CONTINUED EVIDENTIARY HEARING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:

Modification of Certification  ) Docket No.
Starwood-Midway Energy Project  ) 06-AFC-10

CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, NOVEMBER 19, 2007
1:03 P.M.

ORIGINAL

Reported by:
Peter Petty
Contract No. 170-07-001
COMMITTEE MEMBERS PRESENT

Jeffrey D. Byron, Presiding Member
John L. Geesman, Associate Member

HEARING OFFICER AND ADVISORS

Garret Shean, Hearing Officer
Laurie ten Hope, Advisor

STAFF AND CONSULTANTS PRESENT

Jared Babula, Staff Counsel
Che McFarlin, Project Manager
James Adams
Shahab Khoshmashrab
Steve Baker
Richard Anderson
Keith Golden

PUBLIC ADVISER

Nick Bartsch

APPLICANT

Allan J. Thompson, Attorney
Richard H. Weiss, Project Manager
Starwood Power-Midway, LLC
Starwood Energy Group

J.J. Fair, General Manager
Ron Watkins
CalPeak Power
Starwood Energy Group
APPLICANT

Angela Leiba
URS Corporation

ALSO PRESENT

Russ Freeman (via teleconference)
Westlands Water District
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PROCEEDINGS

1:03 p.m.

PRESIDING MEMBER BYRON: Good afternoon and welcome to an evidentiary hearing of the Starwood-Midway Energy project. I'm Commissioner Byron, the Presiding Member on this project. And with me is Commissioner Geesman and my Advisor, Laurie ten Hope. I'll turn this over to our Hearing Officer Garret Shean.

HEARING OFFICER SHEAN: Thank you, Commissioner. This is the continued evidentiary hearing from October 30th in the Starwood-Midway Energy project AFC. According to the notice that we had put out, we will be hearing water resource items which are a contested issue between the parties.

There are a couple of preliminary and housekeeping matters, but first we'd like to get the introductions of the parties, and we'll begin that with the applicant.

MR. THOMPSON: Thank you very much. My name's Allan Thompson, counsel to Starwood in this proceeding. To my right is Mr. Richard Weiss, who is Project Director. Directly to my rear, Ron Watkins on the left, who is with CalPeak and works
with Starwood; Angela Leiba, who is with URS, and
is the environmental project lead; and J.J. Fair,
on the right-hand side, who is also with CalPeak.
And I think he's Chief Engineer for the project.

HEARING OFFICER SHEAN: All right.

Commission Staff.

MR. BABULA: I'm Jared Babula, Staff Counsel. Sitting next to me is Che McFarlin, the
Project Manager for this project.

HEARING OFFICER SHEAN: I might just
note we have a representative here from the
Commission's Public Adviser's Office, Mr. Nick
Bartsch. If there are members of the public here
who wish to participate in the hearing today,
please contact him. All I see are familiar faces,
so unless someone else comes in later Nick will
take care of that person.

Is there anybody on the phone at this
time? Let me indicate we hear no one on the
phone. But my understanding is it has been set
up. We have -- at least it appears to have been
set up.

All right. In addition to the water
resources item, it occurred to me in this interim
period that there were a couple of matters that
needed to be taken care of as a housekeeping matter.

The first had to do with the contract between the applicant and the owner of the fiveplex with regard to the relocation of tenants, since we have several conditions that are reliant upon that. And I wonder if the applicant has brought that today and can provide it.

MR. THOMPSON: We do have a copy with a cover that indicates that it's a confidential document. I think it was docketed last November 6th as a confidential document. We have a copy here today, and Mr. Weiss will swear to that if you want it as an exhibit.

HEARING OFFICER SHEAN: That is November 2006?

MR. THOMPSON: Yes.

HEARING OFFICER SHEAN: All right. Well, if it's confidential I don't think we want to put that on the public record. But if you can just summarize, perhaps, what we understand to be the relevant provisions -- or let me say, it appears, based upon the testimony that we currently have and conditions that we have, that the applicant and the owner of the building have
entered into a contract whereby the applicant will pay for the relocation of the current tenants in the building, at least for the period of construction of the facility.

So let's just start it from appear to be their grading or site mobilization until the commercial operation of the facility. And that it will be at some distance from the facility, but I guess is as nearby as is convenient or sought by the tenants?

MR. THOMPSON: Yes. I would actually like Mr. Weiss to respond to that. And I don't know if you want to put him under oath.

HEARING OFFICER SHEAN: Yes, please. Have you been previously sworn?

MR. WEISS: No, sir.

HEARING OFFICER SHEAN: Okay.

Whereupon,

RICHARD WEISS was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. THOMPSON:

Q Mr. Weiss, for the record, would you
please indicate your name and your position with
regard to the Starwood project?

A My name is Richard Weiss and I'm the
Project Manager on behalf of Starwood for the
Midway project.

With respect to your questions about the
existing lease, or actually it's an option to
lease, the fiveplex unit that's immediately
adjacent to our site, we have that option. And
when we exercise that option the owner of the
property and the owner will move the existing
tenants to existing housing elsewhere in the area.

And that's the agreement we have. And
we will pay him rent for the existing fiveplex.
And we have the right to use the fiveplex for
things other than residential purposes.

HEARING OFFICER SHEAN: Are there any
incentives granted to the tenants for being
relocated?

MR. WEISS: No. There's not an
incentive to them. They are current employees --
the owner of the property owns this fiveplex and
they are employees of his. And, you know, he
likes them nearby because it's convenient to work
on the property. And he'll relocate them to
existing housing in the area.

HEARING OFFICER SHEAN: Is there a
provision in the agreement that would allow
tenants or other occupants to return to that
building at a certain time that your lease option
would essentially expire at a certain point?

MR. WEISS: Our lease coincides with the
length to the PA. So, --

HEARING OFFICER SHEAN: All right, the
power purchase agreement with PG&E.

MR. WEISS: Power purchase agreement.
We do have the ability to get out of the lease if,
in fact, we show that -- noise is the issue. And
if, in fact, we can show that the noise is not a
problem for the fiveplex then we can, you know,
exit the lease and turn it back to the landowner.

HEARING OFFICER SHEAN: All right.

That's sufficient. Do you have any questions from
the staff? Any questions on this issue?

MR. BABULA: That's it for -- we're not
clear it's confidential. Was there a
confidentiality was issued for that or was it just
confidential because the --

MR. McFARLIN: My understanding is when
it was originally submitted it was submitted under
a confidential header. And that was my recollection.

MR. THOMPSON: That's my understanding, as well.

MR. McFARLIN: I don't believe it was granted confidentiality, however, but I could be mistaken on that.

MR. THOMPSON: I just looked at the dockets and it said a confidential filing.

MR. McFARLIN: Yeah, they're all docketed as such, but you, of course, would have received a letter back from the Commission -- you'd have received a letter back whether or not it was granted confidentiality. But, of course, that wasn't my responsibility so I can't speak directly to that. But I don't know if that's pertinent to this proceeding, either.

HEARING OFFICER SHEAN: Well, this testimony is sufficient for our purposes. So if it either has been designated confidential, we do not need that changed. Based upon the information we've had, it doesn't seem to have resulted in a loss of any confidential status. So, for our purposes, that's fine.

And I had another item, but it seems we
have several members of staff who are here that
have supplied revised conditions. So what I'd
like you to do, Mr. Thompson, is indicate the
modified condition language that you don't have
any problem with. So that is the staff, who are
present here, wish to leave, they may.

MR. BABULA: We would like to just have
them testify to get it into the record so that
it's clear what the change was. It might be
short, but I was kind of hoping that to call each
one of these sections quickly. Have staff come up
and just indicate what the change was, how it's
different. So that somebody, in the future,
looking at the record, can see what happened
between the FSA and the final document.

MR. THOMPSON: Mr. Shean, as for
applicant, we don't have any issues and no cross-
examination and no question for the noise and
vibration, air quality and waste management
conditions of certification.

HEARING OFFICER SHEAN: I'm sorry,
noise, air quality --

MR. THOMPSON: And waste management.

HEARING OFFICER SHEAN: -- waste.

MR. THOMPSON: And we'd stipulate to
their --

HEARING OFFICER SHEAN: And apparently they've just made some comments on your traffic and transportation conditions. Have you had an opportunity to look at those?

MR. McFARLIN: I've got those now. I can --

HEARING OFFICER SHEAN: All right, why don't you give them to them so they can at least look at it.

MR. McFARLIN: Okay.

HEARING OFFICER SHEAN: I just got it because I opened up the emails today.

(Pause.)

HEARING OFFICER SHEAN: All right, rather than deal with that, if you want to present them as witnesses I think what we have to do is move through what we have to do, and then either come back to that simply because we want to afford the parties an opportunity on the matters that we're scheduled here for today.

And the other option is for you to just describe for each subject what you think the changes are, because the Committee and the Commission do not regard conditions as an
evidentiary matter. It's not a matter that is
factual for the Commission. They are entirely
within the discretion of the Commission and the
Committee to formulate the Commission's
certification, so that they are not evidentiary in
nature and do not -- in that sense the witness
from the staff would not be stating a fact that is
necessary for the Commission to make a decision.

And to a large extent the reason for the
changes that you've made are evident from the face
of the changes. So, anyway, we'll hold that, and
we'll keep moving forward.

With respect to another item related to
water and water resources was the matter of the
construction water. I looked through both the FSA
and the AFC with regard to the source and amounts
of construction water to be used and could not
find that.

And I asked the parties to provide some
information on that. And do you have that?

MR. THOMPSON: We do. If I could ask
Mr. Weiss to respond to that.

DIRECT EXAMINATION - Resumed

BY MR. THOMPSON:

Q Mr. Weiss, would you answer the question
of the amount of the construction water that you
would anticipate, and where that would come from?
And also if you could address where the potable
water will come from for the construction.

A Yes. The potable water will be bottled
water delivered -- potable water will be bottled
water delivered to the site for the construction
employees.

