. STEWART: Okay.

HEARING OFFICER CELLI: This one that says Maggie Read should be showing. Can you ask and see whether Ms. Belenky can hear.

HEARING OFFICER VACCARO: This is Hearing Advisor Vaccaro again asking, I'm just sort of doing an audio test again. Ms. Belenky, are you able to hear me?

MS. BELENKY: I heard you but I -- I heard you but

I didn't hear the response from --

HEARING OFFICER VACCARO: So you didn't hear Mr. Stewart at all then?

MS. BELENKY: No.

HEARING OFFICER VACCARO: Okay, we are going to try another microphone and see if that might make a difference.

MR. STEWART: Does this work better?

MS. BELENKY: Yes.

HEARING OFFICER VACCARO: Excellent. Okay, thank you.

MR. STEWART: Thank you. I'll go through the groups as we are going to submit them. Beginning with Group 1 which is -- we are issuing tomorrow will be Geologic Hazards, Hazardous Material, Soils, Waste Management and Worker Safety. Group 2 --

PRESIDING MEMBER PETERMAN: Can you go a little slower.

MR. STEWART: I'm sorry. Group 1 is Geologic Hazards, Hazardous Material, Soils, Waste Management and Worker Safety.

Group 2 to be submitted on Tuesday, July the 10th, includes Cultural Resources, Paleontological Resources, Land Use, Noise, Transmission System Engineering, Natural Gas Supply and the Project Description.

Group 3, which is an electronic submittal on the 23rd of July, as is Group 4, is Biological Resources, Socioeconomics, Traffic, Visual Resources and Water.

The final, the final three include the Cumulative Impacts, Alternatives and then the Executive Summary.

PRESIDING MEMBER PETERMAN: And what were the dates on those last two?

MR. STEWART: They will all come in on the 23rd electronically. Those last eight come in on the 23rd of July electronically and then on the 25th with all the hard copies.

MR. MARTINEZ: Just to clarify --

MR. STEWART: I'm sorry, I missed -- I'm getting coached here. I missed Air Quality and that one is coming in also on the 23rd.

MR. MARTINEZ: And Public Health?

MR. STEWART: And Public Health. Those two may be together.

MR. MARTINEZ: Okay.

MR. STEWART: Yes.

HEARING OFFICER VACCARO: Okay, I think for those of you on the phone, thanks for your indulgence. We sort of had some looking around the room and some sort of between-mic clarification to ensure that people understood what Mr. Stewart said. Please rest assured there is a court

reporter here whose job is to transcribe what is being said so all of this will be captured in the record if you somehow missed what Mr. Stewart said.

Because I think it's best at this time if we move forward with -- we have the lay of the land. I think the understanding is that we originally asked staff to produce a PSA in August. What we are hearing is that the applicant is making -- I'm not sure what adjective to use so I will just say changes to the project description and the project that are going to require further analysis by staff. And unfortunately the written documentation of those changes will not be coming in until July. Even though they are staggered dates pretty much in July, it's in July. We had anticipated an August publication date.

I think Mr. Martinez and Ms. De Carlo have given us a sense of some of the concerns that staff has in meeting an August deadline. I don't hear anything affecting the deadline at the end of the schedule that wa submitted by the Committee at this point. I think the first milestone is really the PSA. Notwithstanding the look on Ms. De Carlo's face the PSA is the first milestone and I think that's the one that everybody needs to keep their focus on.

I think what we can anticipate from staff, based on this conversation, is some creative problem-solving that allows them to work through the layers of review to do the

analysis that technical staff needs to do in order to review what the applicant is submitting. Perhaps staff could consider things like instead of serial review, concurrent reviews. Having some of the read agencies also looking at the documentation once its submitted as opposed to waiting for staff to prepare a written product before they review it.

We are not telling you what to do or how to do it, I think what we are asking you to do is perhaps try to think outside of the box to the extent that your process and the structure within the Commission allows you to do so and incorporate that into whatever request it is that you think you might need to make of the Committee for an extension of time.

