

## DOCKETED

<b>Docket Number:</b>	13-AFC-01
<b>Project Title:</b>	Alamitos Energy Center
<b>TN #:</b>	214529
<b>Document Title:</b>	Transcript of 11/15/16 Evidentiary Hearing
<b>Description:</b>	N/A
<b>Filer:</b>	Cody Goldthrite
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Committee
<b>Submission Date:</b>	11/18/2016 4:22:58 PM
<b>Docketed Date:</b>	11/18/2016

EVIDENTIARY HEARING BEFORE THE  
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
CALIFORNIA ENERGY COMMISSION

In the matter of, )  
 ) Docket No. 13-AFC-01  
Alamitos Energy Center )  
Project )

THE GRAND EVENT CENTER  
CATALINA ROOM  
4101 E. WILLOW STREET  
LONG BEACH, CALIFORNIA

TUESDAY, NOVEMBER 15, 2016

12:04 P.M.

Reported by:

Julie Link, CER

## APPEARANCES

COMMISSIONERS (AND THEIR ADVISORS) PRESENT:

Karen Douglas, Commissioner, Presiding Member

Le-Quyen Nguyen, Advisor to Commissioner Douglas

Janea Scott, Commissioner, Associate Member

Rhetta DeMesa, Advisor to Commissioner Scott

Matthew Coldwell, Advisor to Commissioner Scott

Kristy Chew, Technical Advisor on Siting

HEARING OFFICER:

Kenneth Celli, California Energy Commission

CEC STAFF PRESENT:

Michael Lewis, Deputy Director

Jared Babula, Staff Counsel

Keith Winstead, Project Manager

Paul Kramer, Assistant to Chief Counsel

Matthew Layton, Supervising Mechanical Engineer

PUBLIC ADVISOR:

Alana Mathews, Public Adviser

PETITIONER/APPLICANT:

Stephen O'Kane, Vice President, AES Alamitos Energy, LLC

Jeffery D. Harris, Attorney, Ellison, Schneider & Harris LLP

Samantha G. Neumyer, Attorney, Ellison, Schneider & Harris LLP

Jerry Salamy, Senior Project Manager, CH2M Hill

## APPEARANCES

**CALIFORNIA REPORTING, LLC**

229 Napa Street, Rodeo, California 94572 (510) 224-4476

INTERVENOR:

Bill Powers, Expert, Los Cerritos Wetlands Land Trust, Powers Energy  
April Sommer, Attorney, Los Cerritos Wetlands Land Trust

ALSO PRESENT

Crystal Landavazo, City of Seal Beach, Planning Department  
Sandonne Goad, Tribal Council Chairwoman, Gabrielino-Tongva Tribe  
Patrick O'Donnell, Assemblyman, 70th Assembly District  
Suzie Price, Long Beach City Council Member  
Tonya Martin, Representative for Senator Ricardo Lara

ALTERNATIVES PANEL

Bill Powers, Power Energy  
Jerry Salamy, CH2M Hill  
Stephen O'Kane, AES Southland  
David Vidaver, CEC Staff  
Steven Kerr, CEC Staff

CUMULATIVE ANALYSIS OF DEMOLITION

Scott White, CEC Staff  
Lisa Worrall, CEC Staff  
Abdul-Karim Abulaban, CEC Staff  
Joseph Hughes, CEC Staff  
Shahab Khoshmashrab, CEC Staff  
Melissa Fowler, Applicant

## APPEARANCES (CONT.)

PUBLIC COMMENT

Michael O'Toole, Naples Improvement Association

Sam Dunlap, Cultural Resource Director, Gabrielino-Tongva Nation

Sandonne Goad, Tribal Council Chairwoman, Gabrielino-Tongva Nation

Keith Harkey, Representing Orange County Building and Construction Trades

Keith Simmons, President, Los Cerritos Wetlands Land Trust

Tony Gentile, Peninsula Beach Preservation Group

Lenny Arkenstahl, Los Cerritos Wetlands Stewards

Andrew Mayorga, LIUNA Local 1309

W.I. Thomas, Resident of Alamitos Heights

Neal Lauzon, President, Local 441, IBEW

Lara Laramendi, Advocacy Director, BIZFED

## INDEX

	Page
1. Call to Order	7
2. Evidentiary Hearing	7
Uncontested Items	26
Alternatives Panel	32
Cumulative Analysis of Demolition Panel	74
Laws, Ordinances, Regulations & Standards Panel	106
3. Public Comment	119
4. Closed Session	
5. Adjournment	142
Reporter's Certificate	143
Transcriber's Certificate	144

## EXHIBITS

	IDENTIFICATION	EVIDENCE	WITHDRAWN
<u>Staff</u>			
2000-2013		29	
<u>Applicant</u>			
1401-1473		28	
1500-1502		28	
1503-1508		28	
1001-1022, 1025-1073		30	
<u>Intervenor</u>			
3000-3048		32	

1

## P R O C E E D I N G S

1  
2 NOVEMBER 15, 2016

12:04 P.M.

3 COMMISSIONER DOUGLAS: Welcome to this Evidentiary  
4 Hearing on the proposed Alamitos Energy Center.

5 Before we begin, I'd like to introduce the Committee  
6 and then ask the parties to identify themselves, for the  
7 record.

8 I'm Commissioner Karen Douglas, the Presiding Member  
9 of the Committee assigned by the Energy Commission to oversee  
10 these proceedings.

11 To my left is Commissioner Janea Scott, the Associate  
12 Member of the Committee.

13 When he sits back down, that's Ken Celli, the Hearing  
14 Officer.

15 And Commissioner Scott's advisors, Rhetta DeMesa, to  
16 her left, and Matt Coldwell, to the left of Rhetta DeMesa.

17 My Advisor, Le-quyen Nguyen, is to my right. And,  
18 also, Kristy Chew, the Technical Advisor on Siting, for the  
19 Commissioners.

20 At this point, I'll ask the parties to please  
21 introduce themselves, and their representatives, beginning  
22 with the Applicant.

23 MR. O'KANE: Good afternoon. Thank you,  
24 Commissioner. I'm Stephen O'Kane. I'm Vice President of AES  
25 Alamitos Energy, the Applicant in this proceeding.



1           And I'll let my counsel and consultants introduce  
2 themselves.

3           MR. HARRIS: Good morning, Jeff Harris, Ellison,  
4 Schneider & Harris, on behalf of the Applicant.

5           MS. NEUMYER: Samantha Neumyer on behalf of the  
6 Applicant.

7           MR. SALAMY: Jerry Salamy, CH2M Hill, on behalf of  
8 the Applicant.

9           COMMISSIONER DOUGLAS: All right, thank you. Staff?

10          MR. WINSTEAD: Keith Winstead, Project Manager for  
11 the Energy Commission on the Alamitos Energy Center Project.

12          MR. BABULA: Jared Babula, Staff Counsel.

13          MR. LEWIS: Michael Lewis, Deputy Director.

14          COMMISSIONER DOUGLAS: Thank you. And the  
15 Intervenor, Los Cerritos Wetlands Land Trust?

16          MS. SOMMER: Hello. April Rose Sommer, filling in  
17 for the Trust.

18          MR. POWERS: Bill Powers, Powers Engineering, expert  
19 for the Trust.

20          COMMISSIONER DOUGLAS: Thank you. Thanks for being  
21 here.

22          Public Adviser is here, Alana Mathews, could you just  
23 stand up so we can -- the Public Adviser's in the back of the  
24 room. Thank you, Alana.

25          Are there any elected officials or representatives of

1 agencies of the Federal Government, agencies of the State of  
2 California, and Native American Tribes, South Coast Air  
3 Quality Management District, or representatives from the  
4 County of the City of Long Beach, or any other nearby towns  
5 or cities?

6 I know that there are, maybe, two Long Beach City  
7 Council Members who'd like to make introductory comments.  
8 And we'll get to you in just a second.

9 Is there anybody else in the room, who would like to  
10 identify themselves from any State, local, or Federal  
11 Government agency?

12 Could you go to the microphone, please?

13 MS. LANDAVAZO: Hi. I'm a representative from the  
14 City of Seal Beach. I'm with the Planning Department there.

15 COMMISSIONER DOUGLAS: Thank you for being here.

16 (Comments about microphones)

17 MR. BABULA: Please remember to speak directly into  
18 the microphones.

19 MS. LANDAVAZO: I apologize. Crystal Landavazo, with  
20 the City Seal Beach.

21 COMMISSIONER DOUGLAS: I think the microphone is  
22 pretty low. That's better. Did you get that? All right.

23 Thank you. Other representatives from -- please come  
24 forward.

25 MS. GOAD: Hello. My name is Sandonne Goad. I'm the

1 Tribal Council Chairwomen of the Gabrielino-Tongva Nation.

2 COMMISSIONER DOUGLAS: Thank you for being here.

3 Other representatives of State, local, Federal,

4 Tribal Government agencies?

5 MR. O'DONNELL: Good morning. Patrick O'Donnell,

6 State Assembly, the 70th Assembly District, which takes in,

7 certainly, the City of Long Beach, Signal Hill, Catalina

8 Island, and goes into San Pedro, which is actually in the

9 City of Los Angeles.

10 I just want to thank you for your presence here, in  
11 Long Beach, today, for sure. And thank you for serving your  
12 State, as well, all the time, and probably your dime that you  
13 have to give up that isn't always acknowledged. So, thank  
14 you for your service.

15 And I just want to kind of -- I'll just kind of keep  
16 it short and I'll just go into two points. Number is --  
17 well, really, three. Number one is that I support the  
18 project before you today. I think it is a good project. I  
19 think it will benefit California. Certainly, this region, as  
20 well.

21 It's going to bring -- let's see, we're going to have  
22 advanced technology there. It's going to lead to cleaner, a  
23 greener environment. For a variety of reasons. The  
24 batteries, alone, are going to be something historic,  
25 something out of the norm, something other communities can

1 learn from.

2 Now, you know, I'm pretty familiar with that plant,  
3 having grown up in its shadow. It takes about 24 hours to  
4 fire up that plant, now. And that's not good for our grid  
5 and that's not good for our environment.

6 So, I think the new technology at that battery site,  
7 absolutely. But also on the plant side, that on-demand  
8 component will be beneficial to our region and, really,  
9 California's energy grid, which I see, as an elected  
10 official, as being very vulnerable.

11 So, again, I'm very supportive of the project.

12 I know some have some have some concerns about it.  
13 People I respect have some concerns about it. They've  
14 spoken, well, it's natural gas, it's natural gas. Yes, but  
15 that's the technology we have today. Maybe in another 25  
16 years we'll be at a point where we can solely rely on wind,  
17 and the sun. We're just not there from a technology stand  
18 point, today.

19 So, again, I support the project very much. Thank  
20 you.

21 COMMISSIONER DOUGLAS: Thanks for your comments.  
22 Thanks for being here.

23 We also have a card from Suzie Price, with the Long  
24 Beach City Council, Third District.

25 MS. PRICE: Thank you. Good afternoon and thank you

1 for being here in Long Beach. I echo the comments of  
2 Assemblyman O'Donnell, and thank you for your service and for  
3 taking the time to be here, to listen to us, today.

4 I represent the District where AES's plant is  
5 located. I've been very involved with the company, even  
6 prior to being sworn into office, in terms of receiving  
7 briefings on this project. And the team at AES has been  
8 incredibly helpful in terms of meeting with me, at my  
9 request, multiple times, to answer questions that I  
10 personally had or those that came from my constituents.

11 I've followed the progress of this project very  
12 closely. I've had the opportunity to attend multiple  
13 community meetings, wherein there's been a presentation from  
14 AES on this project. I know that they have conducted dozens  
15 of community meetings, as well as individual briefings with  
16 my office, and our staff at the Development Services  
17 Department, in the City of Long Beach.

18 I have a monthly briefing with the Development  
19 Services Department and the Director. And because of my role  
20 as a member of the Los Cerritos Wetlands Authority, I've  
21 asked numerous questions over the last several years when  
22 we've talked about this item. And the AES project is  
23 something that's a reoccurring item on our monthly briefings.

24 I've talked about some of the concerns that I've had,  
25 those that I've heard from my community regarding impact on

1 the environment, the immediate environment, the Wetlands.  
2 And, based on the information that I've been provided and the  
3 research that I've conducted, I feel very comfortable  
4 supporting this project, in light of the evidence and the  
5 information that our Development Services Department has  
6 provided me with.

7 I support the project for many reasons. In addition  
8 to the reasons that Assemblyman O'Donnell mentioned, I do  
9 also favor that this is going to have a smaller footprint in  
10 our community, which is very important to a lot of the  
11 residents that live in the area.

12 And I do, also, appreciate AES's partnership in terms  
13 of aesthetic enhancements along the corridor, where the plant  
14 is located. That's a major concern to the community, who may  
15 not have the subject matter expertise in terms of AES's  
16 operations, but they're more concerned about the overriding  
17 issues in terms of what they will see and experience as they  
18 go to and from their homes.

19 So, I appreciate the partnership. Most importantly,  
20 though, I appreciate that AES has availed itself to City  
21 staff, and myself, and at any given time they are very  
22 responsive with answering our questions, and alleviating the  
23 concerns that we have in terms of what we personally believe,  
24 or what we've heard from our constituents. That line of  
25 communication has always been open and, perhaps, that is the

1 best part of this project is that we're able to talk through  
2 some of the issues, and some of the updates, together, and  
3 have a good understanding as we share the project with the  
4 community.

5           So, I thank you, again, for being here. My office  
6 and I are available to answer any questions that you may  
7 have, after today. And, again, I appreciate you taking the  
8 time to be here and study these issues. Thank you.

9           COMMISSIONER DOUGLAS: Thank you for being here, as  
10 well.

11           I'll ask one more time for elected officials or staff  
12 from State, local, Federal, Tribal Government entities in the  
13 room, or on the phone, if you'd like to identify yourselves  
14 for the record? The phone or WebEx.

