

DOCKETED

Docket Number:	15-AFC-01
Project Title:	Puente Power Project
TN #:	216409
Document Title:	Transcript of 02/08/2017 Evidentiary Hearing
Description:	N/A
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Committee
Submission Date:	3/7/2017 9:23:30 AM
Docketed Date:	3/7/2017

BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:)
)
Application for Certification for)
the PUENTE POWER PROJECT) Docket No. 15-AFC-01
_____)

EVIDENTIARY HEARING
PUENTE POWER PROJECT

OXNARD PERFORMING ARTS CENTER
800 HOBSON WAY
OXNARD, CA 93030

WEDNESDAY, FEBRUARY 8, 2017
9:30 A.M.

Reported by:
Martha Nelson

APPEARANCES

COMMISSIONERS

Janea Scott, Presiding Member
Karen Douglas, Associate Member

ADVISERS

Rhetta deMesa, Adviser to Commissioner Scott
Matthew Coldwell, Adviser to Commissioner Scott
Jennifer Nelson, Adviser to Commissioner Douglas
Le-Quyen Nguyen, Adviser to Commissioner Douglas

HEARING OFFICER

Paul Kramer, Hearing Officer

CEC STAFF

Shawn Pittard, Staff Project Manager
Kerry Willis, Assistant Chief Counsel
Michelle Chester, Attorney

PUBLIC ADVISER'S OFFICE

Alana Mathews, Public Adviser

APPLICANT

Michael J. Carroll, Esq., Latham & Watkins, LLP
George Piantka, PE, Director of Environmental Affairs, NRG Energy, Inc.
Dawn Gleiter, Director of Sustainable Development, Project Manager, NRG Energy, Inc.

INTERVENERS

Carmen Ramirez, Mayor Pro Tem, City of Oxnard
Matthew Smith, Environmental Defense Center
Alicia Roessler, Environmental Defense Center
Ellison Folk, Shute, Mihaly & Weinberger LLP, City of Oxnard
Robert Sarvey
Lisa Belenky, Center for Biological Diversity
Dr. Grace Chang, Fighting for Informed Environmentally Responsible Clean Energy
Shana Lazerow, California Environmental Justice Alliance
Gladys Limon, California Environmental Justice Alliance

APPEARANCES (Cont.)

APPLICANT'S WITNESSES

Sean Beatty, NRG
Brian Theaker, NRG

INTERVER'S WITNESSES

David Pellow, UC Santa Barbara
Mari Rose Taruc, Asian Pacific Environmental Network
James Caldwell, City of Oxnard

APPLICANT'S WITNESSES

Gary Rubenstein, Sierra Research
Nik Carlson, AECOME

STAFF'S WITNESSES

Paul Marshall, California Energy Commission
Lisa Worrall, California Energy Commission
Marylou Taylor, California Energy Commission

PUBLIC COMMENT

Fred Farro, Oxnard Chamber of Commerce
Mike Barber
Shane Boston
Kevin P. Ward
Phil Keeling
Nicholas Davis
Rafael Escobedo
Christine Brown
Kurt Oliver
Jay Turner
Jose Garcia
Ocil Herrejon
David Valenzuela
Mercy Urrea
Daniel Ford
Ed Escamilla
Raul Lopez
Tim Redondo
Martin A. Rodriguez
Peter Gutierrez

APPEARANCES (Cont.)

PUBLIC COMMENT (Cont.)

Amanda Pantoja
Reno Gutierrez
Elma delAguila
Ken Schmelzel
Dennis Di Iorio
Jahnel Forte
Cheri Cabral
Jeff Bode
Francine Castanon
Sean Ryan
Alex Xayaphone
Gabino Villarreal
Kenny Schmelzel (again)
Michael Cortinez
Elma delAguila (again)
Cezar Salas
Joshua Wilson
Omar Martinez
Wally Sict
Francisco Valadez
Frank Nevitt
David Nix
Juan Izarraraz
Josue Ramirez
Eduardo Castaneda
Phil Dillon
Shannon Lopez (WebEx)
Karen Hanna (WebEx)
Areli (WebEx - indiscernible)

I N D E X

	Page
1. Call to Order, Introductions	1
2. Evidentiary Hearing	1
Project Alternatives (part 1)	5
Project Alternatives (part 2)	4
Socioeconomics	29
Environmental Justice	111
Workforce	283
3. Public Comment	287
4. Closed Session (if necessary)	N/A
5. Adjourn	360
Reporter's Certificate	361
Transcriber's Certificate	362

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

FEBRUARY 8, 2017 9:30 a.m.
OXNARD, CALIFORNIA, WEDNESDAY, FEBRUARY 8, 2017

(The meeting reconvened at 9:30 a.m.)

COMMISSIONER SCOTT: Good morning, everyone, and welcome to Day 2 of the Puente Power Project Evidentiary Hearing. I am Commissioner Janea Scott. I am the Presiding Member over this proceeding. To my left is Commissioner - two people to my left - is Commissioner Karen Douglas. She is the Associate Member on this proceeding. To my right I have my Advisers Rhetta DeMesa and Matt Coldwell. To Commissioner Douglas' left, she has her Advisers Jennifer Nelson and Le-Quyen Nguyen. And to my immediate left we have our Hearing Officer Paul Kramer.

I'd like to go through and have the participants introduce themselves, please. We'll start with the Applicant.

Good morning.

INTRODUCTIONS

MR. CARROLL: Good morning. Mike Carroll with Latham & Watkins. We're outside counsel to the Applicant. And with me today on my left is Dawn Gleiter with NRG Energy Inc. She is the Project Director for the Puente Project. And on my right is George Piantka with NRG Energy, Inc., and he is the Director of Environmental Affairs. Thank you.

1 COMMISSIONER SCOTT: Welcome.

2 Now I'll turn to the Energy Commission staff,
3 please.

4 MS. WILLIS: Good morning. My name is Kerry
5 Willis. I'm Counsel for the staff. And with us is Shawn
6 Pittard, who is the Project Manager.

7 MS. CHESTER: And Michelle Chester, Staff Counsel.

8 COMMISSIONER SCOTT: Good morning. Welcome.

9 I will now turn on to our Intervenors, starting
10 with the City of Oxnard.

11 MS. FOLK: Good morning. Ellison Folk, outside
12 counsel of the City.

13 COMMISSIONER SCOTT: Good morning.

14 How about the Environmental Coalition,
15 Environmental Defense Center, and Sierra Club?

16 MS. ROESSLER: Good morning. Aliacia Roessler,
17 EDC.

18 COMMISSIONER SCOTT: Good morning. Welcome.

19 Do we have Bob Sarvey on the line?

20 Intervenor Bob Sarvey, if you're on the line would
21 you please say hello and introduce yourself?

22 (No audible response)

23 COMMISSIONER SCOTT: Okay. I will go to California
24 Environmental Justice Alliance.

25 MS. LAZEROW: Good morning. Shana Lazerow on

1 behalf of the California Environmental Justice Alliance. And
2 I have with me today Gladys Limon, who is also representing
3 CEJA.

4 COMMISSIONER SCOTT: Good morning. Welcome.
5 Center for Biological Diversity.

6 MS. BELENKY: Good morning. Lisa Belenky for the
7 Center for Biological Diversity.

8 COMMISSIONER SCOTT: Good morning. Welcome.

9 And do we have Dr. Grace Chang from FFIERCE?

10 Are you on the line this morning, Dr. Chang?

11 (No audible response)

12 COMMISSIONER SCOTT: Okay. We'll let you know when
13 we see her come in or when she joins us on the line.

14 Let me check in with others. Do we have anyone
15 from the California Coastal Commission here?

16 (No audible response)

17 COMMISSIONER SCOTT: How about any other federal,
18 state, or local agencies, or Native American Tribes? If so,
19 please introduce yourself.

20 Okay, seeing none in the room, anyone on the WebEx?

21 (No audible response)

22 COMMISSIONER SCOTT: All right. And I would also
23 like to introduce to you all our Public Adviser Alana
24 Matthews. She's sitting back there waving at you at the
25 yellow table. And she's got blue cards for public comment and

1 also can help answer any questions you may have about the
2 proceeding.

3 And, with that, I'd like to turn the running of
4 this proceeding over to our Hearing Officer Paul Kramer.

5 HEARING OFFICER KRAMER: Thank you.

6 Good morning, everyone.

7 I will note also that Kevin Bundy, Ms. Belenky's
8 colleague, is on WebEx.

9 Okay. Well, where we are is a continuation of
10 yesterday, finishing up Project Alternatives Part 1. But
11 because one of the first items today was going to be Project
12 Alternatives Part 2, let's just combine them in our minds.
13 And we will talk about every aspect of Project Alternatives
14 except for the Part 3 discussion we have with the
15 representatives of the Navy tomorrow.

16 So I think we're to the point, Mr. Carroll, where
17 we can have your witnesses.

18 MS. FOLK: If I may, on the Part 2 Alternatives, we
19 also discussed yesterday having the City's witness, Ashley
20 Golden, testify tomorrow, when she's already testifying about
21 land use. And I discussed this with Mr. Carroll at the end
22 of the day and we agreed that he could ask any cross
23 questions at that time. It's very short.

24 MR. CARROLL: Yes. And this is Mike Carroll for
25 Applicant. That would be fine. I believe Ms. Golden's, that

1 the portion of Alternatives that she was speaking to was land
2 use and so having her appear during the land use sessions is
3 perfectly fine with the Applicant.

4 MS. FOLK: That's correct.

5 HEARING OFFICER KRAMER: Okay. With that
6 understanding, let's...

7 MR. CARROLL: Um...

8 HEARING OFFICER KRAMER: ...go ahead, Mr. Carroll.

9 MR. CARROLL: So one other point of clarification.
10 So we have separated our witnesses, Part 1 and Part 2. We
11 have quite a few witnesses for Part 2, so what - and I'm not
12 sure that they're all in the room here at the moment because
13 what I had told them was that I thought that we would
14 probably spend an hour or so on completing Part 1 and then do
15 Project Description and then go to Part 2. So - and I'm not
16 sure there's enough room at the table for all of them - so
17 I'd like to call Mr. Theaker and Mr. Beatty, who are Part 1
18 witnesses, and -

19 HEARING OFFICER KRAMER: That's fine, sure.

20 MR. CARROLL: - then I guess was thinking just to
21 wrap up Part 1 that we would then go to Mr. Caldwell. And
22 then we would be done with the Part 1 witnesses and then -

23 HEARING OFFICER KRAMER: I'm just as open to that
24 as - does that work for everyone? Okay. Let's do -

25 MR. CARROLL: That helps me keep my mind straight

1 on Part 1 versus Part 2. If we can just wrap up Part 1, that
2 would be terrific.

3 HEARING OFFICER KRAMER: Okay, let's do that then.

4 MR. CARROLL: Thank you. Then Applicant calls Sean
5 Beatty and Brian Theaker to the stand.

6 HEARING OFFICER KRAMER: Oh, and Dr. Chang has just
7 joined us for FFIERCE, for those of you on the telephone.

8 MR. CARROLL: Mr. Theaker and Mr. Beatty will be
9 testifying as a panel and they are an integrated panel, so we
10 will be moving back and forth between the two of them. When
11 we get to cross-examination, our recommendation would be that
12 the parties ask their questions and whichever witness is best
13 positioned to respond will do that. Mr. Theaker is, as you
14 probably know if you've read the declarations, primarily
15 focused on the technical aspects; and Mr. Beatty is focused
16 primarily on legal regulatory aspects.

17 HEARING OFFICER KRAMER: Okay. Well, let me swear
18 you in, gentlemen. If you'd raise your right hand.

19 (Whereupon, Sean Beatty and John Theaker are duly
20 sworn/affirmed.)

21 HEARING OFFICER KRAMER: Thank you.

22 **DIRECT EXAMINATION**

23 MR. CARROLL: Thank you. Will you each please
24 state your name and spell it for the court reporter, identify
25 your current employer and your current position.

1 MR. THEAKER: Yes. This is Brian Theaker. First
2 name is B-r-i-a-n, last name, T-h-e-a-k-e-r. I'm Director of
3 Regulatory Affairs for NRG.

4 MR. BEATTY: And my name is Sean Beatty. It's S-e-
5 a-n B-e-a-t-t-y. I am employed by NRG Energy, Inc. and I'm
6 the West Region General Counsel.

7 MR. CARROLL: And what experience do each of you
8 have that's relevant to today's proceeding?

9 MR. THEAKER: This is Brian Theaker. I have 33
10 years of experience in the industry, including 15 in system
11 operations, including with the California ISO. And I have 15
12 years' experience with the California ISO's Local Capacity
13 Requirements Process.

14 MR. BEATTY: I have approximately 20 years
15 representing companies in front of California regulatory
16 agencies, including the California Public Utilities
17 Commission and the California Energy Commission.

18 MR. CARROLL: Do each of you have in front of you
19 the documents marked for identification as Applicant's
20 Exhibit 1131, entitled: Joint Expert Declaration of Brian
21 Theaker and Sean Beatty in Response to Opening Testimony of
22 CBD Witness Bill Powers and Opening Testimony of City of
23 Oxnard Witness Jim Caldwell, and the associated attachments?

24 MR. THEAKER: Yes, I do.

25 MR. BEATTY: I do too.

1 MR. CARROLL: And was that testimony prepared by
2 you or under your supervision?

3 MR. THEAKER: Yes, it was.

4 MR. BEATTY: Yes.

5 MR. CARROLL: Do you have any changes or
6 corrections that you'd like to make to your prepared
7 testimony this morning?

8 MR. THEAKER: No.

9 MR. BEATTY: No.

10 MR. CARROLL: And what other materials have you
11 reviewed to prepare for the hearing this morning?

12 MR. THEAKER: I have reviewed the Opening Testimony
13 submitted by Bill Powers, Jim Caldwell, and Matt Vespa; also
14 reviewed materials related to the approval of the contract
15 between NRG and Southern California Edison for the Puente
16 Plant. Yesterday I was present and heard the testimony of
17 Mr. Powers and Mr. Vespa.

18 MR. BEATTY: And I reviewed the same materials and
19 I was also here for the testimony for - or by Mr. Vespa and
20 Mr. Powers.

21 MR. CARROLL: Good.

22 HEARING OFFICER KRAMER: Mr. Carroll, just to be
23 clear, since this was one of the documents that had the
24 numbering issue, it's actually 1121. So are you speaking
25 just of Mr. Theaker's individual declaration or just the -

1 there's one that lists both of them as authors?

2 MR. CARROLL: Yes. So the declaration that's
3 pertinent to Part 2 Alternatives is just the Joint
4 Declaration of Mr. Theaker and Mr. Beatty, which was our
5 Number 1131.

6 HEARING OFFICER KRAMER: Yeah.

7 MR. CARROLL: Mr. Theaker's individual declaration
8 will be relevant to Part 2 and he will be back for that
9 panel.

10 HEARING OFFICER KRAMER: Okay. So that's - now if
11 people are looking for it, it's Exhibit 1121, and then it's
12 subpart 16.

13 MR. CARROLL: Mr. Beatty, can you please describe
14 the process by which the CPUC approved the Power Purchase
15 Agreement between SCE and NRG for the Puente Project?

16 MR. BEATTY: Well, at a very high level what I can
17 say is that the contract between NRG and Edison was approved
18 by the Public Utilities Commission on May 26 of 2016. The
19 approval culminated a wide-ranging effort or proceeding on
20 behalf of the PUC; it gave the opportunity to many
21 stakeholders to participate and included several of the
22 Intervenors that are participating in this proceeding.

23 MR. CARROLL: And, Mr. Theaker, does the CPUC
24 typically determine a need for new resources before it can
25 approve a power purchase agreement?

1 MR. THEAKER: Yes. In fact, that's what happened -
2 that's what happened with regard to Puente.

3 MR. CARROLL: And, Mr. Beatty, can you please
4 explain that process?

5 MR. BEATTY: Sure. The Public Utilities Commission
6 has adopted a two-step process to ensure that it complies
7 with the provisions of Public Utilities Code 454.5, which
8 directs the PUC to ensure safe and reliable electric service
9 at just and reasonable rates. The two-step process
10 essentially involves in the first step a long-term
11 procurement-planning proceeding, LTPP. That proceeding is a
12 multi-year process that involves a number of interested
13 stakeholders, including, for example, the California
14 Independent System Operator, which provides detailed power
15 flow analyses, transmission-planning studies, things of that
16 variety.

17 The objective of the LTPP is to establish or
18 determine whether there is any need for new generation in
19 particular geographic areas. In the case of the LTPP that
20 led to this contract, the Public Utilities Commission
21 actually found a need in the Moorpark area of the Big Creek
22 Ventura Local Capacity Area. So that's phase 1 or step 1 of
23 the process.

24 Step 2 is after any need is identified, the utility
25 in which - in whose service area the need is identified

1 issues an RFO, request for offers. It encourages interested
2 parties to bid in projects to meet the need. Once those bids
3 are received, then the utility will negotiate contracts with
4 the responding parties. And then once those contracts are
5 negotiated, they're put in front of the Public Utilities
6 Commission for approval.

7 MR. CARROLL: Mr. Theaker, in this particular case,
8 did the CPUC find a need in the Moorpark Subarea to meet
9 Local Capacity Requirements?

10 MR. THEAKER: Yes, they did. They found such a
11 need and directed Southern California Edison to procure a
12 minimum of 215 megawatts and a maximum of 290 megawatts to
13 meet that subarea need.

14 MR. CARROLL: And can you please explain the
15 Moorpark Subarea specifically?

16 MR. THEAKER: The Moorpark Subarea is a portion of
17 the Southern California Edison system that's defined by a
18 particular set of contingencies. Contingencies refer to the
19 loss of a transmission line or a generator. Generation
20 within a local area is effective at addressing the system
21 issue that comes from the contingency. And so in the case of
22 Moorpark, generation within the Moorpark Subarea is effective
23 at addressing the contingency that defines that subarea which
24 is the loss of the party Moorpark lines.

25 I should - let me add. The Moorpark Subarea is a

1 smaller area within a larger-capacity area defined by the
2 California ISO, that's the Big Creek Ventura Area. The Big
3 Creek Ventura Area is about - in terms of the megawatt
4 requirement, about five times as big as the Moorpark Subarea.

5 MR. CARROLL: How does generation within the
6 subarea maintain the reliability within the subarea?

7 MR. THEAKER: Typically in two ways. Generation
8 within the area provides real power to serve load within that
9 area and also to manage transmission flows, flows on the
10 power lines coming into that subarea. It also provides -
11 that's important because the system operator is required to
12 maintain flows on that line that would hit the ratings. The
13 ratings are basically just a representation of how much power
14 the lines can handle without damaging the conductor or
15 sagging and causing a public hazard. The generation also
16 provides reactive power which is important to maintaining
17 acceptable voltage within the subarea.

18 MR. CARROLL: Now what could happen if there was
19 not enough generation operating within the subarea?

20 MR. THEAKER: Now typically you could get into a
21 situation where the ISO may have to resort to controlled
22 load-shedding, intentionally disconnecting service to load
23 within the area to manage flows on the lines into the area.

24 You could also have a situation where if the
25 particular contingency happens without adequate generation

1 being committed and operating, that you could have voltage
2 collapse, which would be a blackout of that entire area.

3 MR. CARROLL: How did the CPUC determine that 215
4 to 290 megawatts was necessary in the Moorpark Subarea?

5 MR. THEAKER: The PUC took a lot of input from a
6 lot of parties, including the California ISO, Southern
7 California Edison, industry groups like TURN, ORA, various
8 environmental groups and other parties that participated;
9 and, looking at all that information, arrived at a decision
10 that I described before 215 to 290 megawatts.

11 The ISO had initially proposed a need in this area
12 of 430 megawatts, but the PUC determined that the ISO had not
13 aggressively counted for things like potential transmission
14 alternatives or CHP or the possibility of preferred
15 resources, even though the ISO assumed there was, I believe,
16 about 90 megawatts of additional achievable energy efficiency
17 that would be in this pocket.

18 And so looking at the ISO's initial number and then
19 making some recommendations, taking some recommendations from
20 parties, the PUC decided to establish a minimum of 215
21 megawatts, which is half of the ISO's initial need
22 assignment, and adopted a recommendation by TURN of a maximum
23 amount of 290 megawatts, which was a recommendations to limit
24 procurement to two-thirds of what the ISO had recommended.

25 MR. CARROLL: Then, Mr. Beatty, what did SCE do

1 next in the process?

2 MR. BEATTY: Well, as outlined originally in the
3 two-step process, once the need is determined, Edison
4 proceeded with an all-source RFO. The RFO followed the
5 procedural requirements identified in the LTPP decision and
6 followed the approval of the procurement plan by the Public
7 Utilities Commission's Energy Division.

8 MR. CARROLL: And what were the results of the RFO?

9 MR. BEATTY: The RFO resulted in over 200 projects
10 being bid in by 30 parties. The bids included some preferred
11 resources. In fact, as I think it was discussed a little bit
12 yesterday, all the preferred resources that were bid into the
13 RFO were selected with the exception of some in front - a
14 mere storage. As a result of that procurement and preferred
15 resources, though there was still not the minimum need
16 procured, and so that meant that Edison had to look at the
17 gas-fired projects that were bid into the RFO. Using the
18 PUC-approved quantitative and qualitative standard for
19 evaluation gas-fired plants, the fact that Puente was
20 selected shows that it was least-cost, best-fit project that
21 was remaining in the bid queue.

22 MR. CARROLL: Did the CPUC conclude the SCE's RFO
23 was reasonable and consistent with the LTPP requirements?

24 MR. BEATTY: Yes, it did.

25 MR. CARROLL: Did SCE seek authorization from the

1 CPUC for the contracts for Puente and the other resources
2 that were selected through the RFO?

3 MR. BEATTY: Yes. It filed an application with the
4 Public Utilities Commission.

5 MR. CARROLL: And continue, Mr. Beatty. Were any
6 of the Intervenors in this proceeding also parties in the
7 CPUC proceeding to approve the Power Purchase Agreement or
8 the Resource Adequacy Procurement Agreement for the project?

9 MR. BEATTY: Yeah. Four of the proceeding - or
10 four of the participants in this proceedings were also
11 participants in the application proceeding for Puente, Center
12 for Biological Diversity, City of Oxnard, Sierra Club, and of
13 course when you have a four-part list you always forget what
14 the fourth one is. It was -

15 MR. CARROLL: Would have been our friends to our -
16 my right.

17 MR. BEATTY: CEJA.

18 MR. THEAKER: Yeah. The friends to the left, my
19 left. I'm blocking you.

20 MR. CARROLL: Did any party challenge whether the
21 projected was needed in the CPUC proceedings?

22 MR. BEATTY: Yeah. Theoretically, the need is
23 supposed to be identified in the LTPP and it is, but then
24 inevitably in the proceedings and in the Puente proceeding in
25 particular the issue of need is re-litigated. So need was

1 heavily litigated. It was litigated also after the PUC or
2 the Public Utilities Commission issued its decision on
3 rehearing and that rehearing decision was issued as we
4 discusses yes- - or was discussed yesterday, December 1st, of
5 2016.

6 MR. CARROLL: In those proceedings did any party
7 argue that changed circumstances undermined the original need
8 determination?

9 MR. BEATTY: Yeah. Certainly changed circumstances
10 were raised, and the Public Utilities Commission did not
11 accept those contentions.

12 MR. CARROLL: And I believe you may have just
13 stated in your previous answer, but can you just confirm the
14 CPUC's issued decision denying the applications for hearing
15 on what date?

16 MR. BEATTY: That was December 1st of 2016.

17 MR. CARROLL: And, in a similar vein, did parties
18 argue that the need could have meet - I'm sorry - could have
19 been met with the preferred resources instead of with the
20 project in connection with those proceedings?

21 MS. FOLK: I'd like to object to this line of
22 questioning. I believe the PUC proceedings speak for
23 themselves and it's not appropriate to have the attorney for
24 the Applicant characterize the arguments of the other parties
25 to that action. It's just perfectly reasonable for the

1 Commission and the Committee to review the briefing and the
2 Decision, but to have the attorney for the Applicant
3 characterize other parties' arguments is not appropriate and
4 it's not appropriate evidence.

5 MR. CARROLL: If I could - I don't think we were.

6 But, to be clear, Mr. Beatty, please avoid
7 characterizing the other parties' arguments.

8 I believe what we were trying to point out was
9 simply the nature of the arguments that were made. I believe
10 we've only referred to it whether the need issue was raised
11 and whether changed circumstances were raised. So we've
12 tried to be very general in simply identifying the nature of
13 the issues that were before the CPUC as opposed to getting
14 into any characterization of the parties' positions on those
15 issues.

16 We think this is helpful for the Committee and for
17 others to understand in a concise and clear way the
18 proceedings that preceded these proceedings in connection
19 with the project. I will say we're also approaching the end
20 of this line of questioning, but we thought this history
21 would be helpful to the Committee.

22 HEARING OFFICER KRAMER: Okay. Well, we understand
23 that the documents are, you know, the ultimate statement of
24 the party's position and to the extent there is a
25 disagreement about that and it's relevant, that could be

1 pointed out in the briefs. So go ahead, Mr. Carroll.

2 MR. CARROLL: Let me restate the last question, Mr.
3 Beatty. In a similar vein, did parties argue, without
4 getting into the specifics of what their arguments or
5 positions may have been, that the need could have been met
6 with preferred resources instead of the project?

7 MR. BEATTY: Yes. The public - the Commission did
8 consider those arguments and determined that there were
9 insufficient cost-effective preferred resources through that
10 RFO to meet the need that was established.

11 MR. CARROLL: What are the benefits of the CPUC's
12 LTPP process that you've just described?

13 MR. BEATTY: Well, what I'd note is that it's a
14 well-established process for establishing need. It's
15 consistent with the five- to seven-year timeline that the
16 Public Utilities Commission has acknowledged that it takes to
17 develop a gas-fired project in California. And I think it
18 provides a venue for all interested stakeholders to address
19 what the needs are and - for electric reliability.

20 MR. CARROLL: Do preferred resources play a role in
21 Moorpark reliability?

22 MR. BEATTY: Certainly. It's clear from the RFO
23 that - I think - 12 megawatts, or right around there, were
24 procured preferred resources megawatts. Not only that, but
25 when establishing the need in the Moorpark Subarea there was

1 an aggressive - well, I won't comment - there was an
2 assumption about attainable energy efficiency, a not
3 insignificant amount of energy efficiency makes up addressing
4 the need in the Moorpark area. So it's clear that preferred
5 resources are playing a part in the reliability for Moorpark.

6 And then maybe the last thing I would note is
7 Commissioner Peterman stated in her comments when the Puente
8 contract was approved that retiring 2,000 megawatts of gas-
9 fired generation in the Moorpark area and only having a small
10 amount, 262 megawatts, replacing it is a good outcome.

11 MR. CARROLL: Turning to Mr. Theaker. For purposes
12 of this proceeding, in your opinion, do you agree with the
13 CPUC that the project is needed to maintain reliability in
14 the Moorpark Subarea?

15 MR. THEAKER: I do. It is a project that is
16 selected on a least-cost, best-fit basis. It is sufficient
17 size to meet the identified need in the authorization issued
18 by the PUC. And it possesses characteristics that support
19 maintaining the reliability of the local area.

20 MR. CARROLL: In their prepared statements and in
21 live testimony that we heard yesterday, Mr. Vespa and Mr.
22 Powers discussed advances in energy storage. Does the fact
23 that we have seen such advances since the SCE RFO and likely
24 will continue to see more examples going forward change your
25 opinion regarding the need for the Puente Power Project?

1 MR. THEAKER: No, they don't. NRG is a great
2 believer in energy storage. We are very bullish on this
3 product. We have a lot of people working very hard to
4 develop these kind of resources. And I think they hold great
5 promise. They're going to be a key element to solving some
6 of our current issues, like the duck curve, providing
7 services that are novel currently provided by gas but could
8 be provided more efficiently by storage like frequency
9 response. So NRG is very bullish on storage. But all
10 resources have a trade-off. The trade-off for energy storage
11 currently is energy duration as for it does not match up to
12 gas-fired generation.

13 The Moorpark Subarea is defined by the overlapping
14 outage of transmission lines. And if those transmissions
15 lines were out for an extended period of time, the four-hour
16 battery product is going to be of limited use in that
17 situation. So while NRG and myself personally are very
18 bullish on storage, I think that the Puente Project is the
19 right project to ensure the reliability of the Moorpark
20 Subarea.

21 MR. CARROLL: And about the energy-storage projects
22 that we heard discussed by Mr. Powers and Mr. Vespa during
23 yesterday's proceedings, do you expect that all or most of
24 those projects will come online?

25 MR. THEAKER: I think we are at energy-storage

1 procurement, based on my discussion with developers at NRG,
2 is we're at a similar place we were in the first wave of RPS
3 procurement. That is, we have a lot of - a lot of parties
4 bidding very aggressively to provide this product and
5 sometimes very aggressively, hyper aggressively on price.
6 And they sometimes find that they can't meet those prices
7 when it comes time to delivery. That's what we saw in the
8 first wave of RPS contracts, and I think it's reasonable to
9 expect that you would see some amount of contract failure in
10 the first stages of the energy-storage solicitations, which
11 is where we are now.

12 MR. CARROLL: In his testimony yesterday Mr. Powers
13 suggested that the minimum need for capacity in the Moorpark
14 Subarea is now as low as 15 megawatts. Did you hear that
15 testimony yesterday?

16 MR. THEAKER: I did. I'm not sure I can recall all
17 the details. But I think what he assumed was that Mandalay 3
18 would remain in operation indefinitely, that there would be
19 aggressive deployment of energy-storage resources - or
20 preferred resources that not - maybe haven't been solicited
21 at this point, but could be developed in the area.

22 So I think that - I'll talk later and I'll talk now
23 about the assumption about Mandalay 3, I think are somewhat
24 suspect. I don't think there is any guarantee that unit will
25 continue to operate in the future, based on market

1 conditions. And, again, I think that energy storage is a
2 great resource with a lot of promise for a lot of
3 applications, but not also for maintaining local reliability.

4 MR. CARROLL: And Mr. Powers asserted in his
5 testimony yesterday that California uses what he called - and
6 I'm quoting here - unique N-1-1 or I believe the phrasing he
7 used was N-1-1-1 planning requirement as compared with the
8 federal N-1 planning requirement. Is that applicable and
9 relevant here?

10 MR. THEAKER: No. The ISO applied a Category C
11 standard which is known in the latest version of the
12 Reliability Standard which is NERC TPL 0 - 001-4 as a P6,
13 which is the overlapping outage of two single contingencies
14 combined. Not simultaneously but happening in parallel with
15 each other.

16 MR. CARROLL: And Mr. Powers suggested that, and
17 this was again in his testimony yesterday, that the
18 contingency that defines the need for generation in the
19 Moorpark Subarea is a Category - and I'm quoting here -
20 Category D, "Act of God" contingency. Do you agree with that
21 assessment?

22 MR. THEAKER: No, it's not. The ISO makes clear in
23 its assessments that this is a Category C contingency, but
24 defines the Moorpark Subarea. The ISO is not required to
25 mitigate system performance for a Category D. They can

1 evaluate it and determine if the impact is high, they can
2 choose to mitigate, but this is not a Category D contingency.

3 MR. CARROLL: And also in his testimony yesterday
4 Mr. Powers indicated that he considers the Big Creek Ventura
5 Local Capacity Area to be synonymous with the Moorpark
6 Subarea. Do you agree with that assessment?

7 MR. THEAKER: No, not at all. The - again, the Big
8 Creek Ventura Local Capacity Area is a larger area that
9 encompasses the Moorpark Subarea. Mr. Powers described that
10 the load had gone down in the Big Creek Ventura Area, and
11 that fact may be true, but the reality is that the need for
12 this project in the Moorpark Subarea is defined by the
13 Moorpark Subarea in need. So they are not synonymous in any
14 way. The Moorpark Subarea is a defined subset of the Big
15 Creek Area and the need is defined by the Moorpark Subarea.

16 MR. CARROLL: In his testimony yesterday, Mr. Vespa
17 suggested that one could address this planning requirement
18 through load-dropping. Can you explain what that means?

19 MR. THEAKER: Load-dropping is the intentional
20 disconnection of service to customers to reduce the load in
21 an area to address the - you know, to maintain reliability in
22 the system after a contingency. The NERC Planning Standards
23 do allow this for the Category P6, but intentionally
24 disconnecting load to customers anywhere, particularly in an
25 urban area in Southern California, in my estimation is not a

1 good idea.

2 MR. CARROLL: Have you read the recent Los Angeles
3 *Times* articles that was introduced yesterday by CBD as its
4 Exhibits 1032?

5 MR. THEAKER: Yes, I have.

6 MR. CARROLL: And is that article relevant to this
7 proceeding?

8 MR. THEAKER: No, I think it is not. I think it's
9 somewhat inapt.

10 MR. CARROLL: And can you explain why you believe
11 that?

12 MR. THEAKER: Yeah, I can point to three things.
13 First, the article claims that the system - there is an
14 excess and overbuild of system capacity. This proceeding is
15 not about system capacity. This proceeding is about meeting
16 need in a defined local subarea. So reading the article and
17 the assertions it makes about system capacity are not
18 application to the facts in this case, which rely to a need
19 in a local area.

20 Second, the article I think conflates capacity
21 factor with - a units capacity factor with its need. Energy
22 is not capacity. Capacity is insurance. It's the ability to
23 respond when you need it. and that may occur a relatively
24 limited number of hours a year, but to say that a capacity
25 factor on a resource is declining, to equate that with that

1 it's not needed anymore is incorrect.

2 Then, finally, the article in creating kind of this
3 tension between the CalPine Sutter Facility and the PG&E
4 Colusa Facility describes the incentives that investor-owned
5 utilities have to build and own their own resources and earn
6 a rate of return on those resources. That's not the case
7 here. NRG would remain the owner of the Puente Power
8 Project. NRG - excuse me. Edison would contract for it,
9 but Edison would not earn a rate of return on that contract,
10 so the financial incentives are different.

11 MR. CARROLL: Thank you. I'd like to turn now to
12 Mandalay Generating Station Unit 3, which is an existing unit
13 at the Mandalay Facility which was addressed in a number of
14 respects in the testimony that was presented yesterday. Some
15 of the witnesses for the Intervenors have suggested that the
16 residual need that they have identified in the Moorpark
17 Subarea would go down to approximately 90 megawatts if
18 existing MGS Unit 3 continued to operate. What's your
19 reaction to that suggestion?

20 MR. THEAKER: I think mathematically that number is
21 in the ballpark, but I think that the assumption that
22 Mandalay 3 would just continue to operate indefinitely
23 without a contract is not a good assumption. I mean I think
24 it's well known that energy market conditions are softening.
25 The build-out of renewables is driving prices down and the

1 notion that a resource the size of Mandalay 3 would continue
2 to operate without a contract indefinitely is not a good
3 assumption.

4 Second is the ISO noted in its most recent Approved
5 Local Capacity Analysis 2025, which was part of the 2015-2016
6 Transmission Plan, that to the extent that - in that plan the
7 ISO noted 114 megawatts of additional, achievable energy
8 efficiency, but they noted that the need of the Moorpark
9 Subarea would go up essentially megawatt for megawatt to the
10 extent that that energy efficiency does not materialize. So I
11 think those two things combined make it somewhat suspect to
12 assume that Mandalay 3 is going to continue to operate to
13 meet a reduced need.

14 MR. CARROLL: And are you aware of whether or not
15 MGS Unit 3 is limited in its operation due to environmental
16 considerations?

17 MR. THEAKER: It's my understanding that it is.
18 I'm not the environmentally expert, but I do know what
19 amazing statistic , that MGS Unit 3 produces 1100 pounds of
20 NOx per hour when it's operating, whereas Puente produces 25.
21 At first I thought that must be a mistake, but that number is
22 correct. So the unit does have significant environmental
23 limitations, though I don't know all the specific details of
24 them.

25 MS. FOLK: I want to object to that last answer on

1 the grounds that he did not provide adequate foundation for
2 that statement.

3 HEARING OFFICER KRAMER: would you want to respond,
4 Mr. Carroll -

5 MR. CARROLL: Mr. - I mean Mr. Theaker was stating
6 - or was testifying to the extent of his knowledge regarding
7 the emission rate for the unit. He conceded that he is not
8 an environmental expert, he was not testifying from that
9 perception. He also conceded that his information is very
10 limited, but he had been informed by the environmental
11 experts that Unit 3's emission rate was 1104 pounds per hour
12 versus 24 pounds per hour for Puente. So I think he conceded
13 the limitations on the scope of his testimony and was merely
14 providing the factual information.

15 HEARING OFFICER KRAMER: The objection is
16 overruled. Are you going to present more definitive evidence
17 on -

18 MR. CARROLL: Yes, we will. We will.

19 HEARING OFFICER KRAMER: - of the emissions?

20 MR. CARROLL: we will. So we will in Alternatives
21 Part 2, we will have an air quality expert who can confirm
22 and speak in more detail regarding that particular point.
23 That's Mr. Rubenstein.

24 HEARING OFFICER KRAMER: Okay. I think it sounds
25 like the City would be curious to have that confirmed.

1 MR. CARROLL: We will do that.

2 Mr. Theaker or Mr. Beatty, do either of you have
3 anything else that you'd like to add at this point?

4 MR. THEAKER: No.

5 MR. BEATTY: No.

6 MR. CARROLL: Thank you.

7 Mr. Theaker and Mr. Beatty are now available for
8 cross-examination. Thank you.

9 HEARING OFFICER KRAMER: Staff?

10 MS. CHESTER: No questions.

11 * HEARING OFFICER KRAMER: The City of Oxnard?

12 **CROSS-EXAMINATION BY THE CITY OF OXNARD**

13 MS. FOLK: Thank you, Mr. Beatty and Mr. Theaker.

14 So you testified this morning that the LCR need in
15 the Moorpark Subarea is to address voltage collapse; is that
16 correct?

17 MR. THEAKER: It is to address voltage collapse.

18 MS. FOLK: And would operation of the project as a
19 synchronous condenser address that contingency without
20 combustion?

21 MR. THEAKER: It could if it were the right size
22 and location within the subarea.

23 MS. FOLK: And did NRG study the option of using a
24 synchronous condenser here to address the LCR need?

25 MR. THEAKER: I'm - I'm not aware of whether we did

1 or not.

2 MS. FOLK: Do you know if CAISO studied that
3 option?

4 MR. THEAKER: No, I don't know.

5 MS. FOLK: Do you know what other product
6 alternatives in terms of technology NRG considered or
7 actually bid into the RFO?

8 MR. THEAKER: I don't -

9 MR. CARROLL: It would just push - let me - it's
10 unnecessary in light of your response of that question, but
11 since there may be additional questions in this line, let me
12 just caution the witnesses about the confidential nature of
13 certain information bid into the RFO and please be cognizant
14 of not disclosing anything that is confidential in nature.

15 MR. THEAKER: I'm not aware of any other.

16 MS. FOLK: Mr. Beatty.

17 MR. BEATTY: I have to defer to the guidance of Mr.
18 Carroll. I guess I'd also throw out there that's beyond the
19 scope of my testimony and arguably there's a privilege
20 involved there too.

21 MS. FOLK: Okay. I believe this would go to Mr.
22 Theaker. Do you know if NRG considered later conversion of
23 Puente to a combined-cycle facility?

24 MR. THEAKER: I do not know.

25 MS. FOLK: Are you familiar with the heat load for

1 the Puente Project?

2 MR. THEAKER: Do you - are you talking about the
3 heat rate of the unit?

4 MS. FOLK: Yes.

5 MR. THEAKER: I'm modestly familiar. I know the
6 neighborhood of the number.

7 MS. FOLK: Do you know what the number is?

8 MR. THEAKER: I believe it's in the - below nine
9 thousands. That's -

10 MS. FOLK: And - and do you know what the heat load
11 is when the Puente Unit is operating at minimum load?

12 MR. THEAKER: No, I don't.

13 MS. FOLK: Now the testimony this morning from -
14 from both of the witnesses, you rely heavily on the decision
15 of the PUC in its LTPP Track 1 Decision and also in approving
16 the Edison contract with Puente; is that correct?

17 MR. THEAKER: It is.

18 MS. FOLK: And is that the basis upon which you
19 believe the Puente Project has been determined to be needed?

20 MR. THEAKER: So far certainly. I think that the
21 PUC's determination, you know, speaks to the need for the
22 project is determined in that proceeding. I think I
23 amplified that and offered some additional considerations as
24 to why - beyond what the PUC looked at as to why it's the
25 right project.

1 MS. FOLK: And is it your position that the Energy
2 Commission may not consider project need when making a
3 determination in this proceeding regarding the Puente
4 Project?

5 MR. CARROLL: I'm going to object to that question
6 on the basis that it calls for a legal conclusion.

7 MS. FOLK: I'm asking for his opinion as - or Mr.
8 Beatty's as the witnesses on the Alternatives.

9 MR. THEAKER: I would - I'm sorry. Before Mr.
10 Carroll objected I would have asked you to repeat the
11 question, I didn't quite get it.

12 MS. FOLK: is it your position the Energy
13 Commission -

14 MR. CARROLL: Who's - I'm sorry. Who's the
15 question directed to, this -

16 MS. FOLK: Well, I'm going to direct it to the
17 panel and they can decide.

18 MR. CARROLL: Okay.

19 MS. FOLK: I actually asked both of them. I take
20 it back.

21 Is it your position that the Energy Commission may
22 not independently consider project need when making a
23 determination on the Puente facility?

24 MR. CARROLL: I'm going to object to the question
25 as directed to Mr. Theaker on the basis that it calls for a

1 legal conclusion that he is not qualified to answer. I'm
2 going to object to the question as directed to Mr. Beatty on
3 the basis that it goes beyond the scope of his testimony.

4 MS. FOLK: I would just say that they just offered
5 substantial testimony regarding the need for the project and
6 the PUC's determination as why that demonstrates the need
7 here, and so the question for them is whether or not they
8 believe the Energy Commission may not consider that.

9 MR. CARROLL: Well, we are providing evidence that
10 may or may not be relevant to determinations that the
11 Committee needs to make. I assume that the parties in their
12 briefs will argue what determinations the Committee needs to
13 make. And ultimately the Committee will decide which
14 determinations it needs to make. So we are not prejudging
15 that here. These witnesses have not expressed any opinions
16 in their direct testimony as to those issues. We are simply
17 providing information that might be relevant to those
18 determinations should they ultimately need to be made by the
19 Committee in their judgment.

20 HEARING OFFICER KRAMER: Yeah, I'll have to admit I
21 was curious about where all this was going, but I think I
22 will uphold the objection, and I'm sure we'll hear more about
23 this in the briefing.

24 MS. FOLK: Mr. Theaker, I believe this question
25 goes to you. In your testimony you cite the PUC's findings

1 regarding the cost-effectiveness of preferred resources for
2 determining that preferred resources would not be a cost-
3 effective alternative to the Puente Project; is that correct?

4 MR. THEAKER: I think that appears in our joint
5 declaration. I think I would probably defer a question like
6 that to Mr. Beatty, who is more familiar with the process at
7 the PUC.

8 MS. FOLK: Mr. Beatty, is that correct?

9 MR. CARROLL: Could I ask that you provide a page
10 number and line number, please?

11 MS. FOLK: It's at page 8, paragraph 16.

12 MR. BEATTY: So could you repeat the question?

13 MS. FOLK: The question is: Is it correct that you
14 rely on the PUC's findings regarding the cost-effectiveness
15 of preferred resources as the basis for determining that
16 preferred resources would not be a cost-effective alternative
17 to Puente?

18 MR. BEATTY: I would - I guess the joint
19 declaration is merely reciting what was stated in the PUC
20 Decision, so I certainly would confirm that that's what the
21 PUC said about preferred resources.

22 MS. FOLK: And did you conduct any independent
23 investigation of the cost-effectiveness of preferred
24 resources for the Moorpark Subarea?

25 MR. BEATTY: If that question is directed to me, I

1 would say it's outside the scope of my testimony.

2 MS. FOLK: Mr. Theaker.

3 MR. THEAKER: And if it's directed to me I would
4 say I did not.

5 MS. FOLK: And are you familiar with the market for
6 preferred resources, Mr. Theaker?

7 MR. THEAKER: Only superficially, based on my
8 conversations I've had with internal developers.

9 MS. FOLK: Are you familiar with the story in the
10 Green Tech Media regarding the procurement of 70 megawatts of
11 battery storage to address the loss of Aliso Canyon storage?

12 MR. THEAKER: I have not read the article, but I'm
13 familiar with what's - what's happened in regard to that.

14 MS. FOLK: And are you aware that the project was
15 solicited, bid, contracted for, and brought online within
16 approximately eight months?

17 MR. THEAKER: I was not aware of that, but I'll
18 take your word for it.

19 MS. FOLK: I'd like to introduce that article as an
20 exhibit. It was docketed yesterday.

21 HEARING OFFICER KRAMER: Okay, let me find it in
22 the docket. It doesn't have a number yet, correct?

23 MS. FOLK: I think it's 3057 is the next. I can't...

24 HEARING OFFICER KRAMER: You caught me flatfooted.
25 I didn't have the docket up yet.

1 MS. FOLK: It would be 3059.

2 HEARING OFFICER KRAMER: Okay. It looks like it's
3 TN215806. And your next number...

4 MS. FOLK: Is 3059.

5 HEARING OFFICER KRAMER: You said 3059.

6 MS. FOLK: Yes.

7 HEARING OFFICER KRAMER: Yes, okay. I'll get that
8 taken care of formally in the database tonight, but go ahead
9 - should I bring this article up on the screen?

10 MS. FOLK: You could do that.

11 HEARING OFFICER KRAMER: Okay.

12 MS. FOLK: Thank you.

13 HEARING OFFICER KRAMER: Could you go full screen,
14 Ari?

15 MS. WILLIS; Excuse me, Mr. Kramer. Normally if a
16 party introduces something at the last minute, like during
17 the hearing, they would provide hard copies for us to read.
18 We're finding this a little inconvenient to be looking on our
19 phones trying to read an article in real time.

20 HEARING OFFICER KRAMER: Okay. Well, it is also
21 available on the monitor screens. And Mr. Pittard could
22 probably bring it up on his laptop.

23 MS. FOLK: Mr. Theaker, in your testimony, I
24 believe - I'm not sure who has made this statement, so I will
25 just go with the two of you for now - you quote the finding

1 from the LTPP Track 1 Decision, and I'm going to quote from
2 your testimony, that "The incipient nature of energy-storage
3 resources uncertainty about location and effectiveness and
4 unknowns concerning timing provide" sufficient -
5 "insufficient information at this time to assess how and to
6 what extent energy resources can reduce LCR needs in the
7 future." Again, that's in your testimony at page 8,
8 paragraph 16.

9 Do you understand that statement to reflect
10 uncertainty at the time of the Track 1 Decision regarding the
11 feasibility of energy storage? Mr. Theaker.

12 MR. THEAKER: Yes. I agree that that reflects
13 uncertainty at the time of the Track 1 Decision.

14 MS. FOLK: And if you scroll down a little bit on
15 the article. Are you aware that in this article Michael
16 Picker, who is the commissioner of the - with the PUC states,
17 "I was stunned at the ability of batteries and the battery
18 industry to meet our needs. This was something I didn't
19 expect to see until 2020, and here it is 2017 and it's
20 already in the ground."

21 Do you agree with Mr. Picker that battery storage
22 has become a more viable option to address LCR need than it
23 was in 2014 when the Track 1 Decision was issued?

24 MR. CARROLL: I'm going to object to the question
25 on the basis that it affects facts not in evidence. I don't

1 think that that characterization can be taken from the fact
2 that Mr. Picker was stunned about this particular project.

3 MS. FOLK: I'm asking him, Mr. Theaker, if he
4 believes the battery storage has become a more viable option.

5 MR. CARROLL: I have no objection to that question.

6 MR. THEAKER: I would agree that battery storage is
7 a more viable option now than it was at the time the Track 1
8 Decision was issued.

9 MS. FOLK: Yes. And would a four-hour battery-
10 storage project provide time to address voltage collapse
11 while other resources are brought online, such as demand
12 response?

13 MR. THEAKER: It could, depending on the local area
14 and the network. Yes, it could. In some situations, perhaps
15 it would not.

16 MS. FOLK: And is load-shedding a permissible
17 method of addressing voltage collapse?

18 MR. THEAKER: It is for Category C contingencies.
19 Again, I've testified that is it advisable to intentionally,
20 you know, shed load in an urban area in Southern California,
21 I don't think it is.

22 MS. FOLK: But - I understand your opinion
23 regarding that. The question is it permissible from - in
24 terms of the regulatory -

25 MR. THEAKER: It is permissible under the NERC TPL

1 Standard, yes.

2 MS. FOLK: And could it be used as a short-term
3 response to a voltage collapse?

4 MR. THEAKER: It could be. I - well, let me
5 restate that. The ISO's planning criteria do not allow the
6 short-term use of load-shedding to address contingencies in
7 dense urban areas. The ISO specifically does not allow it.
8 It would allow it as a bridge strategy in some other area
9 that was not an urban area. But the ISO's planning criteria
10 specifically prohibit the use of load-shedding in dense urban
11 areas.

12 MS. FOLK: And do you know if CAISO's Standards
13 would prohibit that in the Moorpark Subarea?

14 MR. THEAKER: I do not recall the criteria the ISO
15 uses to establish or differentiate what a dense urban area
16 is, so I -

17 MS. FOLK: So -

18 MR. THEAKER: - I don't know the answer.

19 MS. FOLK: You don't know, okay. And do you agree
20 that if Mandalay 3 were to continue to operate it would
21 contribute to meeting the LCR need?

22 MR. CARROLL: I'm going to object to the question
23 on the basis that it posits a hypothetical.

24 MS. FOLK: Do you understand that NRG has expressed
25 an interest in continuing to operate Mandalay 3?

1 MR. THEAKER: My understanding, and I was not
2 involved in preparing this, but my understanding is what NRG
3 conveyed was that you can - the unit couldn't mechanically
4 operate if adequately maintained into the future. I don't
5 know that we expressed an interest one way or the other.

6 MS. FOLK: Do you understand that NRG submitted a
7 response to a data request in this proceeding that indicated
8 that they were continuing to seek out market opportunities
9 for Mandalay 3?

10 MR. THEAKER: As I recall, the request had
11 indicated that the unit - that the unit could run if market
12 conditions permitted. I don't know, I don't recall in the
13 response that NRG indicated it was seeking out market
14 opportunities to do that.

15 MS. FOLK: And if Puente - the Puente Project were
16 not approved, do you think it might be more likely that the
17 Mandalay 3 unit would receive a contract to operate?

18 MR. CARROLL: I'm going to object to the question
19 on the basis that it calls for speculation.

20 HEARING OFFICER KRAMER: Sustained.

21 MS. FOLK: Is it your understanding here that NRG -
22 the contract between NRG and Edison is what's referred to as
23 a resource adequacy contract?

24 MR. THEAKER: Are you direct... (Conferring with Mr.
25 Beatty.)

1 MR. BEATTY: Go ahead.

2 MR. THEAKER: The - are you talking about the
3 contract for Puente?

4 MS. FOLK: Yes.

5 MR. THEAKER: I believe it's referred to as a
6 resource - resource adequacy purchase agreement, yes, a RAPA.

7 MS. FOLK: And is it your understanding under that
8 contract NRG will continue to receive payments just for
9 making the resource available?

10 MR. THEAKER: I'm not an expert in the contract,
11 but that's how most resource adequacy contracts work, so,
12 yes, I would believe that to be the case.

13 MS. FOLK: And, Mr. Beatty, is that also your
14 understanding?

15 MR. BEATTY: You know, once again, this is outside
16 the scope of my testimony, which is really just to relate to
17 the - to the panel regarding what the Public Utilities
18 Commission did in approving the Puente contract. If - if
19 we're comfortable having to answer factual questions without
20 waiving objections pertaining to attorney-client privilege,
21 yeah, I can answer the question.

