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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, )
) )
Application for Certification ) Docket No. 12-AFC-02
for the ) Huntington Beach Energy
Huntington Beach Energy )
Project )

Comments to the PMPD

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

WEDNESDAY, SEPTEMBER 17, 2014
2:07 P.M.

Reported by:
Peter Petty
APPEARANCES

COMMISSIONERS (AND THEIR ADVISORS) PRESENT:

Andrew McAllister, Presiding Member
   Pat Saxton, His Advisor
Karen Douglas, Associate Member
   Jennifer Nelson, Her Advisor

HEARING OFFICER:

Susan Cochran

CEC STAFF PRESENT:

Kevin W. Bell, Esq., Senior Staff Counsel
Felicia Miller, Project Manager
Alana Mathews, Public Adviser
Paul Kramer, Chief Hearing Officer
Eric Knight

PETITIONER/APPLICANT:

Stephen O’Kane, VP for AES Southland Development
Kristen Castanos, Esq., Stoel Rives
Melissa Foster, Esq., Stoel Rives
Jerry Salamy, CH2M Hill

INTERVENER:

Monica Rudman
APPEARANCES

GOVERNMENTAL AGENCIES:

California Coastal Commission

Tom Lester
Louise Warren

PUBLIC COMMENT:

Jim Stewart
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COMMISSIONER MC ALLISTER: Okay, thanks everybody for coming. We’re going to get started. A couple of minutes late here but, hopefully, we can knock out the agenda here in order.

Let’s see, my name is Andrew McAllister. I’m the Presiding Member on this Committee Conference on the Presiding Member’s Proposed Decision for the Huntington Beach Energy Project, 12-AFC-02.

And I’ll just go along from dais, Pat Saxton, my advisor, myself, Susan Cochran, who’s the Hearing Officer, Commissioner Douglas to her left, and Jennifer Nelson, her Adviser, to her left.

Let’s see, we have I think a number of things to go through today, some comments on the proposed decision.

And I will, with that, kick it off. I want to thank you all again for coming and kick it off by passing to Susan.

HEARING OFFICER COCHRAN: Thank you and welcome.

I would note for the record that the Petitioner is present, if you could identify yourself for the record, please?

MR. O’KANE: Stephen O’Kane with AES Development Corporation. Thank you.
HEARING OFFICER COCHRAN: Thank you.

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

MS. CASTANOS: And Kristen Castanos with Stoel Rives, Counsel for the Applicant.

HEARING OFFICER COCHRAN: Thank you. I also would like to point out that our Public Adviser, Alana Mathews, is in the audience.

And when we get to the public comment portion, if you would like to speak, she has delightful and lovely blue cards available so that we’ll know if you wish to speak.

Did you want to say anything else, Ms. Mathews?

Thank you.

If I could also have staff introduce themselves?

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

With me at counsel table -- or at the table is Felicia Miller, Project Manager.

HEARING OFFICER COCHRAN: Thank you.

MR. BELL: I also have other staff present today.

HEARING OFFICER COCHRAN: Thank you so much.

I see that Intervener Monica Rudman is here. Ms. Rudman, if you could introduce yourself?

MS. RUDMAN: Monica Rudman, Intervener.

HEARING OFFICER COCHRAN: Thank you. We didn’t even
practice this.

MS. RUDMAN: I do work with the Energy Commission. My ideas that I’ll be presenting are not the opinion of the Commission.

HEARING OFFICER COCHRAN: Thank you very much for that.

Mr. Kramer, if you could unmute the folks so that we can see if there are any -- if the other Intervener, Jason Pyle has joined us today? Mr. Pyle?

Mr. Pyle? Bueller? Okay. Apparently Mr. Pyle has not joined us today.

Are there any representatives from Federal Government agencies on the phone?

MR. LESTER: Yes, this is Tom Lester from the Coastal Commission.

HEARING OFFICER COCHRAN: Thank you.

MR. LESTER: And I’m not able to log in to the WebEx part, but I am here via phone, anyway.

HEARING OFFICER COCHRAN: Okay, thank you very much. Are there any officials representing Native American Tribes or Nations?

Any other State agencies besides the California Coastal Commission; South Coast Air Quality District, Department of Fish and Wildlife?

MR. LESTER: I believe my staff attorney’s on the
line, too, Louise Warren. She may be joining us shortly.

MS. WARREN: This is Louise Warren. I am on the phone. I was waiting for the agency.

HEARING OFFICER COCHRAN: Oh, thank you.

Is anyone from the City of Huntington Beach on the line?

Anyone else who would like to introduce themselves, who’s called in this afternoon?

Okay, as I said before we convened the hearing today, if you could mute yourselves that way you have control over when you’re going to wish to speak.

If we have to mute you to cut down on the feedback then you may miss your ability to give us a chat.

With that, the purpose of today’s meeting is to discuss the Presiding Member’s Proposed Decision, we usually call it the PMPD, that was published on September 3rd, 2014.

On that date the Notice of Availability went out to the Proof of Service List, which noticed today’s conference.

The Notice of Availability also included notice for the Commission Business meeting, at which the full Commission will decide whether to adopt the PMPD and any errata.

The current date for the full Commission to consider the PMPD and errata is October 7, 2014.

The Notice of Availability of the PMPD indicated the last date to submit comments is February 3rd -- February,
We need them in by 4:00 p.m. so that Dockets has a chance to actually have them posted by that date. And given the short time frame that currently exists, from the 3rd to the 7th, the sooner we get comments the better we’ll all be.

The Committee also asked that comments to the PMPD be provided for -- even before the end of the comment period for today’s conference in order to give the Committee a chance to see the comments before we convene this meeting today.

Thus far, we have received written comments from the City of Huntington Beach and the Applicant.

In addition, there have been a series of comment letters from various individuals, largely touching on greenhouse gas.

I know that Mr. Stewart made written comments that were docketed today.

So, let’s turn now to a discussion of where we are today. And the first thing I would like to talk about is the schedule.

As we know, the schedule was incredibly tight from the close of the public hearings -- the evidentiary hearings to the publication of the PMPD.

Since the publication of the PMPD, a second business meeting has been scheduled for October 29, 2014.

Are there any thoughts on moving the consideration of
the HBEP to that later meeting, either October 29 or some
other future meeting?

MR. O'KANE: From the Applicant, the best perspective
is, no, we would like to proceed with the October 7th,
provided the issues we’ve docketed are dealt with in a timely
manner.

With respect to time frame, you know, the time frame
from the hearing to now, it would be consistent with a 12-
month licensing process type time frame, so I don’t think
it’s particularly tight.

HEARING OFFICER COCHRAN: Staff?