15           All right. With that, I'll turn the conduct of this  
16 hearing to Ken Celli, the Hearing Officer.

17           HEARING OFFICER CELLI: Thank you, Commissioner  
18 Douglas.

19           Can you all hear me okay? Everyone's nodding yes.  
20 Thank you. Good afternoon.

21           Before we begin, I had a request from the Public  
22 Adviser, Alana Mathews, who asked the Committee to reopen the  
23 Los Cerritos Land Trust Motion to Stay Proceedings for the  
24 limited purpose of allowing three minutes for Rob Simpson to  
25 make a public comment on the motion.

1 I don't see Mr. Simpson here, today, but he could be  
2 on the phone. So, I wonder if you could unmute everybody on  
3 the phone and let's see if Rob Simpson's on the phone?

4 Rob Simpson, are you on the phone? Mr. Simpson?

5 Okay, I'll tell you what we'll do, Ms. Mathews, and  
6 Ms. Sommer, we're going to -- whenever we can connect with  
7 Mr. Simpson, we'll take that comment later. So, we will make  
8 that available.

9 Okay, so the Committee noticed today's Evidentiary  
10 Hearing in the Notice of Prehearing Conference and  
11 Evidentiary Hearing that we issued on October 14, 2016. The  
12 Evidentiary Hearing is an administrative adjudicatory  
13 proceeding to receive evidence into the formal evidentiary  
14 record, from the parties. Only the parties. And the parties  
15 are the Applicant, Staff, and Intervenor, Los Cerritos  
16 Wetlands Land Trust. Only the parties may present evidence  
17 for introduction into the formal evidentiary record, which is  
18 the only evidence upon which the Commission may base its  
19 decision, under law.

20 Technical Rules of Evidence may be relied upon as  
21 guidance. However, any relevant, noncumulative evidence may  
22 be admitted if it is the sort of evidence upon which  
23 responsible persons are accustomed to rely in the conduct of  
24 serious affairs.

25 The testimony offered by the parties shall be under



1 oath. Each party has the right to present witnesses,  
2 introduce exhibits, and to rebut evidence of another parties.

3 Questions of relevance will be decided by the  
4 Committee. Hearsay evidence may be used to supplement or  
5 explain other evidence, but shall not be sufficient, in  
6 itself, to support a finding.

7 The Committee will rule on motions and objections.  
8 The Committee may take official notice of matters within the  
9 Energy Commission's field of competence, and of any fact that  
10 may be judicially noticed under the California Courts.

11 The hearing record of this proceeding includes sworn  
12 testimony of the parties' witnesses, the reporter's  
13 transcript of the evidentiary hearing, the exhibits received  
14 into evidence, any matters officially noticed, and the  
15 comments submitted by members of the public.

16 The Committee's decision will be based solely on the  
17 record of competent evidence in order to determine whether  
18 the project complies with applicable law.

19 Members of the public, who are not parties, are  
20 welcome and invited to observe these proceedings today. And  
21 you can do so either in person, or on WebEx, which is our  
22 teleconferencing program that we're using.

23 This will also be an opportunity for the public to  
24 provide comment after the record is closed, and at about 3:00  
25 p.m. today. So, depending upon the number of persons who

1 wish to speak, the Committee may have to limit the time  
2 allowed for each speaker. This public comment period is  
3 intended to provide an opportunity for persons, who attend  
4 the hearing, to address the Committee about the project. It  
5 is not an opportunity to present supplemental written,  
6 recorded, or documentary materials. However, such materials  
7 may be docketed and submitted to the Energy Commission for  
8 inclusion in the administrative record.

9           Members of the public may submit written comments, if  
10 they would prefer -- if they would prefer to submit written  
11 comments, rather than speaking directly to the Committee.

12           Members of the public, who wish to speak, should fill  
13 out a blue card. It looks like this. Provided by the Public  
14 Adviser, who is sitting in the back of the room.

15           And if you would prefer not to speak publicly, but  
16 would like to submit a written comment, the blue card has a  
17 space to do that. So, that's how we know, these blue cards  
18 are our way of knowing that you're here and that you'd like  
19 to make a comment.

20           Tonya Martin, are you here?

21           MS. MARTIN: Yes.

22           HEARING OFFICER CELLI: Okay, Tonya Martin, please,  
23 we're going to give you like three minutes, if you wouldn't  
24 mind, at the podium.

25           MS. MARTIN: Oh, thank you so much.

1 HEARING OFFICER CELLI: Please speak directly into  
2 that. I'm not even sure if that mic is on.

3 MS. MARTIN: I think it's on.

4 HEARING OFFICER CELLI: Oh, that's good. Okay,  
5 great. Go ahead.

6 MS. MARTIN: Thank you, Commissioners. My name is  
7 Tonya Martin. I'm the representative for Senator Ricardo  
8 Lara, 33rd District here, in the State of California.

9 The Senator asked me to come today, to speak in favor  
10 of this project. He's an advocate for the environment, as  
11 you know. And the Alamitos Energy Center is an important and  
12 a reliable source of clean electricity in Southern  
13 California.

14 AES is proposing a modernization of the plant to  
15 create a more efficient and appealing environmental-friendly  
16 plant, with the capacity to power over 1.15 million homes and  
17 businesses.

18 The Senator feels that this plant, this project will  
19 move California into the near zero emissions that the  
20 Governor is requesting and requiring.

21 So, we ask that you please consider this and we thank  
22 you very much. Thank you.

23 HEARING OFFICER CELLI: Thank you for commenting.  
24 Thanks for being here.

25 MS. MARTIN: Thank you.

1 HEARING OFFICER CELLI: Okay, back to housekeeping  
2 and general explanation of how the day is going to go. So,  
3 again, if you're here, can I just see a show of hands, how  
4 many people are members of the community or want to comment  
5 today, that are here, already? I've got like two of you.  
6 Okay, that's great.

7 As more people come in, I'll remind people. But if  
8 you want to speak, we'll just need you to go to the Public  
9 Adviser table in the back and fill out a blue card.

10 Now, as to the exhibits and witnesses, the exhibit  
11 list has been made available to the parties, through the  
12 website, and the parties were asked to bring copies for their  
13 use today.

14 There are copies of the exhibit list, if you want,  
15 back at the table, the Public Adviser's table and, also, a  
16 copy of today's notice. The witness list is on that -- there  
17 we go. So, let's keep exhibit list up, first.

18 At the prehearing conference, we explained to the  
19 parties that because of the way that our computer system  
20 works, we have to have a unique transaction number and a  
21 unique exhibit number. So, as a result, some of the numbers  
22 that were requested by Los Cerritos Wetlands Land Trust were  
23 changed to the numbers of the exhibits as they were assigned  
24 to the other parties, who put that same exhibit in.

25 That's really not a problem for the public so much,

1 but the Intervenor is aware of it.

2           The witness list is on the screen at this time, we'll  
3 discuss the order of testimony, next. As to taking  
4 testimony, as we explained in the hearing memo, that was  
5 docketed on Thursday, November 10th, 2013, rather than taking  
6 time with the usual, formal direct and cross-examination of  
7 individual witnesses, we will proceed by way of an informal  
8 hearing format.

9           The Committee will call all witnesses to testify as a  
10 panel on the topic at hand. Witnesses may only testify on  
11 topics or issues within their expertise. The testimony may  
12 include discussion among the panel, without lawyers asking a  
13 question, or the Committee will ask questions of the panel.  
14 And if time permits, the Committee may allow limited  
15 questioning of the panel by the parties' attorneys.

16           The Committee will establish limits, as needed, on  
17 the number of questions a party may ask, and the amount of  
18 time, and the line of questioning they may consume.

19           The party with the burden of proof may provide final  
20 rebuttal testimony, if the Committee deems it necessary. The  
21 Committee, in the interest of efficiently completing all  
22 topics at the Evidentiary Hearing, may curtail testimony or  
23 examination of a witness if it becomes cumulative,  
24 argumentative, or in any other way unproductive.

25           The parties and witnesses are admonished to allow the

1 witnesses to finish their answer and to not talk while  
2 another is speaking. And remember that the court reporter,  
3 who is sitting right here, cannot record two people speaking  
4 at the same time. So, everybody needs to let everyone else  
5 finish their statements, before speaking.

6           And one of the things I'm trying to model, for you  
7 all right now, is what it looks like when you're properly  
8 using the microphone. Notice how the mic is about three  
9 inches from my nose, and I'm speaking directly, right into  
10 it. If I turn my head like this, or turn my head like this,  
11 or look up or look down, you're not going to get it all. And  
12 this is important to us because we care about what you have  
13 to say and it needs to get into the record, into the  
14 transcript.

15           So, please, speak -- shoot your voice right down into  
16 that microphone, and that's the way we will get all that  
17 information. So, thank you in advance for doing that.

18           Today's hearing schedule. Right now, we're basically  
19 handling the housekeeping matters. We've received comments  
20 from Long Beach City Council and Assemblyman. I've just  
21 finished talking about some of the explanation for the  
22 procedures.

23           And the way we envision this is as soon as we are  
24 finished with the housekeeping, we will start taking evidence  
25 on undisputed evidence. We've already had a prehearing

1 conference, the parties have established those areas that are  
2 undisputed and have stipulated that that testimony may come  
3 in, in written form, only.

4           So, what we're going to do, just so you understand  
5 what's happening, is we're going to ask the parties whether  
6 they have a motion. The party's going to say, yes, we're  
7 moving Exhibit 1 through 1,000, or whatever they're putting  
8 in today. And we are going to hear if there's any objection,  
9 and if there's no objection, we will receive that evidence  
10 into the record. This is a formal nicety that we go through  
11 in order to make sure that the record is clear what evidence  
12 is and is not in the record. And we will do that for all  
13 three parties.

14           So, once we do that, then we will start taking the  
15 disputed topics. There are, in general, three disputed areas  
16 in this matter. The first one is Alternatives. And Los  
17 Cerritos Wetlands Land Trust has one witness, Mr. Powers, who  
18 would like to speak. And so, basically, what the testimony  
19 would be limited to is, basically, rebuttal, since we've  
20 already received your direct testimony. And there has been  
21 rebuttal, I think, to your testimony, so it would be,  
22 essentially, surrebuttal.

23           And then, we will do this as a panel, and I'll  
24 explain that in a minute.

25           After we take evidence on Alternatives, we're going

1 to take evidence on the Cumulative Analysis of the  
2 Demolition. Now, that is several witness requested by Los  
3 Cerritos Wetlands Land Trust, so we will call them as a  
4 panel. And I think many of those people will be testifying  
5 by telephone, anyway.

6 And, finally, the Committee had questions with regard  
7 to Laws, Ordinances, Regulations and Standards that needed  
8 some fleshing out. And so, we will take care of that,  
9 essentially as a panel, at the end of the day.

10 As soon as we're finished taking the evidence, ladies  
11 and gentlemen, we will then take public comment. So, if we  
12 finish -- if we're able, let's say, to finish at 2:00, we  
13 will take public comment at that time. Otherwise, if we are  
14 not able to finish and we have to keep going, we will break  
15 around 3:00 to take public comment, get all of the comments  
16 in and then, if need be, we will resume taking in the  
17 evidence. So that's, essentially, the way the day is going  
18 to go.

19 Now, those times that I just gave you are  
20 approximate. Each topic may take more or less time than is  
21 allotted. But in any case, the topics will follow in the  
22 order above, unless changed by the Committee.

23 So, if there are no questions at this time, we would  
24 proceed through the Uncontested Topics, and start with  
25 Appellant's motion -- I'm sorry, the Applicant's motion to



1 enter its evidence into the record.

2 Before we begin, is there any question about the way  
3 the day is going to go? Mr. Harris?

4 MR. HARRIS: Yeah, just by way of clarification, at  
5 3:00, you will take comments at 3:00, even if we finish early  
6 today?

7 HEARING OFFICER CELLI: That's correct.

8 MR. HARRIS: Okay, thank you. I have no other  
9 questions. Thank you.

10 HEARING OFFICER CELLI: Staff, any questions about  
11 how we're going to proceed?

12 MR. BABULA: No questions.

13 HEARING OFFICER CELLI: Okay. And Ms. Sommer --

14 MS. SOMMER: Yes, I do have a --

15 HEARING OFFICER CELLI: Well, let me just say, for  
16 the Intervenor, Los Cerritos Wetlands Land Trust. Go ahead.

17 MS. SOMMER: Yes, just a question as far as, you  
18 know, as the Committee's aware, you know, the trust pretty  
19 much begged the Committee to reschedule this so that Joe  
20 Geever, expert for the Trust, was available, and that was not  
21 accommodated.

22 So, I'm not quite sure how things will go as far as  
23 questions that the attorneys will be able to ask, but I would  
24 request, since we have no representation on the panel for the  
25 cumulative impacts, that the Trust be permitted to ask some

1 questions on that, regardless of kind of what the plan is as  
2 far as the Committee just asking questions, so that they are  
3 able to be represented on that issue.

4 HEARING OFFICER CELLI: Certainly.

5 MS. SOMMER: Thank you.

6 HEARING OFFICER CELLI: So, just in general, the way  
7 I envision it going, especially since you don't have any  
8 direct witnesses, per se, would be to call those witnesses  
9 that were requested. I have that list in here and I can call  
10 those out in a minute. Oh, there it is. It's being hidden  
11 by the telephone list, if we can scoot that out of the way of  
12 the table. There you go. Those are the witnesses that were  
13 requested by Los Cerritos Wetlands Land Trust. Do you see  
14 that, David Vidaver, et cetera? Okay, good.

15 So, basically, what I think the way we would probably  
16 proceed is ask the witness what their conclusion was, what  
17 was the basis of their conclusion, and then give you an  
18 opportunity to cross-examine on that.

19 MS. SOMMER: Okay. And we'll do that all in the  
20 panel format?

21 HEARING OFFICER CELLI: Probably, yeah.

22 MS. SOMMER: Okay.

23 HEARING OFFICER CELLI: Many of these people will be  
24 on the phone. But you are aware that there was a ruling made  
25 that the demolition of Units 1 through 6, of the AGS, the

1 Alamitos Generating Station, were deemed not to be a  
2 reasonable consequence of the AEC, the Alamitos Energy  
3 Center.

