

STATUS CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of the)
Application For Certification:)
Hidden Hills Solar Electric)
Generating System)
-----)

Docket No. 11-AFC-2

California Energy Commission

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Ken Celli, Hearing Officer

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APPEARANCES CONTINUED

INTERVENORS

Ileene Anderson
Center for Biological Diversity

Jon Zellhoefer

Jack Prichett
Old Spanish Trail Association

ALSO PRESENT

Dana Crom, County Counsel
Inyo County

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1 MR. ZELLHOEFER: Thank you. I'm here.

2 HEARING OFFICER CELLI: Okay. Great. Tracie
3 Wheaton. Tracie is with the applicant, and she's got --
4 I'm happy to see -- there's the icon for people who are
5 listening and speaking from their computers. They're
6 completely liberated from the telephones. That's kind of
7 nice. So we're moving on. We're stepping up
8 technologically here.

9 Good morning, everybody.

10 If you are with, say, the applicant or staff and
11 you really don't think you're going to be speaking, I'd
12 ask that you mute the phone on your end, if you can, so we
13 don't hear your dog bark or your kids cry in the
14 background. And then I think that's it.

15 We're ready to kick off.

16 ASSOCIATE MEMBER PETERMAN: Good morning,
17 everyone. Commission Peterman here. Welcome to the
18 Status Conference for the Hidden Hills Solar Energy
19 Generating Systems Project.

20 Let me take a minute to introduce everyone up
21 here on the dais and the parties with us today. I am the
22 Associate Commissioner on this proceeding. The lead
23 Commissioner is Commissioner Karen Douglas who is not able
24 to be here with us today. But we are joined by her
25 advisor, two people to my left, Galen Lemei. Immediately

1 to my right we have Jim Bartridge, who is the advisor to
2 my office. And immediately -- immediately to my left we
3 have Ken Celli who's the Hearing Officer who will be
4 running this proceeding. And then two to the left, we
5 have Eileen Allen who is advisor to the Commission on
6 siting.

7 We have first -- to the left, we have our
8 applicant. Does the applicant want to introduce
9 themselves, please.

10 MR. JENSEN: Clay Jensen, the Project Manager,
11 Director of Project Development for BrightSource.

12 MS. STRACHAN: Susan Strachan with Strachan
13 Consulting, permitting consultant for BrightSource.

14 MR. HARRIS: Jeff Harris with Ellison, Schneider,
15 & Harris on behalf of BrightSource. And we have several
16 folks in the audience as well who will introduce
17 themselves when they speak, if they speak.

18 ASSOCIATION COMMISSIONER PETERMAN: Great. Thank
19 you. And we have staff. Please introduce yourselves.

20 STAFF COUNSEL RATLIFF: Yes. Dick Ratliff
21 counsel for staff, and with me Mike Monasmith, the Project
22 Manager.

23 ASSOCIATE MEMBER PETERMAN: We also have a number
24 of intervenors. We have Jon Zellhoefer on the line. Do
25 we have anyone from CBD on the line at the moment?

1 MS. ANDERSON: Yes. This is Ileene Anderson with
2 the Center for Biological Diversity.

3 ASSOCIATE MEMBER PETERMAN: Great. We have
4 Ileene Anderson with the Center for Biological Diversity.
5 We also have as an intervenor Jack Prichett with the Old
6 Spanish Trail Association. Is he on the line?

7 We also have, draw your attention to our Public
8 Adviser's Office, who's represented by Lynn Sadler today.
9 If you're in the room, if you have any questions, please
10 direct them -- and you're a member of the public, please
11 direct them to Ms. Sadler.

12 Also I'd like to take an opportunity to -- offer
13 an opportunity to introduce themselves from any of our
14 federal, State, or local partners. I believe we have a
15 representative from Inyo County in the room on the line.
16 Please introduce yourself.

17 MS. CROM: Dana Crom from the County of Inyo.

18 ASSOCIATE MEMBER PETERMAN: Thank you.

19 Anyone from -- representing any federal agencies?

20 Anyone representing any other California State or
21 local agencies?

22 Well, good. With that. I'll turn this over to
23 Hearing Officer Celli.

24 HEARING OFFICER CELLI: Thank you, Commissioner
25 Peterman. Just a quick question. I see we have Lynn

1 Sadler here. Lynn, have you had any contact from Jack
2 Prichett or Old Spanish Trails Association?

3 ASSISTANT PUBLIC ADVISER SADLER: Yes, we have,
4 but I don't know if he's attending today.

5 HEARING OFFICER CELLI: Okay. And is there
6 anyone on the phone representing the Old Spanish Trails
7 Association?

8 Okay. Hearing none.

9 We'll move on.

10 The Status Conference on the proposed Hidden
11 Hills Solar Energy Generation Systems was set at the
12 applicant's request. The Committee scheduled today's
13 event in a noticed -- in a notice that noticed all of our
14 status conferences. We filed that on January 11th 2012,
15 and we have copies in the podium -- or rather in the foyer
16 here as you come in the door. It's also available on the
17 web at the website for the Hidden Hills SEGS project.

18 Today, we're going to talk about -- first, the
19 purpose of today's conference is to hear from the parties
20 regarding the status of the Preliminary Staff's Analysis,
21 help resolve any procedural issues, and try to assess any
22 scheduling of future events in this proceeding.

23 We will first provide the applicant an
24 opportunity to summarize their view of the case status.
25 We did receive a document recently that contained a new

1 proposed schedule. I'm sure the applicant should probably
2 lead off with that. After we hear from applicant, we'll
3 hear from staff. After that, we'll hear from Intervenor
4 Zellhoefer. After that, we'll hear from the CBD, or
5 Center for Biological Diversity. And finally, we would
6 hear, if there's anyone from the Old Spanish Trail
7 Association, which is our newest Intervenor in the case.
8 Then we will provide an opportunity for the general public
9 to make comment, either those who are present or on the
10 phone.

11 And I wanted to briefly recap our last status
12 conference. At the last status conference, the parties
13 stated that the following subject areas were potentially
14 not in dispute. We're early on in this proceeding, or
15 sort of towards the middle I guess. And it seems that the
16 executive summary project description, hazardous
17 materials, soils, traffic and transportation, transmission
18 line safety and nuisance, facility design, geological and
19 paleontological resources, efficiency, general conditions
20 of compliance and closure, air quality, public health,
21 noise and vibration, reliability, and worker safety and
22 fire protection were what we were considering non-disputed
23 subject areas.

24 The subject areas that were in dispute were, or
25 are, water resources. We talked about a pump test last

1 time. We talked about impacts to the Amargosa River,
2 impacts to neighboring wells, cumulative effects, and bio
3 impacts. As to waste management, I have it as a -- in the
4 disputed column, but I don't really remember why. We can
5 find out.

6 Socio, we had a question regarding emergency
7 response. And biology, we were talking about bats, birds,
8 Raptors, Desert Fox, Desert Tortoise. I don't remember,
9 do we have Mohave Ground Squirrel in this? We don't have
10 that. Okay. Rare plants, mesquite bosques and hummocks I
11 think we talked about last time.

12 We talked about transmission systems engineering,
13 which wasn't necessarily in dispute per se, but that we
14 were waiting on it on the cluster analysis from Cal ISO.
15 With regard to visual, we talked about changing out a KOP
16 and adding the possibility of more KOPs and night
17 lighting.

18 And in land use, we had a whole complement of
19 people from the County of Inyo. Which, by the way, Dana,
20 if you want you can have a seat over here at the counsel
21 table, so you can have a ready mic. Ms. Dana Crum?

22 MS. CROM: Crom.

23 HEARING OFFICER CELLI: Crom from Inyo County.
24 She's county counsel. We talked about non-conforming use
25 and whether there was a need for an amendment to the

1 general plan. Also, we spoke about cultural. Petition to
2 compel was on the table. There was an extension of time
3 provided to staff. We'll hear what came of that.

4 And then alternatives, we talked about Sandy
5 Valley. There was distributed generation and photovoltaic
6 that was raised by CBD.

7 Anyway, the Committee is interested in hearing
8 whether any of these potentially disputed areas can be
9 resolved and have been resolved. If not, why not?

10 So with that, we'll go directly to the
11 applicant's presentation. And if you would, Mr. Harris,
12 let's talk about the new boiler situation first.

13 MR. HARRIS: Okay. Great. Thank you very much.
14 We appreciate the opportunity to be back before you. This
15 is the second status conference. And we just want to
16 thank the Committee for putting this into the schedule.
17 It's a really big deal. It's a great thing to be before
18 you, and to be able to speak openly about the issues in
19 the case at this early stage. And so thank you, once
20 again, for scheduling the event.

21 We did want to start with the boiler optimization
22 and schedule. We think that's probably the best thing to
23 talk about. It's the good news. The best news anyway,
24 and we want to start with that.

25 And just kind of signal where we'd like to head

1 to the staff. We would like them to talk about the
2 subjects in the following order, if you're amenable and
3 the Committee's amenable:

4 So, first, about schedule on optimization;
5 second, about alternatives; third, about cultural
6 resources; fourth, about biological resources and
7 everything that entails; fifth, visual resources; sixth,
8 water resources; seventh, we've kind of grouped land use
9 an socio together; and then eighth, the various and sundry
10 subjects, TSE, waste management, whatever else the
11 Committee wants to talk about.

12 So we'd sort of organized our professionals to be
13 here in that order. And if that works for everybody, that
14 would be great. We're certainly flexible. So should I
15 start with the boiler optimization then, sir?

16 HEARING OFFICER CELLI: Go ahead.

17 MR. HARRIS: Thank you.

18 Well, I'm sorry Commissioner Douglas isn't here.
19 Maybe it's a good thing. She might have fallen off her
20 chair to hear an applicant say "schedule" and "good news"
21 in the same sentence. But I think we do have some good
22 news there, both for the project and for the staff, in
23 terms schedule.

24 In most simple terms what's occurred here is that
25 the applicant has decided to remove the large boiler from

1 the project configuration. And we can have Mr. Rubenstein
2 get up in a few minutes and talk about the technical
3 details related to the boiler system. But sort of the
4 bumper sticker and the short answer is here that the
5 largest boiler, the largest emitting source is going to be
6 removed from the project design. That's an enhancement
7 that we think will create great improvements for the
8 project, in terms of air quality issues.

9 We expect, under all scenarios, to have
10 improvements for both greenhouse gas reduction and also
11 for criteria pollutant reduction. And again, I'm kind of
12 on the edge of my knowledge, and I'll let Mr. Rubenstein
13 speak a little bit more about those.

14 But it is good information. We've been working
15 with the air district to coordinate on that. The removal
16 of the large boilers is what we refer to as the boiler
17 optimization. We needed some kind of shorthand to help us
18 work through that. And that seems to be the best
19 description of what we're talking about, when we remove
20 that large boiler.

21 Sierra Research, Mr. Rubenstein, Ms. Matthews and
22 their staff have been working with the air district to
23 talk about these issues. We believe that we can work
24 through these issues relatively quickly, and that the air
25 district should be able to provide draft conditions to the

1 staff in time for incorporation into their Preliminary
2 Staff Assessment.

3 I think the good news, from our perspective and
4 probably staff's as well, is that that schedule does
5 lineup to allow for a Preliminary Staff Assessment on the
6 April 13th date that staff had requested -- or staff
7 had -- I don't know if requested is the right word, but
8 that was in the last two status reports for staff. So we
9 think that's a good, kind of, confluence there and a
10 benefit for both the project and for the applicant.

11 So we've attached to the letter we filed
12 yesterday, and we have copies for anybody who needs them,
13 either at the dais or in the room, a proposed schedule.
14 Does anybody -- you have those, okay.

15 And for anybody in the room, if you need a copy,
16 just come up and we can provide those somewhere. Susan
17 has them.

18 We've put together a realistic and reasonable
19 schedule. And, you know, given our commercial
20 obligations, it allows us to move forward in a way that
21 really is consistent with the staff's schedule and with
22 our commercial needs.

