

DOCKETED

Docket Number:	07-AFC-06C
Project Title:	Carlsbad Energy Center - Compliance
TN #:	203562
Document Title:	Transcript of the December 3, 2014 Status Conference
Description:	N/A
Filer:	Cody Goldthrite
Organization:	Energy Commission Hearing Office
Submitter Role:	Committee
Submission Date:	1/26/2015 11:06:56 AM
Docketed Date:	1/26/2015

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA

In the matter of,)
) Docket No. 07-AFC-06C
Carlsbad Energy Center)
Project Amendments)

CALIFORNIA ENERGY COMMISSION
1516 9TH STREET, HEARING ROOM B
SACRAMENTO, CALIFORNIA

WEDNESDAY, DECEMBER 3, 2014

2:00 P.M.

APPEARANCES

COMMITTEE:

Karen Douglas, Commissioner and Presiding Member
Paul Kramer, Hearing Officer
Jennifer Nelson, Advisor to Commissioner Douglas
Christine Stora, Advisor to Commissioner Douglas
Hazel Miranda, Advisor to Commissioner McAllister
Eileen Allen, Commissioners' Technical Advisor for Siting
Matters

CEC STAFF PRESENT:

Kerry A. Willis, Esq., Senior Staff Counsel
Dick Ratliff, Senior Staff Counsel
Mike Monasmith, Staff Project Manager
Bill Kamamoto
Mark Hesters
Matt Layton
Matt Brown
Gabriel Roark

PETITIONER/APPLICANT:

John McKinsey, Esq., of Locke Lord, LLP
George Piantka, Director of Permitting, NRG

INTERVENERS:

Arnold Roe, Ph.D., Power of Vision (Via WebEx)
Julie Baker, Power of Vision (Via WebEx)
Kerry Siekmann, Terramar Association (Via WebEx)
Robert Sarvey (Via WebEx)

ALSO PRESENT:

Alana Matthews, Public Advisor
Bob Therkelsen, Consultant to City of Carlsbad, (Via WebEx)

INDEX

	Page
1. Call to Order	4
2. Hearing on Pending Motions	10
3. Case Progress and Schedule	57
4. Expectations	73
5. Public Comment	80
6. Adjournment	82
Reporter's Certificate	83
Transcriber's Certificate	84

PROCEEDINGS

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

2:08 P.M.

COMMISSIONER DOUGLAS: All right. If everyone's ready to go, let's go ahead and get started. This is Karen Douglas. I'm the presiding member for the Carlsbad Energy Center Amendments. This is a status conference, and I'll start by introducing the committee.

To my right is Paul Kramer, he's the hearing officer. To my left is my advisor Jennifer Nelson and my advisor Christine Stora. Commissioner McAlister's advisors are to my right. And let's see, Eileen Allen, technical advisor for siting. So Commissioner McAlister is not available to be here today.

Let's start with the parties. Applicant, could you introduce yourselves?

MR. MCKINSEY: John McKinsey, counsel for the Applicant, Carlsbad Energy Center LLC. Also with me is George Piantka from NRG that has been a representative of the Applicant project owner.

COMMISSIONER DOUGLAS: And staff.

MS. WILLIS: Good afternoon. Kerry Willis, counsel for the staff. With me is also Dick Ratliff, attorney, and Mike Monasmith, project manager, and we have various other staff members that might be speaking later that will introduce themselves at that time.

1 COMMISSIONER DOUGLAS: Great, thank you. And
2 let's see, interveners.

3 Terramar Association, Kerry Siekmann, are you on
4 the phone?

5 MS. SIEKMANN: Can you hear me?

6 COMMISSIONER DOUGLAS: Great, I'm glad to have
7 you on the phone, thank you.

8 Power of Vision, Julie Baker or Arnold Roe, are
9 you on the phone?

10 MS. BAKER: Both of us.

11 DR. ROE: Yes, we are.

12 COMMISSIONER DOUGLAS: Both you are on. Thank you
13 very much.

14 Robert Simpson, are you here, on the phone, I
15 mean? Robert Simpson?

16 All right. Bob Sarvey, are you on the phone? I
17 think we understand that Robert Sarvey is here or was here.
18 We haven't heard from him at this moment.

19 Let's keep going for now.

20 City of Carlsbad.

21 MR. THERKELSEN: Bob Therkelsen, here
22 representing the City of Carlsbad.

23 COMMISSIONER DOUGLAS: Thank you. Public
24 Adviser's office, Alana Matthews is here. Thank you.

25 Is anyone here from the California Independent

1 System Operator or any other state agency?

2 Is anyone here or on the phone from San Diego Air
3 Pollution Control District?

4 All right. Any other state, local, or federal
5 government agencies?

6 MR. SARVEY: I'm on the line, I don't know if you
7 guys can hear me or not.

8 COMMISSIONER DOUGLAS: Yeah, Bob Sarvey, is that
9 you?

10 MR. SARVEY: That's me, yeah, I'm on the line.

11 COMMISSIONER DOUGLAS: Great, thanks for
12 confirming that you're on the line.

13 MR. SARVEY: Thank you.

14 HEARING OFFICER KRAMER: Okay, this is Paul
15 Kramer, the hearing advisor/hearing officer. We're going to
16 mute everyone now because we're getting a lot of background
17 noise and interference between all the different phones.

18 In any event, the purpose of today's meeting is
19 similar to the last, except we do have a pending motion to
20 consider. First Commissioner Douglas wants to make a couple
21 general remarks for the future.

22 COMMISSIONER DOUGLAS: All right. So I wanted to
23 just start this out with a couple, as the hearing advisor
24 said, general remarks about how the committee is
25 approaching the case. We're doing a couple things or a

1 number of things a bit differently from what people may be
2 used to.

3 One is simply in just having regular monthly
4 staff status conferences up through the final staff
5 assessment coming out.

6 And one of the things that we have been trying to
7 do is have more frequent communication with parties and
8 some earlier engagement in issues by the committee. That's
9 the reason for the status conferences. It's also the reason
10 for, for example, the memo that you got before the status
11 conference asking the parties to think about some things
12 both for today but also for going forward and for the
13 January status conference. You'll find that this approach
14 is not only in Carlsbad but it's mirrored in a couple other
15 proceedings that are going on at the same time, Alamitos
16 and El Segundo in particular.

17 And one of the things that we are trying to
18 achieve through this approach is to be able to have earlier
19 identification of issues, have the committee engage earlier
20 in issues, have all of the parties. I expect that all the
21 parties will, of course, look at the PSA when it comes out
22 on the 15th, but really all the parties and also the
23 committee come prepared at the next status conference in
24 January to provide some substantive feedback on the PSA. To
25 the extent that parties find that some sections are not to

1 their liking or think that certain things are missing from
2 the analysis, they should be prepared to identify what
3 those issues are. The committee will do the same, so if we
4 see things in the PSA that we think should be flushed out
5 or maybe handled in a different manner or from multiple
6 perspectives or whatever the case may be, you know, we'll
7 be prepared to identify some of those issues as well. And
8 the purpose of that, of course, is to have an opportunity
9 for both some scoping of the workshops. It helps ensure
10 that the workshops are as helpful as possible for the
11 public and for the interveners and for all the parties to
12 provide an opportunity for early issue resolution between
13 the parties on issues that are identified.

14 And I say between the parties, and in some cases
15 that also may particularly mean with some of the issues
16 that interveners raise when they look at the PSA. I think
17 we all expect that between Applicant and staff there will
18 be through workshops some dialog and effort to address
19 issues, but I really strongly want to encourage the
20 interveners to also use this opportunity to put issues on
21 the table early, and that will both give you an opportunity
22 to hopefully have those issues addressed. It'll also give
23 staff an opportunity where they think it's appropriate,
24 supplement the analysis into the final staff assessment so
25 that the committee and all the parties benefit by having a

1 fuller analysis and a more complete record. So that's
2 something that we are very much hoping to see.

3 And we are very interested in having both very
4 efficient and also very effective hearings in terms of
5 focusing our time on the issues that really need hearing
6 time and having the right process to really identify and
7 flush out issues for the committee. So we are asking, and
8 you saw this in the memo that the hearing officer put out
9 before the status conference.

10 But we are going to be asking for some detail
11 from the parties on what they think needs to be heard at
12 hearings, what the issues are, what sections specifically
13 are going to, in their view, need to be addressed, and of
14 course, the committee has asked all the parties to do that,
15 Applicant, staff and interveners. We were very clear that
16 especially for Bob Sarvey and Rob Simpson, whose
17 intervention was as they came into the case limited to
18 certain topics, you know, they will have the opportunity to
19 read the PSA and make specific arguments if there are
20 additional topics where they feel as though, based on what
21 they actually read, issues are not fully addressed or
22 issues are raised that they want to say with specificity
23 they believe should be addressed in other ways. But I want
24 to really emphasize that what we are asking that from all
25 of the parties, not just the interveners and not just

1 certain interveners.

2 Let's see. So I think that's enough for now, but
3 I'm definitely looking forward to hearing from the parties
4 on some of the questions that we put out to you.

5 MR. KRAMER: Okay, thank you. And if you have
6 questions about the memo we put out, last week I believe it
7 was, we will have a point on the agenda a little bit later
8 after we talk about the schedule where you can ask your
9 questions and provide your comments.

10 But at this point we want to move into
11 consideration of the pending motion that we have, and
12 that's Power of Vision's petition to compel data responses.
13 They didn't call it exactly that, but in our vernacular
14 that's what it was, it was a petition asking the committee
15 to order the Applicant to respond to five specific data
16 requests that they have propounded of the Applicant.

17 The first was request number 8, which was asking
18 -- and I'm paraphrasing -- for cross-sectional drawings
19 showing the horizontal and vertical relationships between
20 the generating components such as the turbines and all the
21 other equipment and the transmission lines, some of the
22 internal roads on the side, the slopes of the berm, and
23 other things.

24 I note that in their petition POV has modified
25 their request so they're no longer asking the Applicant to

1 speculate about how I-5 might be widened in the future and
2 come up with drawings that show how these features compare
3 with that.

4 We have a couple questions, but first I think
5 we'll go around and ask the parties just to say what they
6 want to do either in favor of or in opposition to the
7 motion. So we'll begin with the person making the request.

8 Dr. Roe, would you like to speak to that?

9 DR. ROE: No, Mr. Kramer, you synopsised it very
10 well, thank you.

11 MR. KRAMER: Okay. Then the Applicant, Mr.
12 McKinsey.

13 MR. MCKINSEY: Thank you. So is this just
14 specifically to Data Request 8 are you are seeking a
15 general? I just want to make sure you're asking to address
16 each data request one at a time?

17 MR. KRAMER: I think so. Then we can combine the
18 last two that are talking about the books.

19 MR. MCKINSEY: So I'd make one correction on your
20 description or Data Request 8 is that it actually asks for
21 four dimensional, so not just the normal cross section
22 that's just looking on a plane but something that gives you
23 a sense of the structure of the objects. The data request
24 was a four dimensional and they use the term cross
25 sectional drawing, looking through the plan, and we

1 described it as looking generally to the north and to the
2 northwest.

3 And as we noted in our responses, we think that
4 several of the Commission staff data requests have asked
5 for dimensional drawings which we've provided and data
6 responses giving many of the different depictions of what
7 the actual assets themselves, the units, will look like and
8 the components, and that there are renderings. Particularly
9 I think KOP 7 is close to the viewpoint that they're
10 talking about because it's to the southeast.

