

## DOCKETED

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

In the Matter of: )  
Carlsbad Energy Center Amendments ) Docket No. 07-AFC-06C  
\_\_\_\_\_ )

COMMITTEE STATUS CONFERENCE

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

WEDNESDAY, JANUARY 7, 2015

2:00 P.M.

Reported by:  
Kent Odell

APPEARANCES

COMMISSIONERS

Karen Douglas, Presiding Member

Andrew McAllister, Associate Member

HEARING OFFICER

Paul Kramer, Hearing Officer

ADVISERS

Jennifer Nelson, Adviser to Commissioner Douglas

Christine Stora, Adviser to Commissioner Douglas

Hazel Miranda, Adviser to Commissioner McAllister

STAFF

Kerry Willis, Staff Counsel

Dick Ratliff, Staff Counsel

Mike Monasmith, Project Manager

Jon Hilliard, Project Manager

Matt Braun

Matt Layton

APPLICANT

John A. McKinsey, Locke Lorde, LLP

George L. Piantka, NRG Energy

INTERVENERS

Julie Baker, Power of Vision

Arnold Roe, Power of Vision

APPEARANCES (CONTINUED)

INTERVENERS (CONTINUED)

David Zizmor, on behalf of Rob Simpson

Kerry Siekmann, Terramar Association

AGENCIES

Bob Therkelsen, City of Carlsbad

Steve Moore, San Diego Air Pollution Control District

P R O C E E D I N G S

2:02 P.M.

PROCEEDINGS BEGIN AT 2:02 P.M.

(The meeting was called to order at 2:02 p.m.)

SACRAMENTO, CALIFORNIA, WEDNESDAY, JANUARY 7, 2015

MEETING BEGINS AT 2:02 P.M.

COMMISSIONER DOUGLAS: Welcome everybody. This is the status conference for the Carlsbad Energy Center Amendments. I'm Commissioner Karen Douglas. I'm the presiding member assigned to this case. And I'd like welcome everyone back and say happy New Year.

To my left is our Hearing Officer Paul Kramer. And the Associate Member of the Committee, Andrew McAllister, should be here shortly. To my right are my Advisers Jennifer Nelson and Christine Stora.

Let's quickly do some introductions. And then what we're actually going to do is start with what I hope will be a very brief closed session just because Commissioner McAllister and I have not had a chance to have a noticed public meeting in which to deliberate about what we're seen since we all left with the homework assignment of looking through some or all or selections of the PSA. So we're going to have a very brief closed session before we really get into the swing of things.

But we wanted to start with some introductions,

1 so let's go to the applicant first.

2 MR. MCKINSEY: John McKinsey with Locke Lorde.  
3 We're counsel for the project Owner-Applicant Carlsbad  
4 Energy Center, LLC. And also with me is George Piantka  
5 from NRG Energy who represents the project owner.

6 COMMISSIONER DOUGLAS: Great. Thank you.  
7 Staff?

8 MS. WILLIS: Good afternoon. My name is Kerry  
9 Willis, Staff Counsel. With me also is Dick Ratliff, Staff  
10 Counsel, Mike Monasmith, and Jon Hilliard who are project  
11 managers and staff.

12 COMMISSIONER DOUGLAS: Very Good. Thank you very  
13 much.

14 Power of Vision, Julie Baker or Arnold Roe, are  
15 one or both of you on the phone?

16 MS. BAKER: This is Julie Baker. I'm here.

17 COMMISSIONER DOUGLAS: Very good. Thank you.

18 DR. ROE: This is Arnie Roe. This is Arnie Roe.  
19 I'm here too.

20 COMMISSIONER DOUGLAS: Very Good. Thank you very  
21 much.

22 Rob Simpson, are you on the phone?

23 MR. ZIZMOR: This is David Zizmor representing  
24 Rob Simpson. I'm not sure if Rob is going to be calling in  
25 or not, but I'm here for -- on his behalf.

1 COMMISSIONER DOUGLAS: All right. Very good.

2 Thank you.

3 Rob Simpson, if you're here, please speak up.

4 All right.

5 I somehow missed Terramar Association. I don't  
6 know how I did that.

7 MS. SIEKMANN: Yes, I am.

8 COMMISSIONER DOUGLAS: Very good. Welcome. And

9 --

10 MS. SIEKMANN: Thank you.

11 COMMISSIONER DOUGLAS: Great. And Robert Sarvey,  
12 are you on the phone? Okay.

13 City of Carlsbad is here. Could you introduce  
14 yourself for the record.

15 MR. THERKELSEN: Yeah. Bob Therkelsen  
16 representing the City of Carlsbad.

17 COMMISSIONER DOUGLAS: Great. Thank you.

18 Is anyone here from the California ISO, or on the  
19 phone? Or, let's see, San Diego Air Pollution Control  
20 District?

21 DR. MOORE: This is Steve Moore with the San  
22 Diego APCD. And I have Nick Horres who is here with me.

23 COMMISSIONER DOUGLAS: Great. Thank you.

24 And Coastal Commission? Any other state, local  
25 or federal government agencies or Native American tribal

1 governments here or on the phone? All right.

2 Then I'll turn this over to the Hearing Adviser.

3 HEARING OFFICER KRAMER: Okay. We're estimating  
4 the closed session to be about 20 minutes, but stick  
5 around. And it will be pursuant to Government Code section  
6 11162, subdivision (c)(3), which allows a state body,  
7 including a delegated committee such as this, to hold a  
8 closed session to deliberate on a decision to be reached in  
9 a proceeding the state body was required by law to conduct.

10 When we come out of the closed session we will  
11 commence with the rest of the agenda. So we'll see you in  
12 20 minutes or so.

13 (Whereupon the Committee convened into Closed Session  
14 from 2:06 p.m., Until 2:30 p.m.)

15 COMMISSIONER DOUGLAS: So for those you on WebEx,  
16 the Committee has walked back into the room, so we're done  
17 with the closed session. We're waiting for Paul Kramer to  
18 reappear. In the meantime, I wanted to note that we have  
19 been joined by Commissioner McAllister and his Adviser  
20 Hazel Miranda. So we'll just -- we'll just be waiting for  
21 another minute or two for Paul Kramer to return, and then  
22 we'll get going. Thanks for your patience everyone.

23 HEARING OFFICER KRAMER: Okay. Okay. We're here  
24 Hearing Room A today, so hopefully we're not going to have  
25 the audio issues that we had last time in Hearing Room B.



1 But rather than us muting you, those of you who are on  
2 WebEx on the telephone, we prefer that you mute yourselves,  
3 because then that means if you do need to speak up you can  
4 do that. We won't notice you raising your hand probably as  
5 quickly. And you do that via star six on your telephone  
6 pad, or if you're on your computer you can click on your --  
7 right click on your name and there's probably -- I think  
8 there's a choice there where you can mute your -- mute  
9 yourself, so if you'd do that. If things get out of hand  
10 then, of course, we'll have to start muting people.

11 So with that we're going to change the order of  
12 the agenda a little bit. It makes sense to us that before  
13 we talk about the -- the pending motion to postpone the PSA  
14 workshop and extend the PSA comment period that we should  
15 take stock to see where we are in the case right now.

16 So with that I'll just note that the current  
17 published schedule has the -- well, of course, there are  
18 workshops next week, I believe it's on the 12th,  
19 thereabouts. And the comment period ends approximately a  
20 week later. We have another status conference on February  
21 4th. And the schedule has Staff publishing the final staff  
22 assessment on February 17. And then on March 6th we would  
23 be getting prehearing statements, identification of  
24 contested issues, witnesses, and exhibits from the parties.

