

## 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 B  
SACRAMENTO, CALIFORNIA

WEDNESDAY, MARCH 4, 2015

2:00 P.M.

Reported by:  
Kent Odell

APPEARANCES

HEARING OFFICER

Paul Kramer, Hearing Officer

ADVISERS

Le-Quyen Nguyen, Adviser to Commissioner Douglas

Eileen Allen, Adviser to Commissioner Douglas

STAFF

Kerry Willis, Staff Counsel

Dick Ratliff, Staff Counsel

Jon Hilliard, Project Manager

APPLICANT

John A. McKinsey, Locke Lorde, LLP

George Piantka, NRG Energy

INTERVENERS

Kerry Siekmann, Terramar Association

Julie Baker, Power of Vision

Arnold Roe, Power of Vision

Bob Sarvey

PUBLIC ADVISER

Shawn Pittard, Assistant Public Adviser

AGENCIES

Allan Thompson, City of Carlsbad

Steve Moore, San Diego Air Pollution Control District

P R O C E E D I N G S

2:04 P.M.

PROCEEDINGS BEGIN AT 2:04 P.M.

(The meeting was called to order at 2:04 p.m.)

SACRAMENTO, CALIFORNIA, WEDNESDAY, MARCH 4, 2015

MEETING BEGINS AT 2:04 P.M.

HEARING OFFICER KRAMER: -- Carlsbad Energy Center.

We're starting; right, Kent?

THE COURT REPORTER: Yeah.

HEARING OFFICER KRAMER: Okay. Committee Status Conference. My name is Paul Kramer. I'm the Hearing Adviser for the Committee in this case. And as we said in the notice, there was a possibility that we would conduct this event without the Commissioners present. Commission McAllister may join us a little later. But as I understand it Commissioner Douglas will not be with us today.

The purpose of today's meeting is basically to check on the status of various things. So let's take roll, if you will.

We also have in the room Le-Quyen Nguyen who is Commissioner Douglas's Adviser, Second Adviser. And Eileen Allen, she's the Commissioner's Technical Adviser on siting matters. And then from the parties, from the Applicant, can you introduce yourself?

MR. MCKINSEY: This is John McKinsey, Counsel for

1 the project owner and petitioner, Carlsbad Energy Center, LLC.

2 I expect that perhaps during this status conference I'll be  
3 joined by Mr. George Piantka from NRG representing the LLC, as  
4 well, but you don't need to hold up for that.

5 HEARING OFFICER KRAMER: Okay. Thank you. Staff?

6 MS. WILLIS: This Kerry Willis, Staff Counsel.

7 MR. RATLIFF: Dick Ratliff, Staff Counsel. And Joh  
8 Hilliard, the Project Manager, is with us as well.

9 HEARING OFFICER KRAMER: Okay. From the  
10 Interveners, Terramar Association.

11 MS. SIEKMANN: Kerry Siekmann, Terramar.

12 HEARING OFFICER KRAMER: Thank you. Power of  
13 Vision?

14 MS. BAKER: Julie Baker, Power of Vision.

15 HEARING OFFICER KRAMER: Thank you. Do we have  
16 anyone from Rob Simpson's group, or Robert Sarvey? Okay.

17 The Sierra Club filed a petition to intervene that's  
18 pending. Do we have anyone from them on the line with us  
19 today? Okay.

20 From the City of Carlsbad, as another interested  
21 agency?

22 MR. THOMPSON: Yeah. Allan Thompson, City of  
23 Carlsbad.

24 HEARING OFFICER KRAMER: Allan, I've forgotten  
25 exactly how you spell your name, and I think the Court

1 Reporter would appreciate that.

2 MR. THOMPSON: Sure. A-L-L-A-N, Thompson with a P.

3 HEARING OFFICER KRAMER: Thompson with a P, okay,  
4 -O-N at the end?

5 MR. THOMPSON: That's correct.

6 HEARING OFFICER KRAMER: And do we have anyone from  
7 the California ISO with us?

8 And what about the San Diego Air Pollution Control  
9 District?

10 DR. MOORE: This is Steve Moore.

11 HEARING OFFICER KRAMER: M-O-O-R-E, is that your  
12 spelling?

13 MS. WILLIS: Yes.

14 HEARING OFFICER KRAMER: Okay. Anyone from the  
15 Coastal Commission?

16 And we have from our Public Adviser's Office -- I'm  
17 sorry, I forgot your name.

18 MR. PITTARD: Shawn Pittard.

19 HEARING OFFICER KRAMER: Shawn Pittard. Thank you.

20 It doesn't look like we have anyone from the public  
21 in the audience with us here.

22 Is there anyone else on the telephone who wants to  
23 identify themselves?

24 MR. PIANTKA: Hi. George Piantka for the Applicant,  
25 NRG. I'll be there shortly.

1 HEARING OFFICER KRAMER: Good afternoon. Anyone  
2 else? Okay.

3 So we have, going down the agenda we have one -- one  
4 pending motion, and that again is the Sierra Club's petition  
5 to intervene. Not planning on taking any argument on that  
6 today necessarily. But I wanted to know if any party is  
7 planning to object to that or knows today that they're going  
8 to object to the petition to intervene?