11 The figure that we put up, Figure 58-1, was one
12 of the data responses we provided earlier this year which
13 shows all of the location of all the KOPs, and it comes to
14 bear on a couple of these data requests, including this
15 one.

16 So what we really feel is that attempting to
17 provide some other drawings showing viewpoints looking from
18 somewhere on the southern end of I-5, perhaps at the foot
19 of the project looking through the project would be, one,
20 expensive, difficult and challenging, but two, I think it
21 would mostly just show that area right there in front of
22 the plant. I'm not sure you can see very much but it's
23 never been designated as a key observation point for
24 reasons that I think come up even better on data request
25 number 11, and that there is plenty of information in the

1 record that provides the idea of what's going to be in the
2 power plant site and what it's going to look like.

3 And one of the reasons we provided that table as
4 an exhibit to our response was it gives a very good listing
5 of all the various renderings and illustrations and
6 diagrams and explanations that have been provided between
7 August and now in response to data requests that we think,
8 several of the data requests, makes this asked and answered
9 to the extent that there's anything of a necessary need for
10 the committee to render a decision on the project.

11 MR. KRAMER: Okay. Staff?

12 MR. RATLIFF: Dick Ratliff. The context of the
13 data requests would seem to be, as noted, related to the
14 impacts to visual resources. The further context of that is
15 that the impact of the construction of the project will not
16 have a significant visual impact in and of itself, but at
17 some point that is unknown, there is the expectation that
18 the I-5 will be widened. We don't know the exact width of
19 that widening or the timing and this makes it difficult to
20 know exactly what the future cumulative impact which will
21 really result from a different future project, which is as
22 yet not fully defined, will complicate the visual impact of
23 the amended CECP.

24 In the licensing proceeding there was a great
25 deal of attention focused on this issue, and we ultimately

1 determined that even with the worst case assumptions for
2 the widening of the project there would be enough margin to
3 provide screening for the power plant that would reduce
4 impacts even with the widening of the freeway to less than
5 significant levels. And imposed on NRG the requirement that
6 they maintain an area that would allow them to provide that
7 screening. This condition will carry over from the license
8 project to the amended CECP.

9 Staff has reviewed the simulations and the
10 evidence concerning the amended CECP proposal and concluded
11 that the impacts from that project are lower than those of
12 the licensees, principally because the profile of the
13 project has been lowered with lower stacks.

14 The only real difference that I think that we're
15 aware of, and certainly our visual expert can correct me if
16 I'm mistaken, but the only real change that is of note is
17 that the transmission lines have been moved from the west
18 margin of the project to the eastern margin of the project,
19 and therefore, they have become more visible from eastern
20 perspectives.

21 Even so, we have received information from the
22 Applicant which has allowed staff to reach a conclusion on
23 the significance of that impact, and we don't ourselves
24 seek further information on the transmission poles. We
25 believe that the current screening requirement which will

1 carry over into the amended CECP should be sufficient to
2 effectively screen not only the power plant exhaust towers
3 but also the transmission towers as well.

4 MR. KRAMER: Okay, Mr. Sarvey, we'll have to
5 unmute you. It would be better, Mr. Sarvey, if you can mute
6 yourself because you are giving us a lot of background
7 noise.

8 MR. SARVEY: Hello?

9 MR. KRAMER: Go ahead.

10 MR. SARVEY: Can you hear me?

11 MR. KRAMER: Yes.

12 MR. SARVEY: Yeah, I support Power of Vision's
13 motion to compel. After all this is said and done, staff's
14 going to go home, Applicant's going to go home, and the
15 rest of us aren't going to be located near the project and
16 they want to know exactly what they're going to be looking
17 at, so I support their motion, give them the right to see
18 what this is all going to transpire and what it's going to
19 look like. Like I said, we're all going home afterwards,
20 but they're going to be there living with it.

21 MR. KRAMER: Okay, thank you. Terramar
22 Association, Ms. Siekmann? Looks like she may have
23 disappeared.

24 MS. SIEKMANN: No, no, I'm here.

25 MR. KRAMER: Okay. Go ahead and tell us your

1 position, then.

2 MS. SIEKMANN: Can you hear me?

3 MR. KRAMER: We can. Just let's go off the record
4 for a minute.

5 (Off the record)

6 Back on the record. So go ahead and state your
7 position on this part of the motion.

8 MS. SIEKMANN: This is Kerry Siekmann, Terramar.
9 Can you hear me?

10 MR. KRAMER: Yes, you're sounding good now.

11 MS. SIEKMANN: Okay, great. Yes, Terramar fully
12 supports Power of Vision because the visuals are incredibly
13 important. So absolutely I think that our community
14 deserves to see what this is going to look like. And as I
15 stated in my status report, John McKinsey himself said this
16 is a unique and new amendment that we need to know what it
17 looks like. We can't let things just slide by just because
18 this is an amendment. It's a completely different power
19 plant than what we had before, and I think the community
20 needs to understand exactly what it's going to look like. I
21 really feel our community deserves that. Thank you.

22 MR. KRAMER: Okay, let me ask you and Dr. Roe.
23 Request 8 is very broad, it talks about all the equipment
24 in the project, whereas request 9 asks for an elevation
25 drawing of the transmission lines along I-5. Is it the case

1 here -- in the past I've understood you were definitely
2 concerned about the transmission lines along I-5, but are
3 you also as concerned or less concerned about the other
4 aspects of the power plant that are in some cases down in
5 the berm but also further away from I-5?

6 DR. ROE: May I respond? This is Dr. Roe.

7 MS. SIEKMANN: Okay, great, okay.

8 DR. ROE: Our data request 8 as we've simplified
9 it is asking for a cross sectional drawing through the
10 equipment from one berm to the other berm, and we want both
11 horizontal and vertical distances.

12 Now, the Applicant has already supplied a
13 somewhat similar diagram in the no. 203313 when they
14 responded to staff's data request no. 74. They show a cross
15 section through what the CECP unit no. 6. It doesn't have
16 all the information that we requested in our data request
17 no. 8. It only shows one of the embankments and not the
18 other, and it doesn't show the horizontal distances between
19 the various pieces of equipment.

20 Unit no. 6 in relation to the two berms is
21 different than, say, unit no. 10 or 11, and that's why we
22 asked for four cross-sectional drawings.

23 I'm looking closely at it as they stick to their
24 current floor plan. Probably two cross-sectional drawings
25 would suffice. That is unit 6, 7, 8 and 9 are quite similar

1 in cross-section from berm to berm, but units 10 and 11 are
2 somewhat more constricted. So if the Applicant would agree
3 to providing two cross-sectional drawings going from berm
4 to berm with not only the vertical distances that they
5 showed in their response to AFDR 74 that would probably be
6 adequate.

7 Because what we're trying to determine is whether
8 there is room to reposition some of the elements so that
9 the transmission lines or what you call the tie lines will
10 have a lower visual impact. We're not looking to try to
11 increase their cost in any way, we're just trying to make
12 the plant more acceptable to the public.

13 Now, Dick Ratliff mentioned that they're
14 satisfied because the Applicant has provided them with some
15 information that put their doubts to rest. I don't know
16 whether that's any different than the information that the
17 rest of us have received.

18 But the only thing I can see that anywhere near
19 approaches a visual of the current proposed configuration
20 for the transmission lines is again on the same page where
21 the cross-section drawing is, the Applicant provided a
22 schematic drawing, kind of an aerial view, which really
23 doesn't give one a sense of how that transmission lines is
24 going to look particularly from I-5 but from across the
25 lagoon and up the hill adjacent to it.

1 So I'll repeat, the purpose of the cross-
2 sectional drawings is so that we can determine whether such
3 things as a screening will be adequate. We doubt it. Even
4 with some of the poles down the hole, there will still be
5 an over 70-foot tall projection above the berm that will be
6 visible from the freeway and elsewhere. And as some of the
7 later data requests will touch on, there have no -- I
8 repeat, no visual renderings of the new location of that
9 transmission line. There have been renderings of the old
10 position still adjacent to the freeway before they lowered
11 a couple of the poles. All we're asking is that the same
12 kind of information be provided for the new location.

13 MR. KRAMER: Ms. Siekmann? Go ahead with whatever
14 you were doing a few minutes ago.

15 MS. SIEKMANN: Hello? I can hear you.

16 MR. KRAMER: Okay, go ahead, then.

17 MS. SIEKMANN: Do you want me to talk about the
18 Power of Vision or do you want me to talk about the fact
19 that the visuals that I requested that were very similar
20 were also turned down?

21 MR. KRAMER: Well, if it relates to Power of
22 Vision's request, but you haven't requested an order that
23 they answer your request, so that's not really in front of
24 us today.

25 MS. SIEKMANN: Okay. But I mean, I can say that I

1 have had a similar response, that the Applicant is just not
2 willing to go to any trouble to provide us visuals of what
3 this plant is going to look like for us in our community,
4 and I find that to be counterproductive because we keep
5 going back and forth and back and forth about trying to
6 just get what it's going to look like, and we constantly
7 get refused.

8 Why are they so afraid to show us what it's going
9 to look like? I would like to know that.

10 MR. KRAMER: Okay. Well, I don't know that we'll
11 get an answer to that today.

12 Dr. Roe, when you were talking about the
13 information that they did provide, you're not on the
14 computer, are you?

15 DR. ROE: Yes, I can go to any one of the -- no,
16 I'm looking, I printed out from the TM203313, the
17 renderings.

18 MR. KRAMER: 313, okay, I have the wrong document
19 on the screen, let me find the right one.

20 DR. ROE: 203313, dated 11/4.

21 MR. KRAMER: And roughly what page was that?

22 DR. ROE: I think it's the last page, page 4
23 perhaps.

24 MR. KRAMER: Okay. So you're not talking about a
25 drawing, you're talking about the visual rendering.

1 DR. ROE: That's from a perspective of the
2 ground, not from up in the air.

3 MR. KRAMER: And then there's a cross-section
4 (inaudible) is that what you're looking for?

5 DR. ROE: Well, actually, data request 8 only
6 refers to the cross-sectional drawing.

7 MR. KRAMER: Okay. Now you've asked that it just
8 be cross-sectional from berm to berm, but what I'm asking
9 about is what direction, north to south or west --

10 DR. ROE: It really doesn't make any difference.
11 I mean, I can interpret it either way. I happened to have
12 asked for it looking north and they've shown it looking
13 south.

14 MR. KRAMER: Okay. So north to south.

15 DR. ROE: It doesn't make any difference, it
16 could be either north or south. I can understand the cross-
17 section either way.

18 MR. KRAMER: Okay. And this doesn't show any
19 vegetation or anything, but this is halfway between sort of
20 a line drawing and a visual rendering, the traditional KOP
21 type visual rendering [interference] the landscaping at
22 some state of maturity.

23 DR. ROE: I'm sorry, was that a question to me? I
24 didn't get all of it, there was a lot of static.

25 MR. KRAMER: What value does this add as opposed

1 to just having a visual simulation that includes simulated
2 vegetation, you know, at some level of maturity?

3 DR. ROE: Are we still talking about our data
4 request no. 8 or are we moving into other data request
5 numbers?

6 MR. KRAMER: Let's make it specific to 8.

7 DR. ROE: Well, 8 only refers then to the cross-
8 sectional drawing, a similar drawing to their cross-section
9 for unit 6, but with more details, and a similar one for a
10 cross-section for either units 10 or 11, because the
11 distances to the berm are different.

