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EVIDENTIARY HEARING FOR THE AMENDMENT TO THE PALEN SOLAR
ENERGY GENERATING SYSTEMS BEFORE THE CALIFORNIA ENERGY
COMMISSION

In the Matter of the: )
) )
Palen Solar Energy Generating ) Docket No.09-AFC-07C
Systems Amendment )
_______________________________)

CEC HEADQUARTERS
1516 9TH STREET
HEARING ROOM B
SACRAMENTO, CA
1:50 P.M.

REPORTER: TIFFANY C. KRAFT, CSR
LIC. #12277
APPEARANCES

HEARING OFFICER:
Kenneth D. Celli, California Energy Commission

PANEL:
Commissioner Karen Douglas, California Energy Commission
Gabriel Taylor, Advisor to Commissioner Hochschild
Eileen Allen, Advisor at Large

PETITIONER/APPLICANT:
Scott Galati, Attorney for Palen Solar Holdings, LLC
Matthew Stucky, Abengoa Solar, Inc.

CEC STAFF:
Jennifer Martin-Gallardo, Attorney
Christine Stora, Compliance Project Manager
Alana Matthews, Public Advisor

INTERVENOR:
Center for Biological Diversity:
   Lisa Belenky, Attorney; Ileene Anderson
Basin and Range Watch:
   Kevin Emmerich
APPEARANCES CONTINUED

INTERVENOR:

Colorado River Indian Tribes
  Sara Clark, Attorney

South Coast Air Quality Management District
  John Yee, Roy Oliveras

Centerline
  Scott Blek

FEDERAL GOVERNMENT AGENCIES

Office of the Solicitor; National Park Service
  Deborah Bardwick, Aimee Howard

ALSO PRESENT

Marie Flemming
Garret Hering
Ken Waxlax

WITNESSES:

Ilene Anderson
Wendy Campbell
Gregory Darvin
Michael Garabedian, 245 Million Acres
Jacqueline Record
## INDEX

<table>
<thead>
<tr>
<th>AIR QUALITY</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>EVIDENCE</td>
<td>12</td>
</tr>
<tr>
<td>EXHIBITS</td>
<td>37</td>
</tr>
<tr>
<td>PUBLIC COMMENT</td>
<td>57</td>
</tr>
</tbody>
</table>

| TRANSCRIBER'S CERTIFICATION | 65   |
| REPORTER'S CERTIFICATION   | 66   |
PETITIONER
1003, 1007, 1018, 1021, 1041, 1043,
1045, 1054, 1056, 1057, 1079

STAFF

CENTER FOR BIOLOGICAL DIVERSITY
3066, 3067, 3068, 3069, 3070, 3071,
3072, 3073, 3074, 3075, 3076, 3077,
3078, 3079, 3080, 3081, 3082, 3083,
3084, 3085, 3086, 3087

3065, 3088, 3089, 3090, 3091
SACRAMENTO, CALIFORNIA
FRIDAY, NOVEMBER 22, 2013

COMMISSIONER DOUGLAS: Good afternoon, everybody.
Welcome to the Evidentiary Hearing on Air Quality for the
proposed amendment to the Palen Solar Electric Generating
System. My name is Karen Douglas. I'm the Presiding
Member on this Committee.

On my left is our Hearing Officer, Ken Celli. To his left is Gab Taylor. He's advisor to Commissioner Hochschild. And to the far right here is Commissioners' Technical Advisor for Siting, Eileen Allen. One of my advisors may step in later, Jennifer Nelson on or Eli Harland.

Let's see. If we could start by having the Petitioner introduce themselves, please.

MR. GALATI: Scott Galati representing Palen Solar Holdings.

MR. STUCKY: Matt Stucky with Abengoa Solar.

We're a member of the Palen Solar Holdings.

COMMISSIONER DOUGLAS: Staff?

MS. STORA: Christine Stora, Compliance Project Manager.

MS. MARTIN-GALLARDO: Jennifer Martin-Gallardo, staff attorney.
COMMISSIONER DOUGLAS: Thank you. Let's go through the intervenors now. We heard Ilene Anderson from Center for Biological Diversity. Ilene, you're there. Is Lisa Belinky there as well?

MS. BELINKY: Yes. This is Lisa Belinky with the Center.

COMMISSIONER DOUGLAS: Great. Thank you.

HEARING OFFICER CELLI: I didn't get that.

COMMISSIONER DOUGLAS: Lisa Belinky with the Center.

HEARING OFFICER CELLI: Got it.

COMMISSIONER DOUGLAS: And intervenor Kevin Emmerich with Basin and Range Watch, are you on the line?

MR. EMMERICH: Hello. Kevin Emmerich, Basin and Range Watch.

COMMISSIONER DOUGLAS: Welcome.

Intervenor Alfredo Figeroa, are you here?

Alfredo Figeroa, Californians for Reviewable Energy?

Okay. What about Intervenor Tonya Velicerian?

Or Elizabeth Kliboner with CURE? Doesn't sound like it.

Intervenor Roberto Sanchez or Eddie Simons with LIUNA?

Or Intervenor Rebecca Loudbear with the CRIT?

MS. CLARK: This is Sara Clark from Colorado
COMMISSIONER DOUGLAS: Thank you. Welcome.

Our Public Advisor Alana Matthews is here.

And with that, let me ask if there are any representatives of federal government agencies in the room or on the phone?

MS. BARDWICK: Good afternoon. This is Deborah Bardwick with the Office of the Solicitor representing National Park Service.

COMMISSIONER DOUGLAS: Thank you.

Anyone else? Representative of federal --

MS. HOWARD: This is Aimee Howard with the National Park Service.

COMMISSIONER DOUGLAS: Excellent. Welcome.

Anyone else from federal government agencies?

All right. Let me ask if there are any officials representing Native American tribes or nation, besides the Colorado River Indian tribes?

Are there any representatives of State or local agencies in the room or on the phone?

Okay. So thank you all for that. And with that, I'll turn this over to our Hearing Officer.

HEARING OFFICER CELLI: Thank you, Commissioner Douglas. Can you all hear me okay?

Before we begin, did we have anyone from CRIT on
the line, from Colorado River Indian Tribes?

MS. CLARK: Yes. This is Sara Clark.

HEARING OFFICER CELLI: Okay. Hi, Sara Clark.

Ken Celli here.

I had a question regarding Exhibits 8015, -16, -17, -18.

MS. CLARK: Yes.

HEARING OFFICER CELLI: My recollection was that was a set of documents that had initially been filed and docketed with a request for confidentiality and they were later withdrawn. But I just need to account for them in the record. Do we have that correct?

MS. CLARK: No. Those documents were submitted with the request for confidentiality. But we had a ruling that they could be treated confidential for purposes of this proceeding.

HEARING OFFICER CELLI: Okay. So I actually will need to have those identified so that we have them in the exhibit list for everybody. So --

MS. CLARK: How would you like me to facilitate that?

HEARING OFFICER CELLI: If you wouldn't mind saying on the record the title of what exhibit 8015 -- these were all declarations; correct?

MS. CLARK: They're not official declarations.
We call them written statements, but yes.

HEARING OFFICER CELLI: If you can just title each one the written statement so and so and just tell us what they are. Go ahead.

MS. CLARK: So 8015 is the written statement of Phillip Smith. P-h-i-l-l-i-p, Smith.

Exhibit 8016 is the written statement of Stacia Bailey. That's spelled S-t-a-c-i-a. Bailey, B-a-i-l-e-y.

The third document, Exhibit 8017, is the written statement of an anonymous CRIT member. The person who provided the statement asked not to be identified by name.

And then the last Exhibit 8018 is the written statement of Betty Cornelius. B-e-t-t-y. C-o-r-n-e-l-i-u-s.

HEARING OFFICER CELLI: Okay. Thank you very much.

MS. CLARK: You're welcome.

HEARING OFFICER CELLI: Another housekeeping matter. As I asked the parties to provide any corrections to the 10/28/2013 reporter's transcript.

Let me first go to the phones and ask CBD whether -- Ms. Belinky, did you any corrections to the transcript that you wanted to submit?

MS. BELINKY: Well, we actually have quite a few corrections. Many of them are sort of line edits. I
didn't know how you want to go through those. I'm happy to go through them with you.

HEARING OFFICER CELLI: What I need to do is I need to provide those edits to California Reporting so they can get us a cleaned up transcript for everybody. It might be easiest if you have them if you could just e-mail that to me.