MR. BELL: The staff has no position as to the timing
of the hearing on the PMPD.

HEARING OFFICER COCHRAN: Okay.

COMMISSIONER MC ALLISTER: Excuse me, could you just
go over that?

HEARING OFFICER COCHRAN: I will. I was going to,
sorry.

COMMISSIONER MC ALLISTER: Okay. Yeah, no, sorry to
break in, I just kind of wanted to make sure that we
understood the serial nature of what has to happen by when,
so that we can sort of see when this would have to be -- when
the agenda would have to go public and if that gives us
enough time. So, what the series of events is.

HEARING OFFICER COCHRAN: Right. Probably what we’re
looking at is with the close of the comment period on October 3rd that gives us, essentially, the weekend and Monday.

The errata may be ready Monday, but most likely would be ready Tuesday morning, the day of the business meeting, which doesn’t give most folks enough time to actually look at it to see if it accurately reflects everything we want to do.

In addition, it’s likely that the errata would have to -- any additional errata would have to be read into the record at the business meeting, which could further complicate things.

By moving the consideration of the item to October 29th, that does not reopen the comment period. The comment period still would close on October 3rd.

It would just give folks an opportunity to review the errata before actually going into the business meeting.

MS. FOSTER: I think it remains Applicant’s position that we would like to push forward for October 7th. It depends on the discussion here today and a few of the items we’ve raised in our initial comments.

But that is our intent and we would prefer that approach.

HEARING OFFICER COCHRAN: Okay.

MR. BELL: And it remains staff’s position that we have no position.

HEARING OFFICER COCHRAN: Thank you.
Ms. Rudman, I’d like to hear from you on this as well.

MR. RUDMAN: I am always in favor of a little more time since it’s very -- a lot of material to go through.

HEARING OFFICER COCHRAN: I’d like to ask the Applicant a little bit, is October 7th critical or is -- would October 29th still work from your project perspective?

I mean I’m just trying to understand.

MR. O’KANE: Any delay causes further financial burden, there’s no doubt of that. We are now 26 months into a 12-month process and we are disappointed that we have to even consider further delay at this point.

Would it be -- from a project perspective, we would obviously have to accommodate it should it be moved to October 29th, but it’s still our position that we’d like to hold October 7th.

HEARING OFFICER COCHRAN: Okay, thank you for that. So, the next thing I wanted to talk about, which seems to be probably the bulk of the comments that we’ve received to date are changes to the Conditions of Certification.

And at the outset, I would like to apologize and explain what happened with some of the Conditions of Certification.

I took staff’s Exhibit 2003 and used them as a model.
When we put the formatting for the PMPD on those conditions some of the red lines disappeared.

And so, as I was going through and preparing the PMPD some sections weren’t changed that were supposed to have been changed.

For example, AQSC 6, all of the changes in HAZMAT, all of the changes in Waste, and all of the changes in Land Use should have been as they appear in Applicant’s comments to the PMPD that we received on Monday, so that the errata will reflect all of those changes.

As an example, in Hazardous Materials Handling, Conditions of Certification 8 and 9, the verification for 8 slipped below 9. I mean it was clear what happened and it was only through not being able to get one final look that has happened.

So, those changes will be made.

So, the next thing we need to turn to, then, is the consideration of some other comments.

Mr. Kramer, if you could share the desktop with the comments from the City of Huntington Beach on Worker Safety.

Yesterday, the City of Huntington Beach filed comments and it was probably very difficult to find where their tracked changes were.

Their tracked changes are actually on page APP-63 and APP-158.
If you look at 158, their red line shows and it has a change to the screening fencing for the parking lots shall be a maximum of six feet tall, as opposed to “no less than six feet tall”.

That was one of their changes. And so, I’m going to ask the parties is that acceptable to the parties that change in Visual 3?

MS. FOSTER: Applicant is fine with all of the changes that the City has proposed.

HEARING OFFICER COCHRAN: Okay.

MS. FOSTER: Both that one and the ones on Worker Safety.

HEARING OFFICER COCHRAN: Okay. And this is -- up on the screen is the language from Worker Safety. The underscored, bold is the insertion that the City of Huntington Beach has asked for, “That corners must allow for clear travel of a minimum 17-foot inter radius and 45-foot outer radius” and so forth.

Do the parties have any positions on those changes? I’ve heard from Applicant. Staff?

MR. BELL: The staff’s position with respect to this addition is that placing the actual text of the local LORS into the condition itself is redundant. However, it’s not an incorrect statement of that LORS. And if the Committee wishes to leave that in there, staff has no objection.
HEARING OFFICER COCHRAN: Okay. Ms. Rudman?

MS. RUDMAN: I would prefer to have an opportunity to kind of read these, as well as now it seems like the compliance conditions are unclear. I’m not even sure what the compliance conditions are anymore.

So, to me this is not like, you know, a form where I can provide comments on these.

HEARING OFFICER COCHRAN: Well, I would say that Applicant did a very thorough job of outlining their conditions and their concerns about their conditions, and those things have been read by -- you have had the opportunity to read those.

So, you know, obviously, the comment period is still open and you can make further comments.

But for a condition like this, you know, we’ll continue to accept your comments.

If you’re unwilling to stipulate today that’s fine, we’ll continue to move on and you can make further comments during whatever additional comments you wish to file at the close.

COMMISSIONER MC ALLISTER: Just to be clear, Counsel, this is a cut and paste from -- your read on this is that this came directly from the Huntington Beach Local Ordinance in Huntington Beach, or City Code, or what?

MR. BELL: That’s what I’m informed and believe.
HEARING OFFICER COCHRAN: In addition, the City of Huntington Beach made two comments. And the first comment has to do with Table 3, which is the volume capacity ratio. The Volume Capacity Ratio Table was pulled from the FSA. So, if there are changes that need to be made to that, I need to hear from either staff or Applicant in comment so that I can make those corrections.

Because when I looked at what was in the FSA and what was in the PMPD, they were the same to me. I’m not an engineer. I don’t play one on TV. So, it could just be my lack of understanding.

MR. BELL: The staff’s position was that any differences that have been detected between what is in the FSA, what’s in the PMPD and the comments made by the City is, in effect, a distinction without a difference. At the end of the day we’re still at the same place that we were before and there’s nothing incorrect in what’s been put forth.

HEARING OFFICER COCHRAN: Okay, I just wanted to make sure that if there was some issue with the volume capacity that we could take care of that.

So then we have sort of dealt with the low-hanging fruit. Let’s go to some of the more tricky issues. And I think I would like to start with the Visual Conditions of Certification.