4 And so, the question of demolition has been limited  
5 to cumulative analysis, only.

6 MS. SOMMER: I'm aware.

7 HEARING OFFICER CELLI: Okay, good.

8 Great, then, so Mr. Harris, let's begin with you. Do  
9 you have a motion at this time?

10 MR. HARRIS: I do, yes. I'd like to move some of our  
11 exhibits in. These are the actual numbers, from your  
12 memorandum of November 4th. So, we have --

13 HEARING OFFICER CELLI: My request, by the way, for  
14 all the parties, is to use the numbers that are in the  
15 exhibit list, and the modifications as made.

16 I wonder if we can get that back up, Mr. Kramer, on  
17 the projector, so people know which ones we had to modify.  
18 I'm sorry for the interruption. Go ahead, Mr. Harris.

19 MR. HARRIS: No, a clear record's very important,  
20 appreciate it.

21 We would like to move in three sets of exhibits. The  
22 first one is Exhibits Number 1401 through 1473, would be our  
23 first set.

24 The second set would be Exhibits Number 1500 through  
25 1502.

1 And then, our third set is 1503 to 1508.

2 HEARING OFFICER CELLI: Okay, as my recollection  
3 serves me correctly, there were other exhibits, 1 through  
4 100, or 1000.

5 MR. HARRIS: That's right.

6 HEARING OFFICER CELLI: Did you have other exhibits  
7 that you wanted to put in or are you just not putting in  
8 those --

9 MR. HARRIS: Would you like me to use the Proponent's  
10 numbers, as well, for those? So, also, the Proponent's  
11 Exhibits 1001 through -- 1000 through 1001. And then, 1023  
12 and also 1024.

13 And then, the superseded exhibits 1001 through 1074 -  
14 - they're not superseded.

15 HEARING OFFICER CELLI: Okay, so let's be clear.  
16 Because Exhibit 1401 through 1473 used to be Exhibits 1001  
17 through 1072? So, those were all taken care of in those  
18 three, okay.

19 MR. HARRIS: Yeah, and just to be clear, you have up  
20 on the exhibit list, the Proponent's exhibit numbers. And if  
21 I could speak English, I would have read all of those  
22 numbers, and I think I did. So, okay, thank you.

23 HEARING OFFICER CELLI: So, the motion is, from the  
24 Applicant, to move into evidence Exhibits 1401 through 1473,  
25 1500 through 1502, and 1503 through 1508.

1 Any objection from Staff?

2 MR. BABULA: No objections.

3 HEARING OFFICER CELLI: Any objection from the  
4 Intervenor?

5 MS. SOMMER: No objections.

6 HEARING OFFICER CELLI: Okay, those are received.  
7 (Applicant Exhibit Nos. 1401-1473, 1500-1502 and  
8 1503-1508 admitted into evidence.)

9 HEARING OFFICER CELLI: Next, Staff, do you have a  
10 motion?

11 MR. BABULA: Yeah, I'd like to make a motion to put  
12 into the record our 2000 to 2011. But then, we're also  
13 wanting to add the two documents that we had filed post-  
14 developing this list, which would be Exhibit 2012, which was  
15 the Worker Safety 8 and Cultural 6 updated language. And  
16 then, 2013, which would be the LORS Table, which was filed  
17 yesterday, which was supplementing the LORS Tables to reflect  
18 the guidance from the Committee about clarifying some of the  
19 issues on the LORS. And so, that document covered cultural  
20 resources, traffic, transportation, bio, socio, soil and  
21 water, land use, and visual.

22 HEARING OFFICER CELLI: Okay. So, essentially, the  
23 motion is Exhibit 2000 through 2013.

24 MR. BABULA: through 2013. I also would like to  
25 note, though, that under our regulations, 1212(b)(1)(d), that

1 the FSA and supplemental parts of them because they are  
2 automatically in the hearing record.

3 HEARING OFFICER CELLI: Understood.

4 MR. BABULA: Okay.

5 HEARING OFFICER CELLI: But I appreciate your making  
6 them --

7 MR. BABULA: But I'll make the motion for all those  
8 numbers, up until 2013.

9 HEARING OFFICER CELLI: Thank you. So, the motion is  
10 to move into receipt of evidence 2000 through 2013. Any  
11 objection, Intervenors?

12 MS. SOMMER: No objection.

13 HEARING OFFICER CELLI: Any objection from the  
14 Applicant?

15 MR. HARRIS: No objection.

16 HEARING OFFICER CELLI: Those exhibits will be  
17 received.

18 (Staff Exhibit Nos. 2000-2013 admitted  
19 into evidence.)

20 HEARING OFFICER CELLI: Now, as to --

21 MR. HARRIS: Mr. Celli, if I could for a second? And  
22 just in case I butchered the record, I want to make sure that  
23 we did include exhibits -- I'll move in Exhibits 1001 through  
24 1022, and 1025 through 1073.

25 HEARING OFFICER CELLI: I'm sorry, can you speak

1 directly into your mic?

2 MR. HARRIS: 1001 through 1022, and then also 1025  
3 through 1073.

4 HEARING OFFICER CELLI: 1025 through 1073.

5 MR. HARRIS: Correct.

6 HEARING OFFICER CELLI: Okay, the motion is Exhibits  
7 1001 through 1022, and Exhibit 1025 through 1073.

8 Any objection from Staff?

9 MR. BABULA: No objection.

10 HEARING OFFICER CELLI: Any objection from  
11 Intervenor?

12 MS. SOMMER: No objection.

13 HEARING OFFICER CELLI: Those are --

14 MR. HARRIS: If I could make one more motion. I tend  
15 to -- I'd also like to move in --

16 HEARING OFFICER CELLI: One moment. Those exhibits  
17 are received.

18 (Applicant's Exhibit Nos. 1001-1022 and  
19 1025-1073 admitted into evidence.)

20 HEARING OFFICER CELLI: Go ahead.

21 MR. HARRIS: Thank you for that. I'd also like to  
22 move in any of the numbers that were left off the exhibit  
23 list that's currently on the Energy Commission's website  
24 today. I don't believe there's anything missing, but I want  
25 to make sure that we are moving in that entire list for all

1 parties, Applicant, Staff, and the Intervenor.

2 HEARING OFFICER CELLI: That is sort of a vague  
3 motion. So, what I'll do is I'll basically acknowledge, for  
4 the record, that the understanding is that all of the  
5 original exhibits offered were intended to be moved into  
6 evidence. And if, inadvertently, due to the change in the  
7 exhibit list numbers, one or two got dropped out, we would  
8 deem those moved in. Okay?

9 Lastly, I wanted to say that at the prehearing  
10 conference, Ms. Sommer, the Applicant and Staff stipulated to  
11 the admission of all of the exhibits, proffered at the time,  
12 by Los Cerritos Wetlands Land Trust. And so, the exhibits,  
13 which are Exhibits 3000 -- or, make that 3001 through 3047  
14 are received into evidence by way of stipulation.

15 MS. SOMMER: Thank you. Just one thing I've noticed  
16 on here is that -- and this may be because it was filed after  
17 this list was put together, the Trust's Motion to Stay  
18 Proceedings, I'm not seeing on this, on this list. So, if it  
19 works at this point, I could move that that be 3048.

20 HEARING OFFICER CELLI: Any objection from the  
21 Applicant to receive Exhibit 3048, which was the Motion to  
22 Stay Proceedings?

23 MR. HARRIS: I don't have the docket number in front  
24 of me, but no objections.

25 HEARING OFFICER CELLI: Staff, any objection?



1 MR. BABULA: No objection.

2 HEARING OFFICER CELLI: So, Exhibit 3000 through 3048  
3 will be received into evidence.

4 (Intervenor Exhibit Nos. 3000 through 3048  
5 admitted into evidence.)

6 MS. SOMMER: Great, thank you.

7 HEARING OFFICER CELLI: But you need to -- we need a  
8 TN number, Ms. Sommer, so that needs to be --

9 MS. SOMMER: Do you want that done right now?

10 HEARING OFFICER CELLI: Yes, if you wouldn't mind?

11 MS. SOMMER: Just one moment. Okay, that should be  
12 TN 214345.

13 HEARING OFFICER CELLI: 214345.

14 MS. SOMMER: Yeah.

15 HEARING OFFICER CELLI: Thank you very much.

16 Okay, so then let's move on, now, to -- is there any  
17 other matter that's undisputed and needs to come in, anything  
18 or further motions at this time?

19 Hearing none, then let's get to Alternatives. Now,  
20 in this -- under this topic of Alternatives, the Intervenor  
21 requested that they be able to call Bill Powers as,  
22 essentially, on direct examination. But since we've already  
23 received all of his testimony, and rebuttal testimony, we  
24 will deem that all direct examination for our purposes,  
25 today.

1           The Los Cerritos Wetlands Land Trust requested that  
2 David Vidaver or Steven Kerr be present for cross-examination  
3 on the question of Alternatives.

4           Staff, who's here for Staff on that, today?

5           MR. BABULA: Everybody's calling in.

6           HEARING OFFICER CELLI: Okay, great.

7           MR. BABULA: But both of those Staff experts will be  
8 available.

9           HEARING OFFICER CELLI: Okay. So, the first thing  
10 we're going to need to do is unmute David Vidaver and Steven  
11 Kerr.

12           And, Applicant, did you have any witness that you  
13 wanted on this panel?

14           MR. HARRIS: Yeah, we'd like to have our Alternatives  
15 witnesses available, if need be, and that's Mr. O'Kane, to my  
16 left, and Mr. Salamy, to Ms. Neumyer's right.

17           HEARING OFFICER CELLI: Okay. Then, at this time,  
18 I'm going to ask Mr. Salamy, and Mr. O'Kane, and Mr. Powers  
19 to please rise.

20           (Witnesses were collectively sworn.)

21           HEARING OFFICER CELLI: Mr. Salamy?

22           MR. SALAMY: Yes, I do.

23           HEARING OFFICER CELLI: Mr. O'Kane?

24           MR. O'KANE: Yes, I do.

25           HEARING OFFICER CELLI: Mr. Powers?

1 MR. POWERS: I do.

2 HEARING OFFICER CELLI: Thank you. You may be  
3 seated.

4 And then, Staff's witnesses are only Mr. Vidaver and  
5 Mr. Kerr, is that correct.

6 MR. BABULA: That's correct.

7 HEARING OFFICER CELLI: Okay, Mr. Vidaver, can you  
8 hear me?

9 MR. VIDAVER: Yes, sir.

10 HEARING OFFICER CELLI: Okay. And, Mr. Kerr, can you  
11 hear me, also?

12 MR. KERR: Yes, sir.

13 HEARING OFFICER CELLI: Okay. I need you both to  
14 stand, please, and raise your right hand.

15 (Witnesses were collectively sworn.)

16 HEARING OFFICER CELLI: Mr. Vidaver?

17 MR. VIDAVER: I do.

18 HEARING OFFICER CELLI: Mr. Kerr?

19 MR. KERR: I do.

20 HEARING OFFICER CELLI: Thank you. You may be  
21 seated.

22 Okay, and at this time, okay, then Mr. Powers, I  
23 think the way I'd like to proceed is if you could state your  
24 position based upon not only your direct testimony, which  
25 we've already received, but you've now received some rebuttal

1 testimony to it. So, if you could sort of sum up, for us,  
2 your position on alternatives, then we can proceed from  
3 there.

4 MR. POWERS: Thank you. I think to expedite this,  
5 I'll just briefly summarize the introduction to my testimony  
6 and provide a little perspective on my response to the  
7 rebuttal, from Staff.

8 The FSA errs by analyzing alternatives in isolation,  
9 determining that energy efficiency, demand response, or  
10 battery storage are not adequate substitutes for the proposed  
11 project.

12 HEARING OFFICER CELLI: I'm just going to ask you,  
13 you're talking off to the side like this. We need you to  
14 speak directly into that mic. So, maybe if you could move  
15 the computer, so it's easier for you to speak into the mic,  
16 so we get all of that information. Go ahead.

17 MR. POWERS: I am ready.

18 HEARING OFFICER CELLI: Much better, thank you.

19 MR. POWERS: In fact, let me start again. I'm  
20 halfway through that first sentence. That way, we'll get the  
21 whole thing.

22 HEARING OFFICER CELLI: Yeah.

23 MR. POWERS: The FSA errs by analyzing alternatives  
24 in isolation, determining that energy efficiency, demand  
25 response or battery storage are not adequate substitutes for

1 the proposed project by themselves, and errs for failing to  
2 acknowledge the alternative of contracting for existing,  
3 reliable combined-cycle capacity to serve the L.A. Basin.

4           So, I want to interject that the Staff, in rebuttal,  
5 does refer often to the PUC's Long-Term Procurement  
6 proceeding where, in fact, the alternatives were analyzed as  
7 a group, not in isolation.

8           The FSA correctly identifies that the State energy  
9 policies include a loading order for electric generation that  
10 prefers and maximizes cost-effective, reliable and feasible  
11 energy efficiency, demand response programs, and measures in  
12 renewable generation to supplement the need for new fossil  
13 fuel, fossil-fired generation.

14           And that, California Public Utilities Code addresses  
15 requirements for an electrical corporation's proposed  
16 procurement plan, including the requirement to first meet  
17 it's unmet resource needs to all available energy efficiency  
18 and demand reduction resources that are cost effective,  
19 reliable and feasible.

20           Yet, the FSA sidesteps California law by failing to  
21 combine preferred resources, specifically demand response and  
22 battery storage, and utilize existing combined-cycle capacity  
23 that will otherwise be mothballed to fulfill the project  
24 objectives at less cost and environmental impact than would  
25 be incurred if the proposed AEC project is built.

1           One quick question, just a couple of more sentences,  
2 is there is no air quality section for us to review here, but  
3 there is an air quality PSA. I just want to point out that,  
4 given this is a big issue in the PUC proceeding, which I was  
5 in as an expert, the PSA indicates that this project will  
6 emit more than 2 million tons a year of greenhouse gases.

7           In 2014, all of the steam boiler plants in the L.A.  
8 Basin emitted less than a million tons of CO2. So, this is a  
9 big deal and I presume we'll get to it at the next round.

