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ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA

HUNTINGTON BEACH ENERGY PROJECT
BEFORE THE CALIFORNIA ENERGY COMMISSION

In the matter of,                                               )
Huntington Beach Energy                                        ) Docket No. 12-AFC-02
Project                                                      )

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

WEDNESDAY, AUGUST 6, 2014
1:30 P.M.

Reported by:
Adrian Edler
APPEARANCES

COMMISSIONERS (AND THEIR ADVISORS) PRESENT:
Andrew McAllister, Presiding Member
    Pat Saxton, His Advisor
Karen Douglas, Commissioner
    Eli Harland, Her Advisor
    Jennifer Nelson, Her Advisor

HEARING OFFICER:
Susan Cochran, California Energy Commission

CEC STAFF PRESENT:
Kevin W. Bell, Esq., Senior Staff Counsel

PETITIONER/APPLICANT:
Stephen O’Kane, VP for AES Southland Development
Melissa Foster, Esq., Stoel Rives
Robert Mason, CH2M Hill

INTERVENER:
Monica Rudman
APPEARANCES

SOIL AND WATER RESOURCES PANEL
Matthew Franck, Applicant
Mike Conway, CEC Staff

AIR QUALITY/GHG PANEL
Jerry Salamy, CH2M Hill
Stephen O’Kane, AES Southland
Tao Jiang, PhD, CEC Staff
David Vidaver, CEC Staff

GEO/PALEO PANEL
Thomas Lae, CH2M Hill
Casey Weaver, CEC Staff
Mike Conway, CEC Staff

COMPLIANCE & CLOSURE PANEL
Stephen O’Kane, AES Southland
Eric Veerkamp, CEC Staff
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AUGUST 6, 2014

COMMISSIONER MC ALLISTER: I’d like to take the opportunity to welcome you to the continuation of the Huntington Beach Energy Project Evidentiary Hearing, which may include a staff workshop. I think that’s one of the things we’re going to talk about, whether that’s needed and the parties still desire it.

I wanted to call us to order. My name is Andrew McAllister. I’m the Lead Commission on this case.

And from your right to left is Pat Saxton, who’s my adviser on siting matters, Susan Cochran, the Hearing Officer, Commissioner Karen Douglas and Eli Harland, her advisor.

So, I think we all know each other from the meeting a couple of weeks ago down in Huntington Beach. And the goal here is to continue the agenda, get through it this afternoon, if we can, and get on to the next steps.

So, I’ll pass the microphone off to Commissioner Douglas, if she wants to say any words, and then on to Susan.

COMMISSIONER DOUGLAS: No, thank you, just welcome to everybody.

HEARING OFFICER COCHRAN: Those of you who have called in on the phone, in a little bit I’m going to ask you to mute yourself until such time as you need to talk because
it creates feedback and noise here in Hearing Room A, where
we have been graciously granted the opportunity to use.

I see that the Public Adviser is here or at least
someone standing in for the Public Adviser.

If there are members of the public present, who would
like to speak, there are little blue cards that will let us
know that you’d like to speak. So, if you could hand those
in, if you could raise your hand and say howdy. I’m sorry, I
haven’t met you, yet.

At this point I would like the parties to identify
themselves.

MR. BELL: Kevin W. Bell, Senior Staff Counsel, here
on behalf of Commission staff.

HEARING OFFICER COCHRAN: Thank you.

MS. RUDMAN: Monica Rudman, Intervener.

MR. O’KANE: Stephen O’Kane with AES, the Applicant.

MS. FOSTER: Melissa Foster with Stoel Rives, counsel
for the Applicant.

MR. MASON: Robert Mason with CH2M Hill, Project
Manager for the Applicant.

HEARING OFFICER COCHRAN: Thank you. Is there anyone
on -- are there any Federal governmental agencies present
today?

Any officials representing Native American Tribes or
Nations?
Any other officials from State, county, regional, or local jurisdictions?

Okay, at the first evidentiary hearing we detailed the evidentiary standards to be used in this adjudicatory proceeding.

I will now review, briefly, some of the salient points.

The formal evidentiary record is the only evidence the Commission may base its decision on. The formal evidentiary record is sworn testimony of the parties’ witnesses, whether live testimony or by declarations that were pre-filed some time ago, the reporter’s transcripts of the hearings.

We do have a court reporter present and for clarity of the record it would be much better if we only spoke one at a time.

The exhibits received into evidence, and briefs, pleadings, orders, notices and comments submitted by members of the public.

Only the parties, Applicant, Interveners and Energy Commission staff may present evidence for introduction into the formal evidentiary record.

Testimony offered by the parties shall be under oath.

Each party has the right to present witnesses, introduce exhibits, and to rebut evidence of another party.
Technical rules of evidence do not apply to these proceedings, but they do provide us with some guidance.

Also, we will tend to admit any relevant, non-cumulative evidence if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs.

I didn’t write that, someone else did.

Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding.

That means we have to have direct evidence.

The Committee will rule on motions and objections, including objections relating to relevance.

The Committee may take official notice of matters within Energy Commission’s field of competence and of any fact that may be judicially noticed by California courts.

Members of the public who are not parties are welcome and invited to observe the proceedings. There may also be an opportunity for the public to provide comment at the conclusion of the evidentiary hearing today.

Depending upon the number of persons who wish to speak, the Committee may have to limit the time allowed for each speaker.

This public comment period is intended to provide an opportunity for persons who attend the hearing to address the
It is not an opportunity to present supplemental written, recorded, or documentary materials. However, such materials may be docketed and submitted to the Energy Commission for inclusion in the administrative record, which is not necessarily the same thing as the evidentiary record.

Members of the public may submit written comments, if they would prefer that to speaking directly to the Committee. There is room for that on the blue card that the Public Adviser has.

There is an exhibit list out in the foyer that was prepared on the electronic docket, from the electronic docket, so that you may automatically update your own witness -- I’m sorry, own exhibit list by going to the Energy Commission docket.

While I’m speaking about the docket, I did have a few clarifying questions I wish to ask.

At the evidentiary hearing down in Redondo Beach, staff had marked and admitted -- I’m going to now show you this lovely picture that was printed, 18 inches, to be held 12 inches out, key observation point number 5, regarding visual resources. This was admitted into evidence as Exhibit 2002.

Mr. Bell, are you intending to docket this or are we now going to withdraw Exhibit 2002?
MR. BELL: The item 2002 has actually already been
docketed. It’s part of, I believe it was, the Applicant’s
original submissions in the AFC.

The only difference is that is actually to scale
whereas what we had docketed in the AFC was not to scale.

HEARING OFFICER COCHRAN: Okay, so --

MR. BELL: Originally, we were offering that for
demonstrative purposes, only, and I understand the parties
wanted that docketed. But, in fact, that already has been
docketed, just not to scale.

And I don’t know if our dockets can take an item like
this that’s oversized.

HEARING OFFICER COCHRAN: I don’t believe they can.
My understanding is that what we would have to do is put a
note on the docket that essentially says that in order to
view this exhibit you need to print it at 18 inches and hold
it at 12 inches.

You had clearly marked on the copy that it was
originally from TN71338.

MR. BELL: Yes.

HEARING OFFICER COCHRAN: So, the difficulty’s going
to be that we cannot have a single TN with multiple exhibit
numbers.

So, I think that what we’ll do is we’ll keep this as
demonstrative, but I’m not sure, now that we’re electronic as
opposed to having written, paper copies, how it’s going to look in the record.

MR. BELL: Yeah, the electronic docketing and electronic evidence is new to me. I’m just what they would call a simple country lawyer, who’s used to handing things over and publishing.

One thing I would like to do, we can withdraw that from evidence and I will so move.

But if I did not do this before, I would like the record to reflect that as I was describing the document, being the proper scale and held at 18 inches, that without prompting both Commissioners and Madam Hearing Officer actually did that. It was suggestive powers that helped that out.

HEARING OFFICER COCHRAN: That’s what makes a simple country lawyer worth every penny you pay.

MR. BELL: May the record so reflect that? No, that they actually held it out, not the other.

(Laughter)

MR. BELL: And if so, I’ll ask that it be withdrawn.

HEARING OFFICER COCHRAN: Thank you. Then what we will do is we will withdraw Exhibit 2002 from the record because it’s not -- I don’t think it’s going to work the way that we had all envisioned.

(Staff Exhibit 2002 was withdrawn)
HEARING OFFICER COCHRAN: Turning now to the Applicant, at the beginning of the last hearing you had mentioned that there were going to be three presentations that were going to be docketed. Have you docketed all three or were there only then two?

MS. FOSTER: There were only two. The third one was not relied upon during the evidentiary hearing.

HEARING OFFICER COCHRAN: Okay. So, originally we had docketed through, I believe, 1043, and now you only have through 1042; is that correct?

MS. FOSTER: I believe that we docketed 1140 was the Visual Resources presentation, and 1141 was the Cultural Resources presentation.

HEARING OFFICER COCHRAN: Thank you.

MS. FOSTER: And then we do have --

HEARING OFFICER COCHRAN: That’s correct. So, then the record should reflect that 1142, which was admitted when we were down in Huntington Beach, shall be withdrawn from the record. Is that correct?

MS. FOSTER: That’s correct.

HEARING OFFICER COCHRAN: Thank you.

(Applicant Exhibit 1142 was withdrawn)

HEARING OFFICER COCHRAN: And then finally, Ms. Rudman, I believe that you have docketed another item that’s to be an exhibit?
MS. RUDMAN: Yes and I would like to make a motion to move it into evidence.

HEARING OFFICER COCHRAN: Okay, why don’t we wait until we get to the subject matter that that evidence refers to?

MS. RUDMAN: Okay.

HEARING OFFICER COCHRAN: Okay.

MS. FOSTER: And Applicant has two additional items that have been docketed that we would like to move into evidence, as well.

HEARING OFFICER COCHRAN: Okay, can we do that -- for future exhibits that we’re now going to add, that are not reflected on the exhibit list that was out in the foyer today, let’s move them in during the subject matter that they relate to.

MS. FOSTER: They were the documents submitted last week, the pre-hearing statement --

HEARING OFFICER COCHRAN: Okay.

MS. FOSTER: -- and the responses to questions, so they don’t relate to a specific subject.

HEARING OFFICER COCHRAN: Oh, okay, then let’s -- so you would like to have marked for identification 1142, which is?

MS. FOSTER: Applicant’s pre-hearing statement. It’s TN202855.
HEARING OFFICER COCHRAN: 855 thank you.
And 1143?

MS. FOSTER: Applicant’s responses to questions and the Committee’s order after pre-hearing conference, TN202862.

HEARING OFFICER COCHRAN: 202862. Is there any objection to receiving those into evidence?

MR. BELL: None.

MS. RUDMAN: No.

HEARING OFFICER COCHRAN: Those items will be received into evidence.

(Applicant Exhibit Nos. 1142 and 1143 were marked for identification and admitted into Evidence.)

HEARING OFFICER COCHRAN: Staff, did you have additional exhibits you wish to admit into evidence?

MR. BELL: Yes, we have one additional exhibit. It was docketed earlier this week. It’s the Energy Commission staff’s proposed Conditions of Certification Revised.
And I don’t have the transaction number in front of me.

HEARING OFFICER COCHRAN: Let’s mark those as 2003 and I’ll fill in the TN. So, that will be Exhibit 2003.

MR. BELL: Yes, I just wanted to clear that as the Conditions of Certification Revised.

HEARING OFFICER COCHRAN: Right, that was filed...
earlier this week.

MR. BELL: Yes.

MS. RUDMAN: I have the TN number, if you need it.

HEARING OFFICER COCHRAN: Thank you.

MS. RUDMAN: 202882.

HEARING OFFICER COCHRAN: 202882?

MS. RUDMAN: Yeah.

HEARING OFFICER COCHRAN: Thank you. Is there any objection to receiving Exhibit 2003, the Revised Conditions of Certification into evidence?

MR. BELL: Before it’s submitted, I do have on minor change.

HEARING OFFICER COCHRAN: Okay.

MR. BELL: One minor revision to the Revised Condition of Certification.

And that is under Cultural Resources, Condition of Certification CUL-1, on page 46, verification number two. It currently reads, up to the first comma, “at least ten days prior to a denial,” and “denial” being bold and underlined as language that staff was proposing be included.

“Denial,” should be stricken and moved to -- after “resignation” along with the word “or”. So, the first two lines of page 46, verification number two, should read as follows:

“At least ten days prior to a termination or release
of the CRS, or within ten days after the resignation or
denial of a CRS,” and the remainder remains the same.

HEARING OFFICER COCHRAN: Okay. With that further
amendment to the Revised Conditions of Certification, is
there any objection to the admission of Exhibit 2003?

MS. FOSTER: Applicant just has a quick question for
staff counsel.

Mr. Bell, it looks as though the revised conditions
only include Waste Management Conditions 1 and Conditions 2,
but not the remainder of the Waste Management Conditions.

