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INFORMATIONAL HEARING AND SITE VISIT

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:	)	
	)	
Application for Certification	)	Docket No.
AES Highgrove Power Plant Project	)	06-AFC-2
	)	
_____	)	

NORTON E. YOUNGLOVE COMMUNITY CENTER

459 CENTER STREET

HIGHGROVE, CALIFORNIA 92507

TUESDAY, SEPTEMBER 19, 2006

4:00 p.m.

Reported by:
Troy A. Ray
Contract No. 170-04-001

COMMITTEE MEMBERS PRESENT

Jackalyne Pfannenstiel, Presiding Member

Jeffrey D. Byron, Associate Member

HEARING OFFICER AND ADVISORS

Paul A. Kramer, Jr., Hearing Officer

Panama Bartholomy

Gabriel Taylor

STAFF AND CONSULTANTS PRESENT

Robert Worl, Project Manager

Lisa DeCarlo, Staff Counsel

Eileen Allen

Joseph Loyer

PUBLIC ADVISER

Mike Monasmith

APPLICANT

Scott Galati, Attorney
Galati & Blek, LLP

Julie Way
AES

John L. Carrier
CH2M HILL

Geoffrey R. Baxter
Worley Parsons

ALSO PRESENT

Suma Peesapati
California Unions for Reliable Energy

Tom Schwab, City Manager
Gary Koontz, Community Development Director
Richard Shields, Building & Safety Director
Steve Berry, Assistant City Manager
City of Grand Terrace

Jane W. Carney, Senate Rules Committee Appointee
to South Coast Air Quality Management District
Governing Board

Yolanda Garza, Permitting and Corrective Action,
Southern California Branch
Department of Toxic Substances Control

Mike Mills, Permitting Manager
South Coast Air Quality Management District

R.A. "Barney" Barnett, Chairman
CSA 126 Highgrove

Alice Grundman, Director of Facilities, Planning
and Construction
Colton Joint Unified School District

Mohsen Nazemi, Assistant Deputy Executive Officer
South Coast Air Quality Management District

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P R O C E E D I N G S

4:00 p.m.

HEARING OFFICER KRAMER: Before I forget, anybody who speaks today needs to come up to one of the microphones, probably the podium there for members of the public, so that you can be recorded by the court reporter, who will produce a written transcript of the hearing. It's also helpful to him, and helpful to you if you want to make sure that your name is spelled right, if you give him a card or your name on a piece of paper, so he can make sure that's done correctly in the transcript.

And eventually this transcript will be posted on the Commission's website if you're curious to refresh your recollection about what happened today.

My name is Paul Kramer; I'm the Hearing Officer for this Committee of the Energy Commission that's been assigned to conduct hearings and eventually issue a proposed decision for the full Energy Commission on the Highgrove Power Plant project.

The rest of the Committee, to my left is the Chairman of the Energy Commission, Jackalyne

Pfannenstiel. And to her left is her Adviser, Panama Bartholomy. The other Commission Member of the Committee is Commissioner Jeffrey Byron, sitting to my right. And his Advisor, Gabriel Taylor is at his right.

First order of business today will be to ask the parties to identify themselves. We'll start with the applicant, Mr. Galati.

MR. GALATI: My name is Scott Galati, representing AES.

MS. WAY: My name is Julie Way for AES Highgrove.

MR. CARRIER: I'm John Carrier with CH2M HILL; I'm the Project Manager for the environmental portion.

MR. BAXTER: Geoff Baxter with Worley Parsons; we're the owners' engineer.

HEARING OFFICER KRAMER: Do you have anyone else in the audience you wanted to introduce?

MR. GALATI: No.

HEARING OFFICER KRAMER: Okay, and then the staff, the Commission Staff.

MR. WORL: My name is Robert Worl; I'm the Project Manager for the Highgrove Power

Project application for certification.

And on my right is Lisa DeCarlo, who is the staff attorney for the project. And somewhere is Eileen Allen, who is our -- there she is -- she is our siting office -- she's the supervisor for the project managers. And Joe's here; Joe Loyer, our air quality engineer. And I believe we have -- well, we have one of the other project managers, Lorne Prescott is sitting in on the project --

AUDIENCE SPEAKER: We can't hear back here.

MR. WORL: Pardon?

AUDIENCE SPEAKER: We can't hear back here.

MR. WORL: You can't hear? Is that better?

AUDIENCE SPEAKER: We can now, yes.

MR. WORL: Okay, I'm sorry, I apologize. And I think that pretty much sums up the staff that are here.

HEARING OFFICER KRAMER: Okay, we also have an intervenor in this case, at least an application to intervene, from California Unions for Reliable Energy. And I believe there's a representative in the audience, is that correct?

Could you come to the mike and identify yourself?

MS. PEESAPATI: My name is Suma Peesapati from the lawfirm of Adams, Broadwell, Joseph and Cardozo. And I'm here on behalf of CURE.

HEARING OFFICER KRAMER: Thank you. Just for the parties, the Committee hasn't ruled on their request for intervention yet, and if you wish to make any objections please file those in the next couple of days; then we will issue a ruling.

I understand we have some agencies in the audience, as well. First let's start with representatives, if there are any, from the City of Grand Terrace. If you want to come up and identify yourselves, introduce yourselves.

MR. SCHWAB: My name's Tom Schwab; I'm the City Manager for the City of Grand Terrace.

HEARING OFFICER KRAMER: Anyone else?

MR. KOONTZ: My name is Gary Koontz; I'm the Community Development Director for the City.

HEARING OFFICER KRAMER: Thank you.

MR. SHIELDS: Hi; my name's Richard Shields and I'm the Public Works Director and Building Official for the City of Grand Terrace.

MR. BERRY: I'm Steve Berry, the Assistant City Manager for the City of Grand Terrace.

HEARING OFFICER KRAMER: Thank you. I believe we also have representatives from the South Coast Air Quality Management District, is that correct?

MS. CARNEY: Good afternoon; I'm Jane Carney; I'm the Senate Rules Committee Appointee to the South Coast Air Quality Management District Governing Board.

HEARING OFFICER KRAMER: Did you want to make any statement --

MS. CARNEY: No, I didn't. I'm here to learn.

HEARING OFFICER KRAMER: Thank you. And did I understand we had a representative from the Department of Toxics.

MS. GARZA: Good afternoon; I'm Yolanda Garza; I'm from the Department of Toxic Substances Control; I'm in the Southern California Permitting and Corrective Action Branch.

HEARING OFFICER KRAMER: Thank you for coming.

MS. GARZA: And we're here just for

informational purposes.

HEARING OFFICER KRAMER: Thank you. Was there somebody else from South Coast Air District that wanted to introduce themselves?

MR. MILLS: I'm Mike Mills from the South Coast AQMD, Permitting Manager.

AUDIENCE SPEAKER: I don't think that mike's on.

MR. MILLS: I'm Mike Mills from the South Coast AQMD, Permitting Manager.

