

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)
_____)

DEATH VALLEY ACADEMY GYMNASIUM
127 OLD STATE HIGHWAY
SHOSHONE, CALIFORNIA

VOLUME I

TUESDAY, MARCH 12, 2013

11:30 a.m.

Reported by:
Troy A. Ray
Contract No. 170-09-002

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

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 IV

Kerry Willis, Staff Counsel

Mike Monasmith, Senior Project Manager

Mike Battles

OFFICE OF THE PUBLIC ADVISER

Blake Roberts, Assistant Public Adviser

APPLICANT

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

Clay Jensen
BrightSource Energy

John Carrier
CH2MHill
Susan Strachan
Strachan Consulting, LLC

INTERVENORS

John William Zellhoefer

Lisa T. Belenky
Ileene Anderson
Center for Biological Diversity

Jack Prichett
Old Spanish Trail Association

Cindy MacDonald

Richard Arnold

Donna Lamm
Brian Brown
Amargosa Conservancy

Dana Crom
Joshua Hart
County of Inyo

William D. Ross
Law Offices of William D. Ross

Larry Levy
David Schwartz
Southern Inyo Fire Protection District

PUBLIC SPEAKERS

Darrell Lacy, Nye County
Eddie Jim, Pahrump Paiute Tribe
Deb Shook
Vivian Wilkinson
Rayetta Haskin

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P R O C E E D I N G S

11:52 a.m.

1
2
3 COMMISSIONER DOUGLAS: So good afternoon everyone.
4 This is Commissioner Douglas. I'd like to welcome you to
5 this evidentiary hearing on the proposed Hidden Hills Solar
6 Electric Generating System.

7 Before we begin I'd like to introduce the
8 committee, and then ask the parties to identify themselves
9 for the record. My colleague, Commissioner David Hochschild
10 is at this time to my left, to the left of the Hearing
11 Officer Ken Celli who just stood up. To Commissioner
12 Hochschild's left is his Advisor Jim Bartridge. To my
13 immediate right, my Advisor Galen Lemei, who stepped out but
14 will be back. And next to my -- next to him, when he comes
15 back, Jennifer Nelson, my Advisor. And next to Jennifer,
16 Eileen Allen, the Technical Advisor for Siting for the
17 commissioners.

18 At this point, let's take introductions from
19 the -- well, let's see. Let me -- at this point I'll
20 introduce Blake Roberts, the Public Advisor. Blake, if you
21 could stand up so -- thank you, Blake.

22 And at this point I'd like to take introductions
23 from the parties, beginning with the applicant.

24 MR. HARRIS: Good morning. Jeff Harris, the
25 Applicant.

1 Blake, I think that was for me, actually, that
2 buzzer.

3 To my right is Greg Wheatland with my office.
4 Samantha Pottenger with my office, also, behind us. Gary
5 Kazio to my left, the Project Manager for BrightSource.
6 Susan Strachan, the den mother for today's cub scout
7 meeting, to my left. And then we have a whole bunch of
8 folks behind us who at various times will be witnesses or
9 sitting up at the table and can introduce themselves at that
10 time.

11 We've very happy to be here. Thank you.

12 COMMISSIONER DOUGLAS: Thank you. Staff?

13 MR. RATLIFF: Dick Ratliff, Counsel for staff.
14 With me is Kerry Willis who is also counsel for staff. And
15 Mike Monasmith, the project manager. And other witnesses
16 who will be introduced when their time comes.

17 COMMISSIONER DOUGLAS: Thank you. Intervenor John
18 Zellhoefer.

19 MR. ZELLHOEFER: I'm over here.

20 COMMISSIONER DOUGLAS: Thank you. Intervenor Lisa
21 Belenky on behalf of the Center for Biological Diversity.

22 MS. BELENKY: Yes, I'm here.

23 COMMISSIONER DOUGLAS: Great. Intervenor Jack
24 Pritchett on behalf of Old Spanish Trail Association.
25 Mr. Pritchett, are you on the phone?

1 UNIDENTIFIED FEMALE: (Off mike.) He'll be here
2 on Friday.

3 COMMISSIONER DOUGLAS: Oh, he'll be here on
4 Friday. Perfect. Thank you.

5 Intervenor Cindy MacDonald.

6 MS. MACDONALD: This is Cindy MacDonald. Good
7 morning.

8 COMMISSIONER DOUGLAS: Good morning. Intervenor
9 Richard Arnold?

10 MR. ARNOLD: Good morning. Right here.

11 COMMISSIONER DOUGLAS: Thank you. Great.
12 Intervenor Inyo County, represented by Attorney Dana Crom.

13 MR. HART: If -- if I may, Commissioner Douglas,
14 I'm Joshua Hart with Inyo County. And Ms. Dana Crom is
15 planning to be here in about ten minutes.

16 COMMISSIONER DOUGLAS: Great. Thank you.
17 Intervenor Southern Inyo Fire Protection District.

18 MR. LEVY: Larry Levy.

19 COMMISSIONER DOUGLAS: Welcome. All right. Are
20 there representatives of federal government agencies in the
21 room today, or on the phone? Are there representatives of
22 state or local government agencies, aside from the
23 intervenors who we've just heard from?

24 MR. LACY: Darrel Lacy, Nye County.

25 COMMISSIONER DOUGLAS: Thank you. Anyone else?

1 Are there any officials here representing Native American
2 tribes or nations?

3 MR. JIM: Good morning, Eddie Jim, Pahrump Paiute
4 Tribe, Chairman of Pahrump Paiute Tribe. Thank you.

5 COMMISSIONER DOUGLAS: Thank you. Welcome.

6 Let's see. All right. So with that, I'd like to
7 offer a special thanks to Death Valley Academy for enabling
8 us to hold these hearings here, and to Susan Strachan for
9 helping us set up the room and just kind of made sure
10 everything went as smoothly as possible.

11 And with that, I'll turn this over to the hearing
12 officer.

13 HEARING OFFICER CELLI: Thank you, Commissioner
14 Douglas. Can you all hear me pretty good? Okay.

15 Welcome, everybody, to the evidentiary hearing.
16 The evidentiary hearing is an administrative adjudicatory
17 proceeding to receive evidence into the formal evidentiary
18 record from the parties. Only the parties who are the
19 applicant, staff, Energy Commission staff, and intervenors
20 may present evidence for introduction into the formal
21 evidentiary record, which is the only evidence upon which
22 the commission may base its decision under law. Technical
23 Rules of Evidence may be relied upon as guidance. However,
24 any relative non-cumulative evidence may be admitted if it
25 is the sort of evidence upon which responsible persons are

1 accustomed to rely in the conduct of serious affairs.

2 Testimony offered by the parties shall be under
3 oath. Each party as the right to present witnesses,
4 introduce exhibits, and to rebut evidence of another party.

5 Questions of relevance will be decided by the committee.
6 Hearsay evidence may be used to supplement or explain other
7 evidence but shall not be sufficient in itself to support a
8 fining. The committee will rule on motions and objections.
9 The committee may take official notice of matters within the
10 Energy Commission's field of competence and of any fact that
11 may be judicially noticed by the California courts.

12 The official record of this proceeding includes
13 sworn testimony of the parties witnesses, the reporter's
14 transcript of the evidentiary hearing, the exhibits received
15 into evidence, briefs, pleadings, orders, notice, and
16 comments submitted by members of the public. The
17 committee's decision will be based solely on the record of
18 competent evidence in order to determine whether the project
19 complies with applicable law.

20 Members of the public who are not parties are
21 welcome and invited to observe these proceedings. There
22 will also be an opportunity for public to provide comment.
23 We think this afternoon, probably this evening around --
24 between 5:00 and 6:00 is when we would be taking public
25 comment. Depending on the number of people who wish to

1 speak the committee may have to limit the time allowed for
2 each speaker. This public comment period is intended to
3 provide an opportunity for persons who attend the hearing to
4 address the committee. It is not an opportunity to present
5 supplemental written, recorded, or documentary materials.
6 However, such materials may be docketed and submitted to the
7 Energy Commission for inclusion in the administrative
8 record. Members of the public may submit written comments
9 if they would prefer having written comments to speaking
10 directly to the committee.

11 And again, Blake, if you would raise your hand.
12 Any member of the public who wishes to submit comments,
13 please see Blake Roberts in the back of the room. Members
14 of the public who wish to speak should fill out a blue card
15 provided by Blake Roberts, the Public Advisor.

16 The witness list -- oh, yes. There -- is there a
17 table back there, Blake, that you have? Okay. Excellent.

18 There's a witness list and an exhibit list that
19 has been distributed to the parties, or at least it's on
20 that chair in the back where Blake is standing. All parties
21 received electronically. And the parties have gotten
22 several iterations of the witness list and the exhibit list
23 since the prehearing conference. But most recently the
24 updated lists were sent out on, I believe it was Friday.
25 That was the most recent submission. And parties were asked

1 to bring copies for their use today. And we will use these
2 lists to organize the receipt of evidence into the record
3 today.

4 With regard to taking testimony -- Jennifer, I
5 have exhibit lists and evidence lists for us up here, if
6 that's where you're going. Okay.

7 MS. NELSON: (Off mike.) You have copies for
8 everyone?

9 HEARING OFFICER CELLI: Yeah, for all of us up
10 here. Yes. Thanks.

11 As explained in the hearing order that was issued
12 on Monday, March 4th, 2013, rather than taking the time with
13 the usual format, formal direct and cross-examination of
14 individual witnesses, we will proceed by way of an informal
15 hearing format. The committee will call all witnesses to
16 testify as a panel on the topic at hand. Witnesses may only
17 testify on topics or issues within their expertise. The
18 testimony may include discussion among the panel without the
19 lawyers asking questions. The committee will ask the
20 questions of the panel. And if time permits the committee
21 may allow limited questioning of the panel by the parties.

22 This informal hearing format will begin with Staff
23 briefly summarizing the factual issues that are in dispute.
24 The applicant will then have an opportunity to comment or
25 articulate their opinion and the basis of their opinion on

1 the disputed factual issue.

2 The panel, comprised of all parties' expert
3 witnesses, and they will be sitting along this chair -- this
4 row of tables here on our left, your right, they will be
5 allowed to state their position on factual disagreements and
6 the basis for their opinion. Dialogue between the panel
7 members will be permitted to the extent that it is
8 officially providing useful information to the committee.
9 The committee will guide the discussion and may ask
10 questions of any witnesses at any time. Parties may offer
11 questions for the committee to ask of any witness after
12 their positions have been established. The committee may
13 allow limited questions of the panel by the parties at its
14 discretion.

15 The committee will establish time limits, as
16 needed, on the number of questions a party may ask and the
17 amount of time the line of questioning may consume. A party
18 with the burden of proof may provide final rebuttal
19 testimony if the committee deems it necessary. The
20 committee, in the interest of efficiently completing all
21 topics at the evidentiary hearing, may curtail testimony or
22 examination of any witness if it becomes cumulative,
23 argumentative, or in any other way unproductive.

24 So that's the way we're going to proceed today.
25 Thank you. That -- I have the feeling -- I just want to --

1 this is between Mike Battles and I, I believe that this
2 microphone is calling user number five.

3 MR. BATTLES: It is. I've already changed the
4 name.

5 HEARING OFFICER CELLI: Okay. Because it shows
6 it's call in number -- call-in user number five on mine.
7 Okay. I'm going to go back on the record. We didn't get
8 off the record, but I want to get back into what we were
9 talking about, which is the evidentiary hearing schedule.

10 (Colloquy Between Hearing Officer Celli and
11 Mr. Battles)

12 HEARING OFFICER CELLI: Let's talk about the
13 hearing schedule. The way that we worked it out at the
14 prehearing conference was today we were going to start at
15 11:30 doing introductions and housekeeping, break around
16 noon or later for lunch, begin with land use, followed by
17 visual, followed by project description, facility design,
18 efficiency, reliability, transmission line safety and
19 nuisance, TSE. At 6:00 we would break for public comment
20 and dinner, and resume as needed.

21 Everyone should have this hearing schedule. It
22 was part of the hearing order that we sent out. If you
23 don't, there are some more on the back table.

24 I'm going to ask Staff, I understand you had a
25 workshop, and would like to hear if there were any changes

1 as to the schedule? Just the schedule right now.

2 MR. RATLIFF: Not as to the schedule, no.

3 HEARING OFFICER CELLI: So we're going to --

4 MR. RATLIFF: Oh, I'm sorry. We did have
5 agreement at the workshop that it would be possible to move
6 traffic to this evening. And traffic noise would also be
7 discussed at that time, at least in a preliminary way.

8 The county, when we discussed this, said that
9 their expert on traffic would arrive sometime in the late
10 afternoon. And they didn't want it to happen before their
11 person arrived.

12 HEARING OFFICER CELLI: So you're -- so are you
13 suggesting land use, visual, then traffic?

14 MR. RATLIFF: That's right.

15 HEARING OFFICER CELLI: Okay. And did everybody
16 agree to that at that workshop? That was acceptable to
17 everyone?

18 MR. RATLIFF: Yes.

19 MS. MACDONALD: Hearing Officer Celli, I -- you
20 missed the project description, facility design. I agreed
21 that traffic would be okay after those subjects; remember?

22 HEARING OFFICER CELLI: Okay. So --

23 MR. RATLIFF: I don't, but I may have forgotten.
24 Sorry.

25 MS. MACDONALD: Okay. Yeah, that was the only

1 point I stuck to, is I didn't mind if it was after those.

2 MR. RATLIFF: I do, now that you mention it. Yes.

3 MS. MACDONALD: Okay.

4 MR. RATLIFF: That was --

5 MS. MACDONALD: Thank you.

6 MR. RATLIFF: That was part of the agreement.

7 HEARING OFFICER CELLI: Okay. So traffic is going
8 to come after project description, etcetera. Okay. Very
9 good. Very clear.

10 Any other changes we need to make?

11 MR. HARRIS: Hearing Officer Celli, Jeff Harris.

12 HEARING OFFICER CELLI: Mr. Harris, yes.

13 MR. HARRIS: We'll go get a flag or something. I
14 think we also talked about Ms. MacDonald has some questions
15 about geology, about the heliostat structures. Our witness
16 on that, Michael Rojansky, will be here today as part of the
17 facility design panel at three o'clock or whatever. So
18 Michael will be able to answer Cindy's questions on those
19 geo issues this evening, if that's acceptable.

20 MS. MACDONALD: I have been waiting for those
21 questions for quite some time, so, yes, that's acceptable.
22 But I would also like to ask Staff, whenever that happens,
23 why that wasn't included in the geo/paleo.

24 HEARING OFFICER CELLI: Well, you can ask that of
25 his witness, I guess. But let me ask you this, can I just

1 lump geo -- is it just -- it's geo and paleo, in with the
2 project description and all those other -- that whole group?
3 Because I'm seeing this as one panel.

4 MS. WILLIS: Mr. Celli, this is Kerry Willis. Our
5 geo witness is available -- was scheduled for Friday.

6 HEARING OFFICER CELLI: Oh.

7 MS. WILLIS: So I'm not sure that he's available
8 today. I'd have to check. But I don't know that we can --
9 we'd have to probably do it through WebEx because we don't
10 have any way to communicate with him.

11 HEARING OFFICER CELLI: Well, the good news is
12 WebEx is -- is working. So that seems like a possibility.

13 MS. WILLIS: We also had another request. Since
14 these topic areas, the smaller minor topic areas that we had
15 talked about, I believe Ms. MacDonald was the one that has
16 questions, that she ask the questions and then Staff
17 responds, as opposed to doing the summary of the issues.
18 Because I think at this point we're not sure what the issues
19 are remaining.

20 HEARING OFFICER CELLI: Well --

21 MS. WILLIS: And after the workshop we thought, at
22 least in some of the areas, that we had resolved all the
23 issues.

24 HEARING OFFICER CELLI: You know what, we're going
25 to cross that bridge when we get to it. We're -- we're --

1 today we're basically going topic by topic, issue within the
2 topic. And we will just do our best as we go to use
3 whatever procedures is best fitted to accommodate the topic.
4 So I think that's the way we need to -- to proceed.

5 MS. MACDONALD: Hearing Officer Celli, I do
6 remember the transmission line was taken off at that
7 workshop, if that helps.

8 HEARING OFFICER CELLI: TSE, transmission systems
9 engineering?

10 MS. MACDONALD: And nuisance. Is that correct?

11 MR. RATLIFF: Yes.

12 HEARING OFFICER CELLI: Well, there you go. Thank
13 you. That shows some progress. It sounds like you had a
14 useful workshop.

15 So if there are no other changes then to the
16 schedule that we have, the only change then is the traffic
17 is going from Wednesday to -- I'm sorry, from Wednesday to
18 Tuesday.

19 The only other change was I did receive a request
20 in the -- an email request from Jack Pritchett who asked
21 that -- and Jack Pritchett isn't here, but he had requested
22 that the OSTA or the Old Spanish Trail, cultural, we start
23 off on Friday with Old Spanish Trail before we get to other
24 cultural issues, was his request. And the committee thought
25 that that -- they didn't have a problem with that, unless

1 that poses a problem to others. So the idea would be we'd
2 start with Old Spanish Trail Association and get into
3 cultural from there.

4 MR. ARNOLD: This is Richard Arnold speaking. Is
5 there an estimated time as to what's being allotted or
6 requested by the OSTA for their presentation?

7 HEARING OFFICER CELLI: I don't have that. And --
8 and what's going to happen is, really, we just want to hear
9 from their experts, hear what they have to say, listen to
10 the parties discuss it back and forth. And at some point
11 the committee is going to say we've heard enough, and we'll
12 just call it. I'm thinking, in my mind, an hour-and-a-half,
13 something like that. That's -- that's pretty generous,
14 because these other topics are not getting an hour-and-a-
15 half, I want to be clear, you know, the -- the lesser
16 topics. Obviously, biology and the bigger ones are going to
17 get more time than cultural. Cultural is one of the bigger
18 topics.

19 MR. ARNOLD: Glad to hear it.

20 HEARING OFFICER CELLI: Yes.

21 MR. ARNOLD: That's -- actually, that would --
22 that would work out well for us, too, because we -- we have
23 some folks that are coming in from -- from a long distance.
24 So that would be acceptable. Thank you.

25 HEARING OFFICER CELLI: Thank you. Well, I want

1 to thank the parties for making this -- this work in terms
2 of schedule.

3 MR. HARRIS: Mr. Celli, Jeff Harris, over here.

4 HEARING OFFICER CELLI: Yes. I'm -- you know, I'm
5 sorry. We -- from here the lighting -- it's very bright on
6 us and it's dark out there, and it's kind of hard -- you're
7 all in the shadows a little bit. So --

8 MR. HARRIS: It's the price you pay for showbiz.

9 HEARING OFFICER CELLI: Yes. Give me a minute
10 to --

11 MR. HARRIS: Yeah.

12 HEARING OFFICER CELLI: -- find out who's talking.
13 Go ahead.

14 MR. HARRIS: A couple things. We've mentioned
15 before on Friday that our air quality witness, public health
16 witnesses are here on Friday but not available next week.
17 And so I know cultural is a pretty full schedule that day.
18 But we want to reiterate the need to have at least Mr.
19 Rubenstein available for public health and air quality on
20 Friday. But that's not new. This is currently on the
21 schedule. We just need to finish on Friday, is the point.

22 HEARING OFFICER CELLI: In other words, you're
23 saying -- because the deal that we worked out at the
24 prehearing conference was that anything we didn't finish
25 goes into Monday the 18th.

1 MR. HARRIS: I remember very clearly saying, yes,
2 that we did -- we were going to lose our witnesses on air
3 quality and public health on Monday. One of them will be
4 literally out of the country in a place with no internet,
5 sort of like here. So he'll be unavailable to us
6 completely. So it really is the air quality issues with Mr.
7 Rubenstein. And as I said, they're on the schedule for
8 Friday. We've agreed to that. I'm just talking about
9 finishing on those days.

10 HEARING OFFICER CELLI: We'll do our best.
11 Because I -- we are going to -- if I'm going to get my
12 commissioners on their flights out we're going to have to
13 end at four o'clock on Friday. So, Mr. Harris, we'll do our
14 best to get it all in, but we have a hard stop time --

15 MR. HARRIS: Okay. Understood. Yeah.

16 HEARING OFFICER CELLI: -- on Friday.

17 MR. HARRIS: Either that or you're spending the
18 night in Vegas. I get it.

19 So Ms. Strachan also wants some clarification on
20 Monday's topics and what we thought may have come off the
21 table for Monday or not. So --

22 HEARING OFFICER CELLI: I actually don't know.
23 Since we were not a party to the workshop we don't know what
24 came off the table. In fact, the committee would like to
25 hear from Applicant or Staff or whatever, what is no longer

1 on the table. Because then maybe we can fit it -- we can
2 use some of those other slots for the air quality. So
3 what -- what was settled, if anything?

4 MS. STRACHAN: I'm going off of an email that Mike
5 Monasmith sent. So, Mike, I apologize, I'm taking over your
6 stuff.

7 But there were several topics listed hazardous
8 material as not needing to go forward in the hearing,
9 resolved at the workshop. Hazardous materials management,
10 geological and paleontological resources, waste
11 management --

12 HEARING OFFICER CELLI: Well, we just found out
13 that geo and paleo is --

14 MS. STRACHAN: Correct.

15 HEARING OFFICER CELLI: -- alive and kicking --
16 and we're going to --

17 MS. STRACHAN: Correct.

18 HEARING OFFICER CELLI: -- hear it tonight.

19 MS. STRACHAN: Correct.

20 HEARING OFFICER CELLI: So -- but haz mat --

21 MS. STRACHAN: Haz, waste management, transmission
22 system engineering and transmission system engineering, and
23 transmission line safety and nuisance, and then soil and
24 surface water, which is alive and kicking.

25 What I wanted to get is clarification that

1 hazardous materials management and waste management have
2 been taken off the table and are not going to be heard on
3 Monday.

4 HEARING OFFICER CELLI: Well, if that -- you mean
5 amongst the parties?

6 MS. STRACHAN: Correct.

7 HEARING OFFICER CELLI: Well, let me go around the
8 table.

9 Ms. MacDonald, is that your understanding?

10 MS. MACDONALD: Yes, that's correct. Thank you.

11 HEARING OFFICER CELLI: CBD?

12 MS. BELENKY: Our understanding was hazardous
13 materials and solid waste management, but not necessarily
14 waste water issues.

15 HEARING OFFICER CELLI: Waste water, I believe,
16 would be under soil and water.

17 MS. BELENKY: Okay. I just wanted to clarify.
18 Thank you.

19 HEARING OFFICER CELLI: So haz mat, waste,
20 anything else, Ms. Belenky?

21 MS. BELENKY: No.

22 HEARING OFFICER CELLI: Okay. Mr. Levy?

23 MR. LEVY: No problem with removing those.

24 HEARING OFFICER CELLI: Okay. I take it since
25 Southern Inyo Fire Department -- Fire Protection District is

1 still here that matter persists and you --

2 MR. LEVY: It does.

3 HEARING OFFICER CELLI: Okay. Mr. Zellhoefer?

4 MR. ZELLHOEFER: No, no problems with me.

5 HEARING OFFICER CELLI: That's okay with you.

6 Mr. Arnold, is that okay with you in terms of haz
7 mat, waste? What were the other -- haz mat waste, TSE.

8 MS. STRACHAN: TSE and TLSN.

9 HEARING OFFICER CELLI: TSE being transmission
10 systems engineering and TLSN being transmission line safety
11 and nuisance.

12 MR. ARNOLD: Was that directed to me? I'm sorry.

13 HEARING OFFICER CELLI: Yes. I'm just making sure
14 that it's also your understanding that those were taken off
15 the schedule.

16 MR. ARNOLD: That's correct. Yes.

17 HEARING OFFICER CELLI: Okay. And County of Inyo?

18 MS. CROM: The County of Inyo has reached
19 agreement with the applicant and we will not be putting on
20 any evidence.

21 HEARING OFFICER CELLI: At all for --

22 MS. CROM: Anything.

23 HEARING OFFICER CELLI: So that's interesting. So
24 we get our time back for land use. So that will make up for
25 all the WebEx messing around we did. Thank you very much,

1 Ms. Crom. I know you worked hard.

2 What about socio?

3 MS. CROM: Socio is also off the table.

4 HEARING OFFICER CELLI: Fabulous.

5 MS. CROM: As would be County's only issues on
6 traffic and transportation, we won't be putting on any
7 evidence on that. So to the extent that the schedule was
8 dependent on our public works director showing up, that's no
9 longer necessary.

10 HEARING OFFICER CELLI: I appreciate that. I know
11 that represents a lot of hard work on your part, the
12 applicant and staff, and all the parties. And I -- and we
13 do appreciate that.

14 MS. CROM: And I apologize for being late. This
15 literally was signed about 45 minutes ago.

16 HEARING OFFICER CELLI: It's okay. You missed me
17 freaking about WebEx not working.

18 MS. CROM: I wish I had been here.

19 HEARING OFFICER CELLI: Okay. Ms. Belenky, go
20 ahead.

21 MS. BELENKY: Yes, thank you. While we appreciate
22 the county's new information, when are the other parties
23 going to see the terms of this agreement so that we can look
24 at them? Because just because the county has settled on
25 these issues doesn't mean that everyone else has agreed to

1 them.

2 HEARING OFFICER CELLI: Point well taken. Let's
3 hear from Staff on that.

4 MR. RATLIFF: I think you have to ask the county
5 when they're going to see them.

6 HEARING OFFICER CELLI: I guess that was between
7 County and Applicant. So maybe we need to hear from the
8 applicant on that.

9 MS. CROM: Well, the agreement is a public
10 agreement. It was just approved by the Inyo County Board of
11 Supervisors this morning. And what the county's position
12 is, is that we will not be putting on any evidence. To the
13 extent that those subject areas are still at issue is
14 between the committee and the other parties.

15 HEARING OFFICER CELLI: That's right. So we're
16 not going to take it off the table necessarily. When we get
17 to those points in the schedule, that's true, when we get to
18 that point in the schedule we'll hear what more we -- what
19 other evidence we will need to hear on socio, land use,
20 etcetera. I do caution, though, that my understanding of at
21 least the land use issues was that they were entirely legal
22 issues. There were no factual issues involved. And so I
23 don't -- I can't imagine what we're going to hear on that,
24 but we will -- we will get into that momentarily.

25 But your point is well taken, Ms. Belenky. And

1 just because there is that settlement doesn't necessarily
2 preclude the other parties from raising their evidence on
3 those issues.

4 MS. BELENKY: I just wanted to reiterate, I think
5 we need to see what the terms of that settlement are.
6 Because the terms may affect our other parties' positions on
7 those issues and -- so that's one thing.

8 And that brings up the second issue. I just
9 wanted to ask, I had understood we would all have access to
10 the web in this hearing room, but there is no wi-fi as far
11 as I can tell. And so I am wondering what provisions are
12 going to be made for that.

13 HEARING OFFICER CELLI: I don't think there --
14 what we have is what we've got. And right now I'm happy to
15 say that we have the WebEx, and that seems to be working. I
16 haven't tried my telephone yet. I don't know if telephones
17 are working wirelessly or not here. A lot of shaking heads
18 in the negative. So I think we're as isolated as can be
19 here. So --

20 COMMISSIONER DOUGLAS: You can see that our
21 computers are closed to, and there's good reason for that.

22 MS. BELENKY: Well, then I would request that we
23 at least take breaks that are long enough for some of us to
24 go to where this is wi-fi and retrieve things that we need
25 from the web. It's only two or three blocks away, but it

1 would probably take 15 minutes.

2 HEARING OFFICER CELLI: What -- how are you able
3 to access it two or three blocks away? What are you --

4 MS. BELENKY: From the hotel. We have a wi-fi
5 there.

6 HEARING OFFICER CELLI: Oh, okay.

7 MS. BELENKY: And I believe there's also one at
8 the conservancy.

9 HEARING OFFICER CELLI: Oh, good. Okay. Great.
10 Thank you for that.

11 So did we settle -- did we handle that for you?
12 No, we didn't because Ms. Crom wanted to know, what is the
13 availability of the -- of the resolution?

14 MS. CROM: I simply have a hard copy, that's eat.
15 I mean, I -- it was literally emailed to me at our facility
16 in Tecopa and I made a copy, and the applicant has a copy.
17 So, you know, we're a little hamstrung. We don't have the
18 ability to make multiple copies at this point. But it is,
19 again, a public document. It was on the board's agenda this
20 morning.

21 MR. HARRIS: Okay. I know the copy place in Las
22 Vegas. So we can have copies tomorrow of the executed
23 document for the parties, and maybe go get wi-fi between now
24 and then, too, as well.

25 So Ms. Strachan has one clarifying question of Ms.

1 Belenky.

2 MS. STRACHAN: I wanted to clarify your question
3 on waste water that you wanted to discuss; is that processed
4 waste water from a plant operation standpoint or are you
5 speaking more in terms of storm water? Because it has --
6 processed waste water is processed under hazardous waste
7 versus storm water would be under soils and surface water.
8 So I just want to make sure we're -- we've got the right
9 witnesses to cover the right topics?

10 MS. BELENKY: That's a good question, and I'll
11 have to double-check.

12 MS. STRACHAN: Okay.

13 MS. BELENKY: I thought that the main issue was
14 storm water. But I want to make sure that we're not --

15 HEARING OFFICER CELLI: Ms. Belenky, I can hardly
16 hear you.

17 MS. BELENKY: Sorry. Sorry.

18 HEARING OFFICER CELLI: You need to get into that
19 microphone please.

20 MS. BELENKY: Right. Storm water is the primary
21 issue that the center has been looking at. So I just wanted
22 to make sure that that wasn't being included here.

23 HEARING OFFICER CELLI: And it's not. Soil and
24 water is where storm water is discussed.

25 One quick housekeeping; who's in charge of the

1 lights and the lighting in the room? Anyone from Death
2 Valley Academy or John? What -- what we're asking is there
3 are -- we have lights that are -- these three lights here,
4 if we can get those off and perhaps get the lights on in the
5 back of the room, then it would equalize out all the
6 lighting.

7 MS. MACDONALD: Hearing Officer Celli, before we
8 get too far off, I also want to mention, since we were
9 talking about things the parties have not seen that may have
10 relevance --

11 HEARING OFFICER CELLI: Uh-huh.

12 MS. MACDONALD: -- during the workshop a great
13 deal of the workshop was spent between Staff and Applicant
14 working out conditions of certification. And we were
15 promised that we would get copies of those, that those would
16 be circulated. And as of the time that I left this morning
17 I had not received anything. So I'm kind of hamstrung. I
18 just wanted that noted. I have no idea -- I have a vague
19 idea of what changes happened on those, and I wanted that
20 noted please, and/or copies please.

21 HEARING OFFICER CELLI: That is noted.

22 So, Staff or Applicant, any word on the
23 availability of the corrected conditions of certification?

24 MR. RATLIFF: I'm not entirely sure when those
25 will be docketed or if they're available right now. We

1 worked out a number of -- we got agreement on a number of
2 conditions of certification regarding water supply and
3 biology, particularly with regard to plants and vegetation.
4 And we discussed the precise language at the workshop. Some
5 people wrote it down. But there was a desire -- I think
6 everyone had a desire to see what it looked like in formal
7 form because it was hard to tell at the workshop. And I
8 believe as of yesterday those, at least the biological
9 conditions had not been posted. I'm not sure about the
10 water supply ones.

11 So I think -- I think Ms. MacDonald is probably
12 correct, that they aren't available at this moment. But
13 hopefully they will be today.

14 HEARING OFFICER CELLI: Okay.

15 MR. HARRIS: I can add to that, if you -- stage
16 left.

17 HEARING OFFICER CELLI: Mr. Harris, go ahead.

18 MR. HARRIS: Hi. Yeah. They are being word
19 processed. We've been asked to scribe those. In keeping
20 with the technology issue, there was a ghost in that machine
21 and it had to be recreated a couple of times from a corrupt
22 file. So it literally has been a problem with the word
23 processing. And so they're going through QA and QC. We
24 will get those completed as soon as possible and get them
25 served, and we'll also try to bring copies. So Ms.

1 MacDonald is correct.

2 HEARING OFFICER CELLI: Is -- will you be able to
3 have them, do you think, by tonight or tomorrow?

4 MR. HARRIS: I think the choice was have the room
5 ready or have them. So Susan decided to sleep. So it may
6 be tomorrow.

7 HEARING OFFICER CELLI: Okay. Just so you have
8 some sense of when it's coming, Ms. MacDonald.

9 MS. MACDONALD: Well, that is the issue. And
10 given the -- the volume of rework that many of us COCs
11 (phonetic) received, I actually wanted to have a little time
12 to review it, not to mention the fact that I took as many
13 notes as I could. But I would also like to compare to make
14 sure that what is finally circulated is as much as possible
15 of what I remembered. I'm not really sure how I'm supposed
16 to deal with this at the hearing when I haven't seen them
17 and I don't really specifically remember what changes in
18 it --

19 HEARING OFFICER CELLI: Usually the changes are
20 shown by way of underlining for what's new and strikeout for
21 what's old. And I got the sense that that is the condition
22 that they're going to receive them in, unless you tell me
23 otherwise, Mr. Harris, in terms of strikeout and underline.

24 MR. HARRIS: Yeah. That was -- and that was part
25 of the ghost in the machine was that different -- different

1 authors had done different things. And somebody put images
2 in there and all kinds of fun stuff. So, yeah, but they
3 will be redline and strikeout off of an identifiable
4 document. So you'll be able to see those changes.

5 HEARING OFFICER CELLI: Great. So that will speed
6 things up.

7 MS. BELENKY: This is -- this is Lisa Belenky. I
8 just wanted to clarify. We're going to see those before we
9 do the water supply tomorrow --

10 HEARING OFFICER CELLI: Water is tomorrow
11 afternoon.

12 MS. BELENKY: -- and before we do biology, so that
13 we're all starting from the same place. Having been in
14 these hearings before where we start down a road and then
15 other people say, oh, we already settled that, I don't want
16 to be in that position. I want to see everything that has
17 been agreed to by other parties before we get to that part
18 of the hearing so that we're not wasting anyone's time, not
19 the commissions -- the committee's time and not any of the
20 parties' time in preparing for something that's already
21 changed. So if at all possible we would like to see any
22 changes before we get to that part of the hearing.

23 HEARING OFFICER CELLI: Fair enough.

24 MR. HARRIS: Mr. Celli, if I could add, as to
25 Water Supply 4 and Water Supply 7, those were docketed and

1 filed and served before the workshop, so the parties have
2 copies of those conditions for water supply ahead of time.
3 And Ms. Anderson, I think was at the workshop, as well, and
4 has copies of those documents. But we'll -- we understand
5 the technological constraints and we're going to do our
6 best. And we might even try to better that if we can get
7 someone to drive.

8 MR. RATLIFF: If -- Mr. Harris, if Water Supply 4
9 and Water Supply 7 are docketed is that -- what is not
10 docketed that was changed?

11 MR. HARRIS: We had further discussions with you
12 all about Water Supply 1.

13 MR. RATLIFF: But we didn't -- we didn't ever
14 resolve that, I think; is that right?

15 MR. HARRIS: We have not put any language on the
16 table. And that actually --

17 MR. RATLIFF: Okay.

18 MR. HARRIS: -- we've drafted some language, and I
19 emailed that to you --

20 MR. RATLIFF: Right.

21 MR. HARRIS: -- probably when you didn't have
22 email.

23 MR. RATLIFF: I saw it yesterday.

24 MR. HARRIS: Yeah. Okay. So the basic issues is
25 still Water Supply 1, and giving an additional option. And

1 again, that will be shown in redline or strikeout.

2 MR. RATLIFF: Okay.

3 HEARING OFFICER CELLI: Thank you. So, Mr.
4 Wheatland, you had --

5 MR. WHEATLAND: Yeah. On the same theme of making
6 documents available ahead of time, the applicant has
7 prepared revisions to the visual conditions of certification
8 that were proposed by the staff in an effort to prepare what
9 we hope will be a version of the visual conditions that
10 would be acceptable to the staff. We are going to
11 distribute copies of those conditions now so that the
12 parties can see them. The purpose of these proposed
13 conditions is to try to move us toward closure of that
14 issue.

15 HEARING OFFICER CELLI: Thank you. Well, I can
16 tell you that the committee didn't want to spend a lot of
17 time on visual today. But I would appreciate it if you
18 would submit that information to the other parties because
19 we're going to do visual today, later on.

20 If there's -- are there any other housekeeping
21 matters before we move into land? From Ms. MacDonald?
22 Center for Biological Diversity?

23 MS. MACDONALD: This is Cindy MacDonald. Just on
24 the last point, you know, a lot of this stuff is
25 complicated. It will have long-term affects. The hearing

1 is the only place that the record counts. And too many
2 things have been changed at the last second. I've had no
3 time to review it. And I just don't think that's
4 appropriate, and I want that noted please. Thank you.

5 HEARING OFFICER CELLI: Yes. For the record,
6 everything we're saying is on the record, unless we go off
7 the record expressly. We are on the record. Troy is over
8 here. He's taking it all down. We're having this recorded.
9 There will be transcripts. So before you write your briefs
10 everyone will have every word taken down in a transcript.
11 So you don't have to worry about making a record. The
12 record is being made.

13 MS. MACDONALD: Yes.

14 HEARING OFFICER CELLI: You're -- everything you
15 say is in the record.

16 MS. MACDONALD: I understand that. But I have no
17 opportunity to rebut. I have not opportunity to cross-
18 reference to make sure that there's not something that's
19 inconsistent, those kinds of things, is what I meant. I
20 know it's in the record. And by not having timely access so
21 that I have -- you know, not all things are immediately
22 apparent the instant that you see things. You know, that's
23 one of the reasons why we've been spending the last year-
24 and-a-half going around these issues. So having something
25 dropped on my desk an hour before it's supposed to be

1 reviewed, and meanwhile, while I have another issue to
2 attend to before I can even review it, it's extremely
3 superficial. And the only thing that will county is
4 whatever I can think of in the -- in the few minutes that's
5 allowed me.

6 HEARING OFFICER CELLI: I understand that. And --

7 MS. MACDONALD: Thank you.

8 HEARING OFFICER CELLI: -- we appreciate those
9 comments.

10 So with that then are we -- are we finished with
11 housekeeping?

12 MR. RATLIFF: Well, Mr. Celli, there's -- there's
13 the issue of tomorrow. I think the -- what has been termed
14 socio or socioeconomics issues I think was in large part an
15 issue that had to do with issues between the county and the
16 costs imposed on the county of the project and how the
17 county needed to be reimbursed for the service costs and
18 other costs that would result from the project if -- if, in
19 fact, there is a resolution of that. And the county is not
20 going to put on evidence. Obviously, then tomorrow morning
21 we're not going to be doing what we had intended to do
22 tomorrow morning.

23 HEARING OFFICER CELLI: Well, to Ms. Belenky's
24 point, that if Ms. Belenky or any of the other intervenors
25 have a witness on socioeconomics that they want to put on,

1 then we would have to hear that evidence.

2 MR. RATLIFF: Certainly, that's true. But
3 there -- the only remaining portions that I'm aware of
4 that -- there may be other things. I mean, I know there's
5 been an issue regarding whether or not the community of
6 Charleston View should be considered an environmental
7 justice community and how Staff analyzed the demographics of
8 that -- of that area to make its determination about that.
9 I know that's one of the issues.

10 But there aren't a whole lot of issues that we
11 thought were going to fill the morning on socio; that's all
12 I'm saying. And we can't begin until noon -- I'm just
13 telling you this -- on water because the staff witnesses
14 won't arrive until noon, I think at the earliest.

15 HEARING OFFICER CELLI: I appreciate that. You
16 know, given how much we have on our plate for today, and
17 that we got a late start, the good news is we got a little
18 break, I think, in terms of land use, and we'll see how we
19 do, we've got quite a bit to cover. And if we don't get it
20 all covered we at least have tomorrow morning to take up any
21 slack. And so that -- that might be a good use of that time
22 and save us time on the back end. So I appreciate that.

23 Let me ask you -- let me -- Ms. MacDonald, do you
24 have any witness on socioeconomics that you were going to
25 call?

1 MS. MACDONALD: Just myself.

2 HEARING OFFICER CELLI: Ms. Belenky, did you have
3 witnesses on socioeconomics? In fact, let me look at the
4 prehearing conference, because not all the parties --

5 MS. BELENKY: No.

6 HEARING OFFICER CELLI: That was a no, Ms.
7 Belenky?

8 MS. BELENKY: No.

9 HEARING OFFICER CELLI: Thank you.

10 MS. BELENKY: No, we don't have any witnesses on
11 socioeconomics.

12 COMMISSIONER DOUGLAS: Does any other party have
13 witnesses on socioeconomics? It looks like a no.

14 COMMISSIONER DOUGLAS: Okay. Socio was --

15 MS. BELENKY: Oh, sorry. I forgot -- I forgot you
16 guys have put the growth inducing impacts into the
17 socioeconomics --

18 HEARING OFFICER CELLI: Right.

19 MS. BELENKY: -- right. So, yes, we do have -- we
20 did have questions. I think that our witness was Eileen,
21 and she will be here tomorrow morning.

22 HEARING OFFICER CELLI: Okay. The people that I
23 had who had requested socioeconomics time were Applicant,
24 Staff, CBD, Cindy MacDonald, and Inyo County, and none
25 others. So I think we're going to have a much abbreviated

1 presentation of socioeconomics tomorrow, and that's good.

2 Is that everything from the parties before we
3 begin and launch into land use?

4 Hearing nothing, then let's see. Who has
5 witnesses that are here for land use today? Okay. I've got
6 Applicant and Staff. I do not have any now from the County
7 of Inyo.

8 Ms. MacDonald, did you have a witness for land
9 use?

10 MS. MACDONALD: Myself.

11 HEARING OFFICER CELLI: Okay. And Ms. Belenky,
12 did you have a witness for land use? Okay.

13 MS. BELENKY: No.

14 HEARING OFFICER CELLI: Then let's -- let's call
15 everybody's witness on land use and have them have a seat
16 and we'll get them sworn in.

17 MR. RATLIFF: If I could address the committee, I think
18 if the county is not going to participate on land use,
19 someone, perhaps the applicant or the county could at least
20 describe to us elements of the agreement which are pertinent
21 to land use, such as the conformity of local zoning law
22 with -- with the project so -- so we'll know how that will
23 be resolved or whether an override is required for local
24 ordinances.

25 HEARING OFFICER CELLI: That's a good idea. Ms.

1 Belenky -- I mean, Ms. MacDonald, I'm going to ask you to
2 come all the way down here where we can see you.

3 And I don't know your name, ma'am, but if you're
4 one of the experts please come on down.

5 Fill in as close to the dais as you can so we can
6 see who's here and see you and hear you. Some all the way
7 down. It would be nice if people had name tags. But if you
8 don't, that's fine too.

9 As the experts are getting seated, let's hear from
10 Mr. Ratliff what the -- what you were able to accomplish
11 with the county.

12 MR. RATLIFF: I think Ms. Willis should address
13 that, actually.

14 HEARING OFFICER CELLI: Ms. Willis or Mr. Crom?

15 MS. CROM: Actually, if Mr. Wheatland -- if Mr.
16 Wheatland wants to start I'll go ahead and add in. But we
17 had resolved the county's issues with respect to land use.

18 So, Greg -- Greg, if you want to start I'll add
19 in.

20 MR. WHEATLAND: Well, yeah, let me first make
21 clear that what we are describing is an agreement that has
22 been entered into between the applicant and the county. So
23 they are the only two parties to this agreement. And that
24 the agreement has been executed by the applicant, has been
25 approved by the board of supervisors this morning.

1 The applicant -- the agreement is intended to
2 cover all of the areas of disagreement or differences
3 between the parties in this proceeding. But today, since
4 the first topic is land use I'd like to ask Ms. Crom if she
5 could just summarize for the benefit of the committee the
6 agreement with respect to land use issues.

7 MS. CROM: With respect to land use issues, as the
8 committee is aware the applicant had already taken out an
9 application for a general plan amendment and a zoning
10 reclassification. That application will be amended to
11 include a merger lot line adjustment and road abandonment.
12 It will be processed by the county based on the PMPD. Given
13 the timing of the proceedings the county would not object to
14 the inclusion of an override in the event that those
15 approvals are not successful prior to final committee -- or
16 commission approval. And with that application that will
17 address the land use consistency issues that the county has
18 raised in its testimony, in addition to the road abandonment
19 issues.

20 HEARING OFFICER CELLI: Thank you very much for
21 your clarity. Okay.

22 At this time then let's -- let's first of all,
23 Troy, if you would please swear the witnesses, or I can do
24 it, if you wish. Oh, okay.

25 Please, first of all, what is your name, from left

1 to right.

2 MS. SNOW: Christina Snow from the Energy
3 Commission staff that prepared the land use testimony.

4 HEARING OFFICER CELLI: Thank you.

5 MR. MOORE: Christopher Moore, Applicant.

6 HEARING OFFICER CELLI: Thank you. Next.

7 MS. SCHOLL: Jennifer Scholl, CH2M Hill,
8 supporting Applicant.

9 HEARING OFFICER CELLI: Scholl, S-c-h-o-l?

10 MS. SCHOLL: L.

11 HEARING OFFICER CELLI: CH2M Hill. Cindy
12 MacDonald.

13 MS. MACDONALD: Cindy MacDonald, Intervenor.

14 HEARING OFFICER CELLI: Please rise and raise your
15 right hand.

16 (Thereupon,
17 Christina Snow, Christopher Moore, Jennifer Scholl,
18 Cindy MacDonald,
19 were duly sworn.)

20 HEARING OFFICER CELLI: Thank you. Please be
21 seated. At this time I think the way -- the best way to
22 proceed is to -- now that we've heard what the settlement is
23 between County and Applicant, would be to hear from you, Ms.
24 MacDonald, since it appears that you would be the only party
25 in opposition to that agreement amongst the panelists.

1 MS. MACDONALD: Thank you, Hearing Office Celli.
2 I don't know if I'm in disagreement with it or agreement. I
3 haven't seen any terms of it. I don't know what's been
4 resolved. I do know what some of the issues were. If Ms.
5 Crom would like to at least briefly summarize the issues
6 that were of my -- my biggest concern had to do with
7 environmental justice -- what was the other one? All of a
8 sudden I get nervous. Sorry. Environmental, traffic, and
9 noise.

10 HEARING OFFICER CELLI: Okay. Let me just speak
11 to that. This could be a real quick session. Environmental
12 justice we will take up as socioeconomics. It's under the
13 heading of socioeconomics, not land.

14 MS. MACDONALD: Correct.

15 HEARING OFFICER CELLI: So we don't -- we'll deal
16 with that tomorrow.

17 MS. MACDONALD: Okay.

18 HEARING OFFICER CELLI: Traffic, there's two
19 aspects of traffic as I understand it in this case. We've
20 got traffic, traditional traffic, you know, levels of
21 services, etcetera. And traffic noise. Okay. Did you have
22 something apart from those two issues vis a vis traffic?

23 MS. MACDONALD: Well, okay. And, you know, we
24 could work on clarifying this. But what my specific point
25 was, was in the FSA a lot of the land use analysis and

1 conclusions were that the -- the project would not cause any
2 disruptions to the community. And I found a lot of
3 inconsistencies with that. And, of course, traffic, noise,
4 and what I consider a burden placed on us with our water
5 supply are disruptions in the community, as well as visual
6 resources. So it's all kind of a comprehensive package, if
7 you see what I'm saying.

8 HEARING OFFICER CELLI: I do. But I want to --
9 the way we're going to delineate those issues, though, is
10 that we'll -- we will handle EJ and socio. We're going to
11 handle traffic as it would relate to land use rather than
12 noise as traffic, under the heading of traffic when we get
13 to traffic, which is later today, I believe. And then we
14 are going to deal with noise under the rubric of noise. So
15 when we get to noise we will -- which is also tonight, I
16 believe -- we will tackle noise at that time.

17 MS. MACDONALD: Okay.

18 HEARING OFFICER CELLI: I have believed all along
19 that all of the issues that I saw with regard to land use
20 were legal issues that if -- if anything were -- would be
21 the subject of a brief, not really the need for expert
22 testimony.

23 Is there a need to hear from Applicant or Staff's
24 land use witnesses at this time?

25 Let me ask the parties. Applicant?

1 MR. HARRIS: We don't believe so.

2 HEARING OFFICER CELLI: Staff?

3 MR. RATLIFF: Well, there is one issue that, of
4 course, may or may not be addressed in part by the
5 agreement, and that is the security for -- I'm not sure what
6 the term is, deconstruction or --

7 MR. HARRIS: Closure.

8 HEARING OFFICER CELLI: -- closure of the site.

9 MS. MACDONALD: Reclamation.

10 MR. RATLIFF: Reclamation, yes. Thank you.

11 The applicant raised this at workshops, the issue
12 of closure. We have -- they pointed out to us three
13 different conditions that go to closure in different
14 sections. One is a general condition. One is a condition
15 that was in land use reflecting the County's Ordinance Title
16 21. And one is in the biology section. And, you know, this
17 is obviously unfortunate when you have three different
18 things addressing the same thing. And we want to consolidate
19 the provisions into one condition. The county's agreement
20 may or may not address closure. If it does then Title 21
21 may no longer be relevant to the issue of conformity with
22 the county's laws.

23 Whether it is or not the staff believes there
24 should be security for removal of the project when the
25 project closes. And we have -- this morning, before we

1 started the hearing I told Counsel for the -- the applicant
2 that we propose to have a workshop on that issue to try to,
3 for one thing, get all of the conditions into one condition
4 or into one place that apply to closure.

5 HEARING OFFICER CELLI: Let me -- let me just --

6 MR. RATLIFF: -- and also to determine the
7 structuring of the security that would be for the removal of
8 the project when the time comes.

9 HEARING OFFICER CELLI: In the PMPD typically we
10 have compliance and closure, which are -- which is where you
11 have your general --

12 MR. RATLIFF: Yes.

13 HEARING OFFICER CELLI: -- conditions. And so
14 what I would like to know is do you have -- is this
15 disagreement over what the security should be or where the
16 conditions should be located, in which section?

17 MS. CROM: The agreement address reclamation.
18 This is Dana Crom --

19 HEARING OFFICER CELLI: Thank you.

20 MS. CROM: -- for the county. The agreement
21 addresses reclamation and specifically provides that there
22 will be no security that will be posted.

23 So as to compliance with Title 21, that issue
24 would no longer be in dispute. And the county would be
25 supportive of a condition that did not require the posting

1 of security.

2 HEARING OFFICER CELLI: And, Staff, you disagree
3 with that?

4 MR. RATLIFF: Absolutely. We don't disagree
5 with -- the county can do with its own ordinances what it
6 wishes. And if the agreement takes care of Title 21
7 provisions and the local ordinances, then obviously that
8 isn't an issue of land use conformity.

9 Nevertheless, the staff believes that a
10 requirement for security for the dismantling of the project,
11 which is a very huge and extensive project, and for the
12 reclamation of the site is essential. And so we would still
13 propose to have that as part of any closure condition. And
14 we want -- we haven't had an opportunity, I think, to have
15 that discussion with the applicant in the absence of the
16 Title 21 provision. We've never, for instance, agreed on
17 what the amount of the security would be or when it would be
18 paid or how it would be structured.

19 So we think that that discussion ought to take
20 place. And so we would propose a workshop post-hearing and
21 try to get agreement at that workshop.

22 MS. CROM: What I can add is that there are
23 proposed conditions of certification in the agreement that
24 outlines what would be anticipated for reclamation,
25 including the potential for re-vegetation at the project

1 site. And so there would be an obligation for reclamation
2 of the project site under the terms of the agreement. So we
3 have addressed that. And it's -- we probably, on a break,
4 need to discuss this so Staff fully understands what it is
5 that the parties have agreed to, at least vis a vis the
6 county and the applicant.

7 HEARING OFFICER CELLI: You know, since this is a
8 hearing and everybody's hear, I wonder if you could just
9 state it on the record right now. Because the point has
10 been made that none of these people -- none of the other
11 intervenors have received this information. They don't even
12 know what you're talking about yet. And perhaps by your
13 description of the contents of the condition, that may
14 satisfy the intervenors and they may not need to raise it.

15 Mr. Wheatland, go ahead.

16 MR. WHEATLAND: Yeah, I was going to make a
17 suggestion on how we might move forward on the discussion of
18 this issue. I think it would be worthwhile for the parties
19 to see the actual agreement, and we're going to do our best
20 to get some copies here and have them here --

21 HEARING OFFICER CELLI: I've got a great idea.

22 MR. WHEATLAND: -- this afternoon. Well, we may
23 have the same idea. Go ahead.

24 HEARING OFFICER CELLI: Yeah. My thought was,
25 look, you dragged your witnesses here. We'd love to hear

1 from them if we need to. Again, I always thought that land
2 use was strictly legal and there were no questions of fact.
3 If we took a lunch break, gave the parties an opportunity to
4 discuss and present what has been agreed to in these
5 conditions and show that to the other intervenors then maybe
6 we could quickly dispose of land use --

7 MR. WHEATLAND: Right.

8 HEARING OFFICER CELLI: -- after the lunch break.

9 MR. WHEATLAND: I think that's exactly where I was
10 headed. But I wanted to also suggest, as Mr. Ratliff
11 mentioned, there's conditions for bonding really in three
12 different parts of the AFC. And I think it would be
13 beneficial to consolidate that issue in one place. We have
14 witnesses that are prepared to discuss that under project
15 description --

16 HEARING OFFICER CELLI: Okay.

17 MR. WHEATLAND: -- which will be coming up later
18 this afternoon.

19 HEARING OFFICER CELLI: Right.

20 MR. WHEATLAND: We don't -- our land use witnesses
21 were not really prepared to discuss that. I would recommend
22 that you dismiss the land use panel and allow us to discuss
23 that issue this afternoon under project description once all
24 of the parties have had a chance to see the agreement.

25 HEARING OFFICER CELLI: I think that that's a

1 reasonable suggestion. Any problem with that, Ms.
2 MacDonald?

3 MS. MACDONALD: Well --

4 HEARING OFFICER CELLI: Basically, we're taking it
5 up as project description, not as land use.

6 MS. MACDONALD: No. I do have a problem with
7 that. Thank you.

8 HEARING OFFICER CELLI: Okay. What is the problem
9 that you have with that?

10 MS. MACDONALD: The first problem, and you said
11 not a factual issue, a legal issue, perhaps you'll be better
12 to guide me, but I wanted to go back to the point when you
13 said we're going to deal with traffic under traffic,
14 etcetera. Okay, now I am aware of that. That's what we did
15 with environmental justice in the land use section. Okay.
16 It said please refer to socioeconomic. Okay. But we have
17 no such referral in the land use section. Okay.

18 HEARING OFFICER CELLI: With regard to closure?

19 MS. MACDONALD: With -- with regard to -- okay.
20 My understanding is, is that what the FSA is, is it is your
21 CEQA document. It is your CEQA compliance document that
22 shows that the project impacts have been disclosed,
23 analyzed, and if there were adverse impacts, mitigated as
24 much as possible.