9 MS. WILLIS: Staff does not.

10 MR. MCKINSEY: The project owner doesn't have any  
11 intent at this time to object to it.

12 HEARING OFFICER KRAMER: Okay. Well, what we might  
13 do then is -- normally the time to file motions extends until  
14 next Monday. But given that the hearings are coming up, the  
15 Committee may rule on the petition earlier than that. And  
16 hearing no objections, we'll -- we'll take that into account.

17 Now let's get on to the Committee conference  
18 portion, talk about the case progress and the schedule. I'll  
19 note that the final staff assessment was published on February  
20 17. A big thank you to Staff for -- for meeting the deadline.  
21 We appreciate that. Our prehearing conference is scheduled on  
22 March 18. And then the hearing is on April 1st and 2nd. And  
23 those were all noticed in a separate document that's available  
24 in the docket. The hearings will be down in Carlsbad at the  
25 same location where we held the Informational Hearing and Site

1 Visit last year.

2           So the one outstanding item seems to be the final  
3 determination of compliance.

4           So, Mr. Moore, do you -- can you give us an update  
5 on when that document might be filed?

6           DR. MOORE: The end of next week.

7           HEARING OFFICER KRAMER: Are you pretty sure about  
8 that?

9           DR. MOORE: Pretty sure, yeah.

10          HEARING OFFICER KRAMER: Okay. Let me ask, are you  
11 expecting that there will be any -- any changes or any  
12 significant changes to the conditions of certification that  
13 were proposed in the FSA?

14          DR. MOORE: Potentially, yeah.

15          HEARING OFFICER KRAMER: Can you give us a clue as  
16 to what the nature of those might be, or is it not something  
17 you can say at this point?

18          DR. MOORE: Not sure. I want to wait on that.

19          HEARING OFFICER KRAMER: Okay.

20          DR. MOORE: There may be no changes.

21          HEARING OFFICER KRAMER: I'm sorry?

22          DR. MOORE: There also may be very small changes.

23          HEARING OFFICER KRAMER: Okay.

24          MR. MCKINSEY: Hearing Officer Kramer, I wasn't sure  
25 he either understood your question -- or I'm not sure that I



1 heard his initial answer. I think you had asked if there were  
2 going to be substantial changes.

3 HEARING OFFICER KRAMER: Well, any or --

4 MR. MCKINSEY: And Dr. Moore replied, "Yes," but  
5 then he said just that they were small changes.

6 HEARING OFFICER KRAMER: Yeah. Okay.

7 DR. MOORE: I wanted -- what I meant to say was I  
8 really don't want to speculate on the magnitude of the  
9 changes.

10 HEARING OFFICER KRAMER: Could you tell us what  
11 the -- what the nature of the --

12 MS. SIEKMANN: I couldn't --

13 HEARING OFFICER KRAMER: -- outstanding --

14 MS. SIEKMANN: I'm sorry to interrupt, but I  
15 couldn't hear what was said.

16 HEARING OFFICER KRAMER: Yeah. You're cutting out a  
17 little bit, Mr. Moore.

18 DR. MOORE: I'm not sure why that is the case.

19 HEARING OFFICER KRAMER: Okay. Give me two seconds,  
20 and then give your answer, your complete answer again, and  
21 we'll mute ourselves here to maybe avoid the problem.

22 DR. MOORE: All right. Can you hear me now?

23 MS. SIEKMANN: Yes. I can hear you now.

24 DR. MOORE: Okay. Good. My answer was I didn't  
25 really want to speculate on the magnitude of the changes at

1 this time. But there will be some small changes, we're pretty  
2 sure about that. And whether there will be substantial  
3 changes or not, it kind of depends what you mean by  
4 substantial. But we don't -- don't really want to speculate  
5 on that at this time. So there may or may not be substantial  
6 changes.

7 HEARING OFFICER KRAMER: Okay. Thank you. That --  
8 that came through just fine.

9 So the end of next week would be the 13th, which is  
10 after our -- our deadline for the filing of, at least, the  
11 initial exhibits and exhibit lists.

12 DR. MOORE: (Inaudible.)

13 MS. SIEKMANN: Now he's breaking up again.

14 HEARING OFFICER KRAMER: Okay. Mr. Moore, give me  
15 just two seconds, and then go ahead and speak again, for now.

16 DR. MOORE: What I said was if it would help the  
17 process we can try and provide drafts as soon as we have  
18 something fairly complete, as soon as we can.

19 HEARING OFFICER KRAMER: Yes, if you can provide  
20 them, not just to the staff but to all the parties. So we'd  
21 have to file them, I think. I think we're at a point where  
22 the staff having them in advance isn't -- doesn't meet the  
23 needs of all the other people who are on a deadline to produce  
24 their evidence.

25 COMMITTEE MEMBER MICHAEL: Okay. That would be okay

1 with us. (Inaudible.)

2 HEARING OFFICER KRAMER: Okay. I understand you to  
3 say that would be okay for you to do so. If you don't want to  
4 file them yourself, if you get them to the staff then they can  
5 file them right away so that they'd be distributed to  
6 everyone. Okay.