10           HEARING OFFICER CELLI: Thank you. I should have  
11 mentioned that, for the people in the room, just to be clear,  
12 if you'll allow me just this moment. Ladies and gentlemen,  
13 this hearing, Evidentiary Hearing that we're having today is  
14 Evidentiary Hearing Part One. This is on all subject areas  
15 having to do with the Alamitos Energy Center, except air  
16 quality and public health, which are dependent upon what's  
17 called an FDOC, which is the Final Determination of  
18 Compliance, from the South Coast Air Quality Management  
19 District, which they have not yet published. And so, we're  
20 waiting on them.

21           In order to make efficient use of State resources and  
22 time, the parties agreed that we would go forward and we  
23 would bifurcate the issue. Meaning, basically, we split the  
24 hearings between all of the topics we're going to hear today  
25 and air quality at a subsequent time.

1 I suspect that's going to be within about a month or  
2 a month and half that we'll be back here, and handling Part  
3 Two. So, this is Part One.

4 So, I'm sorry for the interruption, Mr. Powers,  
5 please go ahead.

6 MR. POWERS: Thank you. Turning to a couple of the  
7 alternatives that I cover in opening testimony and that were  
8 addressed in the Staff rebuttal, it's undisputed that there  
9 is going to be 800 to 1,000 megawatts of additional demand  
10 response added in the L.A. Basin over the next six or eight  
11 years.

12 The issue was the 20-minute response time in the PUC  
13 proceeding and whether that met ISO and SCE requirements.  
14 Staff points out that it was adjudicated in the PUC  
15 proceeding that 20 minutes was a reasonable standard. But  
16 that is really not the point.

17 The point I'm making in my testimony is that a simple  
18 administrative change might make that 800 to 1,000 megawatts  
19 of DR available, as a reliability resource.

20 The issue, in the PUC proceeding, was that SCE issued  
21 a request for offers for DR. It did not include a 20-minute  
22 response requirement. It got offers from DR providers, that  
23 didn't anticipate there was a 20-minute DR requirement. And  
24 then, ex post facto imposed a 20-minute response requirement,  
25 and did not let the DR vendors refresh their bids.

1           It sounds ridiculous, when you hear me say it this  
2 way, but that is what happened in the LTPP process.

3           And so, the reason that I indicate that this could be  
4 a simple administrative fix, which was even anticipated in  
5 the PUC proceeding, is that, of course, if you were to change  
6 a substantive requirement in a bidding process, you would let  
7 the bidders refresh their bids to address whether or not they  
8 could do that. That never happened in the PUC proceeding.

9           The final comment I have is on their recommendation  
10 to utilize soon-to-be-mothballed combined-cycle capacity from  
11 the La Paloma, and 965-megawatt combined cycle plant in Kern  
12 County, which sits on the main north/south transmission trunk  
13 line, serving the L.A. Basin. Instead of building a new  
14 combined cycle and simple-cycle capacity at Alamitos Energy  
15 Center, Staff comes back to say that, well, it's not in the  
16 L.A. Basin, so it can't be considered a reliable local  
17 resource.

18           I just want to point out to staff, I didn't make an  
19 issue of this in my testimony, but Exhibit 2, to my  
20 testimony, is a FERC order fining the ISO \$200,000, in 2012,  
21 for failing to meet the N minus 1 requirement in the San  
22 Diego service territory.

23           What happened that night is ISO was attempting to  
24 dispatch a combined-cycle unit, located in the Country of  
25 Mexico, 100 miles from San Diego, outside of San Diego's



1 service territory, to meet a local capacity need in San  
2 Diego.

3 And before Staff dismisses La Paloma as an  
4 alternative, two things. The transmission lines that are  
5 down during the 1-in-10 event, for reliability purposes, are  
6 south of L.A. Basin. They are not the main trunk line that  
7 La Paloma sits on.

8 And two, the ISO is already dispatching units that  
9 are outside the geographic defines of local reliability  
10 areas. Not just in other service territories, but in other  
11 countries, to meet that need. So, this is very much in play.  
12 It is not definitive in any way that La Paloma could not be  
13 used to meet L.A. Basin reliability need. Thank you.

14 HEARING OFFICER CELLI: Thank you, Mr. Powers.

15 Now, Mr. Babula, who do you want to address these  
16 issues for Staff?

17 MR. BABULA: I think, maybe, Mr. Vidaver would be --  
18 you can probably -- I mean, they're on the panel, so I think  
19 it crossed over on a couple of where their expertise are. I  
20 think a lot of the PUC-related stuff would be Mr. Vidaver.

21 HEARING OFFICER CELLI: Okay. Then, let's hear from  
22 Mr. Vidaver. If you're on the phone, please respond to Mr.  
23 Powers' statements?

24 MR. VIDAVER: Okay. This is Mr. Vidaver.

25 HEARING OFFICER CELLI: Okay. Excuse me, I'm going

1 to interrupt you for a minute because you're not sounding  
2 very clear to us. Are you on a headset, or something other  
3 than a handset, on a telephone?

4 MR. VIDAVER: No, I'm on a Darth Vader set with a  
5 Spider.

6 HEARING OFFICER CELLI: Oh, a Spider.

7 MR. VIDAVER: Yeah. Am I coming through?

8 HEARING OFFICER CELLI: Well, you know, you sound  
9 very muddled and we're not going to get -- we really need to  
10 hear, clearly, what you have to say. And I'm looking over at  
11 the court reporter to see if you're getting good audio, over  
12 where you're sitting. Could you understand him?

13 She's saying she can hear you. So, is there any step  
14 that you could take on your end, Mr. Vidaver, that might give  
15 us better audio here, in Long Beach?

16 MR. VIDAVER: I don't think so. I'm six inches away  
17 from a microphone.

18 HEARING OFFICER CELLI: Oh, that's good right there.  
19 We actually have an in-the-room audio person who just fixed  
20 the problem. So, okay, go ahead. You have the floor, Mr.  
21 Vidaver.

22 MR. VIDAVER: Okay. Well, there really was no  
23 question of me, so I'm not sure. I've jotted down notes on  
24 Mr. Powers' comments and let's see what we come up with here.

25 Now, I'll deal with -- I'll address the issue of La

1 Paloma, first. I rather, naively perhaps, expect that if the  
2 La Paloma Generation Center could provide the local  
3 reliability services to the Western L.A. Basin that the ISO  
4 would have assigned it what's called an effectiveness factor.  
5 Which indicates the impact of a small change in output from  
6 La Paloma on reducing overloads on transmission lines into  
7 the West L.A. Basin.

8 As a local capacity resource, the Alamitos Energy  
9 Center basically provides capacity within a defined  
10 geographic (inaudible) -- in the event that --

11 HEARING OFFICER CELLI: You just broke up a little  
12 bit. Could you start your sentence, again?

13 MR. VIDAVER: I'll try.

14 HEARING OFFICER CELLI: One minute. Mr. Vidaver,  
15 could you hold on for one second? Go ahead.

16 (Conversation with audio tech off the record.)

17 HEARING OFFICER CELLI: Yes. I don't know if you  
18 heard that, Mr. Vidaver, and anyone else who's in that room,  
19 but if you're not -- if you are not wearing headsets and you  
20 are listening to the WebEx, along with your Spiderphone, then  
21 you're going -- we're going to have audio problems. So, we  
22 either need you to -- we need someone to either get on the  
23 phone, pick up the handset and deal directly, or we need you  
24 to turn the sound down so that it won't come across the  
25 Spiderphone.

1 MR. VIDAVER: Okay.

2 HEARING OFFICER CELLI: We hear lots of crunching.  
3 I think that the Spiderphone was a bad idea. I think what we  
4 need to do in the future is have all of our witnesses call in  
5 on their landlines, or cell phones.

6 MR. BABULA: Right. We didn't receive any  
7 instructions that you couldn't use a Spiderphone, so I didn't  
8 know what format they were using.

9 HEARING OFFICER CELLI: Okay.

10 MR. VIDAVER: Okay, we've unplugged a bunch of  
11 things. Is this any better?

12 HEARING OFFICER CELLI: Yes, that's much better. I  
13 just need you to speak directly into the microphone and  
14 continue on. Sorry for the interruption.

15 MR. VIDAVER: Okay. I need to sort of dig out what -  
16 - why local (inaudible) --

17 HEARING OFFICER CELLI: No, you're still breaking up  
18 again. You need to speak directly into that microphone, at  
19 the Spiderphone.

20 MR. VIDAVER: Officer Celli (inaudible) --

21 HEARING OFFICER CELLI: The other option might be to  
22 have -- do you think we should have him call in on his own  
23 phone?

24 Mr. Vidaver, I'm going to ask that you call into the  
25 WebEx on your own telephone so that we can hear you, because

1 the Spiderphone doesn't seem to be working at all.

2 MR. VIDAVER: Okay, give me a few minutes to call in  
3 and (inaudible) -- so, I'm going to try.

4 HEARING OFFICER CELLI: We didn't get anything of  
5 what you just said because it's completely breaking up. So,  
6 I hope you can hear me better than I can hear you. And I  
7 hope you can hear that I'm asking that you get on a cell  
8 phone or direct line and call.

9 (Off-mic comments.)

10 HEARING OFFICER CELLI: Okay, thank you. Let's give  
11 him a chance to get on the phone.

12 MR. HESTERS: And if you can hear me, he is going to  
13 his office to call on his phone.

14 HEARING OFFICER CELLI: Thank you, Mr. Hesters, we  
15 could hear that.

16 (Pause.)

17 HEARING OFFICER CELLI: So, we're going to ask Mr.  
18 Kerr, as well as Mr. Vidaver, to get on their own telephone.  
19 If you're going to be on your phone, in the same room as that  
20 Spider, we need you to mute the Spiderphone.

21 Just in case anybody's wondering, the Spiderphone is  
22 one of those three-legged things that sits in the middle of a  
23 conference room and everybody speaks into it. It's not a  
24 real spider.

25 MR. BABULA: I do have a question, a little bit on

1 procedure. So, I kind of understood that their attorney  
2 would be able to ask --

3 HEARING OFFICER CELLI: You know, we'll clear that  
4 up.

5 MR. BABULA: I wasn't quite sure of this because you  
6 sort of have an open-ended format, which sort of surprised  
7 us, where you just said, well, respond to what you heard.

8 HEARING OFFICER CELLI: Allow me to say, Mr. Babula,  
9 that we did say we would use the informal hearing --

10 MR. BABULA: Right.

11 HEARING OFFICER CELLI: -- procedure, at the  
12 prehearing conference.

13 I don't want to create much testimony or a lot of  
14 words on the record right now because we're in the middle of  
15 taking testimony and we have witnesses that are under oath.  
16 And I just want to get them into the record. So, what I'm  
17 basically doing is allowing the witnesses to take a stab at  
18 taking positions. Mr. Powers talked about, with regard to  
19 alternatives he talked about the efficiency, he talked about  
20 demand response, he talked about battery storage. This is  
21 all in his testimony and we've already, you know, seen this  
22 testimony before.

23 So, we expect Mr. Vidaver and Mr. Kerr to address the  
24 points that he's raised, then we're going to turn it over to  
25 the Applicant. So, this is in answer to your question.

1 We're going to let them respond to those areas and then I'm  
2 going to turn it over to the Applicant, and let his witnesses  
3 speak up, if they need to. And then, we'll let Ms. Sommer  
4 ask any questions that she has. Then I'll go around the  
5 table one more time and then we'll be done with the  
6 testimony. So, that's the way we intend to proceed.

7 Mr. Vidaver or Mr. Kerr, if you're on the line right  
8 now, speak up and let us know that you're here.

9 MR. VIDAVER: This is Mr. Vidaver, can you hear me?

10 HEARING OFFICER CELLI: Very, very -- it's great, we  
11 can hear you fine, now. Thank you for doing that.

12 MR. VIDAVER: Well, I'm in a phone booth down on the  
13 corner, so let's make this quick.

14 (Laughter.)

15 HEARING OFFICER CELLI: Don't forget that you're  
16 under oath, Mr. Vidaver.

17 (Laughter.)

18 HEARING OFFICER CELLI: And David Kerr -- Steven  
19 Kerr, are you on the phone, yet?

20 MR. KERR: I'm here, with Mr. Vidaver.

21 HEARING OFFICER CELLI: Okay, great. So, again,  
22 we're sorry for the interruption. Mr. Vidaver, you have the  
23 floor.

24 Mr. Powers had talked about efficiency, he talked  
25 about demand response, he talked about battery storage. And

1 you were in the middle of talking about La Paloma. So, take  
2 it away, Mr. Vidaver.

3 MR. VIDAVER: Okay. Well, let me talk about La  
4 Paloma, first. And to make this conversation more  
5 intelligible, I'm going to give a brief overview of the local  
6 reliability process.

7 In areas, like the Western L.A. Basin, there's a lot  
8 of electricity demand. And meeting that demand requires both  
9 local generation, in the Basin, and the imported generation  
10 from outside the Basin, over a pretty well-defined set of  
11 transmission lines.

12 Now, because Los Angeles is so densely populated,  
13 there are a limited number of power plants in the Basin and  
14 there are a limited number of transmission lines. And under  
15 very high-load conditions, let's say in the middle of the  
16 afternoon, in August, when temperatures are at an annual  
17 high, 100 degrees or more along the coast, the demand for  
18 electricity in the Los Angeles Basin is so high that it  
19 cannot be met entirely with generation in the Basin. It  
20 requires the import of electricity over a set of transmission  
21 lines.

22 Now, a problem exists if there are what are called  
23 contingencies. The ISO is required by NERC to be able to  
24 maintain reliable electric service in the event of the  
25 sequential failure of two major components of the system.



1 Think of a large generation project, or a large transmission  
2 line, two of each, or one -- excuse me, two transmission  
3 lines might fail 90 minutes apart, two large generators might  
4 fail 90 minutes apart, or a generator and a transmission line  
5 might fail 90 minutes apart.

