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BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:)
)
REDONDO BEACH ENERGY PROJECT) Docket No. 012-AFC-03
-----)

STATUS CONFERENCE
CALIFORNIA ENERGY COMMISSION
ART ROSENFELD HEARING ROOM
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, AUGUST 5, 2015

9:00 A.M.

Reported by:

Peter Petty

APPEARANCES

Commissioners (and their advisers) Present

Karen Douglas, Presiding Member

Jennifer Nelson, her Adviser

Le-Quyen Nguyen, her Adviser

Janea Scott, Associate Member

Rhetta DeMesa, her Adviser

Eileen Allen, Commissioner's Technical Adviser

for Facility Siting

Shawn Pittard, Assistant Public Adviser

Hearing Officer

Susan Cochran

Staff Present:

Kerry Willis, Staff Counsel

Keith Winstead, Project Manager

Matt Layton

Paul Kramer

Petitioner AES Southland, LLC

Greggory Wheatland, Esq., Ellison Schneider & Harris

Samantha Pottenger, Esq., Ellison Schneider & Harris

Stephen O'Kane, AES

Jerry Salamy, CH2MHill

Interveners

City of Redondo Beach

Jon Welner, Esq., Jeffer Mangels Butler & Mitchell,

Special Counsel to the City

Kimberly Huangfu, Esq., Jeffer Mangels Butler &

Mitchell

Charles Salter

James Westbrook, Bluescape Environmental

Michael Webb, Esq., City Attorney

City of Hermosa Beach

Shahiedah Coates, Esq., Assistant City Attorney

Also Present

Tom Luster, California Coastal Commission

Louise Warren, California Coastal Commission

Public

None Present

INDEX

	PAGE
PROCEEDINGS	5
ADJOURNMENT	53
REPORTER'S CERTIFICATION	54
TRANSCRIBER'S CERTIFICATION	55

1 SACRAMENTO, CALIFORNIA
2 WEDNESDAY, AUGUST 5, 2015 9:06 A.M.

3 --o0o--

4 COMMISSIONER DOUGLAS: Good morning,
5 everybody. We are here for the status conference on
6 the Redondo Beach Energy Project. I'm Karen Douglas,
7 I'm the Presiding Member of the Energy Commission
8 assigned to this case.

9 And to my left is our Hearing Adviser, Susan
10 Cochran.

11 To her left is Janea Scott. Commissioner
12 Scott is the Associate Member on this case.

13 Commissioner Scott's Adviser, Rhetta DeMesa,
14 is to her left.

15 And Eileen Allen, the Technical Adviser for
16 the Commissioners, is on the far left of the dais, my
17 left.

18 And then to my right is my Adviser, Jennifer
19 Nelson. Le-Quyen Nguyen from my office will also be
20 here shortly.

21 So let's see, we have the Public Adviser,
22 Shawn Pittard is here. Can you stand up? And so he'll
23 be collecting blue cards, he's holding one up, and we
24 already have a few, so looks like people are really
25 with the program and ready to put their comments in,

1 but certainly if anyone else has a blue card, please
2 give it to Shawn.

3 And at this point let me ask the Petitioner
4 if you could introduce yourselves, please.

5 MR. WHEATLAND: Good morning, I'm Greg
6 Wheatland, I'm counsel for the applicant.

7 Joining me shortly on my left will be
8 Samantha Pottenger, also counsel for the applicant.

9 On my right is Stephen O'Kane with AES.

10 And behind me is Jerry Salamy with CH2MHill,
11 consultants to the applicant.

12 COMMISSIONER DOUGLAS: Thank you very much.
13 All right, staff, please.

14 MS. WILLIS: Good morning, my name is Kerry
15 Willis, Senior Staff Counsel.

16 With me is Project Manager, Keith Winstead.

17 We also have various staff members in the
18 audience for questions.

19 COMMISSIONER DOUGLAS: Excellent, thank you.

20 And now intervener James Light, Building a
21 Better Redondo, on the phone or in the room.

22 We usually call the interveners by order in
23 which they intervened, which is what I'm doing here.

24 James Light, Building a Better Redondo?

25 What about then City of Redondo Beach?

1 MR. WELNER: Good morning. My name is Jon
2 Welner, I'm outside counsel for the City of Redondo
3 Beach.

4 I have with me Kimberly Huangfu, who is also
5 outside counsel.

6 Seated to my left is Charles Salter, who is
7 the noise consultant for the City.

8 And also behind me is James Westbrook, who is
9 the air consultant for the City.

10 And on the phone, I believe, is Mike Webb,
11 the City Attorney; is that correct?

12 MR. WEBB: That's correct. Good morning.

13 MR. WELNER: Very good.

14 COMMISSIONER DOUGLAS: Thank you very much.
15 Excellent, thanks for being here.

16 Is there anyone on the phone from the City of
17 Hermosa Beach?

18 MS. COATES: Good morning, my name is
19 Shahieda Coates. I'm the Assistant City Attorney for
20 the City of Hermosa Beach.

21 COMMISSIONER DOUGLAS: Good morning. Thanks
22 for being on the phone with us this morning.

23 Are there any representatives of federal
24 government agencies on the phone or in the room, or
25 officials representing Native American tribes or

1 nations? Are there any elected officials from state or
2 local jurisdictions? Is there anyone participating
3 today from the Coastal Commission or the South Coast
4 Air Quality Management District?

5 MR. LUSTER: Good morning, this is Tom Luster
6 with the Coastal Commission.

7 MS. WARREN: This is Louise Warren, Deputy
8 Chief Counsel, Coastal Commission.

9 MR. LUSTER: May I start with an apology?
10 This is Tom Luster. I just realized that the document
11 we posted on Friday last week was our previous month's
12 status report. I've just posted the correct one
13 earlier today. If later in the agenda you want me to
14 just summarize that for everybody, I'd be happy to.
15 But apologies for posting the wrong document a couple
16 days ago.

17 COMMISSIONER DOUGLAS: Great. Well, thank
18 you. And we did wonder about that, but we'll look
19 forward to seeing the new one.

20 What about South Coast Air Quality Management
21 District?

22 Excellent. Well, with that, then, let me turn
23 this over to Ms. Cochran.

24 HEARING OFFICER COCHRAN: Good morning, and
25 thank you all for joining us.

1 As you are aware, the committee noticed
2 today's conference on the preliminary staff report --
3 which from now on I'm going to say PSA -- on July
4 21st, 2015.

5 On July 23rd, 2015, the committee issued an
6 order directing the parties to respond to identified
7 issues and questions. These issues and questions
8 touched on both substantive and procedural issues.

9 Before considering the responses that the
10 committee received to its July 23rd order, I wanted to
11 first talk about the pending motion, which is Item 2
12 on our agenda today.