And this touches on the Energy Commission’s
relationship with the Coastal Commission.

In the PMPD we took into consideration the comments that the Coastal Commission had made and treated them with the due deference that they were due.

We did not treat them as the same type of comments that we would have received if this were a Notice of Intention proceeding. This is an AFC.

That being said, even if the Coastal Commission no longer has plenary authority, we have a history of dealing with our sister agencies and allowing them the opportunity to at least review and comment on those plans that fall within their jurisdiction.

There continues to be the Local Coastal Plan and other issues that we would like -- I think that the Committee would like to continue to hear from the Coastal Commission on those plans as they come forward.

And there are a series of plans identified in the Visual Conditions that have to be formulated.

So, it’s a review and comment, only. It’s not a veto or an override.

With that, then, I would like to hear from the parties about that.

MS. WARREN: This is Louise Warren from the Coastal Commission, if I can just step in here for a minute.

The statements you just made regarding the Coastal
Commission’s role in this process we disagree with pretty strongly and think that they’re inconsistent with the MOA that our agencies entered into about a decade ago, and would urge you to look at the letters and the MOAs that we’ve written so far.

And if there is a problem with the MOA or a dispute, there is a process in the MOA for resolving this dispute, but they have been turned in this instance, yet.

HEARING OFFICER COCHRAN: Thank you. I understood that that was the position of the Commission.

MS. WARREN: The Energy Commission?

HEARING OFFICER COCHRAN: No, the Coastal Commission, sorry.

MS. WARREN: The position of the Coastal Commission is that our report is proper in an AFC proceeding and should be treated under 25523(b).

But we will be submitting additional written comments for the October 3rd deadline, and I’m happy to walk through that and to direct the Committee’s attention to the MOA, again. I just wanted to take this opportunity to explain that the PMPD didn’t, in our view, reflect the MOA or the Coastal Commission’s perspective on this.

HEARING OFFICER COCHRAN: Is it your position that the MOA is a law, ordinance, rule or standard?

MS. WARREN: It’s our position that the MOA describes
the procedures that the two agencies need to follow for Coastal Commission comments on AFC proceedings and that the MOA reflects the law as it applies to these proceedings. And there was a disagreement about how to interpret 30413(d) and 25523 between our agencies.

And the MOA is the result of our negotiations and a resolution of how the section should be interpreted.

HEARING OFFICER COCHRAN: I want to thank you for your comments.

MS. WARREN: Thank you.

HEARING OFFICER COCHRAN: And is there anything further?

Okay, yeah, if I could now hear from Applicant and staff?

MR. BELL: And just briefly, before Ms. Foster chimes in on this and that is staff is agreeable to the removal of the California Coastal Commission from the Visual Resources Condition of Certification -- removal of the language that would provide for review and comment for the reasons set forth in the Applicant’s comments.

HEARING OFFICER COCHRAN: Thank you.

Applicant, did you have anything to add other than what was in the written comments you submitted?

MS. FOSTER: We did not provide written comments on the 30413(d) issue. That was briefed in our August 20th hearing.
brief.

HEARING OFFICER COCHRAN: Right.

MS. FOSTER: But we concurred with your position on that in the PMPD and we agree with staff here about the removal of the Coastal Commission from VIS-1, 2, 3 and 5.

HEARING OFFICER COCHRAN: Ms. Warren or Mr. Lester, does the Coastal Commission have a position as to whether you should be included in the Conditions of Certification regarding review and comment on the Visual Conditions?

MS. WARREN: I’ll defer to Mr. Lester on that.

MR. LESTER: I think that’s secondary to the main legal issues we’ve been discussing. I think it would be up to the Committee to determine our role on Visual. We’d be happy to review. We’d be happy to review and approve as long as it is consistent with the City’s LCP requirements for Visual.

Because we’re supposed to speak for the City on this sort of issue, according to 30413(d), it may be appropriate to keep us in that role.

HEARING OFFICER COCHRAN: Anything further?

MR. LESTER: Not at this point.

HEARING OFFICER COCHRAN: Is there anything else anyone would like to say about the Visual Conditions of Certification?

MS. RUDMAN: Would you read them out loud or tell me
HEARING OFFICER COCHRAN: Visual begins at page APP-143, in Appendix A and goes through to APP-159.

MS. CASTANOS: So, on behalf of the Applicant, we would reiterate our position that it’s not appropriate for the Coastal Commission to be reviewing those plans for the legal reasons that have been stated in our brief.

But we also believe there are some practical problems associated with that that could result in delays with construction, and start of operation that could be problematic for the project with having additional layers of review where it’s unnecessary and not legally required.

HEARING OFFICER COCHRAN: And if there were a way to craft language that would basically say they have a certain amount of time, and if they don’t comment, they’re comments are deemed waived would that satisfy your concern, on the practical aspect?

MS. CASTANOS: I think as crafted the condition actually says that now. I think the problem is, if they do have comments then what? And how -- I mean if they aren’t satisfied with the plans, and the CPM is satisfied with the plans, then how do we proceed?

HEARING OFFICER COCHRAN: Okay.

MS. FOSTER: It’s a slippery slope and Applicant has great concerns about it. And it could adversely affect the
HEARING OFFICER COCHRAN: Yes.

MR. KNIGHT: Oh, sorry, it was dark green and not light green.

(Laughter)

MR. KNIGHT: This is Eric Knight, Manager of the Environmental Office.

The language -- there is language in the conditions already that allow 30 days for a comment by the City of Huntington Beach and the Coastal Commission. If comments weren’t received within that time period, the CPM would consider the agencies to be acceptable of the plan.

And if there’s disagreement -- and we deal with this all the time. We routinely send plans, compliance plans to local agencies that are affected by a project, State agencies that are affected by a project.

And at the end of the day, it’s clear the CPM makes the decision.

So, we had originally written the conditions to include the Coastal Commission throughout all the Visual Conditions per unit and comment.

Based on the Applicant’s comments, we thought the two that were most appropriate would have been the Visual Treatment, the Architectural Treatment, and the Landscaping.

Those are the two issues that tend to be of the most
concern to the Coastal Commission, given our long history of working with them on El Segundo and a bunch of different projects. So, we thought it was appropriate to keep them in there.

And so I guess I would say if the Committee chooses to include them, staff wouldn’t object to that. We thought it was appropriate in the beginning.

But things like lighting plans and things like that, we thought maybe that was just not something the Coastal Commission would be too concerned about. And that’s pretty -- you know, it’s formulaic and we know how to deal with lighting. So, anyhow, thank you.

COMMISSIONER MC ALLISTER: Counsel, could you sort of filter the sort of project-related needs that Eric just outlined with -- so what we’ve agreed to with this MOU -- or MOA between the agencies?