For dust control we don't have a
specific source of that water. We could use
CalPeak's water; we could hire the local
landowner, Barry Baker, to supply water. Or the
EPC contractor may, in fact, have their own supply
of local water to keep the dust down.

There are basically two periods when we
would be spraying water to keep the dust down.
One would be during civil works, prior to
installation of foundations. That period is about
eight weeks in length. And during that period
we'd expect to use about 4000 gallons a day for a
total amount of water of about 160,000 gallons.

Also during the mechanical and
electrical and erection phase there's some soil
disturbance to put pipes in the ground, to run
wires. That's a little longer period, more like
24 weeks. But we would use less water during that period because there's less soil disturbed. And we would expect to use about 140,000 gallons of water during that period.

Total consumption for water for dust control is about 300,000 gallons during the construction period.

HEARING OFFICER SHEAN: All right. Thank you. Do you have any questions of the witness on that?

MR. BABULA: No questions.

HEARING OFFICER SHEAN: All right. Thank you very much.

All right, now we're going to move to the meat of the hearing which is the water resource section, and go first with the applicant, since it bears the burden of proof.

And I think at this point what we'd have you do is identify the documents that you wish to introduce into the record.

MR. THOMPSON: Thank you very much. Basically we have two documents. One is a document entitled, alternative water supply analysis, dated October 18, 2007. The witness for that will be Ms. Angela Leiba of URS.
I don't know if you want me to have her sworn and testify to that right now.

HEARING OFFICER SHEAN: Not yet. We're just going through an identification of documents.

MR. THOMPSON: The second document, and final document, I believe, is a letter dated November 9, 2007, that has three attachments to it.

One is a hazardous material information for the alternative water supply pipeline alignment. The second are our proposed transportation conditions of certification. And the third is a letter from Mr. Barry Baker regarding PAO investments and option agreements.

HEARING OFFICER SHEAN: All right. At this point why don't we have you bring your witness up and have her sworn in. She can indicate her authorship of one of the documents. And we'll go from there.

Whereupon,

ANGELA LEIBA

was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

THE REPORTER: Please state and spell
your full name for the record.

THE WITNESS: My name is Angela Leiba.

I'm with URS Corporation, and I am the environmental consultant hired by Starwood.

DIRECT EXAMINATION

BY MR. THOMPSON:

Q Ms. Leiba, would you please briefly, very briefly, describe the filing dated October 18th that you are sponsoring today.

A Yes. We submitted additional information that we had identified in the original AFC. We added additional information to talk about the pipeline that would be generated, the approximately two-mile pipeline, that would come from that pond to our site.

So we additionally added in cultural resource, biological information and other AFC-related-type information to that regard.

Q And is it your conclusion that there are no significant environmental impacts that would result from construction and operation of this pipeline?

A That is correct.

MR. THOMPSON: Ms. Leiba is tendered for cross-examination.
HEARING OFFICER SHEAN: Let's do one other thing here. I'm not certain, but I want to make certain so that we've tied this up, whether the last time we were together we left out the portion of your AFC that dealt with water resources. And I think that may be the case.

So, at this point let's go through and ask with respect to the AFC section on water resources and the testimony just offered now, is there objection to its admission into the record?

MR. BABULA: No objection.

HEARING OFFICER SHEAN: Let's just cover your other two items. Let me get to them. I guess since we're in a contested proceedings here it's probably just appropriate to indicate that we're going to take a little closer look at the evidentiary foundations for some of these documents.

Now, your Baker letter. Obviously Mr. Baker's not here, so the document apparently is being offered for the truth of the matters that are stated in the letter, but since there is otherwise underlying supporting testimony now in the record, it would be otherwise admissible.

So, is there objection to the admission
of the packet that includes the Baker letter and
the hazardous materials information and the
offered conditions?

MR. BABULA: There's no objection on the
Baker letter for purposes that they have an
agreement for the water.

HEARING OFFICER SHEAN: All right.
Then, they're admitted.

Do you have any questions of the witness
with respect to her testimony?

MR. BABULA: I do have two questions.

CROSS-EXAMINATION

BY MR. BABULA:

Q One being when you did the analysis of
the soils where the pipeline's going to run
through, was there analysis done, first of all?
And were there any findings of toxics, pesticides,
so forth?

A No. As we filed in our additional
information for hazardous materials, we had done
an original phase one, actually Kleinfelder had
done the original phase one, which opted out to
cover the entire cultural resource area
surrounding the site.

And we concluded that the pipeline would
also stretch through that existing agricultural-type soil information, so we included that in our submittal to show that in lieu of what had already been found in that area, that that would likely be found along the pipeline route, as well.

Q. Okay. And my other question deals with whether or not you're aware of Westlands Water District, if they're going to be supporting or opposing the sale of the water from the backwash pond to--

MR. THOMPSON: I think Mr. Weiss could address that, if that's appropriate--

MR. WEISS: -- not relevant to what we've submitted here. That's not part of this--

MR. BABULA: The letter, I mean the letter deals with selling water. And so it's--

MR. THOMPSON: Okay, I would ask that Mr. Weiss answer that.

MR. WEISS: With respect to Westlands we'd expect that--well, actually I was going to say we'd expect an agreement, but I can't say that because currently Westlands is saying they have no opinion on whether they have any right to this water.

Mr. Baker already has rights to the
water and has acquired the water. And whether Westlands has any right to it, they're uncertain. And so in my conversations with them this morning they've said they have no opinion.

So, the could have said, you know, we think it's our water and it's under our purview. Or they could have said, you know, no, we don't have any rights to this water and therefore it's totally out of our control.

They've elected to take the middle ground at this point in time and say we don't have an opinion. So, that's the status of it. I don't have an answer as to whether they actually have control or have rights or have an approval. They may have none. We don't know that.

Our opinion, and our legal counsel have told us they don't think that Westlands has any rights. But we don't have that confirmed by Westlands.

MR. BABULA: Fair enough. No further questions.

ASSOCIATE MEMBER GEESMAN: I guess I have a question on that last remark. You characterized Westlands as saying that they had no opinion at this point in time. So, does that
suggest that either they're going to look at it further and perhaps provide some more definitive comment? Or they just don't envision ever having an opinion on this subject?

MR. WEISS: Yeah, I can't answer that. I don't know whether they will ever come to an opinion or not. The comment I got was that at this time we don't have an opinion on it.

HEARING OFFICER SHEAN: I have a question with respect to the project changes that would result from the use of Baker water. I understand from your discussion here that one result of the use of the Baker water would be that instead of using a lined evaporation pond based upon the TDS levels of the water, that the project now could use an unlined evaporation pond, which would allow the water both to percolate into the ground, as well as to evaporate into the atmosphere, is that correct?

MR. WEISS: That's -- yes.

HEARING OFFICER SHEAN: Okay.

MR. WEISS: To clarify that response, I'm sorry, the local regional water board has given us that indication. But we haven't confirmed that with them.
They want us to take a sample of a very shallow aquifer, which is only a couple hundred feet down, or a hundred feet down, and determine what the water constituents are at that point.

And we expect that to be greater than the aquifer that CalPeak uses, which is like 3400 TDS. And so we expect it to be greater than that. And then they want to, the regional water board, wants to look at that to make sure that the RO discharge that we would have, which would be on the order of 1100, 1200 TDS, is less than what's in that aquifer. And under that criteria they would allow us not to put in a lined pond.

So we expect that as the answer, but we haven't gone through the steps. We're currently waiting for a driller to show up to drill the well so we can determine what the shallow aquifer TDS water constituents are.

HEARING OFFICER SHEAN: Now, if, for any reason, this Baker water either is not available to you at the beginning of the project, or sometime during the life of the project is no longer available, is there anything about the design that you currently plan that would prohibit, for example, a retrofit that would allow
the use of the CalPeak water?

MR. WEISS: No, --

HEARING OFFICER SHEAN: A retrofit of the evaporation pond.

MR. WEISS: Right. If, for some reason, the Baker water wasn't available and we needed to flip over to CalPeak, for example, if we didn't have a lined pond we'd obviously put a liner in the pond.

The pond will be there. It's just a question of whether it's going to be lined or not. And so we would, at that point, have to line the pond, and we'd have to install some monitoring wells. Those would be the steps we'd have to take.

HEARING OFFICER SHEAN: Is there a difference in the reverse osmosis and demineralizing facilities for either Baker or CalPeak water?

MR. WEISS: No, no.

HEARING OFFICER SHEAN: I have nothing further. Do you have redirect?

MR. THOMPSON: No, we don't, thank you.

HEARING OFFICER SHEAN: All right, thank you. All right, with that we'll go to the
Commission Staff.

(Pause.)

HEARING OFFICER SHEAN: All right. I'll ask you to sort of go through the same exercise of indicating what it is you want to introduce into the record here today.

MR. BABULA: Okay. First I would like to comment, address Commissioner Geesman's question about what Westlands may or may not determine what their policy is going to be.

My understanding was Westlands is actually meeting today in a meeting to -- and one of the topics of that meeting is to come up with an opinion about their view on the use of the backwash water for this power plant. So that question may be answered sooner than later.

As for the documents to admit here, I would like to have two --

HEARING OFFICER SHEAN: Before you continue on that theme, is it that they're going to meet and discuss this and inform the Commission of this? I assume, since your testimony is obviously include contact with the Westlands Water District, that you are in continuing contact with them. Do you know what they're going to do? Are
they going to provide the Committee a letter, or
the staff, or what's coming?

MR. BABULA: Well, as of now, I was
originally, as I had indicated in the email, that
we were going to have a Westlands representative
speak on the conservation program. It's very
narrow, just the conservation program that we are
promoting. But they were not able to provide
anyone for that.

As for a letter, I was indicated a
letter would be provided to the Commission once
they've gone through their process there. So I
would anticipate that a letter would be
forthcoming. And it's possible someone could call
in today. They do have the information, so I
don't have specific knowledge of whether or not
someone from Westlands will call in. And I know
they're not going to be calling in regarding
anything that I was going to have them testify
about. So that's all I know right now.