13 Yesterday afternoon, the City of Redondo
14 Beach filed a motion seeking to compel AES to provide
15 certain data on noise. As I stated, today's agenda
16 contains an item for consideration of pending motions.

17 However, Section 1716.5 of the Commission's
18 regulations provides that parties have 15 days to
19 respond to motions unless otherwise ordered by the
20 presiding member. The presiding member at this point
21 has not indicated a willingness to waive that 15-day
22 requirement; thus, the motion is not ripe for
23 consideration by the committee today.

24 And so we would invite the parties,
25 particularly staff and the applicant, if they wish to

1 respond to the motion in writing. The committee is
2 particularly interested in hearing, first of all,
3 whether the motion is timely; and second, whether the
4 information sought by the City of Redondo Beach is
5 needed for staff's analysis.

6 I would also note that consistent with
7 Section 1716.5, the committee may decide the motion
8 without further hearing or may schedule a hearing to
9 determine that.

10 So before we launch into the substance of the
11 issues that we had outlined on the July 23rd order, is
12 there any comment on the motion to compel that you
13 would like us to consider at this point?

14 MR. WELNER: Well, Jon Welner. I would only
15 say that I think while we're gathered here we should
16 take advantage of the presence of our expert, Charles
17 Salter, if the committee is interested. He can provide
18 a little bit additional testimony or background
19 regarding the need for the motion.

20 HEARING OFFICER COCHRAN: Staff or applicant?

21 MR. WHEATLAND: We just received the motion
22 yesterday afternoon. I haven't had a chance to review
23 it in any detail or to talk to our consultant, so I
24 would prefer not to respond or discuss the motion
25 today but to respond as provided in the rules.

1 HEARING OFFICER COCHRAN: Thank you.

2 Staff?

3 MS. WILLIS: We would agree with that. As we
4 said, we just received it yesterday and I just
5 gathered staff at 7:30, 8:00 o'clock this morning to
6 see if they were available, and we have some staff but
7 we aren't really prepared to respond.

8 HEARING OFFICER COCHRAN: And I think that's,
9 again, why at this point we don't believe that the
10 motion is ripe for consideration. We appreciate the
11 offer to have Mr. Salter explain, but hopefully the
12 motion stands on its own and we'll take into account
13 what the parties have to say.

14 MR. WELNER: Thank you.

15 HEARING OFFICER COCHRAN: So let's now talk
16 about the issues raised in the July 23rd, 2015 order.

17 First of all, I'd like to specifically thank
18 staff and the applicant for their very thorough and
19 cogent responses to the questions that we raised.

20 I note that this morning we received a status
21 report from the City of Redondo Beach, and obviously
22 we haven't had a chance to look at or digest that.
23 That's why the order asked that those status reports
24 be filed on or before the 1st. And so the discussion
25 now is probably going to be more focused on what staff

1 and applicant had to say than considerations from the
2 City of Redondo Beach.

3 The first issue that we wanted to talk about
4 was air quality and greenhouse gasses. And obviously,
5 unless someone from the South Coast Air Quality
6 Management District has joined us?

7 Okay, seeing no hands raising on the computer
8 or here in the committee chamber, the first question I
9 have is the City of Redondo Beach has questioned
10 whether --

11 MR. LAYTON: Excuse me, Susan?

12 HEARING OFFICER COCHRAN: Yeah, yeah, yeah.

13 MR. LAYTON: Matt Layton. I spoke to Andrew
14 Lee at the District yesterday. He said they would try
15 to be available today.

16 HEARING OFFICER COCHRAN: Okay.

17 MR. LAYTON: I reminded him that would be of
18 great help, but I guess so far they haven't called in.

19 HEARING OFFICER COCHRAN: Okay, thank you.
20 Well, we'll talk about them behind their backs, then.

21 Mr. Welner submitted a letter which is found
22 on the docket at TN205189, that basically sets forth
23 both procedural and substantive issues to the District
24 about the process thus far relating to the issuance of
25 the final determination of compliance, or the FDOC,

1 and focusing on the public meeting that was held on
2 the preliminary determination of compliance, the PDOC.

3 Can someone tell me what the status of that
4 objection that was raised is?

5 MR. WELNER: We've heard nothing.

6 HEARING OFFICER COCHRAN: Okay.

7 Also, when South Coast did file a status
8 report with us -- and again, we thank them for that
9 timely filing -- but it indicates that there is no
10 estimated delivery date for the FDOC.

11 I know that generally what they have said
12 previously is that it would take them 30 days
13 following the completion of the public meeting. And
14 I'm just going to characterize it as a public meeting,
15 I know that's an issue. And then staff would require
16 45 days after the receipt of the FDOC for the
17 publication of its analysis in the FSA.

18 So given that we have no idea what the
19 delivery date for the FDOC is, what effect does that
20 have on this proceeding? And I'm looking specifically
21 at Ms. Willis.

22 MS. WILLIS: Thank you. We have had
23 discussions with our air quality staff, and at this
24 point we are unaware of what date the FDOC will be
25 finalized. That's why we were hoping that the Air

1 District would be on the phone today to maybe clarify
2 that issue.

3 We were expecting no later than, I think,
4 yesterday. That would give us the 30 days to review.
5 We're actually thinking 30 days instead of 45 days
6 that we could complete this.

7 If we don't receive it, it really is going to
8 be a day-for-day slip, I believe, because all the
9 other sections are either nearing completion or have
10 been completed and reviewed, so we were really
11 planning on the September 4th publication date. And
12 without the Air District's FDOC we are lagging behind
13 in that area.

14 HEARING OFFICER COCHRAN: Okay. Does any
15 other party wish to speak to that? Mr. Wheatland.

16 MR. WHEATLAND: First of all, I should
17 mention that one of the things that the District cited
18 in its letter was that it had asked for additional
19 information from the applicant. We had received a
20 request from the District on July 22nd. We are in the
21 process of preparing a response and we will submit
22 that to the District no later than the end of this
23 week, but this is additional information that they've
24 just now recently submitted to us.

25 We believe that the Air District and the FDOC

1 is an important part of the AFC proceeding, but we
2 don't believe that it should be the tail that wags the
3 dog. And what I mean by that is that when we
4 originally filed this application, you may recall that
5 the Executive Director's determination was that the
6 AFC was complete, all except for one item, and that
7 was getting a letter of completeness from the
8 District.

9 And the initiation of this proceeding was
10 delayed for, I don't know. Stephen, how many months
11 was it, eight, nine months or more, simply because we
12 didn't have that letter of completeness. Every other
13 aspect of the application was complete and the
14 proceeding was ready to go, but the District's delay
15 caused a delay in the commencement of the proceeding.