25 My issue is, is that they were not -- they were

1 not appropriately disclosed. With the land use issue they
2 made several conclusions that there would be no disruptions
3 to the community of Charleston View. That is not accurate.
4 Now, if you would like to -- you know, if that needs to be
5 addressed by more technical individuals in specific areas,
6 I'm perfectly fine with that. But I do have a problem with
7 the conclusion that there is no disruption because there are
8 several disruptions. So that's one point.

9 HEARING OFFICER CELLI: So let me ask you this, do
10 you have any evidence today on that issue?

11 MS. MACDONALD: That it would disrupt?

12 HEARING OFFICER CELLI: That -- yes. What have
13 you got? And do you have any experts who are here to
14 testify about the disruption of the community as a land use
15 issue?

16 MS. MACDONALD: All right. Let's start with the
17 FSA fails to define what disruption is.

18 HEARING OFFICER CELLI: Well, that would be an
19 argument. I'm asking for --

20 MS. MACDONALD: Well, I understand.

21 HEARING OFFICER CELLI: I'm asking for affirmative
22 evidence.

23 MS. MACDONALD: Right. Well, it's in my opening
24 testimony and my prehearing conference statement with
25 specific details about noise, traffic, the water supply

1 issue I've had issues with.

2 HEARING OFFICER CELLI: Uh-huh.

3 MS. MACDONALD: Noise, traffic, water supply,
4 those are the three I know for sure.

5 HEARING OFFICER CELLI: You raise an important
6 point. So thanks for bringing that to our attention. Yes,
7 that is the evidence that you have on that. And in this
8 informal procedure at some point we have to -- we have to
9 receive into evidence people's documentation that they
10 submitted as evidence.

11 MS. MACDONALD: Okay.

12 HEARING OFFICER CELLI: What I think we'll do is
13 this, we're --

14 MS. MACDONALD: I have specific exhibits, if
15 that's what you are requiring.

16 HEARING OFFICER CELLI: Right. And I have the
17 exhibit list. And what we would be doing is we would be
18 receiving the exhibits. There would be a motion by the
19 parties to put -- to have the evidence received into
20 evidence.

21 MS. MACDONALD: Okay.

22 HEARING OFFICER CELLI: And then if it's received
23 into evidence then it's in evidence and we don't need to
24 hear any testimony on it, per se, because we have it in
25 documentary form.

1 So we're going to take a break right now, just not
2 a lunch break, per se. We just want to take a moment and
3 we'll have a little quick discussion with the committee, and
4 then we'll come back on the record. So hang on one moment.

5 (Off the Record From 12:52 p.m., Until 12:52 p.m.)

6 HEARING OFFICER CELLI: So it's five to 1:00. We
7 are going to resume the hearing at 1:30 on land use. So we
8 haven't finished land use. We're in the middle of land use.
9 You're all still under oath. We will take a lunch break.
10 I'm encouraging the parties to get together with Ms. Crom
11 and the applicant and staff and find out what you need to
12 find out in regard to the agreements that were made about
13 land use. We will then be taking a lunch break. I take it
14 the applicant provided lunches. Thank you very much.
15 BrightSource Energy provided lunches for the participants to
16 have lunch.

17 So we're going to take a break until 1:30. We
18 will be back on the record at 1:20. Thank you.

19 (Off the Record from 12:53 p.m., Until 1:30 p.m.)

20 HEARING OFFICER CELLI: This is Hearing Advisor
21 Ken Celli. The committee is all here. The -- we're back on
22 the record. Troy, the court reporter is here. I have Greg
23 Wheatland and Ms. Pottenger for Applicant. I have Mr.
24 Ratliff and Ms. Willis for Staff. County of Inyo is here.
25 Richard Arnold is here.

1 Sitting next to you, Ms. Crom, I forgot your name.
2 Are you with the Amargosa --

3 MS. CROM: No. That's Joshua Hart, the Planning
4 Director for Inyo County.

5 HEARING OFFICER CELLI: Oh, you're both with --
6 okay, great. Thank you.

7 Mr. Zellhoefer is around somewhere. I don't -- I
8 don't see him though. I have Southern Inyo Fire Protection
9 District; Mr. Levy is here. I have Center for Biological
10 Diversity, Lisa Belenky. I have Cindy MacDonald who is
11 sitting at the -- with the experts, who are still under
12 oath.

13 Is Mr. Zellhoefer around? Okay.

14 Thank you, Mr. Roberts, Dr. Roberts. Thank you.

15 Welcome back, Mr. Zellhoefer. It looks like we're
16 all here.

17 So we're back on the record. We took a break. I
18 wonder if there was any progress that was made between the
19 parties. They wanted to see what the evidence was and have
20 some discussions. Who was running that? I'll hear from
21 Applicant first on that.

22 MR. WHEATLAND: We didn't -- there were no
23 discussions with respect to land use. We're at the same
24 place we are. We agree with you, though, Mr. Celli, that we
25 think that the questions that Ms. MacDonald is raising

1 regarding noise and traffic, those belong in those
2 particular subject areas and are -- there's no need for
3 further discussion of those matters under land use.

4 HEARING OFFICER CELLI: You know what needs to
5 happen, Ladies and Gentlemen, is we need to receive your
6 evidence into the record. And I think we need to do that
7 because that will save us a lot of time.

8 Ms. MacDonald, most everything you've said so far
9 I know is somewhere in your documents. And so what I --
10 what I intend to do now is receive people's evidence into
11 the record.

12 I'm going to start with the applicant. We're
13 going to talk about land use at this time. So, Applicant,
14 do you have a motion with regard to land use?

15 MR. WHEATLAND: We previously provided you in
16 writing a list of the exhibits that we intend to introduce.
17 Did you want me to enumerate the ones specific to land use?

18 HEARING OFFICER CELLI: Yes, please.

19 MR. WHEATLAND: Could we --

20 MR. WHEATLAND: Could we go off the record for a
21 moment please.

22 HEARING OFFICER CELLI: No. Let's stay on the
23 record.

24 MR. WHEATLAND: All right.

25 HEARING OFFICER CELLI: But go ahead and take care

1 of your business.

2 HEARING OFFICER CELLI: So I'm -- Ladies and
3 Gentlemen, what we're going to do right now is take in the
4 evidence that people have submitted previously regarding
5 land use. In the case of Staff, well, they put in an FSA as
6 a single document. So we're going to receive the FSA into
7 the record.

8 MR. WHEATLAND: So I'm sorry for the delay. Mr.
9 Carrier will read into the record the exhibits that we would
10 like to move into evidence on the subject of land use.

11 MR. CARRIER: Exhibit Number 1, Exhibit Number 2,
12 Exhibit Number 7, Exhibit Number 17, Exhibit Number 42,
13 Exhibit Number 70, 71, 72.

14 HEARING OFFICER CELLI: And that's all for land
15 use from the Applicant?

16 MR. CARRIER: Yes.

17 MR. WHEATLAND: That's correct.

18 HEARING OFFICER CELLI: Okay. Any objectives,
19 Staff?

20 MS. WILLIS: Staff has no objections.

21 HEARING OFFICER CELLI: Any objection, County of
22 Inyo?

23 MS. CROM: No objection.

24 HEARING OFFICER CELLI: Richard Arnold, any
25 objection please?

1 MR. ARNOLD: No objections.

2 HEARING OFFICER CELLI: John Zellhoefer, any
3 objections?

4 MR. ZELLHOEFER: No objections.

5 HEARING OFFICER CELLI: Mr. Zellhoefer, you need
6 to speak into some microphone so everyone can hear you.

7 MR. ZELLHOEFER: No Objection.

8 HEARING OFFICER CELLI: Thank you. Mr. Levy?

9 MR. LEVY: No objection.

10 HEARING OFFICER CELLI: Ms. Belenky?

11 MS. BELENKY: No objection.

12 HEARING OFFICER CELLI: Ms. MacDonald?

13 MS. MACDONALD: No objections.

14 COMMISSIONER DOUGLAS: Okay. Then at this time
15 the committee will receive into evidence Exhibits 1, 2, 7,
16 17, 42, 70, 71 and 72.

17 (Applicant's Land Use Exhibit Numbers 1, 2, 7, 17, 42,
18 70, 71 and 72, Received.)

19 HEARING OFFICER CELLI: Staff, do you have a
20 motion? I'm going to ask Staff this time to just move all
21 of your exhibits in. I believe that that's the FSA and a
22 bunch of declarations that didn't make their way into the
23 evidence.

24 MS. WILLIS: So at this time Staff would like to
25 move Exhibit Number 300 through Exhibit Number 325.

1 HEARING OFFICER CELLI: 300 through 325. Any
2 objection, Applicant?

3 MR. WHEATLAND: Yes. And I'm going to ask Mr.
4 Harris to speak to that.

5 HEARING OFFICER CELLI: Mr. Harris, do you have an
6 objection?

7 MR. HARRIS: Yes, we do, actually, to several of
8 the exhibits.

9 HEARING OFFICER CELLI: What can you --

10 MR. HARRIS: 304, 305, 306, 307, 308 --

11 MS. WILLIS: Could you read the --

12 MR. HARRIS: -- 309 --

13 MS. WILLIS: Excuse me. Could you say those
14 really slowly please?

15 HEARING OFFICER CELLI: Yeah, so we can write
16 those down. 304, 305 --

17 MR. HARRIS: 304, 305 -- these are all in
18 numerical order -- 306, 307, 308, 309, 310, 311, 321, 322,
19 323 and 324. Would you like me to elaborate a little bit
20 on --

21 HEARING OFFICER CELLI: I'm going to I a moment.
22 Let me just get with you here. Okay. Your objection to
23 304, the flux density. And also, if it's the same objection
24 for a whole series then let's talk serially.

25 MR. HARRIS: Okay.

1 HEARING OFFICER CELLI: Thank you. Yeah, these
2 are all -- 304 through 311 are all new documents.

3 MR. RATLIFF: Commissioners, when I -- when I left
4 the room -- if I may interrupt, when I left the room we were
5 doing land use. When I came back in we're doing solar flux.
6 I'm --

7 HEARING OFFICER CELLI: Let me tell you what's
8 going on, and that's a good point. We are still doing land
9 use. But as Ms. MacDonald was speaking I realized a lot of
10 what she was speaking to was already in documents we've
11 already read. And it occurred to me that we needed to
12 receive the documentary evidence into the record. Staff is
13 in a unique position because Staff files Exhibit 300, an FSA
14 which is everything. Rather than parse it out I thought we
15 might as well receive everything that staff was going to put
16 in. Because my anticipation was there wasn't going to be
17 any objections to staff's exhibits. Now I'm hearing that
18 there are. I just want to hear what nature of it is, and
19 then I'll see what we can do about disposing it.

20 MR. RATLIFF: Well, if I may, if we're going to
21 discuss the evidence for solar flux, I think the counsel for
22 the staff who does solar flux ought to be here. He's
23 scheduled to arrive tomorrow evening.

24 MR. HARRIS: We prefer to wait, too, Dick.

25 HEARING OFFICER CELLI: All right.

1 MR. HARRIS: We would prefer to wait. Mr. Celli
2 was trying to be efficient. I think it would be better to
3 do it on a subject-by-subject basis because there are a
4 couple of issues.

5 HEARING OFFICER CELLI: All right. Let me start
6 over.

7 Staff, what evidence do you have on land use that
8 you would wish to move in at this time?

9 MS. WILLIS: I believe all we have is Exhibit
10 Number 300, the land use section.

11 HEARING OFFICER CELLI: Any objection to 300,
12 Mr. Harris?

13 MR. HARRIS: No, thank you. No.

14 HEARING OFFICER CELLI: County of Inyo, any
15 objection? Ms. Crom is running to a microphone.

16 MS. CROM: No objection.

17 HEARING OFFICER CELLI: No objection, County of
18 Inyo.

19 Richard Arnold, any objection?

20 MR. ARNOLD: No objections.

21 HEARING OFFICER CELLI: Any objection, John
22 Zellhoefer?

23 MR. ZELLHOEFER: No objection.

24 HEARING OFFICER CELLI: Any objection, Mr. Levy,
25 for --

1 MR. LEVY: No objection.

2 HEARING OFFICER CELLI: -- on behalf of Southern
3 Inyo Fire Protection District?

4 MR. LEVY: No objection.

5 HEARING OFFICER CELLI: Thank you. Ms. Belenky?

6 MS. BELENKY: No objection.

7 HEARING OFFICER CELLI: Ms. MacDonald?

8 MS. MACDONALD: No objection.

9 HEARING OFFICER CELLI: Okay.

10 MR. HARRIS: Mr. Celli, for clarification, was
11 that just the land use portion of section -- of Exhibit 300
12 or the entire document?

13 HEARING OFFICER CELLI: I'm just going to go with
14 land use right now, just to avoid problems.

15 (Staff's Land Use Portion of Exhibit 300, Received.)

16 MR. HARRIS: Okay. We have no problems to the
17 introduction of the land use section of 300.

18 HEARING OFFICER CELLI: Next, let me go with
19 County of Inyo, did you have any evidence you sought to move
20 into evidence?

21 MS. CROM: No, we do not.

22 HEARING OFFICER CELLI: Okay. Thank you.
23 Mr. Arnold?

24 MR. ARNOLD: No, sir.

25 HEARING OFFICER CELLI: Mr. Zellhoefer, regarding

1 land?

2 MR. ZELLHOEFER: No, not at this time.

3 HEARING OFFICER CELLI: SIFPD, Mr. Levy?

4 MR. LEVY: No.

5 HEARING OFFICER CELLI: CBD?

6 MS. BELENKY: No.

7 HEARING OFFICER CELLI: MacDonald?

8 MS. MACDONALD: I have several but I did not list
9 them in a specific order. I listed them by topic area with
10 reference pages. Would you like me to just rattle them off,
11 go through the pages, or would you like me to do them by
12 topic area?

13 HEARING OFFICER CELLI: No, I need them by
14 exhibits number because that's how we're going to refer to
15 them.

16 MS. MACDONALD: Yes, I understand that.

17 HEARING OFFICER CELLI: What was your -- what was
18 your -- what number range were you in?

19 MS. MACDONALD: I'm -- can you repeat that please?

20 HEARING OFFICER CELLI: You had exhibits numbered
21 what?

22 MS. MACDONALD: 700 through 763, I believe.

23 HEARING OFFICER CELLI: Okay. And do you have a
24 copy of your exhibit list with you?

25 MS. MACDONALD: Yes, I do.

1 HEARING OFFICER CELLI: Okay. If you wouldn't
2 mind taking a look at that.

3 MS. MACDONALD: All right. Well --

4 HEARING OFFICER CELLI: And hopefully that
5 should --

6 MS. MACDONALD: -- since I've written down my
7 exhibits specific to land use, then I'll go ahead and read
8 off this.

9 HEARING OFFICER CELLI: Go ahead.

10 MS. MACDONALD: They may jump around a bit,
11 though. All right. Exhibit 700, Exhibit 752, Exhibit 747,
12 Exhibit 722, Exhibit 723, Exhibit 711, Exhibit 744, Exhibit
13 724, Exhibit 701, Exhibit 800 -- I don't know if I can
14 submit somebody else's exhibit but --

15 HEARING OFFICER CELLI: No.

16 MS. MACDONALD: Okay.

17 HEARING OFFICER CELLI: So I'd like -- would -- if
18 you would withdraw Exhibit 800, just to be clear for the
19 record.

20 MS. MACDONALD: Because I'm not allowed to?

21 HEARING OFFICER CELLI: That you're not offering
22 Exhibit 800.

23 MS. MACDONALD: Okay. I withdraw Exhibit 800 from
24 the record.

25 HEARING OFFICER CELLI: Thank you.

1 MS. MACDONALD: You're welcome. Exhibit 709,
2 Exhibit 710, Exhibit 762, Exhibit 763.

3 HEARING OFFICER CELLI: This was all on land use?

4 MS. MACDONALD: Yes, sir.

5 HEARING OFFICER CELLI: Okay.

6 MS. MACDONALD: We're done.

7 HEARING OFFICER CELLI: Thank you. Any objection,
8 Applicant? There is a motion. Let me just -- the motion is
9 to move into exhibits -- into evidence Exhibits 700, 701,
10 709, 710, 711, 724, 744, 747, 752, 722 and 723, 762 and 763.

11 MR. WHEATLAND: Yeah, I believe that exhibit --
12 well, a lot of the exhibits that are being moved into
13 evidence at this point, according to what we have written
14 down, are not applicable to land use. They're identified as
15 a little bit other topics. But we don't -- will not
16 objection to that.

17 We do object to -- we do not object to the
18 introduction of her direct testimony as lay testimony. We
19 would object to the introduction of her direct testimony as
20 expert testimony because she has not established her
21 qualifications as -- as an expert witness on the subject of
22 land use.

23 HEARING OFFICER CELLI: Okay. Let me -- let's
24 just -- we're going to stay on the record. I just want to
25 have a quick conference with my committee on that.

1 (Colloquy Between Hearing Officer and Commissioners)

2 HEARING OFFICER CELLI: Okay. So the objection is
3 not to the receipt of the evidence as direct lay opinion.
4 The objection is to an assertion of opinion by a lay
5 witness.

6 MR. WHEATLAND: No. The objection would be that
7 it's not expert testimony.

8 HEARING OFFICER CELLI: Okay. At this time,
9 Ms. MacDonald, would you like to make an offer of proof?
10 And what we're asking by that is the objection is that you
11 have not established that you are expert in land use. And
12 so this would be an opportunity for you to rebut that by
13 essentially articulating what your expertise is and what the
14 basis of your expert opinion would be vis a vis your
15 qualifications.

16 MS. MACDONALD: Okay. The first thing is, is that
17 I would like to submit for evidence my statement of
18 qualifications posted on the CEC website, TN Number 69882.
19 Within it I outline it how I've had 40 years of history in
20 the community and the area, such as the one I was discussing
21 with being disrupted or not. I know a lot about what's
22 going on, or at least what used to go on and somewhat what
23 goes on there. Let's see. I have studied a lot of laws
24 relating to land use and have seen a lot of violations, at
25 least what I perceive to be violations of law in -- within

1 the land use sections.

2 HEARING OFFICER CELLI: Let me ask you this, since
3 I did read your qualification statement --

4 MS. MACDONALD: Yes, sir.

5 HEARING OFFICER CELLI: -- that came by way of
6 email, was that Friday? I think that went around Friday.

7 MS. MACDONALD: Saturday.

8 HEARING OFFICER CELLI: Saturday. I hope
9 everybody got a chance to receive that. So we don't need to
10 hear what you've already put into the record.

11 Let me ask, Mr. Wheatland, whether you care to
12 voir dire this witness briefly on any points that you would
13 want to make?

14 MR. WHEATLAND: I would -- I would just have --
15 have two questions. One is, would you please state your
16 academic background and qualifications?

17 MS. MACDONALD: I don't need active academic
18 background qualifications according to the regulations. All
19 I need to be is to have specialized knowledge, specialized
20 experience, some sort of specialized skills or specialized
21 education, all of which I've stated why I'm qualified to do
22 this within my statement of qualifications. Have you read
23 it?

24 MR. WHEATLAND: Yes, have, and that's why I'm
25 asking you state briefly, please, your academic

1 qualifications?

2 MS. MACDONALD: I have no academic qualifications.

3 MR. WHEATLAND: That's a fine answer. And would
4 you please state your professional qualifications with
5 respect to land use?

6 MS. MACDONALD: I have no professional
7 qualification to land use.

8 MR. WHEATLAND: That completes my voir dire.

9 HEARING OFFICER CELLI: Thank you.

10 MR. RATLIFF: Commissioners, if I may?

11 HEARING OFFICER CELLI: Mr. Ratliff, go ahead.

12 MR. RATLIFF: You know, the CEQA case law
13 acknowledges that it is -- that witnesses or members of the
14 public through local -- through comment may provide
15 substantial evidence in a proceeding where they are familiar
16 with local conditions. And --

17 HEARING OFFICER CELLI: That's correct. And the
18 committee sees that Ms. MacDonald has a lot of experience in
19 the local community, has been here a long time. And her
20 personal experience accounts for a lot, I think, with the
21 committee.

22 But what I would say at this time, since we're
23 talking about land use which is, again, really these
24 legal --

25 MR. RATLIFF: Well, land use is in large part,

1 certainly, as I think Mr. Wheatland said and as you're
2 saying, it's -- in large part it is legal and it does
3 require expertise in most areas. But certainly in terms of
4 some issues, I think it is at least partly one which is
5 where local conditions are relevant. And I think parsing so
6 closely whether or not her expertise extends to land use is
7 probably not a very productive way to go.

8 HEARING OFFICER CELLI: No, it's not. Let me ask
9 you this, do you have an objection to the evidence that Ms.
10 MacDonald seeks to move into -- Mr. Ratliff?

11 MR. RATLIFF: We don't, no.

12 HEARING OFFICER CELLI: Okay. Thank you. Let's
13 hear from County of Inyo; any objection?

14 MS. CROM: No objection.

15 HEARING OFFICER CELLI: Mr. Arnold?

16 MR. ARNOLD: No objections.

17 HEARING OFFICER CELLI: Mr. Zellhoefer?

18 MR. ZELLHOEFER: No objections.

19 HEARING OFFICER CELLI: Mr. Levy?

20 MR. LEVY: No objections.

21 HEARING OFFICER CELLI: Ms. Belenky?

22 MS. BELENKY: No objections.

23 HEARING OFFICER CELLI: Okay. At this time the
24 committee would receive -- the ruling is this, Ms. MacDonald
25 does not appear to be a land use expert in the academic

1 sense or with regard to professional qualifications. She
2 may have some qualifications with regard to being a
3 percipient lay witness as a long-time resident to the area.
4 But at this time what we're going to do is we're going to
5 receive her evidence and give it the weight it deserves.

6 And so at this time what's being received into
7 evidence, and please make sure I've got them, Exhibits 700,
8 701, 709, 710, 711, 722, 723, 724, 744, 747, 752, 762 and
9 763. Is that all of them?

10 MS. MACDONALD: I hope that was it. I don't --
11 like I said, I didn't put a comprehensive list together.
12 I'll take your word for it.

13 HEARING OFFICER CELLI: Those will be received
14 into evidence.

15 (Ms. MacDonald's Land Use Exhibits 700, 701, 709, 710,
16 711, 722, 723, 724, 744, 747, 752, 762 and 763,
17 Received.)

18 HEARING OFFICER CELLI: At this time, there being
19 no further need to hear any more testimony on land use --

20 MS. MACDONALD: Excuse me. There -- I have one
21 question that I would like the committee to address.

22 HEARING OFFICER CELLI: Go ahead.

23 MS. MACDONALD: According to the hearing
24 evidentiary procedures, as an intervenor I have the right to
25 cross-examine witnesses. Is that correct?

1 HEARING OFFICER CELLI: No. It is --

2 MS. MACDONALD: I don't have -- as an intervenor,
3 it says right here that I have the right to -- to question
4 expert witnesses.

5 HEARING OFFICER CELLI: You have the privilege to
6 question --

7 MS. MACDONALD: Okay.

8 HEARING OFFICER CELLI: -- not a right, because
9 this is an administrative hearing.

10 MS. MACDONALD: Okay.

11 HEARING OFFICER CELLI: And pursuant to the
12 Administrative Procedures Act, as was noticed in the notice
13 of hearing, this is an informal procedure. The reason we're
14 doing this is because we felt that it might move faster,
15 rather than have each party cross-examine each witness one-
16 by-one, is if you, Ms. MacDonald, have some concern about
17 some particular area of land use, that you would provide us
18 that area of concern and allow the committee to ask the
19 questions. Because the whole purpose of this is to provide
20 the information to the committee so the committee can right
21 the PMPD, the Presiding Members Proposed Decision.

22 MS. MACDONALD: I stand corrected on the right
23 versus the privilege. Well, I did think that all parties
24 were given equal treatment. That was my understanding of
25 the regulations. I have been trying to submit my

1 information into the record with my exhibits to support it,
2 but I keep getting distracted. I do recognize the
3 committee's expertise in discerning the weight and the
4 quality of that testimony, but so far I haven't been able to
5 get it in the record yet.

6 HEARING OFFICER CELLI: Well, I think we just
7 received all of the evidence that you put in with regard to
8 land use, did we not?

9 MS. MACDONALD: Yes, you did. But I had
10 specific -- are you going to read all of it?

11 HEARING OFFICER CELLI: Well --

12 COMMISSIONER DOUGLAS: Yes.

13 HEARING OFFICER CELLI: -- yes.

14 MS. MACDONALD: I mean, I picked out specific like
15 page numbers, particular topics, Exhibit 700, land use and
16 development area, question one, I wasn't -- I was trying to
17 make it easier on you. I don't -- are you going to read
18 about air quality when you're discussing land use?

19 HEARING OFFICER CELLI: No.

20 MS. MACDONALD: Okay. Are you aware of my -- what
21 my particular points are?

22 HEARING OFFICER CELLI: You know, we've reviewed
23 your documents. When all of the evidence is in we will go
24 through all of the evidence and review it again and use it
25 as a basis for the decision. Now, what I'm trying to avoid

1 is a repetition or taking hearing time for you to repeat
2 points that are already in the record.

3 MS. MACDONALD: I don't think they all are?

4 HEARING OFFICER CELLI: What isn't in the record?

5 MS. MACDONALD: Was it in the record that I had
6 said that I believe the conclusions that there was no
7 disruption to the community were incorrect?

8 HEARING OFFICER CELLI: That is in the record.

9 MS. MACDONALD: That is now, but --

10 HEARING OFFICER CELLI: Did you not --

11 MS. MACDONALD: -- that's where I was stopped.

12 HEARING OFFICER CELLI: Did you not say that
13 anywhere else in your --

14 MS. MACDONALD: No, sir.

15 HEARING OFFICER CELLI: -- in your papers? Okay.
16 Make your point.

17 MS. MACDONALD: Okay. And thank you.

18 HEARING OFFICER CELLI: Please.

19 MS. MACDONALD: Well, Inyo County withdrew their
20 witness. But I was going to -- I wanted to make the point
21 about the deal with the Senese (phonetic) parcel, that
22 basically because Applicant hadn't submitted that
23 information correctly it cost like a year-and-a-half of all
24 kinds of negotiations.

25 I wanted to say the FSA improperly concluded that

1 the proposed project will not result in any disruptions to
2 Charleston View, that the FSA provides an inadequate impact
3 analysis specific to Charleston View residents under Title
4 21, the only community in the project site.

5 HEARING OFFICER CELLI: Can I speak to that a
6 minute?

7 MS. MACDONALD: Yes, sir.

8 HEARING OFFICER CELLI: When -- in land use, and
9 correct me if I'm wrong, but basically when they're talking
10 about the disruption of a community they're talking about
11 you have an established community right down the middle of
12 it. You want to build a freeway. That's what, as I take
13 it, what we're talking about with regard to disruption in
14 the context of land use. In other words, we're splitting a
15 community. You have an established community and we're
16 doing something to create essentially two sides of the
17 railroad tracks, or something in that regard.

18 It sounds to me like you're talking about
19 disruption in terms of noise and --

20 MS. MACDONALD: Well, the closure of public roads
21 that we've used for over 50 years would be somewhat of a
22 disruption, not directly though. And I was not able to find
23 any definition based -- there were two specific -- they
24 divided them into disruption and divide. The FSA only
25 approached the divide portion of it --

1 HEARING OFFICER CELLI: Uh-huh.

2 MS. MACDONALD: -- which sounds exactly like what
3 you're talking about.

4 HEARING OFFICER CELLI: And let me get to this,
5 the topic of road closures. I think hold that thought until
6 we get to traffic.

7 MS. MACDONALD: Okay.

8 HEARING OFFICER CELLI: Okay. So go ahead with
9 more land if you have any.

10 MS. MACDONALD: Okay. As I had already put in my
11 testimony, the FSA failed to reconcile the disputed A
12 Bridge. And what I had an issue with is I had put in a
13 bunch of questions about potential growth inducing impacts
14 that could -- that could further disrupt the community.

15 HEARING OFFICER CELLI: Hold that one until
16 socioeconomics, the growth inducing impacts.

17 MS. MACDONALD: Okay. Well, the reason it's
18 relative is because in the land use section it concludes
19 that the project will not have any growth inducing impacts.
20 So that's why I put it in here. But I'll be happy to move
21 it over to socioeconomics if that's what you desire.

22 HEARING OFFICER CELLI: That's what we're going to
23 do. Thank you.

24 MS. MACDONALD: Okay. And that was it. So it
25 wasn't quite as long as everybody thought it would be.

1 HEARING OFFICER CELLI: Thank you.

2 MS. MACDONALD: You're welcome.

3 HEARING OFFICER CELLI: You're actually making
4 this work, and I appreciate that.

5 MS. MACDONALD: Well, thank you.

6 HEARING OFFICER CELLI: I think there really is no
7 need -- we have all of this land use testimony.

8 I'm just going to ask the applicant, do you have
9 some burning need to put in a response to any of the matters
10 that Ms. MacDonald spoke to?

11 Applicant gets to -- Ms. MacDonald, the reason I'm
12 asking the applicant is because the applicant has the burden
13 of proof. The person with the burden of proof basically
14 gets the last word.

15 And so let's hear from the applicant.

16 MR. WHEATLAND: Thank you, Mr. Celli, for that
17 privilege, but we -- we have nothing further to add here.

18 HEARING OFFICER CELLI: And then, Ms. Willis, go
19 ahead.

20 MS. WILLIS: Mr. Celli, since the discussion is
21 about the FSA, our staff is available to answer questions,
22 if you so choose.

23 HEARING OFFICER CELLI: Well, let me ask my
24 committee.

25 (Colloquy Between Hearing Officer and Commissioners)

1 HEARING OFFICER CELLI: The committee has no
2 further questions. Thank you. This panel is excused.
3 Thank you all very much. That was very efficient.

4 MS. WILLIS: Thank you.

5 HEARING OFFICER CELLI: At this juncture, right on
6 time, visual, two o'clock. I think this is working out
7 quite well.

8 If I can have all of the parties bring their
9 visual experts to the -- and the visual experts -- thank
10 you, Ma'am -- sit as close to the dais as you can get, we'll
11 take in all the visual.

12 Now, visual, I just want to say from the
13 perspective of the committee, is a matter that seems to be
14 pretty well covered in the documentary evidence that we have
15 received, the FSA, the AFC. And for the people who are here
16 who are members of the public, we're throwing around a lot
17 of abbreviations. When we talk about the AFC that is the
18 Application for Certification that the applicant
19 BrightSource Energy submitted to the Energy Commission.
20 When we talk about the FSA we are talking about the Final
21 Staff Assessments which is Staff's analysis of the AFC, of
22 the Applicant for Certification.

23 And we have already received all of the parties
24 opening and rebuttal testimony in documentary form. Now,
25 when I say received I have -- we haven't received it in the

1 legal sense of having received it into evidence. But all of
2 the parties were ordered to and complied with the order to
3 submit the evidence and share it amongst each other. And
4 therefore, the whole idea behind this is so that all of the
5 parties knows what -- they know what each other's positions
6 are.

7 Mr. Arnold, I'm going to ask you and this
8 gentleman, I don't know you're name, please to please scoot
9 all the way down as far to your right, as close to the stage
10 as you can get. Appreciate it. This way it's easier to see
11 you. I don't feel like I'm yelling across the gym. That's
12 right.

13 Ms. MacDonald, you're already under oath, so we
14 don't need to swear you in.

15 Now, from left to right, if you don't mind please
16 identifying yourselves slowly.

17 MS. MOURKAS: Melissa Mourkas, Energy Commission
18 staff, visual resources.

19 HEARING OFFICER CELLI: Mourkas?

20 MS. MOURKAS: You want me to spell that?

21 HEARING OFFICER CELLI: I have that, thank you.

22 Next?

23 DR. IRVIN: Greg Irvin, consultant to the Energy
24 Commission.

25 HEARING OFFICER CELLI: Irvin. Next?

1 MR. EMMERICH: Kevin Emmerich, a witness for Cindy
2 MacDonald.

3 HEARING OFFICER CELLI: Kevin Emmerich, thank you.
4 Ms. MacDonald, you've been sworn.

5 Next to Ms. MacDonald?

6 DR. PRIESTLEY: I'm Thomas Priestley with CH2M
7 Hill, a consultant for the applicant.

8 HEARING OFFICER CELLI: Thank you, Mr. Priestley.
9 And Mr. Arnold?

10 MR. ARNOLD: Richard Arnold, Intervenor.

11 HEARING OFFICER CELLI: Okay.

12 (Thereupon, Melissa Mourkas, Gregg Irvin, Kevin
13 Emmerich, Thomas Priestley, and Richard Arnold,
14 were duly sworn.)

15 HEARING OFFICER CELLI: Thank you. Please be
16 seated. All parties have been sworn.

17 We are going to ask first the staff and then the
18 applicant to articulate their position with regard to
19 visual. And then we're going to turn it -- we'll turn to
20 the experts and hear what they have to say about that.

21 So let's begin with Staff, please, regarding what
22 are the issues in visual at this time?

23 MS. MOURKAS: I will take care of that.

24 HEARING OFFICER CELLI: Oh, good.

25 MS. MOURKAS: Thank you.

1 HEARING OFFICER CELLI: That would be Melissa
2 Mourkas.

3 MS. MOURKAS: Melissa Mourkas.

4 HEARING OFFICER CELLI: Go ahead.

5 MS. MOURKAS: The committee's order asked that
6 Staff address the factual issues that are in dispute, so I'm
7 going to go through those pretty briefly.

8 Would the project have a substantial adverse impact --
9 affect on the scenic vista? Yes.

10 Staff concluded that there would be substantial
11 adverse affects to views of and from nearby scenic areas
12 such as the wilderness areas, the Spring Mountains, and
13 Mount Charleston, and on segments of the national -- Old
14 Spanish National Historic Trail in the vicinity of the
15 project site.

16 Compensatory mitigation for loss of scenic vistas
17 is recommended in the Condition of Certification Vis 6,
18 scenic resources interpretive area, but it does not reduce
19 the impacts to less than significant. The applicant does
20 not agree with Staff conclusions and offers their own
21 interpretation of what defines a scenic vista.

22 Next question. Would the project substantially
23 degrade the existing visual character or quality of the site
24 or its surroundings? Yes.

25 Staff concluded there would be significant adverse

1 and unavoidable impacts at six of seven key observation
2 points, known as KOPs, even with all feasible mitigation.
3 The brightness and dominance of the proposed project towers
4 and solar receivers are in sharp contrast to the high-
5 quality scenic landscape, as well as any other structure
6 developed in the valley in the vicinity of the project.

7 The applicant's testimony indicates that impacts
8 would be mitigated to less than significant with the
9 mitigation measures proposed by the applicant. Staff
10 concluded that there would be -- Staff, in addition,
11 concluded there would be significant cumulative impacts when
12 viewed in combination with existing and foreseeable
13 developments in Pahrump Valley. The applicant acknowledges
14 that the project would contribute to significant cumulative
15 impacts, but that those impacts would be attenuated by
16 employing their proposed mitigation measures.

17 Next question. Would the project create a new
18 source of substantial light or glare which would adversely
19 affect daytime and nighttime views of the area -- in the
20 area? Yes.

21 Staff concludes there would be significant adverse
22 and unavoidable impacts of light and glare during
23 construction of the project. This would be partly the
24 result of FAA lighting installed on towers and construction
25 cranes, and nighttime construction activities. Staff

1 concluded there would be significant adverse and unavoidable
2 impacts from required aviation safety lighting during
3 operation. The applicant concludes that the FAA lighting
4 would have little to no affect on ambient lighting and no
5 detectable affect on the dark -- the darkness of the sky.

6 Most importantly, Staff concludes that the
7 introduction of the extremely bright solar receivers into
8 the setting would have significant and adverse impacts that
9 can not be mitigated.

10 HEARING OFFICER CELLI: Can I ask you something
11 about that?

12 MS. MOURKAS: Yes.

13 HEARING OFFICER CELLI: This is Ken Celli up here.
14 I understand the FAA lighting. And when you're talking
15 about glare now are you talking about the top of the tower
16 or are you talking about the heliostats?

17 MS. MOURKAS: The solar receiver at the top of the
18 tower.

19 HEARING OFFICER CELLI: Okay. Thank you. Go
20 ahead.

21 MS. MOURKAS: Thank you.

22 Staff concluded that the bright light would be a
23 significant source of discomfort glare up to 8.5 miles away.
24 There is no photorealistic simulation or photograph of the
25 solar receive in operation that even begins to convey the

1 brilliance of the light being generated when seen in person.
2 The applicant disagrees and concludes there are no visual
3 impacts of light and glare that can not be mitigated to less
4 than significant.

5 Next question. Does the project conform with
6 laws, ordinance and regulations, otherwise known as LORS?

7 No.

8 Staff concluded the project would not comply with
9 Inyo County Laws, Regulations and Standards regarding
10 project design, scenic views, and other requirements related
11 to visual resources. Specifically, the project would not
12 comply with general plan policy PSU 10.1, Chapter 8.8, and
13 Title 21. Each of these policies, goals and ordinances aim
14 to protect and preserve the open and natural character of
15 the county, panoramic vistas, unique visual experiences, and
16 quality of life of the residence, and inhibit new sources of
17 light and glare. The applicant has concluded that the
18 project is in conformance with LORS.

19 HEARING OFFICER CELLI: Is? Oh, I'm sorry, wait.
20 Staff says it is not in compliance?

21 MS. MOURKAS: Correct.

22 HEARING OFFICER CELLI: Applicant says it is?

23 MS. MOURKAS: Yes.

24 HEARING OFFICER CELLI: Okay.

25 MS. MOURKAS: So these are -- these are the issues

1 in dispute.

2 HEARING OFFICER CELLI: Okay.

3 MS. MOURKAS: At this point conditions of
4 certification is one area where there is not much dispute.
5 There has been some movement on the part of Staff to
6 consider in Vis 1 the original requirement to tint or color
7 the concrete tower to make it more pleasing. And in
8 retrospect, and in thinking about my experience in the
9 construction industry, trying to pour a 750-foot tower
10 continuously and color the concrete as you go without having
11 color changes I think is near impossible to do.

12 And so Staff if welcoming Applicant's suggestion
13 that that be removed from Vis 1 condition of certification.

14 I think you'll find in general that they -- we
15 have more in common on conditions of certifications than we
16 have differences at this point.

17 HEARING OFFICER CELLI: Thank you for that very
18 clear synopsis.

19 MS. MOURKAS: And so I just appreciate that
20 opportunity. And I can answer any questions that you have
21 of me at this time or later.

22 HEARING OFFICER CELLI: What I'd like -- go ahead.

23 COMMISSIONER HOCHSCHILD: Just a quick question.
24 The FAA light is just a red flashing light at the top of the
25 tower?

1 MS. MOURKAS: Actually, there's four times four,
2 so there's actually 16 lights on each tower because of the
3 size of these towers --

4 COMMISSIONER HOCHSCHILD: All right.

5 MS. MOURKAS: -- every 200 feet. It is a
6 condition that's I traffic and transportation that we have
7 to live with. But it's -- it is -- that's a lot of lights.

8 COMMISSIONER HOCHSCHILD: So 16 lights altogether.
9 Okay.

10 MS. MOURKAS: Per tower.

11 COMMISSIONER HOCHSCHILD: Per tower?

12 MS. MOURKAS: Per tower.

13 COMMISSIONER HOCHSCHILD: Okay. Thank you.

14 HEARING OFFICER CELLI: Okay. Thank you for that
15 statement.

16 At this time I think we should hear from
17 Applicant's expert in response, where you differ. And
18 really what we'd like to do, Mr. Priestley, is just focus on
19 where you differ. That's really what we want to know. We
20 want to resolve those issues.

21 DR. PRIESTLEY: Okay. I get it. Because there is
22 a very, very voluminous history here that's all documented,
23 and you have it available to look at. So there's absolutely
24 no need for me to repeat all of that.

25 I'd like to start and pick up on the comments that

1 Ms. Mourkas just made about the conditions of certification.
2 And this is particularly to the committee members. If
3 you've had a chance to see my previous files -- filings
4 related to the project, and particularly the conditions, you
5 can see that, in fact, I had a lot of objections to the
6 conditions that Staff had originally proposed. But I have
7 to say that on our side we've kind of come around and we're,
8 I think we're -- at this point we're very much on the same
9 page with Staff in terms of the conditions of certification.

10 HEARING OFFICER CELLI: Uh-huh.

11 DR. PRIESTLEY: A couple of the major things I'll
12 just -- just highlight. There had been some back and forth
13 on the question of fencing, particularly fencing that
14 included wooden slats to provide some level of screening of
15 the interior of the site. And the Applicant now has
16 committed to provide that slatting.

17 So what's going to happen is that based on the
18 conditions as -- as they are now written, and I believe you
19 now all have copies of the set of conditions, that fence
20 would go in at the time construction begins. It would have
21 the slatting in the fence at that time. So it would provide
22 screening of the construction activities, and would also
23 help to screen construction lighting that might be
24 occurring, you know, out -- further out on the site where
25 the construction is taking place, at the power blocks and so

1 on. And over the long run, particularly once the
2 landscaping is installed along Tecopa Road it will work very
3 nicely with that landscaping to provide a nice screening of
4 views into the site for people driving by on Tecopa Road,
5 and also for people in Charleston View.

6 Now, the other thing where we have come around and
7 now are in complete agreement with Staff is that, yes, it
8 would be very desirable to have a visual resources
9 interpretive facility, whether it be on the site or perhaps
10 next door in the admission, but, you know, right there close
11 to the site. And we have agreed to accept the very
12 carefully thought through set of features that this site
13 should include that Staff -- or Melissa specified in detail,
14 the kinds of interpretation that she would like to see at
15 that site. And we have now agreed to it.

16 So I think that we'll have to see whether Staff
17 completely agrees with this set of conditions that you now
18 have in front of you, but I think that we're there. I think
19 that we are -- are very close. We think these are good
20 idea. And they will certainly be very helpful in
21 attenuating the visual affects of this project.

22 HEARING OFFICER CELLI: Thank you. If I can just
23 have a moment.

24 (Colloquy Between Hearing Officer and Commissioners)

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

1 I just want to ask you, because Ms. Mourkas talked about
2 specific significant impacts --

3 DR. PRIESTLEY: Yes.

4 HEARING OFFICER CELLI: -- or what Staff believed
5 to be significant impacts, do you now agree with Staff that
6 those are significant or is that -- are we at an impasse or
7 what?

8 DR. PRIESTLEY: We -- yeah, I do not agree with --
9 with Staff's assessment about those impacts. And I'd be
10 quite happy to explain why, but I'll leave it to you to
11 determine whether you'd like to go there.

12 HEARING OFFICER CELLI: Well, I would like to hear
13 at least with regard to the scenic vista, how is it -- how
14 is it not a significant impact to a scenic vista?

15 DR. PRIESTLEY: Okay. I would be happy to address
16 that. So -- so the bottom line is that we don't disagree
17 with Staff that this is going to be a big project and it's
18 going to be readily visible from the surrounding area, and
19 to some degree it will have some adverse impacts. But where
20 we part company is the conclusion that these impacts would
21 be significant. And scenic vista is -- is one of them.

22 And, you know, in order to discuss this, if I
23 could I'd like to turn your attention to one of the figures
24 that I -- that I filed. I do have copies of it here so that
25 people can be looking at it as I discuss. I think it will

1 kind of bring this -- bring this home.

2 HEARING OFFICER CELLI: Okay. Let me just say
3 something to the people who are on the -- on WebEx. Due to
4 circumstances beyond our control you're not going to be able
5 to see what we're about to show. If you perhaps you could
6 tell me what exhibit number you're about to bring up, at
7 least the people following at home could know what we're
8 talking about. But I'm not going to be able to get it up on
9 WebEx, and I apologize for that.

10 DR. PRIESTLEY: So this is Exhibit Number 4 --

11 HEARING OFFICER CELLI: Exhibit Number 4.

12 DR. PRIESTLEY: -- from my opening testimony.

13 HEARING OFFICER CELLI: Okay. Thank you.

14 DR. PRIESTLEY: And I did bring about 30 copies of
15 it.

16 HEARING OFFICER CELLI: So Exhibit 4 is being
17 projected here in the Death Valley Academy Gym.

18 DR. PRIESTLEY: No, no. That -- yeah, that's not
19 it.

20 HEARING OFFICER CELLI: Figure 4 is what we're
21 looking at.

22 DR. PRIESTLEY: Figure 4. And, in fact, this is
23 Figure VR4.

24 HEARING OFFICER CELLI: Okay. So if you could
25 just briefly explain how it is that the two towers -- I take

1 it that the significant impact on the scenic vista and on
2 the Old Spanish Trail that Ms. Mourkas described had to do
3 with the towers, or was it the towers and the heliostats?

4 MS. MOURKAS: Primarily the towers.

5 HEARING OFFICER CELLI: Okay. So let's just talk
6 about the towers.

7 DR. PRIESTLEY: Okay.

8 HEARING OFFICER CELLI: Because we're interested
9 to know how the two towers are not a significant impact
10 visually.

11 DR. PRIESTLEY: Well, and specifically, whether
12 they create a significant impact on -- on a scenic vista,
13 which is the question at hand.

14 So Ms. Mourkas's assessment that -- that these are
15 a significant impact on a scenic vista have to do with her
16 assumption and assertion that views from wilderness areas
17 and views from the National Recreation are ipso facto scenic
18 vistas. And as you kind of look at this map it will help
19 you to understand that this is not necessarily the case.

20 You see the project site in the middle of the
21 figure. The Spring Mountains Recreation area is up in the
22 upper left hand corner. On the right side of the map, this
23 area that is BRM1 is part of the -- of the wilderness area.
24 And then there is the Pahrump Valley Wilderness Area down
25 here to the south. And the presumption on Staff's part is,

1 well, if it's a view from a wilderness area it is a scenic
2 vista. And there are a number of reasons why that is not
3 the case. One, I think that there's a fundamental
4 understanding there of what the legislative intent of what a
5 wilderness area is.

6 HEARING OFFICER CELLI: Okay. I think that we can
7 glean from reading your --

8 DR. PRIESTLEY: Yeah.

9 HEARING OFFICER CELLI: -- analysis.

10 DR. PRIESTLEY: Okay.

11 HEARING OFFICER CELLI: Let's take it to the next
12 step which is the six out of seven KOPs that the applicant
13 describes as --

14 DR. PRIESTLEY: Oh, okay. Well, we -- she was
15 talking very specifically about the scenic vista issue which
16 applies to -- to views from these -- from these -- from
17 these wilderness areas. So that's kind of --

18 HEARING OFFICER CELLI: I understand that.

19 DR. PRIESTLEY: Okay. Okay. So in terms of the
20 other views, you know, what's at -- what's at the route, I
21 think, of the staff's finding of -- of visual impact? Part
22 of it is perhaps a difference in terms of the public policy
23 and landscape context of the project.

24 Again, if you look at this map you can see that
25 the project site is in a large area of privately owned land

1 that is under the jurisdiction of Inyo County. And you know
2 that in the past that this areas has been -- had been
3 designated as a renewable resource development area. So
4 there was not presumption in that decision that this area
5 has scenic resources that need to be preserved.

6 MS. BELENKY: Excuse me, I have to object to this
7 testimony.

8 HEARING OFFICER CELLI: Sustained. I'm going
9 to -- I'm going to sustain the objection because really
10 we're off base here. I just wanted to essentially ask you
11 whether -- what fact do you have that would, in opposition
12 to Staff's determination that six out of seven of these KPOs
13 are not significant visual impacts? In other words, is
14 there -- I was interested in hearing whether there was some
15 fact that you could state that would -- okay. Make it
16 clear.

17 DR. PRIESTLEY: So, well, actually -- and I don't
18 want to come across as being argumentative here. But just
19 to -- just to very quickly, you know, restate the point, we
20 need to take a look at the -- at the policy context which
21 is -- which is a fact.

22 HEARING OFFICER CELLI: Uh-huh.

23 DR. PRIESTLEY: But beyond that there are a couple
24 of other variables. One is the assessment of what the
25 brightness of the solar boiler means and how that should be

1 interpreted. So far the assessments of that boiler have
2 been made on more theoretical calculations of how bright it
3 will be. And what I would like to suggest to the committee
4 if it's feasible before rendering a decision on this, I
5 would say it would be very worthwhile to go down to
6 Coalinga.

7 HEARING OFFICER CELLI: Well, we've seen the
8 photographs that were provided.

9 DR. PRIESTLEY: But I'd say go down and see it, if
10 that's feasible. Because when you see this solar boiler in
11 reality the impression one gets of it is different than
12 these theoretical hypothetical assessments that we -- that
13 we have seen in -- in Staff -- in Staff testimony. And some
14 might argue, oh, well, that -- that boiler isn't as big as
15 the one in Hidden Hills will be. But, in fact, it's pretty
16 similar. The -- the width of the boiler is about the same.
17 Hidden Hills might be about 40 percent taller. So
18 they're -- they're not so different in terms of the size.
19 And I understand --

20 HEARING OFFICER CELLI: I think the photograph
21 actually gives a pretty decent idea of what that
22 brightness --

23 DR. PRIESTLEY: Yeah.

24 HEARING OFFICER CELLI: -- would look like. I
25 think that we get the idea.

1 Let me -- let me do this, I'm going to turn the
2 question over to Mr. Emmerich. Did you have a chance to
3 read the staff's final staff assessment?

4 MR. EMMERICH: I read good portions of it, and I
5 looked through the visual resources.

6 HEARING OFFICER CELLI: That's -- I'm sorry,
7 that's a good point. I was really asking if you had a
8 chance to read the visual portion of the FSA. And in so
9 doing do you agree or disagree with Staff's assessment? And
10 if you disagree we'd like to know where and how.

11 MR. EMMERICH: I have to say I mostly agree with
12 it. I mean, they're -- they're pointing out a lot of things
13 that a lot of us were worried about. And I guess I'll just
14 point out the things that I agree with. I'm very concerned
15 about the glare, not only from the two power towers, because
16 they're going to be very high, I mean, higher than the three
17 Ivanpah towers, but I'm very worried about the flash glare
18 events with the heliostats in relation to the different
19 elevations from the different wilderness areas surrounding
20 the project site. And, you know, these are new projects.
21 It's difficult to --

22 COMMISSIONER HOCHSCHILD: I'm sorry, could you --
23 could you explain? What do you mean by flash glare?

24 MR. EMMERICH: I'm sorry. The accumulation of
25 like a reflection of a big sun glare from --

1 COMMISSIONER HOCHSCHILD: Off the heliostats?

2 MR. EMMERICH: -- off of all of the heliostats.

3 COMMISSIONER HOCHSCHILD: Okay.

4 MR. EMMERICH: Okay. And I've actually heard that
5 referred to as flash glare by the Energy Commission over at
6 Ivanpah. So that's why I'm using that terminology. But I'm
7 worried that primarily a lot because I don't think it's easy
8 for any of us to predict how visible that's going to be from
9 varying elevations from surrounding wilderness areas like
10 the Kingston Wilderness Area in California, the Spring
11 Mountains Recreation Area that was mentioned before, the
12 Nopah Range Wilderness Area, that -- there's just a whole
13 bunch of areas that -- that that's a potential affect. So I
14 agree with that.

15 I didn't even remember that there were going to be
16 16 flashing lights on -- on each tower every night. So
17 that's going to drastically change the character of what a
18 lot of us know about that area. And I'm somebody who has
19 been visiting this area for about 25 years. I'm semi-local.
20 I live up north in Beatty, Nevada. And I was a national
21 park service ranger. And I know that the route on the
22 Tecopa Road and the Old Spanish Trail is actually a
23 preferred route for visitors of Death Valley National Park
24 to travel as, quote unquote, "the most scenic route to Las
25 Vegas." And they were seeking that out, at least a certain

1 percentage of visitors, because they wanted to avoid any
2 kind of development as they were driving back from Death
3 Valley to Las Vegas, primarily --

4 MR. WHEATLAND: I'm going to object at this point.
5 His testimony is going beyond the scope of his direct
6 testimony. And I don't believe it's appropriate to add
7 testimony or information.

8 HEARING OFFICER CELLI: Sustained. You know what,
9 let me -- let me just take you back, Mr. Emmerich, to the --

10 MR. EMMERICH: Okay.

11 HEARING OFFICER CELLI: -- to the real question,
12 which is we really are interested in if you disagree with
13 the FSA, where did you disagree with it?

14 MR. EMMERICH: I don't really, other than I might
15 disagree that any kind of interpretive signage of visitors
16 center would probably not be enough to mitigate of off any
17 impact that would -- would occur.

18 HEARING OFFICER CELLI: Thank you. Mr. Arnold,
19 let's hear about your point of view regarding visual.

20 MR. RATLIFF: Mr. Celli, could I just interject?
21 Issues of glare and the -- also the radiance of the solar
22 towers were raised by the applicant. I just wanted to tell
23 you that we have a separate witness who is a consultant to
24 the Energy Commission on glint and glare issues.

25 HEARING OFFICER CELLI: Mr. Irvin.

1 MR. RATLIFF: Mr. Irvin. And I just wanted to
2 remind you, he is here to address those kinds of issues too.
3 So --

4 HEARING OFFICER CELLI: Thank you. You know what,
5 let me -- let me get -- I wanted to hear the other points of
6 view, and then we'll come back to Mr. Irvin, if you wouldn't
7 mind.

8 And so, Mr. Arnold, go ahead please --

9 MR. ARNOLD: Thank you.

10 HEARING OFFICER CELLI: -- regarding visual.

11 MR. ARNOLD: Thank you. First of all, I just want
12 to point out that it's -- in some respects there's going to
13 be some overlap that you're going to hear later on in the
14 cultural resources section on Friday. However, I think it's
15 important to note that when you talk about cultural
16 resources you can compartmentalize everything within
17 cultural resources. There are areas within such as visual
18 resources.

19 Within the visual resources I think there's --
20 first and foremost, I think we -- we agree with the staff's
21 assessments that have been presented here. However, there
22 is -- there are some things I think that maybe fell short.
23 Those would be things such as the -- the Salt Songs, the
24 presence of the Salt Songs, the distances that are integral
25 to that that really were not necessarily evaluated

1 systematically and -- and completely. And I think as a
2 result the -- the adverse impacts that will -- that will
3 occur from the 750-foot towers and the -- the multiple
4 heliostats below are going to be substantial.

5 Now, I think that why we concur, I think that when
6 you look at some of these other resources around the
7 resources for us, actually, I think it's not all inclusive,
8 nor -- nor is the KOP. So there's no KOP specifically
9 necessary that were ever considered for -- for some of the
10 cultural landscapes that were -- were mentioned in the FSA.
11 And I think that's integral and very important to weigh in
12 your decisions. Because I think the -- the information that
13 we provided will help substantiate that. And I think
14 further on I would ask that information -- that the
15 commission be mindful of the information that's going to be
16 provided later on in testimony, that that too would be
17 considered when you're evaluating overall all the different
18 sections, including visual resources.

19 HEARING OFFICER CELLI: It sounds like when we get
20 to cultural we will have to sort of factor that in because
21 we really haven't heard any testimony yet on any of the
22 landscapes.