22 MR. CARROLL: So let me ask, Mr. Beatty, that you
23 answer the question within the constraints of not providing
24 any information that would be confidential in the context of
25 the RFO proceedings and without providing any information

1 that would be subject to attorney-client privilege.

2 MR. BEATTY: So with that could you just repeat the
3 question?

4 MS. FOLK: Under the resource adequacy purchase
5 agreement between Edison and NRG, would NRG continue to
6 receive payments just for making the resource available?

7 MR. BEATTY: I concur with Mr. Theaker's answer.
8 You know there is confidentiality surrounding the RAPA, but,
9 generally speaking, resource adequacy agreements are payment
10 streams for making a unit available.

11 MS. FOLK: And that is regardless of whether or not
12 it produces energy; is that -

13 MR. CARROLL: Let me interject. Since this is a
14 follow-on question to your response in which you were talking
15 generally about resource adequacy agreements, please answer
16 the question within that - I'm sorry. I'm assuming that the
17 follow-on question is within that context, so not necessary
18 with respect to this particular RAPA but with respect to
19 RAPAs generally.

20 MR. THEAKER: Yeah. So repeat the question, but -
21 I'm sorry, just to be sure.

22 MS. FOLK: Under the resource - going back a
23 second, you testified earlier that you believe Edison - the
24 PUC approved the contract between Edison and NRG because
25 there was a least-cost, best-fit; is that correct?

1 MR. THEAKER: Um-hum.

2 MS. FOLK: Okay. And you - with respect to the
3 resource adequacy purchase agreement between Edison and NRG,
4 NRG will continue to receive payments for making the resource
5 available regardless of whether energy is actually produced;
6 is that correct?

7 MR. THEAKER: Again, I am not - I do not know the
8 details of the RAPA, but that is how most resource adequacy
9 contracts work. They provide payments for availability and
10 not for megawatt hours produced.

11 MS. FOLK: All right. Give me one second here to
12 think.

13 That's all I have for now.

14 HEARING OFFICER KRAMER: Thank you.

15 Ms. Roessler?

16 MS. ROESSLER: I don't have any. Thank you.

17 HEARING OFFICER KRAMER: Ms. Belenky?

18 **CROSS-EXAMINATION BY THE CENTER FOR BIOLOGICAL DIVERSITY**

19 MS. BELENKY: Yes. Thank you.

20 Good morning. I will try to make sure we're
21 duplicating too much, but I did have some similar questions
22 as the City. Good morning.

23 MR. THEAKER: Good morning.

24 MS. BELENKY: So is it fair to say that the thrust
25 of your rebuttal testimony is that the CPUC had determined

1 the projected is needed to fulfill Local Reliability
2 Requirements in the Big Creek and Ventura area?

3 MR. BEATTY: Yes.

4 MR. THEAKER: I agree.

5 MS. BELENKY: And is it fair to say that the CPUC's
6 Local Reliability Requirement Determination was made in the
7 context of the long-term procurement planning process that
8 culminated in what is provided as Exhibit B to your
9 testimony, D-13-02-15?

10 MR. BEATTY: That's correct, but, as I pointed out
11 in my opening or my direct, that the issue's need was also
12 re-litigated in the application proceeding.

13 MR. THEAKER: And I'd add that the issue -

14 MS. BELENKY: Yeah, that wasn't my question. I
15 would prefer if you answer my questions because -

16 MS. FOLK: I also want to object to that response
17 as mischaracterizing what happened in the PUC proceeding.

18 MS. BELENKY: So just -

19 HEARING OFFICER KRAMER: So now in effect you're
20 testifying, I guess, to say that he misspoke. We'll note the
21 comment, but we won't strike the -

22 MR. CARROLL: Well, what I would -

23 HEARING OFFICER KRAMER: - response.

24 MR. CARROLL: What I would say is that obviously
25 these witnesses are testifying to their perspectives and

1 opinions. Those perspectives and opinions may or may not
2 square with the perspectives and opinions of other parties to
3 these proceedings, but they are testifying to the best of
4 their abilities as to their perspectives and opinions on what
5 may or may not have happened in other proceedings and with
6 every other issue that they're testifying to.

7 HEARING OFFICER KRAMER: Okay. So continue, Ms.
8 Belenky.

9 MS. BELENKY: Thank you.

10 You state in your testimony that the need
11 identified in the long-term procurement was part of the
12 foundation for the later process in PUC's later decision in
13 improving the contract for Puente; is that correct?

14 MR. THEAKER: Can you - can you point to that,
15 please?

16 MS. BELENKY: At 4 to 5 of your testimony, -- I'm
17 sorry, the way you've done your documents in one giant PDF
18 makes it a little unwieldy - I believe it's at PDF 272 in
19 your rebuttal.

20 MR. THEAKER: Could you cite paragraph numbers?

21 MS. BELENKY: It's page 4 to 5. Does that help
22 you?

23 MR. CARROLL: So just so I am clear, we are now
24 speaking to the written declaration of Mr. Baker and Mr.
25 Theatty [sic], pages 4 and 5?

1 MS. BELENKY: Yes.

2 MR. CARROLL: Thank you.

3 MR. THEAKER: And, I'm sorry, in - in that, could
4 you -

5 MS. BELENKY: Sorry, we lost our -

6 MR. THEAKER: - repeat the question again, please?

7 MS. BELENKY: - momentum there.

8 MR. THEAKER: Yes, we did. I apologize.

9 MS. BELENKY: Okay. There was the long-term
10 procurement process. We already established that. In your
11 testimony you state in your subparagraph, paragraph 9, that
12 the CPUC relied on the long-term, procurement in determining
13 its decision on the need for the Puente Project.

14 MR. BEATTY: Is there a question?

15 MR. CARROLL: I'm - I'm sorry -

16 MS. BELENKY: That was the question: You state
17 that, is that correct, that -

18 MR. BEATTY: I can't -

19 MR. CARROLL: Well, I'm - I have to - I'm sorry.
20 Could you repeat? Because I'm actually not seeing that
21 language. It may be that I'm just not seeing it, but - so
22 could you please restate -

23 MS. BELENKY: Okay, let's try it another way.

24 Is it fair to characterize your testimony as
25 stating that the need identified in the long-term procurement

1 planning acted as the foundation for the CPUC's later
2 decision in approving the contract for Puente?

3 MR. BEATTY: I would respond yes.

4 MS. BELENKY: Thank you. In Attachment B of your
5 testimony, your rebuttal testimony, which is a copy of the
6 decision by the CPUC, in the long-term procurement process,
7 which is D1302015, specifically at page 45, isn't it correct
8 to say that the ISO derived a Local Capacity Requirement for
9 the L.A. Basin in that decision from 2009 Demand Forecast
10 Data incorporated into the 2010 IEPR? So this is Attachment
11 B to your testimony and at page 45 of that decision.

12 MR. THEAKER: I believe that that is the IEPR
13 forecast that the ISO used in developing its need assessment
14 that was considered in arriving at this decision, yes.

15 (Airflight instruction re mobile phones from the
16 telephone or WebEx connection)

17 MR. THEAKER: That was interesting.

18 MS. BELENKY: Okay. On page 68 of the same
19 document, which I - let me try and find the PDF of that.
20 Okay, on page 68 of the same document, which is PDF 398,
21 isn't it correct that the document states that the ISO
22 analysis for the Big Creek Ventura LCA was consistent with
23 methodologies the ISO used to study Local Capacity needs for
24 the L.A. Basin?

25 MR. THEAKER: Yes, the document states that.

1 MS. BELENKY: And have you reviewed the exhibits
2 that the Center for Biological Diversity provided, Exhibits
3 7003, which was the forecast homepage; and 7004, which was an
4 updated demand forecast from 2016?

5 MR. THEAKER: I have not reviewed that. The only
6 Center document that I reviewed was Mr. Vespa's testimony.

7 MS. BELENKY: I see. Well, then we'll let the
8 document speak for itself.

9 Isn't it correct that in the CPUC decision on the
10 long-term procurement, it only found that it was consistent
11 with ISO's assumptions for the 2014-2015 Transmission Plan?

12 MR. THEAKER: I'm -

13 MS. BELENKY: No, actually I'm sorry. I think
14 we're talking about a different CPUC decision.

15 MR. THEAKER: Yeah, I'm sorry. I'd have to ask you
16 to ask that question again -

17 MS. BELENKY: It's a little confusing to have two
18 CPUC decisions here.

19 In the CPUC decision that approved the Puente
20 contract, isn't it true that the consistency found only that
21 the RFO was consistent with the ISO's assumptions in the
22 2014-2015 Transmission Plan and in compliance with the long-
23 term procurement?

24 MR. THEAKER: I'm sorry. Could you ask that again?

25 MS. BELENKY: You know, I don't have a page for

1 that, so let me get back to you because -

2 MR. THEAKER: Okay, thank you.

3 MS. BELENKY: - I couldn't find a page for that.

4 All right. So the document, which I believe is
5 Exhibit D to your rebuttal, is -

6 MR. CARROLL: Can you give us just a moment to get
7 there, please.

8 MS. BELENKY: Yes, sure.

9 MR. CARROLL: Thank you.

10 MS. BELENKY: Exhibit D to your rebuttal is
11 actually a brief that was filed by NRG at the CPUC. And it
12 is on PDF 642. And I'm not sure which of you to direct this
13 to.

14 MR. BEATTY: If you ask the question, we'll figure
15 -

16 MR. THEAKER: Yeah, I'm not sure either -

17 MS. BELENKY: Okay. Well, first, this was a brief
18 filed by NRG, is that correct, that you have attached to your
19 testimony?

20 MR. BEATTY: Correct.

21 MS. BELENKY: And this brief was filed in the
22 proceeding that ultimately resulted in the approval of the
23 Power Purchase Agreement for Puente; is that correct?

24 MR. BEATTY: This is our brief responding to
25 several applications for rehearing of the PUC's decision, so

1 this brief was filed in July of 2016. It led to a decision
2 on December 1st of 2016 affirming the approval.

3 MS. BELENKY: And does the witness have that
4 information? The witness is the one who attached it to their
5 testimony.

6 MR. CARROLL: I'm sorry. Does the witness have
7 what information?

8 MS. BELENKY: I'm sorry, I'm not sure I could tell
9 who was speaking just then.

10 MR. CARROLL: I'm sorry, that was Mr. Beatty
11 speaking.

12 MS. BELENKY: Thank you. Okay.

13 MR. CARROLL: Oh, I'm sorry, because he had the
14 information in front of him; was that your question?

15 MS. BELENKY: No.

16 MR. CARROLL: Okay.

17 MS. BELENKY: Sorry. It's confusing.

18 MR. CARROLL: Yes, it is.

19 MS. BELENKY: With having two different - I thought
20 you were speaking.

21 MR. THEAKER: We do look alike.

22 MR. BEATTY: But it's not our fault.

23 MS. BELENKY: Okay. And are you familiar with the
24 contents of this brief, given that you have attached it to
25 your testimony?

1 MR. BEATTY: Yeah, I'm familiar with it. I'd have
2 to refresh my recollection, though, in a minute or two if you
3 ask a specific question.

4 MS. BELENKY: Okay, I'm going to find a page for
5 you. I believe it's 661 of the PDF, which - which is page 15
6 of that brief. And actually I'm referencing first, my first
7 question will reference this entire section of the brief,
8 from page 15 to 26.

9 Isn't it correct that one of the arguments in this
10 brief is that the PUC was not required to conduct CEQA review
11 of the Power Purchase Agreement before approval?

12 MR. BEATTY: That is correct.

13 MS. BELENKY: Let me draw your attention to page 20
14 of the brief, which is at PDF 666. Here the brief states
15 that the Energy Commission is the state agency with
16 discretionary and exclusive authority over construction of
17 Puente, correct?

18 MR. BEATTY: Correct.

19 MS. BELENKY: Let me draw your attention to the
20 next page, which is page 21, PDF 667. Here the brief states
21 that the Energy Commission's power plant siting process is a
22 certified regulatory program for the purposes of CEQA,
23 correct?

24 MR. BEATTY: It sounds right. I'm trying to find
25 these writing on the page, but I don't disagree with that

1 statement.

2 MS. BELENKY: And the same page of the brief goes
3 on to state that the Energy Commission's program entails, and
4 I quote here, "entails a full environmental review of
5 potential project impacts and imposes requirements necessary
6 to ensure that all potential environmental impacts are
7 mitigated to below significant levels," correct?

8 MR. CARROLL: Can I just ask for clarification?
9 And I don't know that it will affect the answer, but are you
10 asking him to confirm that that is what the brief says, or
11 are you asking him to respond to the substance of the
12 statement?

13 MS. BELENKY: At this point I'm asking him to
14 confirm that's what the brief says, -

15 MR. CARROLL: Okay.

16 MS. BELENKY: - as he attached it to his testimony
17 and -

18 MR. CARROLL: Thank you.

19 MS. BELENKY: - he is sponsoring.

20 MR. CARROLL: I'm not objecting. I just wanted to
21 make sure that we all understood the question. Thank you.

22 MR. BEATTY: That's what the brief says.

23 MS. BELENKY: Now on page 23 of the brief, PDF 669,
24 the brief states that nothing in the PUC's approval of the
25 Power Purchase Agreement would foreclose alternatives that

1 would ordinarily be part of CEQA review for Puente.

2 Is that correct?

3 MR. BEATTY: Yeah, I'm just - I'm being slow about
4 finding it on the page, but it sounds like that's something
5 that would have been said in this brief.

6 MS. BELENKY: And in the next sentence - this is
7 right in the middle of the page, so I can - it's the first
8 full paragraph after the heading, and now we're going to the
9 last sentence. The next sentence on this page: The brief
10 states that nothing in the Application for Certification for
11 Puente, and I quote, "could dictate or constrain the CEC's
12 authority to consider alternative or require mitigation."

13 Is that correct?

14 MR. BEATTY: Correct.

15 MS. BELENKY: So is it fair to say that at the CPUC
16 proceeding, NRG specifically argued that the CEC had full
17 authority to consider alternatives to the Puente Project
18 notwithstanding the approval of the Power Purchase Agreement?

19 MR. BEATTY: Can you repeat the question?

20 MS. BELENKY: Yes. Is it fair to say that in the
21 CPUC proceeding, NRG specifically argued that the CEC had
22 full authority to consider alternatives to the Puente Project
23 notwithstanding approval of the Power Purchase Agreement?

24 MR. BEATTY: I guess the way I'd characterize it is
25 that there's nothing the CPUC could do to constrain the

1 Energy Commission's jurisdiction to consider alternatives. I
2 feel like there is an issue in the proceeding about whether
3 alternatives should be considered. I'd set that aside. I
4 wouldn't say that it's dictated by the PUC. I think that's a
5 matter of CEQA or how the Energy Commission - how the Energy
6 Commission pursues its responsibilities under the
7 environmental requirements of the Warren-Alquist Act. So I
8 don't know if I'm being too kind of murky here, but what I'm
9 saying is, yes, the PUC cannot constrain this Energy
10 Commission's environmental review.

11 MS. BELENKY: Thank you. Going back to the
12 decision of the CPUC on the contract, and I believe it is the
13 decision on the rehearing we're talking about, you attached
14 it as Exhibit A to your testimony, which I can find in the
15 PDF. I forgot. Which is at PDF 289, I believe.

16 MR. BEATTY: Can you refer to a page in the
17 decision?

18 MS. BELENKY: I haven't gotten to that. I was just
19 getting to -

20 MR. BEATTY: Okay, sorry.

21 MS. BELENKY: Okay, it's to pages 20 to 21, which
22 is - now I'm having trouble with the PDF, but I will find it

23 MR. BEATTY: I'm sorry to interrupt. I just want
24 to make sure I'm looking at the right decision. I thought I
25 heard you say Exhibit A?

1 MS. BELENKY: I thought it was Exhibit A. is this
2 Decision D160550?

3 MR. BEATTY: That's Exhibit A, yes. But that's -

4 MS. BELENKY: Okay. Well, that's -

5 MR. BEATTY: - not the rehearing decision.

6 MS. BELENKY: It's the initial decision.

7 MR. THEAKER: Correct.

8 MS. BELENKY: Is that correct? Okay.

9 MR. BEATTY: Correct.

10 MS. BELENKY: I'm sorry. I get a little confused
11 when there's multiple decisions and the numbering. And there
12 was some discussion about this yesterday as well.

13 Okay. On page 20 to 21 of this decision, which is
14 D160550, isn't it correct that the CPUC declined to conduct
15 CEQA review for the Puente Contract based on its conclusion
16 that the Energy Commission would conduct an independent
17 review of the Puente Project under CEQA?

18 MR. CARROLL: I'm going to object to the question
19 to the extent that it asks the witness to speculate about
20 what was in the mind of the CPUC when it made its decision.
21 I think that the CPUC's written decision is the best
22 indication of that. I don't think that either of these
23 witnesses can provide any further insights to what the
24 reasoning or thinking of the CPUC was or any individual
25 commissioner at the time that they rendered this decision.

1 MS. BELENKY: Well, I think that's fine. And
2 yesterday when we made the same objection, you - we were
3 overruled, so either the CPUC documents speak for themselves
4 or they don't. I believe they do and we don't need to
5 continue with these questions. If instead you believe that
6 it is fair to have your witnesses characterize or my
7 witnesses characterize it under the statement that you made,
8 then we should proceed.

9 You asked my witnesses specific questions about the
10 CPUC documents -

11 HEARING OFFICER KRAMER: And I under- -

12 MS. BELENKY: - we can see them -

13 HEARING OFFICER KRAMER: I understood those
14 questions were to establish what the witnesses' understanding
15 was in order to understand an opinion they were giving. So
16 are you leading towards asking these witnesses to conclude
17 something about a particular issue about where what they
18 understand this decision to say is a part of their - the
19 opinion they would give you? Otherwise the documents can
20 stand for themselves.

21 Mr. Carroll, are you planning on objecting to the
22 entry of any of these exhibits -

23 MR. CARROLL: No, these are our exhibits.

24 HEARING OFFICER KRAMER: Yes.

25 MR. CARROLL: Well, not at this point.

1 HEARING OFFICER KRAMER: Okay. So with that, Ms.
2 Belenky, do you need to sort of -

3 MS. BELENKY: I can restate my -

4 HEARING OFFICER KRAMER: Okay, go ahead.

5 MR. CARROLL: And I would just point out that I
6 have not objected to this line of questioning. The phrasing
7 of the question to which I objected to seems to be different
8 from me in the sense that, and perhaps I misheard it, it
9 seems to ask the witness to speculate about the basis of the
10 decision. And to the extent that the basis of the decision
11 is written in the document and they want to read that and
12 confirm whether or not it's in there, that's fine. I'm just
13 objecting to any question that asks them to speculate about
14 what may have been in the minds of the Commission when it
15 rendered its decision to the extent it goes beyond what's
16 written in the decision.

17 MS. BELENKY: Okay. Thank you. I will move on to
18 the Rehearing Decision.

19 The Rehearing Decision, which you attached as
20 Exhibit H to your rebuttal which is D16-120-03, specifically
21 I would ask is it your understanding that the CPUC stated
22 that it is the CEC's independent responsibility to conduct a
23 thorough and neutral certification process and that the CPUC
24 has been clear that its approval of power purchase contracts
25 should not be used by any party to influence whether the CEC

1 determines to certify a project and find it CEQA compliant?

2 MR. BEATTY: I apologize. I didn't want to
3 interrupt you. I am still skimming over the decision in our
4 testimony packet here. So Exhibit D -

5 MS. BELENKY: Yes, Exhibit -

6 MR. BEATTY: - and did you cite - oh, this is -

7 MS. BELENKY: - H, it's Exhibit H in your
8 testimony. It's also Exhibit 7001 in the center - and it's
9 on page 14 of the Decision.

10 HEARING OFFICER KRAMER: Do you have a PDF page?

11 MS. BELENKY: I thought it - I can't find it. I
12 can find it in my 701. I'm sorry. In Exhibit 701 it's page
13 PDF 15. It's very hard for me to find it in the large PDF. I
14 could try.

15 HEARING OFFICER KRAMER: Well, just go ahead. Does
16 it look like what's on the screen?

17 MS. BELENKY: No. I think you're in a different
18 exhibit. Let's - well, -

19 HEARING OFFICER KRAMER: Yeah, I'm in 1121. Okay,
20 just go ahead. I'll - it doesn't look like it's terribly
21 helpful for me to follow along at this point. So only if you
22 want something to be projected will I project it.

23 MS. BELENKY: Okay. Thank you.

24 Did you find page 14 of the Rehearing Decision?

25 MR. BEATTY: Yes, I did.

1 MS. BELENKY: Yes. And in the last full paragraph
2 on that page is what I'm referring to here. And is it your
3 understanding that the CEC - that the CPUC noted that the CEC
4 has independent responsibility to carry out a thorough and
5 neutral certification process?

6 MR. BEATTY: I would say you nearly verbatim quoted
7 the sentence. It wasn't quite verbatim, but that is a
8 sentence on 14.

9 MS. BELENKY: And do you see the - and is it your
10 understanding that the Commission specifically spoke to the
11 question of whether the Commission's approval should be used
12 by any party to influence whether the CEC determines to
13 certify the project and find it CEQA compliant?

14 MR. CARROLL: I'm going to object to this question.
15 This is essentially a precursor as to Ms. Belenky's briefing
16 and - and so I don't think it's an appropriate question to
17 direct to these witnesses. I also object on the basis that
18 it seems to presuppose that somehow the testimony of these
19 witnesses on their direct was that the CPUC decision in some
20 way limited the discretion and the scope of the authority of
21 the CEC. First, that was not their testimony. They have
22 provided information that they think is relevant to the
23 decision making process of the CEC, but they have not
24 testified in any way that that information limits the
25 jurisdiction of the CEC. And, furthermore, Mr. Beatty in

1 response to an earlier question confirmed that that was not
2 what he was stating today or what had been argued in the
3 NRG's briefs at the CPUC. But my general objection is that
4 it's argumentative. This sounds to me like a precursor to
5 the brief with respect to the scope of the authority of the
6 CEC to review the project.

7 HEARING OFFICER KRAMER: I think that's correct,
8 Ms. Belenky. You're of course going to be free to brief in
9 addition to the issues and the Committee may identify any
10 other issues that you have. What are you trying to establish
11 that is not there in the documents themselves?

12 MS. BELENKY: I believe it's a foundational
13 question, and I'm sorry if it seems repetitive to earlier
14 testimony. The way these go, it sometimes can be hard to
15 adjust as we are moving forward. I do - if as Mr. Carroll
16 has stated, if he believes that they have testified already
17 to this question, then that's fine. I think it is - has
18 already been foundationally established at this point and I
19 can move on to my other questions. I just have a few more.

20 HEARING OFFICER KRAMER: Okay, please go ahead.

21 But a reminder to the parties, we're - Ms. Chew, do
22 we have... And do we have anyone in the room who's using a
23 headset?

24 Okay. Well, regardless of whether we have people
25 actively listening to our Spanish interpretation of today's

1 events, we are trying to get in the habit of saying our name
2 when we speak because the customers of that translation are
3 hearing the same voice and they can't tell my voice from Mr.
4 Carroll's, so. You know, and if we don't pause to say our
5 name, the translator is going to fall behind. So let's say
6 our name every time we speak, just - let's try to get into
7 that habit so when we have people using that system actively,
8 it will work better for them.

9 MS. BELENKY: Thank you. I apologize. This is
10 Lisa Belenky with the Center.

11 Are - another question for the Panel: Are you
12 familiar with the Project Objectives as stated in the Final
13 Staff Assessment?

14 MR. BEATTY: I've reviewed the Final Staff
15 Assessment, but I can't say that I'm - I know it in detail.

16 MR. THEAKER: And this is Brian Theaker. I would
17 answer that I have reviewed selected parts of the Final Staff
18 Assessment, but I don't recall reviewing the objectives.

19 MS. BELENKY: When - that one, okay. This is Lisa
20 Belenky again. I would say that I - I will - I would like to
21 hand it to you. I'm sorry. I didn't think that you wouldn't
22 have reviewed them since you are actually testifying on
23 alternatives. So I am a little bit confused that you don't
24 know - aren't familiar with the Project Objectives. The
25 first Project Objective -

1 MR. CARROLL: I don't believe the Project
2 Objectives are identified in any of the exhibits that are
3 identified as being sponsored by these witnesses, so there is
4 no basis to believe that they would be familiar with them.
5 Those portions of - first of all, we're not sponsoring any
6 portions of the FSA. The portions of the AFC that contain
7 the Project Objectives are being sponsored by Applicant
8 witnesses, but not these. So if -

9 MS. BELENKY: I will save my questions then for
10 your other witness. Can you tell me which witness - sorry,
11 this is Lisa Belenky - can you tell me which witnesses?

12 MR. CARROLL: Well, I believe that the place -

13 MS. BELENKY: Are they going to be today?

14 MR. CARROLL: I'm not sure as to the schedule, but
15 let me tell you the appropriate topic under which I believe
16 it would be appropriate to ask questions about the Project
17 Objectives would be Project Description. It's typically in
18 the Project Description section of the AFC that the Applicant
19 identifies the Project Objectives. That document would be
20 sponsored by our witness on Project Description. And that
21 witness would be prepared to respond. I'm not sure when that
22 happens in the proceedings, but it's a project description
23 question in my view.

24 HEARING OFFICER KRAMER: Actually it's going to be
25 next.

1 MS. BELENKY: Excellent. This is Lisa Belenky
2 speaking again. I just want to clarify that this may be a
3 problem of doing things in certain order. The Project
4 Objectives generally are the foundation for the Alternatives
5 discussion. And so I apologize if this one seems out of
6 order. We will certainly bring it up in the next section.
7 Thank you.

8 MR. THEAKER: You're welcome.

9 HEARING OFFICER KRAMER: Well, if an understanding
10 of the Project Objectives relates to an opinion that these
11 gentlemen have about alternatives, I think it's perfectly
12 acceptable for you to ask them. If they don't know, they
13 will tell you. But that goes to the foundation of their
14 opinions, at least in comparing different alternatives to see
15 if they meet the objectives or not.

16 MS. BELENKY: Okay. Well, then I will proceed and
17 just - if you know, is it correct to state that the first
18 stated objective in the FSA for this project and in the
19 Puente's AFC is to fulfill NRG's obligations under its 20-
20 year Purchase Agreement with SCE?

21 MR. THEAKER: I don't.

22 MR. BEATTY: Sean Beatty. I - I would have to look
23 at the FSA to confirm.

24 MR. THEAKER: And this is Brian Theaker. I would
25 answer the same way.

1 MS. BELENKY: And you would answer the same as for
2 the AFC, that the Project Objective that the Applicant
3 provided?

4 MR. THEAKER: Brian Theaker would answer the same
5 way.

6 MR. BEATTY: Sean Beatty. I'd have to review the
7 AFC to refresh my memory.

8 MS. BELENKY: Thank you.

9 Those are all my questions.

10 HEARING OFFICER KRAMER: Okay. Thank you.

11 MS. BELENKY: Okay. Wait one second. Sorry. Let
12 me just double check, because I have my co-counsel on the...

13 Just one. I believe we went over this, but this -
14 Lisa Belenky again. I just want to clarify. Isn't it
15 correct that the CPUC in approving the contract did not
16 update its Demand Forecast or Modeling for the Big Creek and
17 Ventura Local Area Procurement?

18 MR. THEAKER: This is Brian Theaker. That is my
19 understanding.

20 MS. BELENKY: Thank you.

21 HEARING OFFICER KRAMER: Okay. Any redirect, Mr.
22 Carroll?

23 MS. CHESTER: This is Michelle Chester with Staff.
24 In light of the new exhibit, specifically the article
25 entitled "Tesla, Greensmith, ADES Deploy Aliso Canyon Battery

1 Storage in Record Time," I was hoping I could ask these
2 witnesses a couple of clarifying questions.

3 HEARING OFFICER KRAMER: Well, that seems fair. Go
4 ahead.

5 **CROSS-EXAMINATION BY ENERGY COMMISSION STAFF**

6 MS. CHESTER: Mr. Theaker, I'm going to quote from
7 the article.

8 MR. CARROLL: If I may just ask a foundational
9 question. I'm not sure that either of the witnesses has read
10 the article, so if we could perhaps just get that foundation
11 on the record and -

12 MR. THEAKER: This is Brian Theaker. I can confirm
13 that I have not.

14 MS. CHESTER: Okay. I'm not entirely sure yet that
15 it will matter, but please correct me if I'm wrong.

16 So the article reads, "The installations were
17 brought online to address projected energy shortages from
18 Aliso Canyon gas leak just six months since regulators issued
19 the emergency storage tender." And that's regarding the 70
20 megawatts of battery storage.

21 So I'm wondering could any other technologies come
22 online in just six months after that order was issued?

23 MR. THEAKER: Technology -

24 MS. FOLK: There is a lack of foundation for that.

25 MR. THEAKER: I'm sorry. I missed...

1 HEARING OFFICER KRAMER: I'm sorry. Please
2 restate.

3 MS. FOLK: I object that there was a lack of
4 foundation for that question. He has not - we have not
5 established that Mr. Theaker has broad experience in the
6 various technologies at issue.

7 MS. CHESTER: I was asking generally about his
8 opinion for technology timelines.

9 HEARING OFFICER KRAMER: Overruled.

10 MR. THEAKER: This is Brian Theaker. I - I would -
11 my opinion would be that the only kind of technology that
12 would meet reliability needs in a subarea like batteries that
13 could be brought on with that kind of speed might be demand
14 response. Though, you know, if that depended on customer
15 enrollment, it's not clear to me that that could happen in
16 six months, so. But that - that's the only one that comes to
17 mind.

18 MS. CHESTER: Does your opinion take into
19 consideration air permits and all other permits?

20 MR. THEAKER: I don't think the Air would require
21 air put - air permits. It would require a pretty lengthy
22 registration process at the ISO. Six months is still a
23 pretty aggressive timeline for any new technology.

24 MS. CHESTER: So would agree that the selected
25 project in this case, which is 70 megawatts of battery

1 storage, may have only been competitive against a small
2 universe of options or technologies?

3 MR. THEAKER: I think it's probably - it's probably
4 speculative to say that the situation in the L.A. Basin
5 around Aliso Canyon in this particular project necessarily
6 ports into making the same assumption that that - that
7 storage could be deployed in that speed and scale in the
8 Moorpark Subarea.

9 MS. CHESTER: Okay. That concludes my questioning.

10 HEARING OFFICER KRAMER: Okay. Any redirect, Mr.
11 Carroll?

12 MS. FOLK: I actually have a few more follow-up
13 questions as well.

14 HEARING OFFICER KRAMER: Provoked by Ms. Belenky's
15 questions or -

16 MS. FOLK: In part by Ms. Belenky and actually
17 follow-up to earlier questions to which you sustained -
18 sustained an objection regarding the Mandalay 3 Project.

19 HEARING OFFICER KRAMER: Okay, go ahead.

20 **FURTHER CROSS-EXAMINATION BY THE CITY OF OXNARD**

21 MS. FOLK: So, Mr. Theaker, is it your opinion that
22 in the absence of approval of the Puente Project there would
23 be an unmet LCR need in the Moorpark Subarea?

24 MR. THEAKER: Yes. There would be an unmet need in
25 the Moorpark Subarea.

1 MS. FOLK: And do you agree if there were an unmet
2 LCR need, Edison would try to fill that need?

3 MR. THEAKER: I would believe they would be
4 directed to try to fill that need, yes.

5 MS. FOLK: And do you agree that an unmet LCR need
6 would create a market for Mandalay 3?

7 MR. CARROLL: I'm going to object to the question
8 on the basis that it calls for speculation.

9 MS. FOLK: I believe it follows directly from the
10 prior two questions and does not require speculation because
11 he just answered the earlier two questions regarding an unmet
12 need.

13 MR. CARROLL: Well, I allowed the previous two
14 questions, but we are getting to increasingly greater levels
15 of speculation and a very wide range of possible scenarios
16 under which there is an unmet need. And I don't - I think
17 the question requires more specificity in order for the
18 witness to be able to respond.

19 MS. FOLK: I believe he testified earlier as to
20 market conditions and whether or not Mandalay 3 would be
21 marketable, and so I'm asking questions related to the basis
22 for that decision, -

23 HEARING OFFICER KRAMER: Okay.

24 MS. FOLK: - that opinion.

25 HEARING OFFICER KRAMER: This is Paul Kramer. He

1 did. Overruled.

2 MR. CARROLL: Could you repeat the question,
3 please?

4 MR. THEAKER: Yes, please.

5 MS. FOLK: Do you agree that an unmade LCR need
6 would create a market for Mandalay 3?

7 MR. THEAKER: I would say it this way: An unmet
8 LCR need in the Moorpark Subarea, Mandalay 3 is among a
9 subset of resources that could potentially fill that need.

10 MS. FOLK: And is it your position that the choice
11 of alternatives should be related to the need for the
12 project?

13 MR. THEAKER: I'm sorry. Could you ask that again?

14 MS. FOLK: Is it your position that the choice of
15 alternatives that should be examined in the Final Staff
16 Assessment should be related to the need for the project?

17 MR. CARROLL: I object to the question on the basis
18 that it calls for a legal conclusion about the requirements
19 of the California Environmental Quality Act.

20 MS. FOLK: It's actually not related to the
21 California Environmental Quality Act. It's related to his
22 opinion regarding alternatives and whether they should be
23 related to the need for a project.

24 MR. CARROLL: Well, it sounds like a question about
25 the reasonable range of alternatives required under CEQA,

1 which to me sounds like a question asking for a legal
2 opinion.

3 MS. FOLK: I'm asking for the factual basis. I
4 don't care what the legal opinion is -

5 MR. CARROLL: The factual basis - I'm sorry. The
6 factual basis of?

7 MS. FOLK: Whether or not alternatives should be
8 related to the need for the project. Yeah, I would - I would
9 point out that -

10 MR. CARROLL: I mean I'll allow the question - I'll
11 - I think the question calls for a legal conclusion. If the
12 witness has a response to the question, I'll allow him to
13 answer to the best of his abilities.

14 MS. FOLK: I do believe Mr. Theaker is testifying
15 as to alternatives and he has testified as to the need for
16 the project.

17 MR. THEAKER: And I'm sorry to do this, but in
18 light of that back-and-forth, could you re-ask -

19 MR. CARROLL: That's true -

20 MR. THEAKER: - the question one more time -

21 MR. CARROLL: It's true that he has testified to
22 both of those issues, but you have now, you know, linked the
23 two in a way that calls for a legal conclusion. But, please,
24 if you can repeat the question.

25 Answer the question to the best of your ability,

1 Mr. Theaker.

2 MR. THEAKER: Thank you, Mr. Carroll.

3 MS. FOLK: So my question was: Is it your opinion
4 that the choice of alternatives should be related to the need
5 for a project?

6 MR. THEAKER: Yes. I would offer my opinion that
7 the basis of the need for the project should inform the
8 universe of alternatives.

9 MS. FOLK: Okay. Thank you.

10 HEARING OFFICER KRAMER: Okay. Any redirect, Mr.
11 Carroll?

12 MR. CARROLL: Yes. Just a couple of questions
13 directed to Mr. Theaker.

14 **REDIRECT EXAMINATION BY THE APPLICANT**

15 MR. CARROLL: Mr. Theaker, in her initial questions
16 to you Ms. Folk asked could a four-hour - and I'm
17 paraphrasing here - could a four-hour storage project provide
18 - I'm having a hard time reading my own notes - could a four-
19 hour storage project provide the necessary response to
20 voltage collapse. And I believe that your testimony was that
21 it could in some circumstances. Do you recall that question
22 and -

23 MR. THEAKER: I believe - yes, I believe that -

24 MR. CARROLL: And have I accurately characterized
25 your response?

1 MR. THEAKER: You have.

2 MR. CARROLL: And is it safe to assume that there
3 are other circumstances in which a four-hour storage project
4 would not be capable of responding to a voltage collapse?

5 MR. THEAKER: Yes. Can I give you an example?

6 MR. CARROLL: That was going to be my next
7 question. If you could explain to us, you know, what those
8 circumstances might look like.

9 MR. THEAKER: So, for example, a four-hour battery
10 could provide suitable mitigation for this particular
11 contingency, for example, after the trip of the first line.
12 The immediate response by energy storage could then leave the
13 system, configure to be able to withstand the second
14 contingency. However, the ability of the system to withstand
15 a contingency in that situation would depend on the duration
16 of the energy storage. If that were fully depleted after
17 four hours and the line had not been returned to service,
18 then you would have a reliability issue that the battery
19 storage unit could not solve.

20 MR. CARROLL: And can you speak in layman's terms?
21 So you're using terms, "address the contingency," "a
22 reliability issue." I mean as a practical matter what does
23 that mean if the four-hour storage - battery storage is not
24 able to respond to the contingency and you therefore have -

25 MR. THEAKER: Sure.

1 MR. CARROLL: - a reliability issue.

2 MR. THEAKER: Yeah. Sorry for the jargon. Let me
3 take another crack. The first line trips. That's the N-1.
4 The deployment of energy from the battery storage could then
5 leave the system in a secured state so that it could
6 withstand. There would not be voltage collapse following the
7 second contingency which would be the loss of the other two
8 lines. In that situation, you know, if the lines didn't
9 trip, then arguably the battery mitigated the reliability
10 situation. Or if the battery exhausted its four-hour
11 duration and the line - the first line had not been returned
12 to service, then you remain vulnerable to voltage collapse if
13 there are no other measures taken.

14 MR. CARROLL: In that set of circumstances where
15 the four-hour battery storage project is not able to address
16 the need, what would be the implications of that?

17 MR. THEAKER: Well, again, if those contingencies,
18 the combination of lines tripping, being taken out of
19 service, you could result in voltage collapse in that subarea
20 which would - meaning a blackout of the subarea.

21 Oh, I'm sorry. That was Brian Theaker. Forgive
22 me, -

23 MR. CARROLL: Thank you.

24 MR. THEAKER: - Mr. Kramer.

25 MR. CARROLL: And this is Mike Carroll asking a

1 similar question. Ms. Folk also asked whether load-shedding
2 might provide short-term response to voltage collapse. And I
3 believe that you provided a similar response, which was that
4 in certain circumstances the answer might be yes. And I - is
5 it safe to assume that in other circumstances, your answer
6 would be no?

7 MR. THEAKER: Well, again I think my - this is
8 Brian Theaker. My first answer was I don't think that load-
9 shedding is a great remedial for any contingency given
10 society's - modern society's dependence on reliable electric
11 service for a lot of things, traffic lights, information
12 systems, everything. It could, but again, you know, it would
13 depend on how much - and I don't know the exact numbers about
14 how much load would have to be shed. It could be a
15 substantial portion of the subarea load. It could serve as a
16 short-term remedial. But again in my estimation any load-
17 shedding of any duration is not an idea way to address system
18 operational needs.

19 MR. CARROLL: Thank you.

20 No further redirect.

21 HEARING OFFICER KRAMER: Okay, any recross?

22 Okay. Let's take a -

23 MS. ROESSLER: Excuse me. Sorry. We had time
24 reserved which we'd like to see if CEJA had a couple of
25 questions since we're not using it. I believe we reserved 30

1 minutes for cross and also we haven't used.

2 HEARING OFFICER KRAMER: Well, they haven't even -

3 MS. ROESSLER: If now is appropriate.

4 HEARING OFFICER KRAMER: I hope we're not creating
5 a market in time here.

6 (Laughter)

7 MR. THEAKER: And if we are I wish there was
8 another alternative besides the...

9 HEARING OFFICER KRAMER: I mean CEJA wasn't -
10 hadn't even asked for cross, so -

11 MS. LAZEROW: We had not, but we - we were not
12 quite aware of the scope of what was going to be explored
13 with this testimony, and EDC did reserve 30 minutes. We do
14 not have 30 minutes worth of questions.

15 HEARING OFFICER KRAMER: How many do you think you
16 have?

17 MS. LAZEROW: I have four, possibly five questions.

18 MS. ROESSLER: I think overall that should still
19 put us under time since we haven't used any of our 30
20 minutes.

21 HEARING OFFICER KRAMER: Okay. Well, it's also
22 time for a break, so let's start up with those questions and
23 right after the break, which will be ten minutes.

24 (Off the record at 11:16 a.m.)

25 (On the record at 11:27 a.m.)

1 COMMISSIONER SCOTT: Okay. I think we have
2 critical mass to go ahead and get started after our break.

3 I just want to remind folks. We're hearing that
4 our friends in the audience are having a hard time hearing
5 us, so this is Commissioner Scott. Please remember to say
6 your name before you start speaking and please also just make
7 sure you're right there in the microphone projecting so that
8 our friends in the audience can hear the discussion as well.

9 And I'll turn this back over to Hearing Officer
10 Kramer.

11 HEARING OFFICER KRAMER: Okay, Ms. Lazerow, go
12 ahead.

13 CROSS-EXAMINATION BY CEJA

14 MS. LAZEROW: Thank you. Shana Lazerow for CEJA.

15 I'm not sure, I think these questions may be for
16 both of you. I'll ask them and you can both answer if you
17 like or take turns. You both have some familiarity with the
18 Public Utilities Commission Proceeding A1411016, that
19 adjudicated the results of the Requests for Offers and the
20 contract -

21 MR. THEAKER: This is Brian Theaker. My answer
22 would be yes. I'd say Mr. Beatty is more familiar with that
23 than I am, but, yes, I have some familiarity.

24 MR. BEATTY: And Sean Beatty. Yes, I'm familiar
25 with that proceeding.

1 MS. LAZEROW: Thank you. So isn't it true that the
2 Requests for Offers was to meet a need that was established
3 for an N-1-1 contingency?

4 MR. THEAKER: This is Brian Theaker. Yes, that's
5 correct.

6 MS. LAZEROW: And isn't it true that there was no
7 need for the Moorpark Subarea for an N-1 contingency
8 established in that proceeding?

9 MR. THEAKER: This is Brian Theaker. That's
10 correct. The ISO - again the 430-megawatt need initially
11 established by the ISO I believe related to the Category C
12 and -1-1. But because it defined - was the greater need, it
13 defined the need, and I don't know that it was relevant that
14 the N-1 - what the N-1 need would have been.

15 Ms. Lazerow. Thank you.

16 Did you have something to add, Mr. Beatty?

17 MR. BEATTY: Sean Beatty. No, I do not.

18 MS. LAZEROW: Shana Lazerow. So in that
19 proceeding, A1411016, isn't it true that the Public Utilities
20 Commission did not conduct a CEQA alternatives analysis?

21 MR. BEATTY: Sean Beatty. What I understand of the
22 proceeding is the PUC did not conduct a CEQA analysis.

23 Ms. Lazerow. Thank you. And isn't it true that
24 the Public Utilities Commission proceeding consisted of
25 evaluating Southern California Edison's conduct of its

1 Request for Offers and the RFO results?

2 MR. BEATTY: Sean Beatty. Yes, that's right.

3 MS. LAZEROW: And isn't it also true that the
4 Public Utilities Commission did not evaluate NRG's site
5 selection criteria?

6 MR. BEATTY: Sean Beatty. I - I don't know the
7 answer to that questions.

8 MR. THEAKER: This is Brian Theaker. Nor do I.

9 MS. LAZEROW: Thank you. That's all I can ask for.

10 Are you aware that there is a petition for a review
11 of the final decision on the Puente contract and the RFO
12 results pending in front of the Court of Appeal?

13 MR. BEATTY: Sean Beatty. Yes, I am aware of that.

14 MS. LAZEROW: And are you aware that that petition
15 is based on failure of the Public Utilities Commission and
16 Southern California Edison to consider environmental justice
17 and disadvantaged communities?

18 MR. BEATTY: Sean Beatty here. I don't know the
19 answer to that question.

20 MR. THEAKER: Brian Theaker does not - does not
21 know either.

22 MS. LAZEROW: That's fine. And are you aware that
23 if the Court of Appeal grants review, the Court may overturn
24 the Public Utilities Commission's decision in its entirety?

25 MR. BEATTY: Sean Beatty. Yes, that's a possible

1 outcome.

2 MS. LAZEROW: Thank you. Are you qualified to
3 testify as to the AFC's objectives as they relate to
4 alternatives analysis? Is either of you qualified to testify
5 to that?

6 MR. BEATTY: Sean Beatty. No.

7 MR. THEAKER: I'm not sure. Could you ask the
8 question again?

9 MS. LAZEROW: Are you able to testify to the AFC's
10 objectives as they relate to alternatives?

11 MR. CARROLL: I'm going to object to the question
12 because it includes terms of art and legal terms that have
13 very specific meanings to some of us sitting at the table.
14 And my concern is that those terms - those meanings are not
15 necessarily ascribed to those terms by the witnesses. So I
16 mean I...

17 HEARING OFFICER KRAMER: Ms. Lazerow, -

18 MR. CARROLL: what I would say is, you know, answer
19 the question to the best of your ability, but if the line of
20 questioning goes on too far, I think it - you know, it's
21 sounding argumentative and whether or not as a matter of
22 CEQA, the scope of the objectives were overly narrow to
23 preclude a reasonably-feasible set of alternatives, so my
24 primary concerns are that the question is argumentative and
25 calls for a legal conclusion. Having said that, you know,

1 the witness can answer the question to the best of his
2 ability.

3 MS. LAZEROW: Perhaps we should proceed with the
4 question. And if you have an objection or if you do not feel
5 able to answer it, you can tell us that.

6 MR. THEAKER: This is Brian Theaker. I feel pretty
7 confident that the answer is: I don't know. But could I
8 ask, just to be sure, could you ask the question again,
9 please.

10 MS. LIMON: CEJA has a line of questioning about
11 alternatives that relates to the Project Objectives. And the
12 two of you are here as the alternatives experts. We
13 understand that there is another expert related to objective
14 - the Project Objectives, and so we want to make sure that we
15 ask the right people the right questions.

16 MR. THEAKER: Okay. Then I feel pretty confident
17 that I'm not that person.

18 HEARING OFFICER KRAMER: Now I'll point out that,
19 you know, we split the panel in two, so these are the
20 technology experts.

21 Correct, Mr. Carroll? The technology alternative
22 experts, not the site -

23 MR. CARROLL: That is -

24 HEARING OFFICER KRAMER: - alternative experts?

25 MR. CARROLL: That is correct. And we will have an

1 additional witness later. And I don't mean to be difficult
2 here, but I believe that when Ms. Lazerow refers to the
3 Project Objectives, with a capital O, as in the delineated
4 list that is in the AFC and the FSA, I suspect that Mr.
5 Theaker's understanding of what the Project Objectives might
6 be is a very different. So that - that is my concern. So
7 maybe if the question is asked in a more specific way so that
8 the witness understands what Ms. Lazerow is referring to when
9 she says the Project Objectives, that would be helpful.

10 MS. LIMON: I believe the question was answered.
11 Our line of questioning goes to whether - whether you're
12 familiar with the criteria that was considered in identifying
13 proposed alternative sites.

14 MR. THEAKER: This is Brian Theaker. My
15 involvement in alternatives, the evaluation of alternatives
16 was focused on one narrow issue of a project's ability to
17 meet certain Local Area Requirements. So that's - that's
18 what I feel - I mean that was my testimony and that's what I
19 feel comfortable testifying on.

20 MR. BEATTY: Sean Beatty here. I tend to agree
21 with Brian, which is I'm not sure what the label is to put on
22 my testimony. I know what the scope of it was, which was to
23 talk about the basis for the PUC to approve the Puente
24 contract.

25 MS. LIMON: Thank you for that clarification.

1 MS. LAZEROW: We have no further questions. Thank
2 you.

3 HEARING OFFICER KRAMER: Okay. Mr. Carroll, what
4 are we, re-recross at this point?

5 MR. CARROLL: No re-recross. Thank you.

6 HEARING OFFICER KRAMER: Or redirect, rather.
7 Sorry.

8 Okay. I think that concludes this Alternatives
9 Part 1.

10 MS. FOLK: Excuse me. We have -

11 HEARING OFFICER KRAMER: Oh, you are correct, yes.

12 MS. FOLK: - James Caldwell.

13 HEARING OFFICER KRAMER: Mr. Caldwell. So let's go
14 to Mr. Caldwell, the witness from the - for the City of
15 Oxnard.

16 (Whereupon, James Caldwell is duly sworn/affirmed.)

17 **DIRECT EXAMINATION BY THE CITY OF OXNARD**

18 MS. FOLK: Good morning, Mr. Caldwell. Can you
19 state your name for the record?

20 MR. CALDWELL: James Caldwell. That's J-a-m-e-s C-
21 a-l-d-w-e-l-l.

22 MS. FOLK: And did you prepare your testimony in
23 this proceeding, which has been marked as City Exhibit 3047?

24 MR. CALDWELL: I did.

25 MS. FOLK: And are you familiar with the documents

1 cited in your testimony that have been docketed as exhibits
2 in this proceeding?

3 MR. CALDWELL: I am.

4 MS. FOLK: And do you declare that your testimony -
5 that your written testimony is sponsored under the penalty of
6 perjury and is true to the best of your knowledge?

7 MR. CALDWELL: I do.

8 MS. FOLK: Can you describe qualifications that are
9 relevant to the testimony you are giving in this proceeding,
10 briefly?

11 MR. CALDWELL: Well, I hate to admit it but I have
12 55 years of experience in the energy business and the last 30
13 some odd of which have been principally devoted to what we
14 now call preferred resources, including virtually all of the
15 categories of preferred resources, their technology, their
16 development, their integration into the grid, and dealing
17 with transmissions issues that are associated with that.

18 MS. FOLK: Okay. And I'd like to ask you a few
19 questions about your testimony today. In your testimony at
20 page 4 you state that the Puente Project is significantly
21 oversized for the N-1-1 need, LCR need in the Moorpark
22 Subarea. Can you walk us through how you came to that
23 conclusion?

24 MR. CALDWELL: Well, the need that was identified
25 at the PUC, and I don't dispute that need finding of a

1 minimum of 212 megawatts up to 290 megawatts and nor do I
2 dispute the basis for that need as an N-1-1 contingency,
3 which we've all talked about a lot. I think it probably is
4 helpful for most of us to try to put that in more physical
5 terms about what that might mean, so I'll give an example of
6 what - how you could come to an N-1-1.

7 The transmission lines in question here start at a
8 substation called Pardee which is located fairly close - for
9 those of you who don't know the substation - near Six Flags
10 up on the I-5, somewhere in that area. And then they come
11 across the hill, across the national forest into the Moorpark
12 area to the Moorpark Substation. So clear- - and the lines
13 are on two power poles. There's one circuit on one line and
14 there's two circuits on the other line. Those two circuits
15 obviously are in the same corridor. You don't have a whole
16 lot - you don't want to have a whole lot of spread out
17 corridors over there. That does, however, cause you to worry
18 about losing both of those lines not necessarily
19 simultaneously, but say there is a forest fire and, you know,
20 the fire is approaching from one side and first takes out one
21 of the poles and then 20, 30 minutes later takes out the
22 other set.

23 So that's an example of the kind of thing that
24 we're talking about here. And I think it's really critical
25 to everything that we heard in the last few days and we will

1 be hearing here, that that is - that that is the need that
2 we're talking about, is issues like that.

3 And a lot of the other things that we've talked
4 about, about need for flexibility or need for system capacity
5 or need for all these things are not relevant to this
6 discussion. So I want to make sure that we have that - that
7 in mind as we go forward in terms of this need.

8 Now the need that then what the ISO found and what
9 the PUC affirmed was that if that condition occurs, first if
10 you have the N-1, if you only lose one of those sets of
11 poles, there is no - there is no immediate issue. However,
12 then if you - you are no longer set up to handle the second
13 contingency, if there is, and the reliability rules require
14 you, you have roughly 30 minutes to come up with an action
15 which would make you again safe for the N-1 condition. So
16 that's - that's the need that we're talking about.

