

DOCKETED

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BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:)
Redondo Beach Energy Project) Docket No. 012-AFC-03
_____)

COMMITTEE STATUS CONFERENCE

CALIFORNIA ENERGY COMMISSION

1516 9TH STREET

ART ROSENFIELD HEARING ROOM

SACRAMENTO, CALIFORNIA

FRIDAY, APRIL 10, 2015

9:00 A.M.

Reported by:

Peter Petty

APPEARANCES

COMMISSIONERS

Karen Douglas, Presiding Member

Janea Scott, Associate Member

HEARING OFFICER

Susan Cochran, Hearing Officer

ADVISERS

Jennifer Nelson, Adviser to Commissioner Douglas

Le-Quyen Nguyen, Adviser to Commissioner Douglas

Lezlie Kimura-Szeto, Adviser to Commissioner Scott (via WebEx)

Rhetta DeMesa, Adviser to Commissioner Scott

Eileen Allen, Technical Advisers to the Commissioners for Citing

Shawn Pittard, Assistant Public Adviser

STAFF

Kerry Willis, Staff Counsel

Keith Winstead, Project Manager

APPLICANT

Greggory Wheatland, Ellison, Schneider and Harris

Samantha Pottenger, Ellison, Schneider and Harris

Stephen O'Kane, AES (via WebEx)

Jerry Salamy, CH2MHill (via WebEx)

INTERVENERS

Jon Welner, Special Counsel to the City of Redondo Beach

APPEARANCES (CONTINUED)

INTERVENORS

Michael Webb, City Attorney, City of Redondo Beach (via WebEx)

Shahiedah Coates, Attorney, City of Hermosa Beach (via WebEx)

ALSO PRESENT

Andrew Lee, SCAQMD (via WebEx)

Tom Luster, California Coastal Commission (via WebEx)

P R O C E E D I N G S

9:07 A.M.

SACRAMENTO, CALIFORNIA, FRIDAY, APRIL 10, 2015

THE MEETING WAS CALLED TO ORDER AT 9:07 A.M.

PRESIDING MEMBER DOUGLAS: This is a status conference on the Redondo Beach Energy Project.

Before we begin I'd like to introduce the Committee, and then ask the parties to introduce themselves for the record. I'm Karen Douglas. I'm the presiding member of this Committee. And to my immediate left is our Hearing Advisor and -- Susan Cochran. And to her left, I'm sorry, is Janea Scott, Associate Member of the Committee.

Okay, so let's go to Advisors. On Commissioner Scott's left, Leslie Kimura-Szeto.

MS. DEMESA: Rhetta.

PRESIDING MEMBER DOUGLAS: Oh, Rhetta. Sorry, Rhetta. Rhetta DeMesa.

And is Lezlie coming?

MS. DEMESA: I think she's on the phone upstairs.

PRESIDING MEMBER DOUGLAS: Oh, Lezlie is on the phone upstairs.

Eileen Allen is at the far end of the table. She's the technical advisor for the Commissioners on citing. And to my right are my Advisors Jennifer Nelson and Le-Quyen Nguyen. Let's see, Public Advisors Office, Shawn Pittard is

1 here.

2 And let's go now to the Petitioner.

3 MR. WHEATLAND: Good morning. I'm Greg Wheatland.
4 And with me is Samantha Pottenger. We're here on behalf of
5 the Applicant. On the phone today is Stephen O'Kane. And I
6 believe that Jeremy Salamy will also be on the phone today.

7 PRESIDING MEMBER DOUGLAS: Thank you very much.

8 And Staff?

9 MS. WILLIS: Good morning. I'm Kerry Willis,
10 Senior Staff Counsel. And with me is Keith Winstead who is
11 our new project manager.

12 MR. WINSTEAD: Good morning, Council Members.

13 PRESIDING MEMBER DOUGLAS: All right. Thank you.

14 And let's see here, Intervener James Light,
15 Building a Better Redondo.

16 HEARING OFFICER COCHRAN: Is he on -- is he on the
17 phone maybe?

18 HEARING OFFICER COCHRAN: Click "stop sharing" and
19 it will take you back to the quick start menu.

20 UNIDENTIFIED MALE: What's his name?

21 HEARING OFFICER COCHRAN: Unmute everyone and see
22 if he's here. His name is James Light, Building a Better
23 Redondo.

24 PRESIDING MEMBER DOUGLAS: All right, just a

1 minute.

2 James Light, go ahead and speak up. Are you on the
3 phone? Okay.

4 We're still unmuted. What about City of Redondo
5 Beach?

6 MR. WELNER: Yes, good morning. This is Jon Welner
7 here for the City of Redondo Beach. And I believe Michael
8 Webb is on the phone or will be on the phone shortly.

9 PRESIDING MEMBER DOUGLAS: Great.

10 MR. WEBB: Correct. This is -- this is Michael
11 Webb, City Attorney for the City of Redondo Beach.

12 PRESIDING MEMBER DOUGLAS: Wonderful. Thank you.
13 Welcome.

14 Intervener City of Hermosa Beach, are you on the
15 phone?

16 MS. COATES: Hi, good morning. This is Shahiedah
17 Coates on behalf of the City of Hermosa Beach.

18 PRESIDING MEMBER DOUGLAS: Great. Are there any
19 representatives of federal or state or local agencies on the
20 phone or in the room who have not identified themselves, and
21 this includes also Native American Tribes or Nations.