23 MR. ARNOLD: Precisely. And I guess with that I
24 would move to -- to include as exhibits, under visual
25 resources, let's see here, Exhibit Number 800.

1 HEARING OFFICER CELLI: Just -- well, just hold
2 that thought. Because when we finish with visual, then I'm
3 going to go around --

4 MR. ARNOLD: Okay.

5 HEARING OFFICER CELLI: -- and take everybody's
6 exhibits in.

7 MR. ARNOLD: Fair enough.

8 HEARING OFFICER CELLI: So thank you, Mr. Arnold.

9 MR. ARNOLD: Thank you.

10 HEARING OFFICER CELLI: Let's go back to Mr.
11 Irvin, and let's talk about -- the committee is interested
12 in the glare. There's two kinds of glare that we're dealing
13 with here. There's the glare from the top of the tower, and
14 then there's glare from the heliostats. So let's hear about
15 that.

16 DR. IRVIN: Well, I consider it to be more glint
17 from the heliostats and glare from the solar receivers.

18 HEARING OFFICER CELLI: And you're going to tell
19 us, what's the difference between glint --

20 DR. IRVIN: Sorry.

21 COMMISSIONER DOUGLAS: -- and glare?

22 DR. IRVIN: And we have a little cross over here.
23 It impacts both visual resources and traffic and
24 transportation. So --

25 HEARING OFFICER CELLI: You want to scoot your

1 microphone. So it's almost like you're going to be --

2 DR. IRVIN: But --

3 HEARING OFFICER CELLI: -- right on it

4 DR. IRVIN: -- just with the SRSGs and their glare
5 or brightness it is clear that they will be a very bright
6 source in the sky. I think that's undeniable. And it's
7 also unmitigable. We -- most of Staff has witnessed solar
8 receivers at the five megawatt level. These are going to be
9 of 250. The receiver will be the same size as the sun at
10 2.8 miles. And there will definitely be a source of glare
11 up to a certain distance, which is arguable.

12 HEARING OFFICER CELLI: You said that the SRSG is
13 going to be the same size as the sun --

14 DR. IRVIN: It has the same --

15 HEARING OFFICER CELLI: -- at a distance of --

16 DR. IRVIN: -- visual substance, 30 minutes of
17 arc.

18 HEARING OFFICER CELLI: At two -- at two-and-a-
19 half miles?

20 DR. IRVIN: 2.8 miles.

21 HEARING OFFICER CELLI: Go ahead.

22 DR. IRVIN: And when it comes to perceived
23 brightness, that's a little bit more complicated. Perceived
24 brightness depends upon the size of the target, the
25 relationship of the target to the background, the context

1 with which it resides, the spectral content, the state of
2 adaptation of the visual system, as well as the location of
3 the visual field. And so it's difficult to appropriately,
4 given the calculations, assign a brightness value to it. So
5 rather than assign a brightness value to it, which may not
6 have much meaning, we will just state that it will certainly
7 be a glare source. And like the sun, it is a saturating
8 stimulus in excess of 200,000 candelas per meter squared.
9 If you look at it, if you fixate it, you know, it will
10 bleach your fobial (phonetic), your area of highest acuity,
11 quite quickly. And it's -- that's unavoidable.

12 When -- when an object of that luminosity comes
13 into your visual field you reflexively look at it. You have
14 no choice. And so I think the statement that the scenic
15 vista is significantly impacted is correct from the
16 perspective that this will be a disruptive stimulus that is
17 continually present during the day.

18 HEARING OFFICER CELLI: Okay. That's glare.
19 Let's talk about glint; right?

20 DR. IRVIN: Glint is more of an issue for the
21 heliostats, given that it is a transient phenomena. And I
22 think that the applicant has done a good job in
23 demonstrating through their -- their current positioning
24 plan that there will be no glint that ever occurs at the
25 ground level. However, during transit and standby

1 positioning there will certainly be the potential, if not
2 inevitable intercept with aircraft. But that should be very
3 transient. And I think that through the heliostat
4 operations and positioning plan that that would be mitigated
5 to an absolute minimum.

6 HEARING OFFICER CELLI: What -- can you describe a
7 position, and I forgot the word, but essentially when they
8 go dormant, the heliostats? When they -- when they turn
9 them off, if you will, where do they go? What -- what are
10 they pointing at?

11 DR. IRVIN: Well, according -- my understanding is
12 that they go planer and they have a certain number of
13 degrees that they can tilt towards the ground.

14 HEARING OFFICER CELLI: Okay.

15 DR. IRVIN: The applicant should address that.

16 HEARING OFFICER CELLI: Well, we'll hear from Mr.
17 Priestley on that, I guess.

18 So you're talking not about he fact that they're
19 just sitting there bouncing light in that -- what was that
20 state, the condition when they're down, you called it --

21 DR. IRVIN: Oh, the -- I guess the parking
22 position, if you will.

23 HEARING OFFICER CELLI: The parking --

24 DR. IRVIN: Yeah.

25 HEARING OFFICER CELLI: Okay. Whatever we're

1 going to call that.

2 DR. IRVIN: But they do have to transmission --

3 HEARING OFFICER CELLI: Sleep on standby.

4 DR. IRVIN: -- from standby and --

5 HEARING OFFICER CELLI: So it's during the
6 transition that a glint could bounce off and hit aviators or
7 drivers or something. So it's that momentary glint that
8 you're talking about?

9 DR. IRVIN: Yes.

10 HEARING OFFICER CELLI: Okay. Does the presence
11 of the slatted fence make any difference to your analysis,
12 with regard to glint?

13 DR. IRVIN: I think if they're positioning and
14 monitoring plan, as I understand it, claims that there will
15 be no ground intercept that is possible. So given that that
16 is true, then additional fencing has nothing to mitigate.

17 HEARING OFFICER CELLI: Okay. Thank you.

18 Let's turn it over to Mr. Priestley. Mr.

19 Priestley, please, would you respond to --

20 MR. WHEATLAND: Well, let me interject here. Mr.
21 Priestley is our visual resource expert. We don't have a
22 panel member on the issue of glare for this panel. As you
23 know, the -- the brief --

24 HEARING OFFICER CELLI: Is it traffic?

25 MR. WHEATLAND: Well, traffic, or project

1 description, also, in terms of the affects. And one of our
2 witnesses this afternoon can address, under project
3 description, the affect of the UVA light from the receivers.

4 HEARING OFFICER CELLI: Okay. I then we'll put
5 that off to -- we're going to talk about traffic next. So I
6 guess we'll get -- we'll use -- we'll do that during
7 traffic, I suppose.

8 (Colloquy Between Hearing Officer and Commissioners)

9 MR. WHEATLAND: There is one thing, though.

10 HEARING OFFICER CELLI: One moment, Mr. Wheatland.

11 (Colloquy Between Hearing Officer and Commissioners)

12 HEARING OFFICER CELLI: Mr. Wheatland, do you
13 know, what exhibit number or numbers were the series of
14 photographs that we received recently of the Coalinga Tower?

15 MR. WHEATLAND: Those were in Mr. Priestley's
16 rebuttal. That's in the applicant's rebuttal, Applicant's
17 Rebuttal Testimony, Exhibit 72.

18 HEARING OFFICER CELLI: Thank you.

19 MR. WHEATLAND: And I was just going to say that
20 even though he isn't here to testify as to the technical
21 questions of calculating glare, that rebuttal testimony does
22 testify as to his actual experience in viewing those
23 receivers at the viewing distances that Dr. Irvin describes
24 as -- as being a significant affect. And his photos reflect
25 what Mr. Priestley found.

1 HEARING OFFICER CELLI: Thank you. I know I had
2 seen them, I just didn't remember where they were. Okay.

3 So let me ask you this, Mr. Wheatland, are you --
4 are you asking that we not allow Mr. Priestley to respond to
5 any --

6 MR. WHEATLAND: No, no, he can. I'm perfectly
7 fine for him to respond. I just wanted to let you know,
8 since we had been talking about technical expertise, we
9 weren't offering him as a technical expert on the questions
10 of how to calculate glare.

11 HEARING OFFICER CELLI: As a visual expert, do you
12 have any thing to say in rebuttal to what Mr. Irvin said,
13 Mr. Priestley?

14 DR. PRIESTLEY: Yeah. Only -- only to repeat that
15 what we heard from Mr. Irvin were theoretical calculations.
16 And he himself indicated that in terms of really
17 understanding the perceived affects of the brightness, there
18 are many, many variables that affect that. And that's why I
19 think going and taking a look at an actual solar boiler from
20 varying distances is really the best way to get kind of a
21 sense of, well, just how bright is it, how does it really
22 affect a person's experience there on -- on --

23 MS. BELENKY: Objection.

24 DR. PRIESTLEY: -- on the site.

25 MS. BELENKY: Is this is a motion for -- to have a

1 site visit or --

2 DR. PRIESTLEY: I'm --

3 MS. BELENKY: -- is this just someone giving their
4 opinion?

5 HEARING OFFICER CELLI: I think it's someone
6 giving his opinion. I was thinking at the time that I
7 remember some famous jurists saying something about knowing
8 it when you see it. I think that's what he's saying.

9 But --

10 DR. PRIESTLEY: Yes.

11 HEARING OFFICER CELLI: -- thank you, Mr.
12 Priestley.

13 Let's hear from Mr. Emmerich. In this regard, did
14 you have anything further to say about glare or glint?

15 MR. EMMERICH: Well, I just would like to add, I
16 mean, I heard that -- in the analysis that they solved the
17 glint issue at ground level. But then we're talking about
18 airplanes.

19 But I still wanted to point out and just, you
20 know, ask maybe about -- how about those mid-levels, those
21 alluvial sands, those mid-levels in the wilderness area?
22 Isn't that glint, or at least the potential from the glint,
23 from the collection of light from all those heliostats going
24 to be very visible from those wilderness areas at that mid-
25 ground level.

1 HEARING OFFICER CELLI: So to -- so to be clear,
2 you're asking -- so essentially there are wilderness areas
3 that are of heightened elevation that surround the Pahrump
4 Valley. And you're questioning whether from when you're at
5 higher elevations, will you have a higher probability of
6 glint and glare at those higher levels?

7 MR. EMMERICH: Right. The project will be at the
8 bottom of Pahrump Valley. And then you'll have the mid-
9 levels. And -- and so what's the analysis of that? I mean,
10 how is that going to affect like potentially a visitor
11 experience at one of those wilderness areas at that
12 midlevel? Am I not sure if I saw a lot of analysis on
13 that?

14 HEARING OFFICER CELLI: Mr. Irvin, is that glint
15 at the -- at these higher elevations going to be something
16 more than the transitory experience you were describing to
17 the aviators?

18 DR. IRVIN: It should only occur during the
19 transition of a mirror from either a standby position to
20 parking position or parking to on the tower. And according
21 to the Condition of Certification Trans A and the heliostat
22 positioning and monitoring plan, all those exposures should
23 be minimized, brought to a theoretical minimum of elevated
24 areas.

25 HEARING OFFICER CELLI: Thank you.

1 Ms. MacDonald, did you --

2 MS. MACDONALD: I wanted to submit at least one
3 exhibit to support Mr. Emmerich's testimony.

4 HEARING OFFICER CELLI: We'll get to that.

5 MS. MACDONALD: Okay.

6 HEARING OFFICER CELLI: I'm not taking exhibits
7 yet. Right now we're just hearing from the panel.

8 Mr. Arnold, anything further on this?

9 MR. ARNOLD: I mean, the only thing that I would
10 say is with respect to the glint and glare that as we said
11 previously, that we're not talking about a single-level
12 plane, and so as such that you have different -- you know,
13 the elevation varies. And so you could potentially have
14 very -- you could have some -- some impacts there.

15 But my -- my point is from -- from a cultural
16 perspective of looking -- looking at that and the impacts,
17 that what we do within the cultural and ethnographic
18 landscapes that -- that relate to visual resources are at
19 varying elevations, varying levels. And so impacts from any
20 type of discharge from -- from reflections will be adversely
21 impacting the things that we do. And that would be my
22 statement.

23 (Colloquy Between Hearing Officer and Commissioners)

24 HEARING OFFICER CELLI: Mr. Arnold, are you -- in
25 terms of the cultural, are you more concerned about the

1 glare from the tower or the glint from the heliostats, or
2 does it matter?

3 MR. ARNOLD: That's actually pretty easy for me to
4 respond to. And it's going to be a little bit difficult
5 to -- for people to understand.

6 So I can respond to it by the glint and the glare
7 would impact ten different directions. The ten different
8 directions would be north, east, south and west, up and
9 down, past, present and -- past, present and future, and
10 then ourselves, within those landscapes. So -- so it's very
11 hard to distinguish and/or prioritize where exactly.
12 Because if you're at varying levels, wherever you can see
13 that you're impacted by a discharge, a reflection. But I
14 think it's going to impact you wherever you're at in that --
15 in that setting.

16 So for -- for example, if you were close by and
17 you were seeing the -- the glint or the glare, that's going
18 to have an impact to you. If you're going to be a little
19 bit higher up and you're still seeing those same types of
20 effects, it's going to have an equal type of an impact to
21 you culturally.

22 So it's very hard to respond succinctly to this
23 particular question as to what's going to be, you know, my
24 concerns are higher up, lower down, you know, 6 inches away
25 or 8 inches away or 12 feet away or high up on the mountain

1 or whatever, I mean, it's -- it's a little bit challenging.

2 HEARING OFFICER CELLI: Thank you. I think a lot
3 of this is going to -- we're going to need to hear the
4 cultural testimony in order to flesh this out.

5 MR. ARNOLD: Well, then I guess I could -- I'd
6 probably opt with the same type of example. To ask if you
7 could only see this stuff through our eyes is like going on
8 a field trip. Then you would also be able to equate a
9 similar type of sympathy or empathy.

10 COMMISSIONER HOCHSCHILD: I had a question for Mr.
11 Irvin. So I got my pilots license like 15 years ago. And I
12 remember, you know, flying, you know, at fairly low
13 altitudes. Frequently you get glare off bodies of water.
14 And in just in terms of trying to understand the magnitude
15 of what you anticipate in this kind of technology is it
16 roughly comparable to that? Like sort of for someone flying
17 or walking, you see a glare off a body of water that's
18 temporarily there. In terms of its magnitude and
19 brightness, is that what we would expect?

20 DR. IRVIN: I assume you're addressing the
21 heliostats?

22 COMMISSIONER HOCHSCHILD: Yeah. Yeah.

23 DR. IRVIN: Yes. Well, that's a specular
24 reflection off the water. That's the same type of
25 reflection that you would get off the mirrors.

1 But I would want to point out something that the
2 applicant educated me on. As a function of the radial
3 distance from the tower --

4 COMMISSIONER HOCHSCHILD: Yeah.

5 DR. IRVIN: -- the mirrors in the pylons are
6 slightly tensioned. And they're slightly tensioned to make
7 them a little bit concave so that they have a better focal
8 area --

9 COMMISSIONER HOCHSCHILD: Right.

10 DR. IRVIN: -- onto the SRSGs. What that means is
11 that heliostats in transit or in the standby position
12 achieve a focal point, a rough focal point, at the tower,
13 and then are divergent beyond that. So it's not going to be
14 like a specular reflection off water, which is a flat
15 surface. It's going to be -- the glint is going to be
16 defusing as a function of distance. So the further away an
17 aircraft is the less and less the glint would be from the
18 heliostats due to that slight bowing.

19 COMMISSIONER HOCHSCHILD: Because the focus is at
20 the tower. The other question I had is from the air, is the
21 tower itself, the light of the tower visible, or is that
22 light really only seen from the side, from the ground?

23 DR. IRVIN: Well, it's -- it's radial -- it's
24 visual extent and angles, I'm not sure exactly what that is.
25 I know it's quite large. It's at least 90 degrees.

1 COMMISSIONER HOCHSCHILD: That's right. I mean,
2 from above, is the -- in other words --

3 DR. IRVIN: Well, I guess if you were standing on
4 top you couldn't see it.

5 COMMISSIONER HOCHSCHILD: Right. Right. Okay.
6 So just projecting outward?

7 DR. IRVIN: Outward, but in a very broad beam.

8 COMMISSIONER HOCHSCHILD: Right. Right. Got it.
9 Okay.

10 DR. IRVIN: I'm not sure how -- the applicant
11 could say how broad that is.

12 COMMISSIONER HOCHSCHILD: Okay. Thank you.

13 DR. IRVIN: Probably a 100 degrees plus.

14 COMMISSIONER HOCHSCHILD: Thank you.

15 DR. IRVIN: Can I make another statement please?
16 I requested that Figure 22B be put up, because earlier it
17 was stated, yes, we can get a pretty good impression of what
18 the glare might be like from looking at the simulated
19 photographs.

20 I'd like to point out that in my opinion that is
21 certainly not the case. You can't photograph brightness in
22 that respect. The brightness that we see out there is
23 limited by the device that is projecting it and is limited
24 to 100 percent contrast. If the sun were in that picture I
25 don't think anybody would be running for their sunglasses or

1 experiencing glare. So it is -- it is a simulation and can
2 not possible express the true luminance or the perceived
3 brightness of the towers in the picture.

4 HEARING OFFICER CELLI: And the record should
5 reflect that Visual Resources Figure 22B is in the Final
6 Staff Assessment Visual Resources section. It's a simulated
7 view from KOP, which means a key observation point, Number
8 5. Thank you.

9 Mr. Wheatland, I imagine then that we're probably
10 going to hear some more about this when you have your glint
11 and glare expert here later on project description?

12 MR. WHEATLAND: Yes.

13 HEARING OFFICER CELLI: Okay. Mr. Wheatland, did
14 you have anything further or any question you like to ask of
15 these -- or any information you'd like to elicit from these
16 witnesses?

17 MR. WHEATLAND: I do have a couple questions for
18 the staff, please.

19 HEARING OFFICER CELLI: Okay.

20 MR. WHEATLAND: First of all, you mentioned
21 earlier visiting a five megawatt facility. Which facility
22 was that that you visited?

23 MS. MOURKAS: I went to two. I went to one up in
24 Lancaster, eSolar. That was dark that day. And so I went
25 onto the facility, BrightSource's Chevron facility in

1 Coalinga, California.

2 MR. WHEATLAND: Great. And did you have an
3 opportunity to view that receiver from a distance of five
4 miles?

5 MS. MOURKAS: Yes.

6 MR. WHEATLAND: And --

7 MS. MOURKAS: Four-and-a-half to five.

8 MR. WHEATLAND: All right. And so I -- as a
9 lawyer you're never supposed to ask a question you don't
10 know the answer to. But I really would like to know your
11 experience viewing that tower at a distance of four-and-a-
12 half to five miles?

13 MS. MOURKAS: It was startling. I was heading
14 from Interstate 5 on Highway 33 toward Coalinga, southwest
15 toward Coalinga. Now, naturally, I was looking for it,
16 right, scanning the horizon until I would catch my first
17 view, just like first view of the Rockies.

18 When I came around a corner there was a ranch to
19 one side, and the valley floor opened up. And I saw the
20 glowing -- it looked like an orb hovering in the distance.
21 I could not see the structure below it, just the bright
22 light of the solar receiver generator.

23 I pulled over, took some photographs. And then I
24 proceeded to get closer and closer to it. And it's --

25 MR. WHEATLAND: But just from that distance, I was

1 just asking you about that distance, did you feel discomfort
2 when you were looking at it from five miles away?

3 MS. MOURKAS: I did not feel discomfort. I felt
4 distracted.

5 MR. WHEATLAND: And when you say you felt
6 distracted, what did you mean?

7 MS. MOURKAS: That my eye was drawn toward it.

8 MR. WHEATLAND: And you couldn't take your eye
9 away or --

10 MS. MOURKAS: Yes, I could take my eye away.

11 MR. WHEATLAND: Okay.

12 MS. MOURKAS: But it was -- it was certainly an
13 attractant.

14 MR. WHEATLAND: All right. And, Dr. Irvin, have
15 you had a chance to visit the Coalinga facility?

16 DR. IRVIN: No. But I had visited the Lancaster
17 facility.

18 MR. WHEATLAND: All right. Dr. Irvin, in -- on
19 your Exhibit TT1, that's Traffic and Transportation, but
20 it's referenced throughout the visual testimony, at page 4-
21 1066 you describe certain calculations of the maximum
22 luminance values of the SRSGs.

23 DR. IRVIN: Uh-huh.

24 MR. WHEATLAND: Can you tell me, please, because
25 there's no citation or authority here, where did you get

1 those values from?

2 DR. IRVIN: Well, initially the values came from
3 BrightSource, from the applicant. And I just made some
4 calculations of my own based upon the -- the radiance.

5 MR. WHEATLAND: Well, you say originally came from
6 BrightSource. Were they -- did they come in a data
7 response?

8 DR. IRVIN: Either that or a telephone
9 conversation. I think the initial one was 440,000 candelas
10 per meter squared.

11 MR. WHEATLAND: All right. Well, as you
12 mentioned, the PSA had entirely different numbers than the
13 FSA. I didn't realize that you had changed all of the
14 numbers in your testimony from the PSA to the FSA because
15 you didn't flag it when you wrote the PSA. I didn't know
16 until you did a redline. But these numbers all were
17 changed.

18 Can you tell me why you changed the numbers from
19 the PSA to the FSA?

20 DR. IRVIN: Well, I think it was the -- just the
21 evolving information that was disseminated. The numbers
22 range, I think in the 200,000 to 400,000 candelas per met
23 square range. That's only a factor of three-tenths of a
24 block unit. That's really doubling. That's not very much.

25 The point is, is that luminance values of that

1 amplitude are -- are very significant in terms of saturating
2 the human visual system.

3 MR. WHEATLAND: But the essence of professional
4 paper is that it can be verified. And I really would like
5 to know what changed from the PSA to the FSA? Why did you
6 change those numbers?

7 DR. IRVIN: I think it was changes in the radiance
8 values that I was receiving.

9 MR. WHEATLAND: Well, did you receive additional
10 numbers from BrightSource?

11 DR. IRVIN: There were two -- to my recollection
12 there were two different communications with different
13 radiances.

14 MR. WHEATLAND: And so the numbers that you have
15 in the second one are the -- are the second communication
16 you received?

17 DR. IRVIN: I believe so, yes.

18 MR. WHEATLAND: And would you be able to provide
19 that to the record? Not today, but will you be able to
20 provide that to us?

21 DR. IRVIN: Best I can, yes.

22 MR. WHEATLAND: All right. On the next page --

23 MR. RATLIFF: Point of order, if I may.

24 HEARING OFFICER CELLI: Yes. You know, Mr.
25 Wheatland, I really would like to know what areas of -- this

1 isn't really like traditional cross-examination.

2 MR. WHEATLAND: Well, what it is -- is, though, is
3 the numbers from the PSA to the FSA changed completely. And
4 there was not citation anywhere in his paper to the sources
5 of the changes. In fact, he didn't even tell us.

6 HEARING OFFICER CELLI: You just made that point
7 and that's --

8 MR. WHEATLAND: And so --

9 HEARING OFFICER CELLI: -- now in the record.

10 MR. WHEATLAND: So now what -- what happens in
11 this paper, he's talked about the relative size of the sun,
12 this project. And on the next page we have contradictory
13 numbers with respect to the statements in terms of the
14 luminance. And so I want to figure out from him which of
15 these numbers is correct.

16 HEARING OFFICER CELLI: Okay. So let me do it.

17 MR. WHEATLAND: Well --

18 HEARING OFFICER CELLI: First of all, let me ask
19 you this, do -- do you know what pages he's referring to,
20 Mr. Irvin?

21 DR. IRVIN: I think so.

22 HEARING OFFICER CELLI: Okay. And you understand
23 what inconsistencies he's describing?

24 DR. IRVIN: Yes.

25 HEARING OFFICER CELLI: Can you explain them

1 please?

2 DR. IRVIN: Not without going back to my records
3 and the information that I've received.

4 HEARING OFFICER CELLI: Staff, do you have --

5 MR. WHEATLAND: Well, let me just try specifically
6 if I can. I think this may refresh his memory. You state
7 here that the perceived brightness is only three -- three
8 times as great as the background. But then in the next
9 paragraph you say the brightness of the SRSGs experienced by
10 all observers would be on the order of at least a factor of
11 four times greater than the background?

12 DR. IRVIN: Well, it depends on your assumptions
13 of the constant Steven's Power Law. I just used a set
14 variable, it's called A to a value of 1, because the numbers
15 are relative. What's important is the -- it's not the
16 specific number but the steps between what is the
17 background, what is the SRSG, and what is the sky.

18 MR. WHEATLAND: Well --

19 DR. IRVIN: All brightness -- all brightness
20 numbers are relative.

21 MR. WHEATLAND: Well, sure they are.

22 DR. IRVIN: It's a psychological phenomena, not a
23 physical --

24 MR. WHEATLAND: Right.

25 MR. RATLIFF: I raise again the point of order.

1 My understanding of the way -- the procedure before this
2 committee was that it was going to be informal hearing with
3 a discussion among the witnesses.

4 HEARING OFFICER CELLI: Actually, Mr. Ratliff, the
5 committee is interested in this.

6 MR. RATLIFF: Okay.

7 HEARING OFFICER CELLI: So let -- we're just going
8 to let it go.

9 Keep going

10 MR. WHEATLAND: But the -- the point of it is, is
11 that you say a certain level of brightness greater than
12 background is going to be distracting or cause discomfort;
13 isn't that correct?

14 DR. IRVIN: Yes.

15 MR. WHEATLAND: What is that threshold, two times,
16 three times, four times? What is the -- what is that level?

17 DR. IRVIN: It's not definitively known. That
18 experiment hasn't been conducted, to the best of my
19 knowledge, in psychophysical science.

20 MR. WHEATLAND: Then on what basis do you say that
21 a level of four times is significant and will cause
22 discomfort and distraction up to a distance of eight-and-a-
23 half miles?

24 DR. IRVIN: Well, I do that based upon my
25 experience as a visual scientist conducting vision

1 experiments for 35 years.

2 MR. WHEATLAND: All right. Is there any other
3 authority or source anywhere in your profession that would
4 substantiate this assumption?

5 DR. IRVIN: Not to stimuli of this magnitude.
6 Such a stimulus has never really existed on earth before.

7 MR. WHEATLAND: Oh, except the sun, which you
8 mentioned; correct?

9 DR. IRVIN: But we can't vary our distance from
10 evidentiary hearing sun.

11 MR. WHEATLAND: Well, but here's the point of it.
12 In the very next paragraph you talk about it being, and I'll
13 quote, the -- you said, first of all, it's only estimates,
14 which is good,

15 "are considered as nominal for viewing distances
16 on the order of 1,000 to 2,000 meters, where the visual size
17 of the SRSGs are reduced to less than 0.5 degree or a half
18 degree."

19 Now, that's the equivalent to the sun; correct?

20 DR. IRVIN: Correct.

21 MR. WHEATLAND: But in the next paragraph you say,

22 "At a viewing distance of 2.8 miles the tower
23 receivers will receive a visual sub tense equal to that of
24 the sun, in other words, a half a degree."

25 Well, which number is right? Is it 1,000 meters

1 or 2.8 miles?

2 DR. IRVIN: Oh, it's 2.8 miles. I'm sorry. That
3 must have been a misstatement then. You see, perceived
4 brightness depends critically on whether something is
5 reflecting light or emitting light. And different laws,
6 different rules guide that. Now, the solar receivers are
7 reflecting light, that is true. But they're reflecting
8 light at such an extent that they are functionally an
9 emissive source. And as such perceived brightness as a
10 function of distance is going to be a little bit more
11 complicated than usually.

12 Now, perceived brightness for a reflective
13 surface, for example, if you have the side of a barn painted
14 white, then you stand ten feet away from it, it has a
15 certain perceived brightness. If you back up to 100 feet
16 it's still going to have the same brightness. That's
17 because it's a reflective surface.

18 That's not true for a light source. And the solar
19 receivers -- and most things in nature don't -- that reflect
20 light don't reflect more than 100 percent. They can't.
21 Then they're emissive. And so even though the receivers
22 have very low reflectants they're receiving so much light
23 that they're reflecting light at a level that you can
24 consider it to be emissive.

25 MR. WHEATLAND: Now, when you -- when you use

1 the --

2 DR. IRVIN: And under those circumstances as a
3 function of distance the brightness is going to decrease.
4 So there's going to be some transition in the perceived
5 brightness that is both a combination of the laws governing
6 reflectants and the laws governing emission.

7 An additional compilation is that perceived
8 brightness also depends on where I your visual field it is.
9 You might want to look at that as an analogy of how many
10 pixels. If you look directly at the sun it's extremely
11 bright. If you put the sun 30 degrees in your periphery
12 it's not very bright at all. You really can't even tell
13 it's a sphere anymore, or a circle. So when you fixate
14 something you have a high number of pixels, if you would.
15 You've got very high resolution.

16 Another analogy would be I have one light bulb
17 which is a point source and it has a certain brightness.
18 But if I have a ten-by-ten array of light bulbs that are
19 point sources it will be brighter. But it's only going to
20 be brighter contingent to the resolution of the system that
21 is witnessing it, and that will be whether you're looking
22 directly it or whether you're looking at it an angle it's
23 brightness will change dramatically.

24 So it's not as straightforward as I would like it
25 to be and, you know, to be quite honest is extremely

1 difficult, as I pointed out earlier, to actually predict the
2 psychophysical phenomena of brightness in terms of this
3 amplitude. But what we do know is we do know what the
4 luminance is. We know the range of luminances that we can
5 expect. And those luminances are extremely high. And we
6 know that they're a saturating stimulus to the human visual
7 system. In other words, if you stare at the SRSG it will
8 bleach your retina and you will have -- excuse me, I'm
9 losing my voice -- you'll have a very powerful after image
10 from that.

11 MR. WHEATLAND: At what distance?

12 DR. IRVIN: Well, that's what I was getting at
13 earlier.

14 MR. WHEATLAND: I mean, because that's -- that's a
15 damning statement.

16 DR. IRVIN: No, no. I believe that distance is
17 going to be in the transition to the limits of resolution.
18 And in general that will be when you transition to about ten
19 minutes to five minutes of arc, that's when the perceived
20 brightness will start to be dropping off and obeying
21 Steven's Power Law.

22 HEARING OFFICER CELLI: One more question, Mr.
23 Wheatland, because we need to move on.

24 MR. WHEATLAND: All right. Well, I heard you
25 say -- give the example of that, well, that perceived

1 brightness doesn't diminish with distance. And I just heard
2 you say now that perceived brightness does diminish with
3 distance.

4 DR. IRVIN: Right.

5 MR. WHEATLAND: Which one is it?

6 DR. IRVIN: The -- it's both. The contingency is,
7 is it reflective or is it emissive?

8 MR. WHEATLAND: But I have an emissive -- if I
9 have a light bulb which is emissive and I put it right in
10 your face --

11 HEARING OFFICER CELLI: Mr. Wheatland, this is
12 argumentative.

13 MR. WHEATLAND: No. Well, it's actually a very
14 good analogy to what --

15 HEARING OFFICER CELLI: I think the record is
16 clear.

17 MR. WHEATLAND: Right.

18 HEARING OFFICER CELLI: The committee understands
19 that the tower is both -- has the properties of reflection
20 and emission, and that it, as a result, it's going to vary
21 as according to the distance.

22 MR. WHEATLAND: Well, hopefully it does, and I
23 think that's the correct statement. But thank you very
24 much.

25 HEARING OFFICER CELLI: I -- that's -- I think we

1 have enough of a record on it.

2 I just want to ask, Mr. Ratliff, if you needed to
3 clarify anything?

4 MR. RATLIFF: Well, the only thing I'd like to
5 clarify is what the rules are. I thought we were not going
6 to do cross-examination. But it's --

7 HEARING OFFICER CELLI: We're really not.

8 MR. RATLIFF: But if we're going to do cross-
9 examination of an interest, I want to know what interest it
10 is, or at least how I can make you interested in it, because
11 I'll try to find a way. But there are questions that I
12 would pose that -- in response to that, I think, or at least
13 in response to the testimony. I think there ought to be at
14 least some discussion from the witnesses of the difference
15 between VRA and VRM. I think Mr. Priestley had -- had you
16 put up one of his exhibits showing VRM, which is Visual
17 Resources Management, it's a BLM term, or the development
18 guidelines for --

19 HEARING OFFICER CELLI: But we have that in the
20 record already.

21 MR. RATLIFF: Right.

22 HEARING OFFICER CELLI: So we, you know, basically
23 we wanted to know where the parties disagree, where they
24 disagree with the FSA. I think we're getting a sense of
25 that now. And I just wanted to know if there was anything

1 that you felt needed clarification because of anything that
2 was said by the panel heretofore?

3 MR. RATLIFF: No.

4 HEARING OFFICER CELLI: Thank you. And then I'm
5 going to -- County of Inyo, did you have anything further?
6 She's shaking her head, no.

7 Mr. Zellhoefer, any questions of this witness --

8 MR. ZELLHOEFER: Yes, I do.

9 HEARING OFFICER CELLI: -- or these witnesses?

10 MR. ZELLHOEFER: John Zellhoefer.

11 HEARING OFFICER CELLI: Actually, if you would
12 tell the committee so we could perhaps coach it in a way
13 that --

14 MR. ZELLHOEFER: Yes.

15 HEARING OFFICER CELLI: -- is more efficient.

16 MR. ZELLHOEFER: Mr. Chair, it has been mentioned
17 that the impact on wilderness areas is unavoidable. I would
18 like -- I've read through all the materials and I've never
19 seen any factual data on how many people are ever in these
20 wilderness areas that would be affected. I mean, certainly
21 in my brief file I'll be treating it differently if it's 1
22 person a year versus 1,000.

23 So I'd like to ask anybody up there, or have you
24 ask, how many people are we really talking about when
25 we're -- when we're referring to these wilderness areas,

1 either in the Nopahs or the Kingstons, that will be affected
2 by this?

3 HEARING OFFICER CELLI: That's a good question.
4 And usually, at least in the past when there's been a visual
5 analysis the -- that analysis has found its way into the FSA
6 because there's sort of a number-of-people-affected factor
7 from the KOPs.

8 Do you have that information, Ms. Mourkas?

9 MS. MOURKAS: Yeah. We did address that in the
10 FSA. And the BLM in California for those two wilderness
11 areas that were mentioned, they have no visitor --
12 visitorship records at all. And so there was no way to
13 actually quantify the number of visitors.

14

15 HEARING OFFICER CELLI: Okay. There you have it,
16 Mr. Zellhoefer. Thank you.

17 I'm going to -- now, Mr. Pritchett, welcome. Did
18 you have any questions on this? No, you're not Mr.
19 Pritchett, I'm sorry. That is Mr. Brown.

20 MR. BROWN: No, not at this -- not at this time.
21 Thank you.

22 HEARING OFFICER CELLI: I'm sorry, Mr. Brown.

23 You know, speaking of luminance, right behind you
24 is an open door. And all of you are in the shadows because
25 we can't see you.

1 Mr. Levy, did you have anything --

2 MR. LEVY: Not right now.

3 HEARING OFFICER CELLI: Thank you. Ms. Belenky?

4 MS. BELENKY: Yes. I had a couple of clarifying
5 questions that should be quite short, to Staff, regarding
6 the landscaping that -- that's being proposed and whether
7 water -- the water calculations were made for how much water
8 that would use over the life term of the project.

9 HEARING OFFICER CELLI: Now -- now, are you
10 talking about water for the use of cleaning -- washing the
11 mirrors?

12 MS. BELENKY: I'm talking about the landscaping --

13 HEARING OFFICER CELLI: Oh, landscaping.

14 MS. BELENKY: -- that they have suggested --

15 HEARING OFFICER CELLI: Got you.

16 MS. BELENKY: -- to reduce the visual impacts
17 along the road.

18 HEARING OFFICER CELLI: Okay.

19 MS. BELENKY: So that's --

20 HEARING OFFICER CELLI: I have the feeling that's
21 going to be water, but let's hear from --

22 MS. BELENKY: Well --

23 HEARING OFFICER CELLI: -- Ms. Mourkas.

24 MS. BELENKY: -- I'm just checking. Was it
25 calculated? Where is it calculated?

1 HEARING OFFICER CELLI: Okay.

2 MS. MOURKAS: I could partially answer that
3 question.

4 HEARING OFFICER CELLI: Please.

5 MS. MOURKAS: Our water and soil folks looked at
6 it very briefly and found that it would be infinitesimal
7 compared to other water uses on the project. And also that
8 the landscape plan, until it's actually developed, which is
9 done during the compliance phase of the project, we actually
10 don't really have a way to do that calculation.

11 HEARING OFFICER CELLI: Okay. But can you tell us
12 just in general, just for everybody's benefit, that the
13 landscaping, what is the goal of the landscaping? Are they
14 going to have a 320-degree coverage around the periphery of
15 the property or what?

16 MS. MOURKAS: No. And, in fact, that evolved
17 somewhat during the testimony and rebuttal testimony
18 filings. So what we're looking at now is simply having some
19 vegetative screening along Old Spanish Trail Highway. And
20 this would have the affect of mitigating some of the views to
21 the project, as well as providing something of a screening
22 buffer. And it also, in consultation with our own biology
23 staff, we decided that we needed to refrain from perimeter
24 screening all around the project, which is really what Inyo
25 County's laws say to do. So that if they're onboard and in

1 agreement with that it would be limited to the frontage
2 along Old Spanish Trail Highway, and particularly most
3 compact or most dense in the area where the residences are
4 in Charleston View. You might want to ask Dr. Priestley if
5 he concurs with that.

6 HEARING OFFICER CELLI: Well, okay. I mostly just
7 wanted to know what the scope of the landscaping was.

8 MS. BELENKY, anything further?

9 MS. BELENKY: Well, I have a couple of further
10 small questions. And maybe we will talk about this in bio.
11 But also from my brief time that I had to look at this
12 document it appears to also say that the plants used will
13 also be decided later in a plan. It was not clear to me
14 that that only includes native plants that are local to this
15 area. So that will be a question, but perhaps we're going
16 to deal with it in bio.

17 HEARING OFFICER CELLI: Is that anything that
18 you've talked about in visual, Ms. Mourkas?

19 MS. MOURKAS: Non-native plants that are suitable
20 to the climate were not excluded. But what was excluded in
21 the proposed condition of certification was that there be no
22 invasive exotic species used or invasive species of plants.

23 MS. BELENKY: Thank you. And then I had two other
24 short questions. One is whether the -- the unavoidable, as
25 you've said, impacts from the visual resource -- the visual

1 glare, sorry, of the towers would be avoided by an
2 alternative that was examined in the FSA.

3 MS. MOURKAS: I think you have a session on
4 alternatives scheduled for Sacramento.

5 HEARING OFFICER CELLI: We do. Can you --

6 MS. BELENKY: Yeah. This is again a siloing
7 problem. We're siloing the discussion --

8 HEARING OFFICER CELLI: I'm sorry. I didn't get
9 that.

10 MS. BELENKY: So I'm confused.

11 HEARING OFFICER CELLI: As the question again with
12 regard to visual.

13 MS. BELENKY: Yes. I said -- I said would the
14 visual glare --

15 HEARING OFFICER CELLI: Oh.

16 MS. BELENKY: -- from the project be avoided by
17 any of the alternatives that were actually addressed in the
18 FSA?

19 HEARING OFFICER CELLI: Did you handle that in
20 visual, Ms. Mourkas?

21 MS. MOURKAS: Yes. Of course, sans that power
22 towers the -- the glare from that source would be
23 eliminated. And there might be other sorts of glares from
24 troughs or solar panels, but those are potentially more
25 easily mitigated. And I believe that was the conclusions

1 that the alternatives section came to.

2 HEARING OFFICER CELLI: Right. And that -- we're
3 starting to get into an argumentative area there. So if --

4 MS. BELENKY: I'm not arguing.

5 HEARING OFFICER CELLI: No, I'm just saying,
6 that's something that would show up in your brief versus
7 whether it's a question a fact.

8 MS. BELENKY: I think I just want to point out
9 that we've had this discussion before, both you and I, at
10 different hearings, that sometimes the siloing of the
11 different subject areas, which has already come up today
12 several times, can make the whole discussion very truncated
13 and not make any sense. And I just want to make sure that
14 we're not missing pieces as we go forward.

15 Then I just wanted to -- I have one further
16 question, which was that you -- someone said that no new
17 testimony could be admitted at this point. But my
18 understanding is that if there is new information since the
19 time that testimony was submitted that that is appropriate
20 to be discussed at this time.

21 HEARING OFFICER CELLI: What -- what is it that
22 you wanted to put in?

23 MS. BELENKY: Well, I wanted to ask any of the
24 panelists if they did have any new information to put in
25 since the time of their testimony.

1 HEARING OFFICER CELLI: Boy, let me -- let me just
2 confer for a moment with the commissioners on that.

3 (Colloquy Between Hearing Officer and Commissioners)

4 HEARING OFFICER CELLI: You know, at this time
5 we're not going to -- we're not going to go there, Ms.
6 Belenky. And the reason is because we want to have the
7 record be complete and finite. And if there's new evidence
8 that comes in that nobody has seen before then there's --
9 we're going to have to open up the record for examination of
10 any new evidence. I don't know that we -- and no parties
11 raised this, unless you're aware of something that's new
12 that we should be aware of, and that's -- is there something
13 new that came in that we didn't --

14 MS. BELENKY: Not necessarily. But the point was
15 made that -- and I think this is an important point here,
16 that you are -- you just stated basically that the record is
17 closed, but the record is not closed. These hearings are
18 part of the record. They're part of the evidentiary record.
19 And people will make statements that go beyond exactly the
20 terms of their testimony. And that's part of the point of
21 the hearing is to have that discussion, have the question
22 and answer, and maybe admit new facts.

23 HEARING OFFICER CELLI: But it is not an
24 opportunity to bring in new information that -- when the
25 parties have already exchanged their information back and

1 forth in terms of opening and rebuttal testimony.

2 MS. BELENKY: Yeah. I think that --

3 HEARING OFFICER CELLI: I mean, new things will
4 come up to light, certainly.

5 MS. BELENKY: Yes.

6 HEARING OFFICER CELLI: I understand that. But I
7 just want to make sure that you're not asking some witness
8 to put in some new evidence that nobody has seen before.

9 MS. BELENKY: I'm not asking anyone to put in
10 anything. I am just trying to make a point that you appear
11 to be trying to close off discussion of anything that was
12 not already stated in someone's prior testimony. And that
13 is not my understanding of the hearings.

14 HEARING OFFICER CELLI: No, that's not what we're
15 doing.

16 MS. BELENKY: This record is not yet closed.

17 HEARING OFFICER CELLI: Right.

18 MS. BELENKY: And these hearings are part of that
19 record. This is a part of the time where we are taking
20 evidence and hearing all of these discussions.

21 HEARING OFFICER CELLI: No, you -- then you
22 misunderstood what I said, because I haven't closed the
23 record. The record is open and whatever they're saying is
24 coming into the record. But I am loathe to start allowing
25 parties to start bringing in new documents at this late date

1 after we've exchanged. So that's what I thought you meant.

2 So having heard that, is there anything from this
3 panel that is new information that anybody wants to put in
4 at this time? Ms. Mourkas? Mr. Irvin? Mr. Emmerich?

5 MR. EMMERICH: Well, as far as visual resources
6 go, I think wildlife sightings probably do qualify as a
7 visual resource. And I recently saw a Golden Eagle three-
8 and-a-half miles from the sight on February 23rd.

9 HEARING OFFICER CELLI: Yeah. That wouldn't be a
10 visual attribute of the project.

11 MR. EMMERICH: Okay. I'm just asking.

12 HEARING OFFICER CELLI: Ms. MacDonald, did you --
13 you wanted to indicate --

14 MS. MACDONALD: Yes. Thank you. Well, first off
15 I'd like to say that I agree very much with the visual
16 resource testimony. I thought they did an excellent job.

17 HEARING OFFICER CELLI: Whose testimony?

18 MS. MACDONALD: Staff's, excuse me.

19 HEARING OFFICER CELLI: Thank you. Because --

20 MS. MACDONALD: Yes, I understand. It's been
21 awhile, so I forgot. So I just wanted to make that
22 statement for the record. I thought that they represented
23 the area very well and how pretty it is. Thank you for
24 asking.

25 I did have -- one of the issues when we were in

1 the prehearing conference I mentioned one of the exhibits
2 that I wanted to present. In fact, I believe it's the
3 reason we're having the visual resource. And -- and what it
4 is, it's a satellite photo of the first picture of Ivanpah's
5 mirrors. And what you see is a bunch of flux kind of
6 spilling out. I think it's flux. I don't know. But, you
7 know, I want -- I want to submit that, which I know we're
8 not doing.

9 But the issue is, is I wanted to ask Staff, is
10 there anywhere in the FSA, or even Applicant's thoughts,
11 where they deal with the issue of the mirrors casting off
12 like a flux level as they're being installed. Because my
13 understanding is they will not be controlled until the
14 heliostat positioning plan gets implemented, which is
15 roughly from the CEC about 90 days before operation. So we
16 got like this three-hour window -- three hour -- three-year
17 window which, you know, it will be taking time to put all
18 these heliostats and mirrors in this five miles.

19 And so between the picture, seeing the flux, I
20 guess the question is, I want to ask Staff, did you deal
21 with anything with that flux that might be coming off as the
22 mirrors and heliostats get assembled?

23 HEARING OFFICER CELLI: It's a fair question. Mr.
24 Irvin, I think you're probably the best position for Staff
25 to speak to that.

1 MR. IRVIN: I'm not positive about this answer,
2 but I believe the applicant indicated that the mirrors would
3 be in evidentiary hearing stowed position until operation.

4 HEARING OFFICER CELLI: Okay. Now, she's talking
5 about, it seems to me, during construction, when they're
6 being installed.

7 Do I have that correct, Ms. MacDonald? You're
8 talking about --

9 MS. MACDONALD: Yes.

10 HEARING OFFICER CELLI: -- pre-installation of the
11 heliostats?

12 MS. MACDONALD: No. I'm talking -- well, as they
13 install them. You know, because it takes awhile. I mean,
14 it's going to take -- well, they would know better than I,
15 but my guess is about two years total to get all those
16 mirrors and heliostats installed. And as those numbers
17 increase, that's why I wanted to submit this particular
18 exhibit, like I said, a satellite photo of Ivanpah. Because
19 as he pointed out we've never seen anything on this utility
20 scale like this before. And there's this really weird light
21 that is coming off of these mirror fields. And so, you
22 know, my concern was we've got this gap before the heliostat
23 positioning plan. So that was the first thing that I wanted
24 to make the committee aware of and see answers about.

25 COMMISSIONER DOUGLAS: So let's -- let's get an

1 answer. So you're talking about as they're installed and
2 after they're installed, but before operation?

3 MS. MACDONALD: Yes. Because --

4 COMMISSIONER DOUGLAS: Okay. So do we have an
5 answer to that?

6 HEARING OFFICER CELLI: Ms. Mourkas, was that --

7 MS. MOURKAS: Well, I'm a little confused as to
8 how an aerial image is related to --

9 COMMISSIONER DOUGLAS: We're not asking --

10 MS. MOURKAS: -- views on the ground.

11 COMMISSIONER DOUGLAS: We're not asking about an
12 aerial image. We're --

13 MS. MOURKAS: Okay.

14 COMMISSIONER DOUGLAS: We're asking either as the
15 mirrors are installed or after they're installed before
16 operation, are there glint issues that we should be informed
17 of or aware of?

18 MS. MOURKAS: I don't think we found that. But I
19 would just sing to the praises of slatted fencing to help
20 preclude some of that from happening on the ground.

21 COMMISSIONER DOUGLAS: Okay.

22 HEARING OFFICER CELLI: Anything else, Ms.
23 MacDonald?

24 MS. MACDONALD: Well, I guess, yes. I wanted to
25 ask, if -- I am correct, and the heliostat positioning plan

1 will start control of the mirrors shortly before operations?

2 HEARING OFFICER CELLI: I think that's something
3 that the applicant is in a better position to answer than
4 the staff.

5 MS. MACDONALD: Okay.

6 MR. WHEATLAND: Our proposal was to prepare the --
7 the plan so that it would be reviewed and approved by the
8 commission staff prior to the start of operation.

9 MS. MACDONALD: Specifically, though, like the
10 implementation. Like will you be able to control the
11 heliostats pretty early on in construction to keep them away
12 from the roadways or --

13 MR. WHEATLAND: Yes.

14 MS. MACDONALD: -- do you have any particular --

15 MR. WHEATLAND: Yes, as soon as they're installed.
16 They're going to be installed in the safe position. They
17 will remain in that position until the plant's operation.

18 MS. MACDONALD: Is the safe horizontal or
19 vertical?

20 MR. WHEATLAND: Yes, the flat.

21 MS. MACDONALD: Horizontal; correct? Okay. Thank
22 you.

23 COMMISSIONER DOUGLAS: For the record, we can't --

24 MR. WHEATLAND: The hand motions -- hand motions,
25 yes.

1 COMMISSIONER DOUGLAS: We can't capture gestures
2 on evidentiary hearing record.

3 MR. WHEATLAND: They will be installed in a --
4 thank you -- sorry -- in -- in a horizontal position.

5 MS. MACDONALD: Okay.

6 HEARING OFFICER CELLI: So that means that the
7 mirrors are pointing down towards the earth or straight up
8 to the sky?

9 MR. WHEATLAND: Well, I have -- I have an
10 individual who can -- he's scheduled to testify --

11 HEARING OFFICER CELLI: Oh.

12 MR. WHEATLAND: -- as to project description who
13 can answer your question at that time.

14 HEARING OFFICER CELLI: All right.

15 COMMISSIONER DOUGLAS: All right.

16 HEARING OFFICER CELLI: We're just going to have
17 to hold it.

18 COMMISSIONER DOUGLAS: Could -- let's just make a
19 note.

20 MR. WHEATLAND: I think it's better that he would
21 testify than to me.

22 HEARING OFFICER CELLI: Right.

23 COMMISSIONER DOUGLAS: You could have him address
24 that.

25 MR. WHEATLAND: Yes.

1 HEARING OFFICER CELLI: Okay. Let's not do that.

2 MS. MACDONALD: Okay. Well, just don't forget, in
3 terms of visual resource, the flux level. And I understand
4 what you're saying about a satellite view having nothing to
5 do with ground base. Yet, when you look at this, everything
6 that's coming off, considering it's right next to a road,
7 that's why I had that concern.

8 The second thing that I wanted to bring up, I was
9 told when I filed my motion to terminate the applicant that
10 the hearing would be the appropriate place to address this.
11 And this specifically had to deal with a statement that was
12 made by the applicant regarding their heliostat positioning
13 plan, that they had never implemented it on a utility scale
14 before. And so I had concerns about that. Essentially, I
15 just wanted to bring it to the committee's attention, that
16 it may have possible risks in it because nobody's ever tried
17 it like this before. And I think that's it, because I'm
18 really getting the stink eye.

19 HEARING OFFICER CELLI: I'm not giving you the
20 stink eye. I was actually thinking about what you just said
21 and what kind of record we have. And do you have -- who
22 said that?

23 MS. MACDONALD: Who said what?

24 HEARING OFFICER CELLI: Who said that this has
25 never been done on a utility scale before?

1 MS. MACDONALD: Okay. This would be an exhibit I
2 would move to enter, BrightSource Energy said it in a
3 Security Exchange Commission filing.

4 HEARING OFFICER CELLI: Oh, okay. All right. Now
5 I remember.

6 MS. MACDONALD: Yes.

7 HEARING OFFICER CELLI: Thank you. Now --

8 MS. MACDONALD: There's a whole bunch of things
9 they said about this system in there that's very different.

10 HEARING OFFICER CELLI: Okay.

11 MS. MACDONALD: Thank you.

12 HEARING OFFICER CELLI: Thank you.

13 (Colloquy Between Hearing Officer and Commissioners)

14 HEARING OFFICER CELLI: So any new information,
15 Mr. Priestley?

16 MR. PRIESTLEY: One thing I'll touch on just very,
17 very briefly in light of the conversations about the
18 potential impacts of the FAA lighting, I think it's fair to
19 say that neither staff nor I spent enough time
20 characterizing the existing nighttime environment in
21 Charleston View. And you'll probably laugh at this. I
22 don't want to sound like I'm -- I want to send you off on
23 yet another field trip. But if the commissioners, while
24 they are in this area, have the opportunity to pass through
25 Charleston View at nighttime it could be very, very useful

1 for putting this issue into perspective. Because a visit
2 there would reveal that it's not as entirely dark there as
3 one might think. You look out over Las Vegas. And there's
4 this huge area of sky glow that you see beyond the ridge
5 emanating from Las Vegas.

6 And then when you're in Charleston View, like
7 standing by the dumpsters looking straight north to the area
8 where the towers are going to be you'll see a big area of
9 sky glow over Pahrump. And then where Pahrump is you will
10 see a very solid line of urban lights there in Pahrump, one
11 of which at least is flashing red. And you'll also see a
12 flashing white light related to the airport.

13 So kind of -- kind of the bottom line is that this
14 is a nighttime environment looking in that direction that
15 already has plenty of lights, and so it's not going to be a
16 complete change. And an additional variable, it's true that
17 in Charleston View there are no streetlights. But a number
18 of property owners have yard lights, some of which are
19 completely unshielded and create a lot of glare and light
20 bouncing all over the place. So that if you are in
21 Charleston View looking north, essentially your -- in your
22 foreground you're seeing these existing, you know, yard
23 lights and the like. And it's beyond that you see the sky
24 glow and the lights in Pahrump. And it's going to be in
25 that context that you're going to be seeing the flashing red

1 lights, which is the reason why I came to the conclusion
2 that this would be a less than significant impact.

3 HEARING OFFICER CELLI: Mr. Arnold, did you have
4 anything new to add?

5 MR. ARNOLD: Well, I have a lot of witty things I
6 could say. But --

7 HEARING OFFICER CELLI: These hearings are often
8 an exercise in restraint.

9 MR. ARNOLD: And maybe we need some levity at some
10 times, too, I think.

11 Actually, my only comment really is specific to
12 the invitation to go out the. And I think it's very
13 important that you need to recognize, again from a cultural
14 point of view and for long-time residents, instead of going
15 out there for a day trip, imagine if you lived there for a
16 lifetime. Imagine if you lived there for an extended period
17 of time, what it would be like.

18 With respect to all the other light pollution that
19 may be out there, you know, heck, we may have flashlights,
20 too, but that, that wasn't -- that wasn't even considered.
21 But beyond that, no, no further thing to say.

22 HEARING OFFICER CELLI: Thank you. I'd like to
23 thank this panel for you're very illuminating comments. I
24 thought this was a useful exercise.

25 At this time we are going to close the record --

1 no, we're not going to close the record. I have to take
2 people's exhibits.

3 So let's first go to the applicant. Do you have a
4 motion?

5 MR. WHEATLAND: Yes.

6 HEARING OFFICER CELLI: So the panel can be -- you
7 can be dismissed and --

8 MR. WHEATLAND: But before -- before I move to
9 admit the applicant's exhibits, I do want to move to strike
10 Mr. Emmerich's statements regarding his alleged sighting of
11 an eagle. That's entirely out of place in the context of
12 this subject area.