MS. BELINKY: I'm not sure that I have them in a format like that. I didn't -- you didn't say anything about what format you wanted. And what I have are little comments within the PDF because that's all I could do. If you -- my understanding was you were going to be accepting these corrections on the record today.

HEARING OFFICER CELLI: I will. So why don't you just go ahead and tell us what those corrections are, please.

MS. BELINKY: On page 21, it's just a small correction. At line 3, it's the issue, not --

HEARING OFFICER CELLI: One minute, Ms. Belinky. The court reporter -- it's very hard to hear you in the room. Are you on a speaker phone?

MS. BELINKY: I can do this.

HEARING OFFICER CELLI: Much better. Thank you.

MS. BELINKY: Page 21, line 3, at the end of the line there is an apostrophe it says "ssue." That is
supposed to be a separate word, issue.

On page 80 -- and I'm going by the PDF pages because there were sections in here. So the page numbers are problematic.

MS. CLARK: Can I interrupt for just one second? This is Sara Clark.

Are you saying that we can't submit electronic versions of this and you want us to read them all into the record? It just seems a little inefficient.

HEARING OFFICER CELLI: It is entirely inefficient actually.

Here's what I'm going to do. I'm sorry. I thought it was clear I needed them submitted. And the word "submitted" usually means someone is going to submit written corrections.

So Ms. Belinky, I'm going to ask that you put your corrections in some format that you could actually post to the e-filing record and that we can get that to the court reporter's --

MS. BELINKY: I would like -- that's fine. I understood it would be done on the record today. I can put them in a document and submit it. It will take me some time -- additional time as well as the hearing is going to take additional time. And we have a deadline for our briefing. So I'm not sure when you want me to do this
by. I'm ready to do it right now on the record.

HEARING OFFICER CELLI: Can you do a photocopy and fax --

MS. BELINKY: No one else has submitted anything.

HEARING OFFICER CELLI: Let me start with the petitioner. Do you have corrections?

MR. GALATI: I do have corrections that we docketed today. I have seven.

HEARING OFFICER CELLI: One minute.

Someone is speaking on the phone, and we're going to need you to please be quiet so that we can have the court reporter just hear one person talking at a time. So right now the petitioner has the floor.

Go ahead, Mr. Galati.

MR. GALATI: I have seven corrections to the first day of evidentiary hearings, and I can docket those as soon as the hearing is finished or I can read them into the record.

HEARING OFFICER CELLI: We'll accepted them as docketed.

Staff?

MS. MARTIN-GALLARDO: We also have something that we can docket after the hearing.

HEARING OFFICER CELLI: Okay. Thank you.

Mr. Emmerich, did you have any corrections to the
record on behalf of Basin and Range Watch?

MR. EMMERICH: We don't have anything written. We were also a little confused by it. But there are some corrections we have. I don't really have a list to read right now.

HEARING OFFICER CELLI: Okay. That's fine. Again, Mr. Emmerich, it's kind of hard to hear you. We're going to need to you please -- if you're on a speaker phone, it would be better if you could pick up your hand set when you speak because it's hard to hear you.

MR. EMMERICH: Unfortunately, I'm on a hand set. HEARING OFFICER CELLI: Okay. Well, we'll just have to keep it real quiet so the court reporter can hear what you have to say.

So here's what I would ask that I'm going to ask Basin and Range Watch and all of the parties to submit your corrections to the record for the 10/28 reporter's transcript by this coming Wednesday. This coming Wednesday is November 27th. And you'll just post them as you would with any document and e-file it. And that is how we will take care of those reporter's transcript corrections. I'll try to get those to California Reporting on Wednesday.

So next I'd like to talk about today's agenda.
Today, we're here to -- okay. We have somebody from the South Coast Air Quality Management District on the phone?

MR. YEE: Yes, we do. We have John Yee and Roy Oliveras.

HEARING OFFICER CELLI: John Yee, Y-e-e?

MR. YEE: That's correct.

HEARING OFFICER CELLI:

MR. YEE: And the second person was Roy Oliveras, O-l-i-v-a-r-e-s.

HEARING OFFICER CELLI: Thank you, Mr. Yee.

So today's agenda is that this is the last of the evidentiary hearings for the Palen Solar Electric Generating System's petition for amendment. Today we're going to take evidence on air quality.

At the close of the evidence, we will take people's motions regarding exhibits.

Following that, we will take public comment.

After that, the Committee may adjourn for a closed session.

After the closed session, we would come back and come back on the record and after that we will adjourn.

The way I'd like to proceed today is the way we have been throughout this process by way of informal hearing. The Committee would call witnesses to testify as a panel on the topic at hand. Witnesses may only testify
on topics or issues within their expertise. The testimony may include discussion among the panel without lawyers asking questions. A dialog between the panel members will be permitted to the extent it is efficiently providing useful information to the Committee. Each party's expert will be allowed to state their position without interruption before the dialog ensues.

The Committee will guide the discussion. The Committee may can questions of any witnesses at any time. Parties may offer questions for the Committee to ask of any witness after the experts' positions have been established. The Committee may allow limited questions of the panel by the parties at its discretion. The Committee will establish limits as needed on the number of questions a party may ask and the amount of time the line of questioning may consume.

The party with the burden of proof may provide final rebuttal testimony if the Committee deems it necessary.

The Committee, in the interest of efficiently conducting the evidentiary hearing, may curtail testimony or examination of a witness if it becomes cumulative, argumentative, or in any way unproductive.

At the close of testimony, the parties will move exhibits marked for identification to be received into
evidence. At the close of evidence, we will take public comment followed by the Committee going into closed session.

So with that, I'm going to ask that the parties have their witnesses now -- Petitioner, do you have a witness here?

MR. GALATI: Yes, Mr. Celli. We have one witness who is present and we have one on the telephone. He is logged in under his name. You can see him there as Greg Darvin. Gregory Darvin.

HEARING OFFICER CELLI: Okay.

MR. GALATI: And we have Matt Stucky, who will both those need to be sworn.

HEARING OFFICER CELLI: Mr. Stucky, I'm going to ask you to move away from Mr. Galati a couple of chairs there so there is a big gap between you. Why don't you sit next to the second microphone. Thank you.

And staff, your witness?

MS. MARTIN-GALLARDO: Yes, we have Jacquelyn Record.

HEARING OFFICER CELLI: Jacquelyn --

MS. MARTIN-GALLARDO: Record, R-e-c-o-r-d.


MR. GALATI: Greg.
HEARING OFFICER CELLI: Greg Darvin.

Ms. Belinky, your witness?

MS. BELINKY: Ilene Anderson. She's also on the phone.

HEARING OFFICER CELLI: Mr. Emmerich, do you have any witnesses?

MR. EMMERICH: No, we don't.

HEARING OFFICER CELLI: That was a "no," for the record.

Sara Clark, do you have any witnesses?

MS. CLARK: No, we do not, thanks.

HEARING OFFICER CELLI: Thank you.

Did Californians for Renewable Energy come on line, Mr. Figueroa?

Anyone from CURE or LIUNA on the phone? Okay.

With that, then first let's swear the people who are present in the room. If I can have Mr. Stucky, Ms. Record, please stand and raise your right hand.

(Whereupon Mr. Stucky and Ms. Record were duly sworn by the Hearing Officer.)

HEARING OFFICER CELLI: Thank you. You may be seated.

Greg Darvin.

MR. DARVIN: Yes.

HEARING OFFICER CELLI: Are you on a hand set
telephone? It's very hard to hear you right now.

MR. DARVIN: Sorry. I'm on a hand set.

HEARING OFFICER CELLI: That's much better.

How ever you're talking in the phone, keep doing that.

MR. DARVIN: I will do so.

HEARING OFFICER CELLI: Thank you.

(Whereupon Mr. Darvin was duly sworn by the
Hearing Officer.)

MR. DARVIN: I do.

HEARING OFFICER CELLI: Thank you.

And Ilene Anderson, please rise and raise your
right hand. Can you hear me, Ms. Anderson?

MS. ANDERSON: I can. I had to take myself off
mute.

HEARING OFFICER CELLI: Okay. Great.

(Whereupon Ms. Anderson was duly sworn by the
Hearing Officer.)

MS. ANDERSON: I do.

HEARING OFFICER CELLI: Thank you. The witnesses
are all sworn.

