

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

In the Matter of the:)
)
Application for Certification) Docket No.
for the Hidden Hills Solar) 11-AFC-02
Electric Generating System)
_____)

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

VOLUME V

MONDAY, MARCH 18, 2013

9:00 a.m.

Reported by:
Peter Petty

COMMITTEE MEMBERS PRESENT

Karen Douglas, Presiding Member

David Hochschild, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Kenneth Celli, Hearing Officer

Jim Bartridge, Advisor to Commissioner Hochschild

Kelly Foley, Advisor to Commissioner Hochschild

Galen Lemei, Advisor to Commissioner Douglas

Jennifer Nelson, Advisor to Commissioner Douglas

Eileen Allen, Commissioners' Technical Advisor for Siting

CEC STAFF PRESENT

Richard Ratliff, Staff Counsel

Kerry Willis, Staff Counsel

Pippin Brehler, Staff Counsel

Mike Monasmith, Senior Project Manager

Mike Battles

John Hope

Paul Kramer

OFFICE OF THE PUBLIC ADVISER

Blake Roberts, Assistant Public Adviser

APPLICANT

Jeff Harris, Attorney
Samantha Pottenger, Attorney
Greg Wheatland
Ellison, Schneider and Harris, LLP

John Carrier
CH2MHill
Susan Strachan
Strachan Consulting, LLC

INTERVENORS

Lisa T. Belenky
Ileene Anderson
Center for Biological Diversity

Cindy MacDonald

Dana Crom
County of Inyo

William D. Ross
Law Offices of William D. Ross

Larry Levy
Southern Inyo Fire Protection District

PUBLIC SPEAKERS

Michael Garabedian
Amy Noel
Jim Stroh

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P R O C E E D I N G S

9:08 a.m.

1
2
3 COMMISSIONER DOUGLAS: We're back for another day
4 of evidentiary hearings on the Hidden Hills Solar Energy
5 Generating System Project. I'm Commissioner Karen Douglas.
6 I'm the presiding member assigned to the committee
7 overseeing these proceedings. To my left is our Hearing
8 Officer Ken Celli. To his left, Commissioner David
9 Hochschild. Let's see, to Commission Hochschild's left is
10 his new advisor whose name I've just forgotten.

11 MS. FOLEY: Kelly.

12 COMMISSIONER DOUGLAS: Kelly?

13 MS. FOLEY: Kelly Foley.

14 COMMISSIONER DOUGLAS: Foley. Kelly Foley. And
15 to her left, Jim Bartridge, also serving as an advisor to
16 Commissioner Hochschild. To Mr. Bartidge's left is Eileen
17 Allen. She's the technical advisor for siting to the
18 commission. To my right, Galen Lemei and Jennifer Nelson,
19 both my advisors.

20 So with that, let me ask Applicant if you could
21 introduce yourselves.

22 MR. HARRIS: Good morning, Jeff Harris, Ellison,
23 Schneider and Harris on behalf of the applicant. And to my
24 left is Samantha Pottenger with our office. To my right,
25 Gary Kazio with the applicant. And we have several people

1 in the audience, as well, that will introduce themselves at
2 the appropriate time.

3 COMMISSIONER DOUGLAS: Thank you. And Staff,
4 please.

5 MS. WILLIS: Good morning. My name is Kerry
6 Willis, Senior Staff Counsel. With me is Dick Ratfliff,
7 Staff Counsel, and Mike Monasmith, Project Manager. And we
8 also have various witnesses that will introduce themselves.

9 COMMISSIONER DOUGLAS: Thank you. Let's see. Let
10 me go now through the advisors -- or intervenors.

11 Intervenor John Zellhoefer, are you here?

12 MR. BATTLES: Mike Battles. I just want you to
13 know, I see that call-in user has been muted, just that
14 first one under Amy Noel. Yeah. Just in case that's Mr.
15 Zellhoefer, you might want to ask again.

16 COMMISSIONER DOUGLAS: Intervenor John Zellhoefer,
17 are you here in person or on the phone? Okay.

18 What about Intervenor Center for Biological
19 Diversity?

20 MS. BELENKY: Yes, good morning. This is Lisa
21 Belenky for the Intervenor Center for Biological Diversity.
22 And with me also is Ilene Anderson.

23 COMMISSIONER DOUGLAS: Good morning.

24 Intervenor Jack Pritchett on behalf of Old Spanish
25 Trail Association. Mr. Pritchett?

1 What about Intervenor Cindy MacDonald?

2 MS. MACDONALD: This is Cindy MacDonald. I'm
3 here.

4 COMMISSIONER DOUGLAS: Good morning. Welcome.
5 Intervenor Richard Arnold, are you on the phone?
6 Intervenor Inyo County?

7 MS. CROM: Dana Crom on behalf of Inyo County.

8 COMMISSIONER DOUGLAS: Good morning.
9 Intervenor Donna Lamm on behalf of the Amargosa
10 Conservancy? Okay.

11 And Intervenor Southern Inyo Fire Protection
12 District?

13 MR. LEVY: Yes. Larry Levy, Southern Inyo Fire
14 Protection District. And we have a couple of other people
15 in the room that --

16 COMMISSIONER DOUGLAS: Great.

17 MR. LEVY: -- we'll introduce later.

18 COMMISSIONER DOUGLAS: Thank you. Good morning.
19 All right.

20 Are there any representatives of federal
21 government agencies in the room or on the phone today?

22 Are there any representatives representing Native
23 American tribes or nations in the room or on the phone
24 today?

25 What about state or local government agencies,

1 besides the ones who have already introduced themselves?

2 Anyone from any other state or local government
3 agencies today?

4 Any elected officials? Okay.

5 MR. LEVY: On the phone, Amy Noel is one of our
6 district board members.

7 COMMISSIONER DOUGLAS: Great. Thank you. All
8 right, then, with that I will hand this over to the hearing
9 officer.

10 HEARING OFFICER CELLI: Thank you, Commissioner
11 Douglas, and good morning everybody. Welcome back to the
12 evidentiary hearing on the Hidden Hills Solar Electric
13 Generating System Project.

14 A little housekeeping before we get started, and
15 we'll start with the -- with the worker safety and fire
16 protection today. So if there are any witnesses on worker
17 safety and fire protection, let's have them sit over here to
18 my left at the experts' table.

19 Larry Levy, are you an expert? Come on over.

20 MR. LEVY: I am an expert on the fire protection.

21 HEARING OFFICER CELLI: And then, William Ross,
22 you may want to take his seat.

23 In terms of general housekeeping, as people are
24 getting situated in the room, I just want to acknowledge
25 this weekend as I was reviewing the exhibits list that we

1 need the following exhibits docketed and served by the
2 parties. These are exhibits that were received at the
3 evidentiary hearing while we were down in Shoshone that have
4 not yet been docketed and do not have a TN number. For the
5 applicant it was Exhibit 85. For Staff, Exhibits 327
6 through 333 need to be docketed and served on all parties.
7 Inyo County had Exhibit 687 that needs to be docketed and
8 served on all parties.

9 And Mr. Arnold -- Mr. Arnold, are you on the
10 phone? Okay.

11 MS. BELENKY: I don't believe that Mr. Arnold
12 would be participating today. I believe he's out of the
13 state.

14 HEARING OFFICER CELLI: Okay. Thank you for that.
15 But with the magic of WebEx he could still participate from
16 wherever he is, as long as he has a phone. But in any
17 event, I will need -- I actually have his Exhibits 804
18 through 808.

19 And so I what I think I'm going to do, Blake
20 Roberts, I'm going to give them to you for docketing. And
21 then I will need those back to me because they're the
22 originals that I'm -- I have in possession.

23 Everyone else was current, and I do appreciate
24 that. And, you know, these things come up.

25 MS. BELENKY: Commissioner Celli, this is Lisa

1 Belenky. Thank you. I believe that there were some sets of
2 changes to conditions that were agreed by various groups of
3 parties that still have not been presented to all of the
4 parties or served. And I don't want that to get lost when
5 we get to the end of this hearing, which hopefully will be
6 today. We all need to start our briefing and we need to
7 know what we are briefing against, so to speak. Thank you.

8 HEARING OFFICER CELLI: Yes. Thanks for -- thanks
9 for -- once again, you have reminded me of things I needed
10 to talk about. So a couple of things.

11 First of all, on Friday while we were down in
12 Shoshone, Staff provided me -- and I thought all the other
13 parties, but maybe not -- the draft Hidden Hills SEGS Noise
14 6, Noise 9, and a verification. So it's just Noise 6 and
15 Noise 9 were all that was in this document.

16 MS. WILLIS: That's correct. It was a
17 modification to Noise 6, a new condition Noise 9. And I did
18 give it, I believe, to all of the parties and -- and Ms.
19 Haskins.

20 HEARING OFFICER CELLI: Okay. And also, now that
21 we're talking about it, there is that other document that
22 nobody saw that needs to come out today sometime from Staff
23 that was the differentiated comment from testimony in
24 cultural.

25 MS. WILLIS: Right. The markup cultural section.

1 HEARING OFFICER CELLI: Okay. Then I had asked,
2 or maybe I thought I had asked -- you know how it gets
3 sometimes, but I'm going to ask now -- that if the parties
4 could provide -- because if there have been changes to any
5 conditions it would certainly be nice to have in one place a
6 sort of agreed upon set of conditions showing all of the
7 changes from the FSA forward, so any changes that came after
8 the FSA, just so that the committee has the most current
9 addition of the -- of the conditions. That would be
10 appreciated.

11 Mr. Harris, did you have something on that?

12 MR. HARRIS: Yeah. It will get done because it
13 will be Ms. Strachan and not me. So --

14 HEARING OFFICER CELLI: Okay.

15 MR. HARRIS: -- likely this week, as early as
16 possible.

17 And we have one other thing, too, so as not to
18 catch the committee flat footed. At the end of the day
19 we're going to want to ask the committee a question about
20 the issues they'd like to see briefed.

21 HEARING OFFICER CELLI: Yes.

22 MR. HARRIS: So I didn't want to hit you with that
23 at the last minute. So since I had the mic I thought I'd --

24 HEARING OFFICER CELLI: You did.

25 MR. HARRIS: -- throw that out there.

1 HEARING OFFICER CELLI: Actually, thank you very
2 much.

3 MR. HARRIS: Okay.

4 HEARING OFFICER CELLI: Ms. Belenky raised that
5 first, so she gets the credit for the reminder.

6 What's going to happen today is hopefully we will
7 take care of the two remaining outstanding issues, fire --
8 worker safety, fire protection, and alternatives, after
9 which we had envisioned a closed session, a quick closed
10 session with -- with the committee to -- a closed section to
11 sort of articulate what we would like to see in the briefs.

12 Just to be clear, this is -- this is not a limitation of
13 what can be in the briefs. People can brief anything they
14 feel they need to brief. But we will articulate those
15 things that actually really need to be briefed in the eyes
16 of the committee.

17 So now then, let me -- oh, I need that yellow
18 sticker. One moment.

19 Okay. Now I have Ilene Anderson. Next to Ms.
20 Anderson, is that Geoff Lesh? Next to Mr. Lesh I have Larry
21 Levy.

22 Do you go by Leavy or Levy?

23 MR. LEVY: Levy.

24 HEARING OFFICER CELLI: Levy.

25 Next to Mr. Levy, sir, your name please?

1 MR. COLEMAN: Ron Coleman

2 HEARING OFFICER CELLI: Okay. Yet again, I have
3 to say this, and we're in a whole new room, Ladies and
4 Gentlemen. So these microphones are the kind that you have
5 to speak right down the shaft in order for this information
6 to get broadcast. So please just -- you can see -- if you
7 can that I am -- I am practically touching this thing with
8 my nose. Okay. That's where you want to aim your mic,
9 right at your mouth. You want to be about two inches away,
10 two or three inches away so that everyone can hear you.
11 Since we're sharing microphones today, please don't start
12 speaking until the microphone has been slid to you. And
13 then get yourself up and speak right into the microphone.

14 One of the things that a lot of the experts end up
15 doing is they start turning to other parties and talking.
16 But if you turn away and do this you won't be heard. So
17 that's why I want you to be mindful of the fact that you
18 want to keep speaking right into that mic. And when you're
19 using your exhibits or talking about documents, hold the
20 documents on the other side of the microphone, not between
21 your mouth and microphone.

22 Okay. I'm sorry for that spiel, but I won't have
23 to do that again, I don't think.

24 So, sir, I didn't get your name?

25 MR. COLEMAN: Ron Coleman.

1 HEARING OFFICER CELLI: Ron Coleman. And you are
2 with SIFPD?

3 MR. COLEMAN: Yes.

4 HEARING OFFICER CELLI: Good morning.
5 Next to Mr. Coleman?

6 MR. ALSTON: Wes Alston, a consultant for the
7 applicant.

8 HEARING OFFICER CELLI: Thank you, Mr. Alston.
9 Any other -- do we have any other experts for
10 worker safety and fire protection?

11 Staff, did you have any witnesses on this?

12 MS. WILLIS: Mr. Lesh.

13 HEARING OFFICER CELLI: Oh, yes. That's right.
14 Okay. Very good.

15 Then if I can have you all please stand, raise
16 your right hand.

17 (Thereupon,,

18 Ilene Anderson, Larry Levy, Ron Coleman, Wes Alston,
19 and Geoffrey Lesh,
20 were duly sworn.)

21 HEARING OFFICER CELLI: Thank you. Please be
22 seated. The parties are -- or the experts are sworn.

23 Now, the way we have been proceeding up until now
24 is we have had the staff set -- set the tone by giving us
25 what we thought the issues were, followed by Applicant. And

1 then we open it up to discussion using the other witnesses.

2 Is -- is Staff prepared to do that again this
3 morning?

4 MS. WILLIS: We -- Staff is prepared to do that.
5 It's basically involving one condition of certification
6 regarding the agreement between BrightSource and the fire
7 department.

8 HEARING OFFICER CELLI: Okay. Mr. Lesh, why don't
9 you tell us what the issues are?

10 MR. LESH: Staff -- Staff, in their review of the
11 Southern Inyo Fire Protection District find that it's
12 serving a small community, generally in our opinion is
13 unfunded and impacted nearly already so that any further
14 demands put on it by and industrial facility we feel would
15 be a significant impact.

16 In response to that our request has been for the
17 Fire Protection District and the applicant to discuss and
18 come to an agreement such that that situation can be
19 mitigated, and we've asked for evidence of such an
20 agreement.

21 We have a condition that basically has been
22 changed to say that if they are unable to come to an
23 agreement then in order for the applicant not to have any
24 impact on the local fire protection district they would
25 provide those facilities or services through an industrial

1 fire brigade on their own facility with their own personnel,
2 their own equipment, their own ongoing training such that
3 that service would be rated by the insurance services office
4 which generally does this sort of thing. It would have a
5 need you reach a minimal level of certification and that
6 that condition would continue until they decide to do it
7 some other way, which would involve going back to an
8 agreement with the local fire department.

9 HEARING OFFICER CELLI: And by when would they
10 have to do that?

11 MR. LESH: We are asking for an agreement 30 days
12 prior to the site of mobilization -- or 30 days prior to
13 site mobilization. In the absence of an agreement then
14 their fire protection facility would -- would need to be
15 available at the same time --

16 HEARING OFFICER CELLI: Prior to --

17 MR. LESH: -- at least -- at least to a level
18 that's appropriate for whatever is onsite at that time.

19 HEARING OFFICER CELLI: Prior to mobilization?

20 MR. LESH: Yes.

21 HEARING OFFICER CELLI: Okay. Thank you very
22 much, Mr. Lesh. Anything further on that?

23 MR. LESH: No.

24 HEARING OFFICER CELLI: Okay. Let's hear from
25 Applicant. That would be Mr. -- is that Mr. Alston? We're

1 interested in the applicant's position with regard to what
2 was just stated by Staff.

3 MR. ALSTON: In -- in regards to the determination
4 that there's an excessive risk at the site, we don't agree
5 with that. We believe that there is some appropriate
6 mitigation that should be provided to the Southern Inyo Fire
7 Protection District. And we're continuing to work on that
8 agreement to meet that ends.

9 HEARING OFFICER CELLI: Okay. So at this time
10 there is no agreement?

11 MR. ALSTON: That's correct.

12 HEARING OFFICER CELLI: Okay. Larry Levy, let's
13 hear from you, sir -- or shall I say Southern Inyo Fire
14 Protection District, just in case Mr. Coleman wanted to
15 talk, whoever.

16 MR. LEVY: Thank you. Yes. Larry Levy. I'll
17 start. We do believe that the impacts are significant for
18 our district and have prepared documents, a declaration of
19 deployment to present as part of our agreement with
20 BrightSource that I am still hopeful is forthcoming. But
21 I've been fooled before, so here we are in Sacramento.

22 The additional services required of the district
23 are different for the construction and operation phases, but
24 I believe that they are significant for -- for both and that
25 we need to come to some final agreement with BrightSource.

1 Even with the imposition of the fire brigade on
2 BrightSource, we have risks on the roadways as a result of
3 additional traffic that that brigade would not mitigate.

4 May -- I'm not sure what I should say about the
5 condition of the agreement itself. May our Counsel Mr.

6 Ross --

7 HEARING OFFICER CELLI: Certainly.

8 MR. LEVY: -- address the agreement itself?

9 HEARING OFFICER CELLI: That would be great.

10 Just -- it would be helpful to the -- for the committee to
11 know.

12 You need to press the button and make sure the
13 green light is on.

14 MR. ROSS: I'm sorry.

15 HEARING OFFICER CELLI: There you go.

16 MR. ROSS: This is William Ross, Counsel for the
17 district. I would represent that both the district and the
18 applicant have been working in good faith on the securing of
19 a funding and services agreement. The most recent step
20 taken by the district concerning that was on Friday at a
21 special meeting where they approved such an agreement. We
22 have a blank copy of it that we can furnish later in the
23 proceedings if it's appropriate.

24 In support of that we would confirm the
25 representations made by Chief Levy, that is we have filed

1 documents with the commission indicating that we are the
2 jurisdiction having authority over fire and life safety for
3 this project. We've adopted, meaning the district has
4 adopted a deployment declaration formulated under the
5 standards set forth in the National Fire Protection
6 Association's Standard Number 1720, which specifically deals
7 with volunteer fire departments, to address all intensities
8 and uses of perspective development that would be present in
9 those volunteer agencies.

10 Former State Fire Marshal Ronny Coleman who has
11 had over 45 years of experience in the fire service at
12 local, state, federal levels has academically credentialed
13 as we detail in a resume which we've also filed with the
14 commission, and as an acknowledged expert in the formulation
15 of training, staffing and operational analysis and concerns
16 will offer testimony about the preparation of the deployment
17 declaration, the primary purpose of which is to indicate,
18 given the baseline, using the term from CEQA and the
19 regulatory aspects of this proceeding, the facilities, the
20 equipment and operational capabilities of the district can
21 be met in specific ways. In that document, when implemented
22 through a funding mechanism, the district initially
23 represented that that would be accomplished through a
24 special tax or a fire benefit assessment. Obviously, the
25 district would -- would prefer to implement that with an

1 agreement with the applicant, which -- in just representing
2 what's in it, that's not subject to, I think, the
3 confidential issue of further negotiation, would provide
4 credits for the various types of municipal financing that
5 could come forward in that area, as well as acknowledging
6 the termination date o this project, but most critically,
7 incorporating the declaration of deployment as a contract
8 provision so that there's a clear, if you would -- the
9 analysis I can think of is a mitigation plan in an
10 environmental document that phases the allocation of funding
11 to the realization of facilities, equipment, and staffing
12 geared to the phasing of the project as it's been described.

13 I think it would be appropriate to also note that
14 Chief Coleman has visited the site, meaning not only the
15 project site but several of the geographic areas of the
16 district, including its current headquarters in Tecopa Hot
17 Springs. He's also visited the Ivanpah facility. He's also
18 very familiar with other electrical power generating
19 facilities in the state. So it would be our hope that we
20 could achieve agreement. We do believe it's close. It's
21 been represented to us that it's at the executive level with
22 the project applicant.

23 Nonetheless, testimony will establish on a
24 conservative economic basis, and this factors in what the
25 district wants to do in terms of meeting the demands of the

1 project, we believe the amount of \$400,000 annually, payable
2 in, you know, a prescribed manner, would address
3 implementation of the standards and analysis in the
4 deployment declaration to mitigate the impact of the
5 project. We respectfully note that we think in several
6 areas the impacts have been noted. And when I say areas I
7 mean both geographic and analysis factors. Geographic;
8 obviously people have to get to this project site. They
9 have to go through areas in the district. Much like they
10 would in any urbanized or urbanized area that has an urban
11 interface with a rural area, there are going to be
12 responses.

13 The district is much like all fire agencies now.
14 At least two-thirds of its calls are medical related. And
15 the majority of those are related to traffic. So I think
16 it's something that's almost subject to official notice that
17 that type of impact would be made.

18 HEARING OFFICER CELLI: That's the kind of fact I
19 guess we're going to hear from Mr. Coleman.

20 I wonder if you could speak, Mr. Ross, I just want
21 to be clear, with regards or in relation to Staff's
22 condition, as I understand it the condition is written in
23 the alternative either SIFPD comes up with an agreement or
24 Staff is going to impose this -- the brigade, I believe they
25 were calling it, that would be implemented by the applicant,

1 which it's the position of SIFPD that they, I take it, agree
2 with that, except for the fact that it doesn't encompass
3 risks on the road?

4 MR. ROSS: I think that's one aspect. I think
5 there will also be testimony to the affect that where the
6 brigade approach has been pursued in other areas, you know,
7 and this is something I think Chief Coleman will address,
8 that it can't function on its own. It has to be in
9 conjunction with either a paid or volunteer firefighter
10 capability, and that a standalone fire brigade, at least in
11 our estimation, would be more expensive than what's been
12 discussed so far, and that, you know, for reason such that
13 these are the employees. And in essence you're asking the
14 employees to assume an additional training capability.

15 So the position of the district would be we concur
16 with the staff recommendation that there needs to be an
17 implementation agreement to fund the necessary mitigation
18 provided by the district that can certainly be in
19 conjunction with the fire brigade, but that a fire brigade
20 standing alone would be insufficient to mitigate the impact
21 of the project.

22 HEARING OFFICER CELLI: Okay. Thank you. And
23 let's hear from your witness.

24 Mr. Coleman, please, if you can sort of lay out
25 all that foundation for us please.

1 MR. COLEMAN: Yes, sir. Excuse me. If my voice
2 sounds a little raw this morning, I have a very serious
3 throat problem. I apologize if it doesn't come out sounding
4 correct.

5 HEARING OFFICER CELLI: Well, you can make -- make
6 that microphone do the work for you.

7 MR. COLEMAN: Okay. Thank you very much, sir.

8 My name is Ron Coleman, and I represent a company
9 called Fire Force One. I've been involved in working with
10 Chief Levy to develop what is called a declaration of
11 deployment. I would point out that when we come -- when we
12 talked about deployment of fire departments, there are two
13 standards that apply. One is the NFPA Standard 1710, which
14 is designed to deal with urban fire protection services.
15 And NFPA Standard 1720, which is designed to meet with the
16 need of rural or remote located fire facilities.

17 My testimony today is addressing the contents of
18 this document which has been given to the Board of Directors
19 of the Southern Inyo Fire Protection District and
20 constitutes a declaration of deployment to comply with the
21 provisions of 1720.

22 HEARING OFFICER CELLI: Do we have an exhibit
23 number for the declaration of deployment?

24 MR. ROSS: No, we do not. We have filed it but we
25 have not yet received a number. We have copies that we

1 could distribute, though, today.

2 HEARING OFFICER CELLI: You want to give it an
3 exhibit number for identification? Let's see. And if you
4 do have copies to pass to the other parties, please, let's
5 do that now.

6 MR. ROSS: I did.

7 HEARING OFFICER CELLI: Your -- Southern Inyo Fire
8 Department's was 1100 series; right? So Exhibit 1100 would
9 be the declaration or deployment. So as you're describing
10 the declaration of deployment you can just describe it as
11 Exhibit 1100 so --

12 MR. ROSS: So 1100? Thank you, sir.

13 HEARING OFFICER CELLI: -- we all know. Go ahead,
14 Mr. Coleman.

15 MR. COLEMAN: Okay. Thank you. I'll confine my
16 remarks today primarily to the executive summary, the
17 report, because the document itself is some 50 pages long.
18 In the development of a state --

19 MS. POTTENGER: Hearing Officer Celli, I
20 apologize, I really apologize. Can you pass out those
21 copies so our witness can refer to it, as well, while Mr.
22 Coleman is speaking?

23 HEARING OFFICER CELLI: Absolutely.

24 MS. POTTENGER: Thank you.

25 HEARING OFFICER CELLI: Let's take a moment and

1 make sure --

2 MS. POTTENGER: Sorry.

3 HEARING OFFICER CELLI: -- everyone has that. No
4 problem.

5 MR. COLEMAN: I was under the impression some had
6 already received copies. But I brought some extra ones with
7 me today.

8 HEARING OFFICER CELLI: Now we -- we have Cindy
9 MacDonald who has been -- Mike Battles, Cindy MacDonald
10 should not be muted. She should be un-muted.

11 DR. BATTLES: I just un-muted her, so --

12 MS. MACDONALD: I had muted myself.

13 HEARING OFFICER CELLI: Thank you, Ms. MacDonald.
14 I'm -- I'm just concerned that -- have you received a copy
15 of the declaration of deployment?

16 MS. MACDONALD: Yes. I received copies via email
17 just a few minutes before the hearing began. And I have
18 been trying to bounce back and forth to review them. But,
19 obviously, I'm not particularly happy about seeing documents
20 just seconds before the hearing begins.

21 HEARING OFFICER CELLI: We hear you loud and
22 clearly, thank you, in all connotations.

23 Now, I just want to make sure, as long as I'm
24 talking to you on the phone, that -- do we have any other
25 parties that are on the telephone? Richard Arnold or

1 Amargosa River Conservancy or Old Spanish Trail Association?
2 Okay. I just need to check in periodically, just in case we
3 have parties on the phone so that they can participate in
4 this thing.

5 So thank you, Ms. MacDonald.

6 MR. LEVY: Mr. Celli, I have --

7 MS. MACDONALD: Also, just briefly, at some point
8 I do have a list of issues of concern, whenever it fits,
9 that I would like to -- to speak of.

10 HEARING OFFICER CELLI: Thank you. And you know
11 how -- having sat through our hearing now for four days, Ms.
12 MacDonald, you know things kind of can get a little out of
13 hand. And don't let me forget that you're there. I imagine
14 that way we would proceed is I would get through the
15 parties' testimony who are here today, and then I would look
16 to call on you afterwards. Okay?

17 MS. MACDONALD: Fair enough. Thank you.

18 HEARING OFFICER CELLI: Thank you.

19 Mr. Levy -- Levy?

20 MR. LEVY: I have a copy of the declaration on a
21 flash drive that --

22 HEARING OFFICER CELLI: That would be useful.

23 Mike Battles, if you can run over and grab that
24 from the witness?

25 So, Ron Coleman, you had the floor.

1 MR. COLEMAN: Thank you, sir. To go back to what
2 I -- my original statement, and I might be redundant a
3 little bit because I forgot what I said five minutes ago.

4 HEARING OFFICER CELLI: Right. Go ahead.

5 MR. COLEMAN: But there are -- there are
6 essentially two standards that are looked at on a national
7 and international level when it comes to the deployment of
8 fire departments. The first is called NFPA 1710 which is
9 primarily used by the urbanized fire service having to do
10 with high-demand and high-density areas. And the second
11 document is called NFPA 1720 which has to do which has to do
12 with low-demand low-density areas. It's commonly referred
13 to as the volunteer standard, as it were.

14 This document has been referenced in several of
15 the reports that I reviewed prior to working with Chief
16 Levy. And what we have done with this particular document
17 is to enact the provisions of that particular document by
18 setting what is called a declaration of deployment. This
19 analysis procedure has essentially five steps to it. One is
20 an overview of the existing or baseline operations of the
21 department, and what does it do on a day-to-day basis as it
22 currently exists. Secondly is a basic risk assessment
23 dealing with demographics and risk assessment components.
24 Third is to look at the Insurance Service Office
25 implications for those areas that would be eligible for 8D

1 provisions. Fourth is to set performance objective and
2 measurements that are measured on an annual and -- and more
3 frequent basis in some cases. And then an actual process
4 recommending that the board of directors adopt a declaration
5 of deployment statement.

6 In the context of 1720 this is a phrase, one size
7 does not fit all. In other words, volunteer fire
8 departments do not operate in the same operational
9 parameters that most full-time career departments do.

10 1710, on the opposite -- which is the other
11 document, often results in the development of what is called
12 a standard of cover. The volunteer fire service does not
13 have a standard of cover. It has a declaration of
14 deployment . It's a distinction in terms of the intent of
15 the two documents. The primary outcome of this study was to
16 describe the current level of deployment, take a look at
17 those risk factors, identify the distribution of resources,
18 determine if there are sufficient resources arriving within
19 certain timeframes to mitigate the affects of fire and/or
20 emergency medical aid. This declaration of deployment is
21 consistent with NFPA Standard Section 4.1.1, which is the
22 intent of the document.

23 Once this document was initiated what we did was
24 make a document that has been produced for the purpose of
25 educating also the stakeholders in the Southern Inyo Fire

1 Protection District. This document that you're looking at
2 today is also a public document for consideration by
3 property owners and anybody else.

4 The recommendations that emerged from this
5 basically was to adopt 1720 officially by the board of
6 directors, to set these performance objectives and means and
7 measurement of how those are going to be evaluated over
8 time.

9 On page two of the document I have the declaration
10 of deployment. I do not -- do not know if you wish me to go
11 to all the trouble of reading every single one of those
12 recommendations.

13 HEARING OFFICER CELLI: No, we don't. We want you
14 to summarize please.

15 MR. COLEMAN: Thank you, sir. I appreciate that.

16 However, I do want to point out that this declaration of
17 deployment is in accordance with Section 1.3.1, and that the
18 authority having jurisdiction has determined that this
19 standard is applicable to the Southern Inyo Fire Protection
20 District. This is consistent with the intent of the NFPA
21 standard and consistent with contemporary fire service
22 practices.

23 I have completed a set of recommendations here
24 which had to do with the baseline that essentially defines
25 two area. The one area is referred to as rural. The other

1 area is referred to as remote. What we mean by rural is a
2 high-demand low-density area that's within eight miles
3 driving distance of existing fire facilities. We
4 incorporated both fire response and EMS response. (Clears
5 throat.) Excuse me.

6 What we have determined is that in accordance with
7 NFPA 1720 the Southern Inyo Fire Protection District
8 actually provides what is called Service Level D and Service
9 Level E in those two distinct areas. These two definitions
10 are found within the context of written documents that are
11 published by the Center for Public Safety Excellence which
12 is the organization that essentially does most of the
13 training and education in standards that cover.

14 Based upon these assessments we also set a
15 benchmark for the training of the department that's
16 consistent with the deployment analysis. We set criteria in
17 here in terms of what is going to be the requirement for the
18 department to maintain its level of capacity over time. We
19 have established in here a set of actual performance
20 measurements that deal with -- with less than 8 miles, which
21 is 15 minutes arrival time 80 percent of the time, and
22 remote areas which is more than 8 miles with a 30 minute
23 arrival 70 percent of the time. That has been justified by
24 reviewing the statistics from this department for a period
25 of about three to five years in the past, looking at the

1 type of incidents that they respond to and the nature of the
2 events once they arrive.

3 For example, you can go to a traffic collision
4 that may or may not involve a medical aid. But if you get
5 to the traffic collision the traffic collision may also
6 involve a medical aid.

7 We looked at all that analysis and made some
8 specific recommendations for this department coping with
9 growth and dealing with these issues in the future. We've
10 identified four specific recommendations. One was to
11 develop a fire station in the Charleston View area, staff
12 that station in the Charleston View area with a minimum
13 staffing and supported by a volunteer (inaudible) to acquire
14 a water tender to be able to meet some of the provisions of
15 8A and the ISO, acquire additional ambulance to take care of
16 reserve capacity and response capacity, and then to build a
17 fire station and maintenance building in Tecopa which was
18 part of their overall capital improvement plan to begin
19 with.

20 This document, as I said before, it contains two
21 components. One is a statistical component and the other is
22 an educational component. Those that have the opportunity
23 to read this may see that there's explanation in there about
24 what we call the cascade of events with dispatch, which as
25 we all know is operated by the sheriff's department. We

1 have a discussion in there about the concept of flashover,
2 so what that actually means in terms of fire control. And
3 then we have a section in there having to do with cecitation
4 (phonetic) of life which has to do with EMS. That document
5 is not in there for this -- this particular committee's
6 evaluation, but it has to be in there for the board of
7 directors to adopt a standard of cover because it's part of
8 the justification for those recommendations.

9 That's essentially a review of the declaration of
10 deployment. I will tell you categorically that there are
11 not that many rural fire departments that have filed
12 declarations of deployment. There's are hundreds of
13 standards of cover in existence but very few documents of
14 this nature. However, this one is based on the information
15 that was provided to me by Chief Levy. We went back and
16 forth in the development of this document to share maximum
17 accuracy of our -- our documents and our recommendations.

18 So I'd like to, unless there's any specific
19 questions, I can perhaps summarize this by saying that the
20 declaration of deployment filed by them deals with the
21 existing conditions of what they're doing on the ground, and
22 then prepares what they're going to do once the -- the site
23 structure begins and individuals begin to populate that
24 area.

25 HEARING OFFICER CELLI: Thank you, Mr. Coleman.

1 Applicant?

2 MS. POTTENGER: Apologies. We just had two
3 matters that we would like our Witness Wes Alston to
4 address. First is to clarify Applicant's position with
5 regards to Staff's proposed Worker Safety 6A and 7A. And
6 second, we have a correction to his testimony that we'd like
7 to make. Whichever you would like to do first.

8 HEARING OFFICER CELLI: First put in the
9 correction, and then let's take his testimony.

10 MS. POTTENGER: Mr. Alston, will you please read
11 your correction into the record please?

12 MR. ALSTON: Yes. On page 2, the opening
13 testimony, I'd like to clarify that the new agreement is to
14 update an existing practice of responding with Pahrump Fire.

15 MS. POTTENGER: Thank you. And will you please
16 clarify Applicant's position with regards to Staff's
17 proposed Worker Safety Condition 6A and 7A, whether we're in
18 agreement or not with Staff? And if you'd like me to
19 provide you the language, I can provide you the language.

20 MR. ALSTON: Yes, could you please? Okay.

21 MS. POTTENGER: So, Mr. Alston, upon review of
22 Staff's proposed Worker Safety 6A, do you agree with Staff
23 that this condition will ensure that there will be no
24 potential impacts from this project?

25 MR. ALSTON: Yes.

1 MS. POTTENGER: And do you also agree that with
2 the implementation of Staff's proposed Worker 7 -- Worker
3 Safety 7A, that there will be no potential impacts from this
4 project?

5 MR. ALSTON: Yes.

6 HEARING OFFICER CELLI: Is that all? Thank you.

7 Well, in this case we have, I guess a challenge to
8 the conditions, so the burden would be with SIFPD. So I
9 think, Mr. Ross, your people get to bat last here, so go
10 ahead.

11 MR. ROSS: I think either -- either both Chief
12 Levy or Levy and Chief Coleman will comment on that. And
13 again, the need for improvement to the fire agency having
14 jurisdiction under law, I would note legally that the
15 analysis in the FSA referencing numerous agencies in Nevada
16 is nothing more than a recitation of those agencies. Those
17 agencies have different standards for training.

18 HEARING OFFICER CELLI: Is there any chance we
19 could hear this from his witnesses?

20 MR. LEVY: Yes, we will.

21 HEARING OFFICER CELLI: We need to hear that from
22 the experts. So --

23 MR. ROSS: All right.

24 HEARING OFFICER CELLI: -- let's hear from SIFPD's
25 witnesses, whoever can address this issue.

1 MR. COLEMAN: Well, I can speak to a couple of
2 issues that I just heard. One is the fact that fire
3 brigades do not mitigate against all circumstances
4 surrounding this project. They are restricted and their
5 activities are restricted to activities onsite. They do not
6 go out on the road. They do not have to deal with the
7 traffic accidents, the medical aids, and/or any other
8 provision offsite.

9 Excuse me. I'm really having a tough time with my
10 throat this morning.

11 Secondarily is the fact that there's a different
12 standard that's applied to a fire brigade in order to meet
13 the NFPA requirements. I don't remember the one right now
14 because I've used that fire brigade standard previously. It
15 was used, for example, in my work with San Onofre Nuclear
16 Generating Station. They had a fire brigade onsite, but
17 they still did not mitigate against all the offsite
18 circumstances.

19 I do agree with the contention that Pahrump Fire
20 is not in the State of California and does not have -- is
21 not an authority having jurisdiction. They only can
22 participate to the degree they wish to participate. The
23 authority having jurisdiction is the one that's responsible
24 for the response to these emergencies that are within the
25 State of California.

1 I have visited Pahrump Fire. I know a little bit
2 about their community. But I do not believe that Pahrump
3 Fire has a declared standard of cover, nor do they have a
4 declaration of deployment equal to 1720.

5 HEARING OFFICER CELLI: Did you wish to address
6 Condition 6A and 7A that Staff's -- rather Applicant's
7 witness just stated that they were in full agreement with
8 Staff on, 6A and 7A?

9 MR. LEVY: With the fire brigade. I can address -
10 - I would like to address the capabilities and availability
11 of Pahrump Valley Fire and Rescue. They are actually two
12 jurisdictions away. They have to leave their Nye County
13 jurisdiction, travel into Clark County where they have
14 currently an automatic aid agreement. Pahrump Valley Fire
15 and Rescue already covers portions of Highway 160 and the
16 Old Spanish Trail Highway up to the state line by automatic
17 aid agreement with Clark County because Clark County has no
18 resources in the vicinity. And so their services are going
19 to be taxed already by the increased demands that this
20 project is going to put on them in the realm of traffic.

21 There's also a representation made about the state
22 of agreement between ourselves and Pahrump Valley Fire and
23 Rescue. We were presented an agreement. We -- my board
24 adopted it, signed it and returned it for signatures to
25 Pahrump Valley. They made some modifications to it and sent

1 it back to us. So it's in our court right now. We're
2 working on -- on finalizing that agreement. But I just
3 don't agree that Pahrump Valley is going to have the
4 capability to respond to this project once it's -- it's
5 geared up.