6 And the ISO has to be able to maintain reliable  
7 service on the hottest day of the decade. So, this is what's  
8 referred to as a 1-in-10-year event.

9 Now, what the ISO does is it fills that in a kind of  
10 modeling simulation sense. It fills up all the major  
11 transmission lines, effectively importing as much power into  
12 the Los Angeles Basin as possible. And then, it turns on  
13 enough local generation to meet demand. And it then goes  
14 through and assesses all paralyzed possible contingencies,  
15 the failure of every pair of -- possible pair of generators  
16 and transmission lines. And it hunts for the -- in each  
17 case, it models the failure of, let's say, a generator and a  
18 transmission line, and it looks at what local generation is  
19 needed to be up and operating to maintain reliable service  
20 under those circumstances.

21 And then, it goes through every possible combination  
22 of two generators, two transmission lines, one of each, and  
23 it hunts for the pair of failures that lead to the largest  
24 need for in-Basin, in Los Angeles generation.

25 And when it finds that largest amount, it is

1 determined what is called the local capacity requirement, or  
2 the LCR. And in its studies, it concluded that sufficient  
3 local capacity was required to warrant the CPUC authorizing  
4 the amount of new capacity that it did in the Long-Term  
5 Procurement proceeding.

6 The Alamitos Energy Center is designed to meet a  
7 share of this local capacity requirement.

8 Now, I don't have the exact local capacity  
9 requirement values in front of me. But what the CPUC did was  
10 it said, let's make some assumptions about how much renewable  
11 generation is going to be built in the Los Angeles Basin, how  
12 much demand response there's going to be, how much energy  
13 efficiency there's going to be. And the residual, what's  
14 left over, any shortage that is left over will have to be met  
15 with natural gas.

16 And this how it came up with the authorization for  
17 Southern California Edison to procure the amount of new,  
18 natural gas-fired generation that it did.

19 And as I said, Alamitos, as a result of the RFO  
20 process that Edison undertook to fulfill this level of  
21 capacity requirement, Edison came up with Alamitos, in  
22 partial satisfaction of this requirement.

23 Now, looking at La Paloma, La Paloma lies outside the  
24 transmission system defined local capacity area that is the  
25 Los Angeles Basin. So, as far as the ISO is concerned, La

1 Paloma cannot contribute to meeting the local capacity  
2 requirement that the ISO has estimated, and that the CPUC  
3 has, as a result, authorized the procurement of new, gas-  
4 fired generation.

5 Now, Mr. Powers is, I assume correct, when he says  
6 that if you look at the contingency, the transmission line or  
7 generation, pair of transmission line or generation outages  
8 that create the need for the most in-Basin, in Los Angeles  
9 local generation, that the transmission line that connects La  
10 Paloma to the West Basin is, I assume he's correct that it's  
11 still open.

12 But it's incorrect to assume from that, that La  
13 Paloma can, therefore, provide the local capacity that the  
14 system needs. It could be in the pair of contingencies that  
15 define the second largest amount of local generation, that is  
16 needed, that the transmission line that connects La Paloma  
17 with the L.A. Basin is down.

18 So, the fact that if we had this one contingency,  
19 what's called an N minus 1 minus 1, the failure of one  
20 component and then 90 minutes later the failure of the second  
21 component. The fact that the one contingency which leads to  
22 the local capacity requirement is one that does not result in  
23 the line that connects La Paloma to the Basin going down, it  
24 could be that the contingency which requires the second  
25 largest amount of generation in the L.A. Basin is one in

1 which the line does go down.

2           So, you know, to say that La Paloma could contribute  
3 to local capacity simply because the contingency that is  
4 protected against is one in which the transmission line  
5 linking La Paloma to the Basin is still open, is simply  
6 incorrect.

7           Now, I can't comment on Mr. Powers' assertion that  
8 there are combined cycles in Baja California that are being  
9 used to meet local capacity needs in the San Diego area. I'm  
10 not familiar with that. It would require somebody from the  
11 ISO to explain, it not to the Committee, at least to me  
12 what's going on, and how that can be explained.

13           I've never heard of an instance where the ISO's  
14 operating procedures may obviate the need for local capacity.

15           So, that's as much as I have to say on La Paloma. It  
16 would surprise me a lot if the ISO had just sort of  
17 overlooked the potential for taking an existing, large  
18 facility, and using that to satisfy a local capacity  
19 requirement. If the ISO could use La Paloma to obviate the  
20 need to build Alamitos, the Energy Center, or any other  
21 project that provides new gas-fired generation in the L.A.  
22 Basin, I think we'd all be very happy if that were possible.

23           The place to assert that that's possible is in a  
24 forum, if not the LTPP proceeding with the PUC, then,  
25 certainly, the transmission planning process at the ISO, or

1 the stakeholder proceeding in which local capacity  
2 requirements are determined. That proceeding is held  
3 annually. So, if, indeed, La Paloma can contribute to  
4 meeting local capacity requirements in the L.A. Basin,  
5 someone needs to bring that possibility to the ISO in their  
6 local capacity requirement proceeding.

7 Now, Mr. Powers also referred to the possibility that  
8 other preferred resources, the collective term that denotes  
9 both demand response, energy efficiency, distributed and  
10 central station renewable generation and, increasingly,  
11 energy storage, that he has noted that there are quantities  
12 of these resources that would obviate the need for gas-fired  
13 generation.

14 And I just have two comments to make in response to  
15 that. One is that in determining the local capacity  
16 requirement, the California ISO takes, as input, CPUC  
17 assumptions about demand, and about the potential for  
18 preferred resources to meet that demand, and obviate the need  
19 for gas-fired generation. A very, very large part of the  
20 LTPP proceeding, in 2012, which resulted in the authorization  
21 of a large amount of gas-fired generation in the Los Angeles  
22 Basin, a very large part of that proceeding was spent  
23 developing appropriate assumptions for the CPUC to require  
24 the ISO to use, in its local capacity studies.

25 The State has targets for peak demand response. I

1 believe that's still at 5 percent of load. The State has  
2 targets for energy efficiency savings, including additional  
3 and available energy efficiency, or what is known as -- what  
4 used to be known as uncommitted energy to efficiency. Energy  
5 efficiency that we know is out there, we haven't necessarily  
6 studied it, we certainly haven't financed it. We may not  
7 have programs for it, but we know it's out there and it has  
8 to -- we assume that it can be reasonably expected to occur  
9 in the future.

10           So, we take the demand forecast and we deduct from  
11 that all the energy. We need demand response. We assume  
12 that there will be renewable generation developed in the L.A.  
13 Basin. Some of that will be solar, on people's rooftops.  
14 That's (inaudible) -- some of that is actually in the course  
15 of the utility procurement of wholesale renewable energy in  
16 order to meet the Renewable Portfolio Standard.

17           HEARING OFFICER CELLI: Excuse me, Mr. Vidaver, we --  
18 Mr. Vidaver, can you hear me? This is Hearing Advisor Ken  
19 Celli.

20           MR. VIDAVER: Yes, Mr. Celli?

21           HEARING OFFICER CELLI: Yeah, we were just having a  
22 little bit of an audio. I need you to kind of go back about  
23 a half a paragraph and restate that.

24           MR. VIDAVER: Okay.

25           HEARING OFFICER CELLI: You sound okay, now. Is that

1 okay, Michael? I'm getting the okay, audio is good, from the  
2 court reporter, as well. So, go ahead.

3 MR. VIDAVER: Okay, back about half a paragraph.  
4 Okay. So, can the court reporter read back the last sentence  
5 that he has.

6 THE REPORTER: It was just the last sentence.

7 HEARING OFFICER CELLI: It was just the last  
8 sentence, she said.

9 MR. WINSTEAD: This is Keith Winstead. You were  
10 speaking about wholesale electricity.

11 MR. VIDAVER: Okay. So, the CPUC requires the  
12 California ISO to use specific assumptions about the  
13 development of alternative resources, alternatives to gas-  
14 fired generation in the Los Angeles Basin. And these include  
15 energy efficiency savings, demand response, peak demand  
16 response savings, the development of both distributed and  
17 wholesale renewable projects in the L.A. Basin.

18 So, all of these are assumed to occur in the L.A.  
19 Basin before the CPUC says go forth and procure something  
20 that looks like the Alamitos Energy Center.

21 So, we can point to anecdotal resources, which pop up  
22 and make themselves available. But in a planning context,  
23 these resources have already been assumed to be -- it's  
24 already been assumed that these resources will be developed.

25 Now, Mr. Powers raises the notion of 800 megawatts of

1 demand response being available. I can't tell you exactly  
2 how much demand response was assumed to be developed in the  
3 L.A. Basin when the amount of gas-fired generation capacity  
4 that would be needed was being estimated. I will wager that  
5 it probably wasn't 800 megawatts.

6 But I will also note that this issue was raised in  
7 the proceeding which considered Southern California Edison's  
8 application for the recovery of costs associated with the  
9 contract with the Alamitos Energy Center. And this  
10 particular issue was raised, and was -- it, bluntly,  
11 rejected, as a reason to not allow cost recovery under the  
12 contract.

13 So, in a nutshell, the planning process is such that  
14 large amounts of preferred resources are assumed to be  
15 developed over the planning horizon before the need for  
16 resources, like the Alamitos Energy Center, our estimate.  
17 So, that would be -- that would be one response to Mr.  
18 Powers' comments.

19 If you'll give me a second to collect my thoughts and  
20 look over my notes, let me see what else I can come up with.

21 HEARING OFFICER CELLI: Go ahead, take your time. My  
22 notes show that you said something about having two comments,  
23 and maybe that just was two comments.

24 MR. VIDAVER: No, that was one long comment.

25 HEARING OFFICER CELLI: Oh.



1 MR. VIDAVER: And, now, I'm looking for -- well, I  
2 think I can -- I'm done, for the moment, anyway.

3 HEARING OFFICER CELLI: Okay. And so, the other  
4 question I have for you, before I move on, is are you  
5 including efficiency and demand response as preferred  
6 resources?

7 MR. VIDAVER: Yes. Efficiency, demand response,  
8 renewable generation and, increasingly, energy storage is  
9 included in that list. When the preferred resources were  
10 initially defined, about 10 years ago, storage was not  
11 considered to be a resource at the time because it wasn't  
12 feasible and cost effective.

13 But as all parties to this proceeding know, it's now  
14 considered to be a preferred resource.

15 HEARING OFFICER CELLI: Okay, so, we're considering  
16 the battery storage in those comments?

17 MR. VIDAVER: Yes. The CPUC has, in authorizing  
18 specific amounts of gas-fired generation in the Los Angeles  
19 Basin, not only took into consideration the development of  
20 energy efficiency, and demand response, and renewable  
21 generation, it also established minimum levels of procurement  
22 for storage resources.

23 The total amount of capacity that Edison could  
24 procure in the L.A. Basin was divided among storage, other  
25 preferred resources, and gas-fired generation. So, the CPUC

1 has considered that, energy storage.

2 HEARING OFFICER CELLI: Thank you. So, did you need  
3 another minute to collect your thoughts?

4 MR. VIDAVER: No, I'm looking over my notes and I  
5 can't see what I was thinking about, now.

6 HEARING OFFICER CELLI: Okay. Then, do I need to ask  
7 Mr. Kerr, or was Mr. Vidaver speaking for all of the --

8 MR. BABULA: I think that was adequate. I think Mr.  
9 Kerr would have a different area, if the questions arose  
10 regarding what he would talk about.

11 HEARING OFFICER CELLI: Okay.

12 MR. BABULA: It wasn't LTPP and the ISO stuff.

13 HEARING OFFICER CELLI: Okay, thank you. Then, let's  
14 turn it over to Applicant. Did you have any -- a witness  
15 that you wanted to have speak to this?

16 MR. HARRIS: No, we wanted to make our witnesses  
17 available for questions from the Committee. We're prepared  
18 to brief these issues on the factual record.

19 HEARING OFFICER CELLI: Okay. Then, we're back to  
20 Los Cerritos Wetlands Land Trust, who opened this up, so  
21 we'll hear from the Intervenor.

22 MR. POWERS: May I make a couple of observations  
23 related to what Mr. Vidaver just said?

24 HEARING OFFICER CELLI: Yes. Just keep speaking  
25 right into that mic, please.

1 MR. POWERS: You bet. One, Mr. Vidaver relies  
2 heavily on the PUC's Long-Term Procurement proceeding and the  
3 outcomes of that proceeding. One outcome was 640 megawatts  
4 of combined-cycle capacity at Alamitos. It wasn't 1,040  
5 megawatts of an additional 400 megawatts of simple-cycle  
6 generation. It was 640 megawatts of gas-fired generation.  
7 That is currently being contested. But leaving the fact that  
8 it's contested aside, that's a big difference between what  
9 the California Energy Commission is looking at approving.

10 Two, in my opening testimony I talked about 800  
11 megawatts of demand response available. The Staff looked at  
12 997 megawatts of demand response, both numbers from the Long-  
13 Term Procurement proceeding.

14 And we also have a nearly 1000-megawatt combined-  
15 cycle unit in La Paloma. Part of my thinking in that opening  
16 testimony was the demand response is to be used on that peak,  
17 1-in-10-year reliability day to shed the same types of  
18 services that would be provided by these turbines. Ancillary  
19 services, spinning reserve, cut down on reliability  
20 requirements. And La Paloma's available to provide bulk  
21 power. Combined, that's 2,000 megawatts. It's not that  
22 La Paloma and 800 to 1,000 megawatts of DR are necessary to  
23 offset this proposal. These are just tools that are  
24 available in combination to meet the need.

25 And, finally, Mr. Vidaver indicates that he's unaware

1 or doesn't have any information on the ISO dispatching  
2 combined-cycle units in Baja California to meet local  
3 capacity requirements in SDG&E territory. I would just  
4 recommend that he read Exhibit 2, of my opening testimony,  
5 which is the FERC order that, on page 2 and 3, describes how  
6 ISO is dispatching the La Rosita combined-cycle unit, in  
7 Mexicali, to meet the ISO's 25 percent local capacity  
8 requirement, and just dropped the ball. The unit wasn't  
9 available, it was in forced outage, and it precipitated an  
10 unnecessary major outage in San Diego that night. That's  
11 all.