12 MR. KRAMER: So you basically want a companion to
13 this one?

14 DR. ROE: Well, this one doesn't have all the
15 information. It doesn't show both berms and it does not
16 show the horizontal distance between the elements.

17 For example, it doesn't show the difference
18 between the transmission lines and the H frame. It also
19 doesn't show the perimeter road in between those two
20 elements.

21 MR. KRAMER: Okay. I have a question for the
22 Applicant. In order to prepare the visual renderings you
23 have to have some idea as to the dimensions of all the
24 equipment you're rendering, distances to other features,
25 etcetera, so isn't this information -- it would seem it's

1 already been gathered at least to some degree. What's the
2 difficulty of providing it?

3 MR. MCKINSEY: Well, I had a lot of things I
4 wanted to say in response to a lot of the things that I
5 just heard. For now I'll try to limit myself to answering
6 that question you just asked me and that's it.

7 They're not asking for information like a number
8 here or a number there, except I think we provided all the
9 information we have in many different data requests about
10 distances, heights, dimensions, and they're asking for the
11 production of diagrams, renderings, drawings.

12 When you ask a professional, usually it's an
13 engineer working with some graphic artists, to produce
14 these things, they don't simply start sketching it. They go
15 through a pretty methodical process of finding reference
16 points for elevation that they can then refer everything
17 else to, and they use the dimensions that they have
18 available to come up with what they think is an accurate
19 depiction of the project. That then goes through some
20 review to find mistakes and errors and things like that.

21 So it's not a simple matter of saying, oh yeah,
22 here's another piece of information. They're asking for --
23 and again, just data request 8 -- for some type of
24 dimensional drawings looking north into the project site
25 and asking for clearance numbers and distances. And there

1 are various drawings and various data requests that have
2 distances which actually are questioned about how there are
3 some inconsistencies, though they're on the order of a few
4 feet here and a few feet there.

5 As an example of the complexity of this, we may
6 know the top height of each of those poles that we have. In
7 fact, we do because we put that down as a specific number
8 that has to be designed around so that we know we've got an
9 outer envelope of the visual impact that might be
10 associated with the project. And then we work backward from
11 there with assumptions on the distance between the
12 conductors, the number of conductors, and then put that
13 into a diagram.

14 Yet, we also have to make assumptions about how
15 much each line will sag, and so at its lowest point, will
16 presumably using the laws of physics and gravity, will be
17 halfway between each pole, you'll have a certain amount of
18 droop and each line should have the same amount of droop,
19 and that produces some clearance to ground point. But
20 unless we have an actual land-based radar measurement to
21 that ground point, we don't actually know a specific number
22 for the clearance to that ground point.

23 We know there will be design standards about what
24 the clearance has to be to the nearest metal object, to the
25 nearest wooden object, to the ground itself, but a lot of

1 what's done at this stage of the project is trying to
2 provide an outer envelope visual depiction that definitely
3 catches the worst case possible depiction so that it allows
4 for a visual assessment of significant impacts.

5 And the detailed information they're asking
6 beyond what's been provided is information that would take
7 more time and expense to try to produce. May not be to the
8 level of detail they're asking it to be, you know,
9 plus/minus one foot, one meter, etcetera, for a certain
10 clearance of a certain object.

11 More than anything else, we believe that it is
12 not necessary to determine whether or not the project will
13 have a significant impact. And I don't mean to say that Dr.
14 Roe is being merely curious, but from a legal perspective
15 it comes down to some type of curiosity, I'd like to see
16 this, I'd like to see that, and it's not a necessary piece
17 of data or development that needs to be provided by the
18 Applicant under the criteria for discovery and data
19 requests.

20 We are certainly willing to produce and we have
21 released everything we can produce within some reasonable
22 level of expense, and we think we've gotten far past that,
23 particularly just again on data request 8 about the number
24 of views that show and other data that's out there on how
25 high the stacks will be, how high the poles will be.

1 And ultimately what mostly this comes down to --
2 and I do respect the fact that Dr. Roe and Power of Vision
3 believes that this is a significant impact. And as both the
4 staff has alluded and the project owner believes that
5 that's not the case, that there wasn't a significant impact
6 before and that this actually reduces the significance of
7 visual impacts, and that's what's driving this intervener's
8 desire for a tremendous level of detailed information.

9 And in some of the data requests I think that
10 that's even indicating that what they kind of want to do is
11 kind of redo the math or reengineer or come up with
12 arguments about why a given pole can be lower than it is or
13 the lines could be lower to the ground, and maybe they will
14 be. And a lot of that information is the type of
15 information that's done when you do your final engineering
16 design and you look at the specific requirements that the
17 precision on the project says it must meet, and an engineer
18 has to put their stamp on and say yes, it meets those
19 requirements, and those things haven't been done.

20 What we're doing right now is this big picture
21 assessment for compliance with LORS and avoidance of
22 significant impacts, and we believe that that information
23 has been provided in regards to data request 8 as well as
24 necessary to all the data requests.

25 DR. ROE: Mr. Kramer?

1 MR. KRAMER: Go ahead, Dr. Roe.

2 DR. ROE: Well, I'm flabbergasted. They were
3 quite willing and cooperative in their TN 203058
4 (inaudible) DR-POV 4-1 to provide the kind of information
5 that I'm requesting now. That information was provided
6 quite readily and I'm thankful for that from the Applicant
7 and everybody at the last meeting was also very happy to
8 see that diagram. It was a cross-section drawing, but that
9 was when the Applicant had all of the poles sitting up on
10 top of the berm adjacent to the freeway.

11 Now they've lowered two of the poles and added a
12 third pole. They've changed the configuration. All I'm
13 asking for is a similar diagram to the one they've already
14 provided showing the better application of where -- a
15 cross-section of where the poles will be.

16 So I don't see why this is any different than the
17 very simple drawing and very useful drawing that they've
18 previously provided for their old configuration. They now
19 have a new configuration. My data request was simply
20 related to what does the new configuration look like? And
21 if they've provided it before, I fail to see why they can't
22 provide it for the new one so everybody knows what we're
23 talking about.

24 MR. KRAMER: Okay. It sounds like we may have to
25 move on to the other requests. First one question for Mr.

1 McKinsey I have.

2 Are you suggesting that if it's found that
3 there's no significant visual impact that the Commission
4 does not have the power to ask that the level of impacts be
5 nonetheless reduced? In other words, is that sort of a safe
6 harbor, if it's not significant then the Applicant can
7 build it and the Commission can't say, you know, you could
8 make it better and we'd really like you to?

9 MR. MCKINSEY: That's a trap question. I think
10 first the Commission can issue whatever decision they feel
11 is appropriate and necessary and I'm certain they will, and
12 I'm certain the committee will recommend what they think is
13 appropriate and necessary.

14 And honestly, the reason that two of the poles
15 were moved down into the bowl reflects the fact that NRG
16 wants to do whatever it can to reduce the visual signature
17 and the visibility of the project, even if they don't think
18 it merits that from a visual impacts perspective. And
19 that's why NRG had discussions with POV and agreed to move
20 those two poles down into the bowl, to reduce their
21 visibility. And to some extent, I think that they now feel
22 like they're being punished for having done that.

23 And as an example, the data request that Dr. Roe
24 refers to shows the worst case one, because we did not feel
25 we were able to move the southeast pole down into the bowl,

1 so it represents that highest most visible point looking
2 north, so that is the right worst case analysis to see and
3 try to get an idea of what the project will look like.

4 You could make cross-sections that are like
5 slices at different points of latitude and show each one of
6 the poles and what they would look like looking from the
7 south, but all of those things would not really change the
8 fact that what has been provided and the project owner is
9 very comfortable standing behind shows what the project
10 will look like from all the key observation points and
11 shows, it despite what was stated, exactly what they agreed
12 to. All the KOPs have been revised and provided as part of
13 data response 58 to show what the project will look like
14 with the current photos that were retaken, with the
15 movement of the poles down into the bowl, with the amended
16 CCP. They do show what the project will look like.

17 But what's being asked for are things that either
18 are not going to be visible by the public at all. For
19 instance, looking north from some ground level perspective
20 within the site the units and the poles and the dimensions,
21 that's not really necessary to assess visual impact. It
22 would be useful if one was trying to redesign or come up
23 with criticisms or look for mistakes in engineering, but it
24 wouldn't be useful for assessing visual impact.

25 Or they reflect the desire to see what it would

1 look like from a couple of particular viewpoints, like a
2 driver that looks over their left or right shoulder while
3 driving by on I-5, the staff and the Commission in the
4 original decision already decided were not key observation
5 points.

6 And so the ultimate (inaudible) is that the
7 project owner feels they really have provided a tremendous
8 amount of information about what the project will look
9 like, more than most projections ever generate, and they've
10 even made concessions where they felt possible. And I think
11 if the committee or the Commission identified something
12 that they thought was doable if the staff had done that, we
13 would have responded much like we did to Dr. Roe and POV
14 and said let's see what we can do, but we don't think
15 there's anything left about reducing the visibility of the
16 project and we're pretty satisfied that it's not very
17 noticeable and that it is a reduction in impacts from the
18 project that was already proposed and that project was
19 already found not to be significant.

20 MR. KRAMER: Okay. So let's move on to data
21 request 9.

22 DR. ROE: By the way, Mr. Kramer, he didn't
23 answer your question.

24 MR. KRAMER: Well, we'll take it for what it is.
25 Let's move on to no. 9. It sounds to me like the same basic

1 discussion would apply and we don't need to repeat
2 ourselves. Does anybody have anything new or different to
3 add with respect to request 9, which was for an elevation
4 drawing of the transmission lines along I-5?

5 DR. ROE: I could add one thing. This is Dr. Roe.

6 MR. KRAMER: Go ahead.

7 DR. ROE: The Applicant has claimed that it's
8 difficult and many other reasons why he can't provide that
9 information, yet he has provided that information for
10 another section of the transmission lines that is the area
11 where the transmission lines crosses the rail corridor, and
12 that's in response to DR 76 and TN 203327. And there they
13 show the clearances from the sagged transmission lines over
14 the ground terrain. And we're asking for something similar
15 for the section along I-5.

16 MR. KRAMER: Okay, I think we understand your
17 request. Anything else from any other party? Okay.

18 So then these drawings -- actually, Ms. Allen had
19 one question that might be appropriate at this point.

20 MS. ALLEN: Thank you. This is for any of the
21 parties. Is it correct that Caltrans has not provided a
22 date for the I-5 widening project?

23 FEMALE: (Inaudible)

24 MR. KRAMER: Okay, you're all unmuted now, so if
25 you tried to respond, go ahead and try again.

1 MR. MCKINSEY: This is John McKinsey, and my
2 understanding is no. There's not only not a date but
3 there's not a project. When we say the I-5 widening we mean
4 with specific reference to the area around the plant. No
5 final design has been selected.

6 In fact, we don't actually call it I-5 widening.
7 The better discussion is realignment/widening. And so there
8 is not a project definition and description that has been
9 decided on, and certainly not a date.

10 MS. ALLEN: Thank you.

11 MR. KRAMER: It doesn't sound as if anyone else
12 has anything different to report. Let's go ahead and mute
13 all our callers.