6 They're also having some issues of their own
7 financially, Nye County, the town Of Pahrump. There
8 actually have been recommendations made to go back to a
9 volunteer department in Pahrump. So things are in flux with
10 Pahrump Valley Fire and Rescue, and I just don't think they
11 can be depended on for this project.

12 HEARING OFFICER CELLI: Now, does that cover both
13 6A and 7A?

14 MR. LEVY: I guess it would if -- if the agency
15 that 7A would contract with for medical transport is also
16 Pahrump Fire and Rescue. I don't know who else it would be.
17 So I think Chief Coleman addressed or will address the
18 question of the efficacy of a fire brigade.

19 HEARING OFFICER CELLI: Okay. Let's hear from
20 Chief Coleman then.

21 MR. COLEMAN: Obviously, a fire brigade is made up
22 of employees that are working in other capacities within the
23 context of a business. They're usually not free -- a
24 freestanding organization that's staffed. So you're using
25 your own employees to provide the provisions of reaction.

1 The fire brigade is not intended to be a total solution to a
2 community fire problem. It's considered to be almost like
3 the idea of putting fire extinguishers in a business that
4 you have somebody operate that fire extinguisher in an
5 attempt to confine the fire to point of origin or whatever.

6 But they're not normally considered to be the total
7 response.

8 In the case of most fire brigades there's a
9 requirement that they notify the local fire authority who
10 will then respond into that site and take responsibility
11 because they are the AHJ, they are in the incident commander
12 of whatever that is. And fire brigades are -- essentially,
13 they have a training requirement which must be met but does
14 not include, for the most part, the continued or the -- the
15 broad types of services that a normal fire department is
16 expected to respond to. Fire brigades are not all risk;
17 fire departments are.

18 MS. POTTENGER: Hearing Officer Celli, can we have
19 Mr. Alston respond to Mr. Coleman's statements regarding the
20 fire brigades, and then also maybe explain the fire needs
21 and risk assessment that was conducted on behalf of the
22 applicant by Mr. Alston and his conclusions regarding the
23 potential impacts of construction traffic on response times
24 during construction?

25 HEARING OFFICER CELLI: Go ahead, Mr. Alston.

1 MR. ALSTON: Yeah. I have to applaud Southern
2 Inyo Fire Protection District for their -- for their
3 declaration to cover. It is an unusual document and there's
4 not many of them around. The majority of fire departments
5 that are career fire departments do have a standard of cover
6 or fire department master plan. Another thing is to give
7 direction to the community, the stakeholders and the fire
8 department how to -- how to grow and develop with that
9 community.

10 Again, this is what this document is. It's a
11 document that will provide a direction for the Southern Inyo
12 Fire Protection District to grow. But it doesn't address
13 the plant's needs specifically. And so through the -- the
14 fire department risk assessment and -- and hazard assessment
15 we've gone through the different needs of the site
16 specifically and found that with most plants in California,
17 with most construction projects in California or plants that
18 are under construction there's a very, very, very low risk
19 of needs for fire services or medical aid services. And
20 during construction a majority of those medical aid services
21 are taken care of by the nurses and the emergency medical
22 staff on scene. There's very few responses from the fire
23 departments.

24 HEARING OFFICER CELLI: And who -- and when you
25 say nurses and medical people on scene, who are these folks,

1 apart from --

2 MR. ALSTON: During --

3 HEARING OFFICER CELLI: -- emergency responders?

4 MR. ALSTON: Yeah. Yeah. During construction
5 there will be a nurse onsite and different EMS staff. And
6 they will be involved in self-rescue during construction of
7 the towers. And, you know, what we've seen, some of the
8 tower plants in Tonopah, Nevada, over 2 million hours of
9 work, 1 lost-time injury. Ivanpah; well, over 5 million
10 hours of work, 1 lost-time injury. They do have people that
11 get sick on scene and they send them home or they have to
12 send them off in some other transportation, an ambulance or
13 a helicopter. But generally there's very, very, very low
14 lost-time injuries.

15 And if you look at the operations of power plants
16 throughout California the calls for service are almost
17 nonexistent. And I know that Mr. Lesh can justify that.

18 So, yeah, there's also a comment by Mr. Coleman
19 that a fire brigade doesn't address the community fire
20 needs. We're not there to address the community fire needs.
21 We're there to address the needs of the -- of the facility
22 itself. And only that would relieve the existing fire
23 district of any needs that they would have or lessen the
24 impact of -- of the needs that the district would have.

25 HEARING OFFICER CELLI: Thank you, Mr. Alston.

1 Mr. Coleman, did you have any response to those --
2 to Mr. Alston's comments?

3 MR. COLEMAN: My response to the last comment is
4 that the reason for developing a declaration of deployment
5 is that all systems are complete systems. You don't have a
6 single occupancy that you treat differently than the
7 community as such. And when I was referencing the
8 declaration of deployment and looking at the site and the
9 activity on that site, that is -- that's going to be a
10 problem he's going to have to contend with.

11 HEARING OFFICER CELLI: When you say he, you're
12 referring to who?

13 MR. COLEMAN: Chief Levy.

14 HEARING OFFICER CELLI: Thank you.

15 MR. COLEMAN: Because he is the authority having
16 jurisdiction. Almost any industrial site, statistics say
17 one thing, but almost industrial site is one accident away
18 from -- from an event that would call into question why was
19 it set up the way it was set up. And we're trying to
20 propose through the declaration of deployment that this is a
21 plan for Southern Inyo Fire Protection District to cope with
22 their total problem and to incorporate this facility as part
23 of it.

24 HEARING OFFICER CELLI: Thank you. So it sounds
25 like at least the state of the evidence is that there are

1 negotiations ongoing between Pahrump and SIFPD, and SIFPD
2 and the applicant. And everybody seems to be close but we
3 don't have any tied up loose ends at this moment. Is that a
4 fair characterization?

5 MR. ROSS: From the perspective of the Southern
6 Inyo Fire Protection District it would say the negotiations
7 with Pahrump will not go forward unless there is a clear
8 indication and acknowledgment of the separate legal
9 authority with respect to the training as to both
10 firefighters and basic life services, so first aid and on
11 up, meaning medical. And I'm -- I can't represent any hope
12 with respect to that.

13 With respect to the agreement with the applicant,
14 we were notified on Friday morning that it was at the
15 executive level and that therefore the local
16 representatives, if you will, could not go forward with the
17 document at that time. We are hopeful. We do think that it
18 is comprehensive in nature. It contemplates integration
19 with other governmental services, obviously, like Inyo
20 County and law enforcement. We don't see the basis for
21 disparate treatment between Inyo County and the fire
22 district. So I think it's -- I think it is fair to say, as
23 I did in the beginning, that the district has negotiated in
24 good faith. We believe that the applicant has been
25 negotiating in good faith with respect to meeting a

1 financing and funding agreement for fire services to the
2 project.

3 HEARING OFFICER CELLI: Thank you, Mr. Ross.

4 I'm going to open it up. Ilene Anderson, did you
5 have any comment with regard to fire? She's indicating no
6 by shaking her head in the negative.

7 Ms. MacDonald, let's hear from you please.

8 MS. MACDONALD: Okay. Thank you. Well, there's a
9 variety of related things. Some of them cross other topic
10 areas. I just need to include those topic areas for
11 description. The issues are initially is at the start of
12 this the new proposed condition of certification regarding
13 Applicant maintaining their own fire -- their own fire
14 services, I don't see how that in any way helps the
15 community of Charleston View or traffic related issues.
16 That was touched on a bit. But because Inyo County is kind
17 of separated from it I feel like we're falling into this
18 bureaucratic void where public safety issues are kind of
19 falling through the cracks.

20 I have concerns about traffic-related emergency
21 services. That's been one of my biggest concerns, which can
22 be found in my first and earliest submission to the CEC. I
23 still have concerns. I've been told that this particular
24 topic area would relate to law enforcement and police
25 protection. And as I'll get into in the alternatives'

1 section, there's a reason to believe that there may be more
2 crime related activities than has currently been disclosed
3 due to temporary housing and/or squatters. And because Inyo
4 County has withdrawn all discussion testimony, etcetera, I
5 feel that this may leave our local residents more vulnerable
6 to crime which the proposed COC did not address.

7 I haven't seen much of a fire protection plan that
8 would protect Charleston View residents. And I guess one of
9 the questions that I would like to ask BrightSource is that
10 if they -- if a fire occurs on the site and they fail to
11 contain it within the project site boundaries, is Charleston
12 View on its own with respect to fire containment?

13 HEARING OFFICER CELLI: Mr. Alston, did you wish
14 to address that question?

15 MR. ALSTON: Yeah. Everything within the physical
16 plant itself would -- would be contained within the physical
17 area and not spread to the boundaries of the site. And
18 wild-land fires would be -- even though they're very, very
19 rare out there -- would probably be contained within the
20 site also.

21 HEARING OFFICER CELLI: Okay. So Ms. MacDonald
22 was asking, is Charleston View across the street on their
23 own if a fire broke out on HHSEGS property and jumped over
24 Old Spanish Trail to Charleston View?

25 MR. ALSTON: That's really a question you need to

1 ask Chief Levy.

2 HEARING OFFICER CELLI: Well, or Coleman.

3 MR. ALSTON: Or Coleman.

4 HEARING OFFICER CELLI: Let's hear from Mr.
5 Coleman please.

6 MR. COLEMAN: This document proposes the
7 establishment of a station located in that location to
8 respond to any emergencies that occur on or offsite.

9 HEARING OFFICER CELLI: But the -- as I understood
10 it the condition is written in the alternative. So it's
11 either going to be an onsite brigade --

12 MR. COLEMAN: Yeah.

13 HEARING OFFICER CELLI: -- or SIFPD is going to
14 have an agreement of -- to cover, or deployment. So if
15 the -- if the alternative that were to be exercised for the
16 onsite brigade, who takes care of Charleston View?

17 MR. COLEMAN: The brigade would not be responding
18 offsite to take care of Charleston View.

19 HEARING OFFICER CELLI: Then who would?

20 MR. COLEMAN: It still remains the responsibility
21 of SIFPD.

22 HEARING OFFICER CELLI: Okay. Thank you.

23 Ms. MacDonald, does that answer your question?

24 MS. MACDONALD: Yes. Thank you very much for
25 getting that clarification. And, obviously, that causes me

1 deep concern. Because if they don't get any additional
2 funding or any additional services and you put a potential
3 large-scale hazard right next door and we don't have
4 anything to deal with it, well, it could have significant
5 impacts. All right.

6 Another issue that I've had is that there has been
7 language in previous testimony and documents which I think I
8 heard Mr. Ross reiterate in that during the negotiations
9 that have been occurring between BrightSource and Southern
10 Inyo Fire Protection District, they were discussing looking
11 for municipal financing. I did do some research on this.
12 And basically the only financing that they can get is they
13 have to go to a petition to the voters. And that -- the
14 money that they raise through that is put on our land tax.

15 When I asked Staff and in their response in the
16 FSA as to what impacts that might be I was told that that
17 was speculative. But reading the fine print it doesn't seem
18 speculative to me. And there's been no disclosure of how we
19 may end up financing the fire protection services of
20 BrightSource.

21 So I guess the question would be to Staff, is
22 there any place that you have addressed what the economic
23 impacts to landowners would be if Southern Inyo Fire
24 Protection District requires municipal funding to support
25 the project?

1 HEARING OFFICER CELLI: Go ahead, Mr. Lesh.

2 MR. LESH: My understanding has been that funding
3 of the Southern Inyo Fire Protection District would be
4 through their existing ability to place a tax on parcels,
5 and beyond that I have not looked into it.

6 HEARING OFFICER CELLI: Any other experts?

7 MS. MACDONALD: Okay.

8 HEARING OFFICER CELLI: Any other experts care to
9 weigh in on that question or have some information that
10 would be helpful to the committee?

11 MR. LEVY: Larry Levy. The only information I can
12 offer is that the pretty minimal parcel tax that we collect
13 at present was the result of Ballot Measure Number 4 and
14 came with a threat of selling the ambulances to get our
15 local residents to adopt even a minimal tax on their
16 property. And my feeling is they would be even more
17 reluctant to tax themselves further to cover the impacts of
18 the BrightSource project.

19 MR. ROSS: Excuse me.

20 MR. HARRIS: I want to point out, the question
21 assumed no fire brigade. Okay. That's not what the
22 conditions allow for. So if you assume bad things, bad
23 things will happen, yes.

24 HEARING OFFICER CELLI: Well, just in response to
25 Mr. Harris's point, I think the record should indicate that

1 Larry Levy indicated in the affirmative that the question
2 assumed no brigade; correct?

3 MR. LEVY: Not necessarily. If there are impacts
4 outside the project site that need to be mitigated by the
5 district and we need further funding, then we would have to
6 go to our property owners and voters for approval.

7 MR. ROSS: Mr. Celli, a point of order, if I may.

8 HEARING OFFICER CELLI: Mr. Ross, go ahead.

9 MR. ROSS: I think the question is not really one
10 for expert testimony. It's actually a clarification of what
11 has been discussed with the applicant and has been clarified
12 in various documents before the commission. The district
13 does not share in any portion of the one percent property
14 tax levied under Article 13A in Inyo County in the project
15 area or within the district. The only source of funding for
16 the fire district is a fire benefit assessment, as was
17 recently described by Chief Levy.

18 The alternatives, and this assumes that you set
19 aside for the moment the CEQA obligations under the combined
20 regulatory authority of the agency to mitigate impacts
21 offsite would be a special tax under a provision of the Fire
22 Protection District Law of 1987, Health and Safety Code
23 section 13911. That could be enacted by the property owner.
24 The property owner here could be the project site or it
25 could be the basis of an agreement between a lessee and the

1 property owner for the project site. Those concepts have
2 been discussed with the project applicant as an alternative
3 to a contractual payment under an agreement for services, as
4 has been discussed and referenced earlier today.

5 So the means are rather prescribed for a fire
6 district. It's not like a city. It's not like a county.
7 It only has those statutory powers that it could rely on. A
8 property owner itself can initiate the type of special tax
9 that's been alluded to by Chief Levy and could fund services
10 that would be directed to impacts of a project.

11 HEARING OFFICER CELLI: Thank you for that
12 illumination, Mr. Ross.

13 Let's go back to Cindy MacDonald.

14 MS. MACDONALD: With respect to that testimony, I
15 did have a question. If -- if a property owner initiated a
16 petition to put a ballot together, would only the residence
17 of Charleston View be voting on that ballot, or would it be
18 the entire population of Inyo County?

19 HEARING OFFICER CELLI: Mr. Levy, do you know
20 that?

21 MR. LEVY: I don't. It's -- the tax that we have
22 now was voted on by the residents of the district.

23 HEARING OFFICER CELLI: Okay. And so the district
24 just lets --

25 MS. MACDONALD: So it goes through the district,

1 through -- through only a district voting, not an Inyo
2 County voting?

3 MR. ROSS: If I may again --

4 HEARING OFFICER CELLI: Yes. Go ahead, Mr. Ross.

5 MR. ROSS: -- it is common throughout the State of
6 California for fire protection districts because they are a
7 single revenue source local government that when
8 developments come in, for example, the development applicant
9 will file a petition for a landowner special tax as
10 authorized under the Fire Protection District Law as a terms
11 of mitigation. And the project approval is contingent upon
12 that type of funding.

13 So the -- I think it needs to be clarified on the
14 record. I don't see any legal obligation on people outside
15 of the project area to enact a tax for impacts occasioned by
16 the project applicant.

17 Correspondingly, what has been discussed with the
18 project applicant and as set forth as an alternative in the
19 proposed agreement is a special tax whereby the landowner of
20 the actual site of the development exacts a special tax.
21 It's a procedure that's followed, you know, on numerous
22 occasions, I think since its implementation, if I recall, in
23 1984 by the legislature. So it's a part of what's been
24 known as the ABA adjustment for local government taxes. So
25 it's not something that's new or unique or anything like

1 that.

2 HEARING OFFICER CELLI: So.

3 MR. ROSS: And again, if we got agreement, you
4 know, there is provisions for integrating that into credits
5 for a contractual payment, that type of thing. But it would
6 be an action initiated by the applicant, not by the property
7 owners that are impacted by the project or the applicant.

8 HEARING OFFICER CELLI: But getting back to Ms.
9 MacDonald's question, Ms. MacDonald, I am hearing then that
10 it's -- it's just within the district.

11 MS. MACDONALD: Okay. Well, according to their
12 report that there's about 400 people within their district
13 that could vote on something that would impact 100 residents
14 or less.

15 Let me just say that, you know, there are certain
16 legal terms and languages that I don't fully understand at
17 this point. But I guess that I -- based on what I've heard
18 I would like the committee to seriously consider developing
19 or the staff to develop conditions of certification that
20 ensure that the residents of Charleston View do not see an
21 increase in tax due to the proposed project, and also some
22 sort of analysis as to if it were to be tacked onto our land
23 tax, about how much it would be. I mean, if it was pretty
24 minimal there would -- there would probably be little
25 resistance. But if it was significant, obviously that can

1 pose a significant burden on the community. And so I guess
2 I'd like to see an analysis and some sort of measure to make
3 sure that we don't get stuck with paying for this project
4 for basic fire protection emergency services.

5 Also, I wanted to put in -- this is just hearsay,
6 I can not validate this, but it does support was being said
7 about Pahrump's Fire Department, my mom shared with me that
8 a news story was on recently that due to budget concerns the
9 town of Pahrump was considering making changes to their fire
10 department services, possible changing -- reverting it back
11 to an all-volunteer fire department. So there -- there -- I
12 just wanted to substantiate, there may be issues regarding
13 Pahrump's ability to serve those portions of the project
14 that would be impacted that we might need them for.

15 Let's see, the last -- I guess the last thing
16 is -- is where does law enforcement fall under here with
17 respect to protecting Charleston View residents? Because
18 there's indications there's going to be -- there might be
19 temporary worker housing and/or squatters that could cause
20 us a lot of problems.

21 HEARING OFFICER CELLI: Mr. Lesh, did you want to
22 speak to that?

23 MR. LESH: Could you repeat the question? It
24 seemed it was on law enforcement.

25 HEARING OFFICER CELLI: Correct.

1 MS. MACDONALD: Okay.

2 MR. LESH: And my testimony does not address law
3 enforcement. It's -- it's confined entirely to fire
4 protection and emergency medical services.

5 HEARING OFFICER CELLI: Staff, where would she
6 find information regarding law enforcement response for
7 Charleston View in the FSA?

8 MS. WILLIS: That would be the socioeconomics
9 section.

10 HEARING OFFICER CELLI: Okay. Socioeconomics.

11 MS. CROM: Mr. Celli, I may be able to weigh in.
12 This is Dana Crom from Inyo County.

13 HEARING OFFICER CELLI: Please.

14 MS. CROM: But law enforcement would be solely
15 within the jurisdiction of the Inyo County Sheriffs
16 Department and the California Highway Patrol to the extent
17 that we're talking about traffic impacts. So Sheriff Lutz
18 would be addressing the law enforcement needs and the
19 delivery of services out in that area.

20 And so that's -- with respect to squatting, the
21 Inyo County Code does include a provision which limits or
22 prohibits squatting. Currently that would be enforced by
23 the district attorney's office. However, Cindy, you may be
24 aware that the county is undergoing a change to its zoning
25 ordinance and may be adopting a code enforcement mechanism

1 which would make that easier for the county to enforce. So
2 that's -- the county would be handling all of those issues.

3 HEARING OFFICER CELLI: Did you get that, Ms.
4 MacDonald?

5 MS. MACDONALD: Yes, I did. Thank you. And the
6 last statement that I wanted to make is in the recently
7 submitted declaration of deployment on page 9 and 10. Again
8 I find only the demographics associated with Tecopa were
9 listed. And though Charleston View is included in various
10 pages in their impact analysis, when it comes to the
11 demographics associated with Charleston View there is no
12 analysis, no reporting, no data, and -- and nothing. We've
13 been erased again. So I wanted to make note of that.

14 HEARING OFFICER CELLI: So noted.

15 With that then I think we'll turn to Applicant
16 first. Do you have a motion with regard to exhibits, Worker
17 Safety and --

18 MS. BELENKY: I had one question, Hearing Officer
19 Celli.

20 HEARING OFFICER CELLI: Go ahead, Ms. Belenky.

21 MS. BELENKY: Yes. This is Lisa Belenky with the
22 Center for Biological Diversity. I've been listening to
23 this testimony, which is very interesting, but I actually
24 was getting confused about the onsite impacts versus the
25 offsite impacts. And I thought that I heard one of the

1 experts, perhaps for the applicant, say that a wild-land
2 fire would be contained onsite by the brigade. I didn't --
3 I don't remember reading that in the documents, but can you
4 explain how you can insure that a wild-land fire would be
5 contained onsite?

6 HEARING OFFICER CELLI: That would be Mr. Alston.

7 MR. ALSTON: There's a couple of things. One,
8 there's not enough vegetation out there to really create a
9 large risk of wild-land fire. There's no wild-land fire
10 history for that area. Talking to Chief Levy, they've only
11 gone to a few wild-land fires out there. And then the site
12 itself is broken up with a series of access roads that would
13 keep it contained within a specific area.

14 MS. BELENKY: And you're saying the brigade would
15 have enough firefighting --

16 MR. ALSTON: Resources.

17 MS. BELENKY: -- resources to contain a wild-land
18 fire on a 3,000-plus acre site?

19 MR. ALSTON: Yes.

20 MS. BELENKY: I see. Okay. And then I was also
21 confused about the -- about air quality impacts, which I
22 believe also could come offsite, like dust, etcetera. So
23 would you -- there would be no -- the fire brigade would
24 have nothing to do with that, those kind of health related
25 impacts?

1 MR. HARRIS: Yeah. Mr. Rubenstein, our air
2 quality expert, is not here. And so this is not part of his
3 testimony.

4 MS. BELENKY: But it is a health aspect that the
5 fire department now deals with.

6 MR. HARRIS: And this is worker safety and fire
7 protection. So this witness is not --

8 MS. BELENKY: Yeah.

9 MR. HARRIS: -- in a position to answer that
10 question.

11 COMMISSIONER DOUGLAS: So, Mr. Harris --

12 MR. HARRIS: Although there is an answer in the --
13 in the air quality section to your question.

14 COMMISSIONER DOUGLAS: So I agree with your
15 objection to that particular framing of the question. But I
16 think maybe Ms. Belenky was asking a question like, you
17 know, if there were some injury or illness in the community
18 that was attributable in some way to the project being there
19 would the fire brigade have any role in addressing that?

20 HEARING OFFICER CELLI: Mr. Alston.

21 MR. ALSTON: Yeah. The fire brigade would not go
22 offsite.

23 COMMISSIONER DOUGLAS: Right. Okay. Thank you.

24 MS. BELENKY: And that -- that would be the same
25 with traffic accidents going to or from the site; is that

1 correct?

2 MR. ALSTON: That's correct.

3 MS. BELENKY: Thank you.

4 MS. MACDONALD: This is Cindy MacDonald. I just
5 briefly wanted to note that the majority of Applicant's
6 references were related to the current status of the area
7 and failed to provide like an updated analysis in relation
8 to adding the proposed project to the site. It completely
9 changes the characteristics. It becomes and industrial
10 component, a lot of chemicals and etcetera. So I haven't
11 heard anything that actually evaluates this with the
12 proposed project versus the -- the current conditions.

13 HEARING OFFICER CELLI: Let me ask Mr. Alston just
14 briefly, do you know if BrightSource has any previous
15 experience with a brigade in terms of training and operating
16 a fire brigade?

17 MR. HARRIS: Is the question whether BrightSource
18 has experience or whether he has experience with that
19 brigade setup?

20 HEARING OFFICER CELLI: Does BrightSource have
21 previous experience with that, a brigade?

22 MS. POTTENGER: Hearing Officer Celli, I believe
23 Cindy MacDonald's question related more to what specific
24 fire and risk needs assessment was conducted of the project
25 and whether the site-specific conditions did take into

1 account the addition of the project. And I believe Mr.
2 Alston has already answered that question and said that --

3 HEARING OFFICER CELLI: He did.

4 MS. POTTENGER: -- it did include specifically.

5 HEARING OFFICER CELLI: He did. He answered Cindy
6 MacDonald's question. The committee had the question of
7 whether BrightSource had any previous experience in training
8 and operating a brigade.

9 MS. POTTENGER: If you know, Mr. Alston?

10 HEARING OFFICER CELLI: If you know.

11 MR. ALSTON: I don't know.

12 HEARING OFFICER CELLI: Okay. Nothing. Okay.

13 That being the case, then I'm going to turn to
14 Applicant and ask, do you have any exhibits, a motion at
15 this time with regard to worker safety and fire protection?

16 MS. POTTENGER: Mr. Carrier, can you please come
17 up to a microphone? We'd like to move into the record
18 Applicant's exhibits relating to worker safety and fire
19 protection as read by John Carrier.

20 MR. CARRIER: The only exhibit that has not been
21 previously admitted is Exhibit 19.

22 HEARING OFFICER CELLI: Exhibit 19 is offered by
23 Applicant, Exhibit 19 for identification, to be received
24 into evidence.

25 Is there any objection from Staff?

1 MS. WILLIS: No objection.

2 HEARING OFFICER CELLI: Any objection from -- Mr.
3 Zellhoefer, are you on the line, on the telephone, Mr.
4 Zellhoefer?

5 Any objection, Lisa Belenky?

6 MS. BELENKY: No objection.

7 HEARING OFFICER CELLI: Any objection, Jack
8 Pritchett? Are you on the phone, or anyone for Old Spanish
9 Trail Association?

10 Cindy MacDonald, any objection to Exhibit 19?

11 MS. MACDONALD: No objection.

12 HEARING OFFICER CELLI: Richard Arnold, are you on
13 the phone, or anyone from -- no, Richard Arnold was an
14 individual.

15 Any objection, Inyo County?

16 MS. CROM: Submit.

17 HEARING OFFICER CELLI: Any objection, Amargosa
18 Conservancy? Are you on the phone, anyone from Amargosa
19 Conservancy?

20 Any objection, Southern Inyo Fire Protection
21 District?

22 MR. LEVY: No objection.

23 HEARING OFFICER CELLI: Okay. Exhibit 19 is
24 received.

25 (Applicant's Worker Safety and Fire Protection Exhibit

1 19, Received.)

2 HEARING OFFICER CELLI: Staff, any motion?

3 MS. WILLIS: Yes. We have Exhibit 300 and 301,
4 and those would be the Worker Safety and Fire Protection
5 sections of those two exhibits.

6 HEARING OFFICER CELLI: Any objection to the
7 motion to have exhibits marked for identification as 300 and
8 301 as they relate to worker safety and fire protection
9 received into evidence, Applicant?

10 MS. POTTENGER: No objection.

11 HEARING OFFICER CELLI: Center for Biological
12 Diversity?

13 MS. BELENKY: No objection.

14 HEARING OFFICER CELLI: Cindy MacDonald?

15 MS. MACDONALD: No objection.

16 HEARING OFFICER CELLI: Inyo County?

17 MS. CROM: Submit.

18 HEARING OFFICER CELLI: Southern Inyo Fire
19 Protection District?

20 MR. LEVY: No objection.

21 HEARING OFFICER CELLI: Any other parties on the
22 phone? Very well.

23 Exhibits 300 and 301 are received.

24 (Staff's Worker Safety and Fire Protection Exhibits 300
25 and 301,

1 Received.)

2 HEARING OFFICER CELLI: Southern Inyo Fire
3 District, do you have any exhibits you'd like to move in at
4 this time?

5 MR. ROSS: Yes. We'd like to move 1100. And then
6 we'd like to reference three other documents, two of which
7 have been filed. And then I'd like to offer an additional
8 document that was -- it's now public -- it was considered by
9 the Southern Inyo Fire Protection District at its special
10 meeting of March 15, 2013. However, 1100 would be the
11 declaration of deployment. We have filed but not received a
12 confirmation number with the commission, a document which
13 collectively contains the following. It contains copies of
14 the district's resolution adopting the declaration of
15 deployment. It contains the original local agency formation
16 commission, if you will, creation documents for the fire
17 district in 1993, as well as a January 2913 communication
18 from its election's officer verifying that the -- executive
19 officer, excuse me, verifying that it is the local agency
20 having jurisdiction for fire and emergency medical services
21 in the project area. We also have a declaration of Ronny J.
22 Coleman consistent with what he testified today.

23 I would propose that the collective filings about
24 the district declaration of deployment and its adoption by
25 resolution by the district be District's 1101. The

1 Declaration of Ronny Coleman would be 1102. And I would
2 like to enter into the record as 1103 a copy of the
3 agreement considered and approved by the district on its
4 meeting of March 15, 2013 entitled Financing and Funding
5 Agreement for Fire Services to the Hidden Hills Solar
6 Electric Generating System Project.

7 HEARING OFFICER CELLI: Okay. Let me make sure I
8 have this right. 1100 is the declaration of deployment.
9 1101 is the district's resolution and LAFCO documents. How
10 many pages, do you know?

11 MR. ROSS: I do not know. But I would -- I think
12 it's going to be less than 20.

13 HEARING OFFICER CELLI: Okay. Then 1102 would be
14 the Declaration of Ronald Coleman.

15 MR. ROSS: Right.

16 HEARING OFFICER CELLI: 1103 would be the 3/15/13
17 agreement with the -- with BrightSource.

18 MR. ROSS: I think it would be more -- more
19 appropriately entitled as proposed. But it is a public
20 document. It was considered at a duly noticed meeting of
21 the special district under the Ralph M. Brown Open Meeting
22 Act.

23 HEARING OFFICER CELLI: Proposed agreement 315
24 with Hidden Hills Solar Electric Generating Systems.

25 Anything further? Any other documents?

1 MR. COLEMAN: Mr. Chairman, could I make -- show
2 you, my name is not Ronald on that document because that's
3 not my name.

4 HEARING OFFICER CELLI: What is it?

5 MR. COLEMAN: It's Ronny, R-o-n-n-y. I'm from
6 Oklahoma.

7 HEARING OFFICER CELLI: Okay. Got it. Ronny.
8 Sorry about that. Isn't Ronald Coleman a famous actor?

9 MR. COLEMAN: Yes. He -- yeah. No relation.

10 HEARING OFFICER CELLI: All right. So going first
11 to the applicant, any objection to the -- to the motion to
12 move into evidence Exhibits 1100 through 1103, inclusive?

13 MR. HARRIS: I'm not sure I understand what 1103
14 is. Is 1103 the draft agreement between the parties or is
15 it a document that's solely created by the fire district?

16 MR. ROSS: No. It's the district as I described
17 that was on the agenda for consideration by the Southern
18 Inyo Fire Protection District at its duly noticed special
19 meeting on Friday, March 13, 2013 [sic]. I think I
20 correctly labeled it as proposed. That could also be a
21 draft. Obviously, it's not been approved by the applicant.

22 MR. HARRIS: Okay. So it's an unexecuted draft
23 agreement between the parties; is that --

24 MR. ROSS: That's correct.

25 MR. HARRIS: Do you have a copy that I could look

1 at real quick?

2 MR. ROSS: You got emailed several copies over the
3 weekend, but I'll give you another one.

4 MR. HARRIS: I don't remember seeing any over the
5 weekend.

6 MR. ROSS: As indicated earlier it's blank as to
7 the dollar amount.

8 MR. HARRIS: Well, I think it's a draft agreement.
9 It's not one that we signed. It's not one that they signed.
10 It's not relevant to any factual issues in the case. We do
11 have a condition that we agree with, by the way, that says
12 we can enter into such an agreement in the future. But this
13 is clearly one party's view of an ongoing negotiation. And
14 we -- I'm just not good at subtle so let me be clear, I --

15 HEARING OFFICER CELLI: So the objection is
16 relevance?

17 MR. HARRIS: The objection is relevance if that
18 would work. I have others, but, yes.

19 HEARING OFFICER CELLI: All right. Let's -- Mr.
20 Ross, do you have an offer of proof, the relevance of this
21 1103?

22 MR. ROSS: I think the first thing that I'd say is
23 it's comparable to the action taken by Inyo County when it
24 approved an agreement that had been negotiated.

25 HEARING OFFICER CELLI: But that's --

1 MR. ROSS: I think it's relevant to indicate that
2 the district has been negotiating in good faith to resolve
3 mitigation of the project. It contains the -- the rationale
4 and procedures that would be applicable for mitigation. So
5 from the district's point of view we do think it's relevant.
6 It's precisely on point.

7 HEARING OFFICER CELLI: Now, isn't it the case
8 that the agreement between County of Inyo and BrightSource
9 was fully executed when it was received into evidence?

10 MR. HARRIS: Yes. Well, that would be --

11 HEARING OFFICER CELLI: That was my memory.

12 MR. HARRIS: -- the basis of my objection, too, is
13 that's a fully executed agreement between the parties. That
14 was -- went through a public process. This is a draft
15 agreement.

16 And again, let me be clear, we want an agreement
17 with this district. We've held our powder to a certain
18 extent today because we don't want to blow that up. But I
19 think it's bad -- a bad precedent, and it's strictly
20 irrelevant to the proceeding that one side's view of the
21 current negotiation go into the record to be cited by other
22 parties.

23 MR. ROSS: Mr. Hearing Officer?

24 HEARING OFFICER CELLI: Just one moment.

25 (Colloquy Between Hearing Officer and Commissioners)

1 HEARING OFFICER CELLI: Thank you. We are
2 still -- we never went off the record. We're -- we just had
3 a quick little conference on that. The ruling is that
4 the -- the exhibit will be allowed. The objection is
5 overruled. The committee may find it useful. It has some
6 relevance to the case. And so therefore it will be
7 received, or at least your objection with regard to its
8 receipt is overruled, Applicant. Anything further, before I
9 move on to the other parties?

10 MS. POTTENGER: No.

11 HEARING OFFICER CELLI: Thank you. Okay.
12 Staff, any objection?

13 MS. WILLIS: No objection to 1100, 1101 and 1102.
14 But I would also like to lodge an objection on 1103 for
15 relevance.

16 HEARING OFFICER CELLI: Okay. Overruled.
17 Lisa Belenky, Center for Biological Diversity?

18 MS. BELENKY: No objection.

19 HEARING OFFICER CELLI: No objection.

20 Cindy MacDonald, any objection to the -- the
21 admission of 1100 though 1103?

22 MS. MACDONALD: I have no objection to Exhibit
23 (inaudible) Mr. Ross.

24 HEARING OFFICER CELLI: I'm sorry, you're breaking
25 up a little bit. Can you start over again?

1 MS. MACDONALD: Yes, of course. I've checked my
2 email. I have not (inaudible). And so I haven't
3 (inaudible) anything about it. (Inaudible.)

4 HEARING OFFICER CELLI: Ms. MacDonald, you're --
5 we're getting like every other word from you. I don't know
6 if you're speaking on a phone or on a computer, but we need
7 you to keep your mouth in relation to the -- the speaker in
8 one spot and try again.

9 MS. MACDONALD: Okay. Thank you. Hopefully this
10 is better. Is that better?

11 HEARING OFFICER CELLI: Yes. Keep going.

12 MS. MACDONALD: Okay. I have no objection to
13 Exhibits 1100 through 1102. But I do have an objection to
14 1103 for the specific reason that I believe it was Mr. Ross
15 that stated he had sent copies to BrightSource over the
16 weekend, but I have no copies. No copies were distributed
17 to the parties. I don't know if it's relevant, I don't know
18 what it says, and therefore I object to it being admitted as
19 evidence until I've had a chance to look at it.

20 HEARING OFFICER CELLI: Mr. Ross?

21 MR. ROSS: Again, I think I properly characterized
22 this. This was a document that was public at a special
23 meeting of the Inyo -- or the Southern Inyo Fire Protection
24 District, noticed under the Ralph M. Brown Open Meeting Act.
25 We'd be glad to make sure that Ms. MacDonald gets a copy as

1 soon as possible.

2 HEARING OFFICER CELLI: And how soon would that
3 be? Yeah. So it was -- it has not been served on all of
4 the parties, in other words?

5 MR. ROSS: I can do it within the hour, if not
6 quicker.

7 HEARING OFFICER CELLI: Okay. Well, we will ask
8 that you report back today that, and we'll ask Ms. MacDonald
9 that she has received 1103. Your objection, we're just
10 going to hold it in abeyance pending resolution of the
11 service of the document.

12 Any objection, Inyo County?

13 MS. CROM: Submit.

14 HEARING OFFICER CELLI: Any objection, Southern
15 Inyo Fire Protection? No, that's your -- you're the
16 proponent.

17 Are there any other parties that are on the
18 telephone? Okay.

19 At this time the motion to introduce into evidence
20 exhibits marked for identification as 1100, 1101, 1102, 1103
21 is conditionally granted pending confirmation that all the
22 parties receive a copy of Exhibit 1103 before one o'clock
23 today.

24 (Southern Inyo Fire Protection District's Worker Safety
25 and Fire Protection Exhibits 1100, 1101, 1102 and 1103,

1 Received.)

2 MS. MACDONALD: Hearing Officer Celli, I would
3 like to reserve my right to object to it once I review it.

4 HEARING OFFICER CELLI: That right is reserved.

5 MS. MACDONALD: I may not have any objections.

6 Okay. Thank you.

7 HEARING OFFICER CELLI: Thank you. Next we have
8 CBD. Did you have any exhibits?

9 MS. BELENKY: No.

10 HEARING OFFICER CELLI: Okay. Ms. MacDonald, did
11 you put in your exhibits for fire safety?

12 MS. MACDONALD: No.

13 HEARING OFFICER CELLI: Go ahead.

14 MS. MACDONALD: Thank you. I would like to move
15 to submit all the exhibits that have been previously
16 submitted, as well as Exhibits 725, 713, and I'm not sure if
17 I've submitted 754 or not, but if I haven't, that one.

18 HEARING OFFICER CELLI: Okay. So Ms. MacDonald's
19 motion is to move into evidence exhibits marked for
20 identification as Exhibits 71`3, 725 and 754.

21 Applicant, any objection?

22 MR. HARRIS: I'm sorry. We're looking at our list
23 to figure out what those exhibits are.

24 HEARING OFFICER CELLI: I'll just tell you. So
25 713 is a letter to Inyo County Board of Supervisors dated

1 12/10/12. 725 is the Inyo County tax bill from Cindy
2 MacDonald. And 754 would be the Environmental Justice in
3 Charleston View photo gallery.

