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08-AFC-2

DATE JUN 08 2010

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EVIDENTIARY HEARING

BEFORE THE

CALIFORNIA ENERGY RESOURCES CONSERVATION

AND DEVELOPMENT COMMISSION

In the Matter of:)

Application for Certification)
Beacon Solar Energy Project by) Docket No.
Beacon Solar, LLC) 08-AFC-2
-----)

CALIFORNIA ENERGY COMMISSION

FIRST FLOOR HEARING ROOM B

1516 9TH STREET

SACRAMENTO, CALIFORNIA

TUESDAY, JUNE 8, 2010

1:32 P.M.

ORIGINAL

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Contract No. 170-08-001

EHLERT BUSINESS GROUP (916) 973-9982

APPEARANCES

COMMITTEE MEMBERS

Karen Douglas, Presiding Member

Jeff Byron, Associate Member

HEARING OFFICERS, ADVISERS, and STAFF PRESENT

Kenneth Celli, Hearing Officer

Galen Lemei, Adviser

Jared Babula, Senior Staff Counsel

Eric Solorio, Project Manager

APPLICANT

Jane E. Luckhardt, Esq.
Downey Brand, LLP

Scott Busa, Director
Frank Chetalo, Project Manager
Duane McCloud
Kenneth Stein, Environmental Manager
NextEra Energy Resources

Sara J. Head, Project Manager
AECOM

INTERVENOR

Tanya Gulesserian, Esq.
Adams Broadwell Joseph and Cardozo
representing California Unions for Reliable Energy

ALSO PRESENT

Dr. Robert Scherer, Rosamond Community Services District

Kathleen Spoor, Rosamond Community Services District

Jack Stewart, Rosamond Community Services District

Tom Weil, California City Manager

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1:32 P.M.

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PRESIDING MEMBER DOUGLAS: Welcome, everyone to the evidentiary hearing on the proposed Beacon Solar Energy project. My name is Karen Douglas. I'm the Presiding Member on this Committee, and to my right Hearing Officer Ken Celli, to his right the Associate Member of the Committee, Commissioner Jeff Byron. And to my left is my advisor Galen Lemei.

Again, I'd like to welcome you to the Energy Commission. At this point, we'll take introductions from the parties beginning with applicant.

MS. LUCKHARDT: Jane Luckhardt, project counsel.

MR. BUSA: I'm Scott Busa, Director of Development with NextEra Energy.

MR. STEIN: Kenny Stein, environmental manager with NextEra.

MS. GUIGLIANO: Jen Guigliano, AECOM environmental consultant to Beacon.

MR. CHETALO: Frank Chetalo, project director NextEra Energy.

PRESIDING MEMBER DOUGLAS: And staff?

SENIOR STAFF COUNSEL BABULA: Hi. I'm Jared Babula, staff counsel. And Eric Solorio is the project manager and he's one who is sitting by me.

1 PRESIDING MEMBER DOUGLAS: CURE?

2 MS. GULESSERIAN: Good afternoon. Tanya
3 Gulesserian, with intervenor CURE.

4 PRESIDING MEMBER DOUGLAS: Thank you. With that,
5 Hearing Officer Celli, it's all yours.

6 HEARING OFFICER CELLI: Thank you. I'm now on
7 the air and I hope everyone can hear me clearly. I just
8 want to remind all of the parties that we can only have
9 four mics open at a time and at the end of this we'll be
10 hearing from the public, so let's -- if someone's mic
11 isn't working, that means we have too many mics going on,
12 and so we'll have to be mindful of that.

13 I want to complete our introductions. I know
14 that on the WebEx telephone line I have Lorelei Oviatt
15 from the Kern County Planning Department, and -- so on
16 line right now I have Dave Wiseman, Lorelei Oviatt, Sophie
17 Rowlands, Dal Hunter, Paul Kramer, Sara Head, and one
18 other person if you wouldn't mind identifying yourself.

19 Anyone on the phone who I didn't name.

20 MR. McCLOUD: Duane McCloud, NextEra.

21 HEARING OFFICER CELLI: Hi, Duane.

22 Okay, and that is everybody on line. Okay, good.

23 So in the room, I just wanted to check and see if
24 we have any elected officials present.

25 DR. SCHERER: I'd like to introduce myself. I'm

1 Dr. Robert Scherer, Vice President of the Rosamond
2 Community Services District.

3 HEARING OFFICER CELLI: Thank you for coming Dr.
4 Scherer. How do you spell that?

5 DR. SCHERER: S-c-h-e-r-e-r.

6 HEARING OFFICER CELLI: From RCSD.
7 Anyone else from Kern County?

8 Oh, Please.

9 MS. SPOOR: I'm Kathleen Spoor, President of the
10 Board of Rosamond Community Services District.

11 HEARING OFFICER CELLI: And can I have is
12 spelling of your last name.

13 MS. SPOOR: S as in Sam, P as in Paul, O-o-R.

14 HEARING OFFICER CELLI: Kathleen Spoor, thank you
15 for coming. So we have Dr. Scherer and Kathleen Spoor
16 from the Rosamond Community Sanitary District.

17 MS. SPOOR: Services district.

18 HEARING OFFICER CELLI: Services district, sorry.
19 I was thinking water. Is there any other elect oh
20 officials. I have Mr. Bevins is present from California
21 City. Anyone else from Kern County?

22 MR. WEIL: Tom Weil, city manager from California
23 City.

24 HEARING OFFICER CELLI: Thank you. Tom, how do
25 you spell your last name?

1 MR. WEIL: It's W-e-i-l.

2 HEARING OFFICER CELLI: Any other governmental
3 elected officials?

4 Please.

5 MR. STEWART: Jack Stewart, general manager,
6 Rosamond Community Services District.

7 HEARING OFFICER CELLI: Thank you, Mr. Stewart.
8 How do you spell Stewart?

9 MR. STEWART: S-t-e-w-a-r-t.

10 HEARING OFFICER CELLI: Anyone else?

11 Thank you. We also have -- is the Public Adviser
12 here?

13 I'm just going to say that if there are any
14 members of the public that are here today or on the
15 telephone who are going to want to make a comment, we're
16 going to give you that opportunity at the end after we
17 take in all of the evidence. So if you wouldn't mind
18 hanging with us and being patient, we will get to you.

19 This evidentiary is held pursuant to the May
20 13th, 2010 order granting the Energy Commission staff's
21 May 3rd, 2010 motion to reopen the record on the limited
22 issues of the environmental review of the Rosamond
23 Community Sanitary -- Sanitary District?

24 Services District, sorry -- and California City
25 water treatment plants that will be supplying recycled

1 water to the Beacon Solar Energy project. The Committee
2 will take evidence on Kern County's request to
3 develop -- for development fees and applicant NextEra's
4 request to allow limited construction in 2010 to enable
5 Beacon to qualify for ARRA funding.

6 The evidentiary hearing is a formal adjudicatory
7 proceeding to receive evidence in the formal evidentiary
8 record from the parties. Only the parties, which is in
9 this case is the applicant, which is Beacon, intervenors,
10 which is CURE, and the California Energy Commission staff
11 may present evidence for introduction into the formal
12 evidentiary record, which is the only evidence upon which
13 the Commission may base its decision under the law.

14 Technical rules of evidence are generally
15 followed. However, any relevant non-cumulative evidence
16 may be admitted if it is the sort of evidence upon which
17 responsible persons are accustomed to rely in the conduct
18 of serious affairs.

19 Testimony offered by the parties shall be under
20 oath. Each party has the right the present and cross
21 examine witnesses, introduce exhibits, and to rebut
22 evidence of another parties.

23 Questions of relevance will be decided by the
24 Committee. Hearsay evidence may be used to supplement or
25 explain other evidence but shall not be sufficient in

1 itself to support a finding.

2 The Committee will rule on motions and
3 objections. The Committee may take official notice of
4 matters within the Energy Commission's field of competence
5 and of any fact that may be judicially noticed by the
6 California courts.

7 The official record of this proceeding includes
8 sworn testimony of the parties witnesses, the reporter's
9 transcript of the evidentiary hearing, the exhibits
10 received into the evidence, briefs, pleadings, orders,
11 notices and comments submitted by members of the public.

12 The Committee's decision will be based solely on
13 the record of competent evidence in order the determine
14 whether the project complies with applicable law.

15 Members of the public who are not a party are
16 welcome and invited to observe the proceedings. There
17 will be an opportunity for the public to provide comment
18 before we close this hearing. Depending on the number of
19 persons who wish to speak, the Committee may limit the
20 time allowed for each speaker.

21 The public comment period is intended to provide
22 an opportunity for persons who attend the hearing to
23 address the Committee. If it is -- it is not an
24 opportunity for the public to present written or recorded
25 or documentary materials. However, such materials may be

1 docketed and submitted to the Energy Commission for
2 inclusion in the administrative record.

3 Members of the public who wish to speak should
4 fill out a blue card, which is sitting on that table in
5 the back corner of the room, provided by the Public
6 Advisor. If you would prefer not to speak publicly, but
7 would like to submit a written comment, the blue card has
8 a space to do so. And people on the telephone we will
9 tell you when it's time for public comment and we will
10 give you an opportunity to make public comment then.

11 The witness list and exhibit list has been
12 distributed to the parties after the evidence received at
13 the March 22nd, 2010 evidentiary hearing. Applicant's
14 exhibits start at this time at exhibit 340. Staff's
15 exhibits will start at exhibit 507. CURE's exhibits will
16 start at exhibit 640.

17 We will proceed as follows. First we will allow
18 staff to offer into the record evidence relevant to the
19 environmental analysis of the Rosamond Community Services
20 District and California City water treatment facilities
21 and linears, which is relevant to the topic of soil and
22 water, which CURE claims is a reasonable foreseeable
23 consequence of the Beacon Solar Energy project and which
24 is likely to change the nature or scope of the Beacon
25 Solar Energy project or its environmental impacts.

1 We would also allow staff to respond to CURE's
2 claim that there is no analysis of the northern 17.6 mile
3 segment of the RCSD, which is the Rosamond Community
4 Services District pipeline and the southern 23 miles of
5 the eastern alternative route.

6 Also, there's a claim that no part of the
7 California City proposed pipeline is -- was analyzed by
8 staff.

9 Staff will be followed by applicant and then
10 CURE. The Committee also asks the parties for
11 clarification in the record as to exactly which nearby
12 projects were analyzed in the cumulative impacts analysis
13 in soils and water. And if none, an explanation
14 supporting the conclusion that there were no nearby
15 projects to analyze.

16 The Committee also asks the parties to respond to
17 the April 20th, 2010 comment from Rancho Seco Incorporated
18 recommending that the project applicant pay for testing of
19 groundwater contaminants since they are concerned that the
20 project will be using recycled water and other hazardous
21 chemicals that may affect the drinking water. I think
22 when we get to that point, that we'll start with the
23 applicant on that.

24 Next we will ask the applicant to address the
25 comments of Lorelei Oviatt regarding the development fees

1 requested by Kern County, which would be under the topic
2 of either socio or land-use, probably land-use.

3 And finally, we will ask the applicant to address
4 the issue of qualifying the Beacon Solar Energy project
5 for ARRA funding, which I take is under bio or cultural or
6 both or more.

7 With that, I think at this time, we would have
8 the applicant and staff's project manager sworn. Mr.
9 Petty will swear them in.

10 Project managers. That would be Scott and Mr.
11 Solorio.

12 MS. LUCKHARDT: You know if we're going to swear
13 folks in, should we swear everyone in at the same time.

14 HEARING OFFICER CELLI: Okay. So let's let the
15 record reflect that Scott Busa and Kenny Stein, and I'm
16 sorry Ms. --

17 MS. GUIGLIANO: Jen Guigliano.

18 HEARING OFFICER CELLI: -- Jen Guigliano, and
19 Eric Solorio are being sworn in at this time.

20 (Thereupon the witnesses were sworn, by the
21 court reporter, to tell the truth, the whole
22 truth and nothing but the truth.)

23 HEARING OFFICER CELLI: Thank you. Staff, do you
24 have a motion with regard to exhibits?

25 SENIOR STAFF COUNSEL BABULA: Yeah. I'd like to

1 make the motion to submit our exhibits into the record.
2 And do you want -- I mean is 509 to -- what have we got?
3 521.

4 HEARING OFFICER CELLI: Let me ask before we --

5 SENIOR STAFF COUNSEL BABULA: Oh, 507. I mean,
6 you want them all in a block or --

7 HEARING OFFICER CELLI: It might be more
8 efficient to do it that way. Is there going to be any
9 objection from CURE to any of staff's exhibits?

10 MS. GULESSERIAN: Yes, there will be.

11 HEARING OFFICER CELLI: Okay, well then I guess
12 we better do it one at a time.

13 SENIOR STAFF COUNSEL BABULA: Okay. I'll start
14 with 507.

15 HEARING OFFICER CELLI: Which is what?

16 SENIOR STAFF COUNSEL BABULA: That one I believe
17 is the declaration of Dennis LaMoreaux.

18 HEARING OFFICER CELLI: Any --

19 MS. GULESSERIAN: CURE objects. Paragraph nine
20 speaking to the Edwards Air Force Base goes beyond the
21 scope of the order for this proceeding. So we would
22 object to entering that paragraph into the record. In the
23 alternative, we would move to strike paragraph nine, if it
24 is entered into the record.

25 HEARING OFFICER CELLI: Okay.

1 SENIOR STAFF COUNSEL BABULA: Well, let me -- can
2 I -- because the original -- my original motion to open
3 the record specifically addressed three topics I wanted to
4 clarify. One was who's doing the environmental analysis
5 for both treatment plants? What is happening there? And
6 then I also noted to clarify regarding the confusion about
7 the pipeline in Edwards Air Force Base, which is just a
8 completely separate thing. So that was part of the three
9 things and the basis for opening the record.

10 And I specifically put that in the declaration so
11 that it was clarified, because the CURE had brought up a
12 concern that there was two pipelines potentially, one
13 outside the base and one inside the base. And I wanted to
14 clarify that the one inside the base is completely
15 dependent on if Edwards builds it. And if it's already
16 built, then why build a parallel 10-mile line next to it.
17 You'd tap into it. So that was the basis

18 HEARING OFFICER CELLI: So the objection is
19 exceeds the scope of the notice --

20 SENIOR STAFF COUNSEL BABULA: Right. And my
21 request specifically that was one of the -- that was
22 incorporated in my request the three things I wanted to
23 address.

24 MS. GULESSERIAN: We argued that the record
25 should be reopened to analyze the pipelines. We

1 specifically explained the pipelines segments that needed
2 further analysis. And the order specifically limited the
3 reopening of the record for the limited purpose of the
4 expansions. Our argument is quoted in the order.

5 HEARING OFFICER CELLI: Okay, so the -- that's
6 weird I don't remember turning it off.

7 The objection is overruled. However, we note
8 that we'll give that paragraph mention whatever weight it
9 deserves, if any.

10 Next.

11 MS. GULESSERIAN: May I ask for the
12 reason -- what is the reason for the overruling. We have
13 a specifically order, which we followed, which we are
14 provided notice with of what is going to be considered at
15 this hearing today. And it specifically does not include
16 the pipelines that we argued should be included. So we
17 did not prepare any documentary or testimony based on this
18 ruling from the Committee that says -- that quotes what we
19 should discuss today. And then limits the record --
20 limits the reopening to only the expansions plus these
21 other issues they are funding.

22 HEARING OFFICER CELLI: Right. So what I'm
23 saying is this, I'm not going to exclude a document
24 because it contains one paragraph that has something that
25 may or may not or may not be germane to what was noticed

1 in the record. So I'm going to allow -- I'm going to
2 overrule the objection, in that it exceeds the
3 scope -- the APA specifically excludes exceeding the scope
4 as a basis for an objection. This is an administrative
5 hearing, so I'm going to let the document in.

6 With that --

7 MS. GULESSERIAN: We were specifically provided
8 notice of what would be considered and what we were going
9 to be permitted to put testimony and evidence in at this
10 hearing. I guess I'd ask for -- this was a ruling from
11 the Committee. Is the Committee now ruling that the scope
12 of this hearing is broader than what was noticed?

13 HEARING OFFICER CELLI: No, but it's a document
14 that -- I don't really even know what's in this document
15 yet. We're going to hear from staff. If there is a piece
16 of this document that aren't relevant, then the Committee
17 will not consider it, or give it whatever weight it's due.

18 But the point is I'm not going to exclude whole
19 documents because there might be some small portion of it
20 that isn't relevant, or exceeds the scope.

21 So you're right in that there might be something
22 that exceeds the scope. And if it's the case, then we
23 aren't going to go there as a Committee. We aren't going
24 to consider it. However, I will not exclude the whole
25 document. It's a declaration.

1 SENIOR STAFF COUNSEL BABULA: I could offer a
2 solution here. I mean, the only reason I put it in there
3 was to address CURE's question. If CURE doesn't have any
4 further issues and isn't going to bring up the pipeline in
5 Edwards, which has nothing to do with this project, and
6 has nothing to do with anything that Beacon had planned or
7 what Rosamond is going to do with this project, then I'm
8 okay if we exclude that paragraph. But I don't want CURE
9 to come back and say, well look there's this unclear event
10 about this pipeline.

11 So if she's willing to say --

12 MS. LUCKHARDT: Can I -- well, and I guess
13 there's even a larger concern, because if CURE is moving
14 to keep that out, I wonder if the same objection is going
15 to be heard in regards to the information that we produced
16 along Mendiburu Road, which was in specific response to a
17 concern that it had not been analyzed.

18 So if that same objection is going to occur for
19 all of the -- you know, the efforts to provide additional
20 information that CURE specifically asked for, then maybe
21 we need a larger ruling at this time.

22 MS. GULESSERIAN: I think we do need a larger
23 ruling. There are numerous exhibits and testimony that go
24 beyond the scope of what this hearing is about today, with
25 respect to the pipelines that are delivering recycled

1 water to the Beacon project.

2 We specifically replied to staff's motion with
3 the specific segments that required further analysis, so
4 that we could, you know, have an evidentiary hearing on
5 it. The notice -- the order specifically quotes what we
6 requested, as far as further opportunity to have an
7 evidentiary hearing on, and then limits to the evidentiary
8 hearing to the expansions, plus some other issues.

9 So we did not prepare, nor do any work, to have
10 an evidentiary hearing on these recycled water pipelines
11 pursuant to the Committee's order. If we had notice
12 there -- I'm sorry --

13 MS. LUCKHARDT: No, that's okay. Tell me when
14 you're done.

15 MS. GULESSERIAN: Sorry. If we had notice that
16 there was an opportunity to present further evidence
17 today, or by June 1st, excuse me, on these pipeline
18 segments, then we would have decided what evidence needed
19 to be submitted today.

20 MS. LUCKHARDT: I guess maybe that this is a
21 difference in interpretation, but when I read reopening
22 the record for hearing on the expansion of the Rosamond
23 Community Services District, California City treatment
24 plans and the discussions that preceded that, the quote
25 from CURE's motion that was asking for the specific

1 additional information that it was implying or that it
2 actually was asking and requesting that we respond to the
3 2.8 mile segment, the 17.6 miles of the segment to
4 Rosamond, as well as the water treatment expansion
5 proposals.

6 And for California City that proposal also
7 includes the water lines that go in the individual -- that
8 go in the roads for the collection system along -- to move
9 some of the houses and businesses off septic.

10 So when we read it, my interpretation was that it
11 was to address those issues and that it wasn't so narrow
12 as to only address the wastewater treatment plants
13 individually, but that it was to address all of those
14 things.

15 So I guess we're reading it differently.

16 MS. GULESSERIAN: Oh, yeah. And, I mean, the
17 order does specify and quotes us that there's the FSA did
18 not analyze Rosamond's wastewater treatment plant
19 expansion and upgrade or California City's development of
20 a sewer system and wastewater plant upgrade as part of the
21 project, or a 2.8 mile segment of the California City
22 pipeline to deliver recycled water as part of the project.
23 The FSA also did not independently analyze the 17.6 mile
24 pipeline segment and failed to conduct any surveys for
25 protected plan or animal species along 23 mile segment as

1 was required by every project area.

2 Finally, the FSA did not analyze either of the
3 wastewater treatment plant expansions and ex-grades as
4 part of the cumulative impact analysis.

5 The Committee will allow the evidentiary record
6 to reopen for the limited purpose of hearing evidence on
7 environmental review of the expansion of the facilities.
8 It only included one piece of what we asked to be reviewed
9 at a further evidentiary hearing.

10 MS. LUCKHARDT: Yeah, I guess that's a difference
11 of interpretation, because we didn't read the order that
12 way at all, because it was preceded by the discussion and
13 the direct quote from your argument.

14 MS. GULESSERIAN: And then it says it's limited,
15 the expansion.

16 SENIOR STAFF COUNSEL BABULA: And you're argument
17 is not even true, we did look at the 17 mile pipeline. We
18 did look at Mendiburu. I mean, these other things were
19 done in the FSA. We clarified Mendiburu with Susan's
20 testimony and biology and we also clarified the 17 mile
21 one at the request of the Committee, because that was
22 looked at as part of the original natural gas line. But
23 we also clarified that in the supplemental testimony to
24 specify that the 17 mile pipeline was actually addressed
25 in the PSA. And then the carry over to the FSA wasn't

1 clear.

2 So some of that -- I mean, most of that is not
3 new. The only new thing that we did not look in the FSA
4 and I still don't believe we needed to was what's
5 happening at the two waste water treatment plants and the
6 associated -- the sewer collection in Cal City to bring
7 the sewage to the plant. That's what we attempted to
8 enhance the record and clarify, who's the lead agency,
9 where are they with their environmental review, what are
10 they doing there? And that was it.

11 MS. GULESSERIAN: That is not the extent -- the
12 testimony that has been submitted by staff is not limited
13 to the expansions. They are acknowledging that there are
14 holes in the FSA with respect to the pipelines, which we
15 requested, that we have an evidentiary hearing on. The
16 documents proffered by the applicant have been used
17 sometime within the last several weeks without being
18 docketed to do -- fill-in the gaps on pipeline expansions
19 and that is put in staff's testimony in various paragraphs
20 and sections of the testimony.

21 HEARING OFFICER CELLI: So just to be clear --

22 MS. GULESSERIAN: Analysis which had not been
23 done before and which is now being proffered.

24 HEARING OFFICER CELLI: So you're saying that you
25 understand that we included that paragraph on page two of

1 our notice, which comes from your opening brief
2 specifically to address those issues.

3 MS. GULESSERIAN: Yes, you included it. And then
4 the next sentence says you've limited -- you're limiting
5 this hearing to the expansion of the Rosamond Community
6 Services District and California City Water Treatment
7 Facilities.

8 HEARING OFFICER CELLI: Yes. And water treatment
9 facilities as it relates to the project. So?

10 MS. GULESSERIAN: We agree that needs to
11 be -- that they need to analyze the wastewater treatment
12 facility. We also asked that we reopen the record to
13 analyze the various segments of the pipelines.

14 MS. LUCKHARDT: And isn't that what we're doing
15 today?

16 HEARING OFFICER CELLI: That's kind of --

17 MS. GULESSERIAN: The order specifically limited
18 it to the wastewater treatment facilities expansions.

19 HEARING OFFICER CELLI: I think that we're going
20 to -- we're taking a broader view and treat the wastewater
21 treatment as essential three wastewater treatment
22 facilities and the pipelines that connect to Beacon. And
23 that's what we will be discussing.

24 MS. GULESSERIAN: So you're going to take a
25 broader view than what the order provided us notice of

1 what is going to be considered at the evidentiary hearing
2 today?

3 HEARING OFFICER CELLI: I think you were given
4 notice that we're going to talk about the 2.8 mile segment
5 of California City pipeline, the 17.6 mile pipeline
6 segment, 17 mile --

7 MS. GULESSERIAN: That is what CURE argues.

8 HEARING OFFICER CELLI: Correct.

9 MS. GULESSERIAN: That is what CURE argues the
10 Committee will allow the evidentiary record to reopen for
11 a limited purpose of the expansions.

12 HEARING OFFICER CELLI: Okay. Well, the
13 Committee at this point has ruled -- has overruled on the
14 objection. Staff's 507 will be received.

15 Next.

16 SENIOR STAFF COUNSEL BABULA: 508 --

17 MS. GULESSERIAN: May I bother moving to strike
18 now that it's been entered into the record?

19 HEARING OFFICER CELLI: Read the paragraph that
20 you want to strike, please.

21 MS. GULESSERIAN: As part of a proposal to
22 provide recycled water at the Beacon project, two pipeline
23 routes were noted. One of these routes transverses lands
24 owned by Edwards Air Force Base. This route would only
25 become part of a longer pipeline to the Beacon project, if

1 the Air Force base were to build the line to service the
2 zone proposed solar plant facility -- powerplant facility.

3 Unless Edwards already has the line built, it is
4 anticipated that the recycled water line servicing Beacon
5 will follow the alternative alignment west of the base.

6 HEARING OFFICER CELLI: That information is
7 already in the record. The motion is denied.

8 Next, staff

9 SENIOR STAFF COUNSEL BABULA: Okay, Exhibit 508
10 would be the declaration of Mike Bevins.

11 HEARING OFFICER CELLI: Objection CURE?

12 MS. GULESSERIAN: No objections.

13 HEARING OFFICER CELLI: Applicant?

14 MS. LUCKHARDT: Nope. No objection we also
15 offered this.

16 HEARING OFFICER CELLI: Now let's talk about
17 that. I've got several duplications, I think, of exhibits
18 between staff and applicant and possibly CURE. So I have
19 the Exhibit 341 is the same as 508. Do I have that right?

20 SENIOR STAFF COUNSEL BABULA: Is that the -- I
21 agree they do also have some of the same ones as we did.

22 MS. LUCKHARDT: Yes that is correct, 341 is the
23 same as 508.

24 HEARING OFFICER CELLI: So at this time, the
25 Committee will receive 508. And if the applicant would

1 please make a note of that, so that we don't have to keep
2 taking in any duplicative exhibits. And the same with
3 CURE, I kind of, in the back of my mind, there might be
4 some duplication there.

5 MS. GULESSERIAN: No, we decided not to
6 duplicate. And just rely on the applicant submitting as
7 exhibits the documents it provided with its reply brief.

8 HEARING OFFICER CELLI: Thank you.
9 Staff, next exhibit.

10 SENIOR STAFF COUNSEL BABULA: Okay, we will start
11 the technical staff exhibits. We have air quality exhibit
12 509.

13 MS. GULESSERIAN: No objection.

14 HEARING OFFICER CELLI: Any objection by
15 applicant

16 MS. LUCKHARDT: No objection.

17 HEARING OFFICER CELLI: 509 is received.

18 SENIOR STAFF COUNSEL BABULA: Biological
19 resources exhibit 510.

20 MS. GULESSERIAN: Objection.

21 HEARING OFFICER CELLI: Applicant?
22 You said no objection?

23 MS. GULESSERIAN: Objection.

24 HEARING OFFICER CELLI: Oh, I'm sorry. CURE has
25 an objection. Go ahead.

1 MS. GULESSERIAN: Excuse me just a moment.

2 HEARING OFFICER CELLI: Could you before -- would
3 you please identify what the -- what 510 is for the record
4 please.

5 SENIOR STAFF COUNSEL BABULA: It's staff's
6 supplemental testimony for biological resources.

7 HEARING OFFICER CELLI: Okay. And who's
8 testimony is that?

9 SENIOR STAFF COUNSEL BABULA: That's Susan
10 Sanders.

11 HEARING OFFICER CELLI: Okay.

12 And the basis of the objection please.

13 MS. GULESSERIAN: The objection goes beyond the
14 scope of the limited order of this evidentiary hearing.
15 From -- basically, there is a page and a half of new
16 analysis that has never been done, that is part of the
17 pipelines to deliver recycled water to the project.

18 It's our understanding that the order was limited
19 to the expansions of the wastewater treatment facilities.
20 Also, the new analysis is based on reports that have
21 recently been conducted by the applicant at some time in
22 May and submitted to staff without being docketed, so that
23 the other parties would have an opportunity to review it
24 and also prepare to submit testimony by June 1st.

25 So we would object to essentially the 7th, 8th,

1 and 9th paragraphs of Ms. Sanders' testimony, which speak
2 to -- about a three mile segment that's never analyzed on
3 Mendiburu Road. It also speaks to 17.6 miles of pipeline
4 along Neuralia Road. And mitigation measures for those
5 pipelines.

6 HEARING OFFICER CELLI: I just want to --

7 MS. LUCKHARDT: I guess -- oh, go ahead.

8 ASSOCIATE MEMBER BYRON: Your microphone.

9 HEARING OFFICER CELLI: For the record, I want
10 to -- I sent an Email to the parties requesting
11 specifically -- oh, that was as to cumulative analysis.

12 So

13 SENIOR STAFF COUNSEL BABULA: No, you did. You
14 wanted the 17 mile -- that's what I purposely put it in
15 there.

16 HEARING OFFICER CELLI: That's correct. I sent a
17 party to all -- an Email to all of the parties
18 specifically requesting that additional evidence be
19 brought in. And you, Ms. Gulesserian, were on that Email.
20 And so as to the exceeds the scope objection, that will be
21 overruled, because the pipelines are part of the
22 treatment -- water treatment, so I'm going to include
23 that.

24 The other objection was that you did not receive
25 this exhibit -- when did you receive the exhibit?

1 MS. GULESSERIAN: This analysis that is proffered
2 on June 1st is based on documents prepared by the
3 applicant, which may have been -- which appear to have
4 been submitted to staff at sometime prior in order for
5 them to prepare their testimony without being docketed.

6 HEARING OFFICER CELLI: So --

7 MS. GULESSERIAN: Allowing no other party to
8 prepare or review the documents submitted to the Energy
9 Commission for this hearing.

10 HEARING OFFICER CELLI: Okay. So the objection
11 is that the document wasn't docketed.

12 Staff, any response?

13 SENIOR STAFF COUNSEL BABULA: Well, Susan was
14 working on the -- I mean, she had -- we had looked at this
15 before, and the conditions in the FSA address the all the
16 pipelines, so she started to do the assessment.

17 And then as part of what came in the information
18 from the applicant, and then it got filed. So I think
19 it's been filed on June 1st when all the materials came in
20 as part of their -- what is it? -- you're exhibits.

21 HEARING OFFICER CELLI: That's right. And so
22 what I'm going to say, Ms. Gulesserian, you received it on
23 June 1st?

24 MS. GULESSERIAN: It was submitted to the -- the
25 objection is it was submitted to the Energy Commission

1 prior to that time in order for them to prepare -- staff,
2 in order for them to prepare testimony without being
3 docketed.

4 HEARING OFFICER CELLI: But your concern was your
5 inability to respond to the document. I thought that was
6 the basis of the objection.

7 MS. GULESSERIAN: And that.

8 SENIOR STAFF COUNSEL BABULA: You can cross Susan
9 today.

10 HEARING OFFICER CELLI: I'm going to -- yeah,
11 you're going to have an opportunity to cross examine her,
12 so I'm not going to exclude the evidence.

13 So that objection is overruled.

14 511.

15 MS. GULESSERIAN: I would like clarification
16 regarding your statement that there's an Email about a 17
17 mile -- 17.6 mile pipeline. I received the order and then
18 I received -- as all the parties have pointed out, I
19 received the order and then I received two Emails one
20 regarding cumulative impacts analysis in soils and water
21 and another regarding an April 20th comment from Rancho
22 Seco regarding groundwater contamination. So I have -- as
23 far as what we're talking about today, I have the order,
24 and then a clarification as to the projects analyzed in
25 cumulative impacts for soil and water. And I have the

1 Rancho Seco letter regarding groundwater contamination.

2 SENIOR STAFF COUNSEL BABULA: Now, the 17 mile
3 pipeline was analyzed in the FSA and we talked about this
4 specifically at the evidentiary hearing, when Susan was on
5 the stand. And CURE brought the same thing, where is it
6 in the record? She indicated it's in the PSA. Then there
7 was some testimony to say well, it's part of the natural
8 gas line. Originally it was in the PSA. It didn't get
9 carried over in the FSA directly.

10 But then, she was at this -- I mean during the
11 evidentiary hearing, which is part of the evidence, she
12 talked about the line and said the conditions would also
13 apply to that line, and it's been evaluated. And then the
14 instruction from the Committee was clarify the 17 mile
15 line, which I did in supplemental testimony just to ensure
16 that, yes, it was in a PSA, but we took that information
17 and put it into the supplemental testimony.

18 So I was acting under instruction from the
19 Committee and that was what you sent out to the parties,
20 yeah

21 HEARING OFFICER CELLI: I wasn't sure exactly
22 whether -- I wasn't sure whether I sent it by way of Email
23 or how the request for the clarification went out, but I
24 thought that I had made that request. Are you saying --

25 MS. GULESSERIAN: At the March 22nd evidentiary

1 hearing, staff testified that there was no analysis of the
2 17.6 mile pipeline in the FSA. I argued in response to
3 the applicant's motion that they should reopen the record,
4 and we should also have an opportunity to talk about
5 staff's analysis. And again I just have to keep saying
6 that, it's our understanding that it's limited to the
7 purpose of the wastewater treatment expansions --

8 HEARING OFFICER CELLI: Okay, well you don't need
9 to keep saying that anymore, because now your
10 understanding should be that, as I clarified, the
11 wastewater treatment includes the pipelines. And the
12 Committee is interested in that. And I think that it was
13 important for CURE to bring that up. And we are going the
14 hear evidence today on the pipelines. And so that is part
15 and parcel of this hearing today. It does not exceed the
16 scope.

17 MS. GULESSERIAN: And I will make clear that
18 intervenor was not -- does not believe it was provided
19 with notice, that the scope of this hearing is not limited
20 to the expansions.

21 I apologize I am still wanted to get back to
22 regarding what we're speaking about today, we're talking
23 about the order plus the two Emails that also brought in
24 the scope of order.

25 And if I could get clarification at some point on

1 this request for information about the 17.6 mile pipeline
2 I'd appreciate it, just so I can be clear on when
3 that -- when this order was broadened for that purpose as
4 well, based on the party's arguments.

5 MS. LUCKHARDT: Well, I guess I'm con -- I'm
6 concerned about the characterization of the order in this
7 instance in asking about an expansion of the order.
8 Because the way I read the order, it includes the 17.6
9 mile pipeline, the 2.8 mile segment, and you know, those
10 pieces of it.

11 And so I'm concerned about this characterization
12 of the order as being limited to just the wastewater
13 treatment plants, and this attempt to, what I would say,
14 is create a procedural issue. And that that gives me
15 great concern.

16 And it goes back to the question that really
17 comes to my mind which is you asked specifically that this
18 information be included in the record. And there has been
19 an effort made by both staff and the applicant to provide
20 additional information. And that's not to take away from
21 the fact that the applicant did analyze the entire
22 California City pipeline but for the 2.8 segment as part
23 of the natural gas pipeline, even if staff's analysis from
24 the PSA did not get carried forward.

25 So you know, I have concern that you asked for

1 this analysis that we are providing it. And now what I
2 hear is an attempt to make a procedural argument that
3 could be used at a later date to say that you now don't
4 want us to put this information into the record, so that
5 you can argue later that procedurally we're allowed to put
6 information in the record, because you didn't think it
7 should be even though you asked for it.

8 MS. GULESSERIAN: It is a procedural and it is a
9 substantive problem. We are only -- we are abiding by the
10 Committee's order when we review -- when we read a
11 record -- when we read an order, excuse me, where the
12 title of it is a limited reopening of the record and then
13 quotes us and then follows it by saying it's limited to
14 reopening for expansions.

15 We are -- it is procedurally incorrect to now be
16 entering evidence into the record without providing us
17 notice. It is also -- does not provide us with an
18 opportunity to submit this. We're not going to submit
19 information that the Committee does not want to hear about
20 it.