23 We're showing those dates -- and, again, my
24 reference to Commissioner Douglas falling out of her chair
25 is that we've come to agreement with staff on all dates

1 related to PSA, and actually even suggested a Final Staff
2 Assessment date that is about six weeks later -- six weeks
3 later than the staff had proposed last time. And we think
4 that is directly a result of Sierra Research's hard work
5 and realistic look at the air district process. Because
6 at the end of the day, the most important thing for your
7 decision, is to have a FDOC before you have a Final Staff
8 Assessment. And this schedule provides for that.

9 So I really want to compliment everybody on our
10 side for working hard to put these things together. And I
11 think it's a very reasonable schedule, you know, all the
12 way. We've given a schedule -- and just to be clear, all
13 the way through the end of the proceeding as proposed
14 dates. Those are not staff's proposals. Those are the
15 applicants. And they're for your consideration. The
16 focus really is on the earlier dates.

17 So with that -- would you like to hear a little
18 bit more about the actual boiler optimization, the
19 technical issues there?

20 HEARING OFFICER CELLI: One moment. Let me just
21 inquire.

22 No thank you.

23 MR. HARRIS: Oh, good. Terrific.

24 HEARING OFFICER CELLI: We're mostly interested
25 in the schedule at this point.

1 MR. HARRIS: Strangely enough, so are we.

2 HEARING OFFICER CELLI: This is just -- remember,
3 this is not a hearing. This is a status conference. This
4 is -- we're hanging out and talking today. That's what
5 we're doing.

6 MR. HARRIS: Right. Cool.

7 HEARING OFFICER CELLI: So we don't really need a
8 blow by blow.

9 MR. HARRIS: Okay. I guess, at that point, I
10 think I'm going to shut up and let other people react to
11 the proposal. But we are -- we're very pleased with where
12 things are going. We think removal of the large boiler is
13 a good thing for the project. And we think the schedule
14 makes a lot of sense.

15 HEARING OFFICER CELLI: So thank you, Mr. Harris.
16 Let's hear from staff regarding the boiler optimization
17 proposed schedule.

18 STAFF COUNSEL RATLIFF: Well, staff agrees that
19 the optimization proposal, which we understand will also
20 result in an amendment to conform the design of Ivanpah,
21 is a good thing. It reduces emissions, both criteria
22 emissions and greenhouse gas emissions, from the project.
23 And so we support the idea that they would make this
24 change.

25 As I understand it from discussing it with the

1 applicant, it may delay the preliminary Determination of
2 Compliance from the air district. And typically, the
3 PDOC, as we call it, is the document that we have to have
4 before we issue the Preliminary Staff Assessment. That's
5 the way we've always tried to do our analyses. It allows
6 us to have the air district's analysis of the project's
7 conformity with applicable rules, including rules that
8 provide the enforcement and compliance with the Clean Air
9 Act.

10 In this case, my understanding is that the
11 district, although the PDOC will be delayed, the district
12 is willing to put out draft conditions, which we could put
13 in our Preliminary Staff Assessment, so that we presumably
14 could go ahead and publish our document in advance of
15 receiving the PDOC. And I think that that's what we're
16 going to try to do to try to accommodate this change that
17 we all want.

18 HEARING OFFICER CELLI: Just as a practical
19 matter, the Committee would like to see as complete a PSA
20 as we can get. And it looks to me like the applicant is
21 scheduling, assuming the PDOC comes out, in a way, so that
22 it precedes the PSA, so that you wouldn't have to juggle
23 it. So really it sounds, from my reading of this
24 schedule, staff is really waiting on the PDOC to come out.

25 STAFF COUNSEL RATLIFF: Typically, we would not

1 put a PSA until the PDOC comes out, yes.

2 HEARING OFFICER CELLI: Right. So you're
3 proposing an extension.

4 STAFF COUNSEL RATLIFF: Here, we are
5 contemplating doing the opposite, assuming the air
6 district can provide us with a useful draft of the
7 applicable -- or what kinds of revisions, Conditions of
8 Certification they recommend be required.

9 HEARING OFFICER CELLI: Okay.

10 MR. HARRIS: Could I add one thing to that?

11 HEARING OFFICER CELLI: Yes.

12 MR. HARRIS: Mr. Ratliff is correct, it would be
13 essentially the district providing draft conditions to
14 your staff. So it would be a complete PSA, including
15 conditions.

16 My understanding is that this only affects two or
17 three conditions in the overall FDOC, PDOC. It's very
18 limited in scope, again, removal of an emitting source and
19 some minor moving of some equipment. So I want to
20 emphasize that what staff would have in the PSA is going
21 to be a complete PSA and it's going to have, basically
22 the - and I hate to use the term - but administrative
23 draft conditions of the PDOC.

24 HEARING OFFICER CELLI: Excellent. Anything
25 further on that, staff, Mr. Ratliff?

1 STAFF COUNSEL RATLIFF: No.

2 HEARING OFFICER CELLI: Okay. Thank you.

3 Let's go to Jon Zellhoefer. You're -- let me
4 unmute you. Okay. Mr. Zellhoefer, do you have any
5 comment on the proposed schedule?

6 MR. ZELLHOEFER: No. I think that's -- the
7 delays are well documented. And I concur with the boiler
8 optimization impact. I think the slight delays will be
9 well worth it in the long term. So that's it. I'm good.

10 HEARING OFFICER CELLI: Good. Thank you, Mr.
11 Zellhoefer.

12 Ileene Anderson, any comments regarding the
13 boiler optimization proposed schedule?

14 MS. ANDERSON: Well, I think we definitely
15 support removing those large boilers from the project, but
16 I still think that the timeline is a bit quick. And, you
17 know, I mean, we want to see as complete of a PSA put out
18 there for comment as well, because it makes it difficult
19 to, you know, comment on things if we don't have as much
20 information sort of nailed down as possible.

21 And we also think that there's other -- perhaps
22 other important issues that may require extending the
23 timeline for the PSA.

24 HEARING OFFICER CELLI: I think we -- we'll
25 probably have to cross those bridges as we get to them.

1 But I would say that for your purposes, it's -- this
2 really amounts to about a three-month extension of our
3 proposed original timeline, and includes still a good PSA
4 and FSA and workshops in between.

5 So I think we'll probably have to deal with any
6 issues that you think you need more time on as they come
7 up. But I would say, and would you agree, Ms. Anderson,
8 that this is sort of good news?

9 MS. ANDERSON: It's a step in the right
10 direction.

11 HEARING OFFICER CELLI: Okay. Anything else on
12 that?

13 MS. ANDERSON: Nope, that's all my comments.

14 HEARING OFFICER CELLI: Thank you. Now, I'm just
15 going to inquire, I have a note from the Public Adviser's
16 Office that Mr. Prichett from the Old Spanish Trails
17 Association will be calling in. And I just wanted to know
18 whether he's called in yet or not. Are you out there, Mr.
19 Prichett?

20 ASSISTANT PUBLIC ADVISER SADLER: I am going to
21 let him know. He is not. Mr. Prichett is going to call
22 in when we deal with cultural and visual, and I will need
23 to let him know when that is.

24 HEARING OFFICER CELLI: Okay. That's in about
25 two topics or one and a half, so he should probably call

1 in really soon.

2 ASSISTANT PUBLIC ADVISER SADLER: Excellent.

3 Thank you.

4 HEARING OFFICER CELLI: Thank you. Okay then,
5 moving on then -- well, I just want to say -- ask whether
6 there's any questions from the Commissioner regarding
7 schedule or anything?

8 Okay. Well, I want to -- I appreciate change and
9 I think that it's a good thing we're reducing emissions.
10 So thank you for that. Your explanation was very clear.
11 And so, as I said last time, this is a perfect example.
12 At our last status conference, there was a -- there was
13 some talk from staff about slippage in the schedule. And
14 I was loathe to put out another scheduling order, because
15 this is bearing out. This seems to always happen.

16 So we're going to kind of roll with it for the
17 time being. I don't want to issue a new scheduling order,
18 until we get closer to -- probably until after the PSA
19 comes off, and we have a real sense of when the FSA will
20 come off. And then we would probably issue a new
21 scheduling order at that time.

22 And in the meanwhile, I'm sure you'll do your
23 best to get things moving as quickly as we can as
24 efficiently as we can certainly.

25 So with that, we are on to alternatives.

1 MS. STRACHAN: Thank you. On February 9th, the
2 applicant provided the data responses to the request that
3 staff had asked on the Sandy Valley alternative site, and
4 also on alternative technologies. In addition, a member
5 of the community had asked, when we had a workshop in
6 Tecopa in January, questions about the Bloom Box
7 technology. Applicant has contacted Bloom Energy, who's
8 the developer of that technology, and we'll be providing
9 staff with information on that technology to include in
10 the analysis.

11 We have nothing further to add on alternatives.

12 HEARING OFFICER CELLI: Thank you, Ms. Strachan.

13 And, staff, now last we spoke, we were on the
14 verge of a petition to compel. And there was a
15 stipulation with regard to a 10-day extension. This was
16 probably maybe bigger than alternatives, but what's --

17 STAFF COUNSEL RATLIFF: That was with regard to
18 cultural resources.

19 HEARING OFFICER CELLI: That's right. Okay. So
20 with regard to alternatives, anything on alternatives?

21 SITING PROJECT MANAGER MONASMITH: Yeah. Just
22 that we did receive the data responses from the applicant.
23 And we continue to move forward with the Sandy Valley
24 alternative site. We actually are going to include, as
25 part of the footprint, some parcels that are actually in

1 San Bernardino County, as well as Inyo County, due to
2 issues with site control and the feasibility. And we have
3 that information. That's the only real change from the
4 last time we got the alternative technology information.
5 We're moving forward with the analysis. So we're doing
6 that in-house, and this shouldn't be a -- pose any
7 potential conflicts with schedule at this point.

8 HEARING OFFICER CELLI: Okay great. Because in
9 my memory, part of the need for petitions to compel was
10 the absence of information regarding who the property
11 owners were of the parcels for the Sandy Valley
12 alternative.

13 SITING PROJECT MANAGER MONASMITH: Right.
14 Hearing Officer, there was just some outstanding data
15 requests that the applicant had in terms of providing that
16 information in Inyo County. And we have that information
17 for San Bernardino County and we're moving forward with
18 that analysis.

19 HEARING OFFICER CELLI: And you're satisfied with
20 that?

21 SITING PROJECT MANAGER MONASMITH: At this
22 point - I'm looking at the alternatives analyst - yes,
23 we're fine.

24 HEARING OFFICER CELLI: Okay.

25 SITING PROJECT MANAGER MONASMITH: There will be

1 no more data requests due to Sandy Valley.

2 HEARING OFFICER CELLI: Good. I see nodding
3 heads in the audience, so that's a good sign.

4 Anything, Mr. Zellhoefer, regarding alternatives?

5 MR. ZELLHOEFER: Yes. I did review the materials
6 that were presented. I would like to make sure that the
7 alternatives analysis does include the impact of
8 greenhouse gases in the manufacturing of, for example,
9 solar panels, and also the impact of carbon dioxide
10 emissions using, for example, this technology which I
11 understand that -- this Bloom Box technology, which is
12 based on fuel usage as opposed to strictly solar-type
13 alternatives.

14 I do understand that in the current project, it
15 is basically 100 percent solar with only a slight amount
16 of natural gas used in this -- in system maintenance. So
17 I do think that that's an important part of the analysis,
18 particularly when looking at photovoltaics, because I know
19 it takes quite a bit of energy to make those panels and to
20 get those panels to the job site.

21 That's all.

22 HEARING OFFICER CELLI: I just wanted to ask you,
23 Mr. Zellhoefer, just so for future reference, since you're
24 speak into your computer, when you speak we need you to
25 look directly at your microphone and speak to it, because

1 if you turn your head, we get a little garbled. And you
2 said something about the manufacturing of something, and I
3 didn't quite get that word.

4 MR. ZELLHOEFER: That would be the manufacturing
5 of the photovoltaic panels.

6 HEARING OFFICER CELLI: Okay.

7 So I'm -- Mr. Zellhoefer, I'm going to ask staff,
8 in response to that question, because you're interested in
9 lifecycle GHG impacts, whether -- how much of that
10 analysis does staff do?