25 We have a prehearing conference approximately March 12th,

1 and the evidentiary hearing somewhere in the range of March  
2 23rd. And then that projects a proposed decision coming  
3 out at the end of April, and final adoption by the -- of a  
4 decision by the Commission towards the middle or end of  
5 June.

6           So may I ask Mr. Moore, are you there from the  
7 Air District?

8           DR. MOORE: I'm here.

9           HEARING OFFICER KRAMER: When do you project that  
10 the final determination of compliance might be available?

11           DR. MOORE: Well, it kind of all depends on what  
12 kind of comments we get and any additional work we might  
13 decide is necessary. You know we'll do everything we can  
14 to meet your timelines, but can't really make a guarantee.  
15 If it all goes smoothly probably, I would say, early  
16 February.

17           HEARING OFFICER KRAMER: And if there are snags,  
18 how much time would that add roughly?

19           DR. MOORE: It depends on how big the snags are,  
20 but it might be -- might add 30 days or something like  
21 that. One thing we may look at is HRA, health risk  
22 assessment, because OEHA is coming out with new procedures  
23 in March. And our rule basically says, you know, we have  
24 to have the evaluation done in accordance with the rules as  
25 they're in effect when we take a final action. And because

1 in this case the final action won't occur until you approve  
2 the certification AFC, you know, we might have to look at  
3 it. There are some beta procedures to do that and it  
4 wouldn't, I don't think, involve a complete revision of the  
5 HRA, revisiting the HRA, but we might take some sort of  
6 look at it to see what the effect might be.

7 HEARING OFFICER KRAMER: Would that be before or  
8 after the FDOC was produced?

9 DR. MOORE: Hopefully we do it before the FDOC  
10 was produced.

11 HEARING OFFICER KRAMER: Okay. Okay, Mr.  
12 Therkelsen, on behalf of the city, we're going to discuss  
13 it a little later, but there's a bit of confusion, I think  
14 on our part, right now after reading the PSA about where  
15 the -- well, what the status is of the project's compliance  
16 with the city's zoning and general plan and other land use  
17 regulations. The staff seems to be saying, except for the  
18 -- the variance for height, that because of an action taken  
19 in roughly May/June of last year that repealed what I  
20 gather was the urgency ordinance, I haven't been able to  
21 look it up yet, that we -- we were, in effect, set back to  
22 the status quo of early 2011. And in that case the -- there  
23 was a version of the PMPD that found that the city's LORS  
24 were complied with. And that seems to be what Staff is  
25 saying.

1           But in the fall the city filed a document that  
2 indicted that you felt you had more work to on conforming  
3 amendments to the general plan, the zoning, the local  
4 coastal plan, etcetera. So what is the city's position  
5 about that, where we stand right now? And are you on  
6 schedule, according to the -- the fall schedule you gave  
7 us, or where?

8           MR. THERKELSEN: Yeah, this Bob Therkelsen  
9 representing the City of Carlsbad. The city concurs with  
10 the staff's conclusions that basically the project now  
11 conforms with all of the land-use LORS, except for the 35-  
12 foot height limitation. And the city is comfortable with  
13 the staff proposal in terms of an override of that because  
14 they think there are significant public benefits from the  
15 project.

16           In terms of the time table the staff -- the city  
17 is in conformance with its time table.

18           HEARING OFFICER KRAMER: Okay. But it also  
19 sounds like the -- whatever revisions the city's --  
20 additional revisions the city is planning for the general  
21 plan or the zoning or the local coastal plan, those are not  
22 necessary in order for the project to comply; is that  
23 right?

24           MR. THERKELSEN: That's correct.

25           HEARING OFFICER KRAMER: Okay. So that's extra

1 credit that we, in your view, we could just -- well, we  
2 don't have to track or -- or wait for or be worried about?

3 MR. THERKELSEN: To the best of my knowledge, and  
4 I will go back to the city staff and planning department  
5 staff to verify that, but to my knowledge, yes, we're --  
6 we're in good shape with that. While the general plan is  
7 moving forward, as the draft general plan is moving  
8 forward, we don't see any issues with the project right  
9 now.

10 HEARING OFFICER KRAMER: Okay. If you could go  
11 back and confirm that, and if -- if you need to change what  
12 you've said please file something to that effect and let me  
13 know, that would be great.

14 MR. THERKELSEN: I will do that.

15 HEARING OFFICER KRAMER: Okay. Any word about  
16 the Coastal Commission's participation? Anybody heard  
17 anything?

18 MR. RATLIFF: Dick Ratliff for Staff. I've --  
19 the staff has been providing all of the documents,  
20 including the preliminary staff assessment to the Coastal  
21 Commission. And I have talked to their staff, encouraging  
22 their participation. They have not committed themselves to  
23 participating, but said they'd let us know after they had  
24 had a chance to acquaint themselves with the PSA if they  
25 were going to comment or provide any kind of an analysis

1 for the amendment. And I have not heard from -- back from  
2 them yet.

3 HEARING OFFICER KRAMER: Okay. Thank you.

4 The cultural research, the -- the digging  
5 project, where do we stand with that?

6 MR. PIANTKA: George Piantka for the NRG as the  
7 applicant.

8 What we put in our status report was an effort to  
9 -- to work together with Staff and identify a time to  
10 implement the scope of work, I believe the 11-and-a-half  
11 days that Staff had estimated. Probably a good opportunity  
12 would be to review the work at some point around the time  
13 of the workshop so that we're clear of the locations and --  
14 and how to proceed.

15 In our status report we also indicated that we  
16 would provide the physical equipment, if you will, the  
17 backhoe and an operator, that we would provide that using  
18 resources that we have there.

19 HEARING OFFICER KRAMER: So you think the work  
20 might be done in a couple weeks then?

21 MR. PIANTKA: The estimate was 11, 11-and-a-half  
22 days of field work. And I think the next step --

23 HEARING OFFICER KRAMER: Oh, to start?

24 MR. PIANTKA: The next step --

25 HEARING OFFICER KRAMER: It might start --

1 MR. PIANTKA: What's that?

2 HEARING OFFICER KRAMER: It might start in a  
3 couple weeks?

4 MR. PIANTKA: I think there is a potential to  
5 start. We have to confirm what's the -- what's the best  
6 start date for Staff, so --

7 MS. WILLIS: Kerry Willis, Staff Counsel.

8 We have Matt Braun would can describe more of the  
9 process that they'll need to go through, because we do  
10 believe it will take some extra time.

11 MR. BRAUN: Yeah, I mean, obviously -- this is  
12 Matt Braun with Staff -- as soon as possible would  
13 obviously be the ideal scheduling. But, you know, a drop-  
14 dead date of January 26th would probably be, in order to --  
15 that would give us enough to make sort of a presence-  
16 absence call if the sites there or not, if it's eligible or  
17 not. It would -- there is artifact analysis, dating,  
18 things like that that would not be done in time for  
19 inclusion in the FSA. But that would at least give us  
20 enough to make a call at that point.

21 HEARING OFFICER KRAMER: And so then if you -- if  
22 you weren't able to complete that analysis, Staff, what is  
23 your plan going forward, to just write conditions to deal  
24 with what happens during construction or to delay the FSA  
25 or what?