HEARING OFFICER KRAMER: If somebody could turn that mike up that might help ultimately.

Okay, any other agencies who wish to identify themselves at this point, or representatives of utilities? Go ahead.

MR. BARNETT: My name is R.A. Barnett, Barney Barnett, Chairman of CSA 126 in Highgrove. This is where we have our monthly meetings, so thank you.

HEARING OFFICER KRAMER: Let me just ask you, what kinds of services does your CSA provide?

MR. BARNETT: We are an advisory to our board of supervisors, Supervisor Ashley, Riverside County. And we are currently in the process of

becoming a MAC, municipal advisory committee.

HEARING OFFICER KRAMER: Thank you. Anyone else wishing to identify themselves?

MS. GRUNDMAN: Good afternoon, I'm Alice Grundman; I'm Director of Facilities, Planning and Construction for Cole Joint Unified School District.

HEARING OFFICER KRAMER: Thank you. Mr. Monasmith, if you'd raise your hand? He's with the Public Adviser's Office and most of you probably met him on your way in. He'll be giving a little presentation in a few minutes.

The purposes of today's hearing are to provide information about the proposed power plant; to describe the Commission's licensing process that we go through in reviewing the application. We call it an application for certification; that's our technical term.

And then finally to provide information to the public about how they can participate in that process.

Many of you joined us just before this hearing on a bus tour of the site and a portion of the natural gas supply pipeline that is proposed.

By way of background AES Highgrove on

May 25th of this year filed their application for certification with the Energy Commission to construct and operate this Highgrove Power Plant project. The project is proposed as a 300 megawatt peaking power plant facility which would consist of three natural gas fired turbines and the associated equipment necessary to generate electricity.

It would be located at 12700 Taylor Street in an area that is industrial zoned in the City of Grand Terrace, in the County of San Bernardino on the site of a power plant that was formerly owned by Southern California Edison.

A notice of today's site visit and hearing were mailed on August 16 to all the parties, that would be the staff and the applicant, to landowners who adjoin either the power plant site or the route of the gas pipeline, interested government agencies and other individuals.

And in addition, a notice was published last week on September 13th in The Riverside Press Enterprise.

Today's hearing is the first of a series of formal Commission events that will extend over

roughly a year. The Commissioners conducting the proceeding will eventually issue what we call a Presiding Member's Proposed Decision, which is a recommendation to the full Energy Commission on whether to approve or not to approve the proposed project.

That decision, we need to emphasize, must be based solely on the evidence that's in the public record, which will be produced at subsequent hearings.

To insure that happens, and to preserve the integrity and impartiality of the Commission's licensing process, our regulations and the California Administrative Procedure Act, expressly prohibit private contacts between the parties with the public and the Committee Members. This prohibition against off-the-record communications is known as the ex parte rule.

It means that all contacts between the parties and the Committee regarding a substantive matter, as opposed to a procedural issue about say when the next hearing's going to be, but something about the merits of the application, must occur in the context of a public discussion such as today's hearing, or in the form of a written communication

that can be distributed to all the parties.

The purpose of the rule is to provide full disclosure to all participants of any information that may be used as a basis for a future decision on this project.

There will be additional opportunities for the parties and governmental agencies to discuss the substantive issues with the public. They'll occur in public workshops that will be held by the Commission Staff at later points. Some of those will be held in this area; some may be held in Sacramento. But if they are held in Sacramento normally there is a telephone number provided so that people who cannot travel to Sacramento can participate by telephone.

Information regarding communications between the parties and governmental agencies that's contained in the written reports or letters that summarize the communications, those are distributed to the parties and made available to the public.

Information regarding hearing dates and other events in the proceeding will also be available on the Commission's website. It is a very good resource for you to look to to find out

information about this project, and also other projects if you want to just compare something about this project with other projects that the Commission is considering or has considered in the past.

Again, this is a public process. We encourage members of the public and interested organizations to actively participate and express their opinions about the project. The Committee is certainly interested in hearing from the community on any aspect that is relevant to its decision.

Members of the public are also eligible to step up their participation, if you will, and become a formal intervenor in this process. If you want to do that, Mr. Monasmith will explain in a little more detail what that means.

It's better to do that right away rather than wait until the end of the process, because if you decide to become an intervenor towards the end of the process, the process will not wait and start over for you; and you may have missed some opportunities to gather information you think you need, or to provide input to some of the decisions that are made along the way.

In fact, this is the time where we ask Mr. Monasmith to come up and explain intervention and also the various types of notice lists that you can get yourself on to receive information about the project.

MR. MONASMITH: Thank you, Hearing Officer Kramer, Chairwoman Pfannenstiel, Commissioner Byron. I'm going to turn my back on you and --

HEARING OFFICER KRAMER: Sure.

MR. MONASMITH: Hi, I'm Mike Monasmith; I'm with the Public Adviser's Office at the California Energy Commission. Welcome all of you members of the public here in the Highgrove/Grand Terrace area. It's good to see you out.

I am your representative on the California Energy Commission for this siting case. The Public Adviser's Office is a Gubernatorially appointed office within the Energy Commission; my boss is Margret Kim. And we work for you. We work to insure full and meaningful public participation in all Commission proceedings. Particularly for siting and power plant siting.

And we're your eyes and ears within the Commission. We're here to help you. We're here

to answer questions, to direct you towards staff, and sometimes in the very complicated one-year process, at least to lay people, it can be intimidating. But you shouldn't be intimidated; always feel free to contact me.

I want to talk a little bit about different ways you can participate in this process. And we can talk more about it later. But there are really three basic ways. And if any of you -- hopefully all of you signed in on the sign-in sheet when you walked in, all of you will be placed on a confidential mailing list. It's called our list serve for this siting case.

So everything that comes out from the applicant, their attorney, our staff and all the people that work on behalf of this Energy Commission, as well as the two Commissioners, the Committee on this, will be posted and sent out to you in email, if you wish. That's one way you can be involved without doing anything at all. If you walk out here today and don't care to do much, just receive information, that's a level of involvement.

You can also attend meetings. We'll be having a workshop; we'll have evidentiary hearings

in the community. There'll be workshops that will take place and meetings that will take place in Sacramento. And if you want to show up to those events and fill out a blue card, which I will distribute later, if any of you want to contact or talk later, this is the process. Hopefully you'll fill a blue card out; you don't have to, but it helps for our purposes.

But you go on the record opposing or asking questions, voicing your concerns or support, whatever it may be for this application. That's also a level of participation; and that's kind of a second tier.

Really the most involved and the way that you really become an integral part of this siting process is if you become an intervenor like the representative from CURE here today.

And an intervenor status provides you an official voice in this proceeding. It comes with certain obligations, as well as opportunities. You have to essentially you become a legal part of this process. You're allowed to present evidence; you're allowed to question evidence and witnesses; provide witnesses. You really are a full party in this proceeding.

And I know it sounds kind of complicated, but -- and it can be if you really want to get involved. We're here to make that helpful for you. But this really gives the Commission, and we pride ourselves on having a very active role, as far as the public is involved.