4 MR. HARRIS: Are those exhibits all offered on the
5 issue of worker safety and fire protection?

6 HEARING OFFICER CELLI: Yes.

7 MR. HARRIS: The last one looks like it's about
8 environmental justice.

9 MR. HARRIS: The last one was
10 actually -- it has been received under socio.

11 HEARING OFFICER CELLI: Okay. If it's previously
12 admitted we don't need to move that, so --

13 MR. HARRIS: Thank you.

14 HEARING OFFICER CELLI: Staff, any objection?

15 MS. WILLIS: No obj.

16 HEARING OFFICER CELLI: Center for Biological
17 Diversity, any objection?

18 MS. BELENKY: No objection.

19 HEARING OFFICER CELLI: County of Inyo, any
20 objection?

21 MS. CROM: Submit.

22 HEARING OFFICER CELLI: Any parties on the
23 telephone?

24 Hearing none, then Ms. MacDonald's Exhibits 713,
25 725 and 754 are received into evidence.

1 (Cindy MacDonald's Exhibits 713, 725 and 754,
2 Received.)

3 HEARING OFFICER CELLI: And is there any party who
4 I have neglected to give an opportunity to move their
5 evidence into the record at this time, please speak up?

6 Hearing none, we will close the record. We will
7 excuse these witnesses, close --

8 MR. ROSS: Excuse me --

9 HEARING OFFICER CELLI: -- close the record with
10 regard to --

11 MR. ROSS: Yes, Mr. Ross?

12 HEARING OFFICER CELLI: I'd like reconsideration.
13 The district will withdraw, reserving the right to offer it
14 at -- before the conclusion of the proceeding, Exhibit 1103.

15 HEARING OFFICER CELLI: I don't know if that's a
16 good idea because I'm about to close the record on worker
17 safety and fire protection. And you wouldn't have that
18 opportunity. So I suppose we live it in here. The parties'
19 right to object has been preserved in the event that they
20 don't get it. And we're about to excuse these witnesses. I
21 will withdraw it.

22 HEARING OFFICER CELLI: Okay. 1103 has been withdrawn.
23 (Southern Inyo Fire Protection District's Exhibit 1103,
24 Withdrawn.)

25 HEARING OFFICER CELLI: With that we will excuse

1 these witnesses. It's now -- it looks like it's about 17
2 minutes before 11 o'clock. If everybody could be back in
3 their seat and we can have the alternative's panel seated by
4 five minutes to 11:00, we'll resume at that time.

5 MS. WILLIS: Before we break did you want to -- do
6 we what to have a discussion on the noise condition changes,
7 or should we just submit them?

8 HEARING OFFICER CELLI: We'll do that -- we'll do
9 that after alternatives.

10 MS. WILLIS: After alternatives? Okay. Thank
11 you.

12 HEARING OFFICER CELLI: Thank you.

13 (Off the Record From 11:43 A.M., Until 10:58 A.M.)

14 HEARING OFFICER CELLI: We're about to get into
15 alternatives. Before we do I want to make an announcement.
16 Again, this is entirely -- this is Hearing Advisor Ken
17 Celli, and this is entirely my fault. A notice went out
18 that said that the password for today's WebEx and tomorrow's
19 WebEx, should we need to, we'll try not to, but the password
20 is PWD@1516. We said in our notice that it was PWD#1516.
21 That was what was notified. But unfortunately what I put in
22 when I created the WebEx with WebEx was a PWD@1516. So the
23 password is PWD@1516 for today's and tomorrow's WebEx. I am
24 deeply sorry and apologize. We try very hard to encourage
25 and accommodate the public, and this was a dumb mistake on

1 my part and I'm really sorry.

2 DR. ROBERTS: 1516 or --

3 HEARING OFFICER CELLI: 1516.

4 DR. ROBERTS: Oh.

5 HEARING OFFICER CELLI: Yeah. Blake Roberts, who
6 is our public advisor, caught this early today, sent emails
7 out to everybody. And so judging by the participation on
8 the phone, which is pretty substantial, it looks like the
9 word got out pretty quickly and pretty thoroughly. So
10 I'm -- I'm happy to see that. So -- but that's my fault.
11 Again, I'm really sorry about that.

12 Now, today we are going to tackle the question of
13 alternatives. I have Ileene Anderson. Next to Ileene
14 Anderson I have -- is that Joe Desmond?

15 Next to Mr. Desmond, your name, sir?

16 MR. OLSON: Arne Olson.

17 HEARING OFFICER CELLI: Arne Olson.

18 Next to Mr. Olson we have --

19 MR. MOORE: Christopher Moore.

20 HEARING OFFICER CELLI: Christopher Moore, welcome
21 back.

22 Next to Mr. Moore?

23 MS. HINDE: Jeanine Hinde.

24 HEARING OFFICER CELLI: Jeanine Hinde. You're
25 with Staff; right?

1 MS. HINDE: Correct.

2 HEARING OFFICER CELLI: So Ileene Anderson is with
3 CBD. Mr. Desmond, Mr. Olson and Mr. Moore are all with the
4 applicant. Jeanine Hinde is with Staff.

5 Next to Ms. Hinde?

6 MS. SCHOLL: Jennifer Scholl with CH2M Hill
7 representing BrightSource.

8 HEARING OFFICER CELLI: Jennifer, I didn't get
9 your last name?

10 MS. SCHOLL: Scholl, S-c-h-o-l-l.

11 HEARING OFFICER CELLI: Thank you. From -- from
12 CH2M Hill.

13 Next to Ms. Scholl?

14 MS. THOMAS: Chifong Thomas with BrightSource
15 Energy.

16 HEARING OFFICER CELLI: Chifong Thomas?

17 M. THOMAS: That's correct.

18 HEARING OFFICER CELLI: With BrightSource. Thank
19 you.

20 Next to Ms. Thomas?

21 MR. HESTERS: Mark Hesters with Staff.

22 HEARING OFFICER CELLI: Mark Hesters with the
23 Energy Commission.

24 Next to Mr. Hesters is --

25 MR. VIDAVER: Dave Vidaver, Energy Commission

1 staff.

2 HEARING OFFICER CELLI: Dave Vidaver.

3 And so we have some people on the telephone that
4 are testifying?

5 MS. BELENKY: Yes, we do. We have Bill Powers who
6 is also testifying for the Center for Biological Diversity.

7 HEARING OFFICER CELLI: Bill Powers. Mr. Powers,
8 would you state your name?

9 MR. POWERS: My name is Bill Powers. I'm with
10 Powers Engineering, San Diego, California.

11 HEARING OFFICER CELLI: Thank you. I just wanted
12 to make sure that we had a good connection which -- and we
13 can hear you loudly and clearly.

14 So is there anyone else from CBD on the phone?

15 MS. BELENKY: No.

16 HEARING OFFICER CELLI: Or County of Inyo?

17 Ms. MacDonald, did you have any other witness
18 other than yourself today for alternatives?

19 MS. MACDONALD: No, thank you.

20 HEARING OFFICER CELLI: Okay. Anyone else have
21 any witnesses on the telephone?

22 MR. RATLIFF: Staff has several technical
23 specialists who contributed to the alternatives analysis.
24 They're the area specialists who have already testified in
25 various areas.

1 HEARING OFFICER CELLI: And they're all on the
2 phone?

3 MR. RATLIFF: I don't know if they all are, but
4 several of them are.

5 HEARING OFFICER CELLI: I just want to make sure.
6 I'm just checking to make sure they're un-muted. So do you
7 know their names?

8 MR. RATLIFF: No.

9 HEARING OFFICER CELLI: Okay. Well, I'm informed
10 that --

11 MS. MACDONALD: I can help. This is Cindy
12 MacDonald. Mary Lou Taylor, Mike Conway I know. I'm not
13 sure about Paul Kramer. I know those two are staff.

14 HEARING OFFICER CELLI: Don't un-mute Paul Kramer.
15 That's my supervisor. That's the joke. Okay.

16 So those two names again, I didn't write them down
17 for Staff, were Conway --

18 MR. RATLIFF: Yes. The reason I don't want to
19 recite it is because I think there will -- there will be
20 names omitted. I think there are a number of people who
21 have testified who are on the phone.

22 HEARING OFFICER CELLI: I just want to make sure
23 we can hear them. Okay.

24 MS. ALLEN: You want me to mark which ones are
25 Staff for you?

1 HEARING OFFICER CELLI: No, I got it.

2 MS. ALLEN: Okay.

3 HEARING OFFICER CELLI: Thanks. Okay. Now, the
4 way, again, that we've been proceeding up until now is to
5 allow Staff to sort of state what Staff believes the -- the
6 issues are, followed by Applicant's take on the issues,
7 followed by really discussion by the whole panel.

8 So, Staff, are your people prepared to introduce
9 us into the area of alternatives?

10 MR. RATLIFF: Yes. At the table we have Jeanine
11 Hinde who is the staff witness who prepared the
12 alternatives' section. Obviously, because of the nature of
13 alternatives which covers nearly all of the topic areas,
14 it's a piece of testimony which has a certain summary
15 quality in that it relies on its conclusions from the
16 various inputs of other Staff. At the table we have Ms.
17 Hinde. But with her, also, today we have Dave Vidaver from
18 the Supply Office and Mark Hesters from the Transmission
19 Office to answer questions in those areas. And then we have
20 other Staff on the line. I'm not entirely certain --
21 probably not all the staff, but a certain number of the
22 staff are on the line that we hope can answer any questions
23 that should arise in those areas.

24 HEARING OFFICER CELLI: Thank you, Mr. Ratliff.

25 Let's hear from Ms. Hinde then. Go ahead, please.

1 Oh, that's right. I'm sorry. Thank you.

2 All -- would all of the experts please rise, raise
3 your right hand. Go ahead.

4 (Thereupon,
5 Arne Olson, Christopher Moore, Jennifer Scholl, Chifong
6 Thomas, Mark Hester. Dave Vidaver, and Bill Powers,
7 were duly sworn.)

8 HEARING OFFICER CELLI: Thank you. That was you,
9 Mr. Powers?

10 MR. POWERS: Yes.

11 HEARING OFFICER CELLI: Mr. Powers is sworn.

12 You know what, Peter Petty, we're going to need to
13 swear in the other people on the phone. So we're going to
14 have to identify them as witnesses. That would be Cindy
15 MacDonald, Mike Conway. Who else for Staff, just those two?

16 MR. RATLIFF: I believe all of the witnesses that
17 you want from Staff have already testified and have been
18 sworn.

19 HEARING OFFICER CELLI: Okay. Very good.

20 If you would, Mr. Petty?

21 (Thereupon,
22 Cindy MacDonald
23 was duly sworn.)

24 HEARING OFFICER CELLI: Ms. MacDonald?

25 MS. MACDONALD: I do.

1 HEARING OFFICER CELLI: Thank you. Mr. Conway,
2 you need to be un-muted. Un-mute Mike Conway. Go ahead,
3 Mr. Conway.

4 HEARING OFFICER CELLI: He's raising his hand, so
5 I guess there's a chat coming.

6 MR. HARRIS: That's his right hand. We'll
7 stipulate to the staff's witnesses being previously sworn.
8 I think they've all been previously sworn.

9 HEARING OFFICER CELLI: Have we heard from Mike
10 Conway already?

11 MR. RATLIFF: Yes.

12 MR. HARRIS: Yes.

13 MR. RATLIFF: In water.

14 HEARING OFFICER CELLI: So you're aware, those of
15 you who have been sworn are still under oath.

16 Go ahead, Ms. Hinde. You have the floor.

17 MS. HINDE: Good morning. For the issues in
18 dispute, those can be boiled down to three basic questions.
19 The first is are there project alternatives that could
20 reduce or avoid some of the significant affects of the
21 proposed project? And the answer is, yes.

22 The second is are any of the project alternatives
23 feasible? The answer is none of the project alternatives
24 are clearly infeasible.

25 And the third is does the distributed generation

1 photovoltaic category of renewable energy negate the purpose
2 and necessity for the proposed project? And the answer is,
3 no.

4 In summarizing my testimony I'll start with
5 screening and scoping. I reviewed the applicant's
6 alternatives analysis in the application for certification
7 and determined that the Sandy Valley site from the
8 application required further study. For Sandy Valley it was
9 necessary to estimate whether this site might accommodate
10 the project and reduce some of the impacts at the Hidden
11 Hills site. The applicant's other offsite alternatives had
12 no benefits over the Hidden Hills site or would probably
13 cause greater impacts than the proposed project. Staff
14 visited the Sandy Valley area to assess the site and its
15 surroundings and included the site for detailed analysis in
16 the staff assessment.

17 Scoping the alternatives analysis included
18 reviewing the Barstow Preliminary Renewable Energy Study
19 Area, or RESA, identified on the Renewable Energy Action
20 Team Starting Point map. A good portion of the western half
21 of the Barstow RESA is within a desert wildlife management
22 area for Desert Tortoise conservation and recovery, an area
23 that generally surrounds Harper Lake, the Abengoa Mohave
24 Solar Project site, and the existing SEGS 8 and 9 projects.
25 The Barstow RESA includes an intensive mix of developed uses

1 and the feasibility of siting another extremely large
2 renewable energy facility in the area is questionable.

3 The screening analysis included identifying five
4 project alternatives, the offsite alternative at Sandy
5 Valley and four alternatives at the Hidden Hills site, and
6 those are the solar power tower or SPT with energy storage,
7 central station photovoltaic parabolic trough, and reduced
8 acreage. The Sandy Valley offsite alternative and the
9 reduced acreage alternative used the same technology as the
10 proposed project.

11 These alternatives could feasible obtain many of
12 the project objectives. The no-project alternative was
13 included as required and it is characterized by the
14 continuation of existing conditions at the project site.
15 However, it would not obtain key project objectives.

16 I reviewed many other renewable energy
17 technologies that are discussed in Appendix 2 of the
18 alternatives analysis. And this separate analysis was done
19 to distinguish between the five project alternatives and
20 other renewable technologies that probably aren't viable
21 project alternatives, either because they must be cited in a
22 particular environment such as a wind project in an area
23 where the wind resource is high, or the alternatives are
24 new. I included discussions of distributed generation
25 photovoltaic, i.e. rooftop solar or DGPV, and energy

1 efficiency programs and described why the DGPV category of
2 renewable energy and energy efficiency programs are not
3 included in the range of potentially feasible project
4 alternatives. I expect both of these topics will be
5 addressed today.

6 In summarizing the analysis and conclusions I'll
7 start with a quick look at the -- the engineers analysis of
8 operational flexibility and performance. Staff compared the
9 effectiveness of the solar collectors for the alternatives.
10 So the SPT with energy storage alternative operational
11 flexibility would increase to some extent, but the
12 performance of the heliostats would be no different compared
13 to the proposed project. The proposed project uses land
14 more effectively and collects solar energy 30 percent more
15 efficiently than the parabolic trough technology because of
16 the tracking limitations of the trough collectors.

17 The proposed project's heliostats performed better
18 than a fixed tilt PV system. But our engineering analysis
19 showed that it would perform equally as well as a single
20 access tracking PV system. The proposed project provides
21 some stability of energy output -- output that increases its
22 efficiency and reliability compared to the PV alternative.

23 And then on to a quick overview of the
24 environmental comparison of the project alternatives.
25 First, the Sandy Valley offsite alternative; it has been

1 disturbed by agricultural uses and habitat values are
2 reduced as a result. However, the agricultural land in the
3 Sandy Valley study area could attract species of birds and
4 bats, possible resulting in a higher level of impacts on
5 avian species.

6 No cultural or visual resources impacts could be
7 avoided or substantially lessened for an alternative at the
8 Sandy Valley site. And overall this alternative would not
9 offer any advantages over a project at the Hidden Hills
10 site.

11 For the SPT with energy storage alternatives Staff
12 concluded that comparative impacts would be similar to or
13 somewhat greater than the proposed project. Expansion of
14 the site would probably be necessary to accommodate the
15 additional heliostats and the thermal energy storage tanks.
16 Although it would not reduce or avoid impacts, the SPT with
17 energy staff storage alternative could feasible obtain many
18 of the project objectives.

19 HEARING OFFICER CELLI: Ms. Hinde, could you
20 explain what SPT is, just to make sure everyone --

21 MS. HINDE: Solar power tower with storage -- with
22 energy storage.

23 The reduced acreage alternative would reduce the
24 project site and number of structures by about one-half.
25 And the primary benefit of this alternative would be to

1 reduce the extent of some of the biological resources
2 impacts. Although the magnitude of impacts on avian species
3 would be reduced with removal of one of the solar plants,
4 impacts from potential collisions with project structures
5 and exposure to solar flux would remain a significant and
6 unavoidable impact under this alternative. Again, that was
7 reduced acreage.

8 Because no power towers would be constructed under
9 the parabolic trough alternative some impacts on visual
10 resources, geology and paleontology, traffic and
11 transportation and cultural resources would be less compared
12 to the proposed project. Fire protection impacts would be
13 much greater than the proposed project but could be reduced
14 to less than significant with implementation of mitigation
15 measures.

16 Impacts on avian species from solar flux would not
17 occur. For impacts on avian species from potential
18 collisions with the parabolic troughs and other project
19 structures and the disruptive effects of glint and glare
20 Staff concluded that a comparative impact conclusion for
21 these effects could not be determined.

22 Impacts of visual resources could not be reduced
23 to less than significant.

24 The primary benefit of the parabolic trough
25 alternative would be reduced impacts on historical

1 resources. Two significant and unavoidable impacts for
2 resources beyond the site would be reduced to potentially
3 significant under this alternative. And these are the
4 Pahrump, Metapatch (phonetic), mesquite, woodland, coppice
5 dune archeological landscape, and the Old Spanish Trail
6 Mormon Road northern corridor. Implementation of
7 compensatory mitigation measures could reduce these impacts
8 to less than significant.

9 And finally, the PV alternative. The primary
10 benefits of the PV alternative would be greatly reduced
11 impacts on visual, biological and cultural resources. This
12 alternative would also significantly reduce operational
13 water use. Staff concluded that the PV alternative would go
14 furthest towards minimizing and avoiding impacts on avian
15 species. No impacts on avian species from solar flux would
16 occur, and the overall vertical profile of the PV
17 alternative would be greatly reduced compared to the
18 proposed project which would reduce opportunities for avian
19 species to collide with project structures.

20 The only perplexing question for impacts on avian
21 species relates to comparing the potential risk for birds to
22 fly into the solar collectors, either the heliostats for the
23 proposed project of the PV modules under the PV alternative.
24 Although the PV modules absorb rather than reflect solar
25 energy the panels could mimic the appearance of water and

1 attract birds.

2 Staff also concluded that reduced groundwater
3 pumping under this alternative would lessen potential
4 impacts on groundwater dependant vegetation and associated
5 plants and wildlife.

6 Impacts on visual resources could be reduced to
7 less than significant.

8 Cultural resources could be reduced to less than
9 significant. Cultural resources, Staff concluded that
10 mitigation measures for the PV alternative would go furthest
11 toward reducing impacts on historical resources. Based on
12 Staff's alternatives analysis which shows greatly reduced
13 impacts on visual, biological and cultural resources, and
14 significantly reduced operational water use, the PV
15 alternative would be environmental superior to the proposed
16 project.

17 Thank you.

18 HEARING OFFICER CELLI: Thank you. Let's hear
19 from Applicant next please.

20 MR. HARRIS: Yeah. We have a series of witnesses.
21 And they'll just pass back and forth to each other, starting
22 with Mr. Desmond.

23 MR. DESMOND: Thank you. I think the issue here
24 today very clearly is the difference between the staff's
25 recommendations of the PV alternative and the different

1 between Applicant's objectives.

2 The FSA has evaluated a generic objective of 500
3 megawatts of new renewable energy capacity, whereas we, the
4 applicant, have submitted a proposal that is specific to the
5 use of our proprietary solar power tower technology and has
6 specific attributes and benefits that we believe deserve
7 consideration as part of this analysis.

8 Let me begin by stating that Hidden Hills will
9 make a significant contribution to the state's clean energy
10 climate and economic goals. It will provide 1.4 million
11 megawatt hours annually in state. And the provision of this
12 energy is dependent upon the use of BrightSource's
13 proprietary power tower technology.

14 Our selection of project objectives was guided by
15 our intent to maximize contributions to the state's goals in
16 a way that provides a wider array of benefits, including
17 specifically, for example, providing renewable power capable
18 of providing grid support by offering power generation that
19 is flexible and delivered to the grid operator with a
20 schedule coordinator. The use of our proprietary technology
21 is therefore a key consideration in the evaluation of
22 alternatives.

23 BrightSource's technology helps utilities and grid
24 operators address integration challenges by delivering a
25 firmer, more reliable, and more controllable renewable power

1 source. In doing so the project has the added benefit of
2 promoting broader integration of PV technology and the use
3 of a synchronous generator in combination with a field of
4 individually controlled heliostats provides significant
5 benefits, including grid reliability services, reactive
6 power, voltage support, frequency control, inertia response,
7 and controllability.

8 In addition, there are specific economic benefits
9 you've heard about, including \$305 million in construction
10 payroll because of the use of CSP technology as higher
11 employment earnings and investment in jobs than an
12 equivalent capacity-sized PV project. Peak employment would
13 include nearly 2,293 workers onsite, contributing \$81
14 million in state and local taxes, \$3.5 million in annual
15 property taxes, and an operational staff of 100 people.

16 Also, the financing issues surrounding large-scale
17 utility projects today are differing. We're facing the
18 Investment Tax Credit which is due to expire at the end of
19 2016. This project proposes to be in service prior to that
20 date.

21 Additionally, there is no more loan guarantee
22 effectively available. And so we have to turn to private
23 sector finance in order to secure the financing for these
24 types of projects. And so a balanced view of these projects
25 and conditions is important to securing that financing.

1 Going back to how this fits then with the state's
2 policy objectives, I think we're all familiar with the
3 recently issued 2012 IEPR update. That's update's main
4 element includes a renewable Energy Action Plan which
5 identifies action to help California achieve its renewable
6 portfolio standard of 33 percent by 2020 and increasing the
7 use -- and identifies the challenges of increasing the use
8 of renewable energy resources. As those variable resources
9 are increased there are major planning challenges associated
10 with moving to a fleet that includes large and -- large
11 amounts of these variable resources.

12 The IEPR update identifies five overarching
13 strategies including identification and prioritization to
14 geographic areas of development, evaluating the costs and
15 benefits of renewable projects, minimizing interconnection
16 costs and time and build the transmission and distribution
17 level, promoting incentives for the project that create in-
18 state jobs and economic benefits, and promoting and
19 coordinating existing financing and incentive programs for
20 critical technologies in the various stages.

21 These objectives are directly relevant to our use
22 of the proprietary technology of power tower. And that is
23 why at this point I'd like to turn to Arne Olson to be more
24 specific about those benefits.

25 MR. OLSON: Good morning, Hearing Officer Celli,

1 Commissioners. My name is Arne Olson and I'm a partner at
2 Energy and Environmental Economics.

3 HEARING OFFICER CELLI: Mr. Olson, I'm going to
4 ask you to see what you can do to scoot the mic closer to
5 you. You seem to have a softer voice, and we kind of need
6 to hear what you have to say.

7 MR. OLSON: Okay. Hopefully that's better.

8 I would like to first address the question of
9 whether PV alternative at the Hidden Hills site is likely to
10 produce equivalent energy to HHSEGS. This is an important
11 question because the state's -- our BF standard, as you
12 know, is measured in terms of energy, not in terms of
13 nameplate capacity. So it's not sufficient to just have a
14 project that has the same nameplate capacity if it's not
15 producing the same amount of energy.

16 Similarly, the state's greenhouse gas reduction
17 goal has required displacement of electric energy produced
18 through the combustion of fossil fuels. Thus, a project
19 that meets the applicant's goals would have to produce the
20 same quantity of energy as HHSEGS. The solar power tower
21 technology utilized by HHSEGS has higher energy density than
22 most PV technologies, meaning that it converts more
23 available sunlight into electric energy delivered to the
24 grid.

25 The FSA provided information about the footprint

1 and expected energy production at four large PV projects
2 consisting of three projects using thin-film technology and
3 one using tracking crystalline rays. Using the FSA
4 information I calculated that the average PV project would
5 require 37 percent more acreage than HHSEGS to produce the
6 same electric energy. If you look at only the thin-film
7 projects the PV projects require between 44 and 54 percent
8 more acreage.

9 Now, crystalline panels are more efficient than
10 thin film at converting sunlight into electricity. And the
11 information presented in the FSA about the California Valley
12 Solar Ranch Project which utilizes tracking crystalline
13 technology suggest similar energy density to HHSEGS.

14 In order to better understand the land
15 requirements for proposed projects in California, I reviewed
16 acreage and expected energy production for six projects
17 utilizing fixed tilt thin-film technologies and seven
18 projects utilizing tracking technologies that are
19 represented in the -- in the Public Utility Commission's RPS
20 contract database. And that sample includes the four
21 projects considered in the FSA.

22 The six thin-film projects require on average 7.3
23 acres per megawatt and achieve an average capacity factor of
24 25 percent. The seven tracking PV projects require on
25 average 6.7 acres per megawatt and achieve an average

1 capacity factor of 29 percent. So you can see they're more
2 land efficient than the thin-film projects. By contrast,
3 HHSEGS requires 6.2 acres per megawatt and achieves a
4 capacity factor of 32.7 percent.

5 This means that the average thin-film project
6 would require 53 percent more acres than HHSEGS to produce
7 equivalent electrical energy, and the average tracking
8 project would require 21 percent more acres than HHSEGS to
9 produce the equivalent electrical energy. And moreover,
10 most of these projects are located in high insolation areas
11 such as Rosamond, Blythe, Ivanpah, Desert Center, Imperial
12 Valley, places like that. And, hence, one would not expect
13 a significant increase in output from deploying these
14 technologies at the Hidden Hills site.

15 Now, these calculations use the FSA estimate for
16 the California Valley Solar Ranch Project at 1,500 acres,
17 rather than the so-called corrected value that was submitted
18 in the applicant's testimony. The value in the applicant's
19 testimony was based on the proposed project in the final
20 environmental impact statement for the California Valley
21 Solar Ranch project, and I think that value was 1,862 acres,
22 whereas the FSA reported the acreage represented in the
23 final project which utilizes a different tracking technology
24 that reduces the land requirements relative to the proposed
25 project.

1 However, I would submit that both value is
2 irrelevant when considering a PV alternative at Hidden
3 Hills. The FSA did not specify that their PV alternative
4 should use a particular technology such as the Sun Power T0
5 tracking technology that was used for the final project at
6 the California Valley Solar Ranch Project. Because the FSA
7 alternative is not specific with respect to the PV
8 technology it's relevant and important to consider all of
9 the different PV technologies that have been deployed at
10 large scale, central station solar power projects in the
11 state, to understand the potential environmental impacts of
12 the -- of the staff's PV alternative.

13 Now, turning to the distributed PV alternative,
14 the Center for Biological Diversity witness Mr. Powers asked
15 the commission to reject the Hidden Hills Project on the
16 basis that distributed PV is a superior alternative.
17 However, he does not propose a specific site for the
18 distributed PV resources that he says can displace Hidden
19 Hills. Instead he's asking the commission to find that
20 distributed PV is a superior alternative based on the sole
21 criterion that it's distributed. In other words, he's not
22 proposing a specific alternative, he's proposing a
23 categorical alternative. He wants the commission to reject
24 Hidden Hills because it's the wrong category of generation.
25 It's the central station and not the distributed category.

1 While Mr. Powers asked the commission to determine
2 that the distributed category is superior to the central
3 station category, he never provides a specific definition of
4 this supposedly superior technology that the commission
5 could use to make such a determination.

6 In my rebuttal testimony I infer based on the
7 advantages that he cites for distributed PV that he's
8 referring to very small-scale installations, likely less
9 than three megawatts, that are installed on existing
10 structures such as rooftops or parking lots located in urban
11 areas or suburban areas with substantial load and
12 interconnected to the distribution system and serving load
13 downstream with no impact on the upstream grid. These types
14 of projects located on existing structures in coastal load
15 centers will in general be much costlier than ground-mounted
16 projects located in more remote areas with abundant land and
17 sunshine.

18 Current programs such as the renewable auction
19 mechanism have had little success in attracting substantial
20 quantities of these types of projects, except for those that
21 offer the significant traditional incentives associated with
22 behind-the-meter installations. Moreover, there's a
23 technical limit to the quantity of distributed PV that can
24 be interconnected to the distribution grid without requiring
25 potentially costly upgrades.

1 Mr. Powers claims that rooftop PV is at the top of
2 the Energy Action Plan loading order and that it's there for
3 a higher priority resources in other forms of renewable
4 energy. However, the EAP document lists loading order as,
5 quote, "conservation and energy efficiency," number one.
6 Number two, quote, "renewable energy resources and
7 distributed generation." And number three, "clean fossil
8 fueled central station generation."

9 Mr. Powers' claims about the loading order appear
10 to stem from the notion that the state's zero-net energy
11 building goals somehow transformed distributed PV from a
12 source of energy supply into an energy efficiency measure.
13 However, state documents on this topic clearly indicate that
14 energy efficiency and distributed generation are considered
15 to be two separate elements of the combined technological
16 pathway to zero-net energy, one element reducing demand for
17 energy and the other providing a local source of supply.

18 The EAP and subsequent policy documents from the
19 CPUC and this commission do not place distributed PV in the
20 same category as energy efficiency, and nor do they express
21 a policy preference for distributed PV over other forms of
22 renewable energy, including central station solar power
23 tower.

24 Finally, I'd like to emphasize the rejecting
25 Hidden Hills on the basis of a categorical distributed PV

1 alternative would be a very broad finding with potentially
2 far-reaching implications. If the commission finds that
3 Hidden Hills is not needed because of the categorical 500
4 megawatt distributed PV alternative then opponents of the
5 next central station application can use the same argument
6 based on the same 500 megawatts of distributed PV potential.

7 Because those 500 megawatts are theoretical and not actual
8 projects in a physical location that could be developed
9 you'd never be able to determined whether that 500 megawatts
10 are still out there to be developed or not.

11 Rejecting Hidden Hills on the basis of a
12 categorical distributed PV alternative would be equivalent
13 to determining that central station renewable generation is
14 not longer necessary to meet California's RPS and greenhouse
15 gas goals. There's no evidence that distributed PV can
16 provide all of the renewable and low-carbon energy needed to
17 meet California's goals. And that's why I agree with the
18 staff's assessment that distributed PV is not a feasible
19 alternative to Hidden Hills.

20 At this point I'm going to turn it over to Ms.
21 Thomas.

22 HEARING OFFICER CELLI: Thank you.

23 MS. THOMAS: I'm Chifong Thomas. Before I go to
24 the -- my part I'd like to clarify. Maybe one of the parts
25 that Mr. Olson had made, quoting Mr. Powers. And in that --

1 in that one part that says that if the load is -- if this
2 regeneration is to supply load downstream of the
3 distribution system that it would not cause any impact on
4 the grid. This is commonly known as no -- no backflow. But
5 no backflow is not a sufficient condition for the DG to
6 avoid adverse impact on the grid. Much depends on the
7 locations and the month and patterns of the resources that
8 are being dispatched to meet the load.

9 If the DG is located in a area with -- where the
10 generation exceed the load, even with no backflow it will
11 impact the local -- local area and the grid because the DG
12 would displace the local area generation that would have
13 supplied the load, causing this existing generation to have
14 to flow somewhere else and increasing the impact on the --
15 on the grid.

16 And so just because it's a DG and no backflow does
17 not automatically mean that it can be absorbed and
18 accommodated in the grid. And so -- so without knowing
19 exactly where a DG would be located it's not -- it's almost
20 -- it is impossible to try to figure out what the impact on
21 the grid would be and what the transmission system would be
22 like to accommodate it.

23 So now let's let me go back to the -- the part
24 that -- about PV project located in Hidden Hills, would that
25 be equivalent to the project that was proposed? So a PV

1 project is not likely to provide the same support to the
2 grid as the proposed project, even if it's in the same
3 location. The proposed project uses synchronous generators,
4 and it can help maintain the diversity in the type of
5 generation technology as conventional generators are
6 displaced. And this quantifies such as (inaudible) support,
7 frequency response, inertia response, and controllability.

8 But let's talk about what happens during and after
9 a change in the grid condition such as a fault or following
10 the outage of large-generation facilities. Fast and
11 automatic injecting of reactive power in the presence of
12 inertia response is crucial to maintaining system stability
13 and reliability during this transient and post-transient
14 period. So -- so that was the transient period, when the
15 system settles down. In addition, if the system voltage
16 begin to collapse during the post-transient period, fast
17 automatic increase in reactive power output is needed to
18 raise the voltage and prevent a collapse that if unchecked
19 could cause a blackout.

20 The current way of providing reactive power from a
21 PV plant is through adding reactive power devices such as
22 static VAR Compensator, or SVC, or static synchronous
23 compensators, STATCOM. The projects synchronous condensers
24 are capable of providing great reliability service
25 intrinsically and in a manner that's more effective than an

1 SVC or STATCOM. As the voltage drops towards the collapse
2 point an SVC or STATCOM would control the voltage by
3 increasing the reactive power output. However, when the
4 reactive power reaches the -- the output reaches the devices
5 maximum capability the reactive power provided by an SVC or
6 STATCOM would decrease sharply, leaving the system more
7 vulnerable with a voltage collapse.

8 A synchronous generator, on the other hand, can
9 provide the same amount of reactive power, even at maximum
10 reactive capability boundary and that help boost the system
11 voltage and avoid voltage collapse.

12 Without more effective reactive support, one way
13 to avoid operating system in this unsafe manner is to limit
14 power transfer. For example, the ISO's Cluster 3 and 4
15 Phase 2 Interconnection Study Report, that's the group
16 report in Southern California Edison's Eastern Bulk System
17 that was dated November 5th, 2012, it limited the transfer
18 capability of the Easter Bulk System to 30 hundred to 4,000
19 megawatts to present post-transient violations. After the
20 additional system upgrades and provided local -- after the
21 additional upgrades provided local area thermal generation
22 is dispatched and local area solar PV is fully equipped with
23 the -- with the plus and minus -- plus and minus .95 power
24 factor, which is .95 leading and lagging power factor
25 correction at the point of connection.

1 Then the study later on finds that if the -- the
2 system capability would be further reduced if solar thermal
3 projects in the -- in that area are not dispatched. The
4 report shows that the decrease could be as much as 700 to
5 900 megawatts.

6 So this is an example of why we need diversity of
7 technology and not put all our eggs in one basket. So I'm
8 through with my presentation and --

9 HEARING OFFICER CELLI: Commissioner Hochschild
10 had a question for you.

11 COMMISSIONER HOCHSCHILD: Thank you. Yeah, I just
12 want to go back to Staff and to Mr. Olson and make sure I'm
13 getting this right. Basically, the Hidden Hills would be
14 6.2 acres of megawatt and about a 33 percent capacity factor
15 roughly, or 32 percent?

16 MR. OLSON: That's correct.

17 COMMISSIONER HOCHSCHILD: Okay. And the
18 crystalline tracker would be 6.7 acres megawatt at 29
19 percent capacity factor; correct? What tracker technology
20 did you use to make that calculation? Because there's many
21 different types of trackers, you know, azimuth T20,
22 horizontal single-access tracker, and it's -- how did you
23 arrive at that?

24 MR. OLSON: You know, that's -- that's an average
25 that I calculated from the best public information that I

1 could find from all the PV projects that are out there
2 listed in the CPUC database. So all the -- all the -- all
3 the projects that are contracted to the IOUS. So you're
4 right, there's a variety of different tracking technologies.

5 COMMISSIONER HOCHSCHILD: Okay. So that's
6 important to know though. So basically you're aggregating
7 multiple technologies then, so the numbers is derived
8 from -- from that. Do you have -- can you spell out the
9 bookends? I mean, did you look at an azimuth tracker, for
10 example, or a T20 in particular? What would the capacity
11 factor at this site be?

12 MR. OLSON: Yeah. The -- the California Valley
13 project was -- I think it ended -- it started off as a
14 T10 --

15 COMMISSIONER HOCHSCHILD: Uh-huh.

16 MR. OLSON: -- which was 1,800 acres, I think.
17 And that's the value that is in --

18 MR. HARRIS: Yeah. Dr. Olson -- I'm sorry. I've
19 just got a question. Do you have a slide that shows all the
20 numbers that went into your calculations?

21 MR. OLSON: I have -- I have this table, which is
22 the projects that I found.

23 MR. HARRIS: Okay.

24 MR. OLSON: We could bring that up.

25 MR. HARRIS: Yeah. And putting that up on the

1 WebEx, it is dreadfully small. But it will give you an idea
2 of all the --

3 COMMISSIONER HOCHSCHILD: This is very helpful.

4 MR. HARRIS: I'm sorry. I'll let the witness
5 explain what the table is.

6 COMMISSIONER HOCHSCHILD: This is very helpful.

7 MS. BELENKY: Is -- is this in the record?

8 MR. HARRIS: This is backup material that he
9 brought with him. And it's responding to the question made.
10 And we are certainly happy to put it in the record as
11 Applicant's next in order. This is a supporting --

12 HEARING OFFICER CELLI: I do -- I recall --

13 MR. HARRIS: -- supporting calculations,
14 basically, for the numbers he gave, so --

15 HEARING OFFICER CELLI: I thought I have seen this
16 before though. Has this been docketed?

17 MR. HARRIS: I do not believe it has been
18 docketed.

19 HEARING OFFICER CELLI: Oh, okay.

20 MR. HARRIS: It is the backup information for the
21 statistics that he used. Essentially, it's his work papers.
22 And we have no objection to having it entered --

23 HEARING OFFICER CELLI: Well, let's --

24 MR. HARRIS: -- into the record.

25 HEARING OFFICER CELLI: Let's go ahead and -- what

1 is next in order for Applicant?

2 MR. HARRIS: 86, ironically, so -- yeah.

3 HEARING OFFICER CELLI: So 86? What are we going
4 to call this thing?

5 MR. HARRIS: Arne, what do you want to call your
6 table? The Arne Table or the Olson Table?

7 MR. OLSON: A summary of acreage values and
8 expected megawatt hours for California renewable energy
9 projects or California solar PV projects.