16 We'd hate to be in a similar position where
17 the District's procrastination delays the entire
18 proceeding, and what we'd encourage the committee to
19 consider is a process that you have adopted in past
20 proceedings when there have been delays from the Air
21 District, and that is basically to bifurcate the
22 issuance of the FSA so that those portions of the FSA,
23 which as I understand it will be complete for
24 everything except air quality, can proceed to be
25 issued in accordance with the committee's schedule,

1 and then to consider issuance of that portion of the
2 FSA once you receive the FDOC.

3 One of the other important things to know
4 about that FDOC is that there is a requirement in
5 existing law that the Commission take every condition
6 in the FDOC and include it verbatim as a condition in
7 the Commission's decision. So there isn't
8 discretionary review of the FDOC that the Commission
9 needs to undertake; you're required by law to take
10 that document and adopt it as part of your decision.

11 The additional discretionary review that's
12 required is the additional conditions that the staff
13 must prepare, and we certainly agree that it's
14 reasonable for the staff to have 30 days after the
15 FDOC is received for the staff to provide that
16 information, but we would hate to have that single
17 item delay the issuance of the entire FSA.

18 HEARING OFFICER COCHRAN: Do either of the
19 other parties, any of the other parties wish to
20 address the suggestion that we bifurcate the FSA?

21 MS. WILLIS: Staff has in the past has
22 bifurcated the process and published separately. In
23 fact, there's been, I think in some cases sections are
24 published, you know, and then more sections are
25 published.

1 It does not make for an easy to follow
2 document. I know when we're looking back at Carlsbad,
3 for instance, going back to the original case, there
4 were quite a few different staff documents, and trying
5 to figure out which one is the real one or the final
6 one was very difficult.

7 We prefer to publish it as one document, and
8 that has been our preference.

9 HEARING OFFICER COCHRAN: Mr. Welner, just
10 one second.

11 Mr. Luster, are you still on the phone?

12 MR. LUSTER: I am.

13 HEARING OFFICER COCHRAN: I just got news
14 from our technical staff that the status report that
15 you tried to file was rejected for technical reasons,
16 so if you could refile that document in our docket,
17 that would be much appreciated.

18 MR. LUSTER: I will do that.

19 HEARING OFFICER COCHRAN: Thank you very
20 much.

21 MR. LUSTER: Fortunately, it is largely
22 referring to previous documents that we have put on
23 the docket, but I'll redo it right now.

24 HEARING OFFICER COCHRAN: Okay, thank you
25 very much.

1 Mr. Welner, on the bifurcation issue.

2 MR. WELNER: Yeah, thank you.

3 So the City doesn't object in principle to
4 bifurcating the PSA if there's a real problem getting
5 a report or getting an FDOC decision from the Air
6 District, but we see that decision as being premature
7 today for a number of reasons.

8 First of all, if there were some compelling
9 rush, some issue that were driving us to making the
10 September 4th date critical, we could understand
11 taking the extraordinary step of bifurcating the
12 report. But as staff just indicated, it would make for
13 a clearer and better report and there's no compelling
14 need to have the report issued on September 4th.

15 Secondly, I would cite back to the committee
16 its own statement in the notice of the committee
17 conference describing about the Coastal Commission
18 report and the FDOC decision as essential to the
19 complete review and analysis of this project.

20 It's not as if air is a side issue in this
21 particular decision. Air and noise are probably the
22 central two issues for the City and for the
23 Commission, and I think it's very important that the
24 staff assessment deal with that when it's issued in
25 final form.

1 Third and probably most importantly, the FDOC
2 in this case is not simply a ministerial step. It's
3 not something like it may be perhaps in some cases
4 where the FDOC, the issues are settled. And in fact, I
5 think from the City's point of view, we're not
6 entirely sure that an FDOC can be issued.

7 So it's not that the Air District is
8 procrastinating, as was suggested. The Air District,
9 we know, is working hard on a number of substantive
10 issues that not only affect issuance of the FDOC but
11 are important for the Energy Commission and its staff
12 to consider.

13 I have with me today, as you know, James
14 Westbrook, our air consultant. If it would be of
15 interest -- I'm not going to go there right now, but
16 if it would be of interest to the committee, we can
17 certainly quickly review what those substantive issues
18 are that are being looked at by the Air District that
19 matter not only for issuance of the FDOC but also for
20 the Commission's CEQA considerations.

21 And finally, I guess what I would say in
22 terms of the last point is that if, in fact, the
23 committee wants to consider bifurcating the report, it
24 should at least provide notice to the Air District
25 that that is a step that might be taken. Perhaps give

1 the Air District 30 or 60 days. Let them know that if
2 the FDOC is not issued by a certain time, then the
3 committee would consider bifurcating the report.

4 But I think it would be precipitous to simply
5 bifurcate it today since we don't know when the FDOC
6 will be issued. We know the Air District is working
7 hard on it. Unfortunately, a representative of the
8 District couldn't be here today to explain where they
9 are in the process.

10 HEARING OFFICER COCHRAN: Ms. Coates, do you
11 have anything that you'd like to add on behalf of the
12 City of Hermosa Beach?

13 MS. COATES: No, nothing to add.

14 HEARING OFFICER COCHRAN: Thank you.

15 COMMISSIONER DOUGLAS: I just had a brief
16 comment on this. We will take this in and obviously
17 make a decision in terms of schedule, but I would note
18 that, of course we do at times bifurcate the document
19 and it's not unusual.

20 More often than not, when we ask staff or
21 when staff proposes to bifurcate the staff assessment,
22 it is the FDOC that we are waiting for.

23 That said, it's a much easier decision to
24 make when you know that the FDOC is imminent or you
25 have a sense of when it's coming, and at least my

1 experience has been it can be a bit more disruptive if
2 the time it takes for the FDOC to be issued kind of
3 drags out, and then you have potentially hearings on
4 one document and a rather long delay before you get to
5 hearings on certain parts of the air quality section.

6 So I think that we will take this under
7 submission. I think that we are very interested in
8 hearing from the Air District about when they think
9 they'll issue the FDOC.

10 And I will also say that we're not in the
11 practice of waiting indefinitely either, and the time
12 is going to come, and it may be sooner rather than
13 later, at which point we say, you know, we're really
14 ready to go with the rest of this proceeding and we've
15 waited long enough.

16 So we will take this under submission and we
17 will make a decision on schedule, but at least those
18 are some thoughts.

19 I don't know if any party wants to add any
20 last thoughts to this right now, or if not, we'll move
21 on.

22 MS. WILLIS: I was just informed after I
23 spoke that we did republish in El Segundo the entire
24 document, so that would be an option.

25 COMMISSIONER DOUGLAS: Thank you. Yeah,

1 that's right.

