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**STATE OF CALIFORNIA**  
**State Energy Resources**  
**Conservation and Development Commission**

In the Matter of: )  
 )  
**APPLICATION FOR CERTIFICATION )**  
**OF THE PUENTE POWER PROJECT )**

Docket No. 15-AFC-01

**INTERVENORS SIERRA CLUB LOS  
PADRES CHAPTER,  
ENVIRONMENTAL COALITION  
OF VENTURA COUNTY AND  
ENVIRONMENTAL DEFENSE  
CENTER PREHEARING  
CONFERENCE STATEMENT**

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**PREHEARING CONFERENCE STATEMENT ON BEHALF OF INTERVENORS  
SIERRA CLUB LOS PADRES CHAPTER, ENVIRONMENTAL COALITION OF  
VENTURA COUNTY, AND ENVIRONMENTAL DEFENSE CENTER**

Pursuant to the Committee’s July 10, 2017 Notice of Evidentiary Hearing and Related Orders, Intervenors Sierra Club Los Padres Chapter, Environmental Coalition of Ventura County, and Environmental Defense Center (collectively, “Intervenors”) submit the following Prehearing Conference Statement.

**1) SUBJECT AREAS AND ISSUES IN DISPUTE THAT REQUIRE  
ADJUDICATION, LIMITED TO THOSE SUBJECTS DESCRIBED IN THE  
COMMITTEE’S MARCH 10, 2017 ORDERS, AND THE  
PRECISE NATURE OF THE DISPUTE**

Intervenors intend to submit testimony and evidence for purposes of adjudication at the Evidentiary Hearings related to Biological Resources and Alternatives sub-topics identified in the Committee Orders For Additional Evidence and Briefing Following Evidentiary Hearings dated March 10, 2017 (“March 10, 2017 Orders”). The following subject areas and issues, related to these sub-topics, require adjudication and remain in dispute:

**A. Biological Resources:**

- (1) Failure to adequately describe the environmental setting onsite and disclose the presence of Environmentally Sensitive Habitat Areas (“ESHA”) on the Project site, in the buffer and surrounding the Project area, such as habitat for federally- and/or state-listed endangered species, state fully protected species, California Species of Special Concern, and other special-status species, including the species subject to the Committee’s March 10, 2017 Orders, and new information regarding the presence of raptor nests and foraging habitat, the California Legless Lizard, and globuse dune beetle. The Applicant’s Biological Resources Survey Report did not abide by the Committee’s March 10, 2017 Orders to survey the Project site for the special status-

species identified therein. The Final Survey Report narrowly defined the Biological Survey Area to exclude major portions of the Project site, and failed to conduct surveys for special-status species in much of the 100 foot buffer area and on-site alternative configurations as requested by the California Coastal Commission (“CCC”).

- (2) Failure to adequately disclose the impacts to onsite ESHA.
- (3) Failure to adequately analyze the significance and presence of all potential wetlands on site.
- (4) Failure to avoid project impacts to on-site ESHA.
- (5) Failure to avoid impacts to on-site wetlands.
- (6) Failure to disclose and avoid impacts to offsite ESHA, including habitat for California Least Tern, Western Snowy Plovers, and the Tidewater Goby.
- (7) All of the Applicants’ proposed changes to weaken mitigation measures.

**B. Alternatives:**

The feasibility analysis of the inland alternative’s impact to aviation is not accurate and overstates the plume impacts to aviation.

Intervenors reserve the right to brief any and all issues disputed by the parties after the conclusion of the Evidentiary Hearings, and to cross-examine witnesses as described below.

**2) SUBJECT AREAS UPON WHICH INTERVENORS PROPOSE TO INTRODUCE TESTIMONY IN WRITING RATHER THAN THROUGH ORAL TESTIMONY**

None.

**3) IDENTIFICATION OF SPONSORED WITNESSES**

**A. Identity of Each Sponsored Witness**

Intervenors intend to sponsor two witnesses: Lawrence E. Hunt and Dr. H. Andrew Gray.