MS. De CARLO: Thank you, Ms. Vaccaro, and we will keep that in consideration. And trust me, we will do all that we can to get this document out as soon as possible.

I just want to make one note on the biological section about the paradigm of us releasing it with a read comment after publication. Generally in the past we have had some of the read agencies as co-authors on our Biological Resources analysis so we may have to take that into consideration too, to what extent we do need their input to provide a document that is fully supported by technical analysis. But we will keep all your ideas in mind

and try to release a PSA as soon as possible, given the project change.

PRESIDING MEMBER PETERMAN: And Hearing Officer, if I may. I also will encourage applicant, if they can get anything done sooner to do so as well. Because I am sensitive to the fact that this is a tight time line and that there is a lot that is coming in on the 23rd that is of importance.

MR. ELLISON: Thank you, Commissioner; if I could just respond to that. Let me assure you first and foremost we are absolutely doing that. This whole change is aimed at staying on schedule. So that is of paramount importance as we have said throughout this proceeding.

The second comment I would like to make is this. The read surveys that we agreed to do, the additional read surveys, are coming in at the end of this month, June. So all of that substantive information will be available at the end of June. And I will say that at least it is the opinion of our biologist that it doesn't suggest any substantially different conclusions than the surveys that we have done some time ago.

The third point I would make is this. We have the same logistical problem that the staff has. We're dealing with a document of equivalent size with equivalent layers of review and authorship. It's essentially the same kind of

activity on our side that the staff is engaged in in the PSA. And there is a sharp distinction in my mind between the time that it takes to cross all the Ts, dot all the Is, get the document in perfect order and reviewed and get it to staff, which is what we have been talking about.

Versus the time in which we can respond to staff questions, such as the one that Ms. De Carlo raised about microfill woodlands. We can answer those questions right now, today. We can talk to staff, provide information about the effect of these changes on, you know, the sort of big ticket kinds of questions that are material, as opposed to the staff having to wait to see the project description changed in every single chapter when we send that back.

So I don't want to suggest that none of the changes that are coming in, that they are all administerial, but it's certainly -- staff has worked very cooperatively with us. I don't want to suggest anything differently than that. And we, in turn, want to cooperate with staff. And so don't feel -- I hope the staff understands that we are prepared to provide as much information as we can, as fast as we can, and we can address these questions such as the microfill woodlands right now if you want.

HEARING OFFICER VACCARO: Actually we can't because that is not what today is for.

MR. ELLISON: Okay.

HEARING OFFICER VACCARO: And indeed it's not just that that's not what is noticed, that is something that, again, I think there has got to be a public participatory process that gives everyone who is interested a full and reasonable opportunity to bring all of their questions for the applicant to answer, not just staff.

And so we appreciate the offer and I think -- I don't think the Committee in any way expects that staff and applicant, Center for Biological Diversity, won't continue along the path that has already been started, participating in workshops and sharing information. But today isn't the forum for that.

With that, though, we are going to turn to Ms. Belenky who has very patiently been listening to this conversation. I think, Ms. Belenky, I hope you can appreciate that we start with applicant and staff, particularly on these topics, because the staff is going to be preparing the staff assessment. However, staff isn't the only entity who is going to be evaluating these matters, we understand that you will be as well. So this is your opportunity to ask questions and make comments. But I think my last comment to Mr. Ellison reminds everybody of what the scope of this proceeding is and what it isn't. So I think with that, Ms. Belenky, why don't we hear from you.

MS. BELENKY: Thank you. I wanted to comment

specifically on this discussion you just had and on the idea that was raised that -- of the rolling, sort of rolling out the review and having the PSA not include really a full evaluation. And the Center has objected to this in the past and I wanted to restate on the record our objection. We believe that the PSA, to the extent it is a singular document, it is very important for public notice and public understanding of this process.

