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

In the Matter of the: )
) )
Generating System Amendment ) 09-AFC-07C
________________________________________

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, AUGUST 5, 2013
10:06 A.M.

Reported by:
Peter Petty
Contract No. 170-12-001

CALIFORNIA REPORTING LLC
(415) 457-4417
COMMITTEE MEMBERS PRESENT
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David Hochschild, Associate Member

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Kenneth Celli, Hearing Officer
Jim Bartridge, Advisor to Commissioner Hochschild
Kelly Foley, Advisor to Commissioner Hochschild
Galen Lemei, Advisor to Commissioner Douglas
Jennifer Nelson, Advisor to Commissioner Douglas
Eileen Allen, Commissioners’ Technical Advisor for Siting

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Jennifer Martin Gallardo, Staff Counsel

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Blake Roberts, Assistant Public Adviser

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Scott Galati, Attorney
Galati/Blek, LLPE
INTERVENORS
Lisa T. Belenky (via WebEx)
Ileene Anderson (via WebEx)
Center for Biological Diversity

Kevin Emmerich (via WebEx)
Basin and Range Watch

Elizabeth Klebaner (via WebEx)
California Unions for Reliable Energy (CURE)

Christina Caro (via WebEx)
Hildeberto Sanchez

INTERESTED GOVERNMENT AGENCIES
Kim Marsden
Bureau of Land Management (BLM)

Deborah Bardwick, Office of the Solicitor, US Dept of
the Interior (via WebEx)
Amy Howard (via WebEx)
National Park Service

Tiffany North (via WebEx)
County of Riverside

PUBLIC
Isaak Velez
K Kaufmann
Sarah Clark
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PRESIDING MEMBER DOUGLAS: Great, so good morning everybody. Welcome to the status conference for the Palen Solar Electric Generation System's amendment process. I'm Karen Douglas, I'm the Presiding Member assigned to this committee.

To my left is our hearing officer, Ken Celli. To his left is the Associate Member of the committee, Commissioner Hochschild. To Commissioner Hochschild's left is Gabe Taylor, his Advisor. To Gabe Taylor's left is Ileene Anderson, she's the Technical Advisor for Siting for the Commission -- Allen. Ilene Anderson, we'll get to you later, sorry. I knew that someday I was going to do that. On my right is Galen Lemei and on his right is Jennifer Nelson, my advisors.

Now let me have the petitioner, if you could, identify yourselves for the record please.

MR. GALATI: Scott Galati, Counsel to Palen Solar Holdings.

MR. TURLINSKI: Charlie Turlinski, Project Manager Palen Solar Holdings.

MS. MARTIN-GALLARDO: This is Jennifer Martin-Gallardo, Staff Counsel.
MS. STORA: And Christine Stora, the Compliance Project Manager on the Palen Solar Project.

PRESIDING MEMBER DOUGLAS: Thank you, so we've gone through applicant and staff. Let's now go to you, the intervenors. Is Lisa Belenky or Ileene Anderson from CBD on the line?

MS. BELENKY: Yes, this Lisa Belenky and Ileene is also on the line although she's in a car, so may not be able to speak very often.

PRESIDING MEMBER DOUGLAS: All right, thank you.

Kevin Emmerich from Basin and Range Watch we heard from earlier, Mr. Emmerich are you still there?

MR. EMMERICH: Yes, we're still here.

PRESIDING MEMBER DOUGLAS: All right, thank you.

Alfredo Figueroa from Californians for Renewable Energy are you on the line? It sounds like not, right now.

Tanya Gulessarian or Elizabeth Klebaner from CURE?

MS. KLEBANER: Yes, good morning. This is Elizabeth Klebaner.

PRESIDING MEMBER DOUGLAS: Good morning, thank you.
Hildeberto Sanchez or Eddie Simons from the Laborers' International Union?

MS. CARO: Good morning, this is Christina Caro from Lozeau Drury on behalf of the all of the LiUNA parties and individuals.

PRESIDING MEMBER DOUGLAS: Thank you. Are there any public agencies on the phone or in the room today? Any federal agencies, start with federal.

MS. MARDEN: Kim Marsden, BLM.

PRESIDING MEMBER DOUGLAS: Thank you, any other federal agencies?

MS. BARDWICK: Deborah Bardwick, Office of the Solicitor.

PRESIDING MEMBER DOUGLAS: Thank you.

MS. BARDWICK: Thank you.

PRESIDING MEMBER DOUGLAS: What about --

MS. HOWARD: Amy Howard, National Park Service.

PRESIDING MEMBER DOUGLAS: Great, any other federal agencies on the line today? What about state or local agencies?

MS. NORTH: Tiffany North, County of Riverside.

PRESIDING MEMBER DOUGLAS: Thank you, anyone else? All right, it doesn't sound like there are any
other public agencies. If there are please speak up.

Let's see, I see we've got Blake Roberts here from the Public Advisor's Office, so thank you. And with that I'll turn this over to the Hearing Officer.

HEARING OFFICER CELLI: Thank you, Commissioner.

Good morning everybody, Kenneth Celli C-E-L-L-I, on behalf of the committee. I'm the hearing advisor.

And today we're here for a status conference. The status conference was noticed on July 15th, 2013. The purpose of today's conference is to hear from the parties regarding the status of the Palen Solar Electricity Generation System's amendment to their certified power plant and to help resolve any procedural issues as well as to assess the scheduling of future events in this proceeding.

We will first hear from the petitioner who will summarize their view of the case status and scheduling followed by staff. Then we go in order of the intervenors: Center for Biological Diversity then followed by Basin and Range Watch. After that we'll hear from Californians for Renewable Energy if they come in or get on the line, we haven't heard from them yet today, after that the California Unions for
Reliable Energy and finally Laborers’ International Union of North America. Then we will provide an opportunity for general public comment.

After that we noticed a closed session. We are probably going to take advantage of that closed session today after we hear from all of the public comments.

And during that time I have invited Paul Kramer to come down to talk to the parties about using the new E-Filing system to answer questions, so that we can use that system which really is going to streamline things. And he can describe that to you later.

At this time I'm going to turn it over to the petitioner. What we want to talk about first, Mr. Galati, is the scheduling. Where are we at with the schedule and the petitioner's view with regard to scheduling and getting us to hearings etcetera. So please, Mr. Galati you have the floor.

MR. GALATI: Thank you. I filed a status report, which basically summarizes where we think we are, but if I could give a little background for the committee.

The project, I believe, has had six very productive workshops at different stages of the
proceeding; most recently four workshops that were conducted after the preliminary staff assessment. At the preliminary staff assessment stage we had comments on over 35 conditions of certification and we think that we've narrowed those down to 13. So I think that we've been extremely proactive and the parties have worked together very well, I think staff's been very accommodating and we've had a lot of good dialogue.

Some of the conditions that we are maybe having a dispute, those 13 conditions doesn't necessarily mean that we have a dispute. It means that we weren't able to get the specific language completely agreed to at the workshops. A couple of those conditions we haven't seen yet, because they're going to come out in the final staff assessments. So it's sort of like a reserving the right.

But all of those issues, I think, where the project -- if the project were headed to evidentiary hearing today I know that it can't, the final staff assessment is not out and there's some analysis done, our best prediction is that we are down to sort of four areas of which we might need the committee to make a decision.

The first is fire mitigation where we don't have an agreement right now with Riverside County
and/or staff. And second is cultural mitigation only because we had great conversations at the workshop, but we didn’t work out the specific language and traffic and transportation in one area only, which is the conditions around glint and glare, because staff hasn't completed that yet.

And in biological resources the only thing that I'm pleased to report is the only thing that we may have any disagreement on, on biological resources, are some minor condition changes with relating to timing. We do not have major biological issues on the project from our perspective. So again I think the project is moving very well through the process.