HEARING OFFICER SHEAN: Has the staff
provided Westlands any of the documentation of the
proceeding, either the APC or any of your
testimony?

MR. BABULA: They were provided with the
testimony that we're going to be -- the
supplemental testimony that was submitted
regarding the use of the backwash water. They
were given that as part of the process to testify
about the program.

I don't know if they have had a copy of
the AFC or the FSA.

HEARING OFFICER SHEAN: All right. Why
don't you go ahead then and --

MR. BABULA: Okay.

HEARING OFFICER SHEAN: -- indicate your
items.

MR. BABULA: All right. Well, before
introducing the witnesses regarding water, I just
want to give the Committee sort of a roadmap, an
overview, just to keep in mind while the staff
will be testifying on the more technical aspects.

This really has to do with what is state
water policy. Because as you'll notice in the
applicant's brief, our statements, there's a lot
of discussion about resolution 7558. And it's
important to remember that this is not a rule, a
law or a statute. It's a compass to provide
guidance for the management of the scarce water
resources in California.
And as with all policies and guidelines, 7558 is not a substitute for common sense, case-specific analysis or creative problem solving.

In this case we're going to have staff -- we'll be presenting evidence about inlet fogging, that inlet fogging is cooling under the laws of physics and under State Water Policy 7558. The water issue in this case, the backwash water, it's important to remember this is high-quality water originating from the San Joaquin Delta, which can be used for agricultural irrigation. Bear in mind that in this case there's no such thing as wastewater, only water that is wasted.

Finally, although the lower quality water is available, staff is not opposed to the use of this backwash water for the Starwood project, in conjunction with an appropriate conservation program. This will insure that high-quality water is conserved for future use, while allowing the Starwood project to use a cleaner source of water, which saves the project money.

So first I would like to introduce our power plant cooling panel, which will be made up of Steve Baker and Richard Anderson. And their testimony has been already filed, and I'd like to
enter that into the record at this time.

And we do have, as part of Mr. Baker's testimony, there's going to be a short PowerPoint presentation. And we have copies of that here. We can pass that out now, if you'd like.

HEARING OFFICER SHEAN: Yes.

MR. BABULA: Okay.

HEARING OFFICER SHEAN: All right, so this is going to be the supplemental testimony of Steve Baker and Dick Anderson, is that correct?

MR. BABULA: Correct. And we'll need to have the witnesses sworn in.

HEARING OFFICER SHEAN: All right.

Whereupon,

STEVE BAKER and RICHARD ANDERSON were called as witnesses herein, and after first having been duly sworn, were examined and testified as follows:

HEARING OFFICER SHEAN: Before you proceed, let's just make it clear what it is that testimony includes. You've indicated, actually within the testimony, itself, that exhibit A is the resolution, the State Water Board resolution 7558, correct?

MR. BABULA: Correct.
HEARING OFFICER SHEAN: All right. And you've also appended, even though you haven't identified it as an exhibit, B, a letter from Arthur Baggett dated May 23, 2002.

MR. BABULA: That's correct.

HEARING OFFICER SHEAN: All right. And is it your proposal to include -- well, first of all, we can take notice of the state policy, that's not a problem.

Is it your intention to seek to introduce this letter into evidence?

MR. BABULA: As an attachment to the testimony, yes.

HEARING OFFICER SHEAN: Okay. And what's the evidentiary purpose of the letter?

MR. BABULA: The evidentiary purpose of the letter is to just demonstrate the evolution of a policy; that a policy isn't a specific threshold limit, 2 parts per million, so forth. It's not a specific thing, it's a policy that shifts and changes along with technology, along with the current state of the facts.

So the letter, itself, isn't evidence that something is or isn't cooling water, as the technical staff will testify to. It's just a
demonstration that policy isn't locked and rigid. And that's the purpose of the letter.

HEARING OFFICER SHEAN: I'm trying to understand. Your representation of what it represents, it includes -- or I mean the purpose of this is that policy matters are not locked in, is that a fair characterization of what you just said?

MR. BABULA: Right. When I initially began this section, remember that these are guidelines, the policy's a guideline, and it's not a substitution for common sense or for specific analysis. And the letter just indicates that, really. It just shows that the original policy came out in the '70s. This letter came out in 2002. And it shows that things have changed, technology has changed. But that's really technical testimony from the staff here. And I'd like them to speak to the --

HEARING OFFICER SHEAN: Well, but before we're going to admit the letter -- first of all, clearly it's hearsay, all right?

MR. BABULA: Right.

HEARING OFFICER SHEAN: Secondly, the question is are you attempting to have it admitted
to state the truth of some matter within the letter?

And you've indicated in your opening here that you are not using this letter for the purpose of indicating what is or isn't cooling water as your witnesses will testify to.

MR. BABULA: That's correct, --

HEARING OFFICER SHEAN: Right?

MR. BABULA: -- the letter is hearsay for the specific text of it regarding cooling water and not cooling water. But just to show the policy fluctuates and tries to parallel technology.

HEARING OFFICER SHEAN: Well, let's go back to your witnesses' offered testimony here in writing. Because it indicates that this letter made a clarification to state policy. Is that still going to be the testimony of your witnesses?

MR. BABULA: Their testimony here -- the letter isn't the main focus of their testimony.

HEARING OFFICER SHEAN: Well, the letter is quoted extensively on the first page, and then referred to again on the second page. And specifically it says: This policy guidance" and now that's referring to the IEPR "follows the
State Water Resources Control Board's
clarification letter regarding resolution 7558."
And uses the words cooling purposes by power
plants which does not differentiate between
cooling processes."

Now, I'm just trying to find out whether
or not you are intended to have this letter
introduced for the purpose of indicating that, as
a matter of fact, there is a clarification of
state water policy which would not differentiate
between cooling processes.

MR. BABULA: Well, the quote you read
was the IEPR's quoting the letter -- I'm not clear
what part you read.

HEARING OFFICER SHEAN: Well, let me --
MR. BABULA: But, regardless --
HEARING OFFICER SHEAN: -- just repeat
it then. If you're not clear, because I want you
to be clear on this. It says: This policy
guidance follows the Board's clarification
letter." So you've characterized this May letter
as a clarification letter.

And so the real question is, what is the
evidentiary fact that has been clarified by virtue
of the letter?
MR. BABULA: Well, the evidentiary fact then would be that the water policy, you can't apply the water policy in a rigid guideline as it was set out in the '70s where it listed, I think there's five levels of preferred water uses.

And the letter then just goes forth and says, for example, I believe the letter indicates ocean water, which is number two on the original 1970s water policy.

It's not -- I mean right now you wouldn't consider an ocean as a second-best water source to use. So it just goes on to an evolution.

But I don't want to get hung up on this letter and clutter the record or the Committee --

HEARING OFFICER SHEAN: Well, and neither do we. Nor do we want --

MR. BABULA: Right.

HEARING OFFICER SHEAN: -- since the applicant has already indicated in its responding documents that they do not agree with your interpretation of the letter, all right.

So, you have one interpretation of what the letter means. They have a different. We might have a third. And the real issue here is
this letter, if it's to be used to support a fact
on which the Commission can rely for the purpose
of making a finding, we have to know whether or
not this particular document can be admitted to
the record for that purpose.

That's why I asked you the purpose for
which you were seeking to admit it, which, as you
explained, was somewhat different from what the
testimony of your witnesses says is the function
of this letter.

And we have the fact that we know
there's a disagreement about how this letter
should be interpreted, which is fundamentally what
the issue is with respect to hearsay. And the
reason that hearsay is generally not admissible.

So, before the Commission and the
Committee are going to allow the establishment of
a record that will serve as the basis for
findings, we have to determine whether or not it
would be appropriate to admit this particular
letter for either the purpose that you stated
orally, or for the purposes reflected in the
statement of your witnesses.

Now, if Mr. Baggett is -- first of all,
he's not unavailable as a witness. He is a local
state employee and he could have been called to
support your interpretation of the meaning of the
letter.

But he's not here and he's not subject
to the cross-examination of the applicant, which
would allow, at least a fair exchange as to what
Mr. Baggett either meant by the letter. Or
whether or not he has an opinion of whether now
the State Water Board policy could include or does
include any cooling purpose. Or would include the
cooling purpose that the staff has identified in
its testimony.

So, I think since the letter, number
one, does not appear, based upon this decision, to
be serving, in your mind, a single purpose, but
multiple purposes, and the hearsay rule, as it
addresses that, would not allow its admission,
that with respect to your offer that it be
admitted into the record, it may not be
appropriate.

Do you want to chime in on this, Mr.
Thompson?

MR. THOMPSON: Yeah, we would. When I
filed a rebuttal, as you'll note in my rebuttal
brief, we looked at every case that has been
decided since the date of the letter.

I could find no reference to the letter or the specific language that staff relies on contained in that letter in any of the following -- any discussion of any following case.

The letter, itself, the May 22nd letter, whatever, is not mentioned in any of the LORS tables in any of the cases that have been decided since. And, indeed, was not included in the staff's PSA.

ASSOCIATE MEMBER GEESMAN: When you say cases, what are you referring to?

MR. THOMPSON: Final decisions of this Commission from --

ASSOCIATE MEMBER GEESMAN: This Commission.

MR. THOMPSON: -- May 22nd on. We don't know if this letter was the result of an inquiry in the 2003 IEPR; whether it was a specific siting case. I don't know who was on the Siting Committee at the time. We don't know any of the relevant facts surrounding it, what the inquiry was that prompted the letter.

I guess I think it's significant that it's never appeared in print before in any of the
Commission documents.

I don't think it addresses technology. I don't think it addresses any change in policy. Indeed, the letter says, to my reading, that they're happy with the state policy as it's being administered by the Energy Commission.

So I would object to its admission and I would object to testimony being based upon the admission of that document.