And while I understand that it is -- the Energy Commission does change things as they move forward and they very much want changes to come if they can resolve issues. At the same time that has repeatedly created a situation for the public, and I get this feedback constantly from my members, that they do not know what is going on and cannot keep up with the process. And we believe that the PSA is one of the important documents that the public can see.

To the extent that the FSA would be a more fully realized document, that's fine. But that is very late in the process relatively and it does not give the public a chance to really engage with to the process. And so I feel it is very important that I object on the record to anything that would imply that the PSA should not be a complete document on the actual proposal at the time it is issued.

PRESIDING MEMBER PETERMAN: Ms. Belenky, this is Commissioner Peterman. I just wanted to say thank you for

putting that objection on the record again.

MS. BELENKY: Well, I might be confused as to what else you are going to -- is there going to be more issues dealt with today or was this the sole issue?

HEARING OFFICER VACCARO: I'm sorry, I didn't catch what you said. I heard part of it and then I didn't understand a word or two. Would you please repeat that.

MS. BELENKY: Sure. I'm just trying to find out what other issues we're dealing with today and if this is my only chance to raise any issues.

HEARING OFFICER VACCARO: This is the opportunity for the parties to provide us with status, raise their concerns about where we are right now in the process and what they see as next steps or what's coming up on the horizon. So if in fact there is something else that you would like to say with respect to the topics that have been raised or if there is an additional issue that you believe the Committee and the parties need to be aware of, we would welcome your comments at this time.

MS. BELENKY: Okay, thank you. I just -- this may not be the appropriate forum, it's a little confusing even to me after several years of working with the Commission. But we are somewhat concerned about the presentation that was made by the applicant to the Commission -- to the Committee regarding other projects in other places. And we

did put in a data request to get more information about those projects but the response did not provide actual data or expert opinion that is founded in actual data. And we are extremely concerned that this has already been put before the Committee without that grounding. And that it is inappropriate at this point (inaudible).

HEARING OFFICER VACCARO: I am never shy to admit when I don't know something and this is one of those opportunities, Ms. Belenky. I think I am not quite certain what submission -- I don't know what you are referring to that the applicant has put before the Committee, unless you are speaking of data responses and data requests. If not, you know, if you could please clarify and give us a better sense of what it is that you are referring to so that I think the applicant at least can make some sort of responsive comment.

MS. BELENKY: Yes. At one of the workshops the applicant had a slide presentation that I believe is now -- I think is on the website. And it compared this potential project to a project in Israel and I believe one other project. But they did not provide any underlying data and made a lot of statements about how they would compare and about the impacts of those projects without providing any of the underlying actual information and data.

HEARING OFFICER VACCARO: Okay, I think that's

helpful. I guess the follow-up question I have is, is that something that you on behalf of the Center for Biological Diversity have addressed? Have you asked for this additional empirical, underlying information in a data request that has been served on the applicant?

MS. BELENKY: Yes. And the response was not -- well, we would say it was unresponsive. As I said, this may not be the proper time to address it but we do have this ongoing concern that statements are made without any basis.

PRESIDING MEMBER PETERMAN: This is a clarifying question, Hearing Advisor and Ms. Belenky. Was this at a staff workshop specifically you're referring to, this presentation?

MS. BELENKY: Yes, I think it was March 15th. But it was posted on the website as well.

HEARING OFFICER VACCARO: Okay, okay, thank you, Ms. Belenky. I think what you have done is you have given us context. What you have also done, which is very important, is according to what you have said, you have made a request of the applicant to address those concerns by providing data. The applicant gave a response that in your view is inadequate.

And I think you are aware from prior participation in our proceedings of the data request/data response process and how to bring this matter to the Committee if it is

something that requires Committee resolution. So I would invite your attention, if you haven't already looked at them, to the Commission's regulations for bringing this matter to the Committee's attention by way of a formal request or motion, assuming that you are still within the allowed time frames.