I did want to address one thing that I think that everybody has been saying is sometimes the project might be moving too quickly. I'd just like to put this together. If there were no delays in the schedule the Energy Commission may be making a decision in December, which is a year from when we filed the statutory requirement a little shorter than what it had done for the original project, which was about a 14-month process. So I just wanted to dispel any rumors that we are processing this in such a quick pace that people haven't been able to participate.

I also wanted to make sure that everybody did
understand that so much of what we filed when we came into this project was agreeing with the existing conditions and the areas that did not change on the project. So we think that the petition focused on two areas. One, what are the changes of the project and two, we have worked very practically with staff to update conditions based on lessons learned that are unrelated to this petition for amendment.

The BLM published its supplemental draft EIS, that has gone fairly well. The programmatic agreement has been amended. The biological assessment has been delivered to U.S. Fish and Wildlife Service for a supplemental biological opinion that will address only the linear, the new gas line and the change to the transmission line only.

And the area where we have an issue associated with the schedule is the South Coast Air Quality Management preliminary determination and compliance. We don't have that as we sit here today. We know staff needs that for its final staff assessment. And our best guess based on information from South Coast would be that it would be on or before the September 20th timeframe. Excuse me, I apologize, on or before the August 23rd timeframe, so I want to just make sure I correct that, August 23rd.
They said they needed about four weeks from our workshop on the 26\textsuperscript{th} of July. I can tell you that they have almost completed their draft conditions. They've shared some of the conditions with us and we're looking forward to it before that date, but I can't give the committee any firmer date than that one. So that's our issue on scheduling. We know staff needs that for the air quality portion of their final staff assessment.

Lastly, we've been working very, very hard to get staff what it needs on the cultural area. As you know, I think we talked about it at the last status conference, it's BLM land. There are special permits that need to be needed, we coordinated with the tribes. We did trenching onsite with tribal representatives present. We did new pedestrian surveys with tribal representatives present. That all took some time.

Now we're putting together the reports. We have catalogued and identified sites within a 15-mile radius, so it's a lot of work to put that in. So we've been paring down some documents and sending those to staff while we move forward. So we'll let staff announce whether they have received what they need for cultural, but we believe that the areas are
ready to go except for air quality. At this time we believe the areas are ready to go for the final staff assessment.

HEARING OFFICER CELLI: Thank you.

A couple of quick points I'd like to make, first of all I just want to alert Issak Velez and K. Koffman to the fact that I had to mute you both, because we were getting background sounds or feedback from your telephone. So you're muted right now. We can't hear you. Later we would open up or un-mute you, if you will, when it comes to public comment. If there's something that's pressing that you need to say you can always send a chat. So that's a little housekeeping; I'm sorry for that interruption.

I want to have a frank discussion about scheduling today and I want all parties to be aware of where we think we're going with this. We had initially, meaning the committee had initially issued a revised schedule that had called for an 8-23, an August 23rd final staff assessment, and a prehearing conference September 9th and evidentiary hearing starting September 16th. That meant the way that we had scheduled this thing originally that there were two weeks between the FSA and the prehearing conference, which is pretty short given the way we do
things generally

That means that between the FSA's publication on the 23rd and the prehearing conference what would have to happen is we would need an exchange of the petitioner and staff's filing testimony, the intervenors filing their testimony, all parties filing their rebuttal testimony and then all parties filing their prehearing conference statement.

That's a lot of back and forth and a lot of activity to do in two weeks. It sounds like to me like possibly, and I'll let the parties discuss this, with this new wrinkle which is the Air Quality District's -- I'm not going to call it a delay, but the wait for the PDOC to come off there may be some more time to give at least the intervenors more of a chance to read and reflect on the staff assessment and give them a couple of weeks.

So off the top of my head I'm thinking if we created 8-23 as the publication date for all areas except Air Quality okay, because I understand the problem with Air Quality. And then required a week later that petitioner and staff file their testimony and that shouldn't be that onerous, because staff's testimony is the FSA. And petitioner's testimony is largely already produced, which would be your original
petition and data responses and that sort of thing.

Then two weeks after the FSA we could have the intervenors file testimony. Three weeks after the FSA we could have all parties file rebuttal testimony. And four weeks after the FSA all parties would file their prehearing conference statement. That would take us to September 6th.

I'm not saying this is etched in stone anywhere. I'm just throwing these out as dates as possible. I'm mostly trying to highlight the intervals between each task, okay? So that would take us to 9/6. And the question when we get to staff and staff you're batting next is, can staff actually get that Air Quality section out by September 6th? I don't know if they can or not given what they have to do with PDOC from the Air Quality folks. So I'm just throwing these out, because these are things that have to happen before we get to a prehearing conference. And I can either jam everybody up or we can give some time for that depending on what's going to happen.

Let's hear from staff first about what this means to staff. What the delay in PDOC means and any other comments about the scheduling as you see it.

Ms. Stora, go ahead.

MS. STORA: Thank you. Today staff is
requesting 30 days after the PDOC is issued by South
Coast to finalize the FSA.

HEARING OFFICER CELLI: Okay, that -- let me
just be clear and that's August 23rd was the FSA date,
but 30 days from August 23rd is when the District
thinks they can get their PDOC off if I understand Mr.
Galati?

MS. STORA: Uh-huh.

MR. GALATI: But I messed that up, so I'm
going to fix it again. They think that they will get
the PDOC on or before August 23rd.

HEARING OFFICER CELLI: Okay.

MR. GALATI: So that would be putting
staff's, if it was a 30-day delay that would put
staff's final staff assessment with Air Quality on
September 23rd.

HEARING OFFICER CELLI: Okay, got it.

Thanks, go ahead.

MS. STORA: Okay, so South is requesting 30
days after we receive that permit to issue the FSA,
because we're not exactly sure when we will see that
permit. I mean, that's just a best guess right now,
but we would see it in August, early August. So that
would push us out towards the end of September.

HEARING OFFICER CELLI: Okay. Now this is
Air Quality only, meanwhile I assume everything else is on schedule for 8/23 correct?

MS. STORA: It's not exactly just Air Quality. There is a small portion of Public Health that we would need to see the PDOC permit for, so those will be bundled together. We are still receiving some information on culture and biology as Mr. Galati has mentioned. We are diligently going through that and preparing our FSA. And at this time if we kept the August 23rd deadline for cultural and biology we would expect that we would have to submit a lot of supplemental information after the FSA was published.

HEARING OFFICER CELLI: Why?

MS. STORA: Because we're still receiving information.

MS. GALLARDO: This is Jennifer, Staff Counsel. I just want to clarify that it's not so much outstanding data information from the applicant. What has come in that biology staff and cultural staff is working on right now is a substantial amount of comments, information that was submitted by the applicant at the end of August. August 23rd is when -- I'm mean, I'm sorry, at the end of July, July 23rd is the day that we received a large quantity of final
information. I think we referenced all of this in our status report.

HEARING OFFICER CELLI: You did, are you expecting anything else or are we -- do we have everything yet?

MS. GALLARDO: I think that we have most everything in the cultural and bio areas. The information that we received, if there's little things like mapping, you know, we misunderstand where something's pointed to on a map. I think staff and applicant are working together to figure out the little wrinkles that they're having, but there's no big reports or anything like that that's outstanding. I just wanted to make that clear, what we're talking about with information.

But comments did come in from the public and the intervenors on the 29th. And there's substantial -

HEARING OFFICER CELLI: July 29th?

MS. GALLARDO: Correct and there's substantial quantity of comments and things and staff in the bio and air quality areas, they are definitely working diligently. But if there were no Air Quality PDOC delay I think we would probably be here today asking for a couple of weeks for them to be able to
incorporate all of the new information to give us a very good analysis. Something that wouldn't require much, you know, supplemental information at evidentiary hearings or things like that. They want to provide the committee and the public a solid document without holes. And in order to do so they feel that they would need a little bit more time.