12 HEARING OFFICER CELLI: Thank you. Anything further  
13 from Staff?

14 MR. VIDAVER: Well, I would caution against equating  
15 a 25-percent minimum generation requirement with operational  
16 requirement, with a local capacity requirement that is not an  
17 operational target, it's a planning target.

18 The notion that there are minimum amounts of  
19 generation capacity that must be spinning in certain areas is  
20 qualitatively different than the development of generation  
21 capacity to meet a particular planning -- a planning  
22 requirement of so many megawatts in the West L.A. Basin, for  
23 example.

24 So, I have not read the exhibit submitted by Mr.  
25 Powers, but I would simply reiterate that if La Paloma could

1 meet the West L.A. Basin local capacity requirement, that the  
2 ISO would have included La Paloma in the list of resources  
3 that can contribute to meeting a local capacity requirement.

4 And in that it didn't, that La Paloma, effectively,  
5 can't contribute to local capacity in the L.A. Basin and that  
6 other, new generation capacity is necessary, as indicated by  
7 both the ISO and the PUC.

8 HEARING OFFICER CELLI: Thank you, Mr. Vidaver.  
9 Anything further from Applicant?

10 MR. HARRIS: No. Once again, we'll rely on our  
11 records, thank you.

12 HEARING OFFICER CELLI: Thank you. Mr. Powers?

13 MR. POWERS: I just want to point out what may be an  
14 inconsistency in the ISO's treatment of local capacity  
15 resources.

16 In the case of San Diego, that night the turbine in  
17 Mexicali was being called to replace a combined-cycle unit in  
18 the City of San Diego, or right on the edge of it, which is  
19 the Otay Mesa combined-cycle unit. That unit was being used  
20 seamlessly and interchangeably with combined-cycle units  
21 right in the core of San Diego Gas & Electric service  
22 territory.

23 Two, the fact that the ISO did not include La Paloma  
24 on a list of local capacity resources in 2014, when the LTPP  
25 process ended, that included, ultimately -- was subsequently

1 followed by an application, by SCE, for the Alamitos Energy  
2 Center, didn't predict or anticipate that the 960-watt La  
3 Paloma combined-cycle unit would be imminently about to be  
4 mothballed in the summer of 2016, it could not.

5 But I would say that this is really just an example  
6 of inconsistent treatment, by the ISO, of local capacity  
7 resources or at least potential local capacity resources.

8 Thank you.

9 HEARING OFFICER CELLI: Thank you. I think the  
10 Committee's heard enough on alternatives, unless there's  
11 anything further from any of the parties at this time? From  
12 the Staff?

13 MR. BABULA: No, I think that the record is pretty  
14 robust, now, and we're beginning to sound like a PUC hearing  
15 here. So, maybe we can focus back in on the facility at  
16 hand.

17 HEARING OFFICER CELLI: Okay. Your mic just sort of  
18 died. Watch and make sure that it's still on.

19 Mr. Harris, anything further?

20 MR. HARRIS: No, I'm done. Thank you.

21 HEARING OFFICER CELLI: Okay, Ms. Sommer?

22 MS. SOMMER: Yes, I do have -- hello?

23 HEARING OFFICER CELLI: Yes.

24 MS. SOMMER: I do have a few questions. First, and  
25 forgive me, this is a bit of a long, a lengthy question, so

1 bear with me.

2 But following up on a comment that the witness made  
3 regarding Alamitos partially filling the LTPP LCR needs.

4 So, in the FSA, the first project objection, and this  
5 is Exhibit 2000, page 14, reads, "Develop a project capable  
6 of providing energy generating capacity and ancillary  
7 electrical services to satisfy Los Angeles Basin local  
8 reliability area requirements."

9 And we've just heard some lengthy testimony regarding  
10 LCR needs.

11 In its arguments that no other alternatives will meet  
12 the project objections, staff cites only to the earlier LTPP  
13 decision, not the actual decision on this plan. Which, of  
14 course, was D1511041, where the CPUC approved a 648-megawatt  
15 plant in Alamitos to fill LCR need, 400 megawatts less than  
16 the Applicant has applied for here.

17 In its rebuttal testimony, which would be Exhibit  
18 2004, page 3, Staff states that, "Second guessing the  
19 conclusions and findings of the PUC, after it has gone  
20 through the multi-year LTPP process, is not appropriate. And  
21 Commission Staff is not in a position to reopen the LTPP  
22 proceeding, nor is the siting process the appropriate place  
23 to consider regional demand forecasting and grid  
24 reliability."

25 Has not the Staff done precisely this, in dismissing

1 alternatives based upon a 1,040-megawatt plant, acting  
2 contrary to the CPUC's approval of only 640 megawatts for  
3 Alamitos to partially fill the LCR need in the L.A. Basin?

4 HEARING OFFICER CELLI: I think, if I may, suggest  
5 that your question is more on the order of argument, which is  
6 the kind of thing that we would want to see in a brief.

7 One of the things that we talked about, at the  
8 prehearing conference, is a briefing schedule. And,  
9 basically, what we said is the briefs are optional. The  
10 parties do not have to file briefs. Notwithstanding my  
11 personal preference for briefs.

12 And what I would say, though, is that I think you're  
13 making a point that is argument that would land in a brief,  
14 rather than getting an answer from Staff. I mean --

15 MS. SOMMER: Well, I think if you -- I would like to  
16 hear from Staff on, you know, what their justification and  
17 their process is for dismissing alternatives based on a plant  
18 size that was not approved by the PUC?

19 And we've just had a lengthy discussion about LCR  
20 need and, you know, kind of the roles, and these are  
21 decisions that Staff has made. So, I would like to hear an  
22 answer, if that's --

23 HEARING OFFICER CELLI: Okay. Mr. Vidaver, are you  
24 still on the phone to answer a question?

25 MR. BABULA: That might be -- hello? That might



1 be --

2 MR. VIDAVER: I'm going to leave this answer to Mr.  
3 Kerr, if that's all right.

4 MR. BABULA: Yeah, Mr. Kerr should answer that.

5 HEARING OFFICER CELLI: Go ahead, Mr. Kerr.

6 MR. KERR: Hi, this is Steven Kerr. We did provide a  
7 response to a similar comment of this nature, on page 6-23,  
8 of the Alternatives section.

9 And, basically, to summarize, for starters an agency  
10 is required to identify a reasonable range of alternatives  
11 that lessen the project's significant impacts.

12 Because AEC did not have any unmitigated significant  
13 impacts, no particular alternative was necessary, but staff  
14 looked at alternative sites, technologies, and the no project  
15 alternative.

16 The proposed project is already a smaller project  
17 than what was originally proposed in the AEC's -- the first  
18 AFC, and is smaller than the existing AGS facility.

19 So, basically, my point is that our alternatives  
20 analysis isn't driven by what contract they may or may not  
21 have. It's by the impacts that this particular project,  
22 which is proposed, may have.

23 MS. SOMMER: Is that the complete answer?

24 HEARING OFFICER CELLI: I think so.

25 MR. KERR: Yeah.

1 MS. SOMMER: So, let's say the Applicant,  
2 hypothetically, had applied for a 4,040-megawatt plant, would  
3 Staff have dismissed alternatives based upon an inability to  
4 meet 4,040 megawatts?

5 HEARING OFFICER CELLI: Mr. Kerr?

6 MR. KERR: It would depend on the -- on Staff's  
7 analysis and the impact that would be associated with such a  
8 proposed project.

9 MS. SOMMER: So, you're talking about, in your  
10 rebuttal testimony, I believe what you're referring to is a  
11 statement made in the FSA, page 6-22, that under the Public  
12 Resources Code Staff assumes the proposed project is needed,  
13 if an FAC was filed.

14 So, how does Staff justify such a position when it's  
15 contrary to the orders of the PUC?

16 MR. KERR: We have a separate process from the PUC.  
17 Our alternatives analysis isn't based on what contract they  
18 may or may not have.

19 MS. SOMMER: So, regarding the alternatives that you  
20 did or did not look at, you state in the -- this is, again,  
21 the FSA, page 5.34, "Biomass, hydro electrical, geothermal,  
22 wind and solar technologies were ruled out due to the lack of  
23 adequate space on the project site and/or the unavailability  
24 of these energy resources in the project area."

25 Yet, Staff did not rule out natural gas facilities on

1 these bases, instead analyzing a nonexistent gas plant on  
2 another site.

3 So, what was the reasoning to so act against  
4 preferred resources and to not take that position regarding  
5 other natural gas facilities?

6 MR. KERR: We didn't carry forward another natural  
7 gas-fired alternative.

8 MS. SOMMER: You didn't analyze a project on the  
9 SONGS -- the SONGS land?

10 MR. KERR: Well, we're just showing our work there  
11 that we considered earlier on, with possible -- because it  
12 takes a long time to develop an alternative site, that's  
13 something we looked at early on. And that was the most  
14 reasonable site that presented itself but --

15 MS. SOMMER: But you didn't look --

16 MR. KERR: Sorry, I'm getting some feedback here.  
17 But there were no significant impacts identified for the  
18 project. And so, alternate sites weren't carried forward.  
19 And, also, that site was not available, once we looked into  
20 it further. So, it was not carried forward any farther.

21 MS. SOMMER: But again, the question is you looked at  
22 alternate facilities and alternate facilities for natural gas  
23 plants, but not for preferred resources; correct?

24 HEARING OFFICER CELLI: Mr. Kerr, did you get that  
25 question?

1 MR. KERR: No, that's correct.

2 HEARING OFFICER CELLI: Could you ask it again, Ms.  
3 Sommer?

4 MR. KERR: I heard the question and her statement is  
5 correct, we didn't look at other sites for preferred  
6 resources. We looked at other sites where this particular  
7 project, that is being proposed, could possibly go.

8 MS. SOMMER: And just to confirm, you also did not  
9 analyze any alternatives, included portfolio of preferred  
10 resources?

11 MR. KERR: Correct.

12 MS. SOMMER: Is there any explanation that you can  
13 offer for why there were no alternatives that included  
14 portfolios?

15 MR. BABULA: Well, before he answers, this is Jared.  
16 I just want to ask the Committee, I mean, he kind of has  
17 already explained and stated that there was -- Staff found  
18 there were no impacts, so they had a limited need for doing  
19 alternatives. He talked about the alternatives we talked  
20 about.

21 HEARING OFFICER CELLI: Right.

22 MR. BABULA: I'm not sure how much more you need.

23 HEARING OFFICER CELLI: We're just going to -- how  
24 many more questions do you have, Ms. Sommer? I think she's  
25 kind of coming --

1 MS. SOMMER: I have just a few.

2 HEARING OFFICER CELLI: Yeah, we'll just let her ask  
3 a few more questions and then we'll move on.

4 So, I don't know about you all, but I just lost that  
5 whole string. So, I think I need you to ask your question  
6 again, one more time, Ms. Sommer.

7 MS. SOMMER: I'm not quite sure where I was. Can you  
8 give me --

9 HEARING OFFICER CELLI: Portfolio preferred.

10 MS. SOMMER: Oh, yes. So, you know, and what I mean  
11 by portfolio preferred resources, it's my understanding,  
12 looking at the analysis that you've done, you would look at,  
13 say, you know, filling -- an alternative would be all solar.  
14 Of course, you know, there are -- a portfolio would be some  
15 solar, some demand response. So, I was hoping to get some  
16 understanding on why the Staff elected to not analyze any  
17 portfolio of preferred resources?

18 HEARING OFFICER CELLI: So, can you address that, Mr.  
19 Kerr?

20 MR. VIDAVER: This is Mr. Vidaver. I've sort of --  
21 if I were sitting in the room, I would be looking at Mr.  
22 Babula at the moment. But let me go back and just say two  
23 things.

24 One is that, as I stated in my response to Mr.  
25 Powers' comments, the need for local capacity, which is the

1 need that Alamitos Energy Center is designed to meet, is  
2 based on the assumed development of large quantities of all  
3 preferred resources, including things like solar. That would  
4 be one comment.

5           The second comment is that in order to be eligible to  
6 meet local capacity requirement, the CPUC and ISO have  
7 jointly determined that there was a need for natural gas-  
8 fired generation in the Los Angeles Basin, of a threshold  
9 amount, at least 1,000 megawatts. And that is a need that  
10 the Alamitos Energy Center is designed to meet, or is  
11 intended to meet.

12           And it is a need that solar generation, whether it's  
13 distributed, or central station, cannot meet.

14           As far as the ISO and CPUC are concerned, the  
15 threshold amount of gas-fired generation is needed in the Los  
16 Angeles Basin, and no amount of preferred resources can  
17 contribute to that.

18           MS. SOMMER: So, then what need is the 400-megawatt  
19 discrepancy intended to meet?

20           MR. VIDAVER: Now, I'll -- this is up to Mr. Kerr and  
21 someone else to answer. So, I'm going to turn it over to Mr.  
22 Kerr.

23           MR. KERR: Could you repeat that question, please?

24           MS. SOMMER: What need is the 400-megawatt  
25 discrepancy supposed to meet?

1 MR. KERR: I'm not --

2 MR. BABULA: This might be more for the Applicant.

3 But I do want to remind people that we don't look

4 specifically at need.

5 MR. KERR: Right.

6 MR. BABULA: Again, to back up, as our experts have

7 stated, we don't look or care about what their PPA is,

8 necessarily. We're looking at the project in front of us.

9 HEARING OFFICER CELLI: So, just to be clear, is that  
10 an objection?

11 MR. BABULA: It's an informal discussion right now,

12 but if we can make an objection to the question about the

13 need, because that's not something that we're directly

14 looking at.

15 MS. SOMMER: And I'm not --

16 HEARING OFFICER CELLI: Well, let me just say that

17 the witnesses are under oath. Although we're using an

18 informal format, this is a formal hearing. And if the

19 attorneys have an objection to a question, state the

20 objection. Because the attorneys are not part of this

21 discussion.

22 MR. HARRIS: Well, then, I'll state my objection, if

23 my mic could be turned on.