22 MR. LUSTER: This is Tom Luster with the Coastal
23 Commission.

24 PRESIDING MEMBER DOUGLAS: Great. Welcome.

1 Anyone else?

2 MR. LEE: This is Andrew Lee from the South Coast
3 Air Quality Management District.

4 PRESIDING MEMBER DOUGLAS: Thank you. Anyone else?
5 All right.

6 So with that I'll turn this over to Hearing Advisor
7 Cochran.

8 HEARING OFFICER COCHRAN: Thank you and good
9 morning. The Committee scheduled today's status conference
10 on March 30th to discuss further activities in the case. The
11 Application for Certification was filed on November 20th,
12 2012. Staff filed its Preliminary Staff Assessment on July
13 28, 24th -- 2014, sorry -- 24th, good, Susan -- with the
14 comment period ending on August 27th, 2014. However, shortly
15 after the publication of the PSA, Preliminary Staff
16 Assessment, AES presented an initiative to the City of
17 Redondo Beach to rezone the project site for mixed-used
18 development known as the Harbor Village Plan, including
19 residential, commercial, hotel, and open space with the power
20 plant being phased out under the Harbor Village Plan by 2020.

21 Based on the pendency of that initiative, on
22 September 3rd, 2014 the Committee issued an order suspending
23 the proceedings until April 1st of this year.

24 The election on the Harbor Village Plan occurred on

1 March 3rd when it was defeated. On March 20th, AES, the
2 project applicant, sent a letter to the Committee asking that
3 the Committee issue a new scheduling order in light of the
4 failure of the ballot measure.

5 The Committee wishes to hear from all of the
6 parties, including the interveners, on the current status of
7 the project and how best to proceed from here. Late
8 yesterday afternoon we received a status conference from the
9 City of Redondo Beach as -- in its capacity as an intervener.
10 Copies are available here in the room. They're also
11 available on the screen if -- if need be. And there are
12 some, I think some issues that will affect the schedule, but
13 I would like to hear from the parties. In specific, the
14 following are the issues I think that we need to get some
15 understanding of before we can then proceed to talking about
16 some scheduling.

17 First, and I'm glad that Mr. Lee has joined us, the
18 Air District has not issued the final determination of
19 compliance. Do we have a time estimate on when that may be
20 issued? Have there been any changes to the regulations
21 applicable to this project? And what impact, if any, may
22 those changes have on the timing of future events?

23 An additional issue is land use, LORS compliance,
24 LORS standing for Laws, Ordinances, Regulations, and

1 Standards. The City of Redondo Beach approved Urgency
2 Ordinance number 3120-14 on July 14, 2014 which imposed a
3 moratorium until November 2015 on the approval of any
4 conditional use permit, coast development permit, or any
5 other discretionary city permit.

6 In the PSA, Staff concluded that the moratorium was
7 not applicable LORS to the project because of the lack of
8 approval by the Coast Commission. Both the City of Redondo
9 Beach and Intervener James A. Light, Building a Better
10 Redondo, disagree with Staff's conclusion.

11 The question I specifically have for the City of
12 Redondo Beach is what's the status of that moratorium, and in
13 particularly, whether it has been forwarded to the Coastal
14 Commission under the Local Coastal Plan?

15 In addition, I am also glad that Mr. Luster from
16 the California Coastal Commission has joined us today because
17 we were interested in whether the Coastal Commission would be
18 providing a report on this project.

19 Finally, there is a scheduling template. And one
20 of the questions there obviously is, is the applicant merely
21 reinstating the existing application for certification or
22 are there any changes to the site plan or anything else?

23 I noted in the status conference statement from the
24 City of Redondo Beach that there is some indication that

1 there may be a storage component or a desalinization plant
2 proposed for the site.

3 Additional questions that the Committee has is, is
4 the plant still producing electricity, and if so, how much?

5 From Staff I would like to know if there's a new
6 comment period necessary? And what you've thought about
7 relative to Staff workshops? Is there anything else?

8 And that's where we are right now.

9 So let's turn to the Applicant first, please.

10 MR. WHEATLAND: Thank you. I'd like to mention
11 that when the applicant provided notice and requested the
12 proceeding resume, we also proposed to the Committee a
13 schedule for the resumption of the proceeding. We used as
14 our template for the timelines the scheduling guide that had
15 been proposed by the Committee in the Alamitos proceeding.
16 So we, with very minor modifications, we proposed the same
17 template and timeframe that would have been considered by the
18 Committee for -- for Alamitos.

19 You asked a number of questions and I'll see if I -
20 - with respect to the applicant. And I'll do my best to
21 answer your questions. If I've missed any of the questions,
22 please let me know.

23 You asked is the -- are there any changes in the
24 application from what was originally proposed or what was on

1 the table at the time of the suspension last year? And the
2 answer is, no, there are no changes to the application.
3 The -- the applicant is asking the Committee and the
4 Commission to consider the same project that was proposed at
5 that time. The applicant felt that that was the best or
6 optimal project for the site at the time that it was
7 considered last year.

8 Now over the course of time the applicant has
9 considered a range of alternatives. Some of them were power
10 plant -- non-power plant alternatives that were put to the
11 voters in Redondo Beach. Some were alternative forms of
12 energy development. And it's true that a whole range of
13 alternatives have been considered by the applicant. But
14 after careful study those alternatives are not part of this
15 application, are not being proposed by the applicant. We
16 still feel that this project that you have before you is the
17 one that we feel is best and we'd like you to go forward
18 with. So there aren't any changes to the -- to the project
19 that we are asking the Commission and the Committee to
20 consider and approve.