HEARING OFFICER CELLI: And let me just inquire, we're only talking about bio and cultural here? Nothing else?

MS. STORA: Correct, no --

HEARING OFFICER CELLI: I mean, I understand the public health tie into the Air Quality, but that seems rather minor.

MS. STORA: The only other thing I would add to that is that because our sections are not done for cultural and biology the gal who is preparing our alternatives analysis is hinging upon all other technical areas. So she's also a little bit behind, so it's actually biology, cultural and the alternatives analysis which is brand-new and was not published in the PSAs. So we're seeing that for the first time in the FSA.

HEARING OFFICER CELLI: Okay, so cultural-bio alternatives and one moment, just let me ask this.
Thank you, I'm sorry for that delay. We're having to deal with the monitor going on.

Okay, so just to keep on this train of thought here. So I have cultural, bio and alternatives will be late, but not necessarily as late -- this is a question, I'm making it a statement, but let me ask it. Will it necessarily be as late as the Air Quality or could it be published short of the needed extra time for the air quality section? And I'm talking cultural, bio and alternatives.

MS. STORA: Yeah, staff agrees that that's a possibility. I've actually received the majority of the smaller sections that doesn't have as many comments. Unfortunately I don't have that exact list in front of me; I just updated it this morning though. But we do believe that bio and cultural would be ready before the PDOC permit and well, before air quality and public health is ready.

I don't necessarily think that we need all of the time that we would need for air quality and public health to publish those, but they are lagging a little bit behind the rest of the document.

HEARING OFFICER CELLI: And needless to say I'm assuming then that the comment period comes in whenever the last section is published?
MS. STORA: Yes, it would be.

MS. GALLARDO: I'm sorry, I'm not clear on the question.

HEARING OFFICER CELLI: No, I'm just making a statement and if I'm wrong I'm hoping somebody's going to correct me on this. But I'm just assuming that that comment period will commence on the FSA at the end of the last publication whether that be air quality or whatever.

MS. GALLARDO: I'm not sure what comment period on the FSA. What I'm familiar with is the regulation that requires 14 days from FSA before you can to the hearings.

HEARING OFFICER CELLI: That's true, okay you're right. Thank you for correcting me on it, okay.

So let me ask you this, what is it about the PDOC, because this is an amendment, this isn't an AFC so what is it that's so substantially different than the original Palen Solar Power Plant?

MS. GALLARDO: So, oh go ahead Scott.

MR. GALATI: The original power plant had a different type of auxiliary boiler, which was nighttime. It also had what was a thermal oilage system. We have two completely different boilers and
what that means is in the South Coast Air Quality Management District you file a permit for the piece of equipment, so it is a brand-new permit. And it will include all of the conditions associated with operating that, so in staff's defense, they do need to have that to be able to true it up with their own kind of conditions to check out their modeling, to compare to their health risk assessment.

So we agree that they need time with that document. I don't think we can streamline that. If it would help the committee hearing what Mr. Celli said at the beginning in trying to give the maximum amount of time for the first part of the FSA, so that the intervenors have time to be able to read it and respond and hearing what staff said, that they need additional time for cultural and bio, I think we have a proposal we might be able to throw out if you think it'd be helpful.

HEARING OFFICER CELLI: Okay, let me -- I'm going to stay on the record, but I'm just going to acknowledge ladies and gentlemen, that our computer feed just timed out. There is the password is on a yellow sheet of paper right in front of the screen there, something about a hearing room, if you wouldn't mind. Thank you. We have people on that now, okay.
So I'm sorry Mr. Galati you've got -- thank you, Mr. Lemei. I'm sorry, I think I missed the import of what you just said. We were talking about --

MR. GALATI: Yeah, I was just saying if the committee would like I think we have maybe a proposal that can accommodate staff with additional time for cultural and bio. And hearing what Mr. Celli has said about trying to make sure that the intervenors have a maximum time for the first part of the staff assessment. You know, schedule is important to us and we know where we'd like to end up, but we have a proposal for your consideration.

HEARING OFFICER CELLI: I appreciate that. I'm going to, first I think what we need to do is get through the, let's hear from all the parties first and then we'll actually kick around the specifics.

Anything further from staff?

MS. STORA: Yeah, I believe Jennifer has one more thing.

HEARING OFFICER CELLI: Go ahead Ms. Martin Gallardo.

MS. GALLARDO: Yes, I was speaking with public health staff this morning and there is one possibility as far as that section. There is a small portion of public health that may be impacted and
there is a possibility that we could publish that in the first section and just provided some kind of addendum, but that's just another detail to consider.

HEARING OFFICER CELLI: That's great, that makes sense so appreciate that.

Let's go first to CBD, Lisa Belenky can you hear me? I see your hand is up.

MS. BELENKY: Here, yes thank you. I think we just need only to discuss this one issue of scheduling. I mean, we have obviously other issues for this conference.

We would say first of all we did not receive a response to our data request as far as we can tell, so that is also outstanding.

We would object generally to this idea that the FSA come out in pieces and that it not be issued as a coherent whole. And one of the really big problems with that is that there's no way to show that the cumulative analysis or the alternatives analysis has really considered the project as a whole. We are very concerned that this project is being looked at in such a piecemeal manner and the PSA didn't even have an alternative analysis in it. So that's one thing that we would object to about putting it out in pieces in what we do consider to be quite a rush.
We would also disagree very strongly with the statement made by the applicant that the biological opinion is ready to be assessed, because the only thing that the applicant apparently believes that needs to be assessed is the linear and the impact to the desert tortoise on the ground. However I think Fish and Wildlife Service and others are very concerned that there may be impact to avian species that would include listed species including for example, the Yuma Clapper rail that was recently found dead at a very nearby project. So we disagree that it as far along as they appear to be trying to tell us.

We also note that the Fish and Wildlife Service has also said they want to see the completed FSA and all of the biological information, before they provide any feedback on the staff assessment.

So those things taken together show I think very clearly among many other things that we put in our specific report, in our status and in earlier status reports that this is not ready to go to hearing. And that the FSA needs to have a coherent view going through all of this information. First we need all the information, the applicant has not provided sufficient information in many areas already.

We would also note Fish and Wildfire Service
sent another email regarding the eagle data that was collected by the applicant. So there are still quite a lot of holes in this, particularly I am focusing on biological, but there are other very large holes. Certainly there's been no alternatives in the office or a coherent cumulative analysis at this time.

So for all those reasons we would object to having the FSA come out in pieces. We need a coherent, single document that deals with everything. And we are againobjecting to the rushing.

We also had asked that the committee consider a site visit to the Ivanpah Project once it is actually in operation, because there are certain things particularly around the glint and glare that need to be actually seen in person as far as we understand. And we think that even waiting to get some data from that project on solar flux and avian impact as well as avian impacts from the mirrors would be far more prudent than rushing ahead with the project at this time. Thank you.

HEARING OFFICER CELLI: Thank you, Ms. Belenky. I think that's actually not a bad idea, this idea of a committee site visit to Ivanpah. I'm just trying to imagine right now given the tight schedule we're all talking about how I could fit that in with
the committee. I know that we will most certainly --

MS. BELENKY: We don't agree with the tight
schedule, so they could both happen. We're
disagreeing, we're objecting to the tight schedule.

HEARING OFFICER CELLI: Well, that's okay.
I'm just saying that I think your idea is a good one
that there be a committee site visit. Maybe we would
do that when we're down there already for the
evidentiary hearings later on, but first let me hear
from the -- so is there anything further from Center
for Biological Diversity?