1 MR. BRAUN: Right. So we would assume the sites  
2 were historic resources. And then there would be  
3 mitigation, probably something along the lines of like a  
4 preconstruction excavation where the sites would be  
5 excavated before any other work began.

6 HEARING OFFICER KRAMER: Okay. Thank you.

7 Anything else from any other party on that?

8 Okay.

9 Then we get to -- because some of these comments  
10 may inform your estimates, especially Staff, about whether  
11 you can stay on schedule with the FSA, I'm going to read  
12 some preliminary Committee comments that have arisen from  
13 our review of the PSA.

14 "As we indicated at the informational hearing we  
15 intend to reuse the 2012 Commission decision as a  
16 previous EIR. Under CEQA Guidelines section 15162, we  
17 would supplement that document only where: One,  
18 substantial changes are proposed in the project which  
19 will require major revisions of the previous EIR due  
20 to the involvement of new significant environmental  
21 effects or a substantial increase in the severity of  
22 previously identified significant effects; two, where  
23 substantial changes occur with respect to the  
24 circumstances under which the project has undertaken  
25 which will require, again, major revisions to the



1 previous EIR due to the involvement of new significant  
2 effects or substantial increase in the severity of the  
3 previously identified significant effect; or, three,  
4 new information of substantial importance which was  
5 not known and could not have been known in 2012 shows  
6 that the project will have one or more significant  
7 effects that were not discussed in the previous EIR,  
8 or significant effects previously examined will be  
9 substantially more severe than shown in the previous  
10 EIR, or mitigation measures or alternatives that were  
11 previously found not to be feasible would, in fact, be  
12 feasible and would substantially reduce one or more of  
13 the significant effects of the project but the  
14 projects proponents have declined to adopt those; and  
15 -- or finally, that mitigation measures or  
16 alternatives which are considerably different from  
17 those analyzed in the previous EIR would substantially  
18 reduce one or more of the significant effects on the  
19 environment but, again, the project proponents decline  
20 to adopt them.

21 "The PSA does not generally address these threshold  
22 questions, and so we therefore direct that for each of  
23 the topics that contain a CEQA analysis, Staff add a  
24 discussion of whether or not the -- whether or not  
25 supplementation of the previous EIR is necessary under

1 15162. If you conclude that no supplementation is  
2 necessary, please do not delete the environmental  
3 analysis that you've already provided as it will  
4 likely have some value in deciding the supplement-or-  
5 not question, or in the event the Committee disagrees  
6 with your conclusion. If we do conclude that no  
7 supplementation is necessary" -- oh, no, sorry -- yes  
8 -- "if we do conclude that none is necessary, that  
9 will end the discussion. We'll simply rely on the  
10 environmental analysis and conclusions of the 2012  
11 decision and we will not re-litigate them. But that  
12 does not mean that we are required to override just  
13 because the Commission did so in 2012. We will  
14 revisit that policy choice again.

15 "Of course, the LORS analysis is not subject to 15162,  
16 so you do need to update that in each of the topic  
17 areas to the extent that it is changed from the  
18 previous decision.

19 "Turning to the water supply, we are not convinced  
20 that a water supply analysis is not required, nor that  
21 it does not apply to reclaimed water but just applies  
22 to potable water. And we note that here the project  
23 may actually use potable water during its early stages  
24 until the reclaimed supply is developed, and  
25 thereafter during interruptions of the reclaimed

1 supply."

2 (Coughs.) Excuse me.

3 "Rather than spend time arguing the question, we  
4 prefer that Staff prepare a water supply analysis out  
5 of an abundance of caution.

6 On a slightly different topic but somewhat  
7 related, we did not find much analysis, if any, of the  
8 impacts of the use of trailer-mounted water filters, for  
9 instance, waste disposal, traffic, and perhaps other  
10 topics. And we believe that should be discussed in the  
11 FSA.

12 MR. RATLIFF: Pardon me. Could you -- Mr.  
13 Kramer, could you repeat that?

14 HEARING OFFICER KRAMER: We're concerned that the  
15 -- that there should be additional discussion of the use of  
16 the trailer-mounted water filters, that is their impacts.  
17 Because there will be, and I think it's three or so,  
18 traffic trips a day, taking them on and off site. What  
19 happens to the waste that they generate, etcetera?

20 And finally, on water -- excuse me -- the  
21 reclaimed water supply line is inconsistently described.  
22 It varies from 12 to 36 inches in diameter, and 2,600 feet  
23 to 1.5 miles in length. So we just point that out so that  
24 that inconsistency can be rectified in the final analysis.

25 Let's see, I've already touched on land use, and

1 Mr. Therkelsen has given his feedback.

2           There's one other aspect of that, though. We --  
3 I remember back when I was writing the original 2012 --  
4 2011, and then 2012 decisions, drafts, it was very  
5 difficult to find the source materials for the city's land  
6 use regulations on -- on the internet. So we would like to  
7 have, just kind of as a matter of preparation, copies of  
8 the -- the general plan as it exists now, the -- the  
9 various specific plans that apply to the project, and the  
10 other -- the zoning ordinance available to us in case we  
11 need to consult them during preparation for hearings or  
12 during the preparation of a decision.

13           And then as far as the variance goes for the  
14 height of the stacks, the city, we -- we note, and Mr.  
15 Therkelsen reiterated that the city recommends against  
16 granting a variance. And the PSA asserts that that failure  
17 to comply with the LORS is not a significant impact under  
18 CEQA. It's justification speaks to the merits of the  
19 project and an overall reduced level of impact to the  
20 community. But we understand the CEQA aspect of the  
21 inconsistency to relate to the potential for  
22 incompatibility of the project with neighboring uses, and  
23 we would like Staff to recast the discussion of the -- the  
24 height limitation in those terms.

25           And then, let's see, let me go to noise. There's

1 a bit of a discussion of the effect of the city's noise  
2 requirements on 24-hour concrete pours, but we think that,  
3 well, we still need to be able to consider that. There's  
4 more information about the city's standards that would be  
5 applied in deciding whether or not to grant a noise  
6 variance to allow that activity to occur in the evening and  
7 night hours. So we would like that portion of the analysis  
8 to be fleshed out.

9           And then finally on the topic of alternatives, I  
10 get to get a break in my voice and turn it over to  
11 Commissioner Douglas.

12           COMMISSIONER DOUGLAS: Well, we decided to give  
13 Paul a break because, as you noticed, he's recovering from  
14 a cold.

15           But I just wanted to say that -- and I will hand  
16 this in a moment to Commissioner McAllister -- but I  
17 thought that the additional context and information in the  
18 alternative section and the GHG section was very helpful in  
19 terms of -- and I think it will be helpful to the public in  
20 terms of helping people see the relationship between  
21 reliability issues, policy goals, preferred resources,  
22 conservation and demand-side management and so on within  
23 the context of an alternatives analysis. So there are some  
24 areas that we think some additional specificity would be  
25 helpful. But kind of broadly speaking I really think that,

1 you know, I really think that some of the analysis in the  
2 PSA was very helpful.

3 Commissioner McAllister?

4 COMMISSIONER MCALLISTER: Yeah, I definitely echo  
5 that. I think, you know, now so where Governor Brown is  
6 now on his next and final term and gave a speech,  
7 obviously, that a very high level sets a course that is  
8 consistent with where we have -- where we're already taking  
9 a lot of policy action, and there's this broad -- broad  
10 kind of policy structure and regime that aims us at low  
11 carbon and relying on -- on a wide diversity of  
12 technologies to reach our long term goals for carbon, and  
13 sustainability more broadly than that even.