17 And we don't dispute that need, and voltage
18 collapse is not pretty. You know a blackout of an area that
19 large is certainly a major event that will be remembered by a
20 lot of people and will cause a lot of damage and deserves to
21 be mitigated. So there's no hint here on the part of my
22 testimony that that is not a legitimate need and it needs to
23 be mitigated; and that what we're talking about, though, is
24 not that but the alternatives, because there are many
25 alternatives to mitigate that contingency.

1 And also I guess we could say that Puente does, in
2 one sen- - does qualify as an alternative to meet that, so
3 we're not disputing that Puente would not fulfill that
4 objective. However, we do believe that there are significant
5 numbers of much cheaper, much more environmentally superior,
6 and technically superior alternatives to - to Puente in order
7 to meet that need.

8 MS. FOLK: And is it correct that the - that CAISO
9 in its latest modeling, which is March 2016, determined that
10 the LCR need for the Moorpark Subarea is 234 megawatts?

11 MR. CALDWELL: Yes.

12 MS. FOLK: And is it correct that that modeling
13 assumed that Mandalay 3 would not be operating?

14 MR. CALDWELL: That's correct. The modeling
15 assumed that Mandalay 3 had retired.

16 MS. FOLK: And is it also correct that Mandalay 3
17 can produce 130 megawatts of power?

18 MR. CALDWELL: Yes.

19 MS. FOLK: And is it also correct that Edison
20 procured 12 megawatts of battery storage in the RFO
21 proceeding?

22 MR. CALDWELL: Yes.

23 MS. FOLK: And when you take those resources into
24 account, is it correct that the Moorpark LCR need is only 88
25 to 92 megawatts?

1 MR. CALDWELL: Yes. I use that range because,
2 again, you know precision is not the same as accuracy and
3 getting it right down to the megawatt is not - in the year
4 earlier, they had determined instead of 234 megawatts that
5 the need was 230, so it's in that range, 88 - so roughly 90,
6 plus or minus a few megawatts.

7 MS. FOLK: In his testimony Mr. Theaker states,
8 characterizes your testimony as being - as stating that the
9 only need for the Puente Project relates to system-wide
10 needs, not a Local Reliability Need. Is that a correct
11 characterization of your testimony?

12 MR. CALDWELL: No. As a matter of fact, what my
13 testimony says is, is that the system requirements or the
14 system operation requirements, which are extensively
15 discussed in the FSA are not relevant to this question of the
16 need for the alternatives, that there is no need for whatever
17 system operational flexibility could be to be located in the
18 Moorpark area and there are infinitely number of alternatives
19 that could fulfill that need and are not necessarily the
20 subject of this. So I believe that Mr. Theaker misread my
21 testimony with that statement.

22 MS. FOLK: And can you tell us how battery storage
23 could be used to meet the LCR need in this case?

24 MR. CALDWELL: Well, I think the point that Mr.
25 Theaker made in his testimony just prior about some of the

1 limitations of battery storage are true in the abstract and
2 that in this case what you really want to do with batteries
3 is not, as he states, you don't need - you don't want to
4 drain the batteries, and then end up four hours later end up
5 back in the same condition again.

6 So what you do with the batteries, first of all,
7 you don't start draining the batteries when you have the N-1,
8 when the first line goes down. There's no need to supply
9 energy when the one line goes down because the other line is
10 still supplying that energy. So all you do at that point is
11 confirm that the batteries are available if and only if that
12 second N-1-1 contingency happens, so you keep the batteries
13 in what's called spinning reserve and available in an instant
14 to supply the energy if and when, if or when that second
15 thing, so - so just because you have four hours of batteries
16 you can withstand, you know, maybe days of this condition or
17 satisfy this condition for days with a four-hour battery.

18 The other thing that you use the batteries for is
19 you use it to buy time, that many of the alternatives that
20 you're talking about require some time to deploy, that the
21 obvious one is a demand response. We talked a lot or we've
22 heard a lot about load-shedding, but load-shedding and demand
23 response are essentially the same thing except load-shedding
24 is unplanned whereas demand response is preplanned. And you
25 have planned where it is and who it is who is going to take

1 the action to shed the load. And so all of the issues that
2 are associated with load-shedding, like surprise, like people
3 who have not - who have other things to do that they're not
4 involved, then it's true that that becomes problematic and
5 should only be used in an emergency.

6 But demand response is a whole different thing,
7 because what you do with demand response is you contact
8 people and you round up people who are willing to interrupt
9 their demand and, generally speaking, you pay them for that.
10 You give them a contract that says for that willingness to be
11 called and to take the action that is required to do this,
12 i.e., to shed the load, then you will be paid for that - for
13 that right, if you will, of you to call that. And it's
14 extremely useful to deploy that kind of resource for this
15 kind of contingency because, again going back to what we were
16 talking about, this only happens rarely. You know, you don't
17 have a forest fire all the time, you don't have these things.
18 It's - it's an important event. It needs to be mitigated,
19 but it's a rare event. So it only occurs maybe .3 percent of
20 the time, something like that, that might be a reasonable,
21 you know, thing.

22 So things like saying Mandalay 3, which is not the
23 - obviously is not the thing that you want to run a lot, but
24 to say that that Mandalay 3 may only be required to run maybe
25 once every other year for a few hours in order to do this

1 contingency, that's fine. In the case of the demand
2 response, when you tell somebody you want to shed load and
3 will pay you to do that, then that person is not offering
4 that up every day. It's a very rare event. And so because
5 these events are rare, then it is much more economical and
6 much more environmentally appropriate to not require
7 combustion of natural gas simply just in case, to be there
8 just in case something happens.

9 So these noncombustion alternatives to the
10 identified need are really what we ought to be focused on as
11 we move forward and that includes batteries form, as I say,
12 an important element of that, but it's certainly not the only
13 element; that the one thing that you don't want to do in this
14 kind of thing is make your response: Put all your eggs in
15 one basket, only have one alternative just in case. And
16 that's precisely what they have done here with Puente.

17 It's one huge shaft. It's 262 megawatts all on one
18 shaft with one set of pumps that could go down. The - what's
19 called in the business the forced-outage rate of a unit like
20 that, like Puente, is roughly three to five percent. I.e.,
21 three to five percent of the time in which you ask that unit
22 to run, it cannot. Or if it's already running and you need
23 it to keep running, something breaks and it has to shut down.

24 So it is not prudent to try to mitigate a need such
25 as this with something - with one and only one that is

1 subject to its own N-1 overlapping contingencies. That is -
2 although it technically meets the Reliability Standard
3 Requirements, it is - it is much better and much cheaper to
4 take the kinds of actions that we're talking about here with
5 batteries and then preferred resources as a back-up to those
6 batteries, and to take that kind of action and to spread out
7 the response over multiple areas so that you can be assured
8 at least that you're not setting yourself up for another N-1
9 by relying only on one source of mitigation.

10 MS. FOLK: And at the time the LTPP Track 1
11 Decision was released, is it your understanding that there
12 was a concern that battery storage would not be a feasible
13 option to meet LCR needs?

14 MR. CALDWELL: Yes.

15 MS. FOLK: And are you familiar with the Green Tech
16 Media article that came out just a week or two ago that was
17 introduced earlier as City Exhibit 3059?

18 MR. CALDWELL: Yes.

19 MS. FOLK: And have you read that article?

20 MR. CALDWELL: Yes.

21 MS. FOLK: And can you sponsor that article as an
22 exhibit today?

23 MR. CALDWELL: I could.

24 MS. FOLK: And would you, based on your knowledge
25 of the market for battery storage and other preferred

1 resources, do you think it would be feasible to procure 88 to
2 92 megawatts of preferred resources to meet the LCR need
3 prior to January 1st, 2021?

4 MR. CALDWELL: yes, I believe that's true. I think
5 that - first of all, I don't that there is much question that
6 you could do that with batteries. However, as we talked
7 about earlier, I do think it's prudent to back those
8 batteries up, if you will, to have something available over
9 the time in which the batteries would - to actually recharge
10 them. That other something could be things like solar
11 photovoltaics which are clearly possible in that area and
12 are, in fact, being installed in that area.

13 There is - I'm not positive, but I believe that one
14 of the battery storage projects that's mentioned in that
15 Green Tech article actually is in the Moorpark Subarea. I'm
16 not positive because it doesn't say precisely where the
17 location is, but it's certainly close. So it is definitely
18 technically possible. I do believe that we'd be prudent to
19 try to back those batteries up with demand response or, for
20 example, some solar photovoltaics to recharge the batteries
21 to extend the life, because I do tend - I take Mr. Theaker's
22 point fairly well, that you don't want to just have a four-
23 hour response.

24 MS. FOLK: In your testimony you raise other
25 concerns with the Puente Project as a resources to serve LCR

1 need. In particular, you raise concerns regarding how the
2 resource will be dispatched by CAISO. And can you walk us
3 through that process?

4 MR. CALDWELL: Yes. When - up until now whenever
5 we've talked about the word need, and we apply that name to
6 this, we're referring to a planning need, you know, a need so
7 that - that there are enough resources or, as we say in the
8 vernacular, there's enough steel in the ground to supply that
9 need. But there is no representation as to whether that
10 steel in the ground is actually available to the system
11 operator in real-time. That is where you transition from the
12 planning needs that are identified and procured in advance to
13 the operational needs of the system operator in real time.
14 And that's a whole different set of protocols and a whole
15 different set of things that we haven't discussed today.
16 We've just sort of assumed that those would happen, but
17 they're relevant because they determine how these resources
18 will actually be deployed in real-time. And those protocols
19 at the ISO are complicated. Therein if you think N-1-1 is
20 complicated, wait till you get into things like RUC and MOC,
21 and so forth and so on. And you look at all the algorithms
22 that they go through in order to ensure that those resources
23 are available in real-time.

24 So - so when you take, say, Puente, and you say,
25 'Okay, that is how I'm going to ensure from a planning

1 perspective that I have enough resources available to be
2 deployed,' then when you convert that into the real-time
3 operational things, then Puente becomes rather problematic.
4 Because Puente is very large, as we said, it's 262 megawatts
5 all along one shaft, it is inefficient; that by the time
6 Puente starts up it will be - I don't know that this is a
7 total fact, but I know of no other resource on the Cal-ISO
8 system of that size which would be less efficient than
9 Puente, so it is way down the list of efficient resources.
10 It is way down the list of resources that would be called for
11 economics at any one point in time; that at 9300 heat rate,
12 it will be a very rare event that Puente is actually started
13 up or committed on the basis of its energy is in the money or
14 is the cost-effective supply of energy at that time; that the
15 most likely way that Puente will be committed, i.e., made
16 ready and synchronized to the grid or be dispatched will be
17 through these Operational Reliability protocols of the ISO.

18 Day ahead, there is a process called RUC, or
19 Residual Unit Commitment, where they check to see that the
20 system on a day-ahead basis can - is configured to be able to
21 withstand all of the relevant N-1s or N-1-1s. And if it's
22 not, then they will commit a resource in the local area. So
23 Puente could be committed day ahead. It could be committed
24 hour ahead in a process that's called MOC, which stands for
25 Minimum Operational Commitment.

1 And, there again, if it is determined that the
2 system would not - with the dispatch that they did without
3 Puente, that there needed to be something else available to
4 be dispatched to meet that contingency, then - then it would
5 be started up. If that happens then two things happen.
6 Number one is that start-up of Puente is only at minimum
7 load. It is not the 262 megawatts. They just want it to be
8 available just in case, so they started up at minimum load,
9 which my understanding is, is roughly 80 megawatts in this
10 case of Puente, is minimum load. That's the minimum output
11 it can have and be connected to the grid.

12 At 80 megawatts its heat rate or its efficiency is
13 significantly less than the already inefficient heat rate at
14 full load. So you're talking about starting up an extremely
15 inefficient unit. That inefficient unit then burns gas. You
16 have to pay for that gas. And it creates greenhouse gas
17 emissions not because that energy is required to serve load,
18 but it's required to be there just in case something bad
19 happens. So you end up with excess greenhouse gas emissions.
20 You generally end up crowding out renewables and other more
21 efficient things that could supply that energy because if you
22 start up an 80-megawatt facility, somewhere else in the
23 system you have to shut down 80 megawatts in order to
24 maintain system balance. So you crowd out something that's
25 more efficient. You end up spending money in real-time to

1 purchase that gas to pollute the air and that money then is
2 really what you're saying that I need to spend that money in
3 order to have a reliable system.

4 Now it's very difficult to quantify how much that
5 is, but I can tell you that the total in the system in 2015
6 for that kind of contingency was a hundred million dollars a
7 year. So we spent a hundred million dollars a year in real-
8 time. And that's in addition to the \$250 million we would
9 have spent to put Puente there in the first place, simply to
10 get this reliability available in real-time.

11 And if we did, on the other hand, the alternatives
12 that we were talking about with preferred resources and
13 batteries, and distribute those - those resources, then we
14 would save that amount of money as well.

15 MS. FOLK: And are there other conventional gas-
16 fired technologies that would be more efficient and would
17 produce fewer greenhouse gas emissions?

18 MR. CALDWELL: Yes. There are, sticking with the
19 GE or the General Electric product line - I'm not suggesting
20 that General Electric is the only turbine manufacturer that
21 makes things like this - there are at least two other
22 alternatives which are significantly more efficient and not
23 only more efficient but come equipped from the factory or can
24 become equipped from the factory with what are called
25 clutches, which allow those units to operate as synchronous

1 condensers which then in and of itself mitigates the voltage
2 collapse without ever burning a single cubic foot of gas.

3 So these other gas-fired facilities are
4 specifically designed for this kind of duty cycle. So
5 they're designed to provide the voltage support to prevent
6 voltage collapse. They're designed to be quick start.
7 They're designed - they are 20 percent, roughly 20 percent
8 more efficient than the particular unit that was got. And
9 they are smaller so that they are multiple shafts and that
10 you have spread your risk of issues with those plants.

11 Specific examples would be the - what is it - the
12 Mission Rock Facility, for example, which is - which we
13 talked about a little bit yesterday, is a parallel AFC
14 proceeding here. That particular unit - or that particular
15 project is designed to have five 50-megawatt gas facility
16 instead of one large plant.

17 The LM600s , which are - LM6000s which - which do
18 that are more efficient at full load and at partial load than
19 the Frame 7 machine here with Puente. And they are equipped
20 with clutches. They can operate as synchronous condensers
21 and provide the mitigation to voltage collapse without
22 burning any gas.

23 So there is another GE offering that is in between
24 size of the LM6000s and the Frame 7 at Puente, and that's
25 called an LMS100. That's a hundred-megawatt, basically a

1 hybrid machine that is again more efficient, can come
2 equipped with a clutch, can provide the voltage support
3 without combustion, and is specifically designed for this
4 kind of duty. NRG is familiar with those. They put in five
5 of them at Carlsbad.

6 So these are - there are many, many options
7 available which are clearly superior alternatives to Puente.

8 MS. FOLK: And my last question is: Are you
9 familiar with the L.A. *Times* article that was published this
10 weekend that was submitted into evidence yesterday?

11 MR. CALDWELL: Yes, I read it.

12 MS. FOLK: And can you explain how the issues
13 discussed in that article relate to the Puente Project?

14 MR. CALDWELL: Well, you know, at one point I agree
15 with Mr. Theaker's characterization that - that what was said
16 in the L.A. *Times* article is not dispositive of the N-1-1 LCR
17 need that we have been discussing ad nauseam here. But what
18 it does say and what it does, I think, point out is that when
19 you go to other potential needs or other potential uses, when
20 you start talking about system resources and so forth, and
21 the argument is made, 'Well, Puente can be used for that,'
22 what that article does speak to is again that in general
23 there is no need for new resources to provide those system
24 operations, that we already have plenty of steel in the
25 ground to do that.

1 What - what I think does - is particularly
2 important is, is let's say you do put in Puente. And now
3 what happens is because, as we have said or has been said,
4 Puente is paid for that outside of the ISO market. It's paid
5 for that through an RA contract, which is on an annual basis
6 in the PUC proceeding, and that money never flows through the
7 ISO markets. What that payment outside of the markets does
8 is make Puente run more than it otherwise would because the
9 costs are already sunk through these RA payments. What that
10 then means is that those units who do not have the RA
11 payments outside of the market, then are less viable in the
12 market because Puente is already there and it steals some of
13 their market share. And therefore what you had really done
14 by adding Puente to the mix is you have made it more likely
15 that somebody else somewhere else who is more efficient, a
16 cheaper lower greenhouse gas, is going to have to retire
17 because he is not getting the money. Puente already has it
18 and it is already in their pocket and they never see it.

19 So the L.A. *Times* article, which talks about really
20 the problems that the gas fleet is having in general with
21 economics, because there is this huge surplus, what will
22 happen is, is that Puente will just make that worse.

23 MS. FOLK: Thank you. That's all I have.

24 HEARING OFFICER KRAMER: Okay. Staff, any
25 questions?

1 MS. CHESTER: No questions at this time from Staff.

2 HEARING OFFICER KRAMER: Okay. Mr. Carroll?

3 MR. CARROLL: Thank you.

4 **CROSS-EXAMINATION BY THE APPLICANT**

5 MR. CARROLL: Mr. Caldwell, at page 3 of your
6 prepared testimony, and I believe you reiterated it in your
7 testimony today, you in your explanation of potential
8 available resources, you suggested, as have others, that
9 existing MGS Unit 3 might continue to be in operation to meet
10 the needs that have been identified. Is that correct?

11 MR. CALDWELL: Yes.

12 MR. CARROLL: So you're assuming then in that
13 scenario the continued operation of MGS Unit 3. And I'm
14 wondering for how many - and I don't know how much you know
15 about MGS Unit 3, that's a 40-year-old unit - for how many
16 more years would you expect that unit to operate to provide
17 grid reliability for the Moorpark Subarea?

18 MR. CALDWELL: Well, I doubt seriously if it's
19 going to last, you know, another 20 years. However, there is
20 no reason why you could not take two years, five years, seven
21 years to replace that; that you could allow technology to
22 develop over the next three or four or five years and do that
23 there. So I view Mandalay 3 as a bridge. It has the ability
24 to use that old girl for just a few more trips to the grocery
25 - you know, just a few more times to go pick up -

1 MR. CARROLL: Quit while you're ahead, I think.

2 HEARING OFFICER KRAMER: be careful, careful.

3 (Laughter)

4 MR. CALDWELL: And, you know, -- yeah. I'm sorry.
5 I said "girl," didn't I? That's - boy, that dates me
6 probably back to my 50 years. I apologize. But - besides,
7 I'm usually the one that goes to the grocery store in my
8 family, so, believe me, I know that.

9 But it's a bridge. And, again, when you're
10 discussing alternatives like this that's what you want to try
11 to do. You want to retain the optionality. You have that
12 option. It's sitting there. It's permitted, okay. That it
13 is available to be contracted for two years, three years.

14 I would point out a very similar kind of thing in
15 that same area, the Ellwood Peaker, which is also - I don't
16 think it's quite that old, but it's getting close. It's
17 really long in the tooth. And that, you know, that was
18 contracted for by Edison and they paid - I believe it was -
19 NRG to do the deferred maintenance and to extend the life of
20 the plant in order to make it run for a shorter period of
21 time as a bridge to the future where, as this technology
22 develops, then we get better and better and cheaper and
23 cheaper with these noncombustion alternatives we can use it.
24 That's the context in which I view Mandalay.

25 MR. CARROLL: Into that scenario, how many hours

1 per year would you expect that MGS Unit 3 would operate?

2 MR. CALDWELL: It would only operate when you had
3 the N-1 condition, i.e., when you drop that first line - that
4 first line, which is again probably in the neighborhood of
5 something .3 or .2 or .1 percent of the time. So it would
6 not operate that often. So even though it's inefficient,
7 even though it's high NOx, that you're not - it would only
8 happen rarely and only in that contingency event. You would
9 never dispatch Mandalay 3 for all these other sorts of things
10 that we're talking about here.

11 MR. CARROLL: And, again, not knowing how familiar
12 you are with MGS Unit 3, are you aware of any existing
13 limitations on the ability to operate that unit?

14 MR. CALDWELL: Only generally. I am aware that it
15 has an air permit which restricts its hours of operation. I
16 don't know the precise number of hours that that is
17 restricted. It's clearly probably two orders of magnitude
18 more than what it would ever be used for, for the specific
19 purpose here, which is to be only started up in the event
20 that we already lost one of the party Moorpark lines.

21 MR. CARROLL: In your discussion demand response is
22 another alternative, and I'm paraphrasing here, but you
23 suggest that as opposed to load-shedding that's something
24 that is arranged in advance. In other words, - and I - tell
25 me if I'm wrong here, but I assume what you mean about that

1 is that certain users have agreed that if required their
2 service would be interrupted?

3 MR. CALDWELL: Yes. We now call it demand response
4 or DR. A few years ago we called it interruptible load.
5 It's the same thing. And, again, it's essentially the same
6 thing as load-shedding with the significant requirement that
7 load-shedding is a surprise. In this case it's not a
8 surprise. It's been prearranged.

9 MR. CARROLL: And in your experience entities that
10 have signed on for programs such as that and when called
11 upon, what's the typical response of those entities, would
12 they simply shut down operations or look to some other
13 potential source of electricity?

14 MR. CALDWELL: There is a variety of responses that
15 are probably as diverse as the number of people and the
16 number of customers. I don't think there's any question that
17 there is enough potential, technical potential to do probably
18 two or three orders of magnitude more than what we're talking
19 about here in the area. And it's just a matter of sorting
20 through that and contracting for the people who it's easier
21 for them to drop load than other people sorting that out.

22 There is a brand new demand resource potential
23 study that came out this year. It was done by Lawrence
24 Berkeley Labs. And it clearly points out that there is
25 enough of this resource there. Now you have to go out and

1 get it. You actually - you can't just sit here and do
2 nothing. You actually have to go out and contract for it.

3 And the relevant example I would give is what
4 Southern Cal Edison did in the Orange County area that's
5 associated with demand response as part of the mitigation for
6 the loss of the San Onofre Nuclear Power Plant. And that
7 also speaks again to this idea that the preferred resources
8 were not there to back it up because in that it was a
9 different track, but it was in the same long-term procurement
10 plan proceeding that Edison went out and tried to contract
11 for preferred resources at two specific substations in Orange
12 County that was an area that's roughly the same load as
13 Moorpark, as the Moorpark Subarea. So for purposes here,
14 roughly the same size or the same - same level of load that
15 is available.

16 They went out right away contemporaneously or
17 nearly contemporaneously with the procurements that were -
18 that are at issue here. And they came up with, I don't
19 remember precisely the number, but something in the 8- to 10-
20 to 12-megawatt range. That was called PRP1 for Preferred
21 Resource Pilot 1.

22 Based upon that procurement and based upon the
23 experience that was gained by Southern California Edison and
24 the preferred resource providers, which again was somewhat
25 contemporaneous with the 12 megawatts that was supplied here

1 in the Moorpark area, they went back last year with their
2 PRP2 procurement and they procured a hundred - I think it's
3 in my testimony some here, but it's 125 to 150 megawatts of
4 preferred resources that meet LCR requirements principally
5 because they also contain a little bit of storage to allow
6 time to deploy these resources.

7 And, you know, so the second time around when they
8 went back to procure, after everybody had done it, they
9 procured plenty of these resources. So I believe that there
10 is an extremely high likelihood that any procurement that you
11 went out to procure, preferred resources at this point in the
12 Moorpark Subarea would be well over subscribed and would be
13 well positioned to fulfill not simply just the 88 to 92 but
14 maybe even enough to account for retiring, letting the old
15 girl, Mandalay 3 retire.

16 MR. CARROLL: Thank you.

17 With respect to the - I think the reference is the
18 Greensmith article. I'm not sure I have that right - I
19 haven't had an opportunity to read the article Green
20 something - I believe it's Greensmith. Do you -

21 MR. CALDWELL: I think it's Green Wire.

22 MR. CARROLL: Okay, Green -

23 MR. CALDWELL: Greensmith is, I believe, is one of
24 the project owners.

25 MR. CARROLL: I see. That's perhaps where I got

1 Greensmith. Do you know when the project that is the subject
2 of that article was commenced? And by "commenced," when
3 planning for that project got underway?

4 MR. CALDWELL: I happen to, actually, because I
5 looked that up after I read the article. And there was - I
6 don't - I don't have the specific cite, but I could certainly
7 get it for you. It was the Aliso Canyon Task Force, which
8 I'm sure the Commissioners are familiar with because they sat
9 there and I'm sure listened to all this, and on April the 8th
10 of 2016 one of the mitigation measures that was proposed to
11 help us get through the Aliso Canyon issue was the
12 procurement of this kind of resource. And so the first time
13 that it surfaced, that you could go out and do something like
14 this to meet this contingency was April 8th, 2016.

15 And so it isn't just that they were able to
16 construct the batteries in six month, they thought of the
17 idea in April, actually went out and procured it. So they
18 put out a bid, received the bids, picked the ones that they
19 want, and actually approved the contracts at the PUC and
20 constructed the facilities all in the eight to ten months
21 that we're talking about here.

22 MR. CARROLL: So I believe your response went to
23 the process that was put in place and the - and moving
24 through that process to procure the service here, but my
25 question was: Aside from their participation in that RFO

1 that was issued in response to SoCal Gas, do you know when
2 the physical project was commenced?

3 MR. CALDWELL: Well, the article, the Green Wire
4 article was at the dedication ceremony for one of those
5 facilities, and I don't recall the date that was in that
6 article, but it was - it's recent, it is in December, I
7 believe, when the facility was placed in service and that was
8 the dedication ceremony. And the quote from CPUC President
9 Picker in that that he was surprised about how quickly this
10 could be done and how well it worked was contemporaneous with
11 that. So it's contemporaneous with the actual start-up of
12 that facility.

13 MR. CARROLL: So isn't it possible that that
14 project was underway at the time that the procurement came
15 along?

16 MR. CALDWELL: None of the process to secure that.
17 I mean it probably was a gleam in somebody's eye. I'm sure,
18 you know, Tesla has got a whole lot of batteries sitting up
19 in a warehouse in Nevada and they're looking for places to
20 put it, so I'm sure they were ready to jump on it. and I'm
21 guessing that they had some prenotation that this might happen.
22 The same thing is I'm sure true for probably 10 or 20 or 30
23 sites in the Moorpark Subarea.

24 MR. CARROLL: Do you - so do you know when, for
25 example, the site was acquired for that project?

1 MR. CALDWELL: I do not.

2 MR. CARROLL: Do you know when the permitting, to
3 the extent there was a permitting requirement, -

4 MR. CALDWELL: There is no air permit required
5 because there's no emissions directly associated with the
6 battery. There clearly is landuse permits and other permits
7 that are required, but nothing to the scale of what we're
8 talking about in this case.

9 MR. CARROLL: And do you know when the equipment
10 for the facility would have been procured?

11 MR. CALDWELL: The article does mention something
12 like June of last year, something in that range, as I recall.
13 But other than that, I don't know the specific date.

14 It's no surprise that you can put those batteries
15 in at that scale in that time. It's done commonly. It's not
16 - it's not a big deal. What I think is a big deal in this is
17 the side of the PUC and SoCal Gas and, you know, Southern
18 California Edison to actually have the electrical side of
19 that thing already. That is fast, to get those people to do
20 that. But it shows you what can be done if you put your mind
21 to it. And there is no - you know, all of that side of it is
22 essentially the same thing that we would be looking at here.
23 So I see no reason why you couldn't do all of that in the
24 same time.

25 MR. CARROLL: Thank you. I have no further

1 questions.

2 HEARING OFFICER KRAMER: The Environmental Center?

3 MS. ROESSLER: No other questions. Thank you.

4 HEARING OFFICER KRAMER: The Center for Biological
5 Diversity?

6 MS. BELENKY: Nothing further.

7 HEARING OFFICER KRAMER: Okay. That - finally I
8 can say without objection that that concludes Part 1 of
9 Alternatives. Thank you, Mr. Caldwell. Hold on a second.

10 Okay. Now it's time for the lunch break. And I'm
11 going to put a timer up on the screen, just to help us all
12 remember when we're - when we're coming back. So with that
13 we are breaking for lunch.

14 (Off the record at 12:24 p.m.)

15 (On the record at 12:50 p.m.)

16 COMMISSIONER SCOTT: Okay, everyone. We are about
17 to get going. Our lunch break is over, so if I can have
18 folks please come back into the room. Have the parties
19 please come back to the table. And I'm looking to the court
20 reporter for the signal that she's ready, which she is. Oh,
21 I'm sorry. I should model the behavior I'd like to see,
22 which is this is Janea Scott, Commissioner Scott who is
23 speaking. And as soon as we get all of our parties, we will
24 get going with our afternoon discussion.

25 HEARING OFFICER KRAMER: Okay. And this is Paul

1 Kramer, the Hearing Officer. What we need to do is take a
2 couple of FFIERCE's witnesses out of order, because of their
3 time constraints. So I do see David Pellow is on the phone.
4 I'm going to unmute him or trying to anyway.

5 Mr. Pellow, can you speak?

6 DR. PELLOW: Yes, can you hear me?

7 HEARING OFFICER KRAMER: Yes. Okay, stand by.

8 And then Marie Rose Taruc -- and I'm going to get
9 to you -- there she is.

10 MS. TARUC: Hi, this is Mari Rose Taruc.

11 HEARING OFFICER KRAMER: And in my list, I had an
12 "e" on the end of your first name, but is that wrong?

13 MS. TARUC: Yes, that's wrong. It's Mari Rose, not
14 Marie Rose.

15 HEARING OFFICER KRAMER: Okay. I'll fix that.

16 MS. TARUC: Thank you.

17 HEARING OFFICER KRAMER: Well, or the court
18 reporter hopefully has that.

19 Okay. It looks like we have everyone here. So did
20 you hear Mr. Carroll, that we're taking these two witnesses
21 out of order under, Socio?

22 MR. CARROLL: No.

23 HEARING OFFICER KRAMER: Okay. That's Mr. Pellow
24 and Ms. Taruc. And it's because they turn into pumpkins at -
25 - in one case 2:00 o'clock.

1 So go ahead, Dr. Chang.

2 DR. CHANG: Good afternoon, everyone. I would like
3 to introduce --

4 HEARING OFFICER KRAMER: We've had a request --

5 DR. CHANG: Yes.

6 HEARING OFFICER KRAMER: -- and I think it applies
7 especially to you, and also to Ms. Folk, to project into your
8 microphones, so that you're heard out in the audience.

9 DR. CHANG: Oh, I believe my witnesses have not
10 been sworn in.

11 HEARING OFFICER KRAMER: Oh, true, that's true.

12 DR. CHANG: They were not here this morning.

13 HEARING OFFICER KRAMER: If both of you could raise
14 your hands, your right hand?

15 (Whereupon, David Pellow & Mari Rose Taruc are duly
16 sworn.)

17 DR. PELLOW: I do.

18 MS. TARUC: I do.

19 HEARING OFFICER KRAMER: And it'll especially help
20 us if you can again set an example and every time you speak,
21 just say your name. I know that's especially helpful for our
22 Spanish translation.

23 DR. CHANG: So beginning with Dr. Pellow, can you
24 please spell your name?

25 DR. PELLOW: Yes, this is David. My first name is

1 D-a-v-i-d. And my last name is Pellow, that is P-e-l-l-o-w.

2 DR. CHANG: Thank you. Dr. Pellow, can you just
3 quickly talk about your experience and expertise in this
4 issue?

5 DR. PELLOW: Sure. Well, for the last quarter of a
6 century I've worked at a number of universities in the area
7 of environmental justice studies. And I've done consulting
8 with a variety of nonprofit, nongovernmental organizations
9 who are focused on the question of, and the quest for,
10 environmental justice. And I've written widely on these
11 topics and lectured widely on them.

12 DR. CHANG: Great, thank you. Actually, your CV is
13 so full that we certainly won't recite all of the
14 publications, but the CV is available on record.

15 Would you like to go ahead and summarize your
16 statement? Or however you'd like to proceed, if you'd like
17 to summarize from the written testimony or elaborate more
18 fully?

19 DR. PELLOW: Sure. Is it acceptable if I read the
20 testimony?

21 DR. CHANG: Absolutely. Thank you.

22 DR. PELLOW: Okay. Well, this is David Pellow.
23 Thank you very much for having me here today. I just want to
24 strongly urge the CEC to deny NRG's permit for the proposed
25 power plant in Oxnard.

1 This is because for generations, electricity for
2 the Central Coast region has been produced by polluting gas-
3 fired power plants, concentrated in Oxnard, which is a
4 working-class community that is 85 percent people of color
5 and 75 percent Latino, which makes it a *prima facie* case of
6 environmental racism.

7 Oxnard already has three power plant smokestacks
8 along its shoreline, more than to my knowledge any other city
9 on the coast of California. The city also has a toxic
10 superfund site and many neighborhoods in the city are above
11 the 90th percentile of asthma rates in the State of
12 California. And as I say in my testimony, they're literally
13 gasping for air and choking over the historical greed of
14 these power companies.

15 It seems that every time energy firms and state
16 agencies conclude that there is a need for energy in our
17 region, they move to address that need with gas-fired power
18 plants in Oxnard. These power plants would never be built on
19 the beaches of nearby wealthy communities like Malibu or
20 Montecito, which is next door to where I am right now.
21 Oxnard, a community that is made the sacrifice zone. One in
22 four children in Oxnard live in poverty and one in five
23 residents don't have health coverage.

24 Major corporations like NRG, which is the largest
25 operator of power plants in this country, have made Oxnard

1 the perpetual dumping ground. And yet, we're proposing yet
2 another power plant there, continuing what I see is a long
3 legacy of injustice.

4 So over the past three years, hundreds of residents
5 in Oxnard have publicly registered their opposition to the
6 proposal -- making it crystal clear that this is an unwanted
7 additional stressor. Thankfully, the Oxnard City Council did
8 its job and responded to the community's wishes, voting down
9 the proposal unanimously. Notably, many of Oxnard's elected
10 county, state, and federal representatives and the California
11 Coastal Commission have all opposed the project as well. And
12 I'm happy to report, as most of us probably know, that
13 Hannah-Beth Jackson, Henry Stern, and Monique Limon, have
14 joined in that opposition.

15 But unfortunately, NRG decided to continue with its
16 efforts to pursue a permit through other channels and bodies
17 that have the authority to override the City Council's
18 decision. In my view, this is not only abusive; it is
19 evidence that there is a democracy deficit in Oxnard. If the
20 citizens and residents of this community cannot have their
21 wishes translated into policy that will protect their public
22 health and their environment, I think we have a crisis of
23 democracy.

24 So another point I want to make is that from the
25 first paragraph, the CEC's Final Staff Assessment displays

1 one of the most glaring inaccuracies in its assessment of the
2 Puente project. The Executive Summary states, "If Puente is
3 approved and developed, the existing MGS" -- the Mandalay
4 Generating Station -- "Units 1 and 2 would be
5 decommissioned." This is untrue and it's a grave
6 mischaracterization of the proposed project, as MGS Units 1
7 and 2 cannot continue to operate under the State Water
8 Control Board's regulations on once-through-cooling
9 generation, regardless of whether Puente is approved.

10 NRG has stated its intention to shut these units
11 down rather than to retrofit them, regardless of the outcome
12 of this proceeding. So the benefit NRG is offering as a
13 condition of the project is physical removal of the
14 structure, not the decommissioning. And so the analysis of
15 this project must differentiate between decommissioning and
16 demolition of MGS. The demolition of MGS may be considered
17 an environmental benefit of the proposed project, but reduced
18 emissions from the decommissioning is an entirely separate
19 issue, and therefore can't be subtracted from increased
20 emissions from the Puente project.

21 The CEC's conclusion of no significant impacts also
22 relies on emissions credits from projects elsewhere in the
23 county. Ventura County contains some of the most affluent
24 communities in the country, but has long relied on Oxnard as
25 a dumping ground for its most polluting projects, including

1 all of its polluting energy production. So to "mitigate"
2 pollution from siting more power plants in Oxnard by
3 providing offsets elsewhere in the county, in my view, adds
4 insult to the injury of continuing this legacy of
5 environmental racism.

6 So reducing pollutants like NOx in other nearby
7 cities while increasing them in Oxnard does not mitigate this
8 inequity, it exacerbates it. Moreover, the alternatives
9 considered by the CEC do not include any consideration of
10 preferred resources such as renewable energy. The project
11 has been assessed based on a foregone conclusion that a gas-
12 fired peaker plant must be built somewhere in the Moorpark
13 sub-area, which has limited the CEC to consider a nearly
14 identical project at nearby sites. The benefits of a
15 preferred resources alternative would include no impact on
16 coastal wetlands habitat, no increase in carbon emissions
17 contributing to climate change, and no increase in pollutants
18 impacting an environmental justice community.

19 So you have a total lack of consideration of
20 renewable energy alternatives in this proceeding. And I
21 think it leaves the CEC standing directly in contrast to the
22 intentions of California's democratically elected state
23 policymakers.

24 In the short period since Edison's RFO, the
25 Legislature and the Governor have signed historic policies

1 into law. Including SB 350, the Clean Energy and Pollution
2 Reduction Act of 2015; AB 1937, the Natural Gas and Pipeline
3 Safety Act of 2011; SB 32, California Global Warming
4 Solutions Act of 2026 and AB 197, which increased the
5 Legislature's oversight over the California Air Resources
6 Board. These policies have set aggressive goals for
7 increased renewable energy generation, slashed carbon
8 emissions, ending the concentration of fossil fuel power
9 plants in environmental justice communities and direct
10 emissions reductions in these most impacted communities.

11 Now, although the Puente project was chosen by
12 Edison before these bills were signed into law, state
13 agencies like the CEC are now reviewing it with an
14 understanding of the environmental goals of the California
15 legislators. Approving Puente would be a major step
16 backwards.

17 And so the blatant mischaracterization about the
18 decommissioning of MGS, the deeply flawed arithmetic used by
19 NRG, and the illusion of mitigation in my view are all
20 sleights of hand that conceal the irrefutable fact that there
21 will be more pollutants in the lungs of Oxnard's children if
22 this plant.

23 In essence, because the CEC is telling the people
24 of Oxnard that because their community has been made the
25 sacrifice zone for generations, it's acceptable to perpetuate

1 this injustice for decades. So for a child born in Oxnard
2 today, the baseline is the state-mandated decommissioning of
3 Mandalay and Ormond Beach Generating Stations and the future
4 cleaner air in their community as a result. But by approving
5 this project, the CEC is robbing the promise of cleaner air
6 from that child with another power plant in an already
7 impacted community suffering from among the worst rates of
8 asthma in the state.

9 So the bottom line for me, is really not whether
10 this power plant disproportionately impacts one group versus
11 another. The bottom line is that it's simply not needed.
12 It's unwanted. And it's unsafe. And so as a homeowner in
13 Santa Barbara County, and the father of a son who has
14 struggled with asthma since he was a toddler, I have first-
15 hand experience with the consequences of living with
16 compromised air quality.

17 And I urge you to cast a vote for environmental
18 justice, for climate justice, and for common sense. Thank you
19 for your consideration.

20 DR. CHANG: Thank you, Dr. Pellow. I'd like to go
21 back to a statement earlier regarding the decommissioning?

22 DR. PELLOW: Um-hmm.

23 DR. CHANG: You state, "The benefit NRG is offering
24 as a condition of the project is the physical removal of the
25 structure, not the decommissioning." And I realize that

1 because you are not here in person, the emphasis in tone is
2 quite important. So, "The benefit NRG is offering as a
3 condition of the project is the physical removal of the
4 structure."

5 I want to make sure that it's understood, and that
6 anyone who is participating by WebEx or otherwise can hear,
7 that the decommissioning has already been mandated by the
8 state, correct? And that you were saying that NRG is
9 offering to physically remove the structure once it's been
10 decommissioned, as a condition of the project being approved.
11 So it's not technically an actual benefit of the project.

12 DR. PELLOW: This is David Pellow, yes that is my
13 understanding. These existing smoke stacks have already been
14 slated for decommissioning and so it has nothing do with this
15 particular decision, so shouldn't even be a part of the
16 discussion as far as benefits proposed or otherwise.

17 DR. CHANG: Great, thank you. I realize having
18 participated in these proceedings by WebEx as well, sometimes
19 I think having someone physically present and hearing the
20 different intonations really makes a difference. So I wanted
21 to make sure that we emphasized that. Thank you.

22 HEARING OFFICER KRAMER: Would it be more efficient
23 to also have Ms. Taruc's testimony and then we can have one
24 round of cross examination of both of them?

25 DR. CHANG: Yes. I think that would definitely be

1 wise. I just want to mention that Dr. Pellow needs to leave
2 or be off the line by 2:00 and Ms. Taruc needs to be off the
3 line by 3:00. So probably if we could do the cross
4 examination in order of those two needs; if that's okay?

5 Okay. So --

6 HEARING OFFICER KRAMER: I certainly hope to be
7 done with both by 2:00. Does anybody see any reason why that
8 wouldn't be the case? Nobody is saying that, so let's go
9 ahead with Ms. Taruc then and then --

10 DR. CHANG: Okay. Great, thank you.

11 HEARING OFFICER KRAMER: -- and then make that one
12 round of cross examination. I know you wanted to have her
13 slides up on the screen?

14 DR. CHANG: Yes.

15 HEARING OFFICER KRAMER: And I will do that.

16 DR. CHANG: Okay. While I'm introducing her?

17 HEARING OFFICER KRAMER: Yes.

18 DR. CHANG: Okay. Great.

19 Mari Rose Taruc, could you please spell your name
20 for the court reporter?

21 MS. TARUC: Yes, Mari Rose Taruc is spelled M-a-r-i
22 R-o-s-e T-a-r-u-c.

23 DR. CHANG: Great. And can you tell us a little
24 bit about your expertise and your experience in these
25 matters?

1 MS. TARUC: Sure, I had 25 years of experience
2 working with environmental justice communities in California
3 and the United States. I am the current Co-Chair of the AB
4 32 Environmental Justice Advisory Committee. I'm also the
5 Co-Chair or the Board Chair of FACES, the Filipino/American
6 Coalition for Environmental Solidarity.

7 I also wanted to say that I was part of the policy
8 team that helped to write the SB 535 law from 2012 that led
9 to the first use of CalEnviroScreen to direct climate
10 investments to disadvantaged communities. And given my work
11 with the state agencies on CalEnviroScreen I was asked by
12 CalEPA to speak at their CalEnviroScreen workshop this week.

13 DR. CHANG: Thank you. Could you please summarize
14 your testimony for us today?

15 MS. TARUC: Sure. I'm going to read and summarize
16 from my written testimony.

17 DR. CHANG: Great, thank you.

18 MS. TARUC: Great. And I have four slides after my
19 name slide, but I'll refer to those a little bit later.

20 So over the last year I have been engaged in
21 monthly dynamic discussions of the state convened AB 32
22 Environmental Justice Advisory Committee. We are developing
23 California's Scoping Plan to reach the 2030 climate targets,
24 which reduce greenhouse gasses in the state. It requires
25 really deep cuts in climate pollution, probably ten times

1 stronger than what the state has done so far, even though
2 California is already a known global leader in the climate
3 arena. Hundreds of climate scientists and policy advocates,
4 in and out of California's Air Resources Board are busy
5 computing possibilities to finalize a plan by this spring.

6 And so when I heard that the CEC is considering
7 this massive fossil fuel Puente Power Project, I was shocked.
8 I thought that couldn't happen in California, not in this day
9 and age, with Governor Brown bullish on climate action, not
10 with our state legislators championing climate equity laws,
11 and certainly not with the CalEPA and its sister agencies
12 deepening their commitment to environmental justice. To me,
13 this polluting project goes against our climate and clean
14 energy laws.

15 While the CEC staff looked at some of the local
16 environmental laws for this project it omitted the big
17 statewide climate and clean energy laws that would apply to
18 such a project. Mainly SB 32, which is passed last year from
19 Senator Pavley, the greenhouse gas emissions reductions for
20 2030; also AB 197 from Assemblymember Garcia, the air
21 pollution reduction from large stationary sources; and SB
22 350, Senator de Leon's 2015 law that codified 50 percent
23 renewables by 2030.

24 I mean, to me the CEC needs to analyze this
25 polluting project through the lens of these three major

1 climate and energy laws at their minimum. Within the context
2 of these strong mandates to reduce emissions from polluting
3 facilities like power plants, there's no room for this Puente
4 project, because it would burn huge amounts of fossil fuel-
5 extracted natural gas. It would accelerate climate change
6 and steer us off course in achieving California's climate
7 targets.

8 Furthermore the point of SB 350, as well as
9 hundreds of millions of dollars in California climate
10 investment for efficient energy, is to wean us away from gas-
11 powered electricity. And instead innovate clean technology
12 that harnesses the sun and wind's natural technology power.
13 The CEC needs to calculate how much power we need to generate
14 to meet SB 350 totals and weigh in how this project helps or
15 hurts those goals.

16 I also wanted to add that two weeks ago, in my role
17 as Co-Chair of the EJ Advisory Committee, I shared the
18 microphone with CEC Director, Rob Oglesby, at the Air
19 Resources Board hearing on the 2030 Climate Scoping Plan.
20 With both of us outlining our commitment to reducing
21 emissions, including from power plants, to achieve our bold
22 climate goals.

23 To me, the Puente proposed pollution activities
24 deepens the problems of environmental racism. In passing AB
25 32 in 2006, legislators committed to climate actions and

1 improving air quality for climate-vulnerable environmental
2 justice communities. AB 197 further acknowledged the need to
3 reduce air pollution from large smoke stacks, because of the
4 negative health impacts on fence line communities, primarily
5 low-income Black, Latino and Asian communities.

6 Several years of work by the CalEPA, by OEHHA, the
7 Office of Environmental Health Hazard Assessment, and
8 environmental justice advocates produced the CalEnviroScreen
9 cumulative impacts tool pool to identify and prioritize areas
10 for cleanup.

11 It is completely illogical and inappropriate to
12 propose to site this project in Oxnard, which is an
13 identified, highly polluted and high poverty community under
14 the CalEnviroScreen tool. And because Oxnard is on the list
15 of most disadvantaged communities identified, it's high on
16 the state's list for environmental protection and mitigation
17 from this pollution. And certainly not from increased toxic
18 exposure by citing another large, polluting power plant in
19 its area.

20 So I'm now going to refer to the slides. I
21 actively work with the Filipino community in Union City and
22 Hayward, who live next to the large Calpine Power Plant and
23 suffer high asthma rates in the top 90th percentile of the
24 state. It would be unconscionable to allow another toxic
25 assault of a power plant to do the same to the families and

1 children of Oxnard through this Puente project. We should
2 actually be cleaning up and bringing relief to these impacted
3 communities in Hayward, in Oxnard, and other environmental
4 justice communities, not making conditions worse with bad
5 projects like Puente.

6 So in this slide, I refer to two tools. One is the
7 OEHHA CalEnviroScreen tool, showing cumulative impacts. And
8 the other tool is the Air Resources Board's integrated
9 emissions visualization tool that quantifies greenhouse gas
10 reduction and greenhouse gases and air toxic emissions over
11 time. They illustrate environmental justice conditions on
12 the ground with dirty power plants pollution. And I wanted
13 to relate that similar EJ community in Hayward and Union City
14 to that of Oxnard.

15 So as background, in 2013, the Calpine Power Plant
16 in Hayward spewed over 542,000 tons of greenhouse gases into
17 the air, and alongside it co-pollutants like CM2.5 known to
18 cause respiratory problems. Even though Calpine should have
19 been reducing its emissions, it managed to sidestep
20 California climate laws and increase its pollution sharply in
21 the next year to over 853,000 tons, which is a whopping 57
22 percent increase from the previous year.

23 How did over-generation and spikes in pollution
24 happen? What health effects did this have, especially to
25 people of color, already sick or vulnerable to asthma? And

1 who paid for this cost in dollars and in health? A serious
2 way we've seen this happen is through polluter loopholes in
3 the Cap and Trade Program, like the use of offsets that
4 contribute to pollution spikes. In this case, Calpine used
5 one-and-a-half million offsets in one year and was in the top
6 ten offset users in California. That list included the
7 energy company -- NRG company.

8 Research shows that over 70 percent of offset
9 credits used were from out-of-state projects. Meaning it
10 denied California communities this pollution reduction,
11 because the pollution reduction primarily happened out of
12 state. The Calpine plant and power plants like it is a
13 perfect example of environmental racism, illustrating the
14 danger these power plants pose to the public and why we need
15 to phase them out. And certainly not build new ones, like
16 Puente. Let us learn from this example and not let grave
17 historical mistakes be repeated.

18 My environmental justice work with youth in Union
19 City teaches them tools to identify hazards as well as engage
20 in solutions to improve their communities. They've started
21 growing vegetables in their community gardens that we helped
22 them build. They're learning about climate and clean energy
23 programs that give them hope that someday soon, Calpine's
24 dirty power won't be needed any more. That is the path set
25 forth by California's climate trailblazers. And as an

1 environmental justice leader, I know we need to walk that
2 path straight, without distraction.

3 Big polluting projects, like the Puente project,
4 veer us dangerously off course from the future that we have
5 set for California and the measures that we must take,
6 already codified in our laws. I urge the CEC to deny this
7 bad project and instead fulfill the mandate to clean up and
8 bring relief to the most polluted communities and grow clean
9 power there too. Thank you.

10 DR. CHANG: Thank you, Ms. Taruc. I have just a
11 few follow up questions.

12 MS. TARUC: Okay.

13 DR. CHANG: First, can you clarify how ERC or
14 emission reductions credits or offsets work since the
15 applicant -- Gary Rubenstein -- in the applicant's rebuttal
16 testimony asserts that, "Offsets and mitigation will be
17 effective in mitigating potential local and regional air
18 quality and public health impacts of the project. In fact,
19 emission offsets are a well-established option for satisfying
20 CEQA mitigation requirements in California."

21 So can you help us to clarify how ERC or offsets
22 work?

23 MS. TARUC: So offset credits and their projects
24 are actually a highly-controversial program in California and
25 across the world. So what we are seeing in California, and

1 based on studies from UC Berkeley, USC and Occidental
2 College, is that a lot of these offset programs are actually
3 out of state. Something, it's over 70 percent of the offset
4 projects so far, are out of state.

5 And that they make the conclusion that that means
6 it's denying the local communities the clean air benefits of
7 our climate laws or greenhouse gas mitigation. Because what
8 these companies are doing are buying these offsets that are
9 emissions reductions somewhere else. Meaning if I am a car
10 plant in Oxnard, and I have to reduce my emissions through
11 California's climate laws, offsets programs actually allow
12 them to avoid reducing emissions at the facility, but rather
13 pay some other project to then reduce their emissions
14 somewhere else. And that somewhere else is 70 percent
15 outside of California. And so I know that I've seen the
16 energy NRG company is one of the top ten users of offsets in
17 California.

18 And so, when I hear claims like this that it's
19 effective in mitigating local air quality impacts, I highly
20 disagree and again that's part of the controversy of these
21 projects. And right now, under the 2030 Scoping Plan, the
22 Air Resources Board is actually proposing and considering
23 eliminating offsets from the program, because they're seeing
24 the localized emission increases in environmental justice
25 communities and not emissions decreases in California.

1 DR. CHANG: Great. So this statement, "In fact
2 emission offsets are a well-established option for satisfying
3 CEQA mitigation requirements in California," when it says,
4 "...are a well-established option for satisfying CEQA
5 mitigation requirements," I wonder if you agree that it is a
6 well-established option, meaning that it is in high use?

7 MS. TARUC: Yeah, so I think offsets are in high
8 use. The top climate polluters in California are definitely
9 using the offsets program. And that is contributing to
10 further environmental racism and local health impacts to the
11 environmental justice communities that are fence line to
12 these facilities.

13 DR. CHANG: Great. And so the second part of the
14 statement that says, "It's a well-established option for
15 satisfying CEQA mitigation requirements in California."
16 Would you say that that literally translates to satisfying
17 the requirements by the letter of the law, but not
18 necessarily achieving mitigation in the direct area?