MS. BELENKY: Well, just to clarify again we
object to the schedule as you are rushing through it.
We object to only having two weeks after a
comprehensive FSA is issued in which to provide our
testimony. That these are massive documents and that
it's completely unreasonable.

HEARING OFFICER CELLI: Okay. Your objection
is noted. Thank you.

Let's hear from Basin and Range Watch, Mr.
Emmerich?

MR. EMMERICH: Hello, can you hear me?

HEARING OFFICER CELLI: Very well, go ahead.

MR. EMMERICH: Okay, I just guess I'm going
to go ahead and agree and concur with everything Lisa
said. Now I had a few of our own perspectives here. We totally agree that you are rushing this process very quickly. We don't believe that most of these issues have been resolved. I heard you mention cultural and biological resources, but let's face it, it's really going to be adaptive management for everything. There's no way to mitigate the impacts to visual resources.

We are very interested in the entire avian flux issue and what Lisa brought up about the Yuma Clapper rail. This lake effect problem might turn out to be something that has a significant impact on the water bird population of this area and we're not hearing you talk about it that much. We'd like to have another workshop. We'd like to hear a little bit more about how you plan to possibly mitigate this problem. And we don't believe there's any way that can be done, so it appears that a lot of these situations and these issues with biological cultural, visual are going to end up in the same status that a lot of these other projects have, the override. And we would really like to encourage you to avoid the override on this particular case.

The old PSA that came out for this project was incomplete. You gave us 30 days to comment on it.
You've told us that you accept comments any time, but you won't respond to any comments that were after that deadline. And I believe that does discourage a lot of public comment and some public comments can be very sophisticated.

But the bottom line here is it's going too fast. Two weeks for something like a 1,300-page document is very unreasonable. We're having difficulty commenting on cultural resources, because we don't even see transcripts for the cultural workshop that took place in July. And I could be looking in the wrong place, your documents can be difficult to navigate through, but we're not finding that. And so again, how can we really give you a comprehensive list of comments when we can't really see the entire review.

HEARING OFFICER CELLI: If I may Mr. Emmerich, let me just ask staff, because I'm not even aware that they actually have transcripts of workshops. And the reason that they wouldn't do that as a workshop is basically in the order of a settlement conference. And therefore really the committee doesn't want it. That's really for the parties to show up and certainly parties who are there can take notes or record as they need to I suppose.
But I don't think there are transcript. I'm getting a
nod from staff yes.

MR. EMMERICH: Okay, I think there were for
the Hidden Hills case. I don't know, I mean this is
Energy Commission legal stuff, but what I'm saying is
that we don't have any information, enough information
on cultural resource. And if more of that information
was out there, if you would delay the process, allow
us a little more time to comment, to look at this
stuff. We're not a big corporation. We can't hire
six lawyers to go over different parts of every FSA
section. So it's going to take us a lot longer.

I really think you need to give us two
months. You need to give us 60 days to comment on
that final staff assessment. That is a big document
and that is not unreasonable at all. BLM documents
have 90-day comment periods and they're much shorter,
so just slow it down a little bit. That might not
help right source meet it's scheduled but we'd really
like to see a debate on the alternatives as well. And
we're pushing for you to consider offsite alternatives
and that would really help preserve these resources.
I don't really have too many more comments on the
schedule other than "Slow down, thank you."

HEARING OFFICER CELLI: Okay, thank you Mr.
Emmerich. I just want to point that out that the --

MR. EMMERICH: One moment, can you see this for a second?

HEARING OFFICER CELLI: I'm sorry, we're back. Thank you Mr. Emmerich, for your comments. We will consider all of these things.

Let me get through all of the parties first, so we've heard from CBD, we've heard from Basin and Range Watch. Is there anyone on the phone from Californians for Renewable Energy, Mr. Figueroa are you on the phone? Or anyone from Californians for Renewable Energy?

I have, by the way, had to mute Isaak Velez. Who is he with, does anyone know, Isaak Velez? All right, I'm going to unmute him. Oh, he seems to have hung up.

MR. VELEZ: Hello, can you hear me?

HEARING OFFICER CELLI: Yes, who's speaking?

MR. VELEZ: This is Isaak Velez. I'm with the Laborer's International Union of North America.

HEARING OFFICER CELLI: Okay, great. Stay there, I had to mute you, because there was some sound coming from your background, but you're unmuted now. Give me a minute, I'll come around to you.

MR. VELEZ: I don't have any comments. I'm
just kind of listening.

HEARING OFFICER CELLI: Okay. Thank you, Mr. Velez. If you could mute on your side rather than have me mute you then you could hear and talk and we wouldn't hear your background noise.

MR. VELEZ: Sounds good.

HEARING OFFICER CELLI: Okay, thank you. I'm going to unmute K Kaufman. Mr. Kaufman or Ms. Kaufman, K Kaufman?

MS. KAUFMAN: I don't know if you can hear me?

HEARING OFFICER CELLI: Yes, I can. Go ahead.

MS. KAUFMAN: Okay. No, I'm a reporter with the Desert Sun. I have no comments, I'm just listening.

HEARING OFFICER CELLI: Okay, thank you very much. Can I ask you, Ms. Kaufman, to mute your phone, because there's background sound coming in?

MS. KAUFMAN: I'm not on the phone; I'm on a computer.

HEARING OFFICER CELLI: Okay, I'm going to go ahead and mute you then. If you have any comment or need to ask --

MS. KAUFMAN: That's fine.
HEARING OFFICER CELLI: -- send me a chat, okay?

I just muted Ms. Kaufman. Okay, I think we've established that Alfredo Figueroa and Californians for Renewable Energy aren't here, so let's go then to Californians Unions for Reliable Energy. Ms. Klebaner?

MS. KLEBANER: Yes, thank you Hearing Officer Celli. We are purely supportive of a schedule that would meet staff and the applicant's requests.

HEARING OFFICER CELLI: You support staff and the applicant's -- we actually haven't seen any schedules yet, but in other words you are --

MS. KLEBANER: We are supportive of a schedule that could be worked out by both parties.

HEARING OFFICER CELLI: Okay, got it, very clear. Thank you, anything further from CURE?

MS. KLEBANER: No, thank you.

HEARING OFFICER CELLI: Thank you, Ms. Klebaner.

I'm going to turn now to the Laborers' Union of North America.

MS. CARO: Good morning, Mr. Celli. This is Christina Caro on behalf of Hildeberto Sanchez, Eddie Simmons and LiUNA. As I've mentioned in our status
report we're actually in the process of reviewing the PSA and documents recently submitted by the applicant. And we'll reserve any substantive comments or procedural for later in the proceedings and at this point are following along as intervenors and interested parties.

HEARING OFFICER CELLI: Okay, well thank you for that. I just want to be clear today folks, it seems to me that this is probably going to be our last status conference. And the next time we're going to have a conference together it'll be a prehearing conference and so today's our day to work out the schedule and that's really what I would like to accomplish today.

I'm going to, now that we've heard from all of the intervenors and I'm clear at least CBD and Basin and Range Watch would like a lot more time I'd like to understand better. And maybe if the petitioner, I keep calling you the applicant, but the petitioner in this case because this is an amendment, perhaps if you could make a record on what the rush is. Why do we need to move this one along at speed, so Mr. Galati could you address that please?

MR. GALATI: First of all, I've been doing work around the Commission for a long time. I've
never been here when we've never had a crunched schedule. I've worked on projects that took two and a half years and it was a crunched schedule. It always is a crunched schedule for the committee. The applicant and the staff and the intervenors do good work. It takes a long time, but if we do good work and we bring something to the committee that's focused then the committee can meet that crunched schedule.