10 HEARING OFFICER CELLI: 86 is -- say again?

11 MR. OLSON: Let's call it acreage and megawatt
12 hour production for California solar projects.

13 HEARING OFFICER CELLI: 86.

14 MR. OLSON: I do have one thermal on there, too,
15 so -- which is -- it's HHSEGS for comparison.

16 HEARING OFFICER CELLI: And, again, just to be
17 clear, these are the backup numbers for his testimony, so --

18 COMMISSIONER HOCHSCHILD: So can I just make sure
19 I'm understanding. It looks like we've got about 14
20 projects here. And so the bookends, if we're just looking
21 at capacity factor, at the low end it would be the Desert
22 Topaz Facility which is 22.1. At the high end of that would
23 be the Sun Power Power Plant which is 32.2 percent. Am I --

24 MR. OLSON: That's correct.

25 COMMISSIONER HOCHSCHILD: That is correct; right?

1 MR. OLSON: Yeah.

2 COMMISSIONER HOCHSCHILD: Okay.

3 MR. OLSON: That's correct.

4 COMMISSIONER HOCHSCHILD: That's what I wanted to
5 know.

6 MR. OLSON: And the question was a good one,
7 because as you noted there are a variety of different
8 technologies out there, both thin-film and tracking
9 technologies, single-access, dual-access. So -- and part of
10 it speaks to -- and it speaks to the lack of specificity in
11 the FSA, that if this is a generic PV alternative that's
12 being proposed as the alternative to HHSEGS then what's the
13 appropriate set of information to gather about what the
14 characteristics of that generic project would be. So my
15 thought was let's gather all the -- all the information
16 about all of the central station PV projects that are out
17 there. And to me that's the most -- because this is -- this
18 makes it as generic as we can to match the generic character
19 of the alternative in the FSA.

20 Now, to answer your specific question about T20,
21 if you go to Table Alt 3 in the applicant direct testimony,
22 this was the -- the so-called corrected value that the
23 applicant submitted on that California Valley Solar Project.
24 And this was the -- this was the value that was from the
25 original proposed project at that site, which was -- which

1 did use T20 technology. And that proposed project had a
2 land area consumption of 1,862 acres, a capacity factor of
3 30.2 percent. And so that -- that plant would require -- to
4 use that technology at the HHSEGS site would require 32
5 percent more acreage than the HHSEGS project does.

6 MS. HINDE: That wasn't what was approved.

7 MS. BELENKY: I'm totally confused.

8 MR. OLSON: No, I just was going to --

9 HEARING OFFICER CELLI: Okay. Well --

10 MR. OLSON: I just was going to go there.

11 HEARING OFFICER CELLI: Ladies and Gentlemen, I
12 just want to -- right now Applicant has the floor, and then
13 we'll hear from the other parties after he's finished
14 speaking.

15 So go ahead.

16 MR. OLSON: Yeah, I just was going to go there
17 because the commissioner had asked about T20 technology
18 which was the one that was used in the proposed project.
19 But then the applicant changed the project during the siting
20 and permitting process to use a different technology which
21 was T0 technology. And that's -- and then the original FSA
22 value of 1,500 acres, this is the one that is in the final
23 EIS using that T0 technology, and it looks like with that
24 technology, at least in that configuration, that the energy
25 densities would be fairly similar to HHSEGS.

1 MR. HARRIS: Mr. Celli, just a point of order, I
2 think we were going to go back to Mr. Desmond after we had
3 answered the questions to close up the applicant's
4 presentation. But I wanted the question to get answered
5 before I through it back to Joe -- I mean Mr. Desmond.

6 HEARING OFFICER CELLI: Okay. Let's hear from Mr.
7 Desmond then.

8 MR. DESMOND: I'll be very brief here. We also
9 have a slide -- a slide -- two slide images from the
10 California ISO. If you can go to slide number three. And I
11 just want to reinforce the timing of the challenge that
12 California faces with respect to variable resource
13 integration. This was held February 26th, 2013, slide
14 number three.

15 HEARING OFFICER CELLI: I'm going blank.

16 MR. DESMOND: Okay.

17 HEARING OFFICER CELLI: Is this -- this is an
18 existing exhibit right now, yes, or is this new information?

19 MR. DESMOND: No, this is new information. But it
20 is based on information that's also been presented at
21 various California Energy Commission workshops. I'll skip
22 over the slide and simply describe. It's talking about the
23 impact of the net -- the system of the net-system peak as a
24 result of increasing penetration. And it identifies the
25 challenges becoming as significant as 2015.

1 The conclusionary slide, which was slide number
2 six, also simply identifies the need to optimize all the
3 variables, including the ones you've heard here today with
4 respect to the attributes of the solar power tower
5 technology and the use of a synchronous generator that deals
6 with frequency response, inertia, frequency control, voltage
7 support, and all the other items that Chifong Thomas was
8 discussing.

9 I mention this because, again, these attributes
10 are different. They're simply different attributes. And
11 the applicant had very specific project objectives in mind
12 when it submitted this draft. And so for that reason, when
13 we go back to the very clear IEPR update objectives, without
14 walking through that document, but evaluating renewable
15 energy projects beyond simply technology costs and looking
16 at costs associated with permitting and integration,
17 interconnection requirements, and examples where renewable
18 benefits can be further realized include, very specifically,
19 the goal of developing a variety of technologies to create a
20 more attribute-based diversified portfolio to minimize risk
21 and realize co-benefits. And we see these as complimentary,
22 not mutually exclusive benefits.

23 And then lastly, to the extent we talk about the
24 ratepayer benefits, projects are being asked to be
25 considered. And this is state policy recommendations for

1 all agencies, integration benefits, the capability --

2 MS. BELENKY: Objection. Are you a ratepayer
3 expert?

4 MR. DESMOND: No. Policy expert.

5 MS. BELENKY: I see. Okay. But we're not talking
6 about the cost.

7 MR. DESMOND: I'm talking about the policy
8 recommendations made in the document.

9 MS. BELENKY: What document?

10 MR. DESMOND: The 2012 IEPR update.

11 MS. BELENKY: Is that in the record?

12 MR. DESMOND: I believe it's in the record.

13 MS. BELENKY: Okay.

14 MR. DESMOND: Because it was just released.

15 HEARING OFFICER CELLI: We can take notice. We
16 would take official notice of the IEPR.

17 MS. BELENKY: Okay. But are you testifying as to
18 something as to the ratepayers?

19 MR. DESMOND: No. I'm testifying as to the policy
20 recommendations contained in the document and the
21 applicability to the objectives submitted by the applicant.

22 MS. BELENKY: Thank you.

23 HEARING OFFICER CELLI: Overruled. Continue
24 please.

25 MR. DESMOND: So in conclusion, I just simply

1 wanted to add one final thought, and that was with respect
2 to the substitution of a generic set of recommendations.

3 I'll pull my notes here. The concern we have is that --

4 MS. BELENKY: I'm sorry. I just want to clarify.

5 Are we now talking about project objectives? Because we
6 did say we would talk about them in this section, but you
7 didn't mention it when we started this panel.

8 HEARING OFFICER CELLI: It's -- absolutely,
9 objectives is part of the alternatives.

10 MS. BELENKY: Thank you.

11 HEARING OFFICER CELLI: I didn't know -- is that
12 what you're getting into, Mr. Desmond?

13 MR. DESMOND: I'm just talking about the project
14 objectives. Those are in my initial opening comments. I
15 could read all the project objectives, but I think we
16 generally know what those are. The issue has been, and I
17 think if we can frame it, that the FSA evaluates a generic
18 objectives of 500 megawatts of renewable energy and it uses
19 that as the basis of the alternatives. The applicant
20 submitted very specific project objectives that included the
21 use of its proprietary technology, the objective of
22 satisfying the flexible grid power. And if the committee
23 adopts an approach and limits its analysis to -- to an
24 overly generic set of project objectives as presented by
25 Staff, then the PMPD would fail to consider the project

1 contributions to the state's energy goals as identified in
2 that IEPR document.

3 HEARING OFFICER CELLI: Let -- let's get into this
4 now, because the objectives are pretty important. Earlier
5 in -- or I guess it was in 2012 this committee issued an
6 order stating that while the staff could expand on
7 objectives that were -- that were overly limiting -- I
8 should probably pull a copy of that. Give me -- give me a
9 moment. Right. This was -- Applicant brought a motion in
10 limine on August 31st -- or, no, on -- yeah, on August 31st
11 of last year, and it spoke to four separate issues and the
12 question as to whether the preliminary Staff analysis
13 arbitrarily and improperly rejected the applicant's
14 project's objectives.

15 So the committee decided the court's (inaudible)
16 of overly narrow descriptions of the project's objectives
17 and found that enabling the Energy Commission staff to
18 reasonably -- reasonably enlarge -- reasonably enlarge the
19 scope of the project objectives to facility a legally
20 adequate alternatives analysis was consistent with the law.
21 The law clear allow Staff to disregard some of the project
22 objectives in its alternatives analysis because the project
23 has to meet most of but not all of the project's objectives.
24 So the staff can turn a blind eye, let's -- a blind eyes,
25 let's say, to some small minority of the project objectives.

1 So that was the ruling at the time. It wasn't
2 Staff has total dominion over the objectives. The ruling
3 was Staff had the reasonable ability to enlarge on those
4 objectives that were so narrowly prescribed as to limit
5 other alternatives. So we're looking for a robust
6 alternatives analysis, but we weren't handing over the
7 reigns, let's say, to the objectives to Staff. I hope
8 that's helpful.

9 So with that, I'd like to -- so does Applicant
10 have a disagreement then with -- with the objectives as they
11 were articulated by Staff? And if so maybe we need to get
12 into the specifics.

13 MR. DESMOND: Sure. There were three that jump
14 out at me of the original project objectives that we
15 forwarded. With respect to project -- and I can read all of
16 these or I can just read the three.

17 HEARING OFFICER CELLI: Let's just get into the
18 three that we --

19 MR. DESMOND: Okay.

20 HEARING OFFICER CELLI: -- need to get into.

21 MR. DESMOND: To use BrightSource's proprietary
22 technology in another utility-scale project for proving the
23 technology and economic viability of the technology -- I'll
24 come back to that in a moment.

25 Number eight, which was to assist California in

1 repositioning its generation asset portfolio to use more
2 renewable energy in conformance with state policies,
3 including the policy objectives set forth in SB 1078, the
4 RPS Program, Assembly Bill 32, AB 32, Global Warming
5 Solutions Act, and SB X1-2 recently signed by Governor
6 Brown. Obviously, the 2012 IEPR update had not been issued
7 at that time. However, there was a still a report contained
8 in the previous IEPR that identified and highlighted some of
9 these issues.

10 Number ten was to provide renewable power capable
11 of providing grid support by offering power generation that
12 is flexible and delivered to the grid operator through
13 communication with the scheduling coordinator. I hope that
14 we tried to identify here today were those attributes and
15 why they connected back to the state's policy of technology
16 diversity.

17 With respect to advancing utility scale, one of
18 the other objectives, again, from a policy perspective is
19 advancing technologies to help drive down costs, including
20 reaching the opportunity to integrate storage. And while
21 storage is not considered a reasonable alternative in this
22 application, clearly we are advancing, that's in our
23 testimony, we indicate advancing the next generation of
24 technology to help drive down those costs. We don't get to
25 storage, we don't get to these benefits with a generic set

1 of objectives that recommends a PV only alternative. In
2 fact, I think the indications, and there's plenty of reports
3 out there, would -- would suggest that the integration and
4 the flexibility provided by dispatchable renewable
5 accommodates even greater penetration of renewable energy.

6 So for that reason we have felt pretty strongly
7 from the beginning that the use of our technology, power
8 tower technology is a key consideration in the evaluation of
9 the alternatives.

10 HEARING OFFICER CELLI: Yeah. Let's hear from
11 Staff the counter position with regard to objectives.

12 MS. HINDE: Well, the alternatives analysis is a
13 comparison of environmental impacts. And as I was initially
14 reviewing these alternatives, the other thing is the
15 overarching purpose of an alternatives analysis is to foster
16 meaningful public participation and informed decision
17 making. So if it's constrained to meet the applicant's
18 wishes it makes it very difficult to do that full analysis.

19 For a couple of -- actually, the objectives that
20 are in the staff assessment are in many respects very
21 similar, with a few exceptions, to what's in the application
22 for certification. The ones that I disregarded was, of
23 course, well, the one about using BrightSource's proprietary
24 technology in another utility-scale project, further proving
25 the technical and economic viability of the technology.

1 That's -- that's really -- so this -- here's the proposed
2 project and here's the objectives that says implement the
3 proposed project. And so that seemed way to tightly -- way
4 too focused on the proposed project for it to be -- for me
5 to feel like it should be considered in the alternative
6 analysis.

7 HEARING OFFICER CELLI: So how did you deal with
8 that?

9 MS. HINDE: I took it out.

10 HEARING OFFICER CELLI: Entirely?

11 MS. HINDE: Yes.

12 HEARING OFFICER CELLI: Okay.

13 MS. HINDE: And another example of that is to
14 comply with provisions of the power sales agreement or the
15 power purchase agreement to develop a nominal 500 megawatt
16 solar generating facility. Then that talks about
17 interconnecting to the CAISO balancing authority with the
18 potential of achieving a commercial online data as soon as
19 possible, targeted for the first or second quarter of 2015.
20 The alternatives analysis does not -- it's not that it's not
21 relevant to the discussion, it's just that the alternatives
22 analysis does not have to address the applicant's
23 contractual obligations.

24 As far as targeting, having the project online by
25 a particular -- by the first or second quarter of 2015,

1 it's -- it's -- I mean, I went through this in a really
2 methodical way in terms of looking at the alternative,
3 comparing them to whether they could or could not attain the
4 project objectives. And I would have no way of knowing
5 whether an alternative could be online by a particular date,
6 whether the proposed project even could be online by a
7 specific date, assuming that there's no hiccups in the -- in
8 the schedule.

9 So then for the -- the one that discusses assist
10 California in repositioning -- repositioning its generation
11 asset portfolio, and then there's the list of the SB 1078,
12 AB 32 and so on, that is included in here but it -- it
13 seemed appropriate to expand on that discussion a bit for
14 that particular objectives that's in the application and put
15 it in as the underlying purpose of the project, which seemed
16 appropriate. You know, the reason we're here is to -- is to
17 meet these requirements. And so it's spelled out in here
18 and actually fleshed out a little bit, it's just not one of
19 the bulleted objectives. So --

20 HEARING OFFICER CELLI: And when you say spelled
21 out -- and you're at what page of alternatives?

22 MS. HINDE: It's on page 6.1-3 under Alternative
23 Screening, where there is a discussion that precedes the
24 list of project objectives.

25 HEARING OFFICER CELLI: And just to be clear, the

1 first one with regard to the technology, you said you -- oh,
2 I forgot the word -- you said you eliminated it entirely.
3 The --

4 MS. HINDE: Right.

5 HEARING OFFICER CELLI: The second one having to
6 do with utility scale, did you eliminate that entirely?

7 MS. HINDE: Number of megawatts, you mean?

8 HEARING OFFICER CELLI: I guess so, yes.

9 MS. HINDE: No, that is in here.

10 HEARING OFFICER CELLI: Okay. So that you
11 preserved. What about the date of the -- the start date,
12 you said you had a problem with the start date?

13 MS. HINDE: A specific date, yes. However, the
14 objectives do state develop a renewable energy facility in a
15 timely manner that will avoid or minimize significant
16 environmental impacts to the greatest extent feasible. So
17 it's not that the timing issue is ignored, it's just the --
18 plus the analyses of the alternatives in the discussions of
19 potential feasibility issues do point out for each of the
20 alternatives that it's uncertain -- well, that one of these
21 alternatives would, in fact, probably cause a schedule
22 delay. This could play into feasibility of -- of carrying
23 forward an alternative.

24 So my point there is that I saw no reason to -- to
25 keep for Staff's analysis the targeted date of the first or

1 second quarter of 2015, but acknowledge that timeliness is
2 an issue in general.

3 HEARING OFFICER CELLI: Okay. Mr. Desmond, I see
4 that you wanted to speak to that. I just want to say that,
5 consistent with the order, the committee did not mean to
6 give Staff carte blanche over all the objectives. But what
7 they did want was where -- in those circumstances where
8 Staff felt that the objective was too narrowly tailored, to
9 give them the ability to broaden the language to expand the
10 analysis to enable a more robust alternatives analysis. So
11 that was what that was going to.

12 So go ahead.

13 MR. RATLIFF: And, Mr. Celli, if I can, just
14 before you do that, to give you some context, the -- when
15 Staff receives AFCs from applicants they invariably -- and
16 BrightSource is no exception, they invariably list project
17 objectives that in the end leave little room for analysis of
18 any alternatives. They are too specific to allow such an
19 analysis in any meaningful way. They -- and in the case of
20 a project like this, for instance, they say this PPA by this
21 date with this technology in this place, and so forth.
22 Well, in the end are you talking about the color of the
23 fence or what? I mean, there's nothing really left to
24 analyze.

25 And so we have -- faced and confronted with that

1 we have, I think in most of our case, altered in some degree
2 the project objectives to try to present a reasonable range
3 of project objectives. And we think that this is entirely
4 consistent with the case law which describes the analytic
5 process in CEQA to be a two-stage process, the first process
6 being a stage where you look at things that are plausible
7 feasible, and the second stage process, determining if they
8 are truly feasible based on the additional evidence that's
9 been collected by the decision maker.

10 MR. HARRIS: If I can respond, Mr. Celli, there's
11 a bit of straw man here. The applicant has never suggested
12 that every one of our objectives has to be satisfied. If
13 you go back and read our motion it's never been the case.
14 That's not what the law says. The law says achieve most of
15 the basis objectives, and they have to be feasible as well.
16 And I think what you're hearing from our witness is that
17 becoming a PV technology developer is not feasible. And you
18 can ask Mr. Desmond about -- through the chair I would ask
19 Mr. Desmond a hypothetical.

20 If this committee could approve a PV project for
21 us in the alternative is BrightSource able to feasibly
22 develop a PV project? I think those are kind of factual
23 questions we ought to know.

24 On the timing issue Mr. Desmond also mentioned the
25 Investment Tax Credit going away in 2016. Now, you can say

1 we haven't completely discounted the timing. But taking out
2 that critical element of timing and -- and losing that
3 opportunity I think is another important factual issue that
4 Mr. Desmond developed. And so I wanted to point out that
5 we've never suggested that it has to meet all of our
6 objectives. They have to be feasible and they have to
7 achieve most of them.

8 HEARING OFFICER CELLI: Mr. Desmond, please.

9 MR. DESMOND: Yeah. Just a few other points to --
10 to add to that.

11 First, with respect to timing and the Investment
12 Tax Credit, I'll go back to the policy recommendation that
13 was made by the commission regarding the promotion of
14 projects and maximizing the use of federal incentives. In
15 this case it's the ITC. But from a feasibility timing
16 perspective -- and this is where, obviously, our perspective
17 is -- that it was not to be so narrow but to rather identify
18 those attributes we are seeking to provide to the -- to the
19 state.

20 Regarding the power purchase agreements that you
21 have here, just -- just a sense to give you of what -- what
22 goes on. Obviously, we are not, as our counsel has
23 identified, in the business or designing, constructing and
24 operating PV plants. But setting aside that issue, the
25 substantial lead time in project development, the required

1 renegotiation of contracts to accommodate different
2 technology, additional permitting requirements, really we
3 believe to render the alternative incapable of being
4 accomplished in a reasonable time.

5 The contractual counter-parties, and although it's
6 not there but it's in something you should be -- should
7 consider is the contractual counter-parties are under no
8 obligation to accept generation from an alternative
9 technology. The California Public Utility Commission could
10 require such substantial contract changes to be rebid into a
11 new RPS solicitation. And, obviously, because PV is not a
12 thermal technology the commission couldn't direct a license
13 for PV technology from there.

14 So those are some of the reasons we come back to
15 why our inclusion and perhaps the use of the term
16 "proprietary technology" does a poor job of saying the
17 combination of a heliostat field with a synchronous thermal
18 generator, because I think in that sense you do end up in an
19 alternative that was considered with respect to the trough
20 technologies.

21 HEARING OFFICER CELLI: Thank you. Go ahead --

22 MS. MACDONALD: This is --

23 HEARING OFFICER CELLI: -- Commission Hochschild.

24 MS. MACDONALD: This is Cindy MacDonald.

25 HEARING OFFICER CELLI: Yes, Ms. MacDonald,

1 just -- if you'd just wait a moment.

2 COMMISSIONER HOCHSCHILD: Yeah. Two quick --

3 MS. MACDONALD: Yes, will do.

4 COMMISSIONER HOCHSCHILD: -- questions --

5 MS. MACDONALD: Thank you.

6 COMMISSIONER HOCHSCHILD: -- for the applicant.

7 First, just going back to the capacity factor for a moment,
8 what -- what gas combustion is assumed in that? Is that a
9 solar-only scenario or still you're sort of pre-firing the
10 boiler in the morning to some degree?

11 MR. DESMOND: The de minimis -- according to the
12 De Minimis Rules we're limited to 2 percent, that's
13 primarily -- I'd say probably 50 percent warm startup and 50
14 percent for other types of operations. But there's --
15 there's a cap on what we can do there.

16 COMMISSIONER HOCHSCHILD: Okay. Thank you. And
17 then is there anything with respect to storage, is there
18 anything that would prevent sort of a modular add-on at some
19 later date, hypothetically, a storage element in this
20 project?

21 MR. DESMOND: Well, you would have to consider the
22 design requirements for that. The addition of storage
23 technology requires over-sizing the solar field. In other
24 words, to create the excess thermal energy that is then
25 stored and then operated you would have to then site the

1 placement of the molten salt storage tanks, the inclusion in
2 addition of a heat exchanger, primarily, and then some
3 modification to the operation and control of the facility.

4 COMMISSIONER HOCHSCHILD: Right. I understand.
5 So -- but what I'm asking is the design of the project
6 today, is that -- does it allow for those things to be done?

7 In other words, you know, I don't know what the footprint
8 of a storage facility is. Could that actually fit next to
9 the existing tower? You'd have to --

10 MR. DESMOND: Yeah. It's a function of how many
11 hours of storage you're looking to have.

12 COMMISSIONER HOCHSCHILD: Right.

13 MR. DESMOND: Literally, it's a function of that.
14 So depending on -- in this case the contracts did not
15 contemplate a request to thermal storage. So we wouldn't
16 initially have a seller for the incremental energy, if you
17 would, except on pure market-based sales. But it does
18 require that you identify and then go through this exercise
19 of valuing -- of valuing what that storage would be, how
20 many hours, and what the incremental cost versus the
21 incremental benefit would be. That's something that was
22 done in great detail with other contracts before the
23 California Public Utility Commission.

24 COMMISSIONER HOCHSCHILD: Right. So just to be
25 clear, because what -- what is unique, I think about this

1 technology is the opportunity to add, you know, molten salt
2 storage, which you can't do, obviously, with PV.

3 What I'm trying to understanding, is there any
4 more significant barrier if the project moves forward as
5 it's designed today that would make that more difficult?

6 MR. DESMOND: Sure. I would take it back to
7 project financing which is sort of the world in which we
8 live today of having to provide commercial financing.

9 COMMISSIONER HOCHSCHILD: Right.

10 MR. DESMOND: And as you move down a technology
11 curve where we are striving to reduce costs and improve
12 performance an increase efficiencies, you're seeing the
13 Hidden Hills Project being a larger size but it has
14 economies of scale, it drives the cost down, the
15 introduction of the next-generation heliostat. All of that
16 has to be balanced against securing commercial financing
17 that require a performance, an engineering performance and
18 construction guarantee or wrap. And so striking that
19 balance you would have to demonstrate the operation of sort
20 of the second generation before you can go into a third.
21 But the expectation is, going forward, yes, you always look
22 for those types of opportunities.

23 COMMISSIONER HOCHSCHILD: Okay. Thank you.

24 HEARING OFFICER CELLI: Let's -- let's hear from
25 CBDs witness at this time. Now, you have a couple of them,

1 Ms. Belenky, so who do you want first?

2 MS. BELENKY: Well, I think -- I think since Ms.
3 Anderson is in the room, perhaps she could first discuss a
4 few issues. And then we would like an opportunity for Bill
5 Powers to discuss the distributed alternative. And then I
6 also have some questions for the witnesses later.

7 HEARING OFFICER CELLI: Thank you. Go ahead, Ms.
8 Anderson.

9 MS. ANDERSON: Great. Thank you. This is Ileene
10 Anderson with the center. And so I wanted to testify to
11 just a few things, and it won't take me too long.
12 Certainly, what we're looking for is a reduction in impacts,
13 especially significant impacts from the project.

14 And with regards to that we certainly agree with
15 Staff that the avian and visual impacts are significant
16 impacts. And therefore, in order to reduce those impacts we
17 believe that alternatives that avoid these impacts should be
18 selected.

19 In addition to that, I don't agree with the staff
20 that the impacts to groundwater is not significant based on
21 the adequacy of the mitigation that was proposed by Staff,
22 and then the subsequent discussion that we had in the water
23 section in the evidentiary hearing last week. The proposal
24 of acquiring and retiring water rights, I don't think is
25 going to actually achieve the goal of offsetting the impacts

1 from groundwater pumping, especially if those water rights
2 are acquired and retired in the northern part of the valley
3 versus -- I don't -- it just is not at all clear that even
4 if they were wet water rights that they would actually
5 mitigate the impacts that would occur in the southern part
6 of the valley.

7 I'm also -- I don't agree with Staff that the
8 impacts to Desert Tortoise are not significant based on the
9 issues that I discussed in the biological resources.

10 So again, I think that these things have to be
11 considered when we're looking at alternatives and selecting
12 the alternative that would avoid these.

13 In addition to that, the cumulative impacts, I'm
14 very concerned about those with regards to all of the issues
15 that I just mentioned, groundwater, tortoise, avian and
16 visual, and the number of projects that are basically
17 proposed on the Nevada side of the line. And so minimizing
18 the impacts in this project help to minimize the cumulative
19 impacts that I still don't think is being completely
20 analyzed on the other side of the state line.

21 HEARING OFFICER CELLI: Thank you. Mr. Powers?

22 MR. POWERS: Yes. Thank you for letting me
23 comment. I think what I'll do, since several of the CEC and
24 BrightSource have spoken, is I just made a few notes and
25 I'll just respond to some of the points that were made in

1 the interest of time.

2 And the first issue I want to hit on is the issue
3 of flexible power. And this is -- one will be a question
4 for BrightSource and for the CEC. Has the CEC and/or
5 BrightSource concluded that more flexible resources are in
6 fact needed in California? There is an ongoing proceeding
7 at the PUC that I am in where we are struggling with that
8 question, but there's definitely been no determination on
9 that point. So I'd be interested to hear why either entity
10 considers a flexible component to be so critical to -- to
11 this particular project?

12 And a question for BrightSource is the -- my
13 understanding is the flexibility of this project is really
14 attributable to the natural gas-fired aspect of the steam
15 turbine generator that you will have in this project, and
16 that it is not -- you are not stating that the solar output
17 from this facility will, in fact, be a schedulable and will
18 be able to track in any way flexible power needs if
19 they're -- if they're identified? So I just want to make
20 sure that I'm clear on that.

21 The other issues related to a point that Arne
22 Olson made is this -- the assertion that the power -- the
23 power tower technology that will be used on this project
24 will have an annual capacity factor of 32.7 percent. And I
25 would like to get a clarification on whether that is simply

1 a projection by BrightSource or whether there's any
2 operational air-cooled utility-scale power tower that is
3 actually achieving 32.7 percent capacity factor on -- on an
4 annual basis.

5 Getting into the issue of the distributed
6 photovoltaic alternative, the -- one of the reasons for
7 rejecting the distributed -- I should step back.

8 I want to commend the commission for identifying
9 that the much lower impacts of the utility-scale
10 photovoltaic project in lieu of the proposed project at the
11 site. I think that is exactly right. I think the -- the
12 points that have been made about the reduced impacts are
13 correct in that they also fold into the distributed
14 photovoltaic alternative.

15 One issue I have is both the commission and Mr.
16 Olson take this all-or-nothing approach with distributed
17 photovoltaic that -- that my client in this case is
18 asserting that it's got to be 100 percent distributed
19 photovoltaic or nothing, and that is far from the -- the
20 case. Obviously we have currently a major push to develop
21 utility-scale remote solar facilities in California, and
22 that it is not credible to assert that those who are putting
23 out distributed photovoltaics as an alternative in this case
24 are asserting that everything that is built must be
25 distributed photovoltaics.

1 And the -- another global comment on policy
2 preferences and whether or not a zero-net energy structures,
3 residential or commercial, would include photovoltaics,
4 rooftop photovoltaics. They will be definition. And the
5 state has two major energy planning components. One is the
6 state's long-term Energy Efficiency Strategic Plan that I
7 talk about in my testimony, which is really framed by zero-
8 net energy buildings. This is the state's future plan, as
9 well as our RPS targets. So there's -- there's no question
10 that zero-net energy building are a central component of our
11 energy planning future. And if we actually hit the targets
12 that we have defined for the state in the Energy Efficiency
13 Strategic Plan we will add 12,000 megawatts of photovoltaic
14 on rooftops by 2020.

15 A couple of other points that I do want to -- to
16 hit on is the idea that distributed photovoltaic are too
17 small in size, they're too defuse, that there isn't enough
18 potential and that they're too expensive. And I just want
19 to read some quotes from Southern California Edison's March
20 2008 application to build their 500 megawatt solar project
21 on warehouses in the eastern part of the L.A. Basin, and
22 point out that this applicant was filed in March of 2008.
23 That was five years ago.

24 "SCE's solar PV program is targeted at the vast
25 untapped resource of commercial and industrial rooftop

1 space in SCE service territory. And SCE has identified
2 numerous potential rooftop leasing partners whose
3 portfolios contain several times the amount of roof
4 space needed for even the 500 megawatt program.”

5 SCE talking about the impact on transmission and
6 distribution system.

7 “SCE is uniquely situated to combine solar PV program
8 generation, customer-demand programs, and advanced
9 distribution circuit design and operation into one
10 unified system.”

11 And, finally, on flexibility.

12 “The inverter can be configured with custom
13 software to be remotely controlled. This would allow
14 SCE to change the system output based on circuit loads
15 or weather conditions.”

16 In fact, what they’re talking about is the ability
17 to ramp the solar system.

18 The reason for reading this is that when an
19 investor in utility in California wants to or sees an
20 economic benefit in focusing exclusively on covering
21 rooftops with photovoltaic they can make a very compelling
22 case, as SCE did five years ago.

23 And finally on this issue of cost, Mr. Olson
24 brought up the high cost of photovoltaic systems on
25 rooftops. And I’d like to broaden the discussion a little

1 bit because distributed photovoltaics doesn't mean just
2 rooftops; it also means smaller-scale ground-mounted arrays
3 around substations. And on page 10 of testimony I include a
4 table which, as of a year ago the utilities are now required
5 to report the cost in aggregate of their renewable energy
6 contracts by size category.

7 In this particular case the size categories
8 differentiate PV from 0 to 3 megawatt systems, 3 to 20
9 megawatt, and 20 to 50 megawatt, and then solar thermal from
10 50 to 200 megawatts. And the example I use is for PG&E
11 contracts. But the 2011 contract price for 0 to 3 megawatt
12 PV systems, \$129 a megawatt hour, 3 to 20 megawatt PV
13 systems, \$114 a megawatt hour, and then the one solar
14 thermal example, 50 to 200 megawatt, \$144 a megawatt hour.

15 I can't make a comparison with the cost of PV and
16 a power tower in this proceeding because I don't know what
17 the cost of the power tower is, and that will be a
18 proprietary number when it's negotiated over at the PUC.
19 But what we do know from this reporting requirement is that
20 PV is now substantially lower cost than solar thermal
21 projects, even in very small size ranges such as 0 to 3
22 megawatts.

23 I had hoped to include the 2012 data in my
24 testimony but it was not available at the time, and I
25 haven't reviewed it to see if it is available. But when we

1 talk about the cost, there is no transmission cost
2 associated with this. This project includes a gen-tie 230kv
3 line, as I understand it, a much longer tie-in to a hub in
4 Boulder City, Nevada.

5 And so the -- the rationale given by the CEC for
6 not evaluating this as an alternative really appears to be
7 more the issue of the fact that distributed photovoltaic
8 projects don't conform to the box the CEC has set up for
9 project evaluation, not that because they're voluntary or
10 the rooftops are not explicitly defined up front, that they
11 would not happen on or faster than schedule.

12 One example that I'll use, and this will be my
13 final comment, is the -- the state's California Solar
14 Initiative Program. It's completely voluntary, and yet the
15 target is -- the overall SB 1 target 3,000 megawatts, the
16 IOU targets 1,800 megawatts, they're ahead of the target.
17 All of these installations are voluntary. There's no
18 question that we're going to meet the entire trench, and we
19 will likely go far beyond it with this reinterpretation of
20 the -- of the five percent cap. So the idea that because a
21 distributed generation program requires voluntary
22 participation in no way affects the ability to hit very
23 ambitious targets.

24 And that -- that concludes my comments.

25 HEARING OFFICER CELLI: Thank you, Mr. Powers.

1 Anything further, CBD?

2 MS. BELENKY: Well, I did have a couple of --

3 DR. ROBERTS: Microphone please.

4 MS. BELENKY: Sorry. I did have a couple of short
5 questions. I just wanted to make sure they weren't already
6 covered by Mr. Powers.

7 I did want to ask when the applicant's expert was
8 speaking, when you were talking about cost you were talking
9 only about money, you were not talking about cost to the
10 environment; is that correct?

11 MR. HARRIS: Well, could you be more specific
12 about what -- he said a few things. Where -- which
13 reference are you --

14 MS. BELENKY: I can ask him a different way.
15 Did you consider the cost to the environment?

16 MR. DESMOND: When I was speaking about cost and
17 benefits I was referring to the 2012 IEPR update and its
18 characterization of the need to consider cost and benefits
19 of different types of renewable energy.

20 MS. BELENKY: Okay. You also discussed the -- the
21 contract with -- which I believe is with PG&E, and you said
22 that the -- I was a little bit confused what you were saying
23 about that because you said that this was -- I believe you
24 said -- I'm sorry, I'm having trouble finding the exact
25 right place here. You said that you could be required to

1 rebid into a new solicitation; is that right?

2 MR. DESMOND: What I was specifically saying is
3 that with respect to the feasibility of the project and its
4 impact on timeline, that the requirements associated with
5 the PPAs could be subject to a number of different things,
6 including not the obligation of the buyers to accept that
7 type of power if they wanted. The chance that the PUC as
8 the technology changes may require that it be big into, in
9 which case it would not meet the objectives of trying to
10 satisfy the capturing of the Federal Investment Tax Credit
11 by 2016, since the process for bidding into an RFP, going
12 through the negotiation, being selected, and then arriving
13 could take anywhere from 12 to 18, maybe 24 months.

14 MS. BELENKY: I see. And I believe that you said
15 the -- that this was a cost-effective, perhaps, project; is
16 that -- was that the term you used?

17 MR. DESMOND: I don't recall saying that.

18 MS. BELENKY: I'm trying to find my exact note
19 here.

20 HEARING OFFICER CELLI: So you answered that, Mr.
21 Desmond?

22 MR. DESMOND: I said I don't recall the specifics
23 of -- I don't understand the comment clearly.

24 HEARING OFFICER CELLI: Well, I thought you said
25 you didn't recall using that term, cost-effective.

1 MR. DESMOND: I couldn't -- I don't believe I used
2 the term cost-effective. But a consideration of cost and
3 benefits is specific.

4 HEARING OFFICER CELLI: Ms. Belenky?

5 MS. BELENKY: Yes, I'm -- I'm just trying to make
6 sure I'm not missing one of my notes. Sorry. There are --
7 so many things happened before I got to speak. All right.

8 Yes, I believe you did bring up the cost compared
9 to other forms of -- of energy, such as distributed PV or
10 even the PV alternative. You did?

11 MR. DESMOND: Yeah.

12 MS. BELENKY: Okay. And so I think Mr. Powers
13 actually mentioned this. So is BrightSource willing to say
14 what the cost of this energy?

15 MR. DESMOND: I was not speaking specifically to
16 the cost. Where I said the term "cost and benefits" I was
17 referring to Strategy Number 2, maximizing value through
18 appropriate assessment of costs and benefits, which is part
19 of the IEPR recommendations. Those recommendations went on
20 to talk about examples of areas where -- where renewable
21 benefits could be further realized. And I talked and I
22 identified developing a variety of technologies to create a
23 more attribute-based diversified portfolio to minimize risks
24 and realize co-benefits.

25 MS. BELENKY: So you didn't -- you didn't discuss

1 the cost?

2 MR. DESMOND: I was not speaking at all
3 specifically to the cost of the power purchase agreement,
4 no.

5 MS. BELENKY: I see. Okay. Thank you. And, oh,
6 yeah. No. One of the applicant's experts said that this
7 would decrease the costs, and it was in the discussion where
8 they later said that the second generation without storage
9 is needed before the first -- before they could do storage.
10 And they specifically said that this project would decrease
11 costs and keep costs down.

12 MR. DESMOND: In that case I was referring to
13 Ivanpah 1, and I was talking about advancing the technology
14 with second-generation technology. What I also talked about
15 was the ability to increase the power block size from 200 --
16 let's say 125 to 250, it doubles the output but it does not
17 necessarily double the cost to the power block. Therefore,
18 there are economies of scale that we achieve.

19 Additionally, we are also introducing another
20 generation of the heliostat which reduces the number of
21 heliostats required and increases their output.

22 MS. BELENKY: I see. So you're not talking about
23 the actual cost of the energy to the consumer?

24 MR. DESMOND: No. I'm talking about --

25 MS. BELENKY: I see.

1 MR. DESMOND: -- the cost of constructing the
2 project.

3 MS. BELENKY: I see. Okay. Thank you. And then
4 I think those were my questions. I may find another one.
5 So why don't you let -- I believe Cindy MacDonald wants to
6 ask some questions.

7 COMMISSIONER DOUGLAS: Okay. We'll go to Cindy
8 MacDonald on the phone.

9 MS. MACDONALD: Hello. Good morning. Thank you.
10 We've covered a lot of territory, so I'll try to see if I
11 can't narrow it down.

12 With respect to proposed project, when that
13 discussion was occurring, which was both kind of legal and
14 factual, Applicant referenced the motion in limine that they
15 had filed on August 31st. I submitted an extensive response
16 to the applicant's points, an 81-page response, Exhibit 709,
17 which I'll just try to summarize here. But some of the
18 things that were included in there is that Applicant had
19 been trying to rewrite the project objectives.