HEARING OFFICER SHEAN: Do you want to reply?

MR. BABULA: Yeah. I did see his list of power plant cases that was cited and there's no information or testimony regarding the facts of any of those cases, and whether water was an issue, and whether the letter would even have been appropriate to be brought up in any of those cases. I don't think that's that relevant.

But I don't want this to drag on about this letter. And so if the Committee feels it's inadmissible, then staff will be okay with that decision.

ASSOCIATE MEMBER GEESMAN: You know, --

HEARING OFFICER SHEAN: You know, you're still going to be able to make your pitch, which
is that the cooling purpose that you seek --

MR. BABULA: Right, that's just fine, which is why I'd like to --

HEARING OFFICER SHEAN: -- is one that should be offset by the, you know, use of the Westlands Water District offset program. And so while it doesn't prevent you from doing that, I think what it appears to do, to the Committee, is keep the record uncluttered, since there's no basis, either arising from the language of the letter, to get to the point where the nonhearsay value of this letter exceeds the complications to the record, since it does not appear that there was a prior clarification or clarification resulting from this letter that we can historically, as we sit here today, turn around and look and say that that occurred.

So, we will not admit the letter, although it is in the administrative record of the proceeding. And I think it's also appropriate that any use of the letter, to the extent that it states that the testimony of your witnesses is based upon a clarification that is indicated in the letter, be stricken. But you have lots of additional testimony to that. So that would be
the ruling of the Committee. And we'll allow you
now to have direct testimony from your witnesses.

MR. BABULA: Okay, -- proceed now, thank
you. All right, let's start with Mr. Baker here
on power plant cooling then.

DIRECT EXAMINATION

BY MR. BABULA:

Q   Can you please state your name.

A    Steve Baker.

Q   And who are you employed by?

A    I'm a Senior Mechanical Engineer on the
Energy Commission Staff.

Q   Okay. Can you please summarize your
background as it pertains to energy production,
power plants and power generating equipment.

HEARING OFFICER SHEAN: Just for the
sake of expedition, do you have any problem with
him testifying as an expert?

MR. THOMPSON: I think I've known him
for 30 years. I have no problem.

HEARING OFFICER SHEAN: Right, yeah.

MR. BAKER: Closer to 25, I think, yes.

MR. THOMPSON: Twenty-five.

HEARING OFFICER SHEAN: Okay, you're
qualified. And Mr. Anderson, any problem?
MR. THOMPSON: Same.

HEARING OFFICER SHEAN: All right.

MR. BABULA: Okay.

HEARING OFFICER SHEAN: Let's get to the substance of testimony.

MR. BABULA: Okay.

BY MR. BABULA:

Q Did you prepare the power plant cooling portion of the supplemental soil and water testimony filed on November 9?

MR. BAKER: We did.

MR. BABULA: And is this testimony true and correct to the best of your knowledge?

MR. BAKER: Yes.

MR. ANDERSON: Yes.

MR. BABULA: Okay. Do either of you have any changes to make?

MR. ANDERSON: No.

MR. BAKER: No.

MR. BABULA: Okay. Mr. Baker, is inlet fogging a form of cooling?

MR. BAKER: In my opinion, yes, clearly.

MR. BABULA: Okay. Can you please summarize the power plant cooling, where inlet fogging fits in in the process. I believe you
have a PowerPoint presentation?

MR. BAKER: Yes. Let me precede this by saying that I began my career in power plant engineering in June of 1974, a year before this policy was promulgated. Back when the policy was created in 1975 few, if any, power plants were being built using gas turbines. Back then, everything being built was a steam plant.

The steam turbine was powered either by a boiler burning fossil fuel or by a nuclear reactor. But when someone said power plant in 1975 they meant a steam power plant.

The gas turbine generator didn't become popular until later. They weren't commonly available in 1975. For instance, the General Electric Frame 7E, which was the first wildly popular gas turbine, of which there are many in California today, was first offered for sale in 1976.

The predecessor to the project proposed for this project, the Starwood project, the turbopower FT8 twin wasn't offered until 1990. So, gas turbines are newer and more modern than the policy we're talking about.

Let me show you a slide. This is a
Rankine cycle or steam cycle power plant. This boiler, the box on the left, boiler can be fired with fossil fuels such as coal, natural gas, oil, biowaste, wood. It can also be replaced by a nuclear reactor.

Air and water are introduced and a fuel. The heat creates steam, which turns the steam turbine generator, which turns, in turn, an electric generator and creates electricity.

The steam, the spent steam that comes out of that turbine must be cooled in order to allow the water, the steam and water, to be recycled and reused, and also to improve the efficiency and the power output of the power plants.

The more effectively this condenser is cooled, whether by evaporative cooling, air cooling, once-through ocean water cooling, the more effectively the condenser is cooled, the more power the plant makes, and the more efficiently it uses its fuel.

Next slide, please. Today, many of the power plants built in California are combined cycle plants, where we’ve combined a gas turbine with a steam turbine. And in these plants the
steam turbine cycle is practically identical to the Rangine cycle that we just looked at. There's a condenser which must be cooled in order for the steam turbine to perform optimally.

Many of today's power plants are similar to Starwood, just simple cycle plants where we have just a gas turbine providing the power. In one of these plants the air is taken into a compressor and compressed. Then the compressed air has fuel added to it and it burns. It is now a hot mixture, passes through the turbine section.

The turbine does two things. First, it drives the compressor, and then it turns the electric generator.

The power put out by the turbine is a factor of the mass flow of air through the machine. So, in warm climates such as California, you can increase the mass flow through the machine allowing it to produce more power by cooling the air as it enters the machine.

In fact, not only does this allow a greater power output, but increases the fuel efficiency of the machine, because the cooler the air is going through the compressor the less power it takes to compress it. That leaves more power
left over to turn the generator.

    Actually three commonly used modes of
cooling inlet air to a gas turbine. Two of the
four are mechanical chillers and adsorption
chillers. We see mechanical chillers being
installed in California power plants that cools
the air before it goes in something similar to a
refrigerator.

    Then there's another popular method
called evaporative cooling. This is inlet air
cooling. And it amounts to evaporating water into
the air before it reaches the compressor of the
gas turbine. A very popular technology. One of
the drawbacks is that you have blowdown water that
has to be disposed of as wastewater.

    Then recently gas turbines manufacturers
have gained enough confidence in their machines
that they've allowed what we now call fogging.
This is, again, inlet air cooling. But instead of
requiring that the air be fully -- the water be
fully evaporated into the air before it reaches
the compressor in the gas turbine, in fact the
device is designed such that a fog or mist of
water is sprayed right into the inlet of the
compressor.
And these tiny water droplets, it's been found, you know, don't damage the compressor, the first blades of the compressor, the first stage blades. And so the manufacturer of the turbine will allow this without it impacting the warranty. Fogging is effective as evaporative air cooling, inlet air cooling, because, again, you're cooling the air as it enters the turbine; you're increasing the mass flow rate.

And the advantage is that you don't have the blowdown wastewater to deal with that you do with the evaporative inlet air cooling process. So fogging is popular because it gives all the benefit of evaporative inlet air cooling with less of the cost, less of the hassle of maintaining a process.

Now, cooling, in both the steam plant and the gas turbine plant, again accomplishes the same two purposes. It increases the power output of the power plant, and it increases the fuel efficiency of the power plant.

And in both cases the cooling is used to cool what we call the working fluid. These are thermodynamic machines. They make power by moving heat through the machine. Thermodynamic means
heat movement.

And that heat is carried through the machine with a working fluid. In the case of a steam plant, the working fluid is water or steam. In the case of the gas turbine that working fluid is air. In both cases, when you cool the working fluid you improve both the power output and efficiency of the machine.

Inlet air cooling, whether evaporative or fogging, does the same thing as condenser cooling in a steam plant. It cools the working fluid improving the power output and efficiency of the power plant.

MR. BABULA: Okay. Through your personal contacts, conferences, seminars, do you regularly interact with engineers involved in power generation outside of this Commission?

MR. BAKER: Yes, I do.

MR. BABULA: On the topic of inlet fogging, are you aware of any consensus by power generation engineers as to whether inlet fogging is a form of cooling?

MR. BAKER: Until a few weeks ago on this Starwood case I had never heard anyone mention the possibility of inlet air cooling, in
whatever form, fogging or otherwise, would be anything but power plant cooling.

MR. BABULA: Does the definition of steam electric power generating facilities, as found in 7558, and excerpted in the applicant's reply brief, have any bearing as to whether inlet fogging is considered cooling?

MR. BAKER: It doesn't address it at all. The policy addresses only the steam plants that were popular back when the policy was formed. It doesn't address the gas turbine plants that are popular today.

MR. BABULA: Okay. Is inlet fogging cooling under state law water policy 7558?

MR. BAKER: In my opinion it is; and I think the applicant's opinion it is, too. If you look at the application for certification, page 3-4, the section called facility description, and the last line, I'll quote: Inlet fogging will be utilized to provide cooling of inlet air." It's clear, fogging is inlet air cooling. It's cooling the power plant.

MR. BABULA: I have no further questions. Cross?

MR. THOMPSON: No questions. We do have
a couple issues on rebuttal.

HEARING OFFICER SHEAN: I have a couple questions. Your testimony lists, under modern power plant cooling takes more forms, steam condenser cooling, which is the steam cycle cooling that is the traditional cooling that was addressed initially in resolution 7558, is that correct?

MR. BAKER: I believe I mentioned three popular means of cooling the condenser there. Once-through ocean water cooling; their evaporative cooling; and air cooling.

HEARING OFFICER SHEAN: All right. And then you indicate gas turbine inlet air cooling, which is what we're discussing here today. Gas turbine compressor intercooling, which would be the technology found on the GE LMS100, is that what you're referring to there?