Sort of what process would, in your view, be appropriate or what role would the Coastal Commission play in a process that respects the MOA?

MR. BELL: I’m guessing that question was addressed to me?

COMMISSIONER MC ALLISTER: Yes.

MR. BELL: Yeah. I wasn’t prepared to fully discuss this issue today, but I can say that the MOA has been in existence for some time and we do our best to work within the
confines of that MOA, as an agreement between our two agencies.

I can’t say that the MOA, itself, is not a legally controlling document in that the other statutes or laws that exist outside the MOA exist on their own and we still have to comply with those.

We did solicit the Coastal Commission’s comments. We have tried to involve the Coastal Commission at every step of the way in the past 26 months, and even before with this project.

So, we’ve gone out of our way to reach out to the Coastal Commission and try to keep them involved in this project, itself.

The Coastal Commission has, as we know, filed a report.

And as I stated in our opening brief, we are to give due deference to other agencies that would otherwise have primary jurisdiction, were it not for the Energy Commission’s jurisdiction.

The Coastal Commission’s comments, some of them the staff did find to be supported by our evidentiary record, which, of course, every finding by the Committee and the Commission has to be supported by our record.

Not by a record from an outside agency where we had no evidence taken, no evidence submitted in our record, but
by our own evidentiary record.

Some of the ideas -- they had us do watering and staff found that to be valuable.

Some of the other suggestions made by the Coastal Commission staff found no justification within our record, within local LORS to support some of the other recommendations.

We envision the type of cooperation we’ve had with the Coastal Commission to be very productive and we’d like to continue that going on in the future. We’d like to continue to engage with them.

One thing that would help is having the Coastal Commission attend more of our workshops, attend more of our meetings and attend our hearings to be more actively involved, to help better understand the project and help understand the position that staff takes in analyzing the specifics of any given project.

Did that answer your question?

COMMISSIONER MC ALLISTER: Well, so, I’m just trying to sort of situate. So, Applicant has expressed the worry that there is sort of unmitigated -- you know, there’s the potential for sort of slippery slope type delays and I guess I’m trying to get a read on whether -- you know, from staff and from you I’m getting a sense that you don’t really see it the same way, but maybe we should try to be explicit about
MR. BELL: I can’t predict the future. I understand Applicant’s concern. Any time you add any other additional layers of review, there’s always the chance that there could be some delays.

But I’m not sure that those types of delays are really -- the gravamen of their objection. I believe what the Applicant says that there’s no legal basis to involve the Coastal Commission post-licensing.

It’s staff’s position, however, that we really try to reach out to our sister agencies, really try to bring them into our process and have them participate actively. And we like to continue to do that to the extent that we can.

COMMISSIONER MC ALLISTER: I mean I can envision a scenario where you’ve got a delay that happens because we maybe don’t involve the Coastal Commission, and then they have a problem and they come and feel that they haven’t been heard in the process.

You know, obviously, I’m not the expert on this, but I want to make sure that things are as clear as they can be between the agencies and the other parties.

MR. BELL: Well, we do have the MOU. And as I said, we are trying to operate within the structure of that MOU to the best of our ability.

COMMISSIONER MC ALLISTER: Yeah, go ahead.
MR. LESTER: This is Tom Lester, just a quick note on that.

I don’t recall any past AFC procedures where we’ve been asked to weigh in on Visual or Landscaping issues that have caused a delay or significant concern. It’s operated pretty smoothly in the past.

It’s been a few years, but we review proposed layouts and drawings and get back in a timely manner.

So, I would anticipate we would do the same thing at this point.

MR. BELL: Yeah, I’m inclined to believe that the last Coastal Commission comments or involvement with these types of issues was in El Segundo, back in 2007.

MR. LESTER: That’s probably about right.

COMMISSIONER MC ALLISTER: Okay, thanks for that.

MR. KNIGHT: But I just would add, you know, we were mindful of the Applicant’s concern about delay, so that’s why we added the language that said, you know, if comments weren’t received within 30 days the plan was deemed acceptable to the Coastal Commission and the City of Huntington Beach.

And it’s a concurrent review. It’s not first to the City of Huntington Beach and then it’s then on to the Coastal Commission. It’s a concurrent review.

COMMISSIONER MC ALLISTER: So, at that point it would
be up to the project, you know, CPM to determine the validity of those comments and whether to move forward or not.

MR. KNIGHT: Exactly, right. It’s reviewed and approved by the CPM, comment by other entities within a set time frame.

COMMISSIONER MC ALLISTER: Thanks.

MS. FOSTER: Applicant would like to go back to Commissioner McAllister’s original question about the MOU here.

Notwithstanding our previous briefing on it, to our knowledge the MOA does not contemplate post-licensing involvement of the Coastal Commission. It sets out parties agreement prior to, and we’ve taken issue with that interpretation in the past, so I won’t rehash that.

COMMISSIONER MC ALLISTER: Yeah, I get it. No, I understand.

MS. FOSTER: But it doesn’t provide any additional rights to the Coastal Commission post-licensing. Therefore, it’s contrary to law at this point to include the Coastal Commission. The City has an approved LCP. The City gets the chance to look at the plan. The City’s already adopted a resolution related to visual enhancement for the project.

The Coastal Commission did not provide any comments at that time, has not provided any comments related to Visual for the project since that time.
So, it’s Applicant’s position that the Coastal Commission need not be included in the Visual Conditions.

COMMISSIONER MC ALLISTER: Okay, so I think we understand everybody’s position. So, thanks very much.

Let’s try to move on here to the next topic.

HEARING OFFICER COCHRAN: I’d like to now turn to Applicant’s proposal on transmission line safety and nuisance, which is on APP-23 of their filing. In this case it tracks with what I believe was in Exhibit 2003.

So, I was just going to ask why the Applicant now wants to make these additional changes? Did I misunderstand?

MR. O’KANE: Thank you, Stephen O’Kane for the Applicant. I’ll have to admit that this is a bit of a late observation on our part. And, primarily, this is the recognition of the fact that the project does not include transmission lines, only generator tie-ins. And the specific standards that were referenced in the Condition of Certifications are applicable to utility-owned and regulated transmission lines under the CPUC.

We would have no objection complying with the electrical standards contained within those operational standards.

However, the rest of the requirements specified in those operational standards, which include CPUC application approval for the construction would not be applicable to a
generator tie-in, and I think that is what this section of conditions are referring to is the electrical safety from the generator tie-in, the high-voltage lines that are contained within site, as there are no actual transmission lines associated with this project.