In many of these siting cases we have numerous intervenors who are representatives of the community, who are really here to be the voice and to ask questions. And you are an official party to this whole proceeding. And what you present is part of the official record. And only the official record is what the two Commissioners can consider when they make their final decision.

I have the sign-in sheet on the side here to become an intervenor. If you want to look it over, or talk to me about it, it's a great opportunity. And it makes us unique within the state government. We really have a very active way of involving the public in this, as we should be.

If you have any questions later you can ask them, you can ask now. Again, I'm going to have those blue sheets, those blue cards. After

we have presentations from the applicant and staff you may want to come up and address the Committee. Please fill one of those cards out. If you have any questions I'll have my phone number, my card afterwards.

And that's about it, so, again, I'm here for you guys. So, thank you.

HEARING OFFICER KRAMER: Thank you. As he mentioned we'll now ask the parties to make their presentations. First AES Highgrove will describe the proposed project and their plans for developing it.

And then Commission Staff will provide an overview of the Commission's licensing process and staff's role in reviewing the proposed project.

Following that we'll discuss scheduling and other matters that the staff has identified in their issues identification report.

And after that we will have a time for interested agencies and members of the public to offer comments or ask questions about the project.

Any questions about the procedure for the rest of this afternoon? Okay. Mr. Galati or Ms. Way.

MS. WAY: Thank you, yes. Good evening, Commissioners, Staff and public. Can you hear me okay? Thanks for the opportunity to talk about the project. And before I get started I'd also like to thank the Norton Younglove Community Center for hosting us this evening and being of assistance to us in setting up.

Also I enjoyed meeting with you, some of you on the site visit. We appreciate your interest and we're glad to see you here tonight.

I'm the Project Director for the AES Highgrove project. And I'm going to start by telling you a little bit about AES. AES is a global power company; we have 30,000 employees with businesses in 27 countries, and 40,000 megawatts of generating capacity on five continents.

We're also diversified. We have operating interests in biomass and wind generation projects, as well as natural gas and solid fuel.

We also have a significant presence in southern California. Two of our biomass facilities are actually located in the Central Valley. And we have 4000 megawatts of capacity in southern California. So we have a fairly

significant presence here.

Four thousand megawatts may seem like a lot, but I'd like to put it into perspective in terms of statewide energy needs. California continues to set records for peak electricity demand. In fact, we set a new record on July 21st of this year. Most of us know it was unusually hot and still is hot today.

What interesting is that we've actually continued to set records in previous years. And it's also interesting to note that the new record that was set July 21st is over 7000 megawatts higher than the peak demand during the energy crisis. Which means that over 20 plants like the proposed Highgrove plant would have had to have been built in order to produce enough energy to make up for that difference in demand.

What's interesting about the southern California region in particular is that southern California already imports approximately 30 percent of the power, which is about 10,000 megawatts. And we do that by bringing in power in large transmission corridors, which means that the reliability of the grid is dependent on the integrity of those lines.

Another concern with a region which is so reliant on imported power is that those lines can only carry a certain amount of capacity. And if growth occurs the only way those lines can carry more capacity is if we build additional lines or the existing lines are expanded.

With all the rapid growth in the Inland Empire, it presents a concern. In fact, the U.S. Census Bureau reports that over 25,000 housing permits were issued each month during 2005 for the San Bernardino and Riverside Counties combined.

Go to the next slide. This is a map showing the southern California region and the spaghetti network of lines that you see actually represent transmission lines of different sizes.

The electricity grid is actually a network of transmission lines and plants that supply generation and inject that into the grid, and customers who take power out of the grid. It's a system that all works together. And changes in one part of the system affect the other part of the system.

In order to keep the electricity grid stable, a certain amount of power needs to be generated in the region where it's used. And the

California Independent System Operator, Cal-ISO, who's the entity responsible for monitoring grid reliability in southern California, has determined that the need for local capacity in the L.A. Basin to maintain grid reliability is about 40 percent. And that means that in order for the grid to be stable a lot of generation needs to occur here. If we import power we run the risk of having a fluctuation in the system triggering a blackout.

Another thing about the -- can you go back two slides? Back up. One more. Another interesting aspect about the power fleet in the L.A. Basin is that a lot of the plants that are currently providing that local capacity were actually constructed in the late '50s and '60s.

In fact, AES Alamitas, which is the largest of AES' plants in California, with about 2000 megawatts of capacity, just celebrated its 50th anniversary for unit 1 today. That unit went into operation in 1956.

A lot of those older units are still operational, but they don't have the reliability that a new plant does, obviously. They are much more prone to having emergency outages due to things like boiler leaks. And we know that also

they won't operate forever.

The other aspect of the older plants is that a lot of them were constructed, obviously, in a time when there were no environmental controls installed on the units. A lot of those plants have been retrofitted to reduce emissions. But there is a recognition that plants constructed within the last five years have the kind of technology that produces emissions at extremely low levels.

And the South Coast Air Quality Management District, which is responsible for monitoring air quality in the area just passed a ruling recently, September 8th, to allow the electricity generators to access emissions credits to facilitate building of new plants. And part of the justification for that was that to facilitate displacement of generation from the older, dirtier plants. And replace it with generation from the newer, as they say, super-clean plants.

The next thing I'd like to talk about is why peaking technology is needed. This curve shows the fluctuations in power demand throughout the year. You can see how volatile it is, especially during the summertime.

So the power demand is volatile throughout the year, and through the -- that's okay, go ahead -- and through the day. This curve shows how the power demand typically varies throughout the day, the lowest being the nighttime hours, obviously. And then growing as businesses start to operate.

Baseload resources, which are typically classified as nuclear, and the portion of renewables down there at the bottom of the curve, are usually run at nighttime. Those are resources that are usually very inexpensive to operate or difficult to startup and shutdown.

Intermediate load resources are the kind of shown in the band of purple there. And those are loads that can be scheduled ahead of time to come under in the day when everybody knows the load will start to grow.

And then the top peak portion of the curve in blue represents the role that peaking units fit in the mix. Peaking units are units that can be turned on very quickly and shut down very quickly to adjust to fluctuations in electricity demand.

The unit that we've designed at

Highgrove, we have selected to meet the peaking need, gas turbine technology. The plant will consist of three 100 megawatt units. And each unit can produce 100 megawatts in ten minutes. So from the time you push the button from a cold start to full load, it only takes ten minutes. So those units are uniquely suited to meet the rapid demand needed for peaking plants.

The unit will also -- it's designed to burn only natural gas. It's equipped with low emissions combustors and state of the art environmental controls.

And one thing that we wanted to mention about this resource is, unfortunately in California, on the hottest days the wind always doesn't blow, and this unit will be able to provide electricity during those times when other resources like wind energy cannot. And that's why it's beneficial to have a portfolio of different energy resources.

AUDIENCE SPEAKER: Can't hear you very well.

MS. WAY: I'm sorry, I'll try to talk louder.