**B. Subject Areas on Which Sponsored Witnesses Will Testify**

Dr. Andrew Gray will testify on Alternatives. Mr. Hunt will testify on Biological Resources.

**C. Whether the Testimony Will be Oral or in Writing**

Intervenors reserve the right to rely on the written testimony submitted in this proceeding to date by Mr. Hunt and Dr. Gray. Subject to that reservation, Intervenors also intend to present oral testimony by Mr. Hunt and Dr. Gray.

**D. Brief Summary of the Witnesses' Testimony**

*(1) Summary of Mr. Hunt*

The Applicant's Biological Resources Survey Report defined the Biological Survey Area ("BSA") in a manner that failed to include the Project site as defined in the FSA's Project Description. It also failed to include and survey a complete 100 foot buffer around the Project site as recommended by the CCC – excluding from the survey results identification of a Silvery Legless Lizard found 10 feet from the northern boundary of the Project site near the Project's demolition access road during the time of the surveys. As such, the Applicant's Biological Resources Survey Report did not comply with the Committee's March 10, 2017 Orders "to provide survey results from one or more focused biological surveys of the proposed Project site." This significant flaw in the survey methodology impairs the credibility of the survey findings for the Biological Resources Survey Report. Several flaws with the survey methodology are identified in the Supplemental Testimony of Lawrence E. Hunt. As a result, many of the Survey Report's conclusions concerning absence of special status species and ESHA on-site and in the buffer are incorrect.

There is new evidence of ESHA on site. The Survey Report does document observations of peregrine falcon nests and foraging habitat on the Project site and in the buffer, as well as the Great horned owl and California horned lark. The presence of the peregrine falcon – a California Fully Protected Species - and its foraging habitat on the Project site and buffer indicate there is ESHA on-site and in the buffer. There is also new evidence that the Project site’s buffer contains ESHA due to the presence of California legless lizard, peregrine falcon and globose dune beetle – all special-status species.

Contrary to the conclusions reported in the Biological Resources Survey Report, the Project site does have a 2.03-acre wetland feature. The Project will destroy the existing wetlands and ESHA located on the site of the Project. The Project is likely to cause significant impacts to rare and sensitive habitats and species located both on-site and in the 100 foot buffer area that are not disclosed in the FSA.

Intervenors further reserve the right for Mr. Hunt to testify to any issues contained in his written testimony.

*(2) Summary of Dr. Gray*

Dr. Gray summarizes his testimony at pages 1-2 of Exhibit 4037 “Supplemental Testimony of Dr. H. Andrew Gray” which Intervenors re-state and incorporate by reference herein (TN220217). Intervenors further reserve the right for Mr. Gray to testify to any issues contained in his written testimony.

**E. Qualifications of Each Witness**

*(1) Mr. Hunt*

Mr. Hunt is a consulting wildlife biologist with over 30 years of field experience in central and southern California. He holds advanced degrees in vertebrate zoology and evolutionary ecology,

with an emphasis in herpetology and has conducted extensive field work in the coastal dune systems between the Ventura River and Port Hueneme during research and consulting activities.

Mr. Hunt's qualifications and Curriculum Vitae were provided in Exhibit No. 4038 (TN 215434) and are incorporated herein.

*(2) Dr. Gray*

Dr. Gray is an environmental engineer and atmospheric scientist with over 35 years of professional experience performing air quality dispersion modeling and related analyses. He received a Bachelor of Science (BS) in Civil Engineering / Engineering and Public Policy from Carnegie-Mellon University in 1979 and a Master of Science (MS) and a Ph.D. in Environmental Engineering Science from the California Institute of Technology (Caltech). His doctoral thesis was on the control of atmospheric carbon particles. He has developed and worked with atmospheric dispersion models in academic, regulatory and consulting environments. He has expertise in air quality monitoring, statistical analysis, atmospheric physics, atmospheric chemistry, meteorology, particle processes, deposition, numerical methods, computer modeling, air quality control strategy design and environmental public policy. An integral part of his research has involved developing and applying atmospheric dispersion modeling tools to determine the air quality impacts of pollutant sources in the areas surrounding those sources. Dr. Gray's qualifications and Curriculum Vitae are attached to Exhibit 4037 (TN 220217) and are incorporated herein.