7 Is there anything else you want to tell us by way of  
8 an update on behalf of the Air District?

9 DR. MOORE: Not at this time.

10 HEARING OFFICER KRAMER: Okay. Thank you. Did any  
11 party want to comment on -- on that news from the Air  
12 District?

13 MS. SIEKMANN: Terramar would.

14 HEARING OFFICER KRAMER: Go ahead.

15 MS. SIEKMANN: Well, I mean, if -- if that -- if it  
16 happens that the FSA -- I mean, I'm sorry, the FDOC doesn't  
17 come out until after the deadline, then can we have, just with  
18 the -- just with the FDOC, you know, for -- for comments with  
19 that, can we have an extension on just that?

20 HEARING OFFICER KRAMER: Okay. Yeah. Yeah. I'm  
21 thinking about that as we speak.

22 MS. SIEKMANN: Okay.

23 HEARING OFFICER KRAMER: That was Ms. Siekmann, for  
24 our Court Reporter.

25 Folks, when you're on the phone if you can just say

1 your name when you haven't spoken for a while that --

2 MS. SIEKMANN: Oh, sorry.

3 HEARING OFFICER KRAMER: No, that -- that's okay.

4 We were --

5 MS. SIEKMANN: And also, it's Dr. Moore -- it's Dr.

6 Moore from the Air District? I just thought I'd let you know.

7 HEARING OFFICER KRAMER: Oh, thank you. Okay.

8 MS. SIEKMANN: He worked long and hard for it, so --

9 HEARING OFFICER KRAMER: Oh, okay. I'm sorry, Dr.

10 Moore.

11 DR. MOORE: No offense taken.

12 HEARING OFFICER KRAMER: Okay. Well, we'll -- we'll  
13 get to the -- after we talk about some other items then we'll  
14 talk about any revisions we may need to make up a schedule for  
15 submitting evidence.

16 Has anyone heard anything new from the Coastal  
17 Commission?

18 MR. RATLIFF: No.

19 HEARING OFFICER KRAMER: Mr. Ratliff says no.

20 And the final item of business that I had was the  
21 Applicant's request and proposal of the Condition Common 16,  
22 to allow activities that begin before the amendment is  
23 approved, if it is approved, to be -- to continue on under the  
24 conditions of the current license. I'm a little bit concerned  
25 that that's going to be adequately discussed during the

1 hearings.

2 Staff, are you in line or in agreement with the  
3 proposed condition or do you have concerns? And then we'll go  
4 around to the other parties and ask them, as well. I'm asking  
5 this more to -- to make sure we focus some of our testimony,  
6 if we need to, on this topic so that we're ready to deal with  
7 it during the hearings.

8 MS. WILLIS: This is Kerry Willis, Staff Counsel.

9 Staff included it as part of final staff assessment,  
10 so it is part of our testimony at this point.

11 HEARING OFFICER KRAMER: Okay. And --

12 MS. WILLIS: And the condition number -- Compliance  
13 Number 16.

14 HEARING OFFICER KRAMER: And do you have any  
15 concerns about how it will -- looking at it I see it as  
16 perhaps a little vague. And I'm just wondering how you're  
17 going to be able to identify, you know, what exactly is going  
18 to be covered by this at some later time when it's triggered  
19 and keep track of the sets of conditions?

20 MS. WILLIS: This is designed specifically for  
21 the -- the demolition of the tanks that were already -- it was  
22 already licensed under the original proceeding that I believe  
23 is either underway or going to be underway soon. The  
24 Applicant can answer this much better.

25 MR. MCKINSEY: Yeah. We had submitted this as a

1 suggestion of a resolution to our more extensive set of  
2 comments on numerous conditions of certification that we could  
3 tell Staff was concerned was just not doable. And I think  
4 Staff incorporated that in their FSA, in fact. And so it is in  
5 the FSA and all the parties are able to see it.

6 I think the objection that was raised procedurally  
7 to our filing is not at issue because we weren't making a  
8 motion at the last minute or introducing any new testimony.  
9 We simply sent something out to all parties saying here's an  
10 idea that looks better. And from our perspective the staff  
11 took that in the FSA, so it's now in the record as this is the  
12 staff's position how the existing ongoing activities shall be  
13 completed so there isn't any ambiguity if a new condition of  
14 certification is adopted in, say, June or July that has a  
15 different set of requirements for weakening that process.  
16 And -- but that process has already begun. And I think the  
17 way the staff did it, I would have to say, was acceptable to  
18 the project owner.

19 HEARING OFFICER KRAMER: Okay. Well, then maybe  
20 there's no issue. Okay. So let's come back then to the  
21 timing of the submission of testimony.

22 MS. SIEKMANN: Well, I thought you were going to ask  
23 the Interveners.

24 HEARING OFFICER KRAMER: Oh, that's right. You're  
25 right. Go ahead. Sorry, I forgot that step. So did you have

1 any comments on that proposed condition?

2 MS. SIEKMANN: Well, so exactly what -- what they're  
3 talking -- I just want to make sure I understand Condition 16  
4 in that they want to start demolition on the prior approved,  
5 tanks be taken out?