21 And then substantively we are -- my experts don't
22 have an opportunity to do further review of the pipeline
23 segments, because it's been limited. So it's not just a
24 procedural issue. And we can just put this on the record,
25 this is my belief, this is your belief, and the Committee

1 has its -- or order -- the hearing officer has his order,
2 but we believe it's a procedural and substantive problem.

3 HEARING OFFICER CELLI: And so that's now in the
4 record. And we won't have to rehash that again, because
5 the Committee has made it clear that part of the record
6 and part of the wastewater treatment is going to be the
7 pipelines. And so that -- that's clear.

8 The objection is overruled. And if we can go off
9 the record for just a moment.

10 (Thereupon a recess was taken.)

11 HEARING OFFICER CELLI: Staff you're at exhibit
12 511.

13 SENIOR STAFF COUNSEL BABULA: Okay, I'd like to
14 get 511 would be cultural resources declaration --
15 supplemental testimony and declaration of Kathleen Forrest
16 and Beverly Bastian. That would be 511. I'd like to --

17 MS. GULESSERIAN: No objection. I wanted to get
18 clarification --

19 HEARING OFFICER CELLI: Before you do, I'm going
20 to go back to 510. Was there an objection by applicant
21 for 510?

22 MS. LUCKHARDT: The only comment we have on 510
23 is that the analysis references the Preliminary Staff
24 Assessment and the impacts -- or the analysis that was
25 done in the Preliminary Staff Assessment, and it seems to

1 me that it should incorporate the work that was done in
2 the Preliminary Staff Assessment for that 17.6 mile
3 pipeline, instead of just having a reference to it. And
4 so --

5 HEARING OFFICER CELLI: And your concern is with
6 the content -- your concern is with the content of the
7 declaration?

8 MS. LUCKHARDT: My concern is that it talks about
9 the analysis done in PSA, the Preliminary Staff
10 Assessment, of the 17.6 mile pipeline, but it does not
11 incorporate that by reference, and I think it should.

12 SENIOR STAFF COUNSEL BABULA: We could just
13 have -- Susan is here. She'll testify. We can have her
14 clarify.

15 MS. LUCKHARDT: That's fine.

16 HEARING OFFICER CELLI: Thank you. We're just
17 going to accept that document on its own terms. So okay
18 CURE, you wanted to clarification of 511 regarding
19 cultural resources declaration.

20 MS. GULESSERIAN: I just wanted to clarify the
21 process. We're entering exhibits into the record and then
22 calling these witnesses?

23 HEARING OFFICER CELLI: Yes.

24 MS. GULESSERIAN: For -- okay. Thank you.

25 HEARING OFFICER CELLI: Any objection to 511 from

1 CURE?

2 MS. GULESSERIAN: No objection.

3 HEARING OFFICER CELLI: From applicant?

4 MS. LUCKHARDT: No objection.

5 HEARING OFFICER CELLI: 511 will be received.

6 512?

7 SENIOR STAFF COUNSEL BABULA: Okay, 512 is
8 land-use. Supplemental testimony and declaration of
9 Shaelyn Strattan. I'd like to enter that into the record.

10 HEARING OFFICER CELLI: Any objection from CURE?

11 MS. GULESSERIAN: No objection.

12 HEARING OFFICER CELLI: Any objection from
13 applicant?

14 MS. LUCKHARDT: No objection.

15 HEARING OFFICER CELLI: 512 land-use will be
16 received into the record.

17 SENIOR STAFF COUNSEL BABULA: Okay, exhibit 513
18 for noise. Supplemental testimony and declaration of Erin
19 Bright. I'd like to enter this one into the record.

20 HEARING OFFICER CELLI: Any objection from CURE?

21 MS. GULESSERIAN: No objection.

22 HEARING OFFICER CELLI: Any objection by
23 applicant?

24 MS. LUCKHARDT: No objection.

25 HEARING OFFICER CELLI: Next.

1 SENIOR STAFF COUNSEL BABULA: Exhibit 514,
2 paleontology and geology. Declaration of Dal Hunter. I'd
3 like to enter this one into the record.

4 HEARING OFFICER CELLI: Any objection CURE?

5 MS. GULESSERIAN: No objection.

6 HEARING OFFICER CELLI: Applicant?

7 MS. LUCKHARDT: No objection.

8 HEARING OFFICER CELLI: 514 will be received.

9 So far what we've received into evidence is 508
10 through 514. Please proceed.

11 SENIOR STAFF COUNSEL BABULA: Exhibit 515 -- yeah
12 we -- we started with 507.

13 HEARING OFFICER CELLI: I'm sorry 507, Dennis
14 LaMoreaux's declaration. 507 through 514 are received.

15 SENIOR STAFF COUNSEL BABULA: Okay. Exhibit 515
16 for soil and water. Supplemental testimony and
17 declaration of Casey Weaver. I'd like to enter this one
18 into the record.

19 HEARING OFFICER CELLI: Any objection CURE?

20 MS. GULESSERIAN: Objection, paragraph six, nine.
21 Some language in paragraph 16, paragraph 18 are all about
22 40 miles of pipeline and 12 miles of pipeline. They find
23 new significant -- potentially significant impacts and
24 identify new proposed possible mitigation.

25 HEARING OFFICER CELLI: Paragraph six nine --

1 MS. GULESSERIAN: Six nine, some language in 16
2 and 18.

3 HEARING OFFICER CELLI: And 18 and the objection
4 is exceeds the scope, is that what your --

5 MS. GULESSERIAN: Yes.

6 HEARING OFFICER CELLI: -- objection is?

7 MS. GULESSERIAN: Yes, it is.

8 HEARING OFFICER CELLI: Anything else?

9 MS. GULESSERIAN: No.

10 HEARING OFFICER CELLI: Objection by applicant?

11 MS. LUCKHARDT: No objection.

12 HEARING OFFICER CELLI: Okay. Objection is
13 overruled. 515 is received.

14 SENIOR STAFF COUNSEL BABULA: Exhibit 516,
15 traffic and transportation. Supplemental testimony and
16 declaration of David Flores. I'd like to enter this one
17 into the record.

18 HEARING OFFICER CELLI: Declaration of David
19 Flores in traffic and transportation?

20 SENIOR STAFF COUNSEL BABULA: Traffic and
21 transportation.

22 MS. GULESSERIAN: No objection.

23 HEARING OFFICER CELLI: Objection applicant?

24 MS. LUCKHARDT: No objection.

25 HEARING OFFICER CELLI: 516 is received.

1 SENIOR STAFF COUNSEL BABULA: Exhibit 517 visual
2 resources. Supplemental testimony and declaration of Mark
3 Hamblin. I'd like to enter this one into the record.

4 HEARING OFFICER CELLI: Any objection CURE?

5 MS. GULESSERIAN: For 517, no. No objection.

6 HEARING OFFICER CELLI: Applicant?

7 MS. LUCKHARDT: No objection.

8 HEARING OFFICER CELLI: 517 is received.

9 SENIOR STAFF COUNSEL BABULA: Okay exhibit 518,
10 waste management. Supplemental testimony and declaration
11 of Casey Weaver. I'd like to enter this one into the
12 record.

13 HEARING OFFICER CELLI: Any objection CURE?

14 MS. GULESSERIAN: I just wanted to clarify, my
15 exhibit 518 declaration says it is a declaration of waste
16 management and then the testimony is about soil and water
17 resources. So I didn't -- I didn't bring this up earlier
18 but this -- so the opposite is for the exhibit 515 the
19 declaration is about water yet the testimony is about
20 waste management. I think they're just flipped but -- so
21 you have a declaration --

22 SENIOR STAFF COUNSEL BABULA: This one -- 518
23 should be the waste management. Should be the testimony
24 related to waste management.

25 PROJECT MANAGER SOLORIO: So the declarations are

1 correct, the attachments are

2 HEARING OFFICER CELLI: Mr. Solorio, you're not
3 on the record. If what you wanted to say was on the
4 record, that didn't come across.

5 PROJECT MANAGER SOLORIO: I was just
6 acknowledging that the declarations and the title of the
7 documents are correct. It's the testimony that is out of
8 order. They're flip flopped in 518 and 515.

9 MS. LUCKHARDT: So then do we -- in order to
10 clarify the record, do we want to clarify that 515 is the
11 declaration of Casey Weaver on water and the soil and
12 water resources supplemental testimony of Casey Weaver and
13 do we want to clarify that exhibit 518 will then be the
14 declaration of Casey Weaver on waste management followed
15 by testimony entitled waste management supplemental
16 testimony by Casey Weaver. Does that work?

17 MS. GULESSERIAN: That's fine to me.

18 MS. LUCKHARDT: Is that acceptable to all?

19 SENIOR STAFF COUNSEL BABULA: Yeah, that should
20 clarify it.

21 HEARING OFFICER CELLI: Okay so, we are at 518,
22 which is received. So exhibits 507 through 518 are
23 received.

24 MS. GULESSERIAN: So my previous -- pardon me.
25 My previous objections then we're speaking about

1 paragraphs in the waste management declaration, because
2 that was what was there.

3 HEARING OFFICER CELLI: So they were referring to
4 518 not 515 correct?

5 MS. GULESSERIAN: Yes. And now I need to explain
6 my objection for 515 if soil and water is there.

7 HEARING OFFICER CELLI: So wait a minute.

8 (Laughter.)

9 HEARING OFFICER CELLI: The paragraphs six, nine,
10 16 and 18 --

11 MS. GULESSERIAN: 15.

12 HEARING OFFICER CELLI: -- that you had objected
13 to had to do with Casey Weaver's declaration regarding
14 waste?

15 MS. GULESSERIAN: Correct.

16 HEARING OFFICER CELLI: Okay. Now, 515, did you
17 have --

18 MS. GULESSERIAN: And now we're doing 515, soil
19 and water resources?

20 HEARING OFFICER CELLI: Okay, I thought 515 was
21 already received into evidence, but are there paragraphs
22 you wanted me to be alerted to?

23 MS. GULESSERIAN: Okay. For exhibit 515, we
24 agreed that that is the declaration for soil and water
25 resources. That it would include the testimony from

1 exhibit 518.

2 MS. LUCKHARDT: That is entitled soil and water
3 resources supplemental testimony of Casey Weaver.

4 MS. GULESSERIAN: And on that exhibit, 515, I
5 would object to paragraphs nine, regarding the Rosamond
6 pipeline; the first two ten senses of paragraph 16 and
7 paragraph 19, regarding the 12 mile segment from
8 California City.

9 HEARING OFFICER CELLI: And your objection is?

10 MS. GULESSERIAN: Regarding outside of the scope
11 of the limited order for today's evidentiary hearing.

12 HEARING OFFICER CELLI: Overruled.

13 Applicant any objection to 515?

14 MS. LUCKHARDT: No objection.

15 HEARING OFFICER CELLI: All right, so we're at
16 519, staff.

17 SENIOR STAFF COUNSEL BABULA: Okay, 519 is fact
18 sheet describing current physical characteristics of
19 Rosamond treatment facility and impacts from phase 2
20 construction. I'd like to enter this one into the record.
21 It also contains the photos of the area that will be
22 converted into a pond.

23 HEARING OFFICER CELLI: Any objection by CURE?

24 MS. GULESSERIAN: No objection.

25 HEARING OFFICER CELLI: Any objection by

1 applicant?

2 MS. LUCKHARDT: No objection.

3 HEARING OFFICER CELLI: 519 is received.

4 Next.

5 SENIOR STAFF COUNSEL BABULA: Attached to exhibit
6 520, aerial view of the California City Wastewater
7 Treatment Plant. I believe this one is also a duplicate
8 of one the applicant may have had.

9 HEARING OFFICER CELLI: So we'll receive staff's
10 version if that's acceptable to the parties.

11 520, any objection?

12 MS. GULESSERIAN: No objection from CURE.

13 HEARING OFFICER CELLI: From CURE?

14 From applicant?

15 MS. LUCKHARDT: No objection.

16 HEARING OFFICER CELLI: 520 is received into
17 evidence.

18 SENIOR STAFF COUNSEL BABULA: Okay, exhibit 521
19 would be the supplemental testimony and declarations from
20 Geoff Lesh and Rick Tyler. I'd like to enter this one in
21 the record, regarding fire protection emergency services.

22 HEARING OFFICER CELLI: Any objection from CURE?

23 MS. GULESSERIAN: No objection.

24 HEARING OFFICER CELLI: Applicant?

25 Any objection to 521 supplemental declaration of

1 Geoff Lesh and Rick Tyler?

2 MS. LUCKHARDT: No, other than it's new.

3 It's -- no objection.

4 HEARING OFFICER CELLI: Thank you. It will be
5 received.

6 Anything further from staff?

7 MS. LUCKHARDT: The only thing I would note is
8 that part of staff's -- I guess that's all part of exhibit
9 521, included a exhibit C, which I think was
10 also -- although staff included a link, I believe that
11 CURE included the entire document.

12 SENIOR STAFF COUNSEL BABULA: Yeah, that would be
13 CIP study.

14 MS. LUCKHARDT: Was it the CIP study or was it
15 the public facilities impact fee study, because that's
16 what CURE attached?

17 SENIOR STAFF COUNSEL BABULA: It was the document
18 attached to the letter from Kern County, that had 120
19 pages. So it was the -- it was the study that was
20 attached came in. It was docketed in January I believe.
21 But if it's the same.

22 MS. GULESSERIAN: It's nothing that CURE
23 docketed -- has we -- we don't have any exhibits --

24 MS. LUCKHARDT: Is it a different --

25 MS. GULESSERIAN: This is not --

1 PROJECT MANAGER SOLORIO: It's the same. It's
2 the CIP study. I docketed it.

3 MS. LUCKHARDT: Oh, okay, so it's different --
4 it's the CIP study not the public facilities impact fee
5 study?

6 SENIOR STAFF COUNSEL BABULA: I don't know what
7 that is.

8 MS. LUCKHARDT: Because that's what I believe was
9 included as an attachment to CURE's exhibits as attachment
10 to CURE's exhibit 666.

11 HEARING OFFICER CELLI: 666 is letter from
12 Lorelei Oviatt Kern County to Eric Solorio. Also,
13 additional Kern County Planning Department comments, Final
14 Staff Assessment for the proposed Beacon Solar Energy
15 Project. It's a five -- it's a January 15th letter.

16 MS. GULESSERIAN: This is on the docket
17 entitled -- you click on the link and this is the
18 document -- this is Kern County's last document.

19 HEARING OFFICER CELLI: So the question is, is
20 that the same thing as 521 exhibit C?

21 SENIOR STAFF COUNSEL BABULA: Yeah, it's the
22 same. It's the letter with the -- what's it titled?
23 -- public facilities impact fee study.

24 HEARING OFFICER CELLI: Okay. Then I take it
25 there's no objection from CURE as to 521?

1 PROJECT MANAGER SOLORIO: I can't be sure,
2 because you're right, Jane, there is a different title
3 on -- like the letter refers to the CIP but the title on
4 this document that Tanya has is public facilities impact
5 fee study, and has a May 18th date, May 18th, 2009. The
6 document that we were working off of for the fire safety
7 was the CIP, the capital improvement plan that Kern County
8 drafted and adopted.

9 HEARING OFFICER CELLI: So what we're going to do
10 is we're going to -- let me just allow applicant to
11 complete their objection as to 521.

12 MS. LUCKHARDT: Actually, it was more of a
13 clarification than an objection to make sure that I had
14 the correct documents.

15 HEARING OFFICER CELLI: Okay.

16 MS. LUCKHARDT: It looks like there are -- what I
17 had assumed was the same document. They're in fact two
18 different documents. And that's fine I have both of them.
19 I just wanted to make sure that I had the right documents
20 associated with the right letters and attachments.

21 HEARING OFFICER CELLI: I appreciate that. And
22 if there's any confusion, I'm probably inclined to allowed
23 them both, and just to make sure that we've got it all
24 covered. So with that, 521 will be received into
25 evidence.

1 SENIOR STAFF COUNSEL BABULA: And no further
2 documents.

3 HEARING OFFICER CELLI: Okay. Now, folks, we
4 just spent an hour putting in evidence that should have
5 been stipulated in. And I don't feel like doing this all
6 day.

7 SENIOR STAFF COUNSEL BABULA: I agree. I have a
8 lot of staff here that are sitting here with a lot of work
9 to do. And -- although I didn't -- I looked a CURE's
10 documents, I think there's a number of once I could object
11 to on being irrelevant. I would be open to just letting
12 them all in, if we could speed this up, because I don't
13 see how it impacts what we've done here. Staff's spent a
14 lot of time putting a lot of work into this and I'd like
15 to move forward.

16 HEARING OFFICER CELLI: And is applicant -- first
17 of all staff, do you have any objection to any of
18 applicant's exhibits?

19 SENIOR STAFF COUNSEL BABULA: No I don't.

20 HEARING OFFICER CELLI: Okay. CURE, do you have
21 any objections to applicant's exhibits that you've
22 received?

23 MS. GULESSERIAN: To three of them.

24 HEARING OFFICER CELLI: Okay.

25 MS. GULESSERIAN: Otherwise, and --

1 HEARING OFFICER CELLI: So hold the thought,
2 you've got those three. Just track that.

3 Applicant, do you have any objection to any of
4 CURE's coming in -- CURE's exhibits?

5 MS. LUCKHARDT: I believe that a lot of them have
6 issues on relevance as far as -- and it's an attempt to
7 get back in some of the documents that were kept out of
8 the record before, including survey protocols, desert
9 tortoise studies, habitat modeling requirements, recovery
10 plans, articles on the Mojave ground squirrel, California
11 Native Plant Society botanical surveys. And there are a
12 variety of things that are in there that we don't believe
13 are relevant to the current discussion.

14 HEARING OFFICER CELLI: I actually have to say
15 that I had a similar reaction -- I had a similar reaction
16 when I was reading some of these exhibits Mojave ground
17 squirrel and things like that desert tortoise as it
18 related to the limited topics areas that we're discussing
19 in today's hearings.

20 So the options are really if the parties would be
21 interested in allowing exhibits just to stipulate to the
22 exhibits just in the interests of time, trusting that the
23 Committee would give them their appropriate weight, that
24 might speed things up. Otherwise, we can continue to go
25 exhibit by exhibit.

1 So staff your proposal is what?

2 SENIOR STAFF COUNSEL BABULA: I would trust the
3 Committee in assessing the value of these exhibits, and I
4 would go -- I don't want to go one by one.

5 HEARING OFFICER CELLI: CURE, what do you want to
6 do?

7 MS. GULESSERIAN: I'm moving to enter my exhibits
8 into the record.

9 HEARING OFFICER CELLI: Okay. And we'll get your
10 motion in a moment.

11 Applicant -- well, wait. CURE, so what I'm
12 asking for essentially is a stipulation that everybody's
13 evidence as submitted to us on June 1st be received.

14 MS. GULESSERIAN: You're asking me now to not
15 have objections to the applicant's or?

16 HEARING OFFICER CELLI: Well, that's basically
17 what I'm looking to do here just to save time.

18 MS. GULESSERIAN: I must object to a new analysis
19 that's submitted. There's a whole new report --

20 HEARING OFFICER CELLI: All right. So I can't do
21 what I was trying to do.

22 MS. GULESSERIAN: Sorry.

23 HEARING OFFICER CELLI: Clear. All right, with
24 that, staff we've received all of your evidence.

25 Did you wish to call any witnesses with regard

1 to -- and we're just talking right now about the
2 wastewater treatment facility section, so far. Did
3 you --

4 SENIOR STAFF COUNSEL BABULA: You want -- are we
5 going to finish with the -- what are we doing with the
6 exhibits? I'm a little confused now.

7 HEARING OFFICER CELLI: I just wanted -- I just
8 received all of that testimony into the record.

9 SENIOR STAFF COUNSEL BABULA: Okay. I would like
10 that -- I can proceed and I can get the Rosamond people
11 here since they've a flight to catch and we can --

12 HEARING OFFICER CELLI: Okay, let's do that. And
13 when you call your witnesses, I guess we'll put them right
14 next to Mr. Petty over here. And we can only have four
15 microphones going at once.

16 SENIOR STAFF COUNSEL BABULA: So if we could have
17 Jack Stewart and Dennis LaMoreaux come up here.

18 HEARING OFFICER CELLI: So I'm going to turn my
19 microphone off, so that parties can object. So that
20 basically the microphones that are going to be on are the
21 witness's microphone, the applicant's, staff's and CURE's.

22 ASSOCIATE MEMBER BYRON: Mr. Celli, could I just
23 ask by a show of hands how many Energy Commission staff
24 are here today. Please raise your hands.

25 (Hands raised.)

1 ASSOCIATE MEMBER BYRON: I'd like to acknowledge
2 the importance of your time and the Committee's very
3 apologetic for the amount of time it's taken to do this
4 procedural stuff. Madam chairman, by my count we've lost
5 maybe two man days worth of effort for these procedural
6 issues. I hope we can be a little more efficient in going
7 forward.

8 MS. LUCKHARDT: If I could, if it would help, we
9 had originally asked that staff have the fire chief
10 available. And I believe he was going to be joining Ms.
11 Oviatt at about 2:30. We don't think that we need or have
12 any questions for the fire chief. We believe that all of
13 our questions go to Ms. Oviatt. So if he is in her
14 office -- our questions really relate to the fee study
15 itself. And if he does not have specific knowledge of how
16 the fee study was conducted or calculated or the CIP study
17 was conducted or calculated, then we do not need to ask
18 him questions and he can go on to the -- to other
19 activities.

20 SENIOR STAFF COUNSEL BABULA: I think staff --

21 HEARING OFFICER CELLI: Let me just, if I may,
22 since they're comfortable down in Kern County on the
23 telephone, I don't have -- there's not a rush to deal with
24 their issue right up front. I have people who have to
25 catch a flight here from Rosamond. I think we need to get

1 their testimony and get them moving. So we're going to
2 handle that issue first. That's the water treatment issue
3 that we said we were going to handle first. We're going
4 the handle Ms. Oviatt's comment second.

5 MS. LUCKHARDT: I just wanted to allow him to do
6 other things today if he didn't have that kind of
7 knowledge and only Ms. Oviatt and the fire chief would be
8 aware of that. And if that is the case, then we don't
9 have questions for him. He doesn't need to sit in her
10 office.

11 SENIOR STAFF COUNSEL BABULA: I think staff might
12 be interested in having him -- you want the fire chief.

13 HEARING OFFICER CELLI: There's nodding heads.
14 So we're just going to move forward. Please, let's get to
15 Rosamond's --

16 SENIOR STAFF COUNSEL BABULA: I think he's sworn
17 in.

18 HEARING OFFICER CELLI: Yes. Mr. Petty, please.
19 Whereupon,

20 DENNIS LaMOREAUX and JACK STEWART
21 were called as witnesses herein, and after first
22 having been duly sworn, were examined and
23 testified as follows:

24 THE REPORTER: Would you state and spell your
25 names for the record.

1 MR. STEWART: Jack Stewart, S-t-e-w-a-r-t.

2 THE REPORTER: Thank you.

3 MR. LaMOREAUX: Dennis LaMoreaux, L-a capital
4 M-o-r-e-a-u-x.

5 THE REPORTER: Thank you, gentlemen.

6 DIRECT EXAMINATION

7 BY MR. BABULA:

8 I just want to quickly start with Mr. LaMoreaux.
9 The exhibit the fact sheet that I presented as exhibit
10 520, which was a fact sheet from Rosamond, that was
11 prepared by you to the best of your knowledge?

12 MR. LaMOREAUX: Yes, it was.

13 SENIOR STAFF COUNSEL BABULA: Okay. I just
14 wanted to make sure that gets into the record. They're
15 going to be testifying as a panel. So if you could just
16 give a quick summary of what your position is. So I'd
17 start with Dennis.

18 MR. LaMOREAUX: I'm currently consultant for
19 Rosamond Community Services District. I was formerly
20 employed by the district for a little over a year as a
21 district engineer and assistant general manager.

22 SENIOR STAFF COUNSEL BABULA: Okay and Mr.
23 Stewart.

24 MR. STEWART: My name is Jack Stewart and I'm
25 serving as the general manager of Rosamond Community

1 Services District since May of 2008 to currently.

2 SENIOR STAFF COUNSEL BABULA: Okay, thank you.

3 I just want to go through a couple quick
4 questions here, to get some clarification, as I had noted
5 before.

6 MS. GULESSERIAN: I have a clarification, I
7 apologize. Is there testimony from Jack Stewart that was
8 submitted on June 1st or am I -- am I missing something?

9 SENIOR STAFF COUNSEL BABULA: Well, he -- was
10 there testimony filed? The fact sheets -- the material
11 that we're getting from Dennis is sort of a compilation of
12 both. But if there's an objection to Jack being here, I
13 can just have Dennis. I want to try to go as quickly as
14 possible.

15 HEARING OFFICER CELLI: I appreciate that. Let
16 me just ask you if you wouldn't mind giving us sort of an
17 opening statement like basically what are you asking, why
18 are you asking it, what information are we going the get?

19 SENIOR STAFF COUNSEL BABULA: Okay. Well,
20 basically as I had indicated in my reply brief, I want to
21 clarify the record to really two key things with Rosamond,
22 which is who's the lead agency for these upgrades?

23 Two, what are the upgrades consisting of? Like,
24 what exactly are these upgrades we hear about.

25 And then three, where are they in the process?

1 It's not that complicated. I have about eight questions
2 that are mostly yes, no and some summary.

3 HEARING OFFICER CELLI: Thank you very much.
4 Please proceed.

5 SENIOR STAFF COUNSEL BABULA: Okay just we'll go
6 with Dennis here and Jack can chime in.

7 So generally, is there a movement among
8 wastewater treatment plants in your experience, to try to
9 create more tertiary treated recycled water to conserve
10 resources?

11 MR. LaMOREAUX: Yes, especially in the Antelope
12 Valley, all three major plants are converting to tertiary
13 treatment.

14 SENIOR STAFF COUNSEL BABULA: Okay. Now, the
15 information we had gotten from you before, Rosamond has
16 been upgrading over the last 10 years to increase the
17 conversion of secondary treated wastewater to tertiary
18 treated wastewater; is that correct?

19 MR. LaMOREAUX: That's correct.

20 SENIOR STAFF COUNSEL BABULA: Okay. The Beacon
21 project is a potential customer of this tertiary treated
22 recycled water. But the plan to generate more tertiary
23 treated recycled water was initiated prior to Beacon
24 filing in 2008?

25 MR. LaMOREAUX: That's correct.

1 SENIOR STAFF COUNSEL BABULA: Okay. Now, the
2 upgrades we've been talking about are -- we were calling
3 them phase 2. Now the phase 1 of the upgrades are those
4 already done?

5 MR. LaMOREAUX: The construction is complete,
6 yes.

7 SENIOR STAFF COUNSEL BABULA: Okay. For I think
8 for Jack, has Rosamond completed the initial study for
9 phase 2?

10 MR. STEWART: Yes. Rosamond's completed the
11 initial study as required --

12 MS. GULESSERIAN: Objection.

13 MR. STEWART: Rosamond has completed --

14 HEARING OFFICER CELLI: There's an objection.
15 One moment please. Objection?

16 MS. GULESSERIAN: There's no testimony submitted
17 on initial study for phase 2 in this proceeding. There's
18 no documentary evidence. There's no testified. No
19 nothing. I don't know --

20 SENIOR STAFF COUNSEL BABULA: This is the
21 testimony.

22 MS. GULESSERIAN: You're providing testimony on
23 the day of? We have a ruling that says we're supposed to
24 put testimony in by June 1st, so we don't have any
25 surprises --

1 SENIOR STAFF COUNSEL BABULA: It's just -- this
2 is --

3 MS. GULESSERIAN: -- on the day of the
4 evidentiary hearing.

5 HEARING OFFICER CELLI: Mr. Babula.

6 SENIOR STAFF COUNSEL BABULA: This is summarizing
7 what's going on at the -- again, this is not part of our
8 project. This is summarizing what's going on there, so we
9 can layout in the record where things are -- who the lead
10 agency is, where things are with their environmental
11 review, and what the upgrades are.

12 So I'm not sure -- I mean, that was one of the
13 purposes was to assess where Rosamond -- the lead agency
14 for these upgrades are in the process.

15 HEARING OFFICER CELLI: CURE?

16 MS. GULESSERIAN: I believe the question I just
17 heard was something about starting to do something
18 completed environmental review on phase 2, which is not
19 the subject of any testimony that's been submitted in this
20 proceeding.

21 I argued that documents and evidence at the March
22 22nd hearing that were provided to the parties four days
23 before the hearing was adequate time for them to review,
24 and that ruling was -- objections to that evidence was
25 overruled --

1 HEARING OFFICER CELLI: Let me ask for
2 clarification.

3 MS. GULESSERIAN: -- on the basis that the
4 parties didn't have time to review it

5 HEARING OFFICER CELLI: So your objection is to
6 the discussion regarding phase -- these phases?

7 MS. GULESSERIAN: Whatever new testimony is going
8 to be proffered in response to this question.

9 HEARING OFFICER CELLI: So let me ask staff, is
10 there testimony with regard to phase 1 and phase 2?

11 SENIOR STAFF COUNSEL BABULA: Yeah in Dennis's
12 declaration is a source of discussion. That's the
13 whole --

14 HEARING OFFICER CELLI: Which is 520 -- exhibit
15 520.

16 SENIOR STAFF COUNSEL BABULA: Right, his
17 declaration and -- well, two things. His declaration is
18 507 and then 520 was a fact sheet that describes what the
19 components are of the upgrades that are subject to the
20 phase -- this is phase 2.

21 HEARING OFFICER CELLI: Right. And I recall
22 reading that, and I do recall mentioning phase 1 and phase
23 2.

24 SENIOR STAFF COUNSEL BABULA: Right. There's the
25 map that shows the -- that I submitted that shows the

1 ponds.

2 HEARING OFFICER CELLI: So in the interests of
3 time, let me ask you this. If --

4 SENIOR STAFF COUNSEL BABULA: I could rephrase
5 the question. I could try to rephrase the question that
6 might get around the objection.

7 HEARING OFFICER CELLI: Okay.

8 SENIOR STAFF COUNSEL BABULA: Let me actually go
9 back to Dennis and then --

10 HEARING OFFICER CELLI: So your question is
11 withdrawn.

12 SENIOR STAFF COUNSEL BABULA: Yeah, I'll withdraw
13 that question.

14 Dennis, can you describe the environmental
15 process that's been going on for the phase 2?

16 MR. LaMOREAUX: As I understand, I've been
17 directly involved. The district has completed an initial
18 study --

19 MS. GULESSERIAN: Objection. The same -- they're
20 putting new evidence into the record about something that
21 has happened that's not in the testimony.

22 SENIOR STAFF COUNSEL BABULA: Well it's paragraph
23 4 of Dennis's Dec right here.

24 HEARING OFFICER CELLI: See, and that is where I
25 was going to go with this, which is if there's already the

1 evidence in the testimony and we have received the
2 testimony, is it really necessary to have the live
3 testimony on the same thing?

4 MS. GULESSERIAN: I didn't see anything in
5 paragraph four recording what is --

6 PROJECT MANAGER SOLORIO: It's in paragraph four.
7 It's in paragraph six. It's in paragraph eight.

8 SENIOR STAFF COUNSEL BABULA: We're talking about
9 phase 2 in these -- these paragraphs discuss the
10 happenings at the treatment plant.

11 HEARING OFFICER CELLI: So with regard to the
12 objection as phases being new information, that's
13 overruled.

14 But what I'm trying to get to next is what we
15 need to get from these witnesses today. Because really
16 I think they're here --

17 SENIOR STAFF COUNSEL BABULA: Yeah, I was trying
18 to get more --

19 HEARING OFFICER CELLI: -- for cross.

20 SENIOR STAFF COUNSEL BABULA: I was trying to get
21 a little more detail on the where they are in the
22 environmental process, because since we've filed this,
23 things have moved forward and they're continue, because
24 there -- that's again, a separate process from what we're
25 doing here. So I was trying to get the most up-to-date

1 info on where are you with the -- with your
2 environmental -- that's all the question was

3 HEARING OFFICER CELLI: So let's go with that, if
4 you can just get that information.

5 SENIOR STAFF COUNSEL BABULA: Okay. Can you
6 summarize where you are in -- you know why don't you --

7 MS. GULESSERIAN: That's what I would object to.

8 HEARING OFFICER CELLI: And the basis of your
9 objection.

10 MS. GULESSERIAN: The basis of the objection is
11 where they're at with environmental review is what's been
12 submitted in their testimony on June 1st. We have
13 explained to the Committee that we have only -- we've only
14 had an opportunity to review what has been presented prior
15 to this evidentiary hearing.

16 HEARING OFFICER CELLI: I understand that, Ms.
17 Gulesserian, but you know all of this environmental review
18 is ongoing. I think the Committee is interested in
19 knowing where they're at as of today. I don't think it
20 prejudices your party in any way. So I think it's a fair
21 question. We're going to allow it.

22 Please.

23 SENIOR STAFF COUNSEL BABULA: Okay go ahead Mr.
24 LaMoreaux.

25 MR. LaMOREAUX: I think Mr. Stewart would have

1 more up-to-date information. There was a board meeting
2 where action was taken last night. And I think he's more
3 appropriate to State that.

4 SENIOR STAFF COUNSEL BABULA: Okay Mr. Stewart.

5 MR. STEWART: The Rosamond Community Services
6 District board of directors last night approved two
7 actions. One authorizing staff to conduct the initial
8 study as required under CEQA by Kern County Planning
9 Department.

10 Number two, to contract for a biota study with
11 registered biologist to survey 320 acres of the site that
12 is owned by the district.

13 SENIOR STAFF COUNSEL BABULA: Okay, thank you.

14 Let's go Mr. LaMoreaux, do you anticipate
15 environmental review and permitting being completed in a
16 timeframe to complement the project schedule of Beacon?

17 MR. LaMOREAUX: Yes. I don't anticipate any
18 problems with that. As I understand, Beacon's timeline is
19 over nearly two years, if not more.

20 SENIOR STAFF COUNSEL BABULA: And do you
21 have -- in your declaration, you stated that you
22 anticipate this would be a Negative Dec or Mitigated
23 Negative Dec. Is that still the case?

24 MR. LaMOREAUX: That's my opinion, yes.

25 SENIOR STAFF COUNSEL BABULA: Okay. Mr. Stewart,

1 would you like to --

2 MR. STEWART: Yes, it's my opinion also.

3 SENIOR STAFF COUNSEL BABULA: Okay. Thanks a
4 lot.

5 Last question for both of you. As a person
6 involved with the operation of a public wastewater
7 treatment facility and being in a desert environment, do
8 you believe using recycled wastewater to generate
9 renewable energy is a beneficial use of that water
10 resource?

11 Mr. LaMoreaux, you can go first.

12 MR. LaMOREAUX: Yes, we do. Especially in the
13 case of Rosamond, where the water is currently evaporated
14 and goes to no other -- no beneficial use at all.

15 SENIOR STAFF COUNSEL BABULA: Okay.

16 MR. STEWART: I concur.

17 SENIOR STAFF COUNSEL BABULA: Okay. I have no
18 further questions of them. I'll offer them for cross.

19 HEARING OFFICER CELLI: CURE, do you have any
20 cross.

21 MS. GULESSERIAN: Yes, I do. Excuse me.

22 CROSS-EXAMINATION

23 BY MS. GULESSERIAN:

24 Is the sole purpose of Rosamond's -- I meant to
25 asking this question of the witness whose testimony was

1 submitted on June 1st, to Mr. LaMoreaux.