Now, this is a little interesting twist because
we have people on the phone and people in the room. And
heretofore what we've done is had people sitting as a
panel speaking pretty much not simultaneously but
contemporaneously.
Mr. Galati, do you have any issues with regard to air quality?

MR. GALATI: I just need to establish two things, if I may, with an offer of proof.

HEARING OFFICER CELLI: Sure.

MR. GALATI: The offer of proof is Mr. Stucky will say he agrees with the Final Staff Assessment, the conditions, and the conclusions in the Final Staff Assessment Part C.

And Mr. Darvin will make a few points about what was filed last night in the testimony of Ilene Anderson. She referred to some comments that were docketed as well. He has a few points he can make about those, if the Committee is interested.

That's all we have. I have my exhibits to move in.

HEARING OFFICER CELLI: Really my question is so are Petitioner and staff -- is there any issue between Petitioner and staff?

MR. GALATI: None.

HEARING OFFICER CELLI: Okay. You concur with that?

MS. MARTIN-GALLARDO: Yes.

HEARING OFFICER CELLI: Okay. Then why don't you have -- Mr. Stucky, if you would, please make that record.
MR. STUCKY: Okay. The Petitioner has reviewed Final Staff Assessment Part C. We agree with the conclusions and we accept the proposed Conditions of Certification.

HEARING OFFICER CELLI: Thank you. Now Mr. Darvin, you wanted to make some comment -- or some testimony actually in this case?

MR. DARVIN: Yes. It had to do with the filing last night with regards to some of the applicability of the project's trigger in that PSD.

HEARING OFFICER CELLI: Please remember to speak right into that phone.

MR. DARVIN: Speaking right into it. Sounds like the connection maybe comes and goes. You fade in and out as well. I'll do my best.

The applicability determination for PSD is based primarily on whether the major source -- in our case the major source would be either 100,000 tons of greenhouse gas emissions and/or 250 tons of any criteria pollution emissions. We're close to neither one of those thresholds. PSE would not apply to the project in any way, shape, or form.

As such, any formal impact analysis that needs to be done under the PSE permitting guidelines for the Park Service, specifically Joshua Tree, would not need to be
done. There is no regulatory avenue to do so.

HEARING OFFICER CELLI: There is no regulatory
what?

MR. DARVIN: There's no regulatory avenue to do
so. In other words, PSD requires certain analyses that
needs to be done, and we're not even close to triggering
the PSD permitting requirements on this project.

HEARING OFFICER CELLI: Anything further, sir?

MR. DARVIN: One last item had to do with I think
a comment that was made on the filing last night that it
was difficult to understand if natural gas would be used.
That is the only primary fuel we'll be using. And the
South Coast has established various monitoring
requirements and limits on the gas that we can use in the
boilers.

And that's my statement.

HEARING OFFICER CELLI: Thank you very much. And
you were able to get all that. I'm asking the court
reporter and she's nodding yes. Thank you.

Ms. Belinky, your -- actually, Ms. Ilene
Anderson, go ahead.

MS. ANDERSON: Hi. I just have three points to
reiterate from the testimony that I filed yesterday. And
one of those is I am still very confused if there is going
to be an additional updated assessment. It just sort of
seems to me that the process is a bit premature and rushed, because seems like the final determination of compliance should be received before the analysis is actually completed.

Secondly, I wanted to bring to the staff and the Committee's attention that a nearby solar project, the Desert Sunlight Photovoltaic Project, actually has four air quality monitoring stations surrounding their project site on basically the north, east, south, and west sides. And those data -- and in particular, my concern are the PM10 emissions in the Valley. And those data sets are available on the internet and also I entered them with the exhibit numbers yesterday.

And I'm just concerned that here are data from the local area that were not considered in the staff's evaluation basically of base line emissions. Instead, they're using air quality monitoring from Palm Springs and Blythe, which are significant distances away from the proposed project site.

And then my other concern is that it seems like the avoidance and the mitigation measure for the air quality impact are sort of the status quo. And now we've had two projects that have moved forward with construction projects in the same valley that have very similar types of avoidance and mitigation measures for air quality and
yet they're still having problems with dust. And I'm particularly concerned because this project is located so close to the I-10 corridor where blowing dust could be problematic for drivers along that stretch of the interstate.

Additionally, I did also include some relatively very recent information with regards to biological resources. And I wanted to just briefly go over those. And this was again based on new information that's come in primarily from the Ivanpah State Project with regards to impacts on birds as well as attractants to invertebrates, i.e., insects that actually -- because these insects are out there and being attracted to the project site because of the activities that are going on there with regards to light, et cetera, that that's actually attracting birds to the project site. And so wanted to include those data so that the Committee would have the latest and greatest information on what's going on with these types of anthropology.

HEARING OFFICER CELLI: Anything further, Ms. Anderson?


HEARING OFFICER CELLI: Thank you.

Ms. Record, do you have a statement, please?
MS. RECORD: Yes, I do.

For this amendment, it's for the approved project, Palen Solar Power Project, which is a Solar Power trough technology to the proposed Palen Solar Electric Generating System power tower technology.

Staff analysis evaluated the expected air quality impacts from the emissions of criteria air pollutants for both construction and operations of PSEGS. The primary emission sources that are new to the project per power plant unit are as follows:

There will be one 249 MMBtu per hour of auxiliary boiler.

One 10.5 MMBtu per hour nighttime preservation boiler.

A 617 horsepower diesel-fired emergency fire pump Engine Tier 3 certification.

One 3,633 horsepower emergency generator, Tier 2 certification.

One wet surface air condenser unit.

In the common area, one 617 horsepower diesel fire pump engine Tier 3.

One 398 horsepower diesel-fired emergency generator, Tier 3.

And mobile emission sources, which will be dedicated to mirror washing, light-duty trucks, and water
trucks.

If left unmitigated, the proposed modified project's construction activities could contribute to a level of significance for PM10, NOx, and ozone impacts. Staff recommends condition certification AQSC-1 to AQSC-5 to mitigate to the potential impacts. The proposed modified project's operational impacts would contribute to existing violations of ozone and PM10 ambient air quality standards and are likely significant if unmitigated.

Therefore, staff recommends condition certification AQSC-6 to mitigate onsite vehicles' emissions and conditions certification AQSC-7 to mitigate the operating fugitive dust emissions to ensure that potential ozone and PM10 impacts are mitigated to less than significant over the life of the project.

Operations of the project would comply with applicable South Coast AQMD rules and regulations, including new source review, best available control technology requirements, and requirements to opt into NOx reclaim program to mitigate NOx emissions.

Staff recommends the inclusion of District's PDOC conditions as adopted, conditions of certification AQ-1 through AQ-60.

The published Final Staff Assessment reflects the
South Coast AQMD preliminary determination of compliance conditions from October 2013. These conditions may be modified further when the Final Determination of Compliance is published.

The Air District will be providing a comment letter with some numerical changes to the text of the document. No changes would be required to the conditions of certification.

And we will submit those in writing, if that's okay.

HEARING OFFICER CELLI: Okay.

MS. RECORD: And also staff has some changes to the text, so if that's okay.

HEARING OFFICER CELLI: Changes to --

MS. RECORD: It will be like some calculation errors, minor. They don't change any conclusions.

MS. STORA: This is Christine Stora, for the record.

We're talking about text changes to the body of the FSA, not the Conditions of Certification. So this is just minor changes to the language in the FSA. It does not affect the Conditions of Certification.

HEARING OFFICER CELLI: Thank you.

When is the -- do we know when the FDOC is going -- actually don't we have someone from the Air
Quality --

MS. RECORD: South Coast.

HEARING OFFICER CELLI: South Coast on the phone.

That was John Yee and Roy Oliveras. And when are we going
to see an FDOC?

MR. YEE: This is John Yee with South Coast.

We are currently -- well, right now, the FDOC, we
have to wait until the 30-day public notice is finished
and 45-day EPA review. The EPA review will be the later
of the two. And that ends on December 3rd. And after we
consider all comments that are sent to us during that
period, including the ones from EPA and other parties that
are interested, then we can issues the FDOC shortly
thereafter. So sometime after December 3rd.

HEARING OFFICER CELLI: Is that December 3rd or
30th?

MR. YEE: Three.

HEARING OFFICER CELLI: Thank you.

Now, we've heard from everybody's witness at this
point. And I'm just going to ask -- I'm just going to go
around and ask the attorneys whether they have any
follow-up or additional questions, starting with
petitioner, Mr. Galati.