20 And also with respect to the restricting of
21 Staff's analysis, it is my impression that the CEC has --
22 their highest duty is to serve the public interest and to
23 evaluate the proposed project based on the most prudent use
24 of resources. Therefore, by -- by -- by evaluating the use
25 of the state's resources that allows a reasonable range of

1 alternatives for what we could use that project site for.
2 And based on that I believe that the photovoltaic
3 alternative was completely appropriate and correct,
4 especially since it has environmentally preferred options.
5 And according to BrightSource's Security Exchange Commission
6 filing, they claim that they were in -- there was a lot of
7 competition for places of high solarity. In fact, I believe
8 one of their witnesses testified that the area was
9 considered the Gold Standard.

10 So I think that the photovoltaic alternative is
11 completely appropriate with respect to the commission's duty
12 to evaluate the most prudent use of the state's resources
13 and to be able to achieve the general objectives of the
14 state to provide renewable energy and to meet the RPFs
15 requirements while simultaneously reducing the project's
16 impacts to the minimum.

17 Now, the other thing I wanted to bring up with the
18 project objectives that I didn't hear anybody discuss is
19 that according to the applicant their proprietary technology
20 is solely classified as the soft load that operates the
21 heliostats and the SRGS, or the solar receivers. And if the
22 alternatives analysis was restricted solely to -- to the
23 proprietary needs of the applicant there would be no
24 potential way for any alternative to be examined outside of
25 the applicant's own needs. And I have a great deal of

1 concern from the long time perspective that if this is
2 allowed to slide by, if Staff is required to analyze it
3 exclusively from the proprietary portion of the objectives,
4 that it would be -- it would create a precedence to the
5 future of CEQA alternative review. Okay. Those are a
6 couple of points.

7 Now, with respect to the applicant's discussions
8 of the PPAs, there's a lot of evidence, which is included in
9 my response, that indicate that those PPAs may be too high.

10 Excuse me a moment. In my response I include references to
11 Western Power issuing a protest with the CPUC which
12 recommended rejecting all of BrightSource's PPAs completely.
13 And I also included some quotes from an independent analysis
14 on some of BrightSource's PPAs that basically said that none
15 of the amended PPAs had renewable premiums and viability
16 characteristics that would have put them on the Southern
17 California Edison's 2011 short list.

18 Also, they -- they recommended -- basically, they
19 didn't recommend one way or the other, BrightSource's PPAs,
20 but they basically put it as it came down to a question of
21 how much California wants to advance this technology. So I
22 wanted to make sure that that was in the record.

23 With respect to Mr. Desmond's statement about the
24 potential length of time that I might take for BrightSource
25 to negotiate ne PPAs, in my response I show that a recent

1 amendment by BrightSource between Southern California Edison
2 was originally filed on November 28th, 2011. And I believe
3 a resolution was adopted by August 23rd, or less than a
4 year. So -- as well as according to Mr. Desmond's rebuttal
5 testimony, he claims that the risk factors put in the -- the
6 Security Exchange Commission filings were low, or they --
7 they had to put them in no matter how low they were. And
8 one of the things that they cite is concerns about being
9 able to renegotiate new PPAs.

10 Finally, with respect to PPAs there's also
11 additional evidence that they may not be competitive or
12 reasonable in that a small disclosure was made in both the
13 Security Exchange Commission filing, as well as a newspaper
14 article I reference, that show or indicate that the PPA
15 between PG&E and BrightSource have royalty agreements built
16 into them for any project that BrightSource builds anywhere
17 in the world. So I would like at the very least the
18 commission to review that response for more detailed
19 analysis of those issues.

20 Now, with respect to the photovoltaic alternative,
21 previous testimony has stated that the current proposed
22 Hidden Hills SEGS is only going to be available for power
23 generation during daylight hours. And I believe that is
24 comparable with the photovoltaic alternative, as they will
25 only be available for power generation during daylight

1 hours.

2 Staff also testified that the boilers were
3 incapable of generating more than 27 megawatts per plant, or
4 54 megawatts total. So therefore, to me there is little or
5 no significant difference between the generating hours of
6 CPV technology or the photovoltaic. Neither has -- I have
7 also not seen any reliability data between the two with
8 respect to the intermittent cloud cover that the boilers are
9 supposed to cover.

10 And finally, in this last point on this, is I
11 still see no data regarding the flux availability that is
12 necessary to heat the -- the solar receivers. In prior
13 testimony BrightSource has stated that the receiver needs
14 600 kilowatts per meter squared before it can start
15 generating electricity. And they have stated that in dusk
16 and dawn it's about 250 kilowatts per meter squared. In my
17 original testimony I've raised questions about when the
18 hours of availability are -- when the hours are that
19 generate 600 kilowatts per meter squared that would allow
20 the receiver to generate electricity. But at this point
21 there's still no data. It could be as small as like between
22 10:00 and 2:00 and 11:00 and 5:00, or I don't know. But we
23 do know that they can't generate during dusk to dawn.

24 The last point -- well, wait a minute. Let me --
25 the last point I would like to make in this, as I made in

1 the facility design, is as everybody is comparing the
2 megawatt production per acre it is my understanding that the
3 SEGS facility is advertised as generating 6 megawatts. And
4 their -- their own experts testified that SEDC only has 3
5 acres of mirror fields, which according to my calculations
6 means that the SEDC facility design generators 2 megawatts
7 per acre, and compared to the 6.2 acres required for the
8 current design.

9 And then I have a couple of questions for Staff on
10 this issue.

11 HEARING OFFICER CELLI: Well, let's ask those
12 questions so we can hear from Staff.

13 MS. MACDONALD: Okay. Staff, in your expert
14 opinion, would the implementation of the environmentally
15 preferred alternative, the photovoltaic alternative, be the
16 most prudent use of state resources that is capable of
17 generating comparable electricity and better protecting the
18 environment?

19 HEARING OFFICER CELLI: Any of Staff's witnesses
20 who feel qualified to answer that question may please jump
21 in.

22 MS. HINDE: Could you repeat the question, Cindy?

23 MS. MACDONALD: Yes, I can. In your expert
24 opinion, would the implementation of the environmentally
25 preferred alternative, or the photovoltaic alternative, be

1 the most prudent use of state resources that is capable of
2 generation comparable electricity and better protecting the
3 environment?

4 MR. HARRIS: Can I ask for clarification about
5 what state resources are assumed in the question? Because
6 I'm confused.

7 HEARING OFFICER CELLI: Did you hear that
8 question, Ms. MacDonald?

9 MS. MACDONALD: Yes. Land, water, infrastructure,
10 it's -- it's generally provided for under Title 20.

11 HEARING OFFICER CELLI: Does that clarify it for
12 you?

13 MS. HINDE: Cindy --

14 MR. HARRIS: Not really but -- I'm sorry.

15 HEARING OFFICER CELLI: Ms. Hinde?

16 MR. HARRIS: Okay. Sorry.

17 MS. HINDE: I think the -- the answer to your
18 question for me is summarized at the end of the alternatives
19 analysis that describes the comparative effects of the
20 proposed project and the -- and the PV alternative. And so
21 for the resources that are covered in the alternatives
22 analysis it shows reduced impacts on certain resources,
23 reduced groundwater use, reduced impacts on visual, cultural
24 and -- now I've forgotten what the other -- oh, biological
25 resources.

1 So I don't think that I -- as far as the question
2 of whether it's the most -- whether the PV alternative is
3 the most prudent use of the state's resources, I didn't
4 address that -- that issue. I really focused it on the
5 impacts that are specifically addressed in the alternatives
6 analysis, which are summarized at the end, and that's --

7 MS. MACDONALD: Well, I was just wondering if
8 you --

9 MS. HINDE: -- what my answer would be.

10 MS. MACDONALD: -- had an opinion. I mean, it's
11 just an opinion, but I was just wondering if you had an
12 opinion between the two?

13 MS. HINDE: No. My work was really to do the
14 alternatives analysis to comply with -- with the
15 requirements of CEQA.

16 MS. MACDONALD: Okay. Thank you. Let's see, I
17 actually forgot that I had quite a section on the reduced
18 footprint alternative. Would this be the appropriate place
19 to discuss that since we're gone over those -- the different
20 five alternatives that you looked at?

21 HEARING OFFICER CELLI: Yes. Go ahead. Ask
22 your -- now, do you have question --

23 MS. MACDONALD: Okay.

24 HEARING OFFICER CELLI: -- for Staff or Applicant
25 on this, Ms. MacDonald?

1 MS. MACDONALD: Pardon me?

2 HEARING OFFICER CELLI: Is this for Staff, a
3 question for Staff regarding the reduced footprint
4 alternative?

5 MS. MACDONALD: Well, actually, it was some
6 comments regarding the reduced alternative. And then it
7 would lead into a question to staff.

8 HEARING OFFICER CELLI: Okay. Let's see if we
9 can't -- you can summarize it and make this quick.

10 MS. MACDONALD: I'm doing my best.

11 HEARING OFFICER CELLI: Okay.

12 MS. MACDONALD: In my testimony I objected to the
13 fact that Staff chose to only include Solar 2 in their -- in
14 their reduced footprint analysis and feel that that has
15 the -- that Staff became the sole source for issuing a
16 determination regarding which of the solar plants of the
17 reduced acreage alternatives impacts would be disclosed and
18 evaluated under CEQA. Staff failed to provide an analysis
19 on a reduced acreage alternative that compared both Solar 1
20 and Solar 2 and their advantages and disadvantages that
21 would allow the committee to make the choice regarding
22 evaluation and (inaudible) of each plant.

23 And, for example, Solar 2 had less impacts to
24 biological resources but more impacts to residents of
25 Charleston View, cultural resources such as the Old Spanish

1 Trail, flooding impacts, and possibly public safety factors
2 associated with Old Spanish Trail. So, at the very least,
3 would like to object to Staff assuming the authority of the
4 committee by making the choice of which reduced acreage
5 alternative would be considered and analyzed and which
6 impacts would be disclosed to the committee during this
7 process.

8 And the question that I would like to ask Staff is
9 why didn't they include a comparison between Solar 1 and
10 Solar 2 in the alternative analysis so that the decision
11 makers could evaluate the differences and make the decision?

12 HEARING OFFICER CELLI: Staff, any Staff.

13 MS. HINDE: There was a decision made to -- and it
14 was primarily, I think, based on the location of known
15 occurrences of biological resources. And that is the
16 primary reason I believe in -- that I recall from
17 discussions with some of my colleagues in selecting the --
18 the low -- the lower solar plant to retain as the reduced
19 acreage alternative.

20 MS. MACDONALD: Okay. Do you think that it might
21 have been helpful if both plants had been evaluated side by
22 side instead of just the impacts of one being analyzed or
23 disclosed?

24 MS. HINDE: Well, the idea was to -- to come up
25 with a reduced footprint that's about half the size and to

1 compare that -- to the proposed project to get an idea or
2 some ideas about how a plant that was about half the size
3 would compare to the proposed project.

4 MS. MACDONALD: Okay. Last follow-up question on
5 it. If we don't have any idea of what the different impacts
6 for the reduced acreage would be, how can we evaluate their
7 differences in comparison to the proposed project?

8 MS. HINDE: I think some of those differences are
9 called out in -- for some of the topic areas. So it's not
10 as though there was no comparison of -- of -- if the -- if
11 the northern half of the total project had been retained
12 instead. I think there is some discussion in some of the --
13 for some of the topic areas of what that comparison would
14 be. In other words, for biological resources I believe
15 there is -- there is some comparison of what the resources
16 are on the north side compared to the south side, similarly,
17 how the noise impacts would compare, similarly how the
18 visual resources impacts would compare. So I think the
19 comparison you're talking about is not not addressed in the
20 analysis. I think a lot of it is there.

21 MS. MACDONALD: Well, I definitely remember what
22 you're talking about. And those comparisons were with the
23 reduced acreage alternative to the proposed project. Of
24 course, obviously, I noticed that you -- the analysis found
25 that your choice or the reduced acreage alternative found

1 noise impacts to be similar to the proposed project. But
2 from my perspective, objectives, the noise impacts would be
3 much less if you went with the northern site. There was a
4 variety of stuff like that. But the comparison I remember
5 in there only compared one plant to the proposed project and
6 never provided any distinctions between the two sites. So,
7 anyway, that was my question.

8 I had a couple of other alternatives that hadn't
9 been addressed. Is this appropriate place to put them or --

10 HEARING OFFICER CELLI: Actually, Ms. MacDonald,
11 you just broke up a little bit. You need to stay right on
12 top of that phone.

13 MS. MACDONALD: Oh, okay. I am. I'm tired of
14 tasting it. Ha-ha. Okay.

15 I had some other alternatives that had not been
16 addressed in the FSA. And I wanted to inquire if this was
17 the appropriate place to bring those up or if we had another
18 place this would go?

19 HEARING OFFICER CELLI: No. This is -- this is
20 about our lost topic area before we close the record
21 entirely. So if you want to talk about alternatives, now is
22 the time to do it. Bring it up now.

23 MS. MACDONALD: Okie-dokie. Thank you. Everybody
24 get comfortable. Not really. All right.

25 MR. HARRIS: Does she have an exhibit that she's

1 referring to?

2 HEARING OFFICER CELLI: Yes. The question, Ms.
3 MacDonald, just now from the applicant was are there -- is
4 this in any exhibits which you're about to refer to?

5 MS. MACDONALD: Yes, sir.

6 HEARING OFFICER CELLI: Okay. Which exhibit?

7 MS. MACDONALD: Exhibit 757, opening testimony.

8 HEARING OFFICER CELLI: Okay.

9 MS. MACDONALD: Let's see, that would be -- okay,
10 that would be alternative project site entrance. That was
11 also in, I believe -- hang on. This is the first time
12 anybody has asked me to provide a specific exhibit --

13 HEARING OFFICER CELLI: Well --

14 MS. MACDONALD: -- for my comments.

15 HEARING OFFICER CELLI: -- I think that we're good
16 there.

17 MS. MACDONALD: Exhibit 704.

18 HEARING OFFICER CELLI: 704 and 747.

19 MS. MACDONALD: It's also in Exhibit 704.

20 HEARING OFFICER CELLI: Okay.

21 MS. MACDONALD: And, basically, I had asked back
22 in a status report back in May if Staff (inaudible) project
23 site entrance, and the FSA never deals with it. And I've
24 never received any data or anything, any comments at all
25 about it.

1 HEARING OFFICER CELLI: Let's -- let's ask -- I'm
2 going to ask Staff, rather than the applicant, about that.
3 Is that what you want, Ms. MacDonald?

4 MS. MACDONALD: Yes, please.

5 HEARING OFFICER CELLI: Okay. So from Staff,
6 early on we heard -- there was an interesting alternative
7 presented by Ms. MacDonald that you could actually enter in
8 sort of midway to the east side of the project. And was
9 that addressed in the alternatives, and if not, why not?

10 MS. HINDE: No, it was not. It sounds that that
11 would be an alteration to the proposed project layout and
12 not really -- not an alternative, per se.

13 HEARING OFFICER CELLI: So what would the --

14 MS. MACDONALD: Okay.

15 HEARING OFFICER CELLI: Go ahead, Ms. MacDonald.

16 MS. MACDONALD: Well, to clarify -- and I do
17 completely understand kind of Staff's, I don't know if it's
18 confusion, but the confusion about it is -- the reason that
19 I've approached this in the alternatives' section is had
20 presented three different scenarios in my PSA comments. And
21 in the air quality section they referred me to the responses
22 in the alternatives' section which actually never manifested
23 in the alternatives' section. But that is where I got the
24 impression that alternatives would be addressed in
25 alternatives, not just project site or project technology

1 but other alternatives for consideration.

2 MR. RATLIFF: Mr. Celli, if I may, the -- the
3 staff did, after the publication of the FSA, take some
4 effort to look at what I believe is the alternative that Ms.
5 MacDonald is referring to, which is an alternative which
6 would redirect traffic to an entrance on the east side of
7 the project and avoid having the truck traffic going right
8 past Charleston View. But that was considered by our
9 transportation office and -- and that office. I don't --
10 perhaps they can address it further, but I believe their --
11 their conclusion after looking at is that it was -- there
12 were feasibility issues with it with regard to the access to
13 the site and to the construction lay-down area which is at
14 the -- on the western boundary of the project site.

15 But if you want to have that further addressed I
16 think it would have to be by someone other than Mrs. Hinde.

17 HEARING OFFICER CELLI: Well, let's -- let's
18 hear -- Ms. MacDonald, what is -- if you can kind of give us
19 what the point is of raising this issue now?

20 MS. MACDONALD: Well, I'm not raising this issue
21 now, so let me be clear about this. I started to raise this
22 issue in May of last year. The point of raising this issue
23 here is because this is where I've continually been
24 directed, and because it was not addressed in the FSA. I'm
25 sure the committee remembers that the months prior to the

1 publication of the FSA we were constantly deferred to, it
2 would be answered in the FSA. And so when it wasn't, you
3 know, this is the only -- the only outlet I have left to
4 find out, you know, where it's been addressed.

5 HEARING OFFICER CELLI: So, Ms. MacDonald, Staff
6 has provided their traffic -- I'm sorry, sir, I can't
7 remember your name.

8 MR. HOPE: John Hope.

9 HEARING OFFICER CELLI: John Hope is here. He's
10 the traffic expert from Staff. So perhaps you could address
11 what Ms. MacDonald is asking about. Go ahead.

12 MR. HOPE: Sure. We looked at two alternative
13 routes into the project site from the east through --
14 essentially through the State of Nevada that Cindy had
15 provided. One route was to use the road that accesses
16 Cathedral Canyon. That's a paved road currently. It's
17 approximately two miles in lanes. And then on the -- if you
18 were to use that road the applicant would be required to
19 continue that road for another three -- approximately three
20 miles, essentially through Cathedral Canyon to access the
21 eastern boundary of the project site.

22 And then another alternative that Staff looked at
23 was the use of a dirt road that extends right on the state
24 boundary. This road would connect between Old Spanish Trail
25 and the -- I believe it's the -- it's one of the staging

1 areas for the project. And my understanding when speaking
2 with other Staff is that site would also be used for
3 biological resource mitigation. And so that -- that route
4 was not considered feasible for that reason.

5 HEARING OFFICER CELLI: There you go. Thank you
6 for that, Mr. Hope.

7 MR. HARRIS: Mr. Celli --

8 HEARING OFFICER CELLI: Ms. MacDonald, you heard
9 that?

10 MR. HARRIS: Mr. Celli, if I could, I also wanted
11 to point out that - that the applicant had responded to Ms.
12 MacDonald on this issue. The road is partly on private
13 land, so we don't have eminent domain authority. It's also
14 privately on -- partly on BLM land. And then finally as a
15 matter of law under 1723(e) as in elephant, Ms. MacDonald is
16 free to propose such an alternative route, but she bears the
17 burden of proof, according to your regulations, for that
18 alternative route. And so to suggest that there's a hole in
19 the staff assessment, it's just -- it's incorrect.

20 HEARING OFFICER CELLI: Thank you. Ms. MacDonald,
21 go ahead.

22 MS. MACDONALD: Actually, I do believe Title 20,
23 basically, I don't know if they require Staff to look at
24 comments submitted by the public to Staff about alternatives
25 that fell under Staff's responsibility to examine them. So

1 that's why I was depending on Staff to provide some sort of
2 analysis in the FSA regarding its feasibility or
3 infeasibility or saying that once they laid it down perhaps
4 because of my knowledge of the area I could possibly see a
5 mitigation or changes to it. So it's not incorrect.

6 And, yes, you did address it. And I do remember
7 you stating that it was not feasible. But I don't remember
8 you actually providing data that supported that opinion.

9 HEARING OFFICER CELLI: And when you say you,
10 you're referring to the applicant?

11 MS. MACDONALD: Yes. Sorry. Yes. All right.

12 So I guess if I'm to understand this correctly
13 Applicant did -- I mean, Applicant, excuse me -- Staff did
14 review two alternative project site entrances but never
15 incorporated in them in the FSA or subsequent documents; is
16 that correct?

17 HEARING OFFICER CELLI: That's what it sounds
18 like. I'm getting a nod of yes.

19 MS. MACDONALD: Okay. Thank you.

20 HEARING OFFICER CELLI: Mr. Hope was nodding, yes,
21 in the affirmative -- in the affirmative.

22 MS. MACDONALD: Okay. Thank you. All right. The
23 next one was beginning back in March of last year I provided
24 lengthy discussion regarding the value of water in the State
25 of California, nationally and globally, and suggested and

1 alternative or an analysis of incorporating fees in the
2 conditions of certification for the applicant's water use to
3 offset the extraction of public resources, and I do not
4 believe those were ever addressed. However, if Staff
5 addressed any -- that alternative, I would like to know
6 where it's at.

7 HEARING OFFICER CELLI: I vaguely remember the
8 County of Inyo speaking to this at some point, but maybe
9 not.

10 MS. CROM: I don't know what type of fee we would
11 impose that would be project specific that would comply with
12 218 or any of the other regulations that we would have to
13 comply with.

14 HEARING OFFICER CELLI: Which is consistent with
15 what I remember you saying the last time this came up.

16 MS. CROM: We have an export -- a water export
17 ordinance that -- that is -- has some fee-based to it, but
18 this wouldn't apply.

19 HEARING OFFICER CELLI: Ms. MacDonald, go ahead.

20 MS. MACDONALD: Well, this alternative was
21 specific to the CEC's sole jurisdiction regarding the
22 condition of certification for the project. And it's my
23 understanding that in general California has been facing a
24 bunch of legal and environmental issues associated with
25 insufficient water. That's -- that's just a general

1 summary. And that the bureaucratic (inaudible) system is
2 moving too slow to really be able to, I guess mitigate
3 sufficiently or offset some of these impacts.

4 So the reason why I wanted this alternative
5 analysis incorporated is to -- to assess the feasibility of
6 including a condition of certification that charged fees for
7 their water extraction. This is becoming a very common
8 practice throughout California and the country.

9 So did Staff evaluate that alternative in the FSA
10 or subsequent documents?

11 HEARING OFFICER CELLI: Staff, did any Staff
12 evaluate that in the FSA?

13 MS. HINDE: That would be a question for Mike
14 Conway. I have not heard anything about this particular
15 issue and I don't -- it's not addressed in the alternatives
16 analysis.

17 HEARING OFFICER CELLI: Mike Conway, are you
18 there?

19 MR. RATLIFF: Mr. Celli, could the alternative be
20 described again so we know exactly what -- I'm not sure I
21 understood.

22 HEARING OFFICER CELLI: She's talking about fees
23 for water extraction.

24 MR. RATLIFF: By -- charged by whom? Fees from --

25 HEARING OFFICER CELLI: I'm not clear on charged

1 by who.

2 MS. MACDONALD: Fees charged -- fees charged by
3 the CEC as a condition of certification that would go into
4 the state public resources fund, or whatever fund you guys
5 have that -- that gets money for -- and distributes it to
6 the state.

7 HEARING OFFICER CELLI: So basically --

8 MS. MACDONALD: The CEC specific; how's that?

9 HEARING OFFICER CELLI: So you want the CEC to
10 usurp the province of the legislature or local jurisdictions
11 with regard to imposing fees on people here.

12 Let me see if I've got anyone who can address
13 this. Anyone from Staff?

14 MR. RATLIFF: Well, Mr. Celli, I don't believe
15 that Staff ever considered this alternative.

16 HEARING OFFICER CELLI: Okay. It seems that no
17 one considered the alternative, Ms. MacDonald.

18 MS. MACDONALD: Okay. Thank you. Let me just
19 state for the record that this was incorporated in March of
20 last year. Okay.

21 Another alternative that I had put in my
22 recommendations in March of last year was the feasibility of
23 the applicant recycling their water. A certain portion of
24 water is going to be hauled offsite, possibly across state
25 lines. And due to the critical nature of the water

1 situation out there I had asked Staff to analyze the
2 feasibility of the water that was trucked offsite, being
3 treated and brought back to the facility to reuse. Did
4 Staff address that alternative at all?

5 HEARING OFFICER CELLI: Staff, do you have a water
6 person here? Oh, good.

7 Please come forward to the podium and state your
8 name.

9 MS. TAYLOR: This is Mary Lou Taylor. I'm Staff
10 for the Energy Commission. I covered the soil and surface
11 water section.

12 Hi, Cindy, can you hear me?

13 MS. MACDONALD: Hi, Mary Lou.

14 MS. TAYLOR: Okay. I wanted to make sure you
15 heard me. Okay.

16 MS. MACDONALD: Yes, I can. Thank you.

17 MS. TAYLOR: Although I didn't specifically talk
18 about -- well, first of all, processed water was covered
19 under Mike Conway's section. But I think what you're
20 speaking to is you were asking whether or not or why they
21 haven't considered recycling their waste water.

22 The process that they use for their waste process
23 water in a way does kind of recycle their water. They
24 have -- oh, I can't remember the name, but I want to say a
25 thermal reducer where they take their process waste water

1 and reuse it again and, I guess for lack of a better term,
2 redistill it, so -- to the point where the steam comes off
3 and condenses back down and they would reuse that water in
4 their process. And then the excess, I guess concentrated
5 waste water, that portion of it would be trucked off. So
6 that trucked off portion is highly concentrated and probably
7 not very conducive to recycling for reuse for other -- for
8 other purposes.

9 MS. MACDONALD: Okay. So it just becomes like the
10 hazardous waste and can not be reused for water purposes
11 generally?

12 MS. TAYLOR: I wouldn't call it --

13 MS. MACDONALD: I know you're not the expert on
14 this, but --

15 MS. TAYLOR: Yeah. I wouldn't really call it --

16 MS. MACDONALD: -- generally?

17 MS. TAYLOR: -- hazardous waste. But it's water
18 that's so concentrated with impurities and has been, I
19 guess, reused so many times that it's to the point where
20 they would have to dispose of it because they couldn't use
21 it again for other -- for other process purposes.

22 MS. MACDONALD: Okay. Do we have any idea about
23 how much water that would cover? I mean, is it a large
24 amount, a small amount, anything?

25 MS. TAYLOR: I don't have the numbers in front of

1 me, but it is in, I believe, Conway's information about how
2 much water would be expected to be trucked off, those
3 quantities.

4 MS. MACDONALD: Okay.

5 MS. TAYLOR: But because it's --

6 MS. MACDONALD: Would the applicant know perhaps?

7 MR. HARRIS: Yeah. I think the day you missed is
8 the day we covered this. I think it was on Tuesday. And
9 our witnesses would have that information. I believe it's
10 in the FSA, as well. But the basic issue is the water is,
11 in addition to dry cooling, the water is used and recycled
12 and recycled and recycled, and eventually concentrated up
13 and hauled offsite. So you might word search the FSA. We
14 can try to get it for you, as well, offline. But there is a
15 number in the record, yes.

16 MS. MACDONALD: Okay. Because that was one of the
17 things that I didn't remember, was a breakdown of the water.
18 But I will concede, I wasn't there during the water issue so
19 I'm not going to bring that up. Okay.

20 The next question was in March of -- March last
21 year, Exhibit 700, in my preliminary comments under wildlife
22 I had issued a recommendation for staff to consider siting
23 the Hidden Hills SEGS on a superfund site or (inaudible)
24 landfills, military installations (inaudible). And I had
25 even included in another portion in the hazardous materials

1 section an appendix with a complete list of every EPA
2 (inaudible) site in the State of California. Did Staff ever
3 address that alternative siting recommendation?

4 HEARING OFFICER CELLI: Actually, Ms. MacDonald,
5 we know that they did not because that is not in the FSA.
6 There was not a mention of that in the FSA. So I'm -- I'm
7 just -- I'm --

8 MS. MACDONALD: Okay.

9 HEARING OFFICER CELLI: My thinking is that that
10 would be more on the order of an argument that's going to be
11 in your brief.

12 MS. MACDONALD: Well, I just wanted to know if
13 they had ever acknowledged it as an alternative?

14 HEARING OFFICER CELLI: In the alternative section
15 they explain their methodology and how they whittle down
16 their list from whatever the grand beginning list was to the
17 final list that they used of alternative technologies,
18 alternative sites, etcetera, and that wasn't there. So I --

19 MS. MACDONALD: Yes, I am aware of that. In the
20 FSA they did, up to that point, a surprise inclusion of the
21 Barstow area, which is why I was confused why the -- the EPA
22 super-fund sites or the closed landfills had been excluded
23 because that -- that recommendation had been put in by the
24 public to see that for, you know, almost a year. So -- but,
25 yes, I am aware that they -- they did their -- they -- they

1 chose different siting locations and so they didn't include
2 that -- that potential alternative project site. All right.

3 HEARING OFFICER CELLI: And you --

4 MS. MACDONALD: The last one is -- and Staff
5 evaluated two out of the three of the applicant's systems
6 that -- that they -- they specialize in, their proprietary
7 technology. And the -- the third one that was not included
8 was enhanced oil recovery systems. And my question, I guess
9 relates to did they take a look at -- did Staff take a look
10 at if the proposed project site would be better suited for
11 enhanced oil recovery versus (inaudible) generation? And
12 this is based on the fact that there's been -- there's been
13 significant new technological --

14 HEARING OFFICER CELLI: Ms. MacDonald, you just
15 went away. You broke up. And she just hung up, too.
16 She'll be calling back in a moment, I'm sure.

17 But you get the gist of that, Ms. Hinde, where
18 she's going with the question? Because I'm going to be
19 turning it to you to respond as soon as she calls back.

20 MS. HINDE: Okay.

21 HEARING OFFICER CELLI: Make sure that mute on
22 entry isn't on, Mr. Battles. Thank you.

23 We're going to have to wait for her to get through
24 the password entry, etcetera, to get into WebEx.

25 MR. HARRIS: Mr. Celli, just so we can follow

1 along, when she's going through each one of these things can
2 we ask her what authority she's citing to that suggests that
3 Staff need to look at whatever they didn't look at?

4 HEARING OFFICER CELLI: You know, really, Mr.
5 Harris, that is -- we're allowing her to ask the question
6 because we're in alternatives. But I think you rightly
7 pointed out that if there was an alternative or a mitigation
8 or -- that would be the burden of the proponent. And she's
9 going to have to put this in her briefs.

10 MS. BELENKY: Excuse me. I feel like this is now
11 a legal discussion. I'm not sure that all of the parties
12 agree that the burden is on any other party to discuss
13 anything about alternatives. I mean, alternatives are
14 required under CEQA and there are legal standards. It is
15 not the burden of the public to comply with CEQA. It is the
16 burden of the commission to comply with CEQA.

17 HEARING OFFICER CELLI: Right. But the burden
18 shifts when there's a proponent for different mitigation,
19 etcetera, under our Regulations 1723.

20 MS. BELENKY: And alternative is not a mitigation.
21 An alternative is something that avoids or minimizes
22 impacts to the project. It is different than what you are
23 calling mitigation.

24 HEARING OFFICER CELLI: Well, that -- that might
25 be another matter we need to brief.

1 MS. BELENKY: Yes, I think it might be. And I
2 also -- I also have a follow-up question that I did find in
3 my notes, when you have a minute.

4 HEARING OFFICER CELLI: Okay. I just -- Ms.
5 MacDonald, are you on yet? Okay.

6 Having been in Shoshone now for a week we
7 understand that there may be some problems with getting
8 through to us.

9 MR. HARRIS: Mr. Celli, I want to make sure that
10 all of -- all of -- all these questions get answered. But I
11 also wanted to just tell the committee, we did bring a
12 couple of witnesses to the table to answer any questions
13 that the committee may have regarding issues raised by Mr.
14 Powers or Ms. Thomas or Mr. Olson. That's Mr. Vidaver and
15 Mr. Hesters that we brought, so --

16 HEARING OFFICER CELLI: Okay. Ms. Belenky, I just
17 wanted to take care of -- while we're waiting for Ms.
18 MacDonald to come back, what was your other question? I
19 thought you just raised --

20 MS. BELENKY: I do have another question. First,
21 I want to say we're already after one o'clock and people
22 have not had a lunch break. So I do have a concern that the
23 way these hearings are run there is a problem where the
24 applicant and the staff get a lot of time, and then by the
25 time we get to other people's issues everyone is sort of

1 exhausted or, like now, waiting for (inaudible). So that's
2 just a general problem I have with this timing.

3 HEARING OFFICER CELLI: Yes. The fact is we've
4 actually -- we already heard from CBD on this subject in
5 terms of everybody's direct, if you will, even though this
6 is an informal hearing. And we felt that it was important
7 to get in everybody's direct testimony before we broke for
8 lunch. So we're -- we have -- this is Ms. MacDonald's first
9 shot at this, and so we wanted to get through that. And
10 typically we're looking for a good point at which we can
11 break. And so we will as soon as we can.

12 It looks like Ms. MacDonald is having a rough time
13 getting through. Ms. MacDonald if you can hear, would you
14 mute her?

15 MS. MACDONALD: I can hear you.

16 HEARING OFFICER CELLI: Yeah. But there's a big
17 buzzing sound coming from your phone or whatever you're
18 calling in on. Let's give her one more shot there. Okay.

19 Ms. MacDonald, I don't know if you could hear
20 that, but there's a big buzz on your phone. We're going to
21 need you to call right back again, and hopefully you won't
22 have static on the line.

23 You want to give her one more shot there and see
24 if she's talking? Okay. It looks like she hung up. She's
25 going to try again.

1 So in terms of how far we've gotten, we've heard
2 from Applicant, we've heard from Staff. We've heard from
3 Center for Biological Diversity; we've heard from CBD. I
4 don't know if County of Inyo has anything they want to throw
5 in. She's indicating, no. Southern Inyo Fire Protection
6 District is also indicating no.

7 So we'll take a break at the conclusion of the
8 remarks from Ms. MacDonald, and then we will -- we'll come
9 back to finish up the discussion on alternatives. And then
10 after that we have further conditions that need to be
11 brought in from Staff on the question of noise. So let's
12 see how we're doing.

13 Well, it's -- let's -- at least we need Ms.
14 MacDonald to be on the phone so we can tell her that we're
15 going to break.

16 I know that -- I just want to address Ms.
17 Belenky's point which is this hasn't been the perfect -- we
18 haven't exactly adhered to a schedule. But I'd say in
19 general this process has been pretty efficient because here
20 we are on Monday and this is really our last topic. So we
21 have gotten through it.

22 MS. BELENKY: My point is not about the efficiency
23 of the process. My point is that on many of these panels
24 what has happened is that there has been a very long period
25 of time in which the staff and the applicant have to present

1 their material. And then by the time we get to the other
2 parties everyone is either exhausted or sick of the subject
3 because of the way it's been framed, or like now, my point
4 being they're waiting for lunch. And it's very hard to pay
5 attention when people anxious, either to go to bed at ten
6 o'clock at night or to have lunch.

7 HEARING OFFICER CELLI: Ms. MacDonald, are you
8 back with us?

9 MS. MACDONALD: I am.

10 HEARING OFFICER CELLI: Oh.

11 MS. MACDONALD: How is my reception?

12 HEARING OFFICER CELLI: Excellent. Thank you. Go
13 ahead.

14 MS. MACDONALD: Okay. Well, I have no idea where
15 I cut off, and I don't want to be redundant, but I had
16 been --

17 HEARING OFFICER CELLI: Enhanced oil recovery.

18 MS. MACDONALD: Okay. I was asking if Staff had
19 evaluated whether the site was more suitable for enhanced
20 oil recovery, because that is part of applicant's
21 proprietary technology. And due to new technological
22 advancements over the last few years, one of which is led by
23 Chevron, a partner in one area for -- for Applicant, they
24 have been able to locate an EOR reserve through seismic and
25 electronic -- or electromagnetic mapping. Such a site has

1 been identified north of Tonopah. And so I wanted to ask if
2 Staff had even considered looking at the site and the
3 potential -- its potential for being better -- more
4 prudently used for enhanced oil recovery versus power
5 generation?

6 HEARING OFFICER CELLI: Ms. Hinde?

7 MS. HINDE: No, there was not a consideration of
8 changing the technology to enhanced oil recovery.

9 MS. MACDONALD: Okay.

10 HEARING OFFICER CELLI: Ms. MacDonald?

11 MS. MACDONALD: Let's see --

12 HEARING OFFICER CELLI: I'm just going to ask --

13 MS. MACDONALD: Yes?

14 HEARING OFFICER CELLI: -- because there's -- a
15 lot of people are looking a little glazed over because
16 they -- we've been at this for a long time. And there was a
17 request for a lunch break, but I wanted you to finish before
18 we broke for lunch. So I'm asking about how many more
19 questions do you have?

20 MS. MACDONALD: The last subject that I wanted --
21 and don't worry, I'm very used to always being pressed
22 against the wall for lunch -- is the -- the -- I don't know
23 if this is an alternative or not, but it seems to me it
24 could be or should have been, and that is there was a lot of
25 discussion in previous documents, PSA comments, etcetera,

1 regarding -- well, first there was a dispute about acreage
2 site that was socioeconomic, which I'm not bringing up.
3 Okay. But the -- there was issues with associated with
4 temporary worker housing or growth inducing impacts. I had
5 asked a lot of questions about that, to which the -- the FSA
6 responded. And they said that the commission had zero
7 jurisdiction or ability to prohibit any development outside
8 the project boundaries.

9 Upon review I found that I believe that Staff's
10 response was improper because according to Regulation 25528
11 the commission has the right to prohibit development of
12 privately owned lands in the areas of the proposed site
13 which will result in population densities and excess maximum
14 population densities, etcetera. Okay. And so to me an
15 alternative was never examined because either Staff did not
16 recognize it or just -- I think Staff did not recognize it.
17 And alternative that allowed the commission to prohibit any
18 future development or growth as part of the proposed project
19 (inaudible).

20 HEARING OFFICER CELLI: Ms. Hinde?

21 MR. RATLIFF: I believe the question is a legal
22 question. Ms. Hinde is probably not the appropriate person
23 to answer it. And that means you're going to ask me to
24 answer it. And --

25 HEARING OFFICER CELLI: I will after she says she

1 didn't do an analysis on the record, and then we'll turn to
2 you.