MR. BELL: Staff has read and considered the recommended language by the Applicant, believes that it is supported by the evidentiary record and agrees with those changes.

HEARING OFFICER COCHRAN: Ms. Rudman.

MR. RUDMAN: I haven’t had a chance to really review these, again.

I mean I think with the process where I thought there was like some written compliance conditions that were clearly things that we reacted to and now, apparently, a few days later there’s other compliance conditions, I just have not had a chance to review those.

In this case it sounds very reasonable, but I can’t comment on it.

HEARING OFFICER COCHRAN: Okay. Turning then to BIO-1, which is on APP-75, one of the things I note is that Applicant has requested to strike out “Review and comment by both U.S. Fish and Wildlife and CDF&W”.

Why that change?

MS. FOSTER: Applicant has proposed that change
throughout the Biological Resources Conditions.

As noted in our cover letter and our testimony, there’s been no documented breeding of the Light-Footed Clapper rail in the Brookhurst Marsh or the marshes that are adjacent to the facility.

Therefore, there’s no need to have Fish and Wildlife, or Cal Fish and Wildlife involved in the Biological Resources Conditions.

There is one condition that discusses if a special status species is discovered, of course Applicant would then go to the appropriate agencies and follow the appropriate protocols.

But at the outset to include these other agencies where there are no special status species or triggers seem overly burdensome and unnecessary.

HEARING OFFICER COCHRAN: Staff, do you have a position on this, anyone?

MR. BELL: Yes, staff has already considered this condition, along with others that are similarly situation, BIO-1 through BIO-6. And I can say the staff disagrees with the recommended changes by the Applicant.

We believe that the evidentiary record supports the inclusion of the language in the conditions, the proposed condition of certification as set forth in the PMPD.

HEARING OFFICER COCHRAN: Ms. Rudman?
MS. RUDMAN: Again, I’m not sure which ones we’re talking about. But, so I would say the principle that I would like be the most supportive of would be the strongest protect for wildlife. So, having a wildlife expert on site would be something that I would be the most supportive of.

So, depending on where that falls, on whose conditions, you know, that’s the direction I would choose.

HEARING OFFICER COCHRAN: Are there any other -- because like as Ms. Foster pointed out, many of the changes were the same throughout in terms of eliminating CF&W and the U.S. Fish and Wildlife Service.

Are there any other conditions that you’d like to specifically call to our attention in BIO, let’s focus in on BIO beyond that sort of broad --

MS. FOSTER: Specifically related to the Fish and Wildlife and the Cal Fish and Wildlife, you’ll note that we removed all the references to them expect for that special status species.

HEARING OFFICER COCHRAN: Correct.

MS. FOSTER: We also had concern with the use of the consult, or consultation with, given that that has a specific meaning under the law.

HEARING OFFICER COCHRAN: Ah.

MS. FOSTER: So, it’s not used throughout, but there was a concern about inconsistencies with that and when it
would be appropriate.

And again, as I indicated, I believe it was BIO-8 where there is a discussion about -- BIO-7 or 8 where we do talk about if a special status species is encountered, they’ll follow the protocol and consult as needed under the law.

As far as the other Biological Resources Conditions, I do not believe at this time Applicant needs to discuss any of the changes. Most of them are all changes we’ve previously put in the record. The record supports the changes. And the big ones are the inclusion of those two agencies.

HEARING OFFICER COCHRAN: One question I had is in BIO-7, with the deletion of the changes to operation -- or the deletion of “operation and closure” in the duties of the designated biologist. I believe that’s a suggested deletion on your part.

MS. FOSTER: Are you referring to the end of the --

HEARING OFFICER COCHRAN: Right at the very beginning it says, “The project owner shall ensure implementation of the following measures during site mobilization and construction” and then has struck out “operation and closure”.

MS. FOSTER: The staff assessment and the PMPD indicates that there were no -- the impacts associated with
the operations of the facility were less than significant as they relate to Biological Resources.

There was no nexus between the conclusion therein and this condition to require a designated biologist during operations of the plant.

As you know, under the Compliance and Closure Conditions, the Compliance Plan and Closure Plan will be done towards the end of the life of the facility.

If anything comes up in that time, it will be addressed then, but including them now when there was no nexus between impacts associated with operations and mitigation here in this condition, that’s the basis for removing that from the condition.

HEARING OFFICER COCHRAN: Okay. Staff, I notice in here that there are significant changes regarding the time of when -- oh, I’m sorry. I’m sorry.

MR. KNIGHT: Well, could I just add that I think maybe some of the confusion about BIO-7 is its title. And that’s the wrong title. It’s not “duties of a designated biologist”.

It actually should be titled, “General Impact Avoidance and Minimization Measures”.

And then I think some of these things do apply during operation or closure. So, things like designing the lighting on the facility to be strobe light, or blinking unless the
FAA requires otherwise, things like closing trenches and
things like that.

So, maybe that’s what’s tripping everybody up is it
says “duties of a designated biologist” when that’s the wrong
title.

HEARING OFFICER COCHRAN: I’m sorry, again, that’s
“General Impact Avoidance” you said?

MR. KNIGHT: It’s “General Impact Avoidance and
Minimization Measures”. That’s how staff had titled it in
the FSA.

Because there’s another condition I believe it’s BIO-
2, which says “Duties of a Designated Biologist and
Biological Monitor”.

HEARING OFFICER COCHRAN: The other thing that I
noticed throughout the document is substitution of “special
status species” for animals. Does staff have an opinion on
that in terms of the removal of carcasses or --

MR. KNIGHT: We’re okay with that change.

HEARING OFFICER COCHRAN: Okay. So then how --

MS. FOSTER: I think what Mr. Knight just indicated
may be part of Applicant’s concern here. We had a concern
that there would be designated biologist duties throughout
operation and closure.

We are okay with the provisions related to FAA
lighting and that sort of thing. But apparently the title
caused concern and implicated that there would be some sort of designated biologist involved throughout.

HEARING OFFICER COCHRAN: Thank you for the correction on Soil and Water 4 regarding the correct MPDS permit number.

If there’s nothing else on Biological Resources, let’s turn to Cultural Resources.

So that everyone understands what the Committee tried to do in the Conditions of Certification was to make them parallel between sections, as well as within the document.

So, we tried to make the appointment of experts, whether it’s a designated biologist, the geo paleo person, or the cultural resources specialists or anyone else. We tried to make those processes similar all the way throughout the document so that that way it’s one type of language and one type of approval throughout.

In specific, as it relates to the qualifications of the cultural resource specialist, we have Applicant’s position, as reflected on APP-97.

And I was curious as to whether staff had any position on this?