2 HEARING OFFICER COCHRAN: Okay. Another air
3 quality issue that was raised had to do with
4 efficiency and the heat rate average. And as I
5 understand the comments that we received from staff
6 and applicant, that the heat rate average does exceed
7 the WECC standard.

8 So given this seemingly comparative lower
9 efficiency, the committee is looking for information
10 on how this plant compares to other plants and the
11 benefits flowing from this technology in this
12 location.

13 Part of this obviously will include a
14 discussion of the role of this plant. For example, is
15 this plant needed for voltage support? I know that was
16 an issue in Huntington Beach.

17 And further, recent cases have led us to
18 discuss whether there are other technologies that
19 might address some of these issues regarding
20 efficiency and the like, so we would be looking for
21 that in the FSA unless people have comments on that
22 issue.

23 I know that applicant's status report focused
24 in on our displacement theory as part of the answer,
25 but are there other technologies or, you know, those

1 types of issues.

2 MR. O'KANE: Stephen O'Kane with AES. I just
3 had a clarifying question there.

4 You mentioned how does this plant compare to
5 the WECC standard. Could you clarify what you meant by
6 'standard'?

7 HEARING OFFICER COCHRAN: Well, my
8 understanding is that we use the WECC for the heat
9 rate average.

10 MR. O'KANE: Correct.

11 HEARING OFFICER COCHRAN: Okay. So it's in
12 relationship to that part of the analysis on the
13 greenhouse gas emissions in terms of the relative
14 efficiency leads to the displacement theory, because
15 my understanding of the displacement theory is that
16 more efficient plants displace less efficient plants.
17 And so if a plant is marginally more efficient, it
18 will be used.

19 But my question is, when it is marginally
20 efficient how do we continue to do that, particularly
21 in light of some of the discussion in recent cases
22 like Carlsbad and Huntington, and of course the
23 Commission's precedential decision in Avenal.

24 MR. O'KANE: Okay. Just had that clarifying
25 question, I guess standard versus an average.

1 HEARING OFFICER COCHRAN: Right.

2 MR. O'KANE: I guess that's a significant
3 difference.

4 HEARING OFFICER COCHRAN: Okay. That's my
5 shorthand; I'm not an engineer.

6 Any other questions, comments, protests?

7 Then I would like to move on to the Coastal
8 Commission 30413(d) report.

9 Now, I understand that the applicant contends
10 that this project is not subject to the 30413(d)
11 provisions. I think, however, that the treatment that
12 we gave the Coastal Commission report in Huntington
13 Beach is fairly illustrative. And there were very
14 specific things in the Coastal Commission report that
15 we wanted to call to the parties' attention.

16 The first of which is the consideration of
17 additional alternatives, and that discussion is on
18 pages 7 to 14 on their document, which has a TN205306
19 in the Redondo Beach docket.

20 I don't want to speak for Mr. Luster.

21 Mr. Luster, perhaps you can characterize the
22 Commission's position regarding the alternatives
23 analysis and what the Commission is looking for. My
24 understanding is that there was some question as to
25 whether the Coastal Commission had sufficient

1 information to determine whether there were no
2 feasible less environmentally damaging alternatives or
3 that the site had greater merit than available
4 alternative sites; is that correct?

5 MR. LUSTER: Yes. We had two main areas where
6 we thought revised alternative analysis would be
7 necessary.

8 One, both the Coastal Act and the City's LCP,
9 Local Coastal Program, have requirements for projects
10 involving wetland fill. Even if it's an allowable use,
11 there's a three-part test that requires consideration
12 of determining whether there are no feasible less
13 environmentally damaging alternatives to the fill.

14 And given the new information and changed
15 circumstances that have come out since publication of
16 the PSA, we think at the very least the alternatives
17 analysis in the PSA needs to be revised to include
18 that new information and changed circumstances. And
19 then based on the conclusions of the revised
20 alternatives analysis, we could then apply this test
21 that's in both the LCP and the Coastal Act.

22 There's a similar requirement in Coastal Act
23 Section 30264 that's cited in the report that we
24 docketed regarding whether alternative sites have
25 greater relative merit. And similarly, with the new

1 information that's been developed since last July, we
2 think the revised alternatives analysis should be used
3 to make that determination.

4 So those are the two main issues that we had.

5 Louise, do you want to add anything?

6 MS. WARREN: No, I think you've summarized it
7 properly. I think I'm mostly here because I was a
8 little surprised to see in the submission from the
9 applicant the arguments about 30413(d) and the legal
10 status of that. And we haven't had an opportunity to
11 respond to that. We obviously disagree with that legal
12 analysis, so I just didn't know if the committee had
13 questions or if the Coastal Commission should try to
14 find an opportunity to submit its own interpretation
15 of those provisions.

16 HEARING OFFICER COCHRAN: Ms. Warren, we
17 appreciate that. I don't know that we have questions
18 at this point, but we may have questions later.
19 Because I also know that you submitted a letter
20 regarding the land use issue, which is the next point
21 that we're going to be discussing.

22 Getting back, though, to alternatives for
23 just a moment, do any of the parties have comments
24 that they would like to make?

25 Mr. Wheatland, I saw you.

1 MR. WHEATLAND: I do have a question. The
2 gentleman from the Coastal Commission mentioned new
3 information and changed circumstances since the PSA
4 was issued. The proposal for the project is exactly
5 the same as proposed for the PSA, so I was wondering
6 if he could be more specific as to what specific new
7 information or changed circumstances he was referring
8 to, and if that information was included in the report
9 or a document submitted by the Coastal Commission.

10 HEARING OFFICER COCHRAN: Mr. Luster.

11 MR. LUSTER: Yes, thank you. Yes, we describe
12 the information in the Coastal Commission's adopted
13 report starting on Page 7, I believe. It goes into
14 some contracts from last year, the Cal ISO analyses,
15 Energy Commission analyses of greater liability and
16 expected generating capacity, so those are the main
17 issues. It's all spelled out in those pages of the
18 report that you mentioned earlier.

19 MR. WHEATLAND: And what, may I ask, were the
20 changed circumstances?

21 MR. LUSTER: Well, along with the contract
22 and determinations of needed generating capacity, our
23 conclusion that the areas onsite were the Coastal
24 Commission jurisdictional wetlands and the need to do
25 an alternatives analysis to allow fill over those

1 wetlands.

2 MR. WELNER: Jon Welner for the City.

3 There's additional -- I mean, I would simply
4 interject that the Coastal Commission report goes
5 actually to great length to describe these new
6 circumstances. I don't know why applicant is asking
7 them to recite those pieces of the report again here,
8 but I would only add to what Mr. Luster has described,
9 that some of the key changed circumstances that are
10 described in the Coastal Commission report is that
11 over the course of the past year during a voluntary
12 suspension that AES requested, it became clear through
13 both the PUC long term procurement process and the Cal
14 ISO reports that occurred at the time that the power
15 that is being proposed to be generated by this plant
16 is not needed and that, in particular, the claim in
17 the AFC that the power must come from this location in
18 order to guarantee reliability of the grid is simply -
19 - is actually opposite. This subregion received no
20 power purchase agreements because the reliability
21 issue is resolved far better by facilities that are
22 further south.