13 HEARING OFFICER CELLI: Understood. And the
14 motion is denied, but we'll --

15 MR. WHEATLAND: Denied?

16 HEARING OFFICER CELLI: Denied, because it will
17 get the weight it deserves.

18 MR. WHEATLAND: Thank you. All right. I'm ready
19 to move the applicant's exhibits in visual resources. It's
20 1, 2, 4, 34, 42, 46, 48, 70, 71, 72, 79, and 80.

21 HEARING OFFICER CELLI: Any objection to the
22 receipt of that evidence from Staff?

23 MR. RATLIFF: No.

24 HEARING OFFICER CELLI: This is Applicant's visual
25 evidence. County of Inyo, any objection?

1 MS. CROM: Submit.

2 HEARING OFFICER CELLI: Richard Arnold, any
3 objection?

4 MR. ARNOLD: No objections.

5 HEARING OFFICER CELLI: John Zellhoefer, any
6 objection?

7 MR. ZELLHOEFER: No, sir.

8 HEARING OFFICER CELLI: Amargosa Conservancy, any
9 objection?

10 MR. BROWN: No. Thank you.

11 HEARING OFFICER CELLI: SIFPD?

12 MR. LEVY: No objections.

13 HEARING OFFICER CELLI: Thank you. Ms. Belenky?

14 MS. BELENKY: No.

15 HEARING OFFICER CELLI: Ms. MacDonald?

16 MS. MACDONALD: No objections.

17 HEARING OFFICER CELLI: Okay. With that then
18 Applicant's Exhibits, 1, 2, 4, 34, 42, 46, 48, 70, 71, 72,
19 79 and 80 are received into evidence.

20 (Applicant's Visual Resources Exhibits, 1, 2, 4, 34,
21 42, 46, 48, 70, 71, 72, 79 and 80, Received.)

22 HEARING OFFICER CELLI: Staff, did you have a
23 motion with regard to evidence?

24 MR. RATLIFF: Yes. I believe the staff --

25 HEARING OFFICER CELLI: One moment. Let me --

1 (Colloquy Between Hearing Officer and Commissioners)

2 HEARING OFFICER CELLI: Mr. Ratliff, motion with
3 regards to Staff's visual exhibits?

4 MR. RATLIFF: Staff Exhibits 300 and 301.

5 HEARING OFFICER CELLI: Any objection from County
6 of Inyo?

7 MS. CROM: Submit.

8 HEARING OFFICER CELLI: Mr. Arnold?

9 MR. ARNOLD: No objections.

10 HEARING OFFICER CELLI: Mr. Zellhoefer?

11 MR. ZELLHOEFER: No obj.

12 HEARING OFFICER CELLI: Amargosa Conservancy?

13 MR. BROWN: No objection.

14 HEARING OFFICER CELLI: SIFPD?

15 MR. LEVY: No objection.

16 HEARING OFFICER CELLI: CBD?

17 MS. BELENKY: No objection.

18 HEARING OFFICER CELLI: Ms. MacDonald?

19 MS. MACDONALD: No objection.

20 HEARING OFFICER CELLI: Exhibits 300 and 301 with
21 regard to visual --

22 (Staff's Visual Resources Exhibits 300 and 301,
23 Received.)

24 MR. WHEATLAND: And the applicant doesn't object
25 either --

1 HEARING OFFICER CELLI: Thank you, Applicant.

2 MR. WHEATLAND: -- as to the visual portions of
3 those exhibits.

4 HEARING OFFICER CELLI: Okay. No objection noted.

5 In terms of visual, County of Inyo, did you have
6 any exhibits that you wanted to move into evidence?

7 MS. CROM: No.

8 HEARING OFFICER CELLI: Mr. Arnold, did you have
9 exhibits for -- because I'm kind of concerned. I'm thinking
10 that maybe they're better brought in under cultural.

11 MR. ARNOLD: I appreciate -- I appreciate that.
12 But I think just for the record --

13 HEARING OFFICER CELLI: Okay.

14 MR. ARNOLD: -- I would like to enter in Exhibits
15 Number 800, 801, 802 and 803.

16 HEARING OFFICER CELLI: 800, 801, 802 and 803; any
17 objection, Applicant?

18 MR. WHEATLAND: One second, please. We weren't
19 expecting the cultural exhibits. So one second. No
20 objection.

21 HEARING OFFICER CELLI: Thank you. Staff, any
22 objection?

23 MR. RATLIFF: No.

24 HEARING OFFICER CELLI: County of Inyo?

25 MS. CROM: Submit.

1 HEARING OFFICER CELLI: Mr. Zellhoefer, any
2 objection?

3 MR. ZELLHOEFER: No.

4 HEARING OFFICER CELLI: Amargosa Conservancy?

5 MR. BROWN: No objection.

6 HEARING OFFICER CELLI: SIFPD?

7 MR. LEVY: No objection.

8 HEARING OFFICER CELLI: CBD?

9 MS. BELENKY: No objection.

10 HEARING OFFICER CELLI: Ms. MacDonald?

11 MS. MACDONALD: No objection.

12 HEARING OFFICER CELLI: Okay. Exhibits 800, 801,
13 802 and 803 are received into evidence.

14 (Mr. Arnold's Cultural Resources Exhibits 300, 301,
15 302 and 303, Received.)

16 HEARING OFFICER CELLI: And where am I? I'm at --
17 Mr. Zellhoefer has no exhibits. Amargosa had no exhibits.

18 Ms. -- Mr. Brown, were there any exhibits for
19 visual from Amargosa Conservancy?

20 MR. BROWN: No, there were not.

21 HEARING OFFICER CELLI: Okay. Nor were there any
22 from SIFPD.

23 MR. LEVY: No.

24 HEARING OFFICER CELLI: Center for Biological
25 Diversity, do you -- do you have some exhibits to put in?

1 MS. BELENKY: Not for visual, no.

2 HEARING OFFICER CELLI: Thank you. Ms. MacDonald?

3 MS. MACDONALD: Yes, I do. I apologize for the
4 scattered format. If I would have known I would have put
5 them in a list. But I have Exhibit 748, 720, 709, 719, I
6 think I've already submitted 711 and 712 -- oh, but it's
7 per -- per -- it's per subject matter; right?

8 HEARING OFFICER CELLI: Well, actually 711 and --
9 when we received the evidence, with the exception of
10 Staff's, we've received the entire exhibits. So 711 and 712
11 are in.

12 MS. MACDONALD: Okay. All right. I wasn't sure.
13 Exhibit 728, Exhibit 726, Exhibit 741, Exhibit 746 --

14 HEARING OFFICER CELLI: Are visual?

15 MS. MACDONALD: Question?

16 HEARING OFFICER CELLI: No. We're still on
17 visual.

18 MS. MACDONALD: Okay. All right.

19 HEARING OFFICER CELLI: 746 was last.

20 MS. MACDONALD: Got it. 726, 730, 731, 733, 734,
21 715, which that's a biological resource photo gallery. I
22 completely agree with Mr. Emmerich; viewing wildlife in our
23 life is a big deal. And hang on, we're almost done. Did I
24 already get 724?

25 HEARING OFFICER CELLI: No.

1 MS. MACDONALD: Okay.

2 HEARING OFFICER CELLI: 724.

3 MS. MACDONALD: 747; do I have that one in?

4 HEARING OFFICER CELLI: No.

5 MS. MACDONALD: Okay. Opening testimony. 752,
6 rebuttal testimony. 719.

7 HEARING OFFICER CELLI: You said that.

8 MS. MACDONALD: Okay. Sorry. They're scattered.
9 I'll try to organize them better tomorrow. 737, 709,, and
10 that's it.

11 HEARING OFFICER CELLI: Okay.

12 MS. MACDONALD: Thank you.

13 HEARING OFFICER CELLI: So the motion is to move
14 into evidence Exhibits 709, 715, 719, 720, 724, 726, 728,
15 729, 730, 731, 733, 734, 737, 741, 746, 747, 748 and 752.

16 Applicant, any objection?

17 MR. WHEATLAND: It will be a standing objection.
18 We -- we have no objection to admission of the opening
19 rebuttal testimony as lay testimony. We would object to its
20 admission as expert testimony.

21 HEARING OFFICER CELLI: Okay.

22 (Colloquy Between Hearing Officer and Commissioners)

23 HEARING OFFICER CELLI: So the objection would be
24 sustained, just with regard to the expert opinion. But we
25 will still receive the evidence.

1 MR. WHEATLAND: Yes. Thank you.

2 HEARING OFFICER CELLI: Any objection from Staff?

3 MR. RATLIFF: No.

4 HEARING OFFICER CELLI: County of Inyo?

5 MS. CROM: Submit.

6 HEARING OFFICER CELLI: Richard Arnold?

7 MR. ARNOLD: No objection.

8 HEARING OFFICER CELLI: Mr. Zellhoefer?

9 MR. ZELLHOEFER: No objection.

10 HEARING OFFICER CELLI: Amargosa Conservancy?

11 HEARING OFFICER CELLI: No objection.

12 HEARING OFFICER CELLI: SIFPD?

13 MR. LEVY: No objection.

14 HEARING OFFICER CELLI: CBD?

15 MS. BELENKY: No objection.

16 HEARING OFFICER CELLI: Ms. MacDonald? Oh, it's
17 your motion.

18 MS. MACDONALD: No, I won't object to my own
19 exhibits.

20 HEARING OFFICER CELLI: Sorry.

21 MS. MACDONALD: It's quite all right. Thank you.

22 MS. WILLIS: It's early yet.

23 HEARING OFFICER CELLI: It is early yet. Okay.

24 Therefore, 709, 715, 719, 720, 724, 728, 726, 748, 729, 730,
25 731, 733, 734, 737, 741, 746, 747 and 752.

1 (Ms. MacDonald's Visual Resources Exhibits 709, 715,
2 719, 720, 724, 726, 728, 729, 730, 731, 733, 734, 737,
3 741, 746, 747, 748 and 752, Received.)

4 HEARING OFFICER CELLI: So thank you, Visual
5 Panel. You are excused. This takes us now -- and the
6 record is closed then on visual work.

7 Now, I wrote down I have, as I understand it, Mr.
8 Ratliff, we were going to put traffic after project
9 description and facility design and efficiency, etcetera?

10 MR. RATLIFF: Yes.

11 HEARING OFFICER CELLI: Okay. So at this time
12 we're going to take -- let's say a 15 minute break. That
13 takes us to a quarter to 4:00. So we will resume at a
14 quarter to 4:00, at which time I'm going to ask the parties
15 to have your project description, facility design,
16 efficiency, reliability -- that's everything -- efficiency,
17 reliability, facility design, the project description
18 experts already seated so we can hit the ground running when
19 we begin. We're off the -- no.

20 MS. CROM: Mr. Celli, this is Dana Crom from Inyo
21 County. I just wanted to note that I believe we have copies
22 of that agreement handy. And also, for those on WebEx, it
23 was posted to the county's website under the planning
24 department sub-site. So the agreement reached between the
25 county and BrightSource is available both online and here in

1 the building.

2 HEARING OFFICER CELLI: I would like to have that
3 marked as an exhibit so we know what we're talking about.

4 Do --

5 MS. CROM: That would -- that would be fine if we
6 can get one up here.

7 HEARING OFFICER CELLI: Has that been marked for
8 identification by any parties yet?

9 MS. CROM: It has not.

10 HEARING OFFICER CELLI: Okay. Let's -- let's call
11 that County of Inyo -- what -- what's your last -- what's
12 your next in order?

13 UNIDENTIFIED MALE: 948.

14 HEARING OFFICER CELLI: 948, according to -- 948
15 is the agreement between County of Inyo and Applicant.

16 MS. BELENKY: I'm sorry, did you say it was online
17 already, Dana?

18 HEARING OFFICER CELLI: Mr. Crom, she did say it's
19 online at the County of Inyo's website.

20 MS. BELENKY: Well --

21 HEARING OFFICER CELLI: And it's being passed out
22 now to everybody.

23 MS. BELENKY: Oh, okay. We're getting copies?

24 HEARING OFFICER CELLI: Yes, we're getting it now.

25 MS. BELENKY: Okay. That's -- I was confused by

1 that.

2 HEARING OFFICER CELLI: But don't leave. Because,
3 quickly, before I excuse people I want to know whether
4 there's any objection to the receipt of Exhibit 948.

5 Applicant, any objection?

6 MR. WHEATLAND: I don't see any -- no objection.
7 That's the agreement between Inyo County and the applicant.
8 No objection.

9 HEARING OFFICER CELLI: Staff, any objection to
10 the receipt of the County of Inyo's 948? Mr. Ratliff is
11 saying now.

12 Richard Arnold, are you still here? We'll find
13 out, I guess, after the break.

14 Mr. Zellhoefer, any objection to 948?

15 MR. ZELLHOEFER: No, sir.

16 HEARING OFFICER CELLI: Amargosa, any objection?

17 MR. BROWN: No.

18 HEARING OFFICER CELLI: SIFPD, any objection?

19 MR. LEVY: No objection.

20 HEARING OFFICER CELLI: CBD, any objection?

21 MS. BELENKY: No objection.

22 HEARING OFFICER CELLI: Ms. MacDonald, are you
23 still here?

24 MS. BELENKY: No, she's gone.

25 HEARING OFFICER CELLI: Okay. So I just need to

1 hear back from Mr. Arnold and Ms. MacDonald. Okay. We're
2 off the record. We'll see you at a quarter to 4:00.

3 (Off the Record From 3:32 p.m., Until 3:51 p.m.)

4 HEARING OFFICER CELLI: You know what, Troy, let's
5 go on the record. I'm going to get the names of the experts
6 right now. I know I have Mike Monasmith to start. And next
7 to Mike is --

8 COURT REPORTER: Ed Brady.

9 HEARING OFFICER CELLI: Ed Grady?

10 COURT REPORTER: Brady.

11 MR. BRADY: Brady.

12 HEARING OFFICER CELLI: With a B?

13 MR. BRADY: B-r-a-d-y.

14 COURT REPORTER: Yeah.

15 HEARING OFFICER CELLI: Okay. Ed, you are going
16 to have to -- everybody, the way that you have to deal with
17 these microphones is you have to talk right into them like
18 you are Bing Crosby or something. You need to just talk
19 right into that microphone so we can all hear you. You
20 don't pick up very well from very far away, and we really
21 need to hear everybody.

22 Next to Ed Brady I have Susan Strachan. Next to
23 Susan is --

24 MR. MOORE: Christopher Moore, BrightSource.

25 HEARING OFFICER CELLI: Christopher Moore. Next

1 to Christopher Moore?

2 MR. DESMOND: Joseph Desmond.

3 HEARING OFFICER CELLI: Joseph Desmond. Next to
4 Mr. Desmond?

5 MR. FRANCK: Dan Franck.

6 HEARING OFFICER CELLI: Can you spell that for me?

7 MR. FRANCK: D-a-n F-r-a-n-c-k.

8 HEARING OFFICER CELLI: F-a-l --

9 MR. FRANCK: F-r-a-n-c-k.

10 HEARING OFFICER CELLI: Franck.

11 MR. FRANCK: Franck. F-r-a-n-c-k.

12 HEARING OFFICER CELLI: With an R.

13 MR. FRANCK: Sorry for my accent.

14 HEARING OFFICER CELLI: Okay. Where are you from?

15 MR. FRANCK: Originally, Israel.

16 HEARING OFFICER CELLI: That helps a lot. I find
17 it's a lot -- as soon as I know where they're from it's
18 like, oh, hey, now I understand completely.

19 Next to Mr. Franck?

20 MS. WALZER: Susan Walzer.

21 HEARING OFFICER CELLI: Susan Walzer. Next to Ms.
22 Walzer?

23 MR. ROJANSKY: Michael Rojansky.

24 HEARING OFFICER CELLI: Michael, can you spell
25 that for me?

1 MR. ROJANSKY: Yeah. It's R-o-j-a-n-s-k-y.

2 HEARING OFFICER CELLI: J-a-n-s-k-y, Rojansky.

3 Thank you.

4 Next to Mr. Rojansky?

5 MR. HASKELL: Channing Haskell.

6 HEARING OFFICER CELLI: Channing Haskell. Next to
7 Mr. Haskell is Ms. MacDonald.

8 I am on the record, am I not, Troy?

9 MS. MACDONALD: Cindy MacDonald.

10 HEARING OFFICER CELLI: Thank you. We are --
11 we've been on the record this whole time. There it is.

12 Ms. MacDonald, I wanted to ask whether you had any
13 objection to the receipt of Exhibit 948, which was the
14 agreement between the applicant and the County of Inyo vis a
15 vis land use.

16 MS. MACDONALD: As in receipt into the record?

17 HEARING OFFICER CELLI: Right.

18 MS. MACDONALD: Of course not.

19 HEARING OFFICER CELLI: Thank you.

20 MS. MACDONALD: Thank you.

21 HEARING OFFICER CELLI: And I also had to ask Mr.
22 Arnold, did you have any objection to the receipt of Exhibit
23 948 into the -- into the record?

24 MR. ARNOLD: No, sir.

25 HEARING OFFICER CELLI: Thank you.

1 (County of Inyo's Exhibit 948, Received.)

2 HEARING OFFICER CELLI: Okay. Now, having
3 completed visual, I know that I have Mike Monasmith and Ed
4 Brady. You're both with socio with Staff. And then Ms.
5 Strachan and Mr. Moore and Mr. Desmond and Mr. Franck and
6 Ms. Walzer are all associated with Applicant. And Mr.
7 Rojansky, are you with the applicant?

8 MR. ROJANSKY: Yes.

9 HEARING OFFICER CELLI: And Mr. Haskell, are you
10 with the applicant?

11 MR. HASKELL: CH2M Hill in support of the
12 applicant.

13 HEARING OFFICER CELLI: Thank you. And, Ms.
14 MacDonald, you didn't have any other experts besides
15 yourself for this panel?

16 MS. MACDONALD: Correct.

17 HEARING OFFICER CELLI: Okay. And, in fact,
18 this -- the reason we're taking this group as a whole panel
19 was because the only party that expressed any interest in
20 this was Ms. MacDonald.

21 So with that, I think I'm going to turn it over
22 to --

23 MS. BELENKY: Excuse me? I'm sorry, but the
24 Center also expressed interest in project objectives in
25 particular, which are considered a subset of project

1 description. And we discussed that during the prehearing
2 conference.

3 HEARING OFFICER CELLI: You're right. Let me --
4 let me get -- let me find my note on that. Oh, here we go.

5 So project description, Ms. Belenky, what was --
6 I'm trying to remember, what was your issue with regard to
7 the project description? Because I remember there was some
8 crossover question.

9 MS. BELENKY: Well, from the Center's point of
10 view the project objectives, which thereby really become the
11 basis on which any alternatives are considered, are
12 considered as alternatives to the project that is proposed,
13 the project objectives are somewhat broader than the project
14 as described and proposed, and then there are alternatives.
15 So the project objections have to be broad enough that you
16 can have a meaningful range of alternatives to the project.
17 The project should not just be what the applicant wants.
18 That's not a proper project objective.

19 HEARING OFFICER CELLI: So outside of objectives,
20 did you have any other issues in project description?

21 MS. BELENKY: No.

22 HEARING OFFICER CELLI: Okay. And, Ms. MacDonald,
23 what were the issues, so we can focus this group on just
24 what needs to be talked about today?

25 MS. MACDONALD: Fair enough. And thank you very

1 much for this opportunity. I hope that the committee finds
2 this discussion fruitful.

3 Some of them overlap. So I'm not sure where
4 you'll want to put them. So with project -- project
5 description there was no -- no factual substantiation for
6 the applicant's claims of new designs. They make a bunch
7 of -- they make a bunch of claims that they provide no
8 evidence for such as increased production, less mirror
9 shading, mirrors are -- etcetera, are supposed to be farther
10 together.

11 I have a dispute about the megawatt production
12 that the project description describes. There's evidence
13 that indicates that they will not be capable of generating
14 that by a large margin, at least from the renewable portion
15 of the facility.

16 The -- I had an issue as with the motion to
17 terminate that the project site owner failed to accurately
18 describe the site in -- in their project objectives by not
19 including the Senese parcel, as well as repeatedly
20 characterizing the place as very degraded. And in one
21 instance they actually refer to it as industrialized.

22 HEARING OFFICER CELLI: Are we talking about the
23 Senese property or --

24 MS. MACDONALD: Yes. But the general -- the
25 overview is the project owner description did not comply

1 with due diligence and truth in disclosure.

2 With respect to what Center for Biological
3 Diversity was discussing, they were discussing project
4 objectives.

5 HEARING OFFICER CELLI: Uh-huh.

6 MS. MACDONALD: My issue is a subset of it which
7 was something the applicant described as key selection
8 criteria, why they chose the site. And they listed a bunch
9 of -- of those criteria. And I mentioned in the prehearing
10 conference that I put a whole section in my PSA comments
11 about where has Staff addressed where the site meets these
12 objectives. And generally they were like, you know, it had
13 to be close to -- it had to be close to various
14 infrastructure services. It had to have no jurisdictional
15 issues. It had to have no issues with a reasonable -- if
16 they could reasonable obtain the property, etcetera.

17 HEARING OFFICER CELLI: Uh-huh. You know, before
18 you get too far on this, because -- and I want to speak to
19 both you and Ms. Belenky on the question of objectives.
20 Because usually -- well, where the objectives have the most
21 relevance is really in the -- under the rubric of
22 alternatives. And I'm just wondering whether we should hold
23 that part of this discussion in abeyance until we get to
24 alternatives. I don't remember when we do alternatives.
25 But --

1 MS. MACDONALD: This -- the purpose of this --
2 it's my understanding that the committee's job is to
3 evaluate the site as being suitable.

4 HEARING OFFICER CELLI: Right. No. We --

5 MS. MACDONALD: And my specific --

6 HEARING OFFICER CELLI: We have to look at
7 alternatives based upon the objectives. We had, as I
8 recall, to sets of objectives. I have staff's objectives
9 and I have Applicant's objectives.

10 MS. MACDONALD: Yes. But what I'm referring to is
11 a subset that Applicant described as key criteria that made
12 the site suitable.

13 HEARING OFFICER CELLI: Okay.

14 MS. MACDONALD: Okay. I'm not talking about the
15 objectives of the project or the applicant or all the
16 discussion that went on about, you know, alternative
17 sitings.

18 HEARING OFFICER CELLI: Okay.

19 MS. MACDONALD: I'm talking about actual site
20 suitability of the proposed project site. So that's why I
21 included it here because it wasn't an alternative to the
22 site. It was jut is the site suitable for the proposed
23 project.

24 I also have issues and evidence I'd like to
25 present that basically outlined what an experiment this is

1 on such a large scale. And I hope to at least, you know,
2 weigh -- bring that evidence to the committee's
3 consideration.

4 And that's -- the last thing was throughout these
5 proceedings I've seen Applicant fail to exercise due
6 diligence.

7 HEARING OFFICER CELLI: Okay. Now, here's --

8 MS. MACDONALD: Thank you.

9 HEARING OFFICER CELLI: Here's the real
10 question -- all right. I'm going to -- I'm going to just
11 take it back -- or, you know what, yeah, I'll just take it
12 back. Excuse me, Ladies and Gentlemen.

13 Now who is Michael -- is Michael Garabedian with
14 one of -- either the applicant or staff's people? We don't
15 know who he is? All right. Okay. He's having his potato
16 chips.

17 COMMISSIONER HOCHSCHILD: So while we're waiting,
18 Ms. MacDonald, I just want to come back to a question. You
19 mentioned your contention is that the generation is not 500
20 megawatts but it's something less than that. What is it
21 exactly that --

22 MS. MACDONALD: The basis -- well, I actually have
23 to bases. But the megawatt production --

24 COMMISSIONER HOCHSCHILD: Yeah.

25 MS. MACDONALD: -- is based on, again, what

1 BrightSource Energy filed with the Security Exchange
2 Commission. And they said that their -- their current
3 design, which was filed on March 21st, 2012, at least six
4 months after they filed the Hidden Hills, that their current
5 design got about 130,000 megawatts for 60,000 heliostats.
6 And I did put that in my testimony. It looked -- based on
7 that formula, and I had to assume that that was their most
8 current design, that the project would only generate 368
9 megawatts for the renewable portion of the facility.

10 COMMISSIONER HOCHSCHILD: Got it. Okay. All
11 right.

12 MS. MACDONALD: Okay.

13 HEARING OFFICER CELLI: So hold that thought for a
14 second. Because what I want -- what I'm looking at -- so
15 far what I have is the description of the project itself as
16 you just described, the megawattage, mirror -- the placing
17 of the mirrors in relation to each other, you said, or
18 something to that affect.

19 MS. MACDONALD: Oh, that relates to old designs
20 versus new design.

21 HEARING OFFICER CELLI: All right. So --

22 MS. MACDONALD: The applicant claims that the
23 proposed project is a part of a new design.

24 HEARING OFFICER CELLI: Oh, the closeness?

25 MS. MACDONALD: Yes. Taller towers, closer mirror

1 placement, less shading, more efficient.

2 HEARING OFFICER CELLI: Okay. So that's item two.
3 So I've got -- I have five issues here. First is the
4 description of the project, vis a vis the megawatts. Two is
5 mirror placing, we'll call that. Three is --

6 MS. MACDONALD: Well, it's broader than that, but
7 okay.

8 HEARING OFFICER CELLI: Well, placing design,
9 shall we say.

10 MS. MACDONALD: Yeah. The -- yeah, which -- okay.

11 HEARING OFFICER CELLI: Senese property issues.

12 MS. MACDONALD: Correct.

13 HEARING OFFICER CELLI: The project objectives.

14 MS. MACDONALD: Key criteria --

15 HEARING OFFICER CELLI: The key --

16 MS. MACDONALD: -- for site selection.

17 HEARING OFFICER CELLI: Key criteria. And we'll
18 hear from you, too, Ms. Belenky on this. But I'm just
19 concerned that if -- I just want to make sure this is the
20 appropriate place to discuss it. I don't want to get into
21 alternatives today, if that's an alternatives discussion. I
22 don't know. We'll see.

23 And then, lastly, what you're calling due
24 diligence.

25 Now, we have this panel of experts here, Ms.

1 MacDonald, and really they're here to kind of respond to
2 your questions. And what I want to avoid is getting into,
3 you didn't describe this, yes, I did, no you didn't. I want
4 to avoid a back and forth of that nature. What I want to do
5 is get to the facts and understand. You know, let's -- we
6 want to know what's truth about the circumstances. So
7 that's kind of where we're at.

8 So with the description of the project, who is the
9 expert best -- in the best position to explain how you
10 arrived at your -- oh, thank you. Thank you. I'm so sorry.
11 My apologies. I need the panel to stand, except for Ms.
12 MacDonald, to be sworn. My apologies. And Mr. Moore was
13 sworn already, as well.

14 (Thereupon,
15 Mike Monasmith, Ed Brady, Joseph Desmond, Dan Franck,
16 Susan Walzer, Michael Rojansky, and Channing Haskell,
17 were duly sworn.)

18 HEARING OFFICER CELLI: And all parties said
19 they -- they do. All parties are sworn.

20 And the question is who among you do you think is
21 in the best position to explain how you arrived at the
22 number of megawatts for this project?

23 MS. WALZER: That would be me, Susan Walzer from
24 BrightSource.

25 HEARING OFFICER CELLI: Okay. You're going to

1 need to pull that microphone a little closer to you, please.
2 And you heard what Ms. MacDonald was describing. I wonder
3 if you could speak to that please.

4 MS. WALZER: Sure, no problem. 60,000 heliostats
5 at Ivanpah 1 are -- each heliostat has a surface area of
6 about 15 square meters reflective surface area. Each
7 heliostat statement at Hidden Hills has a reflective surface
8 area of 19 square meters, which is between 25 and 30 percent
9 more reflective area per heliostat. So we're not merely
10 adding 25,000 more heliostats. We're adding 80 percent more
11 reflective -- 80 to 90 percent more reflective area. And
12 that's the first -- that answers the first question of how
13 we go from 60 to 85, and go from about 130 to 250 or 500
14 with two plants.

15 HEARING OFFICER CELLI: Is that -- does that cover
16 that? Did you have a question on this -- on that, Ms.
17 MacDonald?

18 MS. MACDONALD: No. That was -- that was a good
19 answer. And I would also like to point out, I am giving the
20 applicant an opportunity to address these questions so that
21 they can verify their system.

22 HEARING OFFICER CELLI: And we do appreciate that.
23 And one of the great things about this -- this seems to be
24 working quite well, and I've never done this before in terms
25 of the informal hearings. But one of the things, especially

1 in a panel this large, is we need to remember that this
2 whole proceeding is being taken down by a court reporter.
3 And we an only hear one person talk at a time. So I want to
4 thank everybody who -- everybody has been very courteous and
5 very good about not talking at the same time. So I want to
6 thank you again for that.

7 Does that -- so can I move to the next thing,
8 which is the mirror placing design, Ms. MacDonald?

9 MS. MACDONALD: Yes.

10 HEARING OFFICER CELLI: Okay. Now, your
11 concern -- why don you express your concern the way that you
12 did? What is the design -- what is the problem with the
13 design?

14 MS. MACDONALD: The question I had was where is
15 the factual evidence that their new design is better than
16 their old design?

17 HEARING OFFICER CELLI: And there's a lot of
18 design features. Which design features are you talking
19 about?

20 MS. MACDONALD: Well, they -- hang on and --

21 HEARING OFFICER CELLI: Yeah.

22 MS. MACDONALD: -- let me take a look at what they
23 made the claims of.

24 HEARING OFFICER CELLI: Because --

25 MS. MACDONALD: They --

1 HEARING OFFICER CELLI: -- as I understood it you
2 were talking about the -- the actual location of each
3 heliostat.

4 MS. MACDONALD: Right.

5 HEARING OFFICER CELLI: And then we just heard
6 that there's a new design feature in terms of an improvement
7 over Ivanpah with a greater surface area of each heliostat.
8 So we need to really be clear on what you're talking about.

9 MS. MACDONALD: I understand, and I appreciate
10 that. I will do my best. And that was -- that is one
11 answer. As I said, there was a couple of features. The
12 solar power tower, the height of it, they failed to provide
13 any factual evidence as to why we needed something that
14 high. It said that they allow the heliostat rows to be
15 placed closer together, and that the mirrors will become at
16 steeper angles, and that substantially reduces mirror
17 shading and allows more heliostats to be placed per acre.

18 The factual question I had about that was if you
19 have more mirrors placed per acre how do you reduce mirror
20 shading?

21 HEARING OFFICER CELLI: Who on the panel has that
22 answer?

23 MS. WALZER: That would be me again.

24 HEARING OFFICER CELLI: Please, go ahead.

25 MS. WALZER: It's a matter of geometry. If you

1 have the heliostats angled, the angle of the heliostat, if
2 it's facing higher up, the higher up the tower is and the
3 steeper the angle is the less it gets shaded from heliostats
4 that are nearby. You can pack them closer together and have
5 less shading. It requires just drawing out the geometry of
6 the plant.

7 HEARING OFFICER CELLI: So that really kind of
8 speaks to the -- the rows being closer together and the
9 steeper angles of the mirrors?

10 MS. WALZER: Right.

11 HEARING OFFICER CELLI: Okay. What about the
12 height of the tower itself?

13 MS. WALZER: That's -- that's -- that's -- you can
14 do that when you have a higher tower. The higher tower the
15 more you can pack -- the more densely you can pack
16 heliostats. The more densely you pack the heliostats the
17 less you need to go out further from the tower to place the
18 heliostats.

19 HEARING OFFICER CELLI: Ms. MacDonald?

20 MS. MACDONALD: Back to the question of -- perhaps
21 this was the source of confusion. You said that there's
22 less shading, meaning there's less shading on each heliostat
23 versus the ground? Because, of course, my concern was more
24 the vegetative. Did you say the -- did you say that it was
25 less shading per -- you know, on the heliostats, one

1 heliostat to the other; is that what you meant?

2 MS. WALZER: No.

3 MS. MACDONALD: Okay.

4 MS. WALZER: When we -- when we refer to shading
5 or blocking and shading we're referring to the affect of one
6 heliostat on another heliostat. We're talking about how
7 much of the sun is not reflected to the heliostat because
8 another heliostat is blocking and how much is lost from the
9 heliostat to the tower because of other heliostats.

10 HEARING OFFICER CELLI: So it has nothing to do
11 with the shading on the ground below the heliostats and what
12 plants --

13 MS. WALZER: No.

14 HEARING OFFICER CELLI: -- might be growing
15 underneath.

16 MS. WALZER: No.

17 MS. MACDONALD: Thank you.

18 COMMISSIONER HOCHSCHILD: Yeah. Sorry. Just one
19 clarifying question. So it looks like -- just correct me if
20 I'm doing the math wrong -- but it's about six-and-a-half
21 megawatts per acre, roughly 3,200 acres, 3,300 acres, 500
22 megawatts. What would the same footprint have produced
23 under a system with 15 square meters per heliostat? I mean,
24 I'm just trying to get a sense of how you're -- we're
25 reducing the footprint on the environment with this new

1 technology, but how much great is that improvement? Is it
2 20 percent, 30 percent better, roughly, ballpark?

3 MS. WALZER: I can't accurately answer that
4 question at this time.

5 COMMISSIONER HOCHSCHILD: Okay.

6 HEARING OFFICER CELLI: What we did hear, though,
7 is that there was a 20 percent difference between the
8 Ivanpah panel or heliostat and the -- what will be the
9 Hidden Hills.

10 COMMISSIONER DOUGLAS: The area.

11 HEARING OFFICER CELLI: Oh, the area of the
12 heliostat. So I guess that wouldn't translate necessarily
13 directly to Ivanpah. Okay.

14 MS. MACDONALD: Well, just so you know, one of the
15 reasons why I was interesting, besides potential impacts to
16 vegetative resources, is -- oh, my god, my mind just went
17 blank. I'm sorry. Oh, the tower heights. I was trying to
18 see, because since there seems to be very few options to
19 mitigate the tower heights, if the percentage of difference
20 was worth putting it up another 300 feet, that was one of
21 the goals I was trying to pursue, just so you understood.

22 HEARING OFFICER CELLI: What about that, Ms.
23 Walzer? Is there some like magic height after which they
24 become less effective or something?

25 MS. WALZER: You wouldn't get to that height.

1 HEARING OFFICER CELLI: Okay. Mr. --

2 MR. DESMOND: Desmond.

3 HEARING OFFICER CELLI: Mr. Desmond, I'm sorry.

4 MR. DESMOND: Perhaps I could go back to the
5 commissioners first question which is -- I don't have the
6 exact figures here, but the higher density did, in fact,
7 increase the production per acre which allowed us to reduce
8 the total amount of acres on a proportional basis from
9 Ivanpah to the proposed Hidden Hills project. We can get
10 that figure for you, if I don't have it in front of me here,
11 before the day is out, but it's in the record.

12 The second part is the change to a higher tower
13 height speaks to part of the goals regarding -- to drive
14 cost down, and moving to a standard 250 megawatt boiler.
15 And so while the production would increase from let's say
16 130 megawatts to 250 with this tower design, although it's a
17 larger power block the cost of the power block doesn't go up
18 proportionately. So there's some economies of scale by
19 going larger that you achieve, which is part of what the
20 proposal considered.

21 COMMISSIONER HOCHSCHILD: You know, the reason I
22 raise that and the significance of it is that in these two
23 iterations of your design you've actually moved from being
24 less efficient than PV per acre --

25 MR. DESMOND: Uh-huh.

1 COMMISSIONER HOCHSCHILD: -- to being more
2 efficient. So actually the density compared to PV is
3 superior, at least current PV --

4 MR. DESMOND: That is correct.

5 COMMISSIONER HOCHSCHILD: -- you know --

6 MR. DESMOND: That is correct.

7 COMMISSIONER HOCHSCHILD: -- under this design.
8 So it's significant to note that.

9 MR. DESMOND: It's also, I think, why we had said
10 that this represents our second generation design that
11 includes a number of these engineering improvements.

12 HEARING OFFICER CELLI: So, Ms. MacDonald, we were
13 talking about the height, the angle of the heliostats, their
14 spacing, I guess you would say, their distance from each
15 other, the shading.

16 MS. MACDONALD: Yes. Well, I was trying to get an
17 idea of generally -- I wanted some factual evidence behind
18 their claims with the idea that, at least from the public
19 interest point of view, that we're going to trade
20 environment costs, water, wildlife, land, etcetera, and even
21 from renewable cost for a certain amount of power
22 production. And so I just wanted more clarity and more
23 facts related to what were we getting for what we were
24 paying for, kind of in a general scheme.

25 HEARING OFFICER CELLI: Thank you. So are we on

1 to the Senese property now?

2 MS. BELENKY: I'm sorry. Can I just ask a quick
3 question?

4 HEARING OFFICER CELLI: Go ahead, Mr. Belenky.

5 MS. BELENKY: I'm a little bit concerned that
6 the -- one of the committee members has made a statement
7 about the efficiency of the project comparative to PV, which
8 would be an alternatives issue. And although I'm sure he
9 perhaps has expertise, he is not testifying as an expert,
10 and that there are other considerations including the use of
11 gas in this case that make this very different than a PV
12 project.

13 So I just wanted to clear up the record and make
14 sure it's clear that the statement of the committee member
15 is simply, I suppose, his opinion at this point. It was
16 somewhat framed as a question. But I want to make sure that
17 we're very clear that the committee member was not
18 testifying at that time.

19 HEARING OFFICER CELLI: Thank you, Ms. Belenky.
20 In that regard I wonder -- we're just going to take -- I
21 want to have a quick conference here. We're going to stay
22 on the record.

23 (Colloquy Between Hearing Officer and Commissioners)

24 HEARING OFFICER CELLI: We are at -- now, Ms.
25 MacDonald, you were going to say something about the Senese

1 property. And I remember that this did come up in some
2 comment, a letter that came from an attorney from, I think
3 from the family or something was -- was docketed. And is
4 this property within the boundaries of the project?

5 MS. MACDONALD: Correct.

6 HEARING OFFICER CELLI: Okay. So go ahead with
7 your question.

8 MS. MACDONALD: The issue that I have, and it was
9 incorporated in my motion, the specific facts of the matter
10 are -- is that the applicant repeatedly, in the project
11 description area, listed three of the -- three of the four
12 project owners that were actually within the boundaries.
13 And they did list the Senese in the landowner information
14 appendix within 1,000 feet. But nobody knew and they gave
15 no indication that there was actually a fourth owner. The
16 letter that you're referring to from the attorney for he
17 Senese parcel basically said that when -- that BrightSource
18 pretty much told them you're going to take -- now, I'm
19 paraphrasing here -- you can obviously see, you know, the
20 letter yourself -- but you can take the price we're going to
21 give you or leave it. If you -- if you don't take the price
22 we're just going to surround your property anyway and you're
23 just -- it will become useless and you're just going to have
24 to live with it.

25 So my concern was that there was no -- no way to

1 access the records to even know. Nobody knew, at least as
2 far as I know, unless maybe you went up to Inyo County and
3 went through the assessor parcel books. Okay. And --

4 HEARING OFFICER CELLI: That would be the way, I
5 think.

6 MS. MACDONALD: Right. All right, which I'm --
7 and they only had -- they only had four people. So why did
8 they include three? And -- and their language also seemed
9 to indicate -- or their language flat out said and implied
10 that they had site control, that these three owners they had
11 a lease agreement with and it gave them the illusion that
12 all was very well, you know? And then like a year-and-a-
13 half or a year -- about a year later all of a sudden this
14 letter shows up and says, you know, we're basically being
15 strong-armed and we think that the CEC is helping them
16 strong-arm, you know, people in the community. We're kind
17 of stuck. Either we sell or, you know what are we going to
18 do with this property?

19 And the other thing, too, that seemed to me to be
20 relevant is as we were all going through the -- the status
21 conferences of, you know, as Inyo County and BrightSource
22 reached their agreement and this and that, there was a lot
23 of issues on the table. But in this particular one the
24 landowner's signatures were not there. Hand on just one
25 sec. Apparently one of the issues was that landowner's

1 signature from the Senese parcel was not on there. In fact,
2 at the time the FSA was published they still had not secured
3 it.

4 So I guess from the legal standpoint -- and the
5 legal standpoint is that they failed to do due diligence by
6 appropriately including it in the AFC. From a factual
7 standpoint they misrepresented the fact that they did not
8 have site control and that there was another project owner
9 involved. And I'm sure there's another issue in there.

10 But -- so I wanted -- you know, the applicant
11 said, well, we don't have to -- it was in the landowner
12 information. It was in the parcel. So we were -- we were
13 telling the truth.

14 MR. HARRIS: So I need clarification now. I want
15 to make sure that that's not considered testimony. It seems
16 to a build-up to a question.

17 HEARING OFFICER CELLI: It is.

18 MR. HARRIS: Because we -- we have factual
19 disagreement on that.

20 HEARING OFFICER CELLI: This is a question. It's
21 a line of inquiry. This is a discussion amongst experts.

22 MR. HARRIS: Fine. Thank you.

23 HEARING OFFICER CELLI: It is not established fact
24 yet.

25 But the question is: Who amongst the experts is

1 in the best position to respond to that? Mr. Moore?

2 MR. MOORE: I'll respond to that. It would be
3 fair to say that our negotiations with the Senese landowners
4 had some ups and downs.

5 HEARING OFFICER CELLI: How do you pronounce the
6 name?

7 MR. MOORE: Senese.

8 HEARING OFFICER CELLI: Okay. But ultimately we
9 did sign an agreement with them. They are a part of the
10 project area. And is that in evidence? I believe it is.
11 Do we happen to know what exhibit number that is?

12 MR. HARRIS: Yeah, we'll confirm.

13 HEARING OFFICER CELLI: Okay.

14 MR. HARRIS: It will be a reference in the
15 testimony. There is a letter from the landowner confirming
16 that the project -- that parcel is within the project
17 footprint and we have that control.

18 HEARING OFFICER CELLI: Okay. And, Mr. Moore,
19 about when did that happen?

20 MR. MOORE: Don't quote me on this. I do not know
21 the date, 2012, 2013? I want to say at the end of 2012.

22 MS. MACDONALD: January 31st, approximately,
23 according to Inyo County.

24 HEARING OFFICER CELLI: Okay. So we are
25 interested in knowing what that exhibit number is.

1 Any -- go ahead, Ms. MacDonald. Did you have any
2 further questions on that particular Senese property?

3 MS. MACDONALD: I guess the two issues that would
4 relate to me personally is that as I'm reviewing the AFC
5 files, as I continue to find things like that it makes it
6 very hard to ascertain what the facts are and that it's --
7 if they will -- if they will misrepresent the -- their site
8 control and the situation here, then they will misrepresent
9 it other places. And from -- from a citizen point of view,
10 okay, that they were hiding this fact and, according to the
11 letter, that the family was really upset with how they were
12 being treated, that they felt that they were being
13 intimidated and bullied. And that's going to be our
14 neighbor.

15 HEARING OFFICER CELLI: Uh-huh.

16 MS. MACDONALD: So that's my concern from a
17 personal point of view.

18 HEARING OFFICER CELLI: And I understand and I
19 hear what you're saying. I want to -- I just want to say
20 for our purposes, again, this is an administrative inquiry.
21 This is not criminal court. A and we have a tendency to
22 not ascribe even motives to anybody in here. I think
23 everybody is doing their best. And one of the things about
24 our process that I'm sure as an intervenor is cause for
25 frustration is that this is -- this process has been

1 described as iterative.

2 MS. MACDONALD: As what?

3 HEARING OFFICER CELLI: Iterative. There are many
4 interactions. This AFC is an evolving document and it's
5 growing and growing, and there's changes. And as you've
6 heard now, there have been matters that were in dispute that
7 are now settled up, say between County of Inyo and -- and
8 the applicant. And, Ms. MacDonald, that is to be
9 encouraged. You want that.

10 MS. MACDONALD: Yes, sir, I do.

11 HEARING OFFICER CELLI: Because what it's doing
12 is, hopefully, correcting the glitches. And what they're
13 doing is making a better, more responsible project in the
14 end. And so I'm -- I'm just saying that because I -- when
15 someone says they hid the ball, I don't even want to go down
16 the tunnel of did they know, when did they know, and how --
17 how -- what as their intention, and when did they have to
18 disclose, did they know? I just think that I understand the
19 point and I understand that there was -- there was
20 interactions between a private property owner and the
21 applicant that wasn't optimal. And, you know, that really
22 is -- that's on the applicant, you know? The applicant has
23 got their own public relations and they have to deal with
24 this world. If they want to be a neighbor in this
25 neighborhood they're going to have to deal with neighbors.

1 But I just want to say that we don't really have,
2 at this point, an interest in going into what -- you know,
3 were they hiding the ball, were they not hiding the ball or
4 anything. What we want to know is what's in the record and
5 what isn't. Because if something is not in the record that
6 needs to be, well, that's an important fact.

7 MS. MACDONALD: That is my point. And -- and
8 that's pretty much why I was bringing this up, because this
9 is a factual issue. And I will close this up, because I
10 know we have a lot to cover, but I will close this up with
11 what they actually said repeatedly throughout the project
12 site description. Well, they said it in several places. I
13 just had it. Hang on.

14 HEARING OFFICER CELLI: As you're doing that, now,
15 are we talking about the project description from the AFC?

16 MS. MACDONALD: Yes.

17 HEARING OFFICER CELLI: Okay.

18 MS. MACDONALD: And the project description
19 section it says,

20 "The Hidden Hills SEGS is located on land owned by
21 the Roland John Wiley Trust, the Mary Wiley Trust, and
22 Section 20 LLC. The project site is undeveloped and
23 therefore has no postal address."

24 HEARING OFFICER CELLI: Uh-huh.

25 MS. MACDONALD: They repeat that description

1 through various points in both the executive summary and the
2 project description. And like I said, you know, it gives
3 the reader the -- the false impression that, A, the land is
4 owned by these people and, B, we've already developed an
5 agreement with it, so this is going to be a smooth issue.
6 Truth -- truth be told, there was one that was left out. It
7 wasn't a smooth issue.

8 HEARING OFFICER CELLI: Uh-huh.

9 MS. MACDONALD: It's a due diligence sort of
10 thing.

11 And I also wanted to mention that, you know, when
12 they file these things -- I do strongly support the evolving
13 process. I've tried very much to be a part of that. But
14 from a due diligence point of view I had to swear a penalty
15 of perjury oath. And, you know, if something this small can
16 come into question, I don't even want to think about what
17 the bigger things might end. But that's not the only thing.
18 But anyway, that was the issue.

19 HEARING OFFICER CELLI: Okay. Let's -- let's talk
20 about --

21 MR. HARRIS: Mr. Celli, if I could, we disagree
22 with the characterizations. We'll brief that disagreement
23 instead of raising those issues here.

24 HEARING OFFICER CELLI: Thank you.

25 MR. HARRIS: I do want to note that the Senese

1 parcel is identified in Exhibit 71, which is the applicant's
2 opening testimony, page 11 of the land use testimony. I
3 also want to point out, as Ms. MacDonald admitted, the
4 parcel at issues is identified in the AFC and exhibit
5 attached thereto. So I don't agree with the
6 characterization of the language in the AFC. I just simply
7 disagree. And we'll brief those issues.

8 HEARING OFFICER CELLI: Thank you. Let's talk
9 about the project objectives and the key criteria.

10 Before we get to you, Ms. Belenky, I want to hear
11 Ms. MacDonald's concerns about the objectives, and then
12 we'll -- I'll turn it to you, Ms. Belenky.

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

14 MS. MACDONALD: Okay. The first one was they --
15 that the -- the land had to be available for sale or use.
16 If private land, the owner must be willing to negotiate a
17 long-term option. Site control was one of their key
18 criteria.

19 The second pre-criteria is high solarly. Okay.
20 It said, well, actually, to locate the solar electric
21 generating facility in an area of high solarly. As I've
22 tried to point out, I haven't found any facts as to the
23 solarly that they're expecting from the site.

24 HEARING OFFICER CELLI: You're talking about in
25 terms of a measurement of solarly?

1 MS. MACDONALD: In terms of cloudy -- cloudy and
2 sunny days. Essentially, the natural gas component of the
3 facility is intended to cover for intermittent cloud cover
4 and, you know, occasional times of rainy times. But anyway,
5 the high solarity, I found no facts that prove it's a high
6 solar place. In fact, I found contrary facts, if you want
7 to hear them. They're in my testimony. But Pahrump Valley
8 Chamber of Commerce says that there's only 216 sunny days --
9 I believe that's correct.

10 HEARING OFFICER CELLI: Out of 365?

11 MS. MACDONALD: Correct. And basically I did the
12 math which, you know, it's in my testimony -- you can have
13 somebody else do the math -- but 149 days are taken away,
14 which I considered significant. But anyway, there's no
15 facts related to high solarity.

16 Another key project site criteria was proximity to
17 infrastructure, which I included in my PSA comments. These
18 included fire and emergency services, power, available
19 water, close to work, etcetera. You -- you know, I'm sure
20 you could look that up all right, but there was absolutely
21 no analysis from Staff or Applicant or any facts whatsoever
22 that substantiated that it met that key criteria. In fact,
23 it seems to me that there's been a great deal of difficulty,
24 not insurmountable, but there's been a lot of difficulty
25 because of a lack of infrastructure, roads and stuff. So

1 that was one of them.

2 Environment sensitivity; they didn't want to spot
3 that was very environmentally sensitive. Now, granted this
4 is an evolving thing. Special status plants, species,
5 etcetera, a lot of things that they found on the project
6 site they didn't necessarily know about.

7 Jurisdictional issues; they wanted a project -- a
8 place that would be -- that should be consistent with
9 existing, you know, existing LORS. But there -- we have had
10 nothing but an entanglement because of them being right on
11 the -- the California/Nevada border.

12 And I also wanted to make a quote, real briefly,
13 from our August 16th status conference when the applicant,
14 Mr. Harris, was discussing their intent to file the motion
15 in limine. And what he said was he provided some personal
16 musings about the legal thresholds and complications the
17 proposed project site invoked when he stated,

18 "As we've described in the past, this project's
19 location is sort of a law school exam. It's sort of
20 perfect. There's state issues. There's federal issues.
21 It's right on the California/Nevada border. All kinds of
22 fun stuff."

23 Okay. That's on page 15 and 16 of the August 16th
24 transcript.

25 One of the concerns I've had is that this project

1 is being sited because of very complicated jurisdictional
2 issues in some areas, as well as a lack of infrastructure, a
3 poor county. It's made the whole thing very vulnerable.

4 HEARING OFFICER CELLI: Let's go -- let's go
5 through these. Okay. Is it Staff -- I think, Staff, you're
6 in the best position to talk about the measurement -- the
7 analysis of the solarity and the number of sunny days,
8 etcetera. If not, tell me, but I would imagine that, Staff,
9 you're the right people to talk to -- speak to that. Please
10 do.

11 MR. BRADY: Yes. That would be me.

12 HEARING OFFICER CELLI: Go ahead, Mr. --

13 MR. BRADY: Brady.

14 HEARING OFFICER CELLI: -- Mr. Brady.

15 MR. BRADY: The solarity, I assume, is another --
16 another word for insulation or direct incident radiation.
17 Now, I wasn't privy to the calculations performed by the
18 applicant so -- and I'm not a second designer either. So
19 the purpose of my going back and reviewing this was a matter
20 of my own comfort level to make -- to -- it was an assurance
21 that things were in the proper order of magnitude.

22 But I did to factor out the affects, the transient
23 affects of wind, storm, cloudiness, was to go back and use
24 climatic data for a similar site in -- that's published by
25 NOAA, National Oceanic and Atmospheric Agency [sic] -- I

1 forgot what A is. Anyway, I did a rough calculation to see
2 what kind of power -- what kind of peak power could be
3 provided by the facility and how much energy it would
4 generate on an annual basis. And I came up with about
5 3,450, 3,400 or 3,500 kilowatt hours per square foot per
6 year. Calculating it out I was satisfied that -- that the
7 system that was provided in the BrightSource design was --
8 was within those orders of magnitude.

9 When I used the climatic data I simply factor out
10 all the transient affects of wind and cloudiness and bright
11 days and -- and not bright days.

12 HEARING OFFICER CELLI: Okay. And then let's talk
13 to -- who can speak to -- well, you know, proximity of
14 infrastructure is something that we will -- we're going to
15 be talking about that when we talk about worker safety, fire
16 protection, and that sort of stuff. So I don't think that's
17 part of this, or this wasn't supposed to be.

18 Is that part of this panel? Is there someone who
19 wants to speak to that? I think we're going to do that when
20 we talk about worker safety and fire protection. Let's
21 talk --

22 MS. MACDONALD: Just briefly, it was related to
23 site suitability of the project generally. I know that
24 specific things go in specific categories, but --

25 HEARING OFFICER CELLI: Okay. So -- but --

1 MR. MOORE: Can I -- excuse me, it's Chris Moore.
2 Could I maybe make a comment on that?

3 HEARING OFFICER CELLI: Please, go ahead.

4 MR. MOORE: The one thing I might point out as far
5 as infrastructure is concerned, infrastructure is somewhat
6 the -- how close it is is in the eye of the beholder. For a
7 project of this scale it wasn't necessary that -- that some
8 of these infrastructure elements be next door. This was
9 going to be a large project, and we knew that some of those
10 elements could be a little bit further away.

11 So again, when -- when we say that the -- the
12 proximity infrastructure, proximity for a project of this
13 size is different than when you're hooking up your house.

14 HEARING OFFICER CELLI: Thank you. You know, I
15 don't think we need to spend any time on the consistency of
16 LORS because at this point that's academic. But that does
17 go to this process again, the iterative process. There was
18 a genuine issue of -- a legal issue early on in terms of the
19 characterization of the property, of the zoning and the
20 general plan, etcetera. But apparently that's been
21 resolved, and I don't really feel like we need to spend time
22 on that.

23 The low environmental sensitivity, we're talking
24 biology there.

25 MS. MACDONALD: Yes, and I understand that. I

1 just wanted it in the record that they had all these key
2 criteria, and that generally, in my overview from what I was
3 able to see going through the AFC, that the site really
4 didn't measure up very well compared to their own criteria.

5 HEARING OFFICER CELLI: You know, I'm thinking
6 that's an alternatives discussion. And --

7 MS. MACDONALD: Yes, that's fine.

8 HEARING OFFICER CELLI: And -- and I'm going to
9 hold it there.

10 I'm going to ask you, Ms. Belenky, whether you had
11 any specific questions regarding the project description,
12 vis a vis the objectives that you had mentioned? And let's
13 see if we can clear up any questions you had.

14 MS. BELENKY: Yes, thank you. I have a couple of
15 quick questions, hopefully quick, on the project objectives.
16 I'm looking mostly at the staff objectives. But some of
17 these also apply to the proposed objectives that the
18 applicant used. And I raise that because I think it may
19 still be in dispute. It may be an issue that we have to
20 brief. So I want to make sure that we are all understanding
21 the same thing by these statements.