MR. BAKER: I've not referred to intercooling at all today. I don't -- as I understand it, the machines, Starwood machines, are not intercooled and I have not --

HEARING OFFICER SHEAN: I'm just trying to --

MR. BAKER: -- addressed intercooling.
HEARING OFFICER SHEAN: Your attorney has asked that we admit into evidence your written testimony. And your written testimony has a list of four items that are modern power plant cooling typically take four forms.

MR. BAKER: You're talking about item number 3 on the second page?

HEARING OFFICER SHEAN: Correct.

MR. BAKER: I apologize. I have not orally addressed that today. You're right, it was addressed in our written testimony. I have not addressed it today because, as it says here in the written testimony, this does not apply to the Starwood project.

Now, I could --

HEARING OFFICER SHEAN: No, I'm not asking you to do it. I'm taking your testimony, I'm trying to understand. You've described four types of modern power plant cooling, right? And this list is one through four.

MR. BAKER: No, I think I've confused you, sir, I apologize for that. I've talked about inlet air cooling, gas turbine inlet air cooling. I've talked about steam condenser cooling. I've not talked about the four items that are on page 2
of the written testimony.

If you'd --

HEARING OFFICER SHEAN: Well, I guess I should indicate, or maybe your counsel can tell you, that if you introduce this into evidence it's as if you spoke it here today. Okay?

So, when I say your testimony speaks of these four, it's because we're allowing this document in, all right.

Now, let me just ask you, of the two principal water uses of this facility, one of them is for fogging and the other is for what?

MR. BAKER: It's for NOx control. Water is injected directly into the combustion chamber.

HEARING OFFICER SHEAN: And what is the effect on the working fluid of that water injection?

MR. BAKER: In actuality the water injected into the combustion chamber accomplishes the same ends as cooling the air going into the inlet of the turbine. It cools the mass flow through the combustor. It also adds mass flow through the turbine, which increases the power output. And since the power to inject that water is very much less than would have been the power
to compress it, if it were inlet air, it increases the fuel efficiency of the machine.

However, we do not and have not maintained that combustor water injection is for the purpose of cooling the power plant because its principal purpose is for NOx control.

Let me summarize. Yes, it does cool the power plant. It provides the same benefits of more power, more efficiency. But, we don't call that combustor water injection power plant cooling because that's not its primary purpose. The primary purpose is just for NOx control.

HEARING OFFICER SHEAN: And how is the NOx controlled?

MR. BAKER: Nox is created when the flame temperature reaches -- goes too high. Nitrogen makes up nearly 80 percent of air. And it's, under normal conditions, rather inert. But if you have a high enough flame temperature that some of the NOx is actually burned or combined with oxygen, this produces various different oxides of nitrogen, which are regarded as precursors to smog.

If you cool the flame temperature, if you cause the fuel to burn at a lower temperature,
less NOx is combined with oxygen. And so the
oxides of nitrogen production is much lower.

The water injected into the combustor,
itself, cools the flame temperature. Natural gas
will burn in air at over 3000 degrees Fahrenheit.
But, in fact, with cooling and air dilution and
such, the flame temperatures are kept down not
much above 2000 degrees, 2300 degrees or so. This
reduces NOx production.

HEARING OFFICER SHEAN: Are there
alternatives to water injection for NOx control in
standard combustion turbines that are available
for the power market?

MR. BAKER: Many of them allow steam
injection into the combustor. In this case, you
know, you need a source of steam which is not
common in a simple cycle power plant like
Starwood.

HEARING OFFICER SHEAN: Are there dry
low NOx combustor cans?

MR. BAKER: Yes. Those are popular on
the larger frame machines, industrial gas
turbines, that have separate cylindrical
combustors arrayed around the machine. The
aeroderivative machines, the ones that are derived
from aircraft jet engines similar to the Starwood engines, typically do not offer dry low NOx combustors because the combustors in these machines are an annular or donut shape. And they don't usually lend themselves to a dry low NOx technology.

HEARING OFFICER SHEAN: What's the proportion of water for this project between NOx control -- water injection for NOx control versus water fogging of inlet air?

MR. BAKER: I'm sorry, I don't know that.

HEARING OFFICER SHEAN: All right. We'll go to Mr. Anderson. Do you know that?

MR. ANDERSON: Yeah, it's about a third, two-thirds for NOx and one-third for inlet fogging.

HEARING OFFICER SHEAN: So the greater use is for NOx control?

MR. ANDERSON: Yes.

HEARING OFFICER SHEAN: From a water resources perspective, if the greater fraction of water is used for NOx control, why then would the staff not take the position, since that water is used to cool the flame of the combustor cans, that
water used for NOx injection is subject to the same policy that would apply to inlet air cooling?

MR. ANDERSON: Well, we consider this two ways. One is we believe that inlet fogging is evaporative cooling. And although NOx, in a sense, is evaporative cooling, it has to be done.

So when we looked at the use of one type of water for this, the backwash water, it's very high quality, we're looking at, one, an option for cooling water, as under state policy 7558 and IEPR 2003, for example.

But at the same token, we're looking for conservation of water and using the lowest quality water that's available. There is other water available that can take care of both those needs, NOx and inlet fogging. And that's the upper aquifer, the semi-confined aquifer, which is considered brackish water. Which was the first water source proposed by the applicant, their preferred source.

They came back with one of their alternatives on October 19th, which was the backwash water.

And so from a conservation standpoint we think all of the water is important, and other
source lower quality water, or compensation or
offsetting the use of the backwash water is
important, not just for inlet fogging water, but
for the NOx water, also.

HEARING OFFICER SHEAN: Okay. I'm again
trying to understand why the staff believes that
whatever policy applies to inlet cooling water
does not apply to the water injection for NOx
control.

MR. BAKER: Mr. Anderson is speaking to
water availability and conservation. I'm speaking
strictly technically to gas turbines.

And, you know, as I explained, one could
make an argument that NOx control water is, in
fact, power plant cooling water. But I don't
choose to make that argument. I don't really like
that argument. And I would not claim that NOx
control water is power plant cooling water.

HEARING OFFICER SHEAN: Okay. If we
were to consider the working fluid, then, you have
the inlet air arriving at some temperature before
it gets into the inlet structure. It is then
cooled by virtue of the fogging; enters the low-
pressure compressor, the high-pressure compressor,
the combustion cans at which point, as the flame
is being put to it, this working fluid is further cooled as it's combusted.

It then goes through the high-pressure and then the low-pressure turbines as it exits the machines. And now, am I correct that the exhaust coming from the turbine will contain, as water vapor, whatever was the injected water?

MR. BAKER: That's correct.

HEARING OFFICER SHEAN: Okay. And, in fact, as far as the atmosphere is concerned, the water that will exit the stack of the combustion turbine, assuming it's been fogged and used water for NOx control, the atmosphere cannot tell the difference between the water vapor that's exiting that stack and the water vapor that would be produced by the evaporation of that water had it been left in the Baker pond?

MR. BAKER: That's correct.

HEARING OFFICER SHEAN: Okay. Is the project waste heat cooled in any way?

MR. BAKER: Not that I'm aware of. It passes through a selective catalytic reduction unit and, I believe, a carbon monoxide catalyst. And it will be somewhat cooled in that process. But it's not for the purpose of cooling it.
HEARING OFFICER SHEAN: All right. Just two more questions here then. Mr. Anderson, based upon what you understand to be the average capacity factor for this project, which I think has been stated in the FSA as 400 hours, do you have an estimate of the average number of acrefeet that would be used for this inlet fogging?

MR. ANDERSON: I think what the applicant has in their AFC is that approximately at 400 hours of operation they would use 14 acrefeet approximately of water for all purposes. Which a third of that would be inlet fogging.

So, we're talking four or five acrefeet of water for inlet fogging at 400 hours of operation.

HEARING OFFICER SHEAN: Okay. And, Mr. Baker, you gave a good rendition of the history of some of the -- did you want to make a comment?

MR. BAKER: No, sir.

HEARING OFFICER SHEAN: Okay. -- of some of the history of power plants around the time that the Water Board's policy was adopted. As a general rule for those nuclear and other fossil-fuel-fired facilities, what was their annual water use in terms of acrefeet?
MR. BAKER: Oh, up in the thousands.

HEARING OFFICER SHEAN: Would it have
been tens of thousands?

MR. BAKER: Oh, no, you'd -- actually I
think that might be possible. I'm not familiar
with the numbers, but, yes, you could probably get
up in that area.

MR. ANDERSON: It would have to be a
very large power plant, on the order of one to
several thousand, such as a nuclear plant, for
that. Unless they're using once-through cooling,
then it would be hundreds of thousands.

HEARING OFFICER SHEAN: So at the time
of the origin of the policy, I guess I want to
understand, if that was adopted in 1975, the
Commission had, within the remainder of the '70s,
the Sun Desert project in 1976, which was an SDG&E
nuclear project, the PG&E Stanislaus project, PG&E
fossil 1 and 2 project, and the SCE CalCoal
project. Do you have in mind any of the proposed
water uses for those facilities?

MR. ANDERSON: I remember them. I'd
just gotten here. But, I don't remember. I'd say
if you have a 500 megawatt power plant you're
looking at somewhere between 4000 and 6000 or 7000
acreefeet of water a year.

HEARING OFFICER SHEAN: Okay.

MR. ANDERSON: -- combined cycle but

there's steam is --

MR. BAKER: Well, but only a third of

the power comes from the steam cycle.

MR. ANDERSON: Yeah.

HEARING OFFICER SHEAN: All right, I

have no further questions. Do you have any

redirect?

MR. BABULA: Yes. Let me finish on --

okay. Got interrupted there.

REDIRECT EXAMINATION

BY MR. BABULA:

Q Mr. Anderson, a couple questions for you
to kind of tighten up the testimony a little bit.
Looks like you've talked about some of the things
already.

Let's see. Can the upper aquifer, the
source the applicant originally proposed to use,
be used for irrigation?

MR. ANDERSON: No.

MR. BABULA: Okay. How about the
backwash water that they now propose to use, does
that have any irrigation use for agriculture?
MR. ANDERSON: That has use for everything.