2 MR. LaMOREAUX: Uh-huh.

3 MS. GULESSERIAN: Thank you.

4 Is the sole purpose of Rosamond's expansion to
5 provide recycled to the Beacon project?

6 MR. LaMOREAUX: That wasn't the sole purpose for
7 it being planned, no.

8 MS. GULESSERIAN: Is it true that the other
9 purpose is to reduce depends on groundwater and State
10 Water Project water as set forth in your facilities
11 report?

12 MR. LaMOREAUX: Earlier planning was the use of
13 the tertiary water in parks and schools for urban
14 irrigation.

15 MS. GULESSERIAN: Are you also sponsoring your
16 facility's report today? Is that one of your documents
17 that you're familiar with Rosamond's Recycled Facilities
18 Water Report?

19 MR. LaMOREAUX: I am. I'm not sure I
20 sponsored --

21 SENIOR STAFF COUNSEL BABULA: No, that wasn't
22 part of his exhibits.

23 MS. GULESSERIAN: Okay, that is -- I guess it's
24 in a declaration of Mr. LaMoreaux. Excuse me.

25 Okay, I'll just move on.

1 Is it true that you're providing the Beacon
2 project with 1.3 million gallons of recycled water?

3 MR. LaMOREAUX: That was our understanding of
4 their needs and it's what was in our letter of intent.

5 MS. GULESSERIAN: Okay. And you testified in
6 March that with a contract to provide 1.3 million gallons
7 per day of recycled water to Beacon, Rosamond would expand
8 its wastewater treatment plant to 2.0 million gallons per
9 day, which would provide treatment for all the existing
10 flow and room for future growth. I'm referring to page
11 142 of the transcript.

12 Can explaining what you meant by providing room
13 for future growth?

14 MR. LaMOREAUX: As the community continues to
15 grow, right now the flows into the facility are about 1.3
16 million gallons a day. The capacity of the facility is
17 about 2.5 million gallons a day. What we're talking about
18 here is the conversion of that treatment from secondary to
19 tertiary.

20 MS. GULESSERIAN: Okay. And to clarify then, the
21 flow into it is 1.3 and the capacity the 2.5?

22 MR. LaMOREAUX: Correct.

23 MS. GULESSERIAN: So if you have a capacity of
24 2.5, will you be able to handle increased in-flows?

25 MR. LaMOREAUX: Yes, if the current

1 capacity -- the current inflow is 1.3, the Beacon project
2 if this were to happen would contract for that amount.
3 Other flows as the community grows would be used for other
4 purposes.

5 MS. GULESSERIAN: Okay. And your capacity of 2.5
6 would be able -- you would be able to handle that growth?

7 MR. LaMOREAUX: That's correct.

8 MS. GULESSERIAN: Okay. In your declaration
9 marked as exhibit 507, you state that the project would
10 increase the facilities tertiary wastewater treatment
11 capacity to 2.5 million gallons per day. This is a half a
12 million gallons per day larger than your proposal at the
13 March 22nd evidentiary. Would this also provide room for
14 future growth?

15 MR. LaMOREAUX: No. There is some sort of
16 confusion on that. Maybe on your part. The new
17 conversion, the phase 2 would add 2.0 million gallons per
18 day. The phase 1, which is already complete, is a half a
19 million gallons a day. The total of those two is 2.5.

20 MS. GULESSERIAN: Okay. So your phase 2
21 expansion is to go to 2.0 million gallons per day?

22 MR. LaMOREAUX: The phase 2 expansion has a
23 capacity of 2.0. The total --

24 MS. GULESSERIAN: Which would give you a total of
25 2.5 million gallons per day?

1 MR. LaMOREAUX: Exactly, the existing capacity of
2 the plant at this point.

3 MS. GULESSERIAN: Thank you. If you're current
4 capacity is .5 -- I'm sorry, I'm just trying to make sure
5 I'm getting this right -- your current capacity is then
6 what?

7 MR. LaMOREAUX: 2.5 mgd.

8 MS. GULESSERIAN: 2.5.

9 MR. LaMOREAUX: The difference you seem to be
10 referring to is the types of treatment. There's a .5 mgd
11 tertiary treatment available and 2.0 secondary treatment
12 available at this point.

13 MS. GULESSERIAN: Okay. And are you proposing to
14 increase the capacity to treat to a tertiary level 2.5
15 million gallons per day?

16 MR. LaMOREAUX: To convert the existing capacity
17 of the plant to tertiary treatment.

18 MS. GULESSERIAN: Okay. So you're going to do
19 the 2.5 million gallons per day of tertiary treated water?

20 MR. LaMOREAUX: That would be the total capacity
21 after phase 2.

22 MS. GULESSERIAN: Okay. You testified that your
23 expansion in your new testimony would not induce
24 population growth because it is -- hold on. I'm just
25 going to strike that, because I got the answers to those

1 questions.

2 Okay, again I need the go to the facilities plan.
3 Are you familiar the Rosamond's Facilities Plan Report?

4 MR. LaMOREAUX: I am. I haven't read it in quite
5 some time.

6 MS. GULESSERIAN: Okay. Do you recall that page
7 one of the report states that the purpose of increasing
8 the capacity of the recycled wastewater treatment plant
9 and increase the availability of tertiary treated recycled
10 water is to reduce depends on State water and groundwater?

11 MR. LaMOREAUX: That can be a goal. Certainly
12 also, if you could find a market for that water and use
13 the proceeds from that market, you can achieve the same
14 goal by purchasing additional supplies for potable use.

15 MS. GULESSERIAN: Could you explain -- we just
16 received your additional facts sheet that was submitted to
17 staff on May 20th, but docketed with the testimony on June
18 1st. So I've recently reviewed it.

19 Can you explain the proposed acreages of ponds
20 for your project?

21 MR. LaMOREAUX: What do you mean proposed
22 acreages of ponds?

23 MS. GULESSERIAN: What are you proposing to do as
24 far as building wastewater treatment ponds?

25 MR. LaMOREAUX: The phase 2 project would occur

1 mostly within an existing pond, and a portion of the land
2 that's not a pond, about 20 acres, to the west of that
3 existing pond. That would be the extent of phase 2.

4 MS. GULESSERIAN: Okay. So it's a 20 acre
5 extension of an existing pond?

6 MR. LaMOREAUX: Yeah to make it pretty simple,
7 yes.

8 MS. GULESSERIAN: Okay. So what in the fact
9 sheet, it says -- do you have that in front of you by any
10 chance? It's exhibit 519. It says there's approximately
11 70 acres of proposed ponds. What is the 70 acres?

12 MR. LaMOREAUX: The 70 acres would be the ponds
13 and the facilities adjacent to the ponds -- well the pond.
14 It's a series of ponds within a bermed area.

15 MS. GULESSERIAN: Okay. Is this the pond that is
16 going to be attached to the new 20 acre extension?

17 MR. LaMOREAUX: Right. This would occur --

18 MS. GULESSERIAN: Or is this a different pond?

19 MR. LaMOREAUX: The majority of it occurs within
20 the existing pond and also goes on to the 20 acres, as I
21 think is shown in the declaration.

22 SENIOR STAFF COUNSEL BABULA: Would it be helpful
23 if he pointed to a map?

24 This is actually -- this layout is part of the
25 exhibit that was attached to his declaration. So the

1 layout is in the record, but it might --

2 MS. GULESSERIAN: I've never seen this document
3 before.

4 HEARING OFFICER CELLI: I saw that. That was
5 part of the staff's exhibits.

6 SENIOR STAFF COUNSEL BABULA: Yeah.

7 HEARING OFFICER CELLI: What exhibit number is
8 that Mr. Babula?

9 SENIOR STAFF COUNSEL BABULA: That would be the
10 fact sheet that we --

11 HEARING OFFICER CELLI: 520?

12 SENIOR STAFF COUNSEL BABULA: Yeah. Actually,
13 no, it's 519.

14 HEARING OFFICER CELLI: So that would be helpful.
15 You may approach the witness --

16 SENIOR STAFF COUNSEL BABULA: Actually, no, sorry
17 about that. This is part of his declaration, so it would
18 be the first exhibit 507.

19 HEARING OFFICER CELLI: Exhibit 507.

20 SENIOR STAFF COUNSEL BABULA: Yeah, it was
21 attached to the declaration. It was the pond and then the
22 schematic inside the pond. Two pictures.

23 MS. GULESSERIAN: Is it this?

24 SENIOR STAFF COUNSEL BABULA: Yeah, that's the
25 one.

1 MS. GULESSERIAN: This attachment?

2 SENIOR STAFF COUNSEL BABULA: Yeah.

3 HEARING OFFICER CELLI: Yes.

4 MS. GULESSERIAN: This attachment? Is that the
5 same as that attachment?

6 SENIOR STAFF COUNSEL BABULA: No I'm saying the
7 layout, so can you see it. It's bigger. The pond layout.

8 HEARING OFFICER CELLI: What Ms. Gulesserian is
9 holding up is marked exhibit B it's a photograph of -- an
10 aerial photograph of ponds and underneath it, I think it
11 says phase 2 figure 2.

12 MS. GULESSERIAN: It says figure 2, location
13 within the Rosamond Wastewater Treatment Facility, where 2
14 million gallons per day --

15 HEARING OFFICER CELLI: And you may approach the
16 witness if you wish to have him point to that document if
17 you would like, Ms. Gulesserian.

18 MS. GULESSERIAN: Well --

19 MR. LaMOREAUX: And just to clarify, the very
20 next page shows a schematic of the phase 2 construction.

21 HEARING OFFICER CELLI: That's correct.

22 MS. GULESSERIAN: Right. Okay, so this is my
23 question. You were speaking so I forgot that we were
24 doing cross-examination here.

25 Is this the extent, what is submitted with your

1 declaration, and I can pass it to you if you'd like to
2 look closer, where the only place where your wastewater
3 treatment facility is being proposed?

4 MR. LaMOREAUX: Yes it's within -- the facility
5 is within that picture, yes, at the bottom part of that
6 with the long pond.

7 MS. GULESSERIAN: Is this where the 70 acres is
8 located?

9 MR. LaMOREAUX: That's correct.

10 MS. GULESSERIAN: Okay. I guess I need to ask
11 what the new exhibit is that is different than larger than
12 this. There must be some information that staff has --

13 HEARING OFFICER CELLI: Actually, there is no new
14 exhibit.

15 MS. GULESSERIAN: Okay. So can you show me --

16 HEARING OFFICER CELLI: Let me just state for the
17 record, that there is no new exhibit. I have what you
18 have, which is that exhibit B of -- is that 507?

19 MS. GULESSERIAN: Yes, it is.

20 HEARING OFFICER CELLI: And so we won't be -- the
21 Committee is not going to be looking at whatever map Mr.
22 Babula just held up. So with that, if you could please
23 complete your cross.

24 MS. GULESSERIAN: Thank you. I'm looking for
25 clarification on the 70 acres that is listed in your

1 additional fact sheet. I have noted that there's a 20
2 acre expansion of an existing pond located here.

3 MR. LaMOREAUX: Correct.

4 MS. GULESSERIAN: Where is the --

5 HEARING OFFICER CELLI: And for here she is
6 pointing to that --

7 MS. GULESSERIAN: Pointing to this -- on just
8 this is to the left --

9 HEARING OFFICER CELLI: Exhibit B of 507.

10 MS. GULESSERIAN: Exhibit B of 507 to the left of
11 this existing pond. And we've just got clarification,
12 that's the 20 acre extension of the existing pond?

13 MR. LaMOREAUX: That's correct.

14 MS. GULESSERIAN: Okay, where is the
15 rest -- where is the 70 acres or the other 50 acres?

16 MR. LaMOREAUX: It's within that pond --

17 MS. GULESSERIAN: Uh-huh.

18 MR. LaMOREAUX: -- and to the north as shown on
19 the very next sheet in that schematic of the phase 2
20 construction.

21 MS. GULESSERIAN: Okay. So it's on this page and
22 to the north up here?

23 MR. LaMOREAUX: No.

24 MS. GULESSERIAN: Okay. It's on this page and to
25 the right?

1 MR. LaMOREAUX: Adjacent to the long pond.

2 MS. GULESSERIAN: Over here?

3 MR. LaMOREAUX: No, that's Edwards Air Force
4 Base.

5 MS. GULESSERIAN: Over here?

6 HEARING OFFICER CELLI: No in between.

7 MS. GULESSERIAN: Could I ask the witness to --

8 SENIOR STAFF COUNSEL BABULA: This is getting a
9 little -- there's a line around it.

10 MS. GULESSERIAN: Can I ask the witness to
11 clarify by pointing to the map where the other 50 acres
12 is?

13 HEARING OFFICER CELLI: You may.

14 PROJECT MANAGER SOLORIO: We do have an
15 electronic file of the larger aerial, if you want to put
16 it up on the screen for ease for everybody. I don't know
17 if it will help, but --

18 HEARING OFFICER CELLI: It won't help because the
19 screen isn't up. It's not up and ready. And if we can
20 just get through this cross-examination I'm -- essentially
21 Mr. LaMoreaux, it appears that there's -- CURE is
22 interested in knowing about this expansion of the pond and
23 so what needs to be clear in the record is how much of
24 that pond is going to be expanded, where that extra 20
25 acres is, where's the 70 acres of the facilities.

1 MS. GULESSERIAN: Okay, this is a map of this
2 entire area.

3 MR. LaMOREAUX: That's correct.

4 MS. GULESSERIAN: Thank you.

5 HEARING OFFICER CELLI: And did you just draw on
6 that?

7 MR. LaMOREAUX: Yes, I did.

8 HEARING OFFICER CELLI: Okay, so we're going to
9 have to get a Xerox of that, yes.

10 MS. GULESSERIAN: So we all know what's happening
11 is this is the 70 acres that is being referred to.

12 HEARING OFFICER CELLI: Very clear.

13 MS. GULESSERIAN: It is now. And so for these
14 other areas, is that what is being proposed to turn into
15 one, two, three, what's described in your testimony as
16 multiple ponds that consist of sludge drying beds, advance
17 facultative ponds, high rate ponds, algae settling ponds
18 and maturation preponderance ponds?

19 MR. LaMOREAUX: Right. Those all occur within
20 that footprint.

21 MS. GULESSERIAN: Okay, and so you will be
22 constructing within that footprint and redesigning this
23 footprint --

24 MR. LaMOREAUX: Right --

25 MS. GULESSERIAN: -- to be the multiple ponds

1 that you describe in your testimony?

2 MR. LaMOREAUX: Right, it will be the phase 2
3 tertiary treatment plant deep lagoon design within that
4 footprint.

5 MS. GULESSERIAN: Thank you. Nothing further.

6 HEARING OFFICER CELLI: Applicant?

7 MS. LUCKHARDT: I just have a couple of questions
8 because during that I got a little confused.

9 CROSS-EXAMINATION

10 BY MS. LUCKHARDT:

11 One question I have that I wanted to be clear on
12 is, are you proceeding with the upgrades to your treatment
13 plant regardless of whether Beacon goes forward?

14 MR. LaMOREAUX: Yes.

15 MS. LUCKHARDT: And then one other question I had
16 was, in the discussion about the facilities plan, can you
17 use tertiary treated water for potable water use?

18 MR. STEWART: No.

19 MR. LaMOREAUX: Not directly, no.

20 MS. LUCKHARDT: Thank you I have nothing further.

21 HEARING OFFICER CELLI: Redirect?

22 MS. GULESSERIAN: Yes, in March you --

23 HEARING OFFICER CELLI: Wait, redirect.

24 MS. GULESSERIAN: Oh, excuse me.

25 SENIOR STAFF COUNSEL BABULA: Two questions.

1 REDIRECT EXAMINATION

2 BY SENIOR STAFF COUNSEL BABULA:

3 SENIOR STAFF COUNSEL BABULA: One is if
4 you -- when you finish phase 2, and assuming had you a
5 contract with Beacon, would you have excess water -- OR
6 excess tertiary treated water for other uses?

7 MR. LaMOREAUX: Not at that point.

8 SENIOR STAFF COUNSEL BABULA: When you -- when
9 you finish phase 2 -- like you have your full --

10 MR. LaMOREAUX: Right, we have capacity for other
11 uses, but at this point --

12 SENIOR STAFF COUNSEL BABULA: But I mean you have
13 the capacity?

14 MR. LaMOREAUX: At this point in time, we don't
15 have the inflow for other uses.

16 SENIOR STAFF COUNSEL BABULA: Okay. And my other
17 question is, if you're -- so you're moving forward as
18 you've testified with phase 2, but you haven't signed the
19 contract with Beacon yet?

20 MR. LaMOREAUX: Correct.

21 SENIOR STAFF COUNSEL BABULA: Okay. And that was
22 the initial study, what I meant? You're moving forward
23 with the initial study, but you haven't signed the
24 contract with Beacon yet?

25 MR. LaMOREAUX: The district is moving forward

1 with the environmental review.

2 SENIOR STAFF COUNSEL BABULA: Okay, thank you.

3 HEARING OFFICER CELLI: Anything further?

4 There's nothing further on redirect?

5 SENIOR STAFF COUNSEL BABULA: Correct.

6 Any recross Ms. Gulesserian? And I'll let you
7 have one question. I want to get these guys on their
8 plane.

9 RECROSS-EXAMINATION

10 BY MS. GULESSERIAN:

11 MS. GULESSERIAN: And you just clarified that you
12 don't have the inflow for other uses?

13 MR. LaMOREAUX: At this point in time.

14 MS. GULESSERIAN: Okay. And you're proposed
15 capacity -- your proposed project for another 2.0 will be
16 able to convert future uses to 2.5 million gallons per day
17 of tertiary treated water to the community?

18 MR. LaMOREAUX: The phase 2 project will convert
19 2.0 mgd of secondary treatment to 2.0 mgd of tertiary
20 treatment, in addition to the .5 that we've just
21 completed.

22 MS. GULESSERIAN: Thank you very much.

23 HEARING OFFICER CELLI: Anything further CURE?

24 MS. GULESSERIAN: No.

25 HEARING OFFICER CELLI: Applicant?

1 MS. LUCKHARDT: Nothing further.

2 HEARING OFFICER CELLI: Mr. Babula?

3 SENIOR STAFF COUNSEL BABULA: Nothing further.

4 HEARING OFFICER CELLI: Are we going to see any
5 other witnesses?

6 SENIOR STAFF COUNSEL BABULA: Okay. You guys are
7 done. Thank you.

8 HEARING OFFICER CELLI: Now, it's 3 o'clock.
9 It's 3:04. What I have I'm looking at a bunch of
10 California Energy Commission staff sitting here twiddling
11 their thumbs and they're here for the benefit of CURE to
12 ask questions unless CURE doesn't want to cross-examine
13 any of these witnesses. And I would like to know whether
14 we can excuse them or do you need all 16 of them or what?

15 MS. GULESSERIAN: I have questions for all of
16 them.

17 HEARING OFFICER CELLI: Are they all the same
18 question, Ms. Gulesserian, pretty much?

19 MS. GULESSERIAN: Let me see if I can eliminate
20 any witnesses.

21 HEARING OFFICER CELLI: Or questions, because
22 what I'm looking at trying to accomplish is sort of an en
23 masse quickly get them in line, ask the questions and get
24 them out of here.

25 MS. GULESSERIAN: For visual resources we can

1 excuse that witness noting that the -- well, the questions
2 would clarify what they've analyzed, but I suppose we can
3 ask questions of Mr. Solorio.

4 HEARING OFFICER CELLI: Yes, you can. And I want
5 to get back to the fact --

6 MS. GULESSERIAN: I can do that.

7 HEARING OFFICER CELLI: -- that we're just not
8 talking about this tertiary treatment -- questions having
9 to do with tertiary treated water -- or the treatment
10 plants. And if you can just give me a sense of how much
11 questions you have.

12 MS. GULESSERIAN: And I could always ask the
13 questions for noise and vibration of Mr. Solorio.

14 SENIOR STAFF COUNSEL BABULA: Okay. I mean, Mr.
15 Solorio didn't present any supplemental testimony, so I'm
16 not exactly sure what -- I'm a little unclear on what
17 you'd be crossing on.

18 MS. GULESSERIAN: That's okay.

19 SENIOR STAFF COUNSEL BABULA: But you know that
20 works for the Committee --

21 MS. GULESSERIAN: I won't be too complicated.

22 HEARING OFFICER CELLI: Okay, so --

23 PROJECT MANAGER SOLORIO: Excuse me, I'd actually
24 prefer that the person who authored the testimony is
25 questioned by CURE.

1 HEARING OFFICER CELLI: That's Mr. Solorio's
2 call.

3 And now what we're going to do, since we've
4 handled now the first part of our three part evidentiary
5 hearing today, we're on to the second part.

6 SENIOR STAFF COUNSEL BABULA: I was going to ask
7 about Mr. Bevins for California City.

8 HEARING OFFICER CELLI: Oh, that's right.

9 SENIOR STAFF COUNSEL BABULA: I was thinking he
10 would go next, because that's our -- I mean, it's logical
11 to do Rosamond, Cal City. I have the same questions for
12 him.

13 HEARING OFFICER CELLI: Okay.

14 SENIOR STAFF COUNSEL BABULA: And I think the
15 applicant has questions for him as well.

16 HEARING OFFICER CELLI: Okay. So how many
17 witnesses do you have in order to finish for staff?

18 SENIOR STAFF COUNSEL BABULA: I don't have any
19 witnesses -- oh, Casey to answer, your -- the Committee's
20 issue on cumulatives. But I actually wasn't going to have
21 any direct of any of my staff. They've submitted their
22 testimony, so it's all cross.

23 HEARING OFFICER CELLI: Okay. And do you concur
24 with that, applicant?

25 MS. LUCKHARDT: Yes.

1 HEARING OFFICER CELLI: Okay. So with
2 that -- but you wanted to call Mr. Bevins?

3 SENIOR STAFF COUNSEL BABULA: Right.

4 HEARING OFFICER CELLI: So let's call Mr. Bevins
5 now.

6 MS. GULESSERIAN: In the interests of staff time,
7 I'm going to not have cross of Erin Bright, and because we
8 all want to get out of here, and Mark Hamblin.

9 HEARING OFFICER CELLI: Okay. So Erin Bright and
10 Mark Hamblin. So Erin Bright and Mark Hamblin can be
11 excused with applicant, staff's permission.

12 MS. LUCKHARDT: Yes.

13 HEARING OFFICER CELLI: Mr. Bevins, would you be
14 sworn, please.

15 Whereupon,

16 MICHAEL BEVINS
17 was called as witness herein, and after first
18 having been duly sworn, was examined and
19 testified as follows:

20 THE REPORTER: Please state and spell your name
21 for the record.

22 MR. BEVINS: Michael Bevins, B-e-v-i-n-s.

23 THE REPORTER: Thank you.

24 DIRECT EXAMINATION

25 BY SENIOR STAFF COUNSEL BABULA:

1 Okay, I don't have too many questions. You've
2 heard some of the questions. I'll ask the same. The
3 first general one Mr. Bevins, is there a general movement
4 among wastewater treatment plants to create more tertiary
5 treated water to conserve resources?

6 MR. BEVINS: Yes.

7 SENIOR STAFF COUNSEL BABULA: Okay. And then as
8 for the expansion that you're planning with the California
9 City, can you just summarize the environmental review
10 process and where you are with that?

11 MR. BEVINS: Our expansion is expected to happen
12 within the physical confines of the existing plant and the
13 existing irrigation lake structure. We are not looking at
14 doing outside environmental impact work on it at this
15 point, because it's consistent with what's already
16 been -- with the existing already environmental documents.

17 SENIOR STAFF COUNSEL BABULA: Okay. Let's see.
18 And then this expansion that you're planning, was that
19 expansion concede prior to Beacon ever filing?

20 MR. BEVINS: Yes, the expansion is in response to
21 the Lahontan requirement or limitations on building dense
22 tease.

23 SENIOR STAFF COUNSEL BABULA: Okay. And I know
24 we've covered -- I mean, a lot of this is already in the
25 record, so I'm just going to get to the end here and I

1 think the applicant can supplement.

2 As someone involved with the operation of a
3 public wastewater treatment facility, and being someone
4 from the desert and the region, do you believe that using
5 recycled wastewater to generate renewable energy is a
6 beneficial use of that water resource?

7 MR. BEVINS: Yes.

8 SENIOR STAFF COUNSEL BABULA: Okay, I don't have
9 any further questions.

10 HEARING OFFICER CELLI: CURE cross, please.

11 CROSS-EXAMINATION

12 BY MS. GULESSERIAN:

13 You say the expansion is in response to the MOU
14 from 1989, is -- how come it's taken so long to respond to
15 the 1989 MOU?

16 MR. BEVINS: Actually, it wasn't been. And when
17 CURE made a request to us for documentation, we responded
18 back to you and told you there was about 4,000 pages of
19 documentation. Personally, I had, I don't know, 120 files
20 of different aspects of it.

21 Our response to the '89 document in 2002 was to
22 create a daisy chain ordinance that brings homes on to
23 system. We also in, in 2001, upgraded the system by about
24 a half mgd to continue to bring it up again within the
25 frame -- or within the physical confines of where we

1 already were at that time.

2 Since 2002, we've been trying to find a positive
3 way to get people to convert from septic tanks. It's an
4 expensive process, and we just in 07 started working on
5 the creation of assessment districts, which would provide
6 the piping and the conversions from septic tanks on to
7 this process.

8 Inherent in that, is the need to expand the
9 system. Currently, we operate at .8 mgd. Our plant is
10 currently configured at 1.5 mgd.

11 MS. GULESSERIAN: And when you -- your proposal
12 is to upgrade it to the capacity to 3.0.?

13 MR. BEVINS: That is correct.

14 MS. GULESSERIAN: And when you do that, will you
15 have inflow of 3.0?

16 MR. BEVINS: Not at that exact moment.

17 MS. GULESSERIAN: Thank you.

18 Is your expansion going to be designed and
19 constructed to allow for future residential, commercial,
20 and industrial growth?

21 MR. BEVINS: With 23,000 unbuilt already platted
22 lots in my city, that question is yes and no. Yes, we're
23 expecting more building. We can't stop it. Those are
24 entitlements that have already been given. And, no, we're
25 not expecting to grow -- we're not expecting to have

1 significant growth beyond the 23,000 already platted
2 residential lots.

3 MS. GULESSERIAN: Okay, I mean it's just a real
4 simple thing. Are you building the project to provide the
5 amount of water that Beacon needs or are you going to
6 build the project to have a larger capacity?

7 MR. BEVINS: We're going the build the project to
8 have a larger capacity, because we are bringing residents
9 on.

10 MS. GULESSERIAN: Okay. Thank you. California
11 City has a construction period of five years from the
12 notice of intent -- or a contract with Beacon. And the
13 staff assessment has a schedule to provide recycled water
14 within five years. Is that your understanding of the
15 schedule?

16 MR. BEVINS: That's my hope.

17 MS. GULESSERIAN: That's you're hope.

18 MR. BEVINS: Sooner. We can do it sooner. The
19 only problem is it makes the public works director crazy,
20 just because of the amount of construction in a shorter
21 period of time.

22 MS. GULESSERIAN: Is there a possibility that it
23 could be longer?

24 MR. BEVINS: We're not planning that at all. No,
25 because the public works director would go crazy if it ran

1 longer too. So we figured out he can handle about five
2 years.

3 MS. GULESSERIAN: All right. Is the city
4 proposing to connect the private residences to the sewer
5 system?

6 MR. BEVINS: Yes, 2,500 of them.

7 MS. GULESSERIAN: Okay. So you'll be building
8 the main trunk line down the city streets and then --

9 MR. BEVINS: That is correct and upgrade the
10 wastewater treatment plant, yes.

11 MS. GULESSERIAN: And on to the private property
12 into residences in connecting it to the houses.

13 MR. BEVINS: Yes, that is correct. And
14 dismantling the current septic tanks. Yes.

15 MS. GULESSERIAN: Okay. Your testimony explains
16 that you're going to be building the city's portions of
17 the projects. Where is it in the -- your testimony or in
18 any city documents that you'll be building the portion of
19 the sewer on private property?

20 MR. BEVINS: If you look at the -- you mind if I
21 flip the pages here. I believe that the draft capital
22 cost document was already submitted.

23 MS. GULESSERIAN: Okay.

24 MR. BEVINS: I think that's up there.

25 SENIOR STAFF COUNSEL BABULA: It's exhibit 506.

1 HEARING OFFICER CELLI: Thank you. It's exhibit
2 506. If you would please prefer to it as exhibit 506, Mr.
3 Bevins.

4 MR. BEVINS: Sure, not a problem. Let me write
5 that down.

6 SENIOR STAFF COUNSEL BABULA: That was not a new
7 exhibit for today. That was from the FSA and the
8 evidentiary hearing. 506.

9 HEARING OFFICER CELLI: Thank you.

10 MR. BEVINS: If you look at the abandonment of
11 septic and seepage and construction connection, it's down
12 under the Cal City sewer line extension. There's about 6
13 million dollars or less, 5.8 million -- 5.5 million
14 dollars something like that, that's allocated for those
15 purposes, which is the connection onto private properties.

16 MS. GULESSERIAN: Okay. And when you testified
17 earlier about -- in previous proceedings about your city's
18 ordinance requiring homeowners to connect to the system,
19 can you explain that ordinance?

20 MR. BEVINS: Yeah the ordinance has been modified
21 recently, which is like 2007, I believe was the last
22 modification to it.

23 But in essence it says that if there's a sewer
24 within 200 feet -- if there's a sewer main within 200 feet
25 of a property that's being newly constructed, it must

1 connect to the sewer line. It's a daisy chain principle
2 that's common in our industry.

3 And the other side of it is, is that an existing
4 home that is within 100 feet of an existing sewer main
5 must connect on. And extend to sewer line out. It's a
6 daisy chain principle that's used to expand sewer systems.

7 MS. GULESSERIAN: Okay. Sorry I just lost my
8 page. You have said that one of the points of developing
9 a centralized sewer system and um grading your facility is
10 to encourage more dense development within the city --

11 MR. BEVINS: That's correct.

12 MS. GULESSERIAN: -- and more commercial growth
13 to reduce vehicle miles traveled.

14 MR. BEVINS: That is correct.

15 MS. GULESSERIAN: Are you going to be
16 accommodating the commercial growth as well in your
17 proposed sewer system?

18 MR. BEVINS: Yes -- well that's our hope.
19 Commercial growth is something that is dependent upon the
20 commercial people themselves. We can only give them
21 the -- or give them the water we can't enforce them to
22 drink so, yes

23 MS. GULESSERIAN: Great. Thank you very much.

24 HEARING OFFICER CELLI: Anything further?

25 MS. GULESSERIAN: Nothing further.

1 HEARING OFFICER CELLI: Applicant?

2 CROSS-EXAMINATION

3 BY MS. LUCKHARDT:

4 I have a couple questions. Mr. Bevins, just to
5 clear up some of the questions about growth, do you see
6 the increase capacity of this -- the treatment plant as
7 furthering the growth in the number of houses or
8 businesses that can be built within California City?

9 MR. BEVINS: No. We already have, as I mentioned
10 before, in the city as a whole, we have approximately
11 23,000 already platted lots. Every time the economy picks
12 up, people come to build in California City, because the
13 land prices are inexpensive. You can buy a house -- the
14 last boom, you could buy a brand new home in California
15 City for \$150,000. And there's no wherein southern
16 California I know that you can do that.

17 So the last boom we had, was not on a wastewater
18 treatment plant. It was simply septic tank. And it's not
19 in-fill, it's tremendously expanded out over our city, and
20 we're trying to stop that.

21 MS. LUCKHARDT: There was an implication in
22 CURE's brief that was filed on the first of June that you
23 were limited to your water purchase AVEK; is that correct?

24 MR. BEVINS: No. The only limitations to our
25 water purchases is the fact that -- is AVEK's ability to

1 provide to us. Typically our requests have been over a
2 thousand acre feet a year on a regular basis. Some years
3 they can do that, some years they can't, depending on
4 water from northern California.

5 MS. LUCKHARDT: And does the upgrade you're
6 proposing to your treatment plant include expansion of
7 treatment ponds?

8 MR. BEVINS: No actually the new processes that
9 we're looking at are not looking amount expanding the
10 treatment ponds beyond the ponds that are currently there
11 and are evidently visible in exhibit 520.

12 Does somebody have a copy of that one that I can
13 look at just to make sure that what I'm saying is really
14 true.

15 I just need the aerial picture.

16 Thank you. It does show the -- I didn't know if
17 it showed the property lines. You can see that the
18 current ponds in the wastewater treatment plant occupy
19 about 50 percent of the available acreage. What you can't
20 see here is that currently, we use irrigation ponds on the
21 golf course also as percolation and evaporation ponds.
22 And that's another 16 acres of ponds that are not actually
23 on this map. Technically, they're not part of the golf
24 course, but they do receive treated effluent.

25 So if we had excess effluent, all we have to do

1 is pump it up to the golf course and the golf course has a
2 approximately 20 acres of ponds that would be added to it.

3 So, no, we do not need to add ponds in order to
4 expand capacity, especially if Beacon buys the peak
5 summertime water, then that clearly will be -- that will
6 even be a bigger benefit to us.

7 HEARING OFFICER CELLI: Anymore cross from
8 applicant?

9 MS. LUCKHARDT: One second.

10 No, I believe that's all the questions I have.

11 HEARING OFFICER CELLI: Thank you.

12 Redirect?

13 REDIRECT EXAMINATION

14 BY SENIOR STAFF COUNSEL BABULA:

15 Just one question. I think in your declaration,
16 you indicated you believed, based on prior environmental
17 analysis, that anything -- the further additional stuff
18 regarding collection in the sewer lines would require a
19 Mitigated Neg Dec, is that still your understanding?

20 MR. BEVINS: Yes.

21 SENIOR STAFF COUNSEL BABULA: Thank you. No
22 further questions.

23 HEARING OFFICER CELLI: Anything further CURE?

24 MS. GULESSERIAN: Yes.

25 RECROSS-EXAMINATION

1 BY MS. GULESSERIAN:

2 Yes. You just stated that you were not limited
3 in the available -- in the availability much water from
4 AVEK. Do you -- are you familiar with the city's general
5 plan, the most recent general plan?

6 MR. BEVINS: 2008 to 2028 I believe or 2009 to
7 2028 if that's the one.

8 MS. GULESSERIAN: Yes.

9 MR. BEVINS: Yes.

10 MS. GULESSERIAN: Did that plan refer to an
11 expansion of the facility to 3.0 million gallons per day?

12 MR. BEVINS: No. In fact, that plant does
13 not -- that document does not, but if you turn to page --

14 MS. GULESSERIAN: That's fine. And does the
15 sewer plan talk about an expansion to 3.0 million gallons
16 per day?

17 MR. BEVINS: No, there is no literal reference to
18 it in either document.

19 MS. GULESSERIAN: Okay. And the Negative
20 Declarations for those plans. I assume since the plans
21 didn't say 3.0, that they also did not analyze an
22 expansion to 3.0 million gallons per day?

23 MR. BEVINS: They only analyzed the capacities of
24 the ponds to handle -- the on-site ponds to handle
25 additional flows.

1 MS. GULESSERIAN: Okay. And didn't it say that
2 future projects in every single resource area would be
3 reviewed on a case by case basis?

4 MR. BEVINS: It does say that in the general
5 plan, yes.

6 MS. GULESSERIAN: Okay. And in the general plan,
7 are you familiar with, which you are, I believe,
8 sponsoring this exhibit -- it's exhibit 345, which says
9 that the city has 1,000 acre foot limit for purchase of
10 water from AVEK?

11 MR. BEVINS: I remember that, yes.

12 MS. GULESSERIAN: Okay. And that it says that
13 the AVEK is current lot a adjudication process, the AVEK
14 boundaries stop at the city's southern border and that
15 future large developments would need to negotiate with
16 AVEK themselves?