14 Okay, moving to then request 11, which was asking
15 for three visual renderings along I-5. Two appear to be
16 existing KOPs, 6 and 7.

17 Mr. McKinsey has passed out Figure DR 58-1. Do we
18 know the TN number of this?

19 FEMALE: 203311.

20 MR. KRAMER: It's 203311. I'm going to give
21 presenter rights to -- actually, I'll use a different
22 document. I have a copy of right here on the screen of the
23 key observation map. This is from the 2012 final Commission
24 decision, so let me blow it up here a little bit. You can
25 see that point 6 is looking southward along the southbound

1 portion of the freeway. And key observation point 7 is
2 looking northbound from the northbound lanes on the other
3 side of the power plant.

4 And then Dr. Roe proposed an additional
5 observation point labeled as SNB. And Dr. Roe, I wanted to
6 ask what does that add to the discussion having that point
7 in addition to the other two?

8 DR. ROE: Well, first of all, I actually
9 requested that they repeat the renderings for three places,
10 points of perspective, which they had already responded to
11 for the time when their power transmission lines was
12 totally up on top of the berm, SB and NB. They had made
13 renderings of that, of SB and NB.

14 The reason I suggested the addition of SNB was
15 that moves the point of view somewhat to the south so that
16 we have a better view of the two southernmost two
17 transmission poles which we don't get a view of in their
18 KOP 7.

19 And again, we have not seen visual renderings
20 anyplace of their proposed new hard-line locations with
21 three poles down in the pit and two up on the berm. We only
22 have those that responded to our earlier data requests
23 where all the poles were up on top of the berm.

24 MR. KRAMER: Okay. So let me ask Mr. McKinsey.

25 Is that revised rendering coming or...

1 MR. MCKINSEY: So data request 58 provides
2 revised drawings, filed that November 4th, and that shows
3 the relocated poles. They're almost not visible. From we
4 provided all new KOPs, and from all those KOPs -- and this
5 is what I said earlier -- we not only move poles down in
6 the bowl, we took new photos because some of the background
7 looks different, and we provided new updated KOPs for the
8 entire viewpoints. So it's simply not correct. Data request
9 58 is indeed what several times over the last months, at
10 least the last two community status conferences has been
11 asked for, it's there, those KOPs.

12 The other thing I would note, respectfully, is
13 that Dr. Roe doesn't ask for a key observation point, he
14 asks for a rendering. There is a significant difference
15 between those two terms. A rendering is just anybody's
16 attempt to depict what the project will look like from some
17 perspective or viewpoint.

18 A key observation point is something that's
19 selected as a means of representing the potential impacts
20 to a community of a project. And sometimes there's only a
21 couple of key observation points, sometimes it starts with
22 a few and grows, and that's the case with this one, is it
23 grew to the number it has now.

24 So one of the issues we have with the requests
25 for renderings as they're being asked for by POV is that 6

1 and 7 are not the north and the south looking at you're
2 coming along I-5 renderings they're asking for because they
3 want something closer. And certainly the one they want
4 looking directly west over your shoulder from I-5, those
5 are often not selected as key observation points because
6 they don't reflect the community perspective of what's
7 likely to be considered a visual impact. And this comes up
8 in a lot of projections.

9 So for instance, the key observation points that
10 look across the lagoon at the project mostly to the west
11 are much more representative of the correct viewpoint to
12 have when looking west [interference].

13 Similarly, a viewpoint from a highway where the
14 people on the highway and the houses around the highway can
15 see it for awhile. So 6 and 7 reflect often what is picked
16 for a key observation point when on a freeway where even
17 the drivers may see it for a few minutes or a minute or
18 two, but something that's selected really close to an
19 object simply never visible and so it's usually not
20 appropriate to make that a key observation point.

21 So I'd point out that Dr. Roe is asking for
22 renderings. He hasn't made a request that these be
23 designated key observation points and that's really
24 significant from a CEQA perspective, but we also don't
25 think they would be eligible for that which is why they're

1 not appropriate to try to do a rendering from.

2 DR. ROE: Mr. Kramer, Mr. McKinsey made
3 references to drawings that they have provided showing --
4 using KOPs to show the new location of the transmission
5 lines. I don't know, I haven't seen those. What is the
6 reference? I'd like to pull it up on my computer. We may
7 have a nonissue here if I missed seeing something.

8 MR. MCKINSEY: They're contained in the data
9 request filed on November 4th, and the figure numbers as
10 well as the data request is number 58 and the figure
11 numbers are data request 58-1 through 14, that provide the
12 before and after.

13 DR. ROE: What's the TNN number?

14 MR. MCKINSEY: Somebody will have that for you in
15 a moment, I'm certain.

16 MR. KRAMER: That's 203311.

17 DR. ROE: 203311. All right. Do you want to
18 question some other people while I pull this up on my
19 screen, I'd appreciate that.

20 MR. KRAMER: Okay. Another aspect of Dr. Roe's
21 request was he wanted the landscaping to be shown basically
22 right after it was put in, if I understand it correctly.
23 And I wanted to ask staff.

24 Normally when you prepare a visual rendering, I
25 might be recalling this incorrectly, but you assume that

1 the landscaping has grown for a period of time, I think it
2 might be up to five years. Can somebody tell me if I'm
3 recalling that correctly?

4 MR. RATLIFF: I think you'd better ask Mr.
5 Kanamoto that.

6 MR. KRAMER: Mr. Kanamoto.

7 MR. KANAMOTO: This is Bill Kanamoto. In answer
8 to your question, it can be done either way, but typically
9 we've generally shown landscape after a few years of
10 growth. You know, there's no hard and fast rule about that.
11 It can be shown after construction or it can be shown after
12 a period of time.

13 MR. KRAMER: So it might be in the range of three
14 to five years?

15 MR. KANAMOTO: That's typical, yes.

16 MR. KRAMER: Okay, thank you.

17 MR. MCKINSEY: Hearing Officer Kramer, can I
18 comment on that?

19 MR. KRAMER: Could you tell me what you did for
20 these particular drawings, too?

21 MR. MCKINSEY: The actual requirement for the I-5
22 corridor is to maintain the same view screening that is
23 already present on I-5. So the project owner does have to
24 produce a landscaping plan for the project, and for these
25 viewpoints along I-5, the two visual conditions -- and I

1 don't have them in front of me, the numbers, but they came
2 up at the last status conference, that require the project
3 owner to continue to sustain, which could involve
4 replanting. It could involve even adding some vegetation as
5 things die and things like that.

6 But the general idea is that the landscaping
7 that's already present on the eastern side of the footprint
8 of the plant and that northern area between the lagoon and
9 the northern ridge, that basically there wasn't a need to
10 try to change that; that that is exactly how it should
11 continue try to look.

12 So there isn't actually a need to depict new
13 landscaping unlike some projections where they're going to
14 have to implement a significant planting plan and there
15 will be a period of time before they're visible. In this
16 case, the visual screening is already in place and it has
17 to be maintained.

18 It was one of the reasons we agreed to use new
19 photos to some extent, because there have been some
20 trimmings of trees between the old photos that were taken
21 and the new ones, and we wanted to ensure that they
22 reflected what it currently looks like.

23 But in the end, there's a visual condition of
24 certification, VIS2, which requires a landscaping plan be
25 prepared and submitted for the project that preserves that

1 screening level that has historically been present along
2 I-5 and to the north. And depending on what's in place to
3 the west implements other screening on the west, but there
4 isn't any precise obligations.

5 So that's why there are not the normal renderings
6 where you see a project going in where there isn't already
7 existing vegetation or screening where you'll often see, as
8 you noted, maybe one to five year growth characteristics
9 and things like that.

10 MR. KRAMER: Okay, I've found those photos if
11 anyone's interested. I'll pop them up on the screen here in
12 a second.

13 DR. ROE: I assume you're looking at KOP 6 and 7?

14 MR. KRAMER: Yeah, right now we're looking at
15 KOP 6, and what's on the screen is the current photo,
16 correct? Mr. McKinsey's nodding yes. So you can see the
17 stack there.

18 DR. ROE: And somehow or other, you do not see
19 any transmission lines at all, which indicates that this is
20 not an appropriate KOP, because in their response to our
21 earlier data requests, which are taken a little bit further
22 and in the case of KOP 6, a little bit further south, you
23 definitely do see transmission lines.

24 You know, this is why looking at KOP 6 and 7 I
25 requested views from SB, NB and SNB. Now, whether the

1 Commission or someone has to establish a new KOP because I
2 called it a rendering. When I previously requested it when
3 the transmission lines all the poles were up on the top,
4 they were able to respond quite well to my request for a
5 rendering.

6 Again, I repeat all I'm asking is that they do
7 the same thing now that they've moved some of the poles
8 into the pit, but from those perspectives that they
9 provided us before so that everybody can see whether their
10 effort to reduce the visual impact is adequate or not.

11 Those two renderings, KOP 6 and 7 show nothing.
12 And it's not because there's nothing there, it's just
13 they're looking in the wrong place.

14 And I kind of resent Mr. McKinsey's referring to
15 drivers along the freeway momentarily glancing over their
16 shoulder. Even if they're just momentarily glancing over
17 their shoulder, you have many more than 200,000 people a
18 day glancing over their shoulder at something that may be
19 unsightly, and the visual impact for the community is
20 perhaps greater for those who have to stare at it all day
21 long.

22 MR. KRAMER: Okay. But that's measured from other
23 KOPs is Mr. McKinsey's point.

24 DR. ROE: Yes.

25 MR. KRAMER: It does look to me like the amended

1 project view from KOP 7, Mr. McKinsey, these two poles that
2 are furthest to the right, the middle right, are these the
3 new poles including the corner pole for the new units?

4 MR. MCKINSEY: Correct. And I'll say that short
5 of having an evidentiary hearing where I put on the graphic
6 artist and engineer that produced these renderings, the
7 instructions and what they have said are in place in all
8 these drawings are all of those components.

9 And so in 7 you can see them. In 6 I think you
10 can't see them because they're not visible. And so you can
11 see all the components where they're visible.

12 And of course, I think this can be a purpose
13 sometimes if a party believes that a depiction is
14 incorrect, but I don't think that's what's at issue here.
15 If Dr. Roe is saying that the new renderings from KOP 6 or
16 7 are not accurate or are missing a component, that's not
17 what the data request 11 asks for. It asks for viewpoints
18 that are closer to the project and not where KOP 6 and 7
19 are, and it asks for three of them.

20 But the project owners prepared these completing
21 believing they are correct and I see enough in some of
22 them, and that's part of the checking process it goes
23 through on the quality assurance side of these renderings,
24 which is why they're fairly complex, of saying yes, you've
25 got the right file prepared that will render all the

1 objects, and then you produce it and then you look for
2 errors and mistakes in it. And these have all gone through
3 that quality assurance process and the conclusion is that
4 they have all the components.

5 MR. KRAMER: Okay. I think I might have misspoke
6 earlier when I was talking about the 400-foot stack showing
7 in the before view, if you will, from KOP 6.

8 Am I wrong and the stack that's poking above the
9 trees, is that one of the stacks that would have been there
10 if the licensed project were built?

11 I'm sorry, KOP 7. If you can see on the screen
12 this stack here, that's one of the new machines if it had
13 been put in or is that the Encina plant?