MR. GALATI: I just have -- Scott Galati. I just
have a follow-up question for staff of whether they could
address whether they thought it was important to use the Desert Sunlight air quality monitoring data for purposes of the evaluation.

MS. RECORD: Staff actually prefers to use ARB monitoring sites or EPA monitoring sites. We get our data specifically from those programs that are out there. And so at this time, we probably wouldn't use the Desert Sunlight also because it only has a hear and a half's worth. We usually go back five years' worth of data.

MR. GALATI: Just won follow-up.

HEARING OFFICER CELLI: Please.

MR. GALATI: And the air monitoring that was done at Desert Sunlight was specifically during their correction activities, correct?

MS. BELINKY: Oh, yes, correct.

MR. GALATI: So it wouldn't represent the background in and around the Chuckwalla Valley, would it?

MS. BELINKY: That is correct.

HEARING OFFICER CELLI: I wonder if you could say that, because I wasn't clear whether you said "would" or "wouldn't." Can you restate that, Ms. Record?

MS. BELINKY: Sorry. Wouldn't.

HEARING OFFICER CELLI: The question was -- MS. RECORD: Okay. The Desert Sunlight most likely would not best represent the background in the area
currently.

HEARING OFFICER CELLI: Very clear. Thank you.

Staff, any questions?

MS. MARTIN-GALLARDO: I do have two or three questions.

HEARING OFFICER CELLI: Go ahead.

MS. MARTIN-GALLARDO: Following up on that, the Desert Sunlight data, am I correct in understanding that that is not -- that data, those data areas that -- the areas from which they're collecting the data, that's not on the ARB's accepted list of sites from which you can get that monitoring data?

MS. RECORD: That is correct.

MS. MARTIN-GALLARDO: Okay.

HEARING OFFICER CELLI: I'm just going to ask for Ms. Martin-Gallardo, if you can, in the spirit of our informal hearings, if you could rather than lead your witness with "yes" or "no" questions, if you could ask her open narrative questions so we can get a little more data, that would be appreciated.


HEARING OFFICER CELLI: Thanks.

MS. MARTIN-GALLARDO: Do you believe that the avoidance and mitigation measures that you have provided in the conditions of certification will address the
impacts that you identified in the FSA?

MS. RECORD: Staff believes that the mitigation measures suggested in staff assessment would appropriately mitigate to the fullest extent feasible.

MS. MARTIN-GALLARDO: No further questions.

HEARING OFFICER CELLI: Thank you.

Ms. Belinky, any questions of any witness?

MS. BELINKY: Yes. I think I have just two questions. And one of them is for staff. You said that the Desert Sunlight is not the background. But I'm trying to understand what you mean by that, the Desert Sunlight project is quite nearby and it's certainly in this area. What is it that you meant by saying it was not the background?

HEARING OFFICER CELLI: Ms. Record, that was to you.

MS. RECORD: Yes, Ms. Belinky.

For the background values, we normally like to use the past five years' worth of data to get a good idea of what the background is. So the project's current environment is the background value. We like to get as much data as possible to get the maximum background.

MS. BELINKY: It answers to some extent, but I'm still unclear. If you had -- if you know about this data --
MS. RECORD: No, I did not. It sounds very specific to the project. I'm guessing they were required to -- also, too, this Desert Sunlight I don't believe is a CEC project. So I'm unaware of what exactly the construction background that's going on on the site. I'm actually unaware of the project.

MS. BELINKY: Thank you. Are you aware that this project is listed as one of the cumulative projects in the area?

MS. RECORD: Okay. I do briefly remember seeing that, but it was actually out of my six-mile buffer radius. So that's why I didn't analyze it.

MS. BELINKY: I see. Okay. And are you aware -- were you aware of issues with PM10 in this valley --

MS. RECORD: Yes.

MS. BELINKY: -- from the construction of these projects?

MS. RECORD: The area is actually a non-attainment. So that means that the background is above the air quality standards.

MS. BELINKY: Yes. But are you were you aware of the specific problems that have occurred with construction of projects -- large scale solar projects in this area?

HEARING OFFICER CELLI: Perhaps, Ms. Belinky -- Ms. Belinky, if you could perhaps specify what problems
you are talking to so she can address those directly.

MS. BELINKY: Well, she said she wasn't aware.

So, for example, we have in the record -- Ms. Anderson provided last night an article called "Solar Threatened Biofuels, about some of the impacts of higher levels of PM10 in the area on agricultural crops.

MS. RECORD: I have not seen that. Was that docketed today?

MS. BELINKY: It was docketed yesterday.

MS. RECORD: Oh.

HEARING OFFICER CELLI: Actually it was docketed today because it came in after 7:00 p.m. last night. The way that the docket works is anything that comes in 5:00 p.m. goes into the next day.

MS. ANDERSON: Just to let you know, I had it all docketed, despite the problems with the system before 5:00 yesterday.

HEARING OFFICER CELLI: Okay. Go ahead, Ms. Belinky. The questions are with you.

MS. BELINKY: Well, I already asked the question and she said she was not aware of it --

HEARING OFFICER CELLI: Anything further?

MS. BELINKY: -- in that document which was Exhibit 3087.

Well, I do have one other question. And I wasn't
sure who was speaking, but they were talking about the trigger for the prevention of significant deterioration and the 100,000 tons limit on the GHG being the trigger for that.

However, I did want to understand -- now that is also saying it may revise some of the analysis, specifically some of the calculations. So are any of those calculations that may be revised related to the greenhouse gas emissions?

HEARING OFFICER CELLI: That question was to Mr. Darvin, I believe.

MS. BELINKY: I think it was to staff. I'm not sure who --

MS. RECORD: I can actually answer that. This is Jacquelyn Record. We will not be adjusting any greenhouse gas emissions or calculations or any values. Those will not be changing.

MS. BELINKY: Can you tell us which values may be changing?

MS. RECORD: Do you want me to do the ones that I found myself?

HEARING OFFICER CELLI: Just do the ones --

MS. RECORD: One that will be changing, Ms. Belinky, in Air Quality Table 9, PSEG's operations annual emissions for PM10. They will -- for the subtotal of
on-site emissions I had 40 something. And I need -- it was a calculation error from previous emissions I didn't update. They need to be 23.85 for PM 10. And then for PM2.5, those need to go to 5.67.

MS. STORA: Sorry for interrupting. This is Christine Stora.

Can you please indicate for the record which page numbers you're talking about and which document?

MS. RECORD: Sure. This is in the Final Staff Assessment, page 4.1-22. Previously, there was 47.52 for PM10 subtotal of on-site emissions. That now needs to be 23.85. So for Air Quality Table 9. And for PM2.5 --

MS. BELINKY: I'm sorry. I'm catching up with what page it was on --

MS. RECORD: 4.1 --

MS. BELINKY: -- PM10.

MS. RECORD: -- it's on page 4.1-22.

MS. BELINKY: Yes.

MS. RECORD: And then PM10 column, and then it's for the row that says "subtotal of on-site emissions."

There was previously 47.52 tons per year. That is an error. It should be 23.85 tons per year.

MS. BELINKY: We must be looking at two different places because that's not what it says on the chart I'm looking at. Okay. Maybe I was on the wrong page. Okay.
Here. 47.25 should actually be 23.85?

MS. RECORD: Yes.

MS. BELINKY: That's a pretty big change.

MS. RECORD: Decrease, uh-huh. And then PM --

MS. BELINKY: What does that represent, that decrease?

MS. RECORD: Those are the mass emissions on an annual basis for the entire project the operations on site.

MS. BELINKY: I'm just trying to understand how -- what made you change the number?

MS. RECORD: Oh, I just want to clarify these are typographical errors. Nothing changed.

MS. BELINKY: I don't know how that could be a typographical error because it still doesn't add up to what's in the column.

HEARING OFFICER CELLI: That would be argumentative.

MS. BELINKY: What kind of error it is?

Well, I think, first of all, this was only provided on the first of the month. And already there are corrections. We're trying to understand what is it that the staff is saying.

HEARING OFFICER CELLI: Okay. Go ahead and ask your question.
MS. BELINKY: I asked how did the change come about, the number on the page is 47.52.

MS. RECORD: Uh-huh.

MS. BELINKY: How did you get a new number?

MS. RECORD: I calculated it incorrectly previously.