21 You also asked if the plant is producing
22 electricity, and if so, how much? And to answer that
23 question I'd like to ask Mr. O'Kane if you could respond to
24 the Committee's question regarding the current production of

1 electricity?

2 MR. O'KANE: Certainly. This is Stephen O'Kane
3 with AES Southland Development, the applicant.

4 Yes, the current existing facility, AES Redondo
5 Beach Generating Station, is currently fulfilling a need for
6 capacity in the local area and reliability district. It's
7 dispatched when needed. Its annual capacity factor last year
8 was less than 5 percent but it had a plant service factor in
9 excess of 35 percent, meaning about 35 percent of the time we
10 need at least one of the units at that power plant online,
11 providing electrical support for the local region.

12 It's -- the plant is -- will continue to run
13 through -- through its current contracted period, and most
14 likely runs right through to the end of the existing plant,
15 right through to the end of its OTC deadlines in 2020, at
16 which point hopefully the Redondo Beach Energy Project will
17 then replace it as local capacity.

18 HEARING OFFICER COCHRAN: Okay. Thank you.

19 MR. WHEATLAND: So those were the two questions I
20 think that were posed to us. If there -- if you had any
21 other questions for us I'm pleased to answer.

22 HEARING OFFICER COCHRAN: I think that's good. I
23 think now we'll turn to Staff.

24 MS. WILLIS: Thank you. As far as the comment

1 period, at the time when we were publishing the PSA we hadn't
2 quite published it as when the first press indication said
3 the project was -- may not be moving forward. So I do
4 believe that an extended comment period time needs to be
5 added, because I'm assuming that others did not pursue
6 reviewing
7 the -- reviewing the document.

8 One of the other questions, Mr. Winstead has some
9 issues that we're going to need some more information from
10 the applicant for their -- obviously, with nine months going
11 by there's some updating that's going to be taking place.
12 There are some additional projects on our cumulative list,
13 and he can go over some others.

14 One issue that we did have, if -- if the
15 application goes forward we would need a new construction
16 schedule and demolition schedule, because obviously the
17 schedule in place would -- is probably, I'm assuming,
18 outdated. And that would be one thing that would -- we would
19 need.

20 MR. WINSTEAD: Hello, everybody. I'd also like to
21 address the schedule as -- as a suggestion to publication of
22 the FSA, 45 days after the FDOC is published.

23 The staff -- I'm going to move to information from
24 the applicant. We'd like to have comments on the -- we'd

1 like to have comments on the preliminary staff assessment,
2 PSA, prior to the workshop. That will be helpful.

3 Staff is also waiting on Air Quality. Staff is
4 also waiting for the applicant's submittal of cumulative
5 impact assessment to determine whether to combine air quality
6 impacts of proposed project, neighboring electrical
7 generating facilities, and other reasonably foreseeable local
8 projects would result in significant air quality related
9 impacts during operation.

10 Visual; Staff would like to have the site screening
11 and landscape concept plan to allow ample time to review for
12 review and consideration of the final staff assessment.

13 We also may need to update our cumulative analysis
14 for the FSA to include a waterfront project on Portofino Way,
15 .65 miles away, and a 202-room hotel development on 7760
16 North Francia Avenue (phonetic) that's .17 miles away.
17 There's also a demolition of an existing structure and
18 construction of a 2-story 80,000 square foot, 96-suite
19 assisted living facility 1.6 miles away. We also need the
20 applicant to update the health and risk assessment for our
21 public health analysis.

22 HEARING OFFICER COCHRAN: I'd like to just ask a
23 couple of questions here. So is Staff anticipating then
24 issuing a revised PSA or are these things needed simply for

1 preparation of the FSA?

2 MS. WILLIS: Well, it could go either way. I mean,
3 at this point our staff is just starting to review what they
4 had written some time ago and to figure out what needs to be
5 updated. At this point in time we're not anticipating
6 republishing the PSA. It's something that, you know, we
7 would also not necessarily, you know, oppose, but we aren't -
8 - we aren't proposing to do that. We had hoped to discuss
9 most of the issues that -- that have developed in the
10 intervening time at workshops.

11 The other issue that I didn't mention that Mr.
12 Welner just reminded me of is that we were, at the time,
13 preparing to do a meet and confer on LORS with the city
14 because we did have differing opinions on the building
15 moratorium.

16 HEARING OFFICER COCHRAN: I didn't mean to
17 interrupt. Is there anything else that you wanted to say
18 relevant to the comment period?

19 MR. WINSTEAD: As far as the comment period, we
20 would like to have the comment period proceed 30 days after
21 the PSA is resumed per the direction of the Committee and the
22 schedule.

23 HEARING OFFICER COCHRAN: Okay. And then I want to
24 make sure that I understood what you said relative to Staff

1 workshops on the PSA. Would that be during the comment
2 period or after the close of the comment period? What's your
3 -- I mean, I didn't understand the preference.

4 MR. WINSTEAD: Okay. Well, once the comment period
5 starts, then two to three weeks into that process we would
6 like to have a scheduled workshop with the applicant and
7 discuss any -- all the parties and the public.

8 HEARING OFFICER COCHRAN: Okay. I'm sorry, go
9 ahead. Is that -- does that complete Staff's presentation?

10 MS. WILLIS: Yes, thank you. And we're --

11 HEARING OFFICER COCHRAN: Thank you.

12 MS. WILLIS: -- available for questions.

13 HEARING OFFICER COCHRAN: Okay. Turning now to the
14 interveners, has Mr. Light joined us yet? Mr. Light, are you
15 on the phone? Going once. Okay.