MR. BELL: Well, that’s as to CUL-1, correct?

HEARING OFFICER COCHRAN: Correct.

MR. BELL: Sorry, I go by the numbers of the conditions, not the page number, but I did find it.
HEARING OFFICER COCHRAN: That’s okay. I’m trying to give everyone cross-references.

MR. BELL: I had this one tabbed.

I can say that staff does disagree with the recommended changes made by AES.

Staff also has some disagreement with the removal of one subsection by the Committee. I can’t say that staff has reviewed and is considering the PMPD -- this is more of a global statement, not just the Cultural Resource Section.

We’ve read and are considering the entirety of the PMPD and will be filing extensive comments -- detailed comments on the PMPD well before the October 3rd deadline.

Today, though, what we’re addressing are some of the agreements that we have with the Applicant to hopefully head off having to address the areas of agreement again, at a later time.

So, turning back to CUL-1, we can say the staff is in general disagreement with respect to the Applicant’s proposed changes in CUL-1, and also the elimination of a portion of the Condition of Certification.

Staff will set forth the rationale for its disagreement with the Committee’s proposed CUL-1 at the time we file our extensive comments.

HEARING OFFICER COCHRAN: Thank you. And again, I would ask, they’ve significantly shortened the time frame on
these from 75 to 45 days. Does staff have a position on
that, as well?

Was that included in your sort of “we disagree”?

MR. BELL: Yes. Staff was, well, to put it plainly, happy with the way it was written.

HEARING OFFICER COCHRAN: Thank you.

Then let’s now look at CUL-6 which --

MR. BELL: As to -- oh, I’m sorry.

HEARING OFFICER COCHRAN: I’m sorry.

MR. BELL: I was jumping in, I’m sorry.

HEARING OFFICER COCHRAN: Please do.

MR. BELL: Oh, as to CUL-6, the staff disagrees with the Applicant’s revisions in its entirety.

Additionally, as a part of our comments staff will also be pointing out, as to CUL-6, that a portion of the PMPD mischaracterizes the disturbance area on the site.

This is, staff feels, not a matter of interpretation.

We think it’s -- it might be a math issue. The PMPD had characterized the disturbance area as 30 -- or 3,300 feet by staff’s -- I’m sorry, square feet, 3,300 square feet.

Staff’s calculations, mathematical calculations bring it out to 25,830 square feet.

With those figures, there may be a different conclusion that’s reached as to this particular Condition of Certification.
Again, staff will set that out in our comments to be filed later.

But otherwise, staff disagrees, again, in the Applicant’s proposed new CUL-6 in its entirety.

HEARING OFFICER COCHRAN: Thank you.

Applicant, did you want to speak or do your proposed changes speak for themselves.

MS. FOSTER: It’s the same CUL-6 we’ve been proposing throughout the proceeding, so it’s not a new CUL-6 for purposes of have you seen it before.

Applicant maintains its position that with the extremely low likelihood or probability of encountering cultural resources on the site, the mitigation as proposed is not connected to what the potential for impacts are.

HEARING OFFICER COCHRAN: Ms. Rudman, did you have any comments on CUL-1, CUL-6, or any of the Cultural Resources Conditions of Certification?

MR. RUDMAN: I don’t at this time.

HEARING OFFICER COCHRAN: Okay. I’m sorry I’m going through my notes as quickly as I can. We’ve already talked about Visual.

So, the last set, then, is Compliance and Closure. We have Applicant’s comments on COM-13, which is on APP-169.

Staff, I know that there was testimony at the evidentiary hearing. Do you have any further comments on
MR. BELL: I’m sorry, could you repeat that question?

HEARING OFFICER COCHRAN: Do you have any comments to Applicant’s proposed changes to COM-13, the amount of time between the incident and when the report has to be made.

MR. BELL: No, staff has no objection to that change right there. I think that’s as we had previously discussed at an earlier date.

Staff’s only comments as to the Compliance Conditions were those that were missing out of the PMPD.

Oh, never mind, take that back. They’re there, 1 through 15.

HEARING OFFICER COCHRAN: Okay, sort of -- okay.

And similarly, there are proposed changes to COM-14, and I believe COM-15. Are those also acceptable to staff?

MR. BELL: Staff’s amenable to those, as well.

HEARING OFFICER COCHRAN: Ms. Rudman, did you have any comments on the Compliance and Closure Conditions of Approval, including but not limited to those 13, 14, and 15 we just discussed?

MS. RUDMAN: So, you’re asking for comments on the Applicant’s revisions or --

HEARING OFFICER COCHRAN: Yes.

MS. RUMAN: -- or are you asking on the Proposed Decision?
HEARING OFFICER COCHRAN: Both, either, all.

MS. RUDMAN: I’ll just have to provide all my comments later.

HEARING OFFICER COCHRAN: Okay. Is there anything further that any of the parties would like us to consider at this point related to the PMPD?

MR. BELL: There are just a couple of areas that I could list where staff is in agreement with AES’s comments, if that would be helpful?:

HEARING OFFICER COCHRAN: Yes please.

MR. BELL: As to proposed changes to the Noise Section, specifically Noise 4 and Noise 6, staff is amendable to the proposed changes by AES.

In the area of Waste 1 and Waste 2, staff is amendable to those proposed changes.

We will be filing some comments in that section, in the Waste section addressing demolition activities, but we don’t have to talk about that right now.

In the Soil and Water Section, Soil and Water 4, staff notes that the permit number is incorrect in that, but I see Madam Hearing Adviser nodding here head. She’s aware of that issue, I suppose.

HEARING OFFICER COCHRAN: Yes, that was included in Applicant’s comments, thank you.

MR. BELL: Good. And as to Soil and Water 3, staff
is amendable to those proposed changes.

    Staff will be filing comments with respect to the
water supply assessment, as staff has concluded that is not
required under the circumstances.

    Our comments will address that issue and the issue of
whether or not this area is an overdraft.

    The staff believes that the evidentiary record points
to a different conclusion.

    In Air Quality, staff is amenable to the proposed
changes by the Applicant for SC-3 and AQSC-6.

    In the area of Hazardous Materials, staff is
amendable to the proposed changes to HAZ-6.

    In the area of Land Use, Land-1, staff is amendable
to the proposed changes there.

    There may also be some editorial cleanup that’s going
to be required for that Condition of Certification, as well.

    I understand there may have been some formatting
issues. I can sympathize.

    In the area of Socioeconomics, in the intro section
there, in the PMPD itself, not in the Conditions, but in the
intro section, there’s a -- staff has to note that there’s no
mention of medical services in the record with respect to
socioeconomics, and yet medical services were included in the
PMPD section with respect to socioeconomics.