11 STAFF COUNSEL RATLIFF: Well, I think we're not
12 talk about alternatives here now. We're talking about, I
13 suspect, cumulative impacts. And Mr. Zellhoefer
14 apparently is suggesting that we should be quantifying
15 greenhouse gas impacts from photovoltaic panels, but I
16 don't believe there are any photovoltaic panels associated
17 with this project, not that I'm aware of.

18 Secondly, I think he's suggesting some kind of
19 end-use lifecycle analysis of the greenhouse gas emissions
20 related to the production of equipment that would go into
21 the facility.

22 Staff has not ever performed that kind of
23 analysis, simply because there's no agreed upon
24 methodology of protocol to determine how you actually
25 quantify that kind of cumulative effect, nor does staff

1 think that it would be particularly useful or
2 determinative of any issue with regard to a project such
3 as this.

4 Certainly, some degree of greenhouse gas
5 emissions is associated with the manufacture of equipment
6 in the facility, but it would be -- staff believes that it
7 would be minuscule compared to the greenhouse gas
8 emissions avoided over the life of the project. So we
9 wouldn't see it as being a significant cumulative impact,
10 in any case.

11 ASSOCIATE MEMBER PETERMAN: I'm going to ask the
12 applicant also just to take a second and explain your
13 technology versus photovoltaics, just so we're all on the
14 same page.

15 MR. HARRIS: Okay. Yeah. And what I understood
16 Mr. Zellhoefer to be talking about was alternative
17 technologies, not the alternative site. But, yeah, they
18 are different technologies. Our technology involves the
19 mirror reflection to the boiler to boil water to produce
20 steam. PVs are typically, you know, self-contained, if
21 you will. It's photovoltaic conversion of electricity.

22 And I guess I want to agree with Mr. Ratliff too
23 on the lifecycle analysis thing. That's something that
24 hasn't been undertaken. There isn't any generally
25 accepted methodology for that.

1 HEARING OFFICER CELLI: Thank you. So, Mr.
2 Zellhoefer, did you hear all of that?

3 MR. ZELLHOEFER: Yes. And that's fine. I'm
4 good. Thank you.

5 HEARING OFFICER CELLI: Great. Thank you.
6 I'm going to ask Ileene Anderson if she has any
7 comment with regard to alternatives.

8 MS. ANDERSON: Yes. I actually, you know,
9 support Mr. Zellhoefer's request for that, you know,
10 lifecycle and the greenhouse gas impacts. And I think
11 that it's really incumbent upon the CEC to develop that
12 methodology to evaluate those impacts, because what I'm
13 hearing is that, oh, well, we think that the impact is
14 going to be so low that we simply won't analyze it. And I
15 think it's informative and important to have those data
16 evaluated.

17 HEARING OFFICER CELLI: I hear you.

18 MS. ANDERSON: And I'm not speaking necessarily
19 for the PVs, because I understand the technology is solar
20 thermal, but the analysis of that, I think, is also
21 important.

22 HEARING OFFICER CELLI: Okay. Thank you. One
23 moment. I'm sure we'll hear more about this as we go on.

24 Is there anyone -- I see I've got a new call-in
25 user. Do we have anyone from the Old Spanish Trail on the

1 phone?

2 MR. PRICHETT: Yes. This is Jack Prichett. I
3 just logged in a second ago.

4 HEARING OFFICER CELLI: Thank you. Welcome,
5 Jack.

6 MR. PRICHETT: Thank you.

7 HEARING OFFICER CELLI: This is Ken Celli from
8 the podium. I'm the Hearing Advisor in this case.

9 MR. PRICHETT: Okay.

10 HEARING OFFICER CELLI: Did you hear what the
11 discussion regarding alternatives?

12 MR. PRICHETT: No, I did not. I just dialed in a
13 minute ago. And did you have any comment with regard to
14 the alternative, so far in the case?

15 MR. PRICHETT: No. I would like to hear them
16 restated it, if somebody could just run them down bing,
17 bing, bing, bing. I'm not sure of all of them.

18 HEARING OFFICER CELLI: Well, that's yet
19 to -- just so you know where we stand. Today is a status
20 conference. This is -- It's not a hearing.

21 MR. PRICHETT: Yes.

22 HEARING OFFICER CELLI: We're not taking evidence
23 yet. What's going to happen is staff is going to publish
24 first a Preliminary Staff Assessment. It's going to
25 include all of the usual alternatives analysis, PV, you

1 know, everything, hydro, all the other -- you know, gas
2 fired, everything.

3 MR. PRICHETT: Right.

4 HEARING OFFICER CELLI: And so they do a good job
5 of that. They even have -- there's been discussion of
6 these bloom boxes is going to be included. So the
7 analysis is pretty far reaching.

8 MR. PRICHETT: Yes.

9 HEARING OFFICER CELLI: But as you participate --
10 and it's great to have you, Mr. Prichett, representing the
11 Old Spanish Trails Association. As you participate in
12 some of these workshops, and as you evolve with the case,
13 you're going to get a real sense of what alternatives are
14 going to be included. And then as we have many of these
15 status conferences scheduled, you'll be able to bring to
16 the attention of the Committee anything that you think
17 might be lacking.

18 MR. PRICHETT: Right.

19 HEARING OFFICER CELLI: So good. Thank you.
20 With that then -- and your timing is perfect, because
21 we're now getting into cultural, which I think is your
22 issue, so let's hear from the applicant -- oh, one moment.

23 Question from Ms. Allen. Go ahead. Eileen
24 Allen.

25 MS. ALLEN: This is a question for staff. Are

1 you aware of whether BLM has received an application for a
2 separate solar facility proposed in the Sandy Valley? If
3 so, does it involve the same site or overlap the
4 applicant's alternative?

5 STAFF COUNSEL RATLIFF: I'm not aware and
6 apparently Mike isn't either.

7 SITING PROJECT MANAGER MONASMITH: I think there
8 had been discussion about a PV project in the past, but
9 I'm not aware of any specific filed application with BLM
10 or any of the privately held land, which is substantial in
11 Sandy Valley as well.

12 MS. ALLEN: Thank you.

13 HEARING OFFICER CELLI: Is that it on
14 alternatives?

15 Galen, anything?

16 Galen, did you have anything?

17 MR. LEMEI: No.

18 HEARING OFFICER CELLI: Okay. Great. Thank you.
19 Let's hear from applicant with regard to
20 cultural.

21 MS. STRACHAN: Thank you. At the end of the last
22 status conference, our technical cultural experts and
23 staff's cultural experts met to discuss some of the
24 outstanding data requests. Specifically, there were two,
25 127 and 128, which staff in its Status Report number 1 had

1 stated that a motion to compel may be provided.

2 HEARING OFFICER CELLI: And if you wouldn't mind
3 reminding us, what are the asking for in 127 and 128?

4 MS. STRACHAN: I was fearful you were going to
5 ask me that. I think it's a research. It deals with
6 going into doing further research on the sites that were
7 identified within the project boundaries.

8 HEARING OFFICER CELLI: Okay, within the
9 footprint of the project?

10 MS. STRACHAN: Yeah. It was taking the analysis
11 a step further with regard to those sites within the
12 project site.

13 HEARING OFFICER CELLI: Okay. Thanks.

14 MS. STRACHAN: As a result of those discussions,
15 we agreed to provide the responses to 127 and 128. 127
16 was provided. We can't move on and do 128, until we get
17 staff's approval of 127, because 128 is the actual work --
18 work in the field, so we're waiting to hear back from
19 them.

20 So to our knowledge -- at this point, we do not
21 believe that there are any unaccounted for, so to speak,
22 cultural resources, data requests. I know in staff's
23 status report, they made the comment that data response --
24 or request 121 and 134 that the applicant has not yet
25 committed to undertake the completion of these.

1 In actuality, our records show that we did
2 provide a response to 134 in January as part of our data
3 response set 1D. And that for 121, that one is answered
4 as part of 127. So we'll work with staff to just make
5 sure they've got all the appropriate information and to
6 clarify that.

7 HEARING OFFICER CELLI: Thank you. Staff.

8 STAFF COUNSEL RATLIFF: We agree that it doesn't
9 look like a motion to compel will be necessary. We are, I
10 think, meandering to some kind of resolution of the issues
11 over what information the applicant will provide, and what
12 we need for our analysis.

13 So we'll keep trying to work out these data
14 requests issues with them, and open hopefully you won't
15 hear anymore about it.

16 HEARING OFFICER CELLI: So it sounds like you
17 were able to resolve whatever was outstanding last time.
18 It looks like a petition to compel is now off the table.

19 STAFF COUNSEL RATLIFF: Well, it certainly seems
20 to be. Like I think Ms. Strachan just said, staff has not
21 yet responded to what I believe is the workplan for the
22 work. And I don't know what changes or adjustments we
23 might make with that. That's still something we have to
24 discuss with the applicant. So it's not a resolved issue
25 yet.

1 And until it is, I can't tell you for sure that
2 everything is going to be okay. But we're continuing to
3 discuss it with the applicant, and they've been very
4 responsive in the discussions we've had with them so far.

5 HEARING OFFICER CELLI: Thank you. I just -- I
6 want to make sure that we're not giving the impression
7 from the podium that the Committee has a position one way
8 or the other on a petition to compel. It's actually
9 something the Committee can actually do. And it helps
10 focus issues. It helps get things moving along. And if
11 any party needs to bring one where we're don't -- that
12 isn't something that's disfavored. It's something that we
13 think is part of the process and we're happy to do it. So
14 I just want to be clear about that.

15 Lets's hear from Mr. Zellhoefer, with regard to
16 cultural.

17 MR. ZELLHOEFER: No, new issues. I think, at
18 this time. Everything is good.

19 HEARING OFFICER CELLI: Thank you. Cultural
20 issues. Ileene Anderson, any cultural matters from CBD?

21 MS. ANDERSON: No, I don't have any, at this
22 time. Thanks.

23 HEARING OFFICER CELLI: Thank you. Let's -- I
24 know we have some from the Old Spanish Trail Association,
25 so let's here from Jack Prichett on the cultural issues,

1 please.

2 MR. PRICHETT: Yes. One issue I wish to
3 reiterate, where I think it was Ileene just asked about
4 the status of the Sandy Valley site, because that also
5 sits right astride the corridor of the Old Spanish Trail,
6 as defined by the National Parks Service. So I'd like to
7 know the status of that, and whether we need to consider
8 that as -- for its potential impacts on the Old Spanish
9 Trail.

10 And then second, I sent a proof of service
11 announcement around earlier, let's, see last week. I
12 believe it was on Thursday. And I pointed out the law,
13 the National Trails System Act, that defines the Old
14 Spanish Trail as the 1829 to 1848 mule caravan period.

15 And I am now working on a report, which I will
16 submit to the Commission, that defines what we know that
17 will show and map with archival evidence what we know
18 about the route of that mule caravan in the area and
19 perhaps across the project area.

20 HEARING OFFICER CELLI: Now, have you been
21 participating in the workshops, Mr. Prichett?

22 MR. PRICHETT: This is the second one that I have
23 participated in. Now, are they on a regular basis,
24 because I went through my Email. I didn't see that I got
25 a notice. So if there's a regular calendar time, let me

1 know and I will be sure that I'm on or someone else.

2 HEARING OFFICER CELLI: Well, generally, they're
3 noticed by staff. As far as these Status Conferences are
4 concerned, we noticed them all in a single noticing that
5 went out in January, and that's on the website. You can
6 always check in there. And that's a good thing to do just
7 as a back up, in case you're wondering whether you're
8 missing something. You can always go to the website and
9 look and see what's up there.

10 MR. PRICHETT: Right. I'm on it right now, and
11 I -- but I mean there's a lot of postings. And if you
12 only posted it in January -- if it's on a regular weekly
13 basis, I'll put that on my calendar.