6 MR. MCKINSEY: Well, and actually --

7 MS. SIEKMANN: Is that --

8 MR. MCKINSEY: No, that's not correct. We --

9 MS. SIEKMANN: So that's what I need to know.

10 MR. MCKINSEY: So what we submitted was separate  
11 from what you just indicated, Kerry, is that separately from  
12 this proceeding we've been making compliance filings. And we  
13 have begun the compliance process for the removal of the tanks  
14 that are currently in the project. And so what we submitted  
15 would not change that. And what we submitted isn't asking for  
16 a different approval, it's simply asking for a clarification  
17 that if and when this petition to amend is approved that it  
18 will not change or create new requirements that would be  
19 applicable to work that's already been authorized, which is  
20 that work that's begun on the removals of Tanks 5, 6 and 7.

21 MS. SIEKMANN: Will that -- will that effect noise  
22 in any way, shape or -- well, all -- no. Let me state it this  
23 way. Will all the noise conditions be applied to what you're  
24 talking about, all the new noise conditions?

25 MR. MCKINSEY: So that -- and, yes, in fact, that's

1 a very good question. And that's really the -- the issue here  
2 is if there is a different condition that regulates conduct.  
3 And our largest concern was if there was a condition that said  
4 you will submit Report X 30 or 60 days prior to beginning this  
5 activity, and then a new condition came out that said you will  
6 submit Report Y but we've already begun the activity, it would  
7 be unclear whether we were supposed to stop work, submit  
8 Report Y, wait 30 or 60 days, and then restart work. So  
9 our -- our intent is only to ensure that there isn't any  
10 ambiguity about compliance.

11           With that said, you've raised a really good  
12 question, good comment, which is what if the substance of a  
13 condition is changed? So condition that regulates how you  
14 will be currently ongoing, and our intent is not to evade  
15 that. So if there's a condition, for example, Noise 6 in  
16 the -- the final staff assessment says construction work shall  
17 be limited to certain times on certain -- noisy construction  
18 work shall be limited to certain times on certain days, and  
19 that is different than the Noise 6 that's currently in the  
20 decision. Our intent is to comply with that -- with those  
21 ongoing obligations. But -- but we don't want to be implied  
22 that we didn't make all the submittals we had to in order to  
23 begin the work.

24           MS. SIEKMANN: So -- so the condition -- does the  
25 submission need to be changed so that it's clear that both



1 conditions need to -- new conditions need to be followed?

2 MR. MCKINSEY: That's a good question. And I don't  
3 know that I can -- I'm just -- I'm looking at it right now --  
4 that I know the answer to that.

5 HEARING OFFICER KRAMER: Okay. So we do have some  
6 homework.

7 MR. MCKINSEY: Yeah. And again, I think, you know,  
8 again, I don't think we're going to have an issue with that --  
9 with that point of what you're asking for, Kerry, because  
10 that's definitely not our intent, to kind of have an old  
11 process that doesn't have to comply with whatever has been  
12 determined to be the right ongoing restrictions, particularly,  
13 I think, sound levels, time of day, and the other immediate  
14 environmental effects. And if -- and I think we will look at  
15 it again and even suggest that in our written testimony.  
16 But -- and you can also do that, as well, in your written  
17 testimony, say I think we ought to tweak this paragraph  
18 slightly. You could also do it in your rebuttal testimony, or  
19 even at the hearings.

20 MS. SIEKMANN: Okay.

21 MR. MCKINSEY: And we'll be very amenable to getting  
22 that right.

23 MS. SIEKMANN: Okay.

24 HEARING OFFICER KRAMER: Comments?

25 MS. SIEKMANN: Great.

1 HEARING OFFICER KRAMER: Do we have comments from  
2 any other party? Okay.

3 So then let's talk about the schedule.

4 MS. SIEKMANN: Excuse me again, but is there going  
5 to be any discussion about formal or informal?

6 HEARING OFFICER KRAMER: Well, we want you to talk  
7 about that. If you want to talk about that today briefly,  
8 that's fine. But most of what we want you to do is make sure  
9 you put your recommendations in your prehearing conference  
10 statement.

11 MS. SIEKMANN: Okay. You'd rather that? You'd  
12 rather it -- you'd rather it there?

13 HEARING OFFICER KRAMER: Well, you're going to have  
14 to put it there anyway. If you want to give us a preview of  
15 your thoughts, that will be great.

16 MS. SIEKMANN: Well, the way -- the way we did it  
17 last time was all the -- everyone sitting at the table. Is  
18 that considered informal?

19 HEARING OFFICER KRAMER: Yes. We --

20 MS. SIEKMANN: And --

21 HEARING OFFICER KRAMER: The two --

22 MS. SIEKMANN: -- that worked really well.

23 HEARING OFFICER KRAMER: Okay. Yeah, the two that  
24 we've described in the notice are -- neither is exactly what  
25 happened the last time. But the informal is -- is way closer

1 to that than -- than the formal description that we put out  
2 this time. So we'll mark you down as --

3 MS. SIEKMANN: It seems --

4 HEARING OFFICER KRAMER: -- in favor of informal,  
5 then.

6 MS. SIEKMANN: Yes, please.

7 MR. RATLIFF: Staff would add that -- that the  
8 process that you described for informal is fine with Staff.  
9 And we think it's pretty close to what was used the first time  
10 around, which I think I hear Ms. Siekmann to be supporting.