That said, what we are hearing from the applicant today is that they are going to be submitting additional documents. And we started this meeting talking about the staff's request for an opportunity to submit data requests on this new information as well. And of course that's something that the Center for Biological Diversity will also have an opportunity to do.

Please don't misunderstand me as saying that you can now ask questions in the second instance that you probably should have asked in the first. That's not what I am saying. What I am saying is handle the issue with respect to the initial data response/data request but also understand that you will have an additional opportunity to ask questions on the newly submitted information.

So is there anything else that you would like to add, Ms. Belenky?

MS. BELENKY: No, thank you.

HEARING OFFICER VACCARO: Okay. Mr. Ellison, is there anything that you felt the applicant needed to say in

response to Ms. Belenky?

MR. ELLISON: Well, just three things. One, we believe we have responded sufficiently to the data requests that have been submitted to us.

Two, that we welcome and encourage -- we will provide as much information as we can. And believe me, this is a high priority for us. We have been working on this to provide information about the project in Israel, the same technology in Israel, as well as similar technologies elsewhere. We think that the real world experience on the ground of this actual technology or technology very similar to it is the best evidence available to all parties about what the impacts of solar flux and heating and collision and all those issues relative to avian impacts is. So we believe that not only have we done that but we look forward to providing more information to all parties about the other projects that were referenced.

And lastly I would say that none of the changes that we have been talking about in the elimination of RMS III in any way changed this issue at all. They are not at all relevant to this question.

PRESIDING MEMBER PETERMAN: I'll just add here, this is Commissioner Peterman, that Ms. Belenky, you raised a concern about Committee prejudice. And I'll just add that we are still waiting for staff analyses and we have not

considered evidence and so that is not a perspective I have a concern with, about being prejudiced about anything at this point.

MR. ELLISON: And if I could just add to that, we had this discussion of the Preliminary Staff Assessment. I would remind everybody that we are talking about a Preliminary Staff Assessment that leads to a Final Staff Assessment that leads to evidentiary hearings, that leads to a Presiding Member's Proposed Decision and that only then leads to a Proposed Decision. So there are many opportunities for everyone to comment on all of these things going forward.

HEARING OFFICER VACCARO: Okay, it seems like we have exhausted some of these topics. I see two microphones on though, Mr. Martinez and Ms. De Carlo, yes.

MS. De CARLO: I just wanted to put forth one last comment on this issue of the PSA schedule. I just don't want the Committee to leave here with the impression that staff is just sitting back and waiting for the filings. We are actively contacting the applicant and working with them to get the information we believe we need about the new project to continue writing the PSA sections until we actually get the final documentation.

And we have attempted to do in Cultural Resources. To winnow down, to identify what potential cultural sites

we can now eliminate from our consideration because they are on the third phase and no longer in potential jeopardy. Unfortunately we haven't had much success in getting feedback from URS, the applicant's consultant, to provide us with that information.

We have had some success ourselves going through it and trying to identify the locations of the sites identified in the AFC and crossing them off because they are clearly within the Phase III, so we are doing all that we can to get the information that we need to further process the PSA.

I just want to make sure that there is no impression that we're just, okay, well we've got a month to twiddle our thumbs until we have to start work again.

HEARING OFFICER VACCARO: We know better.

MR. MARTINEZ: I wanted to add a little bit more on the PSA schedule and then just generally, because it is a status conference, on the status of some of the outstanding issues that we raised during the issue identification phase. And I will try to go through those quickly.

With respect to air quality. New modeling files emission information is going to need to be generated with the project change. Hopefully that is going to be submitted with the late July submittal because air quality is in that last grouping.

But typically what happens is the local air quality district needs to prepare their Preliminary Determination of Compliance and then that document comes to us and we can fold in their conditions and make sure that we meet all their LORS. We may have prepared PSAs in the past without that, I'm not sure. But with this schedule, if we were to stay in August, that couldn't be completed with the local air district's input.