16 The City of Redondo Beach is present, so perhaps we
17 can hear from them next.

18 MR. WELNER: Okay. Thank you very much. Again,
19 this is Jon Welner, outside Counsel to the city. And also,
20 Michael Webb is on the phone, City Attorney. He may be
21 called on during these comments to -- to supplement with some
22 information.

23 I'd like to first respond to -- quickly to some of
24 the items that we heard just now. One is in terms of what

1 the project manager has just described in terms of the
2 schedule for the PSA and the comments, our immediate reaction
3 to what he's proposing is that typically the workshop --
4 typically the comment period and the workshop are scheduled
5 in such a way that the workshop has -- that the period for
6 comments is sufficiently beyond the workshop so that
7 information that comes out in the workshops can be reasonably
8 incorporated into the comments that are submitted.

9 And so I would just ask that when you're putting
10 the schedule together that if you -- if the workshop is
11 scheduled at the very end of the comment period there would
12 not be sufficient time for the parties to incorporate
13 information that comes out of the workshops into their
14 comments.

15 With regard to resuming the PSA process, as we
16 noted in our status conference statement a lot of information
17 and some new statements have come to light in the intervening
18 nine months that we think materially change the application.
19 And therefore we understand the desire on the part of the
20 applicant to simply step back into the process as it was
21 before it was suspended, however a couple of things have --
22 have resulted in material changes.

23 The first is, as was mentioned by others, there
24 have been discussions about energy storage and desalination

1 at the site. What I'd like to emphasize is that these
2 aren't, you know, these aren't simply rumors or things that
3 we're assuming, these are statements that were made to both
4 the press and to city officials regarding more than passing
5 interest in either incorporating energy storage as part of
6 this proposal or using the site for desalt, either -- we
7 don't -- we're not sure, either in conjunction with this
8 proposal or instead of this proposal. The energy storage
9 issue is particular significant because the CPUC, as you
10 know, did not approve a PPA for this site, in part because it
11 does not comport with the kinds of preferred resources that
12 the CPUC is looking for. Battery storage would make this
13 facility potentially more appealing to the CPUC in terms of
14 something that could be approved. And therefore,
15 strategically speaking it might make sense for AES to
16 incorporate as part of its project a major energy storage
17 component.

18 So this is a real substantive change. And what we
19 would say is while right now at this status conference we're
20 hearing from the applicant that, oh no, these things were
21 considered and have now been rejected, we'd like to see this
22 more formally addressed before we proceed. Is there, in
23 fact, a significant possibility of energy storage being
24 planned for the site? And if so, we believe that's a

1 material change and requires an amendment to the AFC.

2 Likewise, is there a significant chance of desalt -- a
3 desalination project being propose for the site? And if so,
4 we believe that's a material change significant to the AFC.

5 So that's the first item. And we would urge you,
6 before issuing a schedule, and certainly if you're
7 considering issuing a schedule today, that these questions
8 need to be asked and answered before we proceed because they
9 are fundamental to the proposed project.

10 Secondly, as we noted in our conference statement,
11 there were statements made again to the press and to the city
12 that amount to admissions regarding the no-project
13 alternative, statements that, of course, either they wouldn't
14 have proposed an initiative to shut down the site and create
15 a development there if they believed it was impossible or
16 would have extremely negative impacts to close this power
17 plant. Therefore, the staff's PPA, we believe, should be
18 amended to incorporate -- to incorporate the applicant's own
19 admission that the impact of closing this facility would be
20 negligible in terms of the stability of the electric grid.
21 Moreover, there were numerous admissions made as part of the
22 campaign in support of Measure B explaining why eliminating
23 the power plant itself would be of great benefit to the
24 community.

1 So these are admissions against interest. They
2 were made, obviously, because there was a campaign going on
3 to eliminate the power plant. But again, we think these are
4 material admissions. No discussion about the future of the
5 site would be complete without collecting those admissions
6 and addressing them and analyzing them in the staff report.
7 It doesn't make sense to save that for the final staff report
8 because then those analyses can't be responded to. We think
9 that there's been enough change in this nine-month period to
10 direct staff to revise the PSA, incorporate these new facts,
11 do the proper investigation, and then reissue the PSA, and
12 then issue a schedule.

13 Finally, we simply urge that the Commission note
14 that both Commission staff and the intervening parties have
15 essentially stood down on this issue for nine months. Our
16 staff and our experts have moved on to other issues. They
17 need to be re-familiarized with this application before
18 moving forward, and also incorporate these new material facts
19 into their analyses. We therefore urge the Commission to be
20 generous in terms of the amount of time allowed to the
21 parties before there is a workshop, which we will need to do
22 significant preparation for, and before comments are due.
23 And as I said at the beginning, we would very much appreciate
24 having time following the end of the workshops to adequately

1 prepare comments.

2 I think that covers our -- our comments.

3 I would like to address the question that was
4 raised about the Coastal Commission -- or rather the LORS
5 issue with regard to the city's ordinance. I think for the
6 most recent information about that I would ask City Attorney
7 Mike Webb to briefly update us on the status of that
8 ordinance and what, if anything, has happened. I believe
9 everything was suspended because of the initiative.