19 MS. TARUC: Correct, because the program is in
20 place it is allowed for use, possibly as a CEQA mitigation,
21 but what it's actually doing is the opposite of what it was
22 intended to do.

23 DR. CHANG: Great. Thank you. My second question
24 is what is the CES 3.0 tool used for, and what does it
25 measure, and how have you seen it used to identify and asses

1 environmental health risks for disadvantaged communities?

2 MS. TARUC: So the CalEnviroScreen tool was
3 developed by the CalEPA and OEHHA, the Office of
4 Environmental Health Hazard Assessment, along with
5 environmental justice communities. It's a tool that looks at
6 over 20 indicators of environmental burden and socioeconomic
7 vulnerabilities of a community. And in this case the
8 community size is a census tract, so a much smaller area than
9 a city or a zip code.

10 And so it takes these indicators of environmental
11 burden and socioeconomic disadvantage and uses it as a way to
12 look at the cumulative impacts on a community. And then
13 ranks these communities by census tract across the state on
14 relative disadvantage. And so what the state agencies are
15 using is that the top 25 percent scores of disadvantage are
16 the most disadvantaged communities in the state.

17 I also have experience with -- so I said earlier in
18 my experience that the first use of the CalEnviroScreen tool
19 was for SB 535 climate investments to disadvantaged
20 communities. So we wanted to see in our climate programs,
21 both as in the spirit of AB 32 in our climate programs, to
22 make sure that environmental justice communities were being
23 cleaned up, both in terms of climate pollution and localized
24 air pollution. And so the state developed this tool, the
25 CalEnviroScreen tool to measure and locate where those places

1 are at, so that they could be first in line and prioritized
2 for climate mitigation and pollution reduction.

3 DR. CHANG: Great. Thank you. And my last
4 question is the applicant asserts in Gary Rubenstein's
5 testimony, in the rebuttal testimony, on pages 6 and 7, that
6 the CES summary score, "Is not an expression of health risk."
7 And, "CES scores are not intended to be used as health risk
8 assessments." Can you explain why this is not an accurate
9 interpretation of CES's use and what these scores actually
10 indicate?

11 MS. TARUC: So the CalEnviroScreen scores show the
12 most disadvantaged communities in the state, in terms of
13 environmental burden. And so environmental burden can be air
14 pollution from ozone, fine particulate matter, pesticides,
15 impaired water bodies. There's 10 indicators in that and
16 then also what the socioeconomic burdens of these areas are.
17 So asthma hospitalizations to cardio-vascular disease,
18 linguistic isolation, like those are -- so they take all of
19 those conditions and those cumulative conditions and create a
20 picture of what we mean by environmental racism. And why we
21 need environmental justice programs for these communities.

22 And so when I hear that these CalEnviroScreen
23 scores are not intended to be used as health risk assessments
24 I think that's wrong. Because what the state agencies -- so
25 CalEPA, OEHHA, and now Air Resources Board, some programs

1 under CPUC, the Strategic Growth Council -- many state
2 agencies are actually using this tool to identify the
3 communities that are most disadvantaged. Who are the most
4 vulnerable to climate change and air pollution, and to try to
5 locate projects that will help these communities clean up
6 their air or create projects that will be beneficial to them
7 in terms of their health and not a harm.

8 So that's how I see the tool used. And to make
9 sure that these communities are actually healthier, because
10 they are already health vulnerable.

11 DR. CHANG: Thank you very much, Ms. Taruc.

12 MS. TARUC: Thank you.

13 HEARING OFFICER KRAMER: And Mr. Carroll, how long
14 do you think you have for both witnesses?

15 MR. CARROLL: I would say probably less than ten
16 minutes for both witnesses.

17 HEARING OFFICER KRAMER: Okay.

18 MS. WILLIS: Mr. Kramer, staff would also reserve
19 the right to ask a few questions as well of this witness?

20 HEARING OFFICER KRAMER: Okay. To be safe then,
21 let's just do Mr. Pellow for cross and we'll go around. I
22 was hoping to combine it, but make sure we get him finished
23 by 2:00 o'clock.

24 MR. CARROLL: Mr. Pellow, can you hear me, or
25 Dr. Pellow?

1 DR. PELLOW: Yes, can you hear me?

2 MR. CARROLL: Yes I can, Dr. Pellow.

3 This is Mike Carroll and I represent the applicant.

4 DR. PELLOW: Okay.

5 MR. CARROLL: Have you had an opportunity to review
6 Section 4.1 of the California Energy Commission staff's Final
7 Staff Assessment? That's the section pertaining to air
8 quality and greenhouse gases?

9 DR. PELLOW: I've perused the entire document. I'm
10 not sure I can speak specifically to that section.

11 MR. CARROLL: Okay, and I'm not intending to get
12 into specifics. Do you disagree with the staffs' conclusion
13 that the project as proposed will comply with all applicable
14 air quality requirements as stated in that section of the
15 FSA?

16 DR. PELLOW: I disagree that this project poses no
17 significant public health risks. And I disagree with the
18 idea that the mitigation proposed will address any such
19 concerns. Whether or not it meets the letter of the specific
20 laws, procedures and policies, I can't say.

21 MR. CARROLL: And what is your understanding of the
22 locations at which the emission reductions would occur to
23 support the emission reduction credits that are proposed for
24 use by the project?

25 DR. PELLOW: Well, I would refer you back to

1 Ms. Taruc's comments about mitigation and offsets. And my
2 sense, on both globally and in the United States, is that
3 generally there is a practice, a trend -- and I believe this
4 is the case here -- where as she indicated, offsets tend to
5 occur at extra geographic locations. That is locations
6 outside of the particular community in question, with the
7 somewhat legitimate understanding and goal of reducing say
8 statewide, and nationwide, or global levels of greenhouse
9 gasses or pollutions, what have you.

10 Again, the problem though is that it doesn't take
11 into account the local community's needs. So offsets, as a
12 very model and as an idea, is inherently antithetical to the
13 goal of environmental justice.

14 MR. CARROLL: And in the response that you just
15 provided, when you refer to offsets are you referring to
16 offsets for greenhouse gas emissions?

17 DR. PELLOW: I'm referring to the offsets for all
18 manner of pollution and environmental threats. In addition,
19 including a variety of chemicals, VOCs, hazardous waste, et
20 cetera. I could tell you numerous examples that I've
21 encountered.

22 For example, in the State of Illinois, where
23 particular companies were asked to do supplemental
24 environmental projects and these involved all sorts of
25 things: landscaping, tree planting, grant making up to a

1 variety of non-profit organizations in exchange for
2 essentially continuing business as usual.

3 So for me offsets, in my view, is a very, very
4 broad concept and category and practice that seeks to present
5 the illusion that we are addressing local environmental
6 issues by addressing them more globally, extra
7 geographically. And again I have a problem with that
8 precisely, because it doesn't take into account the public
9 and environmental health risks in the local community.

10 And also from a democratic, theoretical and
11 practical matter, it means that the voices and the wishes and
12 desires of people in that local community matter that much
13 less.

14 MR. CARROLL: With respect to the specific emission
15 reduction credits that have been proposed for use to offset,
16 what I refer to as criteria pollutant emissions -- I don't
17 know if that's a term that you're familiar with -- but these
18 would be non-greenhouse gases. So it would be pollutants
19 associated with the combustion of natural gas, NOx,
20 particulate matter. Are you familiar with the source of the
21 specific emission reduction credits that have been identified
22 for use by the project to offset those emissions?

23 DR. PELLOW: No.

24 MR. CARROLL: Thank you. Have you reviewed Section
25 4.5 of the CEC staff's final assessment? And that is the

1 section pertaining to environmental justice.

2 DR. PELLOW: Yes, I have.

3 MR. CARROLL: And do you disagree with staff's
4 conclusions that the project will not result in significant
5 impacts in the area of environmental justice?

6 DR. PELLOW: Yes, I do disagree. And for me this
7 is very, very basic. Again, the math is quite simple. If we
8 already have three related projects, adding a fourth in this
9 community is in my view a clear disproportionate burden.

10 I think this also reflects the reality -- and this
11 is a very important point in my view as a social scientist --
12 that risk perception and risk calculations are always deeply,
13 deeply flawed and reflective of biases that people bring to
14 the table. So I mean, the reality is, is that numerous
15 studies have shown that risk perception varies widely,
16 depending on demographics. And that's been very, very much
17 established. So that people, in say more privileged
18 positions in society, tend to perceive less risk from various
19 chemicals or development projects etcetera. While people who
20 tend to be disadvantaged in society, tend to perceive greater
21 risks from such projects.

22 And that's not simply a question of a difference in
23 perception in my view, and in the view of many researchers.
24 It actually reflects actual experiences, reflecting the very
25 different worlds that people with privilege versus people

1 with disadvantage occupy.

2 So people with very little experience with say
3 discrimination or racism will tend to minimize and perceive
4 less risk from a project like Puente. While people like many
5 folks living in Oxnard, who as they do have a long history of
6 living with and experiencing discrimination and
7 disenfranchisement -- often, not always, but often --
8 correctly perceive greater risks. Not because it's simply in
9 their minds of imagination, because it reflects their
10 reality, their actual lived experience.

11 So when I hear the NRG or Mr. Rubenstein perceive
12 less or even no risk from this project, I'm not surprised.
13 Because that's a perspective that reflects dominant world
14 views, dominant institutional practices and social and
15 environmental privilege.

16 So for me I mean the point is, and I'll stop here,
17 is that you never should stop with just asking maybe the
18 perpetrator of a crime or an act of violence whether they
19 think what they've done is serious. I think you should
20 always ask the target or the victim, and you'll get a very
21 different, and I would say perhaps more meaningful
22 perspective on that question.

23 MR. CARROLL: Are you familiar with the
24 quantitative analysis that was conducted by both the
25 applicant and the CEC staff related to the potential risks

1 associated with the project, which are described in Section
2 4.9 of the CEC's Final Staff Assessment, which is the section
3 pertaining to public health?

4 DR. PELLOW: Yes. Yes, I read it over and I have
5 the same response. I'm unimpressed and I disagree, because I
6 think it overlooks the larger issues of clear overburdening
7 here.

8 And so for me I break this down real simple, look
9 if I've got a common cold. And I go to the doctor and the
10 doctor treats me by inducing a flu, for example. I've got
11 influenza, plus the common cold, but then sends me home with
12 Sudafed and maybe Benadryl for mitigation, I've got a
13 problem. Or if I go to maybe the hospital, because I've got
14 a myocardial infarction, that is a heart attack, and the
15 medical authorities then induce a stroke, but give me oatmeal
16 for mitigation and maybe prescribe liquids, then I'm going to
17 be adding salt to the wound, insult added to injury and
18 that's abuse. And I would sue and never return to that
19 healthcare provider.

20 So for me the details of these studies, these
21 analyses are important, but they are the least important
22 thing, because this is a moral question. Are we going to
23 pollute and disproportionally harm people who have publically
24 declared that they don't want this? And for me, that's what
25 this is about.

1 I want to get out of those weeds and ask the bigger
2 questions, "Is this morally, socially and politically
3 acceptable?" And I think the answer is no.

4 MR. CARROLL: Thank you. I have no further
5 questions for Dr. Pellow.

6 HEARING OFFICER KRAMER: Staff?

7 MS. WILLIS: This is Kerry Willis, Staff Counsel.
8 I just had one question for Dr. Pellow. I have a few
9 questions for Ms. Taruc.

10 Dr. Pellow, could you please state what your
11 doctorate is in, because we don't have that information on
12 the testimony.

13 DR. PELLOW: Oh, sure. It's in sociology.

14 MS. WILLIS: So just to be clear, you're not a
15 toxicologist?

16 DR. PELLOW: I am social scientist.

17 MS. WILLIS: Thank you.

18 HEARING OFFICER KRAMER: And that was it?

19 MS. WILLIS: For Dr. Pellow.

20 HEARING OFFICER KRAMER: City of Oxnard, any
21 questions?

22 MS. FOLK: No questions.

23 HEARING OFFICER KRAMER: Environmental Coalition?

24 MS. ROESSLER: No questions.

25 HEARING OFFICER KRAMER: Center for Biological

1 Diversity?

2 MS. BELENKY: No questions.

3 HEARING OFFICER KRAMER: CEJA?

4 MS. LAZEROW: No questions.

5 HEARING OFFICER KRAMER: Okay. I think that's all,
6 so any redirect Ms. Chang?

7 DR. CHANG: Yes, I do. Forgive me, I'm a little
8 bit at a loss as to where to find the specific document that
9 I need. But I think more simply, I would ask Mr. Carroll to
10 answer the question that he posed to my witness. You also --

11 HEARING OFFICER KRAMER: Well, no. You don't get
12 to ask Mr. Carroll questions.

13 DR. CHANG: Okay. All right, that's fine. So I'll
14 just --

15 HEARING OFFICER KRAMER: And certainly not while
16 we're trying to free up Dr. Pellow.

17 DR. CHANG: Sure, okay. So then I will just direct
18 the question to Dr. Pellow.

19 It is my understanding that the source of the
20 emission reduction credits and offsets in this case actually
21 has already happened, so we are talking about something that
22 has been credited to the applicant in the past. So we are
23 not even speaking about something that will happen in this
24 current period or in the future, which of course is a rather
25 startling fact.

1 I'm wondering, Dr. Pellow, would you change your
2 assessment at all or can you tell us how does this new
3 information affect your assessment of the impacts of those
4 offsets?

5 DR. PELLOW: I want to make sure I'm clear on what
6 you're asking. Are you talking about the MGS Units 1 and 2
7 or something else?

8 DR. CHANG: My understanding from my colleagues
9 here is that the -- and this is something that I understood,
10 but I'm sort of -- because the document that we're dealing
11 with a 797-page rather unwieldy document -- my understanding
12 is that the emission reduction credits and offsets that will
13 be applied to this project that's being proposed have already
14 been credited, so to speak, in the past.

15 DR. PELLOW: Okay.

16 DR. CHANG: So we're not even speaking about
17 something that will, in the future, be offered. And I use
18 the term offered lightly.

19 DR. PELLOW: Correct. Yes, that is my
20 understanding and so that really even shouldn't even be a
21 part of this conversation. And isn't something that is on
22 the table.

23 DR. CHANG: Thank you.

24 HEARING OFFICER KRAMER: Okay. Before we let Dr.
25 Pellow go, anything else from any of the parties? Seeing

1 none, thank you Dr. Pellow.

2 DR. PELLOW: Thank you.

3 HEARING OFFICER KRAMER: So now we'll go back to
4 Mr. Carroll again for cross of Ms. Taruc.

5 MR. CARROLL: Good afternoon, Ms. Taruc. This is
6 Mike Carroll and I represent the applicant. Can you hear me?

7 MS. TARUC: Yes, I can. Thank you.

8 MR. CARROLL: Thank you. Have you had an
9 opportunity -- well let me back up, because I can't recall
10 whether in your testimony today you specifically referenced
11 to the staff's Final Staff Assessment or what's often
12 referred to as the FSA. Are you familiar that document?

13 MS. TARUC: I'm familiar with the document --

14 MR. CARROLL: Great.

15 MS. TARUC: -- but I did not read all the hundreds
16 of pages of it.

17 MR. CARROLL: Okay. Did you have an opportunity to
18 read Section 4.1, which is the section pertaining to air
19 quality?

20 MS. TARUC: I'm not sure. I looked at some
21 sections that related to environmental justice.

22 MR. CARROLL: Okay. Well, let me move ahead then.
23 And so that would be Section 4.5, which is the section on
24 environmental justice, so that section you are familiar with?

25 MS. TARUC: I believe so, yes.

1 MR. CARROLL: And you did state in your prepared
2 statements, and I believe you repeated today, that you
3 disagree with the staff's conclusions that the project will
4 not result in environmental justice impacts. Can you explain
5 to me, do you disagree with the methodology that was utilized
6 by the staff to conduct the environmental justice analysis?
7 Or do you simply disagree with the conclusions that were
8 reached as a result of implementing that methodology?

9 MS. TARUC: In my experience, working with state
10 agencies and other agencies that look at environmental
11 justice impacts, in my decades of this work I have not seen a
12 state agency or a government agency truly know how to assess
13 environmental justice impacts in terms of pollution burdens
14 on communities in determining whether a project is unhealthy
15 for them or not.

16 And so I think the tools and the methodologies to
17 assess environmental justice impacts and negative impacts on
18 disadvantaged communities is still -- needs a lot of
19 improvement. My experience specifically on the Air Resources
20 Board and even the environmental justice assessments on the
21 Scoping Plan is inadequate.

22 And so I would say the same with the CEC, because
23 staff is not necessarily from these disadvantaged communities
24 that they don't quite know how to calculate the impacts. And
25 so we need a lot more tools to be able to do that. And so I

1 do find in general that the environmental justice analysis of
2 this project is inadequate and is bad for the community.

3 MR. CARROLL: So I understand that as a general
4 matter your view is that public agencies fail to conduct
5 satisfactory environmental justice analyses. Do you have any
6 specific concerns with the environmental justice analysis
7 that was conducted by the CEC staff in the context of this
8 project?

9 MS. TARUC: To me, I mean even just related to air
10 quality, so whether the toxic gases that are going to be
11 coming out of this proposed project and what are the health
12 impacts on humans and the surrounding community in that. And
13 so even an analysis of those different air toxics, whether
14 criteria air pollutants or toxic air contaminants, or what's
15 in greenhouse gases.

16 Even like an outline of each of those air toxics
17 and the impact that it could have on human health for a
18 regular healthy average white male versus a five-year-old
19 child, who is hospitalized already for asthma, like those
20 types of studies have yet to be -- I don't see that this
21 assessment did that or analysis did that. And so those are
22 to me, like things that for public health and health impacts
23 should be done as part of the environmental justice analysis.

24 MR. CARROLL: Thank you. I take it then based on
25 that response that you have not had an opportunity to review

1 section 4.9 of the Final Staff Assessment, which is the
2 section pertaining to public health?

3 MS. TARUC: Did they assess each of the air
4 contaminants and its public health impacts?

5 MR. CARROLL: Well, unfortunately the way this
6 works I ask the question and you provide the answer, so I'm
7 not --

8 DR. CHANG: So point of clarification, if you would
9 like to direct her to that material could you please ask --
10 could we ask the Hearing Officer to -- at least because she's
11 participating by WebEx and she cannot see what we're
12 referring to -- would it be possible for us to project it, so
13 that she can at least see the material that you are
14 referencing?

15 HEARING OFFICER KRAMER: Well, it's pages and
16 pages. And we don't have time for her to read it on the
17 screen. I think Mr. Carroll's trying to establish simply
18 whether or not, at least so far, she reviewed the material or
19 not.

20 DR. CHANG: Which particulate section?

21 MR. CARROLL: That is true. My question is
22 frankly a simple yes/no question. Have you had an
23 opportunity to review Section 4.9 of the FSA?

24 MS. TARUC: Not in its entirety.

25 MR. CARROLL: Portions of it?

1 MS. TARUC: Possibly, I read different sections
2 that related to environmental justice and some of it was
3 public health. And I don't remember if that was the section
4 that I reviewed.

5 MR. CARROLL: Okay. Thank you. I don't have any
6 further questions. Thank you for your testimony.

7 MS. WILLIS: Thank you. Kerry Willis, Counsel for
8 the Staff. I had a few questions for you, Ms. Taruc. In
9 your testimony you provide information on statewide laws and
10 specifics to the Calpine plant in Hayward. Can you point to
11 me in your testimony, where you analyze the specifics of the
12 Puente plant or the Oxnard community?

13 MS. TARUC: I wanted to understand your questions,
14 so are you asking if I analyzed the Puente -- the
15 environmental justice community in Oxnard relative to the
16 Puente project?

17 MS. WILLIS: Yes. And also did you analyze the
18 actual Puente project as it's been proposed?

19 MS. TARUC: I looked at the Oxnard community in
20 terms of the CalEnviroScreen cumulative impacts scores and
21 the studies on the areas. I also looked at the emissions,
22 the greenhouse gas emissions, as well as some co-pollutants
23 of I believe the Mandalay stations. And so I used the
24 Calpine in Hayward example as the similarity to what I was
25 seeing in Oxnard.

1 MS. WILLIS: Okay. So your testimony is basically
2 about the Hayward plant, but not necessarily about the
3 proposed Puento plant. Is that correct?

4 MS. TARUC: I was using the Hayward example as a
5 similarity to what I saw was being proposed in an
6 environmental justice community in Oxnard.

7 MS. WILLIS: Are you aware that staff filed
8 rebuttal testimony that outlined the CalEnviroScreen 3.0
9 analysis in several technical areas?

10 MS. TARUC: A rebuttal of what?

11 MS. WILLIS: The rebuttal testimony.

12 MS. TARUC: The question is, am I familiar with?

13 MS. WILLIS: The question is did you review that
14 rebuttal testimony that staff put out?

15 MS. TARUC: No, I did not. I didn't have a chance
16 to.

17 MS. WILLIS: Okay. So you're not aware that staff
18 actually analyzed several technical areas using the
19 CalEnviroScreen 3.0?

20 DR. CHANG: Actually, may I help to clarify here?
21 I think you're referring to it as rebuttal testimony. And in
22 my conversations with Ms. Taruc we have referred to it as
23 Gary Rubenstein's testimony. So that's why --

24 MS. WILLIS: This would not be Gary Rubenstein's
25 testimony. It's staff's testimony.

1 DR. CHANG: Oh, I'm sorry. Okay.

2 MS. WILLIS: It's staff's rebuttal testimony.

3 DR. CHANG: So then she's not familiar with that
4 then. She has not been directed to that document, no.

5 MS. WILLIS: Okay.

6 DR. CHANG: Not by me.

7 MS. WILLIS: Thank you.

8 Did you also -- I'm not clear whether you reviewed
9 staff's public health testimony in the Final Staff Assessment
10 or in the rebuttal testimony, and the health risk assessment
11 that was performed. Could you please respond?

12 MS. TARUC: I believe that was a similar question
13 as the applicant question. So I reviewed some of the
14 environmental justice sections that included public health.
15 And I'm not sure if the specific place you're referring to,
16 whether I reviewed that specifically. But in general.

17 MS. WILLIS: So are you aware that staff's analysis
18 in public health considers sensitive receptors that would
19 include the young, elderly, and people with preexisting
20 conditions?

21 MS. TARUC: That sensitive receptors is a technical
22 term of people have health problems and have health issues.
23 And so I'm familiar with that term and that should be part of
24 the public health analysis that you do, yes.

25 MS. WILLIS: Okay. My question is are you aware

1 that staff actually did that analysis. And staff has defined
2 sensitive receptors as the young, elderly and people with
3 preexisting conditions.

4 MS. TARUC: I guess in general, yes. But not
5 specific to the section of the report that you might be
6 referring to.

7 MS. WILLIS: Thank you. That's all I have.

8 HEARING OFFICER KRAMER: City of Oxnard?

9 MS. FOLK: No questions.

10 HEARING OFFICER KRAMER: The Environmental Center,
11 no?

12 MS. ROESSLER: No.

13 HEARING OFFICER KRAMER: Ms. Belenky?

14 MS. BELENKY: No.

15 HEARING OFFICER KRAMER: No questions, okay. CEJA?

16 MS. LAZEROW: Thank you, yes. I believe we had
17 reserved ten minutes for cross of this witness.

18 Good afternoon, Mari Rose, I have just a couple of
19 cross examination questions for you. First, I wanted to ask
20 a little bit more in your experience with CalEnviroScreen. I
21 appreciate the years of work that you've put in helping to
22 make sure to develop a cumulative impact screening tool that
23 can be used to direct beneficial projects toward
24 environmental justice communities.

25 I wondered whether you were familiar with the

1 recently adopted law, SB 673, and its mandates that DTSC use
2 CalEnviroScreen?

3 MS. TARUC: I have heard of SB 673, as DTSC, the
4 Department of Toxic Substances Control, is one of the key
5 agencies that should be remediating and mitigating pollution
6 in environmental justice communities.

7 MS. LAZEROW: Great. Thanks. I wanted to turn
8 back to your testimony on offsets and clarify that when you
9 were describing the out-of-state projects that are being used
10 to offset in-state projects like NRG projects, you were
11 referring to offset greenhouse gases, not criteria
12 pollutants. Correct?

13 MS. TARUC: The offset projects I'm referring to
14 are the under the state's Cap and Trade Program. So the Cap
15 and Trade Program is primarily for greenhouse gases. And so
16 those offsets, I believe for now, just calculate carbon
17 dioxide.

18 MS. LAZEROW: Great. Thank you. And my final
19 question is a little bit involved. Did you review
20 applicant's testimony submitted by Mr. Rubenstein? His
21 rebuttal testimony, I believe that there is a table on page 7
22 that involves a comparison of ozone and PM2.5 concentrations.
23 Did you ever review that?

24 MS. TARUC: I did look at that table, yes.

25 MR. CARROLL: Could you give just a moment --

1 MS. LAZEROW: Of course.

2 MR. CARROLL: -- so this is in?

3 MS. LAZEROW: Rebuttal testimony.

4 MR. CARROLL: Regarding environmental justice,
5 correct?

6 MS. LAZEROW: I believe this is air quality. It's
7 page 7 of his rebuttal testimony.

8 MR. CARROLL: Paragraph?

9 MS. LAZEROW: Line 17, it's the table. I can see
10 you're almost there.

11 MR. CARROLL: Okay. Thank you.

12 MS. LAZEROW: Mari Rose, are you with us?

13 MS. TARUC: Yes.

14 MS. LAZEROW: So my question is what conclusions do
15 you draw from this table?

16 MS. TARUC: So I see that Mr. Rubenstein pulled out
17 the ozone and PM2.5 indicators as 2 of only 20 indicators
18 that are part of CalEnviroScreen. And I want to emphasize
19 with the CalEnviroScreen tool measures cumulative impact on
20 the community. And so when you pull out different indicators
21 you're looking at those values, but also it takes it out of
22 context that this tool is to be used together. All of those
23 indicators and impacts together as cumulative impact on a
24 community, and particularly negative impacts on these highly
25 disadvantaged communities.

1 So what I'm seeing on the table is that so Mr.
2 Rubenstein pulled out those two air pollutants. And so it
3 says something to effect of like it's 40, the CalEnviroScreen
4 score for ozone is at like 40th percentile. So to me that
5 means that that percentile score is actually not that's it --
6 that it's not bad, but rather there's 60 percent of other
7 areas in the state that are more polluted in terms of ozone
8 or PM2.5 than that.

9 But that doesn't mean that for instance, this
10 community in Oxnard is not impacted by that air pollution.
11 In fact, what I know of ozone is ozone is a toxic gas and it
12 wears down chemically, airways into the lungs. And so to me,
13 no amount of ozone is healthy for a human being, and
14 especially children. And so to me showing that ozone -- this
15 ozone level is not healthy for a human being.

16 Other things that I see in it is that while I think
17 Mr. Rubenstein pulled out this census tract in Oxnard, that
18 this particular census tract, for instance ozone 8-hour
19 average is within federal and state standards.

20 I also can see that the County of Ventura is in a
21 non-attainment or a -- they have not met federal clean air
22 standards under ozone. So just because this census tract is
23 meeting federal standards doesn't mean the whole area is
24 meeting the standards. In fact, Ventura County is in serious
25 non-attainment, at least as I've seen on the state's website.

1 MS. LAZEROW: Thank you. I have no further cross
2 questions.

3 MR. CARROL: May I ask a follow-up recross prompted
4 by Ms. Taruc's (indiscernible) response?

5 HEARING OFFICER KRAMER: Go ahead.

6 MR. CARROLL: Ms. Taruc, this is Mike Carroll
7 again. I just want to make sure that I understand what you
8 were stating related to Mr. Rubenstein's statements in
9 paragraph 13 of his declaration. So are you saying that it
10 is inappropriate or I guess even perhaps misleading to pull
11 out, I think was the phrase that you used, a single component
12 score from the CES scores. And to draw any conclusions based
13 on an individual component score?

14 MS. TARUC: Not quite. So the CalEnviroScreen tool
15 is a cumulative impacts tool that takes all of these 20
16 indicators together. And that they together, these 20
17 indicators have an effect on the health of a community. So
18 that's what the tool is intended for. And to identify where
19 these environmental justice communities are at. And to rank
20 the highest, most disadvantaged communities for cleanup.

21 So each of the indicators by itself tells a story.
22 And so if you have 90 percentile in asthma hospitalizations -
23 - you know, if you're a public health person or a concerned
24 person -- you would see that number and you would think that
25 is really bad. And so there are people who can take

1 different elements of this tool and read it. But in terms of
2 the purpose of CalEnviroScreen it's meant to be taken
3 together as a way to identify environmental justice
4 communities. And ways to improve environmental programming
5 for these communities.

6 MR. CARROLL: Thank you.

7 HEARING OFFICER KRAMER: Dr. Chang, any redirect?

8 DR. CHANG: No, thank you.

9 HEARING OFFICER KRAMER: Okay. Then thank you, Ms.
10 Taruc.

11 I'll just note that the slides we had up at the
12 start of her testimony are simply -- they were excerpted from
13 her pre-filed testimony, which I believe was 8000 and --

14 DR. CHANG: 3.

15 HEARING OFFICER KRAMER: 3?

16 DR. CHANG: 8003, thank you.

17 HEARING OFFICER KRAMER: With that then we can move
18 on to our next topic. I am not aware of any other time
19 constraints today. Does anybody have any in mind that we
20 should consider?

21 MS. WILLIS: Mr. Kramer, this is Kerry Willis,
22 Counsel for Staff, and we're trying to find out if we'll be
23 finishing up Environmental Justice today, because some of our
24 staff have the last plane out at 8:35.

25 HEARING OFFICER KRAMER: I almost forgot it was

1 Wednesday. I had a panic there. Good question, we had 1.8
2 hours left on Alternatives, although I think some of that was
3 already used.

4 Do we have any -- Mr. Carroll -- let's see, we have
5 Ashley Golden, and she was going to go over until tomorrow as
6 a part of her Land Use testimony. So she's not a constraint
7 today under Alternatives. Let's see, Mr. Layton, is he going
8 to be -- well Ms. Willis, what about your other Alternatives
9 witnesses. Are they also trying to leave today?

10 MS. CHESTER: This is Michelle Chester with Staff
11 Counsel. We had all of our Alternative witnesses present
12 yesterday and will not be providing any additional direct
13 cross.

14 HEARING OFFICER KRAMER: Oh, that's right. Okay.
15 Yeah, thank you for that reminder.

16 Okay. So it looks -- and Mr. Carroll, correct me
17 if I'm wrong, but it looks like we could try to finish -- we
18 could next go into Environmental Justice without doing any
19 harm to anybody's schedule.

20 MR. CARROLL: I believe that's fine with the plan
21 then to complete Alternatives today. We do have one
22 constraint on Alternatives, which is Mr. Theaker who
23 testified earlier today is also on our Alternatives Panel.
24 And he is only here -- well, he's yesterday and today. So
25 were you intending to complete EJ and then also complete

1 Alternatives?

2 HEARING OFFICER KRAMER: That would be my fondest
3 hope. I don't know how realistic that is, but I think we
4 could clearly go through EJ and then Mr. Theaker. And
5 hopefully Alternatives, but that would take care of the
6 people who need to leave, I think.

7 MR. CARROLL: That would be fine. In the event
8 that we're not able to complete all of Alternatives, if the
9 Committee and the parties would amenable to at least taking
10 Mr. Theaker, depending on the scope of cross for him the
11 testimony is relatively short. If we could at least take him
12 today, even if it's out of order, that would be very helpful.

13 (Off mic colloquy.)

14 HEARING OFFICER KRAMER: Okay. Let's do that, so
15 let's start then -- or let's finish up in Socioeconomics and
16 Environmental Justice. And so let's begin with the
17 applicant's witnesses, Mr. Rubenstein and Nik Carlson.

18 MR. CARROLL: And just one more footnote, we were -
19 - Mr. Menta, also on our Alternatives Panel, has some travel
20 constraints. We're checking now to see if those are
21 flexible, but just one additional footnote to take up.

22 But at this point applicant calls Gary Rubenstein
23 and Nik Carlson on Socioeconomics and Environmental Justice.
24 And we may be scrambling a little bit for Mr. Carlson,
25 because we thought we were going into Project Description at

1 this point and then Alternatives. He is here, he is just not
2 in the room.

3 HEARING OFFICER KRAMER: Well, could you get
4 started with Mr. Rubenstein?

5 MR. RUBENSTEIN: Yes, I have.

6 HEARING OFFICER KRAMER: Okay. Go ahead.

7 MR. CARROLL: Just one moment.

8 HEARING OFFICER KRAMER: Yeah. You know, I
9 apologize for all the scrambling, but we were trying our best
10 to accommodate everyone.

11 MR. CARROLL: No, no, no. I have no problems with
12 that at all. I've just got to close certain documents and
13 open others.

14 Mr. Rubenstein, can you please state and spell your
15 name for the record, identify your current employer and your
16 current position?

17 MR. RUBENSTEIN: Yes. My name is Gary Rubenstein,
18 G-a-r-y R-u-b-e-n-s-t-e-i-n. I'm currently employed by
19 Sierra Research where I'm a senior partner.

20 MR. CARROLL: And what experience, briefly, do you
21 have that's relevant to today's proceeding and this subject
22 in particular?

23 MR. RUBENSTEIN: With respect to environmental
24 justice I have been performing health risk assessments since
25 the early 1980s. I was a co-author of initial legislation in

1 1979 and 1980 to create California's first Air Toxics Control
2 Program that was eventually passed a couple of years later,
3 known as the Tanner Act.

4 I have been involved in the performance of
5 environmental justice analyses for energy facilities before
6 the California Energy Commission since at least 1999. And I
7 was a member of the Academic Review Panel appointed by the
8 California Office of Environmental Health Hazard Assessment
9 or OEHHA, to review the basic structure and parameters of the
10 initial CalEnviroScreen model in 2012.

11 MR. CARROLL: And do you have in front of you the
12 document marked for identification purposes as Applicant's
13 Exhibit Number 1132, now a portion of 1102, entitled "Expert
14 Declaration of Gary Rubenstein Regarding Environmental
15 Justice in Response to Opening Testimony of Intervenors"?

16 MR. RUBENSTEIN: I do, but I believe you meant now
17 known as Exhibit 1121?

18 MR. CARROLL: Oh, I'm sorry, yes. Applicant's
19 Exhibit Number 1132, now Applicant's Exhibit Number 1121,
20 sorry.

21 MR. RUBENSTEIN: Yes, I do have that in front of
22 me.

23 MR. CARROLL: Thank you. And was that testimony
24 prepared by you or under your supervision?

25 MR. RUBENSTEIN: Yes, it was.

1 MR. CARROLL: And do you have any changes or
2 corrections to that testimony?

3 MR. RUBENSTEIN: No, I do not.

4 MR. CARROLL: And did you review any other
5 materials to prepare for your testimony today?

6 MR. RUBENSTEIN: Yes. I reviewed the Environmental
7 Justice sections and associated analyses within the Final
8 Staff Assessment and the testimony of all of the intervenors
9 who commented on the issue of environmental justice or
10 related issues of air quality or public health.

11 MR. CARROLL: Thank you. And can you please
12 provide a brief summary of your analysis and conclusions with
13 respect to environmental justice as it relates to the
14 project?

15 MR. RUBENSTEIN: The basis for an environmental
16 justice analysis for projects such as those before the Energy
17 Commission derive from a 1994 Presidential Executive Order
18 and California state law along with associated guidance that
19 has been developed both at the state and federal level since
20 that time.

21 Basically, the definition of an environmental
22 justice issue is a situation in which there is a significant
23 adverse environmental impact. And that significant impact
24 disproportionately falls upon minority or disadvantaged
25 communities. In my analyses, in my testimony related to air

1 quality and public health, it was my conclusion that this
2 project would not result in any significant unmitigated air
3 quality or public health impacts. The Final Staff Assessment
4 came to that same conclusion. Consequently, it's my
5 conclusion that there are no environmental justice issues
6 presented by this project.

7 Furthermore, while CalEnviroScreen is, in my
8 opinion, not an appropriate tool for the performance of
9 project specific siting assessments or risk assessments, it
10 has been cited frequently by many of the parties in this
11 case. And, in fact, is referenced in the Final Staff
12 Assessment. I believe that it is appropriate to use the data
13 within CalEnviroScreen to inform certain portions of the
14 analysis. But the presence of a high score in a particular
15 area, in my opinion, does not by itself lead to the
16 conclusion that an environmental justice issue has been
17 created.

18 MR. CARROLL: You testified that in preparation for
19 today's hearing you've reviewed the testimony of intervenors'
20 witnesses. Did you specifically review the testimony of
21 CEJA's witness, Ms. Cervas, and particularly her statements
22 regarding asthma?

23 MR. RUBENSTEIN: Yes, I did.

24 MR. CARROLL: Do you know how CalEnviroScreen
25 reports asthma for different communities or census tracts?

1 MR. RUBENSTEIN: Yes. In particular,
2 CalEnviroScreen 3.0 reviews or summarizes emergency room
3 visits for which asthma has been identified as one of the
4 precipitating events leading to the emergency room visit.

5 It's important to keep in mind, that an emergency
6 room visit is not the same as the incidents of asthma. There
7 are only a portion of individuals who have asthma at such a
8 level that it triggers a need to go an emergency room. There
9 are also situations where some individuals may, due to a lack
10 of resources, rely on emergency room visits as their primary
11 healthcare mechanism.

12 So in interpreting the data, in particular the
13 percentile values regarding asthma, it's important to keep in
14 mind where the numbers are coming from.

15 With respect to emergency room visits, OEHHA
16 assemble that data on the basis of zip codes initially. If
17 there is a zip code in which there is no hospital present,
18 obviously the number of emergency room visits for asthma
19 would be zero. So the data reflect the location of the
20 hospital, and not the location of the exposure to whatever
21 environmental pollutants may have contributed to that
22 particular asthma attack.

23 With respect from there the data are then applied
24 to individual census tracts using a weighting fact in which
25 each zip code that is touched by a particular census tract is

1 allocated a portion of that emergency room visit. And that's
2 applied to that particular census tract.

3 In cases where there are no hospitals presented or
4 where the number of reported emergency room visits is less
5 than 12 attributable to asthma, those data are ignored as
6 being unreliable. And instead, the results are interpolated.

7 As a result, you can get some results that are for
8 asthma frequency that are not necessarily indicative, as I
9 said before, of the frequency or incidents of asthma. And in
10 some cases, can be interpolated from other geographic
11 locations if the zip code happens to be in a location where
12 there are no hospitals present.

13 MR. CARROLL: Thank you for that explanation. Does
14 air pollution cause asthma?

15 MR. RUBENSTEIN: No. Air pollution does not cause
16 asthma. Air pollution can aggravate the symptoms of asthma
17 in individuals who have asthmatic conditions that are
18 preexisting. And while there is potentially -- well not
19 potentially -- there is certainly a clear demonstration that
20 higher levels of air pollution can exacerbate conditions in
21 asthmatics, there have also been substantial changes over the
22 last 20 years in terms of how asthma is diagnosed across the
23 country. And as a result, you can see some fairly anomalous
24 results.

25 For example, in data that I've looked at last year

1 for a presentation, there was a negative correlation
2 nationwide between ambient PM2.5 concentrations and reported
3 incidents of asthma. Ambient PM2.5 concentrations are going
4 down over the last several years and the reported incidents
5 of asthma in the U.S. is going up.

6 And again, I'm not trying to suggest that there is
7 no relationship between asthma and the incidents of air
8 pollution, and in air pollution levels. However, it's just
9 important to understand the different metrics, the difference
10 between emergency room visits, and diagnoses of asthma. And
11 in fact, it's because of the uncertainty in the asthma
12 diagnostic techniques. That's one of the principal reasons
13 why OEHHA shows emergency room visits as a more reliable
14 measures. But again, that measure ends up sacrificing the
15 location of the exposure for the more accurate diagnostic
16 that you would get in an emergency room.

17 MR. CARROLL: Thank you. Were you present in the
18 room yesterday during testimony that was presented by
19 witnesses on behalf of Intervenor CEJA?

20 MR. RUBENSTEIN: Yes, I was.

21 MR. CARROLL: And did you hear a number of
22 questions asked of those witnesses pertaining to potential
23 exposure to farm workers working in the vicinity of the
24 proposed Puente project?

25 MR. RUBENSTEIN: Yes, I did hear those questions.

1 MR. CARROLL: A number of those questions related
2 to the number of hours per week that farm workers might be
3 exposed in fields near the plant. I'm wondering if you could
4 provide your assessment of the relevancy of that particular
5 metric?

6 MR. RUBENSTEIN: I think there was some confusion
7 during the discussion yesterday with respect to the questions
8 and the answers. I think the answers provided by, in
9 particular the CEC staff were correct, but they were
10 incomplete in that they don't really present the full
11 picture.

12 The health risk assessments that were prepared both
13 by the applicant, the Ventura County Air District, and the
14 CEC staff evaluated potential health risks from the Puente
15 Power Project at three different types of locations. One is
16 referred to the point of maximum impact. The second is the
17 maximally exposed individual at a residential location. And
18 the third is the maximally exposed individual at a workplace
19 location.

20 The questions yesterday were really focused on that
21 latter set of receptors, which are locations where
22 individuals might be working. And that was the context, of I
23 believe the questions about the field workers. The point of
24 maximum impact is just that, it is the absolute concentration
25 of air pollutants located anywhere resulting from a

1 particular facility or project. And the health impacts for
2 the Puente project were evaluated at that location.

3 In the case of the Puente project that location
4 happens to be along the eastern fence line. Because it is
5 the point of maximum impact, it means that the health impacts
6 at any other location are by definition, lower. At the point
7 of maximum impact the health risk from Puente was shown to be
8 well below the 10 in 1 million significance level. That's
9 been well established both at the Commission and in use by
10 the air regulatory agencies since the start of the Air Toxics
11 Program in the late 1980s.

12 The exposure at the point of maximum impact is
13 predicated on the assumption that there is an individual
14 standing at that location 24 hours a day, 365 days per year,
15 for 70 years. It is a deliberately extreme over-prediction.
16 The reason why it's assessed separately from the maximum
17 residential location and the maximum workplace location, is
18 to provide an opportunity for a decision-making body to judge
19 whether that location is really meaningful.

20 There can be some cases where, for example, for
21 this project the point of maximum impact is in a substation
22 or a transmission yard or something like that, where the
23 public generally doesn't have access, but because it's owned
24 by someone else it's treated as ambient air where an exposure
25 could occur. In this particular case however, because the

1 impacts at that point of maximum impact are well below the
2 significance thresholds it doesn't matter.

3 All of those numbers were reported both in our
4 analysis, and in the staff assessment. And they, as I said,
5 demonstrate that the project's maximum impact under those
6 worst-case conditions is well within the acceptable levels.

7 MR. CARROLL: Thank you. During the questioning of
8 those same witnesses there were some questions pertaining to
9 the health conditions that were assumed to exist within the
10 group of workers that might be working in the fields near the
11 project. And to be more clear there were questions along the
12 lines of were these assumed to be healthy white males or
13 something in the alternative. Is that a relevant
14 consideration based on the methodology that was utilized to
15 assess the risks associated with the project?

16 MR. RUBENSTEIN: It is relevant and it is reflected
17 in the methodology that both we and the agencies have used.
18 The analyses that we all performed were based on a model
19 jointly developed by the Office of Environmental Health
20 Hazard Assessment in the California Air Resources Board.
21 It's called HARP. In this particular case it was HARP Model
22 Version 2, and embedded within that model, are assumptions
23 about breathing rates and sensitivities to air pollutants for
24 a variety of different population characteristics.

25 Most significantly, they're divided based on age

1 going from prenatal to the elderly. In the case of the
2 middle age group, if you will, and I don't mean that as
3 middle aged. But the age group that is not elderly, but is
4 also not a child? That group is fairly broad in terms of the
5 number of years of life that it spans and it is reflective of
6 the overall population.

7 Having said that though, the sensitivity of that
8 group to adverse health effects from air pollutants is based
9 on a set of data that has uncertainty in it. It's based on
10 epidemiological studies and it produces a range of estimates
11 of what the risks of adverse health impacts are or the risk
12 of contracting cancer for different exposures. And because
13 of that uncertainty, OEHHA and the Air Resources Board,
14 specifically biased the numbers that are used towards the
15 high end of sensitivity. So meaning that they are
16 deliberately using numbers that assume a highly-sensitive
17 population.

18 Those are numbers that are reflected and built into
19 the HARP model and those form the basis of the risk
20 assessments that we've all prepared, which again despite
21 those very conservative assumptions, still shown no
22 significant health impacts.

23 MR. CARROLL: Thank you. Does that conclude your
24 direct testimony today on the subject of environmental
25 justice?

1 MR. RUBENSTEIN: Yes, it does.

2 MR. CARROLL: At this point we would be happy to
3 offer her -- Mr. Rubenstein for cross examination if we can
4 take Mr. Carlson's testimony and then offer them as a panel.
5 Mr. Carlson's direct testimony is quite short.

6 HEARING OFFICER KRAMER: Let's take them both then.
7 Mr. Carlson, I need to swear you in, I believe.

8 (Whereupon, Nik Carlson is duly sworn.)

9 MR. CARLSON: I do.

10 HEARING OFFICER KRAMER: Thank you.

11 MR. CARROLL: Could you please state and spell your
12 name, current employer, and current position.

13 MR. CARLSON: Well, my name is Nik Carlson. That's
14 N-i-k C-a-r-l-s-o-n. I'm a Principal Economist with AECOM
15 with 24 years of professional experience.

16 MR. CARROLL: And do you have in front of you
17 documents marked for identification as Applicant's Exhibit
18 Number 1112, now -- initially marked as 1112, now marked as
19 1121, "Expert Declaration of Nik Carlson Regarding
20 Socioeconomics and Environmental Justice and the Associated
21 Exhibits"?

22 MR. CARLSON: I do.

23 HEARING OFFICER KRAMER: I think that one is 1101.
24 I gave you a copy of the chart earlier to help us with that.

25 MR. CARROLL: You are correct. This is a simple

1 chart, it's much simpler than the table of the order of the
2 proceedings, but for some reason I can't get my head around
3 either of them.

4 I'm sorry, so to be clear Mr. Carlson, what you
5 have in front of you is the document that was initially
6 marked as Applicant's Exhibit 12, and has now been marked as
7 Applicant's Exhibit 1101. Is that correct?

8 MR. CARLSON: Yes.

9 MR. CARROLL: Thank you. And was that written
10 testimony contained in your -- I'm sorry, was that written
11 testimony prepared by you or under your supervision?

12 MR. CARLSON: Yes, it was.

13 MR. CARROLL: And do you have any changes or
14 corrections to that prepared testimony?

15 MR. CARLSON: No, I don't.

16 MR. CARROLL: Can you please describe the analysis
17 that you conducted concerning the Puente project?

18 MR. CARLSON: I had two parts of analysis. The
19 first was the socioeconomic analysis where I looked at the
20 expected employment, potential housing and other fiscal
21 impacts effects on government services that might be
22 associated with the project's demolition and construction
23 activities followed by its future operations.

24 And then secondly, I conducted the environmental
25 justice analysis to identify environmental justice

1 populations. And then determine if there were any
2 significant adverse impacts to those populations and whether,
3 if those did occur, there would be disproportionate impacts
4 to the environmental justice populations.

5 MR. CARROLL: And the environmental justice portion
6 of you analysis was done in collaboration with
7 Mr. Rubenstein?

8 MR. CARLSON: Yes, it was.

9 MR. CARROLL: What were the results of your review
10 of the socioeconomic impacts associated with the project?

11 MR. CARLSON: We found no adverse socioeconomic
12 impacts associated with the project and some finan -- fiscal
13 benefits that would occur to the city and county of Oxnard
14 and Ventura County.

15 MR. CARROLL: And with respect to the environmental
16 justice analysis, we've already had extensive testimony on
17 that from Mr. Rubenstein. But in your opinion, are there
18 environmental justice populations located within the
19 project's potential area of effects?

20 MR. CARLSON: Yes, indeed.

21 MR. CARROLL: And can you please describe the
22 conclusions that you reached as to whether or not those
23 populations would be adversely effected as a result of the
24 project?

25 MR. CARLSON: In the absence of finding any

1 significant adverse impacts to any of the resource areas, it
2 was therefore concluded that this eliminated the possibility
3 of those populations being adversely impacted. And
4 consequently no opportunity for them to be disproportionately
5 affected and therefore no environmental justice impacts could
6 be identified.

7 MR. CARROLL: And so with respect to socioeconomics
8 and environmental justice what is your opinion with respect
9 to the project based on the analysis that you completed?

10 MR. CARLSON: As I stated, the project has no
11 adverse socioeconomic or environmental justice impacts and
12 therefore no environmental justice impacts could be -- would
13 result as a result of the project's demolition, construction
14 or future operation.

15 MR. CARROLL: Thank you. Does that conclude your
16 testimony today?

17 MR. CARLSON: Yes, it does.

18 MR. CARROLL: Mr. Carlson and Mr. Rubenstein are
19 both available for cross examination as a panel.

20 HEARING OFFICER KRAMER: Begin with staff.

21 MS. WILLIS: No cross.

22 HEARING OFFICER KRAMER: City of Oxnard?

23 MS. FOLK: No cross.

24 HEARING OFFICER KRAMER: CEJA?

25 MS. LAZEROW: Yes, please.

1 Good afternoon, Mr. Rubenstein. This is Shana
2 Lazerow. I wanted to ask, have you looked specifically at
3 asthma hospital -- emergency hospital admissions specific to
4 the census tract where the Puente plant would be located?

5 MR. RUBENSTEIN: I looked at the CalEnviroScreen
6 score for the census tract, but I did not look at the raw
7 data in terms of the hospital admissions specifically.

8 MS. LAZEROW: Thank you. Have you looked at any
9 asthma data specific to that census tract other than the
10 CalEnviroScreen score?

11 MR. RUBENSTEIN: No, I have not.

12 MS. LAZEROW: Thank you.

13 MS. LIMON: Mr. Rubenstein, I believe you testified
14 that air pollution does not cause asthma. Is that correct?

15 MR. RUBENSTEIN: Yes, that is correct. That is
16 what I said.

17 MS. LIMON: Are you familiar with ongoing studies
18 to examine the relationship between air pollution and the
19 onset of asthma?

20 MR. RUBENSTEIN: I've not reviewed any recently,
21 but as I said there is clearly a relationship between air
22 pollution and asthma. Just that air pollution does not cause
23 asthma.

24 MS. LIMON: Are you familiar with any research
25 recently conducted by the Research Division of the California

1 Air Resources Board concerning the relationship between the
2 two?

3 MR. RUBENSTEIN: If you could be more specific
4 about some particular study?

5 MS. LIMON: Sure, well I'm looking at the Air
6 Resources Board website currently. And it says that the
7 largest study on children and asthma funded by ARB is a
8 children's health study, which was performed at USC. And
9 among many findings the study found that children who
10 participated in several outdoor sports and lived in
11 communities with high ozone levels were more likely to
12 develop asthma than similarly active children living in areas
13 with less ozone pollution. Also children living near busy
14 roads had an increased risk of asthma and asthmatic children
15 exposed to higher levels of air pollution were more likely to
16 develop symptoms of bronchitis. Living in areas of high air
17 pollution has been shown to cause measurable lung damage in
18 children age 10 to 18. So it's the Children's Health Study.
19 Are you familiar with that?

20 MR. RUBENSTEIN: I'm familiar with it in general,
21 but I've not read it.

22 MS. LIMON: Okay. And do you have reason to
23 disagree with any of these findings that I just read aloud
24 from the ARB's website?

25 MR. RUBENSTEIN: No, I do not.

1 MS. LIMON: Thank you.

2 MS. LAZEROW: CEJA has no further cross questions
3 for these witnesses.

4 HEARING OFFICER KRAMER: FFIERCE, Dr. Chang?

5 DR. CHANG: So first I'd like to refer to -- I'm
6 checking here -- I just want to say in my defense when I
7 lecture at UCSB I have these teeny tiny little microphones
8 that are clipped right here, that project amply. And that's
9 what I'm used to, so that's sort of what I'm going on.