With that said, I am told by staff that they don't anticipate any air quality impacts that couldn't be mitigated but just that that process of working with the local air district and having their document out and folding it into our document, it won't be done. I mean, not with the information coming in in late July. So that's one item I want to bring to your attention.

With respect to biology. There are some spring surveys that I believe the information will be provided at the end of this month. So that's going to be a good piece of information that we can fold into the PSA and it was something we had anticipated not having the full year of surveys but whatever we could get in. So I believe that's on track and we look forward to reviewing that.

The energy flux information, which is something Ms. Belenky was alluding to and the applicant. I wanted to give you a real brief understanding of the issue that we are

concerned about as staff. And that is just there is an energy field, if you will, within and around the project site that is generated from the sun's energy bouncing off the heliostats and back up. So there's this energy in that area and that energy level varies and different things affect that.

So my understanding is the ambient air temperature really doesn't change but the energy level there is different. And so if there is an object that can absorb that, then depending on what the energy level is in that area, in the case of a bird, it could impact the bird. So we have asked the applicant to provide a 3D model showing us the contours of the energy level in and around the area so that we can try to understand if there is or not an impact to birds and to what extent.

And the applicant -- we have asked for this information before. The applicant has provided this information to a certain degree; we have had workshops on it. But we have had to work cooperatively between our biology staff and our engineering staff to understand the science behind it. You know, we have our biology staff that understands the birds and our engineering staff that understands the energy. And so we're trying to get that information and the applicant is doing their best to do that. Unfortunately that information isn't going to be

coming to us until July 20th.

And so we have concerns and we have reason to believe, at least at this level, that there's going to be a large volume of area that is in a high-energy zone that could impact avian species. What exactly that means we don't know until we receive the data and analyze it. That kind of information may not be able to be rolled into the PSA, unfortunately, if we were to maintain an August deadline. So I wanted to make you aware. That's a really integral piece of information that we're waiting for.

The other thing I wanted to make the Committee aware of was the LEDPA. The LEDPA is the Least Environmentally Damaging Practicable Alternative, that's a mouthful. And it's basically an alternatives analysis exercise the Army Corps of Engineers does to try to look for an alternative that least impacts US waters. And there's quite acres of US waters on this particular project.

Earlier on when we were going to do what we thought was a joint document with BLM we were under the impression that BLM as the federal lead agency would be working cooperatively with the Army Corps and work on a LEDPA in cooperation with the alternatives analysis that the NEPA process requires.

When the schedule came out and we weren't able to continue working jointly with the BLM -- in part, if I go

back a little, there is something called a Plan of Development. It's kind of like the AFC that's submitted to the Energy Commission. It's a POD and it goes to the BLM. And that is -- when that becomes acceptable to the BLM that kind of kicks off their environmental process on the project. And there has been an iterative process between the applicant and the BLM on getting the POD to an acceptable point where the BLM can move forward.

And with the most recent change with the project northern plant on BLM land being excluded that changes the project, changes the POD. And my understanding as of a couple of days ago is that that revised POD has not been submitted to the BLM so the BLM can't file a Notice of Intent and kick off their process. So it doesn't -- it hasn't allowed us over the past several months to work very closely with the BLM because they don't feel like they've got a project that they can work on.

HEARING OFFICER VACCARO: I think you raise an excellent point. Just looking at a table that was presented in the AFC that sort of identifies the differences between the three on-site alternatives, it's identifying that land ownership is MWD only it looks like for the -- so is this the -- I mean, I'm trying to understand what's going to be on BLM land under this Alternative 3.

I mean, is that reduced in some fashion? Is any

of it on BLM land? I mean, again, without having this information I think the Committee is sort of hindered in some of the questions that it can ask. But that's sort of an important issue, particularly because you're raising that there's still work for BLM to be doing.