24 HEARING OFFICER CELLI: Okay.

25 MR. HARRIS: I object to the form of the question

1 about discrepancy. I think it assumes facts that are not in  
2 evidence. I don't know what kind of discrepancy she's  
3 referring to.

4 HEARING OFFICER CELLI: I would overrule that  
5 objection because I think it's clear that what she stated  
6 earlier is that there's a -- there was an RFO for 640  
7 megawatts and this is a project for 1,040 megawatts. And so,  
8 I think --

9 MR. HARRIS: Can she use the word "difference" as  
10 opposed to "discrepancy?"

11 HEARING OFFICER CELLI: There's a difference, not  
12 necessarily a discrepancy.

13 But I'm going to basically -- I would sustain the  
14 objection, if Staff were to make, characterize it as such.  
15 Because need is not within the ambit of this hearing. We  
16 don't do need. I mean, we leave that up to the market  
17 forces. And so, need is irrelevant in our proceedings.

18 MS. SOMMER: Is there an objection for me to respond  
19 to?

20 MR. BABULA: Yeah, I'm objecting that that question  
21 is about need, which is outside the scope of the Energy  
22 Commission.

23 MS. SOMMER: And I would cite, again, to the project  
24 objective that reads, "Develop a project capable of  
25 satisfying Los Angeles Basin local reliability area



1 requirements." Which is exactly what my question is about.

2 MR. HARRIS: It's not, though. Your question was  
3 about the --

4 HEARING OFFICER CELLI: Well, allow me to rule on the  
5 objection. So, I'm going to sustain the objection. And that  
6 was Ms. Sommer's sort of offer of proof.

7 And you, Mr. Harris, had a rebuttal to make?

8 MR. HARRIS: I don't have a rebuttal, but I think I'm  
9 going to want my witnesses to speak to some of this. I  
10 didn't realize I was allowed to object, since it was  
11 informal.

12 No, seriously, this is a very serious problem with  
13 this informal process. We have the burden of proof, it's not  
14 always clear that I can object. There were questions about  
15 portfolios, for example, outside the scope of any testimony  
16 and a legal question. So, if we want to go back to that one,  
17 I'll be glad to object to that, then.

18 But this is a problem with your informal process.

19 HEARING OFFICER CELLI: All right. So, be that as it  
20 may, did you -- so, I need to be clear. Are you making an  
21 objection or did you want to respond to her request to refer  
22 to the difference between 400 and the --

23 MR. HARRIS: If I'm following, I think you sustained  
24 the objection and I'm not going to ask you to revisit that.

25 HEARING OFFICER CELLI: I really don't want to go off

1 on this tangent of need. That is something the CPUC  
2 determines. The Energy Commission, basically, is precluded  
3 by Public Resources Code from looking into need. So, if you  
4 can take any further questions that you have, and direct them  
5 around the question of need, Ms. Sommer, that would be the  
6 way to go.

7 MS. SOMMER: If you can give me just a moment,  
8 please?

9 HEARING OFFICER CELLI: And while she's collecting  
10 her thoughts, I just want to make it clear that, yes,  
11 absolutely; the attorneys have the right to object to  
12 questions. And, please, make those objections known.

13 MS. SOMMER: No further questions.

14 HEARING OFFICER CELLI: Okay, thank you.

15 Then, at this time, we will move on to the next  
16 panel. So, I'm going to dismiss your witnesses at this time,  
17 unless you need them for other areas. We're next going to  
18 talk about Cumulative Impacts Analysis, at the request of the  
19 Intervenor.

20 Now, the way that we have this on this list, if  
21 you're looking up on the projector, you see that we have  
22 Biology, we have Traffic, we have Soil and Water, we have  
23 Noise. And then there were -- I think there's some more. I  
24 don't know if that scrolls down further. Is that all there  
25 was?

1 MR. BABULA: I believe that's it, yes.

2 HEARING OFFICER CELLI: All right. Then, so here's  
3 what I'm going to ask -- one moment.

4 Ladies and gentlemen, what we're going to do now,  
5 then, is we're going to take, let's say, a 10-minute break.  
6 By my watch, it's a quarter to 2:00. So, if everyone could  
7 be back in their seats and ready to go at five minutes to  
8 2:00, I would appreciate it.

9 I'm going to instruct Staff's witnesses to avoid the  
10 problem with the Spiderphones. If you were planning on using  
11 a Spiderphone, I'm going to ask Staff's witnesses to call in  
12 on your desk phone, or your cell phone, so that we can avoid  
13 the feedback problems, and avoid some of the broken audio  
14 that we're getting here, in the room, in Long Beach.

15 So with that we'll take a break, and we'll see you at  
16 five to 2:00. We're off the record.

17 (Off the record at 1:45 p.m.)

18 (On the record at 1:59 p.m.)

19 HEARING OFFICER CELLI: What we're going to do, then,  
20 is move on. Now, Ms. Sommer, how I intended to proceed on  
21 this next panel was essentially under the umbrella of  
22 Cumulative Impacts, because of the way it was couched in the  
23 prehearing conference statement, from Ms. Lambe and Mr.  
24 Geever. I gathered that all of these areas were under the --  
25 that she wanted to inquire into cumulative impacts for all of

1 the areas that we had on the list, which is no longer up. Oh,  
2 there it is, good. Below that. Okay, so Bio, Traffic, Soil  
3 and Water, and Noise.

4 And so, since all of staff's witnesses are on the  
5 telephone, right, we don't have any of these people here in  
6 the room, today?

7 MR. BABULA: Correct.

8 HEARING OFFICER CELLI: Okay, so they're all on the  
9 phone.

10 The way I would like to proceed is you have questions  
11 with regard to cumulative. Because these witnesses are  
12 available at the request of the Trust. So, you can ask your  
13 questions and, really, we'll give you some latitude here in  
14 terms of, you know, if you have a bunch of Bio questions that  
15 are distinct from Traffic and Transportation, then however  
16 you want to organize it is fine.

17 MS. SOMMER: Yeah, I think my questions are not so  
18 much organized by topic. I did, mostly have questions on the  
19 demolition, since that was how it was set out. And I think I  
20 probably would kind of pose them to the group. If that works  
21 for the panel?

22 HEARING OFFICER CELLI: And that's exactly what an  
23 informal panel is supposed to do, is be able to -- the  
24 knowledgeable person speaks up and answers your question.

25 So, the first thing I'm going to ask is, on the

1 telephone, do I have Scott White, or -- well, Scott White,  
2 are you there?

3 MR. WHITE: Yes, I am.

4 HEARING OFFICER CELLI: Okay. Jennifer Lancaster,  
5 are you there?

6 MR. WHITE: I don't think Jennifer will be here.

7 HEARING OFFICER CELLI: Okay. So, Scott White,  
8 you're the witness for Biology today, right?

9 MR. WHITE: Correct.

10 HEARING OFFICER CELLI: Okay. And Lisa Worrall?

11 MS. WORRALL: Yes, I'm here.

12 HEARING OFFICER CELLI: Okay, for Traffic.

13 And then, Abdul-Karim Abulaban?

14 MR. ABULABAN: Yes, I'm here.

15 HEARING OFFICER CELLI: Okay, for Soil and Water.

16 MR. ABULABAN: I'm here, on the phone.

17 HEARING OFFICER CELLI: Thank you. And Joseph Hughes  
18 or Shahab Khoshmashrab?

19 MR. HUGHES: Yes, sir, Joseph Hughes is here.

20 MR. KHOSHMAHRAB: And Shahab Khoshmashrab, also.

21 HEARING OFFICER CELLI: Okay, great. So, all of  
22 those witnesses are available. And the area that we're  
23 inquiring into, now, is the Cumulative Analysis of the  
24 demolition of the Alamitos Generating Stations Units 1  
25 through 6.

1 MR. BABULA: Are you going to swear them in?

2 HEARING OFFICER CELLI: Yes.

3 MR. HARRIS: Mr. Celli, if I could get my mic to  
4 work. Thank you. We also have one Biological witness who  
5 hasn't been sworn, yet. So, it's Melissa Fowler. And she  
6 provided our testimony. No one asked to cross her, but we  
7 want her to be available, since this informal process is  
8 mysterious a little bit. So, we'd like her to be sworn, as  
9 well.

10 HEARING OFFICER CELLI: Okay. And so with that, Ms.  
11 Fowler, I'm going to ask you to stand and raise your right  
12 hand.

13 (Ms. Fowler was sworn.)

14 MS. FOWLER: I do.

15 HEARING OFFICER CELLI: Thank you. Please be seated.

16 And then, I'm going to ask Scott White, Lisa Worrall,  
17 Abdul-Karim Abulaban, and Joseph Hughes, and Shahab  
18 Khoshmashrab to please stand. Raise your right hand.

19 (Witnesses were collectively sworn.)

20 HEARING OFFICER CELLI: And I need my list back up,  
21 if I could.

22 Mr. White?

23 MR. WHITE: Yes, I do.

24 HEARING OFFICER CELLI: Ms. Worrall?

25 MS. WORRALL: Yes, I do.

1 HEARING OFFICER CELLI: Mr. Abulaban?

2 MR. ABULABAN: Yes, I do.

3 HEARING OFFICER CELLI: Mr. Hughes?

4 MR. HUGHES: I do.

5 HEARING OFFICER CELLI: Mr. Khoshmashrab?

6 MR. KHOSHMAHRAB: I do.

7 HEARING OFFICER CELLI: And there's -- Mr. Powers,  
8 you're not testifying with regard to any of these areas,  
9 correct?:

10 MR. POWERS: No.

11 HEARING OFFICER CELLI: Okay. So with that, you're  
12 all under oath, and the questioning is with Ms. Sommer.

13 MS. SOMMER: Yeah, I just want to start off by  
14 inquiring if Staff will be providing further analysis on  
15 cumulative impacts after the air quality analysis is  
16 complete?

17 HEARING OFFICER CELLI: Anyone?

18 MS. WORRALL: Transportation won't be.

19 MR. WHITE: In Biology we don't expect to.

20 MR. ABULABAN: Soil and Water, we don't expect to  
21 file any additional testimony.

22 MR. HUGHES: Nothing additional for Noise and  
23 Vibrations.

24 HEARING OFFICER CELLI: Thank you. I'm sorry, we're  
25 getting an indication from the court reporter.

1 THE REPORTER: They need to identify themselves when  
2 they speak.

3 HEARING OFFICER CELLI: Okay. So, for the people who  
4 are on the telephone, we need you to identify yourself before  
5 you speak. So, Mr. White, you'd say, this is Scott White,  
6 and then answer the question. If you would, please?  
7 Remember to do that after each -- as soon as you're going to  
8 answer any questions. Thank you.

9 Can you hear them okay? Okay, good.

10 Go ahead, Ms. Sommer.

11 MR. HARRIS: Before you go, if I could have my mic?  
12 Thank you. I just want to clarify, they're not precluded  
13 from filing additional testimony, if they feel it necessary.  
14 Is that correct?

15 HEARING OFFICER CELLI: Well --

16 MR. HARRIS: They said they don't anticipate, at this  
17 time, filing additional testimony. I don't want to leave any  
18 ambiguity about their ability to respond to testimony, if  
19 they feel they need it.

20 HEARING OFFICER CELLI: Well, that's an important  
21 question because my intention was to close the record today,  
22 at the close of all of the evidence for all the matters that  
23 don't have to be open for the Part 2 Evidentiary Hearing.

24 So, unless they're going to give further testimony,  
25 which nobody has indicated that they're going to, I think



1 that what we have in the record is what they're going to give  
2 us.

3 MR. HARRIS: That's fine. Obviously, a party could  
4 bring a motion, if they felt compelled to do so. Thank you.

5 HEARING OFFICER CELLI: Yes.

6 MS. SOMMER: If it's the intention to close the  
7 record on all other issues at this time, the Trust would  
8 object for the reasons laid out in many different briefs,  
9 that all of these other areas are impacted by air quality.  
10 And that there may be some additional evidence that the Trust  
11 wants to put forth, once we have a better idea of what the  
12 Air Quality, final Air Quality analysis says.

13 HEARING OFFICER CELLI: Right. And so, what I would  
14 say is this, your objection is noted. We told Ms. Lambe and  
15 Mr. Geever that what we would do is we would close the  
16 record, without precluding the Trust from making a motion to  
17 reopen upon a showing that some area that we've already  
18 covered, that we would have declared as closed, is impacted  
19 in some way by Air Quality.

20 So, for instance, the one that comes easiest to my  
21 mind would be in Biology, if there were an issue on nitrogen  
22 deposition. Well, clearly, that's an Air Quality issue. So,  
23 that would be, I think, a good example of where we would  
24 allow the Trust to open that up and inquire.

25 MS. SOMMER: I appreciate that. I do think it does

1 put somewhat of an unfair burden on an Intervenor, but at  
2 least there will be an opportunity since, the perfect  
3 example, nitrogen deposition on, you know, a Wetlands impact  
4 on invasive species.

5 MR. BABULA: But a lot of those, one thing to point  
6 out is the Air Quality information in the section is going to  
7 be the Air Quality about the AEC project. And so, if the  
8 though is that there's going to be some additional Air  
9 Quality of the AGS, that's the direct impacts aren't part of  
10 our analysis.

11 HEARING OFFICER CELLI: Understood. So, with that,  
12 I'm going to ask, again, Ms. Sommers, you have questions for  
13 these witnesses? And remember, witnesses, to identify  
14 yourself when you respond.

15 MS. SOMMER: So, in the FSA, Exhibit 2000 page 4.6-  
16 22, Staff writes, "Because all construction/demolition and  
17 concurrent operation would occur within the same project  
18 boundary, the cumulative impacts from both projects are  
19 expected to be similar and, therefore, less than significant,  
20 as determined by the Staff assessment."

21 Is it Staff's testimony that the impacts of  
22 construction and demolition are the same? And, if so,  
23 explain how that can be so?