10 But, Mr. Webb, if you could address that, that
11 would be helpful.

12 MR. WEBB: That is correct. A majority of our
13 council and our mayor supported the initiative. So
14 everything was put on hold once the initiative went forward.
15 We'll be going to the -- we'd already taken one ordinance
16 prior to the initiative being filed, one sample ordinance to
17 the Planning Commission to consider. We'll be taking that
18 back to the Planning Commission in May for them to move
19 forward on a permanent ordinance.

20 The -- and I think it was Ms. Willis, I can't tell,
21 but as for the Coastal Commission, the ordinance -- the
22 moratorium was not submitted to the Coastal Commission.
23 Because as she had indicated, Staff had set up a meet and
24 confer with the city and then suspended that or postponed

1 that. We respectfully believe that, and we've put that in
2 our papers, that that moratorium explicitly under case law is
3 not subject to Coastal Commission review. And our concern is
4 the Coastal Commission is taking a position contrary to very
5 clear State Law.

6 HEARING OFFICER COCHRAN: I think that that queues
7 up then Mr. Luster who is online from the California Coastal
8 Commission. He's at the bottom of the screen.

9 MR. WELNER: Okay. And I'm sorry, I just have
10 one -- one quick --

11 HEARING OFFICER COCHRAN: Sure.

12 MR. WELNER: -- item before we move to that, and
13 that is on the Air District question with regard to their
14 determination of compliance. I have a question for the
15 applicant which is the last we saw there was a letter that
16 was sent to the South Coast Air Quality Management District,
17 similar to the one that was sent to the Energy Commission
18 asking that the process be suspended. At least that's my
19 recollection. In any case, that's what -- that's what Air
20 District staff had told us, that they were suspending the
21 analysis pending the initiative.

22 My question for either the applicant or, I'm sorry,
23 for the staff person who's here from the Air District is:
24 What is the status of that review? Has it been resumed or is

1 it still suspended and, you know, what's the timeframe on
2 that?

3 But that's my final observation. And we're
4 available for questions. Thank you.

5 HEARING OFFICER COCHRAN: Okay. Thank you.

6 Let's do talk to Mr. Luster first from the
7 California Coastal Commission. And then we'll queue up Mr.
8 Lee from Air Quality.

9 Mr. Luster, are you still with us?

10 MR. LUSTER: Yes. Thank you very much. I guess
11 just a couple brief points.

12 We are planning to submit our Section 30413(B)
13 report. The timing of -- of when we can submit that depends
14 on getting some clarification based on some of the statements
15 I've heard today. You know, we'd like to get clarification
16 as to what project we'll be reviewing. There may be some
17 changes to it. We have, as we've noted in our -- some of our
18 correspondence last year, some concerns on wetlands and land
19 use. There may be some other issues that come up, as well,
20 but those are the two significant ones we'd like to weigh in
21 on.

22 And also the -- the potential for project changes.
23 It's not clear right now if the battery storage and desalt,
24 if those are -- actually become part of the project if those

1 are properly within the AFC proceeding or if those would be
2 outside and require coastal development permits from the city
3 and/or the Coastal Commission. That's more the standard
4 route those sorts of facilities would take.

5 And so I guess depending on what all is decided
6 today it sounds like there are some uncertainties. I would
7 recommend that a schedule not be developed today but
8 postponed until we get some clarity on these issues. If the
9 schedule were to start up today I think the soonest we could
10 provide our report, we have to take our report to our
11 commission first, but the soonest we could do that would be
12 June or July at this point. But if -- if instead there's
13 some time to work out, to clarify what exactly the project
14 is, address some of the issues that Energy Commission staff
15 just raised about additional information, I think we'd have a
16 much more complete record to base our report on. So that's
17 where we are with things.

18 HEARING OFFICER COCHRAN: Okay. Thank you.

19 Mr. Lee, on behalf of the Air Quality District, are
20 you still with us?

21 MR. LEE: Yes, I am.

22 HEARING OFFICER COCHRAN: Thank you very much. So
23 there were some specific questions posed to you.

24 MR. LEE: Yes. Basically, we had submitted our

1 preliminary determination of compliance back in June 13th,
2 2014. On August 20th, 2014 we received a request from the
3 applicant to suspend our review. On September 3rd, 2014 our
4 district basically agreed with that and we held suspension
5 until further notice.

6 On March 18th, 2015 we did receive a request from
7 the applicant to resume processing of those applications, and
8 we have done that. We have received -- during the public
9 notice period back in June 13, 2014 we received five --
10 requests from five persons to respond to questions, as well
11 as two requests for a Title 5 public hearing. We're in the
12 process of determining whether those two requests for the
13 public hearing are pertinent, and therefore whether we should
14 hold them or not. So -- but we have continued to answer the
15 questions that we received from the five respective persons
16 in regards to the questions on the facility.

17 HEARING OFFICER COCHRAN: And is it Mr. Lee or Dr.
18 Lee?

19 MR. LEE: It's Mr. Lee.

20 HEARING OFFICER COCHRAN: Mr. Lee, is the project
21 that's being reviewed, does it include storage or any of the
22 desalinization issues that have been discussed this morning?

23 MR. LEE: No, they do not.

24 HEARING OFFICER COCHRAN: Okay. So in -- in a

1 perfect world what would the timing be then for the issuance
2 of the final determination of compliance? Are you still
3 waiting to make the determination regarding the Title 5
4 public hearing?

5 MR. LEE: Yes. That -- that actually is the
6 sticking point. Because if the determination is to have the
7 public hearing we'd actually have to notice for a minimum of
8 30 days before the hearing can take place. And then whatever
9 questions or comments come out from that hearing we would
10 need time to review and respond to those, as well.