17 MR. BEVINS: That is true, a future large
18 development beyond that, which is already platted, would
19 need to do that. That is correct.

20 MS. GULESSERIAN: Okay. You've spoken about
21 increasing the capacity -- or building -- designing the
22 capacity of your sewer system to accommodate growth in the
23 city. Are you familiar with the general plan's -- the
24 general plan's water analysis that says that that future
25 growth will require the construction of five new water

1 wells to get groundwater for that growth?

2 MS. LUCKHARDT: I guess I would just note that
3 this is way beyond their redirect, but --

4 HEARING OFFICER CELLI: The redirect went into
5 the general plan, so I'm going to allow that question.
6 You're winding down I'm sure.

7 MS. GULESSERIAN: Yep, I am.

8 MR. BEVINS: The general plan is tied into the
9 watermaster plan, which shows construction, and I think
10 that's an important issue here, because it's not new
11 growth. It's just construction of already entitled lots.
12 These people have been entitled to build on these lots
13 since the late sixties. And yes, there is expectations to
14 build additional wells.

15 MS. GULESSERIAN: Okay. You -- I'm sorry I'm
16 going to have to just look at your exhibit. But in the
17 interim I want to talk about the environmental setting,
18 the baseline, because you were talking about -- it has
19 some capacity of unbuilt lots. I mean, how many lots are
20 built on at this time?

21 MR. BEVINS: I've got to get out my numbers here.

22 MS. GULESSERIAN: Okay.

23 MR. BEVINS: Currently, there are 54 tracts, in
24 what's called First Community in our town. And if you
25 don't mind, there already was an example put in. And this

1 is --

2 SENIOR STAFF COUNSEL BABULA: That would be 506
3 as well.

4 MR. BEVINS: 506 as well. I just changed the
5 color scheme and laid off the layer of phases, which is
6 the only thing I've done here. It's just -- you can
7 actually see it on here but the coloring is really pretty
8 pathetic in the copy. But if you would like to, I
9 have -- it's the same map. You can see on the map the
10 little gray areas, which designate houses.

11 MS. GULESSERIAN: I don't need all the details.
12 I just want to know how many residences and commercial you
13 currently have, a ballpark, so we can figure out what the
14 baseline is.

15 MS. LUCKHARDT: Actually, I'm going to object.
16 You know, she's cutoff the witness a couple of times. And
17 I think we need to --

18 MS. GULESSERIAN: I wanted to hurry.

19 MS. LUCKHARDT: -- allow the witness to answer
20 the question.

21 MS. GULESSERIAN: Yeah okay, that's fine.

22 HEARING OFFICER CELLI: Ms. Gulesserian, if you
23 wouldn't mind asking the question again, so that we can
24 take it from the top here.

25 MS. GULESSERIAN: Okay. How many residences are

1 there in California City?

2 MR. BEVINS: Currently, there are right around
3 4,500 existing residences in California City.

4 MS. GULESSERIAN: Okay. And do you have a number
5 on how much commercial you have?

6 MR. BEVINS: There's about 120 or 130 existing
7 businesses in California City.

8 MS. GULESSERIAN: Okay. And do you have a number
9 on how much industrial you have about?

10 MR. BEVINS: That runs in with our commercial --

11 MS. GULESSERIAN: That's fine, we don't need --

12 MR. BEVINS: -- there's no designation for that.

13 MS. GULESSERIAN: -- any really more than that.

14 Is your sewer and wastewater treatment going to
15 handle more than the 4,500 residences and -- I'm sorry I
16 forgot the number -- I commercial square footage?

17 MR. BEVINS: Yes.

18 MS. GULESSERIAN: Okay. Thank you. I don't have
19 any --

20 MR. BEVINS: Are you asking me if does the
21 current one -- does the current one have additional
22 capacity?

23 MS. GULESSERIAN: Are you proposing to increase
24 the size have your sewer trunk to handle more than the
25 existing residential and commercial development? Your

1 city?

2 MR. BEVINS: That is our plan or has been our
3 plan since 2002.

4 MS. GULESSERIAN: Thank you.

5 MR. BEVINS: Okay.

6 MS. GULESSERIAN: Oh, sorry. I was going to get
7 back to one question, if you wouldn't mind --

8 HEARING OFFICER CELLI: One question from CURE,
9 yes.

10 MS. GULESSERIAN: I apologize. It's the lack of
11 time to review thousands of pages of documents.

12 Okay, you have stated in response to my question
13 about the -- of how the new water wells that was going to
14 be -- that those are to handle existing development in the
15 region, that you needed new water wells.

16 MR. BEVINS: Yes.

17 MS. GULESSERIAN: Your general plan says that the
18 water master plan indicated that future water demands to
19 2020 requirements will be met by the construction of the
20 five new water wells for getting water from groundwater
21 and through addition purchases of AVEK water. Is there
22 some sort of -- can you clarify what you mean by it only
23 being needed for existing properties versus the water
24 master plan saying that its for future requirements
25 through the year 2020?

1 MR. BEVINS: Okay, yeah. There's one number
2 that's being left out of here. And that is the fact that
3 in the area serviced by the current water system,
4 typically known as first community, we have 22,789 lots.
5 That's what's already platted.

6 MS. GULESSERIAN: Are those --

7 MR. BEVINS: Of that, there's 4,500 homes and
8 businesses that are already in existence. That leaves us
9 approximately 18,289 already platted lots. So when I do
10 planning, planning for me is a function of making sure
11 that I have capacity, if all of those 18,000 people came
12 to my property at the same time.

13 Under the terms of the Lahontan agreement, 4,243
14 of those lots would not be able to build if they all came
15 tomorrow, because that would violate my two per ache area
16 range meant.

17 But under Lahontan, no matter what I do, 14,592
18 lots can be built on, and I can't stop them. They're
19 already entitled to it. So when I talk about future
20 growth, the last time the economy got very positive, and
21 these 150 thousand dollars homes became very attractive,
22 we were building 500 homes a year unregulated
23 geographically through my city. If you look at the map,
24 you'll see the little gray blocks and that was 506?

25 SENIOR STAFF COUNSEL BABULA: Correct.

1 MR. BEVINS: You'll see the little gray blocks if
2 you look for it -- This additional copy makes it a little
3 clearer -- of existing homes and existing buildings. And
4 what will happen is, quite simply, is people will simply
5 build in areas that won't be impacted by the 4,243. So we
6 will be having growth. I can't stop it. I can't even
7 mitigate it. The best I can do, because these people have
8 been paying for water -- they've been paying water standby
9 fees in some cases since 1960.

10 So what happens is, is we already have an implied
11 consent to serve water to all these people. So when I do
12 planning, I have to look at the future as if it's the
13 present, because it's their decision when to build not
14 mine. I can't stop it. Again, that's the problem with
15 having that many platted lots.

16 MS. GULESSERIAN: Are they already permitted to
17 build?

18 MR. BEVINS: All they've to do the walk in and
19 apply for a permit. I can't -- they're
20 entitled -- they're entitlement is already existing to
21 build.

22 MS. GULESSERIAN: Okay. And so your general plan
23 that analyzed future amount of growth says that you are
24 going the analyze future development on a case bay case
25 basis, and that there were no growth impacts?

1 MR. BEVINS: Yeah, that is --

2 MS. GULESSERIAN: When are you going the
3 analyze --

4 MR. BEVINS: Well --

5 MS. GULESSERIAN: -- those projects, if they
6 already can go get permits?

7 MR. BEVINS: It's not those projects. It's if
8 somebody else -- remembering our city is 203 square miles.
9 I have 50,000 lots. Just 23,000 were unbuilt residential.
10 I mean, my city is a real anomaly. I continually
11 apologize for that fact, but that's a simple fact. There
12 are people, believe it or not, who actually are wanting to
13 create new subdivisions. It amazes me.

14 Right now, if we built on the our peak rate, I
15 have enough lots available, even with Lahontan's
16 restriction, to build for 21 years at my peak rate. If I
17 build at my city average, I don't have to plat a new lot
18 for 103 years.

19 So the distinction here is, yes, if somebody
20 wants to come in and wants to build a new subdivision for
21 some insane reason, yes, we will treat it on a case by
22 case basis. We will look at them and we will say yes it
23 will or yes it won't and these are the restrictions.

24 But already existing, already platted, and
25 already entitled is immense.

1 MS. GULESSERIAN: Right. And so, I mean, I'm
2 pointing out that the general plan didn't analyze it,
3 because it said it was going to be analyzed on case by
4 case basis.

5 MR. BEVINS: That's right. Anything --

6 MS. GULESSERIAN: And you don't need to have
7 anymore discretionary approvals for all these projects.

8 MR. BEVINS: Yeah, that's --

9 MS. GULESSERIAN: So when are we going to analyze
10 when these projects are --

11 SENIOR STAFF COUNSEL BABULA: We're kind of
12 getting off topic.

13 HEARING OFFICER CELLI: And this was asked and
14 answered, Ms. Gulesserian, so can we wrap it up here.

15 MS. GULESSERIAN: So is your sewerage system
16 going to be built just for already approved projects or is
17 it going to be built for future projects?

18 MR. BEVINS: The sewerage system will be built
19 only in the areas that we already have homes, not even in
20 the areas where there's blank lots, just in the areas
21 where we have homes existing.

22 MS. GULESSERIAN: Is it going to be designed to
23 accommodate further growth?

24 MR. BEVINS: Our hope is, is that when people
25 choose to build homes that they will build inside the

1 sewerer areas.

2 MS. GULESSERIAN: Thank you.

3 HEARING OFFICER CELLI: Thank you. Further
4 cross?

5 MS. LUCKHARDT: I guess I'm concerned that there
6 may be a mischaracterization. And maybe I can have Mr.
7 Bevins clarify this.

8 RECROSS-EXAMINATION

9 BY MS. LUCKHARDT:

10 The exchange you just had with Ms. Gulesserian
11 about planning for growth. When the general plan refers
12 to case by case basis for new subdivisions, does that
13 apply to the lots that are already platted and entitled?

14 MR. BEVINS: No.

15 MS. LUCKHARDT: That just applies to if somebody
16 wants to develop a new subdivision that isn't already
17 platted and entitled?

18 MR. BEVINS: That is correct.

19 MS. LUCKHARDT: Thank you.

20 HEARING OFFICER CELLI: And if you have nothing
21 further, Mr. Babula, you may excuse --

22 SENIOR STAFF COUNSEL BABULA: Nothing further.

23 HEARING OFFICER CELLI: Thank you. Thank you
24 very much Mr. Bevins.

25 MS. LUCKHARDT: Can I just enter into the record

1 at this point in time, or offer to enter into the record
2 at this point in time the exhibits that we had sponsored
3 that Mr. Bevins was sponsoring before he goes.

4 HEARING OFFICER CELLI: Yes.

5 MS. LUCKHARDT: That would be exhibit 304, which
6 is his June 1 declaration. It would be,

7 HEARING OFFICER CELLI: Let me interrupt you nor
8 a moment, Ms. Luckhardt. You said you had objections, Ms.
9 Gulesserian, to three of applicant's exhibits; is that
10 correct?

11 MS. GULESSERIAN: Right.

12 HEARING OFFICER CELLI: Which three?

13 MS. GULESSERIAN: Exhibit 342, 352 and 353.

14 HEARING OFFICER CELLI: 342, 353 and what was the
15 other?

16 MS. GULESSERIAN: 342, 352, 353.

17 HEARING OFFICER CELLI: Would you be willing to
18 stipulate to the receipt of all of the other exhibits at
19 this time, Ms. Gulesserian?

20 MS. GULESSERIAN: Yes, I will.

21 HEARING OFFICER CELLI: Staff would you be
22 willing to stipulate to those exhibits?

23 SENIOR STAFF COUNSEL BABULA: Yes, that's fine.

24 HEARING OFFICER CELLI: And applicant?

25 MS. LUCKHARDT: Yes, I would just note that 341

1 has already been admitted as exhibit 508.

2 HEARING OFFICER CELLI: Thank you. So do you
3 have a motion with regard to --

4 MS. LUCKHARDT: At this point, applicant
5 moves -- do you want me to go through and list by name
6 and --

7 HEARING OFFICER CELLI: Yes.

8 MS. LUCKHARDT: Okay, 340, which is the June 1
9 declaration of Mike Bevins. And I'm leaving out, at this
10 point, the three that CURE mentioned. So 343, which is
11 the declaration of Scott Busa. Exhibit 344, which is the
12 California City general plan, the 1993 to 2012 general
13 plan. 345 is the California City draft general plan, 2009
14 through 2028. 346 is the sanitary sewer system master
15 plan. 347 is the memorandum of understanding between the
16 California water regional -- the California Regional Water
17 Quality Control Board, the Lahontan region, and the city
18 of California City regarding septic tank guidelines.

19 Exhibit 348, which is the California City
20 wastewater treatment facility site plan. Exhibit 349,
21 which is the California City Wastewater Treatment Plant
22 expansion initial study and Negative Declaration. Exhibit
23 350, which is the California City Wastewater Treatment
24 Plant expansion conditional use permit application,
25 initial study and Negative Declaration.

1 Exhibit 351, which is the Request For Proposals
2 from California City for the wastewater treatment facility
3 expansion project. Exhibit 354, which is the comment
4 regarding the California City and Rosamond Community
5 Services District wastewater treatment facility expansions
6 from the December 1st 2009 status conference. It is a
7 portion of the transcript.

8 Exhibit 355, which is the Rosamond Community
9 Services District recycled water facilities plan final
10 report. Exhibit 356, which is the Kern County general
11 plan selected sections pertaining to public facilities and
12 services. Exhibit 357, which is a letter from Beacon
13 Solar to Kern County, regarding the Beacon Solar Energy
14 Project. It's the offer of voluntary contribution to Kern
15 County.

16 Exhibit 358, which is the Kern County regional
17 blue print. Exhibit 360, which is the United States
18 Department of Agriculture rural utilities service report
19 regarding sewer infrastructure improvement project for the
20 City of California City, California New Sewer Backbone
21 Lines Construction.

22 Exhibit 363, which is a letter from Beacon Solar
23 to Kern County regarding mitigation for impacts to public
24 services from the Beacon Solar Energy Project. Exhibit
25 364, which is the Kern County status report on CEQA

1 mitigation methodology. And I believe we do not need to
2 offer exhibit 365 because that's already been offered by
3 staff as an attachment to one much their exhibits.

4 HEARING OFFICER CELLI: Okay, there being no
5 objection, exhibits 340, 343, 344, 345, 346, 347, 348,
6 349, 350, 351, 354, 355, 356, 357, 358, 360, 363, 364, and
7 365 will be received at this time.

8 Now, Ms. Gulesserian, what is the objection to
9 exhibit 342 declaration of Jennifer Guigliano? The legal
10 objection please?

11 MS. GULESSERIAN: The legal objection is beyond
12 the scope of this proceeding based on the order that was
13 provided to the parties on March 13th.

14 Also, the objection is that it was not docketed
15 at the time it was filed and provided to Commission staff
16 in order to provide a fair opportunity for all parties to
17 review the new biological assessment of unanalyzed section
18 of the recycled water pipeline. That's my objections to
19 342 I think

20 HEARING OFFICER CELLI: And your legal objection
21 to 352 --

22 MS. GULESSERIAN: Oh, excuse me that was a
23 declaration. I apologize for wasting those precious
24 minutes.

25 The declaration of Jennifer -- and I always mess

1 up the last name -- striking -- I object the paragraph
2 three in its entirety, which is outside of the scope of
3 this proceeding, and based on documents that were not
4 filed docketed with the Commission into the service list.

5 HEARING OFFICER CELLI: Exhibit 352, what is
6 the --

7 MS. GULESSERIAN: Exhibit 352, that is the new
8 assessment that is outside of the scope of the proceeding.
9 And just not docketed with -- on the service list, even
10 though it was provided by staff before the June 1st
11 testimony was due.

12 HEARING OFFICER CELLI: And 353, please?

13 MS. GULESSERIAN: And on that one I object to
14 paragraphs three beginning with the second sentence.
15 Excuse me, strike paragraph three beginning with the
16 second sentence.

17 HEARING OFFICER CELLI: Exhibit 353 --

18 MS. GULESSERIAN: The remainder of the paragraph
19 I object to as being outside the scope of the proceeding,
20 and based on documents not submitted to the parties while
21 it was just provided to staff.

22 HEARING OFFICER CELLI: Applicant, any response?

23 MS. LUCKHARDT: And in response to the comments
24 of Ms. Gulesserian, the study was conducted by applicant.
25 And these are documents that rely upon that study. And

1 the study is in direct response to what the applicant
2 believed was the request of the Committee was to take
3 additional evidence on the wastewater treatment plants,
4 including those pipeline sections that are identified in
5 the notice of hearing record. And all of those documents
6 relate to that.

7 That includes the declaration and the specific
8 paragraph number 3 in exhibit 343. The study that was
9 conducted by AECOM, that is exhibit 352, as well as the
10 cumulative impacts summary. Although, the objection is
11 only to the pipeline sections that are in 353.

12 HEARING OFFICER CELLI: Thank you. With that,
13 exhibit 342, 352, and 353 will be received into evidence.

14 MS. GULESSERIAN: Objection overruled?

15 HEARING OFFICER CELLI: Overruled.

16 Okay, anything further on the wastewater
17 treatment section?

18 I think we're at the point where we should --

19 SENIOR STAFF COUNSEL BABULA: I have nothing
20 further. I'd like to just call Casey Weaver up here if we
21 want to just handle the last water component specifically
22 addressing cumulative impacts, because you want -- the
23 Committee had requested a little additional information.
24 Or in the alternative, he could present that when she
25 crossed with CURE, because he as also a part of that.

1 HEARING OFFICER CELLI: Aren't all of the staff
2 witnesses here to address CURE's wastewater treatment
3 questions?

4 SENIOR STAFF COUNSEL BABULA: Staff's presented,
5 as you saw from the testimony submitted, an assessment of
6 potential impacts in mitigation, if any -- or if any
7 impacts to the upgrades at the wastewater treatment
8 facilities and the collection pipelines and so forth.

9 So I don't have any direct on any of them, except
10 for Casey, so can I clarify the record on the cumulatives.
11 So however you want to handle it.

12 HEARING OFFICER CELLI: What I'd like to do is
13 get the staff questions finished by CURE. So Ms.
14 Gulesserian, I wonder if -- so essentially their testimony
15 is received.

16 SENIOR STAFF COUNSEL BABULA: Right.

17 HEARING OFFICER CELLI: So their testimony is in.

18 SENIOR STAFF COUNSEL BABULA: Yeah.

19 HEARING OFFICER CELLI: We're just going to give
20 Ms. Gulesserian and Ms. Luckhardt an opportunity to cross
21 staff.

22 SENIOR STAFF COUNSEL BABULA: Correct.

23 HEARING OFFICER CELLI: And then we'll move on to
24 Mr. Casey I think at the end, because that's going to be a
25 little deeper and then we'll move on.

1 SENIOR STAFF COUNSEL BABULA: Okay.

2 HEARING OFFICER CELLI: Okay, so let's do that.
3 Ms. Gulesserian, please.

4 MS. GULESSERIAN: You want me to call the
5 next --

6 HEARING OFFICER CELLI: I want you to call and
7 quickly cross your witnesses, if you can call them in the
8 order that you have them. Each witness will come up in
9 and be sworn at the podium. In fact, let's have all of
10 the witnesses you're about the call.

11 MS. GULESSERIAN: Air quality, Layton.

12 HEARING OFFICER CELLI: Layton. Yes, I'm going
13 to have everybody stand and be sworn.

14 (Thereupon the witnesses were sworn, by
15 the court reporter, to tell the truth, the
16 whole truth, and nothing but the truth.)

17 HEARING OFFICER CELLI: Ms. Gulesserian, please
18 go ahead with air quality.

19 Whereupon,

20 MATT LAYTON
21 was called as a witness herein, and after first
22 having been duly sworn, was examined and
23 testified as follows:

24 CROSS-EXAMINATION

25 BY MS. GULESSERIAN:

1 You performed a supplemental analysis of
2 potentially significant impacts from the expansion of
3 California City and Rosamond, correct?

4 MR. LAYTON: Yes.

5 MS. GULESSERIAN: Is your evaluation limited to
6 direct impacts only or does it cover indirect and
7 cumulative impacts as well?

8 MR. LAYTON: I'm not sure I understand the
9 question.

10 MS. GULESSERIAN: Did you analyze the direct
11 impacts of -- you submitted the supplemental testimony on
12 the impacts for Rosamond and California City expansions,
13 right?

14 MR. LAYTON: We analyzed what the two
15 municipalities involved might analyze, yes.

16 MS. GULESSERIAN: Did you analyze the direct,
17 indirect, and cumulative impacts?

18 MR. LAYTON: We analyzed what they might analyze.
19 That would include all those impacts.

20 MS. GULESSERIAN: Okay. Did you analyze the
21 indirect and cumulative impacts from the expansions
22 together with the --

23 MR. LAYTON: I believe the answer is no, we
24 analyzed what they might analyze.

25 MS. GULESSERIAN: You analyzed -- I'm not

1 understanding what you're saying.

2 MR. LAYTON: I guess I'm not understanding your
3 question then.

4 MS. GULESSERIAN: Okay. Did you analyze the
5 cumulative air quality impacts from those expansions
6 together with three other solar power plants proposed
7 between California City and the Beacon project site?

8 MR. LAYTON: We did not.

9 MS. GULESSERIAN: Thank you.

10 HEARING OFFICER CELLI: Cross by applicant?

11 MS. LUCKHARDT: No cross.

12 HEARING OFFICER CELLI: Staff?

13 SENIOR STAFF COUNSEL BABULA: Just one question.

14 REDIRECT EXAMINATION

15 BY SENIOR STAFF COUNSEL BABULA:

16 In order -- well, were there any significant
17 impacts that weren't -- that were -- were there any
18 significant impacts likely from the wastewater treatment
19 expansions?

20 MR. LAYTON: Not that can I determine. Not that
21 I saw.

22 SENIOR STAFF COUNSEL BABULA: So it's unlikely
23 then that there would be any cumulative impacts?

24 MR. LAYTON: Correct.

25 SENIOR STAFF COUNSEL BABULA: Okay. No further

1 questions.

2 HEARING OFFICER CELLI: Can I just ask a
3 question. When you asked -- when Mr. Babula asked that
4 question, he just said are you going to see any impacts or
5 did you see any impacts, but he didn't specify from which
6 of the two. So are we to take it that --

7 SENIOR STAFF COUNSEL BABULA: I said significant
8 impacts from the wastewater treatment plants, but --

9 HEARING OFFICER CELLI: Okay, so was your answer
10 assuming both treatment plants?

11 MR. LAYTON: Yes.

12 HEARING OFFICER CELLI: Thank you.

13 Okay, cross?

14 MS. GULESSERIAN: I have further cross.

15 RE-CROSS-EXAMINATION

16 BY MS. GULESSERIAN:

17 For Rosamond, isn't it true that you stated that
18 there's two types of impacts, one related to soil
19 excavation and grading and resulting dust, and the other
20 related to equipment emissions?

21 MR. LAYTON: Those were potential impacts.

22 MS. GULESSERIAN: Okay.

23 MR. LAYTON: You asked earlier about significant
24 impacts.

25 MS. GULESSERIAN: Can you point to where in your

1 assessment you calculated dust emissions?

2 MR. LAYTON: I did not calculate them.

3 MS. GULESSERIAN: Are you aware that Rosamond
4 provided information to staff regarding 20 acres of land
5 that will be graded -- that will be newly plus 50 other
6 acres of land that will be regarded to create new ponds?

7 MR. LAYTON: Yes.

8 SENIOR STAFF COUNSEL BABULA: That's not actually
9 a --

10 MS. GULESSERIAN: Can you --

11 SENIOR STAFF COUNSEL BABULA: That's not a
12 correct statement.

13 HEARING OFFICER CELLI: Is that an objection.

14 SENIOR STAFF COUNSEL BABULA: Objection not a
15 correct statement. The 50 acres isn't going to be graded.
16 It's already in a pond.

17 MS. GULESSERIAN: The testimony shows and the
18 maps show that it's not just one pond. The declaration
19 from Mr. LaMoreaux states that they're turning that pond
20 into multiple ponds.

21 HEARING OFFICER CELLI: I don't recall any
22 testimony about how many acres are going to be graded.
23 Unless, it's in the written testimony. I don't believe
24 Mr. LaMoreaux talked about actual grading or testimony
25 of --

1 SENIOR STAFF COUNSEL BABULA: There's -- in the
2 fact that sheet that staff reviewed, the 20 acres that's
3 going to be expanded --

4 HEARING OFFICER CELLI: So let me ask if to speed
5 things along, Ms. Gulesserian, maybe can you ask if this
6 witness knows or read just to clear the question up, how
7 much grading there was going to be anticipated.

8 MS. GULESSERIAN: Did you review Rosamond's
9 information regarding how much grading there was going to
10 be?

11 MR. LAYTON: Yes.

12 MS. GULESSERIAN: Did you calculate emissions
13 from the grading?

14 MR. LAYTON: No.

15 MS. GULESSERIAN: Again, you identified the two
16 impacts one from construction and the other from equipment
17 emissions. Then you then stated mitigation could be
18 available for these impacts, such as BMPs to reduce
19 erosion. Can you show me where in your testimony you
20 identified possible mitigation for the second impact, the
21 one from equipment emissions?

22 MR. LAYTON: In the FSA or in this testimony
23 here?

24 MS. GULESSERIAN: In this testimony you have two
25 types identify impacts and you identify --

1 MR. LAYTON: I did not identify the BMPs in this
2 testimony here.

3 MS. GULESSERIAN: Well, okay, is it correct to
4 identify that you identified -- correct to state that you
5 identified a potential impact, but didn't identify
6 potential mitigation?

7 MR. LAYTON: I think we refer to that best
8 management practices are available, and if you go to the
9 FSA there are best management practices identified for
10 dust control and vehicle emissions. They were not
11 repeated in this supplemental.

12 HEARING OFFICER CELLI: Any further cross?

13 MS. GULESSERIAN: So the question is, you
14 identified BMPs to addressee motion -- the impact from
15 erosion. Did you address any potential mitigation to
16 address your second impact that you found above that
17 associated with equipment emissions.

18 MR. LAYTON: I think I just stated that. Thank
19 you.

20 MS. GULESSERIAN: I guess I didn't hear the
21 answer.

22 MR. LAYTON: As I said earlier, if you go to the
23 FSA, there are BMPs that are identified that address
24 vehicle emissions.

25 MS. GULESSERIAN: Okay. The equipment emissions

1 from the wastewater treatment facilities --

2 MR. LAYTON: Vehicle and equipment emissions.

3 MS. GULESSERIAN: Okay. So can you tell me where
4 in the FSA you analyzed equipment emissions from the
5 recycled --

6 MR. LAYTON: If you go to the staff conditions
7 SC-1 through SC-5, there are mitigation measures imposed
8 in those conditions.

9 MS. GULESSERIAN: Okay. Thank you. And for the
10 California City, you identified two types of impacts. One
11 for -- oh excuse me. Did you provide, did you review the
12 air permit for Rosamond's wastewater treatment facility?

13 MR. LAYTON: I did not.

14 MS. GULESSERIAN: Okay, did you provide notice to
15 the air district regarding your supplemental assessment of
16 the expansion of the wastewater treatment facility?

17 MR. LAYTON: I don't understand the question.

18 MS. GULESSERIAN: Did you provide notice to the
19 air district that you performed a supplemental assessment
20 of the air quality impacts from the wastewater treatment
21 facility?

22 MR. LAYTON: I did not.

23 MS. GULESSERIAN: For the California City you
24 identified two types of impacts, one from soil excavation
25 and grading and the other related to equipment emissions.

1 Can you show me where you calculated dust emissions from
2 construction?

3 MR. LAYTON: I did not calculate that.

4 MS. GULESSERIAN: California City did provide
5 maps, specific maps, showing where their sewerage pipes
6 would be constructed through the city, isn't that correct,
7 did you review those?

8 MR. LAYTON: Yes.

9 MS. GULESSERIAN: I don't have any further
10 questions for this witness?

11 HEARING OFFICER CELLI: Applicant?

12 Any cross from applicant?

13 MS. LUCKHARDT: I have one question.

14 CROSS-EXAMINATION

15 BY MS. LUCKHARDT:

16 Mr. Layton, are you pretty familiar with the
17 requirements of this Commission in a written decision?

18 MR. LAYTON: Yes.

19 MS. LUCKHARDT: I'm going to read you a section
20 from California Public Resources Code 25523(d)(2) relating
21 to the question that Ms. Gulesserian asked you just a
22 little bit ago. And it states the following, "The
23 Commission may not find that the proposed facility
24 conforms with applicable air quality standards pursuant to
25 paragraph one, unless the applicable air pollution control

1 district or air quality management district certifies,
2 prior to the licensing of the project by the Commission,
3 that complete emissions offsets have been proposed for the
4 facility.

5 And that there are further comments about
6 complying with emissions requirements. When you looked at
7 the wastewater treatment plants, will this Commission be
8 certifying the wastewater treatment plants and providing a
9 license to build the upgrades to any wastewater treatment
10 plant?

11 MR. LAYTON: I do not believe so.

12 MS. GULESSERIAN: Therefore, did you believe that
13 you needed to consult with the air district prior to
14 issuing an opinion on the potential either cumulative or
15 individual impacts that could be imposed by -- or could
16 potentially occur from the upgrades of the wastewater
17 treatment plants?

18 MR. LAYTON: That's correct.

19 MS. GULESSERIAN: Thank you.

20 HEARING OFFICER CELLI: Now we're finished with
21 this witness unless there's further redirect, which would
22 then cause further recross.

23 SENIOR STAFF COUNSEL BABULA: Nothing further.

24 HEARING OFFICER CELLI: Thank you.

25 Is this witness excused?

1 Thank you very much, Mr. Layton. Thank you very
2 much for your patience.

3 Your next witness, Ms. Gulesserian.

4 MS. GULESSERIAN: Ms. Sanders.

5 HEARING OFFICER CELLI: Ms. Sanders, please. Ms.
6 Sanders was sworn. So Ms. Gulesserian, why don't you just
7 go right ahead. Make sure you turn on your microphone
8 please.

9 MS. GULESSERIAN: Good evening -- or afternoon
10 still.

11 MS. SANDERS: Not yet.

12 Whereupon,

13 SUSAN SANDERS

14 was called as a witnesses herein, and after
15 first having been duly sworn, was examined and
16 testified as follows:

17 CROSS-EXAMINATION

18 BY MS. GULESSERIAN:

19 You performed a supplemental analysis of
20 potentially significant impacts from the expansion of
21 California City and Rosamond; is that correct?

22 MS. SANDERS: I filed a supplemental testimony.

23 MS. GULESSERIAN: Testimony. Is the supplemental
24 testimony an assessment of the potentially significant
25 impacts?

1 MS. SANDERS: Yes.

2 MS. GULESSERIAN: Is it your evaluation limited
3 to looking at direct impacts or did you also evaluate
4 incorrect and cumulative impacts?

5 MS. SANDERS: We did all those things in the
6 Final Staff Assessment. And what I was doing in the
7 supplemental was deciding some of our conclusions and our
8 mitigation measures from the Final Staff Assessment.

9 MS. GULESSERIAN: When you looked at the impacts
10 from on biological resources from California City and
11 Rosamond's wastewater treatment expansion projects, did
12 you just look at the direct impacts from those expansions
13 or did you look at the cumulative impacts from those
14 expansions.

15 MS. SANDERS: When you're talking about the
16 expansion projects, do you mean the pipeline part or the
17 expansions of the ponds?

18 MS. GULESSERIAN: I mean the facilities. The
19 expansion of the actual wastewater treatment facilities.

20 MS. SANDERS: We did consider that in the
21 supplemental.

22 MS. GULESSERIAN: Okay. Did you analyze the
23 cumulative impacts from those expansions together with
24 three other solar powerplants proposed between California
25 City and the Beacon project site?

1 MS. LUCKHARDT: I would object. Oh, I'm sorry.

2 SENIOR STAFF COUNSEL BABULA: I was going
3 to -- I'm going the object on those three PV plants CURE
4 has put in their exhibits aren't part of the this project.
5 They're not going to be -- they weren't reviewed, because
6 they were just recently -- there was just recent
7 information in filing in 2010. And this project's
8 analysis is 20 -- 2008, 9.

9 HEARING OFFICER CELLI: That's understood. I
10 think this witness can just answer the question though.

11 MS. SANDERS: And the question is cumulative?

12 MS. GULESSERIAN: Did you analyze the three other
13 solar powerplants this your testimony that you submitted
14 on June 1st?

15 MS. SANDERS: The cumulative assessment in the
16 Final Staff Assessment, was looking at the projects
17 contributions to impacts to desert plants and wildlife, in
18 the context of big footprint solar projects.

19 So I wouldn't say that we calculated every square
20 foot impacted by something like a wastewater treatment
21 plant. And our conclusion was the project's contributions
22 to cumulative impacts will be reduced to less than
23 significant, with the mitigation measures that we have in
24 the Final Staff Assessment.

25 MS. GULESSERIAN: Okay. I'm going to show you

1 CURE's exhibit that shows the location of --

2 MS. SANDERS: Which one is that, I have it also.

3 MS. GULESSERIAN: Okay.

4 MS. SANDERS: I think, which one is it?

5 MS. GULESSERIAN: It is CURE's exhibit -- I
6 apologize.

7 HEARING OFFICER CELLI: This is marked for
8 identification as --

9 MS. GULESSERIAN: Marked for identification
10 as -- pardon me -- 646.

11 MS. SANDERS: You know I'm sorry, I don't have
12 it. Could you pass that along.

13 MS. GULESSERIAN: Yes.

14 MS. LUCKHARDT: And I guess I would object, at
15 this point, as the particular information the exhibits
16 that are being passed out address projects that were not
17 in -- that were no -- the information was not available
18 until 2010.

19 HEARING OFFICER CELLI: I understand that,
20 so -- but I believe the witness can testify that she had
21 or did not have that information. So I'm going to
22 overrule that objection. You may answer.

23 MS. SANDERS: I forgot the question. Would you
24 ask again, please.

25 MS. GULESSERIAN: My question was whether -- you

1 just stated you analyzed cumulative impacts that you
2 submitted on June 1st. Did you analyze cumulative impacts
3 from these projects together with these three solar
4 powerplants proposed for --

5 MS. SANDERS: The wastewater treatment projects?
6 I thought I already answered that, but we were looking at
7 large scale footprint projects. We were not factoring in
8 to 20 acres of wastewater plant here or there.

9 MS. GULESSERIAN: So me where, in your analysis,
10 you looked at the Ridge Rider project, which is --

11 MS. SANDERS: Oh, you're talking --

12 MS. GULESSERIAN: -- adjacent to --

13 MS. SANDERS: I'm sorry. I'm getting your
14 questions -- these were projects that were filed
15 in -- after March, what, 2009 or so, when we started the
16 cumulative analysis.

17 MS. GULESSERIAN: Right.

18 MS. SANDERS: No, we did not consider those.

19 MS. GULESSERIAN: Okay. I'm asking, because did
20 you a supplemental analysis that you filed on June 1st.

21 MS. SANDERS: Yes.

22 MS. GULESSERIAN: And so in that analysis, did
23 you consider the 475 Ridge Rider project adjacent to the
24 Beacon site and that over a thousand acres of other solar
25 plants just north of the wastewater treatment plant?

1 MS. SANDERS: No, we didn't do that.

2 MS. GULESSERIAN: Okay.

3 MS. LUCKHARDT: And I guess I would object, as
4 that that is far beyond the scope of the analysis that was
5 allowed.

6 MS. GULESSERIAN: This witness just testified
7 that she analyzed cumulative impacts from the expansions
8 of the wastewater treatment facilities on June 1st.