23 So those are some of the new conditions that
24 are described in the report.

25 Oh, there's one other, which is that AES made

1 clear in the course of its campaign for its
2 initiative, Measure B, that things would be just fine
3 if the plant were closed and (inaudible) development
4 were put in its place.

5 So those specifically are some of the new
6 conditions that are cited in the Coastal Commission
7 report, and Mr. Wheatland well knows they're cited in
8 the report, and again, I'm not sure why he's asking
9 Mr. Luster to recite them here, but thought I would
10 add that to the conversation.

11 HEARING OFFICER COCHRAN: I appreciate that.

12 And again, just a quick glance through the
13 Coastal Commission 30413(d) -- I'll be able to trip
14 through that smoothly soon -- is on Pages 10 and
15 following it about the changed circumstances, so I
16 would suggest that that be sort of the starting point
17 in the analysis.

18 Staff, did you have anything you wanted to
19 add?

20 MS. WILLIS: Sure, thank you. We did review
21 the report carefully. We've also been in discussions
22 with the Coastal Commission on what the Energy
23 Commission's functions are as far as need analysis, so
24 I think we have a clear understanding and they have a
25 clear understanding of what our functions are and what

1 the CPUC's function, so that was made clear.

2 Unfortunately, we didn't have the discussions
3 until after the report was submitted, but we are doing
4 upgrading and reevaluating our alternatives analysis
5 to look at some of the things that they've raised, and
6 the issues that they've raised.

7 HEARING OFFICER COCHRAN: Okay, thank you.

8 MR. LUSTER: Madame Chair?

9 HEARING OFFICER COCHRAN: Yes?

10 MR. LUSTER: I'm sorry, may I add one more
11 comment?

12 HEARING OFFICER COCHRAN: Certainly.

13 MR. LUSTER: Thank you. I should note that
14 the Commission adopted this report at a public meeting
15 at which AES provided comments, and so the Commission
16 heard from them through our process and provided the
17 report before you today.

18 HEARING OFFICER COCHRAN: And we just
19 received -- oh, this is from Mr. Welner, this isn't
20 from the Coastal Commission. Is there another one?

21 MR. KRAMER: No, but it just came in. I
22 thought you might want to see it.

23 HEARING OFFICER COCHRAN: Thank you.

24 MR. KRAMER: We're still waiting on the other
25 one.

1 HEARING OFFICER COCHRAN: Thank you.

2 So the discussion of need tees me up for the
3 next discussion, which is land use, which was touched
4 on in the Coastal Commission report as well as in the
5 letter from Ms. Warren that was docketed on July 24th
6 at TN205515. And that essentially has to deal with
7 Ordinance O-314-15, adopted by the City of Redondo
8 Beach on July 7, 2015, that in his status report I
9 know Mr. Welner refers to as the prohibition, and it
10 essentially applies to electrical generating
11 facilities of 50 megawatts or more, and specifically
12 indicates that the City will not issue any permit,
13 license, or entitlement for use, including a business
14 license, for any facility within the definition of the
15 ordinance.

16 Obviously, if this ordinance applies, where
17 does that leave us? And I think everyone has cited to
18 the need, then, for the Commission to override the
19 inconsistency with the LORS.

20 I know that applicant has taken the position
21 that the ordinance is invalid, is unreasonable,
22 unlawful, etcetera. But I guess the question I have
23 is, if we are going to have to override, is a needs
24 analysis part of that? What is that going to look
25 like? What's the timing for that type of analysis? And

1 I'm looking now at staff for the answer to this.

2 MS. WILLIS: Before we reach that question,
3 and we haven't completed that section of the FSA, so
4 I'm not actually at liberty to say where we're going
5 to go because I actually don't know where we're going
6 with that.

7 We did have questions, though, in reviewing
8 this ordinance for the city. There's some confusion,
9 and I guess we've read the Coastal Commission's letter
10 very carefully. I believe we understand what they're
11 saying, but there seems to be some discrepancy and we
12 just want to get a clarification.

13 In the section, I believe it's Title 10 of
14 their ordinance they add a Chapter 7, which is the
15 chapter that's added that provides the prohibition
16 against the 50 megawatts or greater modification or
17 new power plant, or anything before the Energy
18 Commission.

19 But then also in Chapter 2 there's a public
20 utility facility definition that's been modified that
21 includes the exception that is laid out in Title 10,
22 Chapter 7. But in Chapter 5 there is also a public
23 utility facility definition that does not have that
24 language that has been changed.

25 So we're just asking the City if they could

1 clarify why it's been changed in one part and not in
2 the other part of the Municipal Code, because we're
3 kind of grappling with what does that mean, or if it
4 has a meaning.

5 MR. WELNER: Sure. We can address that
6 question, I think it's more of a technical question,
7 but what I'd like to just inquire since he's not
8 physically here is, Mike Webb, do you want to take a
9 stab at responding to that?

10 MR. WEBB: I'm trying to load the ordinance
11 as we speak. I think what Ms. Willis is referring to
12 is there is still allowed power plants under 50
13 megawatts that aren't otherwise subject to the Energy
14 Commission jurisdiction, and I think that was more
15 cleanup language to make certain that where under 50
16 megawatts not otherwise subject to the Energy
17 Commission jurisdiction is allowed that there weren't
18 internal inconsistencies, but let me take a look and -
19 -

20 MS. WILLIS: If it helps, I was looking at
21 the definitions, it's 10-5.402 and it would be Section
22 140, Public Utility Facility, that is not changed.

23 MR. WELNER: Yeah, I think what I would say
24 is that I think Mike Webb and myself don't have the
25 ordinance in front of us right now, but what we can do

1 is be happy to respond to that in writing.

2 I would add to that that whatever language is
3 there with regard to any section outside of the new
4 Section 7, as Mike Webb indicated, is cleanup language
5 in order to make sure the rest of the Code aligns with
6 Section 7.

7 HEARING OFFICER COCHRAN: And for those of
8 you playing along at home, the ordinance is in our
9 docket, and for some reason I don't have the TN handy,
10 so I apologize for that, but it is in the docket if
11 you wish to maybe load it faster through our docket.

12 Mr. Wheatland.

13 MR. WHEATLAND: But before we get to the
14 question of a schedule for doing a need analysis, I
15 think we skipped over the most fundamental question of
16 whether such analysis would be required at all.