The next slide is a brief description of

the project. As we've mentioned the project is a proposed to be 300 megawatts, constructed north of the existing facility. The project involves removal of the existing plant, which many of you saw on the site tour.

We are required to relocate some of the substation controls from the existing plant to the substation onsite. The substation, which is owned and operated by SCE, and is part of the grid, will remain after demolition.

The project involves construction of a new seven-mile natural gas pipeline to tie into Southern California Gas' main backbone system, which is about seven miles from the site.

One of the advantages of building at this site is that the substation is just adjacent, so we will not require any new transmission lines to cross third-party-owned property in order to interconnect to the grid.

We propose that we use the existing onsite wells, which used to serve the old plant, to serve our limited processed water needs. And we proposed to haul the wastewater, generated by the facility, by truck to the SARI brineline in San Bernardino, which is a -- it's an industrial

wasteline designed specifically for concentrated industrial waste.

A lot of questions. Why at this site? This is a photo of the existing plant looking kind of to the southwest. In this photo you can see three of the four units, two of the largest units. The two largest units are on the left side of the photo.

So one of the reasons that we've chosen to propose construction at this site is that this site has supported a power plant operations since the 1950s. And we can utilize some of the existing infrastructure, especially having to avoid building new transmission lines.

And finally, the electricity will be produced in the area where the electricity is consumed, which is strengthening grid reliability and reduce the region's reliance on imported power.

This is a visual simulation of the proposed project. There's also a larger view on the board in the back of the room. This first picture, the picture at the top, shows a view of the existing plant. And this is from the viewpoint of someone standing 300 feet east of

Taylor looking to the west towards I-15.

The second photo is not realistic. It shows both the old plant and the new plant superimposed together. We don't have any intention of constructing the new plant without demolishing the old plant. But we thought this view would be helpful to show you how much more compact the new technology is. And how much the lower visual profile it will have.

And then the last slide shows only the new facility with the old plant demolished. And go ahead and click. And we've sort of shown you where the existing substation would -- where it would, it would still be visible. So we showed it to you kind of where it would it be and about how tall and long it is.

This is an aerial view. I don't have my pointer, but if you look closely you can see three red stars on the -- maybe someone can point that out. That shows the proposed location of the three new stacks. And you can see from this photo how much farther the new equipment will be from Taylor Street, compared to the old facility.

Some of the -- this is a nice industrial picture. Some of the CEC Staff requested a

picture of the wastewater dumping facility associated with the SARI line, and so that is what this picture is of. This is a map of the projected wastewater haul route. The distance between the plant and the dumping station is about 6.1 miles, and estimated time for the truck to be on the road is about ten minutes. I have some more maps if staff members are interested in having copies of those slides.

What have we done to minimize impacts. First of all, by developing on a brownfield site we did not have to disturb, from an environmental standpoint, any land that hasn't previously been used for power plant operations. And also, we don't have to build any new lengthy transmission lines.

From a visual standpoint, our plan is to construct an eight-foot berm alongside Taylor Street. And we're planning to top that with an eight-foot wall, and we'll also have landscaping. Those things will help -- those attributes will help conceal the plant. And also because the stacks will be located much further from Taylor Street, they'll be less visible.

And then finally, from an air quality

standpoint, as mentioned before, the facility will only use clean burning natural gas, low emissions combustors, state of the art environmental controls. And we're required to provide complete offset of all emissions, which means that in order to construct this facility some other plant in the L.A. area has either had to shut down or add emissions technology to reduce its emissions.

From a noise perspective, the gas turbine inlet and exhaust will be equipped with silencers. The noise models that we provided in our application predict the noise level at the closest proposed high school building to be about 56 dba. And per Atco Noise Management, which is the company that provides acoustic controls, they compare that to normal conversation at about 60 to 65 dba. The noise projected at the residences are below the City of Grand Terrace noise ordinances.

There is a high school proposed across the street from the plant. That's who Alice Grundman represents, who introduced herself earlier. We have investigated the Department of Education siting requirements and have provided some information and analyses to the school as they've gone through their EIR process. And the

analyses concluded that there is no impact to the school.

In summary we see, and we hope the community will agree, that there are several benefits to the project. We believe that replacement of an old inefficient facility with a new efficient facility equipped for state of the art environmental controls will be beneficial to the region. Especially with all of the rapid growth occurring in the LA. Basin, and the technology that can provide very rapid start capability and high energy efficiency.

We think that, while we're kind of becoming fond of the old plant, we know that it's not as beatific as new plants, modern plants can be. And so we believe there will be a significant improvement in the aesthetics along Taylor Street by demolishing the old facility. And also, a new plant constructed in this location will contribute significant property tax revenues to the local community.

So that's the end of my presentation.

HEARING OFFICER KRAMER: Thank you. I think we'll hold questions until after the staff's presentation.

(Pause.)

HEARING OFFICER KRAMER: And if people want to speak this would be a good time to raise your hand and let Mr. Monasmith give you a blue card to fill out.

MR. WORL: Can you hear me okay? I'm deaf in one ear and can't hear out of the other very well, which is true in my case. But I sound okay?

My name is Bob Worl. I'm the Project Manager for this siting case. And what I'd like to do first is take you a little bit through the Energy Commission's process for reviewing an application for certification.

The purpose for the siting process is to insure the reliable supply of electrical energy is maintained at a level consistent with the need for such energy, for protection of public health and safety, the promotion of general welfare and for the environmental quality protection.

The Energy Commission permitting authority, we have siting authority over all thermal power plants 50 megawatts or larger. And we also evaluate all of the related facilities, electric transmission lines, water supply lines,

natural gas pipelines, waste disposal facilities, access roads.

We're also the lead state agency for the California Environmental Quality Act in this process.

The process begins with the data adequacy determination. We review the application for certification and attempt to insure that the information within that application is adequate to begin our technical review. And we then make a recommendation to the full Commission through the Executive Director. And once the application is accepted as complete, the process is initiated at that point. It becomes day one.

That begins the staff discovery and analysis phase. We go through an issues identification phase which we have completed. And there's a few copies of the issues identification report here. And it's also online. And if anybody needs a copy of it, some other way, doesn't have internet access, if you'll contact me I'll insure that you get it, either hard copy or however else you might desire.

We also issue data requests to the applicant; and these cover a number of -- well,

approximately 23 technical disciplines. And what we do is we request information from the applicant that will allow us to complete our analysis and to make recommendations.

After the data requests, we begin a series of workshops. First on the data responses from the applicant. And then we develop a staff assessment. We do a preliminary staff assessment in a 12-month case; and a final staff assessment.

Once we publish the staff assessment we again hold a workshop on the preliminary staff assessment and that's another -- any workshop is an opportunity for the public to participate, I might add.

At the completion of the final staff assessment, which is revised based on information that we receive after the preliminary staff assessment, through that process of workshops, we then begin a phase that essentially is determined by the Committee and the Hearing Office. And that's the evidentiary hearings leading to a decision by the Committee voting up or down where the project is accepted or not.