11 HEARING OFFICER COCHRAN: And do --

12 MR. LEE: So we're looking at --

13 HEARING OFFICER COCHRAN: I'm sorry. Go ahead.

14 MR. LEE: I'm sorry. Go ahead.

15 HEARING OFFICER COCHRAN: No. You first.

16 MR. LEE: Oh. If a hearing is not required, we're
17 looking at potentially two months. But if a hearing is
18 required, we're looking at six months from now.

19 HEARING OFFICER COCHRAN: Okay. Thank you. Is
20 there anything else that you'd like to say, Mr. Lee?

21 MR. LEE: No. There's nothing additional, other
22 than we had submitted the notice for the preliminary
23 determination of compliance back in June 13, 2014. So those
24 records are still available.

1 HEARING OFFICER COCHRAN: Okay.

2 MR. LEE: And if anyone wishes to comment, we are
3 still willing to listen to what those comments are. As I
4 said before, we did receive comments from five areas, and
5 we're actually looking at them as we speak.

6 HEARING OFFICER COCHRAN: Okay. Do you know when
7 the determination of whether the public hearing that's been
8 requested will occur, how long it's going to take to make
9 that decision?

10 MR. LEE: I believe it will take about another two
11 weeks.

12 HEARING OFFICER COCHRAN: Okay. Thank you.

13 Turning back to our interveners, I believe Ms.
14 Coates is on the line on behalf to the City of Hermosa Beach?

15 MS. COATES: Yes, that is correct. This is
16 Shahiedah Coates from the City Attorney's Office for the City
17 of Hermosa Beach. And thank you for the opportunity to
18 comment on the proceedings.

19 The City of Hermosa Beach echoes largely the
20 concerns of the City of Redondo Beach. In light of the new
21 information that has come out during the campaign for the
22 ballot measure the city is concerned that the PSA may not
23 adequately reflect all of the alternatives to the project
24 that is proposed in the application, and, you know, in

1 particular the no-project alternative which was presented to
2 the voters. This is particularly concerning because such an
3 accelerated schedule is now being proposed.

4 The City of Hermosa Beach became an intervener at
5 the end of July, just before the proceedings were suspended
6 pursuant to the applicant's request. And in light of the
7 suspension the city has basically suspended its work on
8 this -- this project as well. And so the city has not had
9 really an opportunity to delve into the documentation and the
10 materials connected to this proceeding and the application.
11 And it would be significantly disadvantaged as a party if it
12 were rushed, you know, along in accelerated schedules to
13 really look into those -- those materials and analyze the
14 potential impacts of the project to the city and its
15 community.

16 And so the City of Hermosa Beach does request a
17 longer schedule that affords, you know, greater opportunity
18 for comments to be provided. And you know, in particular, if
19 new information related to the project will be presented
20 during the workshops as opposed to in a revised PSA the city
21 would appreciate an extended comment period after the
22 workshop so that it can appropriately respond. Thank you.

23 HEARING OFFICER COCHRAN: Thank you.

24 Turning back to Staff, you said that there were

1 some issues that you wish to explore and that you would need
2 additional information from the applicant, including things
3 like air quality, cumulative, those types of things. Am I
4 remembering correctly?

5 MR. WINSTEAD: Let me check my notes.

6 HEARING OFFICER COCHRAN: Air quality, cumulative,
7 visual, the new demolition and construction schedule, and the
8 new health risk assessment. Are you anticipating doing those
9 as data requests or -- or it just more in the nature of an
10 update? And how long do you think it would take to get a
11 list to applicant of what you need?

12 MR. WINSTEAD: Well, these -- all these items are
13 in the PSA. And the applicant should respond to those in
14 their comment period. There -- there -- as are as the
15 additional information, these cumulative projects will be
16 added just because they've popped up. And so as far as the
17 air quality section regarding the cumulative impact
18 assessment, some of that is going to be tied with the air
19 district also. So I don't see a real -- just depending on
20 how things, the schedule goes, we're just going to have to go
21 with that. Yeah. And the applicant needs to, you know,
22 depending on how the information comes to us, how soon, we'd
23 like to have it, you know, prior to the workshop would be
24 helpful. That way we can discuss it and have these issues

1 flushed out, if there's any.

2 HEARING OFFICER COCHRAN: Okay. Let's turn back to
3 the applicant once more.

4 MR. WHEATLAND: Thank you. Well, let's start with
5 the very last point. If there's any specific information
6 that the staff would like to see from us, we are reviewing
7 the PSA now. But if there's anything specifically there that
8 they need from us or would like us to respond to, please let
9 us know and we'll do our best to provide that specific
10 information to you prior to the workshop on the PSA.

11 It's a natural part of any AFC process that there
12 are changes in the surrounding community as the Energy
13 Commission's process evolves over a year. I haven't seen a
14 case yet where there haven't been changes of that nature that
15 have occurred. But it's also a natural part of our process
16 to have the staff consider those changes. And if they arise
17 after the PSA to incorporate them in the FSA. I've also seen
18 the staff, even when there are changes after the FSA, include
19 those into the evidentiary hearing. So it's an evolving
20 process. It's a normal thing. The applicant doesn't believe
21 that we need to issue -- reissue the PSA or issue a
22 supplemental PSA to address those types of concerns.