14 So I want to echo that context of what that  
15 policy regime and environment and its components actually  
16 are in the context of energy efficiency and demand  
17 response, and then later in the -- in the document DG is  
18 really helpful and helps set the -- kind of the broader  
19 context for this. And so I guess -- so I really appreciate  
20 that and I think it's a terrific resource. So that  
21 background is helpful.

22 Let's see. I guess -- and I'll just say a little  
23 bit more, put a little more of a point on some additional.

24 Because I think at the -- you know, obviously in the PSA  
25 the conclusion is that those resources aren't legitimate

1 alternatives in this case. But I think the context needs  
2 to be linked more directly and clearly and specifically to  
3 that conclusion. And so, you know, I'll give maybe an  
4 example of how that might be.

5           Like for example, you know, demand response. You  
6 know, the fact is we have lots of technologies. We have a  
7 lot of innovation that's happened in the last several  
8 years, ten years, many of which -- much of which the Energy  
9 Commission has been involved in that -- that from a  
10 technical perspective actually does enable the use of load  
11 modification to satisfy some of the grid reliability needs  
12 that we have in the state for incorporation of renewables,  
13 for quick response, for example. All of the components of  
14 that system are not in place; right? We don't have a  
15 market. We don't have a payment mechanism. We don't have  
16 a way to aggregate lots of small loads, whether they're  
17 efficiency implementations or -- or demand response types  
18 of applications. So we don't have mechanisms to make those  
19 reality at the scale we need to impact the grid at a  
20 similar scale to, say, a gas-fired power plant.

21           But I think it's important to be relatively  
22 specific about the fact that some of the conditions are  
23 satisfied but not all of them. And therefore if -- if  
24 infeasibility is the fact, then that's -- that's fine. But  
25 develop that message

1 in -- with more specificity, I think.

2           Again, with -- with DG, I think a similar case  
3 can be made. You know, we have a lot of rooftop solar  
4 that's going in. That's great for the state. But, you  
5 know, storage is not a common part of those -- of those  
6 systems. And we don't have a demand response or a grid  
7 kind of responsive technology and set of standards to  
8 enable aggregation and dispatch at the ISO level.

9           So -- so some of the components of what that  
10 might look like are there and others are not. And so if  
11 that results in infeasible -- infeasibility in this case,  
12 that's fine. But I'd like to see that fleshed out a little  
13 bit more because I think that context is important to again  
14 show the -- the -- you know, this is a public document  
15 anybody can look at and know general consistency with our  
16 long term goals as a state and what we're trying to put in  
17 place in the policy regime or in the -- in the -- sort of  
18 in the decision making and the regulatory apparatus that we  
19 have.

20           So this is an opportunity to kind of showcase,  
21 yes, we're looking at these issues and we are making  
22 decisions accordingly. So that -- hopefully those examples  
23 help a little bit to put a little finer point on linking  
24 that policy context with the decision making in this case.

25



1           So that -- I think that's really what I wanted to  
2 say. Thanks a lot.

3           HEARING OFFICER KRAMER: Okay. Thank you.

4           So with all that -- that homework in mind, and  
5 bearing in mind that we may issue some written  
6 clarifications that may have some additional thoughts, but  
7 -- but, yeah, we think we've hit the -- the big ones today.

8           I'd like to hear from the parties about where  
9 they think we are in the schedule. And let's begin with  
10 the applicant.

11           MR. MCKINSEY: As we noted in our status report,  
12 we're fully committed to and we think that the schedule  
13 that we have in place is -- is doable and meetable, and the  
14 staff has -- has done their part to achieve that. And  
15 we'll have our comments timely filed, participate in the  
16 workshop, and anticipate a final staff assessment and  
17 evidentiary hearings.

18           HEARING OFFICER KRAMER: Now that does raise a  
19 question. With regard to the question of the -- the power  
20 poles, the -- the transmission poles that are next to I-5,  
21 are you going to be ready to have a discussion, are you  
22 going to have materials, any materials out ahead of the  
23 workshop so that there will be an actual discussion of that  
24 issue at the workshop?

25           MR. MCKINSEY: Yeah. Our intent right now is to

1 file the responsive document to the Committee's order this  
2 Friday at the latest so that it's out there and can be  
3 something that's meaningfully discussed in the workshop.

4 HEARING OFFICER KRAMER: Okay. Thanks.

5 Staff?

6 MS. WILLIS: As far as schedule still?

7 HEARING OFFICER KRAMER: Schedule, yes.

8 MS. WILLIS: I was just consulting with our water  
9 supply folks because I would like Matt Layton to come up  
10 and address that issue. Because apparently it will take at  
11 least several months to do a water supply assessment.

12 MR. RATLIFF: Before -- before that starts I just  
13 wanted to -- to say that I didn't hear anything in the  
14 homework assignments that seem problematic for the staff in  
15 terms of time, with the exception of the water supply  
16 assessment assignment. And the only thing that I would  
17 point is that the statutory requirement for water supply  
18 assessment is one that is assigned to cities and counties  
19 who are to either ask the local water provider to provide  
20 such an assessment or provide one themselves as a part of  
21 the EIR where a project is a project under the Water Code.

22 The staff clearly is not a city or county, which  
23 is the -- the entity to which the statute is addressed.  
24 But it has nevertheless requested the local water provider  
25 to provide such a water assessment, and the response of

1 that agency is it would not do so.

2           If in -- in a desire that the staff do this in  
3 any case, we are requested to provide a water supply  
4 assessment. I think we need to consider whether or not  
5 that will place some burden on the schedule because Staff  
6 is not accustomed to providing water supply assessments.  
7 And that is why I think we need to have Mr. Layton address  
8 that issue.

9           MR. LAYTON: This is Matt Layton.

10           I guess the -- the letter that came from the City  
11 of Carlsbad did not make it into the PSA, but it is in the  
12 docket. And the city said that the project did not meet  
13 the requirements of -- for water supply assessment, either  
14 for potable water or recycled water. They also identified  
15 that generally it takes two to four months for them to do a  
16 water supply assessment, and about \$15,000 to \$20,000  
17 dollars.

18           We've also talked to the city, Mr. Therkelsen,  
19 and I don't think they're interested in doing a water  
20 supply assessment for us at this point in time, so it would  
21 fall back to Staff. Staff would have to work with the city  
22 and get all the information about what they expect in the  
23 way of growth and water meters and all the other  
24 assumptions that go into a water supply assessment.

25           So we're -- we're concerned that -- well, we --

1 we apologize that it didn't make it into the PSA, that we  
2 reached out and the local water agency, the public water  
3 entity, supplying entity does not think this is a water  
4 supply assessment project.

5 HEARING OFFICER KRAMER: No. I think that  
6 actually it did, if I recall correctly, but that's all it  
7 said. It didn't explain exactly how they figured that out  
8 under the, you know, under the statute. It didn't apply  
9 under the criteria so it -- it was a very much -- it was  
10 about as terse of an answer as you can give. And to use a  
11 phrase that my colleague uses quite often, they didn't show  
12 their homework to tell us how they got to that conclusion.

13 MR. THERKELSEN: Mr. Kramer, this is Bob  
14 Therkelsen representing the City of Carlsbad.

15 That letter that was filed on December 8th,  
16 actually the city attempted to show what its criteria was.  
17 The  
18 first -- second paragraph of the letter does identify the  
19 criteria or the thresholds in the law for what constitutes  
20 a project, and both in terms of the occupation -- occupancy  
21 of the facility, the number of acres of land, and the  
22 square foot of floor area that comes out of the code. And  
23 then went on in the third paragraph to compare the CECP to  
24 those threshold limitations.