11 One -- to change topics, if I may, one issue that we  
12 wanted to address with the Committee has to do with the  
13 conditions of certification for air quality, and not the  
14 substance of them but the presentation of them. Because this  
15 is a new FDOC, new technology that is a different kind of  
16 turbine being installed and so forth, the conditions are being  
17 revised pretty much wholesale. And it was our understanding  
18 originally that the Committee wanted to have all of the  
19 conditions expressed underlined and strikeout, and I think  
20 we've done that. But it creates a very messy and, to our  
21 mind, not very useful presentation of the new requirements.

22 So we're suggesting that what we should do is  
23 present the Committee with a clean draft of the air quality  
24 requirements without underline and strikeout, since there's a  
25 wholesale strikeout from any of the conditions prior or kind

1 of a messy picture with the underline and strikeout. Is  
2 this -- is that consistent with -- am I describing it  
3 correctly, what you're -- do both? Okay. Well, we can  
4 present this both ways, but we think it's important to have a  
5 clean copy of the final conditions for the Committee.

6 MS. SIEKMANN: Mr. Ratliff, I would like to see  
7 both.

8 HEARING OFFICER KRAMER: Did you have a question,  
9 Ms. Siekmann? I was on a sidebar.

10 MS. SIEKMANN: Yeah, I'm sorry. Yeah. I'm not sure  
11 if someone there suggested both. But for those of us who  
12 are -- it's hard enough for us anyway to see both the  
13 strikeouts. And -- and then also a clean copy makes it easier  
14 to make the transition from one document to the next.

15 HEARING OFFICER KRAMER: Okay. Yeah, I think the  
16 Committee is leaning towards both, so we'll --

17 MS. SIEKMANN: Okay.

18 HEARING OFFICER KRAMER: -- we'll make that our  
19 choice. But now --

20 MS. SIEKMANN: Thank you.

21 HEARING OFFICER KRAMER: -- we're just talking about  
22 air quality though.

23 MR. RATLIFF: Yes.

24 MS. SIEKMANN: Okay.

25 HEARING OFFICER KRAMER: Now for the other

1 conditions, Mr. Ratliff, are the changes much less in number  
2 where underline strikeout would be a reasonable way to present  
3 it?

4 MR. RATLIFF: I believe that's the case.

5 HEARING OFFICER KRAMER: And that was your plan?

6 MR. RATLIFF: Yes.

7 HEARING OFFICER KRAMER: Okay. So -- so, Mr.  
8 McKinsey, go ahead.

9 MR. MCKINSEY: Well, I was going to note that there  
10 are a few conditions that we commented on in the PSA and the  
11 staff responded to our comments, in some cases making changes,  
12 and in a few cases they were still concerned. And one of the  
13 things we've been doing to get our hands around it is removing  
14 all that underline and strikethrough. It's exactly what Ms.  
15 Siekmann is getting at. And I do think where there is a  
16 condition that the parties are trying to sort out, having a  
17 clean version of it really helps see what it actually says  
18 now. Because some of them have enough line-out and underline  
19 and it's a little hard to really read from one -- beginning of  
20 one paragraph to the end, and in some cases even from the  
21 beginning of a sentence to the end. And what we've done is  
22 we've cleaned up a lot of that, simply so we can read them and  
23 say, okay, well, we still want to change one word right here,  
24 and it makes it a lot more obvious why.

25 And so there still could be an advantage to

1 presenting, in certain cases. That's what we planned on doing  
2 was here's the condition as the staff has modified it, cleaned  
3 up, and here's the -- the other change we want. And so I  
4 don't think we need to do that to the whole document. But I  
5 do think there are a few conditions like in noise and in  
6 visual where cleaning it up makes it a lot clearer what it's  
7 now saying.

8 HEARING OFFICER KRAMER: And you'll be providing  
9 that in your testimony?

10 MR. MCKINSEY: So where our testimony is relevant to  
11 that, that was our plan is to provide a cleaned up version,  
12 and then indicating what else we want to change.

13 HEARING OFFICER KRAMER: Okay. But that will be in  
14 the middle of your testimony as opposed to the way the staff  
15 is going to present it which is as a complete document  
16 containing all the conditions; right?

17 MR. RATLIFF: Well, that's what we've provided in  
18 the FSA.

19 HEARING OFFICER KRAMER: Yeah.

20 MR. RATLIFF: And what we're now suggesting is in  
21 addition to that you need to have clean -- for air quality we  
22 need to have a clean, as well as a strikeout version.

23 HEARING OFFICER KRAMER: Okay. Well, that's sounds  
24 fine to the Committee.

25 MR. RATLIFF: Okay.

1 HEARING OFFICER KRAMER: And, Mr. McKinsey, if --  
2 maybe if you could group yours all together, the document,  
3 that would be easier to pull out and consult with when we need  
4 to during the discussions.

5 MR. MCKINSEY: Certainly. And the only concern I  
6 get into a little bit is because in that process of doing that  
7 it's easy to make another unintended deletion or addition or  
8 something. And so we've caught ourselves as we've gone  
9 through cleaning up, we've gone, oh, wait, wait, we've lost a  
10 sentence or a word or we lost a paragraph break. So I think  
11 that if any party is submitting it we've -- we've got to be  
12 careful to note it's this party's -- what they think it is;  
13 right?