14 MR. MCKINSEY: That's the stack for the
15 northernmost set of the new units.

16 MR. KRAMER: Okay. So then all your comparisons
17 are between state of the world, which has to be simulated
18 admittedly, where the currently licensed project was
19 actually constructed and --

20 MR. MCKINSEY: Let me correct you. You're looking
21 at the licensed CECP project, so that stack there is the
22 stack that would be in place for the current licensed
23 project. The one below that on the screen is the one
24 showing the amended project.

25 MR. KRAMER: That's what I mean. But we're not

1 showing this space where the licensed project is having
2 just the oil tanks.

3 So we're not comparing it to the way it is today.
4 These renderings are comparing the hypothetical built
5 project, licensed project, against the hypothetical amended
6 project.

7 MR. MCKINSEY: That's correct, these compare the
8 licensed project to the amended project.

9 MR. KRAMER: Okay. So then I want to ask staff,
10 are you in your analysis also going to give comparison
11 photos for the current environment as it is?

12 MR. RATLIFF: Well, that actually would be found
13 in the prior proceedings environmental documents, both in
14 the FSA and in the final decision. But if you request it, I
15 suppose we could do all three.

16 MR. KRAMER: We'll get back to you on that.

17 MR. MCKINSEY: I can answer the question fast,
18 which is the original how it looks, in other words, right
19 now, which is part of the original proceeding assessment,
20 that was provided in the comparison for when we filed the
21 PTA. But even there the simple answer is that is the
22 baseline and that doesn't change.

23 So in this data request response filing, we
24 didn't attempt to redo that. We simply provided this
25 licensed versus amended [interference]. I think the only

1 difference would be there are a few places where a few
2 trees are changed over five years, some pruning of dead
3 limbs, things like that, but that original baseline is
4 still available as the environmental baseline for the
5 project that was used in the approval of the licensed CECP.

6 MR. KRAMER: So the record contains in this case
7 three sets.

8 MR. MCKINSEY: Yes.

9 MR. KRAMER: Thank you.

10 DR. ROE: Mr. Kramer, on that same drawing --

11 MR. KRAMER: Which one are you speaking of?

12 DR. ROE: Well, I'm looking at the KOP 7 view
13 toward the project site from the north I-5. I don't see any
14 rendering of a new PTA in that whole series of KOP 7,
15 particularly the figure DR58-9. Oh yes, there it is.

16 I see, you pointed out that the stack was from
17 the old design. That's

18 MR. MCKINSEY: Dr. Roe, can you hear me?

19 DR. ROE: Yes.

20 MR. MCKINSEY: Okay. So I'm standing up by the
21 screen right now looking at this DR58=9 showing the amended
22 project, and you can see two black poles that are --

23 DR. ROE: Yes, I see the transmission lines.

24 MR. MCKINSEY: The one that's to the left is the
25 collector pole, and the one that's to the right, which

1 ultimately is slightly north, is the first of those lowered
2 poles. You can also see a little bit to the right of one of
3 the large existing transmission lines that cross I-5, so to
4 the left of one of those two black poles a stack rising up,
5 and that is one of the exhaust stacks for the amended CECP.
6 The other exhaust stacks are not visible from this
7 viewpoint.

8 DR. ROE: That's interesting. The stacks are
9 generally in pairs. Okay. Thank you.

10 MR. PIANTKA: Hearing Officer Kramer, this is
11 George Piantka. I want to clarify and hopefully you guys
12 can hear me as well.

13 There is a pair of stacks that would represent
14 units 10 and 11. Those are southerly most pair.

15 What John was indicating, you've got the
16 collector pole if you move the hand or the cursor, I can
17 help guide you on the figure, but the collector pole is the
18 southerly most pole.

19 The next one to the north is the transmission
20 line coming off units 10 and 11. That's the one that's not
21 in the bowl. We've indicated that that one could not be
22 lowered.

23 And as you further to the north, you cannot see
24 the pair that represents units 6 and 7 and 8 and 9 poles
25 because they're in the bowl, they're lower.

1 And to really understand the changes, you have to
2 loop at KOP 6 and KOP 7. Here we're looking at KOP 7. KOP 6
3 gives you the view as you're heading southbound and it's
4 showing that those particular poles -- what you're looking
5 at right there on the screen is the Encina 400 foot stack,
6 the baseline condition and the licensed project, and as you
7 scroll down to --

8 MR. KRAMER: Is that the Encina stack?

9 MR. PIANTKA: That's the Encina stack right
10 there, and then to the left of the Encina stack is the CECP
11 licensed project that's in the trees. Those are the 140
12 foot stack that's just in that location there.

13 MR. KRAMER: So it's about halfway between the
14 stack that's above the trees and the edge of the freeway.

15 MR. PIANTKA: Right. So if you scross down
16 further, what we provided in 6 and 7 and the basis to much
17 of our discussion today is that we've provided renderings
18 from KOPs that show a northbound and a southbound view of
19 the amended CECP.

20 In KOP 6 you don't see the stacks as prominently,
21 they're lower, they're much lower. And then to the right is
22 actually the city's lift station project. You can see a
23 building that's right there. And then to the left of that
24 is the stacks that the Unit 6 and 7, the northerly most
25 pair of stacks.

1 These are the revised visual simulations that we
2 did that we submitted on November 4th and they reflect the
3 lower transmission poles that would support unit 6 and 7
4 and 8 and 9. So basically when you look at KOP 6 and 7,
5 you're getting our transmission poles in two views where
6 the northerly most pair of transmission poles are in the
7 bowl and not visible or as visible. And then you go to the
8 next KOP and you see it as if you're traveling northbound
9 on I-5 and then you can see the existing Encina
10 infrastructure and the transmission poles that go across
11 and then you see the collector pole and the transmission
12 pole that supports 10 and 11, you see those, and you can't
13 see the lower ones even from that vantage if you're looking
14 up to the north. You really have to look at those pair to
15 be definite.

16 MS. SIEKMANN: Mr. Kramer?

17 MR. KRAMER: Okay, before you say anything, let
18 me just anchor this for the transcript and people who
19 weren't here looking at the screen.

20 I'm talking about Figure DR58-8 and TN 203311,
21 and the city facility is pretty much in the middle of the
22 frame. There's a break in the trees where you can see
23 basically a solid wall of some sort or maybe the side of a
24 building, and then it goes to the right and the left of
25 that points. The stacks were about halfway between that

1 break and to the left and the edge of the roadway again.

2 [interference] the last two data requests and
3 then the schedule.

4 MS. SIEKMANN: Mr. Kramer?

5 MR. KRAMER: Go ahead.

6 MS. SIEKMANN: May I ask, I think that was Mr.
7 Piantka speaking? I just wanted to ask him one question.
8 That picture that's on the screen right now, when that KOP
9 was put together, was that using the picture of how the
10 trees look now or of how the trees looked before a bunch of
11 them were trimmed out?

12 MR. PIANTKA: Yes, this is George Piantka. Yes,
13 that was me speaking earlier.

14 MS. SIEKMANN: Yes.

15 MR. PIANTKA: When we resubmitted our simulations
16 on November 4th, that was reflecting the changes that had
17 occurred to the trees, the existing trees, and so it's
18 updated photos of the way the sites looks. And the original
19 licensed KOPs that were in there, they were of 2007
20 vintage, so that was our update of all the photos.

21 MS. SIEKMANN: So the November 4th ones are the
22 ones with how the trees are now.

23 MR. PIANTKA: That's correct.

24 MS. SIEKMANN: Thank you.

25 DR. ROE: Mr. Kramer, this is Dr. Roe.

1 MR. KRAMER: Go ahead.

2 DR. ROE: Can I please direct your attention to
3 TN 203058. There are two figures there, figure DR-POV.

4 MR. KRAMER: While I'm going to it, which will
5 take a minute, what's the point you're trying to make?

6 DR. ROE: I'm trying to show the view that had
7 been provided by the Applicant on September 12th of the
8 poles before two of them were lowered into the pit. And
9 where you see a view on the freeway that's perhaps more
10 representative of what people going along that I-5 corridor
11 will see rather than those that we were looking at before.
12 I just wanted you to look at the comparison.

13 MR. KRAMER: Which page are we looking at?

14 DR. ROE: It's probably the last two pages. You
15 see figure DR-POV 52 and 53.

16 MR. KRAMER: 53 is on the screen now.

17 DR. ROE: That's the view northbound. And again,
18 right under the trees in the middle you can see a couple of
19 the PTA smokestacks, and you see the transmission line
20 before they lowered the two northernmost poles. That's a
21 lot different than their KOP 6 and 7 views, and they are
22 perhaps more representative of what people will be seeing.

23 MR. KRAMER: But are the two poles that are in
24 view now lowered, Mr. Piantka?

25 MR. PIANTKA: This was done prior to our

1 lowering. I'm just trying to make sure I understand which
2 of those two poles that are visible.

3 DR. ROE: They're the two northernmost poles.

4 MR. KRAMER: The poles to the right of center in
5 the picture.

6 MR. PIANTKA: Right, so those are the two that
7 have been lowered.

8 MR. KRAMER: So are they visible at all from this
9 viewpoint in their lowered state?

10 MR. PIANTKA: Well, the difference in the pole
11 depth, if you will, is about 30 feet, so they would be.

12 DR. ROE: It would be 23 feet.

13 MR. PIANTKA: So they would reflect a lower
14 elevation.

15 MR. KRAMER: I don't know how many feet we're
16 talking about here on what's visible.

17 MR. MCKINSEY: It should be like a quarter of the
18 length of those is how much they would drop, from that
19 viewpoint.

20 MR. KRAMER: So would it be at this place where
21 the cursor is or down here?

22 MR. MCKINSEY: Probably that first line.

23 MR. KRAMER: So what they are describing is there
24 are three transmission lines going horizontally across the
25 frame, and they believe that the top of the pole would now

1 be in the lowered state at the position where the lowest of
2 the three lines connects to the pole in the drawing. Is
3 that right?

4 MR. PIANTKA: I think Mr. McKinsey said about a
5 quarter of that height, because the pole is about 23-30
6 feet depending where you're at, so we'd have to lop off the
7 top, call it 25 feet or so.

8 MR. KRAMER: So just take off the top quarter?

9 MR. PIANTKA: Right.

10 MR. KRAMER: So it's probably somewhere between
11 the second topmost line and the third topmost line,
12 somewhere in there.

13 MR. PIANTKA: Seems reasonable.

14 MR. KRAMER: Okay. I'm going to scroll up to the
15 previous photo, which is DR-POV 5-2, and this is showing
16 the southbound view of the transmission structure proposed
17 to serve units 8 and 9. Are these where the trees have been
18 felled or are those bushes? Anyway, I guess it doesn't
19 matter.

20 So Dr. Roe, we now have been pointed to these
21 drawings. [interference] lowered, what relevance do these
22 have for us?

23 DR. ROE: Are you asking me?

24 MR. KRAMER: Yeah, you pointed these out to us so
25 I thought I'd ask you.

1 DR. ROE: Right, right. If the public could have
2 an idea of what is going to transpire along the freeway,
3 it's our position that these two views, possibly
4 supplemented by a third as we requested, would be a better
5 rendition than the ones they've shown on KOP 6 and 7.

6 Now, the change is very simple. If you're looking
7 at POV 5, Only the right-hand pole, the closest one will be
8 down in the pit. The other two will be up where they are, I
9 assume. And all they have to do is provide a similar
10 rendering which will accurately show what they're now
11 proposing and will actually show this pole or other poles a
12 little bit lower, and that should be the project views that
13 should be presented to the committee.