25 And the city's conclusion is that even if one

1 were required for reclaimed water, which the city does not  
2 believe is the case, but that the project does not meet  
3 those thresholds in the code would not constitute a project  
4 under anything that it has ever done before or the way that  
5 it understands the code. And therefore the city did not --  
6 came to the conclusion and it informed Staff that they  
7 don't -- did not feel that a water supply assessment was  
8 appropriate and necessary in this particular case.

9           The city also then put in how long it usually  
10 takes for them to do a water supply assessment. They  
11 basically have a special contractor that does the work.  
12 And as Mr. Layton mentioned, the timeframe typically for  
13 doing that is two to four months. The cost is typically  
14 between \$15,000 and \$20,000 and something that the project  
15 developer pays for.

16           But the city did attempt to show its criteria,  
17 its logic, and what the implications were for doing one.

18           HEARING OFFICER KRAMER: What about the water  
19 consumption test? I think it's the last item in the list,  
20 kind of a catchall.

21           MR. THERKELSEN: The water consumption test,  
22 again, was below what that threshold is. The city's  
23 comment is that typically the WSA is done -- the water  
24 supply assessment is done for larger residential  
25 developments, larger industrial park kind of projects,

1 things that will clearly put a stressor on cities or  
2 municipalities or a county's water supply system. They did  
3 not feel that the CECP came close to or met that threshold.

4 HEARING OFFICER KRAMER: Okay. We'll -- we'll  
5 take this under consideration and address it in the -- the  
6 comments that we are going to put out, probably early next  
7 week.

8 MR. THERKELSEN: If I may inject one other  
9 comment while we're on water is the city is preparing to  
10 file a will-serve letter, probably the end of this week,  
11 regarding its ability to serve potable water, reclaimed  
12 water, and sewer service. And the will-serve letter will  
13 indicate the city's position that it is able and willing to  
14 do all of those.

15 HEARING OFFICER KRAMER: Okay. Thank you.

16 MR. RATLIFF: Mr. Kramer, if I can add one thing.

17 I mean, although Staff did not technically do a water  
18 supply assessment it made an effort to include in its  
19 analysis the essential components for water supply  
20 assessment which are the relevant information which  
21 indicates that the water supply is assured, which is really  
22 in the end the whole purpose of a water supply assessment.

23 If the Staff is required to go ahead and do a  
24 water supply assessment, I don't -- I don't know what -- I  
25 think we're all kind of trying to grapple with what exactly

1 that will look like. But I suppose we can hope that the  
2 city will help us accomplish that task because the  
3 information is that that it's within the City of Carlsbad's  
4 possession, so --

5 HEARING OFFICER KRAMER: Okay. Thank you.

6 Let's see, now we go to the interveners.

7 Terramar, any comments on the schedule,  
8 recognizing that we'll -- where we are in the schedule. We  
9 will talk about your motion in a moment.

10 MS. SIEKMANN: Oh, you're asking me about  
11 something other than my request (inaudible)?

12 HEARING OFFICER KRAMER: Yeah, just general  
13 comments.

14 MS. SIEKMANN: Or do you want to know generally  
15 why I want the delay?

16 HEARING OFFICER KRAMER: No. We'll get to that  
17 in a minute.

18 Do you have any comments on whether we're making  
19 sufficient progress at this point, just generally?

20 MS. SIEKMANN: Well, it sounds to me like there  
21 is a great deal of contention on the water supply. And  
22 it's an area that absolutely needs more work done before  
23 it's -- I mean, nobody even knows whether a water supply  
24 assessment needs to be done. So it's interesting that  
25 we're going to go into a workshop and nobody even knows for

1 sure what needs to be done. So that is a new comment that  
2 I have to make.

3 And other than that, then I will save my other  
4 comments when we talk about the delay.

5 HEARING OFFICER KRAMER: Okay. Thank you.

6 Power of Vision?

7 DR. ROE: This is Arnie Roe. I have two  
8 questions. I'm curious, maybe Mr. Therkelsen can answer the  
9 question.

10 But as I recall in the earlier proceedings the  
11 city was adamant that they did not have adequate supply of  
12 reclaimed water to provide the project. And I'm wondering,  
13 what has changed in the interim so that they now can supply  
14 it and do not have to do a water supply assessment?

15 My second question is an aside. I think Dr.  
16 Moore mentioned an HRA, and I'm not sure what those  
17 initials stand for.

18 HEARING OFFICER KRAMER: Health risk assessment.

19 DR. ROE: What? Health risk assessment. Thank  
20 you.

21 HEARING OFFICER KRAMER: Mr. Therkelsen, be  
22 brief. We're -- our intention in having this conference  
23 wasn't to -- to turn it into a workshop. But if you have a  
24 brief answer to his question, please go ahead.

25 MR. THERKELSEN: Yes. Again, this is Bob



1 Therkelsen representing the City of Carlsbad. And thank  
2 you, Dr. Roe for the question.

3           Very briefly, the reason the city is now able to  
4 provide water is because it's in the process of doing an  
5 upgrade of the reclaimed water system and has received a  
6 grant to be able to partially fund that.

7           DR. ROE: Thank you.

8           HEARING OFFICER KRAMER: Okay. Anything else,  
9 Dr. Roe?

10          HEARING OFFICER KRAMER: No. Thank you.

11          Mr. Zizmor for Rob Simpson?

12          MR. ZIZMOR: Yes. I think we share the -- the  
13 same concerns about the water supply assessment, that, you  
14 know, a two- to four-month study would definitely change  
15 everything. And we would certainly be in favor of  
16 completing that analysis if it's -- if it's necessary.

17           I also -- I thought I heard when -- when the  
18 discussion was made about the health risk assessment, that  
19 the air district had to possibly wait for some new rules  
20 that were coming out in March. And if -- if that's the  
21 case, you know, that's -- that has an impact on the  
22 schedule, as well. But otherwise I think our only comments  
23 we can save until we have the discussion on the motion.

24          HEARING OFFICER KRAMER: Okay. Thank you. Just  
25 to be clear, I don't think Staff is saying that -- or

1 anybody is saying that there is not analysis of the water  
2 supply already in the document. We're -- we're talking  
3 about a technical requirement that's in the statute that  
4 may or may not apply here. Obviously people have different  
5 opinions at this point.

6           Finally, did -- Mr. Sarvey, did you join us? You  
7 weren't here initially, but have you been able to join us?

8           Okay. Thank you.

9           Okay, with that then let's segue into a  
10 discussion of the Terramar motion to postpone the PSA  
11 workshop, and similarly extend the PSA comment period.

12           So as the maker of the motion, Ms. Siekmann, you  
13 get to go first.

14           MS. SIEKMANN: Well, thank you very much for  
15 considering this motion today. I really appreciate it.

16           The schedule that was put out by you did say that  
17 the Air Pollution Control District's PDOC was due out in  
18 early November, and it was finally docketed December 12th.

19           And then three days later the PSA was docketed. And as  
20 interveners, we are considered, you know, equals at the  
21 table. And we didn't receive a very important piece of  
22 information until long after like Staff had it. And so it  
23 wouldn't -- I'm just asking that you give us like -- I  
24 don't care how early in February, just since this document  
25 was more than four weeks late, I'm just asking for the time

1 we would have had to process that document, and then the  
2 PSA, to prepare for the workshop. And it sounds to me like  
3 there's some other issues going on with the water  
4 assessment, whether it's required or not required, whether  
5 the air document is going to have to change or wait because  
6 of the HRA change requirement.