MS. BELINKY: You re-calculated.

MS. RECORD: Yes. I noticed the error on those two columns. So for PM10 and PM2.5.

MS. BELINKY: And for PM2.5

MS. RECORD: It previously said 11.16, and it should be if you calculate all -- so the auxiliary boiler, nighttime preservation, and so on, you should get 5.67.

HEARING OFFICER CELLI: Ms. Record, I'm going to ask that when Ms. Belinky is asking you a question, you not speak until she finishes asking the question because the court reporter can't get two people talking at once, especially with this bad telephone problem we're having so --

MS. RECORD: Yes. Okay.

HEARING OFFICER CELLI: -- please try to be conscious of that.

Go ahead, Ms. Belinky.

MS. BELINKY: Okay. Thank you.

On the PM2.5, I think I understand what you're
saying if you just add the -- on the 2.5, if you just
re-add that column, it was incorrectly added and should
have been 5.67.

   But on the PM10, that does not appear to be
accurate. So I'm trying to understand -- or perhaps it
is. So you're saying it's now 23.85. So you re-added
those columns, is that what you've done?

   MS. RECORD: Correct.

   MS. BELINKY: Okay. And are any other staff
available to tell us what the other corrections that they
anticipate?

   HEARING OFFICER CELLI: Was the question is there
any other staff here to, what, Ms. Belinky?

   MS. BELINKY: To let us know what other
corrections are anticipated?

   HEARING OFFICER CELLI: Is this your only
witness?

   MS. MARTIN-GALLARDO: Yes. This is staff's only
witness.

   HEARING OFFICER CELLI: According to
Ms. Martin-Gallardo, this is the only staff witness here,
Ms. Belinky.

   MS. BELINKY: Okay. So my question for staff is
are there any other corrections that you anticipate
making?
MS. MARTIN-GALLARDO: Not at this time.

HEARING OFFICER CELLI: And that was Ms. -- the attorney for staff, Ms. Martin-Gallardo.

MS. BELINKY: Thank you.

HEARING OFFICER CELLI: Did you have any further questions?

MS. BELINKY: I do not have any questions at this time. Thank you.

HEARING OFFICER CELLI: Thank you, Ms. Belinky.

Mr. Emmerich, do you have any questions for any witnesses?

MR. EMMERICH: Can you hear me okay?

HEARING OFFICER CELLI: Not very well. You sound very muffled. Can you try to do your best to speak clearly into the phone loudly?

MR. EMMERICH: I'll try. I'll try to keep this question as brief as I can.

There have been -- I brought this up at workshops, but I didn't really get an adequate answer. And it's not really addressed in the air quality FSA. So I'm asking for clarification on most of the -- the most severe dust blackout days where we've seen incidents on Desert Sunlight and the Genesis Project, there is severe incidents happened during very high wind.

I brought this up, and I was told that there
would not be a construction curtailment mitigation for fugitive dust on windy days because it would be difficult to determine where the winds are blowing on the whole project site. However, if the winds are really severely blowing, would not curtailment of construction on that day mitigate fugitive dust emissions? I guess that question would be for staff or for the applicant. Thank you.

HEARING OFFICER CELLI: Okay. Did everyone get that? The question is had to do with curtailment on windy days of construction, and would that further mitigate for, I guess, fugitive dust.

Let's hear from staff first, I guess.

Ms. Record.

MS. RECORD: Yes. This is, Ms. Record. Right. Currently, we have AQSC 4. It's a dust plume response requirement that is based on observations of plumes moving on site or off site. And there's a specific mechanism -- step by step mechanism of how these plumes are to be -- are to not actually leave the site. I'm unaware of the blackout though. I don't know how if that would help.

HEARING OFFICER CELLI: Perhaps any of staff's witnesses? Mr. Stucky?

MR. GALATI: I don't have any witness that will answer it, other than we think the Conditions of
Certification call for what to do when there are plumes.

HEARING OFFICER CELLI: Did you get all that, Mr. Emmerich?

MR. EMMERICH: Yeah, I got a lot of that. I just believe that they're not really answering the question. If there is a lot of wind and very consistent and it's consistent throughout the region known as Chuckwalla Valley, it would seem to me like curtailment for that day would reduce the emissions. Why is that so complicated?

HEARING OFFICER CELLI: Ms. Record, if you can answer that.

MS. RECORD: Okay. Actually, I do have a follow-up. So step three, there is a temporary shut down requirement for the project if they are causing emissions within one hour of the original determination of the plume being significant. Or if there is any visible plume after all the rest of the mitigation has been tried and if there still is something, there is a requirement to temporarily shut down.

HEARING OFFICER CELLI: Go ahead, Mr. Emmerich.

Anything further?

MR. EMMERICH: No, I don't. Thank you.

HEARING OFFICER CELLI: Thank you.

Lastly, the Colorado River Indian Tribes, any questions?
MS. CLARK: No questions. Thank you.

HEARING OFFICER CELLI: Okay. Then at this time, I just want to ask if anybody -- did you have any or staff, did you need to ask anything of the air quality people?

MR. GALATI: No.

HEARING OFFICER CELLI: Everybody is saying no.

Okay.

Then is there a motion by the Petitioner?

MR. GALATI: Yes I would like to move Exhibit 1003, 1007, 1018, 1021, 1041, 1043, 1045, 1054, 1056, 1057, and 1079 into the record.

HEARING OFFICER CELLI: Okay. The motion to move those exhibits into the record, is there any objection from the staff?

MS. MARTIN-GALLARDO: No objection.

HEARING OFFICER CELLI: CBD, any objection to those exhibits being received into evidence?

MS. BELINKY: No objection.

HEARING OFFICER CELLI: Basin and Range Watch, Mr. Emmerich, any objection to those exhibits being received?

MR. EMMERICH: No.

HEARING OFFICER CELLI: Colorado River Indian Tribes, any objection?
MS. CLARK: No.

HEARING OFFICER CELLI: Okay. Then the motion is granted. Exhibits 1003, 1007, 1018, 1021, 1041, 1043, 1045, 1054, 1056, 1057, 1079 are received into evidence.

(Whereupon the above-referenced exhibits were received into evidence by the Hearing Officer.)

HEARING OFFICER CELLI: Staff, do you have a motion?

MS. MARTIN-GALLARDO: Yes. Staff would first like to mark for -- as exhibits FSA Part C, filed November 1st as Exhibit 2013.

Staff's comment letter to the South Coast, which was docketed on November 18th, regarding the comment letter to South Coast regarding the PDOC as Exhibit Number 2014.

And I'm not sure how to handle the next ones. We are anticipating today a comment letter from South Coast on our FSA Part C. When that's received, I think it would be helpful to have that also in the record as Exhibit Number 2015.

HEARING OFFICER CELLI: And what about the FDOC?

MS. MARTIN-GALLARDO: Perhaps we should add that as Exhibit 2016.

So with all of those marked, I have a couple of others to add and move all of them into the record.
HEARING OFFICER CELLI: Please go ahead.

MS. MARTIN-GALLARDO: We have existing Exhibit Number 2006, the PDOC; 2008, and then 2013, 2014, 2015, and 2016.

HEARING OFFICER CELLI: Any objection from the petitioner to the admission of those exhibits?

MR. GALATI: No objection, although I think we should just leave the record open for the FDOC since it's not created.

HEARING OFFICER CELLI: Well, the question I have about that is how long do we leave this record open? If the schedule currently has a December 9th PMPD publication date, are you asking the Committee to hold off on publishing the PMPD until the FDOC comes out?

MR. GALATI: No. I'm asking you -- you can go forward with maybe this comment letter on the Final Staff Assessment or some communication from the district that the PDOC represents a fair and accurate calculation of the Determination of Compliance can go forward.

If you are going to wait for the FDOC, I do think you need to wait for that before you take final action. But I don't think you need to wait for that for your PMPD.

HEARING OFFICER CELLI: And they're suggesting December 3rd, 2013, which would be short of PMPD publication date.
So I think it's reasonable to leave these place holders open. And I can't imagine anybody -- well, I can imagine. But let's hear from the other parties I guess.

CBD, is there any objection to the admission of Exhibits 2006, 2008, 2013, through 2016 inconclusive?

MS. BELINKY: Yes. We object to admitting actual evidence that hasn't been presented, which is the comment they are expecting from South Coast and the actual FDOC. I don't believe they should be admitted as evidence when they are not actually provided.