9 HEARING OFFICER CELLI: Can you answer.

10 MS. GULESSERIAN: In your testimony, you stated
11 that you reviewed additional facts submitted by Rosamond
12 on May 19th. Were you referring to the May 20th document
13 that is the Rosamond additional facts?

14 MS. SANDERS: Yes, the one we were talking about
15 earlier with Mr. LaMoreaux?

16 MS. GULESSERIAN: Yes.

17 MS. SANDERS: Yes, that's right.

18 MS. GULESSERIAN: When you obtained that
19 information from Rosamond, did you docket the information
20 on May 20?

21 MS. SANDERS: Did I docket?

22 MS. GULESSERIAN: Um-hmm.

23 MS. SANDERS: I don't docket anything.

24 MS. GULESSERIAN: Okay. You stated that for
25 Rosamond desert tortoise Mojave ground squirrel, burrowing

1 owls and other special status plant and wildlife species
2 could be impacted. Did you do any surveys toe these
3 species to determine the existing setting?

4 MS. SANDERS: Did I survey, did I do protocol
5 surveys for those species? No.

6 MS. GULESSERIAN: Did you do other surveys?

7 MS. SANDERS: Well, on the Rosamond Water
8 Treatment Plant, I made a site visit last June. On the
9 17.6 miles we did a windshield survey.

10 So to that extent yes. Otherwise, my analysis is
11 based on review of other people's protocol surveys.

12 MS. GULESSERIAN: Okay. Where in your testimony
13 did you assess how many species may be impacted?

14 MS. SANDERS: How many species may be impacted by
15 what?

16 MS. GULESSERIAN: Well for desert tortoise,
17 Mojave ground squirrel, burrowing owls and other special
18 status plant and wildlife species, did you do an
19 evaluation of how many species may be impacted?

20 SENIOR STAFF COUNSEL BABULA: Can you clarify.
21 I'm not sure if you're talking about the treatment plant
22 or the pipelines?

23 MS. GULESSERIAN: Okay, I'm in a world where we
24 were just talking about the facilities expansions.

25 SENIOR STAFF COUNSEL BABULA: Okay.

1 MS. GULESSERIAN: So --

2 HEARING OFFICER CELLI: Folks, we can only have
3 one person talking at a time. I'm going the treat that as
4 an objection to vague. And Ms. Gulesserian, I'm going to
5 allow you to clarify.

6 MS. GULESSERIAN: You stated that there were
7 desert tortoise -- that there are these species that could
8 be impacted by the expansions of the wastewater treatment
9 facilities. In your testimony, did you assess how many of
10 these species may be impacted?

11 MS. SANDERS: The point of my testimony was to
12 highlight the most sensitive, the listed species, the ones
13 that I thought were of particular concern to the
14 Committee, because they have some status.

15 We considered all species in our analysis. We
16 incorporated -- in this supplemental testimony, I
17 incorporated mitigation measures to address any species
18 that could be encountered in the course of construction.

19 MS. GULESSERIAN: Thank you. And those
20 mitigation measures State that there are avoidance
21 minimization and compensation measures could be
22 implemented. Can you tell me where in your testimony you
23 identified possible avoidance minimization and
24 compensation measures?

25 MS. SANDERS: On page three, we cite -- right

1 here.

2 (Thereupon a discussion occurred off the record.)

3 MS. GULESSERIAN: Objection. Counsel is telling
4 the witness what to say.

5 HEARING OFFICER CELLI: It is --

6 MS. GULESSERIAN: I don't know what the objection
7 is there, but I just know that --

8 (Laughter.)

9 SENIOR STAFF COUNSEL BABULA: I was just
10 clarifying what part --

11 MS. GULESSERIAN: -- that's not exactly right.

12 MS. SANDERS: Let me clarify. I was going toward
13 mitigation measures that we cited for pipeline
14 construction. So Mr. Babula was clarifying that for me.

15 So you're asking me about where in the testimony
16 did we cite conditions of certification for the wastewater
17 treatment, and there are none. So it was very helpful for
18 him explaining that to me, because I didn't get that from
19 your question. Sorry.

20 MS. GULESSERIAN: Okay. And I didn't even go as
21 far -- I realize you're not proposing any conditions of
22 certification, but you did say that mitigation measures
23 avoidance minimization and compensation measures could be
24 used for some unassessed impact to particular species.

25 And I'm looking for whether you identified any of

1 those avoidance --

2 MS. SANDERS: No. Those are the same once that
3 any biologist would apply for any project.

4 MS. GULESSERIAN: Thank you.

5 MS. LUCKHARDT: And I would object, is statement
6 mischaracterized the comments of the witness.

7 HEARING OFFICER CELLI: Overruled.

8 Continue, Ms. Gulesserian.

9 MS. GULESSERIAN: Are you aware of Rosamond's
10 application to the California Department of Fish and Game
11 for a smaller expansion of its waste water treatment
12 plant?

13 MS. SANDERS: No.

14 MS. GULESSERIAN: Did you do any independent
15 investigation of California Department of Fish and Game's
16 identification of species that would be related to the
17 wastewater treatment plant expansion?

18 MS. SANDERS: Let me unravel this. So Fish and
19 Game identified some species that should be addressed in
20 the wastewater treatment expansion?

21 MS. GULESSERIAN: Yes.

22 MS. SANDERS: You're asking me if I am aware of
23 that list --

24 MS. GULESSERIAN: Yes.

25 MS. SANDERS: -- that the Fish and Game -- no

1 I'm not.

2 MS. GULESSERIAN: Okay. For California City, you
3 state that some special status species may occur but that
4 they could be mitigated to a less than significant level.
5 Did you do any surveys for special status species at the
6 site or along the miles of proposed sewerage pipes?

7 MS. SANDERS: No.

8 MS. GULESSERIAN: Where in your testimony did you
9 identify what species may be impacted from California
10 City's sewerage or expansion?

11 MS. SANDERS: Well, I think as I mentioned --

12 MS. GULESSERIAN: Did you identify --

13 MS. SANDERS: Identify species --

14 MS. GULESSERIAN: -- in California City that
15 could be impacted?

16 MS. SANDERS: I believe we did discuss that. I
17 did discuss that, and I think I, as I mentioned before, I
18 called out those species of particular interest.

19 MS. GULESSERIAN: Okay. Can you -- would you
20 mind looking and pointing to me where you identified any
21 species in California City that may be impacted?

22 MS. SANDERS: Well I -- on page two, "While it is
23 possible that some special status species could be found
24 in proximity to the planned work, avoidance, minimization,
25 compensation measures could be implemented." So I am

1 referring generically to special status species and I can
2 list some of those if you'd like now. But they're the
3 same once that we talked about through this supplemental
4 testimony.

5 HEARING OFFICER CELLI: What exhibit number was
6 that?

7 MS. SANDERS: This is 510.

8 HEARING OFFICER CELLI: Thank you.

9 MS. GULESSERIAN: If you stated -- note that this
10 is the exhibit that we object to a page and a half of
11 information regarding pipelines. When did you -- did the
12 report that you relied on, that was prepared by the
13 applicant, at some time in May, did that report rely on
14 any protocol surveys?

15 MS. LUCKHARDT: And I guess just for clarity of
16 the record, that would be one of our exhibits that has
17 already been entered into the evidence. It was filed on
18 June 1st.

19 HEARING OFFICER CELLI: What exhibit number is
20 that?

21 MS. LUCKHARDT: Number 352.

22 HEARING OFFICER CELLI: Thank you.

23 MS. SANDERS: Looking at that, it says general
24 wildlife surveys were conducted.

25 MS. GULESSERIAN: Thank you. I don't have any

1 further questions.

2 HEARING OFFICER CELLI: Thank you. Cross by
3 applicant?

4 MS. LUCKHARDT: No questions.

5 HEARING OFFICER CELLI: Mr. Babula?

6 SENIOR STAFF COUNSEL BABULA: A couple or one.

7 REDIRECT EXAMINATION

8 BY SENIOR STAFF COUNSEL BABULA:

9 So you're -- what was your task in looking at the
10 recycled water treatment plants? I mean how would you
11 summarize what your purpose was in this supplemental
12 testimony?

13 MS. SANDERS: I thought the purpose was to
14 provide information showing that we'd developed
15 enough -- we had enough information to come to conclusions
16 about the significance of impacts and that there were
17 mitigation measures available to address any impacts to
18 sensitive biological resources.

19 SENIOR STAFF COUNSEL BABULA: And in your survey
20 and your review of the information, how would you
21 characterize most of the where it -- like the -- either
22 the collecting pipelines in Cal City or the actual
23 wastewater treatment plant, what's the nature of that
24 habitat?

25 MS. SANDERS: That is all barren disturbed road

1 shoulder. And

2 SENIOR STAFF COUNSEL BABULA: And --

3 MS. SANDERS: Excuse me.

4 SENIOR STAFF COUNSEL BABULA: Go ahead, sorry.

5 MS. SANDERS: Well, just the emphasis on the
6 potential for significance of impacts to sensitive
7 resources on these barren degraded areas. There is
8 potential for desert tortoise, burrowing owl, Mojave
9 ground squirrel to be impacted by them, but they're all
10 fairly easily avoidable with the mitigation measures that
11 we have. And we did address the 17.6 miles in the Final
12 Staff Assessment. I just wanted to make that point.

13 SENIOR STAFF COUNSEL BABULA: Right. Last
14 question then. The information, the two declarations that
15 you've reviewed from Mike Bevins and Dennis LaMoreaux, say
16 they believe that their, the environmental study would be
17 like a mitigated -- or the Mitigated Neg Dec -- or Neg Dec
18 would be the appropriate environmental analysis. Would
19 you concur with that as being the likely level?

20 MS. SANDERS: Yes, absolutely.

21 SENIOR STAFF COUNSEL BABULA: Okay. One last
22 question. With the special status species, the CESA
23 requires mull mitigation, is that you're understanding?

24 MS. SANDERS: Yes.

25 SENIOR STAFF COUNSEL BABULA: And so for

1 the -- all that mitigation that you had required for the
2 Beacon project in general that our condition certification
3 was to achieve that level of full mitigation?

4 MS. SANDERS: Correct.

5 SENIOR STAFF COUNSEL BABULA: Okay. So if it was
6 fully mitigated, then would -- what's the -- would there
7 be cumulative impacts?

8 MS. SANDERS: That's what I was trying the say
9 earlier is that, with the mitigation measures in place
10 already, the project's contributions to cumulative impacts
11 has already been satisfied.

12 SENIOR STAFF COUNSEL BABULA: Okay. No further
13 questions.

14 HEARING OFFICER CELLI: You want to excuse this
15 witness, Ms. Gulesserian?

16 MS. GULESSERIAN: Sure.

17 CROSS-EXAMINATION

18 BY MS. LUCKHARDT:

19 Actually, I have one question based on the
20 question raised by Mr. Babula about the level of analysis.

21 Ms. Sanders, is the level of analysis you
22 completed similar to the type of analysis -- evaluation
23 you conduct on downstream transmission line impacts or
24 upgrades?

25 MS. SANDERS: I guess that's a fair comparison.

1 MS. LUCKHARDT: Thank you.

2 HEARING OFFICER CELLI: Can I --

3 MS. GULESSERIAN: I don't understand. Can
4 you -- I'm sorry you want to ask the applicant -- or the
5 staff?

6 HEARING OFFICER CELLI: Do you have anything, Mr.
7 Babula?

8 SENIOR STAFF COUNSEL BABULA: Nothing further.

9 HEARING OFFICER CELLI: Ms. Gulesserian?

10 MS. GULESSERIAN: No further questions.

11 HEARING OFFICER CELLI: Thank you. Thank you,
12 Ms. Sanders.

13 Who's your next witness, Ms. Gulesserian?

14 MS. GULESSERIAN: Thank you. Forrest, regarding
15 cultural resources.

16 HEARING OFFICER CELLI: Have you been sworn,
17 ma'am?

18 MS. FORREST: Yes.

19 Whereupon,

20 KATHLEEN FORREST

21 was called as a witness herein, and after first
22 having been duly sworn, was examined and
23 testified as follows:

24 HEARING OFFICER CELLI: Okay. Please state your
25 name for the record.

1 MS. FORREST: Kathleen Forrest.

2 HEARING OFFICER CELLI: Go ahead, Ms.
3 Gulesserian.

4 MS. GULESSERIAN: Thank you.

5 CROSS-EXAMINATION

6 BY MS. GULESSERIAN:

7 You performed a supplemental analysis of
8 potentially significance impacts from the expansion of
9 California City and Rosamond waste water treatment
10 facilities; is that correct?

11 MS. FORREST: Correct.

12 MS. GULESSERIAN: Is your evaluation limited to
13 direct impacts only or does it cover indirect and
14 cumulative impacts as well?

15 MS. FORREST: Indirect and cumulative as well.

16 MS. GULESSERIAN: Did you analyze the indirect
17 and cumulative impacts from the expansions together with
18 three other solar powerplants proposed between California
19 City and Rosamond and the Beacon project site?

20 MS. LUCKHARDT: Again, I object, as this
21 information is following the analysis.

22 HEARING OFFICER CELLI: Well --

23 MS. LUCKHARDT: And beyond the scope of the
24 evaluation to focus simply on the wastewater treatment
25 plants and the pipelines that surround them, as opposed to

1 reopening the entire evidentiary record on cumulative
2 impacts.

3 HEARING OFFICER CELLI: Objection is overruled.
4 I'm going to allow the question, but the question is vague
5 as asked, because I'm not sure she knows what projects
6 you're talking about

7 MS. GULESSERIAN: I'm sorry. I'm going to show
8 you one example, exhibit 507. I'd also refer you to -- so
9 we haven't gotten to our exhibits yet, so it's a little
10 confusing.

11 HEARING OFFICER CELLI: Ms. Gulesserian, let me
12 ask you this, if you could just name the projects and ask
13 her if that was part of the analysis that you just asked
14 her about.

15 MS. GULESSERIAN: Thank you.

16 HEARING OFFICER CELLI: The names of the
17 projects. Thank you.

18 MS. GULESSERIAN: Did you analyze the direct and
19 cumulative impacts from the expansions together with the
20 approximately 475 acre Ridge Rider solar project adjacent
21 to the Beacon site, the 636 acre Barren Ridge Solar
22 Powerplant and the 640 acre Cal City powerplant that are
23 located between the expansion projects and the Beacon
24 project site?

25 MS. FORREST: No.

1 MS. GULESSERIAN: The applicant is requesting
2 expedited approval, because the applicant claims it may
3 begin construction before the end of 2010. You testified
4 that cultural -- condition of certification cultural 4, is
5 this your testimony?

6 SENIOR STAFF COUNSEL BABULA: No, that's not.

7 MS. GULESSERIAN: I'm sorry.

8 SENIOR STAFF COUNSEL BABULA: That's Beverly
9 Bastian, who also was the co-author, but she wasn't on
10 your list. I didn't know you wanted her. Is that -- are
11 you questions going to be that --

12 MS. GULESSERIAN: Are they both sponsoring this
13 testimony today?

14 HEARING OFFICER CELLI: Folks, this is testimony,
15 not a conversation. So the answer to the question was no.

16 Next questions, please.

17 MS. GULESSERIAN: Okay. This testimony is being
18 sponsored by Kathleen Forrest and Beverly Bastian.

19 SENIOR STAFF COUNSEL BABULA: Right.

20 MS. GULESSERIAN: Are you saying that this
21 witness can only answer some part of this testimony?

22 SENIOR STAFF COUNSEL BABULA: Well, Beverly's
23 part is the second part that indicates Beverly Bastian's
24 portion, if you see the heading there. But I -- she's
25 here, so we can --

1 HEARING OFFICER CELLI: Do you have any further
2 questions of this witness?

3 MS. GULESSERIAN: No thank you.

4 HEARING OFFICER CELLI: Thank you.

5 Ms. Luckhardt, do you have any questions of this
6 witness?

7 MS. LUCKHARDT: No questions.

8 HEARING OFFICER CELLI: Mr. Babula?

9 SENIOR STAFF COUNSEL BABULA: No questions.

10 HEARING OFFICER CELLI: Thank you.

11 Thank you, Ms. Forrest. You're free to go.

12 Your next witness, Ms. Gulesserian.

13 MS. GULESSERIAN: Ms. Bastian.

14 HEARING OFFICER CELLI: Ms. Bastian is not --

15 SENIOR STAFF COUNSEL BABULA: I'll have to call
16 her.

17 HEARING OFFICER CELLI: Okay, she's on her way.
18 Let's jump to the next.

19 SENIOR STAFF COUNSEL BABULA: One thing to try to
20 speed this up is we're willing to stipulate that none of
21 the staff members looked at those three new solar plants.
22 So if she's going to ask every single staff person did you
23 look at that for cumulative, they didn't.

24 HEARING OFFICER CELLI: Would you be willing to
25 accept that stipulation, Ms. Gulesserian.

1 MS. GULESSERIAN: I'd like to hear from the
2 witnesses themselves. I'm asking -- I have a couple of
3 other questions of the next witness on growth inducing
4 impacts of Ms. Strattan.

5 HEARING OFFICER CELLI: Okay.

6 MS. GULESSERIAN: That's only two questions of
7 the questions I'm asking.

8 HEARING OFFICER CELLI: Ms. Strattan, welcome
9 back.

10 MS. STRATTAN: Thank you.

11 HEARING OFFICER CELLI: I had no idea you were
12 back. You were sworn previously?

13 MS. STRATTAN: Yes.

14 HEARING OFFICER CELLI: Thank you.

15 Whereupon,

16 SHAELYN STRATTAN
17 was called as a witness herein, and after first
18 having been duly sworn, was examined and
19 testified as follows:

20 HEARING OFFICER CELLI: Please state your name
21 for the record.

22 Ms. Strattan, please state your name for the
23 record.

24 MS. STRATTAN: Shaelyn Strattan.

25 CROSS-EXAMINATION

1 BY MS. GULESSERIAN:

2 Hi. Thank you. What's your understanding of the
3 currently inflow to the Rosamond Wastewater Treatment
4 Facility?

5 MS. STRATTAN: The Rosamond -- the information I
6 received was that their inflow rate was 1.3 million
7 gallons per day. That equates to an output of 1,456 acre
8 feet per year of tertiary treated water once the plant is
9 upgraded for the tertiary treatment.

10 MS. GULESSERIAN: Okay. And what's the proposed
11 project that you analyzed in your supplemental testimony?

12 MS. STRATTAN: I looked at the Beacon's project
13 connection to the growth-inducing impacts of the
14 wastewater treatment plant expansion at Rosamond and
15 California City.

16 MS. GULESSERIAN: Okay. Did you analyze the
17 potential impacts from increasing the capacity to 2.5
18 million gallons per day?

19 MS. STRATTAN: In my opinion and my staff
20 analysis, there is no connection to the growth-inducing
21 impacts of -- there's no connection for the Beacon project
22 use of tertiary water from either the California City or
23 the Rosamond project to the expansion of the
24 tertiary -- of the wastewater treatment, the sewage
25 treatment facility itself. So, no, that was not -- any

1 analysis there.

2 MS. GULESSERIAN: Okay. What did you analyze?

3 MS. STRATTAN: I looked at whether or not there
4 was a connection between the Beacon project as it relates
5 to growth-inducing impacts and the expansion of either the
6 Rosamond or the California City sewage treatment plant.
7 And I found that there was none.

8 MS. GULESSERIAN: Well okay, what part of the
9 proposed project -- proposed expansion did you look at?

10 MS. STRATTAN: I looked at the entire expansion.
11 However, the expansion of both Rosamond and California
12 City are separate from and will continue regardless of
13 whether the Beacon project is approved or denied, or if
14 it's ever built. The use of the tertiary treated water is
15 a by-product, but is not necessary that it be purchased by
16 Beacon or that it be used -- for that matter, that it be
17 purchased at all. It is simply a by-product of the sewage
18 treatment process. And that sewage treatment process is
19 not based on whether Beacon is approved or not approved.

20 MS. GULESSERIAN: Are you saying that you're
21 analyzing the part of the project that's funded by one
22 entity and not another part of the same project because
23 it's funded by another entity?

24 MS. STRATTAN: No.

25 MS. GULESSERIAN: Are you saying that you're

1 looking at one part of the project -- did you only analyze
2 the capacity up to some lower number than 2.5 that's being
3 proposed?

4 MS. STRATTAN: No.

5 MS. GULESSERIAN: So what are the impacts from
6 having a capacity of 2.5 million gallons per day?

7 MS. STRATTAN: I analyzed the growth-inducing
8 impacts of the Beacon project to see if there was a
9 connection with that project and the two expansions.
10 There was no connection. That is what I was asked to do
11 was to analyze the growth-inducing impacts. And my
12 analysis says there is no growth-inducing impacts for the
13 use of tertiary water by the Beacon project as it relates
14 to the expansion of either of the two sewage treatment
15 plants.

16 MS. GULESSERIAN: Okay. So are you disagreeing
17 that the proposed wastewater treatment facility projects
18 are part of the project that needs to be analyzed today?

19 MS. STRATTAN: That is correct.

20 MS. GULESSERIAN: Okay. Are you aware that the
21 Committee ordered staff to do an analysis of the proposed
22 wastewater treatment expansions?

23 SENIOR STAFF COUNSEL BABULA: I'm going to
24 object.

25 HEARING OFFICER CELLI: Sustained.

1 MS. GULESSERIAN: Okay, I'll stop the questions
2 for there.

3 HEARING OFFICER CELLI: Nothing further?

4 MS. GULESSERIAN: Let me review.

5 HEARING OFFICER CELLI: Okay.

6 MS. GULESSERIAN: Do you know whether the
7 Rosamond Wastewater Treatment Facility is proposed to
8 increase its capacity to process incoming wastewater?

9 MS. STRATTAN: Yes, it is proposed to increase
10 its input.

11 MS. GULESSERIAN: Are you aware that the Rosamond
12 proposal itself states that an increase in the capacity to
13 1.0 would allow it to process additional incoming
14 wastewater to provide more recycled water to reduce
15 dependence on groundwater and State Water Project water
16 that is used as potable water sources?

17 MS. LUCKHARDT: I would object to the truth of
18 the matter asserted in the statement.

19 HEARING OFFICER CELLI: I'm not clear exactly
20 what part of the question your objection is. Can you
21 restate the question, Ms. Gulesserian, in a way that
22 avoids objection.

23 MS. GULESSERIAN: Are you aware -- I'm just
24 reading from the recycled water facilities report, that
25 the Rosamond itself, states that an increase in the

1 capacity to 1.0 would allow it to process additional
2 incoming wastewater to provide more recycled water, in
3 order to reduce dependence on groundwater and State Water
4 Project water that's a potable water source? That's what
5 the recycled facilities plan?

6 HEARING OFFICER CELLI: I'm going to allow
7 her -- that's a question this witness can answer.

8 MS. STRATTAN: I'm not sure how that relates to
9 the growth-inducing impacts aside from the fact that the
10 use of tertiary water cannot be used as potable water and
11 therefore would not result in an increase in population
12 growth in the California City or Rosamond area.

13 MS. GULESSERIAN: Are you aware that the city of
14 Rosamond -- sorry, not the city of Rosamond but Rosamond
15 finds that the increased production of recycled water will
16 allow it to reduce its dependence on potable water sources
17 in order to provide that water for growth?

18 HEARING OFFICER CELLI: If she knows.

19 MS. LUCKHARDT: I'm going to object to -- that
20 the premise of the question is inaccurate.

21 HEARING OFFICER CELLI: I have no way of really
22 knowing that. What I'm going to do is I'm just going to
23 allow the witness, if she knows, to testify one way or the
24 other.

25 MS. STRATTAN: Repeat your question please.

1 MS. GULESSERIAN: Are you aware -- that's a good
2 question since it was flowing. Are you aware that
3 Rosamond itself states that -- oh, you disagreed that
4 providing more recycled water had anything to do with
5 having impacts on potable water sources?

6 MS. STRATTAN: No, I disagree that there is a
7 connection between the Beacon's use of tertiary treated
8 water and the expansion of either water treatment -- or
9 wastewater treatment facility.

10 MS. GULESSERIAN: Are you aware that Beacon is
11 proposing to get recycled water and that -- from Rosamond
12 and California City, and that neither facility -- neither
13 agencies can provide recycled water to them at this time?

14 MS. STRATTAN: Yes.

15 MS. GULESSERIAN: Okay.

16 HEARING OFFICER CELLI: Anything further?

17 MS. GULESSERIAN: According to Mr. Bevins, the
18 city's sewer master plan -- this is for California
19 City -- anticipated the proposed expansion. Did you
20 review is sewer master plan yourself?

21 MS. STRATTAN: Yes, I did.

22 MS. GULESSERIAN: Are you aware that the sewer
23 master plan did not describe a proposal to expand the
24 facility capacity to 3.0 million gallons per day?

25 MS. STRATTAN: The sewer master plan expected and

1 discussed the possibility of an expansion. It did not put
2 a specific amount on that expansion.

3 MS. GULESSERIAN: Okay. You agreed with evidence
4 in the record that increasing the capacity of California
5 cities waste water treatment plant would increase density,
6 allow new homes to be connected to the system to
7 accommodate future growth. And in fact, you stated that
8 there would be a 10 percent growth in residential
9 development as opposed to a 3.5 growth under existing
10 conditions. And that California City's expansion would
11 expedite removal of an obstacle to development. Where in
12 your testimony did you determine the expected growth in
13 the commercial or industrial sectors?

14 MS. STRATTAN: First of all, I said up to 10
15 percent increase not a 10 percent increase, based on
16 information from Mr. Blevins (sic). As far as the
17 business, as Mr. Blevins (sic) noted in his testimony,
18 there really is no way, at this point in time, that you
19 can expect exactly what type of business development will
20 happen in our current economy. In fact, businesses are
21 moving from various areas. So that would be another way
22 that we could expect that, other than to fold it into the
23 3.5 percent increase of population, which is what is
24 actually being discussed in that area, in my testimony.

25 MS. GULESSERIAN: You performed a separate -- did

1 you do any analysis of indirect and cumulative impacts on
2 growth from the expansions together with the Ridge Rider
3 Solar Powerplant, the Barren Ridge Solar Powerplant, and
4 the California City Powerplant that are located between
5 California City and the Beacon project site and along the
6 Neuralia Road, which is the recycled water pipeline
7 corridor?

8 MS. STRATTAN: Those projects.

9 MS. LUCKHARDT: Objection, after the point in
10 time.

11 HEARING OFFICER CELLI: Overruled. I mean noted,
12 but I'm going to allow the witness to answer it.

13 MS. GULESSERIAN: It's not after the point in
14 time, because these -- on this witness

15 HEARING OFFICER CELLI: The witness can answer
16 the question.

17 MS. GULESSERIAN: Thank you.

18 MS. STRATTAN: The project's listed were outside
19 the baseline, that was established at the time of the
20 notice of intent provided for this project. And in
21 addition to that, they were not -- there would be no
22 cumulative impact, as there is no connection between the
23 growth-inducing impacts of the expansion of the sewer
24 plants and the development of the Beacon project.

25 MS. GULESSERIAN: Okay. When did you do your

1 supplemental assessment that was filed?

2 MS. STRATTAN: That was based on information that
3 was provided during the entire time of the development. I
4 actually wrote it in response to your comments and the
5 direction from the Committee.

6 MS. GULESSERIAN: So when did you submit your
7 supplemental assessment of the California City and
8 recycled water.

9 MS. STRATTAN: I believe it was submitted on the
10 first or it been submitted to the Friday prior to that.

11 MS. GULESSERIAN: Thank you.

12 HEARING OFFICER CELLI: Anything from the
13 applicant?

14 MS. LUCKHARDT: No questions.

15 HEARING OFFICER CELLI: Staff.

16 REDIRECT EXAMINATION

17 BY SENIOR STAFF COUNSEL BABULA:

18 Just one question. Are you aware of who will be
19 performing the environmental analysis for the upgrades of
20 Rosamond and Cal City?

21 MS. STRATTAN: Yes. In both cases, it will be
22 performed by the either service district or the city.
23 They anticipate that it would be a Mitigated Negative
24 Declaration for both facilities. That would be performed
25 at such time as they have solid project description. And

1 it is expected that the -- according to Mr. Blevins (sic),
2 it's expected that the FSA and any supplemental testimony
3 that's provided during the licensing process would be
4 incorporated into that document along with any previous
5 environmental documents.

6 SENIOR STAFF COUNSEL BABULA: And when you refer
7 the Mr. Blevins, you mean Mr. Bevins, correct?

8 MS. STRATTAN: Yes, correction. I'm sorry. Mike
9 Bevins.

10 SENIOR STAFF COUNSEL BABULA: Okay. So based on
11 your experience is your -- the level of analysis you gave
12 in your supplemental testimony is appropriate for the task
13 at hand, given that these are separate projects being
14 licensed by another agency.

15 MS. STRATTAN: That is correct.

16 SENIOR STAFF COUNSEL BABULA: No further
17 questions.

18 HEARING OFFICER CELLI: One more, Ms.
19 Gulesserian.

20 MS. GULESSERIAN: Yeah.

21 RE-CROSS-EXAMINATION

22 BY MS. GULESSERIAN:

23 Are you aware that Rosamond and California City,
24 they'll be incorporating the -- your assessment in their
25 environmental review, which is concluding that there are

1 no growth-inducing impacts as a result of these projects?

2 MS. STRATTAN: That isn't what

3 MS. LUCKHARDT: I think that's a
4 mischaracterization.

5 HEARING OFFICER CELLI: Sustained.

6 MS. GULESSERIAN: Are you aware that Rosamond and
7 California City stated that they will be incorporating the
8 Energy Commission's analysis of growth-inducing impacts,
9 that is being done right now?

10 MS. STRATTAN: Yes.

11 MS. GULESSERIAN: And are you concluding that
12 there are no growth-inducing impacts as a result of the
13 Beacon project?

14 MS. STRATTAN: I am concluding that there are no
15 growth-inducing impacts direct, indirect, or cumulative
16 related to the Beacon project, yes.

17 MS. GULESSERIAN: Okay. And are you concluding
18 that there are -- hold on.

19 I'm fine. No further questions.

20 HEARING OFFICER CELLI: Thank you. We're going
21 to excuse this witness. Thank you, Ms. Strattan. Good to
22 see you.

23 And was it Beverly Bastian we need to call next?

24 Ms. Bastian, have you been sworn?

25 MS. BASTIAN: No, I have not.

1 HEARING OFFICER CELLI: Okay, please have a seat.
2 Whereupon,

3 BEVERLY BASTIAN
4 was called as a witness herein, and after first
5 having been duly sworn, was examined and
6 testified as follows:

7 HEARING OFFICER CELLI: Please state your name
8 for the record?

9 MS. BASTIAN: Beverly Bastian, Energy Commission,
10 cultural resources unit.

11 HEARING OFFICER CELLI: Go ahead, Ms.
12 Gulesserian.

13 CROSS-EXAMINATION

14 BY MS. GULESSERIAN:

15 The applicant submitted some claims regarding its
16 desire to begin construction before the end of 2010. So
17 you have testimony in here that says --

18 MS. LUCKHARDT: I object to the claim of begin
19 construction. Beginning construction might imply
20 construction on the entire site, and the applicant has not
21 claimed that it will begin construction on the entire site
22 and --

23 HEARING OFFICER CELLI: Sustained.

24 MS. LUCKHARDT: -- related to ARRA funding.

25 MS. GULESSERIAN: So are you aware that the

1 applicant is requesting something about trying to get ARRA
2 funding before the end of 2010?

3 MS. BASTIAN: Yes.

4 MS. GULESSERIAN: And you're testifying that
5 Cultural Resources 4, which requires a Historic Resources
6 Management Plan 270 days prior to the start of ground
7 disturbance for the project, does not prevent ground
8 disturbance before the end of 2010. And your basis for
9 that is that it also states unless such activities are
10 specifically approved by the CPM; is that correct?

11 MS. BASTIAN: That's correct.

12 MS. GULESSERIAN: You testified that ground
13 disturbance activities may occur with approval of the CPM
14 in quote "...unexpected circumstances that might arise and
15 affect and approved project schedule". Is it an
16 unexpected circumstance that the applicant is requesting
17 now to begin some sort of activity that allows it to
18 qualify for ARRA funding before the end of 2010?

19 MS. BASTIAN: My use of that phrase is because
20 the Beacon project was initiated and I believe many of
21 these -- well I guess not the -- I believe that most of
22 the anticipated conditions were arrived at before the ARRA
23 funding opportunity was existed. That's my understanding.

24 MS. GULESSERIAN: So is it now an unexpected
25 circumstance asset forth in the mitigation measure that

1 some sort of project activity may occur that would impact
2 cultural resources?

3 MS. BASTIAN: If it's a suggestion that this
4 phrase was in the condition as a special consideration for
5 Beacon, that's not the case. This is in -- is one of our
6 standard conditions, somewhat modified to fit the Beacon
7 situation, in terms of having a Historical Resources
8 Treatment Plan, as opposed to a Cultural Resources
9 Monitoring and Mitigation Plan, but much of the language
10 is carried over.

11 MS. GULESSERIAN: So is the applicant's request
12 to the Commission that it may begin some sort of project
13 activity an expected or unexpected circumstance that would
14 fall within your exception to the requirement for a
15 Historical Resources Management Plan?

16 MS. BASTIAN: I'm sorry, could you rephrase that.
17 You confused me.

18 MS. GULESSERIAN: Is the applicant's request to
19 the Commission that it may begin some sort of project
20 activity before 2010, is that an expected situation that
21 falls -- or an unexpected situation that falls within that
22 exception you have in your cultural resources mitigation?

23 MS. BASTIAN: The language that's in there that
24 allows some flexibility is not in anticipation of any
25 particular development.

1 MS. GULESSERIAN: Isn't that exception intended
2 to -- is it -- you've testified that that exception is
3 intended to address unexpected circumstances that may come
4 up. Otherwise, the Historical Resources Management Plan
5 is required 270 days prior to construction. And this
6 latter phrase, "...unless such activities are specifically
7 approved...", you've testified that that covers unexpected
8 circumstances that might arise. So I'm wondering whether
9 their request today to begin project activities before the
10 end of 2010 is unexpected, such that you would allow them
11 to proceed without doing Historical Resources Management
12 Plan?

13 MS. BASTIAN: In my perception of the situation,
14 I didn't think of this as expected or unexpected. I
15 thought of it in terms of what has come up in other cases
16 of where something of an unexpected nature, unanticipated
17 nature, variety of kinds of reasons has made it desirable.
18 And indeed that that is why this condition has that
19 language in it to be able to adjust the timeframes for
20 certain deliverables. And that's exactly how I thought of
21 it. Here's another one of those.

22 MS. GULESSERIAN: Okay. And if we know today
23 that they may begin construction or activity before 2010,
24 isn't that something foreseeable that you can analyze now?

25 MS. BASTIAN: Analyze with respect to?

1 MS. GULESSERIAN: The significant impacts that
2 you've identified on cultural resources.

3 MS. BASTIAN: Is this to say that it would be
4 necessary to in some fashion --

5 MS. LUCKHARDT: I would just object to that
6 question, because that question assumes that the activity
7 would not be already included as one of the activities
8 that would be conducted as part of construction of the
9 project. And that assumption, in that question, is
10 incorrect.

11 HEARING OFFICER CELLI: Sustained.

12 MS. GULESSERIAN: I don't have any further
13 questions.

14 HEARING OFFICER CELLI: Anything from applicant?

15 MS. LUCKHARDT: No questions.

16 HEARING OFFICER CELLI: Staff?

17 REDIRECT EXAMINATION

18 BY SENIOR STAFF COUNSEL BABULA:

19 They're going to still have to do a HRMP?

20 MS. BASTIAN: That's correct.

21 SENIOR STAFF COUNSEL BABULA: And so the
22 potential flexibility doesn't mean that they don't have to
23 do this comprehensive document?