3 So, Ms. Hinde?

4 MS. MACDONALD: Perhaps I could re-frame it.

5 HEARING OFFICER CELLI: Go ahead it.

6 MS. MACDONALD: Perhaps I could re-frame it.

7 HEARING OFFICER CELLI: Yes, Ms. MacDonald, go
8 ahead.

9 MS. MACDONALD: Is it -- would it be appropriate
10 for an alternative to discuss or analyze the commission
11 prohibiting future development as part of project approval?
12 Would that be considered an alternative?

13 MS. HINDE: I don't think it would, but that's my
14 off-the-cuff response.

15 MS. MACDONALD: Fair enough. And then I guess
16 Counsel for Staff, perhaps they could better address where
17 that would be addressed where that would be addressed?

18 HEARING OFFICER CELLI: It's going to have to be
19 addressed in a brief because it's a legal question. And so
20 I think that if you have this -- what you're describing is
21 essentially an argument that says that this is something the
22 Energy Commission should or could have done that they
23 didn't, and here is my legal authority for insisting that
24 they should have done that, or something that effect, in
25 your brief.

1 MS. MACDONALD: Okay. Does it require a specific
2 kind of topic that I have to introduce that in?

3 HEARING OFFICER CELLI: I think it sounds like --

4 MS. MACDONALD: Like a topic area?

5 HEARING OFFICER CELLI: I suppose you could raise
6 it in alternatives. I think that's reasonable.

7 MS. WILLIS: Growth.

8 HEARING OFFICER CELLI: Well, growth inducing --

9 MS. MACDONALD: Okay.

10 HEARING OFFICER CELLI: Growth inducing impacts
11 was raised in socioeconomics, wasn't it? Yeah. So --

12 MS. MACDONALD: Okay. But --

13 HEARING OFFICER CELLI: -- you could do it in
14 either place.

15 MS. MACDONALD: Okay. Either place. Because I
16 remember Center for Biological Diversity reserved the right
17 to include growth inducing impacts and environmental justice
18 issues as they related to alternatives. So that's -- the
19 could go either way. Okay. Will do. Thank you very much.

20 MR. RATLIFF: I feel like I almost need to address
21 it now.

22 HEARING OFFICER CELLI: Go ahead, Mr. Ratliff.

23 MR. RATLIFF: I believe that the -- the statutory
24 provision that Ms. MacDonald refers to is one that is
25 actually quite interesting by its own -- in its own nature.

1 Its an original provision in the Warren-Alquist Act. It was
2 enacted -- at the time it was relevant to nuclear power
3 plants and the idea of acquiring a zone for public safety
4 purposes around nuclear power plants to prevent the
5 development near nuclear power plants. And basically
6 suggests that the commission has the authority to require
7 the applicant to acquire such land to prevent any
8 commercial or residential development in proximity to such
9 sites.

10 But I would also remind you that at the time that
11 statute was enacted power plants of that nature were being
12 built by public utilities exclusively. And only such
13 utilities have the right of eminent domain necessary to
14 acquire such land or restrict activities on such land. So
15 you can see that there's been a complete difference or
16 evolution in the way that power plants are built today in as
17 much as power plants are no longer typically built by
18 utilities. And the applicant, this applicant and most of
19 the applicants that we have do not have the power of eminent
20 domain that would allow them to restrict activities in that
21 manner on private land.

22 HEARING OFFICER CELLI: Thank you, Mr. Ratliff.

23 MS. MACDONALD: Okay.

24 HEARING OFFICER CELLI: Ms. MacDonald, anything
25 further?

1 MS. MACDONALD: No, that's it. Thank you very
2 much.

3 HEARING OFFICER CELLI: Okay. Here's what's going
4 to happen, Ladies and Gentlemen. It's now 1:20. We're
5 going to break for lunch until two o'clock, at which time we
6 will resume with alternatives. We'll see you all at two
7 o'clock.

8 (Off the Record From 1:19 P.M., Until 2:13 P.M.)

9 HEARING OFFICER CELLI: Commissioner Douglas is on
10 the phone. She'll be down as soon as she can. She said to
11 continue without her for -- for now.

12 Kelly Foley, you had a question for -- was it
13 Staff of Applicant?

14 MS. FOLEY: Applicant. Hi, I'm Kelly Foley. I'm
15 Commissioner Hochschild's new advisor. And I had a question
16 for the applicant regarding grid integration. And it's --
17 it's a two-part question, but I'll give you both parts. It
18 has to do with providing grid support. And I'm trying to
19 understand the role of the synchronous condenser versus just
20 the inertia provided by the boiler and what type of -- how
21 much increment of grid support does the synchronous
22 condenser provide, and how does it operate in terms of in
23 the morning when you haven't started to -- you can't provide
24 spin? And so how does it compare to the morning ramp versus
25 the evening ramp? And does it provide any ability to smooth

1 the plant's organic ramp?

2 MS. THOMAS: I just turned it on. Okay. This is
3 Chifong Thomas. You ask several part questions. One would
4 be -- one would be the ramp. That's more to do with how you
5 match resources with load, whereas synchronous condenser,
6 what we're using is what happened during the time when you
7 say have -- the grid experiences a sudden change.

8 Suppose, for example, there's a loss of a large
9 facility. And when that happens what you need to do is not
10 only have to do the day-to-day, what we call under normal
11 conditions, which means everything is in service. All
12 the -- all the generators are all spinning at 60 hertz and
13 everything is happy. And then if you start -- if you all of
14 a sudden lose something, then there's a jolt to the system.

15 And then -- so that is the kind that you really
16 have to -- have to immediately put in reactive support or
17 the inertia and the frequency control; that's where it comes
18 in. That happens -- we're talking about cycles to seconds.
19 Then there would be -- usually call a transient period. And
20 then after that what we call the post-transient period, that
21 would be like minutes, and that would be the time when the -
22 - when the system tries to settle down. Then -- but then,
23 even you settle down, there could be an instance or could be
24 some condition that can get the generators spin out of
25 control or the system to -- to -- say voltage dip too low or

1 it never recover or so on.

2 And then afterwards, then we talk about the -- the
3 steady state, which is minutes to hours. And basically
4 you -- the system settle down to a new equilibrium, and that
5 is how the -- the whole -- this synchronous condenser, and
6 that's how it work there. Whereas, the ramping is more
7 of -- of an under normal condition where you -- the low
8 start going up, and then now you have the increased
9 generation to meet the low. And it's a more hour-type --
10 you know, more gradual type of -- of performance
11 requirement.

12 I don't know if I answered your question. I can
13 elaborate more.

14 MS. FOLEY: Let me ask a more detailed question.

15 Will the synchronous condenser work as well at a
16 remote station as it would in a load pocket?

17 MS. THOMAS: Yes, it would, because -- you mean
18 the effect or the system or the -- the machine itself?

19 MS. FOLEY: The system impact.

20 MS. THOMAS: The system impact, it would -- it
21 would work just as well in a remote location but it
22 probably -- because the need is greater at the load center.
23 So it would probably provide more -- I mean, incrementally
24 the benefit is more is you locate in the -- in the load
25 center.

1 MS. FOLEY: Yeah, that -- that was my question, is
2 the -- the system condition that would be served by a
3 synchronous condenser, my question was: Is that more likely
4 to happen in a load pocket or in a remote area?

5 MS. THOMAS: It's more -- it's -- it give you more
6 benefit under the different kind of conditions. Because
7 see, for example, if you have a -- because it's a load
8 increase problem or because your system is overloaded, and a
9 synchronous condenser in the load center is good. But then
10 suppose you have, in a remote location where you're --
11 you're -- you have a stability problem, which is basically
12 cycles after an outage, for example, then you really never
13 know where the -- the problem would be. And then the
14 synchronous condenser in that area would tend to stabilize
15 that -- that area and then -- so -- and prevent the problem
16 from spreading to other areas.

17 So it is -- so it is good to have synchronous
18 condenser capability over the system because what you want
19 to do is that controllability, and have something that has
20 frequency control.

21 MS. FOLEY: And so the slide that Mr. Desmond had
22 up that was from the recent summit where the ISO presented,
23 in those Venn diagrams, in terms of dispatchability ad
24 flexibility, what claims is the applicant making,
25 specifically what type of dispatchability and what type of

1 grid-support products are you saying your plant offers?

2 MS. THOMAS: Okay. I can only speak to the -- the
3 grid stability and -- and voltage control and frequency
4 control parts, and the inertia, because that is -- is
5 basically something that would happen for the cycles to
6 the -- to the seconds, and in terms of contingency, more in
7 terms of contingencies. And -- and when you have a
8 contingency you never know where your -- I shouldn't say you
9 never know, you -- you can make a guess as to where you
10 could lose a big units and which line could be impacted.
11 But when that happens, then, you know, then a rotating
12 machine in an area could help stabilize the system.

13 Now, as far as the part on ramping and
14 coordination of -- of load and so on, that would be, I
15 think, Mr. Olson or Mr. Desmond would be in a better
16 position to answer that.

17 MR. DESMOND: Sorry. Sorry, the question you're
18 asking in terms of the ramping of the load?

19 MS. THOMAS: Yeah, the ramping of the load.

20 MR. DESMOND: I think maybe a better way to
21 characterize that might be the heliostats themselves are all
22 individually controlled. And so one of the earlier
23 questions posed by Mr. Powers, for example, and I think also
24 identified by Ms. MacDonald was what flexibility the system
25 has to provide firming capabilities.

1 The question specifically asked was: Is all the
2 flexibility associated with natural gas usage? And the
3 answer is, no. And I think that's been addressed over the
4 last couple days in some of the other hearings where we've
5 had the discussion about the size of the gas boiler.

6 But when we talk about what's proprietary and how
7 the system is designed and operated, one of the elements
8 that we're looking at is we're forecasting different types
9 of weather and cloud conditions. And so as a result those
10 heliostats, while at any given point in time there's only
11 enough focused on the receiver to produce the appropriate
12 temperature and pressure in order to turn that turbine. But
13 at the same time there are many other heliostats in standby
14 mode. And by standby mode I mean at the top of the tower,
15 because these heliostats have a fixed focal length. You can
16 point them exactly.

17 Essentially, there's a diffuse, if you would,
18 circle that exists around -- around the top of the tower
19 that exists in a three-dimensional space. That -- the
20 ability is, as you're looking at cloud cover and changes, to
21 turn more or less heliostats to dispatch the heliostat
22 field, if you would, more of less heliostat onto the solar
23 receiver to maintain that constant output.

24 MS. FOLEY: Okay. Thank you. So the synchronous
25 condenser provides the second -- second-by-second, the hertz

1 service, and then the heliostats is where you get anything
2 beyond --

3 MR. DESMOND: You're compensating for --

4 MS. FOLEY: -- regulation?

5 MR. DESMOND: -- some variability throughout the
6 day.

7 MS. FOLEY: Is the plant AGC capable?

8 MS. THOMAS: Yes. AGC is capable, but it's more
9 like a minute because AGC typically does not operate as
10 fast. Because what happened is once you lose a large
11 facility, then the voltage would start dropping. And
12 sometimes you could be very fast, and -- and it's not really
13 predictable. So -- so then what happen is -- and where --
14 where the system will require voltage support is also not --
15 not intuitively obvious.

16 For example, if you lose the high-voltage DC line,
17 way back when we did the study the places that would have
18 experienced voltage collapse would be somewhere around Butte
19 County which had -- is not the load center. And so -- so
20 that's the reason why we put in facilities in there to avoid
21 -- to help avoid the problem. And so -- so then, therefore,
22 if you were to say that synchronous condenser should be --
23 you know, where should it be, is it better here or there,
24 but it really depends on the system condition and how the
25 contingency happens.

1 MS. FOLEY: Can you provide regulation?

2 MS. THOMAS: Regulation is a megawatt type issue
3 that -- that basically you match a load with -- with the
4 resources, whereas -- whereas a synchronous condenser
5 provide a reactive power which is a stabilized voltage.

6 MS. FOLEY: I meant can the power plant provide
7 regulation?

8 MR. DESMOND: I'm not a plant operator.

9 MS. THOMAS: I'm not a plant operator either,
10 so -- or a plant designer, so --

11 MS. FOLEY: Okay. Thank you.

12 HEARING OFFICER CELLI: Okay. We -- before we
13 took our break we had gone around all of the parties once.

14 I'm just going to check in on the telephone and
15 see if there's anyone now representing the Old Spanish Trail
16 Association on the phone?

17 Is Richard Arnold on the phone?

18 Is the Amargosa River Conservancy on the phone?

19 Or Mr. Zellhoefer, are you on the phone?

20 Okay. It appears they are not. I'm just checking
21 because we have -- what we're left with are the parties who
22 are here today, and Cindy MacDonald, who is on the phone.

23 Ms. MacDonald, you're here; right?

24 MS. MACDONALD: I am here. Thank you.

25 HEARING OFFICER CELLI: Okay. Good. Welcome

1 back. So --

2 MS. MACDONALD: Thank you.

3 HEARING OFFICER CELLI: -- before we left Staff
4 had requested an opportunity to speak in response to some of
5 these issues using Mr. Hesters and Mr. Vidaver, so --

6 MR. RATLIFF: I think I was emphasizing their
7 availability to discuss some of these issues. I haven't
8 asked them to make any affirmative statement.

9 HEARING OFFICER CELLI: Okay. Well, we're not
10 looking for any -- you know, like PowerPoint or anything,
11 but basically, do you have an opinion about what you've
12 heard today so far and anything that you would like to add
13 that would be helpful to the committee in making this
14 decision, please?

15 MR. HESTERS: This is Mark Hesters. I don't have
16 anything to add that we hadn't already up in our rebuttal to
17 rebuttal, and I can't remember what's the called. Our basic
18 position was that we -- the power tower does provide more
19 services in terms of grid support than a photovoltaic
20 alternative would, but we don't think that made the
21 photovoltaic infeasible. That was the gist of our comments,
22 and I think that's where we still stand.

23 HEARING OFFICER CELLI: And Mr. Vidaver?

24 MR. VIDAVER: I have nothing to add. Thanks.

25 HEARING OFFICER CELLI: Thank you. Applicant?

1 MR. HARRIS: Yeah. I wanted to go back to a
2 couple questions Mr. Powers had posed to our -- our
3 witnesses, and then give them a chance to respond to some of
4 the things they've heard here today, as well. So -- and I
5 tried to take notes on these. So if you guys can help me if
6 I lose something.

7 The first question was, you know, is there a
8 need -- is there a need for more flexible generation
9 resources in California, I think was the first question.
10 And I'd like my panel respond to that question that was put
11 up by -- by Mr. Powers.

12 MR. DESMOND: Sure. If we just go back to slide
13 number three of that PowerPoint that's up.

14 HEARING OFFICER CELLI: Is this -- has this -- did
15 we mark this PowerPoint exhibit as an exhibit?

16 MR. HARRIS: We haven't. It's related to the
17 IEPR. But we -- we don't object to it coming in. It's
18 publicly available. So it would 87.

19 HEARING OFFICER CELLI: We're at 87. And what do
20 we want to call this PowerPoint?

21 MR. HARRIS: It's on the first page.

22 MR. DESMOND: It's the CPUC Long-Term Resource
23 Adequacy Overview.

24 HEARING OFFICER CELLI: Long-Term --

25 MR. DESMOND: Resource Adequacy.

1 HEARING OFFICER CELLI: Resource Adequacy. And
2 this is just for identification. So this will be referred
3 to as Exhibit 87.

4 MR. HARRIS: Right. And then we have slide 3 of
5 87 up now. So go ahead, Mr. Desmond.

6 MR. DESMOND: Right. And just to continue, what
7 you're seeing here is a graph showing the net system load as
8 it changes over time based on assumptions around increasing
9 levels of variable penetrations, specifically PV
10 penetration. The grid has always been designed to
11 accommodate changes in ramps. It's really, to a large
12 degree, the -- the magnitude of the ramps that are now being
13 forecasted. But the net affect is -- and by the way, this
14 is one day. And these charts are similar to other charts I
15 have presented -- been presented to the CEC and CEC
16 workshops leading up to the IEPR update.

17 Ad you're seeing here, just in terms of the
18 timing, the line 2015, and the need as the CAISO and the
19 CPUC have identified the need for flexibility, whether those
20 are flex or ramp products, they could be forward capacity,
21 there's a range of things. There's a lot of inter-hour
22 scheduling modifications that can be done. So there's a
23 whole host of measures people are drawing to -- to look at
24 and address this particular issue.

25 But I just highlight this for -- in response to

1 the question, is flexibility something that -- that is
2 needed?

3 The other is that the Energy Commission in its
4 IEPR update that I had referred to previously had specific
5 recommendations on developing a forward-capacity market to
6 ensure sufficient flexible capacity is available to
7 integrate these intermittent resources. If you looked at
8 the PUC's procurement process what you would also find is
9 that there is different capacity values associated with
10 different resources, the -- the main concern being as you
11 increase the amount of PV on the system that you push the
12 net-system load to later in the day which requires -- it
13 affects the marginal capacity value. So having resources
14 that are available in there can then accommodate and don't
15 necessarily distort the value of PV coming onto the system.

16 And that's why I said earlier, they are
17 complimentary. They are not -- they are different. It's
18 not one is better than the other, but they are complimentary
19 to allow the system to operate.

20 MR. OLSON: And I would just add, if I -- if I
21 could, when I look at this chart it really puts me in mind
22 that there are two problems that I see there, and this
23 points out two things to me. One of them is the one that
24 Mr. Desmond just alluded to, which is the pushing of the net
25 load off from the middle of the day, when it used to be it

1 was always the problem that people were worried about, into
2 the evening hours. And this is something that I think we've
3 been sort of grappling with and coming to terms with as a
4 state kind of planning and policy community over the last
5 few years as we've contemplated higher and higher
6 penetrations of -- of solar.

7 MR. HARRIS: Arne?

8 MR. OLSON: Yeah?

9 MR. HARRIS: Arne, it's Jeff over here.

10 MR. OLSON: Go ahead.

11 MR. HARRIS: For those of us who don't think like
12 this, can -- can you maybe break this down a little bit and
13 talk about what's on the X and the Y axis and what you mean
14 by moving it out in time? Because it just looks like a duck
15 to me, so I'm --

16 MR. OLSON: I'll start talking about the -- the
17 color of the tail feathers and what the feet look like.
18 Okay.

19 So this is a chart that shows a couple of things.
20 One is -- is a daily load pattern, but then superimposed
21 over that is the production from renewable resources. And
22 it's already kind of a net-load pattern. If you're -- if
23 you're used to seeing a 24-hour load shape it tends to come
24 up in the morning, dip down a little bit around noontime,
25 and then spike up higher in the afternoon and peak around

1 4:00 p.m. or maybe 5:00 p.m., and then kind of drop off into
2 the evening. Right. So already this chart isn't that
3 normal chart that people have been used to seeing over the
4 decades because it already has -- it already has some
5 renewable resources capacity netted off of it. So this is
6 really a net-load chart which is load minus renewable
7 resource production --

8 MR. HARRIS: So that --

9 MR. OLSON: -- which is why it looks a little bit
10 different.

11 MR. HARRIS: I was going to call you doctor again.
12 So, Mr. Olson, the numbers across the bottom, those are
13 actually hours in the day? So like 17 represents 5:00 p.m.;
14 is that right?

15 MR. OLSON: Yeah, those are hours of the day. So
16 starting on the left is midnight on the -- at the beginning
17 of the day. On the right is midnight at the end of the day.
18 And then it's just megawatts on the -- on the Y axis. So
19 it's the hourly load that you'd have to meet throughout the
20 day.

21 But the point really is that as more and more
22 solar comes online it changes that shape because solar has a
23 very particular shape to its output. And solar PV in
24 particular, if it's -- if it's fixed tilt especially, then
25 it's shape is very fixed and very -- and very limited. And

1 so as you add more and more of that type of resource onto
2 the system it changes the shape in ways that make it more
3 challenging to manage relative to what we've dealt with in
4 the past. And, in particular, it tends to reduce load
5 during the middle of the day when it's been high in the
6 past, but it doesn't reduce the load after sundown,
7 obviously.

8 So what that creates is kind of a two-pronged
9 problem. One is that during the middle of the day you might
10 have -- you might have the potential for over-generation and
11 you might have actually too much generation, when you
12 consider all the minimum operating capabilities of all the
13 thermal plants that are online, plus the -- the renewables,
14 the PV and even the wind that are not dispatchable, might
15 give you too much resource in the -- in the middle of the
16 day. But then you'll have this big ramp that you're
17 looking -- that you're looking at that moves you out into
18 the evening hours.

19 So number one, the issue is that the -- the peak
20 system conditions, and I'm talking about net peak now really
21 rather than gross peak, but the conditions that you have to
22 manage to now have a peak at eight o'clock, so after
23 sundown. And this is when incremental, now PV resources,
24 can't really do anything to help you with that problem.
25 They don't provide any additional capacity once you reach

1 this state on the system. And this is where resources that
2 have the -- the capability to provide energy during the
3 evening hours become more and more important. And I know
4 that storage isn't part of the plans for this project, but
5 it is as part of the technology roadmap for -- for
6 BrightSource in the long run. So as we get to -- to higher
7 and higher penetrations of -- of solar resources, in
8 particular the ability to extend the operating hours out
9 into the evening after sundown, it will become more and more
10 important.

11 And I'd like to maybe take a step back a little
12 bit from, you know, maybe take a step back a little bit
13 from, you know, even our -- our planning for 33 percent
14 and -- because that's really just a down payment on the
15 longer term goals of reducing greenhouse gas emissions by
16 something like 80 percent before today's levels by 2050.
17 That's, you know, two or three orders of magnitude of a
18 challenge beyond what we're facing now looking at achieving
19 a 33 percent RPS by 2020.

20 So to me the question isn't a matter of, you know,
21 do we need these specific flexible resources, flexible
22 services that this project can provide today, but it's more
23 of when will we need them and what types of services will we
24 need when we're -- when we're starting to envision what the
25 system will look like with much fewer greenhouse gas

1 emissions than we have today.

2 So to me it would be very shortsighted to take all
3 of our eggs in one basket now and say we don't need these
4 services that this -- that this system and that these types
5 of resources can provide today but when we might need them
6 in 10 years and 20 years when our challenges are only
7 greater.

8 MR. HARRIS: So the question is, I mean,
9 overlaid -- what I'd like to say is sort of overlaid on
10 this, you know, the generation profile of the facility
11 you're proposing contrasted with the best-case alternative;
12 right? And so, I mean, what would that look like? Are we
13 going to get to the duck's head here with your -- help us
14 understand that incremental difference.

15 MR. OLSON: Yeah. So there's two -- two things
16 there. So one of them is the -- the profile in the absence
17 of any kind of dispatchable -- dispatchability or any
18 actions to -- to dispatch the resource. Solar thermal tends
19 to have much more of a flatter production profile during the
20 hours when it's operating. It looks kind of like a mesa;
21 right? So it kicks -- once the temperature gets hot enough
22 the boiler kicks in and the production goes from zero to,
23 you know, whatever, the P-man (phonetic) of the -- of the
24 boiler is, 50 megawatts or 100 megawatts. And then it sort
25 of maintains that pretty well throughout the day until it

1 gets past sundown and the steam runs out, and then it kind
2 of falls off.

3 Whereas, if you contrast that to PV, and
4 particular fixed-field PV, it looks much more like a bell
5 curve or like Mount Rainier. If you've ever been in Seattle
6 and looked at the profile of Mount Rainier, it's kind of a
7 nice gradual up.

8 MR. HARRIS: I understand that. We're not -- but
9 we're not -- we're talking about a tracker; right? That's
10 the alternative.

11 MR. OLSON: Well, then I was going to say, so the
12 third thing is tracker is kind of in the middle; right? It
13 has -- it's -- it's sort of halfway in between what -- what
14 that nice gradual Mount Rainier shape is and the shape of
15 that flat -- of that flat mesa. So even -- so a solar
16 thermal facility, first of all, today, without any
17 dispatchability, it -- it maintains its -- its high
18 operating -- its operating capability later into the evening
19 than -- than a tracker does. And that's why you see the
20 numbers that the PUC uses for capacity value where solar
21 thermal are, like in the 70 to 80 percent range or to 87
22 percent range versus 65 percent for a tracker, is that
23 little bit of a corner where the tracker falls off and the
24 solar thermal facility maintains its shape. So that's --
25 that's the first point that I wanted to make there.

1 But then a second point is if you look at the
2 belly of the duck here, one of the possible solutions that I
3 think is going to come out to this ramping problem that
4 we're -- that this chart is graphically illustrating in the
5 evening is if you can make the renewable resources that are
6 operating during the daytime dispatchable, dispatchable
7 downward, then you'll be able to maintain the -- the thermal
8 facilities at their -- at their -- you'll have to -- you'll
9 be able to turn off fewer of them and maintain them in a
10 better state of readiness to meet that evening ramp. So
11 it's going to be really important for the -- for the
12 renewables to be able to be dispatched downward.

13 And that's a capability that is really built into
14 the design of the -- of the power tower facility is the
15 ability to take those -- those heliostats and focus them
16 either more directly or onto or away from that receiver at
17 the top of the tower. So it's very easily integrated into
18 the design of the system now.

19 Now, there's a question about how soon, how fast,
20 how much of this type of -- of flexible service we'll need,
21 and I don't think that we really know the answer to that
22 yet. We know that the ISO is worried. We know that the
23 agencies are worried. We know it's a real issue. But it's
24 just -- again, it's something that this facility can provide
25 very easily.

1 MR. HARRIS: Great. Thank you.

2 HEARING OFFICER CELLI: If we're done with the
3 duck --

4 MS. BELENKY: Could I -- excuse me. Could I ask a
5 follow-up question?

6 HEARING OFFICER CELLI: To that? Certainly.

7 MS. BELENKY: Yes, before we move on, because then
8 the conversation gets lost. Yes.

9 I just wanted to understand, you're saying that
10 you can provide energy after dark?

11 MR. OLSON: No. This facility will not be able to
12 provide energy after dark. I was -- I was speaking more of
13 the long-term technological roadmap for solar thermal which,
14 with storage, will have that ability.

15 MS. BELENKY: Oh, with storage, certainly. But
16 this project, this proposed project, the curve would drop
17 off, like you said, the mesa, as the sun goes down it would
18 drop off --

19 MR. OLSON: That's correct.

20 MS. BELENKY: -- is that correct?

21 MR. OLSON: That's correct.

22 MS. BELENKY: Okay. Thank you.

23 HEARING OFFICER CELLI: Mr. Harris?

24 MS. MACDONALD: This is Cindy MacDonald.

25 HEARING OFFICER CELLI: One moment.

1 MS. MACDONALD: I have a quick. Hello, it's Cindy
2 MacDonald. I have a quick follow-up question on that,
3 please.

4 HEARING OFFICER CELLI: Okay. Go ahead with your
5 quick follow-up question?

6 MS. MACDONALD: Thank you. He made mention that
7 the turbine would generate as long as the steams lasts into
8 the evening. Is there an approximately time about how long
9 the steam lasts?

10 MR. OLSON: I mean, I don't -- I don't have those
11 shapes or those numbers right -- right in front of me.

12 MR. HARRIS: Well, my question was going to be
13 about what time of year are you assuming the sun goes down.
14 I mean, obviously, there's longer days and there's short
15 days. I don't know if this duck chart has a
16 representative -- you know, is it -- is it July or is it
17 August or --

18 MR. OLSON: No. I think the -- the -- all the --
19 all the PV technologies will -- or all the solar
20 technologies without storage will essentially stop producing
21 at sundown. The question is: What does that pattern look
22 like as they drop off? PV thin-film fixed tilt drops off
23 very, very quickly. Tracking has the ability to maintain
24 it's maintain its productions longer -- longer, into the
25 late afternoon hours than -- than a fixed tilt does. And a

1 power tower has the ability to maintain its minimum level
2 production even longer than tracking, into the late
3 afternoon hours when the sun is low.

4 MS. BELENKY: I think my expert Bill Powers might
5 have been trying to jump in.

6 HEARING OFFICER CELLI: Let's here from Bill
7 Powers, please.

8 MR. POWERS: Yes. Yes, I would like to comment on
9 this duck graph. And I did mention that there is a PUC
10 proceeding underway now for flexible capacity. We're
11 spending a lot of time on this duck graph. And I would like
12 to point out that it is completely un-vetted and that I
13 would use it to make any points about flexible capacity
14 needs going forward. My opinion is the underlying solar
15 profile is not accurate. The -- the ramping rates that the
16 ISO is assuming are also not accurate.

17 And just a final point about fixed PV, I think the
18 point has been made, it has a more gradual decline rate.
19 And that's actually a big advantage in reducing the amount
20 of ramping or flexible capacity that would be needed.

21 HEARING OFFICER CELLI: Response, Mr. Vidaver?

22 MR. VIDAVER: This is Dave Vidaver with Energy
23 Commission staff. The -- the CPUC's Energy Division has
24 just issued in the form of -- well, in the form of a
25 proposed decision to adopt a flexible capacity metric that

1 would -- load-serving entities would be required to procure
2 to in the form of a resource adequacy requirement. And
3 the -- the duck chart, which is -- which is actually what it
4 is called, is a standard display in that proceeding. The
5 current estimates put forth by the ISO that have been vetted
6 with stakeholders and, I believe, are currently the subject
7 of -- I think they have been briefed at the CPUC, indicate
8 that through 2017 there is probably enough capacity,
9 flexible capacity, to feed the duck.

10 When the state's once-through cooled-steam
11 turbines go offline in 2020 we're going to lose a
12 significant share of the existing flexible capacity on this
13 system, about 10,000 megawatts. And those steam turbines
14 tend to be able to ramp down to about five of ten percent of
15 full output, something new combined cycles can't do.

16 Regarding the ISO using an incorrect solar
17 profile, there are people who think that they should be
18 using a different profile for one or more solar
19 technologies. But to say that it hasn't been vetted, I
20 think is -- is a misstatement.

21 MR. POWERS: I do have to respond to this. This
22 is Bill Powers.

23 Mr. Vidaver, I do encourage you to become a party
24 or the CEC to become a party in the flexible capacity
25 proceeding at the PUC if you feel that this duck chart is

1 accurate. But the exact issues that you are talking about
2 or what we are talking about in that proceeding and what we
3 are attempting to do is an evidentiary proceeding so that we
4 can get the ISO under oath and square away some of the
5 deficiencies in the duck graph. So we have a full
6 proceeding going on and you should be in it before opining
7 everything is fine with this graph.

8 HEARING OFFICER CELLI: Go ahead, Mr. Vidaver.

9 MR. VIDAVER: I guess my point is that there is a
10 full proceeding going on. And there is -- there is a full
11 proceeding going, and there is a public vetting of -- of the
12 flexible capacity needs that's estimated by the ISO.

13 HEARING OFFICER CELLI: Ms. Foley?

14 MS. FOLEY: Mr. Vidaver, could you give me -- is
15 that the RA proceeding or the LTPP?

16 MR. VIDAVER: The need for flexible capacity is
17 being discussed in the RA proceeding.

18 MS. FOLEY: And would you give me the date of that
19 proposed decision?

20 MR. VIDAVER: It's really recent. I think it's --

21 MS. FOLEY: Was it today?

22 MR. VIDAVER: No. No. It's been issued for -- it
23 was issued a couple weeks ago.

24 MS. FOLEY: Judge Gamson issued a proposed
25 decision to adopt a flexible capacity requirement?

1 MR. VIDAVER: It's -- it's a draft -- it's a
2 proposal floated by the energy division for a determination
3 of a flexible capacity provided by different types of
4 resources.

5 MS. FOLEY: I just wanted to clarify because a
6 staff proposal is different than a proposed decision issued
7 by an ALJ in a PUC --

8 MR. VIDAVER: The staff proposal is an attachment
9 to, I believe it is a proposed decision in the RA
10 proceeding.

11 HEARING OFFICER CELLI: Thank you. And then, Mr.
12 Powers, was there anything else on that?

13 MR. POWERS: No, I have no further comment.

14 MR. HARRIS: Mr. Powers next question was related
15 to the flexibility of the facility, and we may have answered
16 that already. But if you want to quickly summarize the
17 answer there? You know, we talked about the natural gas and
18 heliostats.

19 The next one I think I had was for Mr. Olson, a
20 question about how the capacity factor was calculated, and
21 maybe -- maybe you don't know that or maybe you do, the 32.7
22 percent capacity factory?

23 MR. OLSON: Yeah. I'm not aware of exactly how
24 the capacity factor of the Hidden Hills Project was
25 calculated.

1 MR. HARRIS: Okay. There was a reference --

2 MR. POWERS: Could I -- could I just --

3 HEARING OFFICER CELLI: Mr. Powers?

4 MR. POWERS: I just wanted to clarify.

5 HEARING OFFICER CELLI: Go ahead.

6 MR. POWERS: Yeah. I wasn't -- I wasn't asking
7 for the calculation procedure. I was asking if there is an
8 operational utility-scale power tower of this design that
9 has demonstrated it can maintain that capacity factor over
10 time?

11 MR. HARRIS: And you can answer to your knowledge
12 if --

13 HEARING OFFICER CELLI: If you know?

14 MR. HARRIS: -- if you know.

15 HEARING OFFICER CELLI: Applicant? Mr. Desmond?

16 MR. DESMOND: Not at this size. This is the first
17 of this size that's being proposed. The closest one is the
18 Hidden Hills -- excuse me, is the Ivanpah project which is
19 the first that will come online this summer.

20 HEARING OFFICER CELLI: Did you get that, Mr.
21 Powers?

22 MR. POWERS: I did.

23 HEARING OFFICER CELLI: Okay.

24 MR. DESMOND: I would add that --

25 MR. POWERS: So in sum -- in sum there is no

1 operational demonstration of a 32.7 percent capacity factor?

2 MR. DESMOND: Without knowing the exactly
3 calculation that was used behind that -- we have had in
4 operation for six years an R&D facility at our SEDC facility
5 in Israel. We have now had almost one full year of
6 operation at the Coalinga facility here in California
7 meeting the performance requirements. Those are not the
8 same scale but they do have a history of performance.

9 HEARING OFFICER CELLI: Okay. Point made.

10 Mr. Harris, go ahead.

11 MR. HARRIS: Okay. There was some reference to an
12 SCE program for 500 megawatts and a lot of glowing
13 recommendations about that. And I think Mr. Olson may have
14 some further information on -- or -- I'll just ask my team,
15 whoever on my team is in a better position to answer that
16 question, please -- please pick up the issue of -- of that
17 500 megawatt program that SCE had going.

18 MR. OLSON: Well, as I -- as I mentioned in my
19 rebuttal testimony, that this is a 2008 application for --
20 to acquire 500 megawatts of distributed PV it was supposed
21 to be --

22 HEARING OFFICER CELLI: Mr. Olson --

23 MR. OLSON: Yeah?

24 HEARING OFFICER CELLI: -- we're losing you. You
25 need to get right into that microphone, please.

1 MR. OLSON: It was an application to acquire 500
2 megawatts of distributed PV, of which 250 megawatts would be
3 utility owned and 250 would be IBP. PG&E filed a similar
4 application. And as I mentioned in the -- in my direct
5 testimony, it was -- it's one thing to cite the -- the
6 benefits that -- that a utility cites as it's trying to get
7 a program approved. But then it's another thing -- and
8 let's look at what happened to that program once it was
9 actually in operation.

10 It didn't actually acquire 500 megawatts of
11 distributed PV. It was only able to acquire 98.8 megawatts
12 of distributed PV. And that program has since been
13 incorporated into SCE's renewable auction mechanism. So it
14 was not a successful program. It did -- it wasn't
15 successful at -- at achieving its goal of substantial
16 deployment of rooftop PV. And, in fact, those megawatts are
17 now part of RAM, which is -- is being successful at -- at
18 acquiring small scale PV. But as far as I know, most of the
19 projects that are being acquired through that mechanism are
20 ground-mounted projects located in sunny locations, not the
21 kind that are near load centers that Mr. Powers would like
22 the state to procure.

23 MR. POWERS: I would also like to respond to this.

24 HEARING OFFICER CELLI: Go ahead.

25 MR. POWERS: I would definitely contest the term

1 successfully. I think, Mr. Olson, you are aware that SCE
2 applied to have the program altered so that they could put
3 it into the RAM program, and they have done that. And the
4 PUC allowed that change, for whatever institutional reason
5 motivated them to do so. I don't see that as having any
6 relationship to whether SCE was successful in -- in putting
7 large-scale photovoltaic arrays on top of warehouse
8 rooftops. They went into a different direction. But
9 that -- with folding into the RAM program, to me that is an
10 issue -- that isn't an issue of success, that's simply a
11 preference that they chose to follow.

12 HEARING OFFICER CELLI: Mr. Olson, did you get all
13 that?

14 MR. OLSON: Yeah, I think I did. Yes.

15 HEARING OFFICER CELLI: Okay.

16 MR. OLSON: But, I mean, I think the answer is
17 just that, yes, I think we both agree that that program has
18 now been subsumed by RAM, so RAM is now the primary
19 mechanism for procuring small-scale photovoltaic
20 installations, and that, you know, the vast majority of the
21 ones that are being procured now are ground-mounted
22 facilities that don't have the benefits that Mr. Powers
23 cites in his testimony in his -- in his description of
24 distributed PV.

25 HEARING OFFICER CELLI: Okay.

1 MR. POWERS: And again, I do want to underscore
2 that what I was doing is citing directly to SCE's
3 description of the benefits. These are not Bill Powers
4 descriptions of the benefits.

5 HEARING OFFICER CELLI: Thank you, Mr. Powers.

6 Mr. Harris?

7 MR. HARRIS: I'm going to turn to my panel now and
8 see if there's any other issues that were raised by Mr.
9 Powers or others that they want to talk about including, you
10 know, the situation with SONGS or anything along those
11 lines.

12 MS. THOMAS: This is Chifong Thomas. I would just
13 like to make some comments on Mr. Powers' testimony. On
14 page 10 there's a table that shows -- shows substations
15 where PV can be located. There's no indication of the
16 location of -- of these substations. So as I mentioned
17 that -- before, there is -- so you really don't know
18 whether -- what impact -- whether any portion of this could
19 impact the grid or not.

20 I also note that in the -- in the paragraph or the
21 sentence right underneath the Table 2 is says that the
22 20,000 megawatts of distributed PV in the connection
23 capacity available now in California, that would require
24 little or not substation upgrade to accommodate the PV.
25 Now, I would point out a substation upgrade is not the same

1 as a transmission grid upgrade. So you may not have any
2 upgrade in the substation because the transformer is big
3 enough and because the bus (phonetic) is big enough.
4 However, any downstream impacts to the grid is not
5 considered.