HEARING OFFICER CELLI: Very well. Then we will just leave the record open until we receive Exhibits 2013 through 2016 -- or is it just 2015 and 2016?


HEARING OFFICER CELLI: So therefore, 2006, 2008, 2013, and 2014 are received into evidence. And we'll leave the record open pending 2000 -- Exhibits 2015 and 2016. Any objection to that motion, CBD?

MS. BELINKY: No.

HEARING OFFICER CELLI: No objection.

Mr. Emmerich, any objection?

MR. EMMERICH: No.

HEARING OFFICER CELLI: And Ms. Clark, any objection?

MS. CLARK: No.
HEARING OFFICER CELLI: Okay. CBD, you have --
the record should reflect the Exhibits 2006, 2008, 2013,
and 2014 are received into evidence.
(Whereupon the above-referenced exhibits were
received into evidence by the Hearing Officer.)
HEARING OFFICER CELLI: CBD, you have a motion?
MS. BELINKY: Yes. We have several air quality
exhibits. And then I have other exhibits, though we
should probably do them separately.
The air quality exhibits are 3066, 3067, 3068,
3069, 3070, 3071, 3072, 3073, 3074, 3075, 3076, 3077,
3078, 3079, 3080, 3081, 3082, 3083, 3084, 3085, 3086, and
3087. We'd like to move all of those into the record as
air quality.
HEARING OFFICER CELLI: Petitioner, any objection
to those exhibits being received?
MR. GALATI: No.
HEARING OFFICER CELLI: Staff, any objection?
MS. MARTIN-GALLARDO: No objection.
HEARING OFFICER CELLI: Basin and Ranch Watch,
any objection?
MR. EMMERICH: No objection.
HEARING OFFICER CELLI: CRIT, any objection?
MS. CLARK: No.
HEARING OFFICER CELLI: Those exhibits 3066,
3067 -- let's just say 3066 through 3087 inconclusive are received.

(Whereupon the above-referenced exhibits were received into evidence by the Hearing Officer.)

HEARING OFFICER CELLI: Basin and Range Watch did not have any exhibits, nor did CRIT.

So now, Ms. Belinky, you said you had some other motion you wanted to bring with regard to exhibits?

MS. BELINKY: Yes. We have additional exhibits. The Exhibit 3065, which was docketed just a few days after the hearing, relates to a question that arose at the hearing when we were accepting alternative and biological resources and Ilene Anderson submitted clarification.

And number 3091 is a map that was produced by the applicant, or petitioner, and relates to issues that we had raised regarding project description and alternatives. Both of those we would like to have admitted in the proposed alternatives and biological resources.

And then we have three other exhibits which are additional updated information about impacts to biological resources. And those are 3088, 3089, and 3090.

HEARING OFFICER CELLI: Okay. I need you to identify --I understand 3065 is Ms. Anderson's comments regarding alternatives and 3091 is a map. What is 3088,
3089, and 3090? Can you tell me what those are, please?

MS. BELINKY: Sure. 3088 is a recent article about additional impacts that they're finding at the site, the plant. Particularly, as Ms. Anderson had mentioned, there was testimony there is new evidence that perhaps certain birds are actually being attracted to the power tower.

Number 3088 also discusses -- that was 3088. 3089 is the updated report from the ISEG project on additional bird mortalities and other impacts. And 3090 is an article about the attracting birds towards the project.

So one is on this so-called funnel effect, which is like an environmental trap. And the 3089 is about specifics birds that are believed to be the attracted to the project.

HEARING OFFICER CELLI: Okay. Let me make sure I have this, birds attracted.

MS. BELINKY: I can send you -- I have a new updated list. I can send you the Word document.

HEARING OFFICER CELLI: That's fine. I just want to be able to say for the record what we're talking about. So the Exhibit 3088 is an article regarding avian morality at Ivanpah.

3089 is an updated report regarding ISEG's bird
mortality -- is that an Energy Commission report?

MS. BELINKY: It is a report to the compliance report, yes.

HEARING OFFICER CELLI: And then 3090 is an article regarding birds being attracted to -- are you saying solar towers?

MS. BELINKY: Yes. To the ISEG plant.

HEARING OFFICER CELLI: Any objection to the admission of Exhibits 3065, 3088 through 3091 inclusive, Petitioner?

MR. GALATI: We don't mind all of those coming in. We'd like the Committee to note that as it has done in the past, when you let news articles in, you give them the appropriate hearsay weight they deserve.

HEARING OFFICER CELLI: Of course.

Any objection from staff?

MS. MARTIN-GALLARDO: No.

HEARING OFFICER CELLI: Any objection from Basin and Range Watch?

MR. EMMERICH: No.

HEARING OFFICER CELLI: Any objection from Colorado River Indian Tribes?

MS. CLARK: No.

HEARING OFFICER CELLI: Thank you. Then exhibits 3065, 3088, 3089, 3090, 3091 are received into evidence.
whereupon the above-referenced exhibits were received into evidence by the Hearing Officer.)

HEARING OFFICER CELLI: And ladies and gentlemen, then I -- go ahead, Mr. Galati, you had a question?

MR. GALATI: I didn't want you to go to public comment. I had some housekeeping.

HEARING OFFICER CELLI: Before I go to the public comment and to housekeeping, I wanted to close the record on air quality. So can I excuse the witnesses? Is there anybody who needs anything further on air quality?

Petition?

MR. GALATI: No.

HEARING OFFICER CELLI: Staff?

MS. MARTIN-GALLARDO: No.

HEARING OFFICER CELLI: CBD?

MS. BELINKY: No.

HEARING OFFICER CELLI: Basin and Range Watch, Mr. Emmerich?

MR. EMMERICH: No.

HEARING OFFICER CELLI: Colorado River Indian Tribes?

MS. CLARK: No.

HEARING OFFICER CELLI: Thank you. I'm going to excuse the witnesses.

And you had a question, Mr. Galati. Go ahead.
MR. GALATI: Yes. At the evidentiary hearing when I had made a motion for the administrative notice portions of the rights record, I could not point specifically to the rights record. I asked for the decision in the Presiding Member's Proposed Decision. I do not need the Presiding Member's Proposed Decision, but I would like to have administrative notice of Exhibit 55, which was one piece of testimony.

HEARING OFFICER CELLI: What is Exhibit 55?

MR. GALATI: Exhibit 55 is a piece of rebuttal testimony that talked about fire needs and calculations performed in the rice project.

HEARING OFFICER CELLI: So that was -- that's not in the PSPP. That wasn't in the Palen Solar Power Plant project. That was in Rice.

MR. GALATI: Correct.

HEARING OFFICER CELLI: One moment. (Discussion by members off record.)

HEARING OFFICER CELLI: Okay. Let's hear, is there any objection from staff to the Committee taking official notice of Exhibit 55 from the Rice -- what is the Rice? Do you happen to know what Rice's --


HEARING OFFICER CELLI: Okay. So the request is for official notice of Exhibit 55, which was, I take it,
admitted in the Rice matter?

MR. GALATI: Correct. It was admitted and relied on. But when going through the final decision, it didn't summarize the numbers. It just referred to them. So in order for me to point to the numbers, I need Exhibit 55. The final decision did rely on it.

HEARING OFFICER CELLI: Okay. So what you just said gives me some concern. If I go into the record, am I going to find Exhibit 55? Or do I have to have you give me more specificity what that document is?

MR. GALATI: It's a very specific stand-alone document called Exhibit 55. And it is the rebuttal testimony of Wesley Alston.

HEARING OFFICER CELLI: Okay. Any objection, staff?

MS. MARTIN-GALLARDO: No.

HEARING OFFICER CELLI: CBD?

MS. BELINKY: I guess I'm not sure what it is. I haven't seen it. No, I guess not. It's very -- extremely unusual for testimony -- I mean, if it's testimony but not testified in a different proceeding and that person isn't here. So I just -- as a procedural matter, I don't understand it.

HEARING OFFICER CELLI: But do you object to it?

MS. BELINKY: If it's testimony -- I do object
because testimony needs to be in this matter. And I mean, otherwise, maybe we can bring in testimony that was presented in other matters. I've always been informed we couldn't do that. If we wanted to rely on testimony, it had to be in this matter. So I'm quite confused as to what the procedure would be to bring in such matter.

HEARING OFFICER CELLI: Any objection from Basin and Range Watch?

MR. EMMERICH: No, we don't.