14 HEARING OFFICER KRAMER: Uh-huh.

15 MR. MCKINSEY: And what really will matter will be I  
16 think right now we have the staff testimony, which is very  
17 clear in its publish saying these are the changes, and that  
18 should still be the reference point if we make any other  
19 accidental mistakes. And then ultimately the Committee should  
20 make sure they're focused on -- on I think that, other than  
21 air quality where I think it is, they ought to just turn to  
22 the wholesale one. But in other areas it probably does make  
23 sense to make sure that all the parties agree that a  
24 particular version was the exact one they wanted to use or  
25 otherwise you've got to go back to looking at those changes.

1 HEARING OFFICER KRAMER: Okay. Well --

2 MR. MCKINSEY: But that only really is going to  
3 apply to a few conditions, I think.

4 HEARING OFFICER KRAMER: Yeah.

5 MR. MCKINSEY: And we'll -- we'll -- I think what  
6 we'll do is we'll innumerate those and say here's what we  
7 think is the clean version of these in our written testimony,  
8 and certainly any parts you can say you made a mistake.

9 HEARING OFFICER KRAMER: Okay. Yeah. And then  
10 there will be the opportunity during the review of the  
11 proposed decision to check our work and see if we got it  
12 right, and we'll be counting on it. Okay.

13 Anything else on that point from any other party?  
14 Okay.

15 So now we have the time table. The end of next week  
16 is Friday the 13th. And we have been asking for direct  
17 testimony next Tuesday the 10th, I believe. So one option  
18 would be to just ask for air quality testimony still on the  
19 10th, but then recognize that to the extent the testimony  
20 changes because of what the district releases that you can  
21 file that as part of the rebuttal testimony on the -- I think  
22 it was the 25th.

23 MS. WILLIS: The 24th.

24 HEARING OFFICER KRAMER: Was it the 24th? I'm  
25 looking at a different version of the schedule. So -- and



1 basically the change there, what we had previously said was  
2 rebuttal testimony was just going to be something new that was  
3 raised by something somebody else said in their opening  
4 testimony. So in other words, you couldn't wait to spring a  
5 new thought on -- on the Committee and the parties until the  
6 rebuttal testimony time unless it arguably was provoked by  
7 something somebody else said; no sandbagging, in other words.

8           So what we could do is sort of relax the sandbagging  
9 rule with regard to air quality and say whatever you need to  
10 do to finish up your testimony based on what that air district  
11 released would come in on the 24th. An alternative would be  
12 to not require any air quality testimony until the 24th, but  
13 that might get kind of -- that might be problematic for -- for  
14 people's preparation. And it's probably fair to say that not  
15 everything related to air quality is up in the air at this  
16 point. There's probably just a few issues that might change  
17 because of what the air district says. Everybody notice the  
18 pun. Thank you.

19           MR. MCKINSEY: Only a few of us.

20           HEARING OFFICER KRAMER: So -- so let me offer a  
21 choice for out for comment. And if you want to propose  
22 something else, go ahead. The Committee is really reluctant  
23 to postpone the hearings. I don't think that's really an  
24 option at this point. At a minimum they would go forward on  
25 everything but air quality. But at this point we're not

1 seeing a reason why air -- we shouldn't also plan to do air  
2 quality on April 1st and 2nd, as well.

3 So any questions about the two choices? Any  
4 comments? We'll start with staff?

5 MS. WILLIS: This is Kerry Willis, Staff Counsel. I  
6 don't see any problem, if we get the FDOC on the 13th, to file  
7 prior to the 24th any supplement or errata that we would need  
8 to file on air quality.

9 HEARING OFFICER KRAMER: And then you would have  
10 filed something already on the 10th? Probably just --

11 MS. WILLIS: At this point we filed the FSA which is  
12 our testimony --

13 HEARING OFFICER KRAMER: Yeah. So you're --

14 MS. WILLIS: -- which was --

15 HEARING OFFICER KRAMER: You're pretty much done  
16 until you see a need to do something else?

17 MS. WILLIS: That's correct.

18 HEARING OFFICER KRAMER: Okay. The Applicant?

19 MR. MCKINSEY: No comments. But I think that  
20 schedule is acceptable.

21 HEARING OFFICER KRAMER: We had the two choices. So  
22 would you prefer to get what you can on the 10th from the  
23 other parties?

24 MR. MCKINSEY: Yes. I think the proposal that the  
25 parties present their written testimony, but then they're

1 giving a much broader offering to revise any additional air  
2 quality testimony related to the material in the FDOC.