17 The Commission in a very carefully reasoned
18 decision that was just issued for the Carlsbad
19 facility was presented with this exact same argument
20 where the parties contended that you needed to do a
21 need conformance analysis as part of a 255.25
22 determination, and the Commission in a very well
23 reasoned decision explained why that was not required.

24 So I think before the committee would get to
25 the question of a schedule for preparing an

1 unnecessary analysis, you need to look at that
2 threshold determination and take that on squarely.

3 We believe that there are very strong reasons
4 why such an analysis would be inappropriate. We think
5 those are well articulated by the Commission. And we
6 think there's a very high burden on the parties that
7 contend that such analysis would be required to prove
8 it and to have the committee make that determination
9 before you get to the question of scheduling.

10 MR. WELNER: If we may, the City also has a
11 quick response to that statement.

12 HEARING OFFICER COCHRAN: Just one moment.

13 First of all, the Redondo Beach ordinance is
14 docketed at 205603. Thank you, Ms. Allen.

15 And I'd like to clarify when I say needs
16 analysis what I'm really talking about is the
17 necessary analysis for public convenience and
18 necessity, and sometimes the terms 'necessity' and
19 'need' is conflated. It's my shorthand, I apologize,
20 but it is public convenience and necessity. And so the
21 question still stands.

22 MR. WHEATLAND: I'm sorry, then.

23 HEARING OFFICER COCHRAN: No, no, no.

24 MR. WHEATLAND: I totally misunderstood your
25 question, because in terms of a 255.25 or whatever the

1 section is for, you will need to receive evidence on
2 that topic, and I believe that it's most appropriate
3 to receive that evidence as part of the evidentiary
4 hearings that will take place.

5 In some cases the Commission has taken
6 evidence on that issue only after it concluded the
7 evidentiary hearings, but I think it would be more
8 efficient for your process to receive that testimony
9 during the evidentiary phase.

10 The applicant is prepared to present
11 testimony in support of those findings and we would
12 propose that we would do so on the deadline for
13 submitting testimony in the evidentiary hearings,
14 which I believe is September 25th.

15 HEARING OFFICER COCHRAN: Under the current
16 schedule.

17 MR. WHEATLAND: Yes. And we would encourage
18 the committee to ask other parties to address the
19 issue in their direct testimony at that time.

20 I don't mean to presume to speak for the
21 staff, though, in whether they choose to address it in
22 the FSA or as subsequent testimony; I think it would
23 be up to them.

24 HEARING OFFICER COCHRAN: Okay. Mr. Welner.

25 MR. WELNER: Yes, a couple of things to

1 quickly address in response to all the things that
2 have been said.

3 One is, the City believes that it's quite
4 important for staff to address this question of public
5 convenience and necessity. Their analysis on every
6 other issue is something that's valued and needed by
7 the committee and the Commission in order to make its
8 determinations, and we would appreciate the
9 opportunity to both brief the issue and have staff
10 opine on the issue before we reach the evidentiary
11 hearing stage.

12 I was going to have a number of things to
13 respond to the needs analysis question but I'll defer
14 those since that doesn't appear to be what we're
15 talking about here in terms of what Mr. Wheatland
16 said, that no needs analysis is required.

17 But I would say that, as the City notes in
18 its status report, that there's no light of day
19 between public convenience and necessity and need,
20 they're synonymous, and in order to make a finding of
21 public convenience and necessity, essentially the
22 Commission has to find that the power is needed.

23 Moreover, I would note that there are two
24 separate bases in the Coastal Commission report
25 calling for essentially what we're saying is a needs

1 analysis.

2 One basis, which was not addressed by Mr.
3 Wheatland, is the wetlands fill issue, which
4 distinguishes this case from other cases. There's an
5 independent Coastal Act requirement that there be no
6 feasible less environmentally damaging alternative to
7 what is being proposed. And the Coastal Commission
8 explains that part of that means determining that the
9 power is needed at this site. That's independent of
10 the Energy Commission's responsibility to override the
11 LORS and look at public convenience and necessity for
12 that reason.

13 I think that's it. Thank you.

14 HEARING OFFICER COCHRAN: Ms. Willis.

15 MS. WILLIS: Thank you. The question of
16 public convenience and necessity and the word 'need'
17 has been an issue in this case since the very
18 beginning, it's been brought up in the public over and
19 over again. So although Mr. Welner thinks it's
20 synonymous, the case law shows that it is not.

21 We have briefed this issue in previous cases,
22 and the term 'public convenience and necessity' is not
23 used in the same way as a requisite.

24 So we would be happy to brief that again, but
25 there are briefs in other cases that have been filed

1 that allow the Commission broad discretion to consider
2 a range of factors in making the determination of
3 whether an override is needed. In Section 255.25 it
4 actually lists consumer benefits, environmental
5 factors, and electric system reliability.

6 So our position is quite different than Mr.
7 Welner's that it's not a synonymous situation. But it
8 has been brought up over and over again, and we have
9 replied over and over again our position, so I just
10 wanted to make sure that that's been clear that this
11 has been discussed and the disagreement remains.

12 As far as the Coastal Commission, as I said,
13 we have discussed that with them. We're looking at the
14 environmental impacts and we are not doing the need
15 analysis as part of our FSA.

16 HEARING OFFICER COCHRAN: Thank you.

17 So the last thing that I substantively had
18 was the discussion of the reclaimed water pipeline,
19 which as I understand it will be somewhere in the
20 neighborhood of 330 feet to 400 feet, largely onsite,
21 but with 100 feet of the pipeline in Herondo Street,
22 if I'm pronouncing that correctly.

23 MR. WHEATLAND: Yes.

24 HEARING OFFICER COCHRAN: And obviously an
25 issue there is, will that work require an encroachment

1 permit? Does the Energy Commission's consolidated
2 permitting authority extend to an encroachment permit?
3 And will Ordinance 3134-15 affect the issuance of any
4 needed encroachment permit? Those are issues that came
5 to mind as I, too, have wrestled with what the
6 ordinance says and what it means.

7 Assuming for this discussion that it applies,
8 and I understand your sentiment that it does not, Mr.
9 Wheatland, but those are issues that I'm concerned
10 about and wondered if anybody else had those same
11 concerns or thoughts.

12 Mr. Wheatland.

13 MR. WHEATLAND: Yes, actually those are very
14 good concerns and thoughts, and we have had the same
15 concerns and thoughts as well.

16 First of all, the Commission's general
17 statutory jurisdiction is in lieu of all otherwise
18 applicable local and state permits, and so we believe
19 an encroachment permit is exactly the type of permit
20 over which the Commission has preemptory authority. In
21 the past, the Commission also has found that it has
22 preemptory authority over encroachment permits and has
23 done it in one of two ways.