10 Okay. So I wanted to refer to the FSA Executive
11 Summary. Is that a document you are familiar with?

12 MR. RUBENSTEIN: Yes, it is. Let me get it front
13 of me, if I can?

14 DR. CHANG: Great, thank you. I would like to
15 refer to the Page 1-4 of the Executive Summary of the FSA
16 under "Project Alternatives."

17 MR. RUBENSTEIN: I have that page in front of me.

18 DR. CHANG: Wonderful. So the first statement or
19 the first bullet point under "Project Alternatives" says,
20 "The no project alternative would avoid several environmental
21 impacts related to Puente operations. However" -- actually
22 the rest of the statement is not relevant -- "would avoid
23 several environmental impacts related to Puente operations."

24 So from that statement would you -- based on that
25 statement would you conclude that there are environmental

1 impacts from the Puente project and operations?

2 MR. CARROLL: Just a point of clarification -- I'm
3 sorry -- withdraw that.

4 DR. CHANG: I could ask this of anyone in the room,
5 but it's just literally translating in English, what does
6 that statement suggest?

7 MR. CARROLL: And then I guess -- I'm sorry to
8 interrupt -- I guess I should make a point of clarification.
9 So the point of clarification would be, because the question
10 was general as to impacts associated with the project, Mr.
11 Rubenstein's direct testimony here is limited to certain
12 areas. So for example, he's not in a position or qualified
13 to speak to traffic impacts associated with the project. So
14 I assume that just for the sake of clarification that the
15 scope of the question pertains to those areas on which he has
16 provided direct testimony.

17 DR. CHANG: Absolutely, that is where I'm going.

18 MR. RUBENSTEIN: This is Gary Rubenstein, to answer
19 the question I would read that first bullet entitled "The No
20 Project Alternative" in combination with Executive Summary
21 Table 1-2 on the next page. And that table indicates that
22 for all of the disciplines reviewed by the Commission staff,
23 impacts have been mitigated to a less than significant level.

24 So looking at those two together, I would interpret
25 the phrase you just read to me that there are some

1 environmental impacts associated with the proposed project.
2 But they have all been mitigated to a less than significant
3 level.

4 DR. CHANG: Great. Thank you. That would probably
5 be my interpretation as well. That there are, indeed
6 environmental impacts, but that I guess there's a question in
7 opinion as to whether they are properly mitigated or not.

8 So that'll be my next question, but that's it for
9 now.

10 MR. CARROLL: Okay. I need to, I'm sorry,
11 interject there, because Ms. Chang said that she would agree
12 with that statement, but then mischaracterized the statement.
13 So I need to object to the extent that --

14 DR. CHANG: Okay. So I'll clarify.

15 MR. CARROLL: And I guess I would make the -- and
16 I've been very restrained about this -- but I would also, as
17 long as I'm objecting, object to the questioner providing
18 testimony. I think there have been a number of instances
19 over the course of this afternoon where the questioning, what
20 should be questioning of the witnesses, has devolved into
21 testimony on the part of the questioner. And I understand
22 why that might happen under the circumstances, and I will
23 continue to be very restrained about it. But would just ask
24 that we be conscious of that.

25 DR. CHANG: So I'll move to the area that you just

1 referred to, Mr. Rubenstein. You assert that there are no
2 unmitigated environmental justice impacts. That is in your
3 testimony on page 2 and within that large document it's Page
4 161. But on page 2 of your testimony, beginning with line 13
5 roughly, it says, "However, applicant and staff assess
6 potential environmental justice impacts of the proposed
7 project and determined, 'that construction and operation of
8 the Puente Power Plant would not cause significant direct,
9 indirect or cumulative environmental justice impacts with the
10 inclusion of proposed Conditions of Certification.'"

11 So can you tell us what are the proposed Conditions
12 of Certification?

13 MR. RUBENSTEIN: This is Gary Rubenstein. Those
14 are the conditions that are at the end of most of the
15 chapters in the Final Staff Assessment. They're organized by
16 discipline, and they're conditions that would be imposed on
17 the project by the Commission if the project were to be
18 licensed by the Energy Commission.

19 DR. CHANG: Great. Thank you. And then on page 3
20 again of your testimony, which is Page 162 of the larger
21 document, it says starting with line 2, "Applicant's
22 testimony describes its assessment of potential air quality
23 and public health impacts of the project. And indicates that
24 the project, as proposed, will not result in any significant
25 direct or indirect, or cumulative environmental impacts with

1 respect to air quality public health or related areas.

2 Similarly, staff's testimony concludes that Puente
3 with staff's proposed mitigation would have less than
4 significant air quality impacts. And does not expect an
5 adverse impact to air quality or to members of the public,
6 offsite nonresidential workers, or recreational users. And
7 that using a highly conservative methodology that accounts
8 for impacts on the most sensitive individuals in any given
9 population there would be no significant health impacts from
10 the project's air emissions.

11 So can you tell us, to summarize that statement,
12 "There are no public health or air quality impacts
13 unmitigated." Is that right?

14 MR. RUBENSTEIN: This is Gary Rubenstein. Not
15 quite, what that statement says, that there are no
16 significant unmitigated air quality or public health impacts
17 associated with the project.

18 DR. CHANG: Okay. Great. So here, can you tell
19 us, can you explain in lay terms what is the nature of the
20 mitigation that's being offered?

21 MR. RUBENSTEIN: This is Gary Rubenstein.
22 Previously, I believe you were asking questions about a wide
23 range of subject areas, but this paragraph to be specific is
24 just talking about air quality and public health.

25 DR. CHANG: The mitigation regarding air quality

1 and public health, yes.

2 MR. RUBENSTEIN: Right, with respect to air quality
3 and public health there are a series of mitigation measures
4 that range from the initial design, if you will of the
5 construction process, to minimize emissions during project
6 construction. A series of requirements to limit emissions
7 during project operations requiring the installation of
8 certain types of emission control technologies. Requirements
9 to submit or surrender emission reduction credits to satisfy
10 state and federal regulatory requirements and the provision
11 of additional mitigation required by the Commission staff to
12 address any remaining air quality impacts that weren't
13 addressed by all of the other mitigation measures.

14 DR. CHANG: Okay. So you've just named a number of
15 measures. One is to minimize emissions during construction
16 of the project. One is to limit emissions during the
17 operation of the plant itself were it to be constructed. And
18 then the third large category would be to surrender emission
19 reductions credits to satisfy the requirements. Is that
20 correct?

21 MR. RUBENSTEIN: That I believe is a list that I
22 gave you, but the full list is -- I can't remember of this
23 project how many -- but probably 60 or 70 different
24 conditions that implement all of the mitigation requirements
25 for the project.

1 DR. CHANG: Okay. So but among those three general
2 categories could you tell us, did you say there's maybe 60 or
3 70? Where would the largest proportion of measures be under
4 those categories?

5 MR. RUBENSTEIN: I apologize, this is Gary
6 Rubenstein, I've lost track now of what the three categories
7 were.

8 DR. CHANG: Okay. Sorry. Yeah, I'll rephrase it.
9 So could you tell us -- and I certainly wouldn't ask anyone
10 to go through the 70-some odd measures that you're saying are
11 being proposed --

12 MR. RUBENSTEIN: I could, but we'd all fall asleep.

13 DR. CHANG: Okay. Sure, but so for example, I was
14 part of a campaign that was looking at what was called a
15 recycling plant. And it was located right next to El Rio,
16 which very was much an environmental justice neighborhood
17 within the City of Oxnard. And what it was, was it was a
18 recycling plant, so-called, that took concrete from the
19 roads, from the highways. And was going to crush that
20 concrete and make it into something else. And the mitigation
21 measure that they took were -- it was explained at some point
22 that the mitigation measures would be to hose down the area
23 where that was taking place once a day. And that plant was
24 proposed to be constructed next to a juvenile youth prison.
25 So in matters like this, I'm always curious what

1 are the actual mitigation measures being taken? What are
2 direct measures that are being taken and what are measures
3 that are often more or less on paper?

4 MS. WILLIS: Mr. Kramer, Staff Counsel, I'm
5 concerned that we're getting back into a topic that we just
6 spent time on, on air quality and public health as opposed to
7 environmental justice. These tend to be very general
8 questions about air quality and the mitigation measures as
9 opposed to impacts in environmental justice community.

10 DR. CHANG: Well, it's --

11 HEARING OFFICER KRAMER: Yeah, I was leaning
12 forward to ask about that. We did pass through air quality,
13 Dr. Chang, so what is the relationship of this information to
14 socioeconomics and environmental justice?

15 DR. CHANG: Okay. I can narrow the field quite a
16 bit.

17 Can you tell me, what are the actual mitigation
18 measures that are being proposed that will impact the
19 environmental justice community if used directly?

20 MR. RUBENSTEIN: This is Gary Rubenstein. The
21 mitigation measures and the Conditions of Certifications that
22 I'm going to mention are those that impact everyone, not just
23 the environmental justice communities that are near the
24 plant.

25 The most significant are those conditions that

1 require the application of best available control technology
2 to this project. And that require the implementation of
3 specified mitigation measures to reduced emissions from
4 diesel construction equipment and fugitive dust during plant
5 operation.

6 DR. CHANG: Okay. So are you familiar with
7 emission reduction credits that NRG -- you just said earlier
8 that emission reduction credits, one means of mitigation
9 would be that NRG would surrender emission reduction credits
10 in order to satisfy these requirements, correct?

11 MR. RUBENSTEIN: This is Gary Rubenstein. That's
12 correct.

13 DR. CHANG: Are you familiar with the emission
14 reduction credits that NRG is proposing to surrender, that in
15 fact represent nitrogen dioxide emissions that were created
16 in ERC certificates in the early 1990s?

17 MR. RUBENSTEIN: This is Gary Rubenstein. Yes, I
18 am.

19 DR. CHANG: Okay. So are the emission reduction
20 credits that you are discussing today, are these included in
21 those?

22 MR. RUBENSTEIN: This is Gary Rubenstein. Yes,
23 they are.

24 DR. CHANG: And what proportion would you say of
25 the emission reduction credits are we talking about?

1 MR. RUBENSTEIN: I'm sorry, are you asking what
2 proportion of the emission reduction credits that we're
3 proposing to surrender for this project, are emission
4 reduction credits that were created in the early 1990s?

5 DR. CHANG: Yes.

6 MR. RUBENSTEIN: That's the question. I would have
7 to look at them individually, certainly more than half.

8 DR. CHANG: Certainly more than 50 percent of them?

9 MR. RUBENSTEIN: That's correct.

10 DR. CHANG: Oh, I see.

11 HEARING OFFICER KRAMER: Mr. Rubenstein, could you
12 be more directly speaking into the mic, maybe angle it. If
13 you could put it between you and Dr. Chang and that --
14 because your voice is starting to --

15 DR. CHANG: We both seem to have a microphone
16 issue, so.

17 MR. RUBENSTEIN: I'm starting to fade, yes.

18 HEARING OFFICER KRAMER: You're doing better, Dr.
19 Chang.

20 DR. CHANG: And we're right next to each other, so.

21 Okay. So just to clarify, I'll apologize, I'm not
22 an attorney obviously. Nor am I technical specialist in
23 these technological issues. I'm an educator, I'm an
24 academic, I do research. And I try very hard to make sure
25 that information that I understand can then be legible and

1 understandable and comprehensible to the general public.
2 That's why I keep -- if it seems that I'm being repetitive
3 I'm simply trying to understand myself as well as to make
4 sure that it's understood by anyone else in the room, because
5 we do have a public process here, right?

6 MR. RUBENSTEIN: I understand.

7 DR. CHANG: So just to clarify I understand that
8 there are roughly three categories of mitigation measures.
9 One would be to minimize emissions during the construction of
10 the project. Two would be to limit emissions during the
11 operation of the plant were it to go forward. And three
12 would be to surrender emissions reductions credits to satisfy
13 these requirements.

14 And so if I'm understanding you correctly, of that
15 third category about 50 percent of them are already, I guess
16 the term is played out. In other words they have -- this is
17 sort of a retroactive application of something that was
18 created in the 1990s. Is that correct?

19 MR. RUBENSTEIN: This is Gary Rubenstein. No, it's
20 not. And I can explain why.

21 DR. CHANG: Okay. Great.

22 MR. RUBENSTEIN: First, you've created these three
23 categories and I understand why. That third category
24 includes two components: one, remission reduction credits
25 that are required by state and federal law and that are going

1 to be surrendered. And those are the credits you were asking
2 about in terms of some of them having been created in the
3 early 1990s.

4 The second part of that mitigation or that third
5 prong, if you will, are future reductions that will be
6 created through payments made to the Air District that will
7 fund projects under a statewide program that's known as the
8 Carl Moyer Program.

9 DR. CHANG: Known as the what, I'm sorry?

10 MR. RUBENSTEIN: Carl Moyer Program, named after an
11 individual who helped create the program and passed away many
12 years ago.

13 The question I think you're getting to about the
14 emission reduction credits, in terms of their age, is an
15 understandable question. The Emissions Offset Program is
16 probably one of the least understood portions of California's
17 Air Quality Program. The Emissions Reduction Credit Program
18 was created as a result of a mandate and the Federal Clean
19 Air Act in 1977. I was responsible when I was the Deputy
20 Executive Officer of the California Air Resources Board for
21 creating California's implementation of that program.

22 And one of the issues that we had to deal with is
23 this conundrum of how do you require projects that will
24 increase emissions to mitigate the remissions. And be sure
25 that that will happen when there isn't a mechanism in place

1 for verifying the reductions. And so the Emission Reduction
2 Credit Program was established under California law with
3 several objectives in mind. One of the objectives is to make
4 sure that all of the emission reductions are real, permanent,
5 quantifiable, and enforceable. And you can search for that
6 phrase on Google and you'll see it turn up all over the
7 place.

8 A second element was to make sure that there was an
9 incentive for people to shut down or control air pollution
10 earlier than when the reductions might otherwise would have
11 occurred. And the reason for creating that incentive was at
12 the time in the late 1970s, early '80s, people who were
13 looking at this program were deliberately continuing to
14 operate old higher emitting equipment. So that they could
15 shut them down just exactly at the moment when they were
16 going to develop a new project that would require some kind
17 of offsets.

18 And we wanted to create a regulatory program that
19 encouraged the early shutdown of this equipment and the way
20 we did that is by creating this credit program. So the fact
21 that the reductions occurred 26 years ago in this case, in
22 advance of when the Puente project would actually need it, is
23 not a flaw. It's part of the design. And the residents of
24 this community have gotten the benefit of that clean air for
25 26 years earlier than they might otherwise have gotten it.

1 DR. CHANG: So that actually brings me to another
2 question, which is when you say "the residents of this
3 community," which community are you speaking of?

4 MR. RUBENSTEIN: Well, in the case of the
5 particular pollutants we're talking about here with respect
6 to the Emission Reduction Credit Program it's oxides of
7 nitrogen and volatile organic compounds. And these credits
8 are required to address ozone impacts.

9 As I believe Mr. Villegas stated yesterday, ozone
10 is a regional pollutant. It is not a localized pollutant.
11 Ozone is not emitted by Puente or by most other stationary
12 sources. It is formed in the atmosphere, typically hours
13 after it's emitted. And consequently the target in terms of
14 reducing emissions is on an air basin or an air district
15 basis. And as a result, any credits for oxides of nitrogen
16 or volatile organic compounds are viewed with providing equal
17 benefit within this area.

18 If you get down to the specifics of ozone levels in
19 Ventura County I believe you would see that where the project
20 is located is in an area that is meeting the air quality
21 standards. The nonattainment portion of Ventura County --
22 let me be more precise -- all of Ventura County is designated
23 a nonattainment area for ozone. However, the monitors that
24 show the violations are located inland. They're not in the
25 coastal areas.

1 Willis stated some time ago, all of this is very clearly
2 within the air quality realm. And I've been very patient and
3 I would continue to be very patient, but for the fact that we
4 have a whole panel of witnesses who thought they were leaving
5 today or this evening that we are not going to get to if we
6 don't be a little bit more disciplined in sticking to the
7 subject at hand.

8 HEARING OFFICER KRAMER: So yeah, again Dr. Chang,
9 how does this relate to environmental justice?

10 DR. CHANG: I'm trying to determine whether from
11 Mr. Rubenstein's testimony -- I'm trying to determine whether
12 the emission reduction credits are -- or how the mitigation
13 is being achieved. And if the mitigation is being achieved
14 in the direct areas in question that are indeed EJ
15 communities.

16 HEARING OFFICER KRAMER: Okay. Well, can you ask
17 that more directly? You know, it --

18 DR. CHANG: Okay. So --

19 HEARING OFFICER KRAMER: Go ahead.

20 DR. CHANG: Yeah, so I believe if I understand you
21 correctly you said that in terms of ozone emissions that's
22 more of a regional thing. But in terms of NOx emissions we
23 could isolate and locate that those reductions were achieved
24 in Ojai, Ventura and Fillmore.

25 MR. RUBENSTEIN: This is Gary Rubenstein. I'm

1 sorry, you may have misunderstood something that I said. I
2 thought you had asked me whether my discussion of ozone
3 covered NOxes well and the answer was yes. In the context of
4 this particular project, the NOx emissions are a regional
5 issue and they're not a localized issue. It's the oxides of
6 nitrogen emissions that contribute to the formation of ozone
7 in the atmosphere over a period of hours. There are no
8 localized nitrogen dioxide impacts associated with this
9 project that require mitigation.

10 DR. CHANG: The project that those credits were
11 created through was due to an electrification of natural gas-
12 fired engines. Is that right?

13 MR. RUBENSTEIN: When I revisited these documents
14 this morning there were seven or eight, I think different
15 emission reduction credit certificates referencing seven or
16 eight different projects. I know that some of them involved
17 electrification of engines, but I don't recall what they all
18 were.

19 DR. CHANG: Okay. And the credits that you said
20 had been developed approximately 26 years ago, can that be
21 identified as to where that was achieved?

22 MR. RUBENSTEIN: That's what I was just talking
23 about. The certificates that I was looking at in 26 years as
24 a very round number, going back to the early 1990s, for
25 several of these certificates. But that is what I was just

1 talking about.

2 As I said I quickly skimmed them this morning.
3 Some of them involve electrification of engines. There were
4 other projects, I do not recall what they all were. But
5 they're all documented in the Ventura County Air Pollution
6 Control District's Final Determination of Compliance.

7 DR. CHANG: It's my understanding that the
8 emissions were reduced in Ojai, Ventura and Fillmore.

9 Okay. You say in your testimony on page 5 that,
10 "Intervenors assert that the CEC staff's finding of no
11 significant impacts relies on emission reductions, offsets,
12 and mitigation that will be provided for the project, will be
13 effective in mitigating potential local and regional air
14 quality and public health impacts of the project. In fact,
15 emission offsets are a well-established option for satisfying
16 CEQA mitigation requirements in California."

17 When you say that mitigation that will be provided
18 for the project will be effective in mitigating potential
19 local and regional air quality and public health impacts of
20 the project. Again, would you be able to -- is it possible
21 for you to break down say in percentages what would be local
22 and what would be regional?

23 MR. RUBENSTEIN: I apologize, can you point me to
24 the paragraph number? I think I've got the page.

25 DR. CHANG: Yes, it's on page 5 of your testimony.

1 MR. RUBENSTEIN: Yes.

2 DR. CHANG: Your rebuttal testimony, which is Page
3 164 of the larger document and it is item 10, line 4.
4 "Intervenors assert that the CEC staff's finding of no
5 significant impacts relies on emission reductions from
6 elsewhere in the country. And that these offsets do not
7 effectively mitigate the emissions from the proposed project.
8 On the contrary, the offsets and mitigation that will be
9 provided for the project will be effective in mitigating
10 potential local and regional air quality and public health
11 impacts of the project."

12 Would you be able to be more specific about what
13 proportion would be local and what proportion would be
14 regional. Is that possible?

15 MR. RUBENSTEIN: This is Gary Rubenstein. I cannot
16 be quantitative, but I can say with a great deal of certainty
17 that the vast majority of the reductions will occur as a
18 result of the project design and the onsite mitigation
19 measures and therefore will occur at the project site.

20 The vast majority of the benefits occur at the
21 project site.

22 DR. CHANG: And where else is that, in your
23 documents, in your testimony, or in applicant's testimony or
24 documents?

25 MR. RUBENSTEIN: I don't believe there's any

1 requirement that we document what the uncontrolled emissions
2 would be from this project. And consequently I don't believe
3 there's a quantization of the benefits associated with, for
4 example, the best available control technology requirement.

5 Similarly, or with respect to construction
6 mitigation measures the project was designed with those
7 measures built in. I was giving you my professional judgment
8 that the benefits provided by those two elements, best
9 available control technology and the construction mitigation
10 measures, are far larger than the residual mitigation
11 provided by the emission reduction credits and the
12 supplemental mitigation required by the Commission staff.

13 DR. CHANG: And earlier you had said that some of
14 the criteria for when you were part of developing these ERCs
15 was that they needed to be real, permanent, quantifiable and
16 enforceable is that right?

17 MR. RUBENSTEIN: That's correct.

18 DR. CHANG: Okay. So in terms of that third
19 requirement or that third criteria of quantifiable, I guess
20 I'm not understanding that if that is one of the criteria
21 that you have aimed for to be able to quantify the impacts
22 then why wouldn't you be able to give me a more specific
23 answer?

24 MR. RUBENSTEIN: This is Gary Rubenstein. I can't
25 give you a more specific answer, because those criteria apply

1 to the initial reduction credits, which are expressly
2 quantified in documents that are in an attachment to the
3 Final Determination of Compliance.

4 Your question was asking me more broadly about
5 mitigation and what I was trying to convey was that there are
6 project design features that are mitigating air quality
7 impacts. And do so to a much greater extent and do so onsite
8 as compared with the emission reduction credits.

9 DR. CHANG: So you said there is something in the
10 documents about the -- can you repeat that?

11 MR. RUBENSTEIN: Yes, in the Final Determination of
12 Compliance -- I do not have the exhibit handy -- but in the
13 Final Determination of Compliance there is somewhere, I
14 believe, an attachment that summarizes the emission reduction
15 credits that are proposed for the project. And that includes
16 the analyses performed by the Air District. That same
17 information is also in a data response that was provided by
18 the applicant. And that is marked --

19 DR. CHANG: Actually would you be able to give us
20 the details of (indiscernible) --

21 MR. RUBENSTEIN: It was marked as Exhibit 1060.

22 DR. CHANG: Exhibit 1060?

23 MR. RUBENSTEIN: And that contains, I believe, the
24 same information that's in the Final Determination of
25 Compliance regarding the details for the emission reduction

1 credits.

2 MR. CARROLL: And if I may interject, the specific
3 location of that information is Appendix E of the Final
4 Determination of Compliance issued by the Ventura County Air
5 Pollution Control District. It does contain detailed
6 information. In fact, I think if I'm not mistaken all of the
7 information that has been the subject of the questioning with
8 respect to the ERCs. And that document is in the docket log
9 for the project.

10 DR. CHANG: And what exhibit is that?

11 MR. CARROLL: I'm sorry?

12 DR. CHANG: And what exhibit number is that?

13 HEARING OFFICER KRAMER: Was that supposed to be
14 Staff's 2004, which I see is missing from the list and I'm
15 going to rectify tonight if that's the case.

16 MR. RUBENSTEIN: Mr. Kramer, I have it on my list
17 as Exhibit 2004, but (indiscernible) --

18 HEARING OFFICER KRAMER: Okay. I'll take care of
19 that tonight. It looks like --

20 MS. CHESTER: Yes, that's correct. Exhibit 2004
21 from our Prehearing Conference Table.

22 HEARING OFFICER KRAMER: My staff made an error in
23 entering, or not entering that information that I didn't
24 catch until now.

25 MR. RUBENSTEIN: And this is Gary Rubenstein and

1 yes, I can confirm that what I was referring to is also in
2 Exhibit E of -- Appendix E of Exhibit 2004.

3 DR. CHANG: Okay. My final question is when you
4 say in that same paragraph, "In fact, emission offsets are a
5 well-established option for satisfying CEQA mitigation
6 requirements in California." In plain English does this mean
7 that emission offsets are used to satisfy the requirements of
8 the law, but do not necessarily represent measures taken to
9 achieve the actual mitigation in that location?

10 MR. RUBENSTEIN: No. Those are mitigation measures
11 that are both used to comply with the law and provide real
12 air quality benefits for projects when they are surrendered.

13 DR. CHANG: In specific locations?

14 MR. RUBENSTEIN: The Emission Reduction Credit
15 Program is designed to improve regional air quality. There
16 are other aspects of the Air Quality Program that are
17 designed to ensure that there are no localized impacts.
18 Emission reduction credits were never designed to ensure that
19 there were no localized air quality impacts. Those are
20 addressed by other regulatory requirements.

21 And the analyses that have been done for this
22 project, clearly demonstrate that there are no localized air
23 quality impacts.

24 DR. CHANG: So the emission credit -- if I'm
25 understanding you correctly, the emission reduction credits

1 by design are only intended to satisfy regional impacts?

2 MR. RUBENSTEIN: They are designed to address
3 regional impacts, correct.

4 DR. CHANG: Address regional impacts and satisfy
5 requirements?

6 MR. RUBENSTEIN: And satisfy, but some of them are
7 required to satisfy regulatory requirements. That's correct.

8 DR. CHANG: So by definition they don't necessarily
9 go to local impacts?

10 MR. RUBENSTEIN: As I said, local impacts are
11 addressed by other portions of the Air Quality Program they
12 are not addressed by emission reduction credits.

13 DR. CHANG: Okay. Thank you very much.

14 HEARING OFFICER KRAMER: Did you have any questions
15 for Mr. Carlson, because you had him on your list?

16 DR. CHANG: Oh, I did.

17 (Off mic colloquy.)

18 MR. CARROLL: While we're doing that, may I ask one
19 quick redirect of Mr. Rubenstein?

20 HEARING OFFICER KRAMER: Go ahead.

21 I'm reminding everyone, well this Paul Kramer
22 asking you to say your name before you speak, like I almost
23 did. (Laughter.)

24 MR. CARROLL: Mike Carroll, for the applicant. Mr.
25 Rubenstein, under questioning from Ms. Chang, you stated it

1 was your opinion that with implementation of the proposed
2 mitigation measures the project would have no significant
3 environmental impacts in the areas of public health, air
4 quality, or environmental justice. And then upon further
5 questioning about what the mitigation measures were to which
6 you were referring, you stated that they were those set forth
7 in the Conditions of Certification.

8 MR. RUBENSTEIN: This is Gary Rubenstein. That's
9 correct.

10 MR. CARROLL: And yesterday, do you recall
11 testimony from Mr. Bemis at the Air Quality staff in which
12 he'd done a series of changes that had been requested by the
13 applicant to air quality conditions that the CEC staff had
14 agreed to implement?

15 MR. RUBENSTEIN: This is Gary Rubenstein. That's
16 correct.

17 MR. CARROLL: And so is it your testimony that with
18 the implementation of the proposed Conditions of
19 Certification as modified pursuant to the testimony of Mr.
20 Bemis yesterday, the project would have no significant
21 unmitigated impacts in those areas?

22 MR. RUBENSTEIN: That's correct and that's
23 consistent with testimony I've submitted in this proceeding.

24 MR. CARROLL: Thank you.

25 DR. CHANG: Okay. So just to clarify these

1 questions are directed towards the topics of socioeconomics
2 and environmental justice, which I understood we had grouped.

3 So Mr. Carlson, in your opening testimony you said,
4 "During project construction the anticipated purchase of
5 materials and supplies and payroll for construction workers
6 will have a beneficial, temporary impact in the Ventura
7 County and L.A. County areas. No significant adverse impacts
8 will result related to the local economy unemployment." Is
9 that correct?

10 MR. CARLSON: Nik Carlson, yes that is correct.

11 DR. CHANG: Okay. So you're mainly asserting that
12 there will be no negative socioeconomic impacts of the
13 project on the community. But my question is will there be
14 any real measurable benefits? And specifically, I'd like to
15 break that down to ask what is your estimate of the revenues,
16 say for example, from material, supplies, and payroll of
17 construction workers?

18 MR. CARLSON: Give me a moment to go through to my
19 version of the socioeconomics. This was also something that
20 was covered by the staff. Staff had said --

21 DR. CHANG: I'm just drawing from your testimony,
22 which is --

23 MR. CARLSON: What's the page?

24 DR. CHANG: -- on page 2 of your testimony.

25 MR. CARLSON: I thought you wanted me -- did you

1 want the quantifiable numbers for the --

2 DR. CHANG: Oh, yes. Thank you.

3 MR. CARLSON: Okay. Well, those would be in the
4 (indiscernible) section.

5 And you are interested in the income, the spending
6 that would be occurred? I believe these are on page 410-9 of
7 the original AFC. We had employment numbers and then there
8 was 14.4 million in local payroll during the project
9 construction period. We had also identified that there would
10 be materials that would be purchased in the greater wide
11 Ventura and local Los Angeles County area of 64.6 million.
12 That would result in job and indirect and induced economic
13 impacts as a result of those purchases being made in
14 addition, to the direct impacts from the construction,
15 spending and employment that are identified there.

16 DR. CHANG: Thank you. And can you tell us, is
17 that further broken down into specific details about where,
18 for example, the workers will come from?

19 MR. CARLSON: Yes. You'll see that the regional
20 area is the employment area. And that only a very small
21 proportion of the employment would be expected to come
22 outside of the Los Angeles or Ventura County region.

23 If you look at -- oh, yes -- it's on that same
24 page. As it stated, "The applicant is committed to giving
25 local preference in hiring and procurement." For the purpose

1 of analysis it projected that approximately 90 percent of the
2 employment -- result of construction employment would come
3 from -- be expected to be hired from within the study area
4 and that would Ventura County and Los Angeles County.

5 DR. CHANG: Ventura County and Los Angeles County?

6 MR. CARLSON: Yes. The standard practice for
7 construction projects of this type is that employment may
8 come from construction workers up to a two-hour commute
9 drive. That is not to say that it wouldn't be -- it would be
10 expected that those wouldn't necessarily be as far that
11 workers would come from.

12 DR. CHANG: And you said there's a small portion
13 that might come from outside of the area. And what is the
14 nature of those jobs? What would those --

15 MR. CARLSON: Typically those would uniquely
16 skilled management, folks that could not be obtained from the
17 local area. In many cases it's actually a very conservative
18 assumption, because one of the purposes of the socioeconomic
19 analysis is to look and see if there's going to be housing
20 impacts associated with changes to the local community as a
21 result of say in-migration of potential construction-related
22 workers.

23 DR. CHANG: So that small portion of workers who
24 may come from outside of the Ventura County and L.A. County
25 region, that small portion of jobs or workers will be

1 directed towards uniquely skilled and perhaps management.
2 And are those typically higher-paid jobs than construction
3 worker jobs?

4 MR. CARLSON: I would say typically yes, by nature
5 that they're specialized employment.

6 DR. CHANG: Sure.

7 HEARING OFFICER KRAMER: This is Paul Kramer. Dr.
8 Chang, I think you've hit your 35 minutes, so you need to
9 wrap it up.

10 DR. CHANG: Okay. Will there be a process
11 governing how those workers will be recruited and hired
12 directly from the local area?

13 MR. CARLSON: I'm really in no position to judge
14 what will be the actual implementation if the project was to
15 move forward. But typically efforts would be made to hire
16 locally.

17 DR. CHANG: So you believe that efforts would be
18 made, but is there any place that that has been actually
19 required?

20 MR. CARLSON: To my understanding that is not a
21 formal requirement of any of the proceedings that are covered
22 here.

23 DR. CHANG: I see. And you say that there are
24 temporary benefits, beneficial temporary impacts. And how
25 temporary would you say that would be?

1 MR. CARLSON: Those are being related to the period
2 of construction, would be of a magnitude related to the
3 amount of employment over that construction period. The
4 temporary designation is to clarify for readers that they are
5 not permanent effects to the socioeconomy of the region or
6 the local area.

7 DR. CHANG: Okay. And on this same page you say
8 that there will be no displacement, because there will be no
9 new housing needed in the project area. And my question is,
10 are you considering that a benefit?

11 MR. CARLSON: No, that's considered an absence of
12 significant impact.

13 DR. CHANG: Okay.

14 MR. CARLSON: There's adequate housing vacancies to
15 absorb the very small number of potential new residents that
16 might be associated with the project.

17 DR. CHANG: Great. And just to clarify, the
18 workers who are existing in that area are largely farm
19 workers in the surrounding area. And they do not typically
20 onsite or nearby and are often in housing outside of the
21 project. So this, it's not a new benefit, as you're saying
22 it's not a new benefit in any way?

23 MR. CARROLL: I mean, I believe that was his
24 testimony --

25 MS. WILLIS: I'm going to object to Mr. Kramer --

1 I'm sorry, I was going to object. Dr. Chang is testifying
2 again.

3 HEARING OFFICER KRAMER: Sustained.

4 DR. CHANG: Okay. And then the last question is
5 your statement on the same page, page 3, sorry the next page
6 under "environmental justice" you say, "The environmental
7 justice impact analysis evaluates the project's indirect and
8 cumulative impacts on the environmental justice population
9 living within a six-mile radius. Because the project will
10 not result in any unmitigated significant adverse
11 environmental impacts there is no disproportionate impact on
12 a disadvantaged community."

13 So again, I would just like you to clarify the
14 logic here that, because the assumption is that there will be
15 mitigations, effective mitigations. Based on that assumption
16 you are saying -- you are drawing the conclusion that there
17 will be no disproportionate impact on a disadvantaged
18 community?

19 MR. CARLSON: I think there's another step. The
20 findings that there would be no significant adverse impact,
21 therefore ensure that there is no opportunity for there to be
22 any disproportionate impact to EJ communities from that
23 effect. So that there is kind of a three-part process.

24 DR. CHANG: Yes, but the findings that there are no
25 significant impacts is based on mitigation, right? Because

1 your statement is, "Will not result in any unmitigated
2 significant adverse environmental impacts."

3 MR. CARLSON: It covers both unmitigated and
4 mitigated impacts, but yes.

5 DR. CHANG: But in order for the conclusion to be
6 drawn that there would be no adverse environmental impacts,
7 you at least need to assume that there will be mitigation?

8 MR. CARLSON: In some cases, for some impacts it
9 may be a requirement, the mitigation, but without mitigation
10 would otherwise be a significant impact?

11 DR. CHANG: But in the totality.

12 MR. CARLSON: If there were to be unmitigated
13 significant impacts at that point then it would be the right
14 process to determine whether that unmitigated significant
15 adverse impact is going to be disproportionately born by an
16 environmental justice population.

17 DR. CHANG: And is it within the scope of your
18 expertise to talk about what those mitigations are?

19 MR. CARROLL: I'm sorry, you don't need to request
20 -- we've been (indiscernible) --

21 HEARING OFFICER KRAMER: You said the last question
22 a couple of times, so even if he said "yes" it would be time
23 for you to conclude.

24 DR. CHANG: That's fine. Thank you.

25 MR. CARROLL: I just have a couple of brief

1 questions on redirect. I just want to make sure that no
2 confusion was created as a result of that final exchange.

3 Mr. Carlson, is it your testimony that the project
4 as proposed with the Conditions of Certification contained in
5 the -- or the proposed conditions contained in the Final
6 Staff Assessment as revised, as indicated by the testimony of
7 the Air Quality staff yesterday, is that the project would
8 have no unmitigated significant impacts?

9 MR. CARLSON: Yes.

10 MR. CARROLL: And very briefly, the assumption that
11 some of the workers may come from outside of the immediate
12 Ventura County area, is that premised on the assumption that
13 there may not be sufficient quantity or -- either a
14 sufficient quantity of workers or workers with particularly
15 unique skill sets available within the immediate Ventura
16 County area?

17 MR. CARLSON: Yes.

18 MR. CARROLL: And would your assumption be that if
19 there were a sufficient quantity of workers and workers with
20 the requisite skill sets, that those workers would come from
21 near to the project before they would come from further away?

22 MR. CARLSON: Absolutely, yes.

23 MR. CARROLL: And then finally, are you aware that
24 the applicant has entered into a project labor agreement that
25 includes a local hire provision?

1 MR. CARLSON: Yes, that's stated in my testimony.

2 MR. CARROLL: Thank you. No further questions.

3 HEARING OFFICER KRAMER: Okay. I think that will
4 end these witnesses. Thank you, both.

5 And we are going to take a ten-minute break, again
6 timed.

7 (Off the record at 3:22 p.m.)

8 (On the record at 3:33 p.m.)

9 COMMISSIONER SCOTT: All right, go the
10 thumbs up. And, oops, I will also try again to model
11 the behavior. This is Commissioner Scott who was
12 just speaking.

13 I will turn this back over to our Hearing
14 Officer, Paul Kramer.

15 HEARING OFFICER KRAMER: Okay, thank you.
16 Paul Kramer here.

17 So, we have in front of this panel of staff
18 witnesses on Socioeconomics and Environmental
19 Justice. Correct?

20 Okay, with a couple of faces that aren't on
21 my list. Have all of you been sworn in already?

22 (Collective no.)

23 HEARING OFFICER KRAMER: Okay, those of you
24 who have not, please raise your right hand.

25 Do you solemnly swear or affirm that the

1 testimony you're about to give in this proceeding is
2 the truth, to the best of your ability?

3 (Collective I do.)

4 HEARING OFFICER KRAMER: Okay, they all do.
5 Thank you.

6 Ms. Willis, I guess.

7 MS. WILLIS: Yes, thank you. Kerry Willis,
8 counsel for the staff. And just before we begin, Mr.
9 Pittard is listed as something that folks wanted for
10 cross-examination, that's why we have included him.

11 And Mr. Marshall is here to discuss waste.
12 there were some questions, in some of the Prehearing
13 Conference statements, that addressed that.

14 So, at this time -- and, also, I do want to
15 reiterate, we do not have an Air Quality witness for
16 this panel, since we did provide them yesterday. So,
17 none of these witnesses would be qualified to answer
18 any cross-examination questions on Air Quality.

19 We did have -- staff held a PSA workshop in
20 July, that went almost 13 hours. We had plenty of
21 opportunity to have those discussions at that point
22 in time. And, then, an FSA workshop we also held
23 here.

24 So, let me begin to introduce the panel.
25 First of all, Mr. Pittard, could you please state and

1 spell your name for the record?

2 MR. PITTARD: Shawn Pittard, S-h-a-w-n P-i-
3 t-t-a-r-d.

4 MS. WILLIS: And Dr. Chu?

5 DR. CHU: Huei-An Chu, H-u-e-i hyphen a-n C-
6 h-u.

7 MS. WILLIS: And Mr. Marshall?

8 MR. MARSHALL: Paul Marshall, P-a-u-l M-a-r-
9 s-h-a-l-l

10 MS. WILLIS: And Ms. Worrall?

11 MS. WORRALL: Lisa Worrall, L-i-s-a W-o-r-r-
12 a-l-l.

13 MS. WILLIS: And Ms. Taylor?

14 MS. TAYLOR: Marylou Taylor, M-a-r-y-l-o-u
15 T-a-y-l-o-r.

16 MS. WILLIS: And let me go back to Ms.
17 Worrall. Did you prepare or assist in preparing the
18 Environmental Justice and Socioeconomics testimony in
19 the Final Staff Assessment, marked as Exhibit 2000?

20 MS. WORRALL: Yes, I did. I assisted in
21 preparing the Environmental Justice testimony, and I
22 prepared the Socioeconomic testimony.

23 I assembled the Environmental Justice
24 testimony with the help of Shawn Pittard, who
25 contributed public outreach information. And, also,

1 12 technical area staff members contributed summaries
2 of their analysis of impacts, projects impacts to the
3 Environmental Justice population.

4 MS. WILLIS: And what were those 12
5 technical areas?

6 MS. WORRALL: They are Air Quality, Cultural
7 Resources, Hazardous Materials Management, Land Use,
8 Noise and Vibration, Public Health, Socioeconomics,
9 Soil and Water Resources, Traffic and Transportation,
10 Transmission Line Safety and Uses, Visual Resources,
11 and Waste Management.

12 MS. WILLIS: Was the statement of your
13 qualifications attached to your testimony?

14 MS. WORRALL: Yes, attached as Exhibit 2003.

15 MS. WILLIS: Do you have any changes, today,
16 to your testimony?

17 MS. WORRALL: No, I don't.

18 MS. WILLIS: And do the opinions contained
19 in your testimony represent your best professional
20 judgment?

21 MS. WORRALL: Yes.

22 MS. WILLIS: Mr. Pittard, did you prepare or
23 assist in preparing the Environmental Justice
24 testimony in the Final Staff Assessment, marked as
25 Exhibit 2000?

1 MR. PITTARD: Yes, I did.

2 MS. WILLIS: Was the statement of your
3 qualifications attached to your testimony?

4 MR. PITTARD: Yes, it was filed as Exhibit
5 2003.

6 MS. WILLIS: And do you have any changes,
7 today, to your testimony?

8 MR. PITTARD: I do not.

9 MS. WILLIS: And do the opinions contained
10 in that testimony represent your best professional
11 judgment?

12 MR. PITTARD: Yes, they do.

13 MS. WILLIS: Now, back to Ms. Worrall.
14 Could you please describe the methods you used to
15 analyze the project's potential impacts to the
16 environmental justice community?

17 MS. WORRALL: Okay. First of all, I
18 gathered demographic information. Specifically,
19 information on minority population numbers, and
20 number of people living below the Federal Poverty
21 Level, to identify whether or not there was presence
22 or absence of an environmental justice population
23 within the project's six-mile potential impact area,
24 around the project site.

25 I then, also, downloaded the CalEnviroScreen

1 2.0 version data for disadvantaged communities, and
2 those communities that are in the 75th percentile
3 rankings with respect to the Census Tracts, all of
4 the Census Tracts in California.

5 I handed that information off to the 12 --
6 well, actually, to actually five technical staff,
7 specifically, as they're the staff that would have
8 the potential project impacts that could combine with
9 background indicators from CalEnviroScreen, so that
10 they could assess how the project interacts with that
11 background information.

12 And, then, I also worked with the 12
13 technical areas that consider impacts to
14 environmental justice populations, and obtained
15 summaries from each of them with respect to impacts
16 on environmental justice populations. And included a
17 summary in the Environmental Justice section.

18 MS. WILLIS: Ms. Worrall, did you consider
19 local agricultural workers in your analysis?

20 MS. WORRALL: Yes. Yes, technical staff did
21 consider how the project could impact the local
22 agricultural workers.

23 MS. WILLIS: And what was the conclusion
24 regarding the presence of an EJ community?

25 MS. WORRALL: Identified numerous Census

1 blocks where the minority population amounted to 50
2 percent or greater within that Census block. And I
3 also -- and that is actually shown as Environmental
4 Justice Population Figure 1, in the Final Staff
5 Assessment.

6 And I also identified the number of people
7 living below the Federal Poverty Level to determine
8 whether or not they would constitute an environmental
9 justice population based on poverty. And I found
10 that those living below the Federal Poverty Level in
11 the Cities of Oxnard and Port Hueneme would
12 constitute an environmental justice population based
13 on poverty. And that is reflected in the data from
14 Environmental Justice Table 3, in the Final Staff
15 Assessment.

16 MS. WILLIS: Ms. Worrall, what was the
17 staff's conclusions regarding potential impacts from
18 the project to the environmental justice community?

19 MS. WORRALL: Basically, all staff had
20 concluded that the project would not have significant
21 impacts on the environmental justice population, with
22 application of mitigation. And they also identified
23 that there would not be any disproportionate impacts
24 on this environmental justice population.

25 MS. WILLIS: Ms. Worrall, did you review

1 CalEnviroScreen 3.0?

2 MS. WORRALL: Yes, I did. Just a note,
3 CalEnviroScreen 3.0 was finalized on January 9th of
4 this year. I sent out the CalEnviroScreen data for
5 the project Census Tract, so the Census Tract in
6 which the project is proposed, to the five technical
7 staff that could have project impacts, that would
8 combine with the background CalEnviroScreen data.

9 And those five technical staff and areas are
10 Air Quality, Public Health, Soil and Water Resources,
11 Traffic and Transportation, and Waste Management.

12 And, then, once the staff considered that
13 information, they reviewed and provided a summary of
14 their conclusions about how the project would impact
15 the environmental justice population, given the new
16 CalEnviroScreen data, and the new identification of
17 the project being inside a disadvantaged Census
18 Tract.

19 They provided their summaries to me, that I
20 filed as rebuttal testimony. And I don't think I
21 have my -- ah, Exhibit 2006.

22 MS. WILLIS: Thank you. Ms. Worrall, did
23 staffs' further analysis change their conclusions
24 regarding potential impacts from the proposed
25 project?

1 MS. WORRALL: No, it did not change their
2 findings, their conclusions from the Final Staff
3 Assessment. The conclusions were consistent.

4 MS. WILLIS: Thank you.

5 Mr. Pittard, could you please describe
6 staff's process in developing its testimony,
7 including Public Outreach?

8 MR. PITTARD: Yes. Early in the review
9 process, actually before an AFC is submitted, the
10 Energy Commission staff and the Public Adviser's
11 Office coordinately closely on public outreach.

12 Staff, and the Public Adviser's Office,
13 contacted local elected officials, Native American
14 Tribal groups, and community groups, including the
15 Central Coast United for a Sustainable Economy,
16 XTECO, and the United Farm Workers.

17 The Energy Commission regulations require
18 staff to notice, at minimum, property owners within
19 1,000 feet of a project and 500 feet of a linear
20 facility, such as a transmission line, gas line, or
21 water line.

22 The Applicant provides a property owners'
23 list in its AFC. Staff augments that list to include
24 surrounding political jurisdictions, school
25 districts, State and Federal agencies, and local

1 libraries.

2 After the AFC was filed, a Notice of Receipt
3 of the Puente Power Project Application for
4 Certification, and a Notice of Public Participation
5 were docketed and mailed to that mailing list.

6 Public Notices of Receipt for the project,
7 in both English and Spanish, were published in local
8 newspapers on May 24th and May 28th, 2015. Yes, time
9 has passed.

10 The PAO, the Public Adviser's Office made a
11 presentation to the Oxnard City Council, back on July
12 14, 2015, outlining the Energy Commission's review
13 process and avenues for public participation.

14 This Committee, this Energy Commission
15 Committee, assigned to conduct these proceedings on
16 AFC, held a site visit, informational hearing, and
17 environmental scoping meeting in Oxnard, right here,
18 on August 27, 2016. Prior to that hearing, the
19 Public Adviser's Office published notices in English
20 and Spanish in the local newspapers. Spanish
21 language interpreters facilitated public comment at
22 the hearing.

23 After publication of the Preliminary Staff
24 Assessment, and during the 90-day public comment
25 period, Energy Commission staff held a public

1 workshop here, on July 21, 2016. Headsets, with
2 simultaneous Spanish translation were available for
3 the workshop. The Executive Summary section of the
4 PSA was translated into Spanish.

5 The Committee held a Status Conference,
6 again on September 27, 2016, here at the Performing
7 Arts Center. The Committee provided feedback on the
8 PSA, discussed case progress and schedule, and heard
9 public comments. Again, headsets for simultaneous
10 Spanish translation were available for the Status
11 Conference.

12 In response to public and Intervenor
13 comments, staff performed additional analysis related
14 to Environmental Justice and created an additional
15 section, in its FSA, to report its conclusions.

16 After publication of its Final Staff
17 Assessment, staff held a public workshop here, on
18 January 10, 2017. The Executive Summary and
19 Environmental Justice sections of the FSA were
20 translated into Spanish. The Notice was published in
21 English and Spanish. And headsets, with simultaneous
22 Spanish translation were available for the workshop.

23 MS. WILLIS: Mr. Pittard, just to correct
24 one part of your testimony, you said the site visit
25 and informational hearing was held August 27th, 2016.

1 I believe that might have been a correction to be
2 2015. Would that be correct?

3 MR. PITTARD: Thank you. It's gone so fast.

4 MS. WILLIS: Is there any -- does that
5 conclude your testimony?

6 MR. PITTARD: It does, thank you.

7 MS. WILLIS: This panel is available for
8 cross-examination.

9 HEARING OFFICER KRAMER: From the Applicant?

10 MR. CARROLL: No questions, thank you.

11 HEARING OFFICER KRAMER: The City of Oxnard?

12 MS. FOLK: Yes. I believe this is to Ms.
13 Worrall. And, again, it's Ellison Folk.

14 Did you or did the Final Staff Assessment
15 conduct any qualitative analysis of the environmental
16 justice impacts of living in a community with
17 multiple industrial facilities?

18 MS. WORRALL: Actually, that would probably
19 be directed -- you're talking about as far as
20 impacts, correct?

21 MS. FOLK: Yes.

22 MS. WORRALL: I'm sorry, this is Lisa
23 Worrall. That would probably either be for Public
24 Health, you're talking about multiple industries and
25 the --

1 MS. FOLK: And the qualitative impacts.

2 MS. WORRALL: Oh, qualitative.

3 MS. FOLK: Yes.

4 MS. WORRALL: That wasn't part of my scope
5 of analysis.

6 MS. FOLK: I'll ask that question of anybody
7 else on the panel who might have performed the
8 Environmental Justice analysis.

9 MS. TAYLOR: This is Marylou Taylor, staff.
10 I'm sorry, repeat the question one more time?

11 MS. FOLK: Did the Final Staff Assessment
12 conduct any qualitative analysis of the environmental
13 justice impacts of living in a community with
14 multiple industrial facilities?

15 MS. TAYLOR: This is Marylou Taylor, staff.
16 I'm speaking for Soil and Water Resources. I did a
17 qualitative analysis in relation to all the
18 environmental factors related to soil and water. And
19 I looked at all the, according to CalEnviroScreen,
20 all the other identified indicators, environmental
21 indicators that were identified in the Census Tract.

22 MS. FOLK: Qualitative analysis, do you mean
23 with respect to Environmental Justice issues?

24 MS. TAYLOR: Yes.

25 MS. FOLK: Okay. Can you tell me what that

1 analysis was?

2 MS. TAYLOR: What I -- this is Marylou
3 Taylor, staff. For Environmental Justice, I first
4 looked at my analysis for CEQA, determined whether or
5 not the potential impacts that I identified had a
6 different impact to environmental justice
7 populations. I also evaluated whether or not these
8 impacts would be disproportionate or -- one second --
9 I think I should probably read this, instead of -- I
10 evaluated whether or not these impacts could put
11 environmental justice populations at higher risk,
12 considering their cultural, ethnic, economic,
13 geographic, demographic, and risk factors related to
14 Soil and Water Resource impacts.

15 And, then, if there were potential impacts,
16 I determined and evaluated whether or not the
17 mitigation would have an adverse or disproportionate
18 impact to environmental justice populations.

19 MS. FOLK: And was this analysis related to
20 impacts related to Soil and Water?

21 MS. TAYLOR: Soil and Water Resources.

22 MS. FOLK: So, that would be sea level rise
23 or --

24 MS. TAYLOR: That would be -- I'm sorry, one
25 second. That would be surface water quality,

1 groundwater quality, potable water resources, meaning
2 drinking water quality, and drinking water supply,
3 and possible impacts from flooding, both from the
4 Santa Clara River and from the coastal storms.

5 MS. FOLK: And I don't believe this question
6 would be directed to you, and I'm not sure who, on
7 the panel, would have conducted this analysis. Did
8 the Final Staff Assessment consider visual impacts
9 when looking at environmental justice impacts?

10 DR. CHU: This is Huei-An Chu. To answer
11 your previous question --

12 MS. WILLIS: Dr. Chu, I think there is a
13 question currently on the table, and we do not have a
14 visual. The impact analysis was done by Mr. Knight.
15 He was not requested to be on this panel. But he
16 will be testifying at a later time.