MR. MARTINEZ: The transmission line is still on BLM land. Correct me if I'm wrong, Todd. As a connected action, even though really the power plants and all the common facilities are on MWD private land, because the transmission corridor is on BLM land, BLM has to analyze the whole of the project as a connected action.

HEARING OFFICER VACCARO: Okay, so there is no change to that then. The transmission line will still be on BLM land.

MR. STEWART: Right. The transmission line and the access road will be on BLM land. That's it.

HEARING OFFICER VACCARO: Okay. Thank you for the clarification. That puts into context, you know, what you're saying.

MR. MARTINEZ: Okay.

HEARING OFFICER VACCARO: It helps us understand it a little bit more.

MR. ELLISON: If I could just add. The revised POD is going in in two days.

MR. MARTINEZ: Okay, that's fine. I mean, we

were -- when we first had our issues ID we thought the POD was going to be ready in January. So, you know, that's just a processing thing between the applicant and the BLM. We are just moving forward with the best we can with the information we have.

So with respect to the LEDPA, I had mentioned that we were under the impression that the BLM was going to be taking the lead as the federal lead working with the Army Corps. With the most recent conversations with BLM we understand that may not be the case because they are just doing -- now that the BLM land is just the transmission line and the access road. And this is all kind of coming about in the last few days.

In recent discussions with the Army Corps, our understanding -- and maybe hopefully the applicant can help us out. The applicant would be filing with the Army Corps for this process and they said they haven't received an application. So we're a little up in the air on that process.

What I guess I would suggest to the Committee from our standpoint is the concern is, if the Commission were to approve a project sometime next year under a certain configuration and then the Army Corps goes through their process and approves a LEDPA that's different, we have a problem. As I understand it the applicant would need to

come back to the Commission and amend their project to be consistent with the LEDPA or they need to go back to the Army Corps and somehow convince them that the LEDPA is actually what the Commission approved. That's a risk that the applicant, you know, has in their court.

And so maybe they have it all lined up and they understand it and it's something I don't understand. But I, as I understand it today, that's the concern I wanted to relate to the Committee. And certainly if the applicant has anything to add I can either finish going through my items or I don't know if you have any questions that they might be able to respond on that issue.

HEARING OFFICER VACCARO: Well I think this is -- right now I think you presented --

MR. MARTINEZ: Just going through.

HEARING OFFICER VACCARO: -- that you felt it was important for the Committee at this time to understand some of the more pertinent issues before staff on some of the previously, you know, sort of raised matters in the EIR.

MR. MARTINEZ: Right.

HEARING OFFICER VACCARO: So if we could continue to go through that but sort of a little bit more succinctly. If the Committee believes it has questions for the applicant it will ask them.

MR. MARTINEZ: Okay.

HEARING OFFICER VACCARO: If the applicant feels compelled to say something in response, although really this isn't necessarily the forum to engage in that. We are just giving you the opportunity to hit things that you believe are very important for the Committee to know at this time.

MR. MARTINEZ: Okay, understood. So Paleontological Resources. The applicant's consultant recently discovered, and it was included in the AFC, an important paleontological resource, a strata. And we asked in a data request for an understanding of the extent of that strata, the depth and the lateral extent of it. And the applicant objected to that but did provide some information. So in the interim time we have we have been trying to work with staff -- rather the applicant, to provide a plan of how to get that information, that delineation for us.

Our understanding is that the methodology for installing the heliostats, while it's less intrusive to the land in general as far as it doesn't require a lot of grading. It's actually just putting in a hole and vibrating it in. It would destroy any paleontological resource that's there, that particular methodology.

So the good thing is it doesn't cut down, you know, it doesn't do the grading and the disturbance to the land, it doesn't affect erosion and other things and we acknowledge that that's a good thing. But there is an issue

with the methodology and trying to understand the extent of this paleo resource.

So short of having an understanding of the extent of that paleo resource we may be in a position to say that this is a significant impact that's an unavoidable impact. So we are still working with the applicant in trying to get the information that we believe we need to come up with a plan or, you know, avoidance or mitigation or what have you. But that continues to be an outstanding issue.