The Committee holds the evidentiary hearings. The Committee, as you've heard earlier,

is two Commissioners of the five Board of Commissioners, I guess you would say. And in this case Commissioner and Chairman Pfannenstiel and Commissioner Byron are the Committee for this case.

The Committee produces the Presiding Member's Proposed Decision. And that proposed decision, by the way, which is also subject to hearings, then goes before the full Commission for the full Commission to make a determination either accepting or rejecting the project application.

This is basically a graphic that just looks at the different components of our process. you can see the intervenors, the applicant, the local, state and federal agencies, the public and the Public Adviser, who assist either/and/or intervenors and members of the public who would like to participate in the process.

And the staff accept information and rely on questions from agencies to refine our questions. And so this is the information from the applicant and also from other agencies who might have information that bears on our performing an adequate and complete analysis, and putting for the set of recommendations.

The evidentiary hearing process and the decision processes depicted here, and again you'll see that the intervenors, the public, the applicant testimony, local, state and federal agency comments. And you'll see that now staff is no longer central to the process, but is essentially one of the peripheral elements. Staff testimony. All of whom then provide information and feedback to the Committee. And that leads to the development of the proposed decision. And eventually to a full decision by the Commission.

Staff's analysis of the application attempts to determine if the proposal complies with the laws, ordinances, regulations and standards; we call LORS. You'll often hear that, the term LORS used as a shortcut.

We conduct the engineering and environmental analysis. We identify issues; evaluate alternatives to the project; identify mitigating measures for impacts that are identified; and recommend the conditions of certification in each of the areas that would reduce, to a level of insignificance, any impacts from the proposed project.

We also attempt to facilitate public and

agency participation throughout the process; both through direct contact, soliciting of information and also from fielding questions and also receiving information that's volunteered to the staff.

The staff products, as already mentioned, are the preliminary and a final staff assessment. And as I said, the preliminary staff assessment is followed by a workshop; and the final staff assessment, once it is issued is followed by an evidentiary hearings. That's within the bailiwick of the Hearing Office and the Committee.

The staff assessments, preliminary and final, make a series of recommendations to the Committee based on the evidence that we have received and evaluated. And once staff's analysis is out, we make our best case proposal of recommendations to the Committee.

Local, state and federal coordination is really critical to the process. We try to work closely with local, state and federal agencies. And I think the audience here attests that we've reached out to and been reached for by a number of agencies already.

And we try to take into consideration the concerns and interests of each of these parties, local and regional governments, the Air District and the State Air Resources Board, Cal-EPA, in this instance the Department of Toxic Substances Control, who has an interest in this site, and in our process going forward; the Department of Fish and Game for the biological resources. And then the federal governments; usually we work with the Fish and Wildlife Service and the Environmental Protection Agency.

After the final staff assessment is issued, as I mentioned before, the Committee issues the Presiding Member's Proposed Decision. And the proposed decision, which is a Committee document, actually contains findings. And the findings are not recommendations, but they're essentially a series of findings of fact based on the evidentiary record that's come forward in the case.

And the findings generally related to the environmental impacts, public health impacts, and the engineering aspects, and the compliance of the project with laws, ordinances, regulations and standards.

It recommends conditions of certification; recommends whether or not to approve the project. And then the Presiding Member's Proposed Decision goes to the full Commission for the decision, the final decision on the project.

Should the project be certified, the Energy Commission then monitors the compliance with all of the conditions of certification for the life of the project. And that also includes facility closure.

We view our public process as being quite open compared to many agencies' processes. And, again, as you heard, we hold a series of workshops and hearings. We notice these public events. We maintain a mailing list, a series of mailing lists, actually. And we also insure that our documents are available for public review at various libraries. In this instance we provided copies at Grand Terrace Library, Riverside Library -- City of Riverside, UC Riverside. And then the five California institutions of higher education. And our own Commission library in Sacramento.

We maintain a very accurate and complete website of the proceedings. And the site address,

I guess you would say, is up there. And most all of the documents except those that are filed with a request for confidentiality, are available and accessible through our dockets unit at the Energy Commission.

The ways you can participate you've already heard about. You can submit written comments or statements to the Commission. You can provide oral comments at public meetings. Become a formal intervenor. Or provide written comments on the two staff assessments, the preliminary and the final staff assessment.

And here are some contact points for information; myself, I'm happy to field comments from anybody at anytime, and direct you to the appropriate source for a response if I can't help you.

Paul Kramer is the Hearing Officer in this instance, representing the Hearing Office and the Committee. And Margret Kim is represented here by Mike Monasmith. She is the Public Adviser, the Governor-appointed Public Adviser.

And the addresses and phone numbers are there. And they're also on the sheets and also on the website.

We also will, at some point in time, go through our issues identification report. I don't know whether you want to do that now, or --

HEARING OFFICER KRAMER: I think that would be good and then we can take public questions. They will have heard everything and maybe some of their questions will be answered by your next presentation.

MR. WORL: Okay. The staff conducts an issues identification report early in the process. The purpose is to inform the participants, including the applicant, of potential issues that staff finds. And to provide an early focus on important topics. It serves as basically a laser pointer, if you will, for the project. And is helpful, not only to agencies, but also to the public, to staff and others interested in the case.

The criteria that we use for determining whether something rises to the level of becoming an issue is whether an impact, it has impacts that may be difficult to mitigate or reduce. Whether there is a noncompliance problem with laws, ordinances, regulations or standards.

Whether a particular point is

potentially contentious. In other words there's an extreme difference of opinion. And an inability to come immediately to at least some modicum of understanding.

And also there are events that may impact the project's schedule that might be an issue or might become an issue as we go through the process.

And in this instance air quality is a critical concern for the communities in the area, particularly here in the South Coast area, L.A. area. Timing of the South Coast Air Quality Management District priority reserve rulemaking, which was just completed September 8th, was a potential issue. The emission offset plans and strategies and the content and the access to the priority reserve for any given project.

Another thing that staff has identified as being a potential truck emissions, the addition of the emissions in trucking wastewater from the project site to the Santa Ana Recycle Line, the SARI line.

Acquisition of the project emission offset package, which is the applicant's obligation, to basically to insure that they have

acquired offsets, or in some other ways mitigated air quality impacts, potential air quality impacts from the project.

Land use concerns have come up, particularly the proximity to the new proposed high school. And the staff is always concerned anytime that a project -- two projects are this close in proximity.

And we are awaiting -- the state needs to finalize its site report for the high school. And the high school, I think, is eagerly awaiting that, as are we. And is hoping to begin construction on the high school, I believe, in January of 2007, which isn't really very far away anymore.

The visual resources, visible plume, we combine those two. Visible plumes are possible based on our initial analysis from the LMS100 turbines that will be here at this project. And staff is interested in a complete analysis of the potential for the plumes and the potential impact of the plumes in terms of traffic; and potential impact to the very proximal school facility.