24 MS. BASTIAN: That's correct. It merely means
25 that it's timing can be different than what is specified

1 in the verification clause.

2 SENIOR STAFF COUNSEL BABULA: No further
3 questions.

4 HEARING OFFICER CELLI: Thank you. And thank you
5 for coming down, Ms. Bastian. We appreciate your
6 testimony today.

7 Ms. Gulesserian, who's next?

8 MS. GULESSERIAN: Geology, Mr. Dal Hunter.

9 HEARING OFFICER CELLI: Dal Hunter was on the
10 phone.

11 MR. HUNTER: I'm still on the phone as it turns
12 out.

13 HEARING OFFICER CELLI: Oh, that's -- you're awe
14 trooper, Mr. Hunter. Thanks for hanging in there.

15 MS. GULESSERIAN: Thank you, Mr. Hunter for being
16 available. I appreciate it.

17 MR. HUNTER: You'll probably have to speak real
18 loud to get through the phone business.

19 MS. GULESSERIAN: I only have a few questions.
20 And I will speak right into the mic.

21 HEARING OFFICER CELLI: Let me just ask this, I'm
22 going to ask all the other parties to turn off your mics,
23 so that my mic can remain on, because my mic has a speaker
24 that goes into the phone. So my speaker has to be on.
25 And so right now let's just leave it on for Ms.

1 Gulesserian and mine and then your objections I will
2 restate into the record, if you happen to have any.

3 So with that, Ms. Gulesserian.

4 Whereupon,

5 DAL HUNTER

6 was called as a witness herein, and after first
7 having been duly sworn, was examined and
8 testified as follows:

9 CROSS-EXAMINATION

10 BY MS. GULESSERIAN:

11 When were you asked to prepare a supplemental
12 assessment --

13 HEARING OFFICER CELLI: Excuse me. I'm sorry.
14 Mr. Hunter, have you been sworn?

15 MR. HUNTER: I kind of swore myself in with the
16 group, but no one saw me.

17 HEARING OFFICER CELLI: Mr. Hunter has been
18 sworn. I'm sorry, continue with your questioning, Ms.
19 Gulesserian.

20 MS. GULESSERIAN: When were you asked to prepare
21 a supplemental assessment of the wastewater treatment
22 facilities?

23 MR. HUNTER: I believe that was early last week.

24 MS. GULESSERIAN: Okay. So it's fair to say you
25 did your supplemental assessment of the wastewater

1 treatment facilities, which may have included pipelines,
2 within the last week or maybe two?

3 MR. HUNTER: Well, it's a supplement to the staff
4 assessment that we already completed. And since we're
5 going to monitor any kind of ground excavation anyway,
6 it's not very complicated to include other areas.

7 MS. GULESSERIAN: Okay. When you did your
8 analysis, did you consider the indirect and cumulative
9 impacts from the expansions and the pipelines together
10 with the Ridge Rider Solar Powerplant that's proposed
11 adjacent to the Beacon project site, the Barren Ridge
12 Solar Powerplant that's proposed along the Neuralia Road
13 recycled pipeline corridor, and the California City Solar
14 Powerplant that's proposed along the Neuralia Road
15 recycled pipeline corridor. All three of which are
16 located between the Beacon and California City wastewater
17 treatment facility?

18 MS. LUCKHARDT: Again, objection, due to time --

19 MR. HUNTER: Actually, there are no cumulative
20 impacts with respect to geology or geologic hazard. There
21 are no geologic resources or deposits in the area that
22 would be affected by the Beacon plant or the wastewater
23 treatment plant paleontological resources. When they're
24 properly monitored, this cumulative impact is either
25 neutral, we find no fossils, or it's positive, we find

1 fossils. We collect them. We study them and we put them
2 in museums. So those are the kind I cumulative effects
3 that we deal with

4 MS. GULESSERIAN: Let me back up, you state
5 there's nothing in the record -- I'm wondering if I have
6 the right witness.

7 HEARING OFFICER CELLI: Let me just say that
8 there was an objection earlier. The question was asked
9 and answered. The objection is noted. The record is
10 clear that these postdated the analyses. So we don't
11 necessarily need to hear that objection anymore.

12 Go ahead, Ms. Gulesserian.

13 MS. GULESSERIAN: I just wanted to clarify that
14 these documents didn't postdate the analyses. If that was
15 what the ruling was just that --

16 HEARING OFFICER CELLI: The FSA. Go ahead,
17 please.

18 MS. GULESSERIAN: You State in your testimony
19 that there's nothing in the record to indicate either
20 project -- this is the wastewater treatment facilities, I
21 assume -- is unusual in a sensitive environmental area or
22 likely to present significant environmental impacts in the
23 areas of geology and paleontology. Are you aware of the
24 applicant's exhibit 354, in which Mr. Bevins from
25 California City stated if you look at the faults in the

1 area -- or the earthquake faults in the area that is, our
2 area is an earthquake nightmare?

3 MR. HUNTER: Of course I'm aware of that, yes.

4 MS. GULESSERIAN: Okay. And so are you saying
5 that an earthquake -- an area that's an earthquake
6 nightmare does not present any unusual or sensitive
7 environmental resources?

8 MR. HUNTER: I'd hardly consider earthquakes to
9 be resources. I consider them to be a geologic hazard.
10 And the risk that a wastewater treatment plant or a solar
11 powerplant are very very low compared to all of southern
12 California with high population centers.

13 MS. GULESSERIAN: Okay. So now back to my
14 question. Can you show me where in your testimony you
15 analyzed the Ridge Rider, Barren Ridge and Cal City solar
16 powerplants in your impact analysis?

17 MR. HUNTER: We did not specifically analyze
18 those, no. Again, general cumulative impacts there are
19 none for geologic hazards. And paleontologic cumulative
20 impacts are typically neutral or positive.

21 MS. GULESSERIAN: Thank you, Dal Hunter, for
22 taking the time tonight -- today.

23 HEARING OFFICER CELLI: Thank you.
24 Applicant please?

25 MS. LUCKHARDT: No questions.

1 HEARING OFFICER CELLI: Staff?

2 SENIOR STAFF COUNSEL BABULA: No questions.

3 HEARING OFFICER CELLI: Thank you, Mr. Hunter.
4 Thank you for listening in. You're excused.

5 MR. HUNTER: Thank you.

6 HEARING OFFICER CELLI: Ms. Gulesserian, your
7 next witness.

8 MS. GULESSERIAN: Mr. Weaver.

9 HEARING OFFICER CELLI: Mr. Weaver.

10 MS. GULESSERIAN: Mr. Weaver, waste management.

11 HEARING OFFICER CELLI: Were you sworn, Mr.
12 Weaver?

13 MR. WEAVER: Yes, I was.

14 HEARING OFFICER CELLI: Thank you.

15 Whereupon,

16 CASEY WEAVER

17 was called as a witness herein, and after first
18 having been duly sworn, was examined and
19 testified as follows:

20 SENIOR STAFF COUNSEL BABULA: He could do both,
21 because he also did sit on water, if you wanted, because
22 even though there's a space, we could probably cover both.

23 MS. GULESSERIAN: Do you want to do that now?

24 HEARING OFFICER CELLI: Let's do as much as we
25 can.

1 MS. GULESSERIAN: Did you want to --

2 HEARING OFFICER CELLI: Ms. Gulesserian, if you
3 could --

4 MS. GULESSERIAN: Let's go for it.

5 HEARING OFFICER CELLI: Please.

6 CROSS-EXAMINATION

7 BY MS. GULESSERIAN:

8 With respect to your waste management testimony,
9 you performed a supplemental assessment of the Rosamond
10 and California City wastewater treatment facilities'
11 expansions, correct?

12 MR. WEAVER: Yes, I did.

13 MS. GULESSERIAN: Did that cover direct impacts
14 only or indirect and cumulative impacts?

15 MR. WEAVER: For the solar plants?

16 MS. GULESSERIAN: Yeah, for the wastewater
17 treatment facilities?

18 MR. WEAVER: It's primarily the direct.

19 MS. GULESSERIAN: Okay, so did you analyze direct
20 and indirect impacts from the waste water treatment
21 expansions?

22 MR. WEAVER: Yes, I did.

23 MS. GULESSERIAN: Okay, did you consider the
24 three solar powerplants proposed?

25 MR. WEAVER: I did not.

1 MS. GULESSERIAN: Okay. For Rosamond, you refer
2 to impacts -- sorry, just a clarification for the record.
3 When did you prepare your supplemental assessment?

4 MR. WEAVER: I finished it somewhere around June
5 1st.

6 MS. GULESSERIAN: Thank you. For Rosamond you
7 refer to impacts from a new 20 acre extension of an
8 existing pond. Where in your testimony did you assess
9 impacts from the creation of 50 other acres of ponds with
10 respect to waste management?

11 MR. WEAVER: There aren't really 50 other acres
12 of ponds that are being excavated, even if they're drained
13 I'm not real clear on that part. As far as biosolids
14 potentially or some kind after waste like that, that
15 wasn't part of the project. What I understood the project
16 to be was the expansion that 20 acres expansion of the
17 existing pond. So there would be some demolition and
18 excavation related to that one pond that was being
19 expanded the 20 acres.

20 MS. GULESSERIAN: Are you aware now, based on the
21 testimony today, that it also involves 50 other acres of
22 expansions?

23 MR. WEAVER: Well --

24 SENIOR STAFF COUNSEL BABULA: I'm going to object
25 that that's just not clear, and the record doesn't show

1 that.

2 HEARING OFFICER CELLI: Sustained.

3 MS. GULESSERIAN: Your staff's exhibit 519 states
4 that there are a approximately 70 acres of proposed ponds.

5 SENIOR STAFF COUNSEL BABULA: It's the same pond
6 that's getting expanded. I mean, that's what when he drew
7 the map and you went over there to talk to Dennis --

8 HEARING OFFICER CELLI: The record was that it
9 wasn't 70 acres of new ponds.

10 MS. GULESSERIAN: Right, and that there's --
11 they're changing an existing pond -- we're having a
12 conversation here -- in to several other ponds, which is
13 in the declaration.

14 HEARING OFFICER CELLI: So Ms. Gulesserian, the
15 objection is sustained. Maybe can you ask it a different
16 way.

17 MS. GULESSERIAN: Okay. Did you analyze for
18 Rosamond, can you show me in your testimony where you
19 analyzed Rosamond's proposal to waste -- impacts on
20 waste -- from waste from upgrading -- from converting the
21 existing pond secondary treatment to multiple specialized
22 ponds for tertiary treatment, including advanced
23 facultative ponds, high rate ponds, algae settling ponds,
24 and maturation ponds?

25 MR. WEAVER: Most of those ponds are in

1 existence. The expansion was going to include some
2 aeration machinery, I believe, as far as the conversion or
3 modification to that, what you're calling, the 70 acre
4 pond. The 20 acres was what I was primarily addressing.
5 And in so doing, discussed the removal and disposition, I
6 guess, or biosolids, construction, waste, and other kinds
7 of waste that would be generated in that kind of a
8 construction project.

9 MS. GULESSERIAN: Okay, so you did not -- did you
10 calculate the amount of biosolids that would be created
11 from the conversion of those other ponds -- of the other
12 pond?

13 MR. WEAVER: No.

14 MS. GULESSERIAN: You state that excavations
15 spoils are expected to be free of contaminants. Where in
16 your testimony did you analyze --

17 (Thereupon an unidentified voice came
18 on the teleconference.)

19 HEARING OFFICER CELLI: Excuse me, whoever is on
20 the phone, I'm just going to mute everybody until we call
21 you.

22 MS. GULESSERIAN: Thank you. You state that
23 excavation spoils are expected to be free of contaminants.
24 Where, in your testimony, did you analyze potential
25 contaminants in areas that will be excavated?

1 MR. WEAVER: Well, that's why I said expected.

2 MS. GULESSERIAN: Do you --

3 MR. WEAVER: There weren't any analyses that were
4 conducted.

5 MS. GULESSERIAN: Did you do any independent
6 analysis?

7 MR. WEAVER: Just in the general area. You know,
8 being there at the site looking at the property, there
9 wasn't any evidence of contamination in surrounding native
10 soils.

11 MS. GULESSERIAN: Did you do any testing?

12 MR. WEAVER: Did not do any testing. That's why
13 I said expected.

14 MS. GULESSERIAN: For California City, you state
15 that construction of the sewer would be in streets or ease
16 easements, but that excavation spoils are expected to be
17 free of contaminants. Where in your testimony did you
18 analyze the potential for roadway spoils to be free of
19 contaminants?

20 MR. WEAVER: Well, the roadway spoils would
21 primarily be the asphalt. That would be recycled. Any of
22 the soils underneath the roadway would likely be protected
23 from contamination from any roadway, you know, vehicular
24 liquids or anything like that.

25 MS. GULESSERIAN: Where, in your testimony, did

1 you explain what the potential for these roadways to be
2 free of contaminants is?

3 MR. WEAVER: Considering that it's a typical
4 construction activity in a roadway, it would be similar to
5 any other construction in the area. There would be
6 protocols for evaluation of --

7 MS. GULESSERIAN: Do you have any evidence in the
8 record to show that these roadways are free of
9 contaminants?

10 MR. WEAVER: There's no indication that there is
11 contamination in the roadways.

12 MS. GULESSERIAN: Thank you. I don't have any
13 further questions.

14 HEARING OFFICER CELLI: Applicant?

15 MS. GULESSERIAN: On waste management.

16 MS. LUCKHARDT: No questions.

17 HEARING OFFICER CELLI: Staff?

18 REDIRECT EXAMINATION

19 BY SENIOR STAFF COUNSEL BABULA:

20 All right. One question. Your task -- well,
21 describe -- well, two questions. Can you describe your
22 task in evaluating the two wastewater treatment plants and
23 the secure lines that California City used to collect the
24 sewage?

25 MR. WEAVER: Yes, for the waste management aspect

1 of it, looking at the waste generated during the
2 construction of these facilities, and the disposition of
3 that waste, be it recycled, hauled, in the case of soils,
4 spread on the ground.

5 SENIOR STAFF COUNSEL BABULA: And the assessment
6 noted potential impacts and also whether there was
7 potential mitigation to address those impacts; is that
8 correct?

9 MR. WEAVER: Yes.

10 SENIOR STAFF COUNSEL BABULA: And based on your
11 experience in the fact that -- well let me back up. One
12 other question that I asked Shaelyn would be, your
13 understanding is the environmental analysis for the
14 expansions will be performed by the individual entities
15 Cal City and Rosamond?

16 MR. WEAVER: That's correct.

17 SENIOR STAFF COUNSEL BABULA: So based on that
18 information, do you consider that the level of analysis
19 you did appropriate to look at the potential impacts and
20 what mitigation would be applicable that that -- this
21 information -- well, okay, is your analysis sufficient
22 enough to meet the needs of what your task was?

23 MR. WEAVER: Yes.

24 SENIOR STAFF COUNSEL BABULA: Okay. No further
25 questions.

1 HEARING OFFICER CELLI: Actually, Mr. Babula,
2 didn't you intend to call Mr. Weaver as your soils and
3 water witness?

4 SENIOR STAFF COUNSEL BABULA: Well, actually that
5 was for cumulatives --

6 HEARING OFFICER CELLI: Soil and water.

7 SENIOR STAFF COUNSEL BABULA: -- soil and water
8 part.

9 HEARING OFFICER CELLI: So let's take care of
10 that now. And then --

11 SENIOR STAFF COUNSEL BABULA: So she could do
12 soil and water --

13 HEARING OFFICER CELLI: No she's going to be able
14 to cross-examine after your questions, because we've been
15 starting with cross-examination all this time based upon
16 the assumption that the testimony was already in written
17 form

18 Now, I'm going to let you take direct evidence,
19 followed by cross-examination.

20 SENIOR STAFF COUNSEL BABULA: Okay.

21 MS. GULESSERIAN: I'm sorry, with waste
22 management, staff just asked some redirect and I have two
23 redirect questions -- two recross.

24 HEARING OFFICER CELLI: You can ask that after.
25 Let's get the soil and water and then just you can ask

1 your questions afterwards, please.

2 MS. GULESSERIAN: For waste management?

3 HEARING OFFICER CELLI: Yes.

4 SENIOR STAFF COUNSEL BABULA: Well, I think -- we
5 can finish the soil and water -- or the waste management
6 part.

7 HEARING OFFICER CELLI: You have two questions on
8 waste?

9 MS. GULESSERIAN: I have two questions on waste.

10 HEARING OFFICER CELLI: Okay let's get those two
11 questions out.

12 RE CROSS-EXAMINATION

13 BY MS. GULESSERIAN:

14 Mr. Babula asked if this was adequate to
15 constitute an assessment of impacts. Did you look at
16 their existing Waste Discharge Requirements or any
17 information regarding potential violations of those
18 requirements at the regional water quality control board
19 for the Rosamond and California City facilities?

20 MR. WEAVER: Right. Any of the violations that
21 the wastewater treatment plants would generate -- well,
22 with the water board, would be related to water, discharge
23 of water.

24 MS. GULESSERIAN: Not waste.

25 MR. WEAVER: Generally not waste.

1 MS. GULESSERIAN: We can talk about that later.
2 No further questions.

3 MR. WEAVER: And as far as the waste then, they
4 would have their standard housekeeping procedures in place
5 if their business plans and different documents that they
6 have.

7 MS. GULESSERIAN: Thank you.

8 HEARING OFFICER CELLI: Okay, go ahead, Mr.
9 Babula.

10 SENIOR STAFF COUNSEL BABULA: Okay, soil and
11 water.

12 DIRECT EXAMINATION

13 BY SENIOR STAFF COUNSEL BABULA:

14 Switching hats here. Did you -- in your FSA, did
15 you provide a cumulative analysis of the Beacon project
16 for soil and water?

17 MR. WEAVER: Yes, I did.

18 SENIOR STAFF COUNSEL BABULA: Okay. And also in
19 the supplemental testimony that you just provided, did you
20 talk about cumulative -- do a accumulative analysis?

21 MR. WEAVER: Yes.

22 SENIOR STAFF COUNSEL BABULA: Okay. And would
23 you like to add any additional testimony right now
24 regarding cumulatives?

25 MR. WEAVER: Sure. During the development of the

1 FSA, two projects were identified in the project vicinity,
2 Pine Tree Wind Power Project and the Barren Ridge
3 Renewable Transmission Project.

4 As of June 14, 2009, the wind farm was completely
5 built out and producing electricity for Los Angeles.
6 Therefore, there is no impact from construction of the
7 project. It does not use water in its operation. And the
8 project does not affect Beacon's water supply.

9 Stormwater management has been addressed by the
10 project and the wind farm will not contribute to flood or
11 erosion hazards at Beacon.

12 The Barren Ridge Renewable Transmission Project
13 is proposed along the base of the Tehachapi mountains on
14 the north side of Highway 14. The project will upgrade
15 the existing transmission line located along that
16 alignment. Additional road building and transmission tower
17 construction may occur in that area. The project is
18 subject to environmental analysis by both CEQA and NEPA.
19 And any significant impacts identified will be required to
20 be mitigated.

21 Water use during construction will be minimal and
22 limited to that required for road construction, dust
23 suppression and concrete mixing for the foundations for
24 the additional towers that they'll put in.

25 This water use will not affect Beacon's water

1 supply. The transmission line and associated roadways
2 will cross numerous drainages. And as a condition of the
3 EIR, impacts to the drainages will be reduce today less
4 than significant.

5 Additionally, State Route 14 is located between
6 the transmission project and the Beacon site. The Barren
7 Ridge project will not be permitted to impact the State
8 highway. Therefore, it cannot significantly affect
9 projects down gradient from the highway. Impacts caused
10 by stormwater will be reduced to less than significant,
11 will have no impact on the Beacon project.

12 SENIOR STAFF COUNSEL BABULA: So based on
13 everything then, both the information, the FSA, and the
14 supplemental testimony and your testimony here, are there
15 cumulative impacts from the -- related to the Beacon
16 project that you've identified?

17 MR. WEAVER: No.

18 SENIOR STAFF COUNSEL BABULA: No further
19 questions.

20 HEARING OFFICER CELLI: Ms. Gulesserian, go ahead
21 please with cross.

22 CROSS-EXAMINATION

23 BY MS. GULESSERIAN:

24 For Rosamond you state that potential impacts
25 would be associated with the soil resources only, and that

1 there's no evidence that the project would result in the
2 contamination of surface or groundwater. Where in your
3 testimony did you review the Wastewater Discharge
4 Requirements for the facility?

5 MR. WEAVER: As far as the construction of the
6 enlargement, it wouldn't have anything to do with their
7 Waste Discharge Requirements. Those would be related to
8 the operation of the facility. The construction
9 element --

10 MS. GULESSERIAN: And where in your testimony did
11 you analyze them?

12 MR. WEAVER: I analyze with the Waste Discharge
13 Requirements?

14 MS. GULESSERIAN: Um-hmm.

15 MR. WEAVER: I didn't.

16 MS. GULESSERIAN: Okay. For soils, you say that
17 soils excavation and grading will result in impacts from
18 exposure to wind and concentrated stormwater runoff that
19 cause erosion and dust, and that BMPs would minimize the
20 impact to less than significant.

21 Where, in your testimony, did you analyze the
22 potential amount of exposed soil?

23 MR. WEAVER: Those would be in the soil and water
24 section of the FSA.

25 MS. GULESSERIAN: So you're saying you already

1 did that in the FSA?

2 MR. WEAVER: No, the BMPs that would be used in
3 mitigation of those potential impacts are identified
4 there.

5 MS. GULESSERIAN: I'm not asking about the BMPs.
6 I'm asking about the potential impact and where is the
7 analysis of the amount of -- analysis of the potential
8 amount of exposed soil in concentrated runoff?

9 MR. WEAVER: For Rosamond the area would be the
10 20 acres. I mean, that's stated.

11 MS. GULESSERIAN: Where is this in your testimony
12 in your analysis of how much and where the potential
13 amount of exposed soil and concentrated runoff is?

14 MR. WEAVER: It would be in the project
15 description.

16 MS. GULESSERIAN: Can you show me where that is
17 in your testimony, the potential amount of exposed soil
18 and concentrated runoff?

19 MR. WEAVER: The amount of runoff wouldn't be
20 identified, because there should not be any with the
21 implementation of the BMPs. The --

22 MS. GULESSERIAN: Did you calculate the amount of
23 runoff before you said that BMPs would minimize them?

24 MR. WEAVER: It's you know, a flat area,
25 relatively small construction site --

1 MS. GULESSERIAN: I want to know where in
2 your -- I'm sorry. You can talk, but I want to know where
3 in your testimony, the report that's submitted to the
4 Commission, this analysis is? And if it's not
5 there -- when you see it answer.

6 MR. WEAVER: On the second page, the second
7 paragraph, you know, evidence indicates a 20 acre section
8 of land next to the southern pond will be incorporated and
9 fenced, and I mean, it's described in there. Is that what
10 you're talking about?

11 MS. GULESSERIAN: I wanted to know where the
12 concentrated runoff is?

13 MR. WEAVER: There shouldn't be any concentrated
14 runoff.

15 MS. GULESSERIAN: Okay. You said you analyze the
16 amount -- I'm going the move on.

17 Where, in your testimony -- move on from that
18 too.

19 Where in your testimony did you analyze the
20 potential impacts to soil and water resources from
21 Rosamond's proposal to use recycled water for dust
22 control?

23 MR. WEAVER: I'm sorry, could you say that again.

24 MS. GULESSERIAN: Rosamond proposes to use
25 recycled water for dust control --

1 MR. WEAVER: And what's your question?

2 MS. GULESSERIAN: -- for these control. Where,
3 in your testimony, did you analyze the potential impacts
4 from using recycled water for dust control? Mr. Curtis
5 from Lahontan testified at the March 22nd evidentiary
6 hearing, if that was the correct hearing -- has testified
7 in this proceeding that there are potential impacts from
8 the use of recycled water. Are you familiar with whether
9 there are any potential impacts, and did you analyze that
10 in your testimony?

11 MS. LUCKHARDT: I don't believe that anybody from
12 Lahontan has testified. They may have provided comment at
13 various times, but I don't believe that anyone from
14 Lahontan has testified.

15 MS. GULESSERIAN: I think you're correct, yes.

16 MR. WEAVER: What he testified to was the use of
17 recycled water for mirror washing. I believe that was
18 the --

19 MS. GULESSERIAN: Did you analyze, in your
20 testimony -- that's okay. We don't see it.

21 Did you consult with the regional water quality
22 control board when you did your analysis of soil and water
23 impacts?

24 MR. WEAVER: No, I did.

25 MS. GULESSERIAN: Like for Rosamond, you State

1 that potential impacts from California City would be
2 associated with soil resources only. Unlike for Rosamond,
3 you do not reach a conclusion regarding impacts to surface
4 and groundwater resources.

5 The FSA doesn't evaluate impacts from removing
6 2,500 residences from septic systems. So -- which is
7 record shows currently provides some sort of recharge to
8 the groundwater basin. So where in your supplemental
9 testimony -- and this is with respect to the California
10 City site -- did you analyze that impact?

11 SENIOR STAFF COUNSEL BABULA: I'm going to object
12 that the FSA did contain in the appendix regarding
13 mitigation --

14 HEARING OFFICER CELLI: What is the let
15 objection, Mr. Babula?

16 SENIOR STAFF COUNSEL BABULA: That her basis
17 isn't correct. I wasn't in that --

18 HEARING OFFICER CELLI: So she's stating facts
19 not in evidence, is that what your objection is?

20 SENIOR STAFF COUNSEL BABULA: She's
21 mischaracterizing the facts.

22 HEARING OFFICER CELLI: Mischaracterizing, okay,
23 thank you.

24 Sustained and Ms. Gulesserian, you're really
25 testifying a lot before we're even getting to the

1 question.

2 MS. GULESSERIAN: I'm saying the FSA did not
3 analyze. It said page four -- exhibit 500, page 4.9-6.
4 The record shows that septic systems currently provide
5 recharge to the groundwater basin. Exhibit 500 page
6 4.9-33, in which the applicant -- you're talking to the
7 witness during my questions.

8 HEARING OFFICER CELLI: Do not do that, Mr.
9 Babula. Do not talk to the witnesses while they're
10 testifying.

11 Go ahead. I'm sorry, Ms. Gulesserian.

12 MS. GULESSERIAN: Because there was evidence of
13 recharge to the groundwater, from the septic systems, the
14 applicant attempted to create a tamarisk removal program
15 to offset ground water impacts in the region. And the FSA
16 concluded that the water savings estimate from removing
17 tamarisk had been provided, but appears there's
18 insufficient data currently available to identify where
19 there's tamarisk in Fremont Valley. Since the potential
20 to remove tamarisk is unknown, it's not impossible to
21 estimate what water savings could be considered in a
22 groundwater impact analysis.

23 So the question had remained what was the impact
24 from removing septics and their impacts on recharge in the
25 groundwater basin. The FSA has not resolved that. So I'm

1 asking in your supplemental testimony, to resolve that
2 issue.

3 MS. LUCKHARDT: Applicant objects. The tamarisk
4 program was not as a mitigation for septic systems. It
5 was a mitigation for water use at the site.

6 HEARING OFFICER CELLI: I understand that, but
7 really your question -- if we could just get to it is
8 where is the analysis -- I'm sorry. So you're asking did
9 he analyze --

10 MS. GULESSERIAN: The impacts from --

11 HEARING OFFICER CELLI: Recharge -- loss of the
12 recharge water from the septic system, if I may, please.

13 MR. WEAVER: I've looked at it. The analysis is
14 dubious at best. It's the amounts -- it's really hard to
15 quantify. I mean, you know how much water that the city
16 is using. You don't know how many of the septic tanks are
17 used. And it's a difficult number to get ahold of.

18 There's some recharge noted by the nitrogen found
19 in the water. So there's a water quality impact. The
20 regional board is cognizant of that and wants California
21 City to hook up to the sewer plants, so that it's not
22 contaminating the groundwater.

23 MS. GULESSERIAN: I just want to know if you
24 analyzed the recharge impacts on loss of that recharge to
25 the ground water basin?

1 MR. WEAVER: I analyzed it, but I can't give you
2 a number.

3 MS. GULESSERIAN: Okay. Can you show me -- well,
4 whatever. That's fine. Excuse my -- where in your
5 analysis did you analyze impacts to water resources from
6 the construction of sewerage pipelines, across or near
7 creeks such as Cache Creek?

8 MR. WEAVER: Well, Cache Creek is --

9 MS. GULESSERIAN: Cache Creek excuse me.

10 MR. WEAVER: -- you know, one of the points of
11 disposal. Let the excess water go in Cache Creek as far
12 as the recycled water or construction, is that what you're
13 saying?

14 MS. GULESSERIAN: I'm looking for an independent
15 analysis of impacts on soil and water resources. There's
16 testimony that the sewerage pipelines cross creeks and
17 washes. So I'm wondering if you have an analysis of the
18 impacts to washes and creeks in your supplemental
19 testimony from the wastewater treatment expansions?

20 MR. WEAVER: The only pipelines across creeks
21 would be coming from Rosamond. The rest of them are in
22 the paved roads of California City. The ones coming out
23 of Rosamond were analyzed in the FSA.

24 MS. GULESSERIAN: And where in your testimony did
25 you analyze the impacts on washes and creeks then from

1 California City sewerage and wastewater treatment
2 facilities?

3 MR. WEAVER: There aren't any from California
4 City crossing creeks and drainages.

5 MS. GULESSERIAN: Okay.

6 MR. WEAVER: That I'm aware of.

7 MS. GULESSERIAN: If you -- that's fine. Thank
8 you.

9 HEARING OFFICER CELLI: How many more of that
10 witness, please? I've got --

11 MS. GULESSERIAN: Only have five left.

12 HEARING OFFICER CELLI: I've got four witnesses
13 sitting here -- five witnesses sitting here.

14 MS. GULESSERIAN: The 1993 initial study for
15 California City's wastewater treatment plant says that the
16 plant is in the 100 year flood zone -- 100 year flood
17 hazard area adjacent to Cache Creek. This is in exhibit
18 350, page 3-5.

19 Can you point to where, in your testimony, you
20 analyzed impacts to the 100 year flood hazard area from
21 California City's proposed expansion?

22 MR. WEAVER: It's an existing facility that the
23 expansion is going to be entirely within the existing
24 property.

25 MS. GULESSERIAN: Is it also -- did you analyze

1 whether it's going to be in the 100 year flood
2 zone -- flood hazard area?

3 MR. WEAVER: Just in the fact that it's going
4 within the existing facility that shouldn't be impacted by
5 the 100 year flood.

6 MS. GULESSERIAN: Do you have an analysis of this
7 in your testimony that the parties can review?

8 MR. WEAVER: No.

9 HEARING OFFICER CELLI: Anything further, Ms.
10 Gulesserian, of this witness?

11 MS. GULESSERIAN: Did you analyze the impacts
12 soil and water resources from the wastewater treatment
13 expansions combined with the three other solar powerplants
14 proposed between California City and Beacon that will
15 have -- they will cover 1,700 acres?

16 MR. WEAVER: No.

17 MS. GULESSERIAN: Thank you. I don't have any
18 further questions.

19 HEARING OFFICER CELLI: Cross, applicant?

20 MS. LUCKHARDT: Quickly.

21 CROSS-EXAMINATION

22 BY MS. LUCKHARDT:

23 MS. LUCKHARDT: Mr. Weaver, if you are
24 discharging to a bond and you increase the treatment from
25 say secondary to tertiary treatment, does that reduce

1 concerns from the discharge?

2 MR. WEAVER: Discharge --

3 MS. LUCKHARDT: At a higher treatment level?

4 MR. WEAVER: The tertiary treated water would be
5 of less significance, I guess, and less of the problem.
6 It would be cleaner water.

7 MS. LUCKHARDT: So then would you anticipate that
8 either wastewater treatment facility would have difficulty
9 getting Waste Discharge Requirements -- Waste Discharge
10 Requirements for discharging a higher treated
11 wastewater -- treated to a higher level?

12 MR. WEAVER: Discharge of any kind of waste
13 is -- can be problematic, even tertiary treated water
14 dependent on where the discharge point is and what's
15 affected by it.

16 MS. LUCKHARDT: If it's discharged to a pond,
17 would you have concern?

18 MR. WEAVER: No.

19 MS. LUCKHARDT: Is recycled water commonly
20 permitted to be used for landscape irrigation.

21 MR. WEAVER: Yes, it is.

22 MS. LUCKHARDT: Are there monitoring requirements
23 in Soil and Water 1 in California City to address any
24 potential concern from reduced recharge?

25 MR. WEAVER: Yes, there are.

1 MS. LUCKHARDT: Nothing further.

2 HEARING OFFICER CELLI: Thank you.

3 If there's nothing further from staff -- before
4 you do, let me just say that for the record, we're going
5 to take a five minute break. And we'll be back in five
6 minutes and we will go back on the record at -- it says
7 5:19 by this clock on the wall, we'll start again at 5:25.
8 Thank you.

9 (Thereupon a recess was taken.)

10 HEARING OFFICER CELLI: So, Mr. Babula, do I have
11 it correctly that you are finished questioning this
12 witness on direct?

13 SENIOR STAFF COUNSEL BABULA: Correct.

14 HEARING OFFICER CELLI: Okay. Mr. Weaver, thank
15 you for your testimony.

16 MR. WEAVER: You're welcome. It was my pleasure.

17 HEARING OFFICER CELLI: Now, who's next?

18 I guess we're back to cross-examination, because
19 you don't have any further direct; is that correct, Mr.
20 Babula?

21 SENIOR STAFF COUNSEL BABULA: That's correct.

22 HEARING OFFICER CELLI: Okay so the cross is with
23 Ms. Gulesserian. Who is your next witness you wish to
24 cross?

25 MS. GULESSERIAN: David Flores.

1 Whereupon,

2 DAVE FLORES

3 was called as a witness herein, and after first
4 having been duly sworn, was examined and
5 testified as follows:

6 HEARING OFFICER CELLI: Okay Mr. Flores, who has
7 been sworn. Please have a seat state your name for the
8 record.

9 MR. FLORES: David Flores.

10 CROSS-EXAMINATION

11 BY MS. GULESSERIAN:

12 Good afternoon, Mr. Flores.

13 MR. FLORES: Good evening.

14 MS. GULESSERIAN: You relied on a Rosamond fact
15 sheet describing activities related to the expansion of
16 the facility. When did you receive this document?

17 MR. FLORES: Oh, probably two weeks prior to the
18 first of June, because I believe I completed my
19 analysis -- and you have to excuse my voice. I'm getting
20 over a cold.

21 I completed my analysis June 1st -- around June
22 1st. So I would assume it was probably a week, week and a
23 half prior to that.

24 MS. GULESSERIAN: Okay. You found that possible
25 impacts could occur from increased traffic from both the

1 Rosamond and California City expansions. Did that
2 analysis that you did include indirect and
3 direct -- indirect and cumulative impacts or was it just
4 direct impacts?

5 MR. FLORES: Just direct.

6 MS. GULESSERIAN: It was just direct?

7 MR. FLORES: Just direct, that's correct.

8 MS. GULESSERIAN: Okay. So you did not do an
9 analysis of indirect and cumulative impacts from the
10 wastewater treatment expansions?

11 MR. FLORES: That's correct.

12 MS. GULESSERIAN: And did you not do an indirect
13 and cumulative impact analysis from the sewerage of
14 California City?