22 So the first thing in the -- in the very first
23 bullet point in the staff objectives in the FSA is that --
24 is to safely and economically construct and operate a
25 nominal 500 megawatt renewable energy -- renewable

1 electrical generation facility resulting in sales of
2 competitively priced renewable energy consistent with the
3 needs of the California utility companies. And --

4 MS. WILLIS: Excuse me, Mr. Celli?

5 HEARING OFFICER CELLI: Who's speaking? Oh.

6 MS. WILLIS: Over here.

7 HEARING OFFICER CELLI: Ms. Willis?

8 MS. WILLIS: That would be more appropriate for
9 the alternatives section. It was not actually part of
10 project description.

11 HEARING OFFICER CELLI: Well, I believe the -- so
12 the objectives are listed in project description. But
13 usually we're --

14 MS. WILLIS: No, actually, they're not.
15 They're -- they're listed in the -- I think it's in the
16 executive summary.

17 MS. BELENKY: They are.

18 HEARING OFFICER CELLI: In the executive summary?
19 Okay. But let's just -- for -- for -- just to be clear, the
20 reason you've raised this now in project description versus
21 alternatives is -- I mean, because you understand, I'm sure,
22 Ms. Belenky, that we're going to have this conversation
23 again, I think, in alternatives.

24 MS. BELENKY: Well, certainly, one of the reasons
25 I raise it now in project description is because it is part

1 of the basic project description. It -- it actually frames
2 everything about the project analysis. And because if I
3 waited and only mentioned it at the alternatives stage
4 you -- it is highly likely someone would say you should have
5 raised that at project description. So --

6 HEARING OFFICER CELLI: Well --

7 MS. BELENKY: -- I will not fall into that trap --

8 HEARING OFFICER CELLI: Fair enough.

9 MS. BELENKY: -- which has happened before.

10 HEARING OFFICER CELLI: Okay.

11 MS. BELENKY: And I will make sure to raise things
12 at every stage at which they are arguably appropriate. I
13 believe this is appropriate for project description. If the
14 committee does not want to hear it at this time we can have
15 this discussion at the alternatives part. But at some point
16 we are going to have to have this discussion.

17 HEARING OFFICER CELLI: I agree. And I appreciate
18 that you -- the way you put that. You -- and rightly you
19 raised it now. But I think that for all intents and purposes
20 objects are so intrinsically intertwined with the
21 alternatives analysis that we really should deal with the
22 objectives along with the alternatives when we get to
23 alternatives.

24 So -- and with that, Ms. MacDonald, let me make
25 sure I've got it -- okay, we talked Senese, project

1 objectives. And lastly you had mentioned due diligence.
2 But I think we kind of talked about that earlier when we
3 were talking about the late development of information.

4 MS. MACDONALD: Right. Well, actually, I'd like
5 to speak to that. But I wanted to go back to Staff's
6 testimony briefly when he said, you know, he did the
7 calculations and stuff. Where is that in -- where are those
8 facts in the record, right here? When he says it, that
9 makes it so?

10 HEARING OFFICER CELLI: Mr. Brady or
11 Mr. Monasmith, where in the record is that analysis? If you
12 have -- if you have your FSA opened to a page number, that
13 would be really nice.

14 MR. BRADY: it's not incorporated in the
15 facilities design section or the efficiency or --

16 HEARING OFFICER CELLI: Please pull the microphone
17 up to you --

18 MR. BRADY: I'm sorry. That information is not in
19 any of those three sections of the AFC. They're my personal
20 calculations in my personal records at -- at my office. And
21 I wasn't aware that they were calculations that was elevated
22 to -- to the level that they would be incorporated in any of
23 the written documents for this project.

24 HEARING OFFICER CELLI: And let me ask the
25 applicant, who -- who did this analysis for the applicant?

1 Is that you again, Ms. Walzer? Did you --

2 MS. WALZER: Very good. That would be me.

3 HEARING OFFICER CELLI: Did you -- is there
4 somewhere in the AFC where this -- we have 216 sunny days
5 out of 365, leaving 149 sunny days?

6 MS. WALZER: I believe that those are statistics
7 from Pahrump, from the townships of Pahrump. And I don't
8 know how they calculate sunny days, what their statistics
9 are. I can tell you that it's incorrect that we will only
10 operate on 216 days. The times where we won't operate due
11 to clouds or rain are much fewer. And when it comes to the
12 solarility of the area, it's very high. And it's -- we, of
13 course, test and measure that. And for BrightSource, as for
14 all alternative energy, weather measurements are one of the
15 most carefully guarded pieces of information. But it's
16 publicly available on government sites such as NREL, the
17 National Resource Energy Lab, that the solarility is very high
18 in this area. And you would more than likely have to show
19 somebody an area and explain why it wasn't a good place to
20 build instead of why it is a good place.

21 The area of Southern California, including Hidden
22 Hills, is in the solar industry worldwide considered the
23 gold standard. If you are building a power plant anywhere
24 in the world you compare how much solar -- solarility, how
25 much direct normal insulation you have, you compare it to

1 what it is in California, in this particular area of
2 California.

3 HEARING OFFICER CELLI: All right. Thank you.
4 So --

5 MS. MACDONALD: I just wanted to say that the
6 reason I asked for factual evidence and the reason I'm
7 rattling off 216 days is because I could not find that
8 information in the AFC. And I'm more than open to seeing,
9 you know, more reports. According to the chamber of
10 commerce they took their information from NOAA. But, you
11 know, they also said, from memory, that it was the second
12 sunniest place in the Southwest, outside of Yuma, Arizona.

13 So my only concern -- or, you know, one of the
14 concerns that I have is that there's just -- even with the
15 high solarity it's still going to need to be heavily
16 supplemented by the natural gas. But setting that aside
17 since, you know, I do really believe in renewable energy, I
18 wanted to see some facts that supported that the area was
19 high solarity.

20 HEARING OFFICER CELLI: Staff, is there any sort
21 of limitation on the amount of the use of the gas-fired
22 boiler? Do we have that in the record? I'd like to hear
23 from whoever, any expert who knows this.

24 Please, Ms. Strachan, go ahead.

25 MS. STRACHAN: There is a limit. It's in the air

1 quality section in the permit conditions. And our air
2 quality witness, Gary Rubenstein, can speak to that on
3 Friday if you'd like.

4 HEARING OFFICER CELLI: Very good. We'll talk
5 about that in air quality then. Thank you for that
6 information. I just wanted to note that it was not in the
7 record. Go ahead.

8 MR. BRADY: I have something to add to it. The
9 same desk calculations that I performed the -- to get an
10 estimate of capacity for the system was ones where I looked
11 at the capacity of the -- of the startup boiler and the
12 restoration boiler that's being used to supplement the
13 capacity of hidden hills. And it's equivalent -- my
14 calculations indicated it's about -- it could produce about
15 27 megawatts, or about 10 percent of the total operating
16 capacity of the -- of the plant. It's barely enough to make
17 dry steam, and would only be helpful in getting the plant up
18 to temperature and ready to operate in the morning when the
19 sun came over the horizon.

20 But the determination of the amount of energy that
21 would be generated with natural gas versus the renewable
22 source from the sun would be something that -- that I would
23 defer to the applicant on.

24 HEARING OFFICER CELLI: Well, I think we have
25 enough information. I just think that the point that Ms.

1 MacDonald is making, it reminds me of my son who takes math
2 tests and gets all the right answers and gets a C because he
3 didn't show his work. And so I think what we need is
4 probably she would like to see more work, more of the behind
5 the scenes in the analysis.

6 MS. MACDONALD: Well, please understand that as
7 I've approached this I've been told repeatedly that I have
8 to show facts for what I say. And so I have assumed that on
9 the expert levels that they would also have to have facts
10 and, you know, substantial facts. So anyway, I just wanted
11 to throw that out there.

12 HEARING OFFICER CELLI: Okay. Just any parting
13 shots, Applicant? And when I say -- what I mean by that is,
14 is there anything that you need your experts to explain
15 rather than lawyers testifying on cross-examination.

16 MR. WHEATLAND: Yeah. This is not a parting shot
17 and it's not cross-examination. But earlier in the
18 discussion in visual resources we indicated to you we had a
19 witness who could address the glare issues that were raised
20 by Dr. Irvin. Our witness is Mr. Franck who is the site
21 manager for the Coalinga --

22 HEARING OFFICER CELLI: Uh-huh.

23 MR. WHEATLAND: -- facility. And I would just
24 like to ask him, first, if he -- were you present when Dr.
25 Irvin was on the panel earlier today?

1 MR. FRANCK: Yes, I was.

2 MR. WHEATLAND: And --

3 HEARING OFFICER CELLI: Before you get into this,
4 Mr. Wheatland, just one second. I just want to confer.

5 MS. MACDONALD: I thought --

6 (Colloquy Between Hearing Officer and Commissioners)

7 HEARING OFFICER CELLI: The reason I interrupted
8 was because we were going to handle glint and glare in the
9 context of traffic, which is the next panel after this one,
10 I believe. And I just -- I just want to make sure that
11 that -- I want to see if that's something that's appropriate
12 here.

13 MR. WHEATLAND: I'm happy to do it any way you
14 would like. He's not listed as a witness for the traffic
15 and transportation parts, but we certainly could make him
16 available on the panel. What I'll be asking him is just to
17 respond very briefly to what Dr. Irvin said. But I'm happy
18 to do it either here or on the transportation panel,
19 whichever you would prefer.

20 HEARING OFFICER CELLI: Well, go ahead. Let's --

21 MS. BELENKY: Well, I'm sorry, I object if it's
22 about visual because we closed visual. The record on visual
23 is closed. And so it has to either fit in a different
24 category or it doesn't come in. And that's a point you have
25 made.

1 So I think it makes much more sense if that is the
2 case that it's about traffic to put it in traffic --

3 HEARING OFFICER CELLI: I think --

4 MS. BELENKY: -- because right now we're doing
5 project description.

6 HEARING OFFICER CELLI: Right.

7 MR. WHEATLAND: I'm happy to make him available in
8 traffic.

9 HEARING OFFICER CELLI: Thank you. Well, that
10 being the case then --

11 MR. HARRIS: We do have one other thing. I'm
12 sorry. It's a housekeeping item. Mr. Rojansky is here. I
13 mentioned in the housekeeping session that he would be
14 available to answer Ms. MacDonald's questions about the
15 heliostats as structures and that for geology --

16 HEARING OFFICER CELLI: Oh, or would that be --
17 oh, geology.

18 MS. MACDONALD: That's facility design. Well,
19 they kind of overlap.

20 MR. HARRIS: They do kind of overlap. But the
21 main point is Mr. Rojansky is here and available to answer
22 the questions she had about the utilities, the structure, as
23 are the other witnesses who are able to help on those
24 questions.

25 HEARING OFFICER CELLI: Well, we are -- right now

1 we're doing project description, facility design,
2 efficiency, and reliability. So --

3 MS. MACDONALD: Oh, they've all been combined?

4 HEARING OFFICER CELLI: That -- that's what this
5 panel is; project description --

6 MS. MACDONALD: Okay.

7 HEARING OFFICER CELLI: -- facility design, which
8 is evidentiary hearing mirrors that you were talking about,
9 efficiency, and reliability. So let's go ahead with those
10 questions, if you have any on facility design, I guess.

11 MS. MACDONALD: Okay. Well, give me just one
12 second because we had gone to due diligence. That was the
13 last thing that I had.

14 HEARING OFFICER CELLI: Go ahead.

15 MS. MACDONALD: And -- well, give me a second to
16 look through it --

17 HEARING OFFICER CELLI: Sure.

18 MS. MACDONALD: -- real quick to make sure we
19 haven't covered it before we move to that. I think that I
20 put enough in my testimony that I don't need that.

21 So then the next one we wanted to discuss was
22 facility design?

23 HEARING OFFICER CELLI: Facility design. And this
24 was in response to you were talking about the structure of
25 the heliostats --

1 MS. MACDONALD: Okay.

2 HEARING OFFICER CELLI: -- strength.

3 MS. MACDONALD: All right. Let me -- let me just
4 briefly lay out what my issues or concerns are. It comes
5 from watching things sink in the mud there. That's the
6 first concern. Well, this is about structure. There's
7 actually two concerns, so don't let me forget. There's two
8 concerns I have about the heliostats. The first is them in
9 the soil, shifting, sinking, moving. Okay.

10 The second is the wind load, which, you know, I
11 don't know if that goes under facility design or project
12 reliability. But when we were discussing solarity the --
13 there's -- the applicant indicated in their data responses
14 that when -- when wind blew too hard they moved the
15 heliostats into a horizontal position so that it looked like
16 a lake to protect the mirrors from damage from wind. Okay.
17 And I submitted a whole bunch of information about how windy
18 it is sometimes out in our area and wanted to know what the
19 maximum thresholds of the heliostats, what -- what could
20 they withstand when they would have to rotate to the safe
21 zone? Okay. Because to me it related to how often would
22 they be -- would the heliostats be online or out of
23 commission because of wind.

24 And so I've asked -- I started a Public Records
25 Act request. You know, first I asked Staff in march of last

1 year and I got no response. And then I put a Public Records
2 Act request in, in November, and they -- the applicant
3 responded that it was propriety information, that knowing
4 what the wind load speeds and what wind speed that they
5 rotate to the safe position is proprietary. As it stands,
6 the last thing I heard is the -- the PRA request, the Public
7 Record Act request was put into the CEC staff. Last I heard
8 they were going back to check with the applicant to release
9 the information, at least the conclusions. You know, you
10 don't have to release how you design the pylon or whatever,
11 but, you know, what can they withstand. Same with seismic,
12 you know, because it's right next to an earthquake zone.

13 Anyway, as of 1/15 of this year, January 15th this
14 year -- oh, he also said he would ask Staff. So he was
15 going to do a two-prong approach. I have received no
16 information, essentially about what they -- just even what
17 they can withstand from the wind, not even from an operating
18 position.

19 So you know, my concern is -- because I know it's
20 really windy. If you look at my first set of comments, I
21 put an appendix in there. I do all the -- the wind gust
22 speeds that were recorded from NOAA, or something that was
23 similar, and show we have -- you know, there's a bunch of
24 newspaper articles about our high wind warnings. And in
25 BrightSource's Securities Exchange Commission filing they

1 mention a real bad storm that we had had in November of
2 2011, resulted in some of the pylons shifting, and that they
3 were going to -- that they had redesigned it and they hope
4 that the structures were stronger, etcetera, and they were
5 deploying it at the rest of Ivanpah. But that was another
6 thing that kind of strengthened my concern about the wind,
7 the potential wind impact at the place.

8 So in relation it's -- it's a two-prong thing, the
9 first being how often are the heliostats be offline due to
10 wind? And the second is, is there any kinds of dangers
11 that -- or, you know, dangers to the public and concerns
12 from an operating position about the pylons in our soil?
13 Because our soil is subject to collapse and shrinkage,
14 etcetera. Did I make that too long? I'm sorry.

15 HEARING OFFICER CELLI: No. That's very clear.
16 Thank you, Ms. MacDonald.

17 MS. MACDONALD: Okay.

18 HEARING OFFICER CELLI: Now, of the experts, the
19 first -- the first question I want you to address is the
20 wind load question. Who is the person who is the wind load
21 expert? Mr. Rojansky.

22 MR. ROJANSKY: That would be me. The answer is
23 actually pretty straight forward. We're designing the
24 heliostats. The heliostats are structures. And we're
25 designing them according to the provisions of the California

1 Building Code. Detailed calculations are being provided to
2 the CBO. The CBO has qualified engineers sitting there and
3 checking and challenging the design until they are
4 satisfied. As it stands right now with the current addition
5 of the California Building Code the heliostats need to
6 safely withstand winds of 100 miles an hour, and that's how
7 they will be designed.

8 HEARING OFFICER CELLI: So 100 miles an hour is
9 the wind load number or measurement that you're looking for?

10 MR. ROJANSKY: That's the wind speed from which
11 you can derive the load.

12 HEARING OFFICER CELLI: Okay. And --

13 COMMISSIONER DOUGLAS: So this is a clarification
14 question. When you say safely withstand the wind of 100
15 miles an hour, do you mean operating or do you mean
16 horizontal?

17 MR. ROJANSKY: Well, it will be a design decision
18 at what point, at what wind speed below that we will shift
19 them from operating to -- to stow position. And that's a
20 degree of freedom that is available to the designers. I
21 mean, I can design them stronger and move them to a stow
22 position at a higher speed, or I can design them weaker and
23 move them to a stow position earlier. That's a design
24 decision. When we get to detailed design we will finalize
25 that piece of information. As I said, that's -- that is

1 submitted to the CBO. They check it and grant approval on
2 that basis.

3 HEARING OFFICER CELLI: Let's talk about the
4 provisions for the soil. Who's -- who speaks to that,
5 the -- the -- what do you call it, the pedestal?

6 MR. ROJANSKY: That will be me.

7 HEARING OFFICER CELLI: Okay, Mr. Rojansky.

8 MR. ROJANSKY: Yeah. First of all, I would
9 suggest that you don't get impressed by superficial
10 photographs being submitted. And that is there is a
11 fundamental basis in engineering design between shallow
12 structures or structures like sidewalks or things that are
13 placed on basically a flat mat type as opposed to a pile-
14 founded structure which derives it's strength from deeper
15 down in the strata. All of our heliostats are actually
16 pylon supported. That means they're like a pile that gets
17 driven into the soil. So what happens at the surface is
18 immaterial, and it's actually being considered in the design
19 as nonexistent.

20 So just because a truck (phonetic) seems like it's
21 sunk 12 inches into the soil during a storm, it's
22 meaningless to the pylon design because we discount it.

23 HEARING OFFICER CELLI: Ms. MacDonald, any follow-
24 up on that?

25 MS. MACDONALD: Well, I want to go back to the

1 wind issue. And I'm glad to hear -- that was a good
2 question, too, is it falling down or just withstand. But
3 there's a couple of sentences that were -- kind of
4 substantiated my concerns. And I would like to preface it
5 with the idea that if this is accurate, what they printed in
6 the Securities Exchange Commission, that the designs for
7 Ivanpah had already been approved when this happened. Okay.
8 And that's another thing that I have a concern with is
9 because this is a relatively new technology, not that it's
10 that particularly complicated, but that not sufficient
11 attention is being given to this portion of it. So
12 that's -- I'm working really hard to make sure that it's
13 safe. I hope you understand that.

14 But the brief thing is in addition there is a lack
15 of long-term reliability data for proprietary systems and
16 technology. Actual long-term performance of these parts,
17 including heliostats in the field, may fall short of
18 expectations. Heliostats may be susceptible to damage from
19 weather related or unforeseen events. For example, the
20 severe windstorm in late November 2011 at the Coalinga Solar
21 to Steam for EOR project resulted in movement of some of the
22 pylons on which the heliostats were mounted. We are
23 completing modifications to prevent any future pylon
24 movement and deploying redesigned pylons on much of the
25 Ivanpah project.

1 So I just wanted to point out, that had been
2 approved at Ivanpah and they -- at least my understanding
3 is -- you know, I went as far as I could go. And let me
4 also say that at this point Staff, if the PRA request had
5 been, you know, accurately related to me, Staff had no idea
6 what the wind load tolerances are of these at this point.

7 MR. BRADY: In deference to Ms. MacDonald's
8 concerns, I think there's a famous book that talks about not
9 building your house on -- on a foundation of sand. And I
10 think that that kind of magnifies the concern that's going
11 on here.

12 As a member of the staff I want to make sure that
13 the job gets done right and that there are requirements
14 within the project documents that cover it. In this case
15 the detail design for the -- for the pylon supports occur
16 after the -- the application for certification is approved.
17 It's done in the detailed process of review and approval of
18 the construction documents by the chief building official
19 that's -- and his or her responsibilities is outlined in the
20 conditions of compliance.

21 I think that in this case the applicant is very
22 concerned about making sure that the -- that the design,
23 whether it's friction piers or bearing piers of whatever the
24 percentage of, you know, breakaway from -- from sand, their
25 control system is not going to work if -- if the pylon

1 support is loosey-goosey. So I think there are provisions
2 built into the project documents that -- that cover the
3 appropriate design for the -- for the pylons.

4 HEARING OFFICER CELLI: Thank you.

5 MS. MACDONALD: Let me also say that this will be
6 covered in soil and surface waters. I mean, that's where
7 your experts are going to be. But it's my understanding,
8 based on reviewing the literature, that there is some
9 dispute between Staff and Applicant regarding having to
10 anchor, put foundations or pedestals in -- in with the
11 heliostats.

12 Additionally, I wanted to make the comment that I
13 submitted, or at least I plan to, two exhibits that came
14 from BLM comments on the Ivanpah. And one of their concerns
15 was the pylon insertion depth, which is what he's
16 discussing. And the original thing was four feet. They
17 recommended five to help prevent. Well, the discussions
18 that have been going on in the FSA for the Hidden Hills,
19 I've seen two numbers, 10 and 12 feet. So this -- this
20 seems to be an issue on the soils and surface water. I
21 mean, I don't know why we're doing it in design, but okay.

22 HEARING OFFICER CELLI: I kind of agree with you
23 there. I mean, there's two halves of the equation. There's
24 the pylon itself, and then there's the soil it's being
25 inserted into. We've now heard about the pylon. We will

1 next hear about the soil later. And then we'll figure it
2 all out.

3 MS. MACDONALD: I just -- it's five -- almost five
4 miles of mirror. It's serious.

5 MR. HARRIS: Well, just to clarify, we brought
6 this up because you had questions. So -- and Mr. Rojansky
7 has to leave. That's why we're doing it now.

8 MS. MACDONALD: Okay. Okay. Thank you.

9 HEARING OFFICER CELLI: And right now we're
10 still -- one moment, Mr. Desmond.

11 Ms. MacDonald, we're -- we are with you regarding
12 project description, which we've covered, facility design,
13 efficiency, and reliability.

14 Mr. Desmond, you had --

15 MR. DESMOND: Yes. I just wanted to clarify
16 something for the committee. Ms. MacDonald has made several
17 references to the SEC S1 filing registration statement. And
18 I just want to make sure that the committee understands the
19 difference and purpose --

20 HEARING OFFICER CELLI: Yes.

21 MR. DESMOND: -- of the nature of the SEC
22 reporting practices for --

23 HEARING OFFICER CELLI: Mr. Desmond, the committee
24 gets it.

25 MR. DESMOND: Thank you.

1 HEARING OFFICER CELLI: There's a big difference,
2 and we understand why and what the purpose is behind an SEC
3 filing. So that's -- that goes without saying.

4 MR. DESMOND: Thank you.

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

6 MS. MACDONALD: Thank you. Well, I wasn't sure if
7 I -- sorry. Excuse me. I wasn't sure if I had to go run
8 and get the regulation. I have not put -- even though I put
9 the entire risk factor in my exhibit because I did not feel
10 it was my place to edit it, the only things I have tried to
11 highlight have to do with the facility, the operations, what
12 they said. I didn't put anybody's salary in there. I
13 haven't discussed the economic viability of it. I'm only
14 concerned about the reliability and the efficiency. Okay?

15 HEARING OFFICER CELLI: Right. Right. So let me
16 turn to the committee.

17 (Colloquy Between Hearing Officer and Commissioners)

18 HEARING OFFICER CELLI: Thank you. Anything
19 further, Ms. MacDonald, on any of these topics?

20 MS. MACDONALD: Facility design, yes. And thank
21 you very much. Mirror washing machines, mirror surface
22 degradation. Okay. The first thing is I put in my pictures
23 and my concerns about it and the fact that there is no facts
24 related to it. And I did see the applicant's rebuttal
25 testimony. Susan here said that they had been doing tests

1 on reflectivity of surface, etcetera. She made a lot of
2 mention of -- that they had been working on this. What I
3 did not see was a single shred of data anywhere.

4 HEARING OFFICER CELLI: So who -- I guess this
5 would be applicant -- applicant's side of things. Who wants
6 to address -- the question, as I recall, the way that the
7 question was couched and presented at status conferences in
8 the past and in -- and in Ms. MacDonald's written work is
9 that there is a certain number of mirrors and a certain
10 number that can be washed within a certain amount of time.
11 And when Ms. MacDonald pulls out her calculator and does the
12 math you can't clean all of the mirrors within a year.

13 Am I saying that about right, Ms. MacDonald?

14 MS. MACDONALD: It is certainly humorous, and you
15 have the general gist.

16 HEARING OFFICER CELLI: Okay.

17 MS. MACDONALD: Actually, that's one of the
18 issues. But don't forget the other issue is, is if that
19 mirror surface is not kept really clean the performance
20 level goes down. So that's -- they're kind of -- as usual,
21 everything overlaps.

22 HEARING OFFICER CELLI: Okay. Who's -- Applicant,
23 Staff, regarding these things.

24 MS. WALZER: That would be me.

25 HEARING OFFICER CELLI: Ms. Walzer, go ahead.

1 HEARING OFFICER CELLI: Could you just ask the
2 specific question so I know what I'm answering --

3 HEARING OFFICER CELLI: All right.

4 MS. WALZER: -- please.

5 HEARING OFFICER CELLI: The -- can you describe
6 the process of the mirror washing, what machinery is going
7 to be used, how effective is it? Give us a little
8 background about the mirror washing itself.

9 MS. WALZER: The mirror washing will be in a
10 standard way that mirrors are washed with water spray and
11 scrub brushing.

12 HEARING OFFICER CELLI: By local members of the
13 community coming out? I mean, tell us about how this is
14 done.

15 MS. WALZER: What we've described for Hidden Hills
16 is a machine that is -- is a truck that has a crane on it.
17 And at the end of the crane is a hose, a type of a hose --
18 I'm simplifying -- a hose that's going to spray water. And
19 it will have a brush that will brush the heliostats.

20 HEARING OFFICER CELLI: Okay. And Ms. MacDonald's
21 concern was the ability to keep all of the mirrors clean
22 within -- within the --

23 MS. MACDONALD: It seemed completely infeasible,
24 maybe very aggressive. I mean, I didn't know how they were
25 going to do it, if they were going to do pressure wash, air

1 wash. A mention was made that they might use air.

2 But anyway, according to, of all places, the
3 biological section they estimated they need 6,000 mirrors a
4 day to keep the two-week schedule. And the only reason the
5 two-week schedule has any importance to me at all is because
6 that is what the applicant has claimed, approximately, that
7 they're going to need to keep those mirror surfaces at
8 maximum performance. And so as I started looking at the
9 number of mirrors -- and don't forget, for every heliostat
10 there's two mirrors so -- you know, but it's still the same
11 surface area. I mean, I get that. But -- so you're
12 actually looking at 340,000 mirrors having to be cleaned
13 every two weeks. And so that's where I started to kind of
14 go, well, how are they going to do this.

15 And then, again, back to the -- the -- the CEC
16 filing, they say the mirror washing machines are
17 experimental. At this point in time, with as far along as
18 they are in Ivanpah it's like where -- where are your photos
19 or your basic description? Plus, the other thing that's
20 made me very concerned or confused -- confused is probably a
21 better word -- is they've changed the number of mirror
22 washing machine operators several times throughout the
23 course of this. So I've been trying to get a handle on,
24 okay, well, how many are we doing here? Are doing this
25 many? Are we doing that many? Okay. So again it goes back

1 to I'm not asking for proprietary technology, but this is a
2 new technology. And there's a lot of things I'm sure
3 they're still working out.

4 But, you know, we have to have some general ideas
5 of facts, especially considering the amount of money, the
6 amount of taxpayer credit, how much we need this technology
7 to work, etcetera. And too many loopholes are just not --
8 there's not enough -- there's not enough facts backing up
9 what they're saying. I can say a mirror washing machine is
10 going to be there.

11 HEARING OFFICER CELLI: So ask -- I would like you
12 to frame the question you need to ask to Ms. Walzer --

13 MS. MACDONALD: Okay.

14 HEARING OFFICER CELLI: -- to respond to your
15 concern please.

16 MS. MACDONALD: Okay. The first -- well, the
17 immediate question would be in your rebuttal testimony you
18 said you had been doing a lot of testing on surface
19 reflectivity. Where -- what did you put in to substantiate
20 that? You said you've been doing Ivanpah since 2011, and
21 you started doing mirrors out at -- at the Hidden Hills
22 place. Now, I know there's a couple little mirrors that are
23 hanging vertically at the weather station. Where's the data
24 for that?

25 MS. WALZER: That data is part of our internal

1 confidential information that we use to calculate how often
2 we need to wash the mirrors.

3 MS. MACDONALD: Okay. Is two weeks about -- still
4 an approximately --

5 MS. WALZER: When we wrote two weeks we were being
6 very conservative. That's the most conservative. That's
7 under the most -- the most conservative safe amount of time
8 that we think we could possibly need to was the mirrors. We
9 expect to wash the mirrors less frequently than every two
10 weeks.

11 HEARING OFFICER CELLI: Okay.

12 MS. MACDONALD: Okay. I just wanted to point out,
13 because you did rebut the testimony of my windshield, and I
14 understand some movements and stuff, but the place is very
15 dusty. You may not be -- your conservative measures may be
16 accurate. Okay.

17 Mirror washing machines; have you submitted like
18 any pictures, any designs, any anything that could
19 substantiate that these things are capable of cleaning those
20 mirrors within a two or four week period?

21 MS. WALZER: I don't think it's in the record.

22 MS. MACDONALD: Okay. What happens -- sorry. I
23 don't mean to be running long. What happens if you don't
24 get them clean, like if you can't meet your schedule?

25 MS. WALZER: When we calculate how much

1 electricity we're going to produce we take into account that
2 the mirrors will not be totally clean. We take into account
3 a dirt factor, assuming that the mirrors will not be totally
4 clean at any given time.

5 COMMISSIONER HOCHSCHILD: Sorry, can I just jump
6 in? Because actually it's a very good question. I mean,
7 what is the degradation associated with soiling, absent
8 cleaning, right, if these were just operated for a year? I
9 mean, how much less power would you expect the system
10 would -- would produce from soiling at this location?

11 MS. WALZER: Well, we don't -- we take it into
12 account in our original calculations. So we don't expect to
13 have less production than we say.

14 COMMISSIONER HOCHSCHILD: Okay. I'm trying to
15 just -- I understand the value of the cleaning. If, for
16 example, it proves difficult to clean or you can't clean as
17 frequently as you need what is the impact of the soiling
18 itself on the power generation? I mean, is that -- are
19 talking about a 20 percent reduction or does it shut the
20 whole system down? I mean, I have no sense of the scale or
21 the impact of the soiling.

22 MS. WALZER: It doesn't shut the system down, and
23 it would be less than 20 percent.

24 COMMISSIONER HOCHSCHILD: Less than 20 percent
25 degradation?

1 MS. WALZER: Yes.

2 COMMISSIONER HOCHSCHILD: Okay.

3 MS. WALZER: That's -- but we're taking into -- we
4 take that into account. We take into account how dirty it
5 is, the time of year. We take into account all the factors.

6 MS. MACDONALD: Just to -- I wanted to briefly
7 read the paragraph of what it says and why. You know, I
8 obviously took a lot of my guidance from what they said
9 about their systems. It says, "Our largely unproven mirror
10 cleaning equipment may perform below our expectations."

11 HEARING OFFICER CELLI: This was from the SEC
12 filing --

13 MS. MACDONALD: Correct.

14 HEARING OFFICER CELLI: -- as I recall. Yes.

15 MS. MACDONALD: Yeah. "Primary maintenance
16 activity for solar thermal projects using our systems
17 will be the routine and continuous washing of reflective
18 mirror surfaces we anticipate each mirror may need to be
19 cleaned every two weeks to prevent a buildup of dust which
20 would significantly degrade the system performance. Mirrors
21 will be washed by a dedicated crew using specialized
22 equipment. We are still designing and testing the
23 specialized equipment to be used in the process. If the
24 mirror washing equipment and processes are not effective,
25 actual operating costs may be substantially higher than

1 forecasted or total electric production may fall short of
2 estimates."

3 So I hope you can see when I read that why this
4 issue seemed important to me to try to pursue.

5 HEARING OFFICER CELLI: I appreciate that. I just
6 wonder if you have any further questions about this mirror
7 washing topic?

8 MS. MACDONALD: I guess the last one would be, why
9 have you changed mirror -- the number of mirror washing
10 operators two or three times over the course of this AFC?

11 HEARING OFFICER CELLI: Now, Ms. MacDonald, has
12 that number gone up, down, or gone up and down or --

13 MS. MACDONALD: Both.

14 HEARING OFFICER CELLI: -- where are we at today?

15 MS. MACDONALD: I actually don't remember the
16 original one they filed with the AFC, but it changed shortly
17 thereafter with a data response. And it said 42 mirror
18 washing machine operators for both plants, 21 per plant.
19 And then it went to -- oh, then it went to 16. We have
20 seven for the far-from tower zones and one from the near
21 tower zone. And then it's kind of confusing, but they
22 changed it again in the updated workforce analysis filed in
23 October. It just lists 15 instead of 16. So they've --
24 they've gone up and down.

25 COMMISSIONER DOUGLAS: So before you continue with

1 the question I just wanted to ask, you know, we're having an
2 informal process. I think it's going well, and I want to
3 thank all the parties for helping us make it work.

4 I just want to ask that the witnesses not be
5 talking to each other. If you have things that you want to
6 add you're welcome to add them. But that way we know what
7 witness what information comes from and it's just cleaner
8 for us. So if you could that we'd appreciate it.

9 MS. MACDONALD: I will try very hard. Thank you.

10 COMMISSIONER DOUGLAS: That was -- that was
11 addressed to the panel of witnesses, but --

12 HEARING OFFICER CELLI: So, Mr. Moore, were you
13 going to speak to this?

14 MR. MOORE: Yeah. I asked Ms. Walzer if -- when
15 she that it was -- that the impact as less than 20 percent
16 for not washed -- if they were not washed. I asked her what
17 that time period would be. I didn't want to leave -- I
18 didn't want to leave the commission with the impression that
19 if you didn't wash them one time that you would impact the
20 performance of the machinery to that effect. And so at the
21 time, I apologize, I wanted to make sure that that was
22 brought to light.

23 COMMISSIONER DOUGLAS: Thank you.

24 HEARING OFFICER CELLI: Thank you. So -- but she
25 raised -- she raised an issue regarding variation in numbers

1 of washing machines or personnel doing the mirror washing.
2 And where did we leave that, Ms. MacDonald? In the end
3 where does it stand and do we know, and can Applicant or
4 Staff even speak to this with any certainty?

5 MS. MACDONALD: All right. From my perspective is
6 that we don't speak to it of certainty at this point in time
7 because it's fairly new. I think, as you said, this is an
8 evolving process. From there we need to speak more to it of
9 certainty without violating the applicant's proprietary
10 rights. I think we have -- we need more information so that
11 we can see publicly the viability, the reliability, the
12 economics, the efficiency of the project, and get a general
13 sense of how it works. Now, it's been argued that I'm not
14 an expert. But at the same time there are certain common
15 sense things. If I'm going to go put in \$2 billion into a
16 business I am going to tell you anything and everything.
17 I'm going to check out everything. And there are so many
18 gaps in this.

19 So I guess where it stands is, is that the
20 renewable portion of the facility and the design, there's
21 not enough answers yet at this time to really determine its
22 efficiency, its reliability, and the viability of its
23 design.

24 HEARING OFFICER CELLI: Thank you. Unless someone
25 for Staff can actually give us a good answer on that -- Mr.

1 Harris, please.

2 MR. HARRIS: I have something to offer on that.
3 In terms of the number of mirror washing employees, we can
4 address that in the socio testimony tomorrow. Sorry to
5 compartmentalize. But that's where that issue is addressed.

6 MS. MACDONALD: Yes.

7 MR. HARRIS: The number of mirror washing machines
8 has not changed. The number of vehicle miles traveled by
9 those machines is not changed, and so therefore the
10 environmental impacts have not changed.

11 MS. MACDONALD: That is incorrect.

12 MR. HARRIS: Okay. Well, we can talk about it
13 tomorrow when we talk about the socio stuff then.

14 I do have at least one thing I'd like to go back
15 to. And the committee order says there's no cross but I can
16 direct a question to you. I would like to know if the
17 committee would like to know if our panel agrees with Ms.
18 MacDonald's assumption that it takes ten -- ten minutes to
19 wash every mirror, because that's foundational to her
20 testimony.

21 HEARING OFFICER CELLI: Anyone, who would speak to
22 that? Mr. Franck?

23 MR. FRANCK: I will speak for that. It's
24 significantly less. I'm operating the second plant of
25 BrightSource now. We're washing mirror in those plants. We

1 don't have any -- any problems. So far it's been on our
2 schedule.

3 HEARING OFFICER CELLI: How do you do it?

4 MR. FRANCK: At the (inaudible) in Israel it's
5 being done by a spray washer and worker, just workers that
6 work it. And at the Coalinga plant it's done by a machine,
7 a washing machine. And some parts it's done manually, but
8 most of the field is by a washing machine.

9 HEARING OFFICER CELLI: And is that as Ms. Walzer
10 described? It's a truck that drives along with an arm?

11 MR. FRANCK: It is what we call the new tower
12 washing machine. It's one of the two suggested. And it's a
13 tractor, it's not a truck. The truck is for the far-from --
14 far-from tower she called it. So it's one of the two kinds
15 that's going to be also needed here. And it does do its job
16 and the mirrors are clean and we're performing.

17 MS. MACDONALD: If I may, to speak to Jeff's
18 point, the ten minutes, the ten minutes per mirror, that
19 came from another project, the Stirling -- the Stirling
20 engines, that was the time -- yeah, that was the time that
21 was put in the FSA, whatever -- the AFC. Sorry. The AFC.
22 That was the time that was put in there. The only reason I
23 used it is because there was no available -- other available
24 information. That was the only piece of information I could
25 find. So --

1 HEARING OFFICER CELLI: That explains that. Now,
2 I think we've -- is there anything further on reliability,
3 efficiency?

4 MS. MACDONALD: That's two other subjects.
5 Actually, the reliability, I have reliability and efficiency
6 I've got two particular issues with. And one of them I want
7 to bring to the committee's attention, which is another
8 thing that was in the SEC filing. Give me one second.
9 That's --

10 HEARING OFFICER CELLI: Are we on efficiency or
11 reliability here?

12 MS. MACDONALD: Let me find out where I filed
13 it --

14 HEARING OFFICER CELLI: Okay.

15 MS. MACDONALD: -- please. Sorry. And thank you
16 so much for this opportunity. Thank you very much. I've
17 wanted to vent these things --

18 HEARING OFFICER CELLI: That's why we're --

19 MS. MACDONALD: -- for quite awhile.

20 HEARING OFFICER CELLI: This is why we're here.

21 MS. MACDONALD: Okay.

22 HEARING OFFICER CELLI: -- partially.

23 MS. MACDONALD: Right. Well, I hope that you find
24 it relevant. And then, of course, I expect you'll sic the
25 experts on it to get the right answers. But one of the

1 things that BrightSource said is that BrightSource Energy
2 will guarantee the achievement of at least 95 percent of
3 project plant electrical generation for only one out of four
4 years of commercial operation. And I wanted to ask why?
5 How -- you know, 95 percent -- I assume that there's two
6 factors going on here, the first being the 95 percent of
7 electrical generation. You know, maybe it will be 93, or
8 they're guaranteeing 95. But why only one out of four years
9 as well? So it's kind of a two-part question in there. Is
10 there --

11 HEARING OFFICER CELLI: And just where do you --
12 did you pull that from, the AFC?

13 MS. MACDONALD: No. That's in the SEC filings,
14 Exhibit 726, page 12, paragraph 3.

15 HEARING OFFICER CELLI: Oh, okay. Anyone?

16 MS. MACDONALD: So it's in the record.

17 HEARING OFFICER CELLI: Who among Staff's experts
18 would like to tackle that? You're brave, Ms. Walzer. She
19 looks like she's going to take --

20 MR. HARRIS: Well, Mr. Celli, it's not in my
21 panel's testimony, so I don't know that they'll be able to
22 answer it.

23 HEARING OFFICER CELLI: Okay.

24 MR. HARRIS: I want to point out that that was not
25 the AFC. That was the SEC filing.

1 HEARING OFFICER CELLI: Right.

2 MR. HARRIS: Just for clarity.

3 HEARING OFFICER CELLI: I get that. So -- but
4 that did raise a question in the back of my mind, and I'm
5 trying to remember. Because it was -- actually, this is to
6 staff, there was -- there was a discussion in efficiency
7 where he was talking about 90 percent. And in -- in
8 reliability it was 95 percent. And I had written it down,
9 and I don't believe I brought it with me. But there was --
10 there was the same measurement in the two sections. I'm
11 sure this is just, you know, a typographical area. But one
12 said 95 and one said 90 percent, or 10 percent of 5 percent.
13 I'd like you to look at that at some point because I'm
14 going to need some clarification on that.

15 MR. BRADY: That was in the reliability section.

16 HEARING OFFICER CELLI: Who just said that? I'm
17 sorry.

18 MR. BRADY: Mr. Brady.

19 HEARING OFFICER CELLI: Oh, thank you.

20 MR. BRADY: Over here.

21 HEARING OFFICER CELLI: Okay. And what -- and --

22 MR. BRADY: It stated -- it gave it a range of 92
23 to 95 percent, I think. That it referred to was the
24 availability of the -- of the system to provide power to the
25 grid. And it's based, not on 8,760 hours or 8,760 hours per

1 year but on the, first of all, the availability of -- the
2 number of hours where sunlight is available. And that was
3 the information taken directly out of the AFC as stated by
4 the Applicant.

5 HEARING OFFICER CELLI: Okay. Ms. MacDonald, are
6 you --

7 MS. MACDONALD: I have -- I have a quote to that.
8 In fact, I had a discrepancy about that. Because the
9 equivalent availability factor -- is that what you're
10 discussing, Mr. Brady?

11 MR. BRADY: The availability factor is -- is the
12 number of hours of operation less planned and unplanned
13 outages per year.

14 MS. MACDONALD: Okay. My understanding was --
15 because I went through that. I believe it was in project
16 description. And perhaps Mr. Desmond might be more capable
17 of explaining this, but -- oh, yes, here it is.

18 HEARING OFFICER CELLI: Are we starting -- are you
19 still on the SEC filing? Is that where you're reading from?

20 MS. MACDONALD: No. This particular one --

21 HEARING OFFICER CELLI: Oh.

22 MS. MACDONALD: This particular one addresses what
23 he said. It's in the AFC.

24 HEARING OFFICER CELLI: Okay.

25 MS. MACDONALD: I have to assume Exhibit 1 has

1 been entered; right?

2 Anyway, project description, facility
3 availability, page 2, 2-21. What it says is,

4 "The percent of time that the solar plants are
5 projected to be operated is defined as the service factor.
6 The service factor considers the amount of time that a unit
7 is operating and generating power, whether at full or
8 partial load. The projected service factor for the power
9 block which considers projected percent of time of operation
10 differs from the equivalent availability factor, EAF, which
11 considers the projected percent of energy production
12 capacity achievable. The EAF, which is a weighted average
13 of the percent of energy production capacity achievable,
14 differs from the availability of a unit, which is the
15 percent of time that a unit is available for operation,
16 whether at full load, partial load and/or standby. The
17 projected equivalent availability factor for the project is
18 estimated to be approximately 92 to 98 percent."

19 Now, I will certainly concede, it's a little
20 complicated for me. I had to read it a lot. But my general
21 idea was and -- that these two things meant, one, the
22 operating time and, two, the time it could ramp up, like if
23 they got a call and said, you know, we need some energy,
24 that was the EAF. And so my understanding, which I'm sure
25 will get straightened out if it is, that the 92 to 98

1 percent was the equivalent availability factor. So if they
2 needed power they were capable of delivering it quickly.
3 And from what I saw, somehow Staff transferred that over or
4 it got confused or something, it switched to the time the
5 sun was shining.

6 I don't think -- but, you know, and that's --
7 here's the time to correct me, but that the 92 to 98 percent
8 was about the time it was available to -- to come on versus
9 the sunshine.

10 HEARING OFFICER CELLI: So do you have a question
11 for -- is it for Staff or for Applicant?

12 MS. MACDONALD: He said that it was 92 to 998
13 percent when the sun was shining, and I said I think it's
14 difference, I guess. Would that be rebuttal? I don't know.

15 MR. BRADY: Well, if I may answer?

16 HEARING OFFICER CELLI: Who? Mr. --

17 MR. BRADY: Mr. Brady again.

18 HEARING OFFICER CELLI: -- Brady. Go ahead.

19 MR. BRADY: EAF indicates to me that the
20 definition was taken out of a definition defined by the
21 North American Electric Corporation which maintains a
22 database for the availability and operability and
23 maintainability of various types of power plants. They do
24 not have a specific category for solar power plants yet. So
25 the -- in this case, where the power plant could only

1 operate during periods of solararity, that is assumed to be
2 the -- the window of opportunity to produce power.

3 COMMISSIONER HOCHSCHILD: Sorry. First of all,
4 let me just also apologize if the committee and staff are
5 periodically standing up. These chairs are incredibly
6 uncomfortable. So I don't want to give the impression we're
7 not paying attention. That's why we're all standing.

8 But just to clarify, I mean, when I read this
9 document my take-home was it's a 65 percent capacity factor
10 for the facility. Is that correct, meaning that 65 percent
11 of the 8,760 hours of the year it would be available to
12 operate, roughly speaking? Is that -- is that correct?
13 What is the capacity factor for the -- for the plant?

14 MS. MACDONALD: I believe it's under 50 percent,
15 because there's certain criteria, certain permitting where
16 if they -- they're at like 60 percent, they do 60 percent or
17 more. But again, you know, I believe your air quality
18 people would be able to tell you exactly.

19 HEARING OFFICER CELLI: Let's --

20 COMMISSIONER HOCHSCHILD: Okay. From --

21 HEARING OFFICER CELLI: let's hear from Applicant.

22 COMMISSIONER HOCHSCHILD: From the applicant,
23 what's the capacity, Doctor?

24 MS. WALZER: The first thing I have to say is that
25 I'm not sure of the term. So I have to say that what --

1 what we consider -- when we're talking about the capacity
2 factor of a plant --

3 COMMISSIONER HOCHSCHILD: Yeah.

4 MS. WALZER: -- we're talking about the percentage
5 of how much -- if -- what percentage we produced compared to
6 how much could be produced if the plant worked full capacity
7 8,760 hours a year. And it's less -- it's 30-something.
8 There would be --

9 MR. DESMOND: I think -- Mr. Desmond -- somewhere
10 between 32 and 35 percent --

11 MS. WALZER: Yes.

12 MR. DESMOND: -- depending on the efficiency of
13 the turban that's being employed and how it's being
14 operated, compared to say a fixed tilt PV typically rated at
15 a 21 percent annualized capacity factor.

16 COMMISSIONER HOCHSCHILD: Right. Okay. But --
17 okay. So that's just for the solar component of the --

18 MS. WALZER: No. That --

19 MR. DESMOND: For the whole plant.

20 MS. SNOW: That's the whole plant.

21 COMMISSIONER HOCHSCHILD: Oh, the whole plant is
22 30 to 35. Okay.

23 MS. WALZER: The whole plant.

24 COMMISSIONER HOCHSCHILD: That's helpful. I
25 had --

1 MR. DESMOND: Yeah.

2 COMMISSIONER HOCHSCHILD: -- misunderstood that.
3 Okay. Thank you.

4 HEARING OFFICER CELLI: Ms. MacDonald, we're still
5 on -- we're talking reliability here, I think.

6 MS. MACDONALD: Okay. I had one last issue, I
7 believe at the moment, because I'm just getting wore out, is
8 the -- hang on a sec. No, I'm sorry, that was efficiency.

9 I guess the only other thing I wanted to throw out
10 which -- but this is geo/paleo, is the same thing, is that
11 the proposed project is going to be located next to a
12 seismic fault, within 1,500 feet, I believe, from the
13 project boundary site. And I have concerns about a seismic
14 load on the heliostats. But again, that's -- that's why I
15 didn't want to get rid of that category because I didn't see
16 anything.

17 But reliability, other than one out of every four
18 years a 95 percent, I think that's --

19 HEARING OFFICER CELLI: I detect an objection
20 coming.

21 MR. HARRIS: No, no, no. I actually thought --
22 Mr. Rojanksy is here and can answer her questions about the
23 seismic issues. And again --

24 MS. MACDONALD: Okay.

25 MR. HARRIS: -- this is the opportunity to ask

1 that question. I know it's in some more of your sections
2 but --

3 MS. MACDONALD: Yeah, that's fine.

4 MR. HARRIS: -- why don't you go ahead and --

5 MS. MACDONALD: Thank you.

6 MR. HARRIS: No. Go ahead and -- go ahead and
7 pose it, if you would, so Michael has the -- Mr. Rojansky
8 has the question in mind.

9 HEARING OFFICER CELLI: Go ahead, Mr. MacDonald.

10 MS. MACDONALD: The question is that -- has any
11 modeling or any predictive factors -- there's two -- any
12 predictive factors as to what the heliostats can withstand?
13 And in terms of a seismic load, the first question would be
14 like what's -- I guess for -- for the layperson, can it
15 stand like a 3.0, a 1.0, a 7.0, an individual heliostat?
16 And then the second question would be the cumulative, like
17 as they go up could there be a big impact across the field?

18 HEARING OFFICER CELLI: Mr. Rojansky, please.

19 MR. ROJANSKY: Okay. Well, again, much like wind,
20 seismic is an environmental load condition. It's governed
21 by the provisions of the California Building Code. As we in
22 California have lived with earthquakes for a long time and
23 lead the world in our experience with seismic design, the
24 heliostats are just another structure and the provisions of
25 the code will apply. It's based on extremely thorough and

1 widely accepted leases that was led by the United States
2 Geological Survey. And all the parameters are defined in
3 the code of how that needs to be designed.

4 So that's how we do our job. We apply the loads
5 and we make sure that the heliostats withstand the load that
6 they need to.

7 MS. MACDONALD: My question would be why is the
8 loads -- I mean, if this is common literature and common
9 industry standards, why are those loads being considered
10 proprietary in terms of when -- and let me give it just a
11 brief reference of why our relationship -- why this is
12 important.

13 BLM was very concerned at Ivanpah that the -- the
14 flooding may cause catastrophic heliostat collapse and they
15 did some modeling. And so in this particular case I'm
16 concerned that there could be potential of catastrophic
17 heliostat collapse.

18 My other concern is that a lot of those building
19 codes apply to larger structures. I'm not sure the
20 heliostats are getting incorporated.

21 So I guess the question is: Why are -- why is
22 that basic information being deemed proprietary? Why aren't
23 we allowed to know what impacts the proposed project may
24 have at this site from seismic activity?

25 MR. HARRIS: I think you anticipated this

1 objection. She's asking a legal question about proprietary
2 information, and that -- Mr. Rojansky is here to speak about
3 the code. The code governs. He can answer any questions
4 about the code. But the -- the legal issue on proprietary
5 information is not a question of this witness.

6 HEARING OFFICER CELLI: Well, is this proprietary
7 information, is the question. I don't --

8 MR. HARRIS: I believe he answered that question,
9 yes, that it was.

10 HEARING OFFICER CELLI: Okay. Is there -- do you
11 have -- has there been an application for confidentiality
12 already with the Energy Commission and --

13 MR. HARRIS: This will be detailed design. And
14 just as in the Ivanpah case and the other solar cases that
15 are before you that are in construction in detailed design,
16 that information is submitted under request for confidential
17 application. And that's what Ms. MacDonald is referring to
18 was a Public Record Act request to get that confidential
19 information.

20 MR. WHEATLAND: To be really specific, she made a
21 blanket request for a large number of documents that were
22 submitted -- these were the design documents for Ivanpah
23 that were being submitted to the CBO, the very ones that
24 she's describing. And she was requesting documents of those
25 documents. And the -- and the applicant has objected to the

1 production of those documents on the grounds that they are
2 proprietary. And that -- the real -- if those documents
3 were released to our competitors it would provide
4 competitors with an invaluable resource of information for
5 which BrightSource has invested millions of dollars. And
6 that's the basis for protecting the specific design
7 elements.

8 HEARING OFFICER CELLI: So I guess the real -- the
9 main seeming fact is that there has already been a
10 determination of confidentiality?

11 MR. WHEATLAND: Yes, that's -- that's correct.

12 MS. MACDONALD: That's -- well, it was in dispute.
13 And I partially agree with him. I requested three documents
14 about Ivanpah. Let me first say that they do not list
15 proprietary -- their proprietary information as heliostats.

16 Second, I disputed by basically saying I don't care what's
17 in the documents; I want to know the conclusions. I
18 completely disagree. I think the public has the right to
19 know that this heliostat could withstand this kind of
20 earthquake, or this heliostat field. They've worked hard
21 for the proprietary information. I wasn't trying to get
22 that. I was trying to get the conclusions so we can get
23 some idea if this could be a big issue.

24 And so I just wanted -- and then the other point
25 is, is that Staff doesn't know either. According to my

1 Public Record Act request, Staff can not answer this
2 question either. And if you looked at the geo/paleontology
3 section they do say that seismic -- seismic hazards could
4 pose a credible threat to the facility, which I'm assuming
5 is the towers, but nobody's talking about the heliostats.

6 HEARING OFFICER CELLI: So -- but I think that
7 what you just got was an explanation of the -- the process
8 by which the engineers design the heliostats in accordance
9 with the building code in terms of what loads it can
10 withstand and what forces it can withstand. And so I take
11 it that that's sort of -- well, I didn't want to use the
12 word vaporware, what that's something that's sort of in
13 process.

14 MR. WHEATLAND: Well, just to be really specific,
15 when a piece of equipment is designed, once it's designed
16 it's submitted to certain stress tests, both for wind load
17 and for earthquake loads. The results of those tests are
18 then submitted to the CBO to verify the fact that the
19 equipment will, in fact, meet the minimum code standards.
20 What Ms. MacDonald was requesting was the document. She was
21 requesting those tests, those designs, and the results that
22 were produced by them.

23 HEARING OFFICER CELLI: Okay.

24 MR. WHEATLAND: And that is what the applicant
25 believes is proprietary.

1 HEARING OFFICER CELLI: Okay. So with that, I
2 think we're -- are we about finished with efficiency and
3 reliability here? Are we done with project description?

4 MR. BRADY: Mr. Chairman, before you leave
5 efficiency I would like to apologize to the committee for
6 my -- my whispered aside, and want to place in record what I
7 had said.

8 With regard to efficiency there's -- there's a
9 number of factors: shadow, blockage, spillage, absorptions,
10 reflectivity, and cosign affect. These were categories that
11 I received from Danny Franck from the applicant. And I had
12 just quipped -- I was wondering where window washing was
13 included in those categories. So --

14 HEARING OFFICER CELLI: Thank you for --

15 MR. BRADY: -- just for the record.

16 HEARING OFFICER CELLI: Thank you.

17 COMMISSIONER DOUGLAS: Thank you.

18 HEARING OFFICER CELLI: So now it's sounds like
19 the record is complete. Would you agree --

20 MS. MACDONALD: No.

21 HEARING OFFICER CELLI: -- Ms. MacDonald?

22 MS. MACDONALD: No. I had discussed reliability.
23 I have one last issue of efficiency.

24 HEARING OFFICER CELLI: Okay.

25 MS. MACDONALD: Sorry. Thank you so much.

1 HEARING OFFICER CELLI: You have the floor.

2 MS. MACDONALD: Thank you very much.

3 The last question I wanted to ask Mr. Franck.
4 I've asked this question repeatedly and I've been told it's
5 proprietary information, but I'm going to ask it again. And
6 the question is: What is the acreage of the SEDC facility
7 in Israel?