The term ground-hugging plume is essentially just that. It's a vapor, essentially

a plume, a steam plume, if you will, that doesn't rise up, but under certain conditions can come down on the ground and can have an impact on roadways, traffic hazard.

Water resources has also indicated some concern about the proposed use of the onsite wells for plant processes and cooling. Staff is looking for a thorough review of alternatives, including impaired water sources and cooling alternatives. Staff conducts an independent analysis and has prepared data requests to the applicant to better get a handle on what has been done to look at this.

And then also the truck hauling to the SARI line, as opposed to the usual thing that we see, which is a proposed pipeline that would take the wastewater to a disposal site.

Waste management has identified that there's existing site contamination that's been identified by DTSC. And DTSC currently has a corrective action on the site based upon its previous uses. And corrective action can take sometimes a long period of time. And it has the potential, not necessarily to stop a project, if you will, but mitigation and completion of the

appropriate tests is sometimes a consuming process that takes time, and requires final reports, et cetera. So it could have some impact in delaying our schedule.

We believe that most of these issues, not all of these issues, are capable of successful resolution in a timely manner. And that we require aggressive effort on the part of the staff, the applicant and the agencies involved. And I'm sure that all the agencies are already sometimes a little bit tired of hearing from us about when are you going to, or what have you done about, or what is the process going forward, from us.

If issues surface which significantly delay, exceeding the proposed timeline, the timeline will be adjusted appropriately. Basically our timeline is set in our rules of proceeding. We try very hard to complete an application review and determination up to a decision within a year's time, 12 months.

Sometimes that takes a little bit longer; and some of the things that I discussed earlier are the determining factors in whether or not the schedule requires adjustment.

Currently we have a proposed schedule that we essentially try to put forward early on in the process, about right now. And this indicates the schedule beginning July 19th, which was when the AFC was deemed complete at the business meeting by the Commission.

And we have issued the issues identification report about a week ago with this schedule. And we're in the process of finalizing our first set of data requests. It says September 20th; it's going to be somewhat longer than that.

And that also impacts September 26 data request and issues clarification workshop. That would be adjusted based on the final issuance of our data requests to the applicant.

We then will hold a data request and data response workshop. And in all likelihood that will be held proximal to this area, within the Grand Terrace area if we can find a location, so that it's accessible to people that would like to hear what's going on with the case.

Some other things -- I think I'd note here there's a number of things that are in red. And these are what you call critical path items. In other words, we can't move beyond these, we

can't jump ahead and do other things on the schedule. These critical path items need to be completed pretty much in order.

And one of the things that is an important critical next step is the South Coast Air Quality Management District's preliminary determination of compliance. They have just completed their rulemaking, and I'm sure that they are awaiting information from the applicant that will allow them to move forward and provide the preliminary determination of compliance. And that's critical for our air quality people and our public health people to complete their analysis.

So, essentially this schedule, as I said, will be adjusted based on the reality on the ground. But we try to publish a schedule that gives people a rough idea of the process, the proceedings that are ahead, and what we're proposing to get done in the assigned period of time.

And I think that we've basically just done a pretty complete job there, so I think it's a good time for questions.

HEARING OFFICER KRAMER: Thank you. First, let me ask if any members of the Committee

have any questions they want to ask at this point of either staff or the applicant.

PRESIDING MEMBER PFANNENSTIEL: Not at this point, but I would like, after we hear from the members of the public and the other agencies, there may be some follow-up questions.

HEARING OFFICER KRAMER: Okay. Mike, do you have the blue cards?

Go ahead and come up, Mr. Nazemi.

MR. NAZEMI: Good afternoon, Commissioners Byron and Pfannenstiel. My name is Mohsen Nazemi; I'm Assistant Deputy Executive Officer of the South Coast Air Quality Management District. Also in our audience there's one of our Board Members, Board Member Jane Carney who sits on our governing board, and other staff from AQMD.

Thank you for the opportunity to come to the public hearing and provide input. First, I want to just make a couple of comments about the role of our agency. There was a number of times that our agency was mentioned.

Based on the projections by CEC and other state experts, our agency supported construction of new and clean technology power plant generation for southern California with the

understanding that there are projections that there will be shortfalls under adverse conditions, such as the high temperatures that was mentioned in July. That there's a need for additional power in order to maintain the electricity on the grid.

Therefore, our staff began working on amendments to our rules, and without making any specific commitment to any special projects, there are a number of these projects that we felt that might come forward and has, so far.

Our role in the CEC process, as was mentioned earlier, is twofold. One is through the CEC application for certification process we provide to your agency a preliminary and a final determination of compliance, which then gets incorporated into your preliminary and final staff assessment. And move forward toward a decision up or down.

But in addition to that, our agency is the local agency that's responsible for issuing the Title 5, which is a federal operating permit program. CEC does not have that delegation from the United States Environmental Protection Agency. So, in addition to our determination of compliance, we also have to issue a permit to

power plants that are being built in our district. However we cannot issue those permits until your process is complete, because your process is a CEQA equivalent process, and we can't issue our Title 5 permit until your process is complete.

In our preliminary determination of compliance or our Title 5 permit, we look at a number of air quality related issues, but most important of all are resource review, which includes a number of requirements for all new and modified sources in our basin.

As you know, our basin has some of the worst air quality problems in the nation. And used to be the only extreme ozone nonattainment. But now it's the only severe 17 ozone nonattainment. We're also nonattainment with both PM10 and PM2.5 standards.

The elements of new source review program that are very important that we consider are application of best available control technology to make sure that the plant emits that minimum amounts that have been achieved by other plants.

We also look at modeling to determine what type of air quality impacts are associated

with ordinary smog-forming pollutants to make sure there is no new violation of standards or existing standards that are violated are not made any worse.

The other element is what was mentioned about emissions offsets; that any increases from a new project is offset by more than the amount of increase of emission reductions from other sources.

But in addition to new source review, we also have requirements for localized impacts related to toxics emissions. We look at toxics, both carcinogen or cancer-causing and noncancer-causing agents.

And, in fact, our district adopted the only rule that I'm aware of in the nation that relates to sources that new sources that will be located near a school. And there are much more stringent requirements of toxics emissions for those sources. So we'll be looking at, depending exactly how far this source is going to be from the school, as those requirements.

And finally, the other important element of our program is public noticing and public participation in our program. Since the offset

issue was mentioned a couple of times, I just want to make a couple of clarifications.

Our governing board adopted the staff proposal on September 8th to amend rule 1309.1, which is the priority reserve rule, to allow new power plants to be able to access the district's offset bank, because there are not enough emission reduction credits in the open market for certain pollutants, such as PM10, such as sulfur oxide and carbon monoxide.

However, as part of the adoption of the amendments, the board also has directed staff to come back with additional proposal in respect to how to address power plants that may be located in an environmental justice areas.

The timing for that at this point is projected to be around January of next year, to come back with additional proposal to the governing board. We are having a board committee meeting this Friday that there will be further discussions about that. And, again, at the end I'll defer to our Board Member Jane Carney to see if she has any comments she wants to also make.