MR. BABULA: Okay. Can you explain regarding state water policy 7558 where backwash water would fall in the list of preferred water sources?

MR. ANDERSON: Yes. You're probably aware of these categories, but the State Water Resources Control Board policy 7558 sets forth a priority. And there are five priorities listed. The first is the most desirable water to use because it's wastewater being discharged to the ocean. Ocean water, brackish water from natural sources or irrigation return flow, inland wastewaters of low TDS and other inland waters.

So, in this case, priority one, wastewater being discharged to the ocean does not apply. Priority two, ocean water, does not apply. Priority three, brackish water from natural sources is the upper aquifer, which was the first source of water that the staff has recommended. And that category three, brackish water from natural sources, or irrigation return flow.

We don't consider this irrigation return flow. The irrigation return flow is water that
has been used for irrigation and comes off a field
laden with minerals and salts. And then is
returned. And sometimes it can be reused, often
it can't.

The fourth category, inland wastewaters
of low TDS, sounds good if we continue to call
backwash water wastewater. Backwash water is 20
times cleaner than the upper aquifer water, for
example. It's 170, a TDS of 170, which is cleaner
than most of the drinking water in Sacramento.

It can be called wastewater, but I think
that next year it might be called irrigation water
again, or some other water that has great
potential to be used for a variety of sources.
And the fact that 160 acrefeet of it would be
wasted seems to be very wasteful.

Number five, other inland waters. It
fits into that easily because of the quality of
the water.

MR. BABULA: Okay. During your research
and working with this project, did you have an
opportunity to look into the Westland Conservation
Program?

MR. ANDERSON: Yes, I have.

MR. BABULA: Can you explain what the
program's about and how it works?

MR. ANDERSON: Well, their program is
called the expanded irrigation system improvement
program. And it's a program to help farmers
upgrade and modernize their irrigation equipment
so that they are more efficient and use less
water, conserve water.

Westlands Water District has a large
amount of money in a pot, about $10 million. And
it's cycled through in four years. So each year
there's $2,500,000 available.

The majority, about 90 percent, of the
improvements that are made are movements towards
what's called micro-drip irrigation. And micro-
drip irrigation, the water needs to be fairly
clean in terms of suspended solids, so that the
water can go through a small hole. Kind of like a
soaker.

Anyhow, Westlands provides loans to the
farming community. They buy and upgrade their
equipment, thereby conserving Central Valley
Project water, which is delta water.

And we assume about an eight-year life
of these upgrades before they have to be re-
upgraded. The money that is provided works over
and over, so that $2.5 million on a four-year --
every four years, that $10 million is available
again.

So, if you conserve 5000 acrefeet of
water with that $10 million, that's for the first
four years. The second four years, the first four
year of equipment is still operational, and so
then it doubles. In this case it would double,
say, to 10 acrefeet. And then it would continue
at that level each year until the program stopped,
if ever.

Looking at that we've used an estimate
of approximately a third of an acre of water can
be conserved per acre per year. And in order to
create an average of 136 acrefeet, which is the
amount of water that the applicant would use if it
operated full time, 4000 hours a year, would end
up requiring about $175,000. That's a one-time
payment, and then it just keeps working.

So it seems like a very good program.
And we've been involved with it and recommended it
also for the Panoche project.

MR. BABULA: Can you elaborate on the
basis for establishing a conservation program that
saves an amount of water equivalent to the maximum
amount used by the project rather than the
expected use?

MR. ANDERSON: Well, I think that it's
been, you know, staff normally recommends the
amount of water that's needed at the maximum. The
maximum use of this project would be 136 acrefeet.
Even though the applicant claims they would only
use -- they'd only operate 400 hours a week, staff
would be willing to create a condition of
certification that allowed them only 14 acrefeet a
year.

But it seems to me that they would like
to be licensed for the maximum amount, which is
136 acrefeet of water, in case something happens
and you're fortunate enough to operate 4000 hours.

HEARING OFFICER SHEAN: No further
questions. Cross?

HEARING OFFICER SHEAN: Any recross?

MR. THOMPSON: Just a couple, Mr.
Anderson.

RECROSS-EXAMINATION

BY MR. THOMPSON:

Q Am I correct that you're saying because
at some point in the future the project could
operate 4000 hours a year you're assuming that the
project would operate 4000 hours per year for
every year in your calculation?

MR. ANDERSON: I used the calculations
that would allow for what you're being licensed
for, or what I'm assuming you'll be licensed for,
136 acrefeet a year.

MR. THOMPSON: And you recognize that
staff also in the FSA stated that the average
would be 14 acrefeet a year?

MR. ANDERSON: I recognize that we used
that figure that you provided us. If you --

MR. THOMPSON: Do yo have any --

MR. ANDERSON: -- if you operated at 400
hours.

MR. THOMPSON: Do you have any reason to
think that the 14 acrefeet a year is unreasonable
as an average?

MR. ANDERSON: Well, only that you're
being licensed for 4000 hours of operation. At
least that's, according to air quality that's the
amount.

MR. THOMPSON: One more brief item. You
went to principle number one of policy 7558 and
went down the latter of needs -- of water sources?
Do you have that?
MR. ANDERSON: I will in a second. Yes.

MR. THOMPSON: Is there a definition for irrigation return flow in 7558?

MR. ANDERSON: No.

MR. THOMPSON: Is there a definition of power plant?

MR. ANDERSON: I think there's one that same steam electric power generating facilities, is that the one you mean?

MR. THOMPSON: Yeah. And -- well, I think that's it.

No further questions of Mr. Anderson on this document. As I said, we have a couple questions on rebuttal when the time is appropriate.

HEARING OFFICER SHEAN: Since Mr. Anderson's testimony here got into the other indicated supplemental testimony of Mr. Anderson and Somer Goulet, right?

MR. BABULA: Right.

HEARING OFFICER SHEAN: Do you have objection to the admission of that testimony?

MR. THOMPSON: I do not have an objection to the description of the Westlands program. I do object to the discussion of the
Baggett letter.

HEARING OFFICER SHEAN: All right. With that stricken, it's admitted. Since that's similar to what we did in your prior testimony. All right. Does that conclude the staff's witnesses?

MR. BABULA: It does.

HEARING OFFICER SHEAN: All right, thank you. And do you have some rebuttal?

MR. THOMPSON: Yes.

DIRECT EXAMINATION

BY MR. THOMPSON:

Q First, Mr. Weiss, would you confirm -- I think staff used a figure of approximately 70 percent of 14 acrefeet average annual use would be used for emission control -- could you confirm or give a more precise number if you have one?

MR. WEISS: Yes. The amount of water use for emission control is 70 percent of the volume; and 30 percent is used for inlet fogging. The exact data is in the AFC.

MR. THOMPSON: I would like to have Mr. Ron Watkins sworn.

/ /
Whereupon,

RON WATKINS

was called as a witness herein, and after first
having been duly sworn, was examined and testified
as follows:

DIRECT EXAMINATION

BY MR. THOMPSON:

Q Mr. Watkins, what are your duties and
responsibilities with regard to the Starwood
project?

MR. WATKINS: I'm an Advisor on the
project.

MR. THOMPSON: Mr. Baker just testified
that as far back as 1975 he did not believe that
simple cycle plants were being constructed, so I
guess the implication being that the 7558 would
not have considered simple cycle plants.

Do you have any of your experience that
contradicts this?

MR. WATKINS: Yes. I'm a little older
than Mr. Baker, I think. And my experience in
California actually goes back to 1964 in power
plant work.

And to clarify a little bit the history
of the simple cycle, actually within a matter of
weeks after the New York blackout in 1965 simple
cycle gas turbines became rather popular, and
there were numerous orders for simple cycle gas
turbines. And the reason was they found that all
the large steam plants, when the whole system went
black, they did not have black-start capability,
many of them.

And so there was a rush to install a
number of simple cycle gas turbines, and a number
in California in the late '60s, a predecessor to
the Frame 7, the Frame 5 and some Pratt and
Whitney aeroderivative gas turbines were installed
in those days.

So there definitely were a number of gas
turbines in operation by 1975. Now, none of those
gas turbines used any -- those simple cycle units
in those days -- used any water. Because it was
not economical to install evaporative cooling, and
fogging wasn't yet really developed for simple
cycle gas turbines. And water injection for NOx
control was not yet applicable on gas turbines.
And that didn't evolve until a number of years
later.

But certainly there were a number of gas
turbines in operation in 1975. I was very active
in, in fact, this Commission and a number of energy policy issues that were developed in this state in 1975, including 7558. 7558 was developed really when a number of steam plants, including the Sun Desert Nuclear Plant, which some of you are familiar with, was proposed by San Diego Gas and Electric in the area of Blythe, California, and used agricultural wastewater for that plant, was the proposed use. So that it would not be dumped back into the Colorado River in the Blythe area.

And much of 7558 was really developed in response to those steam plants. And was specifically aimed at the steam plants because of the large volume of water that was being used.

There was another nuclear plant called the San Joaquin Plant that was proposed at about the same time that I think was going to use Kern River water. So it was certainly discouraging the steam plants from using fresh water.

And that's why the definition in 7558 was specifically constructed to only include steam plants.

MR. THOMPSON: That concludes our rebuttal.
HEARING OFFICER SHEAN: Before your witness leaves, is the type of combustion, simple cycle combustion turbine that you're talking about, similar to the one that has been at Edison's Huntington Beach facility? Is that --

MR. WATKINS: Yeah, there were a number of steam plants that had peaking plants attached to them. As I said, primarily because of black-start capability. And to provide that for the steam plants.

HEARING OFFICER SHEAN: Thank you. Do you have any questions of the witness?

MR. BABULA: I have a question for you.

CROSS-EXAMINATION

BY MR. BABULA:

Q So your testimony is that there were these simple cycle plants prior to '75, but they weren't using water for NOx control or fogging?

MR. WATKINS: That's correct.