17 MS. FOLK: I don't think my question's going
18 to go to the people on this panel, then. So, oh, I'm
19 finished then.

20 HEARING OFFICER KRAMER: Oh, I'm sorry.

21 MS. FOLK: I'm sorry.

22 HEARING OFFICER KRAMER: CEJA?

23 MS. LIMON: Thank you. This is Gladys Limon
24 for CEJA. And my questions will be directed to the
25 panel, generally, and whoever feels most qualified or

1 inspired to answer, please do so.

2 The FSA states that based on the AFC that
3 the Applicant's objectives for the Puente proposal
4 include minimizing environmental impacts by
5 developing on an existing brown field site. Is that
6 correct?

7 MR. MARSHALL: Yes, that's correct. That's
8 one of their objectives, stated objectives for the
9 project. It's Paul Marshall speaking.

10 HEARING OFFICER KRAMER: Mr. Marshall, you
11 need to be fairly close to the mics.

12 MR. MARSHALL: Okay.

13 HEARING OFFICER KRAMER: And project.

14 MR. MARSHALL: That is correct. Paul
15 Marshall.

16 MS. LIMON: Thank you. And was this
17 criterion considered in efforts to identify proposed
18 alternative sites?

19 MS. WILLIS: I'm going to ask for
20 clarification, since this is not the Alternatives
21 panel.

22 HEARING OFFICER KRAMER: We're doing
23 Environmental Justice.

24 MS. LIMON: I understand. And the use of
25 brown field sites, it's our position is completely

1 relevant to the environmental justice issues. And,
2 so, the environmental justice analysis contains
3 analysis on various technical areas, and different
4 issues. And, so, it wasn't made clear at the
5 beginning of the proceeding, or early when the
6 scheduling was created, how we were to ask
7 environmental justice related issues as to the
8 different technical areas.

9 And, so, this is related to the
10 Environmental Justice analysis.

11 HEARING OFFICER KRAMER: Okay. Well, you
12 may find that this panel, not having participated in
13 the Alternatives analysis, except perhaps to supply
14 input to those authors, may have some difficulty
15 answering your questions. But go ahead.

16 MR. MARSHALL: Paul Marshall, again. I can
17 say that one of the alternative sites that we did
18 look at was a brown field site.

19 MS. LIMON: No, does the use -- in your
20 opinion, does the use of a brown field site
21 necessarily, or always, result in reduced or
22 minimized environmental impacts, as opposed to the
23 use of non-brown field site?

24 MR. MARSHALL: That is the intent of reusing
25 a brown field site is to minimize the environmental

1 impacts because of its past industrial use, and
2 reusing it for that purpose.

3 MS. LIMON: So, I understand that's the
4 intent, the general intent. But in your opinion, is
5 it always the case that use of a brown field site,
6 versus a non-brown field site, will result in reduced
7 or eliminated environmental impacts?

8 MS. WILLIS: I'm going to have to object.
9 This is not the Alternatives witness.

10 MS. LIMON: Who should I be asking these
11 questions of?

12 MS. WILLIS: The Alternatives panel that was
13 scheduled.

14 HEARING OFFICER KRAMER: We're hoping to get
15 to before public comment tonight.

16 MS. LIMON: Okay.

17 MS. WILLIS: They've already -- that panel
18 has testified.

19 MS. LIMON: Again. Well, this is --

20 HEARING OFFICER KRAMER: Well, that's true.
21 That's staff, yeah, you're right.

22 MS. WILLIS: Yeah, the staff panel testified
23 yesterday and I'm not sure why these questions were
24 not asked of that panel. But this is a different
25 panel that did the Environmental Justice section, not

1 the Alternatives section.

2 MS. LIMON: Right, I understand. And the
3 Environmental Justice section reviews a number of
4 technical areas, and also use of brown field sites.
5 And the use of brown field sites is directly relevant
6 to environmental justice and socioeconomic impacts.
7 And I feel that our client has not been prejudiced by
8 this not having been made clear about how to pursue
9 this line of questioning. And had it been made clear
10 that each, particularly technical area, as it relates
11 to the environmental justice analysis should be asked
12 to that respective witness, and we would have done
13 so.

14 MS. CHESTER: This is Michelle Chester, with
15 staff. I believe we requested, if anyone had any
16 specific technical areas that they would like to
17 speak to on Alternatives, or our Environmental
18 Justice panel, that the please raise them because
19 they would be speaking at once.

20 MS. WILLIS: And this is Kerry Willis, staff
21 counsel. I don't believe that Alternatives actually
22 is addressed in the Environmental Justice section.

23 MS. LIMON: Well, the use of brown field
24 sites, as it relates to environmental justice is, and
25 that's a legal argument that we'll be making and

1 we're entitled to establish these facts.

2 HEARING OFFICER KRAMER: Okay. Well, ask
3 your questions of these witnesses. If they know the
4 answer, they can provide them.

5 MS. LIMON: Thank you.

6 Is it your position that the use of a brown
7 field site will always result in less environmental
8 impacts than the use of a non-brown field site?

9 MR. MARSHALL: We can't say always it will
10 result in a reduction, but that is the intent.

11 MS. LIMON: Okay, thank you. So, is it the
12 case that, for example, if you had a brown field site
13 that affects sensitive land uses, or receptors, or
14 biological resources, versus a non-brown field site
15 that does not affect the sensitive land uses or
16 biological resources, that it may be the case that
17 the use of a non-brown field site would have less
18 environmental impacts? Is that possible?

19 MS. WILLIS: I'm going to object, again, Mr.
20 Kramer. This is all about Alternatives and not about
21 the Environmental Justice impacts of this particular
22 proposed project.

23 MS. LIMON: Well, and --

24 HEARING OFFICER KRAMER: We're going to
25 overrule the objection and give a little bit of

1 latitude. But, Ms. Limon, we can't explore this for
2 a lengthy period. But to the extent -- again, to the
3 extent this panel has information that they're
4 confident in answering, or giving in response to a
5 question, we'll let them go ahead and try to do that.

6 MS. WILLIS: Mr. Kramer, before we move on,
7 I just want to put it on the record that this panel
8 is not the Alternatives panel and is not the person
9 or persons who prepared the Alternatives section.
10 So, therefore, they may have contributed in their
11 technical, specific area, but they are not the
12 experts in Alternatives that wrote the section in the
13 FSA.

14 HEARING OFFICER KRAMER: Okay. No, we
15 understand that.

16 MS. WILLIS: But these questions are being
17 directed, though, towards that exact thing.

18 HEARING OFFICER KRAMER: Well, and as I just
19 hinted, if not stated, to the extent they can answer
20 the question, they should do so. But they don't need
21 to stretch themselves to try to channel what would be
22 the testimony of others.

23 There's been a lot of crossover to
24 accommodate both your witnesses, and others. And
25 while I am not, by any way, indicating that I agree

1 that Ms. Limon was misled about the best place to ask
2 her questions, we're going to try to help her
3 establish what she can with this panel.

4 MS. BELENKY: Excuse me, might I ask a point
5 of order? This is Lisa Belenky, with the Center for
6 Biological Diversity. In other matters before the
7 Commission, where there are these long hearings, with
8 lots of different segments, and sometimes witnesses
9 come and go, we have had witnesses, particularly from
10 staff, be able to speak from the phone and testify
11 from the phone if, for some reason they need to be
12 asked additional questions later in the hearings.

13 These staff have left this room, but they
14 have not left, they are still part of the staff and
15 they are available. So, that might be another way to
16 accommodate it, as we go forward. Because I believe
17 that this may come up again.

18 HEARING OFFICER KRAMER: Ms. Willis, are you
19 willing to make those staff available via phone, say
20 tomorrow?

21 MS. WILLIS: I have no idea if our staff is
22 available tomorrow. They are scheduled for later --
23 they were scheduled for yesterday, and they were
24 excused at that point in time. Some are in travel,
25 and I would have to break and go start asking people

1 if they would be available.

2 MR. CARROLL: And Mike Carroll, on behalf of
3 the Applicant. I would object to that proposal. We
4 spent an entire day, in this room, laying out, in
5 painstaking detail, a schedule on how we were going
6 to handle the topics, and how they would be divided.
7 We tried to make accommodations for every single
8 witness, to take them on the days that they could.
9 And we, in my view, must stick to some semblance of
10 this schedule.

11 We have many, many witnesses who are here,
12 thinking that they were going testify, frankly, at
13 11:30 this morning, and still haven't gone on, so --

14 HEARING OFFICER KRAMER: Okay. Ms. Limon,
15 how many more questions do you have?

16 MS. LIMON: Well, I have a number of
17 questions because Environmental Justice is an entire
18 section and we reserved 65 minutes. It wasn't
19 entirely clear that what is being proposed, that
20 those questions pertaining to specific technical area
21 were, even though it's a part of Environmental
22 Justice analysis, and that questions that are -- will
23 be tailored to the Environmental Justice analysis
24 should have been asked, you know, not under
25 Environmental Justice, but under that technical

1 subject area.

2 MR. CARROLL: The most recent question
3 related to Biology. That panel hasn't happened, yet.
4 So, I would suggest that that one be held until that
5 panel, provided we ever get to it.

6 MS. LIMON: It wasn't a question about
7 Biology. I framed the question as an example
8 regarding the brown field sites.

9 So, I understand that this is a very long
10 hearing, and there are a lot of people here, and I
11 appreciate everyone's patience. I've been here all
12 day, as well, waiting to ask questions for
13 Environmental Justice, for that particular topic.

14 HEARING OFFICER KRAMER: Okay. Well, we
15 actually -- or, staff added a few people to this
16 panel, beyond those who were listed, to give direct
17 testimony in response to the statements of the
18 parties, specifying which witnesses they wanted to
19 cross-examine. So, I think they did their best to
20 provide people, on the topic of Environmental
21 Justice, that were identified. You're going to have
22 to make do with what you have here. And, so, go
23 ahead and continue to ask your questions.

24 MS. LIMON: I appreciate that, thank you.

25 In your opinion, if the continued industrial

1 use of a brown field embeds a disproportionate
2 siting, affecting an environmental justice population
3 versus a use of a non-brown field site that does not
4 result in such a disproportionate siting, does the
5 former result in less environmental impacts?

6 MR. MARSHALL: This is Paul Marshall. Could
7 you repeat the latter part of the question?

8 MS. LIMON: Sure. Sure. And, again, I'm
9 getting to, you know, the disproportionate impacts
10 and environmental justice impacts, and the premise
11 that -- upon which some findings may have been made,
12 and the premise being that the use of a brown field
13 site will necessarily minimize environmental impacts.
14 I'm challenging that premise, right.

15 So, if continued industrial use of an
16 existing brown field site would perpetuate the
17 disproportionate siting of a polluting facility,
18 affecting an environmental justice population, versus
19 the use of a non-brown field site, where you wouldn't
20 have a disproportionate impact, or any impact on an
21 environmental justice community, would the -- in that
22 case, would the former result in less -- may result
23 in less environmental impacts?

24 MS. WILLIS: I'm going to object to this as
25 a hypothetical, but also vague in what a brown field

1 site, what the impacts could possibly be on that site
2 versus another site. It's all very project specific.

3 HEARING OFFICER KRAMER: Sustained.

4 MS. LIMON: Is it correct that
5 CalEnviroScreen was used to identify disadvantaged
6 communities within the City of Oxnard?

7 MS. WORRALL: Are you asking -- this is Lisa
8 Worrall. Are you asking did staff --

9 MS. LIMON: Yes.

10 MS. WORRALL: -- this is the purpose. Yes,
11 staff used CalEnviroScreen 2.0 and then, also looked
12 at CalEnviroScreen 3.0 to identify where there would
13 be any disadvantaged communities. Not just in Oxnard
14 but, you know Port Hueneme, and within the six-mile
15 radius.

16 MS. LIMON: Thank you. And CalEnviroScreen
17 is a science-based mapping tool. Is that correct?

18 MS. WORRALL: Yeah, it uses scientific data.

19 MS. LIMON: Thank you. And it identifies
20 the extent to which an area is currently burdened and
21 identifies those areas that are overly burdened
22 relative to other Census Tracts in California. Is
23 that correct?

24 MS. WORRALL: Well, it ranks the data with
25 respect to the 8,000 Census Tracts in California.

1 And, so, you know, it comes up with a combined
2 CalEnviroScreen score, and then it ranks it. And,
3 so, then it's classified into a percentile.

4 MS. LIMON: Right. And that classification
5 of a percentile, is it correct to say that it
6 identifies those communities that are overly burdened
7 compared to other Census Tracts within the State?

8 MS. WORRALL: With a higher CalEnviroScreen
9 score with respect to the other Census Tracts in
10 California.

11 MS. LIMON: Thank you. Now, in a number of
12 places in the FSA, staff concludes that the EJ
13 population, represented in EJ Figure 1 and in Table
14 3, in the EJ Section, would not be disproportionately
15 affected. Is that correct?

16 MS. WORRALL: Well, it depends what
17 technical area you're referring to. Oh, actually,
18 you know what, overall staff did. The 12 technical
19 areas did conclude that impacts to the EJ population
20 would not be disproportionate, that's correct.

21 MS. LIMON: Okay. And what is the
22 population against which you evaluate whether there
23 are disproportionate impacts on the identified EJ
24 population?

25 MS. WORRALL: Well, now, that would probably

1 be directed to each technical area. So, it depends
2 upon what type of impact you're considering.

3 So, I know, so for socioeconomic I looked
4 at the type of impacts. I looked at the CEQA
5 guidelines in Appendix G, of the California
6 Environmental Quality Act guidelines, and I assessed
7 the project with respect to those guidelines. And
8 there are set questions that relate to
9 socioeconomic. I looked at the project's impacts
10 with respect to the socioeconomic questions. I
11 looked and considered the level of impact, if it was
12 less than significant, no impact at all, or if it was
13 significant.

14 I also considered what impact could have a
15 disproportionate impact. I did find housing. You
16 could feasibly have -- or, I should say,
17 hypothetically, you could have disproportionate
18 impacts if people are displaced and forced to seek
19 housing elsewhere, based on people's maybe racial or
20 financial -- racial prejudices or financial inability
21 to have access to a wide variety of housing.

22 In the case of the Puente Project, I found
23 that there wouldn't be a disproportionate impact with
24 respect to the loss of housing because the temporary
25 workforce coming in would not displace -- would not

1 displace anyone from their homes. There is ample
2 supply of temporary lodging, so it wouldn't
3 necessarily create a problem for even tourists to
4 come in.

5 And I didn't -- and, then, so, as far as the
6 operational workers, well, the 17 existing Mandalay
7 Generating Station staff, they're not being --
8 they're not employing anymore, so there would not be
9 any permanent influx or permanent housing taken. The
10 project is not going to take any housing. It doesn't
11 propose housing and it doesn't require housing to be
12 constructed. So, therefore, that's why I found no
13 disproportionate impacts with respect to socio. So,
14 that's kind of how I went through my analysis.

15 MS. LIMON: So, I'm not sure I understand
16 your question and I have a follow-up to that. So,
17 first of all, just as background, did you not review
18 the EJ analysis for each technical area that was
19 provided to you?

20 MS. WORRALL: Well, I reviewed their
21 summaries, yes. They prepare their Environmental
22 Justice analysis. They incorporate it into their
23 technical section. They provided me a summary of
24 their conclusions. I incorporated that summary into
25 the Environmental Justice section.

1 MS. LIMON: So, as you recall in reviewing
2 that analysis, or analyses, do you know how the
3 disproportionate impacts were determined on the EJ
4 population relative to other populations?

5 MS. WORRALL: They didn't include that level
6 of detail in their summaries. So, no, I don't know
7 that.

8 MS. LIMON: Do you know if that's anywhere
9 in the record?

10 MS. WORRALL: I would suspect that would be
11 in their individual technical summaries, an impact
12 analysis for the EJ population.

13 MS. LIMON: So, can each panel member state
14 whether the particular technical areas that they
15 reviewed, whether there was a population against
16 which the disproportionate impacts were measured?

17 HEARING OFFICER KRAMER: Have we established
18 that there were any disproportionate impacts?

19 MS. WORRALL: Actually, just as I said
20 earlier, it depends upon the project. You know, you
21 look at the project impact and then you decide
22 whether or not there is disproportionate. Yes, so
23 for overall, there were no disproportionate impacts.

24 HEARING OFFICER KRAMER: Well, there were no
25 significant impacts, right?

1 MS. WORRALL: There are no significant
2 impacts with the application of mitigation, and staff
3 also found that there was no disproportionate
4 impacts, as well.

5 MS. LIMON: I'm asking -- I'm sorry, and I
6 should clarify. I'm asking about without mitigation
7 measures. So, first, there was a determination about
8 whether there are significant impacts, based on the
9 project, itself. Right? Cumulative, et cetera. And
10 if there were, then there were mitigation measures or
11 conditions that were imposed; is that correct?

12 MS. WORRALL: That's the general idea, yes.

13 MS. LIMON: Okay. So, I'm asking whether
14 there was a determination, or how there was a
15 determination without mitigation measures being
16 applied, as to whether there would be a
17 disproportionate impact on the EJ population.

18 MS. WORRALL: And I think that -- this is
19 Lisa Worrall, sorry about that. I think that would
20 probably be directed to -- do you have it directed to
21 any particular technical area because --

22 MS. LIMON: I'd like to know as to each
23 technical area.

24 MS. WORRALL: Okay. Well, I described the
25 Socioeconomics one to you, so perhaps --

1 MS. LIMON: And what was the population
2 against which the EJ population was measured?

3 MS. WORRALL: I measure the impacts against
4 what -- so, I identified that you could have a
5 disproportionate impact if you created a situation,
6 or the project created a situation where housing
7 would be removed. People, existing people would be
8 displaced and they have to seek, for one reason or
9 the other, related indirectly or directly from the
10 project, that they would need to see housing
11 elsewhere. They could experience disproportionate
12 impacts in that people --

13 MS. LIMON: But disproportionate impacts
14 against whom, relative to what?

15 HEARING OFFICER KRAMER: Well, this is --

16 MS. WORRALL: Relative to someone who's not
17 a minority population or someone who isn't
18 constrained by financial ability.

19 HEARING OFFICER KRAMER: This is Paul
20 Kramer. I want to cut in here and make sure that
21 there's not a premise that might even eliminate this
22 -- the need to discuss this question.

23 Does staff, if there are no significant
24 impacts after mitigation --

25 MS. LIMON: No, that's not my question, I'm

1 sorry. My question is how the disproportionate
2 impact was measured before application of mitigation
3 measures.

4 HEARING OFFICER KRAMER: Well, and the point
5 I'm trying to get to is I'm not sure that staff ever
6 makes that comparison of impacts before mitigation.
7 I think it may be the case, and I'm trying to confirm
8 that, that they first try to see if there are any
9 unmitigated significant impacts. And it is only
10 then, that they then look for disproportionate
11 effect. Do I have that correct?

12 MS. TAYLOR: This is Marylou Taylor, with
13 staff. I can speak for the Soil and Water section.
14 I'm not exactly sure how the other sections did this.
15 But the way that I looked at it, I looked at each of
16 the potential impacts from the project and I
17 determined whether or not the impact was significant,
18 or not, based off of the CEQA Guidelines, as
19 mentioned earlier.

20 If the CEQA Guidelines show that it was
21 below the threshold of significance, for the general
22 public that would be less than significant. At that
23 point, I tried to determine whether or not there
24 would be a significant impact to an EJ community at
25 that point.

1 Then, if it was greater or if it was not
2 less than significant, if it was a potential
3 significant impact, and mitigation was proposed, I
4 would look at the mitigation to see if it met the
5 requirements to be less than significant for the
6 general public.

7 Then, I would also evaluate whether that
8 same mitigation would also reduce the potential
9 impact to less than significant for EJ communities.

10 For Soil and Water Resources, I found that
11 both the unmitigated impacts, which means that they
12 didn't need to be -- they were less than significant,
13 did not need to be mitigated, those did not
14 disproportionately affect EJ communities.

15 And I also concluded that the mitigated
16 impacts would also not disproportionately have
17 adverse effects to EJ communities. And that is for
18 Soil and Water.

19 HEARING OFFICER KRAMER: Okay. Well, then I
20 think Ms. Limon is trying to ask when you -- when you
21 compare disproportionality, or you try to apply that
22 test, you have the EJ community and then what is the
23 other community that you are comparing it against.
24 is that correct?

25 MS. LIMON: Correct.

1 HEARING OFFICER KRAMER: Okay. So, go ahead
2 and try and answer that.

3 MS. TAYLOR: Marylou Taylor, staff. It was
4 relative impacts, relative to the general population.

5 MS. LIMON: General population within what
6 scope?

7 MS. TAYLOR: For Soil and Water Resources,
8 water quality standards are set by the State --
9 excuse me, water quality standards are set by the
10 Regional Water Quality Control Board. In this case,
11 the Los Angeles Regional Board. They have a Basin
12 Plan that sets all water quality standards and
13 beneficial uses. Those are -- that's the standard
14 that I use for the general public.

15 When I looked at impacts to EJ populations,
16 I evaluated whether or not those standards and
17 beneficial uses were different for EJ populations. I
18 did the same for mitigated impacts.

19 MS. WILLIS: Mr. Kramer, this is Kerry
20 Willis, staff counsel. If I'm not confused, I
21 believe that Ms. Limon is asking who did -- how is
22 the general population defined? Who are you
23 comparing the environmental justice community to? Is
24 it a six-mile radius? Is it the City of Oxnard? How
25 did you come up with the folks that you're comparing

1 that to?

2 MS. TAYLOR: Marylou Taylor, for staff. For
3 Soil and Water Resources, the general public would be
4 relevant to the standards set by the Regional Water
5 Quality Control Board, and their jurisdictional area
6 covers most of Ventura County and parts of Los
7 Angeles County.

8 MS. LIMON: Thank you. And you also -- for
9 Soil and Water Resources, you testified that you
10 determined some impacts would be less than
11 significant, not requiring mitigation, and so that
12 there were some significant Air Quality impacts that
13 did require mitigation. And that with that
14 mitigation, the impacts were less than -- to less
15 than significant. Is that correct?

16 MS. TAYLOR: That's correct, with the
17 exception of it was for water quality, not air
18 quality, Soil and Water.

19 MS. LIMON: Yes. You could say the air
20 quality, excuse me.

21 Now, did you examine whether the cumulative
22 impacts of those less than significant impacts
23 disproportionately impacted the identified EJ
24 communities?

25 MS. TAYLOR: Yes. I also considered

1 cumulative impacts. And I used CalEnviroScreen to
2 help identify those environmental indicators that
3 were shown to be on a higher percentile compared to
4 the rest of the Census in the State.

5 MS. LIMON: Now, the Census Tract within one
6 mile of the proposed site has a CalEnviroScreen
7 percentile score of 89.39; is that correct?

8 MS. WORRALL: This is Lisa Worrall, from the
9 staff. Oh, the overall CalEnviroScreen?

10 MS. LIMON: The Census Tract, yes, within
11 the one mile of the proposed site.

12 MS. WORRALL: Yes, 89.39 percentile.

13 MS. LIMON: And, therefore, that is an
14 environmentally disadvantaged community, is that
15 right?

16 MS. WORRALL: Yes, that's true.

17 MS. LIMON: So, if that is a
18 disproportionately impacted community and there were
19 soil and water resources impacts, although less than
20 significant, is it not correct that those impacts
21 would be added to the disproportionate impacts
22 already experienced by that environmentally
23 disadvantaged community?

24 MS. TAYLOR: This is Marylou Taylor, with
25 staff. What I understand from your question, it

1 sounds like you're asking whether or not the
2 cumulative -- the impacts from the project would add
3 to the cumulative impacts of soil and water
4 resources?

5 MS. LIMON: No, to the cumulative impacts
6 experienced by that EJ community. Not disaggregating
7 by the technical area.

8 MS. TAYLOR: I only looked at my specific
9 technical area, that's my area of expertise.

10 MS. LIMON: I'm sorry, so I guess I don't
11 understand. Did you then only look at what the less
12 than significant impacts of soil and water would be
13 added to existing soil and water impacts to that EJ
14 community?

15 MS. TAYLOR: Yes. That's my cumulative
16 impacts analysis. It is with the soil and water
17 impacts of the project, potential impacts.

18 MS. LIMON: Is anybody else on the panel
19 here to testify as to a different technical area,
20 other than Socioeconomics and Soil and Water?

21 MR. MARSHALL: Waste Management, Paul
22 Marshall.

23 DR. CHU: Public Health, Huei-An Chu. Public
24 Health.

25 MS. LIMON: Thank you. So, as to Public

1 Health, the same question. Were there -- did you add
2 impacts, even if less than significant, including
3 based on mitigation measures, did you add those less
4 than significant impacts to the cumulative impacts
5 already impacting EJ communities?

6 HEARING OFFICER KRAMER: This is Paul
7 Kramer, let me break in. What do you mean by
8 cumulative impacts? Do you mean the cumulative
9 impacts analysis that's done as part of the CEQA
10 analysis or are you referring to the EnviroScreen
11 background?

12 MS. LIMON: The total CalEnviroScreen score,
13 right. So, those are cumulative impacts from
14 different factors and that score, together, was past,
15 present and foreseeably future projects.

16 HEARING OFFICER KRAMER: So, you see in --
17 you're holding out the EnviroScreen as, basically,
18 the background levels presently existing in the
19 community?

20 MS. LIMON: That is a score that identifies,
21 as was testified, as I understood it was testified,
22 the relative disproportionate impact on that
23 community.

24 HEARING OFFICER KRAMER: Okay. It might
25 help for the understanding of the discussion if you

1 refer to EnviroScreen, instead of cumulative impacts.
2 Because that has a very -- cumulative impacts has a
3 very different meaning to those of us who regularly
4 discuss these things.

5 MS. LIMON: Yeah, I regularly discuss this,
6 as well, and we may just have a different opinion as
7 to the cumulative impacts analysis contained within
8 the score. But I will -- I appreciate your comment
9 and I will try to be more clear in my questions.

10 Did you -- in your analysis, did you examine
11 what the added impact of even less than significant
12 health effects of the proposed project would be to
13 the disadvantaged communities surrounding the site?

14 DR. CHU: This is Huei-An Chu. As for
15 Public Health, what I did is I specified the
16 CalEnviroScreen indicators related to public health.
17 They included diesel particulate matter, pesticide
18 use, toxics released from facilities, asthma
19 emergency room visits, both for infants, and for
20 EnviroScreen 3.0, you also include the cardiovascular
21 disease.

22 So, I look at each of the indicators to see
23 if they are more than 70 percentile. And to see if
24 they -- so, especially for EnviroScreen 3.0, for the
25 Census Tract 6111002905, a newly identified

1 disadvantaged community. The high score include
2 pesticide use, asthma, emergency room visits, and
3 low-birth weight infants, cardiovascular disease.
4 And I discuss each of these indicators.

5 But as I testified yesterday, because
6 according to my analysis for Human Health Risk
7 Assessment, even at the point of maximum impact there
8 is no significant health impact. So, I concluded
9 this new, proposed Puente Project won't increase the
10 burden of these existing -- these newly identified
11 disadvantaged community.

12 MS. LIMON: And that's because you
13 determined the public health impact would be less
14 than significant with mitigation?

15 DR. CHU: Actually, there's no mitigation in
16 Public Health. I conducted the Health Risk
17 Assessment and all the risks are below the
18 significant thresholds, so I didn't propose any
19 mitigation.

20 MS. LIMON: So, although they were below the
21 significance thresholds, was there any health impact
22 or was it zero?

23 DR. CHU: There's no zero risk.

24 MS. LIMON: So, there was some risk, is that
25 correct?

1 DR. CHU: Of course.

2 MS. LIMON: Okay. And, so, did you
3 determine what that risk -- did you quantify that
4 risk in any sense?

5 DR. CHU: Yes.

6 MS. LIMON: Okay, and what was that?

7 DR. CHU: So, in my analysis, my Final Staff
8 Assessment, Page 4.9-25, Public Health Table 6, I
9 listed all the risks I calculated from -- by using
10 HARP-2. And, so, for the maximum, the point -- the
11 maximum risk, which is the risk as a maximum amount,
12 the point of maximal impact, it is 1.3. And the
13 threshold actually is 10, so it's way below the
14 threshold.

15 MS. LIMON: And did you make a determination
16 of what that 1.3 added to the current health impacts
17 in that Census Tract that you identified, what that
18 would be? What that would amount to?

19 DR. CHU: Well, as I testified yesterday, in
20 Public Health, we only consider the incremental risk.
21 We don't calculate the overall risk.

22 MS. LIMON: And, in your opinion, would
23 there be an incremental health risk to this
24 particular Census Tract?

25 DR. CHU: Can you say that question, again?

1 MS. LIMON: Will there be an added
2 incremental health risk based on -- because of the
3 proposed power plant, to the Census Tract?

4 DR. CHU: Yeah. For example, in the
5 reception location with PMI, the risk will increase
6 1.3 in one million. That's the risk is going to
7 increase.

8 MS. LIMON: So, there would be an added risk
9 to this community that's already disproportionately
10 burdened; is that correct?

11 MR. CARROLL: I'm going to object to the
12 question. First of all, it assumes facts not in
13 evidence.

14 MS. LIMON: She just established the fact
15 with some clarification.

16 MR. CARROLL: Every question ends with the
17 phrase, "to this already disproportionately impacted
18 Census Tract or community."

19 MS. LIMON: That's been testified to.
20 That's been established.

21 MR. CARROLL: No, that has not been
22 established. What's been established is that it is
23 an environmental justice community based on the
24 racial makeup and the incomes within that area. An
25 environmental justice community is not a

1 disproportionately impacted community. It's a
2 community that's been identified based on racial
3 makeup and income.

4 And the question, then, is whether or not
5 the project results in a disproportionate impact on
6 that community.

7 MS. LIMON: I believe that the witnesses
8 have already established their testimony and --

9 MR. CARROLL: And you're mischaracterizing
10 it.

11 MS. LIMON: -- it can stand for itself, yes.
12 Well, is it not correct that on --

13 MS. WILLIS: Excuse me, Mr. Kramer. I would
14 agree with Mr. Carroll. I think there's just a lot
15 of confusion with this cross-examination. They're
16 talking about cumulative impacts, as opposed to the
17 CalEnviroScreen, which actually does not provide
18 quantitative information on increase of cumulative
19 impacts. So, there's just -- the questions and the
20 terminology that we use, I think staff is getting
21 confused. And there's just assumed facts that aren't
22 in evidence, that the whole area, I mean we're
23 talking about a six-mile radius at various points, is
24 a disadvantaged community, and that's just not --
25 that is not true. And it's not a fact that it's in

1 evidence. We have some very wealthy communities very
2 close by the project, proposed project site.

3 MS. LIMON: I identified the particular
4 Census Tract, and I did not use the term "cumulative
5 impacts", based on Mr. Kramer's comment. And, so,
6 I'd like to continue my questioning. And if you
7 disagree with any of our arguments, based on this
8 testimony, you can create your own arguments in
9 briefing. Then, obviously, you're well within your
10 right to do so. But I have a right to ask these
11 questions.

12 MR. CARROLL: Well, but you do not have the
13 right to ask questions that are intentionally
14 confusing and intended to lead the witnesses into
15 providing answers that are not accurate.

16 MS. LIMON: I would, of course, never intend
17 to deliberately confuse a witness, and that's not my
18 interest either, anybody's interest. So, I will do
19 my best to clarify the question. And I'd like to
20 continue with my questioning.

21 HEARING OFFICER KRAMER: Okay. I think it
22 would be better if you just asked factual questions
23 and leave out the characterization of the community.

24 MS. LIMON: Okay. Well, let me, just for
25 foundational purposes, I'm looking at Page 4.4-5.

1 And the FSA states that CalEnviroScreen is used to
2 identify disadvantaged communities. And the witness
3 agreed to that statement here. That is why I'm
4 referring to -- that's why I'm using the term
5 "disadvantaged community."

6 MR. CARROLL: Well, that's not the term --

7 HEARING OFFICER KRAMER: I heard the term
8 disproportionate a minute ago.

9 MR. CARROLL: Yeah, disproportionately
10 impacted community is the term that you were using,
11 that we were objecting to.

12 MS. LIMON: I'm addressing that next.

13 MS. WILLIS: This is --

14 MS. LIMON: I also asked about whether that
15 score, in the analysis for each Census Tract, whether
16 it identifies a particular burden relative to the
17 rest of the population or other Census Tracts in
18 California, such that it looks at, you know, the
19 relative -- the relative impact, and whether there's
20 a disproportionate impact.

21 So, is that not the case? I believe you
22 testified that there is a relative ranking, is that
23 correct?

24 MS. WORRALL: This is Lisa Worrall, from
25 staff. CalEnviroScreen is a relative ranking. You

1 have, unfortunately, incorrectly used the term to
2 describe the Census Tract as a disproportionate, you
3 know, a tract with disproportionate impacts.

4 CalEnviroScreen is identifying the Census
5 Tract as a disadvantaged Census Tract.

6 Staff's role is to identify if any of the
7 potential project impacts could have a
8 disproportionate impact on the environmental justice
9 population.

10 MS. LIMON: Okay.

11 MS. WORRALL: Not just those environmental
12 justice population residing or working in the
13 disadvantaged Census Tract. So, I just wanted to
14 clarify that.

15 MS. LIMON: Okay, thank you. Can you
16 explain what it means for a particular Census Tract
17 to have a percentile score of 89.39?

18 MS. WORRALL: That means that it's within
19 the top, you know, 89 percentile with respect to all
20 the Census Tracts in California.

21 MS. LIMON: So, it's a relative ranking, is
22 that correct?

23 MS. WORRALL: Indeed.

24 MS. LIMON: So, it's much more impacted than
25 most of the Census Tracts in California, is that not

1 correct?

2 MS. WORRALL: For that particular -- yes.

3 Yes.

4 MS. LIMON: Yes, that Census Tract?

5 MS. WORRALL: Yes.

6 MS. LIMON: Is that not a disproportionate

7 impact?

8 MS. WILLIS: Objection. A disproportionate

9 impact of the project is what I believe --

10 MS. LIMON: I'm not talking about the
11 disproportionate impact of the project at this point.

12 I'm talking about the relative ranking of the
13 CalEnviroScreen scores.

14 MS. WILLIS: And, so, I'm confused as to
15 disproportional impact of what?

16 MS. LIMON: Disproportional impact of
17 pollution burdens relative to other Census Tracts, as
18 identified by CalEnviroScreen.

19 MS. WORRALL: This is Lisa Worrall. I
20 wouldn't necessarily classify them as impacts.
21 They're indicators that combine and are calculated to
22 form the overall CalEnviroScreen score, and then
23 ranked against the 8,000 -- roughly, 8,000 Census
24 Tracts in California. I wouldn't necessarily call
25 them an impact, but an indicator of kind of the

1 snapshot of the health of that area. Or, basically,
2 a snapshot picture of that area.

3 MS. LIMON: Okay. And 4.5-5 also states
4 here, this is the FSA, that CalEnviroScreen assesses
5 communities at the Census Tract level in California
6 to identify the communities most burdened by
7 pollution from multiple sources, and most vulnerable
8 to its effects. Is that correct?

9 MS. WORRALL: Yeah, that's correct.

10 MS. LIMON: Okay. So, will you feel more
11 comfortable if I use most burdened communities,
12 rather than disproportionately impacted communities?

13 MS. WORRALL: Oh, do I prefer? This is Lisa
14 Worrall. You're asking do I prefer you use that
15 terminology?

16 MS. LIMON: Would that be more accurate,
17 since there's an objection --

18 MS. WORRALL: Yes.

19 MS. LIMON: -- to using disproportionate?

20 MS. WORRALL: Oh, definitely.

21 MS. LIMON: These are the most --

22 MS. WORRALL: Because are the --

23 MS. LIMON: -- burdened communities in
24 California.

25 MR. CARROLL: I'm sorry, why do we have to

1 characterize the -- whether it's the community, the
2 Census Tract, the area surrounding the project? Why
3 do we need to characterize it, anyway? I don't
4 understand why the witnesses can't simply be asked
5 questions about the impacts of the project on the
6 community that would be affected by the project.

7 And I think that a lot of the confusion here
8 is based on what the questioner seems to feel is a
9 compelling need to characterize that community in
10 some way. And that's what I think is causing the
11 confusion. And I'm concerned that it's going to lead
12 to answers that are inaccurate.

13 MS. LIMON: Well, I believe that is the
14 purpose that has been established by the FSA, itself.
15 That is the purpose of the CalEnviroScreen score.
16 And this community, many members of this community
17 have testified to the impact to being one of the most
18 impacted communities in California, as compared to
19 other Census Tracts that are not burdened by such
20 polluting factors. And, so, it's not just relevant,
21 but it goes to the core of the environmental justice
22 issues.

23 HEARING OFFICER KRAMER: Okay. But the
24 purpose of this hearing is to analyze the
25 environmental effects of the proposed project and its

1 compliance with all the applicable laws.

2 MS. LIMON: Correct.

3 HEARING OFFICER KRAMER: And, so, we are
4 interested in knowing if this particular project is
5 adding to the local burden, and how.

6 MS. LIMON: Correct.

7 HEARING OFFICER KRAMER: And, then, is that
8 disproportionately adding to the burden of an
9 environmental justice community.

10 MS. LIMON: That's absolutely right and that
11 is what I am attempting to establish or to inquire
12 about. And the basis of that is, you know, whether
13 particular Census Tracts within Oxnard are more
14 burdened or highly burdened --

15 HEARING OFFICER KRAMER: Okay, but --

16 MS. LIMON: -- and how the incremental
17 impacts, even if they're less than significant,
18 contribute to that burden.

19 HEARING OFFICER KRAMER: Well, I think the
20 problem is that when you add a conclusion to the end
21 of each of your questions, Mr. Carroll and others
22 believe that you are trying to get the witness to
23 draw a conclusion that is -- I'll wait for your
24 sidebar. You're going to use up all your time with
25 objections if you keep, you know, adding the

1 conclusion to the end of your question, in essence.

2 MS. LIMON: As for Soil and Water Resources
3 -- or, I'm sorry, as to the health impact risks, in
4 your opinion, does the health impact risks add
5 further risk to the Census Tract within one mile of
6 proximity to the proposed project site?

7 DR. CHU: Not to the -- I don't know how to
8 explain, in your way of explaining this event.
9 Because we -- in our Health Risk Assessment, we have
10 different receptors and each receptor, we
11 characterize the risk from the project. So, it's not
12 for the whole Census Tract.

13 As I say, as I said previously, for the
14 point of maximal impact, the risk from the project
15 will be 1.3 per million. That's the risk I
16 calculated. But not for the whole Census Tract.
17 That's only for that point. And that point is
18 located in the east boundary of the project.

19 MS. LIMON: I'm sorry, I need a minute.
20 Because, again, I have questions of two different
21 subject areas and I'm trying to limit them for this
22 panel, since it was unclear how we would proceed for
23 the Environmental Justice analysis.

24 MR. CARROLL: And I'm going to interject and
25 state that I think it was very clear how we intended

1 to proceed here. I don't believe Ms. Limon was at
2 the Prehearing Conference. It might be unclear to
3 her, but for those of us who were here, it was very
4 clear how we intended to proceed.

5 And, so, I object to any suggestion that
6 it's been less than clear or that any party's been
7 disadvantaged in their ability to question witnesses.

8 HEARING OFFICER KRAMER: And while you're
9 doing that, let me ask Ms. Folk, Mayor Pro Tem
10 Ramirez is for your witness, and she's been here most
11 of the day. How much of the -- how important is it
12 that she be able to testify today? We're trying to
13 triage now, with the time that we have.

14 MS. RAMIREZ: I'm here all day, until you
15 finish.

16 HEARING OFFICER KRAMER: Did you say all day
17 tomorrow?

18 MS. RAMIREZ: Oh, yes.

19 HEARING OFFICER KRAMER: Okay. She says
20 she's here for, I guess, the duration in essence.

21 MR. RAMIREZ: Yes.

22 HEARING OFFICER KRAMER: Okay, thank you.

23 MS. LIMON: I'm sorry, could you clarify
24 whether any member of the panel can testify as to
25 Hazardous Materials? Great, okay. Thank you.

1 MR. MARSHALL: Maybe if I could explain --
2 Paul Marshall. Maybe if I could explain how we did
3 our Waste Management analysis, that would answer your
4 questions related to that.

5 MS. LIMON: I prefer to answer -- just to
6 ask the questions, just in the interest of time.
7 Thank you, I appreciate your offer.

8 Now, you concluded or staff concluded that
9 the transportation, storage and use of hazardous
10 materials could pose a risk of impact to the EJ
11 population, but that it would be unlikely because an
12 occurrence would be unlikely. Is that correct?

13 MR. MARSHALL: Paul Marshall. Actually,
14 that's addressed in our Hazardous Materials
15 Management section of our analysis, and I'm not the
16 expert in the area.

17 MS. LIMON: Okay, and who is the expert?

18 MS. WILLIS: Mr. Kramer, we did clarify at
19 the Prehearing Conference who would be here, and
20 asked each party if there was anybody else that they
21 wanted, we would be providing them. But hearing none
22 of the other topic matters were needing live
23 witnesses, we -- and I specifically asked that means
24 they are not going to be available that day, and that
25 was agreed upon.

1 HEARING OFFICER KRAMER: Right, not only
2 that, Hazardous Materials --

3 MS. LIMON: How long since -- sorry, Mr.
4 Kramer.

5 HEARING OFFICER KRAMER: Hazardous Materials
6 is on our list of floater topics, for which there are
7 no requests for direct or cross-examination.

8 MS. LIMON: Okay, thank you. As to
9 Socioeconomic, the Socioeconomics analysis discusses
10 parks as recreational space. Is that correct?

11 MS. WORRALL: This is Lisa Worrall. Yes, it
12 does. There are questions related to potential
13 impacts to parks and recreation facilities.

14 MS. LIMON: Did you consider, in your
15 analysis, whether the recreational use of the beach
16 and parks area surrounding the proposed project would
17 in any way be limited or reduced during the
18 construction and demolition of the proposed project?

19 MS. WORRALL: This is Lisa Worrall, again.
20 That's actually not part of my analysis. I conducted
21 my analysis, as explained earlier, with respect to
22 the California Environmental Quality Act Guidelines,
23 Appendix G. And the questions related to parks are
24 related to would the project create a substantial
25 demand, necessitating additional parks to be

1 provided? Would the project create a demand that
2 would kind of degradate and cause the accelerated
3 degradation of the park, needing more parks to be
4 proposed or constructed? And would there be any
5 parks proposed?

6 And the answer to all of that was no, the
7 impacts would be less than significant. Construction
8 workers, the non-local construction workers and
9 there's only -- I shouldn't say only, I don't like
10 that word. During peak -- oh, sorry, during peak
11 construction there is approximately nine non-local
12 workers estimated. Once I calculated out, 90 percent
13 of the construction workforce is anticipated to be
14 local and, then, the remaining 10 percent is non-
15 local.

16 Construction workers tend not to bring their
17 families with them, when working on a project.
18 They're here to work on the project and any down time
19 is spent, you know, sleeping pretty much. They're
20 not necessarily the type to go visit parks. So,
21 they're not going to be impacting the park usage.

22 And as I explained earlier, MGS is not
23 employing -- or, actually, the Puente Project isn't
24 employing any additional operation workers, so there
25 will be no permanent workers coming and using the

1 parks, either. So, that's kind of the extent of the
2 Socioeconomic analysis.

3 MS. LIMON: So, did you not consider whether
4 there would be any possible degradation to
5 recreational spaces, including the beach, parks or
6 camping sites surrounding the proposed project site?

7 MS. WILLIS: I'm just going to object to the
8 negative that's always in the questions, "did you
9 not." If you're asking her did she --

10 MS. LIMON: Did you consider -- did you
11 consider whether there would be any degradation to --

12 MS. WORRALL: I did.

13 MS. LIMON: -- any of those areas?

14 MS. WORRALL: I did with respect to, as I
15 explained earlier, construction workers coming into
16 the project site are not the type --

17 MS. LIMON: Just generally, not limited to
18 construction workers, just --

19 MS. WORRALL: But it has to be induced by
20 the project, right? I mean, we're analyzing project
21 impacts.

22 MS. LIMON: Correct.

23 MS. WORRALL: So, other than people, this is
24 the parameters, CEQA parameters that I need to
25 operate in. And the questions are pretty clear.

1 And, so, that doesn't -- anything other than --

2 MS. LIMON: So, you only analyzed how
3 workers, themselves, would impact the recreational
4 spaces?

5 MS. WORRALL: Right. Because people go to
6 recreational spaces, correct?

7 MS. LIMON: So, did you not -- did you
8 analyze whether residents from Oxnard would visit
9 those recreational spaces?

10 MS. WORRALL: They're existing. I'm
11 analyzing the impacts of the project. The residents
12 are already there, they're not the project, unless
13 they already happen to work for Mandalay Generating
14 Station, or are going to be construction workers.
15 And like I said, construction workers don't visit
16 parks. They're pretty much there to work.

17 MS. LIMON: So, you stated in your report
18 that Oxnard currently has 73 acres of parks, less
19 than what is required to meet the park standard. Is
20 that right?

21 MS. WORRALL: Yes.

22 MS. LIMON: Do you believe that Oxnard
23 residents use the recreational areas surrounding the
24 facility?

25 MS. WORRALL: I don't know about that. I

1 haven't witnessed anything.

2 MS. LIMON: Did you investigate that?

3 MS. WILLIS: Objection, relevance.

4 MS. LIMON: Well, it's relevant to the
5 discussion of parks and recreational spaces, and what
6 the impacts are to that topic of Socioeconomics to
7 the local community.

8 MS. WILLIS: Actually, Ms. Worrall's
9 testifying that she's looking at the impact that the
10 people working for the project would bring to the
11 community. Not whether the current residents are
12 going to parks.

13 HEARING OFFICER KRAMER: This is Paul
14 Kramer. It sounds like your question is going to the
15 compatibility of the proposed project with
16 neighboring land uses, and that's something that
17 normally comes up during the Land Use discussion,
18 which is still to come.

19 MS. LIMON: Well, the introduction of this
20 section states that the Socioeconomics Impact
21 Analysis evaluates the project's changes from
22 construction and operation on the existing
23 population. Is that not right?

24 MS. WORRALL: This is Lisa Worrall. So,
25 where, exactly, in my testimony are you referring?

1 MS. LIMON: 4.10-1.

2 MS. WORRALL: Okay. So, "Staff concludes
3 that construction and operation of the Puente Power
4 Project, Puente or Project, would not cause
5 significant adverse direct, indirect, or cumulative
6 socioeconomic impacts on the project areas of
7 housing, law enforcement services, or parks."

8 Is that what you're referring to?

9 MS. LIMON: You state that, and below that,
10 underneath, the subtitle of introduction, you state
11 that, "The analysis evaluates the changes from the
12 construction and operation on the existing
13 population." Do you see that?

14 MS. WORRALL: Oh, on the existing
15 population. Yes, with respect to population influx.
16 Because CEQA, Appendix G Guidelines, state that would
17 the project create an influx, a population influx.

18 MS. LIMON: So, your analysis was limited --
19 on the existing population, it was limited on influx?

20 MS. WORRALL: Yes.

21 MS. WILLIS: Ms. Worrall, could you actually
22 allow the question and then answer it? Because you
23 guys are talking are talking over each other a bit.

24 MS. WORRALL: This is Lisa Worrall, sorry
25 about that. So, the question from CEQA is "Would the

1 project induce substantial population growth in an
2 area, either directly or indirectly?" And, so,
3 that's how I analyze impacts to population with
4 respect to --

5 MS. LIMON: Okay. And on the next page, on
6 4.10-2, under the subheading of Project Study Areas,
7 do you see that? It says that, "The Applicant
8 identified the following study areas for
9 Socioeconomic related project impacts." And the last
10 bullet point specifies Environmental Justice impacts
11 within a six-mile radius of the project site. Do you
12 see that?

13 MS. WORRALL: This is Lisa Worrall. Yes, I
14 do.

15 MS. LIMON: Did you study the environmental
16 impacts on those living within the six-mile radius?

17 MS. WORRALL: With respect to socioeconomics
18 I did, yes. This is Lisa Worrall, sorry about that.

19 MS. LIMON: And was parks included in that
20 analysis?

21 MS. WORRALL: Yes, it was. This is Lisa
22 Worrall.

23 MS. LIMON: So, if you include -- and does
24 that not follow that you would have looked at the
25 environmental justice population within the six-mile

1 radius and the impact of access to parks?

2 MS. WORRALL: Again, this is Lisa Worrall,
3 from staff. Access to parks is not part of the
4 Socioeconomics criteria. That may be something more
5 like Land Use. That's not one of the criteria that I
6 include in my analysis.

7 MS. LIMON: Okay. Now, you also considered
8 the beneficial economic effects; is that correct?

9 MS. WORRALL: This is Lisa Worrall. You
10 said, you're also considering --

11 MS. LIMON: Did you also, as part of your
12 Socioeconomics analysis, did you also use at
13 beneficial economic impacts?

14 MS. WORRALL: This is Lisa Worrall. I
15 reviewed the Application for Certification with
16 respect to Socioeconomics and direct, indirect, and
17 induced fiscal benefits of the project, and reported
18 them in my Final State Assessment. These are the
19 Applicant's estimations.

20 MS. LIMON: And are those reflected on
21 Socioeconomics Table 8?

22 MS. WORRALL: Yes, indeed. Oh, this is Lisa
23 Worrall.

24 MS. LIMON: And that's titled, "Puente's
25 Economic Benefits?"

1 MS. WORRALL: This is Lisa Worrall, again.
2 Yes.

3 MS. LIMON: Okay. Did you consider the
4 estimated adverse economic effects?

5 MS. WORRALL: This is Lisa Worrall. I seem
6 to understand adverse economic impacts would have to
7 be associated with the physical expression. So,
8 there would have to be some physical expression in
9 order to be something that's evaluated under CEQA.
10 And the project didn't have such expressions.

11 MS. LIMON: So, was there an analysis of
12 adverse economic impacts, for example, of preventing,
13 or barring opportunities to develop other projects
14 that would provide income-producing opportunities for
15 the City?

16 MS. WILLIS: I would object. The question
17 was asked, and she answered it, that she didn't find
18 adverse impacts, economic impacts from the project.

19 MS. LIMON: I don't believe she testified
20 that she didn't find adverse impacts. I believe she
21 testified she didn't analyze, right, or --

22 MS. WILLIS: She did not analyze the
23 adverse. So, I don't know why we're continuing that
24 questioning.

25 HEARING OFFICER KRAMER: Well --

1 MS. LIMON: Did you analyze whether -- did
2 you analyze the economic effects of, for example, the
3 cleanup and remediation costs upon the abandonment of
4 the plant that Oxnard residents will be left with?

5 MS. WILLIS: Objection, outside the scope of
6 her testimony.

7 MR. CARROLL: I'm going to object. I mean,
8 all of these questions are assuming facts not in
9 evidence. The questioner cannot make up a set of
10 facts --

11 MS. LIMON: I'm not asking any --

12 MR. CARROLL: -- and then ask the witness
13 whether or not they analyzed them. The appropriate
14 question would be, in your analysis did you conclude
15 whether or not the project would have any adverse
16 economic impacts? That's the simple question. And I
17 don't understand why it can't be phrased in its most
18 simple form, and that the witness will understand
19 what they're being asked and be able to provide an
20 appropriate response.

21 MS. WILLIS: And just to be clear, staff's
22 testimony is in writing and it's in front of
23 everybody. And I'm confused as to why she's asking
24 questions outside the scope of that testimony.

25 HEARING OFFICER KRAMER: Objection

1 sustained.

2 MS. LIMON: Okay. As to your analysis on
3 the identified economic benefits, on Table 8, there's
4 a section that states "Construction", and then it
5 states what expected local expenditures will be. Do
6 you see that?

7 MS. WORRALL: This is Lisa Worrall. I just
8 want to clarify, these are not my estimates. This is
9 information that has been generated by the Applicant.