And finally, I just want to point out that our executive officer has made commitments

that not only we will participate in all the CEC hearings and workshops, as we have in the past in other power plant projects, but that we will provide the public opportunity to provide their comments and input to us prior to making any of our determinations.

We'd like to be able to provide a similar type of a public process and public input for all power plant projects that may go to priority reserve as the amendments took place last September 8th.

With that, I'll be happy to answer any questions.

PRESIDING MEMBER PFANNENSTIEL: Thank you for being here and participating. And thank you especially for laying out so clearly your role and your relationship with the Energy Commission process. I think that helps us all to see that the same way.

On the rule 1309.1 that has been much discussed; it was discussed way before September 8th; and will be, I'm sure, for some time to come. Am I correct in understanding that all of the issues -- that that rule is final, and that all of the issues, except for the environmental justice

issues, have been determined? That is a final rule for all other purposes, I guess?

MR. NAZEMI: The staff's understanding is that the governing board adopted staff recommendation. The rule has a number of elements in it in terms of eligibility for a power plant to access priority reserve.

One of those eligibilities, for example, is to demonstrate a due diligence that they have looked in the open market and have not been able to find any emission reduction credits prior to coming to the priority reserve.

That due diligence process is not a snapshot. They have to show that throughout the process of permitting.

And I guess my answer to your question is that the element of environmental justice has not been determined at this point. So, depending on what ultimately is taken to our board and adopted in the January timeframe, there may be additional requirements for projects that are sited in environmental justice areas.

PRESIDING MEMBER PFANNENSTIEL: I understand. Thank you.

HEARING OFFICER KRAMER: Will that

additional work cause any delay in your production of the preliminary determination of compliance?

MR. NAZEMI: You know, I'll be able to answer that better maybe after this Friday's board committee meeting. At this point there is -- I notice that on the schedule that you went through, they showed the middle of November as the DOC for our agency. And there is a potential two-month delay depending on which direction our board decides to go.

PRESIDING MEMBER PFANNENSTIEL: Can you be a little more specific? What is happening with your board this Friday that's going to affect that?

MR. NAZEMI: Our governing board has a number of standing committees, where one or more board members sit on those committees. And, in fact, our Board Member Carney requested that this item be put on the agenda for this Friday's board committee, stationary source committee, to further discuss the decision that the board made with respect to what staff heeds to produce to bring back proposal related to environmental justice.

PRESIDING MEMBER PFANNENSTIEL: Thanks.

ASSOCIATE MEMBER BYRON: Mr. Nazemi,

thank you very much for coming. Clearly your board's and agency's representation involved in this project is extremely important on about three or four different levels. So we'll certainly be looking forward to your input over the next couple of months, maybe even further.

I don't have any additional questions at this time. Thank you.

MR. NAZEMI: Thank you.

PRESIDING MEMBER PFANNENSTIEL: Thank you.

HEARING OFFICER KRAMER: Ms. Carney, did you want to make a statement? Your choice. It just seemed logical that you come up next if you wanted to.

MS. CARNEY: Let me just say that our board appreciates the need to come to a final determination on this rule, including this possible amendment.

At the hearing on September 8th there was a great deal of community involvement, which really had not been present during our regular committee meetings on this rule.

And so that's why we left open the possibility for this amendment, but we realize

that we need to move forward with this as expeditiously as we can. Thank you.

PRESIDING MEMBER PFANNENSTIEL: Thanks.

HEARING OFFICER KRAMER: Okay, I guess nobody wanted to fill out a blue card. But I presume that other people want to make some public comments? Oh, we have a couple? Sir, please come up and give the card to Mr. Monasmith.

And before you start, just by a show of hands how many other people want to make a public comment? Okay, or ask a question?

Go ahead, sir. Please first give us your name.

MR. BARNETT: Okay, my name is R.A. Barnett. And I'm from Highgrove. And I noticed in your presentation that the City of Grand Terrace, at their library, will have documents and information available.

I just want to make sure, too, I noticed that the Riverside Library system also will have those documents.

And what I want to do is make sure that our Highgrove Library, which is part of that, at the corner of Garfield and Center, has those documents. Because what we'd like to do for those

people that are unable to attend today, is to publish the fact that anyone in our area will be able to go to the Highgrove Library and look at those documents and examine them.

Because actually the people in Highgrove, we have residents that are actually closer to the facility than in Grand Terrace, even though it is on the other side of the street.

So, I just want to make sure that the Highgrove Library will be furnished that information so we can publish in The Highgrove Happenings newspaper that anyone interested will be able to go to that location.

HEARING OFFICER KRAMER: Thank you for your help in getting the word out, because we want to -- we don't honor community boundaries here. We want everybody who is interested in this process to have a chance to give us their comments.

MR. BARNETT: We'd be more than happy to help anytime you --

HEARING OFFICER KRAMER: You might also put in Mr. Worl's and Mr. Monasmith's contact information in your article. And they can give comments to them, and they will see that they get

distributed.

MR. BARNETT: Okay, we can do that.

MR. WORL: And if I could get the address, we'd be happy to make sure they get a complete set of the preliminary information and whatnot, if they don't already --

MR. BARNETT: Address of the library?

MR. WORL: Sure.

MR. BARNETT: Okay.

MR. WORL: Yeah, just need the address.

MR. BARNETT: Anything else? I don't know what to say -- oh, yes, and if need be, future meetings could be held at this location, too; and just see Kathy and she can probably make the arrangements, if that would be agreeable with you. Thank you.

ASSOCIATE MEMBER BYRON: Thank you.

HEARING OFFICER KRAMER: Does anyone else wish to make a public comment?

Okay, we need to finish our discussion of the scheduling. Just largely an issue for staff and the applicant at this point. And CURE -- the CURE representative has left apparently.

The Committee is required by the regulations to issue a scheduling order within 15

days of this event, and we will do so.

I had a question for the parties, though. I notice in the proposed schedule that there's a very short time interval between the filing of the final staff assessment and the prehearing conference, and then the start of evidentiary hearings.

And at least in my opinion that's way too tight. I wondered what your thoughts were on that.

MR. GALATI: First of all, on behalf of AES, we support your schedule. We do believe that you have pointed out something that would be very difficult for us to prepare testimony if there was anything that the Committee needed to adjudicate.

Like always, we work to avoid having to bring things to the Committee; and we'll work very hard in workshops to resolve those issues that we can.

But we think that there should probably be at least 14 days from the final staff assessment to the prehearing conference so that we can at least give you an opportunity to completely review the staff assessment, and be able to explain to you are there any outstanding issues

that need to be adjudicated.

HEARING OFFICER KRAMER: Any comments, staff?

MS. DeCARLO: Yes, I agree with what Mr. Galati stated. I believe we tried to squeeze the proposed schedule into the one-year time period, assuming that the latter dates would remain undefined until we get further along in the process.

But I would definitely support Mr. Galati's suggestion that we at least have 14 days between issuance of the final staff assessment. And I would like to see, as well, 14 days between the prehearing conference and evidentiary hearings, once we know exactly what issue areas are in contention.