Did you intend to delete those or remove those from
the revised condition?

MR. BELL: The remaining Waste Management conditions
should be included in this, as well.

In that section it appears that the revisions to the
Waste conditions were the ones that are in this document.
But the remaining proposed conditions of certification, as
originally proposed, should remain the same.

MS. FOSTER: Okay, thank you.

MS. RUDMAN: These conditions were something that I
just saw recently, so I would like to have adequate time to
review them and comment on them.

HEARING OFFICER COCHRAN: That will probably occur
during briefing. That will be something that you’ll need to
brief.
MS. RUDMAN: Okay.

HEARING OFFICER COCHRAN: So, are there any further objections to receiving Exhibit 2003, as we’ve described it?

MS. FOSTER: None from the Applicant.

MR. BELL: None from staff.

HEARING OFFICER COCHRAN: Seeing none, we will admit the Exhibit 2003 into evidence.

(Staff Exhibit No. 2003 was marked for identification and admitted into evidence.)

HEARING OFFICER COCHRAN: I have also provided out in the foyer, today, an updated witness list that lists only those topics that we will be discussing today. They are also in the order that we wish to proceed.

So, with one caveat, the Applicant’s Water witness is only available now, and only available by phone. So, any questions that any party may have relating to water-related issues should be brought at this time, while that person is on the phone.

Is that Mr. Franck?

MS. FOSTER: That is Mr. Franck, correct.

HEARING OFFICER COCHRAN: Thank you.

So, if there are questions relating to water, regardless of what topic they would generally flow, no pun intended, flow from please raise them now.

As we said, we are proceeding by an informal hearing.
format. So, what will happen is we will call of the
witnesses to testify as a panel on the topic at hand. The
witnesses will be sworn.

The Committee will consider any objections to the
qualifications of offered expert witnesses.

Each witness will then briefly, and let me stress
again, briefly summarize his or her testimony limited to the
contested issues that we’re going to describe in a minute.

Witnesses may only testify on topics or issues within
their expertise.

The panel may discuss issues amongst themselves,
without the lawyers asking questions.

Panel members may also ask brief questions of one
another. Please, remember the word “brief”.

The Committee will guide the discussion and may ask
questions of any witness at any time. Even if a question is
directed to only one panel member, all panel members have the
opportunity to respond to the question posed.

However, the panelists should only speak at one time
for the benefit of the court reporter. I’m trying.

The Committee will allow questioning of the panel by
the parties.

As of July 24, 2014, the following topics are still
in dispute; Land Use, Hazardous Materials, Water Resources,
including both the feasibility of the use of wastewater and
the conditions of certification, Soils and Geology,
particularly as it relates to seismic issues and fracking,
Greenhouse Gases, the compliance conditions particularly
Compliance Condition 113, incident reporting requirements for
HAZMAT or other incidents, and COM facility closure planning.
And then, finally, Waste Management Conditions of
Certification 1 and 2.
Are any of these topics now undisputed? We can move
them to -- we’re going to submit on the evidence that the
Committee currently has.
MS. FOSTER: Applicant can speak to two of the topics
listed here.
HEARING OFFICER COCHRAN: Okay.
MS. FOSTER: Applicant no longer has any issues with
staff’s proposed HAZ-6, as docketed on August 4th, Staff’s
Exhibit 2003, as well as Waste 1 and Waste 2 reflected in
that document.
HEARING OFFICER COCHRAN: Staff?
MR. BELL: That is correct we no longer have, I
believe, a disagreement between Applicant and Staff on those
issues.
I do note that Intervener Rudman still has one of
those issues, Hazardous Materials, down as a contested area.
HEARING OFFICER COCHRAN: Okay.
MR. BELL: But again, as we stated before, we don’t
know what the nature of that issue is.

HEARING OFFICER COCHRAN: Okay. Ms. Rudman, I was just going to ask Ms. Rudman, what is the nature of your concern with Hazardous Materials?

MS. RUDMAN: It would be the interface between hazardous materials and sea level rise. I don’t think that’s been adequately addressed.

HEARING OFFICER COCHRAN: What evidence do you have to put on regarding that?

MS. RUDMAN: Oh, I just have questions.

HEARING OFFICER COCHRAN: Okay. Do you have any questions or continuing need to have evidence taken on the subject of Waste Management?

We’ve lost our signal.

MS. RUDMAN: I mean I do have -- I mean my opening brief or opening statement had a discussion of that issue.

HEARING OFFICER COCHRAN: Of Waste Management?

MS. RUDMAN: Opening testimony.

COMMISSIONER MC ALLISTER: All right, hang on everybody, we’re going to see if we can control the AV system here.

HEARING OFFICER COCHRAN: I don’t know if this mic is live. It is live.

I may have to stop -- I may have to mute everyone unless you mute yourself because that’s what’s causing the
feedback that we’re hearing in the hearing room.

So, for those of you who are calling in, if you could mute yourself? Because if I have to mute you, then that’s not being something I’m really good at, or my core competency, that it may be that you will be unable to speak when you wish to.

COMMISSIONER MC ALLISTER: Could you just mute everyone?

HEARING OFFICER COCHRAN: Yeah, I will.

COMMISSIONER MC ALLISTER: And then they can raise their hands online if they need to speak.

HEARING OFFICER COCHRAN: Okay. Okay, everyone has now been muted and I don’t know which is the Applicant’s witness.

The chat feature is working so if you want to chat, if you’ll let us know that you need to call, if you’ll send a chat then we’ll be able to see that you, in fact, want to be recognized.

Do you have evidence or questions on Waste Management, Ms. Rudman?

MS. RUDMAN: Well, in my opening testimony, on page 8, I discuss the implications of sea level rise on critical facilities.

And then, in addition, the Coastal Commission has recently submitted comments on the project, which I’d like to...
HEARING OFFICER COCHRAN: I believe those are already in evidence, they were moved --

MS. RUDMAN: Okay, yeah, so they raised concerns about, and I raised concerns as well about the issues related with sea level rise and hazardous materials.

HEARING OFFICER COCHRAN: Okay, Hazardous Materials is separate from Waste Management.

MS. RUDMAN: Right.

HEARING OFFICER COCHRAN: So, looking at Waste Management.

MS. RUDMAN: Okay.

HEARING OFFICER COCHRAN: Can we move that to the undisputed --

COMMISSIONER MC ALLISTER: Yeah, so the record is from -- so I guess the question is do you have new evidence on either of these issues that’s not already in the record to inform decision making.

MS. RUDMAN: No.

COMMISSIONER MC ALLISTER: Okay.

HEARING OFFICER COCHRAN: Okay, so you don’t have any new or additional evidence to present today on Hazardous Materials?

MS. RUDMAN: Right.

HEARING OFFICER COCHRAN: Okay, so then I believe we
can move Hazardous Materials and Waste Management to undisputed; is that correct?

MS. RUDMAN: Well, I don’t have new evidence, but that doesn’t mean it’s undisputed.

HEARING OFFICER COCHRAN: Well, it just means that we don’t need additional evidence. It’s more a function of what we’re going to take hearing time to hear as opposed to arguments or disputes you may have that you’ll bring up in briefing to follow.

MS. RUDMAN: Okay, well, it’s a little confusing when you say it’s undisputed. So, it’s just we’re not going to discuss it today.

HEARING OFFICER COCHRAN: Correct.

MS. RUDMAN: It’s off the table, but it’s still disputed.

HEARING OFFICER COCHRAN: Correct.

MS. RUDMAN: Okay, thank you.

HEARING OFFICER COCHRAN: Okay, then let’s start with Water.

MS. FOSTER: Can I state one more thing?

HEARING OFFICER COCHRAN: Certainly.

MS. FOSTER: I apologize. Land Use, Applicant previously had a concern with Staff’s Land 1 Condition. And in the revised conditions that were docketed on August 4th, Applicant agrees with Staff’s revision that was made. So, I
believe that Land Use is undisputed as between Applicant and
Staff.

MR. BELL: That’s correct.

HEARING OFFICER COCHRAN: Okay. I know that Ms.

Rudman had questions about Land Use.

MS. RUDMAN: Yes.

HEARING OFFICER COCHRAN: And so we’ll -- let’s touch
on that, briefly. Keeping in mind what we mean by
undisputed, is there additional evidence that needs to be
brought to the Committee’s attention in order to act on the
issue of Land Use?

In your pre-hearing statement for this hearing it
seems as though most of what you wanted to present was
argument concerning land use issues.

What additional information does the Committee need
in order to resolve issues relating to land use?

MS. RUDMAN: Well, I mean in terms of land use,
again, you know, it was relative to the Coastal Commission
evidence.

And so, I would like to question the parties on why
they draw different conclusions than the Coastal Commission
on the hazards associated with sea level rise and the
applicability of -- well, the Huntington Beach general plan
says that that site is only appropriate for coastal-dependent
facilities. I mean there’s a lot of different language in
the general plan.

But one piece of the general plan says that site is appropriate for coastal-dependent facilities which, if this no longer requires the ocean for cooling, it’s not coastal dependent.

MS. FOSTER: Applicant objects to that characterization of the general plan.

HEARING OFFICER COCHRAN: Well, and that, to me, is again, while it’s based on the presentation, it’s sounding to me as though this is more in the nature of argument than in new or additional facts.

The general plan says what the general plan says and the Committee will review it and draw its own conclusions considering the parties’ various positions.

But what additional evidence do we need regarding the general plan, or the zoning or planning codes in order to make the determinations necessary for the PMPD?

MS. RUDMAN: Well, I would urge you to take a look at what the Coastal Commission says.

HEARING OFFICER COCHRAN: Okay.

COMMISSIONER MC ALLISTER: Yeah, I believe that is -- their letter is in the record and it’s all good.

HEARING OFFICER COCHRAN: That’s correct.

COMMISSIONER MC ALLISTER: So, again, the point isn’t that everybody -- that we’re pulling things off of the agenda
because everybody’s all hunky dory and kumbaya with each
issue, right. It’s that everybody agrees that the evidence,
the evidentiary record is now complete and doesn’t bring --
each party doesn’t bring new evidence to the given issue.
That’s what uncontested means.

MS. RUDMAN: Yeah, I mean that is very helpful for
me, who is not a lawyer, to hear it phrased in that way
rather than, you know, there’s no longer a dispute. Because
to me that’s something different, so that’s helpful, yes.
Thank you.

HEARING OFFICER COCHRAN: So then Land Use is again a
topic that will be addressed in the briefs, and will not be
addressed at the hearing today.
The Coastal Commission letter came in as TN202701, so
it is already in evidence.
So, let’s now turn to Water. And I know that one of
the callers is Water. Could we also have Staff’s Water
witness come forward? I’m assuming that’s you. Thank you.

MS. FOSTER: And Applicant’s witness does not have
the ability to use the chat function.

HEARING OFFICER COCHRAN: Okay.

COMMISSIONER DOUGLAS: All right, so the lines are
unmuted, so could Applicant’s witness please speak?

HEARING OFFICER COCHRAN: Yes.

MR. FRANCK: Hi, this is Matt Franck from CH2M Hill,
Applicant’s witness for Water Resources.

COMMISSIONER DOUGLAS: All right, thank you.

COMMISSIONER MC ALLISTER: So, this is call-in user three. Let’s mute everybody else and unmute him. There we go.

HEARING OFFICER COCHRAN: Okay and from Staff?

MR. CONWAY: This is Mike Conway.

HEARING OFFICER COCHRAN: Okay, Mr. Franck, if we could briefly get --

I’m sorry. Thank you.

If you can raise your right hand, Mr. Franck, we can all see you. If you can raise your right and do you --

MR. FRANCK: Okay, it’s raised.

HEARING OFFICER COCHRAN: Okay, thank you.

(Witnesses were collectively sworn)

HEARING OFFICER COCHRAN: Thank you.

Now that you’ve been sworn, can you give us a brief summary, Mr. Franck of your testimony on --

MS. FOSTER: Before Mr. Franck does this, this is Applicant’s counsel, as noted in our pre-hearing statement, Applicant did not intend to provide any live testimony today on water resources.

HEARING OFFICER COCHRAN: Right.

MS. FOSTER: We, until August 4th, had no issues with...
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staff on water resources.

We have seen that there is a new proposed soil and water condition, Soil and Water 8. And as our applicant is - or excuse me, as our witness is unavailable, we haven’t had time to provide feedback on Soil and Water 8, so we would like to reserve the right to provide written feedback post-hearing on that topic.

Otherwise, all of our testimony has been done in writing.

HEARING OFFICER COCHRAN: Okay.

COMMISSIONER MC ALLISTER: So, is there a reason for this witness to present anything right now?

MS. FOSTER: He’s available to answer questions.

COMMISSIONER MC ALLISTER: Oh, okay.

MS. FOSTER: I believe Ms. Rudman has some questions.

HEARING OFFICER COCHRAN: I have questions.