8 MR. HARRIS: Yeah, I guess I won't object.
9 It's -- it's not relevant and it's not part of our
10 testimony.

11 MS. MACDONALD: Okay. All right. Carrying on
12 with that --

13 MS. BELENKY: I'm sorry. I'm sorry, I'm confused.
14 You have many times referred to the SEDC facility in the
15 flux workshop and otherwise. And I think that is a very
16 simple question, and I'm not sure why it can't be answered.
17 It seems to me relevant if you ever bring up SEDC, which you
18 have done many, many times.

19 HEARING OFFICER CELLI: And I'm perplexed as to
20 how that would be a proprietary -- the acreage of a site.

21 MR. WHEATLAND: Well, the objection was relevance.
22 But if -- if the panel knows, they can answer.

23 HEARING OFFICER CELLI: What -- what would that
24 acreage be, sir?

25 MR. FRANCK: You'll have to excuse me. I'm on the

1 metric system. So I remember the numbers in metrics. It
2 (inaudible) 80 dunams. It's not proprietary. It's actually
3 on the BrightSource website. If you look under technology
4 on our website you have the exact numbers there.

5 MS. MACDONALD: Oh, I have, believe me. And if
6 they are up there --

7 MR. FRANCK: So --

8 MS. MACDONALD: Well, you also have them in your
9 documents and you have them in meters squared. Okay. Now
10 I've been asking this question since July because it relates
11 to flux. But it turns out it also relates to efficiency,
12 land use efficiency. Okay. And it's -- basically I just --
13 there's three things that I wanted to say about this. The
14 first is in the biological section about flux they report
15 the SEDC facility at 80 acres. In Applicant's testimony,
16 Biological Resources, Attachments D, they provide a
17 spring -- or summer and autumn survey for the birds. In the
18 second paragraph on the first page they say, "The SEDC
19 facility is 82,000 meters squared." Does that sound
20 correct?

21 MR. FRANCK: Which is 80 dunams. Yes, it is.

22 MS. MACDONALD: Okay. Well, assuming that the
23 Google Map calculator did this right, that means the SEDC
24 facility is 30 acres. They generate 6 megawatts off of 20
25 acres. However, I ended up kind of getting stuck in a

1 glitch for a few hours because I had actually run into the
2 acres, the meters squared, in the spring survey report.
3 This is -- I can't enter Applicant's exhibit but it's --
4 Applicant has listed it as Exhibit 66, same place, first
5 page, introduction, second paragraph. It listed as 13,000
6 meters squared, which according to the Google calculator is
7 3.2 acres. So somehow the application is generating 6
8 megawatts off 3.2 acres. And if that's the case then I
9 would think that that is the more efficient design. And
10 that is -- so that's why I thought it was relevant.

11 Also, I suspected that Applicant is going to have
12 a dispute about it, even though it's their own documents.
13 And because I've spent so much time on the website looking
14 for this information I did find one newspaper article, but I
15 just didn't believe it. And if you want I can submit it as
16 an exhibit now.

17 HEARING OFFICER CELLI: No.

18 MS. MACDONALD: Okay. Essentially, it confirms
19 that it's a three-acre facility. So if you can generate six
20 megawatts off three acres, I say let's go with that design.

21 I'm finished. Thank you.

22 HEARING OFFICER CELLI: Thank you. At this time,
23 Ladies and Gentlemen, we would take evidence. I'm going to
24 go around the room. So please, as organized as you can give
25 it to me. And let me tell you what we're taking evidence

1 on.

2 We just now heard from the experts on project
3 description, facility design, efficiency, that is power
4 plant efficiency, and power plant reliability.

5 And at this time, Applicant, you have a motion
6 with regard to evidence on those four topic areas, project
7 description, facility design, efficiency, and reliability.

8 MR. HARRIS: Yes. We would move into evidence our
9 records on those subject matters. And I would ask Mr.
10 Carrier to read those exhibit numbers for the record.

11 MR. CARRIER: That's Exhibit 1, Exhibit 2, Exhibit
12 46, Exhibit 47, Exhibit 54, 62, 63, 70, 71, 72. That's it.

13 HEARING OFFICER CELLI: Okay. So the motion is to
14 move into evidence Exhibits 1, 2, 46, 47, 54, 62, 63, 70, 71
15 and 72.

16 Energy Commission Staff, do you have any objection
17 to the admission of that evidence?

18 MS. WILLIS: No objection.

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

21 MS. CROM: Submit.

22 HEARING OFFICER CELLI: Richard Arnold, any
23 objection?

24 MR. ARNOLD: No objections.

25 HEARING OFFICER CELLI: John Zellhoefer, any

1 objection?

2 MR. ZELLHOEFER: No objection.

3 HEARING OFFICER CELLI: Amargosa, are they -- did
4 they -- is he no longer here? The record should reflect
5 that Mr. Brown from Amargosa Conservancy is -- has left the
6 room.

7 SIFPD?

8 MR. LEVY: No objection.

9 HEARING OFFICER CELLI: Thank you. CBD?

10 MS. BELENKY: No objection.

11 HEARING OFFICER CELLI: And Ms. MacDonald?

12 MS. MACDONALD: No objection. Thank you.

13 HEARING OFFICER CELLI: Thank you. Then
14 Applicant's Exhibits 1, 2, 46, 47, 54, 62, 63, 70, 71 and 72
15 are received into evidence.

16 (Applicant's Project Description Exhibits 1, 2, 46, 47,
17 54, 62, 63, 70, 71 and 72, Received.)

18 HEARING OFFICER CELLI: At this time, Staff,
19 evidence on project description, facility design,
20 efficiency, and reliability?

21 MS. WILLIS: Yes. For Exhibit 300, the FSA on the
22 topics of facility design, efficiency, reliability, project
23 description, and 301, a rebuttal on, I believe it's facility
24 design, efficiency, and reliability. And Exhibit Number
25 325, which is the resume and declaration from Mr. Brady.

1 HEARING OFFICER CELLI: Thank you. Any objection,
2 Applicant?

3 MR. HARRIS: No objection to Exhibit 300 as it
4 relates to project description, facility design, efficiency,
5 reliability, transportation, safety line, and nuisance, and
6 system engineering.

7 HEARING OFFICER CELLI: Thank you.

8 MS. WILLIS: Are we putting in TSE and
9 transmission line?

10 HEARING OFFICER CELLI: I hadn't asked for that.
11 But now that you raise the issue I was told at the beginning
12 when we were doing housekeeping that TLSN and TSE are off
13 the table.

14 MR. HARRIS: No, that's right. And we included
15 in -- sorry. Thanks for the clarification. We included it
16 in the list Mr. Carrier read, our exhibits for TLSN and TSE,
17 as well.

18 HEARING OFFICER CELLI: Thank you.

19 MR. HARRIS: We did not include those.

20 HEARING OFFICER CELLI: Did not. So then, hold
21 off and I'll come back around and get the TSE and TLSN.

22 So is there any objection to 300, 301 or 325, Mr.
23 Harris?

24 MR. HARRIS: I stated our agreement to those
25 portions of 300. And 301, we're fine.

1 HEARING OFFICER CELLI: Thank you. County of
2 Inyo?

3 MS. CROM: Submit.

4 HEARING OFFICER CELLI: Richard Arnold?

5 MR. ARNOLD: No objection.

6 HEARING OFFICER CELLI: John Zellhoefer?

7 MR. ZELLHOEFER: No objection.

8 HEARING OFFICER CELLI: Is the gentleman, Mr.
9 Brown from Amargosa Conservancy back? No.

10 SIFPD, Mr. Levy?

11 MR. LEVY: No objection.

12 HEARING OFFICER CELLI: Ms. Belenky?

13 MS. BELENKY: No objection.

14 HEARING OFFICER CELLI: Ms. MacDonald?

15 MS. MACDONALD: No objections. Thank you.

16 HEARING OFFICER CELLI: Okay. Then Staff's 300,
17 301 and 325 for identification are received into evidence.

18 (Staff's Project Description, et all, Exhibits 300, 301
19 and 325, Received.)

20 HEARING OFFICER CELLI: Now, County of Inyo had no
21 evidence on this, nor did Richard Arnold, nor did Mr.
22 Zellhoefer, nor did the Conservancy, nor did SIFPD.

23 CBD, did you have any evidence you wanted to put
24 in on project description?

25 MS. BELENKY: No, we don't have any separate

1 evidence. Thank you.

2 HEARING OFFICER CELLI: Okay. So on any of these,
3 project description, facility design, efficiency,
4 reliability, I don't think you put in anything on those.

5 MS. BELENKY: No. Thank you.

6 HEARING OFFICER CELLI: Thank you. Ms. MacDonald,
7 your evidence with regard to project design, facility
8 design, efficiency, and reliability?

9 MS. MACDONALD: Okay. Do I -- do I have to enter
10 them per subject area or do I just --

11 HEARING OFFICER CELLI: No. Just give me the
12 exhibit numbers.

13 MS. MACDONALD: All right. For executive summary,
14 project description, what we have not -- I'm working on
15 this, we'll have this done by tomorrow -- Exhibit 700, 702,
16 706, 707, 708, 709, 710, 711, 712, 726, 727, 728, 730, 731,
17 732, 737, 739, 741, 744, 747, 748, 749, 750, 752, 756 and
18 757, that was for project description executive summary.

19 HEARING OFFICER CELLI: Got you.

20 MS. MACDONALD: For facility design -- was that
21 next?

22 HEARING OFFICER CELLI: Yes.

23 MS. MACDONALD: Thank you. 747, 739 -- this one I
24 want, not as clean -- 728, 730, 731 --

25 HEARING OFFICER CELLI: So far everything you've

1 mentioned was in your first list.

2 MS. MACDONALD: Yes. And --

3 HEARING OFFICER CELLI: So go a little slower on
4 this one so I can cross check. Go ahead.

5 MS. MACDONALD: Okay. Sorry. I'm trying to
6 expedite. Did we get -- yeah, we did 739.

7 HEARING OFFICER CELLI: Yes.

8 MS. MACDONALD: 726. Okay. Do they need to be
9 entered in by -- by each category? Do I need to like redo
10 them?

11 HEARING OFFICER CELLI: No.

12 MS. MACDONALD: Okay.

13 HEARING OFFICER CELLI: I just want to know is,
14 you know, what the numbers of the exhibits are that are
15 going to be moved in.

16 MS. MACDONALD: Into each category or just
17 overall?

18 HEARING OFFICER CELLI: All of them. So --

19 MS. MACDONALD: Oh, so this is --

20 HEARING OFFICER CELLI: -- if you have them
21 broken -- broken down into these categories --

22 MS. MACDONALD: Right.

23 HEARING OFFICER CELLI: -- then keep giving them
24 to me as categories and we will see which ones you didn't
25 mention in the project description.

1 MS. MACDONALD: Okay. Then I was -- I did
2 understand that. All these would apply to all these topic
3 areas.

4 HEARING OFFICER CELLI: Correct.

5 MS. MACDONALD: Okay.

6 HEARING OFFICER CELLI: Right.

7 MS. MACDONALD: Great. That should expedite. And
8 next time I should have it all checked off for you. Exhibit
9 700, 728, 730, 731, 732, 747, 726 -- 726, 700, 757, 758, and
10 that's it. Thank you very much.

11 HEARING OFFICER CELLI: And then did you have any
12 for efficiency or reliability, or are they are --

13 MS. MACDONALD: Yes.

14 HEARING OFFICER CELLI: -- subsumed in those
15 others?

16 MS. MACDONALD: That was reliability. These are
17 efficiency. I did try to do them by topic, so I'll just run
18 through them real quick in case I missed one. Exhibit 737,
19 739, 728, 730, 731, 703, Exhibit 761, 700, 739, 726, and
20 that was the last one, 726. Thank you for your patience.

21 HEARING OFFICER CELLI: And reliability? Where --
22 where -- did you have any for reliability?

23 MS. MACDONALD: Oh, I already had done
24 reliability.

25 HEARING OFFICER CELLI: Oh, okay.

1 MS. MACDONALD: I thought I had.

2 HEARING OFFICER CELLI: So I'll tell you what we
3 have here. There's a motion by Ms. MacDonald to introduce
4 into the record Exhibits 700, 702, 703, 706, 707, 708, 709,
5 710, 711, 712, 726, 727, 728, 730, 731, 732, 737, 739, 41 --
6 that is 741, 744, 747, 748, 749, 750, 752, 756, 757, also in
7 facility design, 758, and in efficiency, 703 and 761.

8 MS. MACDONALD: 703 and 761. But -- but a lot of
9 those overlapping will apply; right? Okay.

10 HEARING OFFICER CELLI: Yeah.

11 MS. MACDONALD: Thank you.

12 HEARING OFFICER CELLI: Do I have them all there?

13 MS. MACDONALD: By golly, you -- you do.

14 HEARING OFFICER CELLI: Thank you. So now,
15 Applicant, do you have an objection to that list of Ms.
16 MacDonald's exhibits?

17 MR. HARRIS: I guess I'll restate what we said
18 before. We would object -- we don't object to her testimony
19 being admitted as lay testimony. We do object to her
20 testimony being admitted as expert testimony.

21 HEARING OFFICER CELLI: And the same ruling on
22 that would be that it would be -- I'll admit it, and that
23 the -- it will be given the weight that the committee
24 believes it deserves. There has not been a finding of
25 expert -- that she's an expert in these fields.

1 MR. HARRIS: Yeah. We should --

2 HEARING OFFICER CELLI: So --

3 MR. HARRIS: We should come up with a shorthand
4 way to do that.

5 HEARING OFFICER CELLI: Yes. Maybe we'll figure
6 that out as we go.

7 MR. HARRIS: We'll call it the MacDonald
8 objection.

9 HEARING OFFICER CELLI: Let's hear from
10 Mr. Ratliff -- from Ms. Willis, any objection?

11 HEARING OFFICER CELLI: No objection.

12 HEARING OFFICER CELLI: County of Inyo?

13 MS. CROM: Submit.

14 HEARING OFFICER CELLI: Mr. Arnold?

15 MR. ARNOLD: No objection.

16 HEARING OFFICER CELLI: Mr. Zellhoefer?

17 MR. ZELLHOEFER: No objection.

18 HEARING OFFICER CELLI: Mr. Levy?

19 MR. LEVY: No objection.

20 HEARING OFFICER CELLI: Ms. Belenky?

21 MS. BELENKY: No objection.

22 HEARING OFFICER CELLI: Okay. Then for the
23 record, exhibits marked for identification as 700, 702, 703,
24 706, 707, 708, 709, 710, 711, 712, 726, 727, 728, 730, 731,
25 732, 737, 739, 741, 744, 747, 748, 749, 750, 752, 756, 757,

1 758, 761 and 703 are received into evidence.

2 (Ms. MacDonald's Project Description, et al, Exhibits
3 700, 702, 703, 706, 707, 708, 709, 710, 711, 712, 726,
4 727, 728, 730, 731, 732, 737, 739, 741, 744, 747, 748,
5 749, 750, 752, 756, 757, 758 and 762, Received.)

6 HEARING OFFICER CELLI: And with that we will be
7 closing the topic of -- topics of project description,
8 facility design, efficiency, and reliability.

9 It is now five minutes to six. We are going to go
10 into the public comment section. Mr. Roberts is here --
11 Dr. Roberts is here to present any blue cards. We're going
12 to take public comment now. This is your chance to address
13 the committee directly, people who live here, people who are
14 members of the public who want to make your concerns known.

15 MS. MACDONALD: Is the panel closed?

16 HEARING OFFICER CELLI: That panel is closed --

17 MS. MACDONALD: Thank you.

18 HEARING OFFICER CELLI: -- and these experts are
19 dismissed. Thank you.

20 If you want to make a comment you need to fill out
21 a blue card and give it to mister -- Dr. Roberts, who's
22 giving it to us here -- that's Blake Roberts right there --
23 so that we can call your name we're going to ask you to go
24 to the podium, which is right there on the corner between
25 the -- the table for the experts and counsel table. And the

1 first one we have -- we have two commenters, before I get on
2 the phone. I have -- we may have people on the telephone
3 who wish to comment, as well.

4 But is Deb Shook available? Ms. Shook, please
5 come forward and speak right into that microphone.

6 MS. SHOOK: Hi. Can you hear me?

7 HEARING OFFICER CELLI: Yes.

8 MS. SHOOK: Okay. What I want to address is the
9 project description, sustainable and renewable. These are
10 words that keep being used in reference to this project.
11 The Hidden Hills Project describes itself as sustainable and
12 renewable because of the solar aspect, yet the project is
13 dependent on water usage. The proposed source of this water
14 is plasticine aquifer. This is a non-renewable resource.
15 It's a non-renewable resource. The rainfall will not
16 replenish this water. Combine this non-renewable water
17 source with the usage of natural gas and diesel backup
18 generators, and sustainability criteria has been
19 fundamentally compromised.

20 In this particular location with this particular
21 water source, sustainability is not a reality. It's a buzz
22 word but it's not a reality. It is not sustainable with
23 this water source. Thank you.

24 HEARING OFFICER CELLI: Thank you, Ms. Shook.

25 If anyone else wants to -- we also have Vivian

1 Wilkinson. Ms. Wilkinson, please speak right into that
2 microphone.

3 If anyone else wants to make a comment please fill
4 out a blue card and give it to mister -- to Dr. Roberts. Go
5 ahead, Ms. Wilkinson.

6 MS. WILKINSON: Well, I really appreciate what the
7 previous lady said. I couldn't -- it just echoes my
8 thoughts completely. That is my main concern over this
9 project. I'm not against solar energy by any means. But it
10 seems like what you've got going on here is you're not going
11 to get a whole lot of power. I heard something about
12 178,000 homes in L.A. which is being provided with power
13 from here, which is probably a drop in the bucket for L.A.

14 And what's happening in our area, which is --
15 which concerns me the most, is what the lady said; we're
16 living on this plasticine basin of water which is underneath
17 us, and it is not sustainable. Even now it's not being
18 replenished with what we have. And here we're going to
19 introduce a plant that is projected, I heard -- I don't know
20 again when the facts are drifted around -- for 30 years of
21 pumping it might not sound like much, but 140 acre feet per
22 year, but if it's for 30 years and we're not getting any
23 regeneration, and we're not, because we're not having
24 plasticine weather anymore. We probably never will. We're
25 in the end of an ice age. And -- and water is the -- the

1 most precious resource of this area.

2 It is not sustainable. It is not replaceable.
3 It's not being replaced. We won't even have any drinking
4 water eventually, and this is not going to help. It's not
5 the right place for this. If they had done photovoltaic or
6 something like that and not have the water I wouldn't have
7 worried so much, although I don't like all the coverage of
8 the acreage and the land being destroyed underneath it,
9 which does happen.

10 And also today I really became more opposed to
11 these -- the visual effect of the towers, and also the
12 safety. We've got Edwards Air Force Base along here. I was
13 down in Changa Ranch (phonetic) hiking around a couple of
14 weeks ago and I was absolutely delighted. I was totally
15 surprised, I'd never seen it in my life before, and some air
16 force jets came up the canyons. They're probably practicing
17 for strikes on the Taliban or something in Afghanistan. And
18 it was a remarkable site. And I began to think when you
19 talked about those towers today, and they do maneuvers over
20 this area a whole lot, they really do. I watch them all the
21 time from my trailer at the campground where I spend my
22 winters. And I also worry about that part of it, the safety
23 for the -- for the air force teams. And I just -- it seems
24 horrible on the Spanish Trail.

25 I was sitting out there about a week ago and I was

1 thinking how marvelous it is here. I was just sitting on
2 the side of the road, trying to pick up a cell phone signal.
3 And I think one car came by in about 40 minutes. And I
4 said, oh, this is wonderful. It's a relatively untouched
5 area. There's just a few people living out there, but
6 nothing really overwhelming. And -- and it is a historic
7 area. And I just don't thought, well, this is how it should
8 be.

9 We don't need increased traffic. We don't need
10 pillaging and mining of the precious water resource which
11 will never come back. Once it's gone, it's gone. I don't
12 even know what we're going to drink, to be honest with you.
13 It could go down with -- with -- if it's going to be pumping
14 for 30 years. I heard that projection. I don't know if
15 it's -- you know, things float around. You don't know what
16 the truth is. But there's just really too many unanswered
17 questions, I think today from what I found. I was a little
18 hazy on it and I -- I had more concerns. There needs to be
19 more information. And -- and we need to guard that precious
20 resource, that water. That is the essence of life. And to
21 supply a few homes in L.A., that's what it seems like, it's
22 a loss. It's too much of a loss, too much of a trade. It's
23 not a good trade. Thank you.

24 HEARING OFFICER CELLI: Ms. Wilkinson, I just want
25 you to know that tomorrow we will be talking about water,

1 water supply --

2 MS. WILKINSON: Yeah.

3 HEARING OFFICER CELLI: -- soil and water, the
4 affect of drainage, that is -- that's one of the subjects
5 for tomorrow.

6 MS. WILKINSON: Okay.

7 HEARING OFFICER CELLI: The other thing I wanted
8 you to know is that, first of all, I want to thank you for
9 your comments. Water clearly is a big concern out there,
10 and that's a big concern that the committee has. You're
11 saying there are unanswered questions, and I want to agree
12 with you. I just want to put it in perspective that at this
13 stage of the proceedings what has happened is all of these
14 parties have provided opening testimony and rebuttal
15 testimony.

16 MS. WILKINSON: Uh-huh.

17 HEARING OFFICER CELLI: What we're doing now is
18 we're trying to get the experts to get to those areas where
19 there are disagreements and show us one way or the other
20 which way to go and give us evidence. Then -- then we will
21 have the answers, essentially. Because the -- when the
22 record is closed we have the information, or as much
23 information as we're going to get. And then from there the
24 presiding member makes their proposed decision to the
25 committee. But I want you to know that we're sort of --

1 we're at the end of this process in a way, but we're midway
2 through these evidentiary hearings, and there's a lot of
3 information still to come. And there has been no decision
4 made.

5 MS. WILKINSON: Well, thank you. And I might
6 point out, too, that, you know, this is actually a world
7 little eco-tourist place now. We're close to Death Valley.
8 We have those Tecopa Hot Springs, and I tell you, they are
9 miracle waters. I'd hate to see anything happen to those,
10 you know? So thank you very much.

11 HEARING OFFICER CELLI: Thank you very much for
12 your comments.

13 HEARING OFFICER CELLI: I'm going to go to the
14 phone now. We've had to, throughout the day, mute people.
15 I see that -- oh, there, that's appropriate. Amy Noel is --
16 she seems to have hung up. I have Jeff Ogata. He's with
17 Staff.

18 Jim Stroh; is he with Staff or Applicant? Jim
19 Stroh, did you wish to make a comment? He -- he has the --
20 it shows that he's on his computer, not on the phone.

21 And the same is true with Jonathon Fong.
22 Mr. Fong, did you wish to make a comment? Okay.

23 I also have Michael Garabedian. Michael
24 Garabedian, are you there? Did you wish to make a comment?
25 I see that your hand is raised. Okay.

1 Some of these people may be calling in. I also
2 have call-in user number four. So somebody has called in.
3 Is there anyone on the telephone at all who would like to
4 make a comment to the committee at this time? I think
5 everybody went to dinner, which is what we are going to do.
6 So we have now concluded the public comment period; is that
7 right, Blake? We have no further blue cards?

8 MR. ROBERTS: No.

9 HEARING OFFICER CELLI: He's indicating no.

10 Ma'am, please, come to the -- come to the
11 microphone.

12 MS. HASKIN: I just have a question.

13 HEARING OFFICER CELLI: Wait, wait, wait. I need
14 you to get to the microphone so that the court reporter can
15 hear what you have to say.

16 MS. HASKIN: Sorry. I just have a question. My
17 name is Rayetta Haskin.

18 HEARING OFFICER CELLI: Rayetta?

19 MS. HASKIN: Rayetta.

20 HEARING OFFICER CELLI: Rayetta Hoskin?

21 MS. HASKIN: Haskin.

22 HEARING OFFICER CELLI: Haskin. Go ahead.

23 MS. HASKIN: I live in Charleston View. And this
24 project is going in approximately 800 feet from my house.
25 So when I look out my front gate I look out at the middle of

1 where this project is along that highway.

2 My question is as far as how this is going to --
3 you know, like Cindy said -- and I don't know Cindy, I only
4 met her at your meetings -- is how this is going to affect
5 my family, me for, you know, like this -- this light that
6 you got out there, the tower, the safety for the road,
7 things like that? You know, I'm really concerned with how
8 this big project -- you know, the Wiley's own thousands of
9 acres where I live. And instead they pick the one block that
10 is right in front of where we all live. And I don't think
11 that makes a lot of sense; you know what I'm saying? When
12 they could have went up the road and put the same project in
13 and not affected near so many people. Because I don't think
14 anybody that's sitting up there right now would want this
15 thing 800 feet from your front door, is my concern.

16 So I just wish you would realize that this is
17 going in right adjacent to our house. Because everybody
18 here, except for the few people that live in Charleston
19 View, that's like a handful, you're all going home. And
20 when everybody up there has made your decisions and decided
21 what you're doing, we have to live with this for the rest of
22 our lives for the next umpteen years. And I wish you would
23 consider the people out there and what affect this has on
24 us, along with whatever else you have to decide here,
25 because it has a direct affect on me. I have 12

1 grandbabies. I'm not even sure I want to stay in Charleston
2 View because I'm don't know what this tower thing might do
3 to them, you know? And so I wish you would consider it from
4 just a personal level also.

5 HEARING OFFICER CELLI: Thank you.

6 MS. HASKIN: All right? Thank you.

7 HEARING OFFICER CELLI: You know, I just want you
8 to know, Ms. -- was it Haskin --

9 MS. HASKIN: Haskin.

10 HEARING OFFICER CELLI: -- Ms. Haskin, that that's
11 what this process is designed to do is to look at this
12 project from every angle to see what are the impacts and how
13 are they going to affect the people next to it in terms of
14 air quality, public health, environment, etcetera, and
15 that's what we're trying to figure out. So when people like
16 you come forward and speak about the conditions here, what
17 it's like, that is a big part of the process and that's why
18 we devote this time. And we are going to have another
19 public comment period again tomorrow night when we -- at
20 about six o'clock. So if there are other concerns that
21 people that have, we're hearing about people's concerns
22 about water --

23 MS. HASKIN: Yeah.

24 HEARING OFFICER CELLI: -- visual, you mentioned.
25 We're going to be -- all of these things are being

1 considered. Tomorrow we are talking about -- no, tomorrow
2 is Wednesday. So we are going to be talking about -- we're
3 going to be talking about traffic tonight after dinner.
4 Tomorrow we're going to be talking about socioeconomics and
5 water supply. So hopefully we'll hit all of those. And
6 you're welcome to participate in any and all of this.

7 MS. WILKINSON: Right. Well, if you look at the
8 project, let's say this is the project, if you look at the
9 Old Spanish Trail here, I am directly south of them, almost
10 exactly in the middle of their project by 800 feet to their
11 fence. So for everything that's going on here, I'm the
12 closest person to them. And so it directly is going to
13 affect, you know, my lifestyle and what's going on.

14 But I'm more concerned with, like I said, you
15 know -- you know, like I said, is -- should this be
16 somewhere else where it doesn't affect people? You know,
17 because people live where I live because they don't want to
18 be in the city with all the rules and regulations. They
19 don't want to be told what to do.

20 And you're talking about we go out there on a
21 weekend holiday, the dune buggers come out there and from
22 fall, winter, spring, we have to make a special effort to
23 get in the left-hand lane to get out of their way before
24 they run us off the road because they will not slow down,
25 because they're going from Vegas to Dumont Dunes. And you

1 add all your trucks and traffic out there to what we --
2 where we live, how much more safer is it going to be for us
3 out there to travel on this road when we're already being
4 compromised. And the closest policeman is here, and he has
5 to travel all the way to Death Valley sometimes. So as far
6 as what goes on, it directly affects us every day.

7 And like I said, I'd just appreciate it if you
8 would just consider the residents and not big dollars.
9 Because, you know, that can go anywhere.

10 HEARING OFFICER CELLI: Understood. And I
11 appreciate your comments. And as I said, tonight after
12 dinner we're going to be talking about traffic specifically.

13 MS. HASKIN: Okay. Thank you.

14 HEARING OFFICER CELLI: So thank you for your
15 comment. Okay.

16 I have -- it's ten after 6:00. We'll take --

17 (Colloquy Between Hearing Officer and Commissioners)

18 HEARING OFFICER CELLI: We will -- we're going to
19 break and go off the record for a dinner break. And we will
20 return and be on the record, ready to go with traffic, with
21 your traffic panelists ready to be sworn in at 7:15. That's
22 in an hour. So bon appetit, everyone. Thank you. We're
23 off the record.

24 (Off the Record From 6:11 p.m., Until 7:17 p.m.)

25 HEARING OFFICER CELLI: Traffic and noise tonight,

1 or just traffic? Because I thought noise was going to be --

2 MR. WHEATLAND: I think I can try to help you with
3 that -- that question. We are doing traffic, but traffic
4 can make noise. And because there's an overlap between
5 traffic and noise we have brought our noise expert here
6 tonight, also, if there's questions about the noise made by
7 traffic. Now you could put this over to the noise
8 discussion on Friday.

9 HEARING OFFICER CELLI: Right.

10 MR. WHEATLAND: But just -- if I can just explain
11 briefly, the question about how much noise the traffic makes
12 depends both on the question of the traffic volumes and the
13 calculation of noise. These two issues overlap.

14 HEARING OFFICER CELLI: One moment. Are we on the
15 record, Troy? Are we on the record now? Let's be on the
16 record. Now we're on the record.

17 Go ahead, Mr. Wheatland.

18 MR. WHEATLAND: Well, I was just saying that
19 there's an overlap between the questions of traffic and
20 noise to the extent that traffic makes noise. And to
21 understand the question fully you need to understand both
22 the calculation of the traffic volumes, and then you need to
23 model the noise impacts.

24 HEARING OFFICER CELLI: Right.

25 MR. WHEATLAND: So for that reason we've brought

1 our noise expert here tonight to be available to answer
2 questions if you'd like to discuss that topic tonight. If
3 it's the committee's preference to put that over until the
4 noise testimony on Friday, we can do that as well. I leave
5 that up to your judgment.

6 HEARING OFFICER CELLI: Thank you.

7 MS. WILLIS: And Mr. Celli --

8 HEARING OFFICER CELLI: Yes, Ms. Willis?

9 MS. WILLIS: -- Staff also has their noise
10 witness. Mr. Brady is here. And we agree that it would
11 make more sense to do it as a panel.

12 HEARING OFFICER CELLI: Okay. Well, let me tell
13 you who my noise people are. We have -- noise was Staff,
14 MacDonald, and Inyo County had noise issues. Are -- are we
15 still -- do we still have noise with Inyo?

16 MS. CROM: No.

17 HEARING OFFICER CELLI: Okay. So Ms. MacDonald,
18 you're the last hold out on the noise issue. How do you
19 feel about doing noise tonight if we can get through it
20 after traffic?

21 MS. MACDONALD: We could -- noise would be --
22 doing noise, as well? That's fine.

23 HEARING OFFICER CELLI: Let's see how we do.

24 MS. MACDONALD: Yeah.

25 HEARING OFFICER CELLI: Because otherwise on my

1 schedule -- right -- and on my schedule I had it for Friday,
2 and Friday is risky. Because not knowing how things are
3 going to go between then and now, I suspect we're going to
4 need a lot of time for the two sides of cultural, the Old
5 Spanish Trail and the Pahrump testimony, and we run a risk
6 of not getting into noise on Friday.

7 MS. MACDONALD: That's fine.

8 HEARING OFFICER CELLI: So let's see how we do.
9 Hopefully we can have an efficient panel tonight. Let's see
10 who's here and who isn't here.

11 Mr. Brown from Amargosa Conservancy, did he tell anyone
12 where he was -- whether he was going to come back or not?
13 You haven't heard? Nobody -- everyone's shaking their
14 heads. They don't know. Okay.

15 Well, welcome back everybody. It's 7:20. This is
16 the -- now we're going to get into the traffic section. We
17 have a new panel here, it appears. And I'm going to ask --
18 let's see. I have Mr. Franck, I know has been sworn in.
19 And Mr. Brady has been sworn in. And the rest -- and Ms.
20 MacDonald has been, but I don't -- and Mr. -- I'm sorry,
21 your name again --

22 MR. IRVIN: Irvin.

23 HEARING OFFICER CELLI: -- Irvin, that's right,
24 has been sworn in. So let me just right down from left,
25 your name, sir?

1 MR. HOPE: John Hope.

2 HEARING OFFICER CELLI: John Hope. And you're
3 with Staff?

4 MR. HOPE: Correct.

5 HEARING OFFICER CELLI: And Mr. Brady. It's Ed
6 Brady; right?

7 MR. BRADY: Yes.

8 HEARING OFFICER CELLI: And --

9 MR. BASTASCH: Mark Bastasch.

10 HEARING OFFICER CELLI: How do you spell that,
11 Mark?

12 MR. BASTASCH: B-a-s-t-a-s-c-h.

13 HEARING OFFICER CELLI: Bastasch. And you're with
14 Applicant?

15 MR. BASTASCH: Correct.

16 HEARING OFFICER CELLI: Thank you. And --

17 MR. BLOOMBERG: I'm Loren Bloomberg, traffic
18 engineer for the applicant. Loren Bloomberg.

19 HEARING OFFICER CELLI: Loren Bloomberg. You're
20 with Aspen, so you're with Staff?

21 MR. BLOOMBERG: No, I'm for the applicant --

22 HEARING OFFICER CELLI: Okay.

23 MR. BLOOMBERG: -- CH2M Hill.

24 HEARING OFFICER CELLI: Oh, with the applicant. I
25 thought you said Aspen. Okay. Thank you.

1 Mr. Gregg --

2 MR. IRVIN: Gregg.

3 HEARING OFFICER CELLI: -- Irvin.

4 MR. IRVIN: Gregg Irvin.

5 HEARING OFFICER CELLI: Okay. Gregg Irvin is

6 with -- you're with --

7 MR. IRVIN: Staff.

8 HEARING OFFICER CELLI: -- Staff. Mr. -- what was
9 your first name, Mr. Franck?

10 MR. FRANCK: Dan.

11 HEARING OFFICER CELLI: Dan Franck. Franck with
12 the applicant. And then Ms. MacDonald.

13 So John Hope and Mark Bastasch and Loren
14 Bloomberg, please rise and raise your right hand.

15 MR. LEVY: Mr. Celli?

16 HEARING OFFICER CELLI: Yes, Mr. Levy?

17 MR. LEVY: I'm wondering if there's anyone on the
18 panel who can answer traffic safety questions as regards to
19 the agreement between Inyo County and the applicant?

20 HEARING OFFICER CELLI: Okay. Let me -- let me
21 step back and understand your question. And I'm -- I'm
22 putting this in the context of Southern Inyo Fire. You have
23 not settled with the applicant at this time; right?

24 MR. LEVY: Correct.

25 HEARING OFFICER CELLI: And County of Inyo, does

1 your agreement encompass the Fire Protection District?

2 MS. CROM: No.

3 HEARING OFFICER CELLI: Okay. So this is just an
4 open question. We were going to tackle the fire question,
5 we had it down for Monday out of Sacramento.

6 MR. LEVY: Right. Well, my questions regard
7 traffic safety in particular.

8 MR. WHEATLAND: And it's our understanding that
9 the issues that would be relating to the services that
10 would -- might be provided by the district would be handled
11 under the topic of worker safety and fire protection.

12 HEARING OFFICER CELLI: Generally, that is the
13 case. Traffic has to do with level of service. So I'm not
14 sure that that applies. I think that -- let's see how the
15 testimony develops and we'll see if it affects areas that
16 you have concern about. And if they do then you ask us and
17 we'll -- we'll figure it out, whether we can -- you know,
18 it's -- it's not a perfect science, which slot we're going
19 to put this information into. So don't let us forget that.
20 We'll --

21 MR. LEVY: I won't.

22 HEARING OFFICER CELLI: We'll see. I don't know
23 the answer to the question.

24 But we are swearing in Mr. Hope, Mr. Bastasch, Mr.
25 Bloomberg. Please raise your right hand.

1 (Thereupon,
2 John Hope, Mark Bastasch, and Loren Bloomberg,
3 were duly sworn.)

4 HEARING OFFICER CELLI: Okay. Those witnesses are
5 sworn. Please be seated.

6 Now, under the topic of traffic, let's hear from
7 Staff what Staff's basic summary of the issues are with
8 regard to traffic, please.

9 MR. HASKELL: Well, Staff and the Applicant worked
10 through a number of issues related to the conditions that
11 Staff had recommended at a workshop. Outside of the
12 workshop -- or at the workshop we were not able to come to
13 an agreement on two issues. The two issues related to the
14 transportation of hazardous materials, and pavement tests
15 and restoration of public roads. So that was going to be
16 brought to the hearing. Subsequent to -- or this afternoon
17 Staff and Applicant were able to come to an agreement on
18 those two conditions. And so at this point there is no
19 disagreement or dispute between Staff and the applicant.

20 HEARING OFFICER CELLI: Thank you. Very clear.
21 And does that concur with the applicant's view? Anyone from
22 Applicant, do you concur?

23 MR. WHEATLAND: Yes.

24 MR. BLOOMBERG: Okay. Thank you.

25 HEARING OFFICER CELLI: Then --

1 MR. WHEATLAND: Mr. Celli?

2 HEARING OFFICER CELLI: Mr. Wheatland, yeah?

3 MR. WHEATLAND: I'm sorry to interrupt, but I
4 think it's useful at this point that I would just briefly
5 summarize the agreement as between the applicant and Inyo
6 County, because it adds a couple additional elements. And
7 it was also what helped to facilitate our agreement with the
8 staff. Because we have entered into an agreement with Inyo
9 County that contains certain conditions regarding traffic
10 that are consistent with the conditions that are now agreed
11 to with Staff. And those are just -- very briefly, I'm just
12 going to go very quickly on them, and this is just a general
13 summary, but we have agreed to the standard condition that
14 requires the applicant to repair the Old Spanish Highway
15 from the project site east to the Nevada border. We've also
16 agreed to a condition that will require us to make certain
17 improvements and possible upgrades to that same section of
18 road so that that road will be in a condition that will
19 safely accommodate the construction traffic that will be
20 using that road.

21 We've also agreed with the county to a condition
22 that will prohibit any heavy truck traffic that would
23 originate from west of the project site, for example, out to
24 State Route 27. So we have agreed to a condition. And we
25 will ask to incorporate this condition also into our license

1 that would impose a substantial fine payable to the county
2 for any truck that were to use the road accessing the
3 project site from the west.

4 And then finally, because of that condition,
5 because there will be no heavy truck traffic accessing the
6 project site from the road to the west, we have agreed with
7 the county that it is not necessary for the applicant to
8 make any additional repairs to that portion of that truck
9 where truck traffic will be prohibited.

10 HEARING OFFICER CELLI: IS that a good summation,
11 Mr. Crom?

12 MS. CROM: Yes, that is. And we have drafted or
13 amended Trans 3, and I believe Tran 4 to reflect that, and
14 we shared that Staff. And I believe that that is what Staff
15 was referring to earlier as to the conditions that I believe
16 everyone has signed off on, on those issues.

17 HEARING OFFICER CELLI: Excellent. Well, then
18 thank you for that synopsis. And I think that brings us
19 current.

20 So really what's left would be -- we'll hear from
21 Ms. MacDonald and we'll hear from Mr. Levy about what issues
22 may remain with regard to traffic.

23 So, Ms. MacDonald, your issues please.

24 MS. MACDONALD: I have two issues with traffic.
25 One is that --

1 HEARING OFFICER CELLI: Let me interrupt you for
2 one quick --

3 MS. MACDONALD: Yes.

4 HEARING OFFICER CELLI: Has Ms. MacDonald had a
5 chance to see the -- these new conditions of certification
6 or any agreement between the parties where this is
7 contained?

8 MS. MACDONALD: The conditions of certification
9 were specified in detail in the agreement between
10 BrightSource and the county. Yes.

11 HEARING OFFICER CELLI: Thank you.

12 MS. CROM: But as for the conditions of
13 certification, I don't know if they have been circulated or
14 not. But they mimic those that are in the agreement.

15 MS. WILLIS: Yes, Mr. Celli. We did review the
16 agreement and the conditions are reflected, so they're --
17 just to make them more consistent.

18 HEARING OFFICER CELLI: That is Exhibit 948, for
19 the record, the agreement between the County of Inyo,
20 California and Hidden Hills Solar regarding the Hidden Hills
21 Solar Electric Generating System is Exhibit 948, which we
22 can refer to hereinafter.

23 So with that, Ms. MacDonald, go ahead.

24 MS. MACDONALD: Thank you for making sure that I
25 have access to that. Both the changes that they made didn't

1 impact me that much.

2 The two issues that I have with respect to traffic
3 is I can find no analysis of what the traffic impacts are
4 going to be to Charleston View along that road. At the
5 workshop we tried to discuss it. And basically I was told
6 that it wasn't necessary. But the only reference that I
7 could find in the FSA is that it said St. Therese would be
8 heavily impacted. The -- also the traffic analysis, the
9 determination during the peak time, the peak workforce time
10 at SR-160 in Tecopa rated at, I believe a loss F, and that
11 this was considered unacceptable.

12 And so my -- my dispute is, is that I don't know
13 what the traffic volumes were going to be to Charleston View
14 and to the road right in front of us. That's the first
15 dispute. I don't know if it's significant. I don't know if
16 it's moderate. What I was told was that I could argue in
17 front of the committee the necessity of whether -- whether
18 the committee believes that an impact determination is
19 necessary. But what has me concerned is that if there is no
20 impact determination and there is no analysis that's
21 presented, then if there's any mitigation that's required I
22 have no opportunity to at least try to get that in. So
23 that's my first issue.

24 The second, which is how we got into traffic
25 noise, is not really having much of an idea of what the

1 traffic volumes were going to be, as well as not having --
2 it's a very, very quite place. And according to the FSA and
3 Applicant's estimates it's going to be much higher than the
4 allowable, or I guess what they consider not significant.
5 It's going to -- it's going to be a significant impact when
6 you look at the numbers. So that's -- I guess that's the
7 dispute, is I don't know what the traffic is. I don't know
8 if it's something to be worried about or not.

9 HEARING OFFICER CELLI: Okay. So I have what the
10 traffic volumes are, and that there's no traffic noise
11 analysis in the record.

12 While we're having this conversation, Larry Levy
13 for SIFPD, what were the questions that you have?

14 MR. LEVY: Regarding the restrictions on heavy
15 truck traffic. The agreement specifies that the restriction
16 applies to vehicles with a gross weight over 33,000 pounds
17 that are transporting materials to or from the project. My
18 question is whether the restriction applies to un-laden
19 vehicles of 33,000 pounds gross or higher. My question is
20 just about whether it applies to un-laden vehicles or only
21 those hauling materials.

22 HEARING OFFICER CELLI: Okay. Is that your only
23 question?

24 MR. LEVY: That's the only -- yes.

25 HEARING OFFICER CELLI: Okay.

1 MR. LEVY: For me it's a safety issue on that
2 portion of the highway, of Old Spanish Trail Highway west of
3 the site. If un-laden vehicles of any weight, semis, larger
4 vehicles are allowed to travel that road when they're empty,
5 then that's a concern.

6 HEARING OFFICER CELLI: Okay. Ms. Crom, were
7 you -- did you wish to speak to that?

8 MS. CROM: I don't know what a laden vehicle is.
9 So I really apologize for my ignorance on this point.

10 HEARING OFFICER CELLI: I think they're carrying a
11 load. And if they're un-laden they are not carrying
12 anything. Is that -- is that --

13 MR. LEVY: Correct.

14 HEARING OFFICER CELLI: I'm getting a nod from
15 Mr. Levy.

16 MR. LEVY: It's to and from the project site. So
17 it would also be un-laden.

18 HEARING OFFICER CELLI: Mr. Levy, does that
19 satisfy your question?

20 MR. LEVY: If that's -- I'm not a lawyer. I only
21 read what's in front of me. And it's -- it just -- it
22 states vehicles hauling materials to or from the site. If
23 it applies to empty vehicles, then I'm happy.

24 MS. CROM: Well, may --

25 HEARING OFFICER CELLI: Well, it sounds like, by

1 its very terms, that it doesn't apply to un-laden vehicles.

2 MR. LEVY: That's why I'm asking the question.

3 MR. WHEATLAND: I can't conceive of why an un-
4 laden vehicle would come to the site and then leave un-
5 laden. If the vehicle -- if the vehicle arrives laden it's
6 expected that it will return by the same route that it
7 arrived.

8 MS. CROM: That is the intent, and that's why
9 there's a limitation in the agreement that the -- that the
10 maximum fine would be \$10,000. It's not \$10,000 each way.
11 And so it is our intent that it's to and from the project
12 site. So any heavy truck coming in has to go back out on
13 160.

14 HEARING OFFICER CELLI: Mr. Levy, is that --

15 MR. LEVY: My -- the scenario I was seeing was a
16 vehicle that was clearly restricted coming in from 160 and
17 once it's empty, taking the shorter route.

18 MR. WHEATLAND: That's not the intent of the
19 agreement.

20 MR. LEVY: Okay.

21 MS. CROM: That is definitely not the intent of
22 the agreement. They need to leave via 160. That's the
23 intent of the agreement. That's why the agreement was
24 written to limit the fine to \$10,000. So if you had come in
25 on 160 and leave on -- I mean, come in on 127 and leave on

1 127 it would still only be a \$10,000 fine.

2 HEARING OFFICER CELLI: So there was this
3 prohibition on coming in from west of the project?

4 MS. CROM: That's exactly right. And it was for
5 the safety reason that we agreed to this condition.

6 HEARING OFFICER CELLI: Okay. Mr. Levy, so I just
7 want to make sure, is there anything further from Mr. Levy?

8 MR. LEVY: No.

9 HEARING OFFICER CELLI: Okay. Thank you. So
10 you're satisfied with the -- the response that you got;
11 correct?

12 MR. LEVY: Yes. If -- yes.

13 HEARING OFFICER CELLI: Thank you. And then, Mr.
14 Zellhoefer, you had a question?

15 MR. ZELLHOEFER: Yes, I do. I have been following
16 the traffic issues, probably right next to Larry. Being
17 that I own the property that is on Old Spanish Trail between
18 127 and the -- and the site.

19 My question that I would hope that could be
20 addressed, one, this decision between BrightSource and the
21 county, while it is a contract and perfectly fine, to the
22 best of my knowledge occurred without any public input. So
23 the people who would be most directly affected were not
24 involved in this process.

25 Two, I would hope that the total picture is looked

1 at by the commission, the total picture of safety, the total
2 picture of road use, not just a very convenient way of
3 shuffling our problems into Nevada. The impact on 160,
4 already one of the most dangerous roads there is, deaths are
5 common. And this, to me, appears to simply be a very simple
6 matter of, gee, let's take outside of California, move it
7 into Nevada, problem solved. Well, it's not.

8 And even in the staff analysis at best under
9 traffic, all the staff could come up with was it could have
10 an impact. I have seen no facts whatsoever that support the
11 fact that people or trucks can not be routed safely from
12 127. And in fact, the economic impact on the State of
13 California has not been looked at. The economic impact on
14 the environment has not been looked at. And quite frankly,
15 this seems to be a contract of convenience which has had, at
16 this point, no public input.

17 HEARING OFFICER CELLI: Thank you. That is the
18 kind of thing we will see in your brief later.

19 Ms. Belenky, you had a question earlier.

20 MS. BELENKY: Well, I had a suggestion, because
21 just from this dialogue about -- from the -- from Larry Levy
22 and Dana Crom and then the applicant. It seems to me that
23 the wording is not that clear in their contract. And so if
24 the intent is clear that whether laden or un-laden, the
25 condition of certification certainly can go beyond this

1 document because Staff is not a signatory to this, and
2 obviously couldn't cabin the commission's decision anyway,
3 at any rate.

4 And so I would suggest that we look at some --
5 just some edits to the condition that would clarify that
6 point so that it's very clear that going west from the site
7 is -- by these large trucks, whether they have anything in
8 them or not is prohibited.

9 HEARING OFFICER CELLI: Mister -- or Ms. Willis or
10 Mr. Ratliff, did you have any response to that as Staff?

11 MS. WILLIS: I don't see a problem with clarifying
12 the language of the condition. Mr. Hope could address that,
13 if you wish it.

14 HEARING OFFICER CELLI: Okay. Let's turn it over
15 to the experts. That's why -- that's why you're here. So
16 you've now heard some discussion about what's taken place.
17 And I wanted to -- let me -- taking it back to the questions
18 that Ms. MacDonald asked, what are the traffic volumes? Who
19 can speak to that?

20 Mr. Bloomberg?

21 MR. BLOOMBERG: I can address some of
22 Ms. MacDonald's issues, I think.

23 The -- first of all, the basic analysis that we
24 did, and also the staff did in the FSA, was focused on
25 intersection analysis. And that's -- that's our standard

1 analyses because that's where the impacts are going to be
2 the biggest. The traffic -- you have the traffic volumes
3 from the construction traffic. And you also have the
4 background traffic volumes. The volumes are -- are low on
5 Tecopa and Old Spanish Trail. But at 160, you also have the
6 160 traffic mixing in there. You also have the -- the
7 turning vehicles moving in there.

8 So we focused our analysis on the level of
9 service, the LOS, at the intersections. And on Tecopa and
10 160 was the one that did have the worst level of service.
11 It was level of service F, individual movements. I didn't
12 want to clarify that. It's not -- it's not really level of
13 service F for the intersection because it's stop controlled.

14 HEARING OFFICER CELLI: You're saying that's --
15 this is the intersection of Tecopa and --

16 MR. BLOOMBERG: And 160, yes, in Nevada.

17 HEARING OFFICER CELLI: At Nevada as you come in?

18 MR. BLOOMBERG: Right.

19 HEARING OFFICER CELLI: Okay.

20 MR. BLOOMBERG: So coming east, basically, from
21 the project site, that intersection. That was with the
22 construction work of traffic in the peak month that did have
23 level of service F for some of the movements in the
24 unmitigated condition, basically if we did nothing. So that
25 was the subject of some mitigation to improve the -- to

1 reduce the number of vehicles to increase the occupancy of
2 the vehicles coming in there, that was the mitigation to
3 address that specific impact.

4 HEARING OFFICER CELLI: Let me step back. The
5 baseline, what's the LOS normally?

6 MR. BLOOMBERG: At that intersection?

7 HEARING OFFICER CELLI: Right. The projection is
8 LOS --

9 MR. BLOOMBERG: It's A, level of service A.

10 HEARING OFFICER CELLI: So it's A now. It would
11 go to an F with the project?

12 MR. BLOOMBERG: With -- unmitigated, yes.

13 HEARING OFFICER CELLI: Okay.

14 MR. BLOOMBERG: With the maximum number of workers
15 in a peak month, yes.

16 HEARING OFFICER CELLI: Sorry. Keep going. I
17 just wanted clarification on it.

18 MR. BLOOMBERG: I think the first question was
19 about analysis of Charleston View or the section of Old
20 Spanish Trail in front of Charleston View, so I wanted to
21 clarify that. Because the intersections have the
22 intersecting traffic and the higher traffic volumes, that's
23 why we analyze those. The -- the volume of construction
24 worker traffic on Old Spanish Trail by itself is not going
25 to cause -- the road has sufficient capacity on the through

1 road. That's not an issue at all. The issue is at the
2 intersections, which is why those were the focus of the --
3 those are the focus of the analysis, the intersections.

4 HEARING OFFICER CELLI: So you're saying there
5 would be no loss of service on Old Spanish Trail in front of
6 the project, between the project and Charleston View?

7 MR. BLOOMBERG: Right. A maximum number of
8 workers is, from memory, it's around the 1,200, something
9 like that. A two-lane road, it's going to have at least
10 1,800 vehicles per hour capacity. So that would be
11 sufficient to handle that. It's the intersections where the
12 capacity of limitation occurs.

13 HEARING OFFICER CELLI: So, Ms. MacDonald, do you
14 want some clarification of have any follow-up on that
15 answer?

16 MS. MACDONALD: Of course. Thank you for asking.

17 HEARING OFFICER CELLI: Go ahead.

18 MS. MACDONALD: Okay. First off, I made most of
19 these points in my prehearing conference statement, so I'll
20 try to be brief. But generally, just because -- just
21 because they say that there's -- because we've got traffic
22 turn lanes and some traffic coming through, generally when
23 you're talking about -- they got two shifts coming in. One
24 at 5:00 to 3:00, I think, 3:30, another from 4:30 to 6:00.
25 Okay. And generally traffic should be pretty light.

1 Because in order to meet a five o'clock, 5:00 a.m. shift
2 it -- you're probably going to be coming in anywhere from
3 3:00 to 4:30, you know, depending on if you're an early bird
4 or not. And so I don't really see like a lot of cross
5 traffic going through at that point in time.

6 Also, they did a whole bunch of changes like they
7 moved everything around, where before it was kind of a
8 straight in shot. And so then you've got like some coming
9 from -- some from Pahrump and some from Vegas, but that
10 funnels through there. And then you have a small percentage
11 that's coming through California. But the -- the exits and
12 entrances are going to receive the whole volume of the
13 traffic. Plus, they did an analysis that was based on best-
14 case assumptions that -- that would be a large amount of
15 carpooling. At the peak I think it's like 1,689 vehicles.

16 So even though he's saying that, well, we only
17 worried about the intersection and they were at a loss F, it
18 doesn't mean that it wouldn't be a loss D or a loss C. I
19 mean -- and also I wanted to say that the applicant --

20 MR. WHEATLAND: Could I just interrupt you right
21 there?

22 MS. MACDONALD: Yes.

23 MR. WHEATLAND: In order to have a dialogue with
24 the committee I think it would be useful where she would
25 make a point that would give the applicant's witnesses to

1 respond to her points before she goes on with a litany of
2 six others.

3 HEARING OFFICER CELLI: Right.

4 MR. WHEATLAND: It's hard to keep track of them.

5 HEARING OFFICER CELLI: Well, I'm actually -- I'm
6 writing down carpooling. I'm tracking so that we --

7 MR. WHEATLAND: Yeah. Well, like she was saying,
8 best case assumption. I see the witnesses shaking their
9 head. Maybe this would be a good point to see if there's
10 any --

11 HEARING OFFICER CELLI: Actually, I think it's --
12 it's helpful to see where she's going in the big picture.
13 And then we'll break it down into bite-sized pieces and let
14 your people respond. But I just wanted to let her finish
15 the thought, and then we'll --

16 MR. WHEATLAND: All right.

17 HEARING OFFICER CELLI: -- take it from there.

18 MR. WHEATLAND: Thank you.

19 MS. MACDONALD: Thank you. And I will try to keep
20 that in mind, that maybe I just run too many things
21 together. So I'll try to go slower.