24 In some instances, the Commission has
25 reserved to its own jurisdiction the determination of

1 compliance with those permits through the CPM.

2 In other cases where the local agency is
3 supportive of the project and because an encroachment
4 permit is a ministerial permit, an over-the-counter
5 permit, the Commission has delegated to the local
6 jurisdiction the exercise of the issuance of that
7 permit.

8 In this case, because of the City's obvious
9 posture in the case and because of this new ordinance,
10 if applicable, we believe it would be appropriate for
11 the Commission to reserve to itself the jurisdiction
12 for determination of compliance with any encroachment
13 permit that might be required.

14 HEARING OFFICER COCHRAN: Ms. Willis, are you
15 familiar with --

16 MS. WILLIS: We're not ready to address that
17 issue at this point.

18 HEARING OFFICER COCHRAN: Okay. And I just
19 want to make sure, too, that to the extent that we are
20 now working offsite and in the street, that we make
21 sure that the analysis of impacts in other sections
22 like traffic, noise, air quality, sort of dovetails
23 with the pipeline.

24 One question I also had in this is, I know
25 that the timing is uncertain, and whether there is a

1 commitment to using this during construction. And I
2 know that recently we talked about amounts of potable
3 water given the drought conditions that could be used
4 for construction and demolition purposes on other
5 projects, and whether there's potentially a condition
6 for that to make sure that we're converting over to
7 the use of reclaimed recycled -- and I use those
8 interchangeably -- water as soon as practicable.

9 MR. WHEATLAND: There isn't currently a
10 condition, but we would welcome such a condition, that
11 is our intent.

12 HEARING OFFICER COCHRAN: Okay.

13 MR. WHEATLAND: And obviously you need to
14 have some construction to build the pipeline to begin
15 receiving the water.

16 HEARING OFFICER COCHRAN: Absolutely.

17 MR. WHEATLAND: But we intend to do so as
18 early as practicable in the process.

19 But could we ask for the City's response with
20 request to the encroachment permit, because I'd be
21 curious as to whether they consider that to be a
22 permit that's preempted by the Commission, or if there
23 are any other permits that are referenced in the
24 ordinance that they believe are not preempted by the
25 Commission.

1 HEARING OFFICER COCHRAN: If you're able to
2 respond to that today.

3 MR. WELNER: I don't believe we're prepared
4 to answer that today, thank you.

5 HEARING OFFICER COCHRAN: Another issue
6 related to the use of the reclaimed water is
7 pretreatment. In the analysis of impacts I know that
8 there is a suggestion it could either be done onsite
9 or through rental recharge beds, and I just want to
10 make sure that the analysis of the impacts of that,
11 whether it's waste management or hazmat or the water
12 quality for the discharge, that those are also handled
13 in whatever document we need next whenever we see that
14 next.

15 I know that the applicant has said they don't
16 believe that pretreatment is necessary. I'm just
17 basing this on other cases I've seen where
18 pretreatment was necessary.

19 The final issue, then, is the schedule. I
20 know that we have already talked about bifurcation.
21 Are there any other issues regarding the schedule?

22 When the schedule was issued in May we
23 thought that we would have the FDOC by now, and we did
24 put two asterisks after everything after September 4th
25 as a major *Let's see how the world actually comes to*

1 *pass, because life is what happens when you're busy*
2 *making plans. So what is life showing us about the*
3 *schedule at this point; what do we think is a*
4 *realistic schedule?*

5 I know Mr. Wheatland has mentioned the fact
6 that under the May schedule, opening testimony would
7 be due September 25th.

8 Questions, comments, protests?

9 Mr. Wheatland.

10 MR. WHEATLAND: We're prepared to meet the
11 schedule as it's been set by the committee.

12 HEARING OFFICER COCHRAN: Staff?

13 MS. WILLIS: As we stated earlier, we were
14 prepared for September 4th. Not having the FDOC,
15 depending on whether the committee would prefer us to
16 bifurcate or not, we could be prepared to publish most
17 of the sections -- I believe public health is also
18 another section is reliant on the FDOC -- by September
19 4th. If not, it would probably be, as I said, maybe 30
20 days after, so late September if we got it in the next
21 month.

22 HEARING OFFICER COCHRAN: Mr. Welner.

23 MR. WELNER: So the city would point out
24 that, in addition to the issue of the FDOC and when
25 that information will come out, there are two other

1 significant pieces of information that could
2 substantially impact staff analysis that we are still
3 waiting for.

4 One, of course, has to do with the motion
5 that we filed to compel production of underlying
6 technical data that we've been going back and forth
7 with AES on since May. And again, our noise consultant
8 is here, but the basic gist of that is there are
9 numerous assertions that have been made where the
10 underlying technical data has not been available for
11 examination. And depending on the outcome of that
12 motion, if that data becomes available, there may be a
13 need for additional time for the parties and for staff
14 to absorb and respond to that information.

15 And the second item, which has been a little
16 bit more off the radar but is worth bringing to the
17 committee's attention, is the City has requested from
18 the Public Utilities Commission that it provide
19 information about the 198 initial offers that were
20 made to Edison for gas-fired power plants in the L.A.
21 Basin. That information was described in testimony by
22 Edison that was submitted to the Public Utilities
23 Commission, but unfortunately it was redacted.

24 The City has requested that information from
25 the PUC. The PUC's initial response was kind of a bit

1 of a form letter that said, "It's redacted, you can't
2 have it." We're continuing to try and work with the
3 PUC to get that information, but if that fails we're
4 likely to ask the committee for help in obtaining that
5 information. We don't believe there's any basis for it
6 to be confidential.

7 So my only point in saying this is that the
8 alternative section could be informed by that data if
9 and when it becomes available, and that's something
10 that we've been working on but have been unable to
11 shake loose.

12 HEARING OFFICER COCHRAN: And that raises
13 something that I had forgotten to mention earlier.

14 It's been mentioned that air quality and
15 noise are probably the big issues as far as the City
16 is concerned. And I know that in reading much of the
17 information that's come through on noise, I think it
18 would be helpful if we took a step back and if someone
19 could provide the committee with some sort of a primer
20 for the layperson, because as I start reading DBA,
21 LEQ, L90 at 3 feet, I get lost because I don't have
22 the technical background for that. I'm the first to
23 admit if I knew math I probably wouldn't be a lawyer.
24 So those types of things could be very helpful to the
25 committee as we move forward on this.

1 And it's very easy when you understand your
2 subject to just sort of launch into your subject, but
3 for those of us who aren't the subject matter expert,
4 that could be extremely helpful.

5 Ms. Coates, is there anything that you wish
6 to add on any of the things that we've talked about on
7 behalf of the City of Hermosa Beach?