14 HEARING OFFICER CELLI: Yeah. It's, I would say,
15 periodic, not regular.

16 MR. PRICHETT: Okay. And is there a difference
17 between a Status Conference and a workshop?

18 HEARING OFFICER CELLI: Yes, a very important
19 difference.

20 MR. PRICHETT: Okay.

21 HEARING OFFICER CELLI: The big difference is
22 that the Committee that is going to decide this case is
23 presiding over a Status Conference.

24 Now, this isn't a hearing and we're not taking
25 evidence. This is really sort of the informal

1 conversation to find out how things are going. A
2 workshop, the Committee does not participate in. That's
3 an opportunity for the parties to get together. Our
4 regulations require that those meetings be noticed. And
5 so staff will notice them, and staff will pretty much run
6 those workshops.

7 But the workshops are very important, because it
8 sounds to me like the information you have to provide to
9 staff is very useful, and very important. So I think
10 that -- I want to make sure that you're participating
11 fully in the workshop.

12 MR. PRICHETT: Indeed.

13 ASSOCIATE MEMBER PETERMAN: And I'll ask that our
14 Public Adviser just follow-up with you, Mr. Zellhoefer
15 after the status conference just to make sure that you
16 have access -- that you'll be able to locate where all --
17 you know, how to get information about the workshops and
18 the status conferences.

19 Oh, sorry, Mr. Prichett, you as well.

20 MR. ZELLHOEFER: I would appreciate that.

21 HEARING OFFICER CELLI: Thank you. And so
22 anything on that, staff, with regard to the Old Spanish
23 Trail Association, the new definitions provided, the
24 1948 -- or rather 1848 through 1849 mule caravan?

25 MR. PRICHETT: It's 1829 through 1848.

1 HEARING OFFICER CELLI: Thank you. I stand
2 corrected.

3 STAFF COUNSEL RATLIFF: We received the
4 information, and we appreciate Mr. Prichett's
5 contribution, and assistance on this. I think there was
6 also a question as to what the status of Sandy Valley is.
7 And just to clarify, without belaboring it, staff is
8 looking that as a site alternative to the proposed
9 project.

10 HEARING OFFICER CELLI: Well, that would
11 certainly affect it. So, Mr. Prichett, you'd mentioned
12 one the Sandy Valley item and two, the definition of the
13 mule caravan period. Anything further with regard to
14 cultural?

15 MR. PRICHETT: There is still a question, the law
16 does not -- the law does not consider the wagon train --
17 the wagon trails, known variously as the Mormon Road or
18 the Great Salt Lake Road, which then were built, more or
19 less, following the Old Spanish Trail. In some cases,
20 they run right over it. For instance, some places on the
21 Old Spanish Trail highway.

22 I'm not sure whether the Commission or the
23 Applicant wish to consider the -- you know, those wagon
24 trails as part of the Old Spanish Trail or whether they
25 want to consider them as separate cultural resources,

1 since there is a confusion between the two.

2 HEARING OFFICER CELLI: Staff, can you respond to
3 that?

4 STAFF COUNSEL RATLIFF: I don't know the answer
5 to that.

6 HEARING OFFICER CELLI: So is staff looking into
7 what those distinctions. Apparently, you have two trails
8 that converge and diverge in various places.

9 SITING PROJECT MANAGER MONASMITH: Yes. Our
10 cultural resources staff are reviewing Mr. Prichett's
11 submittal. It was discussed briefly at our workshop last
12 week on the 22nd, and that he participated in. It was
13 based on that, that his submission came through and we are
14 reviewing it. And we'll continue to engage him.

15 HEARING OFFICER CELLI: Thank you. So for that
16 reason, you need to stay tuned and participate in the
17 workshops, Mr. Prichett, so you can sort of shepherd that.

18 MR. PRICHETT: I will do my best. And if I can't
19 be on, I'll have someone else from our organization call
20 in.

21 HEARING OFFICER CELLI: Excellent. Anything
22 further on cultural, Mr. Prichett?

23 MR. PRICHETT: Only that the Old Spanish Trail
24 there, we have discovered -- we continue to discover
25 on-the-ground pieces of it, in and about the project area.

1 So it's a very live issue.

2 HEARING OFFICER CELLI: Very good. Appreciate
3 your input.

4 MR. PRICHETT: All right. That will do it for
5 me.

6 HEARING OFFICER CELLI: Thank you. Anything,
7 Commissioner Peterman, on cultural?

8 ASSOCIATE MEMBER PETERMAN: This is a general
9 question about cultural resources. Have any concerns been
10 raised by local tribes?

11 STAFF COUNSEL RATLIFF: Yes. The staff has met
12 more than once with several of the tribes, and have had a
13 number of discussions with them about their concerns. I
14 have not been present at those meetings, but the staff is
15 trying to take into consideration those concerns.

16 HEARING OFFICER CELLI: Thank you.

17 Okay. We're moving on to bio then. Let's hear
18 from applicant with regard to biology.

19 MS. STRACHAN: Yes. We had a positive workshop
20 with the staff on February 22nd, last Wednesday. One of
21 the topics talked about at great length was Desert
22 Tortoise. At the workshop, the staff provided what their
23 thinking is to date generally with regard to mitigation
24 ratios for Desert Tortoise and suggested avoidance
25 measures.

1 They're going to continue in those efforts and
2 we'll look forward to getting further information from
3 staff, and working with them on mitigation.

4 HEARING OFFICER CELLI: Staff, bio?

5 STAFF COUNSEL RATLIFF: Yes. The staff,
6 particularly at the last workshop, discussed the value of
7 the habitat, which the project would affect, and the
8 various complications, in how you evaluate that habitat.

9 The USGS mapping of Desert Tortoise habitat
10 suggests that it's a habitat of high value. I think the
11 opinion of the biologists who have viewed the site is that
12 it is not of the same quality as the habitat at Ivanpah or
13 Calico or some other projects that the Commission has
14 licensed.

15 At the same time, the habitat is not uniform.
16 And so there are a number of issues to try to determine
17 what kind of compensatory obligation the applicant would
18 have, in terms of making certain that impacts to Desert
19 Tortoise are fully mitigated as required by the California
20 Endangered Species Act.

21 One of the things that we discussed in the last
22 workshop with the applicant was the possibility of looking
23 at changing the project footprint to reduce impacts to
24 areas that might be considered to be better habitat. We
25 understand that the applicant is very sensitive to

1 suggestions of changing the footprint, because this could
2 go to the engineering of the project, and the feasibility
3 of the project.

4 So nevertheless, I think they have at least
5 accepted the possibility of looking at that. We don't
6 know whether that is going to be one of the answers as to
7 what to do, in terms of mitigating impacts by avoidance,
8 of whether making -- reconfiguring the project footprint
9 would make sense. But we wanted to examine it,
10 particularly since the better habitat for tortoise and
11 perhaps for other sensitive species tends to be along the
12 California-Nevada border and in that area.

13 So that's something we will look at to try to
14 determine if it makes sense or to see if it -- if there is
15 any possibility of doing avoidance.

16 HEARING OFFICER CELLI: Any other -- besides
17 December Tortoise, any other issues of any other flora or
18 fauna.

19 STAFF COUNSEL RATLIFF: Well, yes. I mean, there
20 are kit fox on the site, and that's an issue that, along
21 with the Desert Tortoise presence, we have had a number of
22 discussions with the Department of Fish and Game staff,
23 and this presents certain kinds a logistical problems,
24 because kit fox is also a protected species, and one as I
25 believe that you cannot get a take permit for. So it

1 presents certain challenges for how you do a project where
2 there is kit fox habitat.

3 Secondarily, there are numerous plants which are
4 rare in terms of the CEQA definition of rare plants. Some
5 of these plants have been found, in very few instances, in
6 California, and CESA is a California specific statute.

7 The applicant has suggested that the reason these
8 plants have not been discovered in California is simply
9 because there's been no inventory for them broadly, and
10 has suggested perhaps, if it looked more broadly, it would
11 find it's not as rare as it would appear to be.

12 And I think it's my understanding that they may
13 be taking that course to try to determine that the plant
14 is, in fact, a much more broadly located plant than our
15 current understandings and records would suggest.

16 HEARING OFFICER CELLI: Thank you. Go ahead.

17 ASSOCIATE MEMBER PETERMAN: Following up on your
18 discussion of the kit foxes, has Fish and Game expressed
19 any opinions on the kit fox issues, and is Fish and Game
20 working with CEC staff on any data requests in this area?

21 STAFF COUNSEL RATLIFF: Yes. We have, I think,
22 made progress. We're working with the regional office of
23 Fish and Game, and they've recently become much more
24 involved in the biological issues. And we're very
25 encouraged by that. We want to make sure that the

1 mitigation under the endangered species -- the State
2 Endangered Species Act is reflective of their views on
3 what it should be. And so, yes, we're working very
4 directly with them now.

5 MR. HARRIS: Could I add a couple things here.
6 And Ms. Strachan was actually going to talk about the kit
7 fox and plants too, so she may have some things to chip in
8 here as well. But as to the Desert Tortoise, I guess, one
9 of the things I want to point out is the tower height, and
10 we talked a little bit about this last time.

11 In terms of avoidance, as that term is used, one
12 of the things that we've said consistently in the AFC and
13 thereafter, is that by making the tower taller -- it's a
14 700 foot tower here, 750 in this case, as opposed to a
15 shorter tower at Ivanpah, we were able to shrink that
16 project footprint in considerably. And maybe we haven't
17 done a good job of explaining that or taking credit for
18 that shrinking footprint with the taller tower.

19 To me, that is -- there's already a significant
20 amount of avoidance incorporated into the project design,
21 and it's one of the reasons that the project is the way it
22 is. And then as the kit fox, I guess the one thing I want
23 to add, we're not talking about the San Joaquin kit fox,
24 which is a listed threatened or endangered species. This
25 is the desert kit fox.

1 Nevertheless, we understand the issues that are
2 going on in other solar projects. We understand the
3 profile the kit fox issue has. And we take it very
4 seriously and we're going to work very closely with staff
5 on those kit fox issues.

6 Anything you want to add?

7 MS. STRACHAN: Oh, I was just going to add that
8 at the workshop on the 22nd, CEC biologist Carol Watson
9 did a very good job, I think, of explaining what staff's
10 concerns are with kit fox. We understand that there are
11 data requests pertaining to kit fox that are forthcoming.
12 We look forward to seeing those.

13 With regard to the special status plants, we did
14 provide staff last month with a report of survey results
15 that we did in the surrounding area to complement the ones
16 that were done on the staff -- on the site, excuse me,
17 that do show that the plants, several of the ones on the
18 site are found in the other areas.

19 Staff provided good information for us, in terms
20 of what it's considering in terms of its threshold for
21 determining if mitigation is required. And we'll continue
22 working with them on that issue.

23 HEARING OFFICER CELLI: Thank you. I'm going
24 to -- what I'd like to do for the sake of the
25 Commissioners, is let me ask the intervenors if they have

1 any bio issues and then we have any follow-up questions,
2 and we'll move on.

3 So, first, Mr. Zellhoefer, anything regarding
4 biology, biological issues, biological resources?

5 MR. ZELLHOEFER: Yes, I do. And, first, I would
6 like to clarify what was just mentioned about the tower
7 height. I think that the impact on biological by
8 BrightSource's choice of going to a higher tower could be
9 perhaps a little bit better documented so that we could
10 all see how much has been mitigated before we even started
11 to look at the project. So I commend them on that.

12 I would like to see, for example, the project 25
13 percent smaller in footprint, because of the tower height
14 and how that might have affected things. Also, in reading
15 through the data responses on the turtles, it appears that
16 they could be just as easily Nevada turtles as California
17 turtles. There's a certain range to their wandering. And
18 it seems that most of the instances of turtles are almost
19 right on the California-Nevada border.

20 So when the discussions of relocating turtles
21 comes up, I would hope that staff keeps in mind that these
22 turtles might have been from Nevada just as easily as they
23 were from California, and we should relocate the turtles
24 to habitat that is most helpful to them. And if that is
25 in Nevada, I would hope that we would certainly consider

1 that.