15 MR. FLORES: I looked at -- originally, I looked
16 at all the streets during the initial analysis for the
17 Beacon project. And so with that, because in my
18 discussion in the original analysis, I looked at the
19 various alternatives that were analyzed in my original
20 document. And so as part of that, I looked at it from, I
21 guess, an indirect cumulative impacts. But based upon
22 what was submitted to me to review, I just looked at the
23 direct impacts.

24 MS. GULESSERIAN: Okay. So since you didn't look
25 at indirect and cumulative impacts, is it safe to say you

1 didn't look at these three other solar powerplants?

2 MR. FLORES: That's correct.

3 MS. GULESSERIAN: Okay, thank you. I don't have
4 any further questions.

5 Thanks for your time.

6 HEARING OFFICER CELLI: Applicant?

7 MS. LUCKHARDT: No questions.

8 HEARING OFFICER CELLI: Staff?

9 SENIOR STAFF COUNSEL BABULA: No questions.

10 HEARING OFFICER CELLI: Thank you, Mr. Flores.

11 MR. FLORES: Thank you.

12 HEARING OFFICER CELLI: And now, Ms. Gulesserian,
13 who is your next witness?

14 MS. GULESSERIAN: Lesh and Tyler.

15 Whereupon,

16 GEOFFREY LESH and RICK TYLER

17 were called as witnesses herein, and after first
18 having been duly sworn, were examined and
19 testified as follows:

20 HEARING OFFICER CELLI: Okay, Mr. Tyler is here.
21 Why don't you come on up. Mr. Lesh is coming in the door.
22 Mr. Lesh, you've just been called up. And Mr. Lesh and
23 Tyler you've both been sworn in, isn't that correct?

24 MR. LESH: Yes.

25 MR. TYLER: Yes.

1 HEARING OFFICER CELLI: You're going to testify
2 using one microphone, because we are low on mics here. So
3 press the button and state your name for the record.

4 MR. LESH: I'm Geoff Lesh with the Energy
5 Commission.

6 MR. TYLER: Rick Tyler with the California Energy
7 Commission.

8 HEARING OFFICER CELLI: Thank you. Please
9 proceed, Ms. Gulesserian.

10 MS. GULESSERIAN: Actually, I think this
11 is -- nobody has any direct. This is your witness -- he
12 said he was going to present them as a panel.

13 HEARING OFFICER CELLI: The understanding was
14 that their testimony was going to -- we are going to
15 pretty much rely on their written testimony as their
16 direct. And then you would be able to launch right into
17 cross.

18 MS. GULESSERIAN: Okay.

19 CROSS-EXAMINATION

20 BY MS. GULESSERIAN:

21 You state that -- I don't know who did what part
22 of the analysis. So I'll just ask the question -- that
23 staff is now aware that the level of fire protection that
24 was initially determined to be adequate will not be
25 sustainable due to proposed budget short falls, is that

1 accurate?

2 MR. LESH: That's accurate.

3 MR. TYLER: That's true.

4 MS. GULESSERIAN: You also state that you have
5 reviewed other solar projects making similar demands on
6 local fire and emergency services. Did you review the
7 proposed Ridge Rider, Barren Ridge, and Cal City solar
8 powerplant projects that are proposed within four miles of
9 the Beacon project site?

10 MR. LESH: No.

11 MS. GULESSERIAN: Okay. You're concluding that
12 there will be a significant impact on Kern County Fire
13 Department resulting from construction and operation of
14 Beacon. Is that a significant impact that you found in
15 the FSA or is it a new significant impact?

16 MR. LESH: In the FSA, we had consulted with the
17 local Fire Marshals of Kern County who felt that at their
18 current level of resources and readiness, there would be
19 no impact. We subsequently heard from them that they
20 would not be able to sustain what that level of resources
21 that they felt would be adequate at that time. And hence,
22 they declared that they would suffer impact.

23 MS. GULESSERIAN: So in your FSA, you concluded
24 that there was no significant impact?

25 MR. LESH: That's correct.

1 MS. GULESSERIAN: And now you're concluding that
2 there is a new significant impact?

3 MR. LESH: That's correct.

4 MS. GULESSERIAN: Okay. I have no further
5 questions.

6 HEARING OFFICER CELLI: Thank you.

7 Applicant, please?

8 CROSS-EXAMINATION

9 BY MS. LUCKHARDT:

10 And you guys can figure out what should answer
11 what. In determining this impact, is this a cumulative
12 impact?

13 MR. LESH: It would -- yes

14 MR. TYLER: Direct, cumulative, and indirect.
15 All three.

16 MS. LUCKHARDT: So you're saying that it
17 is -- that you are finding at this point a direct
18 individual impact as well as a cumulative impact or a
19 cumulative impact?

20 MR. TYLER: A direct impact, an indirect impact,
21 and a cumulative impact from the project, based on our
22 experience with other solar powerplants.

23 MS. LUCKHARDT: Okay, you're -- is it true
24 that -- isn't it true that your testimony states that what
25 has changed has been the addition of other solar projects,

1 that's one factor correct?

2 MR. TYLER: What's also changed is the fire
3 department's change in their position based on funding
4 restrictions that they now have. And basically we rely
5 heavily on the fire departments. They provide us an
6 assessment of their needs. And they have determined very
7 late in the process that they did have impacts
8 inconsistent with what they originally told us.

9 We looked at those impacts and in the absence of
10 any analysis to the contrary, believed that their
11 assertion was, in fact, correct, that there would now be
12 the potential for impacts.

13 MS. LUCKHARDT: And did you conduct any
14 independent analysis or are you relying upon the comments
15 of the fire department?

16 MR. TYLER: We looked at, in the context of what
17 we've done on other projects and in the context of our
18 experience with incidents at solar facilities with similar
19 materials present, and concluded that, in fact, there is a
20 potential for a significant response at anyone of these
21 facilities at any time.

22 And that's based on what we -- our experience
23 with the Luz SEGS project incident. So basically we've
24 determined that there is potential for the fire department
25 to have to respond in a significant way to anyone of these

1 projects.

2 MS. LUCKHARDT: Is that new information on the, I
3 believe, there's a 1990 example?

4 MR. TYLER: No what's new is realty fire
5 department's position. I mean, we were told by the fire
6 department that they were comfortable with their ability
7 to respond when we initially did our staff assessment.

8 They later indicated that they were not
9 sufficiently staffed and sufficiently -- and had
10 sufficient resources to respond in light of changed
11 circumstances. And this has happened very, very recently.
12 So we then basically then looked at their proposal and
13 their determinations and in the absence of any analysis to
14 the contrary, concluded and based on the fact that we have
15 seen a major response from multiple fire departments at
16 the SEGS facility, which was much smaller, concluded that
17 there would be potential for the fire department to make a
18 major response at any one of these facilities.

19 That's the extent of our independent analysis is
20 basically a judgment based on our experience in the past.

21 MS. LUCKHARDT: One other question. As I look at
22 your testimony, I don't see you pointing to a law or
23 ordinance -- a specific law or ordinance that would be
24 violated with the existing fire protection. Is there
25 something out there that I've missed?

1 MR. TYLER: I think that basically NFPA basically
2 does have ordinances that specify the level of fire
3 protection that's required. We did not have any specific
4 analysis from the fire department -- fire needs assessment
5 pursuant to that statute, that indicated that there would
6 be a problem. But clearly, based on the experience at the
7 SEGS facility, we believe that there's a real potential
8 for significant multiple department response to any one of
9 these facilities.

10 Now, I would point out, just for the record, that
11 the SEGS facility isn't exactly the same, and the SEGS
12 facility had a process here, which these facilities don't.
13 But the mere existence of the amounts of material, it's
14 flammable nature, and the possibility of escalation
15 suggests to me that there's the real possibility that any
16 one of the solar facilities could result in a
17 major -- could cause a major response from multiple fire
18 departments.

19 MS. LUCKHARDT: Okay but that's still not a
20 specific -- what I asked is there a specific law or
21 ordinance that there is -- I don't see anything identified
22 in your testimony that talks about a specific law or
23 ordinance that's violated; is that correct?

24 MR. TYLER: I'd say that's fair characterization.
25 I would just point out that we're aware of the NFPA

1 requirements, but no one did an analysis -- or no one
2 required an analysis based on that. And at this time, as
3 I stated, we had very limited amount of time to respond to
4 the fire department's changed position. And so based on
5 what they provided an based on our judgment and past
6 experience, we came to this conclusion.

7 MS. LUCKHARDT: And then you've proposed a
8 condition of certification on page two of your testimony.
9 Did you conduct an independent analysis of the fee amount
10 that you've now included in there, the 400,000?

11 HEARING OFFICER CELLI: I'm sorry, just what is
12 that -- what number condition is that and what exhibit are
13 we talking about, please?

14 MS. LUCKHARDT: This is in exhibit 521. It is
15 proposed condition of certification Worker Safety 8 on
16 page two of that exhibit.

17 MR. LESH: I guess didn't come up with that
18 number independently. It was proposed by the county as a
19 level of mitigation that they needed. We compared that in
20 our analysis to what other solar plants are requesting.
21 And in discussion with their counties, in other counties,
22 and with other gas fired powerplants who have had similar
23 fire needs. And we looked at this, in terms of whether it
24 fit within the range of reasonableness that those other
25 plants were asking for. And it falls within that.

1 Given no fire needs assessment from the
2 applicant, and an analysis from the county that said what
3 they needed, we tend to go with the evidence that we have
4 and our experience and said this looks reasonable.

5 MS. LUCKHARDT: So my question is, are you simply
6 basing your fee amount on the number that was provided or
7 the formula that the county may have use today calculate
8 the number?

9 MR. LESH: We are looking at principally the
10 number that comes from the county, noting that it's
11 less -- it's 25 percent of what their formula would have
12 requested for the same services, saying if that's what
13 they say they can do it with, then again, we have no
14 reason to argue with it.

15 MR. TYLER: I would also point out that we have
16 had other powerplants, gas fired powerplants, with much
17 lower -- much smaller counties of materials on site that
18 had amounts that were in this ballpark.

19 So based on that, and the amounts, we felt that
20 this was certainly within the realm of reason for
21 mitigation.

22 And again we're really, we don't fight fires in
23 these counties. We don't staff fire departments, so we
24 are really dependent on the fire department to tell us
25 what they feel they need and then evaluate whether that

1 knead appears to be reasonable. That's what we did in
2 this case.

3 And in the absence of specific analysis to the
4 contrary, we believe this is a good number.

5 MS. LUCKHARDT: Okay. So then, if I understand
6 correctly, you did not conduct your own calculation of
7 what that number should be?

8 MR. TYLER: That's correct.

9 MR. LESH: That's correct.

10 MS. LUCKHARDT: And did you analyze the
11 county's -- either of the counties' studies to determine
12 whether you felt that the analysis that they went through
13 was applied to this specific project?

14 MR. TYLER: We did. We looked at their plan or
15 their fee assessment schedule. We had some comments about
16 whether certain aspects of it should be applied to a
17 facility like this, whether the acreage requirements were
18 really appropriate in light of the size of these
19 facilities from an acreage standpoint. But ultimately our
20 decision really rested strongly on the fact that there's
21 such a large quantity of flammable material at the site.

22 MS. LUCKHARDT: Isn't -- are you finished?

23 MR. TYLER: Yeah, so basically, again, we relied
24 on their assessment and based on the facts as they are we
25 felt that that was a reasonable judgment call.

1 MS. LUCKHARDT: And isn't it true that the county
2 study relies on a density ratio of number of workers per
3 square foot?

4 MR. TYLER: That's part of their formula, as I
5 understand it. That's one of the ways they get at their
6 revenue needs.

7 MS. LUCKHARDT: And did you calculate how that
8 density formula would -- what the number of employees that
9 would result in for, if you applied that density formula
10 to the solar field?

11 MR. TYLER: We realized that it was considerably
12 out of proportion with other types of facilities that
13 because of the number of -- the amount of acreage and the
14 number of employees that that would skew the number. But
15 ultimately our decision rested on -- not really on the
16 county's number but on whether that number we believed
17 would reasonably mitigate the impacts from funding to
18 their department and whether, in fact, after receiving
19 that amount of money, they would be able to respond
20 effectively. And we felt based on judgment and other fire
21 department departments that we've dealt with, that we
22 believed it would mitigate effectively.

23 So it's not just a matter of formula. We
24 didn't -- that's what they said they needed. We looked at
25 it from a completely different point of view.

1 MR. LESH: As an example, if it were a simple
2 manufacturing facility, you might have more people in the
3 building and but just machines. In a solar plant, in this
4 one particularly, you have about 2.4 million gallons of
5 HTF, but maybe 30 to 60 employees at one time.

6 So the potential for needing a multiple station
7 multi-alarm response is much bigger. And then if that
8 happened, the impacts to the community would be that you
9 would have calls from several stations at one site and the
10 community would be impacted.

11 MS. LUCKHARDT: And you're referring to that one
12 occurrence from 1990 as your example; is that correct?

13 MR. LESH: Not the only example. That's typical
14 of a facility, where there's a large amount of flammable
15 material. In this case, if there is a response -- if you
16 had a fire, for instance, there would be a plume -- it
17 would potentially generate calls from the public, saying
18 we see a fire. There's going to be multiple response,
19 because they don't know how big it is. They'll have to
20 come out and monitor the boundaries, worry about
21 escalation that sort of thing.

22 That's just the nature of having a large volume
23 of fuel. And in this case, you know, it would be more
24 like, you know, a potential refinery or a tank farm.

25 MS. LUCKHARDT: But I'm going back to the point

1 that you have one example of that from 1990 and it is
2 2010, correct.

3 MR. LESH: It's a small database, but the
4 database isn't limited to simply solar powerplants.

5 MR. TYLER: What I would point out is the
6 incident that we're talking about though was exact three
7 same type of material. It's an oxygenated hydrocarbon.
8 And the A material that was involved in the fire was
9 relatively a small -- was relatively small part of
10 material at the site. It could have been much worse.

11 Further, the size of these facilities -- all of
12 the facilities involved, with using solar thermal and HTF,
13 are quite a bit larger than the facility that was involved
14 at that time.

15 I would grant you that there is certainly a
16 reduction likelihood, due to the fact that they had a gas
17 fire process errand that was what caused the fire. That's
18 a major difference.

19 But still, you know, if a vehicle hits a major
20 header in the facility, and there's a release of lot of
21 material, well will be discharged very rapidly. And
22 that's what that -- that can result in a fairly
23 significant fire, that would require multiple station
24 responses.

25 So based on that, we just -- we looked at the

1 number. We've looked at it in comparison to what other
2 types of facilities have needed for mitigation, and the
3 fact that they've lost resources due to the economic down
4 turn, that's their position at this time. We have to
5 support it based on the fact that we believe there could
6 be impacts if there's a major fire.

7 MS. LUCKHARDT: Okay, but you did no independent
8 site-specific analysis of this facility and this fire
9 department saying you need -- we need X number of people,
10 we need additional hazardous materials control for that?
11 You are relying on the county's study to provide the basis
12 for that; is that correct?

13 MR. TYLER: We're relying on the county. I
14 wouldn't say it's just the study. It's not just the study
15 which came from the county but also the fire
16 department -- the fire chief's assessment, and the fire
17 chief's direction.

18 MR. LESH: It principally, yeah, the fire marshal
19 and the fire chief who would be responding to an incident.
20 And their judgment of whether they're adequately prepared
21 and staffed.

22 MS. LUCKHARDT: Okay, one last question. If the
23 county is asking for a formula, would you agree to the
24 county's formula?

25 MR. TYLER: If the fire chief and the county

1 conclude that any -- in fact let me go back. Let me
2 digress for a second.

3 At any time an applicant and a county come to an
4 agreement about fire protection mitigation, we defer to
5 that, because they're the experts and they've worked it
6 out with the applicant. So if there was an agreement to
7 some formula that should be used, we certainly wouldn't
8 object to that, if county -- if the fire marshal and the
9 fire department were in concurrence that it would provide
10 adequate mitigation.

11 MS. LUCKHARDT: And, in fact, you rely upon the
12 letter in your testimony from Ms. Oviatt, from May 27th,
13 2010, which in numbered paragraph one provides a formula;
14 is that correct?

15 MR. TYLER: That and the declaration from the
16 fire chief.

17 MR. LESH: From Nick Dunn Fire Marshal -- or Fire
18 Chief of the county, who specifically states there are
19 impacts upon the fire department.

20 HEARING OFFICER CELLI: I just want to make
21 mention that we have Lorelei Oviatt on the phone has been
22 on the phone and she's ready to -- she's probably chomping
23 at the bit to be heard. So please.

24 MS. LUCKHARDT: Yeah I have nothing further.

25 HEARING OFFICER CELLI: Staff, anything of these

1 witnesses?

2 SENIOR STAFF COUNSEL BABULA: Just one question.

3 REDIRECT EXAMINATION

4 BY SENIOR STAFF COUNSEL BABULA:

5 Did you also look at the I-10 projects in your
6 assessment of the \$400,000 number?

7 MR. LESH: Yes. Well, they were part of the
8 other powerplants that are requesting mitigation for fire
9 services.

10 SENIOR STAFF COUNSEL BABULA: And those are solar
11 thermal plants similar to Beacon?

12 MR. LESH: There are --

13 MR. TYLER: Some of them are.

14 MR. LESH: And specifically they're solar with
15 heat transfer fluid.

16 SENIOR STAFF COUNSEL BABULA: No further
17 questions.

18 MS. LUCKHARDT: I have one.

19 HEARING OFFICER CELLI: Ms. Gulesserian, you have
20 one?

21 MS. GULESSERIAN: I have one question.

22 RE-CROSS-EXAMINATION

23 BY MS. GULESSERIAN:

24 When did you receive the information from the
25 fire department that changed your independent review to

1 find that there's a significant impact?

2 MR. LESH: Recently. The letters of one of the
3 exhibits in your testimony. I don't recall the date on it

4 MS. GULESSERIAN: Okay, would that be the
5 declaration of the fire chief dated May 28th, 2010?

6 MR. TYLER: Well, there was also a -- my
7 understanding is that the record was reopened, because of
8 comments from the county. And so at that point, we
9 started looking at the issue. We got information from the
10 county from Lorelei. We got information from the fire
11 chief. And then we started looking -- you know, we
12 started looking at the numbers that they were proposing
13 relative to what had been proposed at other similar
14 facilities and other facilities that even weren't similar.
15 And that's --

16 MR. LESH: And I believe the letter -- the
17 initial letter came at the last hearing --

18 MR. TYLER: Yeah.

19 MR. LESH: -- which was in California City in,
20 was it, March.

21 MS. GULESSERIAN: So you determined in March in
22 March and April and may that the new information was
23 relevant for you making your new independent --

24 MR. TYLER: Well, we started analyzing it, and
25 then we -- you know, as we --

1 MS. GULESSERIAN: Thank you.

2 HEARING OFFICER CELLI: Thank you, Ms.
3 Gulesserian.

4 Ms. Luckhardt, anything further.

5 RECROSS-EXAMINATION

6 BY MS. LUCKHARDT:

7 You were asked about the I-10 corridor projects.
8 Isn't it true that a specific fire knead for potentially a
9 fire station, fire trucks and specific personnel has been
10 identified for those projects?

11 MR. LESH: I believe that's part of the solution.
12 I don't know if that's all of the solution.

13 MS. LUCKHARDT: Thank you.

14 HEARING OFFICER CELLI: Thank you. Then with
15 that, if there's nothing further, these witnesses are be
16 excused. Thank you for coming in tonight and staying
17 late. Appreciate it.

18 You know, I tried to -- you know guys were the
19 last guys. We tried to get you out. It's almost 6 p.m.
20 We have Lorelei Oviatt on the phone. And Ms. Oviatt, are
21 you still there

22 MS. OVIATT: I am.

23 HEARING OFFICER CELLI: Thank you. We have
24 essentially finished off the wastewater treatment
25 facilities section of what -- of this hearing. There was

1 testimony with regard to the ARRA funding from cultural.
2 Are we going to have to do anymore of that

3 MS. LUCKHARDT: I don't believe we have anything
4 new to add. We have our request in for another -- for a
5 condition that allows flexibility. We've briefed it. I
6 don't know that there's anything from a factual nature
7 that we had proposed at this time.

8 HEARING OFFICER CELLI: Okay.

9 MS. LUCKHARDT: We do have Ms. Guigliano here who
10 did the -- or, you know, oversaw the assessment of the
11 pipeline and the AECOM analysis of cumulative impacts.
12 And I don't know if Ms. Gulesserian has any questions for
13 her or not. Her testimony has been entered into the
14 record, but she is available.

15 HEARING OFFICER CELLI: So I wanted to know who's
16 calling Lorelei Oviatt?

17 MS. LUCKHARDT: We are.

18 HEARING OFFICER CELLI: Okay. I'd like to take
19 care of her and get her off the line if we can. So with
20 that, applicant.

21 MS. LUCKHARDT: I'm wondering if it might make
22 sense to have a short discussion at this point. I think
23 you know one of the concerns we have with the whole
24 mitigation fee fire protection --

25 MS. OVIATT: Actually, I cannot hear her. She

1 must speak louder.

2 HEARING OFFICER CELLI: I'm sorry.

3 MS. OVIATT: I'm so sorry. I cannot understand
4 what she is saying.

5 HEARING OFFICER CELLI: You need to speak right
6 into that mic, please, because then I need your mic to get
7 into my mic.

8 Okay, let me try this. You know, we have an
9 overarching concern with the development fee concept.
10 There are specific legal requirements that must be
11 satisfied before you place a development fee on a project,
12 whether it is in response to the Mitigation Fee Act or in
13 response to a CEQA driven impact. And I query whether a
14 fire response impact is truly an environmental impact
15 under CEQA.

16 But even if you assume that it is, there has to
17 be a direct and complete nexus as to whether it is a
18 mitigation fee imposed by a county or a CEQA mitigation,
19 there has to be a reasonable relationship between the fee
20 amount and the impact. And our concern is that that has
21 not been established in this point. We have a fee study
22 that the based upon densities of people and workers that
23 does -- clearly does not apply to a solar field.

24 And therefore, this -- the whole -- I'm concerned
25 about taking evidence about a mitigation fee amount, had

1 we don't have the appropriate analysis to justify the
2 amount that's being requested. This seems to be -- this
3 is more much a -- more akin to a negotiation and a
4 voluntary payment that the company is willing to make some
5 kind of voluntary payment, but feels that the amount that
6 is being requested is excessive and unjustified by the
7 evidence that may potentially be entered into the record,
8 that being the fee study that has already been entered.
9 Just the fee study, the -- and the request by the county.

10 So at this point, it may make most sense to have
11 a discussion between the county and the folks from Beacon
12 to see if they can come to a final agreement on the
13 amount, at this point in time, rather than trying to do
14 this through an evidentiary type of situation. You know,
15 may -- because I don't believe that we have established a
16 nexus at this point for the amount that's being requested.

17 MS. GULESSERIAN: CURE would -- disagrees with
18 the factual arguments made, and believes that there is
19 significant and substantial evidence in the record
20 regarding the potential for accidental spills, plumes from
21 HTF and these have all been -- it's already in the record
22 and addressed by these witnesses.

23 HEARING OFFICER CELLI: There is no question that
24 the record has abundant evidence with regard to spills and
25 particularly that one big spill at SEGS. And I think the

1 point that applicant is making is that they're questioning
2 essentially is legal basis for an obligation imposed by
3 the Energy Commission for them to pay a certain amount
4 based upon a calculation, which the record has
5 already -- I think we have a record that those that the
6 calculation isn't right on. I'll say that. I think
7 that's fair to say.

8 We have an estimate based upon staff's view of
9 what's reasonable, speaking to other fire departments in
10 the area, what the requirements might be. The legal issue
11 is of concern to the Committee. And it was the legal
12 issue that brought us here today. Really, the Committee
13 was looking at the LORS issue as a land-use issue as to
14 the mitigation fee calculation or the development fee
15 calculation, whether it is a LORS or not.

16 I think we should hear from Lorelei Oviatt on
17 that. And I'd like to clear the air on that, because
18 that would pretty much determine the -- what the Committee
19 needs to do with this.

20 But I want to encourage the parties, of course,
21 to continue your negotiations, because certainly as Mr.
22 Tyler said, if the parties were in the best position to
23 know what's appropriate, which is Kern County and the
24 applicant, can work something out, then that would save
25 everybody a lot of time.

1 Oh, so I'm going to ask Ms. Oviatt to respond to
2 I guess the applicant's questions. She has not been sworn
3 in. Is she called as a witness?

4 SENIOR STAFF COUNSEL BABULA: Right, we had a
5 declaration for her and she -- although I don't really
6 have any direct necessarily

7 HEARING OFFICER CELLI: What exhibit is Ms.
8 Lorelei's declaration?

9 SENIOR STAFF COUNSEL BABULA: It's attached
10 to -- with the 521, it would be attached to the testimony
11 of Geoff and Rick.

12 HEARING OFFICER CELLI: Okay. So did you have
13 any questions on direct of Ms. Oviatt?

14 SENIOR STAFF COUNSEL BABULA: No I'll allow the
15 applicant to proceed.

16 HEARING OFFICER CELLI: Okay, the only reasonable
17 I'm asking is because you can kind of ask much more
18 generic generalized questions and they're going the
19 cross-examine and do, you know, leading questions. And I
20 just think that it might be useful for you to allow her to
21 express her position.

22 SENIOR STAFF COUNSEL BABULA: I can do that.

23 HEARING OFFICER CELLI: Please.

24 SENIOR STAFF COUNSEL BABULA: So has she been
25 sworn in?

1 HEARING OFFICER CELLI: Ms. Oviatt --

2 MS. OVIATT: No, sir.

3 HEARING OFFICER CELLI: Would you swear in Ms.
4 Oviatt, please, Mr. Petty.

5 Whereupon,

6 LORELEI OVIATT

7 was called as a witness herein, and after first
8 having been duly sworn, was examined and
9 testified as follows:

10 HEARING OFFICER CELLI: Please state your name?

11 MS. OVIATT: Lorelei Oviatt, director of planning
12 and community development for Kern County.

13 HEARING OFFICER CELLI: Okay. Go ahead, Mr.
14 Babula.

15 DIRECT EXAMINATION

16 BY SENIOR STAFF COUNSEL BABULA:

17 Thank you, Ms. Oviatt for hanging in there. I
18 basically just would like you to summarize the basis of
19 the fee, the 400,000, as indicated in your letter that you
20 provided along with your declaration, so we could just get
21 out an understanding of how you derived that number?

22 MS. OVIATT: Thank you. All right, so the first
23 issue is that the issue of cumulative impact includes the
24 existing surrounding uses that require fire response and I
25 believe that the fire chief has provided you a more

1 comprehensive analysis of the kinds of uses and if kinds
2 of hazardous things that we have going on in that area
3 that could result in a multiple response.

4 We have been in negotiations with the applicant
5 us, but the applicant still will not concede that there
6 are multiple other uses that could cause the necessity for
7 the fire department to have to respond to more than one
8 thing at one time.

9 The capital improvement plan is adopted by the
10 Board and it is a standard. It's standard for what
11 facilities, what equipment, and what level of service we
12 will have to provide based on the expansion of the
13 population over the next 30 years.

14 This project was never designated industrial.
15 It's not industrial in my general plan, and therefore it
16 was never planned for.

17 The fire department has provided in the capital
18 plan, which is adopted as a standard a list of the
19 facilities in the desert along with the equipment and
20 vehicles that would need to be provided in order the
21 maintain the current level of service, not an expanded
22 level of service, not a new level of service, but just to
23 stay even with growth. Those cumulative impacts are
24 clearly physical things that would have to be created not
25 operational, not staff. I agree those are not impacts

1 under CEQA. It would have to be provided in order to
2 manage this new project in relationship to the projects we
3 already have at Edwards Air Force Base, China Lake, the
4 Mojave Space Port, the 60 trains a day carrying hazardous
5 material that go through Mojave is all regional impacts.
6 They're the same things that have to be -- they're the
7 same response areas.

8 I would also add that the Ridgecrest Solar
9 Project, which the California Energy Commission is also
10 doing, is in the same regional response area.

11 So we can either come up with a number for an
12 amount of money or you can tell you to build the facility
13 which is applicant isn't going to do. They're still going
14 to give us money to do something. So to say that this is
15 a development impact fee is to characterize any money
16 that's asked on a CEQA mitigation as a mitigation fee. It
17 is not. This is not subject to the Mitigation Fee Act.
18 It is not a development impact fee.

19 It is an amount of money that has been identified
20 per year that would offset the equipment, the facility
21 replacements, the vehicle replacements that would need to
22 occur in order to provide services for this project.

23 I do want to apologize that in my calculations in
24 my letter of May 27th in my haste to get this under your
25 very aggressive timeline, I made a mistake. The \$400,000

1 is actually 40 percent of the -- it's actually 39 percent
2 of the monetary factors. So I apologize for that mistake.

3 The question that's been raised in the original
4 letter we submitted, which was a hundred percent of the
5 monetary factors, we agree the monetary factors have not
6 been adopted. But this is a comprehensive look based on
7 not just per workers, but population expansion in the area
8 on what kinds of facilities we would have to do. And we
9 apportioned that out to different kinds of uses.

10 We have, based on the changes in land costs,
11 which of course have gone down, we have reduced this
12 amount to 39 percent of those monetary factors. As a
13 comparison photovoltaic solar is at five percent, given
14 that they have no boilers, they've none of the other kinds
15 of things that this project has.

16 So we believe that this is an appropriate number.
17 Although, the California -- although, the staff's
18 representation that it be used for operations. The
19 county's position is it would not. It would only be used
20 for physical facilities, physical equipment, as required
21 under a CEQA impact.

22 And I am prepared to answer any other questions
23 you have, including I did download and receive the
24 applicant's proposed language changes to this measure and
25 I'm prepared to discuss those as well.

1 SENIOR STAFF COUNSEL BABULA: Okay. I have one
2 other question before we get to that. Is there a
3 mechanism so that this funding can be isolated and doesn't
4 get into a fund that builds roads or paints streets or
5 something like that?

6 MS. OVIATT: Absolutely. The county
7 administrative office and the Board of supervisors has
8 indicated that this would go into a dedicated fund only to
9 be used for the identified fire -- you know fire -- if
10 it's dedicated to fire.

11 I would note that although the staff has
12 identified it as fire, our number identified it as fire a
13 tiny portion for Sheriff and a small portion for
14 county-wide protection, which is coroner and emergency
15 services. But it would go into its own fund and it would
16 only be used in the desert region.

17 HEARING OFFICER CELLI: Anything further?

18 SENIOR STAFF COUNSEL BABULA: Since you brought
19 up worker safety aid, would you like to comment on the
20 recent proposal by the applicant?

21 MS. OVIATT: I appreciate the applicant bringing
22 this forward. I would note a couple of problems that I
23 have with it. The first problem is in B, where says that
24 they're going to calculate what they've built as of
25 December 31st of the previous calendar year, but they're

1 not going to pay it till April.

2 The proposal that this department has used in our
3 mitigation is that it's what's built by April and then you
4 pay for that portion in April. I'm not clear why the
5 county should bear the cost of a five month float merely
6 when they can go out -- and we're more than willing to
7 phase it.

8 In other words, if you want to base it on a fee
9 calculation, it would be based on how much did you build
10 by April of that year, that's the percentage you pay until
11 you getup to the full amount.

12 The second issue is in C, which is if the future
13 Beacon Solar is required to pay full property taxes, we
14 would not support that language. The reason is, is
15 because the applicant continues to believe that property
16 taxes somehow all come to the County. In reality even the
17 400,000 that they're paying now only 20 percent comes to
18 county government. And only nine percent, which is
19 \$36,000, will go to the fire fund.

20 Even at full pay out of \$ 4.8 million, we assumed
21 full property taxes when we did these calculations. So in
22 essence we're already in the whole with full property
23 taxes and we would need additional money.

24 So at this point, we would not support that
25 language.

1 HEARING OFFICER CELLI: Anything further from
2 staff?

3 SENIOR STAFF COUNSEL BABULA: I have no further
4 questions.

5 HEARING OFFICER CELLI: I'm going to actually
6 skip over the applicant to continue the questioning.

7 CROSS-EXAMINATION

8 BY MS. LUCKHARDT:

9 Ms. Oviatt, do you have the public facilities
10 impact fee stud knee front of you?

11 MS. OVIATT: I do.

12 MS. LUCKHARDT: If were you turn to the executive
13 summary, which is on page Roman Numeral IV.

14 MS. OVIATT: Okay.

15 MS. LUCKHARDT: The third paragraph top sentence.
16 Isn't it true that that sentence refers to the Mitigation
17 Fee Act?

18 MS. OVIATT: It refers to it, because this was
19 intended originally to eventually be brought before the
20 board of supervisors through public hearing to implement a
21 development impact fee.

22 However, the monetary factors are not being used,
23 in this case, as a development impact fee, and we put a
24 disclaimer in the front of this report that was posted on
25 line, that made that clear.

1 HEARING OFFICER CELLI: What is that document in
2 terms of an exhibit that we're talking about here please?

3 MS. LUCKHARDT: 666.

4 HEARING OFFICER CELLI: Thank you.

5 MS. LUCKHARDT: That's the exhibit number.

6 Okay I understand what you're talking about on
7 the sheet on the front of the -- I believe that's on the
8 front of the capital improvement plan, which I believe is
9 the document that is linked to staff's exhibit 521, for
10 the record. Although, I'm not sure that that front piece
11 is a part of the 521 or not.

12 But I would note that just because -- I think I
13 can argue that.

14 So Ms. Oviatt, the calculation, isn't it true
15 that the calculation is based on a density of workers in
16 the fee study?

17 MS. OVIATT: That is only one factor that was
18 included in the calculation.

19 MS. LUCKHARDT: Where in the fee study does it
20 show how fee numbers are calculated and provided in
21 another way?

22 MS. OVIATT: Those details are not provided in
23 the study. And if I had known that this commission was
24 interested in these details, I would have had you call
25 Willban, our consultant, to present this evidence. I was

1 not informed that you wanted the entire background on this
2 study.

3 MS. LUCKHARDT: Isn't it true that the fee study
4 itself justifies the amount of the fee on a calculation
5 based upon density of workers?

6 MS. OVIATT: I disagree that that is the only
7 methodology used and it is not a fee.

8 MS. LUCKHARDT: Where is --

9 MS. OVIATT: It is a proposed monetary factor
10 that, at some point, we could bring forward as a fee. But
11 at this point we're using it as the best information that
12 we have in order to calculate CEQA impacts.

13 We're certainly open to any other way that
14 someone can calculate for us how to determine the
15 proportionate share of the facilities that are required in
16 2030. We believe this a comprehensive look at those
17 facilities, and what it's going the cost the build them.
18 And what the industrial's proportion share is. And we
19 concur that the number may not be 40 percent, but we do
20 not believe it's the 10 percent that the applicant has
21 proposed.

22 MS. LUCKHARDT: Isn't it true that the fee study
23 is a document that looks at impacts in relation to the
24 county as a whole?

25 MS. OVIATT: That is not correct. You will

1 notice in the study that we divided it into desert,
2 valley, and mountain, to exactly address the issues that
3 there are different services and different levels and you
4 are clearly -- this project is clearly in the desert area,
5 and we are only using the desert factors.

6 MS. LUCKHARDT: Where in this specific study does
7 it indicate the impacts of this individual project to
8 services in the county.

9 MS. OVIATT: It does not, because this project
10 did not exist when the study was done, because this
11 project has no industrial designation in the general plan,
12 and this project was based on the Kern County general
13 plan.

14 Therefore, this project is additive to any
15 impacts that we analyze.

16 MS. LUCKHARDT: You did receive a letter from the
17 NextEra, did you not, that disputes the formula used to
18 calculate the impact fee?