23 Mr. Welner raised a number of suggestions about
24 potential alternatives for these -- for the project, battery

1 storage or desalinization. He suggested that these might
2 make the project better. These are not part of our project,
3 and I want to stress that. This is not the project we're
4 proposing to the Commission. However, if parties feel that
5 those are alternatives and they're worthy of consideration,
6 then that again is what the Energy Commission's process is
7 for. The city is free to suggest an expanded view of the
8 alternatives analysis in their comments on the FSA. If they
9 want to put forward a battery storage project for this site,
10 that's something that can be considered as part of the
11 alternatives analysis. And you know, we're happy to have a
12 discussion about those issues.

13 Similarly, Mr. Welner suggested what ought to be
14 considered in the no-project alternative. The staff has
15 examined that in the PSA. But the city is free to comment on
16 the PSA, no-project alternative. And if there's additional
17 issues or concerns they want to raise then there's a place
18 for that. We don't think these are pre-conditions to
19 restarting the scheduling. We think these are the types of
20 concerns that are a natural part of any AFC decision.

21 And then finally, Mr. Welner mentioned that the
22 parties have essentially stood down. I want to be very clear
23 about this point. When the Committee suspended the
24 proceeding they didn't suspend it until further notice, they

1 suspended it until a date certain, until April 1st. So at
2 the time of the suspension all parties were on notice that
3 this proceeding would resume on April 1st. We gave the
4 Committee and the parties the courtesy of notifying everyone
5 before April 1st that we were prepared to proceed. But it
6 shouldn't be a surprise that this proceeding is -- is
7 resuming, and in light of the vote in the City of Redondo
8 Beach and the Committee's notice of a date certain. We have
9 proposed the comment period being 30 days from April 1st.
10 But certainly it would be reasonable to have a 30-day clock
11 run from the time of the issuance of the Committee's
12 scheduling order.

13 But I think those are all the points. Let me just
14 check here if there's anything. And thank you for being able
15 to respond to those comments and concerns.

16 HEARING OFFICER COCHRAN: Thank you. We're off the
17 record for a minute.

18 (Off the record)

19 (On the record)

20 HEARING OFFICER COCHRAN: Okay. We're back on the
21 record. One of the important pieces in our process,
22 obviously, is the Air Quality District. And given that Mr.
23 Lee has represented that it's going to take them
24 approximately two weeks to make a determination of whether

1 they have to have the Title 5 public hearing, the Committee
2 has determined not to issue the scheduling order today but
3 would like status reports in writing from the parties no
4 later than April 24th, including information from the Air
5 District on its determination relative to the Title 5 public
6 hearing, at which time a scheduling order will be
7 forthcoming.

8 What I will do today is I will post the sort of
9 scheduling guide that we've used in Alamitos. It gives you
10 an outline of the sort of weeks after things happen.
11 Obviously, the big one will be what time the new comment
12 period or that comment period will start, as well as the
13 timing of preliminary staff workshops.

14 At this point are there any questions, comments,
15 protests?

16 Yes, Mr. Wheatland?

17 MR. WHEATLAND: Well, two comments on that.

18 The first is that the Commission, in several cases,
19 has not linked the issuance of the FDOC to the Commission's
20 ability to process the rest of the application. For reasons
21 that are outside the control of the Commission there may be
22 delays in the FDOC, but that's not cause for -- air quality
23 is only 1 of more than 20 different subject areas that the
24 Commission has to decide.

1 And so we would strongly encourage the Commission
2 to move forward with the consideration of other aspects of
3 the application and not let the air quality be the issue that
4 determines your ability to meet your statutory deadlines.
5 The FDOC, the Commission has actually considered the FDOC
6 even after issuance of a PMPD. So there's no statutory
7 reason or reason under your rules why you need to delay the
8 rest of the proceeding.

9 The second thing is that regardless of when the
10 FDOC comes out, it's not an issue with respect to the comment
11 period on -- on the PSA because the FDOC is always expected
12 under the Commission's schedule to come out sometime after
13 issuance of the PSA, and doesn't need to be received by the
14 close of the comment period on the PSA. So we would strongly
15 encourage you to at least set a schedule with respect to the
16 comment period on the FSA and with respect to the PSA
17 workshop, even if you defer for a couple of weeks setting the
18 schedule for the rest of the proceeding.

19 HEARING OFFICER COCHRAN: We understand that, but
20 we would still like the information. And so we think that
21 that information would be helpful to further consideration of
22 the issues. We are also mindful of the issues raised by the
23 parties today that while it was a date certain there were
24 many uncertainties within that time period. And to think

1 that there's going to be a cold start from April 1st when the
2 suspension was lifted is not acceptable to the Committee.
3 And as I've said, we would like that information.

4 Similarly, though, we take the representations that
5 you have made not once but twice today that the project is
6 the project, that there is no storage component or
7 desalinization as part of the project description, as being
8 therefore the direction to those who have to participate more
9 fully in this proceeding, including but not limited to the
10 Coastal Commission, Air Quality, and the other interveners.

11 Yes, Mr. Wheatland?

12 MR. WHEATLAND: Could you at least make a clear
13 that this proceeding has now resumed, that there is a PSA
14 that's issued, and parties should begin in earnest to review
15 the PSA and be prepared to submit their comments so that
16 people don't continue to stand down? We -- I think it's very
17 important that people know that we have resumed a proceeding,
18 that the Commission has a statutory deadline, and that we all
19 need to be working to meet that deadline.