HEARING OFFICER KRAMER: Thank you. Any comments about an appropriate interval between status reports? In my mind, 30 days sounds a little too frequent, especially at this stage. Does 45 or 60 days make sense?

MR. GALATI: One of the things that has worked in the past, Mr. Kramer, is if you scheduled status reports after events. We think that we have more to say. Sometimes the status

reports come up two days before we have an issue resolution workshop and so I don't have very much to tell you. But the next two days, I do. And I want another 30 days to do that.

So, I don't know if that would be maybe appropriate to say so many days after a workshop or a document comes out? That, from my perspective, that can float if the date changes. And then the Committee is informed of what progress is being made.

MR. WORL: I think that that basically has often been the way things work out, is that we try to -- sometimes we have an event and then feel like, gee, we just issued a status report; well, we should really be doing on this week. So I don't have any problems with that.

We're talking about schedule, so I thought it would be important to acknowledge something that Mr. Nazemi brought up, and that is he did indicate that there might be as much as a 60-day delay in the preliminary determination of compliance issuance. And so I think that we should acknowledge that, and also acknowledge the fact that that's a critical path item that will drive the schedule. So I think that we need to

take that into consideration, looking at our schedule.

And, yes, we did develop this schedule looking at the 12-month schedule. And had absolutely no inclination that we would be limiting the proceeding based on what we listed as the proposed schedule.

Generally, 60 days and 120 days are the period of time allotted for state and federal agencies to provide us preliminary and final -- or excuse me, 120 and 180 days. And so the dates are based on that, rather than on reality in this instance.

We know that the Air District is somewhat constrained in being able to meet an external schedule to their processes.

MR. GALATI: If I could comment on that. We did hear for the first time what Mr. Nazemi said, and while we appreciate that, we see that as a potential delay, not a delay. There is no proposed rule change; the rule was adopted on the 8th.

I would also like to point out that the applicant has done the environmental justice analysis in its AFC. And we urge the District to

review that, as well, to see that if the kinds of environmental justice issues that may be more appropriate for other projects are even appropriate in the case of this project.

So, maybe after Mr. Nazemi has an opportunity on the Friday board meeting to find out if there is a proposed rule change, maybe we could, rather than move the date from the 16th, we could get an update from Mr. Nazemi or his staff as to whether or not whatever is discussed in that meeting looks like our project would need to be delayed.

Because even if there was a rule change, adding some sort of requirement of an environmental justice determination, we believe we've already demonstrated that the project does not have a disproportionate impact on lower minority income -- low income or minority populations in accordance with federal guidance.

HEARING OFFICER KRAMER: Okay, well, we probably won't get our order out immediately anyway. So we will make a note to wait until you've heard from Mr. Nazemi and tell us what the results of that conversation were sometime next week.

MR. GALATI: I think that's acceptable.

HEARING OFFICER KRAMER: All right. So the Committee will be issuing a scheduling order based on today's proceedings. Does any party wish to make any final remarks?

MR. GALATI: I would like to just clarify two things in the staff, in the issues identification report. And that is in the issues identification report we agree that the issues that were identified by staff are issues in this project, and that we look forward to working to resolve them.

A couple of things I wanted to make clear to the public is at this stage of the game it's very rare for an applicant to have all of their emission reduction credits for offsets in place or purchased. They are very very expensive. Some of the programs like the NOx reclaim program requires you to purchase for a certain year of emissions.

While we have not purchased those, I just didn't want anyone to read the issues identification report and get the impression that we were not going to purchase them, or that we were behind the game in purchasing them. We think

that we are right on schedule. And as the process moves forward we will continue to look for emission reduction credits, purchase them, purchase options on them. And inform staff how that schedule is going.

Again, there is one issue that we disagree with staff on, the NOx reclaim credits. And I just wanted to give the Committee a heads-up to be straight up and fair about this, we believe that the rules require us to purchase NOx reclaim credits prior, for the first year of operation prior to starting construction.

Staff has taken the position and has had an applicant agree in another case to purchase those NOx reclaim credits prior to evidentiary hearings. It's not something that we would feel comfortable purchasing without knowing we had a permit or authorization to proceed, especially in the NOx reclaim program.

What we intend to do is to demonstrate that those NOx reclaim credits are readily available and it's a robust market. And we will comply with the District rules on the timing of their purchases.

And we continue to work with staff to

see if there is some compromise between what's been written and what I have just said. But I wanted to give the Committee a heads up that that is one issue in which we'll need to continue to work towards.

HEARING OFFICER KRAMER: What was the case where the applicant agreed to have them prior to the evidentiary hearings?

MR. GALATI: I believe that was Inland Empire. I think staff quotes it in the issues identification report, that Inland Empire was -- that was done.

HEARING OFFICER KRAMER: Did staff want to comment on that?

MR. WORL: Yeah, I just wanted to say that staff had misstated in this, based on earlier experience, and had used prior to evidentiary hearings as opposed to start of construction, which has been a more realistic goal, in recognition of both the expense and the timing of acquisition of these offsets. So we don't have any problem with that.

MR. GALATI: Thank you. We hope to resolve all issues this way.

(Laughter.)

HEARING OFFICER KRAMER: Staff, any final comments?

MR. WORL: The only thing I can say is that we're finding that working in this area with South Coast, the Air District, the constraints that the District's been under, and also we do have to work through the DTSC issues. Those are things that could -- both of those are things which could potentially impact the schedule.

The schedule that we developed was an idealized schedule. We knew that going in, and we will work with either expediting, or depending on when we get closure on these issues, or delaying based upon things that are external to our, you know, to our ability to control.

So I think that we're on the same page in that regard.

And I also, I concur with adjusting the timing of the status reports to be more contemporaneous with events in the case. I think that that would be more meaningful for everybody concerned.

HEARING OFFICER KRAMER: Okay, one last chance for public question or comment.

Mr. Loyer.

MR. LOYER: My name is Joe Loyer; I'm the California Energy Commission air quality expert. And as the California air quality expert I feel it's my duty to say at this point to clarify our position on ERCs and RTCs.

We strongly prefer RTCs prior to construction. They're required by the District prior to operation.

The ERCs are required prior to construction. Staff is not going to put together an FSA with zero ERCs or RTCs prior to the hearing. We will want some information.

Now, between zero and 100, there's room to debate.

HEARING OFFICER KRAMER: Thank you. Just for your information, having been the staff attorney on the Inland case, I can tell you that what the Commission did there was to require that reclaimed credits before start of construction. Staff had argued for before the evidentiary hearings, but the ultimate ruling was before construction, which is consistent with what both sides were saying a few minutes ago.

Hearing nothing and seeing nothing further, by way of hands, this meeting is

adjourned. Thank you all for coming, and thank you to the Community Center for making this facility available.

(Whereupon, at 5:20 p.m., the informational hearing was adjourned.

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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Informational Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of September, 2006.