Second of all I'd like to remind everybody once again that this is a petition for amendment. And as much as the intervenors and others don't like to remember we already adjudicated a lot of these issues in the first project. And the applicant went to great lengths, extremely great lengths to minimize going outside the footprint and taking advantage of that particular thing.

So even when it comes to alternatives, which everybody thinks that this is a brand-new project I don't believe that the Commission really needs to look at alternatives in the same way for this petition for amendment. But there was a full suite of alternatives evaluated in the first project as you know. So I think that alternatives should build off of that.

I would like to make sure that we understand what our goal is. Our goal is to become commercial in...
June of 2016, because that is what the lenders will be requiring in order to qualify for the investment tax credit, which expires at the end of 2016. So some people have said our PPAs require this.

I mean, it's been all over the map, but what's really clear is this will be one of the first projects that might be commercially financed, which is exactly what the DOE loan guaranty program was hoping would happen is that you would take new technology, the federal government would help you get a loan so then you could become commercial projects that can stand on your own. That's the purpose, so we may be having to do that with commercial financing.

With commercial financing they don't take the same risk as when the DOE has signed a loan guarantee. So they've required, in case in there's any delays during construction or startup that in order to qualify for the investment tax credit, which the PPAs are based on, in order to qualify for the investment tax credits we have to come online six months before the expiration. The banks want a buffer. That is something we can't negotiate and that's why we have targeted that commercial operation date in June of 2016.

So then when you back up from June of 2016 we
have to make substantial deposits as we described to you in March, by the end of the year. We wanted our permit by the end of the year. We first wanted our permit, so we could do desert tortoise clearing. When that was not possible, we were able readjust the schedule at substantial cost to the project.

And so what we need to do is while we won't be able to clear tortoises until March we need to have our license, so that we can get the equity money to actually place deposits on pieces of equipment that are long-term equipment. And that is something very, very difficult to do when you still don't know when you still don't know if you have any permits.

And I still want to bring you back to if you give us a decision in December, that'll be a year from when we file. I think that one thing that I've heard the intervenors and others complain about was something that staff tried to do to actually make it easier for them. Normally when you file a petition for amendment even if it's a substantial one, like let's take the Dry Lake II Project where we completely swapped out the turbines, reconfigured the project, moved it around, used different technology.

Staff didn't write a brand-new staff assessment. A PSA and an FSA, what they did is they
wrote an amendment analysis that looked at only the changes. But what staff did for the PSA to help the intervenors and public is they took all the work that had been done on the first project and augmented it. So that's why it's a big document. Everybody on the phones read most of that document two years ago.

Second what has been done is how is it now different? I think that the staff shouldn't be punished for putting out a large document trying to be complete. It's the same thing that will happen with the final staff assessment.

So from our perspective is there are things that are different about this project. And let's just talk about the negative ones since that's what the analysis always focuses on. The negative ones are it is tall and there's new visuals and those have been in the record for a long time now. People can all comment on the visual simulations, which were submitted in April or May.

The cultural issues that we talk about, let's make we're really clear about this, they are related to visual. Because onsite we're only moving 200,000 cubic yards instead of the 4.5 million cubic yards. The cultural information that we went out and got onsite was stuff that wasn't required for the first
project. We did some trenching and we updated the pedestrian surveys, we found one additional site. Nothing in the trenching, one additional site in the pedestrian surveys.

So I want to put this in perspective, because it sounds like we're starting to do AFC and there's all this information that's not out there. There is plenty of information out there and I think that the parties, you know, can easily digest it.

Ultimately a 60-day comment period on a preliminary staff assessment, we can't support. So what we would agree to and what we would propose is staff says they need some additional time for bio and cultural, why don't we move part one of the FSA to the 30th of August giving them another week.

The part two of the FSA, which would be the air quality, I mean the whole purpose of this would be to move until September 20th the final staff assessment part two. That way the intervenors have three, four, five weeks to look at the biology and the cultural of which seem to be the main concerns.

HEARING OFFICER CELLI: Okay, I'm sorry to interrupt, but I want to follow you here. So part one of the FSA are you anticipating would include bio, cultural and alternatives?
MR. GALATI: Yes, and the reason I would say it should include alternatives the public health and air quality section will be the same for all alternatives. We need the same boilers, we need the same emissions. So there weren't impacts to offsite, there were impacts onsite so wherever you move it, it's such a big enough project that I believe alternatives could be done if biology and cultural was done. So I would suggest that part two of the FSA be air quality and public health update only.

HEARING OFFICER CELLI: All right, because you heard Ms. Stora mention that they needed a couple of extra weeks for the cultural and the bio.

MR. GALATI: Yeah, my proposal was to give them one week. And again, I'm trying to balance what staff needs for additional time. Plus what I'm hearing from the intervenors is it's a big document, how can they file their testimony?

I would point out to the Commission that your regulations allow you to go to evidentiary hearing 14 days after final staff assessment for a full AFC. Remember this is a final staff assessment, there's already a PSA out there much of which we talked about at workshops and worked out very cooperatively.

I also want to correct one thing. I did not
say that the biology issues are resolved. I said the applicant doesn't dispute what staff has written and we have minor changes to conditions. So that's our disputes. We know that the intervenors have biological issues that have not been able to be resolved in workshops, but that's what we would propose. It's a way for us to get, again a decision at the end of the year, that's what we're hoping for.

We might be asking the Commission for a special business meeting for that, so.

HEARING OFFICER CELLI: Well, before we talk to them and while it's on my mind I just want to ask you Mr. Galati, Ms. Belenky mentioned that there's an outstanding data request. Could you speak to that?

MR. GALATI: Yeah, I'll be real clear about that. The outstanding data request is give us all the information that you have about Ivanpah. So what we did is we went through the -- you know, Ivanpah is not owned by BrightSource. It's owned by another entity, BrightSource is a partner. We don't have access to any of that data.

We already explained to Ms. Anderson what we would be giving her at the last workshop, which is references to the publicly-filed monthly compliance reports, which is surprising because I saw all that
data from the monthly compliance report already summarized in CBD's status report. So it doesn't appear to me that they need it, but what they will be getting from us is pointing to where the publicly available data is. We don't have any private data.

We finished that data request last week and we'll be docketing it this week.

HEARING OFFICER CELLI: Okay. Thank you, I just wanted to see how that fit in.

MR. GALATI: I could have objected that it was a data request for something outside our control and instead what we did is we did the work to try to point them where the information was.

HEARING OFFICER CELLI: I appreciate that.

Staff, have you heard Mr. Galati speak about this two-pronged FSA where basically everything comes out on August 30th including bio, cultural and alternatives. And then part two would just be the air quality and public health. So let's hear your take on that, please.

MS. GALLARDO: Were you asking staff, I'm sorry we were --

HEARING OFFICER CELLI: Yes, I'm sorry. So I want you to respond to what Mr. Galati is proposing, which is a bifurcated FSA where on 8/30 all sections
including bio, cultural and alternatives is published. And then on 9/20 the air quality and the public health would be separately published.

MS. GALLARDO: Sure, okay. I think that as far as 9/20 air quality and public health, assuming that everything comes in from South Coast as expected that's absolutely fine.

There are some considerations internally where we would request one extra week tacked onto the August 30th date. So what staff would propose is a September 6th part one FSA publication. And one of the additional reasons to what we've already discussed is that the Commission is required to put out two other documents, large documents, Huntington Beach is coming out on the 20th of August. Blythe is coming out on the 30th of August. And what this means for us internally is that all the seniors and management are jammed at doing reviews. And so that's just an additional consideration.

We did say that staff would have come here asking for two more weeks anyway, which on top of the August 23rd which would have put us at September 6th. So I just wanted to give you one more justification for that September 6th date.