7           So I just would request that the Committee  
8 consider giving up some more time because we really do want  
9 to have a chance to do a good job. And in order to do a  
10 good job we need this extra time. Thank you very much.

11           HEARING OFFICER KRAMER: Okay. Thank you.

12           Staff, your response?

13           MS. WILLIS: Hi. Kerry Willis, Staff Counsel.

14           You know, we certainly understand that there was  
15 timing issues with the PDOC that -- that, obviously, Staff  
16 has no control over. The December status conference  
17 clearly stated that we were going to be publishing the PSA  
18 on time, on December 15th, with or without a final PDOC,  
19 and including the air quality and public health sections.  
20 So that was something that shouldn't -- shouldn't have been  
21 a surprise, and that -- and that we would be holding  
22 workshops the first part -- or second week in January.

23           The PDOC does impact two areas, air quality and  
24 public health. But we have plenty of other topics in -- in  
25 the PSA that we would like to go -- we plan on going

1 forward on the 12th and the 13th to receive comments. In  
2 order to meet the February 17th deadline, it would be  
3 pretty much impossible for us to move the workshops to a  
4 later time and public comment period to a later time.

5           If there is some way we can move some of the  
6 comment period for air quality and public health sections  
7 to the first of February, that would be something we could  
8 still accommodate and get the -- the whole document out on  
9 time on February 17th. That's not including any -- any --  
10 having to do an additional -- additional work on the water  
11 supply assessment. But at this -- at this point in time we  
12 would plan on going forward with the workshops as -- as  
13 scheduled.

14           HEARING OFFICER KRAMER: Okay, the applicant.  
15 Mr. McKinsey?

16           MR. MCKINSEY: As we -- as we noted in our  
17 comments, that we think there is some confusion about the  
18 relationship of the PDOC and the Air District's permitting  
19 process and the Energy Commission, and I think that  
20 confusion comes out because the public and interveners that  
21 aren't completing understanding of these processes here,  
22 these comments, we're waiting on the PDOC or when is the  
23 PDOC going to come out. And as we noted, the -- the PDOC  
24 is a parallel process being conducted by another agency.  
25 And a party and an individual and anybody's decision about

1 whether or not to participate in that proceeding, to read  
2 that document, to -- to make comments, etcetera, is  
3 independent of whatever they're doing in the Energy  
4 Commission proceeding.

5           So perhaps part of the issue in here is some  
6 sense that somebody is obligated to read both of those  
7 documents, but they're not. The -- the Energy Commission  
8 process is self-contained. The preliminary staff  
9 assessment, as Staff has noted, contains two sections that  
10 relate to information that's in the PDOC. And that's all  
11 they have to read in order to participate in this  
12 proceeding effectively.

13           I do certainly have sympathy, and I always do,  
14 about the -- the size of the documents, the quantity of  
15 information. It's one of the reasons that I noted in some  
16 of the earlier discussions about intervention that it's a  
17 duty and it's a significant obligation to take on, to be a  
18 party in a proceeding. As Staff has noted, there's not  
19 surprise element here. And as we noted in our comments,  
20 the -- the comment period is -- is typical of a PSA comment  
21 period. The Staff workshop and its timing is more than  
22 typical. I've had Staff workshops very shortly after PSAs.  
23       And so I don't think there's anything wrong in here,  
24 neither legally nor just morally, that -- that says that  
25 there's a reason to force the staff to wait longer for

1 comments that could affect the schedule of the project.

2 HEARING OFFICER KRAMER: Okay. Thank you.

3 Power of Vision?

4 MS. BAKER: Yes. Julie Baker for Power of  
5 Visions.

6 I would just like to thank Mr. McKinsey for  
7 reminding us of our duties as interveners, as if we haven't  
8 had seven years now to fully understand the  
9 responsibilities. I think one of the things that is  
10 important to point out, that myself, Dr. Roe, Terramar,  
11 other interveners don't have large staff that can parse out  
12 sections of the PSA and the -- the air report in order to  
13 get a full understanding of it.

14 So all we're asking for is a couple weeks of time  
15 for comments, and I don't think that's particular  
16 unreasonable when you consider the scope of a project  
17 that's -- that's going to land itself in our fair city.  
18 And now with the concerns that you have expressed today  
19 about water reliability, it just alarms me even more that  
20 we need to take time that -- and for all of us to fully  
21 digest all the information that's been provided. And we  
22 are fully in support of the delay.

23 HEARING OFFICER KRAMER: Okay. One more time, by  
24 asking about a water supply assessment, we are not meaning  
25 to say that we have grave concerns about whether the water

1 is available.

2 MS. BAKER: Well, there must be some concerns  
3 about whether or not water is available. As Dr. Roe  
4 pointed out earlier that at one time the city did not have  
5 water available and now it does have water available. And  
6 we are curious as to what's changed in the -- in the time.

7 HEARING OFFICER KRAMER: Okay. Well, take a look  
8 at the PSA. But the water supply assessment requirement is  
9 -- it's -- admittedly it's a smaller scope, but it's --  
10 it's similar to the requirement to prepare an EIR. That's  
11 what we're talking about here.

12 MS. BAKER: Well, be that as it may, whether it's  
13 water assessment or not, you know, two big reports were --  
14 were released prior to a very busy holiday time when  
15 everyone is off. And again, you know, we're not -- we  
16 don't have large staff to digest all this information.

17 HEARING OFFICER KRAMER: Okay. Well, we  
18 understand.

19 Mr. Zizmor for Rob Simpson?

20 DR. ROE: Could I make a comment for POV?

21 HEARING OFFICER KRAMER: Okay. Go ahead, Dr.  
22 Roe.

23 MR. ROE: I noticed that Mr. McKinsey said that  
24 there's no legal requirement or moral requirement. Perhaps  
25 it isn't legal but maybe it is moral in that we don't argue

1 about having time to evaluate the PSA, had it been there by  
2 itself. And even though it's a separate instrument, if we  
3 are to respond to the local Air Quality Control report, we  
4 have to respond by January 17th. And that doesn't give us  
5 -- if we're going to do both tasks, even though they're  
6 independent tasks, we don't have the capability of going  
7 through the PDOC and responding to, adequately and  
8 intelligently, to the -- to the Air Quality Control  
9 District, something we'd like to do.

10 The -- many of the items that were in the Air Control  
11 District report are also in the PSA. But that doesn't  
12 relieve us of the obligation of making comments to the PDOC  
13 so they can come out with an appropriate final document.

14 We're not asking for something unreasonable. You  
15 know, we've all been doing a good job in trying to get this  
16 project through. Initially the project owner indicated  
17 that they have no intention of starting the project before  
18 -- or construction of the project before August. And we've  
19 squeezed the Energy Commission's process down to mid-June  
20 now, early or mid-June. So we do have a little slack. And  
21 we're asking just for a little consideration so that we can  
22 do the job that everybody would expect us to do.

23 Also, I don't know how to address the issue that  
24 the staff had an important document in their hands, namely  
25 they had a preliminary version of the PDOC, and they didn't



1 communicate that information, they didn't docket that  
2 information. I would have assumed that that was one of  
3 their responsibilities, just as it is to docket other  
4 communications they get from different parties.