3 HEARING OFFICER KRAMER: Okay. Terramar? Comments?

4 MS. SIEKMANN: Yes. I -- yes, that's agreeable.

5 HEARING OFFICER KRAMER: Okay. So what you can by  
6 the 10th, and then the rest on the 24th?

7 MS. SIEKMANN: Yes.

8 HEARING OFFICER KRAMER: Okay. Power of Vision?

9 MS. BAKER: Oh, that's fine with us. Thank you.

10 HEARING OFFICER KRAMER: Okay. Does anyone else in  
11 the Intervener group --

12 MR. SARVEY: Mr. Kramer, I joined late. Bob Sarvey.

13 HEARING OFFICER KRAMER: Okay. Do you have any  
14 comments on that, Bob?

15 MR. SARVEY: I prefer to file the air quality  
16 testimony on the 25th.

17 HEARING OFFICER KRAMER: I think it was  
18 the 24th, but --

19 MR. SARVEY: The 24th. I'd like to see the FDOC. I  
20 may not have any issues after I see that.

21 HEARING OFFICER KRAMER: Okay. So do you have some  
22 issues at this point, though, that you could file on the -- on  
23 the 10th, some --

24 MR. SARVEY: I think pretty much all my issues on  
25 air quality I've already filed at the Air District. So I'm

1 just waiting to see what they've got to say. And I really  
2 don't have much response to Staff because I'm pretty much  
3 depending on the Air District to deal with the air quality  
4 issues then, because most of my issues don't even have  
5 anything to do with Staff.

6 HEARING OFFICER KRAMER: Okay. Does that mean  
7 you're just raising your issues with the air district in this  
8 proceeding and not planning on raising them with us? Because  
9 what you file with the Air District doesn't become evidence in  
10 this proceeding unless you file it in this proceeding and  
11 identify it as such.

12 MR. SARVEY: Well, I -- like I said, if the Air  
13 District agrees with the comments that I've filed I won't have  
14 anything to say, so --

15 HEARING OFFICER KRAMER: Okay. Well, so then I  
16 guess it sounds like you want to wait until the 24th.

17 MR. SARVEY: If that's possible.

18 MS. SIEKMANN: Mr. Kramer, I have a question.

19 HEARING OFFICER KRAMER: Go ahead.

20 MS. SIEKMANN: Didn't the Air District --

21 HEARING OFFICER KRAMER: Identify yourself.

22 MS. SIEKMANN: Excuse me?

23 HEARING OFFICER KRAMER: The Court Reporter would  
24 like you to identify yourself?

25 MS. SIEKMANN: Oh, I'm sorry. Kerry Siekmann,

1 Terramar.

2           Didn't the Air District docket all of our comments?  
3 I thought they did.

4           HEARING OFFICER KRAMER: Well, then if they did, I  
5 mean, I will leave it to you to find them in the docket in  
6 this case. And then you would need to identify them as  
7 exhibits.

8           MS. SIEKMANN: Okay.

9           DR. MOORE: This is Steve Moore. We didn't  
10 explicitly docket (inaudible).

11          MS. SIEKMANN: You didn't?

12          DR. MOORE: No.

13          MS. SIEKMANN: Well, maybe I was reading ones from  
14 the -- from the last time but -- because I saw some.

15          DR. MOORE: I didn't. (Inaudible)

16          MS. SIEKMANN: I'm sorry, I can't hear you.

17          HEARING OFFICER KRAMER: Okay. Give us two seconds,  
18 Mr. Moore, and repeat all that.

19          DR. MOORE: We did not explicitly docket any of the  
20 comments that we received. We did provide them to the CEC  
21 Staff, however, and perhaps they docketed it, those.

22          MS. SIEKMANN: Oh, okay. Okay.

23          HEARING OFFICER KRAMER: Okay. Did Staff want to  
24 say anything about that?

25          MR. RATLIFF: I don't believe that the Air District

1 docketed its docket in our proceeding. I think some of the  
2 comments such as Helping Hand Tools which were filed with the  
3 Air District were also filed with the Energy Commission and  
4 were responded to in response to comments.

5 HEARING OFFICER KRAMER: But that was done at the  
6 initiative of the person making the comments?

7 MR. RATLIFF: Yes.

8 HEARING OFFICER KRAMER: Yeah. Okay. So -- so, Ms.  
9 Siekmann, it appears unlikely that those are currently in the  
10 docket. So that brings me to another educational point that  
11 was made in the notice, but it can't hurt to repeat it, that  
12 if you want something to be an exhibit it first has to be  
13 docketed in this Carlsbad compliance proceeding. So I already  
14 did that with one document, the -- the final decision in the  
15 original AFC proceeding, so that we could refer to it more  
16 easily. And there may be other documents.

17 The major documents that we take official notice of,  
18 for instance, which would be at the suggestion of the parties,  
19 we'll probably docket those in those proceeding so that we  
20 have easy access to them. And I may even number them as  
21 exhibits, just as a heads-up, just so we can -- you know, to  
22 refer to them that way. And then when we -- we use the  
23 exhibit list, which has clickable links to all the documents,  
24 it will be real easy for people to get to them.

25 But at a minimum the document has to be in this

1 case, 07-AFC-06C. And then when you go to give us your  
2 exhibit list you give us a table that has exhibit numbers from  
3 your range in the one column, and then the transaction or TN  
4 numbers of the documents in the second column. And we go  
5 ahead and make entries into the -- the e-filing system to put  
6 the exhibit numbers on those documents. That's just the way  
7 our new electronic system works.

8 So let's see, Mr. Sarvey, you commented on the  
9 timing of the testimony. Has anyone from Mr. Simpson's group  
10 joined us? Okay.