Actually, I have questions and so I will start, to make this a little bit easier.

In the water assessment portion of the discussion there is a comparison of how much water is used by HBGS, the existing power plant, and the proposed HBEP.

In specific, in analyzing the alternative of using wastewater, there’s a discussion of “saved water”.

My question is the current demand for HBGS is characterized as being 290 acre feet per year. Is that
potable water or salt water?

MR. FRANCK: Potable water.

HEARING OFFICER COCHRAN: And what’s that potable water used for currently?

MR. FRANCK: Industrial processes at the plant. I could look at the -- I’d have to look back at the existing water balance to determine exactly what uses, but the same sorts of uses that would be used by the new plant in terms of NOx control, a few other what I guess we would generally characterize as industrial processes.

Plus, general potable uses. But potable uses for the staff there are very, very small compared to the industrial uses.

HEARING OFFICER COCHRAN: Right. So, I just wanted to clarify that that was the potable demand. That’s not any of the salt water, once-through cooling demand that the plant had originally used?

MR. FRANCK: That is correct.

HEARING OFFICER COCHRAN: Okay. Those are all my questions.

Oh, I’m sorry, one other question. I know that is the Poseidon Plant that’s nearby, that’s the desalinization project.

Can someone provide us with an update of that project? Does anyone know? I thought that Ms. Miller might
know. Mr. Conway?

MR. CONWAY: Well, this is Mike Conway again. Good afternoon.

I have very limited knowledge of current activities, but I did speak with a general manager of the Poseidon facilities, I think headquartered in Carlsbad. In fact, it was to learn about some of the alternative or potential ways to get water to the site, with other qualities and such.

Anyway, I think the short answer is they expected it to -- I don’t know that it’s fully permitted or it may have a couple of other hurdles, but they expect those to be overcome and they expect it to be operational by 2018 or so. So, that’s a real informal answer. I don’t recall exactly what hurdles they have.

I believe they -- I think they are permitted by the -- whatever their last hurdle was, I think they got over it and now there’s a couple small things being worked out.

MS. FOSTER: For the record, Applicant would like to clarify that they have not received all their permits. It’s my understanding that the Coastal Commission has not approved the project.

COMMISSIONER Mc ALLISTER: So, this is informational. I mean this co-location of the site is additional impacts, in addition to the project we’re talking about. So, obviously, this is not -- nobody here is able to say officially what’s...
going on with that plant because it’s nobody here’s project.

But I think, you know, it is a -- broadly speaking, it’s a water-relevant project and it would be good to understand, at least try to understand a little bit of what the impacts over time might look like.

If it turns out that, you know, they’re 2014 to 2017 construction period that I think they’re sticking to for the moment, 2015 to 2017, something like that, actually were to come to pass. So, it’s kind of the relevant context.

HEARING OFFICER COCHRAN: The Poseidon Project is also included in the Cumulative Impacts section of the entire project so --

MR. BELL: And something else we have to take into consideration, too, is we do have two separate licensing agencies that will be licensing two separate projects. And we have to assume that whichever governmental agency is overseeing the Poseidon project will also look at the cumulative effects of the project that the Commission is licensing, the Huntington Beach Energy Project.

So, it’s not as if any potential adverse impacts from that Poseidon Project are going to be out there and unaddressed. They will be addressed in some form.

Of course, this isn’t the forum to address those direct impacts from that project. Although, cumulatively speaking, we have to look at anything that’s foreseeable, you
know, which could be that.

COMMISSIONER MC ALLISTER: Well, in your latest update on the cumulative impacts it’s in there, and it’s listed in a table with a time line that is, you know, I think the currently asserted time line. And whether or not that pans out, who knows.

But, you know, things like beach access, parking, all that kind of stuff it’s relevant to consider.

MS. RUDMAN: I might add it’s also relevant for the visual impacts. If you notice though, however, the visual impacts, the cumulative impacts of the Poseidon Project have not been kind of layered on top of the visual impacts for the Huntington Beach Energy Project in any of the documents, which has always been interesting from my perspective because it should have an additional visual impact on the area.

HEARING OFFICER COCHRAN: Anything else on the desalinization plant?

I’m sorry, go ahead.

MR. CONWAY: Well, my memory’s a little bit more clear, now. The project was officially denied maybe in October of 2013 and I think it was by the City of Huntington Beach.

But they were confident, the management was confident that they can stick with a schedule of being operational perhaps by 2018.
And they are -- they’re formally engaged in some kind of a contract with the City of Huntington Beach to reserve Hamilton Avenue. They have the remaining, I don’t know, rights for whatever easement is left on that street.

So, no other utilities can be built in that roadway as of now.

HEARING OFFICER COCHRAN: That was part of the discussion on the infeasibility of using recycled water from the adjacent water treatment plant because there was insufficient PUE in the right-of-way for a recycled water pipeline to take the treated effluent from the wastewater treatment plant to HBEP.

MS. RUDMAN: I’m a little unclear, though, relative to that, what treatment plant staff was talking about. So, that would be one area that I’d like to ask some questions.

HEARING OFFICER COCHRAN: If you know the answer?

MR. CONWAY: Sure. In general, when we talked about Hamilton Avenue we hadn’t even -- we had considered that it could have come from the Plant 1 or the Plant 2. And it becomes difficult to even point to exactly whose water it is at that point. There’s an inter-plant pipeline that moves water between the Plant 1, which is generally north, and the Plant 2 which is the one closer to the coast.

And so the idea is that Hamilton Avenue will provide kind of a straight shot almost all the way to the project.
site. So, we kind of looked at an interconnection, you know, whether it would technically be classified as Plant 1’s water or Plant 2’s water. It didn’t matter so much to us other than we were talking about secondary treated effluent. So, we were more interested in the quality and the point of connection.

So, the planning level is pretty theoretical as far as describing whose it was.

MS. RUDMAN: I do have follow-up questions to that. I think it is -- they are very different.

Could we pull up my document below there, and it has a map of the treatment plants in the area. I think it’s really helpful to take a look at that.

HEARING OFFICER COCHRAN: It’s the -- that’s the one.

MS. RUDMAN: Yeah.

HEARING OFFICER COCHRAN: Okay, so for purposes of the record we’re looking at TN202850.

MS. RUDMAN: And I’d like to make a motion to move this into the record. I think I already have but --

HEARING OFFICER COCHRAN: Any objections?

MS. FOSTER: No objections from Applicant to moving this into the record. But I would like to reiterate the objection I made at the July 21st hearing related to Ms. Rudman’s expert testimony and questioning as -- or testimony
as an expert witness in that she’s not a qualified expert witness on the topics she’s identified in her pre-hearing statement.

HEARING OFFICER COCHRAN: Okay. My understanding is that she’s asking questions.

MS. RUDMAN: So, keep scrolling. There should be a really nice map which is really clarifying.

HEARING OFFICER COCHRAN: So then your motion, Ms. Rudman, is to have TN202850 be marked identification as Exhibit 4035 and that it be admitted into evidence.

MS. RUDMAN: Yes.

HEARING OFFICER COCHRAN: Does staff have any objection?

MR. BELL: None.

HEARING OFFICER COCHRAN: Exhibit 4035 is admitted into evidence.

(Intervener Exhibit 4035 was marked for identification and admitted into evidence.)

HEARING OFFICER COCHRAN: So, you now have page 8 of 89 on the screen, which is a map that shows the two treatment plants.

MS. RUDMAN: Yeah, if you can make it a little smaller so it would fit on one page, it would be helpful, and then scroll down.

So, you see kind of near the top of the page, by
Fountain Valley, it shows the Water Treatment Plant Number 1. And then water is fed by gravity, I believe, and it was downriver from Plant 1 to Plant 2.

MR. BELL: I have to object, assuming facts not in evidence.

HEARING OFFICER COCHRAN: Okay, sustained.

MS. RUDMAN: But most of the source of the wastewater, as you see, is coming from Newport Beach.

MR. BELL: I’ll have to object again, stating facts not in evidence.

HEARING OFFICER COCHRAN: My understanding is that you wanted to use this map to show the location of the power plants. Is that correct?

MS. RUDMAN: Yes, but I also wanted to use it as additional evidence to demonstrate, first of all, that there seems to be some confusion in the testimony that’s already been presented about where this water is coming from.

And if you notice that the Treatment Plant Number 2 is very close to the site of the Huntington Beach Energy Project and currently they’ve upgraded the pipes to flow five miles out in the ocean. These are 10-foot in diameter pipes. And that’s to discharge treated wastewater.

So, obviously, you don’t go through a process of upgrading pipes like that if you plan on injecting it into the groundwater.
So, obviously, there’s a lot of water that’s being
dumped into the ocean from Treatment Plant Number 2.
And Treatment Plant Number 2, one of the more logical
routes, I would think, would not to go through Hamilton
Avenue but to go --

HEARING OFFICER COCHRAN: I need to stop you.
MS. RUDMAN: Okay.

HEARING OFFICER COCHRAN: This is beyond the scope of
your expertise. I will sustain Applicant’s objection to your
testifying as an expert. You’re not a water or sewer
treatment expert. And this is more in the nature of argument
about what has been described or not described.

Now, if you have questions that you could ask of Mr.
Franck or Mr. Conway that may provide this evidence for you,
that would be helpful.

MS. RUDMAN: Uh-huh.

HEARING OFFICER COCHRAN: But you’re not able to
testify as an expert on this.

MS. RUDMAN: Okay. Well, if you could scroll down a
little bit further then I have a question that I could ask
them.

There’s a statement from the Director --

COMMISSIONER MC ALLISTER: Well, presumably some of
this -- presumably some of the like infrastructure upgrades
and that report out, essentially, that you just made on
behalf of the Agency, the Water District here, is in this report that’s now in the record.

MS. RUDMAN: Yes.

COMMISSIONER MC ALLISTER: Some of this.

MS. RUDMAN: So, if you scroll -- if you scroll down a little bit. Oh, I think stop.

Yeah, there’s a statement at the bottom, the bullet, so I would like to ask given that the General Director has said that for the Plant Number 2, one of their major goals is future water recycling, they want to determine partnerships, strategies and et cetera, associated with recycling the treated effluent from Plant Number 2 why this has not been mentioned?

MR. CONWAY: I can respond to that, this is Mike.

MR. FRANCK: This is -- go ahead, Mike.

MR. CONWAY: Okay. We examined any number of options to try and come up with some way to get recycled water to the site or something that sounded reasonable to propose as an alternative, and we couldn’t find it.

And one of the places I did try was both I contacted Orange County Sanitation District and talked to one of their general managers. And, yes, they are open to sharing costs and things, but they’re talking large quantities of water, large volumes of water and they have a high rate of discharge.
They do discharge a minimum of 50 million gallons a day of secondary treated effluent to the ocean.

So, for instance, if the plant were to take half of that, you can imagine we may have a reasonable proposal for someone.

But to take, you know, 100th of that water and to engage in a cost-sharing on a pipeline construction doesn’t seem reasonable.

So, I agree that the route we looked at and then had some further discussion about were through the State Park land along the beach there, and I think that would be the best option.

But even, as you begin to consider that you see why that’s probably not all that reasonable, either, because there’s no one else in the vicinity of the project that could help share the cost of that, or could receive water of this quality in the future.

And especially because the proposal for this power plant is to substantially reduce the demand on the local water system, meaning only beneficial impact, we really have no impact to justify its being a very high amount on a very small amount of water.

This amount of water is so little that it just doesn’t make sense to put through a large pipe. Whatever the size, the pipe’s going to be extremely large relative to this
amount of water.

COMMISSIONER MC ALLISTER: So, I guess I’m hearing that you really have fully -- you’ve talked to the relevant agencies and potential institutional partners investigating that kind of alternative, of that option --

MR. CONWAY: We did.

COMMISSIONER MC ALLISTER: -- and it’s reflected in the FSA, correct?

MR. CONWAY: It never got to the point where we had a valid proposal worth including, you know, in this.

What we decided to leave in the testimony was much simpler and explains the case more clearly, but we did investigate it.

COMMISSIONER MC ALLISTER: Now, isn’t it true that there are also other significant adverse impacts associated with installing a pipeline along the State Parks?

MR. CONWAY: True, that’s another thing. Anything that we’re talking about is additional impact. So, in the global sense of water, we’re talking about a net beneficial or -- we had this discussion many times amongst staff, you know, it’s like a negative/negative impact. We’re talking about positive beneficial impacts here.

So, any substantial construction would obviously be an increase in impacts. And, yeah, that might be fine if there were a substantial benefit in the long term, but we’re
not seeing it.

MR. FRANCK: I was hoping to add one other brief item in a response, if that’s okay.

COMMISSIONER MC ALLISTER: Go ahead.

MR. FRANCK: In terms of the Director’s statements about the desire to expand reclaimed water use from Plant Number 2, in our responses to PSA Part B, I believe this was back in the springtime, we did acknowledge and we looked at the strategic plan of OCSD. And, yeah, it does say that OCSD would like to study potential future use of the recycled water from Plant Number 2 and it gave a variety of different types of potential uses and, again, with the partnerships that we would need to develop with private industry, or OCWD, which is the water purveyor.