**F. Time Required for Each Witness to Present Testimony**

Intervenors request 40 minutes to present the oral testimony of Mr. Hunt and 30 minutes for Dr. Gray.

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**G. Telephonic Appearance**

Both Mr. Hunt and Dr. Gray will appear in person.

**4) EXAMINATION OF OTHER PARTIES' WITNESSES**

**A. Subject Areas of Examination**

Intervenors intend to question other parties' witnesses on the following subject areas:

Biological Resources.

**B. Summary of the Scope of the Questions and Issues Pertaining to Each Questioning Topic**

Intervenors intend to question the Applicant and CEC Staff witnesses who provided supplemental testimony on Biological Resources in response to the Committee's March 10, 2017 Orders. These witnesses include: Julie Love, Ivan Parr, Carol Watson, and John Hiliard.

Intervenors also reserve the right to question any person who participates in the Evidentiary Hearings on behalf of the CCC, the United States Fish and Wildlife Service, or the California Department of Fish and Wildlife to provide testimony on Biological Resources. The scope of questions and issues described below relates to the testimony and evidence filed by each witness, as follows:

- (1) The scope of work performed and methodologies utilized by the applicant in the Final Biological Survey Methodologies submitted by applicant on April 10, 2017 (TN#216937).
- (2) The results, findings and observations contained in the Applicant's "Biological Resources Survey Report" as it relates to the presence of special-status wildlife and plant species on and adjacent to the Project site.

- (3) The results, findings and observations contained in the applicant’s “Biological Resources Survey Report” as it relates to the presence of Environmentally Sensitive Habitat Areas (“ESHA”) and wetlands on and adjacent to the Project site.
- (4) The impacts to wetlands, ESHA, and special status species on and adjacent to the Project site in light of the results, findings and observations contained in the applicant’s “Biological Resources Survey Report.”
- (5) How the new information, findings and results from the Biological Resources Survey and new evidence impact the CCC’s recommendations and the CEC’s Revised Conditions of Certification.
- (6) Information regarding the Project site visits by the CCC, the United States Fish and Wildlife Service, and the California Department of Fish and Wildlife.
- (7) Statements made by witnesses in declarations related to the above questions and topics.

**C. Time Desired to Question Each Witness**

Intervenors request a combined 45 minutes for Carol Watson and John Hilliard, and a combined 45 minutes for Julie Love and Ivan Parr.

- Carol Watson & John Hilliard - 45 minutes total
- Julie Love & Ivan Parr – 45 minutes total

Intervenors reserve 15 minutes for each of the following witnesses from the following agencies if they appear:

- California Coastal Commission,
- United States Fish and Wildlife Service,
- California Department of Fish and Wildlife.

Intervenors reserve the right to request additional time to question any witness put on by Staff or the Applicant to testify on Biological Resources or Alternatives who has not previously submitted written testimony.

**5) EXHIBIT LIST**

<b>Proposed Exhibit Number</b>	<b>TN #</b>	<b>Title</b>	<b>Subject Areas</b>
4037	220217	Supplemental Testimony of Dr. H. Andrew Gray	Alternatives
4038	215434	Supplemental Testimony of Lawrence E. Hunt	Biological Resources
4039	217571	Intervenors' Submission of Evidence of Rare species Findings at Puente Project Site	Biological Resources
4040	216914	Intervenors' Joint Comments RE Applicant's Proposed biological Resources Survey Methodology	Biological Resources
4041	216908	Coastal Commission staff comments on Biological Resources Survey Methodology	Biological Resources
4042	216901	California Department of Fish and Wildlife Comments on Applicant's Biological Resources Survey Methodology	Biological Resources
4043	220302	Coastal Commission Comments on Puente Project New Information	Biological Resources

Date: July 21, 2017

Respectfully submitted,

/s/ Alicia Roessler

Alicia Roessler

/s/ Alison Seel