14 MR. KRAMER: Okay, we understand that point.

15 DR. ROE: It's very simple, redo 5-2 and 5-3 to
16 show a few of the poles lowered down and let's make those
17 the official views of what's going to happen.

18 MR. KRAMER: Okay, we understand your request. So
19 let's move on now to requests 12 and 13, which are for, as
20 I understand it, because you cannot get access to the 1978
21 and 1975 design manuals, whatever they are, and but the
22 Applicant had cited them for some purpose, so you want him
23 to provide you a comparison table comparing the design
24 numbers, if you will, to more recent books that are dated
25 2008 and 2013. Is that the essence of your request?

1 DR. ROE: Yes, very well put.

2 MR. KRAMER: Okay. So Mr. McKinsey, do you have a
3 source for him to be able to open the book and get to the
4 numbers so he can make his own table?

5 MR. MCKINSEY: No, not particularly. Again, one
6 of the points we made in our objection to this, that simple
7 description (inaudible) exactly what's being asked for, but
8 there's a lot of underlying assumptions in both these
9 requests that those two standards -- so in the 138 it's the
10 '78 transline reference book compared to the 2008 Electric
11 Research Institute transline reference book, and in the
12 other one it's the '75 versus the 2013 -- that those two
13 provide the applicable design values for the transmission
14 line as opposed to one of many of the reference manuals
15 that are out there. They're provided, in fact I think this
16 and many of the other resources are all listed in many AFCs
17 as being sources of information when trying to both design
18 the safety requirements for ground clearances as well as
19 the electrical performance requirements of the dimensions
20 and spaces between lines.

21 And the four data points that are asked for, A,
22 B, C, D, identical under each one of them, don't
23 necessarily come from any of those sources, and might in
24 fact simply be driven by a Building Code requirement, for
25 instance, which is also cited.

1 And so as I got into discussions with our
2 engineering design team, they had a couple of issues. They
3 said these books are, some of them cost like \$5,000, the
4 ones that are in print. They have really restrictive and
5 serious copyright provisions that say you can use them as
6 an engineer but you can't just provide them to someone
7 else.

8 And they also indicated that they didn't think
9 that they could answer these requests, just simply say here
10 are these tables that you want comparing these values for
11 A, B, C, D, without attempting to put in other reference
12 manuals and explain different points and essentially have
13 to teach an engineering perspective on how one goes about
14 designing lines.

15 But they would point out that none of the exact
16 clearances for a conductor from the ground to the roadway
17 has been determined. And again, what's happened is worst
18 case design analysis has tried to determine how high these
19 poles have to be to provide this worst case visual
20 perspective of what it may look like.

21 So then I said, well, tell me. I mean, if these
22 books are sitting in an engineering library at UCLA, can't
23 I just point them at those? And they said that they're
24 probably in a lot of engineering libraries, but you'd have
25 to go to those libraries and flip them open and dig out

1 those values.

2 But the biggest problem with this is we couldn't
3 just answer the question by saying here's a table providing
4 these values because it's like apples and oranges between
5 the two books that are being asked to put on the table and
6 the specific parameters that are being asked for, and
7 there's not any really specific engineering design
8 (inaudible) that are being asked for the assumptions on, so
9 we ultimately said, look, we just can't take the time to
10 answer this.

11 MR. KRAMER: Okay. Staff, do you want to comment
12 about the availability of information?

13 MR. HESTERS: We agree that they're expensive.
14 This is Mark Hesters with the transmission staff. We agree
15 that they're very expensive and hard to come by.

16 Listing to what the Applicant is saying, they
17 affect the height of the pole. If you're doing a visual
18 based on sort of a worst case height of pole, it doesn't
19 really matter whether or not your conductors are a few
20 inches apart or slightly closer when you finally do the
21 design. You've done a worst case in your picture, which is
22 what they're saying. It may be shorter, but we keep doing a
23 picture that's as sort of big as we think it's going to be.

24 In the end they're going to apply these standards
25 to the exact height of the poles, the exact spacing of the

1 poles, to make sure that there's no sag and that the
2 distances are correct.

3 MR. KRAMER: So do you agree these represent the
4 applicable standards?

5 MR. HESTERS: Yes. And a lot of the clearance
6 standards are from G095, and everybody can get those, those
7 are online.

8 MR. KRAMER: So if this amendment were approved
9 and the Applicant came in the compliance phase to staff
10 with their proposed dimensions, their finely engineering
11 drawings, would you be able to put your hands on these
12 books so that you could check and see that they designed
13 them correctly?

14 MR. HESTERS: Yes. We actually recently ordered
15 them. But yes.

16 MR. KRAMER: And do you have any hints for Dr.
17 Roe as to where he might find them?

18 MR. HESTERS: The library sounds reasonable.
19 That's where ours is going to end up, in the library here.

20 MR. KRAMER: Here at the Energy Commission.

21 MR. HESTERS: Yes.

22 MR. KRAMER: But not in time for him to look at
23 it, probably.

24 MR. HESTERS: No. I mean, again, all it's going
25 to do is show that you might reduce the size of the poles

1 and reduce the visual impact.

2 DR. ROE: That's the objective.

3 MR. HESTERS: But they might end up that way
4 anyway, they're not going to overbuild them.

5 MR. KRAMER: So there the idea being that they
6 won't buy any more metal than they absolutely have to?

7 MR. HESTERS: That would be my guess, yes.

8 MR. KRAMER: Okay. Any other interveners want to
9 comment on this? Okay, Dr. Roe, any final word on this?

10 DR. ROE: Yes, I would appreciate. I didn't get
11 the name of the last speaker. I would certainly appreciate
12 him emailing me a place where I can find it. I have
13 searched.

14 MR. KRAMER: And can you say where you did
15 search?

16 DR. ROE: Yes, I searched in the Carlsbad
17 library, I went online and referenced that, the 2013 manual
18 and couldn't find it anyplace. What I was told was I had to
19 pay \$10,000 to take a look at it. But if somebody else can
20 point me in the direction I certainly would appreciate it.

21 MR. KRAMER: It doesn't really sound like a
22 coffee table book, does it?

23 Okay. Well, we understand your position and we'll
24 take all that under advisement, but we need to move on. The
25 committee will be deliberating about your petition and

1 we'll issue an order and that'll be how we communicate the
2 decision on the petition.

3 Let's move on to our case progress and schedule.

4 Can somebody fill us in as to where the air district
5 stands? We have your status report. Do we have a better
6 guess about when the preliminary determination of
7 compliance is going to officially arrive for everyone to
8 see?

9 MR. LAYTON: This is Matt Layton with the Energy
10 Commission. I think "guess" is the operative word. I talked
11 to Steve Moore at the air district today, and he says maybe
12 next week.

13 And he's talked to Tom Andrews, the consultant
14 for the Applicant. They're still working on one last issue,
15 but again, his best guess is sometime next week.

16 MR. MCKINSEY: I had a slightly different
17 description of that, may have been the difference between
18 optimism and pessimism. It's the secondary PM2.5 modeling
19 and they said there were one or two remaining model
20 glitches they're trying to work out on the secondary PM2.5
21 modeling, but everything else remains in place. And they
22 were actually hopeful they would have that done by the end
23 of this week, which would facilitate early next week
24 release of the PDOC and perhaps even a release of the final
25 secondary PM2.5 numbers to CEC staff in a draft form that

1 will be permanent at the end of this week. Again, that's
2 cup half empty/cup half full type perspective.

3 MR. LAYTON: Sounds good to me.

4 MR. KRAMER: Okay, thanks. Any new information
5 from the Coastal Commission about the degree to which
6 they're going to participate in our process?

7 MR. RATLIFF: We have calls into the Coastal
8 Commission and are waiting to get their response to our
9 invitation that they participate or comment. We don't know
10 yet what that participation will be.

11 MR. KRAMER: Okay. And highlighted in the status
12 reports was the continuing issue regarding cultural
13 resources. Did either side want to discuss that at all
14 today?

15 MR. MCKINSEY: I would like to, yes.

16 MR. KRAMER: Go ahead, Mr. McKinsey.

17 MR. MCKINSEY: And I'll begin by saying that to
18 the extent that we raised this in our status report, one of
19 the reasons we tried to get our status report last week. We
20 even also called to try to give a heads up, because we're
21 not trying to litigate by surprise with CEC staff, but
22 we've been communicating with them all month and trying to
23 find some type of a resolution regarding this issue we're
24 having over two sites.

25 In fact, I'll say there are two site records

1 maybe relating the same possible site that might be there
2 or not be there. And despite the fact that we're raising
3 this, and I think we have a very distinctly different
4 position on the legal question of what is required for
5 staff to complete their staff assessment. And then
6 certainly there may be a difference of opinion at the end
7 on the substantive position of the potential for impact to
8 one of these sites, it's the legal topic that we're most
9 concerned about.

10 And it's not because we're really concerned about
11 the sites and their impacts. One of the things that we're
12 attempting to do is work out an agreement where the staff
13 can come in and do an onsite field dig where they dig small
14 holes and inventory what they find there and generate a new
15 record that would satisfy them. And we're completely
16 amenable to that whenever it occurs.

17 But we've always had a different legal position
18 on the necessity for that in order for the staff to
19 complete their staff assessment obligations.

20 And the issue we really have is not a
21 disagreement over wanting to get them on there. And one of
22 the other aspects of this that's tricky is the specific
23 location of possible history sites and a lot of the other
24 information in the reports is confidential, so we can't
25 have an open dialog or discussion or even a hearing with

1 some of the information being put out publicly because the
2 rules are in place to deter people from going and trying to
3 find these things and sell them and destroy resources. So
4 we're trying not to discuss at all in this public setting
5 specific locations.

6 But the areas where they want to dig are actively
7 being used on the site for other activities, so the
8 coordination of that is challenging.

9 Staff's position has been don't worry, we'll get
10 it done before the final staff assessment. And nine months
11 before that we might have said yeah, that's a good chance,
12 but everything gets delayed. And even in the last month
13 since we raised this briefly in the last status conference,
14 we haven't really gotten anywhere on identifying a window
15 where they can get in there in the immediate timeframe and
16 dig.

17 And so what we're concerned about is not the
18 resource and not what we respect as the staff's
19 professional position about this resource, but the timing
20 impact that this could have on the FSA. That if we continue
21 to have this discussion and the staff continues to say they
22 have to have this information in order to complete their
23 staff assessment, then we would be up against a wall in a
24 month or two where the staff would be saying, well, we
25 can't complete our final staff assessment. We told you all

1 along we have to do this dig to get this information and we
2 can't get it done in time.

3 So what we're asking the committee to consider is
4 resolving the legal question of whether this information is
5 necessary or not in order for the staff to complete their
6 staff assessment. Because as we understand the position of
7 staff, it is legally necessary, that without the cultural
8 resources component of staff cannot complete the staff
9 assessment unless they conduct this dig, or somebody
10 conducts this dig and gathers this additional information.

11 And so that's why we brought this issue up. And
12 to be candid, we didn't give a lot of warning to the staff
13 we were doing this last week, but we realized we can't put
14 this off any longer and that's one of the reason we got a
15 report out early and gave an earlier heads up to staff we
16 were doing that to give the staff a chance to respond to
17 this position.

18 But I'll say again, this doesn't reflect any
19 intent that we're done trying to find the digging solution
20 and the schedule, it really reflects our difference of
21 position on this legal question and our concern about what
22 that could mean for the final staff assessment.