22 With respect to -- I haven't seen any numbers and
23 I haven't seen any facts. As we are aware, there have been
24 instances of disagreement throughout this process between
25 Staff, Applicant and other parties. And when there's

1 nothing to look at and there's nothing to compare and
2 there's nothing to evaluate, basically we're stuck with you
3 get to take my word for it. And I don't think that that's
4 an appropriate way to issue an impact. Okay.

5 All I'm asking for is an analysis that says no
6 impact. But when the FSA says St. Therese is going to be
7 heavily impacted and we are closer to the project site exit
8 and entrance than they are, then they should prove that
9 we're not going to be heavily impacted or we should -- there
10 should be something there that you can dismiss our concerns
11 or mitigate if there's a problem. That's the crux of the
12 issue. And nobody has anything to look at besides whatever,
13 they're just saying, well, take our word for it.

14 HEARING OFFICER CELLI: Now, let's break this into
15 two bite-sized pieces. The first -- now -- and I want to
16 hear from the applicant's witnesses first, and then maybe if
17 we need to from Staff's.

18 There were people shaking their heads when
19 Ms. MacDonald mentioned that the carpooling was a best case
20 scenario estimate. And I wonder what the applicant's
21 witnesses would say I response to that, and the whole issue
22 of carpooling in general.

23 MR. BLOOMBERG: On the issue of carpooling, we did
24 have an assumption, a base carpool rate of 1.2 for the
25 Nevada workers and 1.5 from the California workers.

1 HEARING OFFICER CELLI: 1.2 and 1.5 represent
2 what?

3 MR. BLOOMBERG: I'm sorry, 1.2 people per vehicle
4 from Nevada, and then 1.5 for the -- they're the California
5 workers. But most of them would be residing in Nevada
6 midweek. But that wasn't the -- that wasn't the best case.
7 Our best case was with the mitigation when we went up as
8 high as 2.5 on the occupancy.

9 HEARING OFFICER CELLI: Now, when you say with
10 mitigation, is there a condition that requires a certain
11 amount of carpooling?

12 MR. BLOOMBERG: Yes. Once we hit a certain level
13 that's -- go ahead, John.

14 HEARING OFFICER CELLI: Maybe you can give us that
15 quickly so we know.

16 MR. BLOOMBERG: Yes. In -- in Trans 5 at the --
17 Trans 5 is -- it's a rather lengthy one. But at the tail
18 end of Trans 5 we have a verification that says we'll do
19 monitoring of the intersections. And when the delay exceeds
20 60 seconds there's a series of measures that shall be
21 implemented. And one of those measures is an employer-
22 sponsored program to transport construction workers to the
23 project site via van or bus service.

24 HEARING OFFICER CELLI: Thank you.

25 MR. BLOOMBERG: So that hits when we hit a certain

1 delay at the intersections.

2 HEARING OFFICER CELLI: Okay. So short of that 60
3 second delay you're making an estimate of 1.2 per -- 1.2
4 people per vehicle from Nevada, 1.5 people per vehicle from
5 California?

6 MR. BLOOMBERG: That was the -- that was the base
7 analysis, yes. We used those numbers.

8 HEARING OFFICER CELLI: Okay. And, you know, one
9 of the things Ms. MacDonald said is that there were no
10 facts, no numbers that support the analysis. I have to say,
11 I've read such a volume of information in this case that
12 nothing really sticks out. But typically there's a pretty
13 decent analysis of what the current level of service is and
14 what the projected level of service is with a basis based
15 upon the number of workers and so forth. So that is -- is
16 that contained in the record?

17 MR. BLOOMBERG: Oh, yes.

18 HEARING OFFICER CELLI: Where is that?

19 MR. BLOOMBERG: Yes, definitely. The -- I mean,
20 the original AFC had a deep set of data. The supplemental
21 analysis and then my testimony includes most of those data.
22 As Ms. MacDonald alluded, we did actually a separate
23 analysis by days of week and by direction of traffic. So
24 we -- for Mondays, when we have California workers coming
25 in, for Tuesday through Friday, for Friday, and then for

1 swing shift versus the -- versus the regular shift. So,
2 yes, we have -- you'll have to help me with the specific
3 numbers, I don't know those by the specific references.
4 But, yes, we have detailed traffic analysis in our
5 testimony.

6 HEARING OFFICER CELLI: Okay. And, Staff, did you
7 rely on the applicant's numbers for your analysis of the
8 level of services -- levels of service for these roads?

9 MR. RATLIFF: Yes, we did.

10 HEARING OFFICER CELLI: Okay. And you -- and you
11 checked the numbers?

12 MR. RATLIFF: Yes, we did.

13 HEARING OFFICER CELLI: Okay. AND do you have any
14 comment on that? Did you concur with their numbers? Did
15 you differ?

16 MR. HOPE: We -- we concurred with their numbers.

17 HEARING OFFICER CELLI: Okay. So they checked out
18 as far as Staff was concerned?

19 MR. HOPE: Correct.

20 HEARING OFFICER CELLI: Okay. So anything else on
21 that, Ms. McDonald?

22 MS. MACDONALD: I would like to ask Staff one
23 question.

24 HEARING OFFICER CELLI: Go ahead.

25 MS. MACDONALD: What did it mean when it said St.

1 Therese would be heavily impacted? Can you please explain
2 what that means?

3 HEARING OFFICER CELLI: Was that Staff who said
4 that or Applicant?

5 MS. MACDONALD: Yes. Yes, sir.

6 HEARING OFFICER CELLI: Okay. It's in the FSA?
7 Go ahead.

8 MR. HOPE: Well, St. Therese is -- is identified
9 as a cumulative project, so it's analyzed as part of the
10 cumulative traffic impacts.

11 HEARING OFFICER CELLI: Yes.

12 MR. HOPE: So I -- it's actually fully build now,
13 as I understand it. We went driving by there for the
14 prehearing conference and it wasn't there when we did the
15 informational hearing. So apparently, I don't know if it's
16 complete and built and in full use now or what, but it's
17 just down the street.

18 MR. BLOOMBERG: We did address that in the -- we
19 did address St. Therese in the AFC. And we said exactly
20 that, it should be completed -- this was two years ago,
21 obviously -- but it should be completed prior to the start
22 of construction. Our analysis -- and we did differ on that
23 with the staff, but that was -- again that was early, we
24 said that it would be -- it's unlikely it would be
25 significant enough to result in a cumulative impact. But

1 that was, again, that was -- that was early, before the
2 revisions to the construction analysis.

3 HEARING OFFICER CELLI: Okay. And, Mr. Hope,
4 you're looking up the place where you mentioned that there
5 was --

6 MR. HOPE: Yeah. I'm trying to find where the
7 heavy impact is referenced.

8 HEARING OFFICER CELLI: Ms. MacDonald, do you have
9 that reference handy?

10 MS. MACDONALD: I'm looking.

11 MS. WILLIS: Mr. Celli, it's page 4.10-44 under
12 Cumulative Impacts Conclusion. And then on 43 it discussed
13 St. Therese Mission.

14 MR. HOPE: Well, if I'm understanding what Ms.
15 MacDonald is referring to, she's asking why Charleston View
16 is not analyzed as part of the traffic analysis. And
17 traffic generated by Charleston View is actually considered
18 part of the existing condition. And so that traffic, plus
19 the proposed project or the Hidden Hills traffic is analyzed
20 as part of the existing proposed project conditions in that
21 scenario --

22 HEARING OFFICER CELLI: I see.

23 MR. HOPE: -- which is provided and shown under
24 Table 10 and 11.

25 HEARING OFFICER CELLI: So the Charleston View

1 traffic is baseline conditions?

2 MR. HOPE: You could view it that way, yes.

3 HEARING OFFICER CELLI: Okay. So then do we
4 understand that the reason that the St. Therese columbarium
5 would not -- would be impacted because it was in existence
6 at the time that you did the analysis? Since it was going
7 to be built prior to the construction, the construction
8 would essentially be an impact, bigger impact because they'd
9 have a different baseline?

10 MR. HOPE: Yes, you can view it hat way.

11 HEARING OFFICER CELLI: I hope I got that right.

12 Ms. MacDonald, did you have any follow-up on that?

13 MS. MACDONALD: I'm trying to get that, a place
14 that didn't exist, it's impacted more than us? A place
15 that's farther away is impacted more than us?

16 HEARING OFFICER CELLI: As -- as I understood what
17 he was saying, that the traffic of Charleston View is -- was
18 already there long before this project, that existing
19 conditions.

20 MS. MACDONALD: Right.

21 HEARING OFFICER CELLI: And so their analysis was
22 the Charleston View traffic plus the projected traffic of
23 the project. But the St. Therese project was built prior to
24 the Hidden Hills project.

25 And is it complete, do we know that? Is it done?

1 MR. HOPE: No. We were out there a few weeks ago
2 and it's still being under -- under construction.

3 HEARING OFFICER CELLI: Okay. So is that
4 construction going to be complete before the Hidden Hills
5 construction would begin if it were to --

6 MR. HOPE: Yeah. I would say most likely it will
7 be.

8 HEARING OFFICER CELLI: Okay.

9 MR. BLOOMBERG: One small clarification on that
10 that might help is that we didn't -- we didn't analyze the
11 affect of the Hidden Hills traffic on -- on St. Therese.
12 We analyzed the cumulative impacts of the construction of
13 the two projects at the same time on the roads themselves.

14 HEARING OFFICER CELLI: All right.

15 MR. BLOOMBERG: So the statement, whether there's
16 a significant impact, whether it's less than significant,
17 it's not an impact on St. Therese itself, it's an impact on
18 the -- the same things we analyzed, the intersections and
19 the greater area. So you're right in saying once the
20 construction from St. Therese goes away, that's -- that's
21 not longer considered a cumulative impact.

22 HEARING OFFICER CELLI: Okay. So there was a
23 cumulative impact analysis?

24 MR. BLOOMBERG: Correct.

25 HEARING OFFICER CELLI: Okay. And so your concern

1 had to do with the wording of, I guess, of it?

2 MS. MACDONALD: My concern is that you're going to
3 have a whole bunch of vehicles and we're going to have a
4 hard time getting out, and we're going to have a whole bunch
5 of noise. If -- I would like to see something that says,
6 no, you won't, in writing. Like, for example, with --
7 again, we've gone -- I go back to not everybody has always
8 agreed with the applicant. And one of the issues that -- it
9 started with traffic. In fact, it started with the trucks.
10 I started looking at the trucks because I was very concerned
11 about this. And that was how I found that they had made an
12 error with emissions.

13 So it -- it also goes back to not just take my
14 word for it, but perhaps there might be errors associated
15 with it, too. Essentially, though, they're probably just
16 going to move whatever numbers that they have straight over
17 to the place -- over to the other site. But essentially, we
18 don't -- we don't know what -- they got a loss F at this
19 intersection, and then there -- and then there's nothing for
20 us. The loss F was supposed to be unacceptable. They
21 basically said that we will only do checking traffic counts
22 at the intersection, but everybody is coming at the exit and
23 the entrance, plus you have two overlaps of shifts, plus you
24 have it happening at between 3:00 and 5:00 in the morning.

25 And I just don't -- I don't see how we can get

1 away with saying, oh, don't worry about it without anything
2 to substantiate that.

3 HEARING OFFICER CELLI: Okay. But I --

4 MS. MACDONALD: That's my dispute.

5 HEARING OFFICER CELLI: I heard something
6 differently.

7 MS. MACDONALD: Okay.

8 HEARING OFFICER CELLI: Because I thought Mr.
9 Bloomberg said that they did do an analysis of the Old
10 Spanish Trail in front of Charleston View and that there was
11 no loss of service.

12 MS. MACDONALD: Where is that analysis?

13 HEARING OFFICER CELLI: -- no reduction in the
14 level of service.

15 MS. MACDONALD: Where is that?

16 HEARING OFFICER CELLI: Did I --

17 MR. WHEATLAND: That's -- that's in our rebuttal
18 testimony to your -- to your direct testimony. There is a
19 specific question and answer in our rebuttal testimony in
20 writing that responds to your question.

21 MS. MACDONALD: I do remember you correcting my
22 math. I don't remember an analysis.

23 HEARING OFFICER CELLI: Perhaps, was Mr. Bloomberg
24 the -- the person who wrote that testimony?

25 MR. WHEATLAND: Yes. Yes.

1 MR. BLOOMBERG: Yeah, I have it here. It's in the
2 fourth question -- the answer to the fourth -- the answer to
3 the fourth question. We say the maximum hourly is 1,411
4 vehicles, peak month, peak hour, less than the capacity of a
5 single lane. So the driveway will have sufficient capacity.

6 HEARING OFFICER CELLI: Okay.

7 MR. BLOOMBERG: The other thing, and we addressed
8 it, it's a similar question later, the other thing about the
9 overlap of the driveways, if I may, is that the -- it's true
10 that the -- in the early morning hours when one shift and
11 one shift is coming in, that's the highest driveway volumes.
12 But most of the incoming volume is turning right into the
13 driveway, because they'll be coming from 160. And most of
14 the -- it doesn't really matter. But most of the traffic
15 existing will then be turning left. Some might be turning
16 right. But that traffic is not in conflict. So from an
17 operation standpoint there's no degradation of level of
18 service there --

19 HEARING OFFICER CELLI: Okay. That's -- that's
20 what I --

21 MR. BLOOMBERG: -- at 4:00 in the morning.

22 HEARING OFFICER CELLI: That -- that was what I
23 heard him say earlier.

24 MS. MACDONALD: Well, they did tell us that we
25 could fill out a complaint form.

1 HEARING OFFICER CELLI: That's --

2 MS. MACDONALD: That was our mitigation, if
3 there's a problem.

4 HEARING OFFICER CELLI: Okay. Well, then we did
5 hear that there is also monitoring going on so that if the
6 loss -- if the level of service produces to a certain level
7 there is going to be enforced carpool lane, etcetera; right?

8 MR. BLOOMBERG: Correct.

9 HEARING OFFICER CELLI: Thank you. So --

10 MS. MACDONALD: Is one of those mitigations
11 staggering the shifts?

12 MR. BLOOMBERG: Yes. We have -- we have three --
13 three -- three measures identified. One is a work schedule
14 and a shift departure plan, to stagger them on arrivals and
15 Friday departures. The second is carpooling and the third
16 is the -- the van or bus service that I mentioned. So any
17 or all of those could be applied as -- with the goal of
18 improving the level of service, reducing the delay. So,
19 yes, that's -- that's the intent of those specific measures.

20 HEARING OFFICER CELLI: Thank you, Mr. Bloomberg.
21 I think I -- that covers the two questions that you have, I
22 think, unless you have something further, Ms. MacDonald?

23 MS. MACDONALD: The other one was traffic noise,
24 about traffic.

25 HEARING OFFICER CELLI: Right.

1 MS. MACDONALD: But we kind of had a crossover
2 with their --

3 HEARING OFFICER CELLI: Yes. Mr. Hope, did you
4 have some point you wanted to make? Okay.

5 MR. HOPE: No I'm good.

6 HEARING OFFICER CELLI: I thought I had a hand
7 move. Mr. --

8 MR. BRADY: Brady.

9 HEARING OFFICER CELLI: -- Brady, I'm sorry.

10 MR. BRADY: Yeah. I've got two issues related to
11 noise and transportation.

12 HEARING OFFICER CELLI: Before you get to those,
13 so I just want to make sure that we've -- we've taken care
14 of the basic -- the carpooling, best case scenario. We
15 talked about the numbers and the facts with regard to the
16 volumes of traffic.

17 We're now switching to this traffic noise. Did
18 you have a particular question in mind or just other than to
19 say that in your view, Ms. MacDonald, traffic noise was not
20 analyzed?

21 MS. MACDONALD: That's the general issue. It is
22 in my prehearing conference statement, the details.
23 Basically, I compare what they put together. And, in fact,
24 I took -- it was the first thing I had seen, I took it from
25 Applicant's rebuttal testimony to my concerns about traffic

1 noise that a truck would go 65 dBA. And, anyway, I have the
2 listed here, as well as referenced. And what it came down
3 to is a potential plus 22 dBA increase at the time, which
4 according to Staff's noise analysis was a quadrupling of the
5 noise affect. That was in a different section. That was
6 about a pile driver. But it gave me a reference point. And
7 that they considered anything about a plus 10 dBA to be a
8 potential significant impact, and a plus 20 a very
9 significant impact.

10 So that -- and when you couple that with they had
11 said that part of the mitigation was there would be no noisy
12 construction activities between the hours of 10:00 p.m. and
13 7:00 a.m., and you have this -- this long line of traffic
14 coming in at 3:00 in the morning, which -- and you've got a
15 lady that's living, she says 800 feet, you guys say 950 feet
16 from -- 950 feet from the project boundary, 800 feet from
17 the road. All right. That's -- that's going to be coming
18 in. According to Staff's own statistics and Applicant's own
19 statistics or information about it, this is going to be a
20 very significant impact. And when you combine that with the
21 absolute quiet of this area -- we have almost nothing that
22 goes on there -- it's going to be huge.

23 HEARING OFFICER CELLI: So let's hear from Staff
24 in response to those issues please, traffic noise.

25 MR. WHEATLAND: Well, could we -- the applicant

1 has -- is prepared to answer that. Maybe it might be more
2 appropriate to hear from the applicant.

3 HEARING OFFICER CELLI: Okay. Let's hear from the
4 applicant then.

5 MR. BASTASCH: Sure. So again, Mr. Bastasch with
6 CH2M Hill.

7 HEARING OFFICER CELLI: Thank you.

8 MR. BASTASCH: We don't normally look at traffic
9 noise in general on these projects because it's generally
10 minimized through traffic management and traffic conditions
11 of certification. We did take a look at it, given the
12 specific concern that was raised by -- by Cindy MacDonald
13 here in the workshop.

14 And to put it in context, when we look at these
15 issues typically we'll look at county LORS. And county LORS
16 for construction apply to activities within 500 feet of a
17 residence. We also look at it in general in terms of how
18 other agencies might look at this issue. So if we look at
19 it in terms of a FERC project, FERC regulates to a 55 LDN
20 for an operational level. And then we also tend to also
21 look at it a little bit in terms of how FHWA or Caltrans
22 might address this issue, since this is -- this is a traffic
23 on a public road question.

24 Looking at -- at the ladder, the way FHWA looks at
25 traffic noise, they establish generally a peak hourly

1 threshold for residential uses of 67 dBA. For areas of
2 extreme sensitivity it's closer to 55 dBA. We will see that
3 in more urbanized settings the maximum sound level can occur
4 in the early morning, because maximum sound levels from
5 traffic will occur under free-flowing conditions. Once you
6 get to a congested condition speed drops and the noise level
7 drops. So it's not uncommon to see on a highway analysis in
8 an urban setting for that peak hour from a noise perspective
9 to be occurring, you know, prior to 6:00 a.m. It certainly
10 can -- can happen like that.

11 But what -- what -- putting -- with that as
12 perspective what we did is we looked at the peak hour
13 traffic and came up with several predictions of the traffic
14 noise level at 500 feet from the roadway. With a posted
15 speed limit of 55 miles per hour the -- the morning peak
16 traffic volume was predicted to be 49 dBA. We also then
17 looked at it if we dropped the speed limit and were moving
18 towards a lower -- a lower speed limit, and we see that we
19 get about a four to five decibel reduction. There's some
20 rounding in there.

21 HEARING OFFICER CELLI: From 55 to what?

22 MR. BASTASCH: From 55 to 35, we see that we drop
23 the sound level down to about 45 dBA at 500 feet. Now, when
24 you move further from the -- further from the roadway the
25 sound level also drops. We expect that we would get down to

1 a level of about -- of about -- well, let me -- we would get
2 about a 10 decibel drop if we move from 500 feet to about
3 1,500 feet. So at 1,500 feet at 35 miles per hour we'd be
4 looking at -- at closer to 35 dBA.

5 HEARING OFFICER CELLI: So let me make sure I have
6 this right. You have -- okay. We have a peak threshold of
7 67. And then you said in a sensitive area, which it sounds
8 like this is because it's so quiet --

9 MR. BASTASCH: Yes.

10 HEARING OFFICER CELLI: -- it's got a 55 dBA peak
11 threshold. When you say peak threshold you're talking about
12 a maximum acceptable noise level?

13 MR. BASTASCH: Yeah. That's their peak hour
14 criteria. They -- they also evaluate in terms of -- of
15 increase over peak hour condition. But generally speaking
16 their thresholds there, again, are on the order of 12 to 15
17 decibels. And it's --

18 HEARING OFFICER CELLI: Okay.

19 MR. BLOOMBERG: It's unclear, also, even when you
20 have an impact -- even if you did -- let me rephrase this.
21 Even if you did predict from a Caltrans perspective that you
22 exceeded their thresholds it's not clear that they would
23 mandate mitigation. Mitigation has to go through a test of
24 both reasonableness and feasibility. The feasible test is
25 how much does it cost -- or, I'm sorry, the feasible test is

1 can a noise reduction -- can a noticeable noise reduction be
2 achieved? So if you put a noise barrier up, will it work?
3 If it works, and by work they mean achieve a seven decibel
4 reduction and putting the noise barrier along the right-of-
5 way, Caltrans' right-of-way, if it does work, then it has to
6 pass a reasonable test. The reasonable test is a cost test.

7 What you see in that -- in that regard is that for
8 barriers to be effective there needs to be high-density
9 residential behind the barrier because of the way the cost
10 gets allocated per benefitted dwelling. You also can not
11 have gaps in the barrier for roadways that enter -- you
12 know, breaks in the barrier for egress because that defeats
13 the effectiveness of the barrier.

14 So all of those factors lead -- lead me to believe
15 that even if we were dealing with a Caltrans type project,
16 we were adding a through lane and a permanent impact, it's
17 unlikely that we would see noise barriers or mitigation
18 established from a DOT perspective.

19 HEARING OFFICER CELLI: Okay. Because let me just
20 sort of -- rather than talk about noise barriers, let's talk
21 about speed limits.

22 MR. BASTASCH: Okay.

23 HEARING OFFICER CELLI: You've got -- you've got
24 49 dBA at 55 miles an hour. Because that's less than peak
25 threshold which is 55, it's 6 under, then you're saying that

1 it's no -- it's -- it's unreasonable to impose a speed limit
2 below the 55 miles an hour because it's an acceptable level
3 of sound?

4 MR. BASTASCH: No.

5 HEARING OFFICER CELLI: Okay.

6 MR. BASTASCH: What I'm saying is it would -- in
7 terms of other mitigation measures where one would be
8 putting up and expending public funds, they -- they
9 generally would not consider that that feasible.

10 Now if -- if there were discussions or agreements
11 to look at changing the speed limit, and it was consistent
12 with the purpose and need of the project, that certainly
13 could be the case. Now, for a normal highway project,
14 reducing the speed limit would not really be consistent with
15 the purpose of need of the highway. But in this application
16 adjusting the speed limit might be something that could be
17 considered in consultation with the county.

18 HEARING OFFICER CELLI: Thank you. That was very
19 clear, and I appreciate that information.

20 MS. WILLIS: Mr. Celli?

21 HEARING OFFICER CELLI: Ms. Willis.

22 MS. WILLIS: Is it possible for me to ask or have
23 you ask a question regarding idling trucks and if they
24 looked at the noise levels of that? Because my
25 understanding from our visual witness, Ms. Mourkas, was that

1 she was out at Ivanpah site and there were long lines of
2 idling trucks. And so -- and that would be early in the
3 morning in our situation.

4 HEARING OFFICER CELLI: Let's hear about idling
5 trucks.

6 MR. BASTASCH: So when we look at free-flowing
7 conditions, that would be a higher sound level than an
8 idling. Because under free-flowing conditions you have
9 engine RPM and engine noise, and you also have tire noise.
10 Under an idling condition you would really just have the
11 engine noise, and probably a lower level engine noise
12 because it would not be at a higher RPM. So the -- the --
13 we would be expecting lower levels under an idling
14 condition.

15 MS. WILLIS: Per -- per truck or per -- or is that
16 count for many trucks being there at the same time?

17 MR. BASTASCH: Many at the same -- many at the
18 same time. So if we have -- if we're looking at -- at 500
19 feet from the roadway and 55 miles per hour, 49 decibels,
20 we'd be looking at something less if those vehicles were
21 idling.

22 MS. MACDONALD: May I ask for some clarification
23 on that?

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

25 MS. MACDONALD: Thank you. You said 49 dBA at 500

1 feet. That was just for like a regular vehicle; correct?

2 MR. BASTASCH: This was looking at the -- the
3 mix -- the mix of traffic. So this was -- and a mixture of
4 both automobiles, which according to the FHWA, modeling
5 protocol is -- is anything with -- with four wheels, as well
6 as the -- the medium and heavy truck lanes.

7 MS. MACDONALD: Thank you. Applicant, in your
8 rebuttal testimony you said that a single heavy truck would
9 result in a sound level of 62 dBA at 750 feet. And he's
10 saying that it's 49 dBA at 500 feet.

11 HEARING OFFICER CELLI: Who is he?

12 MS. MACDONALD: Staff -- is it Staff's witness?

13 HEARING OFFICER CELLI: Okay. I thought it was
14 Mr. --

15 MR. BASTASCH: Bastasch.

16 HEARING OFFICER CELLI: -- Bastasch who said it
17 was --

18 MR. BASTASCH: So --

19 HEARING OFFICER CELLI: -- it was -- gave us --
20 gave us those numbers. Go ahead.

21 MR. BASTASCH: So we're -- we're looking at heavy
22 duty semi-trucks operating on a construction site or we're
23 looking at vehicle traffic, which is a mixture and -- and
24 dealt with on an hourly basis and hourly volumes.

25 MS. MACDONALD: Okay. So a single truck is much,

1 much louder than a bunch of trucks?

2 MR. BASTASCH: A peak pass-by level can be loud.
3 And when we're looking at that analysis and looking at that
4 type of scenario we're trying to be conservative in terms of
5 how those individual vehicles on the construction side from
6 the heavy duty trucks are working or are operating. When
7 we're looking at noise in terms of a traffic volume
8 traveling on a public road the standard is to look at it in
9 terms of hourly volumes and hourly predictions.

10 MS. MACDONALD: Well, that cleaned that up, didn't
11 it? Thank you.

12 MS. ALLEN: This is a question for Mr. Bastasch.
13 Please tell us a bit more about the potential traffic
14 reduction scenario where you talked about the possibility of
15 possibly lowering the speed to 35 miles per hour. I'm
16 wondering about construction workers that are aiming to get
17 to work for a 5:00 a.m. shift driving out in a very remote
18 rural area, actually going down to even 55 miles per hour
19 when they're in a rush to get to work. Is that -- have I
20 got the scenario right?

21 MR. BASTASCH: What we were looking at was what
22 the impact of reducing the speeds might -- might be. Now,
23 if we want to consider implementing that there are various
24 ways that one could go about doing so, and there are various
25 ways to enforce it. So if that's a direction that the

1 county wishes to move on, because it's a county road, I
2 think that's something that the applicant and the county
3 could -- could work out and address some of those concerns.

4 HEARING OFFICER CELLI: So, for instance, having a
5 CHP or a local county sheriff car sitting there, is that
6 what you have in mind?

7 MR. BASTASCH: That -- that can work. You know,
8 photo radar. I don't -- you know, any sort of -- any sort
9 of enforcement that you would normally do on a publicly
10 traveled road certainly could -- could be done, you know,
11 more or less through the area of -- of concern.

12 MR. BLOOMBERG: The other thing working in our
13 favor here, whether the speed limit is 55 or 35 or anything
14 in between is that the -- as the workers approach the
15 driveway, which is roughly in the area of the residential,
16 they will be slowing down to turn anyway. Now, granted, it
17 won't be for the whole distance, but we do have that in our
18 favor. And it's also -- most of the workers come in from
19 160, it's a relatively short distance. So I think we'll --
20 again, if the county had an interest in reducing the speed
21 limit that would be a pretty good opportunity to be able to
22 enforce that.

23 MR. BASTASCH: And you might be able to do so on
24 that turn, because it's kind of a distinct slope where you
25 then approach the project area and the residents. So

1 that's -- that is a minimization measure that -- that could
2 be considered.

3 MS. ALLEN: Thank you.

4 HEARING OFFICER CELLI: So I just want to -- so it
5 sounds like the -- some possible mitigation measures would
6 be really for the county and law enforcement to do. And are
7 there any mitigation measures in terms of conditions to
8 minimize the -- the traffic noise?

9 MR. BASTASCH: Again, those tend -- tend to be
10 handled indirectly through the traffic management plan --

11 HEARING OFFICER CELLI: Okay.

12 MR. BASTASCH: -- by reducing the number of
13 vehicles traveled and --

14 HEARING OFFICER CELLI: Is --

15 MR. BASTASCH: -- and whatnot.

16 HEARING OFFICER CELLI: Maybe I should ask Staff.
17 So is there a traffic management plan required as -- as a
18 condition of certification?

19 MR. HOPE: There is a traffic control plan
20 required as part of Condition Trans 5.

21 HEARING OFFICER CELLI: Thank you.

22 MS. WILLIS: And Mr. Celli, may we also have our
23 witness for traffic noise at this point? Would it be an
24 appropriate time for him to respond?

25 HEARING OFFICER CELLI: Yes. I'm sorry. I

1 thought this was your witness for traffic.

2 MS. WILLIS: Mr. Brady is our witness.

3 HEARING OFFICER CELLI: Oh, okay. Go ahead, Mr.
4 Brady.

5 MR. BRADY: I think the discussion so far reflects
6 what the staff actually brought to the table, and that is
7 that the issues need more clarity and a little bit more
8 work. We're not dealing with -- with the criteria as being
9 cost benefit analysis, as Caltrans might look at it. We're
10 looking at a CEQA, in fact, in which we're looking at an
11 existing baseline -- baseline noise volume, and we want to
12 minimize or minimize the impacts below, you know, less than
13 five DB. And if we have to look at five to ten DB to look
14 at potential mitigation of the problem that -- that appears
15 to happen.

16 I mean, we're talking -- if I'm wrong in the
17 numbers I'm right in the magnitude -- there's 1,400 trucks
18 making a right-hand turn about 1,000 down the road from
19 Charleston View. They're going to be significantly
20 impacted. And so I guess given that it dramatically, over
21 the 28-month period, will -- will have a dramatic affect, I
22 think we need to go back and take the conditional discussion
23 we've had and have -- and workshop it to come out with what
24 criteria is -- is -- we can agree upon, and then to come up
25 with some solutions as to how we should deal with it.

1 This project is unique. The background levels are
2 extremely low. We have sensitive receptors that are much
3 more close that what we're used to. At Ivanpah there aren't
4 any. And number three, we're looking at a construction
5 start to avoid summer temperatures that would require --
6 that requires us to shift work, you know, in terms of work
7 earlier for batch plant, for example, pouring concrete; it's
8 all got to be done a lot earlier. So I don't think there's
9 enough clarity to make any conclusions right here. And I
10 think it's incumbent that all the shareholders get a chance
11 to put their inputs in and come up with a criterion first,
12 and then start the conclusion and see what needs to be
13 mitigated and what -- what is acceptable.

14 HEARING OFFICER CELLI: What a great idea,
15 workshopping. Gee, you'd think someone would have thought
16 of that by now. I'm being sarcastic.

17 MR. BRADY: You are?

18 HEARING OFFICER CELLI: We are in evidentiary
19 hearings, folks. Is this the first time anyone's brought
20 this up?

21 MR. WHEATLAND: Goodness, no. And, no, the staff
22 has had an opportunity to address this in their PSA. They
23 had an opportunity to address that in their FSA. They had
24 an opportunity to address it in rebuttal to Ms. MacDonald
25 who specifically raised that in her direct testimony. The

1 applicant did respond to it. The staff had an opportunity
2 to respond to it at the workshop we had on the subject last
3 week. And the applicant again, in good faith, has done
4 additional analysis to further clarify this issue.

5 The applicant is very confident of the information
6 that we have on the record in support of this issue. And we
7 feel very good about the proposed mitigation we've suggested
8 here today. And we've also done something else that Staff
9 hasn't done which is we suggested a threshold of
10 significance. We haven't heard from the staff what that
11 would be.

12 So I think that at this point we're -- it's too
13 late for workshops. We -- the applicant would like to
14 submit this issue based on the record we have here today.

15 HEARING OFFICER CELLI: Let me hear from -- from
16 Staff, Mr. Ratliff or Ms. Willis.

17 MR. RATLIFF: Yes, Mr. Celli, Staff has analyzed
18 noise and analyzed traffic as two separate topics. And
19 traditionally traffic noise, and particularly construction
20 noise has not been viewed as a particularly important
21 impact. And certainly the context of an industrial area,
22 say in Pittsburg for a gas-fired power plant, it really
23 isn't an issue that has ever been of any real import in the
24 staff analyses.

25 I think what happened here is Staff's analysis

1 proceeded along the normal lines and there was no serious
2 coming to grips with the impacts on noise in this kind of a
3 community, which is of a different nature. And we have no
4 analysis in either our noise section, nor our transportation
5 sector, of the impacts of that much transportation traffic
6 in an areas like Charleston View.

7 So in part, this is a mea culpa. Yes, there
8 should have been a workshop months ago, it should have been
9 recognized earlier, yet we failed to do so, and we've been
10 scrambling to try to work the issue really, actually quite
11 recently. And we think it's something that would benefit
12 from a workshop and we request that we have the time and the
13 opportunity to do so. I think the applicant has already put
14 out some rather constructive suggestions tonight that we
15 would like to discuss with him further. We don't think that
16 there's a need to extend the project schedule. But we do
17 think that it deserves more than just a hasty pass-by.

18 And so if you could we could like to have an
19 opportunity to address the problem.

20 HEARING OFFICER CELLI: Well, I appreciate that.
21 And the hour is late. I don't mean to seem cranky up here.

22 Sorry for my sarcasticness earlier, but I don't think
23 that's unreasonable; we're in the middle of an evidentiary
24 hearing.

25 What I'd like to do -- I'm looking at tomorrow's

1 schedule. We had originally socioeconomics, followed by
2 traffic, which we're handling now. And I understand that
3 socioeconomics is substantially abbreviated. So -- and then
4 we are followed by water supply, soils and water, which is
5 going to be a big, big one, a big topic. Everybody is
6 involved in that. But if we work efficiently maybe
7 immediately following tomorrow's hearing the parties can
8 have a workshop on the issue of traffic noise, and maybe
9 anything else you need to workshop. Because the next day is
10 biological resources, and that's all day, and that's going
11 to be huge.

12 MR. WHEATLAND: Can I just ask what a workshop
13 would -- would accomplish?

14 HEARING OFFICER CELLI: Well --

15 MR. WHEATLAND: Because the staff hasn't done
16 the -- the modeling. They're not going to be bringing any
17 new facts to the record. Would -- would it be, for example,
18 possible to close --

19 MR. RATLIFF: I think that's an incorrect
20 assumption. I think we have some facts. And we have a lot
21 of questions about the facts that you bring and we'd like to
22 discuss those with you, not debate them with you and not
23 just to have a debating session but really to try to
24 understand what the impact is.

25 HEARING OFFICER CELLI: And I would just say that

1 I'm fairly impressed, at least with the testimony of Mr.
2 Bastasch who seems to have some pretty ready figures at his
3 fingertips in terms of what impacts are, what the thresholds
4 are, what the measurement is at this site. And so that's --
5 that was where I got the idea that this was -- this was
6 something that everybody had already looked at and that
7 there were some -- I also got the sense that there may have
8 been some mitigation on the table and some conditions that
9 could be crafted that would address the question of traffic
10 noise.

11 MR. RATLIFF: We're -- we're very interested in
12 what Mr. Bastasch has to say. And we heard -- we're hearing
13 for the first time right now. I think like the staff, the
14 applicant has also been trying to put some ideas together
15 very quickly, and -- and I think that's very constructive.

16 HEARING OFFICER CELLI: Let me -- before you do,
17 Ms. MacDonald, let me ask -- well, you know, actually, I
18 don't have to ask you. It's almost like, as -- as fate
19 would have it, the fate has actually cleared the decks quite
20 a bit for tomorrow. Tomorrow was supposed to be a rather
21 busy day with socioeconomics, which was supposed to be a big
22 chunk of the day, followed by traffic, followed by water
23 supply, soils, and water, which still will be a big chunk of
24 the day. So I don't have any illusions about water supply
25 and soils and water being a quickie. It won't be, I don't

1 think.

2 But I do think that it's reasonable that we could
3 finish all of tomorrow socioeconomics and water by
4 dinnertime. And if the parties could go after dinner or at
5 least as -- or earlier, if we could get it done earlier but
6 I don't think we can. But I think there is room in this
7 schedule for a quick workshop.

8 MR. RATLIFF: Would that workshop occur while
9 we're doing the water hearings, for instance, or --

10 HEARING OFFICER CELLI: It would follow, because
11 we need everybody here to do the -- to hear the panel on
12 water. So I don't -- I don't -- I don't think you -- it's a
13 multi-task on that.

14 MR. RATLIFF: Oh, you mean it would be in the
15 evening after the --

16 HEARING OFFICER CELLI: After testimony.

17 MR. RATLIFF: -- after the testimony and the water
18 concluded we would have a workshop on noise then?

19 MS. MACDONALD: Excuse me. I'm confused. We had
20 a workshop. And I was told, take it to the committee. We
21 already had a workshop. Why are we going to workshop again?

22 MR. WHEATLAND: Actually, can I --

23 HEARING OFFICER CELLI: Well, I'll tell you -- let
24 me -- that's not an unfair question, and I think it's
25 reasonable.

1 To my ear, Ms. MacDonald, and this is where I --
2 you know, just to give you a little insight, what I'm
3 listening for is, you know, when the parties are so
4 separated and so far apart that they -- we have to hear from
5 their experts in order to resolve the question, I mean,
6 that's what evidentiary hearings are for.

7 (WebEx noise interruption.)

8 (Colloquy)

9 HEARING OFFICER CELLI: I'm sorry for the
10 interruption. The point is this, there are some issues that
11 the parties are just -- that are an impasse. And the
12 parties are not going to be reconcile. We just need to hear
13 it and then get enough facts so that this committee can say,
14 okay, we're going with one party or the other because we
15 think that it has more probative value, more weight, more
16 proof than the other parties. Okay. That's what
17 evidentiary hearings are for.

18 What I'm hearing from these witnesses is that this
19 is a manageable, discreet area that can be handled, can be
20 mitigated and for whatever reason it hasn't been yet. But
21 I'm -- I don't feel like we need to spend evidentiary
22 hearing time on this issue and have to deal -- resolve it in
23 a PMPD when the parties can work out, iron out some
24 language, some up with a certification -- or rather
25 condition of certification that would solve the problem. So

1 that's what I'm thinking. And that's why I'm thinking it
2 would be useful to put in the time.

3 Now, Don's on me that I don't know if your
4 witnesses are going to be available.

5 MR. WHEATLAND: Can I -- can I ask them?

6 HEARING OFFICER CELLI: Please.

7 MR. WHEATLAND: Gentlemen, are -- would you be
8 available tomorrow if we workshop this tomorrow?

9 MR. BASTASCH: Yes.

10 HEARING OFFICER CELLI: Yeah. For our purposes,
11 since we're on -- there's no video, it's all audio, you need
12 to say yes or no, Mr. Bloomberg.

13 MR. BLOOMBERG: Yes. Yes. Yes.

14 HEARING OFFICER CELLI: So, just for the record,
15 Mr. Bloomberg said he would be available too.

16 Any other input from any of the other parties
17 about this workshop tomorrow night or tomorrow afternoon?
18 I'll be optimistic. Anyone?

19 Hearing none, well, then let's -- let's hope that
20 you can take advantage of that tomorrow. Let's -- I want to
21 get on with this hearing now. So I encourage the parties to
22 take advantage of that tomorrow. Have a productive
23 workshop.

24 As of right now we are -- we're just going to go
25 off the record for one second.

1 (Off the Record From 8:32 p.m., Until 8:32 p.m.)

2 MR. RATLIFF: Mr. Celli, if I could, Mr. Monasmith
3 reminded me that we could actually workshop this in the
4 morning during the socio session, as well, the same -- if
5 the applicant, at least, is available. The people whom we
6 need to have available would be available, and so we could
7 actually meet and discuss the issue then.

8 HEARING OFFICER CELLI: My concern was that I
9 gathered from hearing from the parties that although the
10 socio issues were resolved between applicant and the county
11 they were not with regard to the rest of the parties. And I
12 don't want to -- that's why I don't see how you could do a
13 workshop and an evidentiary hearing at the same time.

14 MR. RATLIFF: Are we starting socio at nine
15 o'clock; is that right?

16 HEARING OFFICER CELLI: Yes.

17 MR. RATLIFF: And we don't begin water until after
18 lunch or at noon; which is it?

19 HEARING OFFICER CELLI: Well, I'm optimistic that
20 we should be able to handle socioeconomics at this point in
21 a couple hours, let's two hours. So if we start at 9:00
22 we're done at 11:00. We could launch into water. And water
23 is everything, by the way. Water is soils and water, water
24 supply, all aspects of water. Because at least for the
25 purposes of the PMPD water supply is still part of soil and

1 water.

2 MR. RATLIFF: Well, anyway, I mean, I'm having two
3 thoughts here, and a certain amount of whispering in my ear
4 that I don't fully comprehend. But --

5 HEARING OFFICER CELLI: I understand.

6 MR. RATLIFF: But there's the possibility of doing
7 a workshop simultaneously with the hearings, although I
8 think that might -- that presents certain problems and
9 logistical problems for, obviously, for Ms. MacDonald
10 because she presumably wants to be both places. So it would
11 be better, I suppose, to do -- do them -- do them at
12 different times. So --

13 MS. MACDONALD: I'd correct you on that, Mr.
14 Ratliff. I don't see any purpose of me being involved in
15 the workshop. I've raised my issues. And from this point
16 on I'll be told and everything will go on the facts of
17 whatever the experts put together. I raised the issues.
18 And that there are no facts, whatever you guys put together
19 from there I'm not going to be involved in.

20 MS. WILLIS: Well, it might be important though
21 for you to -- if there's mitigation measures to chime in
22 on -- on whether or not they're acceptable to the community.

23 MS. MACDONALD: That's a good point.

24 MS. WILLIS: And, Mr. Celli, my understanding
25 from -- I'm getting -- hearing from our witnesses that our

1 water witness will not be here until noon.

2 HEARING OFFICER CELLI: Well, that's about right.

3 I mean, I think --

4 MS. WILLIS: So that would work.

5 MS. WILLIS: -- that socio may take us until noon.

6 But I just, you know, I hate to cut into the committee time.

7 We're ready to go. We're here to hear evidence. So we're
8 ready to rock and roll at nine o'clock tomorrow morning.

9 We'll take socioeconomics. We'll do what we can with water
10 immediately following. I'm hoping we can do it in two hours
11 or less. If -- if you're not going to have a witness here
12 on water --

13 MR. RATLIFF: No, we won't have witnesses until
14 noon. And I think we've -- we've expressed that -- that
15 aspect of our schedule.

16 HEARING OFFICER CELLI: Okay. Let's go off the
17 record for a minute.

18 (Off the Record From 8:35 p.m., Until 8:36 p.m.)

19 MR. RATLIFF: Mr. Celli, the socio was scheduled
20 to run from 9:00 to 11:00, and then traffic was actually
21 penciled in for your evidentiary hearing on traffic tomorrow
22 at 11:00.

23 HEARING OFFICER CELLI: That's right.

24 MR. RATLIFF: So maybe we could just finish socio
25 and then have -- and then use that time at 11 o'clock.

1 HEARING OFFICER CELLI: That's reasonable.
2 That -- that sounds right. But then what I -- I still want
3 to commence water at one o'clock because that's just going
4 to take the rest of the day.

5 MR. RATLIFF: We agree.

6 HEARING OFFICER CELLI: Well, we'll break for
7 lunch.

8 MR. RATLIFF: Yeah. That makes sense.

9 HEARING OFFICER CELLI: Okay. I think that that's
10 fair, and I appreciate that.

11 Now, the next question is we have your noise
12 people here. Should we -- have we finished the traffic
13 noise separate from the regular noise that we usually take
14 evidence on, and do we want to launch it, the noise, with
15 your noise experts now?

16 MS. WILLIS: I believe, Mr. Celli, I believe we
17 also want to workshop the issue of the concrete or cement
18 batch plant noise.

19 HEARING OFFICER CELLI: Okay. Well, that's --
20 that's fine. You're going to have -- it looks like,
21 depending on how fast socio goes --

22 MR. WHEATLAND: Well, where I believe we are on
23 noise right now is I don't believe there are any differences
24 between the staff and the applicant with respect to the
25 other noise topics. Ms. MacDonald may have some questions

1 on noise. But I don't believe there are any differences as
2 between the staff and the applicant.

3 HEARING OFFICER CELLI: Okay. Well, that -- that
4 does make things simpler. But I have Ms. MacDonald, Inyo
5 County and Staff as being the people interested in having
6 evidence on noise.

7 I take it noise went away; isn't that what you
8 said, Ms. Crom?

9 MS. CROM: Yes, it has.

10 HEARING OFFICER CELLI: Okay. And when I say it
11 went away, that basically means by agreement. The county's
12 issues with the project were resolved via the settlement,
13 which was Exhibit Number 948?

14 MS. CROM: That's correct.

15 HEARING OFFICER CELLI: Okay. Then that leaves
16 Ms. MacDonald.

17 MS. MACDONALD: May I also point out, though,
18 because Inyo County has withdrawn all involvement we no
19 longer have any county protection as a community. And so it
20 falls to the jurisdiction of the CEC to make sure that our
21 community is protected against whatever the LORS might be.

22 HEARING OFFICER CELLI: Well, the -- the truth is
23 that that has always been the case.

24 MS. MACDONALD: Well, that's true, but Inyo County
25 was providing their input. They -- you were using their

1 general management plans as general guidelines, those kinds
2 of things. And so they've withdrawn all involvement for the
3 community of Charleston View we're basically at the
4 commission's mercy.

5 HEARING OFFICER CELLI: Well, that's pretty
6 dramatic.

7 MS. MACDONALD: Not -- not really. I mean,
8 they -- they suggested putting -- if we got a noise
9 complaint, to soundproof the residence, which at the very
10 least I thought Rayetta might be, but they're going to
11 withdraw that.

12 HEARING OFFICER CELLI: Well, you know, that --

13 MS. MACDONALD: It's a different topic. But I'm
14 just saying that -- that it's pretty much -- this is the
15 only forum that we will have --

16 HEARING OFFICER CELLI: Right.

17 MS. MACDONALD: -- and the only protection and the
18 only standards --

19 HEARING OFFICER CELLI: So --

20 MS. MACDONALD: -- that opportunity that we'll
21 have.

22 HEARING OFFICER CELLI: Let's -- let me hear from
23 you, Ms. MacDonald, what the issues -- first of all, do I
24 have all of the noise experts sitting at the table now --

25 MR. WHEATLAND: Yes.

1 HEARING OFFICER CELLI: -- or do I need more
2 people?

3 MR. WHEATLAND: No, you have all of ours.

4 HEARING OFFICER CELLI: Okay. And you did not
5 have a separate noise expert, as I recall, Ms. MacDonald?

6 MS. MACDONALD: No, sir.

7 HEARING OFFICER CELLI: Okay. So could you sort
8 of give me your laundry list of issues with regard to noise,
9 please.

10 MS. MACDONALD: A lively list, yes sir, thank you
11 for asking.

12 The first issue that I have is about the concrete
13 batch plant. According to applicant's submissions estimates
14 it's going to operate 21 hours a day for a year. At the
15 workshop they disputed that but the facts of the record
16 basically say 21 hours for a year.

17 It's supposed to be quite noisy and in staff's
18 statements in the FSA they said it would move around, that's
19 why they haven't done a noise analysis. So I'm concerned
20 about a 21 hour a day heavy construction sound being close
21 to the community, that's the first issue.

22 The second issue that I raised early in March as
23 well as the traffic noise issue last year is that something
24 seemed wrong to me about the traffic -- about the sound
25 monitoring level. And one of the things that I provided

1 evidence for is if you go back and look through the --

2 HEARING OFFICER CELLI: Didn't we just talk about
3 the sound? Maybe I missed something. Are you talking about
4 traffic?

5 MS. MACDONALD: No.

6 HEARING OFFICER CELLI: Okay.

7 MS. MACDONALD: No, concrete batch was one.

8 HEARING OFFICER CELLI: That's one. Now number
9 two is?

10 MS. MACDONALD: Number two was that when the
11 applicant did their nine day noise survey test for the
12 community of Charleston View that became the baseline for
13 how they determined how loud we were, what our dBA levels
14 were.

15 HEARING OFFICER CELLI: Right.

16 MS. MACDONALD: That was an issue that I had very
17 early on because it seemed to me quite high. And one of the
18 things that I put in my prehearing conference or my
19 testimony, I forget which now, they're kind of becoming a
20 blur, but when you go back and you look at the raw data
21 there is a 14 dBA difference between the resident that they
22 used in Charleston View and St. Therese. Which I had
23 questioned very early on and I had asked staff to take a
24 look at that because something wasn't right. Generally the
25 people by the roadway, that's the noisier spot. But anyway,

1 that was a dispute or a concern that I had that maybe
2 applicant had not accurately reflected the community noise
3 level so that there would less mitigation.

4 Let's see. Oh, operational noise impacts, excuse
5 me. It seems to me that most of the information in the
6 noise section has focused on the construction portion, which
7 rightly so. You know, a lot of the construction stuff, you
8 know, pretty loud. But a lot of the numbers aren't making
9 any sense with the operational portion, which is the one
10 that we're going to have to live with for the 25, 30 years.

11 So with the specific issue -- I raised a bunch of
12 dBA issues and basically staff said, okay, this is what
13 we're going to do to mitigate, this is the crux of the
14 issue.

15 The sound power levels or the dBA levels that come
16 out, there's certain industry stuff that we can do. We can
17 tweak it and we'll go down, we could drop this 3 dBAs. And
18 applicant said, okay, you know, we can use that equipment,
19 et cetera. And that drops it right at the threshold of
20 significance.

21 But the additional mitigation is if it's louder
22 for some reason, you know. If they can't get it below that
23 threshold there is nothing left, there is no room to go.
24 And so it didn't seem to me that this was really mitigation
25 if the proposed mitigation was, well, if we have a problem

1 we'll lower the dBA. And it's like, but you just admitted
2 that this is the best the industry can do.

3 So anyway, the operational noise impacts I don't
4 believe have been, they don't -- well, everybody has put
5 their facts together, they don't line up.

6 HEARING OFFICER CELLI: I get that.

7 MS. MACDONALD: Thank you.

8 HEARING OFFICER CELLI: So those are your three
9 issues, essentially?

10 MS. MACDONALD: Yes sir, thank you.

11 HEARING OFFICER CELLI: Okay. Now, Ms. Willis, I
12 think you said something about workshopping, or was it Mr.
13 Ratliff, about the concrete batch plant, something that you
14 thought would work, workshopable, if you will?

15 MS. WILLIS: Well, I think it would be something
16 that would be important to, I think it would be easier to
17 workshop the issues with the applicant and with
18 Ms. MacDonald to get everybody's input. Like she said, it's
19 a difficult, noise is a difficult issue in this case.

20 HEARING OFFICER CELLI: Is there a proposed
21 mitigation for that batch plant? What do you do, surround
22 it with --

23 MR. WHEATLAND: I think first I would like our
24 witnesses to describe whether in fact there is any impact.

25 HEARING OFFICER CELLI: Okay.

1 MR. WHEATLAND: And whether it's true that we're
2 going to be pouring 21 hours a day for a year. I mean, with
3 that rate we'd pave all of Inyo County.

4 HEARING OFFICER CELLI: Silly me, I was trying to
5 circumvent that by seeing if there was some agreement in the
6 offering, but let's go to the experts on that and let's hear
7 from first applicant's witnesses with regard to the concrete
8 batch plant. What can you do to mitigate that?

9 MR. BASTASCH: Sure. So I think there's probably
10 a, a point of clarification is in order there. The concrete
11 batch plant is going to be located in the temporary
12 construction area, which is about a mile away from the road
13 and even further away from some of the closest residences.
14 So we have quite a distance working in our favor there and
15 that may address the concern, getting that, just getting
16 that fact out into the open and then clarifying that.
17 Because we do -- we provide -- in the AFC we provide
18 predictions at a number of distances. We did not state that
19 the batch plant was going to be located a mile-plus.

20 HEARING OFFICER CELLI: Okay. So given the
21 nearest sensitive receptor to the concrete batch plant do we
22 have some number, an estimated number?

23 MR. BASTASCH: The estimated number for a batch
24 plant from FHWA is on the order of 84 decibels, 85 decibels
25 at 50 feet. If we take that number and we extrapolate that

1 out to a mile we're looking at something around 44. And
2 that's not taking into account atmospheric absorption, which
3 we think would reduce the levels even further.

4 HEARING OFFICER CELLI: So just the distance
5 without any other sound muffling at all would take it below
6 the traffic level it sounds like.

7 MR. BASTASCH: That's right, you know. And there
8 are conditions of certification that were agreed to that
9 address complaints and address the concrete pouring as well.
10 So all of that and any issues associated with that are
11 really kind of addressed in the existing conditions of
12 certification.

13 HEARING OFFICER CELLI: Well we always have that
14 complaint procedures condition. But Ms. MacDonald points
15 out that if you've taken this down as low as possible then
16 and someone complains, what are you going to do? Are you
17 going to stop? Are you going to move it another mile away?

18 MR. BASTASCH: Well, I think her question there
19 was in regards to operations. With regards to construction
20 activities there might be some things that could be done to
21 any piece of equipment that was abnormally loud, you know.
22 And there may be temporary measures or barriers of some sort
23 that could be, that could be erected in terms of mitigation
24 after the fact to address a concern.

25 With regards to the statement there in relation to

1 the operational noise level and available mitigation. I
2 think that the Commission's experience, my experience and
3 staff's experience has been that most projects come in under
4 their predicted levels. Part of this is because the
5 contractual risk and the design risk on the commercial side
6 for the contractor to hit that target, so therefore there is
7 a design margin that is incorporated into, into the design.
8 If you have a firm permit limit of X dBA, just like good
9 engineering practice in other disciplines with a factor of
10 safety, measures are taken on the design side to ensure that
11 that is, that that target level is achieved. Regardless,
12 that is the condition of certification that they have to
13 comply with.

14 HEARING OFFICER CELLI: And so do we have -- okay,
15 let me just break this back. Let's first talk about the
16 concrete batch plant. Right now what conditions are on
17 that, the noise that emanates from the concrete batch plant?

18 MR. BRADY: The concrete batch plant was
19 aggregated with the other construction activities and the
20 average value used as a, as a, as a target for the
21 cumulative effect of the temporary construction activities.
22 The fact that the schedule for this project is -- we're
23 looking at well not only 21 hours per day but according to
24 the, to the applicant's -- in the previous workshop they may
25 be looking at a continuous pour on each of the towers so

1 you're looking at 24 hours per day concrete batching.