6 MR. OLSON: I guess, you know, a lot of this is
7 just sort of the difficulty of -- of using such an amorphous
8 kind of categorical resource as an alternative in a specific
9 siting case like this, you know? Because we don't -- Mr.
10 Powers took issue with -- Mr. Powers didn't give a
11 definition of what distributed PV would be that the
12 commission could use to decide whether they -- whether they
13 like that better than Hidden Hills or not. I had to kind of
14 impute one in my rebuttal testimony based off of the
15 benefits that he listed for distributed PV. He took issue
16 with my -- with -- with the definition that I imputed based
17 on his testimony.

18 But that just sort of speaks to the -- to the
19 difficulty here, because there's no specific project that
20 you can go and identify and look at and see what the impacts
21 are on the transmission grid or on the environment on the
22 ground, on the -- on the birds and plants and those kind of
23 things. It's all -- it's all called of amorphous. And
24 that's why it's really not suitable to be considered as an
25 alternative in -- in proceeding of this nature.

1 MR. POWERS: I would like to make a quick comment
2 on that which is BrightSource may feel that distributed
3 generation and distributed PV is amorphous, but the state
4 has a 12,000 megawatt target for the amorphous distributed
5 generation by 2020. And we are not on our current pathway,
6 unless we continue to develop programs that support that
7 goal, going to make it. So it's important, amorphous or
8 not, to understand that this is a state target that we all
9 talk about as part and parcel of reaching our renewable
10 generation goals.

11 MR. OLSON: Well, and I certainly would agree with
12 that. And I wasn't -- I wasn't trying to imply that the
13 projects themselves that are being procured under CSI and
14 all the other initiatives are amorphous. It's really more
15 the use of that sort of categorical technology inside of a
16 proceeding like this that makes it -- that makes it
17 amorphous.

18 And I think that goes with -- to the zero-net
19 energy goals that Mr. Powers cited in his -- in his
20 testimony, as well. There are goals to achieve various
21 things, you know, large -- large amounts of small-scale PV,
22 zero-net energy, energy efficiency, lots of other goals.
23 None of those goals provides any reason for this commission
24 to find that this project isn't in the public interest or
25 that --

1 MS. BELENKY: Objection.

2 MR. OLSON: -- or that those projects are --

3 MS. BELENKY: Objection.

4 MR. OLSON: -- or that --

5 MS. BELENKY: This -- is this -- it doesn't seem
6 that this is your technical area of expertise. Now you're
7 giving his opinion.

8 MR. HARRIS: But it is -- it is his opinion he's
9 providing.

10 MS. BELENKY: It's your opinion, but not on a
11 technical area. It's his opinion of what the commission
12 should do. That's --

13 HEARING OFFICER CELLI: What's -- so your
14 objection, Ms. Belenky, is --

15 MS. BELENKY: But it's not a fact-based opinion
16 suitable for an evidentiary hearing.

17 MR. HARRIS: I would support my expert's ability
18 to give his expert opinion, so --

19 HEARING OFFICER CELLI: Yeah. Overruled. I'm
20 going to let the experts speak for themselves on this.

21 You can continue.

22 MR. OLSON: Thank you. I was just going to say
23 that none of those -- the existence of any of those programs
24 by themselves are a reason for this commission to make a
25 determination that central station --

1 RECORDED MESSAGE: Please record your message.

2 When you have finished recording simply hang up or press --

3 HEARING OFFICER CELLI: That's Carol Watson.

4 RECORDED MESSAGE: -- the pound key for further
5 options.

6 HEARING OFFICER CELLI: Would you turn off Carol
7 Watson.

8 DR. ROBERTS: Yeah, I'm sorry.

9 RECORDED MESSAGE: To transfer to the attendant,
10 press zero.

11 MR. OLSON: How did you do that, Lisa?

12 MS. BELENKY: I don't know.

13 HEARING OFFICER CELLI: I'm sorry. Go ahead.

14 MR. OLSON: All right.

15 HEARING OFFICER CELLI: Why don't you start over.

16 MR. OLSON: The third time is a charm. I was just
17 going to say that the existence of those programs isn't a
18 reason for this commission to make a determination, that
19 central station solar thermal technology, such as this
20 project, isn't needed to meet the state's 33 percent RPS
21 goals. They're not mutually exclusive.

22 HEARING OFFICER CELLI: Okay. Mr. Harris?

23 MR. HARRIS: I think we're probably done, so thank
24 you very much.

25 HEARING OFFICER CELLI: Thank you. Now, let me

1 think. We were -- we got from Staff to Applicant to Mr.
2 Powers.

3 Was there anything else from Mr. Powers, Ms.
4 Belenky?

5 MS. BELENKY: We could ask him.

6 HEARING OFFICER CELLI: Mr. Powers, anything
7 further you'd like to add?

8 MR. POWERS: No.

9 HEARING OFFICER CELLI: Thank you. Because we're
10 winding down here.

11 County of Inyo?

12 MS. CROM: No.

13 HEARING OFFICER CELLI: SIFPD? Into the mic, if
14 you wouldn't mind, Mr. Levy.

15 MR. LEVY: No.

16 HEARING OFFICER CELLI: Ms. MacDonald?

17 MS. MACDONALD: Hello. I have one more thing that
18 I forgot to mention when we were discussing objectives. It
19 relates back to when we were originally discussing project
20 description and I had cited to the committee that in
21 addition to the main objectives the applicant had cited
22 project criteria. You know, some of those were site
23 suitability, solarity, jurisdictional issues, etcetera.

24 And so my question was to Staff, under which topic
25 area did they -- did Staff in the alternatives' section

1 analyze any of these key project criteria? And if so -- and
2 if they didn't, why not?

3 MS. HINDE: I considered that in reviewing the
4 applicant's application for their list of offsite
5 alternatives that were evaluated in the applicant's
6 alternatives analysis. And there was -- there was siting
7 criteria listed, and that was incorporated into my further
8 analysis of those offsite alternatives in Staff's
9 assessment. And I can point to pages, if you'd like.

10 MS. MACDONALD: Okay. So I guess a summary of it
11 would be more that it was the alternatives' section that
12 those key project criteria were evaluated under?

13 MS. HINDE: Correct.

14 MS. MACDONALD: Okay.

15 MS. HINDE: Page 6.1-4.

16 MS. MACDONALD: That's it. Thank you. Oh, wait,
17 wait, wait, wait, wait. All right. It's what?

18 MS. HINDE: Pages 6.1-4 --

19 MS. MACDONALD: Okay.

20 MS. HINDE: -- through 6.1-8.

21 MS. MACDONALD: 6.1-8. Thank you so much. I
22 appreciate that.

23 MS. HINDE: I think that's what you're talking
24 about.

25 MS. MACDONALD: Okay. That was -- that was it.

1 That was my final question for Staff on this. Thank you.

2 HEARING OFFICER CELLI: Thank you, Ms. MacDonald.

3 At this time, Applicant, do you have a motion
4 regarding exhibits for alternatives?

5 MR. HARRIS: Yes, I do. I'd like to move into
6 evidence Exhibit 82, which is Mr. Moore's qualifications,
7 previously identified. And then we have 86 which is the --
8 I guess the work papers for Mr. Olson, but we're calling it
9 the Acreage and Megawatt Comparison of California Solar
10 Projects, that one page table that we talked about. And
11 then I guess I should also move in the duck chart and
12 related materials from the CPUC which is 87. So 82, 86 and
13 87.

14 HEARING OFFICER CELLI: Okay. The motion is to
15 move into evidence Exhibits 82, 86 and 87.

16 Staff, is there any objection?

17 MR. RATLIFF: No.

18 HEARING OFFICER CELLI: County of Inyo?

19 MS. CROM: Submit.

20 HEARING OFFICER CELLI: Ms. Belenky?

21 MS. BELENKY: No objection.

22 HEARING OFFICER CELLI: Mr. Levy?

23 MR. LEVY: No objection.

24 HEARING OFFICER CELLI: Ms. MacDonald?

25 MS. MACDONALD: No objection.

1 HEARING OFFICER CELLI: And is there anyone on the
2 phone from the Old Spanish Trail Association, Richard
3 Arnold, Amargosa Conservancy, or Mr. Zellhoefer, please
4 speak up now? Okay.

5 There being no objection, Applicant's Exhibits
6 marked for identification as 82, 86 and 87 are received.

7 (Applicant's Alternatives' Exhibits 82, 86 and 87,
8 Received.)

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

11 MR. RATLIFF: Yes. Staff -- the staff exhibits
12 are 300 and 301, and beyond that 325, which is a pestle of
13 resumes, including those from Mr. Hesters and Mr. Vidaver.

14 HEARING OFFICER CELLI: 300, 301, 325, any
15 objection, Ms. Belenky?

16 MS. BELENKY: No objection.

17 HEARING OFFICER CELLI: Ms. Crom?

18 MS. CROM: Submit.

19 HEARING OFFICER CELLI: Applicant?

20 MR. HARRIS: No objection.

21 HEARING OFFICER CELLI: Ms. MacDonald?

22 MS. MACDONALD: No objection.

23 HEARING OFFICER CELLI: Mr. Levy?

24 MR. LEVY: No objection.

25 HEARING OFFICER CELLI: Staff's Exhibits 300, 301

1 and 325 are received.

2 (Staff's Alternatives' Exhibits 300, 301 and 325,
3 Received.)

4 HEARING OFFICER CELLI: Ms. Belenky, do you have a
5 motion?

6 MS. BELENKY: Yes.

7 HEARING OFFICER CELLI: Go ahead.

8 MS. BELENKY: In addition to the exhibits that
9 were already entered, which would be the opening testimony
10 and rebuttal, we also have Exhibits 536 through -- and this
11 is inclusive -- 536 through 562, inclusive.

12 HEARING OFFICER CELLI: Okay. Center for
13 Biological Diversity is moving into evidence exhibits marked
14 for identification 536 through 562, inclusive. Is there any
15 objection from Mr. Levy -- Levy?

16 MR. LEVY: No objection.

17 HEARING OFFICER CELLI: Ms. Crom?

18 MS. CROM: Submit.

19 HEARING OFFICER CELLI: Applicant?

20 MR. HARRIS: No objection.

21 HEARING OFFICER CELLI: Ms. MacDonald?

22 MS. MACDONALD: No objection.

23 HEARING OFFICER CELLI: Staff?

24 MR. RATLIFF: No. No objection.

25 HEARING OFFICER CELLI: There's no objection.

1 Okay.

2 CBD's Exhibits 536 through 562, inclusive, will be
3 moved into evidence.

4 (Center for Biological Diversity's Alternatives'
5 Exhibits 536 through 563, inclusive,
6 Received.)

7 HEARING OFFICER CELLI: Mr. Levy, any exhibits for
8 alternatives?

9 MR. LEVY: No, I don't.

10 HEARING OFFICER CELLI: Ms. Crom?

11 MS. CROM: No.

12 HEARING OFFICER CELLI: Ms. MacDonald?

13 MS. MACDONALD: Of course. All the exhibits that
14 have been previously submitted, plus the following new
15 exhibits, 704, 705, 716 and 745. I wasn't sure if that one
16 had been submitted or not.

17 HEARING OFFICER CELLI: Okay. The motion by Ms.
18 MacDonald is to move into evidence exhibits marked for
19 identification as 704, 705, 716 and 745. Is there any
20 objection from Applicant?

21 MR. HARRIS: No objection.

22 HEARING OFFICER CELLI: Any objection from Staff?

23 MR. RATLIFF: No.

24 HEARING OFFICER CELLI: County of Inyo?

25 MS. CROM: Submit.

1 HEARING OFFICER CELLI: Southern Inyo Fire
2 Protection District?

3 MR. LEVY: No objection.

4 HEARING OFFICER CELLI: Center for Biological
5 Diversity?

6 MS. BELENKY: No objection.

7 HEARING OFFICER CELLI: Okay. Those exhibits will
8 be received, Exhibits 704, 705, 716 and 745 are received
9 into evidence.

10 (Cindy MacDonald's Alternatives' Exhibits 704, 705, 716
11 and 745,
12 Received.)

13 HEARING OFFICER CELLI: Is there anyone else on
14 the phone from -- who is a party who would like to put in
15 evidence, speak up now please.

16 Hearing none, then those exhibits will be
17 received. The topic area of alternatives is closed. These
18 experts may be excused.

19 We're going to go next to -- Staff had some
20 conditions under noise that they wanted to put in, propound,
21 if you will.

22 And this is really our last hurrah here, folks.
23 We have covered all of the topic areas. We left this one
24 open at the request of Staff.

25 MS. BELENKY: As well as growth inducing remains

1 open.

2 HEARING OFFICER CELLI: Now, I'm in receipt of a
3 document that says -- has a watermark that says "Draft" on
4 it. It says "Draft Hidden Hills SEGS Noise 6, add Noise 9."

5 And that -- I don't know how different that is from the --
6 the one that was passed out when we were in Shoshone on
7 Friday, if at all, except that the one that just got passed
8 out to us is in track changes mode.

9 Do we have any other witnesses besides Mr. Brady?

10 MR. HARRIS: Mr. Bastasch is -- from the applicant
11 is on the phone, if needed.

12 HEARING OFFICER CELLI: So Ed Brady. And what was
13 Mr. Bastasch's first name?

14 MS. WILLIS: Mark Bastasch.

15 HEARING OFFICER CELLI: Mark.

16 MS. WILLIS: Mr. Celli, just as a preface, this
17 was a result of the workshop that we held in Shoshone
18 following, I believe was it Wednesday?

19 HEARING OFFICER CELLI: I think so.

20 MS. WILLIS: And the first, Noise 6, is an
21 addition to the current Noise 6, and this has been discussed
22 with the applicant. And the second is an additional
23 condition, Noise 9, that addresses the issue of traffic
24 noise.

25 HEARING OFFICER CELLI: Ms. Willis, I have two of

1 these. One of these is in track changes, which I just
2 received from Mr. Brady. And one of these I received from
3 you on Friday when we were in Shoshone.

4 MS. WILLIS: Right.

5 HEARING OFFICER CELLI: And I want to know which
6 one I should be --

7 MS. WILLIS: The current -- the current one. The
8 one that you have just received.

9 HEARING OFFICER CELLI: The one that is in track
10 changes?

11 MS. WILLIS: I believe so.

12 HEARING OFFICER CELLI: Okay. So I'm going to
13 disregard --

14 MS. WILLIS: All of the parties received a copy of
15 the one received on Friday. I believe there's just a few
16 minor changes.

17 HEARING OFFICER CELLI: Let's assign this an
18 exhibit number.

19 MS. WILLIS: And I think it's 334.

20 HEARING OFFICER CELLI: Did we already -- did we
21 already give it an exhibit number?

22 MS. WILLIS: No, we haven't.

23 HEARING OFFICER CELLI: Okay. So next in order is
24 334. And this is COC's Noise 6 and 9?

25 MS. WILLIS: That is correct.

1 HEARING OFFICER CELLI: Okay. Go ahead.

2 MS. WILLIS: Now, Mr. Brady, if you could just
3 describe these two noise conditions of certification?

4 HEARING OFFICER CELLI: Mr. Brady, would you
5 please be sworn?

6 MS. WILLIS: He has been previously.

7 HEARING OFFICER CELLI: Well, I'm going to have
8 him sworn again because that was last week. Anything could
9 happen over a weekend, Mr. Brady.

10 (Thereupon,
11 Ed Brady,
12 was duly sworn.)

13 COURT REPORTER: Would you please state and spell
14 your name for the record?

15 MR. BRADY: Edwards James Brady.

16 HEARING OFFICER CELLI: And Mr. Petty, would you
17 swear in Mr. Bastasch?

18 (Thereupon,
19 Mark Bastasch,
20 was duly sworn.)

21 HEARING OFFICER CELLI: Okay. The parties are
22 sworn.

23 Ms. Willis, go ahead.

24 MS. WILLIS: Mr. Brady, could you please describe
25 the condition Noise 6 and the purpose for -- for this new

1 addition?

2 MR. BRADY: Yes. Noise 6 was edited to include a
3 specific line item which was for the batching cement plant.
4 And this was in -- in response to some of Ms. MacDonald's
5 concerns about the -- the impact of potentially --
6 potentially noise to Charleston View, CR1 and MM2, which are
7 the residents located closest to the -- to the plant site.

8 The -- the additions were that the applicant or
9 the -- the owner would maintain a minimum distance of one-
10 and-a-half miles from any part of -- of Tecopa Road, Old
11 Spanish Trail Highway. If -- in the event that there was a
12 requirement to -- to move the batch plant closer than that
13 the applicant would provide analysis which would confirm
14 that the noise levels were not -- were not any more than if
15 the plant were a mile-and-a-half away from the -- from that
16 location.

17 MS. WILLIS: And thank you. Now, could you please
18 describe the additional Noise 9?

19 MR. BRADY: Okay. For noise, Noise 9 was to
20 provide some prescriptive assistance to the -- to the -- to
21 the residents in Charleston View and adjacent -- adjacent
22 residents within a sphere of influence of 1,500 feet from --
23 from the --

24 MS. WILLIS: I believe it's 2,000 feet.

25 MR. BRADY: Or, excuse me, 2,000. I've got to

1 read my own. So this was in an effort to provide assistance
2 to these people who are close to the power plant to provide
3 either temporary or permanent noise barriers that would be
4 constructed on their property. And the first feature would
5 be this is where different analyses have to seam themselves
6 together. In identifying one opportunity for noise -- noise
7 reductions would be to control the speed limit of the -- of
8 the vehicles that ran from the state line, the California-
9 Nevada state line to approximately five miles easterly,
10 extending about a mile to two miles east of the corner of
11 the project site. And this would be an element that would
12 contribute to the -- the control of noise for the residents
13 at Charleston View and the surrounding area.

14 MS. WILLIS: Thank you.

15 HEARING OFFICER CELLI: Now, do we have any -- is
16 there a controversy associated with this? Do we have anyone
17 who has voiced any opposition to either Condition 6 -- or
18 Noise 6 or Noise 9?

19 MS. WILLIS: At this point we haven't heard from
20 the other parties. I'm not sure if Ms. MacDonald has had a
21 chance to review the --

22 HEARING OFFICER CELLI: Okay.

23 MS. WILLIS: -- the condition. As I stated
24 earlier, the only changes we made this morning were in the
25 verification and making sure that if the hours of operation

1 are outside of the 7:00 a.m., 7:00 p.m. hours, that it
2 requires compliance project manager approval.

3 HEARING OFFICER CELLI: So, Applicant, your
4 position on Noise 6 and Noise 9?

5 MR. WHEATLAND: We agree to the changes that are
6 set forth in this document.

7 HEARING OFFICER CELLI: Okay. Ms. Crom, anything
8 on these conditions, Noise 6 or Noise 9?

9 MS. CROM: No. I do note that there will be a
10 request made to the county to possibly lower the speed
11 limit. So we'll work with Staff and the applicant on
12 processing any request.

13 HEARING OFFICER CELLI: Thank you. Mr. Levy,
14 anything on Noise 6 or Noise 9?

15 MR. LEVY: I don't see any --

16 DR. ROBERTS: Microphone, sir.

17 MR. LEVY: I don't see any timeframe for the
18 property owners. Is this open -- the -- the -- for the
19 noise barriers, is it open for the duration of the
20 construction?

21 HEARING OFFICER CELLI: If you look at
22 verification, the first sentence, "six months prior to the
23 start of construction, or such shorter times as approved by
24 the CMP."

25 I don't know if that answers your question. But

1 that's basically when -- by when -- the by-when they have to
2 do it.

3 MR. LEVY: For the -- for the speed limit?

4 HEARING OFFICER CELLI: For the barriers. Do I
5 have that right?

6 MS. WILLIS: That would be for the speed limit.

7 HEARING OFFICER CELLI: Oh, I'm sorry. Go ahead.

8 MR. LEVY: And the property owners won't know
9 whether the speed limit is going to be effective until the
10 truck traffic has already started. I just wondered if -- if
11 the property owners' request for a sound barrier had any
12 time limit on it.

13 MS. WILLIS: I believe that was my understanding
14 construction. Maybe Mr. Harris or Mr. Bastasch can chime
15 in.

16 MR. BRADY: Well, I can chime in.

17 HEARING OFFICER CELLI: So -- so we have Mr.
18 Bastasch. Go ahead.

19 MR. BASTASCH: Certainly. So I think the
20 timelines for the -- the residents in the request there is
21 spelled out in the -- the second part of the verification.
22 There's the -- the 90 days prior to the start of the
23 construction that a portfolio will be developed. And then
24 within 30 days after the approval the project owner is going
25 to -- to contact the eligible property owners. And then the

1 project owner shall complete the construction of the
2 barriers within 60 days of agreement with the property
3 owner. So I think that gets to the -- the timing question.

4 MS. WILLIS: Mr. Celli, I believe that it was out
5 intent to make sure that the residents had an opportunity
6 any time during the construction period to request a
7 barrier. You know, once construction starts then they may
8 decided they need one.

9 HEARING OFFICER CELLI: And would they be able to
10 get one?

11 MS. WILLIS: That is -- that is the way the
12 condition is written.

13 HEARING OFFICER CELLI: Okay. Mr. Levy or Levy,
14 does that -- is that acceptable to you there?

15 MR. LEVY: Yes.

16 HEARING OFFICER CELLI: Okay. Center for
17 Biological Diversity, any comment on Noise 6 or Noise 9?

18 MS. BELENKY: No.

19 HEARING OFFICER CELLI: Thank you. Ms. MacDonald?

20 MS. MACDONALD: Yes. I keep falling back on --
21 well, I have two -- two different prongs on this. I keep
22 falling back on I don't really know to what extent this will
23 mitigate or resolve the problems because no analysis or data
24 is provided.

25 With that said, I am very happy to see something

1 has been put down. And I feel like at least it's a start
2 with the reduced speed limits, the temporary sound barriers,
3 and the concrete batch issue but -- so I'm grateful for
4 that. I can't really find any changes to it because I'm not
5 really sure what other effects or noise levels might be
6 coming out of the concrete batch plant, etcetera, but at
7 least we have something. So I can't object to have more
8 than nothing.

9 MS. WILLIS: And, Mr. Celli, may I also direct Ms.
10 MacDonald and other residents to the noise complaint process
11 that's currently in effect in Noise 2 which does indicate
12 that if the noise is project related, this would be -- the
13 applicant would take all feasible measures to reduce the
14 source of the noise. So there's still further actions that
15 might be needed if there continues to be a noise issue.

16 HEARING OFFICER CELLI: Did you hear that, Ms.
17 MacDonald?

18 MS. MACDONALD: Yes, I did. Thank you very much.
19 I have no further comments on it.

20 HEARING OFFICER CELLI: We have a question whether
21 property owners are the same as residents for purposes of
22 Noise 6 and Noise 9.

23 MS. WILLIS: They may be one in the same. But
24 we -- we decided, and I think the applicant was in
25 agreement, that we would need to have property owners

1 actually approve something going on the property.

2 HEARING OFFICER CELLI: That's true.

3 Anything? Do you have any questions?

4 COMMISSIONER DOUGLAS: No.

5 MR. WHEATLAND: Mr. Celli?

6 HEARING OFFICER CELLI: Mr. Wheatland, yes?

7 MR. WHEATLAND: I just want to point out that Ms.
8 MacDonald is incorrect again regarding her assertion that
9 there was no analysis provided. The committee will recall
10 that Mr. Bastasch did testify as to the existing noise
11 levels and predicted noise levels from traffic. He -- he
12 testified regarding the expected noise reductions when you
13 reduce the speed. And he testified with respect to the
14 reduced noise levels as you move farther away from the road.
15 So we believe there is substantial evidence in the record
16 regarding these issues.

17 HEARING OFFICER CELLI: Thank you.

18 MS. MACDONALD: And let me remind you that that
19 was totally new testimony, totally new evidence, totally new
20 numbers that even Staff's Counsel wanted to see. And given
21 the fact -- the number of errors that have occurred in
22 various construction and noise analysis, just because
23 somebody sits up there and tells you it's okay doesn't mean
24 that appropriate analysis and data have been submitted
25 during these proceedings.

1 HEARING OFFICER CELLI: And -- and I would like to
2 remind both of you that you're going to have an opportunity
3 to brief any and all of these facts as they relate to the
4 law and make your arguments to the committee in your briefs.

5 So with that, is there anything further on noise,
6 Staff?

7 MS. WILLIS: No. We just would be willing to move
8 it into the record.

9 HEARING OFFICER CELLI: Okay. What's your motion?

10 MS. WILLIS: I move to Exhibit 334, and that would
11 be condition addition Noise 6 and Noise 9.

12 HEARING OFFICER CELLI: Any objection, Applicant?

13 MR. WHEATLAND: No.

14 HEARING OFFICER CELLI: Any objection, County of
15 Inyo?

16 MS. CROM: Submit.

17 HEARING OFFICER CELLI: Any objection, Larry Levy?

18 MR. LEVY: No objection.

19 HEARING OFFICER CELLI: Ms. Belenky?

20 MS. BELENKY: No objection.

21 HEARING OFFICER CELLI: Ms. MacDonald?

22 MS. MACDONALD: No objection.

23 HEARING OFFICER CELLI: Exhibit 334 marked for
24 identification is received into evidence at Exhibit 334.

25 (Staff's Noise 6 and Noise 6 Exhibit 334,

1 Received.)

2 HEARING OFFICER CELLI: So this now closes noise
3 as a topic. We've closed alternatives. We've closed them
4 all. And so let's talk about briefs.

5 Before I launch into briefs let me just ask if
6 there's anyone on the phone from the Old Spanish Trail
7 Association, Richard Arnold, Amargosa Conservancy, or Mr.
8 Zellhoefer, are you on the phone?

9 Okay. Well --

10 MR. RATLIFF: Mr. Celli, before you address
11 briefs, I want to remind you that we had discussed that
12 there were three different conditions in three different
13 places in the FSA that address closure. And one of the
14 issues, one of the requirements in the land use condition is
15 one of those conditions, and it requires security for
16 project closure and the rehabilitation of the site. We've
17 discussed with the applicant our intent to try to
18 consolidate all of those provisions into one condition to
19 make sure they're all parallel and to also discuss the issue
20 of -- of security, which has been largely undefined in any
21 of those conditions.

22 HEARING OFFICER CELLI: And?

23 MR. RATLIFF: So we want to -- we've proposed that
24 we would have a workshop on that after the hearing is closed
25 to have an opportunity to discuss that. I think the

1 applicant has some -- some of their own ideas about security
2 or perhaps disagreement that security should be required.
3 Staff believes it should be required, but I think we need to
4 try to resolve that. I'm not suggesting you need to hold a
5 hearing on that. I don't think -- well, it doesn't strike
6 me necessarily as the kind of issue that's going to be
7 resolved by having a hearing. But it is something we want
8 to discuss with the applicant further to try to get closure
9 on the issue.

10 HEARING OFFICER CELLI: Let me ask you this, so
11 you -- let's say you come to an agreement that doesn't sit
12 well with the other parties. And if I close these
13 proceedings today, then what am I supposed to do?

14 MR. RATLIFF: Well, that's a good question. I
15 mean, one way to handle it, I suppose, would be to have any
16 agreement that comes out of our discussions POS'd to all the
17 parties for comment and could be -- and it could be -- it
18 should be briefed.

19 HEARING OFFICER CELLI: Fair enough. I think
20 that's reasonable. So I think the parties wish to workshop
21 immediately following the evidentiary hearing, they can do
22 so. This is a noticed hearing, and so all of the parties
23 are here. And they can continue to use the WebEx.

24 Mr. Harris, you had --

25 MR. HARRIS: Yeah. I'm not sure we need a

1 workshop on the legal issue of bonding. I do want to point
2 out, there is an agreement between the county and the
3 applicant which is 948, I think it is. And section 3.7 of
4 that does talk about financial security. And there's been
5 an agreement between the applicant and Inyo as it relates to
6 that security. And I'm hoping that Staff will yes as to
7 security money that they are -- well, there's a reason I
8 said that, if you'll hang with me for a minute. As to the
9 security of the financial security, Staff will be if Inyo
10 County is happy.

11 That's a different issue that the traditional
12 Energy Commission closure plans. And I think those two
13 issues are kind of getting morphed together and we need to
14 separate them again, you know? Closure plans, there's --
15 there's a series of typical, I guess standard conditions
16 that deal with closure plans. This whole issue of financial
17 security is a separate issue, and I think it's been dealt
18 with in this commercial setting, and I don't think there are
19 any factual issues that need to be developed for the -- for
20 the committee further.

21 So I'll go have a coffee with Dick if he wants to
22 talk some more about this stuff. But I don't know that we
23 need to have a workshop about it, so --

24 MR. RATLIFF: Well, it could be that a workshop
25 today is untimely. We haven't -- we do want to consolidate

1 the three conditions. We haven't had an opportunity and we
2 haven't had the time to do that since we were in hearings
3 all week. But I think the reference Mr. Harris makes as to
4 the agreement between the county and BrightSource which --
5 by which, I'm not sure what the right term would be, but I
6 think BrightSource basically said they're -- they're giving
7 up on the Title 21 requirement that the county has for
8 security which would be security for the removal of the
9 project at the end of its life, and the restoration of
10 the -- the project site. And Staff acknowledges that that's
11 happened.

12 But the staff position is that there should still
13 be a security for the removal of the project. And that --
14 that is an issue of public policy that we think we can
15 secure through a condition.

16 We note that BLM required security for the removal
17 of the Ivanpah project, and they went through a fairly
18 elaborate, I think, analysis to determine what that security
19 should be. We would want to use a similar process to
20 determine it for this project.

21 MS. CROM: I guess I would just weigh in on behalf
22 of the county. We do have the agreement. We have agreed
23 under the terms of that agreement that Title 21 has been
24 satisfied. And so to the extent that those -- there is a
25 LORS issue vis a vis security, that has been addressed and

1 is now off the table.

2 Personally, I think this is a legal issue. This
3 is not a workshop issue. Either there is or is not security
4 that's going to be required. But I don't see why a workshop
5 would be in order to discuss that.

6 HEARING OFFICER CELLI: One moment.

7 (Colloquy Between Hearing Officer and Commissioners)

8 HEARING OFFICER CELLI: Thank you, parties.

9 This -- this is going to go into our -- segue perfectly into
10 our next discussion regarding briefing.

11 MS. BELENKY: Mr. Celli, before we go --

12 MS. MACDONALD: Excuse me.

13 HEARING OFFICER CELLI: One moment. First, Ms.
14 Belenky?

15 MS. BELENKY: Yes. Before we go to briefing I
16 want to clarify that we kept the -- the evidentiary record
17 will remain open for growth inducing impacts, which was not
18 included in the FSA. And the FSA relies on a BLM document
19 that has not yet been produced.

20 HEARING OFFICER CELLI: No. The way that we've --
21 I want to be clear that the record is open to admit the DEIS
22 when it's published under the -- under the topic of growth
23 inducing impacts. That was my understanding of what we had
24 agreed to.

25 MS. BELENKY: I think that's what I said.

1 HEARING OFFICER CELLI: Okay. No, I'm not --
2 that's distinct from -- growth inducing impacts is -- is
3 still open; it's not.

4 MS. BELENKY: Well, there's an evidentiary record
5 that is incomplete on growth inducing impacts. And the
6 staff intends to rely on a BLM document that has not yet
7 been produced. So the evidentiary record is open to accept
8 that document. And I'm -- and I am curious how we are
9 expected to brief this since the document doesn't yet exist.

10 HEARING OFFICER CELLI: Well, if the PMPD is
11 published before the DEIS comes out then it is moot.

12 MS. BELENKY: Then you won't have the section on
13 growth inducing impacts because it wasn't in the PEIS -- the
14 FEI -- the F -- sorry, the FSA.

15 HEARING OFFICER CELLI: We actually took a lot of
16 evidence on growth inducing impacts. We have the record
17 that we have.

18 MS. BELENKY: I see.

19 HEARING OFFICER CELLI: If we get a DEIS we'll
20 have a further record. If we don't, we won't. But this is
21 something you can brief.

22 MS. BELENKY: I see. Okay. So the staff's -- the
23 language in the FSA which says that they are relying on the
24 BLM's analysis may change in the PMPD; is that what you're
25 saying?

1 HEARING OFFICER CELLI: I don't think we're going
2 to change what the FSA says.

3 MR. RATLIFF: Well, I -- well, I don't have the
4 section in front of me. We did address growth inducing
5 impacts --

6 HEARING OFFICER CELLI: Yes.

7 MR. RATLIFF: -- in the FSA. And we did discuss
8 impacts in Nevada, as well. In fact, that was the complaint
9 that the -- the applicant made in our discussion of growth
10 inducing impacts and when they made -- filed their motion in
11 limine was that we had ventured to the other side of the
12 border to discuss those impacts. We're certainly not
13 opposed to leaving the record open to receive the DEIS if
14 it's timely. But we think that the commission can make its
15 decision without waiting for that if it chooses to do so.

16 HEARING OFFICER CELLI: And so -- and the
17 committee feels the same way. However, you're welcome to
18 brief that if you wish.

19 MS. BELENKY: Uh-huh. It certainly will be.

20 HEARING OFFICER CELLI: Ms. MacDonald, you had the
21 last -- you had a point you wanted to make?

22 MR. HARRIS: Before we leave this issue I think we
23 do have something we still have to figure out, because what
24 if it's not timely? And I think the answer is it doesn't
25 matter because Staff hasn't relied upon it, and it's a

1 separate process. But I don't want to create the
2 impression -- those -- those are Ms. Belenky's
3 characterizations of what the staff is saying they're going
4 to do about the BLM document. I don't read the staff's
5 testimony, which there is a growth inducing section in the
6 FSA. Mr. Ratliff is correct. It's right in the heading of
7 the socioeconomics.

8 And so there maybe disagreement as to whether that
9 is legally adequate or to, which can be briefed. But there
10 isn't a hole in the staff assessment or, B, a need for you
11 to receive that document. Believe me, we don't object to
12 you receiving it if it comes in in time, but we don't
13 control the BLM or the NEPA process. And so I don't want to
14 create the impression that you have left open a record for a
15 federal document that you -- that Staff doesn't say they
16 need and that -- that the parties don't say they need. It's
17 a separate process.

18 HEARING OFFICER CELLI: Right.

19 MS. BELENKY: I --

20 HEARING OFFICER CELLI: What we said at the
21 hearing was that we would allow that document to come into
22 our record. That was what we said.

23 MR. HARRIS: If -- if timely received. You're not
24 going to delay -- I'm sorry to keep --

25 HEARING OFFICER CELLI: I don't believe that we

1 would delay the PMPD because the DEIS comes in the day
2 before the PMPD publishes or something like that, if that's
3 what you had in mind.

4 MR. HARRIS: Or six months after.

5 HEARING OFFICER CELLI: It would certainly --
6 that, of course, is not going to happen.

7 So now, Ladies and Gentlemen, Noise is closed.

8 MS. BELENKY: Well --

9 HEARING OFFICER CELLI: Oh, Ms. MacDonald?

10 MS. BELENKY: Needless to say I -- sorry. I --
11 the Center strongly disagrees. The very short discussion in
12 the FSA clearly references the BLM DEIS. We certainly will
13 brief this subject. In the court's -- the committee's
14 order, which you referenced yourself this morning, the
15 committee said they would look at the impacts to California
16 resource from the growth inducing impacts of this project,
17 and those really are not in this FSA. And that is why we
18 asked, because staff relied on the DEIS, we asked to have it
19 kept -- put in the record and the record kept open. I think
20 it was very clear. I'm not -- this is not just my opinion.
21 It says it in the FSA.

22 HEARING OFFICER CELLI: Well, we said that we
23 would admit that. So I think the problem is resolved and
24 the parties can brief that if they want to.

25 Ms. MacDonald, are you still there?

1 MS. MACDONALD: I am, thank you.

2 HEARING OFFICER CELLI: I thought you --

3 MS. MACDONALD: It was kind of a housekeeping
4 order, I don't -- or situation as with the noise conditions.
5 I had made mention at the very start of the evidentiary
6 hearings last Tuesday that we had been promised the revised
7 Bio and Water Supply 1 that had been worked on at the
8 previous week's workshop. And the when I returned on
9 Thursday it appeared that those -- the new -- the newest
10 versions of the conditions of certification had not been
11 circulated. So I waited to see if they were, you know,
12 online, like when I got back home and had internet access.
13 And I can find no copy of these proposed conditions of
14 certification still. Did I miss something?

15 HEARING OFFICER CELLI: No, I don't think you
16 missed anything. But what we did talk about today, and I am
17 still asking the parties to do, is to provide the committee
18 when all -- because there's, obviously, ongoing discussions
19 regarding some of these conditions to provide a finalized
20 compendium of all of the latest versions of all of the
21 conditions with -- that indicate changes, redline and
22 strikeout or however you want to do it, so that the
23 committee will have that. And that will be filed and served
24 on all of the parties.

25 MS. MACDONALD: Okay. Then thank you for that.

1 My next question would be, in a timely manner so I
2 can get it in a brief?

3 HEARING OFFICER CELLI: Well, let's talk about
4 when the briefs are due.

5 MS. MACDONALD: Okay.

6 HEARING OFFICER CELLI: Opening briefs are due on
7 April 5th, 2013. And rebuttal briefs will be due on April
8 24th, 2013. The parties will also provide electronic copies
9 of their briefs to the hearing officer via email in
10 Microsoft Word format, please.

11

12 Now, hopefully -- now, Ms. Willis, by when do you
13 think -- or Mr. Harris, whoever is in charge of this
14 compendium of conditions, when do you think that would be
15 distributed to all of -- all of the parties?

16 MR. HARRIS: Since Ms. Strachan insists on
17 sleeping its not done yet, but it will be done very soon.
18 And I guess I want to point out for everybody's
19 clarification that these are the joint recommendations of
20 some parties to the committee. They're not factual matters
21 that are evidence in the proceeding. So they don't need to
22 be assigned exhibit numbers. It's convenient if they are
23 here ahead of time. But we will file and serve that on the
24 parties as soon as -- as reasonably possible. And I expect
25 that will be -- she's looking at me scary and that scares

1 me -- this week, very soon. Obviously, we need them for our
2 briefing, as well.

3 HEARING OFFICER CELLI: By Friday?

4 MR. HARRIS: I think -- yeah. I'm told no later
5 than Friday, so --

6 HEARING OFFICER CELLI: No later than Friday.
7 Okay.

8 MS. BELENKY: Could I ask a point of
9 clarification? Is that also going to include land use
10 conditions agreed on with the county, besides the -- we have
11 a copy of agreement but not of conditions -- and condition
12 changes?