2 That's all.

3 HEARING OFFICER CELLI: Thank you. Let's hear
4 from Ileene Anderson from the Center of Biological
5 Diversity.

6 MS. ANDERSON: You know, I don't think I have any
7 comments on the bio at this time. Although, I look
8 forward to our next workshop.

9 HEARING OFFICER CELLI: Well, thank you. Let's
10 hear from Jack Prichett. Jack, are you still on the line?

11 I think we went away. He really only had a
12 cultural issue, so I guess he couldn't participate
13 further.

14 So with that, I'm going to ask Commissioner
15 Peterman if you had any questions with regard to bio?

16 Let's hear from Eileen Allen. Eileen, you might
17 want to even explain to everybody what your role is, so
18 that it would -- because they're wondering which
19 Commissioner you're with.

20 MS. ALLEN: Good morning. I work with all the
21 Commissioners on technical aspects of the power plant
22 siting cases. So I look at all the material, then talk
23 with the Commissioners and their advisers about questions
24 and clarification that I'm looking for related to various
25 potential issues. So that's why some of these kind of

1 subject-by-subject specific questions are coming forward.
2 And then some of my questions relate to how progress and
3 information provided will affect the schedule.

4 So along those lines, following up on the last
5 status report by staff, when does staff expect BLM to
6 submit a Biological Assessment and request for a Section 7
7 consultation process to the Fish and Wildlife Service?

8 STAFF COUNSEL RATLIFF: I'm thinking about this
9 before I say something that will probably be wrong, but
10 the project in California that BrightSource has proposed
11 is on private land. The transmission portion of the
12 project, which is from this project that goes into Nevada,
13 is on BLM land. And as I understand it, the Service is
14 doing a biological opinion, and is in consultation on the
15 Nevada side of the project.

16 The California project and the context of that
17 biological opinion, and that BLM right of way permit will
18 be a connected action, which will be included in the
19 overall analysis that the U.S. -- that the Service will do
20 as part of that consultation.

21 So there will be a biological opinion that looks
22 at impacts to protected species on the private land that
23 is the project side. The timing of that biological
24 opinion, perhaps the applicant has a better sense of when
25 the biological opinion is expected. I don't know what the

1 schedule is. My experience from past cases is that
2 usually these opinions come out either very late in our
3 process or after our process is concluded. But perhaps
4 the applicant knows more about whatever schedule the
5 service is using for that biological opinion.

6 MS. STRACHAN: It's our -- obviously, it's not a
7 schedule that we control. We're the connected action
8 associated with the BLM process. But our understanding is
9 the Biological Assessment to be submitted to Fish and
10 Wildlife Service is being prepared, and we've submitted
11 to -- from BLM to Fish and Wildlife Service in the next
12 couple of -- couple of months. And then the Fish and
13 Wildlife Service has 135 days for which to add -- issue
14 the biological opinion.

15 STAFF COUNSEL RATLIFF: Just to clarify, the
16 Biological Assessment is something that the project
17 proponent prepares and submits to the Service. If Ivanpah
18 is any guidance on this, the Service typically rejects the
19 Biological Assessment more than once for lack of complete
20 information -- or the information that they want before
21 they prepare the opinion.

22 And so the timing of the filing of the assessment
23 certainly is relevant to when you actually see the
24 biological opinion, but it isn't necessarily -- it doesn't
25 give you a concrete guide to when there will be a

1 biological opinion.

2 MS. ALLEN: Thank you. This is still kind of
3 vague as to when the process will be completed. So does
4 staff anticipate any concerns with being able to complete
5 its Final Staff Assessment for biological resources?

6 STAFF COUNSEL RATLIFF: No, we don't. I mean, we
7 have our own issues, of course, and our own difficulties,
8 but I don't think staff's assessment of the impact to
9 protected species is reliant on the issuance of a
10 biological opinion. We'll have the benefit of the
11 Biological Assessment that the applicant has provided, but
12 we'll also have developed a great deal more of information
13 through our data requests, and through working with Fish
14 and Game as the trustee agency.

15 So I think our analysis is largely independent of
16 that done by the Service. And if the biological opinion
17 comes out in time to be -- to inform our assessment,
18 that's good, but we aren't dependent upon it.

19 MS. ALLEN: I also wondered about the status of
20 the draft Desert Tortoise relocation plan. I think that's
21 a question that's directed to the applicant.

22 MS. STRACHAN: We filed the draft of the
23 relocation plan January -- I believe it was January. What
24 we're also dealing with, and I think Mr. Zellhoefer
25 brought that up, is that -- brought the issue up, is the

1 translocation and whether the tortoise could be
2 translocated to Nevada or California. I think there's a
3 concurrence that the better habitat, the more suitable
4 habitat is in Nevada. However, there's some concern that
5 with -- with Fish and Game and that's being addressed
6 right now.

7 MS. ALLEN: Thank you. That concludes my
8 questions for bio resources.

9 HEARING OFFICER CELLI: Thank you. Thank you for
10 the information. Let's move to the next, which is visual.
11 Mr. Harris, you brought that up to -- we're talking about
12 the tall tower and its utility, but go ahead, applicant,
13 on visual.

14 MS. STRACHAN: Thank you. Visual was the other
15 issue area that was discussed at the workshop on the 22nd.
16 Based on that workshop, we understand that staff, and they
17 stated in the status report, have hired a consultant.
18 It's our understanding that the purpose of the consultant
19 is to verify the simulations that we prepared and included
20 in the AFC.

21 We had discussion at the workshop about if staff
22 were, or the consultant were, to determine that any of the
23 simulations needed to be revised, that we have a
24 preference that we prepare those simulations. The
25 simulations actually use the engineering drawings that

1 have been prepared by the pro -- for the project. The
2 engineers actually create 3-D CAD models that are then
3 used to do the simulations.

4 So just to ensure that that detailed information
5 is used, our preference is that we would be the ones to
6 prepare any revised simulations.

7 We also provided -- have provided information
8 that staff requested pertaining to the transmission lines
9 and the poles that are on the project site. Staff
10 questioned why those were not visible from some of the
11 KOPs for which they believe they should -- or would expect
12 them to be visible. And we had our technical expert
13 provide some figures, which demonstrated why you cannot
14 see those. It's our understanding that staff agrees with
15 the information that was provided, and that is information
16 that will be docketed.

17 We also understand that KOP 7, which is the one
18 from Old Spanish Trail, that was provided in our first
19 round of data requests -- or responses. That staff, at
20 this time, is concurring with the location of that KOP.
21 There was discussion in their status report that put into
22 question the accuracy of that location. And we based the
23 information off of National Park Service maps,
24 conversations with the National Park Service, that seems
25 to be definitive data that was available to us at that

1 time, and staff seems to be concurring with that
2 conclusion.

3 Lastly, there was a reference made in the status
4 report, and talked about a little bit at the workshop
5 about glint and glare, and we have data requests that were
6 provided to us on those. We're preparing those responses,
7 an we'll file those on March 5th.

8 HEARING OFFICER CELLI: Thank you. Let's hear
9 from staff. Do you agree with all of that, specifically
10 the simulations that -- remember, last time we were
11 speaking, there was a question about who was going to
12 prepare the simulations. Is that acceptable to staff that
13 the new revised simulations come from applicant?

14 STAFF COUNSEL RATLIFF: Well, staff has basically
15 undertaken to review the simulation work that was done.
16 I'm reluctant to say anything more until our review is
17 complete.

18 HEARING OFFICER CELLI: Okay. So you agree with
19 the transmission line? I'm remember reading there was a
20 concern in the --

21 STAFF COUNSEL RATLIFF: Well, I think the -- at
22 the workshop there was discussion about why the
23 transmission line was not visible in the KOPs that were
24 used.

25 The explanation is that geographic features from

1 the KOPs that we have obscure it. They can't be seen. I
2 think that seems to be a good explanation. I think there
3 was further discussion about whether an additional KOP
4 from near the California border on the Old Spanish Road
5 would perhaps be indicative of what, if any, visual impact
6 you have from that transmission line.

7 HEARING OFFICER CELLI: Okay. So do I understand
8 then that -- do we have a concern over the appropriateness
9 of KOP 7?

10 SITING PROJECT MANAGER MONASMITH: Staff and
11 consultants are working on that right now. And we
12 actually -- they are reviewing the information. Actually,
13 Mr. Prichett had also weighed in on this issue during the
14 staff workshop back on the 22nd. Our staff are actually
15 in the field today working on this issue and verification
16 issues, in terms of accuracy oh KOP 5, and KOP 7, the one
17 in question on the Old Spanish Trail.

18 HEARING OFFICER CELLI: And did KOP 8 go away?
19 Do you remember when we were talking about KOP 8 last
20 time, that was in dispute?

21 SITING PROJECT MANAGER MONASMITH: Yes. Yes,
22 that's gone away.

23 HEARING OFFICER CELLI: Okay. So we have seven
24 KOPs, and that's what we're going with.

25 Okay. Good. The record should reflect that

1 there were nodding heads in the affirmative.

2 (Laughter.)

3 HEARING OFFICER CELLI: Let's go to Mr.
4 Zellhoefer. Anything regarding visual impacts, Mr.
5 Zellhoefer?

6 MR. ZELLHOEFER: Now, I brought those up last
7 week with the staff review. The glare issue coming off of
8 KOP 7 is being addressed. It cannot be properly
9 represented in any kind of photographic or printed. But
10 the plans of it and the visuals of it, I believe, are
11 being addressed. My concern is that traffic heading
12 eastbound on Old Spanish Trail coming from Tecopa. When
13 you come to that point, there is a curve in the road,
14 you'll be looking down upon the two towers, and I did have
15 a concern about glare and possibly the effects of
16 distracting the driver.

17 HEARING OFFICER CELLI: And you presented that at
18 the workshop, Mr. Zellhoefer?

19 MR. ZELLHOEFER: Yes, I mentioned that at the
20 workshop. And I believe that is what was addressed just a
21 few minutes ago, that is going to be dealt with in early
22 March.

23 HEARING OFFICER CELLI: So that's the glint and
24 glare issue.

25 Anything further on that?

1 MR. ZELLHOEFER: Yes, particularly from KOP 7.

2 HEARING OFFICER CELLI: Okay. Glint and glare,
3 KOP 7.

4 MR. ZELLHOEFER: There is a number of glint and
5 glare data requests that's gone in that we'll be waiting
6 for the responses from on March 5th.

7 HEARING OFFICER CELLI: Thank you, Mr.
8 Zellhoefer.

9 Anything further on visual from Mr. Zellhoefer?

10 MR. ZELLHOEFER: No, not on visual.

11 HEARING OFFICER CELLI: Okay. Let's hear from
12 Center for Biological Diversity. Ileene Anderson.

13 MS. ANDERSON: No, I don't have any comments on
14 visual, at this time. Thank you.

15 HEARING OFFICER CELLI: Is there anyone on the
16 line from the Old Spanish Trails Association?

17 Hearing none.

18 Commissioner Peterman, any questions regarding
19 visual?

20 Saying none. Okay. Good. Let's move on to
21 land. Land is a big one. And I want to acknowledge for
22 the record that we have Dan Crom.

23 MS. CROM: Crom.

24 HEARING OFFICER CELLI: Crom.

25 MS. POTTENGER: Hearing Officer Celli, If

1 possible, can we do water resources first before we move
2 to land use.

3 HEARING OFFICER CELLI: Sure. Oh, I'm sorry. I
4 crossed it out. Water. We're on to water resources.
5 You're right.

6 MR. KAZIO: Gary Kazio, BrighSource Energy.

7 HEARING OFFICER CELLI: Gary, your mic needs to
8 go on. Could you say your name again, please, and spell
9 it.

10 MR. KAZIO: Gary Kazio, K-a-z-i-o.

11 HEARING OFFICER CELLI: Thank you.

12 MR. KAZIO: BrightSource Energy, assistant
13 project manager for the Hidden Hills project.

14 In order to address staff's concerns in the data
15 requests 2A, we were requested to do a pump test to
16 determine the feasibility of performance of the aquifer
17 that delivery water for our project. We developed a
18 seven-day pump test plan, and got concurrence with
19 resource experts from both Inyo County and the California
20 Energy Commission.