So, it was acknowledged, at least in the Applicant’s responses to PSA Part B that, you know, the strategic plan of the District did mention that that was one of its objectives. But that doesn’t -- yeah, I think the conclusion was that just because OCSD is committed to studying uses doesn’t mean the water’s available for the project right now.

MS. RUDMAN: Did you take a look at -- recently there was an article in the Sacramento local paper that the U.S. Bureau of Reclamation’s Water Smart Program gave a grant to the Sacramento Power Authority COGEN Project to evaluate the potential to use recycled water.

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And then, also, the Regional Sanitation District secured a $1.55 million Proposition 84 Grant to assist with projects that are locally not cost effective.

And the State Water Resources Control Board State Revolving Funds Loan Program is also a source of additional funding.

Have you looked into those partnerships?

MR. BELL: I’ll have to object, relevance and compound.

MS. FOSTER: Applicant would join those objections.

COMMISSIONER Mc ALLISTER: So, I guess on the natural great idea that, you know, OCSD looked for partners to study and fund projects to help them recycle water, I guess that seems like pretty much a completely different topic than this discussion that we’re having about the plant. I guess, you know, so I would tend to agree with the relevance argument.

HEARING OFFICER COCHRAN: And it is compound because you’re talking about several different funding sources.

Perhaps the way to -- let me try to help you. Were other funding sources considered or did we leave this in the hands of the agency who controls it, which is OCSD?

MR. CONWAY: When I did my analysis, I considered OCSD as a funding source and I also contacted Poseidon as a potential funding source.

And again, because they are trying to get rid of a
minimum of 50 million gallons a day, I think average rates
are closer to 100 million gallons a day, you can imagine a
more interesting alternative would be, for instance, for the
plant to continue once-through cooling with recycled water
and maybe use 25 million gallons a day.

That’s something that they would help support and dig
a pipeline for so they could get rid of that water. That
would be a good use for them.

But if you were to take less than one percent of the
water they’re trying to get rid of, I can’t imagine they’d
have any interest in cost sharing that.

MS. RUDMAN: But we’re talking about outside agencies
that would also provide funding partnerships.

MR. CONWAY: Well, we didn’t consider winnable
grants, that’s true.

MS. RUDMAN: And then did you consider any
partnerships with the hotels that are just right along the
same plain, right up Pacific Coast Highway, that might be
able to use recycled water for their landscaping or other --

MR. CONWAY: In general, this water is of the poorest
quality in the spectrum of recycled waters that are generally
lumped together.

So, this water would require additional treatment and
disinfection, especially before it has the potential to come
in contact with humans.
COMMISSIONER MC ALLISTER: Yeah.

MR. CONWAY: So, it’s not even -- this isn’t the typical -- when we hear recycled water, we’re usually talking about recycled water being purveyed by a seller in a form that’s very fit for landscaping or something like that, which is probably drinkable water.

This is not of that same quality, so this is more suited for an industrial user or someone who plans to engage in industrial treatment.

For instance, one other thing, you know, along Hamilton Avenue, for instance, there are a lot of parks and schools and that’s why we spent a quite a bit of time trying to figure out for sure if that could or could not work because that looked like a much better centrally located pipeline to have future expansion. You know, just looking into the future for the City, you know, that are had the potential to do a cost sharing with Poseidon, the City of Huntington Beach and the Applicant.

That’s an example of, maybe, something that could have gotten more interesting. But again, that Hamilton Avenue sounds like it’s an absolute impossibility, as we were told in a workshop by the City of Huntington Beach and confirmed at a later date.

MS. RUDMAN: But why would you worry about what Poseidon would want to use recycled water for? I mean that’s
irrelevant to --

MR. CONWAY: Just for instance, if Poseidon were to use Hamilton Avenue as they’re planning to move water out they could share the cost of trenching if there were room to move another pipe in. So, there would be one cost sharing there.

And if the City were to expand their recycled water movement in the future, then water could be pushed from Hamilton Avenue to all the schools and parks along that way which -- which are a few.

Whereas, along the beach route there appear to be just fewer options, so we couldn’t come up with any other reasonable options.

Again, the problem, it’s the good and the bad that this project is using so little water in the whole scheme of things that it’s not enough -- the scale of it is not enough to make a lot of things feasible it’s such a low amount of water.

COMMISSIONER MC ALLISTER: It sounds like, to me, that we -- so, you did look into it, the planets didn’t align to make it feasible for -- you know, you looked at the feasibility for this particular use in this particular situation.

It stirred up a lot of good ideas in terms of -- it turned up a lot of ideas that are basically under local
jurisdiction for how they’re going to, you know, develop a
recycled water plan, and take advantage of their resources
and work with their local agencies on water issues which I’m
sure we would all encourage them to move forward with.

But that with respect to the boundaries of this
project you kind of figured out what the feasible options
were and that those are reflected in the FSA, right.

HEARING OFFICER COCHRAN: Given the time by which
this water would be needed in order to meet the project
objectives.

MR. CONWAY: That’s correct, also. There are a
number of other things happening on slightly longer term
timelines that could be of interest, again in the future,
especially if we’re talking about more water.

But again, this isn’t quite of the scale to be making
deals with some of these larger water users.

For instance, the Poseidon, you know, could use or
deliver, I think it was in the neighborhood of 20 million
gallons per day. So, this is a much larger scale than we’re
talking here.

MS. RUDMAN: Can I interject, it seems like they’re
confusing the issue. The issue is recycled water from the
sanitation districts, not whether in the future at some point
Poseidon can provide desalination water along the same pipe.

I mean it seems kind of like not a --
COMMISSIONER MC ALLISTER: I don’t believe that’s what we’re talking about, actually, here but --

MS. RUDMAN: That’s what he’s saying.

HEARING OFFICER COCHRAN: I don’t believe so.

MR. CONWAY: I can try to answer something to be --

MR. BELL: I want to be clear that -- whether Intervener Rudman is asking a question because this sounds like argument.

HEARING OFFICER COCHRAN: So your objection is argumentative?

MR. BELL: Yes.

HEARING OFFICER COCHRAN: Sustained.

Do you have any other questions, Ms. Rudman, on the topic of water?

MS. RUDMAN: Well, I’m just still really not clear on what was the source that you were analyzing. It just does seem like you were analyzing the source from Water Treatment Plant Number 1 and not Water Treatment Plant Number 2. Is that correct?

HEARING OFFICER COCHRAN: What was the source of --

MR. FRANCK: I can speak to that. In terms of what the Applicant analyzed, well, it started by looking at Plant 1 and Plant 2, as well as a couple other sources in the
When we worked on PSA Part B, in the springtime, we focused entirely on OCSD Plant Number 2.

MS. RUDMAN: But subsequently, when staff took up the issue and analyzed it I believe they focused on the Treatment Plant Number 1.

MR. CONWAY: We looked at both Plant Number 1 and Plant Number 2. Plant Number 1 primarily deals in the tertiary treated water. None of that is available to the project and that’s because the City has options to inject that water in the future.

The tertiary treated water is a very important part of the groundwater replenishment program in Orange County. So, in a sense, all of the water is spoken for in Orange County that is of decent quality. And this is the tertiary water or, you know, potable water.

MS. RUDMAN: From 1.

MR. CONWAY: From Plant 1. So, generally, when we’re talking about the secondary treated effluent we’re talking about what’s available from Plant 2.

And yes, it’s true, they are looking for users of this and this is the 50 million gallons a day.

But again, this water is not fit for anything legally as it is right now. It needs to be taken up to at least a disinfected standard before it can be used.
MS. RUDMAN: And my understanding is that for the other power plants that are required to use wastewater, they have to do some type of treatment, as well.

MR. BELL: Objection relevance and vague as to which power plants we’re talking about.

MS. FOSTER: Applicant joins the objection.

MS. RUDMAN: Okay, Pio Pico.

HEARING OFFICER COCHRAN: If you know?

MR. CONWAY: I don’t.

HEARING OFFICER COCHRAN: What is the level of water quality needed for a power plant? Can they use secondary or does it require additional treatment?

MR. CONWAY: That’s a very big question, if I may.

HEARING OFFICER COCHRAN: Then forget it.

MR. CONWAY: A lot of times we talk about quality. You know, one proxy we talk about is total dissolved solids, which is just kind of general constituents in the water.

But where we’re really not as much talking about that. We’re not talking about what exactly has been filtered. We’re talking about bacteria counts and things like that.

HEARING OFFICER COCHRAN: Let me try to simplify the question. For the proposed technology used at the Huntington Beach Energy Project and knowing the water quality of the Plant 2 secondary treatment wastewater available from OCSD,
would pretreatment be necessary?

MR. CONWAY: Oh, definitely. That’s true.

HEARING OFFICER COCHRAN: Okay. And the cost of that pretreatment is included in the FSA, is that correct?

MR. CONWAY: Yes.

MR. FRANCK: Yes, from the Applicant’s perspective, the cost of the additional treatment was provided based on our calculations in our subsequent responses to PSA Part B.

Mike, I don’t recall if those numbers were actually in the FSA. But, actually, I believe they were. I’ll let you speak to that.

MR. CONWAY: Yes.

MR. FRANCK: But those calculations were made three or four months ago.

MR. CONWAY: Yes, I believe they are included in the FSA, 4.9-15.

COMMISSIONER MC ALLISTER: So, Ms. Rudman, do you have any additional evidence that would, you know, more fully inform this technical discussion about the infrastructure and costs to use recycled water that you want to put in the record?

MS. RUDMAN: Well, again, I have information about other power plants that have explored grants and partnerships to help defray those costs. And then the Energy Commission’s record for other power plants clearly shows that they are
required to use treated wastewater, as well.

So, it seems to me kind of there’s an issue of like what’s --

COMMISSIONER MC ALLISTER: Well, those are highly contextual. So, I think in order to actually influence the decision in this case it has to be contextualized and there has to be sort of some expert testimony that says here’s exactly the deal for this case.

And I’m not really hearing that. I’m hearing some conjecture and some argument, but not really hearing new evidence on this particular case about what it would take to -- you know, what alternative you’re sort of offering and justifying so I don’t --

MS. RUDMAN: Okay, well, I’d like, you know, to respectfully question. I thought that the point was the Applicant was supposed to have the burden of proof about whether something is feasible or not.

And I do have, you know, evidence here that the Orange County Sanitation District budget says they are very interested in exploring these partnerships so --

COMMISSIONER MC ALLISTER: Well, I mean so, for example, if you were to sort of get the District and say, hey, you know, and bring them in as your expert witness and say what their intent is, which it sounds like staff has already done a lot of that legwork, actually, to get those
considerations into the record.

But if there’s a different outcome based on expert witnesses in this case that are relevant there, in this site, then that would obviously be welcomed into the record.

MS. RUDMAN: Well, it’s just my opinion that they haven’t achieved the burden of proof that it’s not feasible given that there’s statements here.

HEARING OFFICER COCHRAN: Okay, thank you. That’s argument and your opinion.

So, if that’s all that we have left, then let’s move on to the next subject matter.

Is there anything further that anyone would like to offer on the subject of Water?

That’s now closed. Thank you, Mr. Conway. Thank you, Mr. Franck. The panel is excused.

MR. FRANCK: Thank you.

HEARING OFFICER COCHRAN: Let’s turn, now, to Greenhouse Gases.

Are you waiting for your other Greenhouse Gas witness, Mr. Bell?

MR. BELL: Yes. We can get started, though.

HEARING OFFICER COCHRAN: Okay, if the witnesses could state their names for the record, starting with Applicant.

MR. O’KANE: Stephen O’Kane, AES Southland.
MR. SALAMY:  Jerry Salamy, CH2M Hill.

MR. JIANG:  Tao Jiang, Air Resource Engineer for Energy Commission.

MR. BELL:  And we will have David Vidaver present momentarily.

HEARING OFFICER COCHRAN:  Okay.

MR. BELL:  But we can get started.

HEARING OFFICER COCHRAN:  I’m going to go ahead and swear these three witnesses, if you could raise your right hand.

(Witnesses were collectively sworn)

MR. JIANG:  Tao Jiang, T-a-o J-i-a-n-g.

HEARING OFFICER COCHRAN:  Oh, and here’s staff’s other witness who gets to be separately sworn.

MR. BELL:  He gets his own special swearing in.

HEARING OFFICER COCHRAN:  That’s quite all right.

If you could state your name for the record, please?

MR. VIDAVER:  David Vidaver, V-i-d-a-v-e-r.

HEARING OFFICER COCHRAN:  If you could raise your right hand?

(Mr. Vidaver was sworn)

HEARING OFFICER COCHRAN:  Again, my understanding is that neither Applicant nor Staff has questions for the witnesses and that the questions are going to be from Ms. Rudman. Is that correct?
MR. BELL: That’s correct.