MR. BABULA: Okay. No further questions.

HEARING OFFICER SHEAN: All right. Anything further?

MR. THOMPSON: I have a question on the testimony of Mr. Anderson and Ms. Goulet's. Is
now the --

MR. BABULA: You want to ask Mr. --

MR. THOMPSON: I only have one question.

MR. BABULA: Go ahead.

FURTHER RE CROSS-EXAMINATION

BY MR. THOMPSON:

Q Mr. Anderson, you talked about the potential of using the water in Mr. Baker's pond. What happens to that water right now, to the best of your knowledge?

MR. ANDERSON: According to you folks, it is being evaporated and percolated right now through a number of small, and one large pond. Those ponds are now being connected by pipes. For what reason would that be, I wonder?

MR. THOMPSON: To supply water to this plant?

MR. ANDERSON: Is that why? But, you said that -- when we asked that question you said that no, this was happening anyhow. The only thing related to this plant would be the pipeline from the large pond to the power plant.

MR. THOMPSON: Let me ask my witness when the time comes so the record is straight on this.
If you pull water out of the aquifer, is it there for future use?

MR. ANDERSON: Does it have a future use?

MR. THOMPSON: When you pull water out of the aquifer, does it remain in the aquifer so it could be used later?

MR. ANDERSON: Well, it's very complicated. One molecule of water doesn't -- isn't purchased by Westland and goes directly to Westland. Water can be moved all around in the aquifer.

But normally once the water leaves the aquifer, it goes -- in this case it goes to Westlands Water District. Westlands has a right to a certain amount of water, and they have people, groups such as Baker Farms, that buys that water from them. And so there are a number of contracts involved.

Currently Westlands Water District has a moratorium on using that water for industrial purposes. It only can be used for agriculture right now. That probably is why the Westlands Water District Board meeting is trying to make a determination as to whether they are going to
allow the sale of this water.

MR. THOMPSON: I must not have been clear. Let me try again. If you have one system that pulls water from a pond that would ordinarily evaporate or percolate compared to another system that pulls water out of the aquifer, thus depriving the aquifer of that water year in and year out, I guess I'm having trouble with your recommendation that we use the aquifer water that is pulled out and not replaced versus the water that would evaporate and percolate. Can you enlighten me?

MR. ANDERSON: Well, the water that's evaporating and percolating is very high quality. It's percolating into a very low quality aquifer and therefore becomes degraded.

Now you're proposing to use that water. There's no reason that Baker Farm couldn't use that water, re-use it. All they have to do is run it through a filter just like you will.

And so my belief is that water eventually, since it's delta water, and it's in short supply and it's getting in shorter supply, will be used at some point, maybe next year, maybe three years from now, for irrigation. It's going
to be recycled by Baker Farm. They're just not
going to continue to waste 160 acrefeet a year.
It wouldn't make any sense.

MR. THOMPSON: I don't have any more
questions. I think I've -- this whole thing up;
and what I'd like to do is ask a question of Mr.
Weiss to see if I can get my point across that
way.

HEARING OFFICER SHEAN: Well, stand by
here. When you say in one to three years you
think this water would no longer be available to
the project but would be recycled by Baker Farms
for irrigation use, what is that number opinion
based upon?

MR. ANDERSON: Well, I don't know what I
can -- I had a phone conversation with an employee
at Baker's Farm, but I don't know if that's
admissible.

HEARING OFFICER SHEAN: Well, if it was
part of formulating your opinion, why don't you go
ahead and state it.

MR. ANDERSON: I asked --

HEARING OFFICER SHEAN: And if there's
an objection we'll deal with it.

MR. ANDERSON: I called to talk to Barry
Baker, who is the owner, I think, and he was not there. And they transferred me to another gentleman named Juan Calderon.

And I talked to him about how they're operating; what they're doing with their water right now. And they are evaporating it, you know.

But that -- I said if the power plant wouldn't be buying this water now, when they start using it in a year or two, what would you do with that water? Would you continue to waste it? And he said, no, we would recycle it.

And it's as simple as running it through a filter just like the applicant is doing, or proposing to do, for the ag community to run that back through a filter. All it has in it is leaves and debris that gets filtered out. It's very clean water. The water gets pumped backwards to clean off the front of the filter, and then that water is sent -- given a little time for the solids to sink, you know, go out of suspension. That water then could be just run right back through the filter and be used for irrigation.

HEARING OFFICER SHEAN: So what you would envision is sort of this cascading filtering process. At some point, though, you end up with
as much filtered water for irrigation use as possible, is that right?

MR. ANDERSON: Well, I'm not sure I --

HEARING OFFICER SHEAN: You have the filtration that's currently taking place at Baker Farms. And right now that does not include filtering the water that they put in the evaporation pond to recycle.

So, if I understand, you have the current level of filtration. If, for what you're describing to happen, you'd have another level of filtration from what they were currently using as backwash water in the evaporation pond. And so that would be filtered, right?

MR. ANDERSON: That's what the applicant proposes to do.

HEARING OFFICER SHEAN: And presumably there's some reject water from that filtering process?

MR. ANDERSON: Yes.

HEARING OFFICER SHEAN: And so that sort of just keeps going until you basically have got as much water extracted from that recycling process as possible, is that the idea?

MR. ANDERSON: Yes.
HEARING OFFICER SHEAN: All right, I have nothing further.

MR. THOMPSON: I have one question of Mr. Weiss on redirect, if I may?

HEARING OFFICER SHEAN: Yes.

REDIRECT EXAMINATION

BY MR. THOMPSON:

Q Mr. Weiss, could you please add to the discussion on the Baker ponding source of water?

MR. WEISS: Yes. Just to point out that in Mr. Baker's letter, and to my knowledge from his attorney, that he already uses the microdrip system, which is a way to reduce his water consumption. He's already done that.

Also, to his letter, and what he's told me, is that he wouldn't be doing this without some impetus; he wouldn't be collecting all this water.

I think really the question, you know, that the staff is not addressing is currently all of these filters are dumping water on the ground. And a lot of the farmers are dumping water on the ground.

The reason they're doing it is because it doesn't pay for them to get it. You know, 160 acrefeet may seem like a lot of water, but Barry
Baker uses 24,000 acrefeet in his farming operation. So it's not worth his time to go get it at this point in time.

And without our project being there he wouldn't go get it. It creates an impetus; it creates -- we provide some funds for him to go do this, and put the piping in and collect the water.

If you look at the Westlands Water District, you know, fund, it's actually there to do these kinds of things, to go and collect this water so it's not wasted.

So, in a sense, our project and what we're doing with Mr. Baker is directly in line with conservation. We're trying to get the benefit of it, though. We're paying for the piping and we're trying to, you know, we want to use that water.

So, I find it ironic that mitigation should be suggested when, in fact, this is a mitigation process. And if we do this, you know, will others pick up on it. And, you know, will other projects come along and save some water, put it to better use.

MR. THOMPSON: Thank you, that's all.

HEARING OFFICER SHEAN: Do you have any
cross on that?

MR. BABULA: No, no, thanks.

HEARING OFFICER SHEAN: All right. Are you done? All right. I think we'll excuse the witnesses. Thank you. Appreciate it.

All right, are we through on water resources?

MR. THOMPSON: Staff has, as part of its testimony, three suggested conditions of certification and the verifications thereto.

We have no objection to 4. Condition of certification number 8 was actually okay until we heard from Westlands that they are contemplating what to do. So we would like a slight alteration in 8 to allow for the fact that we may not hear from Westlands.

And 9 we object to.

HEARING OFFICER SHEAN: I'm sorry, I'm going to ask you to go through that again. Four is okay?

MR. THOMPSON: Four is okay.

HEARING OFFICER SHEAN: Eight is no?

MR. THOMPSON: I think the concept of 8 is acceptable, and we will try and run down, with Westlands Water District, what the final
determination is. However, we are not sure that we will be able to get a letter out of them.

And 9 is not okay. We object to 9.

HEARING OFFICER SHEAN: All right.

MR. THOMPSON: We also would like to sponsor our version -- we have reviewed staff's suggested traffic and transportation 2, 3 and 4, with their suggested edits; and those are acceptable to us.

HEARING OFFICER SHEAN: Okay.

MR. BABULA: Staff can testify as to -- we'd like to comment on the school bus and conditions that he has just talked about.

HEARING OFFICER SHEAN: All right.

MR. BABULA: Could we have the witness sworn in?

HEARING OFFICER SHEAN: He's been previously sworn.

MR. ADAMS: I've been previously sworn.

MR. BABULA: Okay.

HEARING OFFICER SHEAN: I believe.

Whereupon,

JAMES ADAMS was recalled as a witness herein, and having been previously duly sworn, was examined and testified
further as follows:

MR. ADAMS: Essentially what we were
asked to do, as you know, was to --

DIRECT EXAMINATION

BY MR. BABULA:

Q Would you identify yourself?

MR. ADAMS: Yes. My name is James
Adams, environmental office. And we were asked to
review the additional conditions; and we made some
revisions that we thought were helpful to clarify
it and removed some of the language that didn't
necessarily relate to the school bus issue, in
condition Trans-2, which is why you see quite a
few revisions.

And then in Trans-3 and 4, relatively
minor with the exception of adding a verification
at the end of Trans-3.

So hopefully this would give -- we think
this helped clarify the intent and what was
discussed at the previous, when we had the
previous hearing.

HEARING OFFICER SHEAN: All right.

Appreciate your effort on that.

MR. BABULA: I have a question for you.

HEARING OFFICER SHEAN: As well as from
the applicant. Yeah, go ahead.

MR. BABULA: One question. Did staff
find the original condition satisfactory? Was it
staff's opinion that changes were needed?

MR. ADAMS: Well, yes. I reviewed the
Coseumnes case and the circumstances were slightly
different, which is why we came up with slightly
different conditions. And we felt that the
original analysis was okay and the condition was
what we required. And we checked with the school
board and they agreed with us.