21 We analyzed the six wells that are located on the
22 site. Two of which were proven to be satisfactory to move
23 forward with the test. We drilled some monitoring wells
24 around those existing wells to help further refine the
25 model to determine drawdown from the effects of pumping

1 the amount of water that was going to be needed.

2 We started the testing at about four and a half
3 day of very good results. In a short period of time, the
4 aquifer actually stabilized and the drawdown was pretty
5 much static at that point.

6 After the four and a half days, after doing the
7 testing, we had some vandalism on one of the wells, and
8 prematurely stopped the test. But as we collected all the
9 data, and as they started to analyze the data, it was
10 demonstrated that the aquifer was going into a static
11 state, and that the results that we did obtain, were very
12 conclusive of what was actually occurring in the aquifer.

13 The results did clearly demonstrate that we had
14 the ability to draw the 140-acre feet per year over the
15 four and a half day period. And we are very confident
16 that with the four and a half days worth of test results,
17 that it will demonstrate -- that it will fit a true curve
18 for the performance.

19 Also, during that period, we'd noticed that the
20 one-foot drawdown only occurred about 200 feet from the
21 well. So through the continuous pumping of the four and a
22 half days, and with the aquifer becoming stable, the
23 drawdown was actually closer into the actual well location
24 than what was actually in the conservative model that was
25 provided in the AFC. So overall the results were really

1 quite well.

2 The report will be finalized by the 29th of
3 February and given to the CEC staff to help further their
4 analysis.

5 HEARING OFFICER CELLI: Thank you. Staff,
6 anything on that, please?

7 STAFF COUNSEL RATLIFF: We look forward to seeing
8 the report.

9 HEARING OFFICER CELLI: And let me ask you this,
10 what about a four and a half day pump test rather than a
11 seven day pump test?

12 STAFF COUNSEL RATLIFF: I can't answer that. I
13 think that's a question for the technical staff, and we
14 may want to look at the materials that they filed.

15 HEARING OFFICER CELLI: I'm just trying to
16 anticipate, is this something that's going to require yet
17 another pump test, and then we're going to drag out our
18 schedule any?

19 STAFF COUNSEL RATLIFF: I think it's a fair
20 question. I don't know.

21 SITING PROJECT MANAGER MONASMITH: Our technical
22 staff were, I believe, briefed yesterday and I've not got
23 an opportunity to talk with them. I think they want to
24 see the final report that gets filed tomorrow, and then
25 this obviously will be included in our status report that

1 we filed, for number three here, in a couple weeks.

2 HEARING OFFICER CELLI: Do you have a workshop
3 coming up? When is your next workshop?

4 SITING PROJECT MANAGER MONASMITH: At this point,
5 it's not scheduled. Though we've had discussions with the
6 applicant about a mid-March workshop probably in Inyo
7 County. It will be our eighth and final of discovery.

8 HEARING OFFICER CELLI: You know, as these issues
9 come up that can affect scheduling, that's really the sort
10 of things we're focusing in on.

11 MS. CROM: If I can just Interject briefly, I
12 will indicate that applicant did brief Dr. Bob Harrington,
13 who was here at the last conference on behalf of Inyo
14 County, on Friday afternoon. And we too await the test
15 results. But I do know that applicant has been very good
16 in including Inyo County, and particularly Dr. Harrington
17 who is our Water Director, on these issues.

18 HEARING OFFICER CELLI: Great. Thank you.

19 MS. CROM: And we'll respond as soon as we
20 receive the report. If there's any concerns, obviously,
21 Dr. Harrington will bring those to everybody's attention.

22 HEARING OFFICER CELLI: So that will be
23 something, I guess, we're just going to have to hear
24 about.

25 Go ahead.

1 MR. JENSEN: Yeah. I apologize for switching
2 seats here to confuse people.

3 HEARING OFFICER CELLI: Just state your name for
4 the record.

5 MR. JENSEN: Sure. Clay Jensen, BrightSource,
6 project manager. I wanted to provide a little bit more
7 science background. I definitely am probably not the
8 appropriate person to be describing this. But as I heard
9 it, as you do these pump tests over time, you're measuring
10 the drawdown that's occurring around through the
11 monitoring wells.

12 And as that drawdown hits a curve, there's a
13 predicted curve of where these plot points are going to
14 be -- and again, this is far more technical than I even
15 completely understand. But from the conversations I've
16 heard and our scientists are telling us, that the data
17 very quickly followed a particular path or a particular
18 curve and began to level out to a horizontal position.

19 And what I'm understanding that to mean is that
20 the additional two and a half days of testing that would
21 have gone between the four and a half days of seven days,
22 would not have provided material information that would
23 have altered the conclusions of the report. So from the
24 applicant's perspective that's what was included in the
25 report -- will be included in the report.

1 So we don't think that there will be any need to
2 reset the study. We quickly wanted them to run that
3 analysis in the event that staff needed that additional
4 data to hold schedule. And it's compelling, in our
5 opinion, the evidence that there's no use to resetting
6 that data, because you're going to replicate the same
7 results over the same duration, so there's not a reason
8 to. So I just wanted to address the scheduling
9 perspective. Our opinion is very strongly that it won't
10 have an impact on schedule.

11 HEARING OFFICER CELLI: Thank you. Let's hear
12 from Mr. Zellhoefer regarding water resources.

13 MR. ZELLHOEFER: I concur with what Clay just
14 said. I haven't done water engineering in a long time,
15 but I did graduate from UCLA with a civil engineering
16 degree, and what he described, in terms of curves and
17 reaching the status point, I understand, and I agree with.
18 I'm glad to hear that they found the water necessary for
19 the project. And that was my concern brought up over the
20 hearing. And this puts the water issues to rest, in my
21 book.

22 Thank you

23 HEARING OFFICER CELLI: Thank you, Mr.
24 Zellhoefer, and go Bruins.

25 (Laughter.)

1 HEARING OFFICER CELLI: Let's see. Let's hear
2 from Ileene Anderson from Center for Biological Diversity
3 regarding any water issues.

4 MS. ANDERSON: Yeah. Well, as you know, we're
5 concerned about the water issues, and basically, the
6 Pahrump Aquifer and its relationship to the Amargosa. But
7 that said aside, to address the issue that we're currently
8 discussing, we look forward to the report as well. But we
9 do think the due diligence should be had and a full seven
10 days worth of pumping should occur.

11 HEARING OFFICER CELLI: Okay. I just -- I want
12 to be clear that, in my discussions with staff just now,
13 that they have yet to notice the next workshop, but I
14 certainly hope that this matter will be discussed at the
15 next workshop. I'm sure it will be. And certainly you'll
16 be there Ms. Anderson to help participate in that.

17 MS. ANDERSON: I plan on it.

18 HEARING OFFICER CELLI: Thank you.

19 Is there anyone out there from the Old Spanish
20 Trail Association on the phone?

21 Okay. Hearing none.

22 Commissioner Peterman.

23 ASSOCIATE MEMBER PETERMAN: No.

24 Eileen Allen

25 MS. ALLEN: This is for the applicant. Have you

1 identified a date for filing the proposed water supply
2 mitigation plan?

3 MR. KAZIO: In January, BLM actually had a
4 meeting to determine what some of the impacts would be as
5 a result of having a connected action. I think that's
6 BEA's application for the transmission corridor.

7 And in that meeting they had come to -- of which
8 the meeting the CEC had the ability -- the CEC staff also
9 had the ability the listen in to that meeting. As a
10 result, BLM has come to a determination of what they feel
11 would be their portion of the mitigation.

12 They have worked on drafting a letter to the CEC,
13 and I know they've been having conversations with CEC
14 staff to determine what that will look like.

15 We're expecting -- we are awaiting for that
16 letter to come out, so we can also participate, and what
17 the content of what that letter is, and then to also
18 formulate any other measures that may also come as a
19 result of other forms of mitigation.

20 So to answer your question, no, I don't have a
21 date.

22 MS. ALLEN: In progress and some things beyond
23 your control.

24 MR. KAZIO: It's imminent. Correct. My
25 understanding is that it is imminent and should be in a

1 short period of time.

2 MS. ALLEN: Okay. This is the first we've heard
3 about the vandalism on one of the wells. What's being
4 done now to prevent future vandalism?

5 MR. KAZIO: When we did the drilling of the
6 monitoring wells for around the actual well location, we
7 had staff on site. So we had two well locations. And the
8 staff -- and we had full-time biologists, and we had
9 full-time resource experts monitoring the data that was
10 occurring in the wells.

11 And they were going back and forth between the
12 two wells, so this vandalism actually occurred while they
13 were at one well location. So as they moved back and
14 forth, somebody had come in and created the vandalism.
15 And it's under investigation right now by Inyo County.

16 So we did have staff at the time, so it's kind of
17 hard to prevent those type of occurrences when we did have
18 folks out there and it happened right underneath us while
19 we were there.

20 MS. STRACHAN: If I could say, there's really
21 nothing -- I mean, there was the well activity going on,
22 but other than that, there's nothing out there to
23 vandalize. The site is basically bear. I think that if
24 there was something -- some other activity occurring,
25 that's something we would have to address at that time.

1 MR. KAZIO: I think for the construction
2 activity, there will be a security plan that will be
3 developed and submitted to the CEC as part of the record
4 also.

5 MS. ALLEN: Thank you.

6 HEARING OFFICER CELLI: I just want to, while
7 we're on water, we had received a comment about a month or
8 so ago from something like the Friends of the Amargosa
9 River or Amargosa River Conservancy or something like
10 that. Are they participating still in workshops?

11 SITING PROJECT MANAGER MONASMITH: Yeah. The
12 Amargosa Conservancy has been active participants. I
13 don't believe they participated last Wednesday on the
14 22nd, but Donna Lamm, the executive director, Bill
15 Christian, who's with The Nature Conservancy, but works
16 closely with Amargosa, have been monitoring our
17 information, publications. They are particularly
18 interested in the results of the pump tests, and I'm sure
19 they will participate with us in our mid-March workshop in
20 Shoshone is probably where we'll go.

21 HEARING OFFICER CELLI: Okay. Good. Thank you.
22 And let's move on now to land use. Applicant,
23 this is a big issue, so far as we can tell.

24 MR. JENSEN: Again, Clay Jensen with BrightSource
25 Energy.

1 With this topic, I'm going to allow Dana, if it's
2 appropriate, at the end of the conference, to ask
3 questions, and for us to have some dialogue at that point.
4 So I'm not going to get into a whole lot of detail, other
5 than to let you know that the Commission has received
6 three bits of correspondence from Inyo County relative to
7 the both land use and socio impacts of the project.

8 I'll hit those one at time very briefly. The
9 first one I'll address is the letter dated February 23rd
10 from Joshua Hart, the planning director. In essence, the
11 letter is encouraging BrightSource to apply for a general
12 plan amendment. We're preparing a formal response to that
13 document that we'll have available to the Commission staff
14 and to Inyo County in the next couple of days. By the end
15 of the week we plan to provide that to both parties.

16 We'll go through, and we have some disagreement
17 in the language used in the letter. There's some facts in
18 here that we generally have a different feeling about,
19 that's not important to get into at this juncture.

20 What I will tell you is a couple of key data
21 points. We have scheduled a presentation to the Board of
22 Supervisors in Inyo County for March 13th. So we've been
23 working with Inyo County staff to get that coordinated and
24 scheduled. We plan to solicit input from the Board on a
25 path forward for us. And we'll have a better update at

1 the next status conference on what we've decided to do
2 cooperatively with Inyo County. So that's one key data
3 point.

4 Another key data point is the letter from Mr.
5 Hart. In our opinion, it provides some very good dialogue
6 regarding conformance with the existing zoning. And while
7 we may disagree with their position, we recognize that
8 that's their position and we need to find a path forward
9 in regards to conformance with the existing zoning and
10 land use, and we're encouraged to do that.