MS. FOSTER: That is correct.

HEARING OFFICER COCHRAN: Ms. Rudman, could you give us a sense of the questions you wish to ask? Sort of what we, in the legal profession, would call an offer of proof, what is it you’re trying to get from these witnesses?

MS. RUDMAN: I’m trying to get a sense of what were the analytical methods that they used and whether those are up to industry standards.

HEARING OFFICER COCHRAN: Okay, ask your first question.

So, let’s first start -- I’m assuming, also, Staff and Applicant that you weren’t going to give any live testimony, this is only going to be questions. Is that correct?

MR. BELL: That’s correct.

MS. FOSTER: That is correct.

HEARING OFFICER COCHRAN: Okay, if you could ask your questions, Ms. Rudman.

MS. RUDMAN: Okay, thank you.

So, what analytical tools did Staff use as input to their conclusion that greenhouse gas impacts are less than significant?

MR. JIANG: So, we have the greenhouse gas emissions reported by the Applicant from the operation of the projects,
including the carbon dioxide and sulfur fluoride.

    We calculate all the emissions and we compare these emissions to the State and Federal Standard, and we reach the conclusion that the greenhouse gas impacts from this project is not significant.

    MS. RUDMAN: Can you elaborate because I believe you reached the conclusion that the greenhouse gas impacts are not significant because it’s going to integrate renewable energy, correct.

    I mean on its own the greenhouse gas impacts are significant. But the reason that you concluded it’s not significant is that you’re saying that in the future renewable energy will be integrated by the ability of this project to --

    MR. BELL: Objection argument.

    MS. RUDMAN: I’m not arguing. I’m trying to help clarify here because I don’t --

    COMMISSIONER MC ALLISTER: Yeah, so, I mean you’re characterizing their testimony, I guess, or they’re -- let’s let staff characterize the impact assessment.

    So, again, you know, we’re going to go down this path of what -- so, you know, factual questions about what the staff did. If you want to parry, or complement, or offer additional testimony that’s not in the record already, with a different conclusion or something, then that’s what
evidentiary hearings are for.

MS. RUDMAN: I’m trying to ask questions about what they did do.

And so, they did more than just look at the greenhouse gas impacts and stop there. They drew their conclusion because they said that the ability of this project to integrate renewables is why the greenhouse gas impacts are less than significant.

It’s very important to my line of questioning.

COMMISSIONER MC ALLISTER: Let me try this. First of all, let me make it clear that a lot of questioning is inherently argument, right.

MS. RUDMAN: Right.

COMMISSIONER MC ALLISTER: So that’s not what we’re doing right now.

MR. BELL: That is my objection.

HEARING OFFICER COCHRAN: Because I think that Dr. Jiang, is that how you pronounce it?

MR. JIANG: Yes.

HEARING OFFICER COCHRAN: I believe that Dr. Jiang just said what his process was. So, I’m not understanding your characterization of what he said or why this isn’t in the nature of argument that should be in your brief.

COMMISSIONER MC ALLISTER: So, was there a model that sort of said, okay, the system impacts of this plant allow
integration of renewables in a way that counting the molecules results in some kind of overall incorporation of low carbon energy into the grid and therefore -- like could you characterize the nature of the assessment of the impacts and against what baseline?

MR. VIDAVER: I’ll give that a shot. At the outset I’d like to make it clear that I’m not testifying that the impacts are less than significant in the sense that CEQA defines it. That’s not my background.

My background is in electricity systems operation. So, my testimony is to the effect that the siting and operation of the project would lead to a reduction in greenhouse gas emissions in two senses.

One is that normally a power plant is dispatched to accomplish certain -- to realize certain needs, whether they be energy or local reliability, and the least cost plant is dispatched at any given point in time.

The cost of a plant -- of dispatching a plant is generally agreed to be the cost of the fuel that is consumed in providing the service that the plant provides, whether it’s energy or local reliability.

So, the plant that consumes the least amount of fuel in providing that service is the one that is dispatched.

The plant that consumes the least amount of fuel, assuming it’s natural gas, is the one that has the least
impact upon greenhouse gas emissions.

If I am building and dispatching the Huntington Beach Project, for example, and I’m dispatching it in lieu of any other plant in the system, I’m realizing a lowest greenhouse gas emissions outcome using the logic that the cost of dispatching the plant is a function of how much fuel is combusted in providing the service.

There are little anomalies. If you can provide the same service from a plant that consumed gas that was much less expensive, you would be willing to burn much more gas, thereby increasing greenhouse gas emissions.

But the amount of gas combusted by -- the price of the gas combusted by Huntington Beach is not any less expensive than it would be if it were dispatched from -- if a plant somewhere else was dispatched.

So, the only sense in which Huntington Beach is somewhat anomalous is that Huntington Beach is designed to be able to fast start and ramp in ways that allow more variable energy resources to be integrated into the system.

You’re all familiar with the Duck Chart and the need to provide ramping services.

To the extent that Huntington Beach can do that more effectively than other plants, in the course of needing a particular service at a particular point in time it might produce more greenhouse gas emissions than another plant
would. But that other plant would not be flexible enough to allow the system to incorporate large amounts of variable energy resources, which are zero carbon. So, this is the logic behind it.

COMMISSIONER MC ALLISTER: Right, so you just talked about dispatch. I guess, is there a local reliability element to this discussion, as well, that was number two, I think.

MR. VIDAVER: Yes, there is a local reliability element. Obviously, the Huntington Beach Project would be located in an area that’s transmission constrained, where the California ISO, the balancing area operator, needs a certain amount of capacity.

There are also -- there’s also a need for local generation within the Los Angeles Basin.

COMMISSIONER MC ALLISTER: So, I want to be clear, we’re not talking about need here.

The question is what are the likely impacts on overall system greenhouse gas emissions from this plant? So, it’s not a need discussion. It’s really an impact discussion.

But that context, I think, of the broader system is helpful.

MS. RUDMAN: And can I follow up? Did you do a PLEXOS model of the system to come to these conclusions?
What type of analytical processes did you go through to come to these conclusions and what assumptions and data did you use as input?

MR. VIDAVER: I have about 15 years’ experience either running production simulation models or supervising people who run such models, or overseeing the development of reports that utilize such analysis.

And I can tell you that these types of models, it’s not necessary to run one to verify that the solution you get is as I described.

You don’t need to actually compile the dataset and run the model to come to the conclusion that this is the way the system operates.

In fact, one might even argue that under certain circumstances the system might not actually operate this way.

But the types of models that Ms. Rudman is asking me if they were run in this case are designed in a way that these types of economic relationships drive the outcome that the model arrives at. So, it’s not necessary to do a particular study.

COMMISSIONER MC ALLISTER: Does any of this --

MR. O'KANE: May I?

COMMISSIONER MC ALLISTER: Yes, go ahead, Applicant.

MR. O'KANE: You know, what we’re discussing here is system impact, which is really the ancillary benefits of the
plant and that the primary objective of this power plant is
to provide local area reliability and local generation.

And in the objective for the power plant, itself, we
looked at the projected operating profile of it and then
analyzed the technologies that could potentially serve that
same objective with a lower greenhouse gas emission rate.

And the conclusion of that study, the analysis for
greenhouse gas, the best available control technology was
that the proposed technology is the lowest emitting for the
project objectives. So, that was first and foremost.

The system reduction impacts are really ancillary
benefits.

So, to provide the local area reliability, provide
that local generation we looked at alternative thermal
generation, battery storage, other types of generation and
this is -- that was the analysis conducted to demonstrate
that this was the lowest greenhouse gas generating technology
for the objective.

COMMISSIONER MC ALLISTER: Yeah, thanks. I want to
point out last time we had a little bit of
discussion -- when we were in Huntington Beach a couple of
weeks ago we had a little bit of a discussion about scenarios
over the long implementation time of this project and how
things may or may not change. And so I think that still
applies and certainly is relevant with respect to greenhouse
And I wanted to just point out and maybe ask David Vidaver about the range of possible operating hours of this plant. Sort of, you know, I’m not going to ask you to speculate too much, but sort of there is an envelope. You know, it could be less or it could be more depending on how scenarios play out.

Does any of that — do the ends of that range of, you know, high end being the maximum permitted hours, the low end being basically zero, any of that — does your analysis vary across that range, I guess, in terms of this being the lowest impact?

MR. VIDAVER: Whether or not the project is developed and comes online doesn’t affect the total amount of energy that the system will require.

So, if the Huntington Beach Energy Project comes online and local reliability needs, local generation needs resulting it in operating in a very high capacity factor simply means that some other plant, somewhere else, with a worse emissions profile is simply going to be displaced.

That plant may be — if Huntington Beach is not being dispatched for local reliability needs that plant may very well be in Arizona or Washington.

If Huntington Beach is being dispatched for local reliability needs, there’s another plant with a worse emissions profile that would be displaced.

MR. VIDAVER: I think it’s all very much dependent on what the transmission system can handle. It may be that if Huntington Beach is not being dispatched, that plant may very well be in Arizona or in Washington. But if Huntington Beach is being dispatched, it is just a matter of finding that other plant, you know, with a worse profile and then having another one dispatched instead.
emissions profile somewhere in the Los Angeles Basin or
Southern California that’s being dispatched less.

COMMISSIONER MC ALLISTER: Thanks.

MS. RUDMAN: And so, I mean we’re trying to get at
the greenhouse gas question here. That’s really what we’re
trying to get it. So, I want to like bring it back to that
because I think we’re kind of mixing up the two things.

COMMISSIONER MC ALLISTER: I think that’s exactly
what we’ve been talking about, actually.

MS. RUDMAN: Okay. So, if you dispatch -- if you
don’t dispatch --

COMMISSIONER MC ALLISTER: So, the reason I asked the
question about dispatch scenarios is that, for example, if a
lot of preferred resources were to come online in the next
five years and this plant was -- that had demand response, or
battery storage, or something were to come online that would
then offset the need to dispatch this plant, and the
operating hours went down, it sounds to me that the profile
of this plant can accommodate that, based on what we talked
about last time and what David just said.

So, I guess, and my question just went to does that
change the assessment that this plant -- that the least --
that that’s part of the scenario that is among the lowest or
the least emissions -- implies the lowest or the least
emissions of the various scenarios that have been considered.
So, I guess, I feel like we’re -- this is exactly what we’ve been talking about, actually.

MS. RUDMAN: I guess --

COMMISSIONER DOUGLAS: Do you have more questions, Ms. Rudman?

MS. RUDMAN: Yeah. Okay, so in staff’s testimony they refer to the Avenal analysis as precedential setting. So, my question is since the Avenal decision have you upgraded your demand forecast? Have you upgraded additions to the system that have occurred since that assessment was made? So that’s one question so I’ll stop there.

MR. VIDAVER: The Avenal decision was several years ago so, yes, the Energy Commission Staff has developed several demand forecasts in the interim and has done analysis that considers all the changes to the electricity system at the Western United States, yes.

MS. RUDMAN: So, the conclusion that power plants that ramp quickly are needed to integrate renewables and, therefore, reduce greenhouse gases, that conclusion that was made for Avenal is still the same appropriate conclusion that you would make given the new demand forecast, and given the additions to the system since then?

MR. VIDAVER: I don’t believe that the Staff’s analysis of the impact of Avenal considered ramping needs and minimum operating levels, et cetera.
MS. RUDMAN: It was kind of more qualitative?
MR. VIDAVER: No, it’s just there were different -- the issues of integrating large quantities of variable integrated -- if integrated large quantities of variable energy resources was not part of the Avenal discussion.

COMMISSIONER MC ALLISTER: Any additional questions?
MS. RUDMAN: Okay, yeah. Do you have any analysis regarding the effect of the new Track 4 solutions, if they are put into place, more reactive support, new transmission upgrades, and include Western Electricity Coordinating Council and ISO coordination on the need for this plant to integrate renewables and, therefore, reduce greenhouse gases?
MR. VIDAVER: I think you’re talking about -- I want to make it -- the Public Utilities Commission has or is in the process of considering three sources of need for flexible, dispatchable, least-cost gas-fired generation.
One is to meet local capacity needs in the Los Angeles Basin. Another is to replace the San Onofre Nuclear Generation Station. And a third is to integrate variable energy resources into California’s electricity system.
They have issued decisions in their long-term procurement proceeding regarding the first two of these and in both cases the need for such generation was found to exist.
The CPUC has not come to a decision regarding the need for flexible, dispatchable gas-fired generation to integrate variable energy resources. That is the topic of the ongoing track in their procurement proceeding.

COMMISSIONER MC ALLISTER: Any further questions?

MS. RUDMAN: Well --

MR. O'KANE: Considering that answer, you just said the three objectives were to replace SONGS, supply local area reliability capacity in the Western Lost Angeles Region, and provide flexible generation to integrate renewables.