    So, staff would be noting that that should be removed
from the PMPD since the record doesn’t support that.

In the area of Traffic and Transportation, TRANS-2, staff is okay with the language that’s proposed by AES.

And TRANS-1, staff will be filing a brief comment requesting the reinsertion of a phrase, specifically for all necessary transportation permits in the opening paragraph of TRANS-1.

Staff will -- just for clarity purposes, we’ll include that in our comments that we file before the deadline.

In the Visual Resources Section, we covered a small part of that.

Staff can say that we do agree with some, but not all of the proposed changes from the Applicant. We’ll be addressing those specifically in our written comments.

And also with Biological Resources, I think we’ve covered that as well that there still remains disagreement over what the evidence supports and what it does not support within the record, and we’ll be addressing that as well.

The last part, I believe Ms. Foster has raised this as well, which is there were numerous Conditions of Certification where the staff and Applicant had, at the recommendation -- at the wise recommendation of the Committee to try to work out some agreed-upon language, and we do note that the agreed-upon language did not make it into the PMPD.
itself.

I understand Ms. Foster has prepared or will prepare -- did you include that in your comments this time, I can’t --

MS. FOSTER: Yes, there’s a list of those conditions and you’ve covered all of them in your responses.

MR. BELL: Good. And I’ve got that list as well, but we just want to make sure that the language we worked so hard on coming to agreement makes it into the final document itself.

But just for purposes of establishing our record, we’ll be including those as well in our written comments.

HEARING OFFICER COCHRAN: Ms. Rudman?

MS. RUDMAN: In terms of Air Quality, the Presiding Member’s Proposed Decision doesn’t address my Air Quality testimony.

The Presiding Member’s Proposed Decision is based on a determination of air quality impacts using weather that is not characteristics of local conditions.

The South Coast Air Quality Management District’s August 27th letter confirms that the Costa Mesa Station had less wind than the data used.

Compliance conditions should limit the emissions based on using a continuous emissions monitoring system and not using calculations based on fixed emission factors.
For example, if you go to Compliance Condition Air Quality-1, the emission factors are just fixed over the life of the project.

How can that actually be a good monitoring of the impacts?

Further, as a principle, compliance conditions that seek to limit local air pollution impacts must be measurable. I suggest adding conditions that require emission monitoring systems be placed at the Edison High School, the Eader Elementary School, the John Burke Elementary School, Gisler Middle School and Sowers Middle School.

I do not agree that the mitigations on construction impacts that staff and the Applicant worked so hard on make the impacts less than significant.

I prefer the impacts, the compliance conditions that were in the Proposed -- Presiding Member’s Proposed Decision that I saw, which is why I’m a little disconcerted that those are no longer the condition that I’ve working from.

In addition, in terms of greenhouse gases, the Presiding Member’s Proposed Decision assessment of no significant greenhouse gas impacts is based on insufficient evidence.

Staff’s evidence is very qualitative and not up to date.

I presented a Plexos modeling impact analysis,
performed by the Office of Ratepayer Advocates that demonstrates that using current assumptions there is no need for a power plant, such as HP Energy Project, to integrate renewables.

The evidence shows the Huntington Beach Energy Project will increase greenhouse gases and lead to an increase in overall system heat rate for natural gas plants.

The Findings of Fact are incorrect in terms of the heat rate and the maximum annual CO2 emission, since it ignores startup and shutdown impacts and operations at less than full load.

AQ10 says that HB Energy Project only needs to comply with 1,000 and 100 pounds net megawatt CO2 limit if the capacity factor exceeds 60 percent on an annual basis.

This is not correct. It should comply with the standard at all times.

Further, the standard was revised downward this year and HP Energy Project must comply with the new standard.

Also, AQ25, the greenhouse gas emission limit should be the most current rule and not HB Energy Project’s expected greenhouse gas emissions, as currently written.

The Presiding Member’s Proposed Decision claims that HB Energy Project will allow less-efficient power plants to retire, but doesn’t say which ones.

The power plants it is replacing under Rule 1304 are
going to be retired, anyway, since they use once-through
cooling technologies.

Further, they are infrequently operated, so they are
almost retired anyways.

I’d like to see -- the decision is really based on
inadequate information.

In terms of adaptation policy, it’s clear that
California is asking government at every level to safeguard
the State by reducing the impact of climate change.

Huntington Beach Energy Project is vulnerable to the
impacts of climate change.

As sea levels rise, it will become an island.

Further, the Presiding Member’s Proposed Decision
ignores the impacts of flooding, storm surges and wave run up
on the supporting structures, including pipelines,
transmission lines and substation.

I’m asking that the final decision or the next
decision should comply with California Adaptation Policy.

In terms of the Visual Impacts, I’ve presented
evidence that Huntington Beach is the most visited beach in
California.

Huntington Energy Project will create unpleasant
views, affecting millions of visitors.

The Presiding Member Proposed Decision also declines
to consider the KOP, the Newport Pier, claiming that I did
not analyze the impacts. And I dispute that assertion.

Further, I was told that as an Intervener that the Committee is required to consider my evidence and just cannot dismiss it out of hand.

VIS-1, Compliance Condition VIS-1 does not mitigate the project’s Visual Impacts. Rather, the surfboard structure will make the project’s visible aspects worse.

In terms of water use, the feasibility of using wastewater should be made in comparison to other power plant projects, not in isolation.

Other power plant projects have also had to use wastewater.

And then, basically, in terms of compliance conditions I’d like to say that they should adhere to certain principles.

Right now I’m not -- well, first of all, I’d like to say I’m not even clear anymore what compliance conditions I’m working from.

So, I think it’s only fair to the public and the process to now sort of give adequate, a clear sense of like where is the baseline here for compliance conditions, and then an adequate amount of time for the public to review these and comment.

What happened is by basically accepting compliance conditions two days ago, and we’re starting from those, now,
as if they were the Committee’s, basically you’re only giving
the public like two days to review those, and that’s really
not acceptable.

So, as general principles for compliance conditions,
I think they should mitigate the impacts and not be plans to
mitigate impacts.

Conditions should result in measurable and verifiable
effects and should be assessed by qualified experts.

Further, I believe it’s unfair to the public and a
circumvention of the process to allow compliance conditions
that will be adopted by the discretion of the Compliance
Project Manager, who most likely will not be a subject matter
expert on all facets of issues, and which could be modified
by the Compliance Project Manager at his or her discretion.

I plan on submitting further written comments by the
deadline.

And I would also like to offer the Commissioners and
Committee, I’ve made copies of my evidence, hardcopies, and
you’re certainly welcome to have it. Thank you.