11 In the letter, it describes a variety of possible
12 paths forward within a general plan amendment. We want to
13 have continued discussion with Inyo County, and we'll open
14 that dialogue immediately to figure out what the actual
15 path would look like, which of the options outlined would
16 be the best path forward for the project. So part of our
17 response will be requesting additional correspondence
18 communication to figure out within the general plan
19 amendment, or the other options considered in that report,
20 which path makes the most sense.

21 So our plan is to get that clearance and that
22 clarity, and have the presentation on the 13th, solicit
23 feedback from the Board of Supervisors, and then react
24 accordingly, and -- which may very well include submitting
25 an application for a general plan amendment. So that's

1 how we plan to address that particular letter from Inyo
2 County.

3 I don't know if you want me to go through all the
4 letters and then come back for questions?

5 HEARING OFFICER CELLI: Really not, I would say,
6 unless the rest of the dais does, and they're shaking
7 their heads no. I appreciate your comments with regard to
8 the February 23rd, which I thought was quite a
9 demonstration on Inyo County's part, that they were really
10 sort of bending over backwards to find a way to make this
11 work. And so I'm glad to note that you've got a 3-13
12 presentation. So, no, you don't have to go through the
13 entire history.

14 MR. JENSEN: Perfect. So I'll just real briefly
15 summarize another letter related to socioeconomic impacts.
16 Again, I want to compliment Inyo County on their effort
17 that they went through to develop what they consider to be
18 possible impacts to the project on their services and
19 infrastructure.

20 We've looked at them each individually, and we'll
21 be preparing a response or our thoughts to those impacts.
22 I think that can be best characterized by a bit of a gap
23 in understanding on a few elements that we haven't
24 provided enough data to Inyo County to demonstrate that
25 our impacts are going to be less than what they've

1 identified in their letter.

2 So we will be providing a lot of that information
3 specific to a site security plan and related impacts to
4 the sheriff's office and traffic and transportation
5 impacts, which are the two largest categories. So we'll
6 be going and working with Inyo County on those individual
7 impacts, and Commission staff, to help get us to common
8 ground.

9 I don't think there's a lot of significant
10 concern with the thought process. So I think we're
11 encouraged by the letter and look forward to the open
12 dialogue.

13 The last letter is regarding -- from Inyo County
14 recording site reclamation. And I think that, from our
15 perspective, we'll be working with staff to work with Inyo
16 County as well to come up with a common goal for our
17 reclamation plan that we anticipate to look very similar
18 to previous projects that the Energy Commission has
19 approved or authorized. So we don't expect significant
20 departure from what we're used to seeing as a reclamation
21 plan from the Commission. That's all we had.

22 HEARING OFFICER CELLI: Thank you.

23 Staff, let's hear from you regarding -- this
24 is -- we're talking now about land use and socio, I guess,
25 but mostly the Committee is really interested in land use.

1 STAFF COUNSEL RATLIFF: Well, I can say a lot or
2 a little, and my preference would be to say a little.

3 The letters speak for themselves. I think
4 they're illustrative of the difficulties that can arise
5 when local agencies are opposed to a project in their
6 jurisdiction, even though the State has the authority to
7 override such opposition. It seems like there are all
8 kinds of complications that arise in that -- a person went
9 to that approach.

10 We're still hopeful that there will be
11 conformity, and that the designation for the site will
12 change, so that there will be conformity with the project.
13 And we're reviewing the letters that the County has
14 provided us so far.

15 ASSOCIATE MEMBER PETERMAN: Is staff planning to
16 attend or call in to the 3-13 Board of Supervisors
17 meeting.

18 STAFF COUNSEL RATLIFF: I don't -- you know, I
19 just became aware of that, so I don't know, but it sounds
20 like a good idea.

21 ASSOCIATE MEMBER PETERMAN: If there's an
22 opportunity to do so, I think that would be valuable.

23 MS. CROM: Dana Crom on behalf of Inyo County.
24 We don't have a call-in process for our board meetings, so
25 we would encourage staff to be there in person.

1 HEARING OFFICER CELLI: Seems like a good idea.
2 Thank you.

3 So let me ask -- we'll come back around to you on
4 that, Ms. Crom, unless you had something right now that's
5 relevant to that.

6 MS. CROM: No, that would be fine. I'll go ahead
7 and play clean-up.

8 HEARING OFFICER CELLI: Let me just ask the
9 intervenors first. John Zellhoefer -- Zellhoefer, if you
10 have any input with regard to land use or socio,
11 socioeconomics?

12 MR. ZELLHOEFER: I think on the procedure when we
13 were looking at the solar overlay plan for Inyo County,
14 particularly the southeast part of Inyo County, extensive
15 public hearings were held. And it is my understanding,
16 having followed it quite closely, being in Tecopa, that it
17 was approved, that there was a general plan amendment
18 approved.

19 And I actually started getting inquires from
20 solar companies regarding Tecopa and using the land there
21 for solar projects. It was only after the threat of a
22 lawsuit that the County then rescinded this solar overview
23 to the general plan amendment. And I am certainly
24 understanding of the frustration that perhaps -- I haven't
25 spoken with the applicant, but perhaps the applicant is

1 feeling, because, in my opinion, the public process was
2 followed. The input from the public was received. The
3 County supervisors voted. And there was a general plan
4 amendment change.

5 And now it seems that we've kind of backed into
6 this position, where we're dealing with this project on a
7 case-by-case basis. I know these things happen, but I
8 think that the -- I would hope that the Commission
9 understands that there was a full public process in the
10 southern Inyo area, and the zoning amendment change was
11 done in conformance with County procedure. And from the
12 residents' standpoint, the standpoint of Charleston View
13 and Tecopa, we have no issues whatsoever with this being a
14 solar project.

15 HEARING OFFICER CELLI: Thank you, Mr.
16 Zellhoefer -- Zellhoefer.

17 Let's go to Center for Biological Diversity and
18 Ileene Anderson.

19 MR. ZELLHOEFER: Yeah, you're welcome. Thank
20 you. And also I am --

21 HEARING OFFICER CELLI: Oh, go ahead.

22 MR. ZELLHOEFER: This is the first I've --

23 HEARING OFFICER CELLI: Mr. Zellhoefer, did you
24 want to make further comment, because you just went
25 silent?

1 MR. ZELLHOEFER: Yes. It's a little bit of
2 delay, sorry. I would also be interested in knowing about
3 this March 13th hearing, if it's going to be in
4 Independence with the county supervisors? So if somebody
5 there, maybe Dana or somebody -- I know it's noticed, but
6 I will try to find out more about it and possibly be there
7 myself.

8 HEARING OFFICER CELLI: Anything further?

9 Okay. Let's go to Ileene Anderson, Center for
10 Biological Diversity regarding land and socioeconomics.

11 MS. ANDERSON: I have no comment on those two
12 issues at this time. Thank you.

13 HEARING OFFICER CELLI: Thank you.

14 Is there anyone on the phone from the Old Spanish
15 Trails Association?

16 Commissioner Peterman.

17 And questions, Eileen Allen, on land use or
18 socio?

19 MS. ALLEN: I'll wait to hear from Ms. Crom.

20 HEARING OFFICER CELLI: Okay. Well, we'll put
21 it -- anything further from Inyo County?

22 MS. CROM: Just briefly. One question has come
23 up concerning the March 13 board meeting, that would be a
24 Tuesday, a normal board day for Inyo County. BrightSource
25 has been invited and the afternoon, I believe, to give a

1 presentation to the Board of Supervisors on the project
2 and to basically field questions from the board members.

3 As it currently stands, there may be a workshop
4 in the morning with staff addressing the Board of
5 Supervisors on this project. What I will indicate is that
6 our agendas are published on our website, which is
7 inyocounty.us. And that will also include all of the
8 back-up information.

9 So as it stands right now, it is a presentation
10 before the Board of Supervisors as its normal meeting on
11 March 13th. And the agenda will have the times and the
12 information.

13 HEARING OFFICER CELLI: And when you said
14 presentation by staff, did you mean Energy Commission
15 staff?

16 MS. CROM: No, that would be our staff. Sorry.

17 HEARING OFFICER CELLI: Okay. I just want to be
18 clear.

19 MS. CROM: Inyo County staff. But we would
20 invite the Energy Commission staff to participate to the
21 extent that they can. We do not have WebEx. We are not
22 wired, so to speak in that room. So if that creates some
23 difficulty, we can attempt to address that. But I would
24 ask them to let us know as soon as possible, so I can get
25 our IT person working on it, if we need to.

1 With respect to the land-use issues, Inyo County
2 has made it clear from day one that the project is not in
3 compliance with the general plan. I understand Mr.
4 Zellhoefer's comments concerning the prior general plan
5 overlay. However, it was only after litigation, not a
6 threat of litigation, that led to the withdrawal of that
7 general plan overlay, and the general plan designation
8 over the area that this project falls within.

9 We have been requesting that the applicant submit
10 a general plan amendment for a number of months, including
11 prior to the submission of the AFC. When we met with
12 them, the applicant -- and expressed what we believe to be
13 the concerns of our bosses, the Board of Supervisors, that
14 land-use issues are near and dear to their hearts, and
15 that this project, to the extent that it can be made
16 compliant with the general plan, be done so.

17 So I look forward to the applicant meeting with
18 the Board of Supervisors and being able to respond to
19 their inquires on this particular issue.

20 The reason for the letter that was sent by Mr.
21 Hart was because we actually have not -- other than a
22 request to meet with the Board of Supervisors, we have not
23 had any dialogue with the applicant since prior to the
24 last review hearing in January. So I am hopeful that we
25 will receive some feedback from the applicant, and that a

1 dialogue can resume between the County and the applicant
2 on these land-use issues.

3 With respect to the socioeconomic letter, that is
4 something that the County has been working diligently on
5 with CEC staff, including -- and particularly with our
6 economist. If -- I mean one of the frustrations has been
7 the lack of information that has been provided by the
8 applicant. And I believe that's noted in the letter. And
9 as this Commission is aware, the project site from the
10 service center in Inyo County is more than 250 miles away.
11 I just tracked what I drove from Bishop to here, it's 270
12 miles. That's about how far it is from the project site
13 to Bishop, which is where most of our services are
14 provided.

15 We simply do not have an infrastructure out in
16 this area, or we have very little infrastructure out in
17 this area. And so attempting to absorb any additional
18 costs is simply not doable.

19 We have recommended, and we would still recommend
20 and request, that if there is a workshop on the issues of
21 socioeconomics, that it be held in Inyo County preferably
22 in independence, so that the affected county departments
23 can be present to address the concerns that they may have
24 and as are outlined in their letters.

25 Lastly, the County did address site reclamation

1 in a recent letter, that is because we did not see really
2 any discussions on it. As I indicated, we had -- as we
3 indicated at the last conference, we have had some
4 discussions with the applicant concerning site
5 reclamation. However, those discussions have not -- we
6 have not had any discussions since prior to the last
7 review hearing, and we simply do not want that issue to
8 fall between the cracks.

9 Other than that, I think those are the only
10 points that I have, and I'd be happy to answer any
11 questions.

12 HEARING OFFICER CELLI: Thank you. Eileen Allen,
13 you had some questions that you didn't get to finish.

14 MS. ALLEN: My questions have been answered for
15 now. There may be questions further on at other status
16 conferences, depending on how this area evolves.

17 HEARING OFFICER CELLI: Yeah. I just want to go
18 off the record just briefly.

19 (Thereupon a discussion occurred off the
20 record at 11:49 a.m.)

21 (Thereupon the hearing went back on
22 the record at 11:52 a.m.)

23 HEARING OFFICER CELLI: If we're not, we'll go
24 back on the record.

25 MS. POTTENGER: Hearing Officer Celli?

1 HEARING OFFICER CELLI: Yes. Ms. Pottenger.

2 MS. POTTENGER: Pardon the Interruption. I
3 believe Inyo County raised several issues that are of
4 great concern to the applicant, and we'd like to have a
5 chance to respond to those, given that land use is such an
6 important issue to the Committee.

7 HEARING OFFICER CELLI: Okay. Let's hear from
8 the applicant. Ms. Pottenger, go ahead.

9 MR. JENSEN: I appreciate it. Actually, I'll
10 handle this part of the conversation. Again, Clay Jensen,
11 BrightSource Energy.