13 MS. CROM: That should include the revised land
14 use conditions.

15 MS. BELENKY: Thank you.

16 HEARING OFFICER CELLI: Okay.

17 MS. MACDONALD: This is Cindy MacDonald. Just
18 to -- I guess just to bring this up for discussion, by the
19 inclusion of requiring a Word document the commission's
20 email files, the size that we can transfer is pretty small.
21 A lot of times they're using .pdf files. We can condense
22 that. Is -- by -- by adding a Word document, doesn't that
23 kind of trim off -- that means if it exceeds the email size
24 you'd have to mail the. Wouldn't that trim off a few days
25 because of that extra condition?

1 HEARING OFFICER CELLI: Actually, the briefs are
2 not going to be that long.

3 But, Mr. Kramer, you were approaching the podium?
4 Please. Paul Kramer.

5 MR. KRAMER: If the file is too large call Mr.
6 Celli. We have a way of transferring very large files.

7 HEARING OFFICER CELLI: Oh, good. Thank you. I
8 knew that.

9 MS. MACDONALD: Okay. I love it. Thank you.

10 HEARING OFFICER CELLI: Thank you, Ms. MacDonald.

11 Now, we -- I wanted to talk about the size of the
12 briefs. Some of the briefs we've received are reasonable
13 and some of the briefs we've received so far or documents
14 from the parties are voluminous. We are going to set a 50-
15 page maximum on the briefs. That doesn't mean you have to
16 go to page 50. What that means is that you may not exceed
17 50 pages in your briefs.

18 Anybody can brief any issue that they want to. We
19 really don't want to tell you what -- what you can brief.
20 You can brief whatever you feel needs to be brought to the
21 attention of the committee. But the committee has a short
22 list of questions that they would like the parties to brief,
23 and I'd like to present that to you now.

24 The first question -- so you don't -- these are
25 general areas of -- of discussion that the committee needs

1 to know about. Number one, if the committee found that
2 Charleston View were and EJ community, an environmental
3 justice community, what would be the affect?

4 Number two --

5 MR. HARRIS: I'm going to play you now and ask you
6 to go slower please.

7 HEARING OFFICER CELLI: Oh, I'm sorry. This will
8 be -- well, of course, your transcript may not be out for a
9 little while.

10 (Colloquy Between Hearing Officer and Commissioners)

11 HEARING OFFICER CELLI: Well, the question -- the
12 first question was: If the committee had found that
13 Charleston View is an EJ community, and environmental
14 justice community, what would be the affect? That's the
15 first question.

16 The second question would be an articulation of
17 how the evidence supports or does not support a finding of
18 significant impacts on ethnographic cultural resources? I'm
19 going to read that again. Articulate how the evidence
20 supports or does not support a finding of significant
21 impacts on ethnographic cultural resource.

22 I'm watching. This is like being the proctor of a
23 test. Heads are down, pens are moving, so I'll wait until
24 the next -- everybody pops their heads back up. There you
25 go.

1 The third is -- one moment.

2 (Colloquy Between Hearing Officer and Commissioners)

3 HEARING OFFICER CELLI: What would be a legal
4 justification, if any, for conditions related to potential
5 impacts to the Amargosa River? So I'm going to read that
6 again. What legal justification may or may not exist for
7 conditions related to potential impacts to the Amargosa
8 River?

9 MS. BELENKY: If you could just read that one more
10 time.

11 HEARING OFFICER CELLI: What legal justifications,
12 if any, for conditions of certification related to potential
13 impacts to the Amargosa River?

14 MS. BELENKY: Thank you.

15 HEARING OFFICER CELLI: Thank you. The next
16 question would be: What is the threshold of significance
17 under CEQA for -- for avian impacts, including collision and
18 flux? What would be the threshold of significance under
19 CEQA for avian impacts, including collision or flux?

20 The next briefing topic would be: How does the
21 project conform to state and federal LORS relating to avian
22 impacts, including: one, the Fully Protected Species Act --
23 the Fully Protected Species Act; two, the Migratory Bird
24 Act; and three, the Bald and Gold Eagle Protection Act? I'm
25 going to read that one again. How does the project conform

1 to state and federal LORS relating to avian impacts,
2 including: one, the Fully Protected Species Act; two, the
3 Migratory Bird Act; and three, the Bald and Gold Eagle
4 Protection Act?

5 The next question would be: What is the standard
6 regarding the significance of the impact to the Old Spanish
7 Trail, given its physical condition on the Hidden Hills site
8 within the Hidden Hills site? I'm going to read that again.
9 What would be the standard for determining the significance
10 of the impact to the Old Spanish Trail, given its physical
11 condition within the Hidden Hills site? What are the
12 standards for determining the significance of the impact to
13 the Old Spanish Trail, given its physical condition within
14 the Hidden Hills site? Okay.

15 Next, brief the adequacy of the objectives for the
16 project. We're going to leave it that vague. That's for
17 all of the parties who want to talk about objectives.

18 (Colloquy Between Hearing Officer and Commissioners)

19 HEARING OFFICER CELLI: Okay. I'm going to go
20 read -- go ahead to the next one, the last one which is
21 discuss the necessity and the enforceability of the
22 condition requiring that retirement of water rights result
23 in real and sustained reduction of consumptive water use.
24 I'll read that one again. Discuss the necessity and the
25 enforceability of the condition requiring that retirement of

1 water rights result in real and sustained reduction of
2 consumptive water use.

3 (Colloquy Between Hearing Officer and Commissioners)

4 HEARING OFFICER CELLI: Now, the committee
5 reserves the right to add any areas, subjects, topics,
6 issues for briefing. And if we need to we would send out an
7 email to the parties saying don't forget to brief this or
8 that as well. But for now this looks like the main
9 questions that the committee wanted the parties to address.

10 MR. RATLIFF: Commissioner, I just have to -- to
11 say, I hate long briefs and I've never written one that was
12 50 pages for any project. But having said that, when I get
13 this list it's only five pages per topic, and it doesn't
14 even include some of the topics that I thought needed to be
15 extensively briefed. So the list gives me anxiety. I had a
16 law clerk prepare a memorandum on one of these bird issues,
17 avian impact issues, that is itself almost as long as half
18 of this brief. So --

19 HEARING OFFICER CELLI: Do you have a
20 recommendation, since the committee has nothing better to do
21 than to read? I'm just kidding.

22 MR. WHEATLAND: Well, I'd like to join in Mr.
23 Ratliff's request. The question that the committee has
24 asked are excellent questions, and we are going to be very
25 happy to respond to them. But these questions in and of

1 themselves require a significant number of pages. And the
2 thing that is the most important for me to say today is that
3 we tried an experiment here over the last week of doing
4 informal hearings. And one of the main focuses of the
5 informal hearings was to talk about factual issues and to
6 separate legal issues that would be discussed in briefs. So
7 each time repeatedly through the day the committee reminded
8 me, Mr. Wheatland, save that for your brief, or instructed
9 my witness, you're talking about a legal issue that should
10 be in the brief.

11 So I have a long list of issues that the committee
12 has directed could not be discussed during the informal
13 hearings and should be included in the brief. And we feel
14 very strongly that in order to ensure a full record, and
15 especially to include those matters that have been excluded
16 during the hearings, that we would have an adequate page
17 limit.

18 HEARING OFFICER CELLI: Do you have a
19 recommendation, Mr. Wheatland?

20 MR. WHEATLAND: Well, our brief in Ivanpah was 200
21 pages, approximately. But we think that really given the
22 controversy of the issues that are included here we would
23 request 150 pages.

24 HEARING OFFICER CELLI: Mr. Ratliff?

25 MR. RATLIFF: I can't think in three-digit terms.

1 I just --

2 (Laughter.)

3 MR. RATLIFF: But -- but, you know, unlike in some
4 of my cases there are three of us working on this brief, so
5 we may be able to generate numbers to -- to match the
6 applicant's. I don't know.

7 (Laughter.)

8 HEARING OFFICER CELLI: Okay. Well, then --

9 MR. RATLIFF: My hope would be that it wouldn't be
10 that long. But I am -- I am concerned, just simply because
11 you've asked for briefing, and I don't think you want it to
12 be superficial on things like the MBTA, and those can be --
13 the Migratory Bird Treat Act or the Eagle Act, and those in
14 and of themselves can be rather involved. And so we may
15 need more space than 50 pages is going to allow, given that
16 we had a number of areas where there was conflict. And even
17 though some of those conflicts were resolved, at least
18 between some parties, they remain unresolved for other
19 parties, and so probably deserve to have some form of
20 briefing.

21 HEARING OFFICER CELLI: Okay. The committee is
22 fine with 150 page -- a 150 -- 150-page maximum.

23 Cindy MacDonald, did you want to say something?

24 MS. MACDONALD: Well, I had a question. During
25 the prehearing conference I asked when or where the

1 appropriate place was to file my motion to terminate. And I
2 was told at that time to attach it to my brief. So now my
3 question is, since I'm the only one, if it's 150-page
4 maximum, is that with or without the motion to terminate?

5 HEARING OFFICER CELLI: Let me ask you this,
6 didn't you make -- didn't you move in your -- that motion as
7 an exhibit?

8 MS. MACDONALD: Yes.

9 HEARING OFFICER CELLI: Okay. So it's in the
10 record already. You don't need to rewrite the whole thing,
11 do you?

12 MS. MACDONALD: Pardon me?

13 HEARING OFFICER CELLI: You do not need to rewrite
14 your motion. Your motion is now in the record.

15 MS. MACDONALD: I may -- I want to reserve that
16 right, given that information has come out during these
17 hearings. I think that there is additional considerations.
18 So, yes, I would -- I would like to reserve that right.

19 HEARING OFFICER CELLI: Okay. Well, here's the
20 point. You've get 150 pages. One moment.

21 (Colloquy Between Hearing Officer and Commissioners)

22 HEARING OFFICER CELLI: Ms. MacDonald, the motion
23 then would be separate from your brief. And --

24 MS. MACDONALD: Okay. Thank you.

25 HEARING OFFICER CELLI: And the motion -- we've

1 already received the motion. But if you wanted to expand on
2 your motion now that you've had a chance to hear all of the
3 evidence in the record, then you would be allowed to do
4 that, as well. But that's separate from your brief.

5 MS. MACDONALD: Very good. Thank you very much.

6 MS. BELENKY: Mr. Celli, I had another --

7 HEARING OFFICER CELLI: Ms. Belenky?

8 MS. BELENKY: -- clarifying question. Yes. One
9 of the things that you have asked us to do is to do redlines
10 for any changes to conditions of certification, a well. And
11 I believe in the past we have done that at the same time as
12 the briefing and we've attached it as an appendix. But are
13 you considering that within the 150 pages or separate?

14 HEARING OFFICER CELLI: No. I think that we would
15 consider that separate.

16 MS. BELENKY: Okay. Thank you.

17 HEARING OFFICER CELLI: Okay. But one moment.

18 (Colloquy Between Hearing Officer and Commissioners)

19 HEARING OFFICER CELLI: So, Ms. MacDonald, are you
20 there?

21 MS. MACDONALD: Yes.

22 HEARING OFFICER CELLI: Okay.

23 MS. MACDONALD: I am here.

24 HEARING OFFICER CELLI: So the recommendation to
25 the committee is that you would file your motion, which I

1 think is largely already written, in advance of your opening
2 brief so that the parties would have a chance to respond to
3 it in their rebuttal brief.

4 MS. MACDONALD: I think that that places a burden
5 no -- no motion has ever had to withstand. Would it be
6 better if I just filed the motion as a separate action on a
7 separate day in a separate brief, you know, after the
8 briefs? Plus, additionally, won't they have opportunity of
9 rebuttal briefs due August 24th?

10 HEARING OFFICER CELLI: Yes.

11 MR. HARRIS: April 24th.

12 HEARING OFFICER CELLI: April 24th.

13 MS. MACDONALD: Couldn't they address it then?

14 HEARING OFFICER CELLI: Yes, they could. That was
15 the -- that was the idea, that if the motion was brought in
16 time for the parties to address it in their rebuttal briefs.

17
18 MS. MACDONALD: Okay. So would I need to submit
19 the motion ahead of everybody else's briefs?

20 HEARING OFFICER CELLI: Well, or -- or at the same
21 time as your opening testimony -- opening brief, rather.

22 MS. MACDONALD: That -- that had been my previous
23 understanding, is that it would be submitted as an
24 attachment at the same time. That I'm okay with.

25 HEARING OFFICER CELLI: Good. That's -- and

1 that's what we're -- that's what we're trying to accomplish,
2 so thank you for that.

3 MS. MACDONALD: Okay.

4 HEARING OFFICER CELLI: Okay. Now, Ladies and
5 Gentlemen --

6 MR. WHEATLAND: Well --

7 HEARING OFFICER CELLI: Mr. Wheatland?

8 MR. WHEATLAND: Some agencies have a rule
9 regarding spacing, font size and margins. But I know the
10 commission does not. And as an old ALJ myself, I know the
11 danger of not being specific. So I'd suggest the -- the
12 committee may want to make explicit what I think is commonly
13 understood, is that it would be double spacing and a 12
14 point font -- font and standard margins.

15 HEARING OFFICER CELLI: That -- that is -- that
16 would be the order, folks, the standard that Mr. Wheatland
17 just said. Thank you.

18 MR. HARRIS: Thank you. Is Ms. MacDonald going to
19 file her motion as part of her opening brief?

20 HEARING OFFICER CELLI: At the same time as.

21 MR. HARRIS: So then the parties are going to have
22 to write a reply brief and a response to the motion in the
23 same 15-day period?

24 HEARING OFFICER CELLI: They -- no, because that
25 motion would be subject to -- is it --

1 MR. HARRIS: The 15 days.

2 HEARING OFFICER CELLI: Yeah. It would be subject
3 to the regulatory or regulation which is 1716.5, I think. I
4 think it's 1716.5, if I'm not mistaken, off the top. But
5 basically the motion is brought, the parties have 15 days to
6 respond, and the committee has 30 days to file a decision.

7 MR. HARRIS: So my understanding is there's 15
8 days, is that right, between opening brief and -- we'll have
9 to do both, basically, in parallel. And I think that's
10 going to detract mightily from a reply brief.

11 HEARING OFFICER CELLI: You know, I would say that
12 you've already seen this brief once. I think you've already
13 replied to this brief that was filed by -- I'm sorry, not
14 the brief. Strike that. Let me start over again.

15 You've seen this motion once already. You've
16 already responded to this motion once already. There may be
17 some changes, subtle changes, I don't know. But a party can
18 bring, really, the motion -- parties are going to bring
19 motions and the -- and the other parties are -- may respond
20 or not. It's not like it's mandatory. A response is not
21 mandatory.

22 MR. HARRIS: The motion to terminate our
23 proceeding, we kind of think it's not optional to respond.
24 So --

25 (Laughter.)

1 MR. HARRIS: -- yeah, you know, so it may be that
2 others are not going to have this issue but --

3 MS. BELENKY: I'm actually also confused because
4 the committee didn't want to hear it before the evidentiary
5 hearings. So now you're -- you're giving Ms. MacDonald a
6 specific date to file it by, although there's nothing in the
7 regulations that requires that.

8 HEARING OFFICER CELLI: That's true.

9 MS. BELENKY: And I don't -- I personally don't
10 like the idea of combining it into the response briefs
11 because I think everything is going to get messy.

12 HEARING OFFICER CELLI: The reason that the
13 committee said initially that she -- and recommended that
14 she wait until after the evidentiary hearing is so that she
15 actually had a complete record upon which to base her motion
16 to terminate. Okay.

17 Now, what we're trying to accomplish is we have a
18 short window to get the PMPD written by, and that's -- the
19 briefs are a big part of the PMPD. So that's really
20 priority number one. We could potentially stagger the
21 motion to terminate into sometime into the future and still
22 preserve all of the parties rights to respond. And so there
23 really is no real need for us to -- to jam everybody up by
24 running those two parallel.

25 So what I would say is this, Ms. MacDonald, are

1 you on the phone?

2 MS. MACDONALD: Yes. Yes.

3 HEARING OFFICER CELLI: Okay. We need to get the
4 briefs. The briefs are sort of a higher priority to the
5 committee. And --

6 MS. MACDONALD: Okay.

7 HEARING OFFICER CELLI: -- what we -- I would
8 recommend is that you tackle your briefs and make sure you
9 get those in on April 5th and April 24th. The committee
10 will not require you or give you a time by which you must
11 file your motion to terminate. You can bring that any time.

12 MS. MACDONALD: Okay. Very good. Thank you. I
13 will keep all these points in mind.

14 HEARING OFFICER CELLI: Okay. Thank you.

15 So we're not going to -- we're not going to give
16 her a time specific. When -- when that motion comes in the
17 parties will have to respond to it according to the
18 regulations. So --

19 MR. RATLIFF: I just wanted to point out that you
20 have -- you can set the time for responses. It's 15 days
21 unless otherwise specified by the committee.

22 HEARING OFFICER CELLI: Understood.

23 MR. RATLIFF: Okay.

24 HEARING OFFICER CELLI: With that, then I would
25 hand the meeting -- oh, Dr. Roberts, there you are.

1 DR. ROBERTS: Mr. Celli, two items. One, there
2 are several parties that are obviously not online right now.
3 So I just wanted to make sure that those questions, you
4 know, I'm not sure how you want to handle this in terms of
5 the questions that you wanted to have included in the brief.

6 HEARING OFFICER CELLI: Mr. Petty, when will we
7 get a transcript of these proceedings? Ten days.

8 DR. ROBERTS: I mean, I've -- I've tried to write
9 them down to the best of my abilities, but I might need to
10 double-check on that.

11 HEARING OFFICER CELLI: I wonder, is -- is ten
12 days normal?

13 (Off mic conversation.)

14 HEARING OFFICER CELLI: That's true, we do have
15 the WebEx recording, and we'll have that tomorrow.

16 DR. ROBERTS: Okay. Well, I guess I just wanted
17 to make sure that I provide that to them as quickly as
18 possible.

19 HEARING OFFICER CELLI: Okay.

20 DR. ROBERTS: Also, just to let you know, I did
21 want to have time for public comment, as well.

22 HEARING OFFICER CELLI: Absolutely. It's time for
23 public comment right now.

24 DR. ROBERTS: Okay.

25 MS. MACDONALD: But hang on. Hang on just one

1 sec. This is Cindy MacDonald. If I was to use a WebEx
2 recording instead of a transcript, how do I -- how do I
3 reference that in my brief --

4 HEARING OFFICER CELLI: You can't.

5 MS. MACDONALD: -- you know, like at --

6 HEARING OFFICER CELLI: You don't. You can not --

7 MS. MACDONALD: You can't?

8 HEARING OFFICER CELLI: -- and do not. It's just
9 an accommodation right now. You have to cite to the
10 transcript. Is that -- is that clear?

11 MS. MACDONALD: Okay. So -- all right. We're
12 looking at -- what, today is the 18th. So the transcript
13 won't be available until the 28th. And so we will have one
14 week to cite from the transcript; is that 28 --

15 HEARING OFFICER CELLI: I guess.

16 MS. MACDONALD: -- Thursday --

17 HEARING OFFICER CELLI: I'm not looking at a
18 calendar right now.

19 MR. HARRIS: Is there --

20 MS. MACDONALD: Okay.

21 MR. HARRIS: Is there a way to expedite the
22 transcript? Is that only a matter of --

23 HEARING OFFICER CELLI: There usually is a way to
24 expedite the transcript. I wonder if, Mr. Kramer, if you
25 would come to a microphone and help us out here.

1 MR. KRAMER: We'll have to check because we have
2 to -- we -- we gave an order to the service. But we will
3 try to see if we can expedite it. You can maybe get to five
4 days, I would think.

5 HEARING OFFICER CELLI: Okay.

6 MR. KRAMER: But -- but you've also given them
7 quite a bit of work in the last week to do. So that may be
8 a practical limiting factor.

9 HEARING OFFICER CELLI: Yes. So, Ms. MacDonald,
10 it will come off as quickly as we can get it. So you may
11 have to go back and site things after you've written them.

12 MR. KRAMER: Mr. Celli?

13 HEARING OFFICER CELLI: Yes.

14 MR. KRAMER: Let me just point out to -- to Ms.
15 MacDonald, you can listen to the WebEx recording and then,
16 you know, pick the spots you want to refer to, and then
17 simply do a word search later in the transcript to fill in
18 the details.

19 HEARING OFFICER CELLI: And how does she get a
20 WebEx recording?

21 MR. KRAMER: We can arrange to email it to her.
22 We'll probably have to use that special service I alluded to
23 earlier. But we can send them to her if she desires.

24 HEARING OFFICER CELLI: Okay. I'm sure she will.

25 MS. MACDONALD: Thank you.

1 HEARING OFFICER CELLI: Thank you, Mr. Kramer.

2 MS. MACDONALD: May I -- I don't know if this is
3 feasible, just throwing this out there as a possible
4 solution, since we -- since we did it by topic area perhaps
5 it could be released as each topic area or each day you've
6 got done. I don't know if that's appropriate. But just
7 time was an issue.

8 HEARING OFFICER CELLI: It doesn't come out like
9 that. It's one big continuous daily recording.

10 MS. MACDONALD: Okay.

11 HEARING OFFICER CELLI: So it's whatever --

12 MS. MACDONALD: Okay.

13 HEARING OFFICER CELLI: -- whatever date that we
14 heard evidence on, it would just be a straight recording of
15 that whole day.

16 MS. MACDONALD: Okay. Thank you.

17 HEARING OFFICER CELLI: And the transcripts, of
18 course, are the same thing. But it's a little easier to
19 follow because usually the court reporting service will
20 actually break down their table of contents into topic
21 areas, so it's a little easier to follow.

22 So I have Michael -- so first of all, is there
23 anyone in the room, Mr. Roberts? He's shaking his head no.

24 So we have no members of the public that are here that
25 wanted to make a comment in the room.

1 We'll go now to the phone. I have Michael
2 Garabedian.

3 Mr. Brehler?

4 MR. BREHLER: Good afternoon, Mr. Celli. This is
5 Pippin Brehler, Staff Counsel. One -- one question that Ms.
6 MacDonald was getting to was would the transcripts be
7 released for each day as each day is completed? Is that
8 possible?

9 HEARING OFFICER CELLI: I believe that is
10 possible, and I believe that's the way we're going to get
11 them, sort of one at a time. And then we put them up on the
12 internet.

13 MR. BREHLER: Thank you.

14 HEARING OFFICER CELLI: Yes.

15 MR. GARABEDIAN: Good evening -- good afternoon.
16 Michael Garabedian with the Committee for 245 Million Acres.
17 Our first involvement in this hearing process at all and in
18 this project was with the March 5th workshop. I have some
19 observations to make, not a pile of things, just some kind
20 of show and tell at the end.

21 The -- on the question of the low-income, poor,
22 moderate-income, disadvantaged community issue, it -- it's
23 of concern to us that it looks like the applicant is trying
24 to use environmental justice criteria to shield themselves
25 from recognizing that there is a low-income community there,

1 and also from addressing those needs. We would suggest
2 something in the -- in the -- in the spirit of data and
3 numbers.

4 When I was a graduate legal assistant at the North
5 Coast Commission in '74 I did a report on land division and
6 lot development in the Mendocino County Permit Zone. And we
7 relied, at least heavily for the beginning, with field
8 checking on the assessor's data where you -- I see you can
9 find on line in Menlo County (phonetic), the -- the value of
10 improvements on the land, as well as other possible
11 indicators. And if there are mobile homes on the land that
12 you -- that aren't -- don't show up in the assessor's rules,
13 you can find those through the -- the DMV.

14 I say this because under 22519(b) the commission
15 has the ability to require any information or data that you
16 find is reasonably necessary to make a decision. You are
17 not limited by CEQA or NEPA criteria.

18 And just while I'm discussing the -- having
19 glanced at the assessor's data in Inyo County I noticed that
20 there are about 1,500 2.5 acre lots south of the
21 development. I don't know if that's been addressed as a
22 factor or not.

23 My main reason for standing up to day is to talk
24 about biological soil crusts. You had some earlier
25 discussion of them, and I wanted to talk about a couple

1 points on that.

2 There was mention of the use of plant transects in
3 relation to whether or not there's a biological soil crust.
4 My undergraduate degree was a bachelor of science in
5 forestry and conservation. I was trained in field
6 measurement of plants and trees and did work in forest
7 mensuration and experimental and national forest inventory -
8 - I mean, state -- countrywide inventory, also in Mendocino
9 County. So it -- the -- and I've had recent training in
10 biological soil crust in the same way. You do not measure
11 biological soil crust by a plant sampling method, any more
12 than you measure the plants on the ground using a tree
13 sampling method. It just -- it just is something that
14 should be caught and that we would hope you would be aware
15 of that when that's discussed that that's not appropriate
16 for soil crust.

17 Second point, there was some -- it seemed to be
18 indicated that if the lands were disturbed -- and this could
19 be a wrong interpretation of what you were hearing -- that
20 there wouldn't be any soil crusts on them. The fact is the
21 cyanobacteria are the first colonizer of disturbed lands,
22 followed by lichens and mosses that include this amazing mix
23 that makes up the -- the soil crusts.

24 And there was also a discussion of desert soils.
25 It seemed to be suggested that desert soils already provide

1 for sequestration of carbon. In general, I had a soil crust
2 early -- class early on in my education, and desert soils
3 are -- are pretty darned sterile. And the fact is that in
4 desert lands it is the biological soil crusts that are
5 taking the nitrogen from the atmosphere and making it
6 available to the plants, taking the carbon from the
7 atmosphere and making it available to the plants. The play
8 a key role in every issue before you, whether it's amongst
9 all these ecological services of limiting wind erosion,
10 water erosion, and sort forth. There was no mention in
11 the -- in the discussion of restoration of soil crusts and
12 how important that is.

13 Just to try to give you a tiny flavor of what I'm
14 talking about, if there's a real -- a car truck through the
15 soil truss, the thing is to sweep the edges in there and you
16 could inoculate that and help its recovery right away. I'm
17 not advocating destruction of -- of soil crusts, but just
18 some -- some -- some points about that.

19 The -- to me, what I'm hearing at this hearing,
20 because it's based only on the hearing and the large
21 (inaudible), to me what I'm hearing is a process that
22 somehow up to this point has not paid sufficient attention
23 to the role that soil crusts play in arid communities
24 throughout the world.

25 Trent Northern with the Berkeley Lab, the way he

1 puts it is that biological soil crusts are like a leaf on
2 the -- on the desert. They do the photosynthesis. They
3 play a really critical role in up to 70 percent of some of
4 the desert lands. And, of course, some of you may be
5 familiar, like I was in 1990 when my interest in these
6 crusts started when my kid and I were hiking on the Colorado
7 Plateau where you see those -- those frost heaves crusts.
8 You don't see that in the Mojave; not at all. So if you're
9 looking for frost heaves in the Mojave you just -- you just
10 aren't going to see it.

11 What -- what we -- we feel you need to do and need
12 to pay attention to is you need to -- if your staff already
13 is onboard with this they need to, you know, get -- get up
14 to par, if they aren't onboard, and to do -- you really need
15 to make sure that this issue is addressed thoroughly and
16 carefully before you make a decision because these crusts
17 prevent wind erosion and water erosion and all these other
18 wonderful ecosystem services.

19 I have three books here. This -- this is the
20 Belnab and Lange book that is referred to in the CBD papers.
21 This is the -- known as the bible of biological soil crusts.

22 I also have here the Department of -- Department of
23 Interior Biological Soil Crust Ecology and Management Book.
24 And I also have here the DOI Field Guide to Biological Soil
25 Crusts in the Western U.S.

1 And I have some -- some copies of these, the front
2 page and tables of -- I have copies of the front page and
3 tables of contents of some of these documents so that
4 everybody here can say, if they're asked, that you've seen
5 them. And we hope you will do more now, if you haven't
6 already, and look into them and get to know them and make
7 them a critical part of these proceedings. There's no
8 reason you can't be just as well informed to know what a
9 presentation about crust should be before you, what the
10 criteria for having assessed whether they're there and
11 monitoring them are being presented in a way that's
12 necessary. Thank you.

13 HEARING OFFICER CELLI: Thank you, Mr. Garabedian.

14 MR. GARABEDIAN: Who do I give these to?

15 HEARING OFFICER CELLI: Did you want to ask
16 something?

17 COMMISSIONER DOUGLAS: Uh-huh.

18 HEARING OFFICER CELLI: Let's go to the phones.
19 Do we have any agency, people from any governmental agencies
20 that would like to make a comment at this time? Anyone from
21 BLM? Okay.

22 Hearing none, is there anyone who would like to
23 make a public comment at this time on the telephone? Amy
24 Noel put her hand up, so go ahead, Ms. Noel.

25 MS. NOEL: Can you hear me?

1 HEARING OFFICER CELLI: Not very well. You need
2 to put -- speak into your microphone and not change the
3 position of your mouth to the microphone.

4 MS. NOEL: All right. Can you hear me now?

5 HEARING OFFICER CELLI: Yes.

6 MS. NOEL: Oh. Thank you. Thanks for making
7 these hearings so public and the process. I appreciate it.
8 I'd like to speak first as a resident of Tecopa and a
9 business owner, and a very long-time, since 1978, regular
10 visitor and explorer of the area.

11 These lands, as expressed so eloquently by Mr.
12 Arnold and Cindy MacDonald and many others, are very
13 valuable in a spiritual ways and renewing ways to people
14 that work in the urban places. And I -- and having served
15 21 years at the J. Paul Getty Museum, I have to say that
16 coming out to these open spaces gave me the solace and
17 fortitude to carry on.

18 And I'm honored to -- to have the opportunity for
19 the last 10, 12 years, since 2001 to restore and operate the
20 Tecopa Hot Springs Resort. I'm honored and pleased to
21 have served three years as an EMT and a firefighter for the
22 Southern Inyo Fire Protection District. And what I've
23 learned about being in this community is that people put
24 their hats aside, their grievances aside and come together
25 when we need it. And we do it, and it's amazing.

1 The impact of this project on the roads, people
2 traveling, materials being transported, people maybe even
3 staying in the area, it's all -- there's a lot of good
4 things, but it needs to be mitigated and thought about well.
5 And I know the CEC has an edict, and I know there is a
6 desire. And it's my desire, too, for clean renewable
7 energy.

8 But I really think that -- and as I continue as a
9 board member on the -- on the SIFPD board to negotiate with
10 this, I also think there are many other better ways to do
11 projects like this. We need to do it on undisturbed land --
12 or already disturbed land, not undisturbed land, and we need
13 to continue -- we need a bigger education program so people
14 will use less electricity. I use very little. And it's
15 totally ironic to me that you're going to have this huge
16 project and it's not even going to serve the tiny community
17 that's right next to it at all, hardly, and that's the
18 testimony that I heard today from BrightSource.

19 My personal way of being is kindness and respect
20 for everything. That's how I try to run my business.
21 That's how I run my life. I hope that the CEC will do its
22 job, and I know you will. I know you will. I just want to
23 say that here's another voice for empowering to go back and
24 say that maybe the edicts that you weren't -- that you were
25 charged with are unreasonable. There are many other better

1 ways to achieve the goals that you've been charged with
2 commissioning than to bring it into our wilderness.

3 And the wilderness is not just for us who live
4 here, it's for all people. And that's -- that's the best
5 thing that I love about my business is that I want to give
6 people -- offer them an experience that's maybe a camping
7 with walls, not their normal experience, that maybe they've
8 forgotten being in an urban environment. I was born and
9 raised in L.A., and it makes me sad that every time I do go
10 back that it's denser and denser. We -- we can do a lot
11 better.

12 Death Valley National Park has just achieved Dark
13 Sky National Designation, and that's huge. And that's
14 another thing that bugs me about this project. And you've
15 heard so much other things. I just want to emphasize it.
16 And thank you for letting me have the opportunity to speak.

17 HEARING OFFICER CELLI: Thank you very much for
18 calling in, Ms. Noel. And I know you've been listening
19 throughout the proceedings, so thank you for your
20 participation.

21 MS. NOEL: Thank you.

22 HEARING OFFICER CELLI: Is there anyone else on
23 the telephone? Jim Stroh, go ahead. Jim Stroh?

24 MR. STROH: I have my microphone plugged in now.
25 Can you hear me?

1 HEARING OFFICER CELLI: Yes, we can hear you fine.
2 Go ahead, Mr. Stroh.

3 MR. STROH: Okay. Thank you. My name is Jim
4 Stroh and I live in Independence, Inyo County. I have a
5 doctorate in geology. I'm a retired geology professor, and
6 I'm very knowledgeable about the solar energy resource here
7 in Owens Valley. I am pro-disbursed generation.

8 My wife and I are doing it with a grid-tied
9 rooftop PV system. It supplies over 100 percent of our
10 modest needs, but there are issues. Permitting and applying
11 for incentives are a long and complex process. Our system
12 is not yet fully permitted by LAWDP, yet we started with a
13 permit granted by Inyo County in July 2012, and started
14 planning well before that. We had to cut down trees. For
15 us, financing was no problem, but it is for many, especially
16 homeowners. Financing is an issue, even with incentives.
17 So there's no free lunch.

18 DG aside -- and by the way, over here DG means
19 decomposed granite on the flanks of the Sierra -- I am a
20 full supporter of large-scale renewable generation because
21 it's gets renewable power to consumers quickly and overall
22 efficiently.

23 About the power tower system using BrightSource's
24 technology, I support it for reasons given by the applicant,
25 but also, and I might be alone in Inyo County on this,

1 because I like the way it looks and moves, or I should say
2 it will look and move if its built.

3 In an interview with National Public Radio,
4 Photographer Jamey Stillings speaks far better than I about
5 the conflicts of development and the environment. And is
6 photography of the Ivanpah Solar facility is stunning and in
7 a way beautiful. Here's a quote from Mr. Stillings.

8 "Every single large-scale solar project has encountered
9 this interaction of trying to accommodate the
10 environmental concerns of conservation, along with a
11 need of an industry that wants to build renewable
12 energy projects. How do you find that middle ground?"

13 He continues,

14 "I want the images to raise questions. I want people
15 to be inspired by something that is beautiful and
16 fascinating, the geometry of a manmade structure
17 existing within the organic structure of nature."

18 If Hidden Hills is approved I suspect over time
19 the principal objections to the towers will fade. Remember,
20 the Eiffel Tower was roundly criticized and is now an icon
21 for one of the world's great cities. I hope these personal
22 insights will be valuable to the commission and somewhat
23 different from many you have already heard. Thank you very
24 much for the opportunity to comment.

25 HEARING OFFICER CELLI: Thank you very much for

1 your comments, Mr. Stroh.

2 Do we have anyone else on the phone who would like
3 to make a comment at this time? Please, if you -- if you're
4 on the phone and you would like to make a public comment,
5 please speak up at this time. Go ahead.

6 Hearing none, then I will turn the meeting back to
7 Commission Douglas for adjournment.

8 COMMISSIONER DOUGLAS: What about tomorrow?

9 HEARING OFFICER CELLI: Oh, one -- before I do --
10 thank you -- Ladies and Gentlemen, we're about to adjourn,
11 and this is going to be the end of the evidentiary hearings
12 for the Hidden Hills Project. However, tomorrow the
13 committee intends to have a closed session, which means that
14 we would come here into Hearing Room A, get on the record,
15 turn on the WebEx, and again, I want everybody to know that
16 the password is PWD@1416, not pound sign. But we're only
17 going on the record just to say we're on the record, and we
18 are going to go off the record for a closed session almost
19 immediately. And at the end of that, since we're going into
20 deliberations, we'll have nothing to report, we would then
21 adjourn. But I want everybody to know that that's what our
22 intention is tomorrow.

23 So with that, Commissioner?

24 MR. HARRIS: I'm sorry, what time is that; 9:00?

25 HEARING OFFICER CELLI: Nine o'clock.

1 MR. HARRIS: Okay. Thank you.

2 COMMISSIONER DOUGLAS: All right. So with that,
3 thank you, it's been -- it's been a rather long series of
4 four, now five days, but it's been -- do you have a comment?

5 MR. GARABEDIAN: I'm sorry to interrupt. Is there
6 a deadline for public input?

7 HEARING OFFICER CELLI: Well, what's going to
8 happen now is we've now closed the record on all of the
9 evidence. Okay. I'm not looking at -- and I don't have my
10 schedule right with me, but I know we're going to get briefs
11 all the way into the end of April. We will be writing this
12 PMPD between now and May. I can't remember the date by
13 which we said that the PMPD would -- the Presiding Members
14 Proposed Decision is what I'm saying when I say PMPD. I
15 believe the PMPD is due out in either May or June.

16 Once the PMPD is published there will be a 30-day
17 comment period on the proposed decision. Towards the end of
18 those 30 days typically the committee has what's called the
19 committee conference on the PMPD, the committee conference
20 on the Presiding Members Proposed Decision. And we usually
21 have that down where the -- in the community. That could be
22 Tecopa or Shoshone again. And that's another opportunity
23 for public comment. Once we've finished with that, and
24 assuming there's no revisions, then the PMPD has a
25 recommendation that goes to the full commission. At the

1 time when the full commission hears the PMPD and hears from
2 the parties as to whether they want to adopt the
3 recommendation or not, that is another opportunity for the
4 public to comment.

5 MR. GARABEDIAN: Thank you. Pardon my
6 interruption.

7 HEARING OFFICER CELLI: No problem.

8 COMMISSIONER DOUGLAS: Well, in other words, there
9 are many opportunities. Blake Roberts, our public advisor,
10 is an invaluable resource to people who are trying to
11 understand the process and opportunities to comment.

12 So with that, again, thanks to everyone for
13 hanging in there with us through a number of long days, and
14 also for working really constructively with us to help make
15 the informal hearing process work. We appreciate that and
16 we will, as the hearing officer said, convene tomorrow, but
17 really only for the purposes of holding a closed session for
18 deliberation.

19 So with that, we're adjourned.

20 (The Evidentiary Hearing was
21 adjourned at 4:25 p.m.)

22 --oOo--

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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Evidentiary Hearing; that it was thereafter transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said hearing or in any way interested in the outcome of said hearing.

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

PETER PETTY, CER**D-493

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Martha L. Nelson
MARTHA L. NELSON, CERT**367

March 26, 2013