HEARING OFFICER COCHRAN: Thank you.

Is there anything further that anyone would like to
say?

MS. WARREN: This is Louise Warren at the Coastal
Commission, again. I just want to jump in, again.

I think today has been one example of how we -- we do
need to -- the Coastal Commission needs to -- I believe it was Mr. Bell who said participate a little bit more in these hearings. And we are talking to staff, your staff about doing that and trying to have a more streamlined process the next time we go through all of this.

And we appreciate your patience and that of your staff working with us.

With all of that said, I would like to reiterate that we do not believe that the position presented in the PMPD as to the role of the Coastal Commission in your proceedings is entirely accurate and that the MOA better reflects what the law is.

And then section 25523(b) only describes two circumstances in which the Energy Commission can reject the recommendations of the Coastal Commission.

So, as I said before, we will submit written comments, but I just wanted to explain today why we’re here on that point. And I appreciate your time.

HEARING OFFICER COCHRAN: Thank you.

COMMISSIONER MC ALLISTER: Thanks very much for participating. I think that would be positive so that we’re kind of operating on the same page, rather than having to kind of get on the same page in a particular context.

So, definitely would encourage that participation and thank you very much.
COMMISSIONER DOUGLAS: Yeah, this is Commissioner Douglas. I just wanted to add that I also think it would be extremely valuable to have the Coastal Commission be more engaged in the earlier stages of the process and the staff analysis. I think that would be very helpful.

HEARING OFFICER COCHRAN: Ms. Castanos, I believe you had something you wanted to say?

MS. CASTANOS: Yes, I just wanted to thank the Committee for taking the time today. We really do appreciate your work on this and we really think the PMPD comes to the right conclusion. So, I don’t want any of the discussion today and our comments on the COCs to deflect from that.

We would appreciate, as we said earlier, sticking with that October 7th hearing date. We do think it’s important for our schedule.

And we understand that the comment period remains open until the 3rd.

We would encourage the Committee, if it’s possible to do this, to issue sort of a first errata that would address the changes to the conditions that we know or that the Committee knows they may be presenting and -- because we know there were some formatting issues and other issues associated with the conditions as presented in the PMPD.

And I think that it would help AES tremendously if we could see, in advance of October 6th or 7th, the direction
that those conditions are going before we walk into that meeting.

And then the last thing I would say is that it is very important to us that the Coastal Commission’s role be accurately portrayed in this process and reiterate our comments about removing them from the review of the plans in the Visual Conditions.

That is critically important to us in terms of ensuring that we have a project that is workable from a construction/operations perspective going forward.

HEARING OFFICER COCHRAN: Anything else from any of the other parties?

MR. BELL: No, just a big thank you from staff for the work of the Committee on this, and also another big thank you for our Project Manager, Felicia Miller, for really cracking the whip and getting this project moving as expeditiously and efficiently as possible.

MS. RUDMAN: Well, if we’re all saying thank you, I’ll say thank you for a very valuable learning experience, and I hope that I have an impact.

MR. O’KANE: I guess as Applicant and not one to miss an opportunity I, too, would like to say thanks.

(Laughter)

MR. O’KANE: It’s been a long time to get to this point. We are hopeful we get to the final end of the line.
soon.

AES is really proud of what we put forward and I think throughout this long process of review we’ve demonstrated that for most -- 99 percent of the project we put forward and was accepted in August of 2012 is still the project we are looking to approve imminently.

That the review of the design, the methods of construction really did not come with significant changes to the proposed project and we are really proud of that and that we’ve brought a well-thought-out project and look forward to being able to implement it soon. Thank you.

COMMISSIONER MC ALLISTER: Well, I’ll just, I guess, be an exception. I’m not going to thank anybody.

No, just kidding.

We’ve left out, actually, and important part here, which is the public comment, so I want to make sure we get to that before I thank anybody.

So, do we have -- I think we have some parties on the phone and at least one of them has said that they would like to give public comments. So, I’ll call on him, first, that’s Jim Stewart.

HEARING OFFICER COCHRAN: Mr. Stewart, if you can --

MR. STEWART: Hello, this is Jim Stewart. Can you hear me?

COMMISSIONER MC ALLISTER: Yes, we can.
HEARING OFFICER COCHRAN: Yes, thank you.

MR. STEWART: Okay, great. So, I just want to say that I live in Southern California and I feel like I’m representing the millions of people in Southern California who are going to be breathing the bad air from this plant for the next 40 years.

But I’m also representing the 7 billion people on this earth who are facing horrible issues of climate change. And right now, of course, we’re going through a record heat wave here in Southern California and we don’t appreciate the Commission, and the staff and everything adding more to global warming by approving this plant.

And we don’t think that the Staff Report and Proposed Decisions adequately consider the issues of greenhouse gas emissions, especially in relationship to the loading order or preferred resources.

The duty of the Commission should be to find all possible ways of making this -- they need a power supply, and so far we haven’t needed any, that any needed power supply must be from renewables and storage.

And what we call upon the Commission is to honor the State Mandate, as stated in the Governor’s Executive Order S-305, which requires the California GHG emission be 80 percent below 1990 levels by 2050.

And the CEC staff and Commission must show how this
plant’s GHG emission projections are consistent with at least a straight line project from now to that target of 80 percent below 1990 levels by 2050.

Are you proposing that this thing be closed down in ten years to keep us on that target?

I mean I don’t think that AES’s economic model is consistent with this GHG mandate.

Thank you very much.

COMMISSIONER MC ALLISTER: Thank you for your public comment. Yeah, thanks for listening through the hearing and waiting to close to the end, anyway, to make your comment. And they are definitely duly noted.

HEARING OFFICER COCHRAN: Are there any other public comments either from -- within Hearing Room A or online? With that the Committee is going to adjourn to Closed Session to consider the Application for Certification pursuant to Government Code section 11126(c)(3).

I would like to thank everyone for coming and for your thoughtful comments. I’ve certainly learned a lot. And I will dismiss the court reporter and I will let you know when we are adjourned.

COMMISSIONER MC ALLISTER: And now, I want to thank everybody for coming and we will close out when we return.

COMMISSIONER DOUGLAS: And I just want to add, appreciate the hard work on Conditions that staff and
Applicant did do. So, we will look at all of that in the next couple days. Thank you.

(Thereupon, a Closed Session convened at 3:19 p.m.)

(Thereupon, the Hearing was adjourned at 4:00 p.m.)

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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 certified electronic court reporter and 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 25th day of September, 2014.

PETER PETTY
CER**D-493
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 25th day of September, 2014.

[Signature]

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