In your expert opinion, would the Huntington Beach Energy Project serve all three of those purposes?

MR. VIDAVER: Yes.

HEARING OFFICER COCHRAN: Ms. Rudman, do you have any further questions?

MS. RUDMAN: Well, but what I’m trying to get at is the assessment that this plant, which is going to ramp up and down, which currently is permitted to operate so frequently that it will increase the greenhouse gases significantly.

The way that Staff and others have said that that impact will not be significant is due to the renewable integration aspect of it.

So I think, you know, I just want to stay focused on that because I’m really focused on whether the greenhouse impact from this plant is going to be significant.
And it is currently significant unless -- well, it is.

MS. FOSTER: Objection argumentative.

COMMISSIONER MC ALLISTER: Yeah, so I guess -- so I mean, again, is there a question or is there new evidence that says somebody else modeled this and got a different opinion that you want to put in the record that it has.

MS. RUDMAN: Yeah, I’d like to put into the record ORA’s testimony, where they modeled using PLEXOS and more up-to-date assumptions, where they concluded that there are only very few hours in the year where this renewable integration -

COMMISSIONER MC ALLISTER: You submitted that to the record already, right, that ORA study?

MS. RUDMAN: Yes.

COMMISSIONER MC ALLISTER: So that’s -- we’re good with that, that’s in the record.

COMMISSIONER DOUGLAS: So that’s in the record.

MS. RUDMAN: Yeah.

COMMISSIONER MC ALLISTER: Yeah.

COMMISSIONER DOUGLAS: So you can cite to this in your brief and you can pull your arguments together in your brief.

What we want to make sure you have the opportunity to do today is ask these expert witnesses anything you need to,
to get responses to questions.

How many more questions do you have?

MS. RUDMAN: For Greenhouse Gases, I’ve pretty much
gone through mine.

COMMISSIONER DOUGLAS: Okay.

HEARING OFFICER COCHRAN: Is there anything further
on Greenhouse Gases that anyone wishes to offer?

MR. BELL: No, not on behalf of Staff.

MS. FOSTER: Nothing from Applicant.

HEARING OFFICER COCHRAN: With that I would thank the
panel and you are excused.

And now, we turn to Geo/Paleo, which is where seismic
and fracking issues are.

If the members of the panel could identify
themselves, please?

MR. WEAVER: This is Casey Weaver.

MR. CONWAY: This is Mike Conway, again.

MR. LAE: And I’m Thomas Lae, CH2M Hill.

HEARING OFFICER COCHRAN: Thank you.

Ms. Rudman, I believe that -- well, strike that,
let’s try this the right way.

Do the Applicant and Staff wish to present or is this
only to allow Ms. Rudman to ask questions?

MS. FOSTER: Applicant has no direct live testimony
on this topic.
MR. BELL: Nor does staff.

HEARING OFFICER COCHRAN: Ms. Rudman, your questions, please?

Oh, I’m sorry, thank you.

(Witnesses were collectively sworn)

HEARING OFFICER COCHRAN: Now, Ms. Rudman, do you have any questions?

MS. RUDMAN: Okay, yes. Did you assess the impact of fracking on the abandoned oil wells on the property?

MR. WEAVER: No, I did not address fracking of the abandoned oil wells on the property. There’s one abandoned well.

MS. RUDMAN: My question is more, you know, there’s going to be pressure. There is currently and has been some fracking off the offshore oil wells. There’s a quite a large reserve of oil and there’s going to be pressure for fracking from various spots. And what happens with fracking is you can go kind of under the -- I’m sure, as you’re well aware, you can go under the soil and sites can be affected that are not directly related to where the fracking is occurring.

And weak spots tend to be like abandoned oil wells or other points. And so, okay, so you have not looked at whether that abandoned oil well on the property might be subject to impact from fracking somewhere else?

MR. BELL: Two objections. The first is this is
argument, partly, and the final question that was asked was
asked and answered.

HEARING OFFICER COCHRAN: I would sustain that
objection.

So let’s, again, I would caution you, Ms. Rudman,
that you’re not an expert on fracking so what we need are
direct questions to them, in much the same way that you just
asked in Greenhouse Gases about the analysis that they
undertook.

My understanding is that they did consider fracking
impacts on the abandoned oil well.

MS. RUDMAN: They did not.

HEARING OFFICER COCHRAN: Did not, sorry.

HEARING OFFICER COCHRAN: So, are there any other
questions?

MS. RUDMAN: Yeah. There is evidence that fracking
can lead to increased seismicity. Do you have any analysis
to offer on what the additional impact of fracking is on
hazards associated with the earthquake faults and everything
close to the site?

MR. BELL: I have to object on grounds of being
vague. If I can explain?

Okay, Intervener Rudman talks about evidence that
demonstrates that fracking increases seismicity, but has not
cited that evidence.
Before the witness answers that question, in order to hone in on exactly what she’s taking about, or what evidence she’s talking about we need a citation that we need to know what she’s talking about.

MS. RUDMAN: I submitted into the record, it was a study done in Oklahoma that said that fracking there led to increase seismicity. I don’t remember my number offhand.

COMMISSIONER MC ALLISTER: I think I --

MS. RUDMAN: It’s TN202689.

COMMISSIONER MC ALLISTER: Yeah, I think we saw that come in and it’s in the record. And, you know, is there anything to add?

So, are you asserting something parallel? Is there a linkage from, you know, that --

MS. RUDMAN: Right.

COMMISSIONER MC ALLISTER: -- to this site and, you know, do you have some sort of expert that you have or can put on the record saying, you know, why that case is relevant to this site, specifically?

MS. RUDMAN: Well, I’m asking the Staff that did the analysis if they looked at the fracking impact.

COMMISSIONER DOUGLAS: Okay, Staff, did you look at the impacts of fracking or potential impacts of fracking on the project?

MR. WEAVER: No, I did not look at fracking impacts
to the site. I looked at the seismic issues, the tectonic seismicity in the area and how it related to the design and siting of the project.

Fracking is a minor element of that. Yes, fracking does induce seismicity in the nature of its development. But the amount of energy released during fracking is far less significant than the tectonic seismicity in the region.

COMMISSIONER DOUGLAS: All right, thank you.

COMMISSIONER MC ALLISTER: Applicant have anything to say about this?

MR. LAE: I would just agree that the LORS are -- the seismic building standards are robust enough to encompass any small fracking impacts to the overarching seismic events that could occur from the major earthquakes in the region.

COMMISSIONER MC ALLISTER: Okay.

MS. RUDMAN: You know the size of the fracking that has occurred?

MR. LAE: No, I do not.

COMMISSIONER MC ALLISTER: Any other questions?

MS. RUDMAN: No.

COMMISSIONER MC ALLISTER: Okay.

MS. RUDMAN: On that.

HEARING OFFICER COCHRAN: Is that all of your questions in the area of Geology?
MS. RUDMAN: I do have questions and I think it’s in geology. It should be a separate section. But on sea level rise, the impacts of sea level rise. I think it’s related to like where the site is located, so it’s Geology in a way.

MS. FOSTER: For the record, Applicant’s Water Resources witness is no longer available and was available earlier to answer questions related to sea level rise.

MS. RUDMAN: But isn’t that a geology issue?

HEARING OFFICER COCHRAN: Or climate change but it --

MR. CONWAY: It was all contained in the Soil and Water Resources section. That’s why I’m here.

HEARING OFFICER COCHRAN: Okay.

MS. RUDMAN: So, okay, so I just wanted to ask the California Coastal Commission, for example, expressed concerns regarding sea level rise, waves, tsunamis, and said that “The Huntington Beach Energy Project could become an island surrounded by water as sea level rises”.

What measurements did you make to determine the elevation above sea? Where were you standing on the property? What was the -- okay, I’ll do one at a time.

MR. CONWAY: Well, to perform our analysis we did not take measurements in the field, but we relied on the FEMA floodplain mapping studies, specifically the flood insurance rate maps to get the elevations.

And we can to the same conclusion it’s true that the
power plant site would be one of the few areas safe from a catastrophic flood in that area. Specifically, that we’re talking about the 100-year flood and that’s as catastrophic as is analyzed for this area.

And so, yes, the problem would be everything but the site. The site would not be impacted by the 100-year flood.

MS. RUDMAN: Okay.

MR. WEAVER: I could add a little bit to that, also.

We looked at the site plans that identified the elevations of the property, of both the existing and proposed project and compared that against the inundation elevations to make Mike’s determination.

MS. RUDMAN: And then did you consider the impact of like waves that batter the site and also they can carry things that batter against the site, as well?

MR. CONWAY: That’s also contained in this analysis. The flood insurance rate maps actually include all of those affects when mapping the floodplain in the coastal zone.

So, when we’re in a non-coastal zone we’re looking at river stage or something like this.

But when we’re in a coastal zone, we’re specifically looking at storm surge, wave run up and these other things.

So, all of those are included in the FEMA floodplain mapping. And no, none of those result in anything that would reach the site.
COMMISSIONER MC ALLISTER: Also, there’s a condition on some of this, as well, which maybe Applicant could speak to in terms of the design condition, one of the GEN conditions, I believe.

MR. O'KANE: Well, I’m not sure specifically which condition you’re referring to. But if you’re referring to designing the project to meet the local requirements, all LORS, then yes that’s an obvious condition that we would be designing and building the project to.

COMMISSIONER MC ALLISTER: So the specifics of that would wait until your submittal of the final design, is that right or --

MR. O'KANE: Correct.

COMMISSIONER MC ALLISTER: Okay.

MR. O'KANE: Correct.

HEARING OFFICER COCHRAN: And again, Mr. O’Kane is still under oath.

MR. O'KANE: Thank you.

MS. RUDMAN: Okay and the LBNL study, July of 2012 that I submitted into the record recommended that power plants be located away from the coast.

So, you’re saying that is taken into account with your building design process?

HEARING OFFICER COCHRAN: Can you cite to a specific exhibit number or TN that you’re relying on, please?
MS. RUDMAN: That would be TN202086.

HEARING OFFICER COCHRAN: That would be Exhibit 4022.

MS. RUDMAN: Oh, okay, yeah.

HEARING OFFICER COCHRAN: And I’m sorry, what’s your question relating to Exhibit 4022?

MS. RUDMAN: Well, in that study they conclude that because of the hazards of sea level rise on coastal power plants that it probably would be a good idea to locate them away from the coast.

HEARING OFFICER COCHRAN: Is there a question that you wanted to ask the witnesses?

MS. RUDMAN: Yeah, so was that accounted for in the design?

COMMISSIONER MC ALLISTER: Is that for Applicant or Staff?

MR. O’KANE: Well, I guess the Applicant. I’ll just reiterate what we said that the project design would meet all standards, meet all LORS. And I don’t believe Ms. Rudman has cited any standard or LORS, but sort of a study that talks about preference for new power plants.

And we, of course, are talking about the rebuilding of an existing power plant.

COMMISSIONER MC ALLISTER: Staff have anything to add on that?

MR. CONWAY: No.
HEARING OFFICER COCHRAN: Okay, any further questions?

MS. RUDMAN: Oh, yeah, for the Applicant. Can you state what your level of insurance coverage is? And I’ve read that it’s very difficult to get insurance from FEMA, now. Are you privately insuring? Are you --

MS. FOSTER: Objection, relevance.

MR. BELL: It also seems to be outside the scope of the identified cross-examination in this area.

MS. RUDMAN: Well, it’s due to the sea level rise. I mean there’s going to have to be insurance.

MR. CONWAY: I’d like to add that the project is not required to get flood insurance at this time. And they just got a recent flood insurance rate map update.

MR. BELL: We do have two objections on the table.

HEARING OFFICER COCHRAN: I would sustain as to relevance. I don’t think insurance is relevant. That would just be to cover damages to the plant, itself, not necessarily related to whether there are impacts to the plant from sea level rise.

COMMISSIONER MC ALLISTER: So, now, just also remind us the issues of, you know, risk really end up being ratemaking issues and belong in the PUC in terms of hammering out contracts, and costs, and all of that.

HEARING OFFICER COCHRAN: Anything else, Ms. Rudman?
MS. RUDMAN: No.

HEARING OFFICER COCHRAN: Okay, so that completes the testimony on Geo/Paleo. I would thank the panel and you are excused.

Finally, Compliance and Closure, I know that there were two Compliance and Closure conditions.

HEARING OFFICER COCHRAN: Ms. Rudman, did you have any questions on the Compliance and Closure conditions?

MS. RUDMAN: Yes, I do.

HEARING OFFICER COCHRAN: Okay, other than 13 and 15? So, my understanding was that we were dealing with Compliance and Closure Condition 13 and 15.

MS. RUDMAN: I thought I could ask questions about closure.

HEARING OFFICER COCHRAN: Well, that -- Compliance 15 is about closure.

MS. RUDMAN: Oh, it’s the -- okay.

HEARING OFFICER COCHRAN: That’s facility closure planning.