HEARING OFFICER CELLI: Okay, so let's just
play this one out if we can. If applicant or rather 
if staff published the FSA on 8/30 and -- or I'm sorry 
on September 6\textsuperscript{th}, the middle of September. And the air 
quality -- so what would we, we'd still go with the 
9/20 date? In other words staff can make the 9/20 
date, so for all intents and purposes 9/20 would be 
the end of the FSA period?

MS. GALLARDO: Correct.

HEARING OFFICER CELLI: So we can use that as 
our first calculation data instead of 8/23 it would be 
9/20/13. Okay, so in order to speed things up now 
petitioner and staff, let me hear from you if this is 
a problem, but I don't understand why I couldn't 
require petitioner and staff to file their testimony 
on the same day which would be the 20\textsuperscript{th} as the FSA's 
publication since most all of your work is already 
done? Mr. Galati.

MR. GALATI: We organize our testimony in two 
ways. One is the exhibits, I can give you all of the 
exhibits, I know what those are going to be. But the 
testimony is staff propose this condition, we don't 
like it, here's the reason why we think you should 
eliminate it or you think we should modify it in some 
way. So I can't do that on the same day.

HEARING OFFICER CELLI: So how much time
would you need?

MR. GALATI: I think we would need probably three days for that.

HEARING OFFICER CELLI: All right, so let me just for the --

MR. GALATI: I can do the exhibits on the day of the testimony. There might be some additional exhibits. Sometimes we see something and the staff assessment we haven't seen before and we might have some additional exhibits, but we can turn around in three business, not the three weekend days, but three business days we can file the changes to conditions that we would propose in our testimony.

HEARING OFFICER CELLI: All right, so let me just for sake of ease just say okay so within one week of the publication applicant would file its testimony. And staff would file any, you know, from time to time we get supplemental reports or there's a curriculum vitae or a resume that fails to make it. So, you know, I would then say okay if petitioner and staff file testimony one week later that takes us to 9/27 or 13.

Okay, now the beauty of the bifurcation, and I'm speaking now Ms. Belenky is that I understand that you call for a single document, but if you got a
bifurcated document you would have your -- all of the
issues that you seem to be mostly concerned about I
think is bio, cultural, visual, alternatives. You
would have that a couple of weeks beforehand, Ms.
Belenky can you hear me?

MS. BELENKY: Yes, I can hear you.

HEARING OFFICER CELLI: Okay, so I'm just
doing this back of the pencil sort of calculation
here. If the last of the FSA is published on
September 20th. And if the following week the
applicant and staff publish or file the last of their
testimony then if we went one week out from there,
which would be I think take us into October at that
point you would actually in reality have had almost a
month for review of the FSA for everything except air
quality and public health. You follow me?

MS. BELENKY: Yes, I follow what you say.

HEARING OFFICER CELLI: Okay, now let me just
pencil that in for now and say --

MS. BELENKY: Well, okay. I mean I would
like to respond to what Mr. Galati said. I feel like
it was really misinformation and I'm very upset that
the committee is hearing argument from the applicant
that is so not -- you know, none of the intervenors
have really had a chance to put out our position. You
know, if you only want to talk about the schedule fine, but I very strongly disagree with many of the statements he made.

HEARING OFFICER CELLI: And I'm going to give you a chance to address that, but right now all I really want to focus on at this moment is having the parties understand where we're going with regard to a schedule. Okay, because there are just certain things that have to happen and we're trying to be balanced and accommodate everybody.

So basically right now, as I'm thinking right now if the intervenors have the first week of October as a due date let's say for their testimony, that takes us to the second week of October for all parties rebuttal testimony. Okay, so let's say second week of October.

Now the week after that or within some reasonable amount of time we're into the third week of October. I'm getting a prehearing conference statement. Now and prehearing conference statements are really important to the committee and they're very useful. It tells us who the witnesses are, what the evidence is going to be and from that we calculate how much time it's going to take to do the hearings and how we are going to conduct the hearings.
As I may or may not have mentioned Mr. Kramer is going to talk later about the E-Filing that will substantially reduce the time involved in putting a prehearing conference statement together. But we need to have some time to review it, so that basically if we do that we are now into essentially the week of the 13th of October. We can't have our prehearing conference until it looks like the week of October 21st, okay?

Now if that's the case prehearing conference October 21st, now sometimes we can reduce the time between the prehearing conference and evidentiary hearings by a few days and we do need a couple of days there. Potentially we're looking at evidentiary hearings now later sometime after the 16th, so we're probably looking really at the week of the 20th of October for evidentiary hearings down in Southern California somewhere.

MR. GALATI: Mr. Celli, were you having --

MS. BELENKY: I'm sorry, but the prehearing conference would be that week. Now you're saying that the hearings would be that week?

HEARING OFFICER CELLI: Well, I calculated that October the prehearing statement would be the week of like let's say the October 14th through 18th
week. And therefore the evidentiary hearings would be either later that week if we can have an early enough prehearing conference or the following week, the week of the 21st of October. So let's just say for the sake of argument somewhere in the week of October 21st is the evidentiary hearings. If we do that then I want to think this thing out in terms of the rest of the schedule, so applicant or petitioner in this case can actually see where we go from there.

And let me just tell you what the events are that occur after the evidentiary hearing that really shouldn't affect what the committee is doing, because we need briefs from the parties usually within a couple of weeks of the evidentiary hearing. And the presiding members proposed decision generally takes somewhere around six to eight weeks to write, okay? This is an amendment, hopefully we should be able to write this a little faster.

But if we carry this out we're already in October, PMPD wouldn't be out until the first week of December, PMPD. Okay, if we went like that with PMPD due out in December, the first week let's say, we would have a comment period that takes us really into January, because of Christmas and New Year's all that. Which means that the close of the public comment
period would be in the beginning of January, errata and revisions if need be would occur in January, which means that the earliest I could possibly envision this getting to the full Commission is early February. What does that mean to the petitioner?

MR. GALATI: That's extremely daunting and again we wanted this in December, so now we're moving into February. We probably could live with the first business meeting in January.

One idea I have Mr. Celli, is again we've done this many, many times and we should be able to do it again. And that is I would notice the prehearing conference to be an evidentiary hearing for all non-disputed matters, so that things that come in they come in, we don't need live testimony. There are 23 technical sections you could certainly start working on the portion of the PMPD and that you would know then.

There's no need for briefs. You would know then all those areas you could be working on. That would also focus the hearings when we got to go down south. The thing I also would like you to know, and I think you do, there is no requirement for briefs. The purpose of briefs is to help the committee. They have been used in the past as evidentiary statements, as
closing arguments, that's not what they were for. That's not what they should be for. They should be for legal disputes. You heard the testimony.

I once again argue if you want to have efficient hearings you make the lawyers do an opening and a closing. It's the only way that you -- anyone who's ever done trial work if you do an opening and a closing you have to get right to your point on your witnesses. I would argue that at the close of evidentiary hearings you ask the parties to give their closing on how they want the committee to rule. And then you decide whether there are legal issues that you need briefed or not. And briefs in the past have been used as closing arguments, they're not necessary.

And we would suggest that if we went to evidentiary hearing in October the object would be to streamline your ability to get out the PMPD early in the first part, end of November or early in the first part of December so we can make the January 8th business meeting.

HEARING OFFICER CELLI: Well, what I'm suggesting right now, what I just walked through as a December 1st or first week of December PMPD. That was contemplated as I walked through that and I don't know how I can avoid that. You know, I'll see what I can
do to clean things up there. But the rest of it is we still have to have a 30-day comment period on the PMPD.

MR. GALATI: Right, that certainly gets us to January 8th as long as the errata is not sufficient or big enough to require recirculation. On my projects that happens one out of ten times, so I am comfortable with a December 1 PMPD date. It would meet the applicant's objectives.