11 Sierra Club, have you joined us?

12 Mr. Sarvey, you weren't here earlier, but we asked  
13 everyone if they were going to be making any objections or had  
14 any objections to the Sierra Club's petition to intervene. I  
15 want to ask the same question of you.

16 MR. SARVEY: I have no -- no objection.

17 HEARING OFFICER KRAMER: Okay. Thanks. So with  
18 that I think we have exhausted all the issues that we had.

19 Do you have anything? Okay.

20 MS. SIEKMANN: May ask one other -- one other  
21 question? This is Kerry Siekmann, Terramar.

22 HEARING OFFICER KRAMER: Go ahead.

23 MS. SIEKMANN: Did -- did I hear you say, Mr.  
24 Kramer, that after Monday there -- you can't file any more  
25 motions?

1 HEARING OFFICER KRAMER: You can always bring a  
2 motion. You mean a petition to intervene?

3 MS. SIEKMANN: No, no, no. A motion. File a  
4 motion. I thought I heard you say you can't file a motion.  
5 The -- the ability to file a motion stops on Monday. That's  
6 what I wrote down. So --

7 HEARING OFFICER KRAMER: Oh, no. I was just saying  
8 when the normal deadline to oppose the petition to intervene  
9 would be.

10 MS. SIEKMANN: Oh, okay. I just wanted to clarify  
11 that.

12 HEARING OFFICER KRAMER: Okay.

13 MS. SIEKMANN: It confused me. Excuse me.

14 HEARING OFFICER KRAMER: Well, that's fine.  
15 We're -- we're glad to make sure everyone is on the same page.

16 MS. SIEKMANN: Okay.

17 MR. SARVEY: Mr. Kramer?

18 HEARING OFFICER KRAMER: Yes?

19 MR. SARVEY: This is Bob Sarvey.

20 HEARING OFFICER KRAMER: Go ahead.

21 MR. SARVEY: I'd like to update my participation a  
22 little bit. I won't be asking anything from public health, so  
23 I won't be needing any witnesses for that.

24 HEARING OFFICER KRAMER: Okay.

25 MR. SARVEY: And -- and I'm hoping to submit my



1 testimony. And if everybody stipulates to my testimony I'll  
2 stipulate to theirs and there won't be any need for me to  
3 cross examine anybody, if that's how it rolls.

4 HEARING OFFICER KRAMER: Well, be prepared that it  
5 doesn't roll that way, but --

6 MR. SARVEY: Well, yeah, I always -- no.

7 HEARING OFFICER KRAMER: -- just in case.

8 MR. SARVEY: I'm just -- I'm just putting it out  
9 there just because you've been asking what our participation  
10 level is going to be.

11 HEARING OFFICER KRAMER: Okay.

12 MR. SARVEY: And I just wanted to make sure that the  
13 Committee knew that.

14 HEARING OFFICER KRAMER: No, we appreciate that.  
15 You still will be filing a prehearing conference statement  
16 spelling all this out; right?

17 MR. SARVEY: Yes, I will.

18 HEARING OFFICER KRAMER: Great. Okay. Is there  
19 anything else from anyone? If you have questions, procedural  
20 questions about the docket, you know, getting your evidence in  
21 the docket or how you need to prepare you exhibit list, feel  
22 free to give me a call. You know, we won't talk about the  
23 substance of the case, of course. But it's perfectly  
24 appropriate that we talk about some of those details and/or  
25 avail yourself of the Public Adviser's Office for help in

1 doing that.

2           Otherwise, Mr. Moore, please do your best to give us  
3 that FDOC as soon as you can. If you can beat that deadline  
4 you -- you gave us, we'd really appreciate it -- Dr. Moore.  
5 I'm sorry. I guess I'd better butter you up if I'm going to  
6 make that request.

7           DR. MOORE: We'll do our best.

8           HEARING OFFICER KRAMER: We appreciate that. And  
9 otherwise we will talk to everyone on Wednesday the 18th at  
10 the prehearing conference.

11           What I will have done before that, hopefully, is  
12 tallied up all your estimates of time for, you know, for your  
13 direct and your cross examination of witnesses and we'll see  
14 how close to the time we've allotted we have, and talk about  
15 any other issues you may have getting ready for the hearings.

16           And with that, one more time, does anybody have any  
17 issue or questions to raise before we adjourn? Do we have  
18 anyone who wants to make a public comment? There's nobody in  
19 the room. Do we have anyone on the telephone who wishes to  
20 make a public comment?

21           Hearing none, there's no need for a closed session.

22           And so we will be adjourned. Thank you.

23           (The Meeting of the California Energy Commission Carlsbad  
24           Amendments Committee adjourned at 2:46 p.m.)

25

CERTIFICATE OF REPORTER

I, Kent Odell, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Amendments Committee Business Meeting for Consideration of the El Segundo Energy Center Amendment; that it was thereafter transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said conference, or in any way interested in the outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of March, 2015.

          /s/ Kent Odell            
KENT ODELL

CERTIFICATE OF TRANSCRIBER

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.

          /s/ Martha L. Nelson            
MARTHA L. NELSON, CERT\*\*367

          March 15, 2015