MS. RUDMAN: What page is that on in the Revised Conditions of Certification? Is it in the Revised Conditions of Certification?

HEARING OFFICER COCHRAN: I don’t know.

Applicant, did you wish to speak to Compliance and Closure Condition 13, was that what I understand?
MS. FOSTER: Yes, Mr. O’Kane would like to provide
direct testimony.

HEARING OFFICER COCHRAN: Okay, Mr. O’Kane, you are
still under oath.

MR. O’KANE: Thank you. I guess we have suggested
changes to COM-13, minor changes with respect to the deadline
for submitting a detailed incident report.

Staff has suggested within one week and we have made
a request to make that to within six business days. A minor
change, but we do take our compliance with all conditions
very seriously and when we think through all -- 99 percent of
the time I think within one week would be absolutely fine to
do.

But should the incident, say, occur on a Friday night
of a long weekend, it really leaves -- it could leave the
professional staff, the engineers, the supervisors, et cetera
to do the root cause analysis. To finish a detailed report
it’s quite a tight timeframe to get it by that next Friday,
really four working days.

And so, by asking for six business days we’d ensure
the robustness of that report and we can meet all of the
conditions of compliance.

HEARING OFFICER COCHRAN: Okay, before I hear from
Staff’s witness, I think I need to swear you in.

Could you identify yourself for the record, please?
MR. VEERKAMP: My name is Eric Veerkamp.

HEARING OFFICER COCHRAN: Would you raise your right hand?

(Mr. Veerkamp was sworn)

HEARING OFFICER COCHRAN: Thank you.

Did staff have a response to applicant’s proposed edit?

MR. BELL: Yeah, I can. And as Mr. O’Kane said, 99 percent of the time these kinds of conditions would present no challenges for Staff or for the Applicant.

But the one percent of the time where it may, Staff’s strong preference is to leave a hard and fast time frame in there like this for that -- not just the 99 percent of the time where it’s not going to make a difference. But for the incident that occurs on Friday, before Memorial Day weekend, staff isn’t going to get notified of an incident that may happen on that Friday for six business days after that, which would be almost two weeks after the event in that one percent of the very small chance that something like that would happen.

I understand Mr. O’Kane’s -- or, I’m sorry, not just Mr. O’Kane, but the Applicants view on this that it may shorten up the time frame that they would have to report the incident.

I can say that the Compliance Program -- or I’m
sorry, the compliance project managers for the Commission do
work with the applicants, with the project owners in areas
where there may be an incident.

I can say from past experience, although these aren’t
precedential, but past experience we have had incidences
before where we find out about a major incident at a project
site from a third party, instead of the project owner because
we have something along the effect of a certain number of
business days afterwards that stretches into a much longer
time frame that would otherwise normally be required.

You know, I do acknowledge that there could be a one
percent chance or a very small percent chance that we could
run into an issue here. But it’s such a small chance of
happening that Staff doesn’t see this as being something that
we should really see as a big issue.

MR. O’KANE: I wonder if I could interject a little
bit and make sure we’re talking about exactly the same issue
because we have no objection to the reporting, which we would
report an incident within one hour after it’s safe to do so.

We are talking about the submittal of the details
report. And it was pretty specific of what kind of details
would be in such a report.

COMMISSIONER MC ALLISTER: I was going to ask,
actually, the staff would know. I mean you wouldn’t be
waiting a whole -- regardless of which option and we don’t
have to just -- you know, whatever, we’re going to take it under advisement, both oppositions here.

But I guess my question is what’s the -- you’re not going to not know about it for that week, or six days, or whatever it ends up being because they will have told you in an hour, right, of it being --

MR. BELL: Yeah, what’s less of an objection to this, just for conversational purposes --

COMMISSIONER MC ALLISTER: Yeah.

MR. BELL: -- in the end, if the Committee thought that the six business days was the prudent course to take, staff wouldn’t have heartburn over that.

Staff may have a preference. But within six business days is something that Staff could certainly not only live with, but actively assist them in overseeing the project. That’s not going to interfere with Staff’s duties.

Likewise, there’s another timeframe that was included in here that was -- excuse me for a second.

Oh, I’m sorry, it was just before we -- or just at the very end of COM-13, the last sentence of COM-13 currently reads, “After the submittal of the initial report for any incident the project owner shall submit to the CPM copies of incident reports within 24 hours of a request”.

With that one I’m going to head off the Applicant on this. Staff would be okay changing that to 48 hours.
MS. FOSTER: That is what Applicant has requested. We appreciate that.

MR. BELL: I didn’t mean to steal their thunder on that.

But the issue of whether it’s six business days or a hard and fast one week, again, that’s for conversation purposes only. Staff doesn’t have any objection to that. But there are just some factors that go into that, that we wanted the Committee to be aware of especially considering since the compliance conditions don’t have a CEQA element to an analysis, so we don’t really have testimony in this area.

HEARING OFFICER COCHRAN: Ms. Rudman, did you have anything on COM-13?

MS. RUDMAN: No.

HEARING OFFICER COCHRAN: Okay, let’s turn now to COM --

MS. RUDMAN: I would prefer shorter, of course, but --

HEARING OFFICER COCHRAN: Thank you. COM-15, what are your questions regarding COM-15?

MS. RUDMAN: First of all, I’m not clear from here, or anywhere, what methods are going to be used to demolish Units 3 and 4. Like are you going to use dynamite, like in Chula Vista?

HEARING OFFICER COCHRAN: Those are already -- the
removal of 3 and 4 are already subject to a separate license from the HBEP and so are not considered part of this project.

MS. RUDMAN: But the analysis of this project is very contingent on that occurring.

HEARING OFFICER COCHRAN: Except that the analysis of this project states repeatedly that the removal of those units is not part of the project, that that was already part of a separate licensing procedure -- proceeding.

MS. RUDMAN: But if you look at the Visual Impacts, it’s assumed that those units are going to be demolished.

HEARING OFFICER COCHRAN: That’s correct because they have an independent right to do that under the prior proceeding. That’s why they are not part of this project.

MS. RUDMAN: Okay. So, all right, let’s move on to Units 1 and 2. Are you going to use dynamite to demolish Units 1 and 2 when the time comes?

MR. O’KANE: No.

MS. RUDMAN: Okay, what month will you be doing the demolition?

MR. O’KANE: A full description of the schedule for demolition was provided in the AFC, as well as all of the potential impacts from the construction workers, man hours, equipment on site, truck trips, hazardous waste generated and where that waste would go.
So, a full analysis of the demolition was included in the AFC.

MS. RUDMAN: Oh, okay. So, you have described the permits that you’re going to need for the demolishment. And have you obtained the permits?

MR. O’KANE: I think the permit would be the license that this Committee is -- we’re seeking to approve.

MS. RUDMAN: Don’t you need permits from the Coastal Commission and also from --

MR. O’KANE: No.

MS. FOSTER: The site is under the exclusive jurisdiction of the Energy Commission. It’s the equivalent. The license is the functional equivalent of any other necessary permits at the site.

MS. RUDMAN: Okay, I’m not going to argue about that. I’m surprised, personally, because I know looking at Chula Vista, and some other ones, they needed permits from the Coastal Commission, and the City Council and other parties, so okay.

Have you -- are you planning on hiring a firm to do the demolition that would lead the demolition?

MS. FOSTER: I’m going to object that this is -- it’s seeking speculation as to things that will be dealt with via the conditions in the license in the future.

MS. RUDMAN: To me it seems like part of the plan.
MR. O'KANE: Sure, I didn’t intend to tear it down with my own hands. So, yeah, AES did intend to contract that work, yes.

MS. RUDMAN: Okay. So, do you currently operate Units 1 and 2 under a reliability must-run contract for the independent system operator and do you have their approval and permission to discontinue that contract?

MS. FOSTER: I’m going to object, relevance.

MS. RUDMAN: But their permission is required if you have a reliability must-run contract.

MR. O'KANE: Just for the sake, Units 1 and 2 do not run under a reliability must-run contract.

MS. RUDMAN: Thank you. And so do you have an agreement with the other party that is in charge of the demolition of Units 3 and 4 that they will, in fact, proceed with the demolition? I mean I’ve never seen a clear agreement on that.

HEARING OFFICER COCHRAN: Again, that’s not part of this proceeding. Units 3 and 4 have already been separately permitted for demolition under another Energy Commission proceeding.

MS. RUDMAN: Well, I am surprised because I mean while it is outside the control of the Applicant, which is my point, it does seem that the project is very dependent on that occurring, yet that is outside the control of the
Applicant.

And I just want to make sure that these permits are secured.

HEARING OFFICER COCHRAN: There is a permit for the demolition of Units 3 and 4 that was granted in a separate Energy Commission proceeding.

MS. RUDMAN: Wasn’t there subsequently an Energy Commission proceeding to do synchronous condensers on that site?

HEARING OFFICER COCHRAN: But that doesn’t make the demolition permit go away.

MS. RUDMAN: So is there a clear date, I guess, where they are going to do this? I mean have they set a date? What month is it?

MR. BELL: Objection asked and answered.

HEARING OFFICER COCHRAN: I believe Mr. O’Kane just told you that in the AFC there is a time table that’s also carried forward into the FSA. Isn’t that correct?

MS. RUDMAN: I believe it’s very vague, it sort of like gives a year but not a month.

COMMISSIONER MC ALLISTER: Well, what’s your -- what are you trying to get at exactly? Like what’s your concern here?

MS. RUDMAN: I don’t see -- in my mind a plan is who does what, where, by when. And those things are clearly
I don’t see anything clearly specified and so I have to question, really, is this plan something that can be implemented?

So, I’m concerned that there isn’t really going to be the demolition that’s promised and that the visual impacts are predicated upon and other things.

So, until -- from my perspective, until I see a firmer like description of whether these permits are secured and there is a plan in place that has some parameters around it, it seems a little vague right now.

I don’t think you’re going to go -- I guess you’re not going to use dynamite. But in some cases they do use dynamite to demolish plants. You don’t, I’m sure, do that in the summer or when school’s on.

So, you know, when exactly would that occur? And I’m not seeing that in the record or in the FSA, or anywhere, it’s just very vague. There’s a year.

COMMISSIONER MC ALLISTER: So, in Huntington Beach we talked about Visual Impacts.

I guess is there any reminders you want to give us, staff, on the front of Visual Impacts? I mean it seems like the parameters around that are known. I mean we have visual conditions.

MR. BELL: My struggle is I think the same that the
Committee is sharing is what Intervener Rudman is getting at. They have to tear down the old plant before they build the new plant. If they don’t tear down the old plant, they won’t build the new plant.

I’m not sure where we’re going with this.

MS. RUDMAN: I don’t think that’s true.

MR. BELL: I don’t know if I can answer the question.

MS. RUDMAN: Yeah, but that isn’t true. The unit -- the first -- you know, this is a multi-year project, as Susan has pointed out. And the first phase of the project is they will build a power plant on a site currently unoccupied by Units 1 and 2, and then they’ll plan or they expect that Units 3 and 4 will be demolished. And then they will demolish Units 1 and 2.

So, I mean there’s a phase and a sequencing. And from my perspective, if this isn’t clearly laid out with a schedule, I know it’s eight years but it goes by pretty fast.

COMMISSIONER DOUGLAS: So is your concern that the schedule lays out years, but not months, for things to happen?

MS. RUDMAN: And I don’t see clear demonstration that all the permits are secured, and the permissions are secured, and especially from a party that is not at the table right here.

HEARING OFFICER COCHRAN: Okay, this is sounding more
to me an issue for the briefing, so that that way everyone
has the chance to go back and review the AFC to provide, you
know, this is where the construction schedule is, where in
the evidentiary record the construction schedule is.

And it may be that Staff and Applicant can point to
that.

You know, I believe that there are at least month-by-
month descriptions of it in Traffic and Trans, as well as
some of the other sections.

But, you know, that’s for the parties to tell us. If
you think that that’s not clearly set forth, I mean then -- I
mean, basically, you’re arguing evidence of absence and I’m
not sure how far that is going to get us.

COMMISSIONER MC ALLISTER: Well, in a brief scenario
you could say, you know, as the opinion of an Intervener in
this case, of a party to this case, you could say, you know,
that from your perspective it’s inadequate in this, that and
the other way. And then that will go into the record and
then that will inform the Committee about, you know, going
forward.

So, I think that’s the way to get your viewpoint into
the record.

MS. RUDMAN: Okay, I’m just -- yeah, I’m very
concerned that you build on one part of the property and then
the permission somehow doesn’t materialize, or the permits
don’t materialize for the demolitions that were promised.

And that’s kind of the worst of all worlds from my perspective.

HEARING OFFICER COCHRAN: Are there any other questions?

So at this point is there any further evidence that we need to receive on the Compliance Conditions?

MS. FOSTER: Yes, Applicant has some direct testimony related to COM-15.

HEARING OFFICER COCHRAN: Please proceed.