20 HEARING OFFICER COCHRAN: There is no further
21 suspension order. As you've pointed out, the suspension
22 order expired by its own term on April 1. So, yes, the
23 parties should be working on this. However, we will be
24 issuing a complete schedule for the remaining balance of the

1 proceedings necessary after we receive the information on
2 April 24th. So sometime within the week after that you'll
3 have a full schedule from this Committee.

4 MR. WHEATLAND: Thank you.

5 HEARING OFFICER COCHRAN: Are there any other
6 questions from the parties? You might want to let Mr. Luster
7 and Mr. Lee and Ms. Coates and Mr. Webb speak if they need
8 to.

9 Any comments from any of the other parties online?

10 MR. LUSTER: This is Tom Luster, Coastal
11 Commission. Nothing more from me. Thank you very much.

12 HEARING OFFICER COCHRAN: Thank you. Anyone else?
13 Okay.

14 At this point we'll open it up for public comment.
15 I'll look first in the hearing room.

16 Mr. Pittard, have we received any comment cards?
17 So no one in the hearing room.

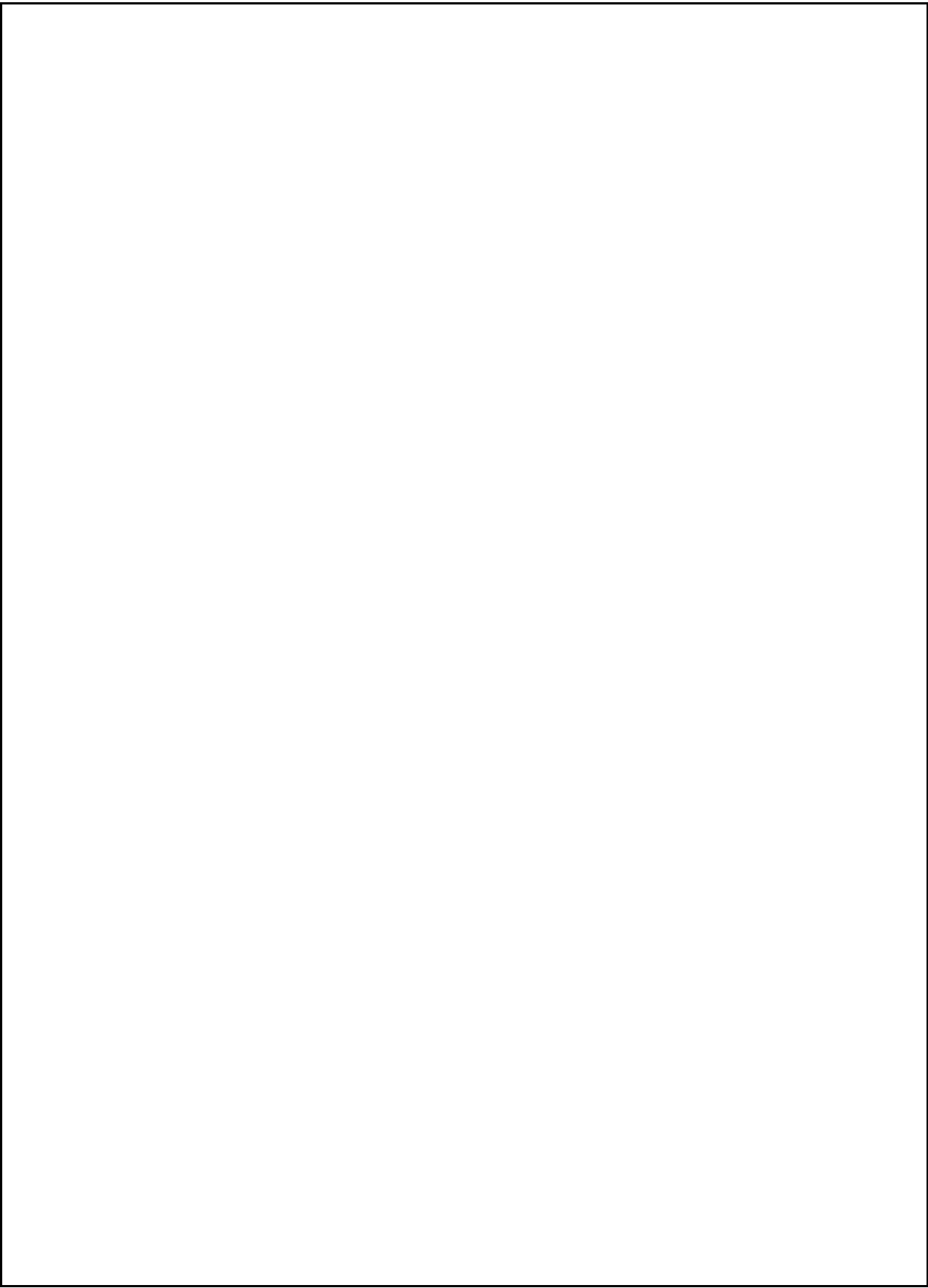
18 Is there anyone online who would make -- like to
19 make a public comment?

20 Seeing none, I don't think there's a need for a
21 closed session. Okay. And with that we are therefore
22 adjourned. Thank you everyone for participating today.

23 (The Meeting of the California Energy Commission

24 Amendments Committee adjourned at 9:57 a.m.)

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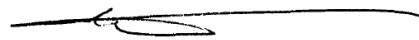


REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of April, 2015.



PETER PETTY
CER**D-493
Notary Public

CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



MARTHA L. NELSON, CERT**367

April 23, 2015