With respect to cultural, and I Have kind of a team of cultural staff here if you have any specific questions. Because as Ms. Vaccaro said, I am not a technical person as well, so I'll use that. But basically, you may be aware, there's quite a few, over 400 cultural resources. And perhaps quite a few of them go away with the elimination of the northernmost plant but there's still, nonetheless, a lot of stuff out there. And we had suggested in March a schedule of between 14 and 32 months to go through the process of evaluating all those cultural resources.

The applicant has provided a plan to start that process and that was submitted in late May, I believe. We are just in the process of getting back to the applicant on that plan and my staff -- rather the cultural staff have some significant feedback they want to share with the

applicant because they believe the plan is deficient at this time. That is the very beginning point before you actually start conducting field work and doing the evaluation of all the cultural resources.

We, just as an example, had suggested that that process would start on April 1st and would take 90 to 120 days for this first kind of portion of the process. Again, that's April 1st. We received it in late May, we've just reviewed it. We're kind of really still at the starting point.

And at the last status conference hearing the Committee was made aware of the cultural concerns that we had and asked the applicant if the time lines that were suggested by staff were something they could beat. I think they suggested that it doesn't take that long, we can throw a lot of resources at it, et cetera.

We still are concerned that that's not going to be able to happen. And we'll do what we can do for the PSA but the evaluation of all the different resources out there is time-consuming and there's a lot of resources out there. It's a very large project. My understanding is there are more resources than any other project that would be coming before the Commission. If you want any more details about that, you know, cultural staff is --

HEARING OFFICER VACCARO: At this time I don't

think we do but thank you for making cultural staff available. I think as you go forward to your next items I guess I would just caution you that this isn't an evidentiary hearing. We are not at evidentiary hearings and there really is no evidence before us.

I can appreciate that staff has concerns and I think it's important for us to understand those. But as you start to get into the detail and tell us what staff's point of view is, I'm sure that Mr. Ellison and the applicant would like to do the same. And then what we're basically having is a mini cultural evidentiary hearing at a status conference.

Where what we were trying to do was get the lay of the land to understand where we are, where we're headed and I think to get a sense of what issues might be presented in a motion to the Committee asking for additional time on the PSA. I think what you're doing is sort of supplementing what Ms. De Carlo had already indicated earlier and what you had indicated earlier as some concern areas. I think now we are starting to get a little bit more into fine detail. And I think what I would ask you to do is either stop now or give us such a high level.

Because really the intent of today isn't to go into this level of detail because it's not a hearing, it's just to understand what is going on and what is going to

come. And all of these things can be in a motion and they can be supported by a declaration from the cultural expert or the visual or the air quality or the bio expert who believes that there is an evidentiary point to be made so that the applicant can respond in kind.

So I would just ask that we kind of avoid that, hit the high points. Although I say that with the understanding that this is important, I understand, for staff to convey to the Committee where it sees some potential issues. So I think -- we thank you for bringing it to our attention.

MR. MARTINEZ: Okay.

HEARING OFFICER VACCARO: But this much more and if you can do it in just a few more minutes.

MR. MARTINEZ: Okay. So the wrap up on cultural is from a status standpoint is we still believe that our original schedule is valid and we have a schedule to get an FSA out in January. There are still outstanding issues, okay.

I think the other two items. Land Use, we understand that last week the applicant submitted an application or an in-lieu conditional use permit application to the county. I don't see that as really a scheduling issue but it is something that we anticipate Riverside County giving us feedback once they have an opportunity to

review that permit request from the applicant and we'll fold it into our -- likely FSA process. That takes some time for the county to review.

And lastly, Transmission System Engineering. A Phase II Cluster Study is not anticipated until near the end of the year in November. If it identifies downstream impacts to facilities we may need to do additional environmental review. We won't know that until we review the Phase II study. And that concludes my comments.