HEARING OFFICER CELLI: I just want to say just with regard to opening briefs and reply briefs those are very important to the committee. When I'm receiving large quantities of paper from multiple parties it helps the committee to know what page or what part of that document purports whatever proposition they're putting forth. And so it's useful.

The opening briefs are useful to the parties. The reply briefs are often times even more useful, because that clearly is where the committee is going to be resolving the issues one way or the other. It's always good to hear that, so I don't know that I would dispense with the opening or reply briefs, but I don't think that they affect the speed with which we get the PMPD out. So I don't think that that affects the
scheduling really that much.

The comments, you know, if we get a large number of comments those comments have to get in. Oftentimes we put those in by way of errata, but that's a variable too. So we will meet on this, it's interesting to hear, but I'm just telling you as I look at the events that have to occur from here on out that's the best-case scenario. And anything, any schedule delays, any failures of any parties, any unforeseen circumstances will inure to the detriment of the petitioner here, because then it's just going to be -- it's this general idea of a PMPD by December 1st or more, not less, that I can see.

So I just want to have a frank discussion about this, so we all know that this is really a rushed schedule just for that. But it's the only one I can see where there's actually time for the parties to respond appropriately for large documents. Go ahead Mr. Galati.

MR. GALATI: I would again remind the committee that some of the sections are already written on your PMPD, because they don't change for the first project. The second thing that I would remind you is that we take responsibility for the delay in the PDOC. That's about a 30-day delay. Last
time when we were in May we were looking at a December business meeting, so this would be consistent with that 30-day delay.

I think also staff working hard to get part one of the FSA out gives the parties more time than was originally contemplated during our May 5th workshop. So I think that the schedule you just laid out, Mr. Celli, with getting to a PMPD in December if the committee can produce it, I think that the only people that get squeezed in this particular schedule is the committee. I don't believe the parties get squeezed on this. I think it's actually better for the parties than what you laid out in May.

HEARING OFFICER CELLI: I actually agree. I think that there's kind of a gift in this news about the PDOC in that what it does is it affords the intervenors a little more time. Staff did you have any comment on this?

MS. GALLARDO: No. No further comment.

HEARING OFFICER CELLI: Okay, I'm going to go to Ms. -- let's go back to Lisa Belenky.

MS. BELENKY: Are you just asking for a comment on the proposed schedule?

HEARING OFFICER CELLI: Yeah and first let's talk about schedule and then this is a good time for
you to raise any other issues you have. But I want to

talk about schedule first, if you would.

MS. BELENKY: Okay, well I'm not exactly sure
what you were saying about the prehearing conference
and the evidentiary hearings. It seemed like you were
putting them at the same exact time. Are you planning
for any time between the prehearing conference and the
evidentiary hearings?

HEARING OFFICER CELLI: Yeah, basically again
this is all ballpark, but what we're looking at for a
prehearing conference would be October, the week of
the 13th through the 19th, which is actually the Monday
the 14th through October 18th as a prehearing
conference week.

MS. BELENKY: Well, is that when you said the
statement would be due? So the conference, the
statement and the conference would be due in the same
week is what you're saying?

HEARING OFFICER CELLI: No, I would want the
statement would have to be the week before. So I was

MS. BELENKY: But that's the week we would
have to file our rebuttal? So I'm just trying to
understand what you're saying, because the rebuttal
was October 11th I think or that week?
HEARING OFFICER CELLI: No, the rebuttal would be the week of the 7th. Yeah, the 7th through the 11th.

MS. BELENKY: Well, the other dates are always a Friday, so now are you moving all the dates to Monday. I'm just trying to follow what you're saying; that's all.

HEARING OFFICER CELLI: Yeah, I actually haven't been speaking specifically of days. I've been kind of talking more in terms of weeks like the first week of October, second week of October, like that. So what I have down is intervenors file testimony first week of October. All parties file rebuttal second week of October. Prehearing conference statement would be due -- you're right, the third week of October is the 14th.

So somehow I would have to fit in a prehearing conference statement due date that gave the committee a chance to read and review and work off that in preparation of the prehearing conference. But assuming we could do that, let's say the statement came in on the 14th we can still have a prehearing conference up here and that would be up here in Sacramento on say the 17th or 18th. And then put the evidentiary hearings the week of the 21st, somewhere in
MS. BELENKY: Okay. I mean, okay now I understand what you're saying.

HEARING OFFICER CELLI: Right.

MS. BELENKY: I think you know this, we still object to separating the PSA into two parts. I know you think you're giving us a gift, but what you're saying is basically this area of air quality and public health is not something that you're considering as part of the project as a whole. And, you know, you did not ask me to respond to Mr. Galati now, so I will not. But we strongly disagree that this is just a minor amendment that you don't have to review the project as a whole in all of the other aspects.

HEARING OFFICER CELLI: Well, go ahead and finish your thought on that. Go ahead, Ms. Belenky. You have the floor, so if you wanted to say more about that go ahead.

MS. BELENKY: All right, first of all this project actually as staff's report that came out I think last week on the Mojave fringe-toed lizard habitat and sand areas shows that this project actually has a much higher impact on those resources than the original projects. The towers are not just an issue for visual resources. They're a major issue
to avian species in the area.

We also have solar flux issues that I know that the applicant has said that we could perhaps use evidentiary hearing from another matter. We strongly object to that. We believe that it has to be discussed in this matter and that those, a lot of those issues may need to be revisited.

The alternatives need to look at avoiding impacts from the projects, which means all impacts. But also especially these new impacts, so it will need to look at new alternatives. It cannot just rely on earlier alternatives, so those are just a few of the issues.

I feel like it's extremely disingenuous to say that this is simply a minor amendment with some tall towers. That is not true. These mirrors have much different effects on the avian species. The towers and the flux have much different effects. And they are not within the same footprint as the earlier project.

And those are just directly about this. I think this schedule is still very rushed with all of the rebuttal and the testimony, but we really strongly believe you need a consolidated FSA. You need to give people time to review it. We disagree that you can
use a prehearing conference as an evidentiary hearing. I've never heard of that. Mr. Galati suggests now that we change the way that we do these hearings. And we would very much like to discuss how the hearings are done. On some matters the hearings have been done as panels, as others they've been done in a more traditional way.

We have not been allowed at the last two hearings I attended to in fact discuss any legal matters. Mr. Galati now suggests that all legal matters be dealt with during the hearing. These are major changes to the way this process would be run and we need to discuss them. And they shouldn't just be left for the last minute whether yes we have briefs or no we have briefs is not the only issue.

HEARING OFFICER CELLI: Now I appreciate that. Actually the way that the hearings will be run is the subject for our prehearing conference, so we don't have to talk about that now. And yes, all of the parties will have input on that, but --

MS. BELENKY: Well, in your schedule the prehearing conference may be on a Friday before hearings begin on a Monday. I believe that the parties would deserve to know more about how the hearings will be conducted earlier than two days
before the hearings begin.

HEARING OFFICER CELLI: Okay, anything further Ms. Belenky?

MS. BELENKY: That's fine for today, thank you.

HEARING OFFICER CELLI: Thank you. I'm going to ask Mr. Emmerich, you've been listening to this discussion about scheduling. What do you have to say about that?

MR. EMMERICH: Hello, can you hear me?

HEARING OFFICER CELLI: Yes, go ahead.

MR. EMMERICH: Yeah, again I'm going to concur and agree with just about everything Lisa's just said. And I want to add that I really think the alternative section should receive full attention. We also do not agree that this is simply an amendment to the other project. This is a radical change. I mean, the similarities are it has a very big footprint and it is a concentrated solar thermal project, but there's a lot of differences. And those differences are three-dimensional.