8 MS. COATES: Yes, thank you. I would like to
9 just voice the City's concern about the scheduling.
10 There is a lot of information that has come up in the
11 analyses that have been done by the Air Quality
12 Management District and Coastal Commission that should
13 inform the FSA, and I think it's particularly
14 important that the FDOC be considered.

15 There was some discussion about bifurcating
16 the FSA, and I think that this process already
17 involved a lot of very complicated technical
18 information that can be difficult for the public to
19 digest. And so the extent that the FSA can be
20 presented in easily digestible manner, I think that
21 that should be the goal. So to that end, bifurcation
22 should be disfavored. Just a single document that
23 addresses all of the issues would be preferred, and so
24 the City would support an extended schedule that would
25 allow for all of that information to be considered in

1 a single document.

2 Thank you.

3 HEARING OFFICER COCHRAN: Thank you very
4 much.

5 Is there anything else on agenda item?

6 Mr. Wheatland.

7 MR. WHEATLAND: Well, this has to do with
8 scheduling. I was handed this interveners City of
9 Redondo Beach status report just at the commencement
10 of this hearing. It's dated August 4th. Mr. Welner has
11 been capable of sending me other emails late at night.
12 Certainly, if that's when it was prepared, it could
13 have been provided to us prior to the start of the
14 hearing.

15 This is the fourth status report that the
16 City has issued that's been late by a number of days.
17 Not just one day but multiple days. It's a consistent
18 pattern that's occurred. And I think it's really
19 important that if the City is to be an intervener in
20 this proceeding, it assume the responsibilities as
21 represented by counsel.

22 And I'd like to ask that the committee would
23 admonish all of the parties of their duty to make
24 timely filings and to provide the courtesy of early
25 notice of these matters, and not to hold it off until

1 the start of the hearing.

2 HEARING OFFICER COCHRAN: So noted.

3 COMMISSIONER DOUGLAS: Moving on now to
4 public comment, Item 4. We have two speakers cards.
5 We'll start with James Westbrook, City of Redondo
6 Beach.

7 MR. WESTBROOK: Good morning. James
8 Westbrook. I'm with Bluescape Environmental
9 representing City of Redondo Beach, and I'm here just
10 to really answer any questions, as Mr. Welner said, on
11 air quality issues before the Commission. I do have
12 some details I can provide in terms of those comments,
13 but I'd like to see if you have any questions.

14 HEARING OFFICER COCHRAN: Thank you. I think
15 that we don't have any questions at this point.

16 MR. WESTBROOK: Okay. That's all I have.

17 HEARING OFFICER COCHRAN: Thank you so much.

18 COMMISSIONER DOUGLAS: All right, thank you.
19 Charles Salter, City of Redondo Beach.

20 MR. SALTER: I'm dealing with the acoustical
21 issues, and I appreciate the interest in acoustics,
22 because as you can see from the letters I've prepared,
23 I'm concerned about the potential acoustic impact of
24 the new plant, and then the difficulty if not
25 impossibility of fixing it after the fact.

1 So I'd be glad to come back and present
2 information in detail on the different acoustical
3 metrics that are in the report, and I'd be glad to
4 answer any questions in the next minute or so having
5 to do with my overall concern about acoustic impact
6 based on what I've read and commented on so far.

7 COMMISSIONER DOUGLAS: All right. Well, thank
8 you for being here and making comment as well. And I
9 do want to suggest, you know, as we go through the
10 status conferences, when we have questions we'll ask
11 them. It's not necessary to have your consultants make
12 public comment, although we will not turn away any
13 public comment. But these status conferences are not
14 evidentiary hearings. When we ask for information,
15 it's informational but it's not something that we
16 would, you know, cite to in the record or base a
17 finding on, and so we try to have enough information
18 in these hearings that we're all informed but not so
19 much that everyone feels like they need to bring their
20 witnesses too and have them make comment to rebut
21 other comment. That just doesn't help us because it's
22 not on the record.

23 But anyway, thank you both for our comments.

24 And let me ask now if there's any additional
25 public comment either in the room or on the phone?

1 Are the phone lines open? All right, thank
2 you, Paul.

3 Paul said that anyone who's muted is muted
4 because they did that themselves, we did not mute
5 anybody, so the phone lines are open. Please speak up
6 now if you'd like to make public comment.

7 All right, hearing none, we are going to go
8 into a brief closed session to discuss the scheduling
9 issue. It's actually unusual for us to have something
10 to report after a closed session. We don't like to
11 keep people waiting here for us to come out and report
12 orally; we like to send everyone home and put
13 something out in writing.

14 In this instance, however, the schedule is a
15 pretty time sensitive issue for us to decide. I think
16 staff needs to know if they need to put out the FSA on
17 the date that is proposed or not.

18 So we will go now just into that little
19 closed session room. Please stick around because we
20 actually will have something to report afterwards.

21 And this is exactly how we tell you if we
22 will have something to report or not, so it will not
23 be ambiguous ever.

24 So with that, we will be back. We're going
25 into closed session.

1 [Adjourned to closed session at 10:11 a.m.]

2 [Resumed after closed session at 10:18 a.m.]

3 HEARING OFFICER COCHRAN: If we could all
4 resume our seats, please. We're back on the record.
5 The committee has returned from closed session.

6 Before we discuss what we determined in
7 closed session, I'd like to once again see if anyone
8 from South Coast Air Quality Management District has
9 managed to join us?

10 And I don't know who put us on hold, but your
11 music is lovely.

12 Okay. The committee has met in closed session
13 and has made the following determinations. A written
14 order concerning this will be issued shortly.

15 At this point, the schedule issued in May of
16 2015 is vacated. That means that the FSA does not need
17 to be published on September 4, 2015.

18 Instead, we will be holding another status
19 conference in approximately 30 days, depending on
20 calendars, or as soon thereafter as we can reasonably
21 get that scheduled, hoping for new information from
22 the South Coast Air Quality Management District about
23 the status of the FDOC.

24 However, in the event that we are unable to
25 determine a publication date for the FDOC, we may then

1 be inclined to issue a new schedule and bifurcate the
2 FSA. And by bifurcate the FSA, we mean exactly that,
3 the FSA only, not bifurcating the evidentiary
4 hearings.

5 If the FDOC issues before the next status
6 conference, the FSA would then be due within 30 days
7 of the publication of the FDOC, as staff so graciously
8 provided this morning.

9 And that's the determination of the
10 committee.

11 With that, we're adjourned. Thank you.

12 [Adjourned at 10:20 a.m.]

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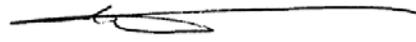
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REPORTER'S CERTIFICATE

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 7th day of August, 2015.



PETER PETTY
CER**D-493
Notary Public

TRANSCRIBER'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 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.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of August, 2015.



Terri Harper
Certified Transcriber
AAERT No. CET**D-709