But, in the interest of increasing the
margin of safety we thought it was good to go
ahead and add these additional conditions. And we
did put some time in for the revisions, and we
think it's appropriate in this case.

HEARING OFFICER SHEAN: All right. The
Committee thanks you for your time and effort.

MR. ADAMS: Okay, thank you.

HEARING OFFICER SHEAN: And I must
indicate, some of this is based upon the fact that
at the site visit we went out and drove the road,
as well as stopped at the area where the school
bus stop is. So based upon the observation of the
site, and the circumstances that we know that are
similar to either SMUD or other projects, thought this was the appropriate thing to do. So, thank you to the staff.

Is there anything else?

MR. THOMPSON: Nothing from applicant.

HEARING OFFICER SHEAN: From the staff?

MR. BABULA: We would like to have Shahab testify on noise and vibration because there was some confusion during the preliminary hearing regarding distances. And this will help clarify that.

HEARING OFFICER SHEAN: Okay. I thought we'd gotten to 3000 feet being fine. Is that right?

MR. BABULA: Steve Baker will also be on this panel.

Whereupon,

SHAHAB KHOSHMAHRAH was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

THE REPORTER: Please state and spell your full name for the record.

MR. KHOSHMAHRAH: Shahab Khoshmashrab, S-h-a-h-a-b, last name is K-h-o-s-h-m-a-s-h-r-a-b.
Whereupon,

STEVE BAKER

was recalled as a witness herein, and having been
previously duly sworn, was examined and testified
further as follows:

MR. BABULA: Thank you.

DIRECT EXAMINATION

BY MR. BABULA:

Q Did you prepare the noise and vibration
section of the FSA which included your
declaration?

MR. KHOSHMAHRAB: Yes.

MR. BABULA: Okay. Did you prepare a
supplemental noise and vibration testimony filed
on November 9, and is this testimony true and
correct to the best of your knowledge?

MR. KHOSHMAHRAB: Yes.

MR. BABULA: Do you have any changes to
make?

MR. KHOSHMAHRAB: No.

MR. BABULA: Can you explain the
dialogue which occurred during the preliminary
hearing between you and the Hearing Officer which
led to changes in staff's condition of
certification?
MR. KHOSHMAHRAH: The Hearing Officer asked Mr. Baker and me if the project would be in compliance with the applicable LORS at monitoring location ML-3, which is 1300 feet away from the project site then, shouldn't also a plot comply with the limit if the tenants in ML-1 were to be relocated to about the same distance.

And our initial response was that yes, it would make sense. But after leaving the hearing I made some calculations using basically mathematical extrapolation, and using the 55 dba limit or predicted noise level from the project given in the AFC, to make sure of this.

And my calculations showed that actually to comply with the 45 db limit, decibel limit, we would need a minimum of 2640 feet, actually a half a mile, which is 2640.

And therefore in order to also make now, this limit that we're talking about here was originally one mile, and it refers to the monitoring location or the measurement that would be required by Noise-5 to be made at the new location. If the project were moved out to one mile, and the original Noise-5, to one mile within the project, then we would have required the noise
monitoring.

But now we agreed in the hearing to go
to 1300 or 1520, which is a quarter of a mile.

Now, this number I recommended to be
changed to 3000 because it would be taking into
account the 2640 plus just a few hundred feet away
just to make sure that we're taking into account
other factors such as weather conditions, for
example; or any possibility of absence of any
intervening objects. Or to also account for the
possibility that the new location might not have
the same ambient noise level as another one, as
it's located.

MR. BABULA: Those are all my questions,
thank you.

HEARING OFFICER SHEAN: Okay. No, I
understand it. I think this -- I mean, we're
doing the right thing; we've got the right result.
And thank you --

MR. KHOSHMASHRAB: We're just being more
conservative just to make sure that --

HEARING OFFICER SHEAN: Right. It's a
little less than what it was before, and I think
it makes sense. So, thank you.

MR. BABULA: Thank you.
HEARING OFFICER SHEAN: Anything further from the staff?

(Pause.)

MR. BABULA: We just have one more, Keith Golden, for air quality.

Whereupon,

KEITH GOLDEN

was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

THE REPORTER: Please state your name for the record.

MR. GOLDEN: My name is Keith Golden, G-o-l-d-e-n.

DIRECT EXAMINATION

BY MR. BABULA:

Q Okay.

A I wanted to clarify about the supplemental testimony of Will Walters dated November 9, 2007.

After that testimony was filed I talked with the Air District, and apparently there was some kind of a misunderstanding between Mr. Walters and the Air District.

The bottomline is we want to remove the
change in AQ-3, and we're going back to the
original language that was filed in the final
staff assessment of Mr. Walters for AQ-3.

HEARING OFFICER SHEAN: All right.

MR. GOLDEN: Does the applicant have
that? I have it here if you want to know what
that was.

MR. THOMPSON: We have, in your
testimony now that's what's being recommended?

MR. GOLDEN: No. No. We're having the
AQ-3 that we're recommending it in November 9,
2007, that one with it redacted, is that the term?
Removed?

And we're going to go back to the
original FSA language of that condition AQ-3.

MR. THOMPSON: It's longer.

MR. GOLDEN: It's longer, but that was
the original intent of the Air District, and
that's the language which they're going to have in
their subsequent permits.

(Pause.)

HEARING OFFICER SHEAN: While they're
reading this let me just make sure I'm
understanding. I'm showing the pages came with
your testimony, and the AQ-3, and if that's longer
in somebody's mind, it's only two lines and a
little bit. Is that what you're --

    MR. GOLDEN: That was the change, the
original AQ-3, out of the determination of
compliance that's in our FSA has additional
verbiage that apparently the Air District's intent
was to leave that wording in place.

    And I can't understand -- I don't know
exactly what happened between Mr. Walters and the
technical staff down in San Joaquin, but
apparently there's some misunderstanding about
removing that verbiage. That's not correct. The
wording should stay in place that came in the FSA.

    HEARING OFFICER SHEAN: So that what
we're seeing here in this November 9th testimony
is not the way it's to be?

    MR. GOLDEN: That is correct. So in
other words, just remove AQ-3 from the
supplemental testimony of November 9th. We're
just going with the original testimony filed in
the FSA.

    HEARING OFFICER SHEAN: Okay.

    MR. GOLDEN: Just for that one
condition. AQ-SC-6, however, remains in place,
what we're recommending.
MR. THOMPSON: We're fine with that.

HEARING OFFICER SHEAN: Okay. We now understand, too. Thank you.

MR. GOLDEN: Sorry for the inconvenience on that one, but stuff happens.

HEARING OFFICER SHEAN: I haven't changed it yet, so it won't be inconvenient.

MR. GOLDEN: Okay.

HEARING OFFICER SHEAN: Anything further from the parties? All right, --

MR. BABULA: That's all of ours.

MR. THOMPSON: Before you close the record we were all talking today and we would like to thank the staff. One glance at the website shows the huge number of cases that are going through this Commission. And Mr. McFarlin has been terrific in kind of assisting us and alerting us where we had problems, and trying to get through this.

And I know staff counsel had to replace someone mid-stream, and he's been very easy to deal with. And we just wanted to pass along our thanks to the staff on this.

HEARING OFFICER SHEAN: All right. But before we do close the record, I think for the
convenience of the Committee, as well as potentially for the convenience of the full Commission, when they're going to hear this matter, there are a couple of things I think the Committee would like to propose to take official notice of.

First would be the -- because we've already taken notice of resolution 7558. The next would be the California Water Plan Outlook in 1974, November of 1974. The document is Department of Water Resources Bulletin Number 16074. It's available in the Commission library. It was a predecessor document to the resolution, and I think even mentioned in there.


And just in case somebody needs to use it, I'd like to also have the Committee take notice, for the limited purpose of identifying with the applicants in each of these cases, has identified is proposed water use, the Sun Desert notice of intention, the SDG&E Sun Desert notice of intention; the PG&E Stanislaus NOI, notice of
intention; the PG&E Fossil 1 and 2 notice of intention; And Southern California Edison CalCoal notice of intention.

That may be more than we want to work with, but we have it all.

MR. THOMPSON: A lot of paper there.

HEARING OFFICER SHEAN: Well, that's why I said the limited purpose. So we're only going to get down to a sentence or two in each one of those.

All right, is there anything further?

ASSOCIATE MEMBER GEESMAN: If we get a letter from Westlands, would it be your intent to open the record to allow that?

HEARING OFFICER SHEAN: Yes. And I think we can do that at a Committee hearing on the Presiding Member's Proposed Decision.

So, if you get something from them obviously you're going to docket it. It'll be circulated among the parties. And we'll see what it has to say.

And at that point, if the applicant feels, or actually either side feels there's something that they want to do with that, we'll entertain that at the time. But you need to let
us know. So if there's a factual matter you want to contest, we can throw a little evidentiary proceeding into the back of our PMPD comment hearing.

MR. THOMPSON: We will do that.

MR. FREEMAN: Mr. Chairman.

HEARING OFFICER SHEAN: Yes, go ahead.

MR. FREEMAN: Yes. This is Russ Freeman with Westlands Water District. I've been listening. I wasn't sure when I should speak, but --

HEARING OFFICER SHEAN: This is a good time,

MR. FREEMAN: -- on that last comment. I've been directed by the General Manager here at the District to send a letter to the Commission basically stating that the District opposes the proposed use of that backflush water.

HEARING OFFICER SHEAN: All right.

MR. FREEMAN: That should be there by next week, early next week.

HEARING OFFICER SHEAN: All right. That'll be fine. We'll take a look at it when we get it.

MR. FREEMAN: Thank you.
HEARING OFFICER SHEAN: We appreciate your calling in and speaking up.

Are there any other people who are on the phone?

All right, we appreciate that very much.

Thank you.

Our hearing is adjourned.

(Whereupon, at 2:55 p.m., the evidentiary hearing was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of November, 2007.

______________________________
PETER PETTY