And so I mean, I don't want to sound redundant here, but again you have not given us any good mitigation for these avian flux issues, lake effect collisions with heliostat. We feel that the
Mojave fringe-toed lizard situation is far more grim than it was originally told to us. And we feel that this cumulative scenario here definitely needs to be looked at more, simply because this is a solar energy zone surrounding it. And this has really been looked at for massive development.

I can't really give you too many more details about the schedule. You're going to cluster a lot of this stuff together and I would urge you, I don't know why you're saying that you can't give us too much flexibility on this. Maybe there were orders, you know, above from the state level, but I would urge you to consider the fact that you do invite public participation in these projects.

And we've been doing it for about four years and we think it's gotten a lot more difficult and we don't think that you're going slow enough on this project. And it's not as public friendly as some of the others. I thought Hidden Hills was a much more public-friendly project and granted that was closer to residential communities. But I feel the Palen Project should be handled more that way. Thank you.

HEARING OFFICER CELLI: Thank you, Mr. Emmerich. As you know I was the hearing officer on the Hidden Hills. In fact, this is the identical
committee so we know what you're speaking about. I just want to make the point though that it seems to me that the way that we are talking about, and nothing has been etched in stone, the committee has to act. And the committee will put out a schedule when it comes time to notice the prehearing conference and so forth. But my thought was that it would be a benefit to the intervenors to bifurcate the document, because then the intervenors would have a longer time to review that information that came out in the first filing. But we'll see how that plays out or whether we even do that.

Let's hear next from Elizabeth Klebaner. We're talking about scheduling and anything further.

MS. KLEBANER: I don't have anything further at this time. Thank you.

HEARING OFFICER CELLI: Thank you. Then let's talk to Christina Caro from LiUNA.

MS. CARO: Nothing further from LiUNA at this time.

HEARING OFFICER CELLI: Okay, thank you. Where we would go from here ladies and gentlemen is the committee had scheduled a closed session. Before we go to closed session rather than have all of the people who are on the telephone hang out and wait for
us to finish a closed session I believe it would be more user friendly if we took public comment now. And then went into closed session, because after a closed session since we're not likely to have anything to report out we would just adjourn at that time.

So with that is there anything further from any of the parties before we go to public comment? Go ahead Ms. Martin Gallardo.

MS. GALLARDO: The only thing that staff would add is that we do agree that the issues are narrow and clear-cut. And if the committee did want to go with the option of doing closing arguments at hearing we would support that.

HEARING OFFICER CELLI: Thank you. Okay, if there's nothing further from any of the parties than any other parties on the phone, we're going to go ahead and take public comment.

Now, I see that here in the room I have Mr. Blake Roberts and if you wouldn't mind approaching the podium and just letting us know if there's anybody here who has a comment in the room.

MR. ROBERTS: No, right now I don't know of any public comments.

HEARING OFFICER CELLI: Okay, thank you.

Then I'm going to go through the list. The way I'm
going to approach this ladies and gentlemen, I'm going
to go through the list of people who have named
themselves on the telephone by coming in by way of
their computers. I usually like to try to take the
agencies first and then the other people who've
identified themselves and then the people on the
telephone.

So first let's hear from Kim Marshall.

MALE VOICE: Marsden.

HEARING OFFICER CELLI: Marsden.

MS. MARSDEN: It's Marsden.

HEARING OFFICER CELLI: I'm sorry, Kim
Marsden. My handwriting is terrible, go ahead. You
have the floor.

MS. MARSDEN: That's okay, I don't have any
comments. Thank you.

HEARING OFFICER CELLI: Thank you, Ms. Marsden.

Deb, oh boy, Bardwick? Deborah Bardwick?

MS. BARDWICK: Mr. Celli, I have no comments
at this time.

HEARING OFFICER CELLI: Thank you. Amy
Howard, let me unmute. Now go ahead Amy Howard.

MS. HOWARD: I have no comments at this time.

Thank you.
HEARING OFFICER CELLI: Thank you, Ms. Howard. She was with National Parks.

Is there anyone else on the telephone who's with a federal, state, county or local agency?

MS. CLARK: This is Sarah Clark. I'm with the Colorado River Indian Tribes and I don't fall into that category, but sort in a public agency category.

HEARING OFFICER CELLI: Absolutely, go ahead Ms. Clark.

MS. CLARK: I just had a few comments on the schedule. First I would note that I reviewed the PSA for cultural resources on behalf of the tribes and as many of you know the PSA is largely incomplete with respect to cultural resources. Many of the decisions were simply deferred into the FSA and because of that we would very much appreciate and welcome the opportunity to comment on the FSA before it becomes the staff testimony before the CEC. The tribes have not made a decision whether or not to intervene at this time and therefore we feel strongly that the staff needs to consider that public comments that can be made on the staff assessment prior to going to the Commission. And so the short period that you've identified in the proposed schedule simply wouldn't allow time to do that where the FSA comes out.
virtually at the same time that the staff testimony does.

And then our second comment would be given that the tribe has not decided to intervene at this point, but is still considering all of its options we would ask that we have ample time for me to review the FSA to determine whether or not it addresses our concerns. And then to make a decision whether to intervene and for that reason the longer time period that you've laid out where we have at least a month to do that before the prehearing conference would be much appreciated.

HEARING OFFICER CELLI: Thank you, Ms. Clark. I just want to say on a personal note that we welcome you as an intervenor. But when someone intervenes they pretty much take the case as it is at the time they intervene. So it's of course, always better to intervene sooner than later.

MS. CLARK: I understand that. Thank you.

HEARING OFFICER CELLI: Okay, thank you.

Anyone else from any other tribes, federal, government or agencies on the telephone?

Okay, now what I'm going to do is I'm going to go through the names we have. I've heard from Amy Howard. Anwar Ali? Oh, he's with staff? Okay, thank
you. Deborah Bardwick we've heard from, Christina Caro is a party. Elizabeth Klebaner we've heard from. Ilene Anderson is a party. Isaak Velez he said he was -- I forgot who he, oh he was a reporter I think?
Okay, Jay Hillard? Did you wish to make a comment.
Okay, hearing none and we have K Kaufman. Kevin Emmerich is a party. Marsden we heard from, Lisa Belenky is a party. Lisa Worrall, isn't she with staff? Is with staff, okay. Matt Miller, Peter I think he hung up, Sarah Clark we heard from. Tiffany North, did you wish to make a comment?

MS. NORTH: No comments at this time, thank you.

HEARING OFFICER CELLI: Thank you. And Scott Blek is with applicant or petitioner rather.

Okay, what that leaves us ladies and gentlemen are those people who called in that we don't know who you are. I have you down as call-in user 12, 13, 14 and call-in user number 3. If you are on the telephone and would like to make a comment please speak up right now. Go ahead, anyone? Is there anyone on the telephone who would like to make a comment at this time? Okay, hearing none then we have taken in all of the public comment.

So what we'd like to do next ladies and
gentlemen is we noticed a close session in our notice of today's status conference. I'm going to -- basically we're not going to adjourn yet, but we are going to break and allow the committee to have a quick discussion about the scheduling matters that we were talking about today.

There will be no pronouncements today. We are not going to have any final product. This is just an opportunity for the committee to talk about scheduling and how we're going to approach it and the other issues raised today.

What will happen is a Notice of Prehearing Conference and Evidentiary Hearing will go out. And included in that notice will be a full schedule, a detailed schedule that will lay out each task and when we're going to do whatever we're going to do.

So with that we'll go into closed session. While we are in closed session, Paul Kramer will be here to talk to everybody about E-Filing, how to use it and answer questions. When we are finished with the closed session the presiding member, Commissioner Douglas, will come out and adjourn the meeting. So please hang in there for Paul Kramer.

(The Status Conference adjourned for closed session at 11:36 a.m.)