10 I'm sorry, so you're looking for
11 construction --

12 MS. LIMON: Local expenditures.

13 MS. WORRALL: Oh --

14 MS. LIMON: Uh-hum, I'm just calling your
15 attention to that row. Do you see it?

16 MS. WILLIS: It's the third row, Lisa.

17 MS. WORRALL: Okay.

18 MS. LIMON: I just want to make sure that
19 we're on, literally on the same page?

20 MS. WORRALL: Oh, yes, so do I.

21 MS. LIMON: Okay.

22 MS. WORRALL: We're referring to
23 Socioeconomics, Table 8?

24 MS. LIMON: Correct.

25 MS. WORRALL: Okay, third row.

1 MS. LIMON: And you stated that this is --
2 this information was provided by NRG, is that right?

3 MS. WORRALL: That's correct.

4 MS. LIMON: And did you use this information
5 to analyze your own assessment?

6 MS. WORRALL: The information I used was the
7 estimated number of workers. So, as far as the
8 number of construction jobs, average and peak, and
9 number of operation jobs, number of demolition jobs.
10 I confirmed that that information is consistent with
11 the rest of the AFC, in the Socioeconomic section,
12 make sure the numbers matched the Workforce Table,
13 month-by-month needs.

14 MS. LIMON: So, on page 4.10-23, and I'll
15 wait until you turn to that page, under the
16 subjection, "Noteworthy Public Benefits," where it
17 states, "Staff defines noteworthy public benefits to
18 include changes in local economic activity and local
19 tax revenue." Do you see that?

20 MS. WORRALL: This is Lisa Worrall. Yes, I
21 can.

22 MS. LIMON: On what basis did you -- on what
23 basis do you make this statement concerning the local
24 economic activity and local tax revenue?

25 MS. WORRALL: This is Lisa Worrall. I make

1 that statement based on the Applicant's provided
2 estimates of expenditures in the local region.
3 Estimated expenditures in the local region.

4 MS. LIMON: Okay, thank you. And those are
5 the expenditures that are reflected on Table 8, that
6 we were just looking at?

7 MS. WORRALL: Yes.

8 MS. LIMON: Okay, thank you. And this
9 states that, "An approximation of \$64.6 million in
10 local expenditures." Is that right? It's in the
11 third row, on Table 8.

12 MS. WORRALL: Okay, this is Lisa Worrall.
13 \$64.6 million in local expenditures, yes.

14 MS. LIMON: And how is local defined there?

15 MS. WORRALL: I would anticipate City of
16 Oxnard, Ventura County, and Los Angeles County.

17 MS. LIMON: And why was your analysis -- can
18 you explain why your analysis was based on that
19 geographical scope and not limited to the City of
20 Oxnard?

21 MS. WORRALL: This is Lisa Worrall.
22 Firstly, it is the Applicant's geographic scope with
23 respect to fiscal benefits. The project is more than
24 just the City of Oxnard. We've got the City of San
25 Buenaventura and we also have Port Hueneme. So, it's

1 really, that might be something more directed to the
2 Applicant.

3 MS. LIMON: But you based your own analysis
4 and conclusions based on this information; is that
5 not right?

6 MS. WORRALL: This is Lisa Worrall. I
7 didn't do any analysis with respect to the fiscal
8 benefits. I merely reported the estimated fiscal
9 benefits. I did use the -- I did look at the
10 operation and construction workers, and demolition
11 workers to make sure those numbers synced up with the
12 workforce schedule and estimated workforce numbers.

13 MS. LIMON: Well, on 4.10-213, you state
14 that, "There is a model used by economists to measure
15 the ripple effect on the local economy from the
16 dollars spent on or resulting from the variety of
17 activities, including development." In this case,
18 the construction and operation of Puente. Is that
19 right?

20 MS. WORRALL: This is Lisa Worrall. Yes.

21 MS. LIMON: And this is all based on taking
22 Puente's information at face value?

23 MS. WORRALL: This is Lisa Worrall. Yeah,
24 these are the Applicant's estimates, their in-plan
25 model run. There's nothing under CEQA, necessarily,

1 that especially related to socioeconomics, that
2 requires disclosure -- or requires us to analyze the
3 economic benefits of a project, that I'm aware of.

4 MR. CARROLL: And I object. I object to the
5 implication in the question that anybody is being
6 asked to accept the Applicant's economic data at face
7 value. Mr. Carlson, the Applicant's Socioeconomic
8 witness, was on the stand a short time ago, and was
9 available for cross-examination on all of these
10 questions, and rigorous examination to this very
11 point. I believe that what Mr. Carlson testified to,
12 if I recall correctly, is that it is typical to
13 assume that workers would drive for up to a two-hour
14 commute to arrive at a construction site, and that
15 that's the basis for looking at not simply Oxnard,
16 but also the remainder of Ventura County and portions
17 of Los Angeles County.

18 So, I'm not testifying to that. That's
19 simply my recollection of what he said to this very
20 point. But, most importantly, we're not asking the
21 Intervenors to accept anything at face value. We
22 made our witnesses all available for cross-
23 examination. And the Intervenors were free to
24 explore whatever areas they thought were appropriate.

25 HEARING OFFICER KRAMER: Okay, we need to

1 take a brief time out for a time check. This is Paul
2 Kramer.

3 How many more questions do you have, Ms.
4 Limon?

5 MS. LIMON: Not very many.

6 HEARING OFFICER KRAMER: Is that five, or
7 ten, or --

8 MS. LIMON: Maybe about ten.

9 HEARING OFFICER KRAMER: Okay. So, we were
10 hoping to get through -- first of all, we're going to
11 have to quit and, you know, take a break in ten
12 minutes to give our court reporter, our translators,
13 and all of you a break before we start public
14 comment, at the time that we noticed, which is 5:30.

15 So, Mr. Theaker was trying to finish today.
16 Mr. Carroll, right? Could he --

17 MR. CARROLL: Mr. Theaker has changed his
18 travel plans and he will be here tomorrow.

19 HEARING OFFICER KRAMER: Oh, excellent.
20 Okay. We've already confirmed that Mayor Pro Tem
21 Ramirez will be here tomorrow.

22 Are any of your other Alternatives witnesses
23 time constrained? You had alluded to that, earlier,
24 beyond the obvious.

25 MR. CARROLL: I believe at this point we've

1 now made adjustments and --

2 HEARING OFFICER KRAMER: Okay, thank you.

3 All right, so, anything else from any other
4 party on that topic?

5 MR. CARROLL: But, Mr. Kramer, if I may, and
6 as long as we're talking about schedule, so we have
7 made adjustments to make the witnesses available.
8 But I would ask that before we leave here, today,
9 that we identify the subject areas that are going to
10 be covered and that we make every effort to adhere to
11 them. Because we have some relatively complex
12 subject areas coming up tomorrow. And just for our
13 own preparation, it's very difficult for us if we
14 think we're going to Coastal Hazards, to switch on
15 the fly to Biological Resources.

16 So, just in terms of witness preparation and
17 where to spend our time this evening, I'd just ask
18 that we have a schedule for tomorrow that's very
19 clear that we, as I said, make every effort to stick
20 to it.

21 HEARING OFFICER KRAMER: Okay. Let me ask,
22 are all the parties going to be here through the
23 duration of public comment?

24 MS. BELENKY: One of them already left.

25 HEARING OFFICER KRAMER: Okay. Well, then

1 we will take just a couple minutes before we break,
2 then, to do that.

3 When you said Coastal Hazards, that's Soil
4 and Water, basically, right?

5 MR. CARROLL: Yes, sorry.

6 HEARING OFFICER KRAMER: Okay, so that's on
7 Friday, already.

8 MR. CARROLL: That was just an example.

9 HEARING OFFICER KRAMER: Okay.

10 MR. CARROLL: I have the same comment with
11 respect to Friday.

12 HEARING OFFICER KRAMER: Okay, Ms. Limon,
13 continue, please.

14 MS. LIMON: I'm sorry?

15 HEARING OFFICER KRAMER: Go ahead with the -
16 -

17 MS. LIMON: Oh, okay, I thought we were
18 taking a break.

19 HEARING OFFICER KRAMER: No, we're going to
20 take it right before 5:30, to come back at our --
21 we're going to take it at 5:15, so seven minutes from
22 now.

23 MS. LIMON: Okay. I want to go back to
24 asking about the conclusions regarding there being no
25 disproportionate impacts on environmental justice

1 communities. And it would be very helpful if one of
2 you can explain how it is that a disproportionate
3 impact to an EJ population is generally determined,
4 as what the comparative population is used to make
5 that relative conclusion.

6 MS. WILLIS: I believe Ms. Taylor went in
7 detail of how she did her analysis, earlier, about an
8 hour ago.

9 MS. LIMON: Well, I'm asking as a general
10 matter, for each -- is there a particular measurement
11 that is used across the board, to all topic areas?

12 HEARING OFFICER KRAMER: I think they said
13 that it varies.

14 MS. WILLIS: Yeah, that question was also
15 asked and answered, earlier.

16 MS. LIMON: Just to finish up on the
17 Socioeconomics, and we have some questions on workers
18 within the Socioeconomics analysis. As to the local
19 expenditures that are identified in Table 8, which I
20 understand is NRG's information, there is a \$64.6
21 million identified in local expenditures.

22 Do you have any information as to how this
23 is projected to be apportioned between the City of
24 Oxnard, Ventura County, and Los Angeles County?

25 MS. WORRALL: This is Lisa Worrall. It

1 actually states that right under that line, based on
2 \$64.6 million in local expenditures. This is in
3 Table 8.

4 And then it says, \$1 million -- oh, \$1.03 --
5 it explains, basically, the City of Oxnard, the City
6 of Ventura, 1.0, 1.2, 3.1 for Los Angeles County,
7 million.

8 MS. LIMON: Yeah, I was confused because
9 those three figures don't add up to \$64.6 million.
10 Is that right?

11 MS. WORRALL: Again, Lisa Worrall. I would
12 state that these are not my numbers. I'm merely
13 reporting so --

14 MS. LIMON: Uh-huh. So, do you know, of the
15 \$64.6 million in local expenditures that are
16 identified here, do you know the amount of local
17 expenditures that would benefit the City of Oxnard
18 directly?

19 MS. WORRALL: This is Lisa Worrall. I'm not
20 sure why I'm being asked about Applicant information.
21 They're the ones who generated the data.

22 MS. LIMON: Well, because it's included in
23 your analysis.

24 MS. WORRALL: Sorry, am I allowed to object?
25 It's my analysis, but you can see on page 4.10-25,

1 the estimated numbers broken down by City of Oxnard,
2 Ventura County, and Los Angeles County.

3 MS. LIMON: Okay. I mean, you agree that
4 doesn't add up to \$64.6, is that right?

5 HEARING OFFICER KRAMER: This is Paul
6 Kramer. Can I point out that the heading there is
7 "State and Local Sales Taxes", so you wouldn't expect
8 it to add up.

9 MS. LIMON: Thank you.

10 HEARING OFFICER KRAMER: But is it fair to
11 presume that the money is being spent in rough
12 proportion to the amount of taxes there, you know,
13 give and take the fact that the separate
14 jurisdictions probably have slightly different tax
15 rates?

16 MS. WORRALL: This is Lisa Worrall. Yes,
17 that is correct.

18 MS. LIMON: So, thank you. Of the three
19 figures, the three amounts that you identified, the
20 \$1,033,600 for the City of Oxnard, et cetera, the
21 great majority of those expenditures are to be based
22 in Los Angeles County; is that correct?

23 MS. WORRALL: This is Lisa Worrall. You're
24 talking about the \$1,033,600 City of Ventura, based
25 in Los Angeles County?

1 MS. LIMON: No, there are three figures.
2 So, it identifies construction expenditures, I
3 imagine, as \$1,033,600 for the City of Oxnard,
4 \$1,211,250 for Ventura County, and \$3,197,700 for Los
5 Angeles County; is that right?

6 MS. WORRALL: Yes. This is Lisa Worrall.
7 That's right, based on the tax rate for the
8 expenditures.

9 MS. LIMON: Okay. So, the majority of the
10 benefit goes to Los Angeles County?

11 MS. WORRALL: I think that's right.

12 MS. WILLIS: The table speaks for itself.
13 She's asking Ms. Worrall is 3 million is bigger,
14 greater, or less than 1 million. I think this is not
15 what we're here for today.

16 MS. LIMON: Well, I also want to make that
17 clear for the members of the public, who are not
18 looking at this precise document.

19 MR. CARROLL: Well, fortunately, I think,
20 most of the members of the public, who are interested
21 in this topic, have in fact looked at the document,
22 and are well aware of the expenditures.

23 And what I would suggest is that if a higher
24 proportion of the revenue is going to one area over
25 another, that is because there are more workers

1 available to be hired in that area, relative to the
2 other.

3 So, again, I'm not testifying. But I
4 believe that Mr. Carlson stated something to that
5 effect.

6 HEARING OFFICER KRAMER: Okay. And we're
7 going to have to --

8 MS. LAZEROW: Mr. Kramer, we have only a
9 couple more questions and then we'll be done with
10 this panel, if I might?

11 HEARING OFFICER KRAMER: Okay, we still have
12 others to cross-examine them, potentially. Let me
13 ask, does anybody else wish to cross-examination or
14 have redirect? No, okay.

15 MS. LAZEROW: Sorry, Ms. Chang just said she
16 would like to cross-examine Mr. Pittard.

17 HEARING OFFICER KRAMER: She can maybe ask
18 him some questions when we get to the Project
19 Description tomorrow. But she went way over her
20 budget, already. We're not -- our sympathy is
21 limited as far as getting her in today goes.

22 Two more?

23 MS. CHANG: I don't need to go today, but
24 may I --

25 HEARING OFFICER KRAMER: Okay. Two more

1 questions from --

2 MS. LAZEROW: Yes. Also related to the
3 Workforce section. So, Ms. Worrell, you're not off
4 the hot seat yet, very soon.

5 MS. WORRALL: I anticipate that.

6 MS. LAZEROW: First, we heard your
7 testimony, earlier, that there's a project/labor
8 agreement in force. I'm sure all the workers who are
9 here, are glad to hear that. I wondered whether you
10 have any information broken down with respect to the
11 local workers, how many of those local workers live
12 in any of the affected Census Tracts, or even how
13 many live in Oxnard? Or, whether it's just a
14 question of Ventura, and L.A., or within a two-hour
15 drive is local?

16 MS. WILLIS: I'm going to object. That
17 assumes that the workforce has been identified at
18 this point in time. The labor agreement that was
19 testified there was a labor agreement. It was also
20 testified that we do not -- they do not know, at this
21 point in time, exactly who the workers are. And she
22 certainly did not know that in the time of developing
23 her testimony.

24 HEARING OFFICER KRAMER: Sustained.

25 MS. LAZEROW: Ms. Worrall, the last

1 question. With respect to the 17 permanent staff,
2 who currently operate and will continue, you
3 testified earlier that there are 17 permanent staff
4 who will be operating the facility. So, I wanted to
5 ask whether you have any information about what
6 percentage of the 17 staff live in Oxnard?

7 MS. WORRALL: This is Lisa Worrall. No, I
8 don't.

9 HEARING OFFICER KRAMER: Okay, thank you.

10 MS. LAZEROW: We have no further questions
11 for this panel. Thank you.

12 HEARING OFFICER KRAMER: Okay, this panel is
13 dismissed. Mr. Pittard -- everyone indicated no
14 direct or --

15 MS. WILLIS: Just to be clear. Mr. Kramer,
16 then, if there's questions on Outreach, Mr. Pittard
17 will be available through the Project Description
18 portion of the testimony.

19 HEARING OFFICER KRAMER: Right. And he's
20 going to be available to the end, I believe, right?

21 MS. WILLIS: He's here all week, as we are.

22 HEARING OFFICER KRAMER: Okay. Try the
23 salmon.

24 Okay, so to answer Mr. Carroll's question.
25 We have tomorrow, and let me just read the order, but

1 we will finish Socio and Environmental Justice, which
2 is -- well, I think some of the parties might be
3 leaving, so I was just going to briefly say.

4 So, we start with Socio and Environmental
5 Justice to finish that, at least part two that's on
6 the schedule. Then, we'll go to Project Description
7 and Introduction. Then, Project Alternatives Part
8 Two. And that will include Mr. Theaker, his cross-
9 examination from the City on Overrides.

10 And, then, Traffic and Transportation.
11 Cultural is now a floater because there's no
12 estimate, no time estimated. And Compliance and
13 Closure is ten minutes.

14 And, then, we'll get into day three's
15 business, which will be Visual, followed by Land Use,
16 followed by Alternatives Part 3, which is the Navy
17 concerns, basically. And, then, Biological
18 Resources.

19 And, because we do not have any hard stop at
20 5:30 for public comment, be prepared to go into the
21 evening, so we can complete all these and get back on
22 track.

23 MR. CARROLL: Mr. Kramer, one, hopefully,
24 piece of good news on the schedule. With respect to
25 Traffic and Transportation, we had identified Mr.

1 Castillo for Traffic and Transportation. The only
2 issues that we really intended to cover were related
3 to Aviation Hazards. Our view is that those have
4 been sufficiently covered. And, so, unless there are
5 objections from the Committee or the parties, we were
6 not planning to put Mr. Castillo on for Traffic and
7 Transportation. Nobody had indicated that they
8 wanted to cross-examine him.

9 HEARING OFFICER KRAMER: Is that still the
10 case, parties?

11 MS. WILLIS: We have no objection to that.
12 We'll have our witness available.

13 HEARING OFFICER KRAMER: Okay, so Jonathan
14 Fong will still be here.

15 MS. WILLIS: Correct.

16 MR. CARROLL: That is the staff witness,
17 correct.

18 HEARING OFFICER KRAMER: Okay. Well, that's
19 three minutes of savings, thank you.

20 (Laughter)

21 HEARING OFFICER KRAMER: Okay, we are going
22 to take a break before we begin the public comment at
23 5:30.

24 (Off the record at 5:19 p.m.)

25 (On the record at 5:30 p.m.)

1 COMMISSIONER SCOTT: We're really looking forward
2 to hearing from everyone this evening. All right. I've got
3 the thumbs up on the court reporter. So please go ahead and
4 find a seat, or if you're comfortable standing, you're
5 welcome to stand. I'm going to turn this over to our Hearing
6 Officer, Paul Kramer, to talk about the conduct.

7 HEARING OFFICER KRAMER: Okay. Thank you. The
8 Energy Commission values and encourages public participation
9 in its proceedings, and participation has two parts. First,
10 your ability to speak to us, and also, the ability of others
11 to hear what you say and what others have to say.

12 During public comment tonight we have an
13 expectation that everyone present maintains standards of
14 decorum, and what that means is no person shall be permitted
15 to interrupt Committee members or other speakers. No person
16 shall engage in behavior that disrupts the orderly conduct of
17 the meeting, including but not limited to, using threatening
18 language, continuously making sounds that inhibit the ability
19 of others to participate in the meeting and hear the meeting
20 content, or using actions, attire, props or signage that
21 obstructs the view of meeting attendees.

22 If these behaviors occur the residing member has
23 the authority to issue a warning. If the disruptions
24 continue, the presiding member may order the disruptive
25 person to leave the meeting. If the person does not leave,

1 the presiding member may call a recess of the meeting, may
2 clear the meeting room or may seek the assistance of security
3 or law enforcement to enforce these Rules of Decorum.

4 If order cannot be restored the presiding member
5 may continue this meeting to another day, time and/or place.
6 To facilitate the orderly receipt of your comments, again, we
7 ask that you fill out a blue speaker card and return it to
8 the public adviser.

9 You don't have to fill out a card, but we're going
10 to call the people who give us cards first. Public adviser,
11 because we also had public comment last night, to try to be
12 fair to those who are making a comment for the first time,
13 we'll put the cards of those who spoke last night at the end
14 of the stack.

15 So just so you know, we're going to make sure
16 everyone gets heard, but first timers get a bit of priority
17 tonight. Now, when your name is called we want you to come
18 up to the microphone and then promptly conclude your comments
19 when your times is expired, and you'll see the timer on the
20 screen behind me.

21 Failure to yield the podium at the end of your
22 allotted time is also considered behavior that disrupts the
23 orderly conduct of the meeting. So with that, we're ready to
24 begin.

25 COMMISSIONER SCOTT: Okay. Welcome, everyone. I

1 have first, Mike Stubblefield, followed by Fred Farro. Mike,
2 are you here, Mike Stubblefield?

3 FEMALE SPEAKER: He left.

4 COMMISSIONER SCOTT: All right. So I have Fred
5 Farro, followed by Mike Barber.

6 MR. FARRO: Good afternoon, Commissioners and
7 Staff. My name is Fred Farro. I'm here tonight representing
8 the Oxnard Chamber of Commerce as a current board member and
9 immediate past board chairman. The Chamber has previously
10 voiced its support for the Puente Project, both at the PUC
11 Hearing in Oxnard and one of your previous hearings here.

12 And the Chamber position in support of the Puente
13 Project has not changed. We support it, and it's not just
14 due to the short and long-term economic benefits to the local
15 community and the city in the form of jobs and incremental
16 tax revenue, but also, more importantly, due to this project
17 insuring a more stable, reliable, dependable and affordable
18 power supply to Oxnard's residents and their businesses, new
19 or existing.

20 And when our peak power needs are not being met by
21 alternative sources, or during a regional emergency, such as
22 a fire or earthquake, this Puente Project is in fact the
23 bridge for us. Approval of the Puente Project will also
24 expedite, we feel, the timely demolition of the existing
25 Mandalay Plant, and on a more time-certain basis.

1 So we urge you to approve the project and hope you
2 make that choice. Thank you.

3 (Applause)

4 COMMISSIONER SCOTT: Thank you. I have Mike
5 Barber. So I'm just going to ask that -- I know everyone's
6 excited and there's a lot of passion and energy for this
7 project on both sides, if you'll keep your applause to a
8 minimum, just so we can keep the flow going. But I have Mike
9 Barber, followed by Shane Boston.

10 MR. BARBER: Good evening. My name's Mike Barber.
11 I'm a retired union ironworker out of Los Angeles, Union 433.
12 I'm also a 45-year resident right here in Oxnard. And I want
13 to tell you a little story today of what happened to me
14 today.

15 I woke up this morning and it was damp and it was
16 chilly and I turned on my gas fire furnace in my house. And
17 then I went into the kitchen and I turned on my gas stove and
18 heated some water for my coffee. Then I went and took a
19 shower with my water heater that was gas-fired up.

20 And then after that I went downstairs into the
21 kitchen again and cooked breakfast. All this was clean
22 burning, natural gas. A couple years ago, Gold Coast Transit
23 changed all their buses over from diesel fuel to clean,
24 natural gas. Everybody was celebrating that.

25 So I don't understand the argument that this fossil

1 fuel power plant is ruining our environment when we use
2 natural gas inside our house and in a closed environment
3 every day of our lives. So I'm not buying that argument.

4 The other argument that I hear all the time is that
5 we should have more solar and more wind. And as we all know
6 when we drive around, there's more and more of it all the
7 time. In fact, I don't talk about it. I did it. I put
8 solar panels on my house, and I can see from the website that
9 my panels are hooked up to when I'm creating electricity and
10 when I'm not.

11 The wind doesn't blow and the sun isn't always
12 shining, and that's why we need backup. And it's just like
13 when we're out on the street and our phone runs down and we
14 have a backup. Well, I look at this Puente Power Plant as a
15 backup to help us when we need extra power.

16 I think it's a great project. I'm urging you to
17 pass this thing and move it forward. Time is running out and
18 we need this project. Thank you very much.

19 (Applause)

20 COMMISSIONER SCOTT: Thank you. I have Shane
21 Boston, followed by Kevin P. Ward.

22 MR. BOSTON: Good evening, Commissioner and Staff.
23 Thank you for being here. My name is Shane Boston. I'm a
24 52-year resident of Ventura County. I am the business
25 manager of Plumbers and Pipe Fitters Local Union 484 in

1 Ventura County.

2 I represent hundreds of highly skilled craftsmen
3 and women in the piping industry. I'm here to speak in
4 support of this project. I'm a third generation member of
5 Local 484. My son is an apprentice, a fourth generation
6 member. He's here tonight, or he's supposed to be here
7 tonight --

8 COMMISSIONER SCOTT: He's waving at us.

9 MR. BOSTON: -- with 60 plus other apprentices,
10 young men and women that make up our Apprenticeship Program.
11 My father and grandfather both worked on the two existing
12 power plants. I'm a fifth generation Ventura County
13 resident.

14 I have friends and family all over Ventura County,
15 many of which live on the west side of Oxnard, close to the
16 beach. I would never support a project that I thought would
17 be detrimental to the health and safety of those in our
18 community.

19 As most of us know, the State of California has the
20 most stringent laws in the nation when it comes to air
21 emissions. Just over the past year or so our work has slowly
22 started to pick up here locally. We've been slowly coming
23 out of a recession that started back in 2008.

24 At one point our Local had close to 40 percent
25 unemployment. Having said that, many of our members still

1 are having to commute outside Ventura County to Los Angeles,
2 up to Santa Barbara or even out of state to work. Many of
3 these hardworking men and women are here tonight and have
4 been up since 4:30-5:00 o'clock this morning.

5 Also note our apprentices attend school two nights
6 a week, three and a half hours a night. I thank you brothers
7 and sisters for all being here in support of this. This
8 project is crucial to my local union, as well as the other
9 building trades unions that are here tonight.

10 To me this project's a no-brainer. We build a
11 cleaning burning powerhouse, most of which will dwarf what is
12 already there, remove the old dinosaurs from Mandalay and
13 Ormond Beach, restore the wetlands. We all need electricity,
14 right?

15 We all -- we have to keep the lights on. Just
16 about everyone I know has a TV, computer, a smart phone,
17 other appliances, washer, dryer, oven, stove, you name it, in
18 their homes. Where would the power come from when these two
19 dinosaurs are decommissioned in the next few years?

20 Again, this project is crucial to my local. This
21 project will be under a project labor agreement, which will
22 insure local hire for highly skilled journeymen and women and
23 apprentices. These are high paying jobs that includes health
24 insurance, and for them and their families, vacation pay and
25 a couple pensions, as well.

1 This in turn keeps our tax dollars in our
2 community. This also means some of them won't have to
3 commute miles and miles for work and will get to work in
4 their own back yard. This project will bring close to
5 100,000 hours, work hours, to Local 484 alone.

6 The brothers and sisters of Local 484 of the United
7 Association of Plumbers, Pipe Fitters, Welders and
8 Apprentices stand in solidarity in full support of this
9 project. Thank you.

10 (Applause)

11 COMMISSIONER SCOTT: Thank you. I have Kevin P.
12 Ward, followed by Phil Keeling.

13 MR. WARD: Good evening and thanks again for
14 listening. My name's Kevin Ward. I'm a resident of Oxnard,
15 16 years now, and I'd like to applaud the students who
16 interrupted this process two sessions ago. Politely, their
17 representative spoke of the years in which our community's
18 interests have been ignored just to institute old-fashioned,
19 fossil fuel development.

20 In desperation, they demonstrated loudly and
21 somewhat successfully to shut the project down. They
22 achieved a closure of the meeting and more media attention
23 that may not have been covered since this protest. Their
24 unity was inspiring and courageous.

25 They had every right to protest an inevitable

1 process that appeared somewhat tone deaf from the start,
2 seemingly settled from day one. Their action recognized this
3 latest NRG project affects the families and neighborhoods and
4 their health.

5 Did anyone listen to them or to the City Council of
6 Oxnard or the state representatives or the majority of us who
7 live in Oxnard in the shadow of the stacks? Or was it like
8 shouting to Sacramento? One might dismiss student
9 involvement thinking that their lack of maturity would
10 disqualify their opinions, but nothing could be further from
11 the truth.

12 Nearly 10 years ago and against all odds, student
13 voices shut down the encroachment by BHP Billiton, the
14 world's largest mining concern that wanted a power plant
15 right in the middle of the Santa Barbara Channel. You know,
16 imagine NRG plant on pontoons.

17 It took over four years and contributions from many
18 to deny the project, as the then governor, president of the
19 U.S. and Exxon were all trying to pump it up. The Coastal
20 Commission, citizens from Malibu and local experts who
21 volunteer their vast resources by using more than just
22 alternative facts, stood strong and on the right side of
23 history and nature.

24 With student support and contributions, Oxnard won
25 like little migrant David against Exxon Goliath. Several

1 students spoke more eloquently and convincingly than any
2 other speakers, even the practiced auzi mining pitchmen.

3 It was a grand victory for the power of democracy,
4 persistence and community solidarity, and it was finally
5 denied. It was also the students' win and a great, really
6 great American story. Unfortunately, it was short-lived, as
7 NRG followed it with the construction of another power plant,
8 once again, Oxnard, the target of NRG's efforts to leave
9 their ever-deepening footprint upon our beaches, and their
10 funky phallic smokestack still pokes the Channel Island
11 skies.

12 This time we don't have celebrities from Malibu to
13 add their notoriety to the legitimacy of the workers here in
14 Oxnard now, and NRG may need backing on this for their
15 encroachment. But we do have the students. They've seen the
16 false faces of big energy, big mining, and learned resistance
17 is important to salvage their future.

18 Oxnard should be proud of students who teach
19 unselfish dedication to their family and natural environment,
20 and I want to thank them. We must now learn from their
21 heartfelt persistence and hope for healthier days ahead for
22 us all.

23 (Applause)

24 COMMISSIONER SCOTT: Thank you. I have Phil
25 Keeling, followed by Frank Nevitt. Oh. I thought one of you

1 was Phil. Is Phil still here? That's you. Okay.

2 MR. KEELING: Thank you. My -- I'm Phil Keeling,
3 vice president of Local 484, Plumbers, Pipe Fitters, Welders
4 and Apprentices of Ventura County. I grew up here in Oxnard,
5 went to schools in Oxnard and Hueneme. Bought a home here.
6 I think Ventura County is one of the best places to live and
7 work. Best weather, best beaches.

8 One of the prettiest beaches is right by the power
9 plant here that's been here for years. It's pretty pristine.
10 My family's been coming to Oxnard beaches all of my life. So
11 let's agree, these two old powerhouses needs to come down.

12 They remind me of an old diesel, 18-wheeler
13 polluting the air. What's proposed to be built here is like
14 a Prius, a hybrid powerhouse, low emissions, state of the
15 art, very, very little pollution at all. It makes more sense
16 to oppose building more channels and houses on our beaches
17 that'll pollute the air a lot more than to tear down these
18 power plants, and we'll just a little Prius in its place.
19 Thank you.

20 (Applause)

21 COMMISSIONER SCOTT: Thank you. I have Frank
22 Nevitt, followed by Nicholas Davis. Frank, are you here?

23 MALE SPEAKER: Frank left.

24 COMMISSIONER SCOTT: Okay. I have Nicholas Davis,
25 followed by Raphael Escobedo.

1 MR. DAVIS: Hello. I am a second-year apprentice
2 representing the Local 484 Union for Pipe Fitters and
3 Plumbers, and I'm just here to say that with the need of this
4 power plant coming into play with the other three starting to
5 run down, we're going to need more power and efficiency, and
6 I feel that this is the best way to do it, and that's why I
7 fully support this. Thank you.

8 (Applause)

9 COMMISSIONER SCOTT: Thank you. I have Raphael
10 Escobedo, followed by Christine Brown. And just a reminder,
11 if you're like to make a comment please see our public
12 adviser. She's give you a blue card and then she brings them
13 up to me. That's how I know. Raphael, please.

14 MR. ESCOBEDO: Good afternoon, California Energy
15 Commission, and everyone attending this workshop. My name is
16 Raphael Escobedo. I'm a long-time resident of Ventura County
17 and a homeowner in Oxnard. I have been a member of Plumbers
18 and Steam Fitters for 19 years.

19 I'm here to support the Puente Power Plant. This
20 power plant is going to give us the electricity we need to
21 power our homes, businesses and cell phones. Oxnard's
22 population is growing rapidly and businesses are being
23 created.

24 This power plant is essential to Oxnard's growth
25 and prosperity, not to mention, this project is going to

1 create good-paying jobs for our building trades, our
2 plumbers, pipe fitters, welders, electricians, cement masons,
3 steel workers and operators.

4 For example, our building trades members are going
5 to spend their money here locally. In return, this is going
6 to stimulate Oxnard's economy. This project is a positive
7 step forward for the citizens of Oxnard. There's an article
8 from Energy Informative on the web that clearly states that
9 the advantages of nuclear energy are far greater than the
10 negatives.

11 For example, energy is low cost, low pollution and
12 sustainable energy. These are just a few examples of the
13 advantages of having nuclear energy. Studies have shown that
14 La Puente Power Plant has no significant impact on the
15 environment. I urge you to support La Puente Power Plant.
16 Thank you. Raphael Escobedo.

17 (Applause)

18 COMMISSIONER SCOTT: Thank you. I have Christine
19 Brown, followed by Kurt Oliver.

20 MS. BROWN: Hello. I'm here on behalf of showing
21 up for racial justice and I'm also a member of CFROG. First,
22 I'd like to say thank you for your time. I was here
23 yesterday and three times before. I heard something
24 yesterday that I hadn't in the past.

25 An acquaintance said something like, paraphrasing,

1 the only people who want this plant are people who will make
2 money off of it or think others will. Sometime later it hit
3 me. To be in support of this plant is to disregard climate
4 and the environment.

5 It is not surprising those who spoke in favor of
6 the plant yesterday only prepared a sentence or two. You
7 would have to have a little reflection and regard with
8 regards to climate and environment. I understand that people
9 need jobs, but there's a better way.

10 Before yesterday and today, the only other time I
11 can recall hearing someone speak in favor was a few events
12 ago when someone was making the case that natural gas was the
13 most effective way to fuel a peaker plant. I think the L.A.
14 Times cover story from this weekend just blew up the need for
15 more peaker plants.

16 The article actually made the pursuit seem to be
17 against the interest of the people, not because of the
18 climate, but because of money. The state is reportedly using
19 less power than it did back in 2008, yet we produce more
20 power than we need.

21 We're projected to be 21 percent over need by 2021,
22 yet we pay more for it. We're closing plants ahead of
23 schedule throughout the state. The cost of the public
24 utility is passed on to the consumer, the construction, the
25 operation and the profit.

1 The profit isn't passed to the consumer. That's
2 passed to somebody else. All of this I'm sure you know. I
3 have to wonder if there's an ulterior motive for this peaker
4 plant. All those people over the past two years who have
5 been coming here pleading for this power plant not to be
6 approved, beginning for this environmental justice [sic] to
7 end, seemed to have had their voices unheeded, as the powers
8 that be come up with some new workaround to justify another
9 fossil fuel plant in Oxnard. Please stop making Oxnard a
10 sacrifice zone.

11 (Applause)

12 COMMISSIONER SCOTT: Thank you. I have Kurt
13 Oliver, followed by Jay Turner.

14 MR. OLIVER: Good evening, Commissioners and Staff.
15 I'm Kurt Oliver, business representative for the Operating
16 Engineers Local 12 here in Ventura. Our members stand in
17 solidarity with other affiliated tradesmen and women and
18 apprentices in support of the Puente Power Project.

19 Projects like this one are the means by which our
20 members are able to meet their financial obligations. Be it
21 paying their rent or mortgage, providing food for their
22 family, paying basic utility bills, these kinds of projects
23 provide the potential to earn a good wage and benefits.

24 As has been stated during previous public comments,
25 the construction industry was hit particularly hard in 2008

1 with large numbers of our members being laid off or had their
2 hours downsized dramatically. Some rode out this downturn in
3 employment, and unfortunately, some lost their homes.

4 This current transition to clean, renewable energy
5 is one area that is providing our highly skilled members with
6 opportunities for lengthy employment. Solar farms in Blythe,
7 Carrizo Plains and out in the desert are multi-year projects,
8 but are also in remote areas requiring our members to stay
9 away from their families for extended periods of time.

10 This Puente Project would also be a multi-year
11 endeavor, but much, much closer to home. Long-term local
12 employment is just what is needed for our members, and those
13 of other trades who have staged with short-term jobs.

14 As we all know, construction jobs have a multiplier
15 effect on and on down the line. Subcontractors, suppliers,
16 vendors and the local economy would see that effect at a time
17 when the City of Oxnard could use a financial boost.

18 Again, our members fully support the Puente Power
19 Project at Mandalay. Thank you.

20 (Applause)

21 COMMISSIONER SCOTT: Thank you. I have Jay Turner,
22 followed by Jose Garcia.

23 MR. TURNER: Good evening. My name is Jay Turner
24 and I'm an operating engineer from Local 12. I also live in
25 a six-mile radius of the plant and have for the last 34

1 years. First off, I would like to express my approval for
2 this project.

3 Too many of our local jobs go to non-union
4 companies who don't pay benefits or a livable wage. NRG has
5 said they would sign a POA for the demo and the construction
6 of the Puente Power Plant. That's local jobs for our local
7 union tradesmen.

8 There's a lot of talk of renewable energy, and I
9 agree we should use all resources available to us. But in
10 order for us to produce the 262 megawatts needed from a solar
11 field we would need 2100 acres of farmland. We're talking
12 from Gonzales Road down to Fifth Street and over to Harbor
13 Boulevard. That is 3.4 square miles of solar panels.

14 Or we could build the Puente Power Plant that would
15 produce the 262 megawatts on half an acre of land with the
16 infrastructure already in place that would limit the impact,
17 the environmental impact in this area. Every city in the
18 county just passed a SOAR Initiative.

19 I can't imagine us as citizens would want to turn
20 3.4 square acres of prime farmland into a field of mirrors.
21 A company named First Solar just completed a solar farm
22 outside of Yuma, Arizona, that has a capacity of 290
23 megawatts, and they used 2400 acres of previous farmland to
24 do it.

25 The reason that location was chosen was because of

1 its proximity to the 500 KV power lines in the area, or
2 because the infrastructure was already in place. This
3 project is a backup plan to the renewable energy that we
4 already put in place, a generator so to speak.

5 When the wind doesn't blow in the summertime and
6 when June gloom is overhead we can flip the switch and make
7 sure our lights come on, our phones are charged and our
8 electric cars can pull out of the driveway. Thank you.

9 (Applause)

10 COMMISSIONER SCOTT: Thank you. I have Jose
11 Garcia, followed by I think it's Ocil Herrejon. And let me
12 know if you are standing because you can't find a seat.
13 There's definitely a bunch of seats up front, and if you're
14 standing because you like to stand, then you're all good.
15 Please go ahead.

16 MR. GARCIA: Good evening, Commissioners and Staff
17 and everybody here tonight supporting this project and in a
18 position because everybody has a right to speak their mind.
19 I'm a lifelong County of Ventura resident, avid fisherman.
20 Love the ocean, but understand that from when I was a child
21 we used to push around hot wheels, marbles.

22 Kids don't do that no more. They're into
23 technology. They're into things that are powered. We need
24 this plant. All these people behind me, they're taxpayers,
25 ratepayers and should be the people building this place,

1 okay?

2 I was listening to you guys earlier about, what is
3 a construction guy or, you know, what would he do. Ask one
4 of these guys. They told you. When they're out they can't
5 come home to their families. They don't enjoy parks. If you
6 want to know real answers to your questions on construction
7 people, plenty out here to ask. We're free and we're open to
8 you on the other side of that.

9 I want to just -- everybody to know that we're here
10 because we love Ventura County. We're not worried about
11 what's outside of this area. I know the president's thing is
12 to make America great again. We're here to make Ventura
13 County great and forever.

14 We're limited by what we can do in this county
15 through SOAR. There's no building for these people. All
16 these people want to live here and spend here, but if we
17 don't have work for them what is their option? Every time I
18 read a paper or an economic development thing, like the
19 brothers said, construction industry is the only one still
20 trying to catch up since 2008.

21 We're in 2017 if nobody knows how to do the math,
22 okay. These people deserve the chance to do it. Wherever we
23 put it, we must put it, because everybody needs it. I'm an
24 avid fisherman. I love the ocean with all my heart, but
25 wherever we put it we're going to make one people happy and

1 the other people upset.

2 So set your minds down to it. Let's get this
3 project built. Let's go.

4 (Applause)

5 COMMISSIONER SCOTT: Thank you. Okay. So I'm
6 going to ask again that everyone hold their applause just to
7 a minimum so we can keep the flow and be able to all hear one
8 another. I have Ocil Herrejon, followed by David Valencia --
9 I'm sorry -- Valenzuela.

10 MS. HERREJON: Hello. My name is Ocil Herrejon. I
11 am an organizer with Cause and I first want to say how proud
12 I am of the youth and the community that have come out and
13 who fully understand what is going on in their communities.

14 I really hope that you listen to the community, to
15 the City Council of Oxnard, elected state assembly members,
16 county supervisors and state senators, as well as countless
17 local organizations that oppose this project and have told
18 you time and time again that dirty energy and polluting
19 fossil fuel power plants are not accepted or welcome on our
20 coast, but clean, renewable energy is.

21 I am also here to present the petition, No on the
22 Puente Power Project that has been signed by more than over
23 150 people and counting, and it states: "We the undersigned
24 oppose the power plant that NRG, a Fortune 200 power company,
25 proposes to build in the City of Oxnard. In addition to

1 NRG's existing plants that have been polluting these
2 communities for decades, the people of Oxnard are facing the
3 potential sitting of another power plant in their
4 communities, threatening them with even greater hazards to
5 their health and wildlife and the environments that they
6 should be enjoying with their children for decades to come.

7 "Instead, they have absorbed a disproportionate
8 burden of the pollution from these toxic power plants,
9 shouldering the costs and impacts of producing electricity
10 for neighboring cities up and down the coast of California
11 from Simi Valley to Goleta, including the UCSB campus.

12 "We refuse to benefit from, perpetuate or add
13 further injury to the injustices suffered by these
14 communities. Unlike the residents of Santa Barbara, Ventura
15 and Malibu, many residents and workers in Oxnard don't feel
16 the warmth on their faces as they sunbathe on the beach, but
17 instead feel the heat on their backs while they do stooped
18 labor in the fields, picking fruits and vegetables for the
19 rest of the country's tables.

20 "Nearby, their children are the youth who are most
21 likely in the country to be attending schools next to fields
22 doused with toxic pesticides. Oxnard has been the home to
23 three landfills and the Halaco Superfund site. These
24 disparate realities are indeed the very definition of
25 environmental racism, which happens when communities where

1 poor people of color live and work are specifically targeted
2 for building toxic waste or power plants, and the use of
3 pesticide and other pollutants.

4 "According to the CEJA report, within the
5 environmentally overburdened communities in Oxnard, 85
6 percent of the pollution are Latino. Twenty-nine percent
7 live in linguistic isolation. Fifty-six percent live below
8 two times the federal poverty line and 46 percent of those
9 over 25 years of age have less than a high school education.

10 "Thousands of farm workers also work in even closer
11 proximity to the proposed plant than local residents in the
12 fields less than half a mile from the site." So the question
13 continues, why always Oxnard. And with that, we demand you
14 to stop making Oxnard the sacrifice zone. This injustice has
15 to end and we demand clean air now.

16 (Applause)

17 COMMISSIONER SCOTT: Thank you. I have David
18 Valenzuela, followed by Mercy Urrea.

19 MR. VALENZUELA: Thank you, Commissioner. My
20 name's Davie Valenzuela. I'm the business manager of the
21 Construction Laborers' Union here in Ventura County. This is
22 work that we desperately need. We have a lot of my members
23 work out of town.

24 We can't seem to get any jobs. We have to find our
25 own jobs. The city can't seem to get out of the starting

1 block. So any jobs that we can get would be greatly
2 appreciated. Our members are ready to work. Be thousands
3 man hours for laborers dismantling the project and building.

4 I live in Oxnard for 50 years and I also live on
5 Hollywood Beach, and I see that plant every morning. It'd be
6 nice to take that down with some skilled workers and create
7 some jobs for Oxnard residents, the laborers of Ventura
8 County and apprentices support this project and hope to move
9 it forward. Thank you.

10 (Applause)

11 COMMISSIONER SCOTT: Thank you. I have Mercy
12 Urrea, followed by Daniel Ford.

13 MR. URREA: Hello. Good evening. My name is Mercy
14 Urrea. I'm the representative for the Southwest Carpenters,
15 Carpenters' Local 150. We stand here in support of the
16 project. We currently have over 1,000 to 1200 members.

17 A high percentage of them, probably four to 500
18 live in Oxnard, and a lot of these guys that are in here with
19 me today, they're here to stand in support of the project and
20 a lot of other people, men and women that want to be here
21 today, couldn't be here because they're just still sitting in
22 traffic trying to get here.

23 So we're all about just creating jobs here. A lot
24 of us live here, go to school here. We pay our bills here.
25 We shop here. It'd be really great for us to put an

1 opportunity for us to work here. So we stand together with
2 all the other trades in hopes to support and start this
3 project, and hey, let's start digging some holes and put some
4 concrete in the ground. Thank you.

5 (Applause)

6 COMMISSIONER SCOTT: Thank you. So you mentioned
7 other folks who might not have been able to make it this
8 evening. One thing, a reminder, you can always get comments
9 to us in writing, and our public adviser can help you with
10 how to do that.

11 We'll be here also on Thursday and Friday, although
12 we don't have a set public comment time, and we'll be taking
13 public comment then, as well. I have Daniel Ford, followed
14 by Ed Escamilla.

15 MR. FORD: My name's Daniel Ford. I'm a member of
16 Carpenters' Local 150. I'm a resident of Oxnard.

17 MALE SPEAKER: Move your microphone.

18 HEARING OFFICER KRAMER: Oh.

19 MR. FORD: I'm a resident of Oxnard, three
20 generations. My grandfather served on the -- in the Seabees.
21 My mom was born on that base and we grew up here, and I
22 support this power plant. We need the work here for our
23 people, you know.

24 I travel everywhere from Arroyo Grande to
25 Disneyland to work and I miss a lot of time with my family.

1 And to have that work here in our community, I mean, this is
2 where we spent our money. We all want to spend more time
3 with our kids, you know. We can use these parks that we
4 have, and I support this project. Thanks.

5 (Applause)

6 COMMISSIONER SCOTT: Thank you. I have Ed Escuela
7 [sic], followed by Raul Lopez.

8 MR. ESCAMILLA: Hello. My name's Eddie Escamilla.
9 I'm a proud member of Carpenters' Union 150. I'm in favor of
10 this project because we need progress. It's time for that
11 old thing to come down. You know, we all know each other
12 here, all the different trades. We all know each other
13 because we all work with each other.

14 We see each other in L.A. We see each other in
15 Santa Barbara. We'd like to get some work right here. I'm
16 55 years old. I been looking at that thing my whole life. I
17 was born and raised in Oxnard. I'm planning on dying here.
18 So progress on that would be great for work, but not -- work
19 aside, great for the community to have something that
20 efficient.

21 You know, after football games on Friday we used to
22 go down there and have beer. So you know, let's make it look
23 nicer for the next generation of football players. Thank
24 you.

25 (Applause)

1 COMMISSIONER SCOTT: Thank you. I have Raul Lopez,
2 followed by Tim Redondo.

3 MR. LOPEZ: Good evening, guys. How you doing?

4 COMMISSIONER SCOTT: Good evening.

5 MR. LOPEZ: Nice to see you again. It's been so
6 long, only 24 hours ago. I'll tell you what. I'm encouraged
7 to see all the workers out here. It's awesome to see them,
8 you know. I mean, it's last day and everything, but it's
9 cool to see you guys.

10 It's awesome that you guys came out and show your
11 support for something you believe in, or you know, maybe a
12 little overtime, too. That's cool. I wish we can afford to
13 do the same thing with the residents, right? That'd be
14 great.

15 Anyways, one of the things I wanted to talk about
16 is that through this hearing today, I mean, and I'm glad to
17 hear that some of the jobs are going to people in Oxnard.
18 And don't get me wrong. I'm an organizer. I'm for unions.
19 I'm for fair wage. I'm for people getting work.

20 Don't get it twisted. That's what I believe in. I
21 want to see all these guys working. But our purview, my
22 purview, as a lifelong resident here in Oxnard, born and
23 raised. My family been here since the '40s, since the
24 Bracero Program that created the agricultural industry in
25 this state.

1 So this is a -- it's a deep subject for me. It's
2 not just about getting a contract. It's not just about
3 getting a few people work. Through these hearings I guess we
4 just found out that almost all of the jobs are going to
5 workers in L.A. County area, and that Ventura County's
6 second.

7 And also, the CEC Staff and NRG Corp. also admitted
8 through these hearings today -- or maybe not today -- but
9 admitted through these hearings that the higher paying,
10 skilled managerial jobs will go to people outside the area
11 and the state.

12 So although I do appreciate the workers and I want
13 them all to be working, I also as a lifelong resident of
14 Oxnard would hope that the investment will be made a little
15 bit stronger to the people of Oxnard that have given and
16 sacrificed so much after so many years, sacrificing from
17 their health to not reporting things because they just want
18 to get the job done.

19 I come from a family of strawberry field workers to
20 all union guys that come here today. So I'm no stranger to
21 work. I worked in the strawberry fields at the age of 11,
22 worked in construction, you know, made it through life. It's
23 great to see so many workers out, but God, I wish I would
24 have seen you guys here every other day witnessing all the
25 other people, the families, the farm workers that work 100

1 feet from the plant.

2 It'll be amazing to hear their stories. I look
3 forward to hearing the rest of your guys' stories, and I hope
4 you guys get plenty of work. But guys, this is about more
5 than work. It's about Oxnard and the future of it. This may
6 seem like one, one small subject to some, work to some, just
7 a checklist to move onto the next step for others.

8 But the people that are lifelong residents here
9 that aren't looking to get a contract out of it, they aren't
10 looking to get a job out of it, they're just going to be
11 living here forever, whose kids have asthma, again, like I
12 told you guys yesterday, if your community had three power
13 plants, was in the 90th percentile for asthma in the entire
14 State of California, I would not burden your children with
15 any one percentage more of burden, because those kids deserve
16 a brighter future. Thank you. Goodnight.

17 (Applause)

18 COMMISSIONER SCOTT: Thank you. I have Tim
19 Redondo, followed by Martin A. Rodriguez. Wait.

20 MR. REDONDO: Hello, and thank you for letting me
21 speak, and this is democracy at work. I think this is great.
22 Everybody's getting a chance to speak and speak their mind
23 and get information and give information on their feelings.

24 Again, my name is Jim Redondo, a 40-year resident
25 of Ventura County, Local 484, business agent and organizer

1 for the United Association of Plumbers, Pipe Fitters, Welders
2 and Apprentices. And I also represent the building trades
3 and all the construction workers.

4 My members from Local 484, which are my brothers
5 and sisters, and I support this new power plant project, as
6 it will incorporate the latest in modern technologies in
7 power, act as a peaking plant during critical Ventura County
8 and SoCal energy needs, insure power supply if cut off from
9 outside source of power.

10 The units will increase benefits to the community
11 by supplying contracts to vendors, suppliers, contractors and
12 good-paying local hire, local hire of these members here that
13 want to come back and work in the county. It kills them,
14 because a lot of them have had to work out of town, out of
15 state, go to the Midwest and work with these major, some of
16 these type projects are.

17 We finally have one in here in the county and we
18 need them back to work. It kills me. Today I get a text
19 from a member. He thanked me for getting him a job in
20 Tennessee. He should be thanking me for getting him a job
21 here and helping. It kills me.

22 Another deal is, even these individuals that travel
23 to L.A. or San Diego or out to the desert for some of the
24 jobs, they don't get to come home to their kids in the
25 afternoon, soccer, school events, functions, their wife,

1 birthdays, whatever it might be.

2 I'm here tonight because I care about the building
3 trades. I care about the county. I've been here forever.
4 I've raised two daughters in this county. I have a good
5 paying job. Thank goodness, they're going to college. I
6 care. I'm passionate for these guys. Tonight's actually my
7 birthday, and where am I? I'm here.