HEARING OFFICER CELLI: Any objection from Colorado River Indian Tribes?

MS. CLARK: I would concur with Lisa's comments.

HEARING OFFICER CELLI: Okay. Then here's what I would just say, and I'll hear from the parties. That our Regulations 1212 -- Section 1212 of Title 20 allows hearsay to be admitted, but it does -- specifically precludes a finding based on the hearsay. So the hearsay is admissible to supplant -- or not to supplant, rather, to support other competent evidence, but in itself is not sufficient to support the finding. So this testimony would be hearsay. So I'm inclined to admit it with the admonition that this is hearsay that in itself would not support a finding.

MR. GALATI: This was testimony under oath under declaration of penalty of perjury in front of this very
Commission and in front of one of the Commissioners who is sitting in the room.

This testimony, because I don't want to surprise anybody, I will tell you exactly what it is. There is a number that was added up in Rice. And I wanted to tell you where that number came from so you could see where it was added up. The Committee didn't put it in the final decision. They just gave the total number. If you're fine with that total number, so am I. I thought it would be more specific to tell you and this is how they got to it. The only way to do that was not in the PMPD. It was in the testimony, which was given before the Commission under oath.

We just allowed in newspaper articles. Now granted, given hearsay, we also allowed in confidential documents. So I'm actually giving you a document that somebody testifying under penalty of perjury before you on.

HEARING OFFICER CELLI: Understood. All of that goes to the weight of the testimony. But the testimony is hearsay, as are those articles and probably a lot of other evidence we've taken in.

So at this time, the Committee would admit or rather take official notice of Exhibit 55 from the Rice AFC, which is 09-AFC-10.
Anything further from any of the parties on any of this? Because this was actually -- we're now into housekeeping. So was there anything further from the Petitioner?

MR. GALATI: No. And we've docketed that for you as well.

HEARING OFFICER CELLI: Thank you.

Staff?

MS. MARTIN-GALLARDO: This just raises at issue. As we draft our opening briefs, there was no question whether or not you actually needed to take official notice of the final decision issued in the PSPP case, or if that's actually part of this whole thing. So I will just say that we would be asking for you to take official notice of your final decision in this case.

HEARING OFFICER CELLI: The Committee will certainly take official notice of the underlying Palen Solar Power Plant. Okay.

Anything further, CBD?

MS. BELINKY: We do have one further thing, which is the staff and the petitioner filed additional COCs in the last few weeks. And it's very hard for us to understand some of the things in there. And I'm particularly concerned that we're being asked to respond but we don't know how they reached these agreements. And
there appear to be statements made in there that are not accurate and may require additional testimony. So we are really trying to understand given -- and this goes also to the question from the Committee for briefing. Given that the Committee has asked about things like curtailment as the mitigation measure and how they should structure a Technical Advisory Committee and facilitate public transparency, there seems to be a lot of assumptions about what is going to be the structure of these post approval -- assuming there is an approval -- actions.

And the new COCs that we saw that were agreed to actually raised more questions about them rather than -- actually rather than resolve some of our issues with these questions. And so we are very concerned about this whole effort to defer discussion about mitigation measures, how they would be developed, and what would be the parameters of those measures to a later time after a decision is made.

It isn't improper -- clearly, it isn't proper under CEQA. And it's also very confusing to us even what is now being proposed. Because the questions from the Committee specifically mention curtailment. Nothing in the COC mentioned curtailment or other measures or metrics or et cetera. So we seem to have a very big gap between
the Committee's questions and what is in the record.

HEARING OFFICER CELLI: Well, if I may just kind
of address the issue with regard to the joint conditions
of certification. The Committee asked at the evidentiary
hearing for the parties to provide in one place an
agreed-upon set of conditions so that we knew where to
look to see where it was that at least the staff and
applicant agreed.

And in that list, Ms. Belinky, I'm sure you've
seen there's a couple of references to "disputed." And the
way I was going to deal with those disputed conditions
basically would be to look into the record to see if there
are any conditions offered by the parties and what they
contain. So if, for instance, I noted that the FSA would
contain workers safety seven but that that joint statement
shows worker safety seven is disputed. So I'm not seeing
that -- that's not new testimony. What that is is a
refinement of, as far as I can tell, what the conditions
are that the two parties, the applicant and staff, agreed
to and would be willing to jointly file.

Now, you are -- we welcome and encourage your
briefing any objections and problems you have with these
conditions. I mean, that's really important. That's the
reason we do the briefs. We want to see what your
position is on those things. So that's -- you're welcome
to do that in your briefs. So I don't know if I'm helping
you or making you more confused.

MS. BELINKY: Well, I think that certainly
answers the question of where -- how to address the COC,
the new revised COCs that staff and applicant have filed.

However, it does not address how that may or may
not relate to the questions from the Committee. And the
questions from the Committee, specifically Question 3 and
Question 4, would go specifically to measures that are
post-decisional and have not been discussed in hearings.

Curtailment was not raised as a matter that was
discussed on a factual level during hearing. The TEAC was
referred to in a very general way. And certainly that has
different issues.

But I just see that there is still a very large
gap here between what the Committee is asking for in
briefing and what we have in the FSA and in the record
regarding what will happen to develop mitigation measures.
And the Center has raised this repeatedly that it is not
clear what is going to be -- what is even being proposed,
that this is something that is being proposed to be done
after the decision. And we're having, quite frankly,
trouble understanding what it is the Committee is asking
for on this record.

HEARING OFFICER CELLI: Okay. Well, you know,
everybody is going to be reading the record and finding what they find in there. But I actually don't see any correlation between the conditions submitted. Those conditions -- the joint conditions were submitted not in response to the request for briefing. As far as I can see, it has nothing to do with the request for briefs. But you go ahead and actually put those concerns in the brief, and we will -- and that's where we'll be looking for that.

MS. BELINKY: I think that there's -- I don't know if you have read these conditions. So I have no idea.

It appears that staff is negotiating with the applicant behind closed doors changing conditions. We are not in part of this, and we are just getting these COCs after the fact. At the same time, one of the Committee's questions directly goes to the COCs.

MR. GALATI: May I just please address that because --

HEARING OFFICER CELLI: This is Mr. Galati. Go ahead.

MR. GALATI: Yes, thank you.

You know we have done this before. What happens is staff comes out with a staff assessment and has a set of conditions in it. We put in our opening testimony how
we want those conditions to change. Not all parties do 
that, by the way. But the applicant generally does. 

Staff then in their rebuttal testimony says we 
like these and we agree with those changes or we don't 
agree with these other changes. So there becomes another 
document that has further revisions. 

Then we come to evidentiary hearing. And 
sometimes at evidentiary hearing, based on conversations 
or discussions, the Committee or the Panel agrees that 
some other changes should be made. 

What you have in front of us is what you asked us 
to do, which was I think -- and we've done it in the past. 
We did a stipulation. There was no negotiations of those 
conditions outside of all of those public settings. You 
can follow and trace -- and you should have been 
tracing -- the changes to the conditions up until 
evidentiary hearing. We had no obligation to put together 
a clean set. We did it for the convenience of the 
Committee. There is two stipulations. 

The second stipulation, while doing that, we 
actually discussed language at the evidentiary hearing, 
but we didn't agree on whether it's an "or" or "but" or a 
comma or "and."

In that case, staff or I proposed the language to 
capture what we talked about. And then to make it
absolutely clear there was no negotiation, we put every change that wasn't already written in the front of the stipulation. Some were cleanup, and some were all of those so that everybody could follow. If there is any negotiation going on, you'll see it on the first page, which were clean up or we didn't agree on the very specific language.

We do this in other projects. I think it's helpful. And ultimately the Committee will decide whether our conditions, whether to do it or not, and we'll check that. And they'll write a PMPD, and that will have the full suite of conditions.

As far as the questions asked, I don't think they had anything to do with the conditions. I think they had to do with whether the Committee wants to think about adding new conditions and under what circumstances would those be for briefing those.

HEARING OFFICER CELLI: Thank you.

Again, Ms. Belinky, we'll see what -- the Committee is very interested in hearing what you have to say about the conditions in your brief.

MS. BELINKY: Yes, we will be providing responses on the conditions separately from the brief.

Anyway, I do think that the question is unclear and the question requires -- particularly Question 3
requires factual analysis because this issue was not
raised by the Committee before hearing. We did not
address this factual question. And I believe that that is
a problem. And I will certainly put that in my brief.