MR. O’KANE: We are requesting revisions to Staff’s COM-15 to modify the requirement that the provision of closure plan and cost estimate reflect the use of an independent third party to carry out that closure, to instead reflect “closure will be carried out by qualified personnel”.

The objection to the independent third party makes it seems like at an arm’s length, you know, AES would still maintain control and management of that party.

We would, of course, use qualified demolition firms to do that, so this may be just an issue of language. I think, hopefully, Staff is looking at it on the same vent.

And then also to delete the requirement to update the provisional closure plan and cost estimate every five years. That every-five-years doesn’t really provide any value, particularly on the cost estimate of it.
At the point that the plant is ready for retirement and closure, regardless of when the last cost estimate was done, whether it was two years before, three, five years before a full cost estimate and detailed plan would be done prior to the -- immediately prior to the actual closure of that.

And so this updating every five years really provides no value, no extra to it.

So, those are our requested revisions to COM-15.

COMMISSIONER MC ALLISTER: Staff, can you comment maybe on -- could you comment on the project manager, sort of how that relationship with Staff and the compliance project manager would or wouldn’t change with this proposal?

MR. BELL: Well, Staff has -- I believe we have that language in front of us in strike-out, bold and underlined for those proposed changes.

And Staff is amenable to the changes as proposed.

I don’t believe we need to break out to workshop this because we’re agreeing to the language, but I’m just trying to figure out a vehicle to get this in.

MS. FOSTER: Applicant is more than happy to docket it in our filing. When we address your entire packet of revised conditions we can update that.

MR. BELL: Yeah, that would be fine. What I can do is I can read into the record the changes.
They are as Mr. O’Kane has suggested.

HEARING OFFICER COCHRAN: And are those already contained in your revised conditions that --

MR. BELL: They are not. This is new.

HEARING OFFICER COCHRAN: Okay.

MR. BELL: Yeah, and I’ve spoken with Mr. Veerkamp, who’s here representing the Compliance Unit, and the Compliance is amenable to the changes.

MS. RUDMAN: Can I add this is a process to develop a closure plan and a closure plan is not a demolition plan.

But could I ask a question? I don’t understand, is this then a public process once it goes to compliance, or does Compliance Unit make decisions on behalf of the public, or does it become public?

Because it seems to me once a lot of these compliance conditions are written I’m not clear how public it becomes at that point.

HEARING OFFICER COCHRAN: Mr. Veerkamp, I think that may be your area.

COMMISSIONER MC ALLISTER: Yeah, let’s get the Compliance people in on that.

MR. VEERKAMP: I’m not sure I’m prepared to respond to that question.

COMMISSIONER MC ALLISTER: Did you understand the question?
MR. VEERKAMP: Yeah. I could give my perspective in that the public certainly always has the opportunity to contact Compliance Staff at any time.

But when we have Compliance conditions in front of us that we’re implementing, they’re implemented as they’re written.

COMMISSIONER MC ALLISTER: So, does a member of the public have access to the Compliance conditions? And, if they’re paying attention, could potentially see places where they’re being respected?

MR. VEERKAMP: Oh, certainly.

COMMISSIONER MC ALLISTER: And then what do they do then?

MR. VEERKAMP: They can contact us directly, either by phone or by e-mail. And if something is being -- a Compliance condition is being implemented, we can certainly update them as to the status of any compliance issues.

And if they point out that something is not being implemented, then we can instigate --

COMMISSIONER MC ALLISTER: Does this proposed change --

MS. RUDMAN: Are you informing the public as things change? Because a lot of the discretion is allowed to the Compliance Project Manager to make changes on the fly and
things like that.

   I mean is there -- like does it go out to a list
serve, hey, we’re changing this or does it sort of happen and
we have to ask you did anything happen last week?

      MR. VEERKAMP: Well, when there’s a formal proceeding
we follow our standard public notification process. But if
there is informal communication between the project manager
and the owner, or construction personnel, there’s no formal
notice procedure for that.

      COMMISSIONER DOUGLAS: So when you approve a final
version of a plan, like the Closure Plan, that’s posted on
the web’s; is that correct?

      MR. VEERKAMP: Yes.

      COMMISSIONER MC ALLISTER: And is there -- will this
proposed change to not every five years, but presumably less
often than that update the closure plan, would that in any
way compromise this process or keep the public from being
involved?

      MR. VEERKAMP: No, I don’t think it would. It would
just simply be we would have that closure plan. We would be
in possession of it until the time came for it to be
implemented. It just wouldn’t be updated every five years.

      MS. RUDMAN: And what rights does the public have to
input into the decision or make comments on the decision?

They can basically, what, let you know that, oh, this isn’t
want I expected and it’s changed?

I’m not clear, is there a process? What’s the process?

MR. BELL: Well, I have to object that we’re getting into argument, again.

COMMISSIONER MC ALLISTER: It seems like this is probably -- this may be for the Public Adviser and again for the brief, you know, for Intervener to express your concerns. Which I think is, you know, obviously, perfectly legitimate.

MS. RUDMAN: It’s supposed to be a public process. I mean this is supposed to be a CEQA process and so much of it now is in compliance and up to the discretion of the Compliance Manager that it seems like it makes it very difficult for the public, even more difficult to participate and be informed.

COMMISSIONER MC ALLISTER: I guess, so are there any more -- so I mean your point is taken. Certainly, you know, a valid opinion on this issue.

Is there any other question with respect to Number 15, COM-15?

MS. RUDMAN: Well, like again, this is a process to develop a plan and there’s not a plan.

HEARING OFFICER COCHRAN: Okay. Is there anything -- are there any further questions you would like to ask, anybody?
MR. BELL: None on behalf of Staff.

MS. FOSTER: Applicant does not have any.

HEARING OFFICER COCHRAN: Ms. Rudman?

MS. RUDMAN: No.

HEARING OFFICER COCHRAN: Okay, with that I will close the evidentiary record except for the provision of the revised Compliance conditions that we discussed today. The language will be received.

Which brings us, then, to a housekeeping matter, the Presiding Member’s Proposed Decision is currently scheduled to be issued on or before September 2nd.

Opening briefs are due two weeks after the transcript of this hearing is available and reply briefs are due three weeks after the transcript is available, which is, by my calculation, about the time the PMPD is due to be published.

So, do the parties have any suggestions on how we can work the schedule, understanding that we’re currently scheduled for the business meeting on October 7th?

MS. FOSTER: Applicant is prepared to provide post-hearing briefing by the end of next week, and would just reserve the right to address anything in the hearing transcript and our PMPD comments. And we’re fine with going about it that way and not waiting for the transcript to be available.

HEARING OFFICER COCHRAN: Okay.
MR. BELL: Staff can have our opening brief filed by
the end of next week, as well, which is a good thing since
I’m on vacation the week after that.
So, we can also address our rebuttal brief the
following week, well in time before the PMPD is filed.
I can’t imagine that our rebuttal brief is going to
be more extensive than our opening brief, but we can
accommodate the Committee’s schedule.

HEARING OFFICER COCHRAN: Okay, Ms. Rudman?
MS. RUDMAN: I am going to need the full time.

HEARING OFFICER COCHRAN: Knowing that you don’t have
to cite to the transcript, you’re saying that it will still
take you more than until August 15, 2014?
MS. RUDMAN: Yes.

HEARING OFFICER COCHRAN: The transcript is probably
-- we asked for a rush on the transcript. I’m looking at the
court reporter, who’s studiously ignoring me.
We asked for the transcript to be rushed
Monday/Tuesday of next week, roughly.

MS. RUDMAN: I’m going to also need the full length
of time to prepare the brief. I mean having the transcript
does not -- you know, I’m trying to do this after work, you
know, on weekends.

I don’t work on this full time, I don’t have a lot of
staff to work on this, so I’m going to need the full amount
of time that was budgeted for this.

HEARING OFFICER COCHRAN: Okay. Okay, here’s what
we’re going to do then. We’re going to keep the schedule as
is, with opening briefs due two weeks after the transcript of
the hearing is available.

And then reply briefs we do three days after that.

MS. FOSTER: Can you provide the dates? I don’t have
a calendar in front of me.

HEARING OFFICER COCHRAN: I don’t know the dates
because it’s all going to be triggered off of when we get the
transcript. If we get the transcript on Monday, the 4th,
then opening briefs will be due on the 18th.

MS. FOSTER: You mean --

HEARING OFFICER COCHRAN: I’m sorry, Monday, the
11th, then opening briefs will be due August 25th.

MS. FOSTER: Can Applicant request that there be less
than two weeks’ time to provide those turnaround briefs,
given that there will be time between now and when the
transcript is available for folks to start working on the
briefing?

MR. BELL: Well, and the other point there is that
we’ve already concluded Part A of the hearing that had the
primary contested issues, so we’ve had since that date to
this date to be preparing briefs on those issues. And an
individual who has not done that, well, that’s up to them.
I mean I know there’s been talk about resources. But on behalf of Staff, I’m the Staff member who’s preparing the brief. Okay, I’m not relying on the multitudes of qualified individuals here to help me out on this. I already have their testimony on file.

We already have a transcript from the original hearing, so I can already cite to that if we have to.

So, the second part of that brief should be relatively minor and should be limited to those subject matters that we covered today, which don’t really seem to be contested. We haven’t taken any new information or new evidence on those areas.

HEARING OFFICER COCHRAN: Okay.

COMMISSIONER MC ALLISTER: I mean I would like to keep on the schedule and two weeks, plus a week is getting us right to the PMPD date, right, so we need to kind of figure out where to parse.

HEARING OFFICER COCHRAN: I would suggest that the Committee is going to be going into Closed Session this afternoon. We will issue a briefing schedule and let you all know what the determination is on deadlines.

COMMISSIONER MC ALLISTER: So public comment?

HEARING OFFICER COCHRAN: So with that public comment.

COMMISSIONER MC ALLISTER: Can we open up the mics?
If anybody is on the line as a call-in, if you could raise your hand online, if possible, or use the chat function to say you want to speak, and we are unmuting everyone here. Hopefully, nobody’s got background noise.

HEARING OFFICER COCHRAN: If there’s anyone in the hearing room who would like to speak, we don’t bite.

Okay, I am not seeing anyone who wishes to provide public comment.

So with that, the Committee will now adjourn to Closed Session pursuant to Government Code section 11126(c)(3), which allows us to do so.

We are off the record.

(Closed Session from 3:44 p.m. until 4:18 p.m.)

HEARING OFFICER COCHRAN: We are on the record. The Committee has set the following briefing schedule. Opening briefs will be due on Wednesday, August 20th. Reply briefs are due Monday, August 25th.

Both of those deadlines are at 3:00 p.m. so the dockets can docket the materials in time.

In the opening brief the Committee would like to receive briefing on the following questions regarding the Coastal Commission.

What is the role of the Coastal Commission in this proceeding?
If the Coastal Commission is not required to issue a formal report, how should the Committee treat the information contained in the Commission’s letter of July 14, 2014, TN202701?

In addition, the parties are free to brief such other issues as they feel relevant and helpful to the Committee.

Are there any questions, comments, protests?

MS. FOSTER: None from Applicant.

MR. BELL: None on behalf of Staff.

MS. RUDMAN: Can you elaborate? I mean that’s not the only content of your opening brief, that you want that in addition?

COMMISSIONER MC ALLISTER: Anything else that you feel you need to put in the brief. I mean we’ve talked about several topics here so --

MS. RUDMAN: Right.

COMMISSIONER MC ALLISTER: -- you know, feel free to put in anything you believe that needs to be points that need to be made.

MS. RUDMAN: Uh-huh.

COMMISSIONER MC ALLISTER: But we’re just suggesting that the treatment of the Coastal Commission is one that we would like to hear people’s opinions on.

MS. RUDMAN: Okay. And then also I noticed that the Applicant answered some of the questions that you had
attached to the hearing notice for the -- I mean for the opening testimony hearing, so I plan on including answers to those questions, as well.

HEARING OFFICER COCHRAN: In your brief?

MS. RUDMAN: Well, I never got a chance to answer them, yeah.

HEARING OFFICER COCHRAN: Then they need to go in your brief at this point.

MS. RUDMAN: Okay.

HEARING OFFICER COCHRAN: Because the evidentiary record is closed except for that very small amount on the conditions of certification that we talked about today.

MS. RUDMAN: Okay.

HEARING OFFICER COCHRAN: Okay. Anything further?

COMMISSIONER MC ALLISTER: All right, so we have a schedule and I think I want to thank everybody for coming and thank everybody’s work on this. Certainly, all of the participation is welcome.

And we are adjourned.

MR. BELL: Thank you.

(Thereupon, the Hearing was adjourned at 4:28 p.m.)

--oOo--
REPORTER’S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF,
I have hereunto set my hand this 12th day of August, 2014

______________________________________________
Adrian Edler
Notary Public
TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of August, 2014.

Barbara Little
Certified Transcriber
AAERT No. CET**D-520