23 COMMISSIONER DOUGLAS: So Mr. McKinsey, just a
24 couple questions, and staff, feel free to jump in.

25 So how long has staff said they need to be on the

1 site and dig?

2 MR. MCKINSEY: Well, this has never come up
3 formally, so we began to hear about this in late October
4 and early November, and we got into discussions right at
5 the same time we had the status conference, which is why we
6 raised it. In fact, we had a meeting that day before the
7 status conference about this issue. So it's really only
8 been something we've been trying to work out for about 30
9 to 40 days.

10 COMMISSIONER DOUGLAS: Staff?

11 MR. BROWN: Matt Brown, staff. We in our second
12 round of data requests asked the petitioner to do the
13 testing, and that was August 27th, I believe was the date
14 that was docketed. So the idea of us taking it on after the
15 petitioner continued to object was end of October, I
16 believe, when we officially discussed that, but it was a
17 data request in August.

18 COMMISSIONER DOUGLAS: And how long do you think
19 it would take you if you were to take this on?

20 MR. BROWN: So we have the scope and budget with
21 our contractor in place and I think it was submitted this
22 morning, actually, so we would need about a week for that
23 to get approved. It would be 11 days of field work, and
24 then about 30 days for the analysis. So it would be around
25 40 days from today.

1 COMMISSIONER DOUGLAS: When you say 11 days of
2 field work, does that mean that there are 11 days when
3 certain parts of the site that are currently being used for
4 something are not being used?

5 MR. BROWN: It wouldn't be the entirety of the
6 site but there would be portions.

7 COMMISSIONER DOUGLAS: Okay. And do you have some
8 sense -- and I'll ask obviously petitioner this as well --
9 of how potentially disruptive this could be to current
10 operations on the site? Is it 11 continuous days, is it --

11 MR. BROWN: Well, it would be phased. There would
12 be trenching involved and so they'd open a trench, let that
13 trench open and air out, then they would do some more
14 excavation. It wouldn't be 11 days in the same place,
15 though, no, it would be staged and phased, the exact
16 details of which we haven't worked out.

17 It would be 11 days straight, though. It wouldn't
18 be like two days here and then a week break, it would be 11
19 days straight.

20 COMMISSIONER DOUGLAS: It would be 11 days
21 straight but not all in the same place.

22 MR. BROWN: Right.

23 COMMISSIONER DOUGLAS: Can you give us a sense of
24 how much area you're talking about?

25 MR. BROWN: It's about a little less than two

1 acres in the one area and a 600-foot by 2-foot trench in
2 the other area.

3 MS. ALLEN: This is Eileen Allen. The
4 approximately two acre area is a block, a contiguous block?

5 MR. BROWN: Not contiguous, but they're adjacent.

6 MS. ALLEN: Adjacent. As far as the 11 days,
7 would you need all of the daylight hours each day?

8 MR. BROWN: That's based on eight-hour days,
9 yeah.

10 COMMISSIONER DOUGLAS: So going back to the
11 Applicant here. I'm becoming a little more sympathetic to
12 the scheduling concern, although I don't have as good a
13 sense of the nature of the work. To what degree do you
14 think this work can be accommodated with what's currently
15 going on with the power plant and on the site?

16 MR. MCKINSEY: Part of the challenge we've had is
17 when we came out of the conference a month ago we said get
18 us a specific plan that we can take to the plant operator,
19 to the other tenants that are on the site that have rights
20 in different parcels so that we can start figuring out if
21 there's a window, and that's taken awhile and we've gotten
22 through a couple other calls we've had, okay, we want to do
23 this much at least in this area.

24 The problem has been that one of the areas in
25 particular is very actively in use. And the long trench is

1 problematic almost by definition because it's going to
2 touch certain areas and access areas.

3 But again, I'm not convinced that we may not have
4 a shot at that schedule, but I think that depiction for
5 instance of 40 days from now is not accurate. I don't think
6 that they could mobilize in seven to ten days because I
7 don't think we could get clearance for everything. It might
8 have to be somewhere in the next month there may be a
9 window to get in one spot, maybe both of them, maybe not.

10 So again, our concern here is not that we don't
11 want to continue to try to pursue that, and I think we'll
12 get there eventually. Our concern is that we really think
13 that they are not going to have this analysis done, or
14 there's a high risk that they won't have this analysis done
15 before the final staff assessment is supposed to be
16 completed.

17 And if they issue the final staff assessment and
18 the preliminary staff assessment and take their position,
19 we don't think we can do it, it's one thing, but to some
20 extent our concern is that the position that they've taken
21 that this is absolutely necessary in order for them to
22 provide an assessment is troublesome because that suggests
23 that it will hold up the proceeding of this project from a
24 staff assessment phase into the hearing phase.

25 COMMISSIONER DOUGLAS: So staff, is that your

1 position?

2 MR. BROWN: Well, actually, there's a second
3 option that we've explored, and that is to assume that
4 these sites are historical resources under CEQA without
5 doing the testing, and that the impacts would be
6 significant. And we would then mitigate for those impacts
7 to a less than significant level.

8 MR. ROARK: This is Gabriel Roark, staff
9 archeologist. What Matt is sort of getting at here or
10 staff's position to date has been getting staff and the
11 community into a position where we could do a straight
12 ahead compliance with what CEQA asks us to do with regard
13 to archeological resources, and that's to first determine
14 we know that you have two resources on the project site.
15 Figure out whether they qualify as historical resources.

16 And then from that point, if it's not a
17 historical resource, no further work or consideration is
18 required. If it is a historical resource, then you're
19 moving it to mitigation.

20 Barring access to the sites which would allow us
21 to make that recommendation of significance or
22 nonsignificance to the committee, we could assume
23 eligibility, but then that obliges the committee at that
24 point to impose mitigation, which may well entail more work
25 than the testing would require.

1 So we're just looking for the straight ahead
2 approach to complying with CEQA. As Matt pointed out, there
3 is this second option, and that second option, any
4 mitigation that is defined would need to transpire before
5 construction in that area begins. But otherwise, if we
6 can't get access, there's no, as far as we can tell, any
7 legal impediment to assuming eligibility and getting right
8 on with the business of mitigation.

9 COMMISSIONER DOUGLAS: Thank you.

10 Mr. McKinsey.

11 MR. MCKINSEY: So actually I disagree with a
12 little bit of the characterization of that, but we've
13 actually indicated that. We've said that in order to
14 conduct your staff assessment that that is the legal
15 requirement. You're not legally required to make this
16 determination.

17 But I'll make one other comment. The staff isn't
18 actually the entity that makes the determination, it's the
19 Commission. So the staff wouldn't really determine it. It
20 would be the staff's position and their testimony and their
21 final staff assessment would be these are historical
22 resources.

23 Our position would be they're not, and you would
24 have an evidentiary matter on the substance of whether or
25 not. And the committee and ultimately the Commission then

1 decided they were, then they would have to implement the
2 mitigation. It might be the mitigation recommended by
3 staff, but we might also disagree on that. But that's kind
4 of what we would prefer so that we're moving through the
5 normal process.

6 And it might be while we're going through that
7 process that, indeed, staff gets in there and completes the
8 evaluations they want and makes the determination they're
9 not. And that is even, I think, a faster schedule than
10 trying to hold up the staff assessment for this because of
11 the complexities of getting in there and the late hour that
12 we have for that. But we're not opposed to that.

13 And I'll say again, we're not actually -- our
14 consultants and our experts, and we've even gone outside of
15 our original ones to make sure, were very comfortable with
16 having to deal with that in evidentiary hearings if the
17 staff's position is that they're a historical resource and
18 they have this potential to have a significant impact.
19 We're comfortable dealing with that in evidentiary hearings
20 through testimony and evidence.

21 And in the meantime, we really think that we
22 might get to the point where they can get in there and see
23 exactly what we're comfortable they're going to find, and
24 that will satisfy their professional sense of
25 responsibility. And maybe even by the time we're in

1 evidentiary hearings they can say we've got some revised
2 testimony and here's our position now. I prefer that
3 because that moves us forward.

4 COMMISSIONER DOUGLAS: Staff, anything else?

5 MS. WILLIS: Kerry Willis, staff counsel. I agree
6 with Mr. McKinsey that this is an issue that could be take
7 to evidentiary hearing. But as you've said, if you're
8 willing to move forward with this, we don't plan on holding
9 up the final staff assessment for this issue, but we would
10 then just assume eligibility at that point in time if we
11 aren't allowed access or the testing hasn't been done.

12 But it has been since August and not just
13 recently that this question has been raised. So I just want
14 to make sure that we're understanding it's not at a late
15 date, it has been quite a few months.

16 MR. MCKINSEY: Yeah. And I'll say really
17 candidly, we're not trying to point fingers at all. I think
18 everybody is trying to do their very diligent duty, but at
19 this point we feel like we're in a late hour and that's why
20 we felt like we had to bring this up, because we now feel
21 that it's threatened the schedule.

22 COMMISSIONER DOUGLAS: Well, it sounds like it
23 would in some ways simplify matters a lot if you could find
24 a way to get staff access to the site so they can do the
25 testing that they'd like to do, and it sounds like that

1 would be preferable.

2 But to the extent that it's not practical to do
3 that, certainly this is an issue that we could handle in
4 hearings if we needed to, so I think I would encourage the
5 parties to try to find a way to get staff access to the
6 site so they can just do this work.

7 You know, there are challenges with dealing with
8 issues in hearings where there are issues of
9 confidentiality, although there may be a way of handling
10 this issue in hearings without having to deal with
11 confidentiality by not specifically identifying locations.

12 I'm not sure. Do put some thought into that if we
13 find ourselves going the hearing route.

14 MS. ALLEN: If a window does appear would it
15 require dry weather?

16 MR. BROWN: Probably. Some work could be done if
17 it was raining, the initial opening of the trench
18 essentially, but excavation should probably be done in dry
19 weather.

20 MR. KRAMER: Well, I'm hoping for a big ski
21 season, just so you know.

22 Okay. Let's keep an eye on that, then, because as
23 Commissioner Douglas said, there are some logistical
24 issues. If we're going to be hearing stuff we probably
25 can't use WebEx, so that means everyone has to be able to

1 get to some place, whether it's here or down there.

2 Let me ask the interveners, if you can unmute
3 them. Do any of you have any interest in this cultural
4 issue or from your perspective is it better between staff
5 and petitioner? Speak up if anyone is interested.

6 MR. SARVEY: Well, I'd like to ask a question or
7 two if I could, please. Bob Sarvey.

8 MR. KRAMER: Go ahead.

9 MR. SARVEY: My major concern here is I heard
10 that there was going to be a budget for this amount fog
11 work and wanted to ask how much that budget was.

12 MR. KRAMER: Does staff know?

13 MS. WILLIS: Not at this time.

14 MR. SARVEY: My concern is, you know, my
15 understanding is the Applicant's only paying about \$26,782
16 a year to process this amendment, and the rate payers are
17 financing all this, so my concern is this could be costly
18 and I think we need to know up front what we're going into
19 and how much it's going to be. Thanks.

20 MR. KRAMER: Okay, thank you. Anyone else? Okay,
21 we're going to have to go ahead.

22 Then the final question regarding schedule was
23 for staff and we just wanted to confirm that you are still
24 on target for releasing everything that's not dependent on
25 the preliminary determination.