8 COMMISSIONER SCOTT: Happy Birthday.

9 MR. REDONDO: Because I care about these
10 individuals. I do. I do care about the county. I do care
11 about Ventura, Oxnard, Saticoy, El Rio. I live in Camarillo,
12 right in the path of wherever everything blows. I'm in this
13 community. So I care.

14 Again, what I see in the footprint is removal of
15 two units, one and two, and the stack, once this new one is
16 built. Clean burning, natural gas. There's scrubbers on it.
17 There's new technology. Gosh, let's use it. It's a peaker
18 plant, only when the demand is there.

19 Everybody goes home. I'm running out of time.
20 Everybody goes home, turns on their TV, turns on their
21 computer and they mostly, usually do it at night when we need
22 the power. Wind and solar aren't too effective. So I just
23 want to thank you for the time.

24 And lastly, I'd like to point out that everyone,
25 everyone uses power. It benefits -- the benefits from this

1 power plant is like an environmental benefit, is a basic
2 right and this is not -- this is a -- I'm sorry. Excuse me.
3 We cannot afford higher electricity prices, also.

4 Again, we rely on this energy. I'm out of time.
5 Thank you very much.

6 (Applause)

7 COMMISSIONER SCOTT: Thank you and Happy Birthday
8 to you.

9 MR. RODRIGUEZ: Good evening, California Energy
10 Commission. My name's Martin A. Rodriguez. I'm business
11 agent for the Ironworkers Local 433 and president in Tri-
12 County Building Trades. A lot of this has been rehashed, I'm
13 sure.

14 You know, but there was a funny thing coming in
15 today also. Just like the other ironworkers spoke, the
16 lights were on. The microphones were working. There were no
17 horses feeding out front and 'lo and behold, I didn't see a
18 whole rack of bicycles, you know.

19 Most of all, I didn't see the Barney Rubble push
20 cars out there, neither. So you know, like it or not, this
21 is what we have right now. And I get it. We got solar and
22 we got sustainable energy on the way, but it's not quite here
23 yet.

24 Just like the name says, it is a bridge. We need
25 this thing. And before I go any farther, you damn right I

1 approve this project. We need to build it, sooner the
2 better. Some of the opposition are saying, the only ones who
3 will benefit from this project are the one that will get a
4 monetary hit out of it.

5 Couldn't be farther from the truth. We drove here
6 on roads. We go to the grocery store. These guys have a job
7 they go to that's powered by electricity. The schools, brand
8 new ones I've built right up the street here, right -- all
9 over Oxnard are from this tax base generated by good
10 neighbors of NRG.

11 This has gone on quite a while and, you know, the
12 powerhouse is much needed. We need to get this thing built.
13 Thank you. And one more thing, to say this is racial
14 injustice, my God, that couldn't be farther from the truth.

15 We build these projects all up and down the coast,
16 Redondo Beach, Huntington Beach, Scattergood, right there on
17 the coast. This is a narrow strip of land here, the State of
18 California, and we do build these things in the highest wind
19 districts up and down the state. There is no racial
20 injustice. Thank you.

21 (Applause)

22 COMMISSIONER SCOTT: Thank you. All right. I'm
23 going to ask for folks again to hold the applause down just a
24 little bit. I have Peter Gutierrez, followed by Amanda
25 Pantoja. This is true. As Peter's making his way up, I am

1 almost out of cards.

2 If there are folks who would like to make a comment
3 and haven't turned in their cards, please go ahead and do so.
4 We want to hear from you this evening. So I have Peter
5 Gutierrez, followed by Amanda Pantoja.

6 MR. GUTIERREZ: How you doing? My name's Peter
7 Gutierrez. I'm an apprentice for 433, Ironworkers, and I
8 approve this. It'll bring a lot of work to the community,
9 bring our families closer together so we could be here for
10 each other. And I just approve this. I thank you guys for
11 your time and thank you.

12 (Applause)

13 COMMISSIONER SCOTT: Thank you. We'll have Amanda
14 Pantoja, followed by Reno Gutierrez.

15 MS. PANTOJA: Hello, everyone. Good evening. My
16 name's Amanda Pantoja, and I --

17 COMMISSIONER SCOTT: Why don't we bend it closer.

18 MS. PANTOJA: Hello. There. I'm a student from
19 UCSB. I came from UCSB to support and stand in solidarity
20 with the residents against the power plant. I strongly stand
21 against using fossil fuels. There is such a thing as racial
22 injustice. I personally come from a -- Southeast Los
23 Angeles, with -- which is an environmental injustice
24 community.

25 We live one mile away from the City of Vernon,

1 which is completely all factories. We live a mile proximity
2 away from power plants, refineries, animal rendering
3 facilities and we suffer that every single day. Southeast
4 L.A. is a community predominantly of Latinos, and we suffer
5 that and we feel the effects.

6 So there is such a thing as racial injustice,
7 because a lot of these factories, a lot of these facilities
8 are not in affluent areas. There isn't any in Montecito.
9 There isn't any in predominantly affluent areas, and we can
10 see that and there is evidence of that. So there is such a
11 thing as racial injustice.

12 NRG really places their stance about being
13 renewable and having solar and wind. Well, speaking to an
14 Oxnard resident she said that she would happily accept
15 renewable energy here in her community, and I know she speaks
16 for many of the residents here that do want renewable energy.

17 There is no such thing as clean fossil fuels, and
18 in order for an economy to be sustainable, we have to look to
19 the future and we have to look at exactly that, which is
20 sustainability. Fossil fuels will be like done with in the
21 future.

22 So for that to be a sustainable way of income isn't
23 the right way to think. There are jobs in renewable energy.
24 There are jobs in solar. There just has to be communication
25 and there has to be renewable solutions. So like a previous

1 person said, we are completely for jobs.

2 I am also really glad that these men, these workers
3 here are supporting jobs. No one here wants to be unemployed
4 and we understand that. So I feel like there does need to be
5 more solutions in renewable energy. I definitely believe
6 that everyone has the right to clean air. Oxnard definitely
7 deserves clean air and this power plant will not bring clean
8 air. Thank you.

9 (Applause)

10 COMMISSIONER SCOTT: Thank you. I have Reno
11 Gutierrez, followed by Elma delAguila.

12 MR. GUTIERREZ: Good evening. I'm a local
13 ironworker. I live just five minutes up the road, and I have
14 two beautiful, healthy children who I take to the beach every
15 single summer, and that's not going to stop. I approve of
16 this project. Thank you.

17 (Applause)

18 COMMISSIONER SCOTT: Thank you. I have Elma
19 delAguila, followed by Ken S.

20 MS. delAGUILA: My name is Elma delAguila. I am a
21 student at Channel Islands High School and I've lived in
22 Oxnard my entire life. This cannot happen. Time and time
23 again I have come to these meetings, all the way back from
24 the first moratorium the City Board passed unanimously
25 against this power plant in 2014.

1 I then continued going to the PUC hearings, the CEC
2 hearings, even those in Sacramento, forcing me to miss
3 school. I went to go speak up for my community members who
4 actually live here and will have to bear the burden of this
5 toxic plant for generations to come.

6 Now, I respect all workers for what they do for me
7 and my community, but ultimately, this project will only
8 create jobs for a few years in construction. You cannot
9 disregard the fact that came out today in this same hearing
10 that almost all of the jobs NRG proclaims to bring will go to
11 workers in the L.A. County area, and Ventura County second,
12 making the stimulation of Oxnard's economy nonexistence when
13 it comes to the grand scheme of things.

14 Currently, we have three power plants on our coast
15 that spew hazardous chemicals into the air and are a blemish
16 on our beaches. We have one Super Fund toxic waste site that
17 has been abandoned, continuing to pollute our citizens.

18 Oxnard's residents suffer from asthma rates more
19 than 90 percent of California. I am a part of multiple
20 nonprofit organizations that help me organize my fellow
21 students to hold beach cleanups in this exact area. And
22 every time we leave with tar stuck on our feet, bags full of
23 trash and our eyes irritated and stinging from the quality of
24 the air. How is this okay?

25 You Commissioners are in charge of being objective

1 to the profits and motives of a business, to insure the
2 safety of our community. I know that having reliable energy
3 is an issue, but the majority of the energy from this would
4 not even go to Oxnard.

5 NRG has said that in constructing this one they
6 will take down the other two, but those are already scheduled
7 for decommissioning in 2020. So how can that be considered
8 in these negotiations? This dirty company is even going so
9 far as to pit these honest working men and women to make a
10 choice between acquiring a living wage and being lobbyists
11 for them.

12 How can you stand as a regulatory board and allow
13 this manipulation? Oxnard does not deserve this inequality
14 and injustice. I stand before you representing my fellow
15 classmates, family members and community members. I want
16 Oxnard to rise above these low standards and be a home to
17 future generations of scientists, leaders and politicians,
18 not people, not my family, not my future children who would
19 be forced to carry the harmful and polluting effects of
20 environmental racism in my community. No more power plants.
21 Clean air for Oxnard. Thank you.

22 (Applause)

23 COMMISSIONER SCOTT: Thank you. I have only two
24 blue cards left. So just a reminder that if you'd like to
25 make a comment, please fill out a blue card, let our adviser

1 here at the yellow table know and she'll get that up to me.
2 Ken S. is next, followed by Dennis Di Iorio.

3 MR. SCHMELZEL: My name is Kenneth Schmelzel. I'm
4 an ironworker, a surfer, a United States Marine veteran. I'm
5 a local resident. Projects like this create opportunities a
6 veteran like myself may not have had. Being a surfer, two
7 into one power plant sounds like a great idea, and I support
8 this project.

9 Not one of any union member hasn't received any
10 sort of compensation to be here. We are a family. Thank
11 you.

12 (Applause)

13 COMMISSIONER SCOTT: Thank you. Okay. Okay. I
14 have Dennis Di Iorio next.

15 MR. Di IORIO: Yes.

16 COMMISSIONER SCOTT: Excellent. Please go ahead.
17 And then I have two more.

18 MR. Di IORIO: My name is Dennis Di Iorio.
19 Although my accent may not sound like it, I'm a Ventura
20 County resident. I moved out here in 1981. I actually moved
21 to Oxnard Shores. I lived at 935 Mandalay Beach Road for
22 years. I raised my daughter in that area.

23 I was never bothered by the existing power plant
24 that's there, although it did prevent me from walking all the
25 way to Ventura, because it stops at the shoreline. But this

1 new power plant -- I am a member of Local 150 and I am a
2 carpenter.

3 I'm speaking more as a resident of Ventura County
4 today. Yes, it will bring jobs and I agree with all my
5 brothers and sisters on that, but we're looking at
6 decommissioning an old and dilapidated plant. And as that
7 young lady said, it was scheduled for decommissioning anyway.

8 However, with these new -- with this new facility
9 and its efficiency, and for anybody that's in the
10 construction industry or any of you people who have to deal
11 with politics, you understand the stringent guidelines that
12 are controlling all of today's construction.

13 So you know, to say this is -- you know -- I've
14 heard the phrase David and Goliath or the footprint that it's
15 going to leave. The footprint is a smaller footprint than
16 what's there right now. The facility's going to be built
17 within the existing footprint at a smaller scale.

18 The product that it's going to produce is going to
19 be more efficient and much more clean than what we have now.
20 You know, I'm in support of this project as a 36-year
21 resident of this county and -- of Ventura County and of
22 Oxnard, and I would like to see it pass. Thank you very much
23 for your time.

24 (Applause)

25 COMMISSIONER SCOTT: Thank you. I have Jahnel

1 Forte, followed by Cheri Cabral.

2 MS. FORTE: Hi. I'm Jahnel Forte, in my second
3 year of --

4 COMMISSIONER SCOTT: Hi. You can bring that closer
5 to you if you like.

6 MS. FORTE: Can you hear me now?

7 COMMISSIONER SCOTT: Yes.

8 MS. FORTE: Hi. I'm Jahnel Forte. I'm a second
9 year apprentice from 484 as a pipe fitter and a plumber. And
10 I just wanted to say as a family member that lived in Oxnard
11 for my whole life, my dad had to travel all the way to Oregon
12 and then South Dakota and then Montana, because there was no
13 work here in our own Local.

14 So we had to stay out there for three years where
15 we moved our whole family out there. Now, I'm the fourth
16 generation of this Local Union, and I'm proud to be one, but
17 I'd rather have our families stay here at home than to ship
18 us out, you know, and to make us travel to other states.
19 Thank you.

20 (Applause)

21 COMMISSIONER SCOTT: Thank you. I have Cherie
22 Cabral.

23 MS. CABRAL: Good evening, members of the Committee
24 and the individuals that are here tonight. Most of them are
25 working men and women. My name is Cherie Cabral. I

1 represent the California Construction Building and Trades
2 Council.

3 I spoke to you guys last week as you were sitting
4 up here very tediously scheduling out this week's hearings
5 and trying to fit everything very neatly into a box. And one
6 of the things that I spoke to you about was the issue of
7 strong working families.

8 And that had been broached by some of the
9 individuals from Cause that were here that really this
10 conversation is about strong working families. So we decided
11 this week that you guys should see exactly what that means,
12 and this is what the basis for strong working families looks
13 like.

14 The men and women that are sitting here in the
15 audience tonight that are not from L.A., that are not from
16 L.A. County, they're here from Oxnard and from Ventura County
17 and they will be the men and women responsible for building
18 this power plant when it is approved.

19 They are the men and women that live here in these
20 communities whose children go to school here, the men and
21 women who volunteer on the weekends, who do beach cleanup,
22 who coach little league, the ones who shop here, pay their
23 mortgage here, buy their cars here, buy groceries here.

24 So this is a strong -- this is what strong working
25 families are all about. None of them are paid to be here

1 tonight. They came here because this is important to them
2 and it represents something that they stand for, and they are
3 standing with NRG to see this facility built so that you have
4 cleaner power produced here in their local communities.

5 So I would urge all of you to remember that that is
6 what we are talking about. And additionally, the one thing
7 that I think tends to get missed is the whole conversation
8 over the economic development multiplier that goes with
9 wages.

10 For every one dollar in local wages it recycles
11 back into the community into the form of \$12. So for every
12 one dollar that these men and women that will -- sitting here
13 in the audience will make in the form of wages, they will put
14 12 back into the local community.

15 So just do the math on that. That's a whole lot of
16 math. That's money in the form of buying cars, buying
17 groceries, traveling, paying their mortgage, whatever else it
18 may be, and the jobs that are created locally from the
19 businesses that they are purchasing goods and services from.

20 That's on top of the construction multiplier for
21 the actual stuff that gets used to build the facility itself.
22 So I actually think that as we talk about building the power
23 plant here, and you guys hears a lot of testimony on the
24 technical side of things, I would encourage you not to forget
25 about the human side.

1 And the human side not only is socioeconomics, but
2 it translates to economics. And in order to build a stronger
3 community, people need to have wages. That's what creates an
4 overall stronger community, because people have the ability
5 to invest in their own communities with their time and with
6 their economic use, so.

7 (Applause)

8 COMMISSIONER SCOTT: Thank you. So the public
9 adviser has let me know that she has actually run out of blue
10 cards. If there's anyone here who didn't get to fill out a
11 blue card, but would like to speak, please come to the
12 microphone. We would love to hear from you.

13 I'm sorry. I said our public adviser has run out
14 of blue cards, but if there's anyone in the audience who
15 would like to speak, please come on up to the microphone. We
16 would love to hear from you. And I have a gentleman here.
17 Oh, and would you spell your name for our court reporter,
18 please, to make sure she gets it right in the transcript.

19 MR. BODE: Yes. Good evening Committee
20 members. My name is Jeff Bode, B-o-d-e. I'm a member of the
21 IBEW here locally here in Ventura. My parents immigrated
22 here in 1970 from Germany, both of them, after they were
23 married for a better opportunity, better life here in the
24 United States, and they decided on settling in Oxnard.

25 Having made that decision that many years ago, I've

1 been a lifelong resident, other than my time in the military.
2 I'm now a member of the IBEW over 20 years. I'm also a
3 committee member for the Apprenticeship Program here in our
4 county.

5 What this -- and I definitely applaud both the
6 opposition and all of us that are looking to get this power
7 plant passed. The one thing that hasn't been mentioned,
8 other than the economic gain for the people that are doing
9 the work is the opportunities that are given to the
10 apprentices that will be on this project.

11 We currently have over 80 men and women in our
12 Apprenticeship Program located here in Oxnard. If we don't
13 have the opportunity to employ these men and women in the
14 county, they won't have the opportunity to build a skill set
15 that'll sustain them through the rest of their life here.

16 Most all of them live in Ventura County, a majority
17 of them in Oxnard. And I understand the need for clean
18 energy and we're happy to build that also, but we're going to
19 need something to bridge that until that time comes, so we
20 have nothing but clean energy.

21 So as a member of the IBEW, as a committee member
22 for the apprenticeship program here in Ventura County,
23 program located in Oxnard, I definitely support this program.
24 Thank you.

25 (Applause)

1 COMMISSIONER SCOTT: Thank you. Any others?

2 Please come up.

3 MS. CASTANON: Hi. My name is Francine, F-r-a-n-c-
4 i-n-e, Castanon, C as in cat, A as in apple, S as in Sam, T
5 as in Tom, A as an apple, N as Nancy, O as in ostrich, N as
6 in Nancy. I am a lifelong resident of Oxnard and Ventura
7 County, and I'm looking at this from a policy perspective.

8 I have four kids, and we have 19 devices. Files
9 was kind enough to let me know that I have 19 devices
10 connected to my Internet. That's cell phones, computers, the
11 thingies and whatever else my kids bring home. That's not to
12 mention the TVs that are on, the lights my kids leave on and
13 God knows what else they have plugged in; plus my regular
14 utilities, my stove, my fridge, microwave, and we are just
15 sucking that juice out.

16 And let's just say for a minute we don't build it.
17 We say, forget it. NRG closes the door, shuts it down and
18 that's it. There's nothing else we can do with that land if
19 we wanted to. If God himself came and kissed that sand we
20 still couldn't do a damn thing with it, just like the golf
21 course over here.

22 It is tainted. It's done. It's -- forget about
23 it. We still have the peaker plant there. We've got 30 rigs
24 right behind it pumping oil. So no matter what we do that
25 thing's still going to be there. That soil, that piece of

1 land is still tainted. It's no kid.

2 As my kid said, it has cooties. There is nothing
3 we could with it if we wanted to. This community is growing
4 and they're continually saying there's a lack of housing.
5 You have people self-renovating their homes, two, three
6 families living in a household.

7 I have four kids. We're a family of six and we're
8 sucking that much utilities. Let's say you have two families
9 in there. Let's just say hypothetically you have two
10 families living in a household. That's 12 people. How many
11 devices do you think are sucking juice right now?

12 This thing right here. We've got all this little
13 stuff over here, what she's got over here, over here and
14 everyone who's charging along the wall. We need the power.
15 We can't live without it. People are now charging cars and
16 everything else.

17 And to say no to the Puente Power Project, then
18 what are we going to do? Then we're going to go look like
19 San Luis Obispo over there with that God ugly thing, and no
20 power out in the middle of nowhere. We're between two
21 military bases and we've got some crazy nut in the White
22 House that God only know what's going to happen.

23 We are on a shoreline of a high risk -- we live in
24 a high risk area right now because of our two naval bases and
25 our approximate location to the Pacific, because of our

1 neighbors to the East, Asia and Russia. And if things go
2 down, then what are we going to do?

3 If you look back at the 1931 plan of Point Mugu
4 Base and the Seabee Base, you will see why those plants are
5 there. Those are key components to keeping our city running
6 if everything else fails. At the end of the day it's a
7 policy issue of public safety and what the community needs,
8 period.

9 I mean, it's all about jobs and all that other
10 stuff, but at the end of the day if the poop hits the fan,
11 what are we going to do? And we have no power plant, then
12 what? What are we going to do as residents? Thank you.

13 (Applause)

14 COMMISSIONER SCOTT: Thank you. Do I have any
15 others in the -- let me just say again in case folks didn't
16 hear me. If there's anyone who is in the audience who hasn't
17 spoken yet and would like to say something, please go ahead
18 and approach the microphone and please spell your name for
19 the court reporter so that she gets it right in the
20 transcript.

21 MR. RYAN: Hello. My name is Sean Ryan. That's a
22 sea, echo, alpha, November, Romeo, Yankee, alpha, November.
23 I'm a student. I'm a first year apprentice in the Local 952,
24 the IBEW. My major in college is environmental science,
25 security and sustainability.

1 I was born and raised here in Ventura before I
2 joined the military as an engineer, and I've surfed in front
3 of these power plants for years. I take my kids to the
4 beach, same place, and the outrage over the environmental
5 degradation of it, I'm simply not seeing it.

6 I'm simply just not seeing the environment along
7 the shore being impacted the way it's being represented here.
8 It's -- the money that will be generated by this project is
9 going to go to my family. I own a home here. I have a four
10 and a five-year-old. It's going to feed my family.

11 It's going to put food on my table. It's not going
12 to L.A. It's staying here where it belongs, and that's all I
13 have to say. Thank you.

14 (Applause)

15 COMMISSIONER SCOTT: Thank you. Do I have any
16 others who would like to make a comment? Yes, please go
17 ahead.

18 MR. XAYAPHONE: Hi. My Name's Alex. Last name's
19 Xayaphone. I'm sorry. X-a-y-a and then phone. It's easy
20 that way. I'm one of those guys that travel. I'm currently
21 working at Netflix down in L.A. I wake up at 2:00 in the
22 morning, drive all the way down there, get home at 5:00, see
23 my kids right before they go to bed.

24 I want to work here, but you know, that's not
25 really the point. The point is, and I'm happy our youth is

1 here, because that's good they're getting involved. No one's
2 really thing about the future here. Solar's great, but it
3 doesn't store the power.

4 We need lights at night. Solar does nothing for us
5 at that point. This peaker plant's actually really going to
6 help us out. Everything's going to go electric soon. We got
7 electric cars coming. They're going to try and push that in
8 2050. Trump wants electric cars everywhere.

9 What's going to charge them? We're not going to
10 have the infrastructure if we don't build it now. I think we
11 should get ahead of the game. I want to work. These guys
12 want to work. I'm 952. I'm electric. I want to do this,
13 but it's up to you guys. I mean, I've lived here my whole
14 life.

15 Been here 31 years. Got two kids. I have asthma.
16 Who knows where it came from? We got a lot of agriculture.
17 I don't know what they're spraying on that. We're going to
18 get rid of two power plants that are polluting and put in one
19 that's not as bad. Maybe not at all. I don't know, but I'm
20 happy we're going to do this. I'm for it. Thank you.

21 (Applause)

22 COMMISSIONER SCOTT: Thank you.

23 MR. VILLARREAL: How's it going. My name is Gabino
24 Villarreal, G-a-b-i-n-o, V-i-l-l-a-r-r-e-a-l. I have a
25 beautiful daughter. She's six years old. I'm a second -- I

1 just went second stage apprentice. I'm out of Local 150.

2 I did not come here to talk, but hearing all these
3 people talk I figured, I'm born and raised here in Ventura
4 County and my daughter loves to go to the park, the beach.
5 She's athletic. She's in gymnastics, and I just got to say,
6 I think we should do this project. Thank you for your time.

7 (Applause)

8 COMMISSIONER SCOTT: Thank you. Do I have any
9 others in the audience who haven't had a chance to speak yet
10 that would like to make a comment?

11 MR. SCHMELZEL: I got one more thing.

12 COMMISSIONER SCOTT: Okay. Go ahead. Can you --
13 would you please spell your name for our court reporter?

14 MR. SCHMELZEL. Kenny Schmelzel.

15 COURT REPORTER: Spell your name, please.

16 MR. SCHMELZEL: S-c-h-m-e-l-z-e-l. What do I have
17 in my hand? It's dirt. This dirt makes asthma. Now,
18 everybody in here can have asthma. Everything causes asthma.
19 It's in the vents. What's on the ground when we walk, when
20 we drive. This is going to reduce the risk, the plant that's
21 coming in, because it's getting rid of two plants to go into
22 one. That's all.

23 (Applause)

24 COMMISSIONER SCOTT: Thank you. Do I have anyone
25 else from the audience who would like to make a comment?

1 MR. CORTINEZ: Hi. My name is Michael Cortinez, C-
2 o-r-t-i-n-e-z. I'm Local 952, electrician. I was head
3 service guy for Taft Electric for over 15 years. I serviced
4 the plant in Port Hueneme. I've serviced the plant in Oxnard
5 Shores.

6 I would suggest to the Commission before you make
7 your decisions maybe you might want to take a tour of those
8 plants. They need to be updated with modern technology. I
9 agree with some of the things that I've heard, some of my
10 brothers and sisters say tonight about renewable energy, but
11 it isn't here.

12 I mean, are we going to take up all our farm fields
13 and put solar fields in there? Are we going to have
14 windmills in there? We need energy now. If you want to take
15 a lesson, you might want to take a lesson of what happened
16 down in San Diego when the power plants went down in Arizona.

17 Our infrastructure in the United States is broken.
18 So we can't trust power from other places. We need the power
19 here. We might be the ones that help our neighbors. We
20 might be the ones that help Los Angeles. We might be the
21 ones that help Santa Barbara.

22 We are the future, and like it's been mentioned in
23 here tonight, this will be new technology, less pollution,
24 and it will pave the way for renewable energy. We need to
25 think. We need to be smart and we need to prepare for the

1 future, not only for ourselves but for our children.

2 Those plants are being held together by Band-Aids.
3 I've seen it firsthand, because every new company that comes
4 in wants to get the most profit, but yet, they don't want to
5 put any money into renewing it. We have the opportunity to
6 do it now, and I suggest that the Committee act
7 appropriately, not only for themselves but for their children
8 and for our grandchildren. Thank you for the time.

9 (Applause)

10 COMMISSIONER SCOTT: Thank you. So since we did a
11 second comment from the in favor side, I will do a second
12 comment from the in opposition side, but then only folks who
13 have not commented yet to come after that, please.

14 MS. delAGUILA: Thank you so much for mentioning
15 that. I was just saying with some of the people, a part of
16 my organization, and I must --

17 COMMISSIONER SCOTT: I'm sorry. I'm sorry. Could
18 you -- would you say your name and spell it again, please,
19 for the court reporter.

20 MS. delAGUILA: Elma del Aguila, E-l-m-a, d-e-l-A-
21 g-u-i-l-a, again. Thank you. I thank you again for letting
22 us speak again, seeing as in every other meeting up till now
23 we've never got any opportunity to speak more than one, at
24 all.

25 And also, I wanted to remind you guys to keep in

1 mind that there are so many people that are waiting on --
2 that are on calls, on phones right now to make public comment
3 and online to make public comment that have been waiting this
4 entire time.

5 And while we're at it, if I could make another
6 point is that some before mentioned the idea that this plot
7 of land isn't going to be able to be used if this power plant
8 were to be built. Well, that is an outright lie. Our city
9 is currently working on a wetland restoration project in that
10 same vicinity that has -- is working in unison with some of
11 the public school, universities here in California to work on
12 projects such as desalinization of the water, to restore
13 these areas that have been impacted by the ag business and by
14 pollution in general.

15 So that is not a waste, and it's something that if
16 you were to say, oh, even if we don't build this power plant
17 we're not -- there is nothing that's going to happen to that
18 land, it's saying that you're giving up on something that
19 maybe now is damaged.

20 You're saying that you're not willing to put in the
21 effort to make this community better. You're rather just let
22 it sit there. Thank you.

23 (Applause)

24 COMMISSIONER SCOTT: Thank you. So only comments
25 now from people who have not spoken. If you have not spoken

1 and would like to make a comment and you're in the room,
2 please come to the microphone. Please spell your name for
3 the court reporter.

4 MR. SALAS: Hello. It's C-e-z-a-r, S-a-l-a-s, and
5 I'm an Oxnard high school student. What was that? Cezar, C-
6 e-z-a-r, and then last name, S-a-l-a-s. And I do oppose this
7 because, like it's been said before, fossil fuels doesn't
8 come out clean or cleaner. It's all the same.

9 Also, putting it by the beach does affect the
10 habitat that's around it. I don't know if you guys -- well,
11 a lot of you say you've been there and there is a lot of
12 seals that are harmed there. I've seen it with my own eyes,
13 and I do support all these workers.

14 You know, my dad, he's been through it all. He
15 came from Mexico, picked in the fields and now he's a
16 supervisor. And I don't even support his -- the business
17 he's working in. It's in -- has to do with a lot of
18 pesticides.

19 But so I know what it's like for a lot of you
20 people that go to work out there, go to work over here. But
21 it's already been admitted that Oxnard is going to be the
22 second one, not even the first, it's going to be L.A. County.
23 And the environmental effect does affect all of us.

24 You know, maybe you won't live through it. Maybe I
25 won't live through it, but it's going to be there no matter

1 what, because we're doing it unsustainably. And as a matter
2 of fact, I'm in a class, advanced placement environmental
3 science, because that's something I do like, just because I
4 was raised with my dad coming home full of pesticides. He
5 would have to shower before he could even say hi to us,
6 because he's just full of them.

7 And that's something that has affected him. You
8 know, he's gone to the doctor and they told him, you know,
9 like even though you're wearing all this -- your outfit, like
10 the protection, it's still not enough. So with this power
11 plant, it's going to be polluting more air. The water's
12 right there.

13 And for it -- a lot of people say -- or a lot of
14 tonight, they've been saying, like we need jobs here, we need
15 job, like, we want it here. But the thing is, you're still
16 going to be going out there in L.A., Santa Barbara, wherever
17 it is, because they're having it -- they're telling you
18 straight to your face that you're second, not even first.

19 And I love Oxnard. I live down the street, 1276
20 South J Street, right here. Brought my skateboard. I love
21 Oxnard. I love this place. And a lot of -- they were saying
22 that environmental discrimination doesn't happen, but it
23 does. It's there.

24 It's -- why do you think the fields -- the fields
25 next to our school, they just spray, and how come they don't

1 do it to other schools? They do it to all the Pacific View
2 League schools, but not to the -- where it's predominantly
3 like higher income people.

4 So I understand the jobs, but the real people that
5 are going to be profiting for this are the ones that are up
6 there, the ones that don't do the actual labor. And that's
7 all I have to say tonight. Thank you.

8 (Applause)

9 COMMISSIONER SCOTT: Thank you. Do I have any
10 others in the audience who would like to speak and have not
11 yet had a chance? Please go to the -- remember to spell your
12 name for our court reporter, please.

13 MR. WILSON: Joshua Wilson, one l in the last name.
14 I didn't really want to speak tonight, but man, you know,
15 they kept it here. And I'm sorry. I'm a simple man. I get
16 nervous easily, but you know, if you gave me 10 minutes from
17 right now I'd be sitting at home in my room.

18 And I mean, people, they mention that education's a
19 big problem in Oxnard. I mean, I grew up through it. It's
20 true. They talk about dropouts. I'm actually one of them.
21 You go down the street, that's where I had to get my GED.
22 You know, I'm a part of this community.

23 My father helped with the search and rescue, where
24 we help serve this community. I mean, not even just -- man,
25 I -- sorry. Sorry. But so I'm a simple man and education is

1 a problem here. So if you could explain to me, because it
2 doesn't make sense, in what way is an improvement not needed?

3 How is it not our obligation and duty to put an
4 improvement in that is necessary now? In what way do we not
5 need that? Doesn't make sense. That's it.

6 (Applause)

7 COMMISSIONER SCOTT: Okay. Thank you. Come on up.
8 Please remember to spell your name for our court reporter.

9 MR. MARTINEZ: My name's Omar Martinez, Local 484
10 member. So I'm a local member from Ventura County. So I'm
11 for the power plant. I know they say that -- I get their
12 point that there is ways to fix the land and this and that
13 about it, but they're talking about desanitization [sic]
14 plant or something for the actual water, well, they're going
15 to need power for that.

16 So I'm for that and I'm for helping out our planet.
17 I don't see an issue with that new -- that old plant right
18 there's an eyesore, for me being a member. If it's going to
19 be smaller and it's going to be more efficient, why not have
20 it there?

21 We're going to need power. That's the main issue.
22 We're going to have -- everybody needs power. Cell phones,
23 everything. So I'm all for it. That's all I have to say.
24 Thank you.

25 (Applause)

1 COMMISSIONER SCOTT: Thank you. Do I have any
2 others in the audience that would like to make a comment and
3 have not yet had a chance? Please spell your name for the
4 court reporter.

5 MR. SICT: My name is Wally Sict, W-a-l-l-y, and
6 I've been a resident of -- S-i-c-t. And I've been a resident
7 of Oxnard 15 years now, and I went to E. O. Green and Hueneme
8 High School and Channel Island High School, and I love Port
9 Hueneme.

10 I live down the street in Port Hueneme, and those
11 power plants don't bother me at all, or bother us. And we
12 are a generation of life, I guess, and 10 to 20 years from
13 now you guys going to regret not building this, because we
14 all need it, and the two plants are going down. So we will
15 need a new one.

16 And Oxnard is actually building now and there's a
17 lot of residents going to Oxnard because none of us can
18 afford out of Oxnard. So we all need it. Thank you.

19 (Applause)

20 COMMISSIONER SCOTT: Thank you.

21 MR. VALADEZ: Good evening, everybody.

22 COMMISSIONER SCOTT: Hi.

23 MR. VALADEZ: My name's Francisco Valadez, F-r-a-n-
24 c-i-s-c-o, V-a-l-a-d-e-z. I came here tonight like a lot of
25 these other guys. I wasn't expecting to talk, put my two

1 cents in, but I stand here united with the rest of my
2 brothers, not just the Electricians' Union. I'm with IBEW
3 Local 952. I'm a first year apprentice. But I stand with
4 all the other trades.

5 We need these jobs in Ventura County. We need
6 these to feed our families. Whether we like it or not, a lot
7 of these things are going to continue to go on. The
8 technology is ever-evolving. It's ever-advancing and we need
9 these new forms of sustainable energy to power all these
10 things.

11 I notice that a lot of these people came up here
12 and read their notes off their cell phones. I mean, those --
13 unless you wrote down your stuff on a piece of paper, you had
14 a charger. That energy had to come from somewhere, you know.

15 We're going to need -- there's always going to be a
16 need for energy and we need to support these type of
17 projects, not only for everybody's financial benefit, but for
18 the future. We need to get rid of these old plants and bring
19 in something new that's going to be a benefit for everybody.
20 That's all I have to say. Thank you.

21 (Applause)

22 COMMISSIONER SCOTT: Thank you. Do I have any
23 other members of the public who have not yet had a chance to
24 speak, but would like to say something?

25 MR. NEVITT: Good evening. My name's Frank Nevitt.

1 I'm with the Plumbers and Pipe Fitters 484 in Ventura.

2 COMMISSIONER SCOTT: And would you spell it for the
3 court reporter, please.

4 MR. NEVITT: Frank, N-e-v-i-t-t. Unlike the
5 majority of people here, I'm not from Ventura County
6 originally. I'm a transplant. I've only been here for the
7 last four years from the Midwest. I love living out here.
8 The opportunities to work are much better.

9 The infrastructure, although still dilapidated, is
10 considerably better from what we have back home. But these
11 old power plants, I spent many of my years of my life working
12 in them, and I've seen what the old plants are nowadays.
13 They need to be brought down.

14 They need to be changed out. This is the same talk
15 that everybody else has done, you know. We need the new
16 technology. We need the cleaner burning systems. But also,
17 these plants have preexisting gas lines and everything like
18 that, all of it already in the ground underneath of it.

19 If we put new facilities in the ground we have up-
20 to-date, continuous maintenance on everything that was
21 already installed. We have the ability to get on top of any
22 sort of gas leaks or electrical issues that could be
23 preexisting.

24 Whereas, if they were to just tear the plants down
25 they would just cap the lines off and then continue on. We

1 wouldn't know about anything that was bad happening until
2 much later on. But now, we'll have round-the-clock
3 maintenance on everything else that's going on, not to
4 mention the cleaner burning systems that they're going to
5 have nowadays. Something to keep in mind. Thank you.

6 (Applause)

7 COMMISSIONER SCOTT: Thank you. Let me check
8 again. I don't see anyone approaching the podium, but if
9 there is anyone who would like to make a public comment and
10 has not yet, but would like to, please come up.

11 MR. NIX: Good evening. My name's David Nix, and
12 I'm a business rep for the Heat and Frost Insulators, Local
13 5, who's in Los Angeles, but we also cover all of Southern
14 California. I started my construction career as a member of
15 MTB 5 in Port Hueneme in 1972.

16 I've lived at Oxnard Shores right down the street
17 from that plant that's getting torn down. I don't know how
18 many people remember the five-state blackout that happened
19 about I think it was 1982, where a transformer blew up, up in
20 Oregon and five states lost power, us being one of them.

21 And then the earthquake in 1994 down in Los Angeles
22 that caused the blackout down there, and the only reason they
23 got power turned back on was because there was one power
24 plant called Valley Stee (phonetic) that had black start
25 capabilities.

1 Now, this plant should have black start
2 capabilities in case of a power shortage just like what
3 happened in L.A. I was down there. I walked outside of LAX
4 when the power went down and you couldn't see a light
5 anywhere, in any direction.

6 So the need of the power that's going to come from
7 this plant is great, and a lot of people don't know that
8 Diablo Canyon is going to be decommissioned in 2025. That's
9 about 2400 megawatts of power that we're going to lose.

10 San Onofre is already being decommissioned. It's
11 already been shut down. That's 2400 megawatts of power that
12 we've lost. So we have to do something. So we can replace
13 these fossil fuel plants that run on oil with clean-burning
14 natural gas and I think that would go a long way. Thank you.

15 (Applause)

16 COMMISSIONER SCOTT: Thank you. Oh, I'm sorry.
17 Would you spell your name, please?

18 MR. NIX: N-i-x. Thank you.

19 (Applause)

20 COMMISSIONER SCOTT: So I don't see anyone
21 approaching the podium. I just want to make sure if anyone
22 wanted to say something they had a chance to say it. We'd
23 love to hear from you. That's why we're here. So if you'd
24 like to say something and you're here in the room and haven't
25 said anything yet, please come on up to the podium.

1 Oh, I see one hand waving. I see two. Okay. Come
2 on up. Okay. And please remember to spell your name for our
3 court reporter.

4 MR. IZARRARAZ: Good afternoon. My name is Juan,
5 J-u-a-n, last name is Izarraraz, I-z-a, two r's, a-r-a-z.
6 I'm here to report this just because we need a job in Ventura
7 County, some of the brothers here in Local 484, they're
8 traveling to Santa Barbara, L.A., all these different cities.

9 And I mean, I see some people disagreeing with
10 this, but I mean, everything is power. I'm currently working
11 like 10 minutes away from here. They're building apartments.
12 They're going to need power. It's growing. The city's
13 growing. Everything's growing.

14 Everything's growing and we're going to need more
15 power. As far as the agricultural fields go, my uncle's work
16 is agricultural, next to the power plants. He has no health
17 defects of anything. The only thing he's tired of is just
18 working all day, but he hasn't said anything about it. So
19 I'm therefore, for this power plant. Thank you.

20 (Applause)

21 COMMISSIONER SCOTT: Thank you. Do I have any --
22 there was a second one. Oh, there you are. Please spell
23 your name for our court reporter so she can get it right in
24 the transcript.

25 MR. RAMIREZ: I'm Josue Ramirez, J-o-s-u-e,

1 Ramirez, last name. I just want to make a few points. First
2 point is that everyone wants jobs, of course. So if this is
3 like because you want a job, then of course you're going to
4 want it.

5 And then there is, of course, NRG wants this.
6 They're going to make money off this. Another thing I heard
7 is that the City of Oxnard, originally, they denied this, but
8 then they just kept pushing to the state and, of course, the
9 state needs energy.

10 We all need energy. I'm not -- I just feel like
11 we're rushing into this a little bit. You should, like,
12 really, like, see, like, the scientific reports on both sides
13 and see -- like, personally, like, in a perfect world it'd be
14 all renewable, right?

15 But I know we need fossil fuels for right now, but
16 Oxnard has a lot of asthma. Like, no one's asking these
17 little kids, do you want asthma. They always probably say
18 no. But of course, for the short-term it looks like it's
19 right, but we need to look long-term.

20 And I just don't want to rush into this because a
21 lot of other plants are closing and who's to say that this is
22 not going to, like, close in another year. We just need to
23 not rush into this, because this is a big project and, yeah.
24 Thank you.

25 (Applause)

1 COMMISSIONER SCOTT: Thank you. Let me check to
2 see. I don't see anyone queue up. Oh, one more.

3 MR. HUSTON: My name is Christopher Huston, H-u-s-
4 t-o-n. I'm a member of IBEW Local 952. I was born and
5 raised in Camarillo. It's my 30th birthday today, but I'm
6 here in support of the power plant. I just got done working
7 up north because work is slow down here.

8 I was fortunate enough to be able to come back and
9 find a job, but there are still a lot of other people working
10 up north and other states and other places. So I am in
11 support of this power plant. Thank you.

12 (Applause)

13 COMMISSIONER SCOTT: Thank you, and Happy Birthday.
14 Do I have any others who have not made a comment that would
15 like to say something?

16 MR. CASTANEDA: Hello. My name's Eduardo
17 Castaneda, E-d-u-a-r-d-o, C-a-s-t-a-n-e-d-a. I'm in support
18 of this power plant. I'm 29 years old. I have a daughter
19 and I have another daughter on the way. I just got off of
20 work. I went in at 1:00 in the morning. I travel to
21 Barranca every day, five days a week.

22 It's good to see work. Even if I don't get it, if
23 other people get it, I'm all for it. We need a backup plan.
24 We always need backup power. I have backup batteries for my
25 cell phones. Every time they go out, my laptops. Everyone

1 uses power. Power is needed, no matter what. Thank you.

2 (Applause)

3 COMMISSIONER SCOTT: Thank you. Any others who
4 have not made a comment who would like to say something? I
5 see another person approaching the podium. Please remember
6 to spell your name for our court reporter so she gets it
7 right in the transcript.

8 MR. DILLON: Phil Dillon, P-h-i-l, D-i-l-l-o-n. I
9 am a lifelong member of Oxnard. Grew up Oxnard Shores right
10 next to that power plant. Surfed it; great wave, by the way.
11 Warm water, sharks. It's a great thing. So you know, been
12 there 40 -- I don't know, 48 years, I guess. I'm 48 years
13 old.

14 When I -- you know -- when I hear that they're
15 going to tear it down and build it with renewable, you know,
16 cleaner energy, 80 percent cleaner, sounds good to me, me and
17 my kids. We surf there. I don't -- you know -- they don't
18 have asthma.

19 When I listen to some of the arguments against it,
20 you know, people are calling in on their phone and online,
21 which all use electricity, by the way. You know, we need to
22 have those things. We need a good source of electricity.

23 Oxnard doesn't have a problem with building houses
24 like there's no tomorrow and there's a water shortage. Does
25 anybody look at how much water it takes to build a house? To

1 me, this is a brilliant idea, you know. You got to keep
2 perpetuating electricity, keep it going. It's what we use.
3 It's a form.

4 Would you like to see a bunch of solar fields out
5 there on that land that you can't build anything on because
6 of some, I don't know, protected bird or turtle or whatever's
7 out there? It's not going to happen. When you -- one of the
8 arguments against this was -- what was it.

9 They talked about -- just well, let me rephrase
10 that. Look around the room. All the people that are for
11 this plan are basically of different ethnicities, right? You
12 have Latinos. You have just everybody. So you can't say
13 that it's racially biased or whatever.

14 It's -- this is a brilliant idea. It's kind of a
15 no-brainer, you know. I mean, the only people that are
16 against it are the people that haven't been here very long
17 and they come in and they build their million dollar houses.
18 And you know, this is just a no-brainer. Why wouldn't you do
19 this? That's all I got to say.

20 (Applause)

21 COMMISSIONER SCOTT: Thank you. Let me check. Do
22 we have any other members of the public who would like to
23 make a comment? Okay. I'm not seeing anyone approach the
24 podium. Let me turn to -- let me just check with Christie,
25 too, for a minute and see, do we have anyone on the Spanish-

1 speaking WebEx? Okay. I'm seeing her head shake no. Paul,
2 do you have hands raised on the other WebEx?

3 HEARING OFFICER KRAMER: They're unmuted.

4 COMMISSIONER SCOTT: Okay. You are unmuted. If
5 you are on the WebEx and would like to make a comment, now is
6 your opportunity. Please speak up.

7 MS. LOPEZ: Hi. I would like to make a comment.

8 COMMISSIONER SCOTT: Yes, please. Would you please
9 spell your name for our court reporter?

10 MS. LOPEZ: Yes. Shannon Lopez, S-h-a-n-n-o-n,
11 Lopez, L-o-p-e-z.

12 COMMISSIONER SCOTT: Thank you, and --

13 MS. LOPEZ: And I'm calling to oppose this project.
14 I've been listening for the past hour to the arguments that
15 are put forth by members of our community who do stand to
16 profit from this. I understand that they would like jobs in
17 the county, but I understand also that this job is temporary.

18 And so you know, having a job for two years at the
19 expense of the community I think is unwise. I see several
20 issues with this project, the first being a lack of new
21 energy. The L.A. Times is reporting that we stand to be
22 producing 21 percent over the need for energy by 2020.

23 Fifteen percent, I believe, is what is considered
24 to be a sufficient amount extra. We have multiple plants
25 that are operating below capacity. People are saying that

1 we're getting rid of two plants and so we need another one.
2 Both those plants are only operating at 6.5 percent capacity
3 at this time.

4 California is using less energy, not more. We're
5 listening to all these arguments that they always need more
6 power. Power is never a bad thing. But Californians are
7 using I think 2.6 percent less power than 2008, because our
8 appliances are more efficient. We're turning more to
9 renewable sources.

10 I think building this plant is going to be outdated
11 even before it's finished, and I think the Commission needs
12 to reevaluate the need for this project in the first place,
13 and secondly, reevaluate what kind of project it is.

14 I think we need to move more towards renewable
15 sources. I know tonight we've heard a lot of emotional
16 appeals about jobs and I sympathize with that, but I do not
17 think a two-year project for an unneeded power plant that is
18 then going to cost taxpayers money, a power plant that is
19 guaranteed a 10 percent return on their project.

20 So whether the power is needed or not, whether it
21 is at capacity or not, they will need to be paid, and we are
22 going to be paying that with higher rates. So for all of
23 those who are saying this is going to bring money into
24 Ventura County, to some extent yes, but it's also going to
25 cost us more in the long run.

1 I would hate to see us spend so much money on
2 infrastructure that then is going to be sitting unused. And
3 I think the Commission needs to be looking for the future and
4 looking towards renewable energy that will provide maybe
5 long-term jobs in the county, not two years and then what.
6 Then we're stuck with the cost.

7 I also am concerned that our representatives are
8 against this and the Commission is not taking that seriously.
9 I know we've heard more people for the project tonight than
10 against. I would like to remind the Commission that our
11 representatives are against this project and they speak for
12 multiple people who do not have a financial interest in the
13 project.

14 COMMISSIONER SCOTT: Thank you, Ms. Lopez. I just
15 want to let you know that your time is up. Would you please
16 wrap up your comments.

17 MS. LOPEZ: Thank you. I appreciate your looking
18 into this again.

19 COMMISSIONER SCOTT: Thank you. Do I have any
20 others on the WebEx who would like to make a comment? If
21 now, this is your opportunity. Please speak up. If you're
22 there on the WebEx and you'd like to make a comment, please
23 go ahead and speak up. We're listening.

24 MS. HANNA: Hello? Can you hear me?

25 COMMISSIONER SCOTT: Hello?

1 MS. HANNA: Hello? Can you hear me?

2 COMMISSIONER SCOTT: Yes. Could you please state
3 your name and spell it for the court reporter?

4 MS. HANNA: Hello. My name is Karen Hanna, K-a-r-
5 e-n, H-a-n-n-a.

6 COMMISSIONER SCOTT: Thank you. Go ahead.

7 MS. HANNA: I'm a student at UC Santa Barbara, and
8 I care about the families of Oxnard. I have very dear
9 friends who live there who could not be there because they
10 are attending to a family emergency. NRG and the CEC
11 admitted today that the highest paid, skilled, managerial
12 jobs are going to people outside the area, and not -- and the
13 state.

14 So this project will not be the kind of economic
15 opportunity for residents of Oxnard in the way that people
16 are implying today. It is not worth the risk to the health
17 of the children in Oxnard. It's also not fair that NRG's
18 emission reduction credits were gained 20 years ago in places
19 like Ojai and Ventura, which are not primarily people of
20 color and working class communities.

21 The children in Oxnard deserve much more. I care
22 about them and so should you by not supporting this plant.
23 Thank you.

24 COMMISSIONER SCOTT: Thank you. Do I have any
25 others on the WebEx who would like to make a comment? If so,

1 please speak up. I heard a throat clearing. Are you trying
2 to make a comment?

3 MALE SPEAKER: They're now down to WebEx comments.
4 This thing'll be over in about 10 minutes, I think.

5 COMMISSIONER SCOTT: Okay. I think that's not
6 meant to be a comment. If there's anyone on the WebEx who
7 would like to make a comment, please go ahead and speak up.
8 We're listening and would like to hear from you.

9 MS. ARELI: Hello?

10 COMMISSIONER SCOTT: Hello.

11 MS. ARELI: Hi. This is --

12 COMMISSIONER SCOTT: Yes. Would you please spell
13 your name for the court reporter and then go ahead and give
14 us your comment?

15 MS. ARELI: Yeah. It's A-r-e-l-i. Last name is
16 (indiscernible). We would like to spell it (indiscernible) -
17 -

18 COMMISSIONER SCOTT: I'm sorry. You're not coming
19 through very well. You're breaking up a little bit.

20 MS. ARELI: Yeah. I think it's the connection --
21 last name -- A-r-b-e --

22 COMMISSIONER SCOTT: I'm sorry. Would you be able
23 to try us back. We're not able to hear you.

24 MS. ARELI: Okay. Yeah, I'm not in favor of the
25 power plant. I'll leave it at that.

1 COMMISSIONER SCOTT: Okay. Thank you very much.
2 I'm sorry about that. Was there anyone else on the line
3 who'd like to make a public comment? Going once. Going
4 twice. Okay. And hearing no additional public comments on
5 the WebEx, I'd just like to take a minute to say thank you so
6 much to everyone for taking the time to come here and talk
7 with us.

8 We really value your input. I want to say Happy
9 Birthday to the two folks who had a birthday this evening,
10 and let me turn this over to my fellow Commissioner,
11 Commissioner Douglas, to see if she has any concluding
12 remarks.

13 COMMISSIONER DOUGLAS: Hi. I'll just say briefly,
14 it's been a long night and I know folks want to go. I want
15 to thank everyone for being here tonight. We heard a lot of
16 input, and as the Hearing Officer said earlier, you know, in
17 these proceedings everyone's entitled to speak and be heard,
18 and y'all did that very well tonight. We really appreciated
19 you, the tone in the room and people on both sides being able
20 to speak. It was really great. So thank you.

21 COMMISSIONER SCOTT: Yeah, thank you.

22 HEARING OFFICER KRAMER: Okay. So we'll be back
23 here for more testimony at 9:30 tomorrow morning. We will be
24 taking public comment at the end of tomorrow's day, but we're
25 not quite sure when that's going to start. It could possibly

1 be later in the evening than -- hopefully, not now, but
2 that's possible. So see you tomorrow, and we are adjourned
3 for the evening. Thank you.

4 (Adjourned at 7:13 p.m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of March, 2017.



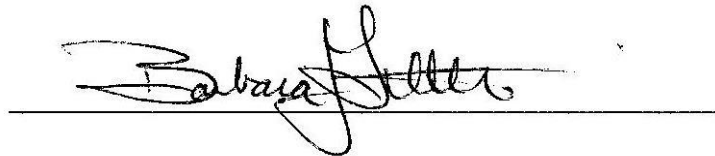
MARTHA L. NELSON, CERT**367

TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of March, 2017.

A handwritten signature in cursive script, appearing to read "Barbara Little", is written over a horizontal line.

Barbara Little
Certified Transcriber
AAERT No. CET**D-520