HEARING OFFICER VACCARO: Thank you. I don't see anyone on the applicant's side rushing to push their microphone so I am hopeful that what that means is you have heard what the Committee heard. Of course there's going to be a record of what Mr. Martinez said. But at the end of the day we need the environmental analyses to come out and we need to have an evidentiary hearing to fully flesh out all of these issues.

If there is some succinct, brief comment that you believe is important to make, Mr. Ellison, you will have the opportunity to do so, as will Ms. Belenky.

MR. ELLISON: Thank you. We will refrain from responding to the things that the staff has said.

I will simply say that I want to correct one possible misstatement we may have made earlier that the Air Quality and Public Health submission will come in on the

11th, not any later than that.

And with that we are prepared to respond to any questions that you might have based on what you just heard but we will hold our fire for now.

HEARING OFFICER VACCARO: Ms. Belenky, hopefully you are still on the line. If so is there anything that you would like to say that is response to, in some fashion, to staff's comments?

MS. BELENKY: No, I'm here. I am still here and we don't have any comment. We just wanted to thank the staff for their thorough investigation of the issues to date.

HEARING OFFICER VACCARO: Okay, thank you. Unless the Commissioners shake their heads or frown at me I think this is a good time to wrap up party questions and comments.

We'll find out whether or not our visitor from BLM might wish to begin our public comment period. And if not, that's fine, no compulsion to do so but we are glad that you are here and want to give you the opportunity if there is anything that you would like to add to what's been said today.

MR. PERRY: No, I don't have anything to add at this moment, thank you.

HEARING OFFICER VACCARO: Okay, thank you. I look around the room. Again I see mostly faces that are

associated with the Energy Commission but I have been mistaken before. So if there are any individuals in the room who wish to make a public comment at this time or represent an agency and wish to make a comment you may do so.

Okay, I am seeing none. So we will turn to the telephone. I think we had Ms. North on the line. Is there any comment that you wish to make?

MS. NORTH: No, I have no comments at this time, thank you.

HEARING OFFICER VACCARO: Okay. Any other representatives of local, state or federal agencies on the telephone line? I know we had Fish and Wildlife Service on the line as well. Is there a comment that you would like to make?

MS. FRASER: Hi and thanks, this is Jody Fraser with the Palm Springs Fish and Wildlife Office. I just want to echo the comments made by CEC staff today about our concerns about trying to really rush this process through. And it is a challenge. We are working hard with the applicant and the other read agencies to pull everything together in a timely manner.

But I think the discussion here today and in previous workshops just kind of brings attention to the time lines of some of these priority renewable energy projects

not really matching up with what is occurring around biological and cultural resources, et cetera. So I would just encourage everybody to have patience and recognize that we are all somewhat under duress because we are working on multiple projects and trying to accommodate. So just keep that in mind, thanks.

HEARING OFFICER VACCARO: Thank you. Anyone else on the line who would like to make a comment?

I am hearing none but I will ask again. Anyone on the line that would like to make a comment at this time?

Silence. So I think with that I will turn this over to the Presiding Member to adjourn today's meeting.

PRESIDING MEMBER PETERMAN: Thank you, Hearing Officer Vaccaro. Thank you for also running, as usual, a very clear and focused hearing and keeping us on track. Your presence will be greatly missed at the Commission. I'm sorry it's the last opportunity I will have to work with you in this forum but I do look forward to working with you in the future.

We welcome Hearing Officer Ken Celli and we look forward to working with him as well.

So with that, this hearing conference is adjourned. We'll see you next time, thanks.

(The Status Conference was adjourned at 12:25 p.m.)

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CERTIFICATE OF REPORTER

I, JOHN COTA, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; that it was thereafter transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said conference, or in any way interested in the outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of June, 2012.

JOHN COTA

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

June 27, 2012

RAMONA COTA, CERT**478