HEARING OFFICER CELLI: Thank you.

Anything further from Basin and Range Watch?

MR. EMMERICH: No, we have nothing further.

Thank you.

HEARING OFFICER CELLI: Sara Clark, anything
further?

MS. CLARK: No, thank you.

HEARING OFFICER CELLI: Thank you, all very much.

Then the air quality and these evidentiary
hearings at this time then are closed. The record is
closed.

We are going to next go to public comment. And
after that, we will -- are going to have to address the
closed session.

Going to -- first of all, I have here Alana --
I'm drawing a blank.

MS. MATTHEWS: Matthews.

HEARING OFFICER CELLI: Matthews. Alana Matthews
is the Public Advisor for the California Energy
Commission. She's here.

Do we have any members of the public who are
present that wish to make a comment?

MS. MATTHEWS: Yes, we do. I have a card for you, Mr. --

HEARING OFFICER CELLI: Garabedian?

MR. GARABEDIAN: Yes.

HEARING OFFICER CELLI: Mr. Garabedian, I'm going to need you to have a microphone. If you could please come to one of these microphones -- actually, there is a hand held right there. Pick that up and speak into that up if you don't mind. 245 million Acres.

MR. GARABEDIAN: Thank you. Is this on?

HEARING OFFICER CELLI: I'll bring you over here then and put you next to one of these microphones so you can be heard by everybody. Please speak right into that microphone. Thank you. It's on.

MR. GARABEDIAN: I'll leave it on.

Thank you, Mr. Hearing Examiner.

Michael Garabedian here today representing Committee for 245 Million Acres. Well, the Emperor has no clothes. The applicant is in this gathering seeking for this tower of technology green washed clothing.

I would have some sympathy for the applicant struggling with this particular gathering tower of technology, except for that maybe eventually the applicant will sue the suppliers or consultants or engineers over
this technology for misrepresentation or deceptive
business practices or fraud. Maybe investors will sue the
applicant.

But for the Committee, I assume the Committee has
the contracts for these types of arrangements the
applicant has. And I wonder if they say, well, we are not
making any guarantee this technology will work or we are
not taking no position on whether the science will support
using the land use for this technology.

So if the Energy Commission goes with this, the
question in my mind is what would the position of the
Energy Commission be in the public? What would it's
public commission be? Would it be enabling an unworkable
technology? Would it be trying to bring some life into a
dying technology, kind of like CPR when do not resuscitate
is what's needed?

Most likely, the solar gathering tower, this
type -- this particular type is one of many energy
technologies over the decades that didn't work.

So the Energy Commission shouldn't be
experimenting with this particular projects technology.
Energy shouldn't be -- shouldn't be in the business of
promoting unproven technologies. So don't put another one
like this out on the ground. Not this one. And don't
green wash this project or this solar tower gathering
technology.

Thank you.

HEARING OFFICER CELLI: Thank you, Mr. Garabedian.

Ms. Matthews, do we have any other -- she's indicating there is no one here from members of the public.

So now I'm going to go to the phones. And first I'm going to see if there are any public agencies, people from public agencies that wish to make a comment starting with the South Coast Air Quality Management District. Did you wish to make any comment?

It appears they're no longer on the line. Okay. Who else do we have? Deborah Bardwick, did you wish to make a comment?

MS. BARDWICK: I have no comment. Thank you.

HEARING OFFICER CELLI: Aimee Howard? Okay.

MS. HOWARD: I have no comment. Thank you.

HEARING OFFICER CELLI: I'm going to continue down the list. I know that Charles Turlinski is with the petitioner. Kristy Cordare is not on the phone. Elaine Harland is with us. Greg Darvin was a witness. Ilene Anderson was a witness. Ken Waxlax. Mr. Waxlax, did you wish to make a comment?

MR. WAXLAX: I don't at this time, although it
appears in other parts of the country and the world this
technology does work.

HEARING OFFICER CELLI: Okay. Thank you for your
comment, Mr. Waxlax.

Kevin Emmerich is a party. Lisa Belinky is a
party. Marie Flemming is with petitioner. Sara Clark is
a party. Scott Blek, Wendy Campbell appears to have hung
up.

Is there anyone else on the phone who would like
to make a public comment? Please speak up if you wish to
make a comment.

I have one call-in user. Do you wish to make a
comment at this time? Hearing none, then we would go to
the next part of today's hearing -- I'm sorry? Say again.

MS. CAMPBELL: Can you hear me?

HEARING OFFICER CELLI: Yes, I can. Please speak
up.

MS. CAMPBELL: This is Wendy Campbell.

HEARING OFFICER CELLI: I'm sorry. Excuse me.

But it's hard to hear you. So I'm going to need to ask
you --

MS. CAMPBELL: I took it off speaker phone. Can
you hear me now?

HEARING OFFICER CELLI: Much better. Please
state your name and spell it again.
MS. CAMPBELL: Wendy Campbell, C-a-m-p-b-e-l-l.

HEARING OFFICER CELLI: Go ahead. We can hear you fine now.

MS. CAMPBELL: Oh, good.

Well, I actually went on the field trip out to see the site. I talked a lot to Mr. Charles Turlinski, and I've been reading a lot about it. And you know, I just -- from everything I've read, I agree with that other person from the public. I didn't quite get his name. I really don't think it's a good project yet because it hasn't been proven yet. Even the Ivanpah Solar Project has been proven to kill a lot of birds. And apparently, the pacific flyway goes right over the Palen project. So this could be very disastrous for the birds. And this is supposed to be a green project. It doesn't look like a green project where it's, like, keeping all that land. It doesn't -- you know, it kills birds. I mean, what's green about it, except that it's renewable because of the sun.

But I just don't think it seems like a really good real true green project, except that it uses the sun. But in this case, it's not green because it's killing birds. It's taking up a lot of acreage. Miles and miles of it. I don't think it's a green project. And also it's really unreliable. I know because I found out that since it's unreliable, it does use back up from the fossil fuel
so why not just use the fossil fuels? Why not just have
the oil pipeline come through from Canada, our friendly
neighbor up north, and you know, it's much more
controllable in the pipeline than on a ship or something.
So just because the project is solar doesn't mean it's
green. So I say thumbs down to this project.

HEARING OFFICER CELLI: Thank you very much for
your comments. Appreciate that, Ms. Campbell.

MS. CAMPBELL: Thank you.

HEARING OFFICER CELLI: That is everybody on the
phone. And everybody who's here. So now we've heard all
the public comment for today.

What was going to happen, ladies and gentlemen,
was that the Committee was going to go into a closed
session pursuant to 11126 of the Government Code.
However -- and those of you who are on the phone,
Commissioner Hochschild isn't here today. And so strictly
for the purpose of having a closed session, the Committee
is going to continue this evidentiary hearing to Monday at
2:00. I will post a notice on the internet on the web.
We'll put one on the door.

I will have of a new Web Ex number. In fact, I'm
going to give it. I'm going to say it on the web now.
The new Web Ex meeting will be meeting number -- that's
the wrong meeting. Well, ladies and gentlemen, what's
going to happen is we will post within a matter of an hour or so a notice for the closed session. So what that means is this. The Committee will go into deliberations. We would go on the record, take any public comment if anybody wants to make a public comment, and that would be at about 2:00 in the afternoon on Monday. After that, the Committee would adjourn into a private deliberations for as long as they need to. At the close of the deliberations, they will come back out on the record and say we have concluded our closed session. There is nothing to report. And the meeting will be adjourned. So I'm telling you all of that because it's not something that most people would want to probably come down here for. But it will be on Web Ex and you can listen in on Web Ex. So look for this notice on the internet today. I'll put it up tonight for the closed session only. Other than that, we have concluded the evidentiary hearing, and I will turn it over to Commissioner Douglas to adjourn.

COMMISSIONER DOUGLAS: I'd like to thank everyone. We are not actually adjourning. We're just continuing the hearing until Monday. So thank everyone. With that, we will leave this room and come back on
Monday.

(Whereupon the hearing recessed at 3:26 PM)
CERTIFICATE OF REPORTER

I, TIFFANY C. KRAFT, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing hearing was reported in shorthand by me, Tiffany C. Kraft, a Certified Shorthand Reporter of the State of California, and 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 the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of November, 2013.

TIFFANY C. KRAFT, CSR, RPR
Certified Shorthand Reporter
License No. 12277