5 HEARING OFFICER KRAMER: Staff, do you want to  
6 address that, that last point?

7 MS. WILLIS: Certainly. Kerry Willis, Staff  
8 Counsel.

9 The -- at this point the -- we were -- the  
10 discussions were with the Air District which is an agency.  
11 They're not a party to this -- this proceeding. And at --  
12 and as we stated in December, we -- that wasn't a secret  
13 either that our -- our staff was talking to the Air  
14 District to try to get a draft so that we could have  
15 something to publish as part of -- part of the PSA. At the  
16 -- in December I did add that when the -- when the PDOC  
17 came out, then we would have -- if there were holes in it,  
18 then we would have to fill them for the FSA. But we  
19 weren't at liberty to docket that information.

20 HEARING OFFICER KRAMER: Thank you. Okay.

21 And Mr. Zizmor?

22 MR. ZIZMOR: Yeah. First, I'd like to thank Mr.  
23 Roe. I really liked what he had to say, and we echo a lot  
24 of the sentiments.

25 I want to get back to the overall schedule

1 because the -- the Commission released the schedule back on  
2 October 30th. That schedule said that the PDOC would be  
3 out no later than November 10th, and that the PSA would be  
4 out December 15th. And of course, you know, we appreciate  
5 that the PSA was out on the exact date that the schedule  
6 said, but, you know, the PDOC clearly was not.

7           But in terms of the way the schedule was  
8 organized, clearly it seems, at least, that the Commission  
9 was scheduling the -- putting the schedule together in a  
10 way such that they anticipated that the PDOC would be  
11 reviewed prior to the PSA, or at least that the interveners  
12 and all parties would have an opportunity to study that  
13 separately from studying the PSA and that their ability to  
14 comment on the -- on the two wouldn't necessarily conflict.

15  
16           I think the Commission really needs to take a  
17 look at how it played out in reality in that we clearly  
18 have not had a chance to review them separately, that they  
19 are now on a similar timeframe in terms of everybody's  
20 ability to look at them and comment on them in an  
21 appropriate manner, in a sufficient manner. I think as  
22 Terramar and Power of Vision have both stated, you know, if  
23 they want to properly comment on these things, the time  
24 just simply isn't there. And it seems that in the original  
25 schedule you contemplated that and built that in there and

1 now it's not there, not necessarily through any fault of  
2 your own, but it's the reality of the situation. And we  
3 would think that in terms of fairness to the parties  
4 involved you would take that into account and grant the  
5 motion that Terramar has -- has put together, just as a  
6 matter of course, to allow everybody to do what it seems  
7 you expected them to do in the first place. You know,  
8 pushing it back a few weeks for a project that won't be  
9 completed until the end of -- the end of 2017 I don't think  
10 would have a huge ripple effect on -- on everything in this  
11 -- in this proceeding.

12 I think in terms of fairness, the right thing to  
13 do is to allow the parties a couple of extra weeks or, you  
14 know, maybe up to a month to -- to look this over and get  
15 the proper amount of time to put together a sufficient  
16 response to the PSA is clearly the goal that the Commission  
17 is seeking. You want a response and that should be, you  
18 know, in your best interest, too, to make sure that the  
19 interveners have sufficient time to properly respond in a  
20 way that helps you get this project going or not, you know,  
21 however the case may be.

22 And as far as what the applicant had said before,  
23 you know, it's worth noting that, and it's been said  
24 before, NRG is a multi-billion dollar corporation that has  
25 a vast amount of resources that, you know, are

1 significantly more than I think all the interveners  
2 combined. And Mr. Sarvey said in his -- in his support  
3 comments, you know, we need -- we need to consider that the  
4 interveners here are not necessarily of the same resources  
5 that the applicant is and, you know, that's something that  
6 needs to be taken under consideration as well.

7 HEARING OFFICER KRAMER: Okay. Thank you.

8 Does the applicant wish to comment at all about  
9 the -- the scheduling aspects?

10 MR. MCKINSEY: Well, I think our position  
11 certainly remains the same. There was a comment about  
12 whether there's a need for urgency and the start of  
13 construction. One of the things to understand is one can't  
14 go down to the Energy Commission and get a final decision  
15 and start digging the next day. There's a whole bunch of  
16 compliance filing and other things that have to take place.

17 And so we're concerned about schedule, and that's one of  
18 the reasons that we're emphasizing that we believe this  
19 project can and should stay on the schedule the Committee  
20 established.

21 HEARING OFFICER KRAMER: Okay, Ms. Siekmann, you  
22 want to have the final word?

23 MS. SIEKMANN: I believe it's all been said and I  
24 just, you know, (inaudible) the Commission to consider our  
25 request and just realize that, yes, we are trying to do a

1 good job, and to do a good job we would like to have the  
2 delay. Thank you.

3 HEARING OFFICER KRAMER: Okay. Thank you.

4 It turns out Mr. Therkelsen wanted to say  
5 something.

6 MR. THERKELSEN: Yeah. This is Bob Therkelsen.  
7 I represent the City of Carlsbad, again.

8 As an interested agency we obviously are very  
9 concerned about the project and the process. One of the  
10 things that the council members of the City of Carlsbad  
11 mentioned at the informational hearing back in August was  
12 their hope that the Energy Commission would thoughtfully  
13 but expeditiously review the proposal, and the city still  
14 has that same opinion. The letter that was file in October  
15 from Mayor Pro Tem urged the Committee to establish a  
16 schedule, set some timelines and some targets for everybody  
17 to follow in processing this and to meet those. And we  
18 very much appreciate the fact that the Committee did lay  
19 out a schedule with some timelines, and we would urge the  
20 Committee to continue its efforts to meet that schedule and  
21 those targets.

22 HEARING OFFICER KRAMER: Okay. Thank you. We  
23 will take this under submission then and issue a decision  
24 shortly.

25 I think -- well, hold on a second.

1 (Pause)

2 HEARING OFFICER KRAMER: One thought did occur to  
3 us, so we'll reopen this discussion just briefly.

4 First of all, the -- given the realities of  
5 finding a room and getting people together, we're not going  
6 to change the date of the -- the staff workshop. That's  
7 just not practicable. But we will be considering an ruling  
8 later on the request to extend the time to file comments  
9 after the workshop. I'd like to also note that the purpose  
10 of the workshop is not to litigate the issues in the case  
11 or to convince somebody else to change their position  
12 necessarily, it's to -- some of that may go on a little  
13 bit, but it's mostly to get your questions answered for --  
14 for the interveners and the public. And we don't see any  
15 reason why that can't occur next week, as scheduled.

16 And I'd also point out to the interveners that  
17 you do have the ability to -- to sort of divide up the work  
18 among yourselves, to work together and split up the topics,  
19 focus on the areas that are of most interest to you. If --  
20 and if they happen to be different than somebody else's,  
21 that will allow you to be a little more effective and  
22 efficient.

23 But we wanted to ask the parties to respond to  
24 Staff's suggestion that it might be possible to extend the  
25 time to file comments on two topics, and that was air

1 quality and public health, until -- was it the first of  
2 February?

3 MS. WILLIS: I believe it's February 2nd would be  
4 that Monday.

5 HEARING OFFICER KRAMER: Okay. Any comments from  
6 any of the parties about whether -- whether they either  
7 have a problem with that or -- or they find it somewhat  
8 helpful, for instance, or anything else? Begin with the  
9 applicant.