2 MR. BASTASCH: In terms of the concrete
3 activities, Noise-6 has a verification clause that was
4 addressing notification requirements dealing with concrete.
5 I'll just read the verification portion that I have here.

6 "At least five days prior to pouring the concrete
7 outside of the above hours the project owner shall submit a
8 statement to the CPM specifying the time of night, the
9 number of nights for which the concrete pouring will occur.
10 The approximate distance of this activity to CR-1 and M-1
11 and the expected sound levels at these receptors. Also
12 prior to the pouring of concrete beyond the above hours the
13 project owner shall notify all residences within one mile of
14 this project site boundary by mail or other effective means
15 of commencement of this activity."

16 So there was.

17 HEARING OFFICER CELLI: So there's a notification
18 requirement.

19 MR. BASTASCH: There's a notification and a
20 submittal requirement to the CPM.

21 MR. BRADY: On the exception rather than the rule,
22 rather than the rule to the exception. I agree that Noise-6
23 deals with it, but it would have to deal with it every day,
24 24 hour operation for the period of time that the continuous
25 pours occur.

1 MR. BASTASCH: I think continuous pours are
2 something that occur on most power plants at some point in
3 time so it's not a, it's not an abnormal activity in terms
4 of construction activity.

5 HEARING OFFICER CELLI: Continuous pours of slabs,
6 it's not 750 foot slabs.

7 MR. BASTASCH: No. The duration is different,
8 that is true. But the need for continuous pours or
9 continuous concrete activity, it's not unique to power
10 plants either.

11 MR. RATLIFF: Mr. Bastasch, Mr. Wheatland earlier
12 said that you would address the duration of these concrete
13 pours. I don't -- maybe you did but I didn't hear it. I
14 mean, how many, how long do these things go on?

15 MR. BASTASCH: Well, I'm going to need to get
16 potentially corrected on this or clarified but my
17 understanding was we were not looking at a year of
18 continuous concrete pouring. So, you know, we're talking
19 on, I think it was on the order of a month, a month or so.

20 MR. WHEATLAND: The 21 hours for a year that Ms.
21 MacDonald is referencing comes from the air quality section
22 of our analysis where the air quality analyst has to make an
23 assumption as to what kinds of emissions will occur from
24 this activity.

25 HEARING OFFICER CELLI: Okay.

1 MR. WHEATLAND: So they intentionally use a very
2 high, worst case analysis for the purpose of the air
3 emission calculation but that isn't actually an indication
4 of the real duration of this pour.

5 HEARING OFFICER CELLI: Okay.

6 MR. RATLIFF: So that's what it isn't but I still
7 haven't heard what it is. Is it a month, is it a week, is
8 it two months?

9 MR. BASTASCH: I'm going to have to confer with
10 the applicant and counsel on that one to get that right.

11 HEARING OFFICER CELLI: Do we -- let me think.
12 Who would be the person who would know that? Okay, I'm
13 sorry, your name is escaping me.

14 MR. KAZIO: Gary Kazio, BrightSource.

15 HEARING OFFICER CELLI: Gary Kazio, thank you.
16 Would you please stand and raise your right hand.

17 (Thereupon,
18 Gary Kazio,
19 was duly sworn.)

20 HEARING OFFICER CELLI: Thank you.

21 MR. KAZIO: There's two concrete pour events that
22 occur. One is typically associated with foundations. It
23 will be associated with the foundations of the tower bases

24 HEARING OFFICER CELLI: You're going to have to
25 take that from the top.

1 MR. KAZIO: Absolutely. There's two events that
2 occur for concrete pours. One is for the foundations for
3 the towers themselves and then also a pour that's associated
4 for the towers. So I'll address the foundations first.

5 So the foundations are typically done in a
6 continuous pour and those pours last for up to two days.
7 After two days there is a cure period that occurs before
8 they start the actual tower themselves.

9 The towers will be done as a continuous pour that
10 goes for six days, then there's a cold joint that's formed.
11 That's where the steel hangs out of the concrete.

12 Then there's a day that's taken off and that's for
13 the workers because the workers are six days.

14 After that period then they continue the pour
15 again for another six days. That goes on for a total period
16 of three months per tower, each tower separated by three
17 months. So it's three months for the first tower, then you
18 go through the whole cycle again and then three months for
19 the second tower. So there will be three months, a
20 separation of three months, three months for the other
21 tower.

22 HEARING OFFICER CELLI: Thank you, very clear.
23 Appreciate that information. Now we've talked here about
24 the concrete plant and the batch pour.

25 The other question was the operational noise. And

1 I wonder, Mister --

2 MR. BASTASCH: Bastasch.

3 HEARING OFFICER CELLI: Bastasch, I'm sorry.

4 Would you, can you speak to the -- Ms. MacDonald spoke to
5 the operational noise.

6 MR. BASTASCH: So I think the question we're
7 addressing here is the operational noise and the mitigation
8 for that. And that we have already employed some mitigation
9 and if you don't hit the target then what do you do? That's
10 what I was talking about. That's why there is some design
11 margin, that is why we have a history with the Commission of
12 projects coming in and complying with their conditions of
13 certification. Me personally, I am not aware of a project
14 that has not satisfied its condition.

15 HEARING OFFICER CELLI: I am, actually.

16 MR. BASTASCH: Okay.

17 HEARING OFFICER CELLI: You have the unfortunate
18 problem of I used to be the compliance attorney when I was
19 in the Chief Counsel's Office and we had people who would
20 call and file these noise complaints and they never went
21 away. And it just kept on going, you know, regardless of
22 the individuals facts of each case. It's not something that
23 doesn't happen, it's something that does happen.

24 MR. BASTASCH: I didn't mean in terms of it can't
25 happen or what-not but my experience has been that the

1 projects comply with their numeric limits. And if they
2 don't then there are penalties associated with that and
3 those penalties are taken typically rather seriously.

4 Now in this case, if there -- if there was an
5 exceedance of the condition of certification there may be
6 other measures that could be incorporated. I am not sure.
7 I could speculate as to what those would be but they could
8 include some barriers or lagging.

9 HEARING OFFICER CELLI: What is the estimated dBA
10 at the boundary of the project from just one of the SRSGs,
11 one tower?

12 MR. BASTASCH: When we look at -- and again, when
13 we look at the sound level in terms of the power island,
14 what we generally see is near equipment we'll see sound
15 levels that approach 85 to 90 decibels. When we get further
16 away from equipment, close to what would be the typical
17 property line of a power island or a conventional gas-fired
18 power plant, we'll see sound levels that are in the 65-60
19 range.

20 HEARING OFFICER CELLI: Do we have numbers on
21 Hidden Hills?

22 MR. BASTASCH: We've got predictions at the
23 residents' that comply with the agreed-to conditions of
24 certification.

25 HEARING OFFICER CELLI: What is that number?

1 MR. BASTASCH: That was 49.

2 MR. BRADY: I'm sorry, I'm talking to myself, I
3 should be speaking it out to you. For the CR-1, which is
4 the closest residence, the measured existing is 45 dBA and
5 for St. Therese it's 42 dBA.

6 HEARING OFFICER CELLI: That's the current
7 baseline you're telling me, Mr. Brady; is that right?

8 MR. BRADY: That is correct.

9 HEARING OFFICER CELLI: Okay. The question is,
10 what is the projected effect going to be from the
11 operational noise of the power tower? Do we know that or do
12 we have that?

13 MR. BRADY: We calculated a cumulative. By
14 cumulatively adding the project operational noise we came up
15 with a cumulative for CR-1 of 55 and for St. Therese, M-1,
16 52. Which turns into an increase of 10 dBA each.

17 HEARING OFFICER CELLI: And did you come to the
18 conclusion that that's a significant impact in the FSA?

19 MR. BRADY: It states that staff -- it says -- the
20 statement reads, "Therefore the project's industrial noise
21 character combined with an increase of 10 dBA at the
22 project's noise-sensitive receptors would likely prove to
23 cause annoyance considering the presence of people but it is
24 not considered significant."

25 MS. WILLIS: Mr. Brady?

1 MR. BRADY: Yes.

2 MS. WILLIS: If you want to look at Noise-4,
3 condition of certification Noise-4, noise restrictions.

4 MR. BRADY: Well yeah, it's -- it's paired with
5 Noise-4, which --

6 HEARING OFFICER CELLI: So in other words, that 10
7 dBA is in some way mitigated through Noise-4?

8 MR. BRADY: By Noise-4, correct.

9 MR. WHEATLAND: And the applicant's agreed to
10 Noise-4.

11 MR. BRADY: Right.

12 MR. WHEATLAND: So, in effect, the applicant is
13 agreeing to keep the dBA level at the threshold that the
14 staff has, has determined through a series of mitigation
15 measures. And we have agreed to that on the record and
16 agreed to the conditions that would allow us to do so.

17 MR. BRADY: In keeping with your guidelines we
18 weren't bringing up anything that we didn't feel we had
19 already resolved.

20 HEARING OFFICER CELLI: Okay, thank you.

21 MS. MACDONALD: You said that it was a 55 dBA at
22 CR-1. Can you show me where that's actually at? Because
23 what I got everywhere was 54 dBA from your sound modeling.
24 In fact, I bring that up in my dispute about how after you
25 got through modeling you ended up with a smaller dBA limit

1 between the two, even though St. Therese was over a mile
2 more away. So could you tell me where the 55 dBA was
3 actually located, please?

4 MR. BRADY: That's with the, with the option of
5 reducing, reducing the noise levels by 3 dBA in each case if
6 there were measures that could be determined to find, to
7 find that to be acceptable.

8 MS. MACDONALD: Was it in your rebuttal testimony?
9 Where was that at?

10 MR. BRADY: It's in the FSA for Table --

11 MS. MACDONALD: Oh, the FSA.

12 MR. BRADY: Noise Table 5, yes.

13 MS. MACDONALD: Okay.

14 HEARING OFFICER CELLI: Now Ms. MacDonald, I want
15 to get back to you because we have been talking, these were
16 the issues that you raised, the concrete batch plant, the
17 operational noise. We've heard some facts back into the
18 record now. I want to talk to you, though, about your
19 assertion that the baseline is high. You said that the 14
20 dBA difference between Charleston View and St. Therese
21 seemed to you to be incredible.

22 MS. MACDONALD: Okay, let me clarify that a little
23 better because they did averages, okay. And that 14 dBA was
24 just a single point in time, okay, that was not
25 representative of the average. So I want to make sure that

1 that's very clear.

2 The reason I was concerned is because the average
3 seemed high to me. And I started looking into when they did
4 the monitoring, you know, the nine day sound test. They
5 report every hour what the dBA levels are in a variety of
6 series, okay. I just happened to target 5:00 a.m. And it
7 was at the 5:00 a.m. portion that there was a 14 dBA
8 difference between Charleston View and St. Therese.

9 So to me, I had already -- in my original comments
10 in March I told staff, something is not right. This seems
11 too high. And I asked staff to look into it and it was
12 never addressed. In fact, one of my things was called a
13 bureaucratic void.

14 So when I found the individual ones what concerned
15 me was, if you check all the right boxes nobody is going too
16 hard. The dBAs are not unreasonable for normal kinds of
17 places. But as I have been trying to say to everybody, it's
18 really quiet out there so, you know, did you check this.
19 And I find it really suspicious that there would be -- that
20 Charleston View would be 14 dBAs higher at 5:00 in the
21 morning every day. Well, it's on average, I did an average
22 of the nine days, than St. Therese.

23 And I asked staff in my, I believe it was my, my
24 comments to the PSA, did you look into this at all, you
25 know? The only thing I could think of -- or maybe it was my

1 rebuttal testimony, I'm sorry -- something is wrong with
2 this. I don't know. This nine day period, maybe they set,
3 maybe they set the monitoring station up next to a rooster
4 or a chicken coop. Really, we have those out there.

5 HEARING OFFICER CELLI: I'm thinking air
6 conditioner or cars, people going to work at 5:00 in the
7 morning but go on.

8 MS. MACDONALD: Well, if that would be the case
9 then it would just be a single car, you know. I Mean, it's
10 not like we have a bunch of cars. But yes, something
11 unusual about that 5:00 o'clock thing. And another thing is
12 we have somebody out there that likes to just do projects
13 once in a while. By the way, this happened in May.

14 So you know, that's the only thing I could think
15 of that would cause this huge -- 14 dBAs is a pretty big gap
16 between the two sound levels. And for that to show up
17 consistently at 5:00 in the morning I thought, you know,
18 because I am cynical, suspicious and I do not trust the
19 applicant, this would be a great place to, you know, bump up
20 the levels a little bit so when you're doing your mitigation
21 you could say, hey.

22 MR. WHEATLAND: I'm going to object.

23 MS. MACDONALD: Fair enough.

24 MR. WHEATLAND: Speculation is one thing, but
25 accusing the applicant of bumping up the numbers is totally

1 out of place.

2 HEARING OFFICER CELLI: Objection noted. Let her
3 finish, let's just hear what she has to say.

4 MS. MACDONALD: I'm just -- just something is odd
5 about the numbers, I think it's too high. And then when
6 they get through with the sound modeling it doesn't seem to,
7 it didn't make any sense to me with the operational noise
8 modeling either. Anyway --

9 HEARING OFFICER CELLI: I just want to make sure I
10 have this right. So you smell a rat, if I may, and you
11 think there's something funny here. Staff did not accede to
12 your request to re-measure; correct?

13 MS. MACDONALD: Correct.

14 HEARING OFFICER CELLI: Okay.

15 MS. MACDONALD: But it could also be an error.
16 There have been errors. Applicant has made errors as well
17 as staff so, you know, maybe there's something. It doesn't
18 I'm just saying it started with smelling a rat, it's like,
19 why is this so high.

20 MR. WHEATLAND: Mr. Celli, rather than talk about
21 smelling a rat could we just let our witness answer her
22 question, please.

23 HEARING OFFICER CELLI: Okay. Who is the witness
24 who handled the measurement of the --

25 MR. WHEATLAND: Well, Mr. Bastasch.

1 HEARING OFFICER CELLI: Okay, go ahead.

2 MR. BASTASCH: So I set up the instrumentation.
3 And I do look for chicken coops, dogs, air conditioning
4 units and we located this a little bit, a little bit away
5 from the actual duality. It was located on a, on a post.

6 Then we also located the St. Therese monitor on
7 what was their existing fence. At that point in time that
8 was a completely vacant field kind of devoid of most or any
9 activity. And there's very little vegetation or anything
10 over by the St. Therese Mission. Over in the residential
11 area there's a little bit more vegetation, a little bit
12 more, more habitat.

13 We see that the levels vary in terms of day in
14 both locations and they both show some high levels and some
15 low levels. Their range is not atypical.

16 The fact that we're seeing a difference at 5:00
17 a.m., I'm going to speculate because I was not there at 5:00
18 a.m., but I'm going to speculate that one potential
19 explanation for that single hour could be dawn in May and
20 the sunrise when we start to hear birds or other activity.
21 Or it could be other folks leaving for work.

22 But again, we see the same range and levels at any
23 at both locations. We've got some very -- we've got some
24 higher numbers and we've some very low numbers at both
25 locations.

1 HEARING OFFICER CELLI: Was that 14 point
2 difference that she's raising, was that in an anomalous
3 single day or was that continuous throughout the days that
4 you tested?

5 MR. BASTASCH: I'd have to go back to look at her,
6 to her testimony. But what she was saying is she looked at
7 it in terms of the average over a multi-day period. So
8 there was on average a 14 decibel difference between those
9 two measurement locations so therefore some would have been
10 greater and some would have been less.

11 MR. BRADY: Each of the locations are averaged,
12 they are not cross-averaged from one location to another.
13 Or they are not directly comparative because random events
14 can occur where the noise levels are exactly different and
15 the readings reflect that. So I would, I would stand by our
16 response to Ms. MacDonald's question to our opening
17 testimony. We said that we relied on the applicant's test,
18 which was a nine day test in lieu of typically a 25 hour
19 long-term survey. And we had no reason to believe that it
20 was, it was either inaccurate or tampered with.

21 MS. MACDONALD: Well, all I could do was buy a
22 sound meter and hit it and take a picture of it and that's
23 all I can do.

24 HEARING OFFICER CELLI: I think we've, is there
25 anything else on noise at this point, Ms. MacDonald?

1 MS. MACDONALD: No, thank you.

2 HEARING OFFICER CELLI: Okay, anything, any
3 questions or areas of questions, Mr. Wheatland, that you
4 think that the Committee would be interested in at this
5 point?

6 MR. WHEATLAND: Yeah. Since Ms. MacDonald is
7 testifying with respect to the equipment she took out to the
8 site I think it's very important for the Committee to
9 understand the differences in the equipment that she has
10 used compared to what we have employed. Mark, Mr. Bastasch,
11 can you briefly describe the difference in the monitoring
12 equipment that was used by Ms. MacDonald compared to what we
13 used, please.

14 MR. BASTASCH: Sure. So she had what we call an
15 instantaneous sound level meter. This is not an integrating
16 sound level meter, it just, it reads the instantaneous
17 level. The measurements that we use to support these types
18 of projects are an integrating sound level meter. They are
19 data logging, they store the sound level at various
20 intervals, ten minute, hourly, and over that interval they
21 do the statistics, the L10, the L50 and the L90, and they
22 also do what's called the LEQ, which is the integrated
23 energy average. That is one of the primary differences
24 there.

25 You will see, generally speaking, sound levels

1 fluctuate. Sometimes rapidly, sometimes -- or sometimes
2 dramatically. And the integrating meters integrate that
3 data to come up with an average for the statistical levels.

4 HEARING OFFICER CELLI: So did the machinery that
5 you used to measure Charleston View, was that the same one,
6 the same unit that you used over where the St. Therese
7 project was or did you have two separate units?

8 MR. BASTASCH: They were two separate units
9 because we did measure -- we did conduct the measurements
10 during the same field visit.

11 HEARING OFFICER CELLI: Were they calibrated to
12 each other?

13 MR. BASTASCH: They are calibrated instrumentation
14 using the same field calibrator and they are what we call
15 ANSI-Type I precision sound level instrumentation. That's
16 the highest grade of instrumentation one can use in the
17 field. Grade Zero would be a laboratory grade, which is not
18 hardy for field work.

19 MR. WHEATLAND: Thank you, that's all I have.

20 HEARING OFFICER CELLI: Staff, did you have
21 anything further on noise?

22 MS. WILLIS: Nothing.

23 HEARING OFFICER CELLI: Okay, ladies and
24 gentlemen, quickly. I want to thank all the members of this
25 panel, thank all of the parties.

1 MR. WHEATLAND: I'm sorry. Mr. Celli, I'm
2 forgetting that you had promised that we briefly, just very
3 briefly address the glare issue. Mr. Franck had one.
4 Remember, we carried it over to this panel.

5 HEARING OFFICER CELLI: Right. Why didn't we, why
6 did we do that? We would have handled that in traffic.

7 MR. WHEATLAND: Because the glare testimony of Dr.
8 Irvin was under the testimony of traffic and transportation,
9 his Appendix TT-1. So this is the subject area of testimony
10 for glare.

11 HEARING OFFICER CELLI: Okay.

12 MR. WHEATLAND: And so we agreed we would allow
13 Mr. Franck to briefly respond.

14 HEARING OFFICER CELLI: Yes, we want to hear that,
15 just don't let me forget to take in the evidence.

16 MR. WHEATLAND: I won't, we will remind you.

17 HEARING OFFICER CELLI: Thanks.

18 MR. WHEATLAND: And I promise you this will be
19 brief.

20 HEARING OFFICER CELLI: Okay.

21 MR. WHEATLAND: Mr. Franck, could you just please
22 provide us a response to what you heard today.

23 MR. FRANCK: Well, two corrections that I wanted
24 to make on Mr. Irvin's assumption. One of them, the SRSG is
25 a total reflective device. It does emit -- in the far, far

1 infrared it's the heat but on apparent brightness we talk
2 only on visual range, which I'm sure Mr. Irvin would agree.
3 So it's only reflecting device, it does not have any
4 emissivity into it.

5 The second, the second one is the -- just a
6 correction on the angle of the size comparison to the sun
7 sizes on your -- Dr. Irvin's first assumption of -- the SRSG
8 will be similar to the sun size at about 1,000 meters and
9 not 2.8 miles; 2.8 miles, roughly 4.5 kilometers. This will
10 be about one-fifth of a sun, so about 20 percent of the size
11 of the sun.

12 HEARING OFFICER CELLI: You said it was similar to
13 the sun at 2.8 miles?

14 MR. FRANCK: No, Dr. Irvin said it would be
15 similar to the sun size at 2.8 miles. Actually it will be
16 closer to one kilometer, which is less than a mile. About
17 1,000 meters this will be roughly the size of the sun. And
18 at 2.8 miles it will be about 20 percent of the sun image.

19 MR. WHEATLAND: That's all we have.

20 DR. IRVIN: And that's for 160 feet?

21 HEARING OFFICER CELLI: Mr. Irvin.

22 DR. IRVIN: That's for 160 feet?

23 HEARING OFFICER CELLI: Wait, wait, wait. We
24 can't hear you because you need to speak into the mic.

25 DR. IRVIN: And that's for the SRSG at a height of

1 160 feet?

2 MR. FRANCK: The height is not of importance
3 almost there, it's the size of the SRSG that is important.

4 DR. IRVIN: Well it's the size of the reflective
5 image.

6 MR. FRANCK: Correct.

7 DR. IRVIN: And I was told that was 160 feet.

8 HEARING OFFICER CELLI: Keep the mic next to you,
9 please.

10 MR. FRANCK: No, the SRSG is not 160 feet. I can
11 tell you meters; about 20 meters high, about 60 meters wide.

12 DR. IRVIN: Meters to feet, all right. Well, I
13 was going under the assumption of 160 feet.

14 MR. FRANCK: Okay. You had two --

15 DR. IRVIN: So that's what it is.

16 MR. FRANCK: That's what you been -- Your first
17 answer was the correct one, 1,000 meters, and not the second
18 answer that you said 2.8. The first, the first answer of
19 1,000 meters is the correct one.

20 DR. IRVIN: All right.

21 MR. WHEATLAND: Now, Mr. Celli, I'm supposed to
22 remind you to receive the exhibits.

23 HEARING OFFICER CELLI: Thank you. I just wanted
24 to know if there was anyone else who had any further
25 questions from Mr. Franck or Mr. Irvin regarding this

1 emissivity and reflective light? Go ahead, Ms. MacDonald.

2 MS. MACDONALD: So I just wanted clarity. It's
3 not 160 feet? Because I thought I saw that it in the
4 rebuttal testimony. It was meters? The receiver. I
5 thought Coalinga was 33, 33 feet. No? All right, let me
6 try this. What is the size of the Coalinga receiver, in
7 feet, and what is the estimated size of the SRSG in feet?

8 MR. WHEATLAND: Could we do meters, please.

9 MS. MACDONALD: I don't --

10 MR. WHEATLAND: Could we do meters, please.

11 MS. MACDONALD: Pardon me?

12 MR. WHEATLAND: could we do it in meters, please.

13 MR. FRANCK: Yeah, I will answer anyway in meters.

14 You have to excuse me because I am not going to do a
15 conversion in my head.

16 MS. MACDONALD: Okay.

17 MR. FRANCK: Definitely not under oath and not at
18 this hour.

19 (Laughter.)

20 MR. FRANCK: I don't know if I'm allowed to
21 disclose the size of the Coalinga facility because it
22 belongs to a company now, it was sold, so I need to consult
23 my attorney about that.

24 MS. MACDONALD: Okay.

25 MR. FRANCK: The SRSG itself, and I don't know

1 when you count the numbers exactly what you count, but the
2 reflecting part of the SRSR is about, about 16 meter or 20
3 meters. That's the absorbing area, that's the SRSR itself.

4 There's other parts to that instrument, it's a big
5 instrument, but if we're talking about the part that absorbs
6 the light.

7 MS. MACDONALD: So 60 meters high or 60 meters
8 wide?

9 MR. FRANCK: Sixteen, one-six.

10 MS. MACDONALD: Thank you.

11 MR. FRANCK: About.

12 MS. MACDONALD: Thank you, sorry.

13 MR. FRANCK: About. I'm not the designer. So
14 it's approximately 60 meters wide and approximately 20 meter
15 in height.

16 MR. WHEATLAND: And just to be really clear and
17 fair about all this is that Mr. Irvin's misunderstanding
18 about the 160 feet is the same misunderstanding that Mr.
19 Priestly had in his testimony. So we now have from the
20 person that actually knows the answer the correct dimensions
21 for the receiving surface.

22 MS. MACDONALD: Okay.

23 DR. IRVIN: Thank you, that helps.

24 MS. MACDONALD: I would think so.

25 HEARING OFFICER CELLI: Okay, are we finished with

1 this line of inquiry? Okay.

2 MS. BELENKY: I just -- excuse me, I'm sorry. I
3 just wanted to reserve the right to discuss this question
4 again about the brightness when we talk about the flux and
5 the potential impacts to biology. Because there may be also
6 some confusion of how these things line up there. And I
7 just want to make sure just because we talked about it now
8 doesn't mean that we're not going to talk about it later
9 when there's a -- when there are issues about ocular impacts
10 to birds and other animals.

11 MR. WHEATLAND: We'll stipulate that the record is
12 closing today with respect to human eyes but the record will
13 remain open with respect to avian eyes.

14 MS. BELENKY: Well I'm not sure it's completely
15 closed with respect to human eyes either at this point. But
16 I do sense some confusion in the testimony that still isn't
17 resolved.

18 HEARING OFFICER CELLI: I think that that is a
19 valid point, staff and applicant. I think that you can't
20 divorce the avian flux issues.

21 MR. WHEATLAND: I'm teasing a little bit.

22 HEARING OFFICER CELLI: Okay.

23 MR. WHEATLAND: Sorry.

24 HEARING OFFICER CELLI: I'm concerned that we're
25 losing witnesses here and they're not going to be available

1 for the Thursday biology.

2 MR. WHEATLAND: Mr. Franck is on the flux panel so
3 you'll have a chance to ask him more questions.

4 HEARING OFFICER CELLI: And so yes, you're right
5 has been preserved, Ms. Belenky, to inquire into those
6 issues when we get to the avian flux issues.

7 Now, we've put in a long day. Let's just get
8 through this last part and then we will start fresh
9 tomorrow. We're going to see if the applicant has a motion.
10 Okay, where are we? We are now talking about -- we've
11 talked about -- we took in traffic and noise. Did we close
12 the record on visual already? I thought we had?

13 MR. WHEATLAND: Yes.

14 HEARING OFFICER CELLI: Well I couldn't have
15 because we've just taken some more visual.

16 MR. WHEATLAND: But you took it as Traffic and
17 Transportation. You've accepted the exhibits.

18 HEARING OFFICER CELLI: That's right, okay.

19 MS. MACDONALD: No, no, no, no, there was no call
20 for exhibits on Traffic and Transportation.

21 MR. WHEATLAND: No, we're doing that now.

22 HEARING OFFICER CELLI: I'm doing that right now.

23 MS. MACDONALD: Can I just ask one question for
24 clarity. Was it decided that a workshop was going to be
25 done or not?

1 HEARING OFFICER CELLI: Yes, we're going to do it
2 tomorrow if we can get through socioeconomics before the
3 lunch break. We'll see -- we would insert a workshop
4 between that and the one o'clock water.

5 MS. MACDONALD: Okay. Then my question is, if we
6 have a workshop do we reopen it? Or like if we close it now
7 do you --

8 HEARING OFFICER CELLI: I think that's a good
9 question and I think that it would be reasonable to open the
10 record just for, just for closure sake to take in any other
11 further evidence that we would need. For instance, the
12 conditions that might arise from the workshop, if any.

13 MS. MACDONALD: Thank you.

14 HEARING OFFICER CELLI: Okay. So what's left open
15 from today was traffic and noise. And I'm going to -- if I
16 can just -- would it be too much to ask if we took traffic
17 and noise?

18 MR. WHEATLAND: We can do that.

19 HEARING OFFICER CELLI: Okay, let's do it like
20 that.

21 MR. WHEATLAND: All right.

22 HEARING OFFICER CELLI: Just to speed things up.

23 MR. WHEATLAND: All right. I'd like to move into
24 evidence the applicant's exhibits with respect to traffic
25 and noise, which will be read by Mr. Carrier.

1 HEARING OFFICER CELLI: So I guess first you'll
2 give us the traffic, Mr. Carrier?

3 MS. CARRIER: Yes, you'd like them individually?

4 HEARING OFFICER CELLI: Please.

5 MS. CARRIER: Traffic and Transportation, Exhibit
6 1, Exhibit 2, Exhibit 4, Exhibit 34, 42, 47, 48, 61, 63, 70,
7 71, 72, that's it.

8 HEARING OFFICER CELLI: Okay, the motion is -- and
9 then as to noise.

10 MS. CARRIER: Noise. Exhibit 1, Exhibit 70, 71
11 and 72.

12 HEARING OFFICER CELLI: Okay. So the motion for
13 the Committee to receive into evidence Applicant's Exhibits
14 1, 2, 4, 34, 42, 47, 48, 61, 63, 70, 71, 72 and as to noise,
15 Exhibit 1, Exhibit 70, Exhibit 71 and 72. Any objections,
16 staff?

17 MS. WILLIS: No.

18 HEARING OFFICER CELLI: County of Inyo?

19 MS. CROM: Submit.

20 HEARING OFFICER CELLI: Mr. Arnold?

21 MR. ARNOLD: Submit.

22 HEARING OFFICER CELLI: Mr. Zellhoefer?

23 MR. ZELLHOEFER: No problems.

24 HEARING OFFICER CELLI: Mr. Levy?

25 MR. LEVY: No objections.

1 HEARING OFFICER CELLI: Ms. Belenky?

2 MS. BELENKY: No objections.

3 HEARING OFFICER CELLI: Ms. MacDonald?

4 MS. MACDONALD: No objections.

5 HEARING OFFICER CELLI: Okay, those exhibits are
6 received.

7 (Applicant's Traffic and Transportation Exhibits 1, 2,
8 4, 34, 42, 47, 48, 61, 63, 70, 71, 72 and Noise
9 Exhibits 1, 70, 71, 72, Received.)

10 HEARING OFFICER CELLI: Staff, is there a motion
11 as to Traffic and Noise, please?

12 MS. WILLIS: Yes, at this time staff would like to
13 enter the portions of the FSA Exhibit 300 and rebuttal 301
14 for Traffic and Noise and also Dr. Irvin's declaration and
15 résumé under Exhibit 325.

16 HEARING OFFICER CELLI: Any objection, applicant?

17 MR. WHEATLAND: None.

18 HEARING OFFICER CELLI: Inyo County?

19 MS. CROM: Submit.

20 HEARING OFFICER CELLI: Mr. Arnold?

21 MR. ARNOLD: No objection.

22 HEARING OFFICER CELLI: Mr. Zellhoefer?

23 MR. ZELLHOEFER: No objection.

24 HEARING OFFICER CELLI: Mr. Levy?

25 MR. LEVY: No objection.

1 HEARING OFFICER CELLI: Ms. Belenky?

2 MS. BELENKY: No objection.

3 HEARING OFFICER CELLI: Ms. MacDonald?

4 MS. MACDONALD: No objection.

5 HEARING OFFICER CELLI: Thank you. Then Exhibits
6 300, 301 and 325 are in evidence.

7 (Staff's Noise and Traffic Exhibits 300, 301 and 325,
8 Received.)

9 HEARING OFFICER CELLI: No exhibits from County of
10 Inyo?

11 MS. CROM: No.

12 HEARING OFFICER CELLI: This is on Traffic and
13 Noise. We didn't take any, I don't think, from Mr. Arnold.
14 Mr. Zellhoefer, no. None from SIFPD. Center for Biological
15 Diversity had none. Ms. MacDonald, what is your motion with
16 regard to Traffic and Noise, please?

17 MS. MACDONALD: My motion is to submit in Traffic
18 Exhibit 700, Exhibit 702, Exhibit 719, Exhibit 711, Exhibit
19 728, Exhibit 730 and Exhibit 731. With respect to Noise I
20 would like to submit Exhibit 700, Exhibit 702 and Exhibit
21 747. I think that's it.

22 HEARING OFFICER CELLI: Okay, the motion is to
23 receive into evidence exhibits marked for identification as
24 700, 702, 719, 711, 728, 730, 731 and 747. Is there any
25 objection from the applicant?

1 MR. WHEATLAND: No objection as to the admission
2 of the testimony as lay testimony, our standing objection to
3 its receipt as expert testimony.

4 HEARING OFFICER CELLI: And sustained. Staff?

5 MS. WILLIS: No objection.

6 HEARING OFFICER CELLI: Inyo County?

7 MS. CROM: Submit.

8 HEARING OFFICER CELLI: Mr. Arnold?

9 MR. ARNOLD: No objection.

10 HEARING OFFICER CELLI: Mr. Zellhoefer?

11 MR. ZELLHOEFER: No objection.

12 HEARING OFFICER CELLI: Mr. Levy?

13 MR. LEVY: No objection.

14 HEARING OFFICER CELLI: Ms. Belenky?

15 MS. BELENKY: No objection.

16 HEARING OFFICER CELLI: Thank you. Those exhibits
17 have been received into evidence.

18 (Ms. MacDonald's Noise and Traffic Exhibits 700, 702,
19 719, 711, 728, 730, 731 and 747, Received.)

20 HEARING OFFICER CELLI: Mr. Carrier?

21 MS. CARRIER: Yes. Can I just check with you on
22 Traffic and Transportation. Did I include Exhibit 61?

23 HEARING OFFICER CELLI: Yes.

24 MS. CARRIER: Okay. It is difficult to see.

25 MR. WHEATLAND: And just as a housekeeping matter,

1 Mr. Celli, do you wish to also receive the exhibits for
2 Hazardous Materials and Waste Management? Those are two
3 topics that were not --

4 HEARING OFFICER CELLI: And TSE and TLSN.

5 MR. WHEATLAND: Yes.

6 HEARING OFFICER CELLI: Thank you. I knew there
7 was something bugging me and that was what it was, the TLSN
8 and TSE. So Hazardous Materials, Waste Management,
9 Transmission Systems Engineering and Transmission Line
10 Safety and Nuisance were all removed as matters in dispute.
11 So what is the motion with regard to those topics, please,
12 applicant?

13 MR. WHEATLAND: We would move the applicant's
14 exhibits on those four topics as read by Mr. Carrier.

15 HEARING OFFICER CELLI: Go ahead.

16 MS. CARRIER: Okay. Which would you like first?

17 HEARING OFFICER CELLI: Haz Mat, Waste, TSE and
18 TLSN.

19 MS. CARRIER: Okay, Haz Mat. Exhibit 1, Exhibit
20 46, Exhibit 70, 71. Waste Management Exhibit 1, Exhibit 4,
21 Exhibit 21, 22, 24, 46, 70 and 71. Transmission System
22 Engineering, Exhibit 1, Exhibit 2, Exhibit 64 and 65, 70,
23 71. Transmission Line Safety and Nuisance, Exhibit 1, 70
24 and 71.

25 HEARING OFFICER CELLI: Okay, thank you. So the

1 motion is that we receive into evidence Exhibits 1, 46, 70,
2 71 on Hazardous Materials. On Waste that would be exhibits
3 marked for identification as Exhibit 1, Exhibit 4, Exhibit
4 21, Exhibit 22, Exhibit 24, Exhibit 46, Exhibit 70 and 71.
5 Transmission Systems Engineering exhibits marked for
6 identification as Exhibit 1, Exhibit 2, Exhibit 64, 65, 70
7 and 71. And with regard to Transmission Line Safety and
8 Nuisance exhibits marked for identification as Exhibit 1,
9 Exhibit 70 and Exhibit 71. Any objection from staff?

10 MS. WILLIS: No objection.

11 HEARING OFFICER CELLI: County of Inyo?

12 MS. CROM: Submit.

13 HEARING OFFICER CELLI: Mr. Arnold?

14 MR. ARNOLD: No objection.

15 HEARING OFFICER CELLI: Mr. Zellhoefer?

16 MR. ZELLHOEFER: No objection.

17 HEARING OFFICER CELLI: Mr. 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: Those exhibits are now in
24 evidence.

25 (Applicant's Hazardous Materials Exhibits 1, 46, 70,

1 71; Waste Exhibits 1, 4, 21, 22, 24, 46, 70, 71;
2 Transmission Systems Engineering Exhibit 1, 2, 64, 65,
3 70, 71; Transmission Line Safety and Nuisance Exhibit
4 1, 70 and 71, Received.)

5 HEARING OFFICER CELLI: Now, staff, do you have
6 Haz Mat, Waste, TSE and TLSN?

7 MS. WILLIS: Yes we do and those topics would be
8 in Exhibit 300, the FSA, and 301, the rebuttal testimony.

9 HEARING OFFICER CELLI: Any objection, applicant?

10 MR. WHEATLAND: No objection.

11 HEARING OFFICER CELLI: Inyo County?

12 MS. CROM: Submit.

13 HEARING OFFICER CELLI: Mr. Arnold?

14 MR. ARNOLD: No objection.

15 HEARING OFFICER CELLI: Mr. Zellhoefer?

16 MR. ZELLHOEFER: No objection.

17 HEARING OFFICER CELLI: Mr. 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: Okay, Exhibits 300 and 301
24 with regard to Hazardous Materials, Waste, Transmission
25 Systems Engineering and Transmission Line Safety and

1 Nuisance are received.

2 (Staff's Hazardous Materials, Waste, Transmission
3 Systems Engineering and Transmission Line Safety and
4 Nuisance Exhibits 300 and 301, Received.)

5 HEARING OFFICER CELLI: We had no further evidence
6 from the county of Inyo on those topics, correct?

7 MS. CROM: That is correct.

8 HEARING OFFICER CELLI: Or Mr. Arnold.

9 MR. ARNOLD: Correct.

10 HEARING OFFICER CELLI: Or Mr. Zellhoefer.

11 MR. ZELLHOEFER: Correct.

12 HEARING OFFICER CELLI: Or Mr. Levy.

13 MR. LEVY: Correct.

14 HEARING OFFICER CELLI: For SIFPD. Center for
15 Biological Diversity, none of those issues?

16 MS. BELENKY: No, no.

17 HEARING OFFICER CELLI: Ms. MacDonald, any
18 exhibits with regard to Hazardous Materials, Waste, TSE and
19 TLSN?

20 MS. MACDONALD: No, thank you.

21 HEARING OFFICER CELLI: Thank you. Those are now
22 closed. This was a very productive day and I want to thank
23 everybody for your hard work.

24 MS. WILLIS: Mr. Celli, before we close.

25 HEARING OFFICER CELLI: Yes.

1 MS. WILLIS: I just had one point of
2 clarification. For geology and paleontology, it was
3 scheduled for Friday. I wasn't sure, were the issues
4 completed today or do we still have more issues to have our
5 witness available on Friday?

6 HEARING OFFICER CELLI: We talked about that.
7 That was the seismic problem, wasn't it.

8 MS. MACDONALD: Yeah, I wanted to ask staff if
9 they had done any analysis of the heliostats due to
10 earthquakes.

11 HEARING OFFICER CELLI: I thought we did that.

12 MS. MACDONALD: We did that on facility design.
13 And the only one I know that answered was the applicant.
14 When I did it in the workshop they said, we don't have our
15 geo-paleontology guy here.

16 MS. WILLIS: He was at the workshop, Casey Weaver.

17 MS. MACDONALD: No, at the workshop, yes.

18 MS. WILLIS: Right.

19 MS. MACDONALD: Oh.

20 MS. WILLIS: Yeah, you talked to him for quite
21 some time, actually. Probably for about 20 minutes or a
22 half an hour.

23 MS. MACDONALD: About what?

24 MS. WILLIS: A whole list of seismic issues and
25 all sorts of issues.

1 MS. MACDONALD: I don't remember that.

2 MS. WILLIS: That's why I think it was confused
3 why it wasn't off the table because he had been there
4 answering questions.

5 MS. MACDONALD: I distinctly remember saying we
6 don't have our guy here, that we're going to do that in
7 facility design. No?

8 MS. WILLIS: No.

9 MS. MACDONALD: Okay. So what were the answers
10 that he gave about the heliostats?

11 MS. WILLIS: I don't have the answers in my head
12 right now.

13 HEARING OFFICER CELLI: Well, my recollection, I
14 don't know what your conversation with Mr. Weaver was but
15 tonight we heard testimony that there was, that it was
16 subject to the California Building Code, essentially, and
17 that it was covered under those stress levels.

18 MS. MACDONALD: That was the end of the
19 conversation?

20 HEARING OFFICER CELLI: Yes.

21 MS. MACDONALD: All right. So we have no idea
22 what the impact, if an earthquake hit, will be to the
23 heliostats?

24 MS. WILLIS: Actually I do remember Mr. Marshall
25 and Mr. Weaver both responded with the California Building

1 Code answer as well.

2 MS. MACDONALD: Okay.

3 HEARING OFFICER CELLI: Mr. Weaver was here?

4 MS. WILLIS: At the, at the workshop.

5 HEARING OFFICER CELLI: Okay.

6 MS. WILLIS: We spent quite a long time talking.

7 I know it's hard when you're on the phone to know probably
8 who you're talking to but you were talking to him for quite
9 some time.

10 HEARING OFFICER CELLI: But I'm talking about
11 tonight. Tonight we took testimony and now I'm blanking on
12 who it was. Or maybe it was --

13 MR. WHEATLAND: It was Mr. Rojansky, it was our
14 witness. And it was -- Ms. MacDonald, it was our witness
15 that said that he wouldn't be available on Friday so we were
16 going to take him up on facility design today.

17 MS. MACDONALD: Um.

18 MR. WHEATLAND: So he was the one that testified
19 for us today.

20 MS. MACDONALD: Okay. I remember you saying that
21 you were going to move, that you were going to deal with it
22 in facility design.

23 MR. WHEATLAND: Yes.

24 MS. MACDONALD: And that he wasn't there. I do
25 remember that.

1 HEARING OFFICER CELLI: Rabinsky.

2 MS. MACDONALD: You know, I don't, I don't
3 remember. If I thought that the issue was resolved or
4 whatever, I mean, I wouldn't have made a stink about it or
5 anything like that. I'm just looking for answers about what
6 the impacts might be. IF the answer was the same, you know,
7 only the chief building officer gets to know it'll be during
8 standard whatever. If the answer is always the same then
9 there is no point; the answer will never be known.

10 HEARING OFFICER CELLI: We did cover that, though
11 and it was Mr. Rojansky. And you asked a question --

12 MS. MACDONALD: Yes.

13 HEARING OFFICER CELLI: -- with regard to seismic
14 and he said that there again it was environmental load that
15 governed by the building code.

16 MS. MACDONALD: Right.

17 HEARING OFFICER CELLI: Okay. So that was his
18 answer on that.

19 MS. MACDONALD: Right. If staff -- she just said
20 that staff's answer was the same. Then there is no purpose
21 in bringing him in to testify because he is going to say the
22 same thing. That's what I'm trying to get to.

23 HEARING OFFICER CELLI: Do we have resolution on
24 that or not, staff?

25 MS. WILLIS: I believe we did. I thought we did

1 at the workshop. But I -- I would still think we do.

2 HEARING OFFICER CELLI: So would Mr. Weaver come
3 in and basically say the same thing, that it's governed, the
4 seismic -- I guess we're talking not load but the seismic,
5 the risk measurement of the seismic impact.

6 MS. BELENKY: I'm sorry to interrupt, this is Lisa
7 Belenky with the Center. It's already after 9:30. I think
8 if there is any question about this issue we could deal with
9 it tomorrow. I think this is inappropriate to have these
10 rambling conversations on the record at this time of night.

11 HEARING OFFICER CELLI: Thank you.

12 MS. WILLIS: Just for clarification.

13 HEARING OFFICER CELLI: So do we have resolution
14 or not?

15 MS. WILLIS: It was Ms. MacDonald's request to
16 have geo-paleo back on the schedule. We believed the issue
17 had been resolved. Mr. Weaver's conversation during the
18 workshop was very similar to what we heard tonight or today.

19 HEARING OFFICER CELLI: So then are you
20 withdrawing the geological-paleontological?

21 MS. MACDONALD: IF the answer is the same as the
22 workshop, then yes. I don't see any point in bringing
23 somebody here just to tell me that it will comply with the
24 CBO's design requirements.

25 HEARING OFFICER CELLI: Okay, And that's your

1 understanding, Ms. Willis?

2 MS. WILLIS: Yes.

3 HEARING OFFICER CELLI: Okay, good, thank you.

4 MS. MACDONALD: Sorry for the misunderstanding. I
5 didn't realize that was the end of it.

6 HEARING OFFICER CELLI: Okay. Tomorrow we will
7 resume at 9:00 o'clock on the issue of socioeconomics.

8 Before we adjourn there is someone who wanted to
9 make a public comment. Mr. Roberts, Dr. Roberts. Please,
10 Ms. Haskin, Ms. Haskell.

11 MS. HASKIN: I'm just wondering if somebody could
12 clarify something you said earlier about noise. You were
13 talking about, what is it, CR-1 or something, the noise
14 level there.

15 HEARING OFFICER CELLI: Yes, someone was talking
16 about that.

17 MS. HASKIN: I was wondering if somebody could
18 show me where CR-1 is.

19 HEARING OFFICER CELLI: Yeah. Tomorrow there is
20 going to be a workshop on noise. Are you going to be
21 available tomorrow?

22 MS. HASKIN: Yes.

23 HEARING OFFICER CELLI: Are you going to come by?

24 MR. WHEATLAND: We'd be happy, we'd be happy to
25 show you tomorrow where it is.

1 MS. HASKIN: Because my understanding is that's my
2 home. And the noise level when you were talking about
3 trucks was like 45 dBA but you're saying at my home it's 55.

4 HEARING OFFICER CELLI: I don't think that's what
5 was --

6 MS. HASKIN: When they were talking earlier.

7 MR. WHEATLAND: We'll be happy to show you where
8 CR-1 is.

9 MS. HASKIN: Well yeah, but I also wanted to ask
10 about the noise level because that's what they were talking
11 about right after. That's why they were talking about my
12 home, compared to my home and St. Therese.

13 HEARING OFFICER CELLI: It's Haskell, right?

14 MS. HASKIN: Haskin, H-A-S-K-I-N.

15 HEARING OFFICER CELLI: Thank you. So the
16 question is, is Ms. Haskin's home CR-1, for starters.

17 MR. WHEATLAND: We need to figure out where her
18 home is. We can sit down with a map and look at it with
19 her.

20 HEARING OFFICER CELLI: So you don't know that
21 right off the top?

22 MR. WHEATLAND: We don't know, we don't know the
23 name of the resident.

24 HEARING OFFICER CELLI: Okay. So apparently they
25 don't have that information.

1 MS. HASKIN: Do they have a map that shows where
2 CR-1 is?

3 MR. WHEATLAND: Yes, we'd be happy to sit down
4 with you and show you the map.

5 MS. HASKIN: Okay. Can you project it up tomorrow
6 so that everybody can see that we're talking about the same
7 place.

8 MR. WHEATLAND: We'd be happy to talk about it,
9 yes.

10 MS. HASKIN: Okay.

11 HEARING OFFICER CELLI: Well, it depends on what
12 comes out of the workshop.

13 MR. WHEATLAND: Not in the hearing room.

14 HEARING OFFICER CELLI: Because it may not be
15 relevant to what we're talking about.

16 MR. WHEATLAND: Not in the hearing room but we're
17 happy to sit down and show you where it is.

18 MS. HASKIN: Well I know where my home is.

19 (Laughter.)

20 MR. WHEATLAND: But we're going to show you where
21 CR-1 is. And we'll figure out with you whether they're one
22 and the same.

23 MS. HASKIN: Yeah. The other question is, what
24 sound level is 55 dBA? What would that be equivalent to?

25 HEARING OFFICER CELLI: That's a good question one

1 of our experts can answer. What is 55 dBA equivalent to?
2 If you know off the top, otherwise we'll put this into the
3 workshop.

4 MR. BASTASCH: And I am not quite sure where the
5 55 came from but 50 dBA is on the order of light traffic at
6 200 feet or somewhere around that range, if that helps. And
7 I think we can probably talk a little bit more.

8 MS. HASKIN: You were talking about the sound
9 level from the machine that you're running out on the site.

10 HEARING OFFICER CELLI: The concrete batch plant?

11 MS. HASKIN: That it was going to be a constant
12 noise. And at my house it was --

13 HEARING OFFICER CELLI: Actually, Ms. Haskin, the
14 testimony was it's a dBA of 84 at 50 feet but at the edge of
15 the property line I think is 44 dB, is what I have down in
16 my notes.

17 MS. HASKIN: I thought it was --

18 MS. BELENKY: His project operations was 55, that
19 was the --

20 MS. HASKIN: Right. I thought it was a machine
21 that was going to be running all the time.

22 HEARING OFFICER CELLI: Operations, right,
23 correct, 55.

24 MS. HASKIN: Yeah. And I thought it said, I
25 thought they quoted 55 dBA in my yard.

1 HEARING OFFICER CELLI: You're right. Yes.

2 MS. HASKIN: So my question is, all day long
3 that's what I'm going to hear?

4 MR. BASTASCH: The condition of certification in
5 Noise-4 is not 55 dBA. So the condition of certification in
6 Noise-4 was 51 dBA and 49 dBA. So I don't know exactly
7 where the 55 is coming from but I certainly can talk at more
8 length tomorrow during the workshop and try to explain this
9 in more detail. It can, it can get a little bit
10 complicated.

11 MS. HASKIN: Okay.

12 HEARING OFFICER CELLI: The purpose of the
13 workshop tomorrow is to resolve some of these noise issues.

14 MS. HASKIN: Right.

15 HEARING OFFICER CELLI: And so that would be a
16 good one for you to stick around and listen in on because it
17 is going to address that.

18 MS. HASKIN: Okay. Thank you.

19 HEARING OFFICER CELLI: Thank you. Dr. Roberts,
20 do we have any other public comment?

21 I'm going to go to the phones now. I'm going to
22 un-mute.

23 MR. WHEATLAND: Mr. Celli, since geo and paleo is
24 not coming up can we move those exhibits into the record
25 this evening?

1 HEARING OFFICER CELLI: Yes. Wait, let me ask my
2 Committee first.

3 Okay. Yes, let's make that motion right now with
4 regard to geo and paleo.

5 MR. WHEATLAND: Mr. Carrier, would you please read
6 into the record the applicant's exhibits for geo and
7 paleontology.

8 MS. CARRIER: For Geology, Exhibit 1, Exhibit 70
9 and 71, For Paleontological Resources, Exhibit 1, Exhibit
10 21, Exhibit 70 and 71.

11 MR. WHEATLAND: We move those exhibits.

12 HEARING OFFICER CELLI: Thank you. Is there any
13 objection, staff, to the receipt into evidence of exhibits
14 marked for identification as Exhibit 1, Exhibit 70, Exhibit
15 71, Exhibit 21?

16 MS. WILLIS: None.

17 HEARING OFFICER CELLI: County of Inyo?

18 MS. CROM: Submit.

19 HEARING OFFICER CELLI: Mr. Arnold?

20 MR. ARNOLD: No objection.

21 HEARING OFFICER CELLI: Mr. Levy?

22 MR. LEVY: No objection.

23 HEARING OFFICER CELLI: Ms. Belenky?

24 MS. BELENKY: No objection.

25 HEARING OFFICER CELLI: Mr. Zellhoefer?

1 MR. ZELLHOEFER: No objection.

2 HEARING OFFICER CELLI: Ms. MacDonald?

3 MS. MACDONALD: No objection.

4 HEARING OFFICER CELLI: Those exhibits are
5 received.

6 (Applicant's Geology Exhibit 1, 70, 71 and
7 Paleontological Resources Exhibit 1, 21, 70 and 71,
8 Received.)

9 HEARING OFFICER CELLI: Staff, did you have geo-
10 paleo?

11 MS. WILLIS: Yes, we have Exhibit 300 and 301.

12 HEARING OFFICER CELLI: Any objection, applicant?

13 MR. WHEATLAND: None.

14 HEARING OFFICER CELLI: Mr. Arnold?

15 MR. ARNOLD: No objection.

16 HEARING OFFICER CELLI: Mr. Zellhoefer?

17 MR. ZELLHOEFER: No objection.

18 HEARING OFFICER CELLI: That was no objection.

19 Mr. Levy?

20 MR. LEVY: No objection.

21 HEARING OFFICER CELLI: Ms. Belenky?

22 MS. BELENKY: No objection.

23 HEARING OFFICER CELLI: Ms. MacDonald?

24 MS. MACDONALD: No objection.

25 HEARING OFFICER CELLI: Exhibits 300 and 301 are

1 received into evidence from staff.

2 (Staff's Geo-Paleo Exhibits 300 and 301, Received.)

3 HEARING OFFICER CELLI: Geo-paleo. Mr. Arnold,
4 did you have any exhibits for geo-paleo?

5 MR. ARNOLD: None.

6 HEARING OFFICER CELLI: None for Inyo, she's
7 shaking her head no. Mr. Levy?

8 MR. LEVY: No.

9 HEARING OFFICER CELLI: Ms. Belenky?

10 MS. BELENKY: No.

11 HEARING OFFICER CELLI: Mr. Zellhoefer, you're
12 shaking your head no, okay, thank you.

13 Ms. MacDonald, did you have geo and paleo exhibits
14 you wanted to submit?

15 MS. MACDONALD: Actually I'd like to submit two,
16 thank you, Exhibit 729 and Exhibit 730 and Exhibit 731,
17 thank you.

18 HEARING OFFICER CELLI: Any objection to the
19 admission of 729, 730 and 731, applicant?

20 MR. WHEATLAND: One second, please. No objection.

21 HEARING OFFICER CELLI: Thank you. Staff?

22 MS. WILLIS: None.

23 HEARING OFFICER CELLI: Inyo County?

24 MS. CROM: Submit.

25 HEARING OFFICER CELLI: Mr. Arnold?

1 MR. ARNOLD: No objection.

2 HEARING OFFICER CELLI: Thank you. Mr. Levy?

3 MR. LEVY: No objection.

4 HEARING OFFICER CELLI: Ms. Belenky?

5 MS. BELENKY: No objection.

6 HEARING OFFICER CELLI: Okay, Exhibit 729, 730 and
7 731 are received into evidence.

8 (Ms. MacDonald's Geology and Paleontological Resources
9 Exhibits 729, 730, 731, Received.)

10 HEARING OFFICER CELLI: With that I am going to
11 turn the meeting over to Commissioner Douglas to adjourn.

12 PRESIDING MEMBER DOUGLAS: All right. Well thank
13 you everyone, it's been a very productive day. Really
14 appreciate your hard work. We are adjourned for today and
15 we'll see you back at 9:00 a.m. tomorrow.

16 (The Evidentiary Hearing was
17 adjourned at 9:44 p.m.)

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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 20th day of March, 2013.

/s/ Troy A. Ray

TROY A. RAY, CER**369

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 20, 2013