12 Dana referred to several bits of information that
13 I'd like to go through and just highlight a couple of
14 responses to that. Prior to the last status conference,
15 we were in fairly engaged dialogue with Inyo County
16 regarding a variety of issues. And during those
17 discussions, there's been a tremendous amount of
18 frustration by both parties. I think there's some
19 concern -- valid concern from Inyo County's perspective
20 that there's not readily available information to fully
21 understand the impacts of the project.

22 And I believe it's a nuance of the process
23 itself, where the information needed to do a full
24 assessment is a normal part of the Energy Commission
25 process. So in October of last year, and November of last

1 year, and December of last year, we were still preparing
2 bits of reports and data that is necessary to fully
3 understand a security plan, a fire needs assessment plan,
4 traffic and transportation modeling. There's certain
5 pieces of that that Inyo County -- we're now getting in
6 our hands to be able to provide and work with Inyo County
7 productivity. So some of our early discussions were, you
8 know, waiting for the information to become available.

9 I just wanted to point out that we had a lot of
10 continued dialogue with Inyo County over -- since our
11 first discussions, which were early last year, about a
12 variety of topics. And there's a lot of clear open
13 communication early in the process.

14 During our recent discussions prior to the
15 previous status conference, we -- the frustration over a
16 general plan amendment application not being submitted
17 grew to a point where we were given the impression,
18 because we were told to, to discontinue discussions
19 relative to these specific impact areas until after we had
20 applied for a general plan amendment.

21 We were seeking clarification in-house, not from
22 Inyo County formally, on the best path forward. And I'm
23 sure you can understand that the interconnected nature of
24 a general plan amendment process through Inyo County, as
25 it relates to a CEQA review, and the environmental

1 documents associated with that. And we discussed during
2 the last status conference that we continue to endeavor to
3 work with Inyo County as how best to structure the CEQA
4 analysis between -- and work the two processes together.
5 So we look forward to that dialogue.

6 But that put us in a position where we were not
7 comfortable until we had an opportunity to speak with the
8 Board of Supervisors about a path forward. So we
9 endeavored to set that up.

10 I would also like to point out that I believe
11 that the letters incorrectly portray our level of
12 communication with the County since the last status
13 conference. We have had dialogue with Inyo County. It
14 was referred to before that we were working with Dr.
15 Harrington on our water mitigation, and review of the pump
16 test program. We've been endeavoring to speak with the
17 Inyo County Sheriff's Office for several months. That
18 understandably it was brought up into a cohesive document
19 of all the departments, so we understand why now we're in
20 a position of not being able to communicate directly for
21 that purpose.

22 Additionally, there was some coordination effort
23 over the last several weeks to set up the March 13th
24 discussions. And we were -- continue to be under the
25 impression that the County Administrative Officer, Kevin

1 Carunchio, wanted to be the point of contact for Inyo
2 County related matters. So Mr. Hart's letter has referred
3 to our not contacting Inyo -- Mr. Hart regarding a general
4 plan amendment path forward.

5 We're under the impression that those discussions
6 all are kind of revolved and related together through a
7 broader dialogue of impacts to the County.

8 I think that the recent string of letters have
9 opened the door of communication a bit from our
10 perspective, and we're now ready to engage fully in that
11 process starting on the 13th, or actually as referred to
12 before, in advance of the 13th to understand what exact
13 path for a general plan amendment might look like.

14 But I did want to put on record that we don't
15 feel that we've gone silent, and we think we have had
16 continued communication with the various departments of
17 Inyo County, specifically before the last status
18 conference. And then since that time, it has been
19 somewhat limited, but there has been ongoing
20 communication, which obviously with our acceptance of the
21 invite to present at March 13th, we've established a
22 record that we do want to work with Inyo County.

23 HEARING OFFICER CELLI: Thank you. I wanted to
24 say for the Committee that the Committee is encouraged by
25 the applicant's presentation and communication with the

1 Board of Supervisors. And the Committee has a very strong
2 preference for resolution between the parties, with regard
3 to land use.

4 And with regard to socio, the Committee would
5 like staff -- Energy Commission staff to be in Inyo when
6 those discussions take place, and have those discussions
7 in Inyo, so that the public, the locals, can participate
8 in any input having to do with fire, emergency services,
9 et cetera.

10 The Committee wishes to be informed regarding any
11 further delays as they seem to arise. We're going to have
12 these monthly status conferences for the next couple of
13 months, anyway, and then we'll see how things unfold with
14 regard to the boiler -- what are we calling it -- the
15 boiler optimization, and any other extensions in our
16 calendar.

17 The Committee wishes that staff participate on
18 the 3-13 presentation to the Board. We feel it's
19 important for the Energy Commission to be there to answer
20 any questions, to know what's going on, understand what
21 the representations are, so that we're all dealing with
22 the same -- operating out of the same book, and ask that
23 staff participate in that. I understand that that might
24 be a big traveling matter, but still that would be a
25 preference of the Committee.

1 With that, I'm going to ask then, because we've
2 covered all of the areas, if there's anything further on
3 anything -- any matters that the applicant wishes to
4 present to the Committee?

5 MS. POTTENGER: Nothing further from us, Hearing
6 Officer Celli. We do thank the Committee for having these
7 monthly status conferences, and we look forward to
8 continuing to work with both staff and Inyo County on
9 resolution of all issues.

10 HEARING OFFICER CELLI: Thank you, Ms. Pottenger
11 and Mr. Harris.

12 Anything further from staff?

13 STAFF COUNSEL RATLIFF: No.

14 HEARING OFFICER CELLI: Thank you, Mr. Ratliff.
15 Anything further from Mr. Zellhoefer?

16 MR. ZELLHOEFER: Yes. Thank you. Just to follow
17 up on the conversations between Inyo County and the
18 applicant, I would bring to the Board's attention that
19 Tecopa and Charleston View are as far from Bishop as you
20 are. And when the CEC is looking for public input, it is
21 almost impossible for the residents in the area affected
22 by this project to attend meetings in Independence or in
23 Bishop. I know this is a logistical problem, which will
24 be encountered many times before this project is built.

25 But speaking on behalf of the folks that live in

1 and around Tecopa, I would like to see as many hearings,
2 even at the County Board of Supervisors level, held in the
3 Tecopa area as opposed to the Bishop/Independence area.

4 Thank you.

5 HEARING OFFICER CELLI: Thank you, Mr.
6 Zellhoefer. And I just want to point out that it's very
7 convenient, I hope for you, to be able to participate in
8 this status conference by the WebEx teleconferencing
9 system that we have. And when staff goes down to Inyo
10 County, Tecopa or Shoshone or wherever, that we do what we
11 can to set up and have a WebEx hearing there, so that
12 people can actually call in and participate that way.

13 So we're doing what we can to make it easy for
14 the locals to participate and have a voice and a say in
15 this process. So thank you very much for your
16 participation, Mr. Zellhoefer.

17 Ileene Anderson, any last comments?

18 MS. ANDERSON: Yes. As a intervenor, I'm greatly
19 appreciative of the WebEx, but I'd also like some
20 conferring between -- I know that staff confers with the
21 applicant on the workshop dates. I'd also like the same
22 opportunity with regards to workshop dates, because I do
23 feel that they're actually more productive, if, you know,
24 I'm there in the room.

25 HEARING OFFICER CELLI: I would agree with you

1 there. And I'm going to ask and I -- just so know, Mr.
2 Monasmith is nodding his head in the affirmative here that
3 staff will participate -- will include you in their
4 scheduling decisions. Anything further?

5 MS. ANDERSON: Fabulous. Thank you.

6 HEARING OFFICER CELLI: Thank you, Ms. Anderson.

7 Anyone on the phone from the Old Spanish Trails
8 Association?

9 Okay. Hearing none.

10 Let's go to the public comment period.

11 We have -- one moment. I'm sorry Dana Crom from
12 Inyo County, please go ahead.

13 MS. CROM: Nothing further from Inyo County.
14 Thank you.

15 HEARING OFFICER CELLI: Thank you. Sorry for
16 forgetting you.

17 If we could have the Public Adviser come forward
18 and just state on the record whether we have any members
19 of the public in the room that wish to make a comment.

20 ASSISTANT PUBLIC ADVISER SADLER: There are no
21 members of the public in the room.

22 HEARING OFFICER CELLI: Thank you very much.
23 Then we will go to the phone, and we will open up the
24 phone lines for public comment.

25 And ladies and gentlemen, on the telephone, first

1 I'm going to go through and ask questions of the people
2 who were able to identify themselves. And then I'll have
3 to open it up to the people who we just see as call-in
4 user number one, number two, number three.

5 So Arthur Haubenstock, are you still on the
6 phone.

7 Okay. He apparently has hung up.

8 Gregg Irvine, did you wish to make a comment?

9 MR. IRVINE: No, I'm still here. I have no
10 comment.

11 HEARING OFFICER CELLI: Thank you, and thank you
12 for listening in.

13 Gregg Wheatland has sent me an email that said
14 he's just monitoring and doesn't need to participate.

15 Ileene Anderson we heard from.

16 J. Stroh, did you wish to make a comment?

17 J. Stroh, who was muted.

18 MR. STROH: -- WebEx, thank you very much.

19 HEARING OFFICER CELLI: I'm sorry, Mr. Stroh,
20 could you say again. We didn't get that.

21 MR. STROH: Oh. I appreciate the opportunity to
22 participate via WebEx and listen in on these meetings. No
23 comment other than that. Thank you very much.

24 HEARING OFFICER CELLI: Thanks for participating.
25 Thanks for being here.

1 Jeanine Hinde. She's with --

2 SITING PROJECT MANAGER MONASMITH: Staff.

3 HEARING OFFICER CELLI: -- Staff. Okay.

4 Okay. Karen Parker?

5 MS. PARKER: Thank you. No comment.

6 MS. POTTENGER: Karen Parker and Tracie Wheaton
7 are with the applicant.

8 HEARING OFFICER CELLI: Okay. I'm sorry. So
9 Karen Parker, you did not have a comment to make. You're
10 with applicant, as is Tracie Wheaton.

11 Is there anyone on the phone, at this time, who
12 would like to make a comment, please speak up?

13 MR. ZELLHOEFER: Ken, this is Jon. I have a
14 closing comment, please.

15 HEARING OFFICER CELLI: Sure, go ahead, Mr.
16 Zellhoefer.

17 MR. ZELLHOEFER: This is not as an intervenor.
18 This is more as a member of the public. I would like to
19 bring to the Energy Commission's attention that the Nye
20 County Board of Commissioners voted last week unanimously
21 to support this project. And you will be getting that
22 correspondence from them shortly, if you have not received
23 it already.

24 HEARING OFFICER CELLI: Thank you. And just
25 for -- just so we know, Nye County is in Nevada, right?

1 MR. ZELLHOEFER: Yes. Nye County is the
2 adjoining sister county, if you will, next to Inyo County
3 on this project. And I believe they are also going to be
4 requesting status as an agency participant, so -- but
5 you'll be hearing that from them. It may just take a few
6 days. But they are definitely behind this project.

7 HEARING OFFICER CELLI: Thank you, Mr.
8 Zellhoefer.

9 Is there anyone else on the telephone, at this
10 time, who would like to make a comment?

11 We have a -- let me unmute everybody. Is there
12 anyone on the phone who'd like to comment?

13 I have two more people on the phone that
14 unfortunately are identified as call-in user number three
15 and call-in user number five. Did either of you wish to
16 make a comment at this time?

17 And then I also have a person on the phone who
18 has identified themselves as hyphen. And I wonder if you
19 would like to make a comment?

20 Okay. Hearing none. Then I will return the
21 meeting back to Commissioner Peterman for adjournment.

22 ASSOCIATE MEMBER PETERMAN: Thank you, everyone,
23 for participating in the status conference. As usual,
24 progress has been made. We look forward to the next
25 update. This meeting is adjourned. Enjoy your day.

(Thereupon the California Energy Commission
hearing concluded at 12:08 p.m.)

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