1 MS. WILLIS: We are. At this point in time I
2 believe we will also be including the [interference] that
3 we haven't already [interference].

4 MR. KRAMER: [interference] at some point before
5 the FSA then.

6 MS. WILLIS: [interference] prior to the
7 publication date, yes.

8 MR. KRAMER: Okay. That's even better.

9 Okay. Anything else? So we talked earlier and
10 Commissioner Douglas spoke generally about some of the
11 concepts underlined in the memo we sent out about
12 expectations, I think it was last week. Seems longer but
13 probably wasn't.

14 So we hope it speaks for itself. Again, it's
15 talking about a very -- basically assigning homework,
16 saying you don't get to wait until the day of the hearing
17 to come in and tell us what your issues are and what your
18 evidence is going to be. You have to start early. And like
19 everyone else does, the Applicant is reading everything
20 staff puts out. Staff has to read everything the Applicant
21 does. The committee, we sometimes sample, to be frank, but
22 ultimately we have to look at everything you put on the
23 table in front of us. And the same goes for interveners.

24 So we're envisioning a world where there are --
25 no is probably pushing it, but very few surprises come the

1 day of the hearing. So we're presuming as perhaps your
2 first bit of homework that you've read and digested the
3 memo and we are now open for questions about its content,
4 if we can clarify it for you in any way, we would like to
5 do so. So let's open everyone up.

6 MS. SIEKMANN: I have a question.

7 MR. KRAMER: Okay, that was --

8 MS. SIEKMANN: Kerry Siekmann.

9 MR. KRAMER: Go ahead.

10 MS. SIEKMANN: I have a lot of concern about the
11 air report, and especially because the staff and the
12 Applicant have had a preview of the air, and those of us
13 who are interveners haven't seen anything and we're the
14 ones that have the most difficulty reading a document like
15 that, so I just want to make sure that we're given plenty
16 of time and that we're not rushed just because it's coming
17 out later than it was supposed to come out, that we're
18 given an appropriate amount of time to digest it.

19 And then also what the Coastal Commission will
20 come out is going to be really important as well. So I just
21 wanted to state that I would like to have that thought
22 about when you're talking about deadlines.

23 MR. KRAMER: Okay. Well, I suppose one measure of
24 adequate time might be the comment period that the air
25 district has for the preliminary determination of

1 compliance. And of course as we discussed the last time,
2 maybe even the time before that with Dr. Roe, that is one
3 of the key places for you to comment about issues you have
4 with that report is with the agency that prepared it.

5 I wanted to ask you a question. You referred to
6 the Coastal Commission as if you are expecting that they
7 will give us some kind of report. Do you have any reason to
8 believe that that's true? Because I think most of the
9 people around the table here, probably it's fair to say
10 would be a little bit surprised.

11 MS. SIEKMANN: Well, I truly believe that the
12 Coastal Commission, if they're doing their job properly,
13 will find that this, the amended CECP and the CECP, are not
14 allowable because they are not coastally dependent.

15 MR. KRAMER: Okay. But you haven't heard from
16 them that they're preparing a report or anything specific,
17 have you?

18 MS. SIEKMANN: Oh, no. Huh-uh. Just from you
19 guys.

20 MR. KRAMER: Okay. Well, we didn't mean to say
21 that we're expecting one, because we're as much in the --

22 MS. SIEKMANN: Well, it's on your list.

23 MR. KRAMER: Well, remember the last time they
24 didn't give us anything.

25 MS. SIEKMANN: No, I remember. I remember, but

1 the budget issue seems to be improved some, so I'm hoping
2 that they finally do their job.

3 MR. KRAMER: Okay. Well, we're glad to hear from
4 them. Frankly, we have it on the list more to avoid
5 surprise.

6 MS. SIEKMANN: I see.

7 MR. KRAMER: So we have early warning.

8 Did you want to say anything, Ms. Willis?

9 MS. WILLIS: Just a couple of things.

10 Regarding the PDOC, I was just told that Steve
11 Moore indicated that they would still have the 30-day
12 review time for the PDOC.

13 And also I had a comment or question for the
14 committee to ask the interveners. With the PSA coming out
15 on the 15th of December and then basically a two-week
16 holiday, we're looking at workshops probably the middle of
17 January, like 12th, 13th, 14th, but that would be January
18 15th would be the 30-day period for review. If that's
19 something that the committee would consider extending a
20 week or more for interveners.

21 MS. SIEKMANN: Thank you. I really appreciate
22 that request.

23 MR. KRAMER: Okay. And I don't think you need our
24 permission to do that yourself, extend the comment period,
25 to add another week or so.

1 MS. WILLIS: Well, we're trying to follow the
2 schedule that you've laid out.

3 MR. KRAMER: Well, then I guess we should ask
4 first, then. Would that cause the FSA to be delayed?

5 MS. WILLIS: At this point I don't think so. I
6 mean, we're trying to get the PSA as complete as possible,
7 in which case it would just depend on the comments that we
8 receive.

9 MR. KRAMER: Okay. We've probably invested a
10 little more planning in those dates that we've listed than
11 we might have in some past cases, so pushing those back
12 could cause stress anyway.

13 DR. ROE: Mr. Kramer, this is Dr. Roe.

14 COMMISSIONER DOUGLAS: Dr. Roe, go ahead.

15 DR. ROE: If the previous issue has been
16 resolved. In Power of Vision's December 1st status report
17 we raised an issue that is one of our concerns and maybe
18 this is a good time to air it.

19 We'd like to know whether in the PSA staff will
20 be reporting, have a section on alternatives?

21 MS. WILLIS: Yes, we will.

22 MR. KRAMER: Did you hear that, Dr. Roe, they
23 said yes.

24 DR. ROE: There will be a section on
25 alternatives.

1 MR. KRAMER: Yes.

2 DR. ROE: All right. Thank you very much.

3 MR. KRAMER: Okay.

4 COMMISSIONER DOUGLAS: So just following up on
5 the discussion on schedule. I think extending comments a
6 week, if you're able to do that and keep to the FSA
7 schedule, I think that would be good.

8 We had also asked the parties about the
9 feasibility of the January 7th date that we had for the
10 status conference. We actually kind of like that date and
11 would ourselves be able to meet it, but we wanted to check
12 in with the parties given that we're asking for a fair
13 amount of homework to be done for that.

14 MS. WILLIS: Staff is fine with that date.

15 MS. SIEKMANN: Kerry Siekmann. I was wondering,
16 is that going to be a phone discussion as well?

17 COMMISSIONER DOUGLAS: Yes, you'll be able to
18 WebEx in.

19 MS. SIEKMANN: Okay. Is there anything you can
20 do? It's just been extremely hard to hear, there is so much
21 static.

22 MR. KRAMER: I think the next time we're in
23 hearing room A, which has better acoustics.

24 MS. SIEKMANN: Okay. But sometimes we can't even
25 hear what's being said, so...

1 MR. KRAMER: Well, there will be a transcript
2 eventually so hopefully that'll --

3 MS. SIEKMANN: It sounds like January 7th is
4 going to be very important, so we have homework.

5 COMMISSIONER DOUGLAS: Thank you.

6 MS. SIEKMANN: You're welcome.

7 COMMISSIONER DOUGLAS: So I have another question
8 about the FSA, which is I think obviously you will get
9 public comments and from the workshops and comments on the
10 PSA, and staff often tries to respond to those comments or
11 build the response to comments into the FSA.

12 It would be helpful if you could -- I don't know
13 if going so far as to pull it out into an appendix but call
14 out response to comments prominently one way or another,
15 because it's very helpful to the committee to get the
16 response to comments, especially on some of the technical
17 issues in the FSA and to be able to have a quick and easy
18 reference to them.

19 It also helps the public to be able to clearly
20 see where their comments are being responded to.

21 MS. WILLIS: Was the version that we did in
22 Hidden Hills in the matrix form appropriate?

23 COMMISSIONER DOUGLAS: Yeah, I think that would
24 work well.

25 MS. WILLIS: Okay. Thank you.

1 MR. KRAMER: Okay. Then that brings us to does
2 anyone else have anything else relating to the schedule,
3 because we're about to go into public comment?

4 MR. MCKINSEY: Hearing Officer Kramer, I don't
5 think we as project Applicant commented on the 7th. Our
6 preference would be the 7th for the status conference
7 simply because if we have any other lingering issues, I
8 think the real effect of the status conference is to deal
9 with procedural components and other issues.

10 And I don't know that at any point prior to the
11 comment deadline expiring and the staff having a chance to
12 have a workshop on the PSA that it would really be that
13 meaningful for the committee to try to dig into comments
14 anyway, so I don't see a reason to move the status
15 conference past the 7th in order to accommodate PSA related
16 times.

17 MR. KRAMER: Okay, thank you.

18 So that brings us to the public comment portion
19 of the agenda where the members of the public and other
20 interested persons may speak up to three minutes on a
21 matter that's appearing on the agenda.

22 Do we have anyone in the room, first of all, who
23 wants to make a public comment? I see none.

24 Looks like all the phone lines are open except
25 for Mavis Scanlon, who is a member of the press and just

1 wants to listen, I'm pretty sure. If not, she'll raise her
2 hand.

3 Does anyone else on the phone wish to make a
4 public comment? One more time. Anyone on the phone wish to
5 make a public comment?

6 Okay. It looks like a bunch of people have
7 dropped off.

8 So today we are not going to have a closed
9 session, but we are going to continue the meeting to allow
10 Commissioners Douglas and McAlister to deliberate. He was
11 unfortunately out of town so he couldn't attend today. So
12 we are going to continue this meeting mainly for the
13 purpose of holding a closed session but there will be a
14 spot on the agenda also for public comment.

15 The continued date will be next Wednesday,
16 December 10. The continued conference will begin at 8:30
17 a.m. and will be held at hearing room A here at the
18 Commission. So I would encourage anybody from down south to
19 just call in.

20 Basically it will just be us opening the meeting,
21 probably taking public comment so that people don't have to
22 wait around, if there are anyone, then going into a closed
23 session and then coming back out and announcing that the
24 closed session is complete.

25 This will complete before 10:00 a.m. on that day

1 because that's when the business meeting starts, and for
2 those of you involved in Carlsbad, that is the day the full
3 Commission will be hearing Mr. Sarvey's appeal of the order
4 granting him intervention rights.

5 So a formal notice will be posted on the door
6 here and hearing room B where the meeting is and also on
7 the door at the entrance of the Energy Commission, and
8 it'll go through the docket so those of you who are on one
9 of the lists will receive an electronic copy.

10 There's a new WebEx information that'll be
11 included with the new meeting number. Same old password if
12 you want to call in. But there won't be a lot to hear,
13 maybe a little bit of public comment, probably not even
14 that, mostly just the closed session.

15 So I have announced the continuance, so do you
16 want to say anything before we adjourn?

17 So then we are adjourned. Thank you for coming.

18 DR. ROE: Thank you.

19 MS. SIEKMANN: Thank you.

20 (Adjourned)

21 --o0o--

22

23

24

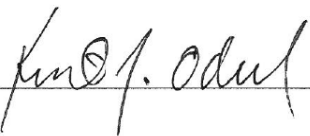
25

REPORTER'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 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 26th day of January, 2015.



Kent Odell
CER**00548

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 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 26th day of January, 2015.



Terri Harper
Certified Transcriber
AAERT No. CET**D-709