10 MR. MCKINSEY: Well, I just noted that February  
11 2nd is Groundhog Day. However, that doesn't concern me too  
12 much. And I think the position of the staff --

13 HEARING OFFICER KRAMER: That's a personal  
14 holiday for you, is that it?

15 MR. MCKINSEY: Not -- not all the time but  
16 sometimes, yes. It depends on how the winter is going.

17 In any case I think if, you know, the staff's  
18 position is that they can handle those two topics that's a  
19 staff position and not something we should comment on  
20 either way. If they can delay those two topic areas and  
21 still meet their schedule then that doesn't concern us.

22 HEARING OFFICER KRAMER: Okay. Any other parties  
23 want to respond to that?

24 MS. SIEKMANN: I would just -- Terramar, this is  
25 Kerry Siekmann.

1 I would just ask if we could have an extension  
2 for our comments on -- on all the areas. So that -- that  
3 was my request and it still is.

4 HEARING OFFICER KRAMER: Okay. Thank you.

5 Anyone else?

6 MR. ZIZMOR: This is Mr. Zizmor. I mean, we  
7 would support any push-back of any of the dates. But you  
8 know -- you know, we're kind of limited to commenting on  
9 air quality and public health, as well as greenhouse  
10 gasses. So we would certainly support pushing it back to  
11 February 2nd, if not a little bit later. But we do support  
12 Terramar's overall motion to push the entire commenting  
13 period back.

14 HEARING OFFICER KRAMER: Yeah. Actually, it's  
15 your participation as an intervener that's limited. But  
16 you could make --

17 MR. ZIZMOR: Correct. Correct. We understand  
18 that.

19 HEARING OFFICER KRAMER: Okay.

20 MR. ZIZMOR: We understand that.

21 HEARING OFFICER KRAMER: Okay. Anyone else?  
22 Okay. Thank you. We will consider that to be submitted  
23 then, and we will issue a ruling shortly.

24 MS. SIEKMANN: Mr. Kramer, may I ask you another  
25 question?



1 HEARING OFFICER KRAMER: Okay. Go ahead.

2 MS. SIEKMANN: So maybe I have missed something  
3 that you docketed, but is there something that we have a  
4 responsibility to docket before the workshop -- before the  
5 workshop?

6 HEARING OFFICER KRAMER: No, except people  
7 sometimes find it helpful if you can get your comments to  
8 them so they can start to think about their responses.

9 MS. SIEKMANN: But there's nothing that's --  
10 that's --

11 HEARING OFFICER KRAMER: No, nothing is required.

12 MS. SIEKMANN: Okay. No deadline? Okay. Great.  
13 Okay. Thank you.

14 HEARING OFFICER KRAMER: Similarly, when we  
15 publish the presiding members proposed decision we like to  
16 receive comments shortly before the -- the comment hearing  
17 that we hold so then we can talk about them. And you know,  
18 if you can work something out with the other parties you  
19 can -- it's more likely that you'll be able to do so if  
20 you've previewed your comments to them a few days earlier.

21 MS. SIEKMANN: We can.

22 HEARING OFFICER KRAMER: Okay.

23 DR. ROE: Mr. Kramer --

24 HEARING OFFICER KRAMER: Dr. Roe?

25 DR. ROE: -- this is Arnie Roe.

1 HEARING OFFICER KRAMER: Go ahead.

2 DR. ROE: Am I correct in understanding that the  
3 workshop here in Carlsbad is just for one day?

4 HEARING OFFICER KRAMER: I'd have to ask Staff,  
5 but I think it's two days.

6 Do you want to explain that, Ms. Willis?

7 MS. WILLIS: Certainly. It will be starting at  
8 one o'clock on the 12th and will go probably to around nine  
9 o'clock at night. And then we'll start back, I believe  
10 it's 9:30 on Tuesday the 13th and will end around 1:30.  
11 And we'll have --

12 DR. ROE: Very good.

13 MS. WILLIS: We'll post an agenda tonight after -  
14 - we wanted to wait until this status conference was over  
15 before we did that.

16 DR. ROE: Thank you very much for that  
17 clarification.

18 HEARING OFFICER KRAMER: Okay. You're welcome.

19 MR. ZIZMOR: All right. This is Mr. Zizmor. I  
20 just had one other question.

21 HEARING OFFICER KRAMER: Go ahead.

22 MR. ZIZMOR: Given that time is kind of of the  
23 essence on this particular subject matter, I was wondering  
24 when you anticipated having a decision?

25 HEARING OFFICER KRAMER: Early next week.

1 MR. ZIZMOR: Okay. Thank you.

2 HEARING OFFICER KRAMER: Mr. McKinsey, you had  
3 asked that we start to talk about specific dates for the  
4 events. I presume that's because you're -- you're looking  
5 at the difficulty of finding a room. We -- we hope to be  
6 able to nail down specific dates at our next conference in  
7 February. We'll -- we'll have a better sense of whether  
8 Staff is going to be able to put out the FSA, as expected,  
9 and see if there are any other snags.

10 Mr. Moore, if you could let Staff know or just  
11 file -- you can even file a document on your own letting us  
12 know as soon as you become aware of any issues that are  
13 likely to delay the publication of the FDOC, we'd  
14 appreciate knowing sooner rather than later.

15 DR. MOORE: Yes, we can do that. That's why I  
16 brought up the HRA, actually, here. So --

17 HEARING OFFICER KRAMER: Okay. Yeah, and we  
18 appreciate that. Okay.

19 Hold on a second. Let me see if we -- oh, we  
20 still have the opportunity for public comment. So why  
21 don't we start that at this point. I suspect not, but does  
22 anyone in the room wish to make a public comment?

23 Seeing none, we have a couple people on the phone  
24 who are unidentified or not interveners. Does anybody on  
25 the telephone wish to make a comment?

1 Mr. Braun, you're here in the room; right?

2 MR. BRAUN: Right. Right.

3 HEARING OFFICER KRAMER: Okay. He's also logged  
4 on. So everybody's mike is open. Does anybody wish to make  
5 a public comment? Okay. Hearing none, we'll close the  
6 public comment portion. Hold on a second. Okay.

7 We are not going to have an additional closed  
8 session. So does anybody else have any other business the  
9 want to before we adjourn?

10 DR. ROE: This is Arnie Roe once more. I was  
11 wondering whether Dr. Moore could indicate whether he was  
12 going to be present at the workshop?

13 DR. MOORE: I will be present.

14 DR. ROE: Thank you. I appreciate that.

15 DR. MOORE: Thank you.

16 HEARING OFFICER KRAMER: Okay. Do you want to  
17 wrap it up?

18 COMMISSIONER DOUGLAS: All right, then I'd like  
19 to thank all the parties for their participation here today  
20 and on the phone. And we will, as Mr. Kramer noted, get  
21 out the ruling on the comment period and any other  
22 clarifying questions and comments we might have on the PSA  
23 by early next week. We'll look forward to nailing down the  
24 final date or the dates for the evidentiary hearings in the  
25 next status conference. Again, thanks to everyone, and

1 we're adjourned.

2 (The Meeting of the California Energy Commission

3 Amendments Committee adjourned at 3:42 p.m.)

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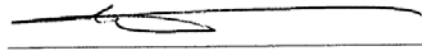
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**REPORTER'S CERTIFICATE**

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.



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PETER PETTY  
CER\*\*D-493  
Notary Public

## CERTIFICATE OF TRANSCRIBER

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.

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



MARTHA L. NELSON, CERT\*\*367

January 26, 2015