19 MS. OVIATT: I received I letter from NextEra
20 making an offer. There was no word of dispute in it.
21 Instead, it merely said we don't believe its accumulative
22 impact. We'd like to pay a lower fee.

23 MS. LUCKHARDT: Are you aware of a letter that
24 was sent in, it is marked as exhibit 363 in this
25 proceeding, that's dated April 23rd, 2010, that was sent

1 to the county administrative officer John Nilon -- I may
2 not be pronouncing that correctly -- by NextEra signed by
3 Frank Chetalo?

4 MS. OVIATT: I am not, since I am not John Nilon.
5 I am a planning director, and I was not copied -- was it
6 copied to me?

7 MS. LUCKHARDT: Yes, it was directly copied to
8 you. You're on the direct CC list.

9 MS. OVIATT: I do not have it in this office, but
10 I believe it was sent. I've been in communication with
11 the county administrative office, since I'm only
12 negotiating on behalf of the county administrative office.

13 MS. LUCKHARDT: Okay. In your calculation in
14 your letter, you're changing the percentage; is that
15 correct?

16 MS. OVIATT: Yes, I apologize for my math under
17 pressure. So I did the original calculation and when I
18 transposed it on to the actual letter to send, I put 25
19 percent instead of the 39 percent and the 232.

20 Once again, the Board of supervisors has
21 designated the county administrative offers as the
22 appropriate negotiating area. They have delegated to me.
23 This is the number that the county administrative office
24 has indicated to me is the reduction that we believe is
25 appropriate for this type of solar thermal project.

1 MS. LUCKHARDT: And isn't it correct that this is
2 a new percentage amount that you have presented in the
3 past?

4 MS. OVIATT: Could you repeat the question? You
5 trailed off there.

6 MS. LUCKHARDT: Isn't it true that this is a new
7 percentage, the 39 percent is a percentage that you have
8 not presented to Beacon in the past?

9 MS. OVIATT: That's correct. And it is partly
10 based on this issue of the quoting of disputing of things
11 such as land costs in the monetary factors. So the county
12 administrative office has gone back and recalculated the
13 land costs and other facility costs to try and come up
14 with a equitable solution to the issue of how do we
15 determine how much would mitigate the impacts of this
16 project.

17 MS. LUCKHARDT: And you're basing this upon the
18 fee study correct?

19 MS. OVIATT: On the monetary factors, that's
20 correct. I should also note that the board of
21 supervisors -- we had an open public hearing and the board
22 of supervisors indicated that the appropriate number was
23 not zero, but the appropriate number was probably not a
24 hundred percent. So the Board did indicate that they did
25 want us to go back and look at these numbers again, and we

1 did.

2 MS. LUCKHARDT: And did I hear you correct that
3 you are not calling this a mitigation fee; is that
4 correct?

5 MS. OVIATT: That is correct. This is an
6 amount -- I'm not calling it a fee. I'm calling it
7 whatever you want to call it, but as long as you want to
8 try and link it to, you know, it's development impact fee,
9 I would just say it is a mitigation amount that we will
10 use for the appropriate kinds of facilities and physical
11 structures, which is required under CEQA, not operations,
12 which is not a CEQA impact, to mitigate the cumulative
13 impacts for the new industrial projects on a piece of ag
14 land that we never knew was ever going to be industrial.

15 And we put this mitigation -- these kinds of
16 cumulative impacts mitigation on all of our projects at
17 the county.

18 MS. LUCKHARDT: How did you calculate the fee for
19 photovoltaic projects?

20 MS. OVIATT: That was a negotiated settlement
21 with the photovoltaic group, who all came together in a
22 workshop with the county administrative office. The
23 industry determined that five percent was something that
24 they would support. We brought it to the Board of
25 supervisors and they adopted it.

1 MS. LUCKHARDT: Isn't it true that you've had
2 discussions with solar thermal generators at 25 percent?

3 MS. OVIATT: That's correct, but that was based
4 on a negotiation. And a negotiation implies that you're
5 going to come to an agreement, so that we don't have to
6 sit through six hours of a hearing. That was part of the
7 negotiations issue, and was never intended to imply that
8 the -- that the amount we have requested is not
9 appropriate.

10 And if we had known that the negotiations were
11 going to be used in this way, we may have reconsidered
12 that.

13 SENIOR STAFF COUNSEL BABULA: If you want to have
14 time to negotiate, I'll be happy. We could leave and you
15 guys can --

16 (Laughter.)

17 MS. LUCKHARDT: The -- we're basing it on the
18 letter that was provided on May 27th, 2010, which had a
19 percentage of 25 percent. It was in the written letter
20 from you dated May 27th, 2010.

21 So I have nothing further.

22 HEARING OFFICER CELLI: Ms. Gulesserian,
23 anything? My recollection was that you were really
24 interested in this portion.

25 MS. GULESSERIAN: Yeah.

1 CROSS-EXAMINATION

2 BY MS. GULESSERIAN:

3 Hi, I just have one question. Are you aware of
4 the solar powerplants that are proposed adjacent to the
5 Beacon project and down the road?

6 MS. OVIATT: I want to -- I would appreciate it
7 if you would tell me what projects you're talking about
8 specifically.

9 MS. GULESSERIAN: There are a lot, so I -- at
10 this point --

11 MS. OVIATT: Well, what are you -- okay I don't
12 know what you mean by down the road. In Kern County I
13 have one solar thermal plant in Ridgecrest on BLM land.
14 I'm familiar with that. I have a ridge -- Ridge Rider,
15 which is a photovoltaic solar plant that I am doing an
16 Environmental Impact Report on. They are mitigating their
17 cumulative impacts.

18 I am unfamiliar with any California City solar
19 thermal plant. And if it is on -- in Kern County I'm
20 unfamiliar with it. Is there any other solar thermal
21 plant or any other plant that I haven't mentioned that you
22 say is in Kern County

23 MS. GULESSERIAN: Thank you. I'm also referring
24 to the Barren Ridge project. But I have a question about
25 Ridge Rider, and --

1 MS. OVIATT: Okay.

2 MS. GULESSERIAN: -- I appreciate you bringing
3 it up. When was the application submitted for that
4 project?

5 MS. OVIATT: That was submitted in January of
6 this year.

7 MS. GULESSERIAN: Okay. Thank you. And did the
8 notice of preparation for that project correct that
9 there's a finding that there may be a potentially
10 significant cumulative impact on public services?

11 MS. OVIATT: That's correct.

12 MS. GULESSERIAN: Okay. Thank you.

13 MS. OVIATT: Uh-huh.

14 HEARING OFFICER CELLI: Anything further from
15 staff?

16 SENIOR STAFF COUNSEL BABULA: Nothing further.

17 HEARING OFFICER CELLI: Ms. Oviatt, I wanted to
18 first of all, apologize for the length of time that took
19 tonight.

20 MS. OVIATT: No, that's all right. I understand
21 completely. I just -- you know, I understand. It's just
22 that we are in the middle of disastrous budget hearings.
23 And so it is a little stressful to hear that a project
24 worth billions of dollars, hundreds of millions of dollars
25 is going to go to this extent over this small amount of

1 contribution. And I certainly appreciate you letting me
2 say that.

3 HEARING OFFICER CELLI: You're quite welcome and
4 thank you for your comments. And with that, you're
5 excused as a witness.

6 MS. OVIATT: Thank you.

7 HEARING OFFICER CELLI: Now, where are we. You
8 have one more witness to call, Ms. Luckhardt, which is Ms.
9 Guigliano.

10 MS. LUCKHARDT: We have the exhibits that we
11 offered have been received into evidence. It's only a
12 matter of whether anyone has cross-examination questions.
13 I don't have anything in addition.

14 HEARING OFFICER CELLI: In terms of Ms.
15 Guigliano's testimony, just what she wrote.

16 MS. LUCKHARDT: Just what's been presented.

17 HEARING OFFICER CELLI: Okay. Now, just to
18 recap --

19 MS. GULESSERIAN: I've got three questions.

20 HEARING OFFICER CELLI: -- CURE, I haven't
21 received any of your exhibits into the record yet. You
22 have three questions of Ms. Guigliano, right?

23 MS. GULESSERIAN: And a few questions of Mr.
24 Busa, who's also submitted a declaration, and I will be
25 done with those witnesses and would like to enter my

1 exhibits into the record.

2 HEARING OFFICER CELLI: And what topics areas are
3 those?

4 MS. GULESSERIAN: Biological resources and public
5 services. Mr. Busa is --

6 HEARING OFFICER CELLI: You mean worker safety?

7 MS. GULESSERIAN: Yeah, is that what we're doing
8 it under?

9 HEARING OFFICER CELLI: Okay, so with that then,
10 we're going to treat your witness's written testimony as
11 their direct. There's no further direct from applicant,
12 at this time. So we're going the give the other parties
13 an opportunity to cross, if necessary.

14 Whereupon,

15 JENNIFER GUIGLIANO
16 was called as a witness herein, and after first
17 having been duly sworn, was examined and
18 testified as follows:

19 HEARING OFFICER CELLI: Mr. Babula?

20 SENIOR STAFF COUNSEL BABULA: I don't have
21 anything.

22 HEARING OFFICER CELLI: Thank you.

23 Ms. Gulesserian?

24 MS. GULESSERIAN: Thank you.

25 CROSS-EXAMINATION

1 BY MS. GULESSERIAN:

2 MS. GULESSERIAN: Thank you. Just one question
3 for Ms. Guigliano, did you do any protocol surveys
4 for -- to support your biological assessment that you
5 prepared as exhibit -- that you submitted --

6 MS. GUIGLIANO: 352?

7 MS. GULESSERIAN: -- on June 1st?

8 MS. GUIGLIANO: I think it's exhibit 352.

9 The answer to the question is no we didn't do
10 protocol surveys, but also --

11 MS. GULESSERIAN: Okay. Thank you.

12 MS. GUIGLIANO: -- I don't necessarily feel
13 protocol surveys are necessary.

14 MS. GULESSERIAN: Excuse me, you're saying no
15 protocol surveys are necessary?

16 MS. GUIGLIANO: That's correct. I'm saying we
17 don't necessary feel that, at this point, that protocol
18 surveys are going the change the analysis, change the
19 impacts, or change the mitigation.

20 MS. GULESSERIAN: Okay. Did you consult with any
21 of the wildlife agencies in reaching that conclusion?

22 MS. GUIGLIANO: There have been discussions with
23 wildlife agencies regarding multiple pipelines we specific
24 discussions for this 2.9 segment. We did have discussions
25 with them regarding the remaining sections of the

1 pipeline.

2 MS. GULESSERIAN: Is this part of a segment in
3 your incidental take permit application?

4 MS. GUIGLIANO: Our incidental take permit
5 application for Fish and Game?

6 MS. GULESSERIAN: Um-hmm.

7 MS. GUIGLIANO: The pipelines were not included
8 in the original application, because they weren't proposed
9 by Beacon as part of the project. But the documents for
10 incidental take permits are being updated as necessary to
11 reflect the project components.

12 MS. GULESSERIAN: So the evidence that's -- the
13 incidental take permit application that's in the record
14 does not have -- does not cover the pipelines?

15 MS. GUIGLIANO: The incidental take permit in the
16 2081, it covers the 17.6 mile natural gas pipeline, which
17 is also applied to the majority of the water pipeline but
18 does not cover this 2.9 mile segment to the wastewater
19 treatment plant.

20 MS. GULESSERIAN: Does it cover the 23 mile
21 segment?

22 MS. GUIGLIANO: It doesn't cover waste water
23 treatment plant pipeline.

24 MS. GULESSERIAN: Okay.

25 MS. GUIGLIANO: Other than the 17.6 mile section

1 of it.

2 MS. GULESSERIAN: Thank you.

3 HEARING OFFICER CELLI: Anything further of this
4 witness?

5 MS. GULESSERIAN: No.

6 HEARING OFFICER CELLI: Thank you.

7 MS. GULESSERIAN: And I --

8 HEARING OFFICER CELLI: Redirect?

9 Ms. Luckhardt, redirect of Ms. Guigliano?

10 Am I mispronouncing your name, is it Guigliany,
11 Guigliana?

12 MS. GUIGLIANO: Guigliano.

13 HEARING OFFICER CELLI: Guigliano, I'm sorry.

14 REDIRECT EXAMINATION

15 BY MS LUCKHARDT:

16 Ms. Guigliano, isn't it true that the Energy
17 Commission will issue the 2081 incidental take permit for
18 this project?

19 MS. GUIGLIANO: That's correct. The two
20 processes have been merged. So an initial draft was
21 submitted per the original direction between the two
22 agencies. But following the executive order, the
23 processes were merged and the Energy Commission and the
24 agencies have all the necessary information to issue the
25 2081 permit for all of the pipeline segments.

1 MS. LUCKHARDT: Thank you.

2 HEARING OFFICER CELLI: Anything further?
3 Staff?

4 SENIOR STAFF COUNSEL BABULA: Nothing.

5 HEARING OFFICER CELLI: Then you were going to
6 cross --

7 MS. GULESSERIAN: I just had a question for Mr.
8 Busa.

9 HEARING OFFICER CELLI: Mr. Busa. Go ahead.
10 Whereupon,

11 SCOTT BUSA
12 was called as a witness herein, and after first
13 having been duly sworn, was examined and
14 testified as follows:

15 CROSS EXAMINATION

16 BY MS. GULESSERIAN:

17 Are you aware of the solar powerplant that's
18 proposed directly adjacent to the Beacon project site?

19 MR. BUSA: I am aware of a photovoltaic plant.
20 I'm not sure what the application stage is, but aware that
21 there was talk of one south of the Beacon project site.

22 MS. GULESSERIAN: Where did you learn about it?

23 MR. BUSA: I believe that one of the project
24 proponents contacted me about two months ago when they
25 were having problems finding funding for or sponsors for

1 the project in hopes that we might want to acquire that
2 project.

3 MS. GULESSERIAN: And when did you provide
4 information to the staff about it?

5 MR. BUSA: I didn't provide any information to
6 the staff about it.

7 MS. GULESSERIAN: Thank you.

8 HEARING OFFICER CELLI: Nothing further?
9 Redirect?

10 MS. LUCKHARDT: No redirect.

11 HEARING OFFICER CELLI: Okay. Any further
12 witnesses from the applicant?

13 MS. LUCKHARDT: No.

14 HEARING OFFICER CELLI: Any further witnesses
15 from staff?

16 SENIOR STAFF COUNSEL BABULA: Nope.

17 HEARING OFFICER CELLI: Any further witnesses
18 from CURE?

19 MS. GULESSERIAN: No. CURE moves to enter its
20 exhibits into the record.

21 HEARING OFFICER CELLI: Okay. Now, let me get my
22 CURE list. Okay, CURE is offering exhibit 640 through
23 666; is that correct?

24 MS. GULESSERIAN: That's correct.

25 HEARING OFFICER CELLI: Any objection, applicant?

1 MS. LUCKHARDT: Okay, to 640, the Public Records
2 Act request to Rosamond and California City, I'm not sure
3 how those are relevant to the discussion here.

4 To 641, the initially responses --

5 HEARING OFFICER CELLI: Can we just go -- before
6 you go like too fast. Let me just see if there's an offer
7 of proof on the relevance objection to 640.

8 MS. GULESSERIAN: The offer of proof is
9 whether -- it goes to the issue of whether the Commission
10 staff has properly provided notice and information to the
11 public in a timely manner.

12 MS. LUCKHARDT: This is a Public Records Act to
13 the city of Rosamond and -- or to the Rosamond Community
14 Services District and California City, and I'm not sure
15 how that applies to whether staff has provided
16 information.

17 MS. GULESSERIAN: The issue would be whether
18 there was some sort of meaningful opportunity for publicly
19 view of the assessment that has been done. There would be
20 an implication that with the Public Records Act request
21 and then the next one is the response to the Public
22 Records Act request. If the public is not able to obtain
23 any information independently from a staff assessment
24 prior to having a deadline to submit comments on, it
25 speaks to the issue of whether there's meaningful publicly

1 view of that assessment.

2 MS. LUCKHARDT: And that would assume that the
3 Public Records Act request on a project that's been in
4 permitting for over two years couldn't be issued before
5 May of 2010.

6 MS. GULESSERIAN: The wastewater treatment
7 facilities where the record was specifically reopened on
8 May 13th and on that same day we submitted Public Records
9 Act requests to the agencies that were proposing those
10 projects.

11 MS. LUCKHARDT: Accepting that these proposals to
12 use both of these projects have been in the record
13 since -- I'm trying to look at staff -- at least summer of
14 last year.

15 MS. GULESSERIAN: Are you going to -- I provided
16 my response to the offer of proof.

17 HEARING OFFICER CELLI: Appreciate that. Yes,
18 you have.

19 MS. GULESSERIAN: In multiple ways. And I don't
20 think we should go -- with CURE having to look at
21 thousands of pages due on June 1st in the past week, which
22 is a supplemental assessment of recycled water facilities,
23 I don't think we should sit here and argue about each of
24 CURE's exhibits. I mean, it's not a good use of our time.
25 We are trying to do an analysis of these projects without

1 having the benefit of any independent assessment to
2 review, without having the benefit of the proposed project
3 description.

4 We're trying to get the project description. The
5 relevance of it is we're trying to -- there's so many
6 reasons it's relevant. We're trying to get the
7 description of the project --

8 HEARING OFFICER CELLI: We will --

9 MS. GULESSERIAN: -- from the city -- from
10 California City.

11 HEARING OFFICER CELLI: We will receive 640 and
12 641.

13 Any objection to 642?

14 MS. LUCKHARDT: Just relevance. I'm not sure
15 what the point is of providing the notice for the staff
16 assessment for Abengoa, because the Abengoa project is on
17 a fast track, where there is a staff assessment and a
18 supplemental staff assessment. In this case, we've had a
19 PSA and an FSA. So we've already had more public review
20 and more time to review the documents than has been
21 provided in the entire Abengoa project.

22 HEARING OFFICER CELLI: That's true, but, you
23 know, we can take official notice of Abengoa if we needed
24 to. So I'm just going to receive that into the record.

25 Let's get on with the next one please.

1 643, any objection by applicant?

2 MS. LUCKHARDT: These are EIRs for projects that
3 were proposed after 2009, and we believe they are outside
4 of the timeframe that the Commission and its staff can set
5 for analysis of cumulative impacts and cumulative
6 projects. Clearly occurring after testimony and most of
7 the information became available only after the
8 hearing -- the first hearing in March.

9 HEARING OFFICER CELLI: So what's the legal
10 objection?

11 MS. LUCKHARDT: Relevance to the this proceeding.

12 HEARING OFFICER CELLI: And Ms. Gulesserian?

13 MS. GULESSERIAN: It's relevant, because they're
14 directly adjacent to the proposed project or within a few
15 miles of the project, under CEQA -- I can cite the
16 sections if we want to -- the Commission is required to
17 look at direct, indirect, and cumulative impact analyses.
18 Certainly, a project adjacent to the proposed project site
19 is relevant to this proceeding, or a few miles away from
20 the project is relevant to the proceeding.

21 Numerous witnesses have testified that they have
22 just now done a reassessment of cumulative impacts from
23 the wastewater treatment facilities and the Beacon
24 project. This is new environmental review that has
25 occurred at somewhere around the end of may that was filed

1 on June 1st.

2 These projects were as -- at least the Ridge
3 Rider project is submitted in -- application was submitted
4 in January well before these new assessments were made.

5 And either way, a determination hasn't been made
6 on this project. So they're relevant.

7 HEARING OFFICER CELLI: Staff, did you --

8 SENIOR STAFF COUNSEL BABULA: I'd like to also
9 object too because not only is it outside the baseline,
10 and not only with those projects, look at Beacon as a
11 cumulative thing, so it would get looked at, but also
12 we -- the supplemental wasn't supplementing anything
13 regarding the Beacon site. So whether it's close to
14 Beacon or not isn't relevant. We were looking at the
15 wastewater treatment plants.

16 HEARING OFFICER CELLI: I agree that its
17 relevance is, at best, marginal, and that it's outside the
18 baseline. But we've taken some testimony now that
19 mentioned these. And I think it might be useful for the
20 Committee to at least look at this document. This is 643
21 includes that map, does it not, Ms. Gulesserian?

22 MS. GULESSERIAN: We're speaking about 643, 644,
23 645, 646.

24 HEARING OFFICER CELLI: Well, 646 is a
25 declaration of Matt Hagemann.

1 MS. GULESSERIAN: Well there are --

2 HEARING OFFICER CELLI: And actually, I'm going
3 TO rule that they're all admitted and we'll give them the
4 weight the Committee feels is necessary.

5 Let's get to 647.

6 MS. LUCKHARDT: No objection.

7 HEARING OFFICER CELLI: 647, staff?

8 SENIOR STAFF COUNSEL BABULA: No objection. Can
9 you just identify each one.

10 HEARING OFFICER CELLI: Oh, I'm sorry. 647 was
11 Rosamond letter to the State Clearinghouse regarding the
12 Negative Declaration of the WWTF.

13 SENIOR STAFF COUNSEL BABULA: No objection.

14 HEARING OFFICER CELLI: 648, Department of Fish
15 and Game documents response to records request. What are
16 those documents, Ms. Gulesserian, 648?

17 MS. GULESSERIAN: They are public records
18 regarding -- from Fish and Game regarding California
19 City's expansion of its wastewater treatment facility.

20 HEARING OFFICER CELLI: Okay. Well, we'll allow
21 that.

22 MS. GULESSERIAN: Thank you.

23 MS. LUCKHARDT: I guess I just would like to
24 understand exactly what these are, because it's unclear to
25 me from the actual documents. There's like an Email

1 exchange that doesn't indicate who it's between -- to whom
2 it's to or between or exactly what it has to do with. And
3 there are handwritten notes on these documents. And
4 there's no one here to attest to the truth of the matter
5 that's in them.

6 HEARING OFFICER CELLI: So let me ask you this,
7 Ms. Gulesserian. If you look at that document, those
8 Emails, what is it that you want to committee to see,
9 because I read those --

10 MS. GULESSERIAN: That these expansions are going
11 to take -- may take -- may require a take permit, for
12 which nobody has assessed. Nobody has consulted with the
13 agencies. Nobody has done anything about.

14 HEARING OFFICER CELLI: And that's -- what year
15 was that Email from?

16 MS. GULESSERIAN: 2010.

17 HEARING OFFICER CELLI: Oh, okay, because I
18 thought -- I read -- I thought it was like from 2006.

19 MS. LUCKHARDT: I've got an '01 --

20 HEARING OFFICER CELLI: Or 2001, yeah.
21 They're --

22 MS. LUCKHARDT: It looks like 3-22-01.

23 MS. GULESSERIAN: Right. And California City
24 testified that it's been trying to get through. It's
25 trying to build an expansion of its wastewater treatment

1 plant for years. And you're arguing -- I mean, the
2 applicant is arguing that all these years of efforts to
3 expand the facilities are relevant.

4 MS. LUCKHARDT: And they also have testified
5 today that they may not do or need to do any additional
6 CEQA analysis, because the expansion is within the
7 existing treatment plant.

8 MS. GULESSERIAN: And --

9 MS. LUCKHARDT: So --

10 MS. GULESSERIAN: -- I'd like a ruling on --

11 HEARING OFFICER CELLI: I'll tell you what --

12 MS. LUCKHARDT: They're incomprehensible.

13 HEARING OFFICER CELLI: -- we're going to do, we
14 will receive -- I agree. It would be useful to have some
15 direction for the Committee to be able to say, oh, I see,
16 third line down where they say this or that, and is the
17 import of that.

18 MS. GULESSERIAN: If it said may not -- if it
19 said this project will not require a take permit, they'd
20 say it's relevant. Since it says I may require a take
21 permit, they're -- it's being argued that it's not
22 relevant. It's making a determination on whether a take
23 permit is required under the California -- the possibility
24 of a take permit under the California Endangered Species
25 Act.

1 HEARING OFFICER CELLI: And then 650?

2 MS. GULESSERIAN: I move the enter in 650. Do
3 you want me to read the --

4 HEARING OFFICER CELLI: Notice of intent and
5 availability of the Neg Dec --

6 MS. GULESSERIAN: For the Negative Dec for a zone
7 change general plan amendments 0602 and tentative track
8 map 6632.

9 HEARING OFFICER CELLI: And what is the -- if you
10 can tell us --

11 MS. GULESSERIAN: This is a document that is the
12 city's environmental review of a project, a half mile away
13 from the proposed wastewater treatment expansion. It's
14 relevant to potential impacts in this immediate area.

15 MS. LUCKHARDT: We would just object relevance,
16 because it's a different parcel that applies to both 649,
17 650, and 651.

18 MS. GULESSERIAN: 650, 651, and 652, so we also
19 move to enter into the record those ones.

20 These are all documents that were prepared with
21 respect to a project that is just down the road from the
22 wastewater treatment facility. It's the evidence of what
23 potential biological resources are in the area.

24 HEARING OFFICER CELLI: I've read that.

25 MS. GULESSERIAN: They usually do, you know, a

1 multi-mile radius assessment of the potential species. In
2 an effort for us to try and do an independent analysis of
3 these wastewater treatment facilities ahead of getting an
4 assessment from staff under CEQA, we had to go out there
5 and look for any project in the area that's done a
6 biological resource assessment that we could try and
7 identify what species may be impacted.

8 We have taken things that are publicly available
9 from the agencies -- or from California City.

10 HEARING OFFICER CELLI: So I'll tell you what,
11 Ms. Gulesserian -- let me just cut this short. We will
12 receive 650, 651 -- the other one was 652. And those are
13 all having to do with that adjacent parcel

14 MS. LUCKHARDT: 652 is the desert tortoise survey
15 protocol.

16 HEARING OFFICER CELLI: Now that is -- is there
17 an objection to 652?

18 MS. LUCKHARDT: I have an objection to 652
19 through 662 on relevance, and on the fact that each of
20 these documents was previously proposed to be entered into
21 the record at the March 22nd hearing.

22 HEARING OFFICER CELLI: And staff any objection
23 to 6 -- is it 652 through 662?

24 SENIOR STAFF COUNSEL BABULA: Well, since -- no,
25 no objection. I mean, you've already -- yeah, no

1 objection.

2 HEARING OFFICER CELLI: Ms. Gulesserian, I want
3 to take --

4 MS. GULESSERIAN: Yes, this is --

5 HEARING OFFICER CELLI: I want to take note of
6 the fact that we're here to talk about the expansion of
7 the Rosamond Community Services District and California
8 City wastewater treatment facilities, ancillary pipelines,
9 as we discussed. We're talking about the Kern County's
10 request for development fees. And I think we're no longer
11 talking about the ARRA qualifications, because that
12 evidence came in.

13 So I don't see how any of these --

14 MS. GULESSERIAN: These aren't -- oh, sorry.
15 I'll let you finish.

16 HEARING OFFICER CELLI: 652 through 662 are all
17 dealing with -- let's look at one at a time.

18 652 is having to do with Mojave desert tortoise
19 which the record is closed on, which we closed on the 22nd
20 of March.

21 MS. GULESSERIAN: These are all related to
22 impacts from the pipelines and the wastewater treatment
23 facilities, which both the applicant's witnesses and
24 staff's witnesses have said may potentially impact desert
25 tortoise and Mojave ground squirrel. In fact, all of

1 these exhibits have been provided to the parties long ago.

2 They are all citations in our biological
3 resources' testimony back then, so there couldn't be any
4 argument that they didn't have an opportunity to review
5 these.

6 We did offer them into evidence prior to the
7 March 22nd hearing.

8 HEARING OFFICER CELLI: Let me ask you this. Let
9 me cut this short a little bit.

10 MS. GULESSERIAN: Yeah.

11 HEARING OFFICER CELLI: In terms of -- I mean, at
12 this point, what you're doing is you're hitting the
13 Committee with a stack of documents, which --

14 MS. GULESSERIAN: I am putting evidence into the
15 record.

16 HEARING OFFICER CELLI: Well, maybe, if the
17 Committee wants it. And let me explaining what our
18 concerns are.

19 You've got this Mojave desert tortoise article,
20 where -- you know, I don't -- again, yes --

21 MS. GULESSERIAN: I'll talk about each of them,
22 if you would like.

23 HEARING OFFICER CELLI: Yeah.

24 MS. GULESSERIAN: That's fine.

25 HEARING OFFICER CELLI: I'm just suggesting that

1 if you had said, I'm offering exhibit 652 because of page
2 one paragraph three says this.

3 MS. GULESSERIAN: I'll do it.

4 HEARING OFFICER CELLI: But you know, why do I
5 have the read this whole -- there's a whole bunch of
6 articles in here, which I have already looked at. And I'm
7 trying the figure out what -- how I'm going to use this.
8 And we've already limited this thing. And I see this as
9 outside, so where -- if you want us to take in 652 through
10 662, because these are my notes down here before we ever
11 got here today. They went rel, rel, rel, rel, because it
12 didn't appear to me to be relevant.

13 So I'd like to hear what exactly you want us to
14 read in 652 through 662.

15 MS. GULESSERIAN: Okay. And --

16 HEARING OFFICER CELLI: And if you say the entire
17 document, then that's fine.

18 MS. GULESSERIAN: In exhibit 652, that is
19 document for preparing for any action that may occur
20 within the range of the Mojave desert tortoise. There's a
21 ruling today that we are analyzing the potential impacts
22 from expansions of wastewater treatment facilities, and
23 further ruling today that we are also analyzing pipelines
24 that were not previously analyzed.

25 The document here is -- and there is no dispute

1 that these projects, both the wastewater treatment
2 facilities and the pipelines are occurring within the
3 range of the Mojave desert tortoise. This explains the
4 type of survey that is required in order to determine the
5 presence, absence, and abundance of desert tortoise for
6 projects occurring within the species range on federal and
7 non-federal lands.

8 In this case, we have heard evidence that -- the
9 disputed that the gap is now filling -- there's now a gap
10 being filled by the failure to analyze a 2.8 mile pipeline
11 on Mendiburu Road and the lack of protocol surveys along
12 23 miles and filling in the blanks on the 17 mile
13 pipeline.

14 All of the testified -- sorry that was overbroad.
15 Ms. Guigliano testified --

16 HEARING OFFICER CELLI: I'm sorry, Ms.
17 Gulesserian, I've conferred with the Committee, over
18 objection, we will receive 652 through 662.

19 Let's talk about 663 please.

20 MS. GULESSERIAN: Thank you. Move the enter into
21 the record 663. This is the same as -- same Public
22 Records Act response that we had discussed in exhibit 6
23 with respect to California City. We also got records from
24 Fish and Game with respect to expansion of Rosamond's
25 facility. That is what those documents are.

1 HEARING OFFICER CELLI: 663 --

2 MS. GULESSERIAN: They are cited in our brief as
3 indicating that there are a range of species that are in
4 the area of Rosamond's wastewater treatment expansion that
5 would require consultation with the Department of Fish and
6 Game

7 HEARING OFFICER CELLI: Any objection to 663,
8 664, or 665 coming in?

9 No objection.

10 The Committee will receive CURE's exhibit 640
11 through 665.

12 The evidentiary record is closed in Beacon, right
13 now.

14 MS. GULESSERIAN: I want to -- we also move -- is
15 666 an exhibit in the record?

16 HEARING OFFICER CELLI: Oh, that was on the next
17 page.

18 MS. LUCKHARDT: 666 was offered.

19 MS. GULESSERIAN: By?

20 MS. LUCKHARDT: We have no objection. It's just
21 copies of county letters and the facilities impact fee
22 study.

23 HEARING OFFICER CELLI: 666 will be received.

24 MS. GULESSERIAN: Thank you.

25 HEARING OFFICER CELLI: So all of the parties'

1 exhibits have been received.

2 At this time, the record is closed. Is
3 there -- I don't really believe that there's a need for
4 briefs. Does anybody care to write more briefs?

5 Applicant?

6 MS. LUCKHARDT: No, thank you.

7 HEARING OFFICER CELLI: Staff?

8 SENIOR STAFF COUNSEL BABULA: Three is enough
9 we're good.

10 HEARING OFFICER CELLI: Ms. Gulesserian actually
11 came in with four briefs. Yes she did. You had an
12 opening brief, a reply brief, then you replied -- you had
13 another brief --

14 MS. GULESSERIAN: I think that our brief that is
15 filed with -- on June 1st is sufficient to answer the
16 remaining questions in this matter.

17 Thank you.

18 HEARING OFFICER CELLI: That's excellent. I want
19 to thank you all very much. I know you've worked very
20 hard. At this time, there will be no further briefs. The
21 record is close is, but we will be taking public comment.
22 I want the record to reflect that it's 6:55 p.m. and the
23 audience has abandoned us here in Sacramento. There is
24 nobody here who wants to make a public comment. And on
25 the phone we have Linda Parker, Sara Head, David Wiseman.

1 Dave Wiseman, did you wish to make a comment?

2 Are you muted. Let me just see if I can just
3 unmute you.

4 MR. WISEMAN: No, thank you, Hearing Officer
5 Celli.

6 HEARING OFFICER CELLI: Okay thank you. Linda
7 Parker, any comment?

8 MS. PARKER: No, thank you.

9 HEARING OFFICER CELLI: Sara Head, any comment?

10 MS. HEAD: Not today. Thank you.

11 HEARING OFFICER CELLI: Thank you all very much
12 for listening in. This is -- I'm going the hand the
13 podium whack to Chairman Douglas, who will adjourn these
14 proceedings.

15 SENIOR STAFF COUNSEL BABULA: Before you do that,
16 do you have an estimate on the PMPD?

17 HEARING OFFICER CELLI: I need to get a
18 transcript. I have everybody's exhibits. I have
19 substantially written the PMPD, but there are --
20 obviously, I have to take in all of this. We have to deal
21 with this transcript, and I need the Committee to take a
22 look at it.

23 So it won't -- I will get it out as fast as I
24 can. And as you all know, we've been burning midnight
25 oil. And we will get it out I hope in a matter of maybe a

1 week or two weeks. I say that -- this is State
2 government. But I am shooting for having it out.

3 Now, when I say have it out, that means written
4 by the hearing office. The Committee's reviewed it and
5 thinks it's okay. Then it has to go to reproduction and
6 all of that sort of thing, but that's what we're looking
7 at.

8 So that answers your question.

9 SENIOR STAFF COUNSEL BABULA: Yes

10 HEARING OFFICER CELLI: Anything further from any
11 of the parties?

12 Chairman?

13 MS. LUCKHARDT: I guess the only thing we would
14 want to say is that, you know, the -- I feel like Ms.
15 Oviatt -- and it's too bad she's not still on the phone,
16 feels that the project is not sympathetic to the situation
17 that the county is in. And we would just note that before
18 the staff even came out with its comments about that there
19 was a significant -- that they feel that the impacts to
20 the fire department have changed, that the project was
21 willing to provide some funds to Kern County. And that
22 that is evidenced by the letters and responses.

23 PRESIDING MEMBER DOUGLAS: Thank you for that.
24 And I'd like to thank everybody for hanging with us, not
25 only through this four, four and a half hours, but through

1 the entire process. And we will do everything we can to
2 expedite the PMPD once we've been able to review the final
3 state of the record, and -- so with that, we're adjourned.

4 (Thereupon the hearing adjourned at 7:00 p.m.)

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2 I, PETER PETTY, an Electronic Reporter, do hereby
3 certify that I am a disinterested person herein; that I
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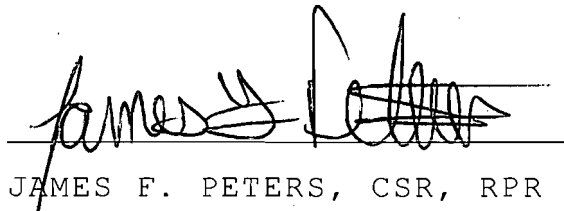
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