24 MR. HARRIS: I'm sorry, can we get the reference?

25 MR. HUGHES: This is Joseph Hughes.

1 HEARING OFFICER CELLI: One minute, Mr. Hughes, hang  
2 on.

3 MR. HARRIS: Yeah, as to this matter, I'd like to ask  
4 that Mr. Babula's mic and mine stay hot, so that we can  
5 object, as necessary. And I'm sorry if that's an annoyance  
6 to the sound folks. But all I was asking for was a  
7 restatement of the reference. You said page 4?

8 MS. SOMMER: 4.6-22.

9 HEARING OFFICER CELLI: And what section is that in,  
10 do you see?

11 MS. SOMMER: I don't know what section. I'm not sure  
12 what section that is.

13 HEARING OFFICER CELLI: 4.6, Noise and Vibration,  
14 thank you. Go ahead.

15 So, Joseph Hughes?

16 MR. HUGHES: Yes.

17 HEARING OFFICER CELLI: Go ahead.

18 MR. HUGHES: Okay. Could I just ask that she repeat  
19 the question one more time, now that we've had some delay?

20 MS. SOMMER: In the FSA, staff writes, "Because all  
21 construction/demolition and concurrent operation would occur  
22 within the same project boundary, the cumulative impacts from  
23 both projects are expected to be similar and, therefore, less  
24 than significant, as determined by Staff assessment." The  
25 Staff's testimony, therefore, that the impacts of

1 construction and demolition are the same and, if so, explain  
2 how that can be?

3 MR. HUGHES: Okay, so this is Joseph Hughes. In  
4 evaluating the impacts from construction and demolition for  
5 this project, EPA has set forth guidance for various  
6 construction phases, whether that be concrete pouring, steel  
7 erection, mechanical work, cleanup work. And one of the  
8 phases include demolition, site clearing, and excavation.

9 And that guidance explains the types of equipment  
10 that would be used and the expected noise levels at various  
11 distances.

12 We evaluated the construction noise impacts from this  
13 project using the highest of those activities and assume that  
14 they occur throughout the entire construction schedule. It  
15 just so happens that demolition, site clearing, and  
16 excavation were one of the higher noise-producing  
17 construction phases. And when evaluating construction  
18 impacts, that was interchangeable between demolition and  
19 construction.

20 So, yes, both, we evaluated the assessment that the  
21 construction impacts would be -- let me find the table, I  
22 think it was 71 dba at 375 feet, or something. Sorry, I'm  
23 scrolling through the table.

24 Yeah, so Table 5, it says, "Daytime  
25 construction/demolition noise." And then, the next footnote

1 is A, that those impacts are estimated to be 71 dba, at 375  
2 feet, and that's consistent with the EPA guidance documents.  
3 They provide the sound levels at 50 feet, would be about 91  
4 dba. But, yeah, so when we evaluated those impacts for the  
5 cumulative assessment, we said that they would be similar  
6 between the two. Because while one would be operational and  
7 the other would be under construction or demolition,  
8 conversely, that would be very similar if the other one was  
9 then being demolished, while the respective one was under  
10 operation.

11 So, yes, we did assume that construction noise and  
12 demolition noise were the same for purposes of this  
13 assessment.

14 MS. SOMMER: Let's see, so let's turn to the FSA,  
15 page 4.2-47. Staff states, "The FSA has been revised to  
16 indicate the AGS decommissioning, and D -- demolition  
17 scheduling are unknown. Therefore, Staff is not aware if  
18 there may be some overlap between these activities."

19 Status of the project is listed as unknown in the FSA  
20 and staff has otherwise indicated that decommissioning of  
21 AGS, it's somehow unknown. Stating in the rebuttal  
22 testimony, which is Exhibit 2004, at page 6, "Details of any  
23 future demolition of the facility are currently unknown."

24 But the proposed air permit goes into some detail  
25 about the timing, as well as the MOU. And I'm curious why

1 Staff did not take into account the details that are set out  
2 in the air permit, or otherwise make an effort to obtain  
3 information necessary to analyze the impacts of the  
4 demolition?

5 MR. HARRIS: I'm going to object to the phrasing of  
6 the question. If you could restate it more objectively,  
7 without failure to do something, it would help me understand  
8 the question.

9 HEARING OFFICER CELLI: So, your objection is  
10 conclusory?

11 MR. HARRIS: Vague and conclusory, yes.

12 HEARING OFFICER CELLI: All right. Well, I'll  
13 sustain the objection. So, basically, Ms. Sommer, we really  
14 want to -- your question is did any of these witnesses  
15 calculate or take into consideration the Air Quality -- I  
16 forgot how you asked it?

17 MS. SOMMER: The details that are presented in the  
18 PDOC regarding the decommissioning and the scheduling?

19 HEARING OFFICER CELLI: May I suggest that if you can  
20 see the list of your witnesses, you might just want to ask  
21 each witness whether they took that into consideration.

22 MS. SOMMER: Okay. Well, I would go through each  
23 witness, if you did take into consideration the information  
24 that's presented in the PDOC, from the Air District?

25 HEARING OFFICER CELLI: Mr. White?

1 MR. WHITE: Yes, Scott White. I'm the author of the  
2 Biology section. And I think that's the section that's been  
3 quoted from. And, no, I didn't take that into account.

4 HEARING OFFICER CELLI: Thank you.

5 Mr. Worrall?

6 MS. WORRALL: Yes, with respect to the Traffic and  
7 Transportation, I did not take in that information.

8 HEARING OFFICER CELLI: Mr. Abulaban?

9 MR. ABULABAN: No. Yeah, for Soil and Water, also,  
10 we did not take that information into consideration because  
11 it's not relevant.

12 HEARING OFFICER CELLI: Or, Mr. Hughes?

13 MR. HUGHES: No, we didn't specifically use the  
14 information provided in the PDOC. However, that being said,  
15 we may have made similar assumptions to some of the  
16 information provided, but I can't attest to that. We made  
17 our assumptions for our analysis and we can stand behind  
18 those.

19 MR. HARRIS: If I could, I don't want these to get  
20 away from us. I'd like to ask whether those witnesses are  
21 aware of any LORS, so the Traffic is being asked an Air  
22 Quality question.

23 HEARING OFFICER CELLI: That's a good question.

24 MR. HARRIS: Is the Traffic witness aware of any  
25 question -- any LORS that would require them to take into

1 consideration the PDOC, in their analysis.

2 HEARING OFFICER CELLI: That's a great question that  
3 I'm just going to ask you to hold onto until we work around  
4 to the Applicant.

5 Go ahead, Ms. Sommer, the question's with you.

6 MS. SOMMER: Just a moment, I apologize.

7 So, I'm looking for an explanation of -- there's two  
8 statements in the FSA, and this would be regarding Biological  
9 Resources. So, the FSA says that, "it is expected" -- this  
10 is at Exhibit 2000, at page 3-2.

11 "Is it expected that operations at AEC will be  
12 occurring during any demolition of AGS? Concurrent  
13 construction at AGS, with demolition at AGS is not expected  
14 to occur."

15 So, if demolition and operation will be occurring at  
16 the same time, please explain the -- further explain your  
17 statement that the combined effects on Biological Resources,  
18 from the construction operation of AEC, with other expected  
19 projects in the area, described above, would not be  
20 cumulatively significant because of the disbursed nature of  
21 the projects in location in time."

22 That's at page, FSA page 4.2-48.

23 HEARING OFFICER CELLI: That was Bio?

24 MR. BABULA: I just have a -- I'm a little unclear.

25 Did you just say that there's going to be construction at the



1 same time as demolition, or are you posing that as  
2 hypothetical? Because that's not in the -- there's no  
3 evidence that that's going to happen.

4 MS. SOMMER: I'm reading quotes from the FSA.

5 HEARING OFFICER CELLI: Right. So, and you're  
6 reading from the Bio section?

7 MS. SOMMER: Yeah, I believe so. This is discussing  
8 the combined effects on biological resources.

9 HEARING OFFICER CELLI: Mr. White, can you respond?

10 MR. WHITE: Sure. Scott White, author of the Biology  
11 section. The operational effects that could affect  
12 biological resources are, essentially, noise of the  
13 operation. You know, when the plant goes online.

14 It's pretty far removed from the Wetlands. We relied  
15 on the Noise team to do modeling of how loud noise would be  
16 offsite, at that distance, the nearest corner to the  
17 Wetlands. It would be less than significant.

18 The combined effects of other noise in the area,  
19 whether it's traffic noise, or whether it's the AGS  
20 demolition, or other effects, these things are generally  
21 closer to the Wetlands.

22 The question is, from a cumulative impacts question,  
23 would the project's operation, plus these other things,  
24 combine to make a significant impact to wildlife at the  
25 Wetlands, and possibly they would. Possibly all the noise of

1 the area combined would do that. And, if so, would the  
2 project, itself, would the operation of the AEC have a  
3 considerable contribution that cumulative effect? And the  
4 answer is no. It has only a small amount of noise during  
5 operation that would not considerably contribute to any off-  
6 site cumulative effect.

7 MS. SOMMER: Can you further explain what you mean,  
8 though, when you state that it will not be cumulatively  
9 significant because of the disbursed nature of the projects  
10 in location in time?

11 MR. WHITE: Other activities that make noise are  
12 physically disbursed and disbursed in time. So, traffic is  
13 kind of throughout the general area. Other construction  
14 projects, other demolition projects, other noisy activities,  
15 whether it's fire engine sirens, or anything else, they're  
16 scattered around, physically in the region, and they don't  
17 occur all at once. They're scattered around in time.

18 MS. SOMMER: So, is that statement not supposed to  
19 refer to the demolition of AGS, which will be going on at the  
20 same time that AES is operating?

21 MR. HARRIS: Objection. I'd like her to restate the  
22 question. She may be mixing two different types of  
23 activities together. I don't know if you're focused on the  
24 cumulative effects of the demolition of AGS?

25 MS. SOMMER: That is -- that's what I'm asking about.

1 HEARING OFFICER CELLI: I'm going to overrule the  
2 objection. I think it's clear that she's only talking about  
3 -- she's talking about the impacts of noise, with regard to  
4 demolition, along with the operational noise of AEC, if I  
5 understand your -- I don't mean to put words in your mouth,  
6 Ms. Sommers, but that was the way I read your question.

7 I'm sorry, at this point would you ask the question,  
8 again? But I would overrule the objection.

9 MS. SOMMER: I'm looking for some clarification on  
10 your statement regarding there not being a cumulative impact  
11 because of a disbursed nature of the project in location and  
12 time. Is that supposed to or not supposed to refer to the  
13 demolition at the same time that construction or operation of  
14 AEC is occurring?

15 MR. WHITE: The phrase, "disbursed in" -- I'm sorry,  
16 I don't have that page open in front of me. But the phrase  
17 regarding to disbursal, either physically around the  
18 neighborhood or in time doesn't refer to any one thing, but  
19 to all the contributing activities. As far as demolition of  
20 the AGS, that would occur, obviously, at the site where the  
21 AGS is located. It wouldn't be disbursed throughout the  
22 area. But other things are disbursed. I hope I'm making  
23 myself clear?

24 MS. SOMMER: Yes, I think so. Thank you.

25 Let's see, this is a question regarding -- I'm not

1 quite sure who this would be for, but it was in the rebuttal  
2 testimony. I'll just give it to the panel and the  
3 appropriate person can, hopefully, answer.

4 So, the statement in rebuttal testimony, which is  
5 Exhibit 2004, page 7 is, "The operation of AEC are not  
6 expected to release dust and debris and, therefore, there's  
7 nothing to combine with the temporary AGS demolition dust."

8 So, is the general understanding of dust would be  
9 it's particulate matter. So, is the testimony that AEC not  
10 be releasing particulate matter that could be cumulative  
11 with the dust or particulate matter that's coming off of the  
12 demolition?

13 MR. WHITE: This is Scott White, again. I think  
14 that's in the Biology section. And, again, from a question  
15 of biological resources, whether or not there's a significant  
16 impact to wildlife as a result of dust originating from the  
17 project, our primary concern was during construction. And  
18 there are various dust control methods during construction  
19 that would keep dust from disbursing, not only in the  
20 neighborhood, but a distance away to the nearby Wetlands.  
21 Would that dust possibly cause a significant adverse effect  
22 to wildlife in the Wetlands, we wouldn't expect so. And,  
23 certainly, with dust control measures during construction, if  
24 there was any impact at all, it would be less than  
25 significant.

1           During operation, I can't testify as to whether there  
2 would be any particulate matter emitted from the plants. I  
3 think that would be for the Air Quality staff, in Part Two of  
4 these hearings.

5           But as far as any cumulative effect of demolition of  
6 the existing AGS, along with operation of the AEC, and  
7 insofar as how that cumulatively might affect wildlife in the  
8 Wetlands, I have the same answer that I did a minute ago.  
9 The combined effects of the two may or may not be  
10 significant. But if they are significant, the contribution  
11 of the operating AEC to such an impact would not be  
12 considerable.

13           MS. SOMMER: So, just to clarify, so when you were  
14 talking about dust, would that or would that not include  
15 particulate matter?

16           MR. WHITE: I can't testify to that.

17           MR. BABULA: I want to try to clarify. I'm not sure  
18 of the best way to do this but --

19           HEARING OFFICER CELLI: Wait a second. You're not a  
20 witness and you're not under oath. Do you have an objection?

21           MR. BABULA: Well, I'm going to -- it's an objection  
22 of if she can clarify whether that dust was hypothetical from  
23 the video, showing implosion as being the basis of saying, if  
24 that's what happens, here's our rebuttal response to your  
25 filing testimony?

1 HEARING OFFICER CELLI: I would actually -- I move to  
2 strike that. I think that the question was clear. You can  
3 object because you want a clarifying answer from your witness  
4 with regard to whether there was PM-10s, or not. He just  
5 testified that he couldn't speak to that.

6 MR. BABULA: Right. Well, what I was looking for was  
7 a clarifying in the question about what she's referring to in  
8 dust?

9 HEARING OFFICER CELLI: She's referring to -- she's  
10 reading a quote.

11 MR. BABULA: Right.

12 HEARING OFFICER CELLI: From the rebuttal testimony.

13 MR. BABULA: Right.

14 HEARING OFFICER CELLI: So, the words of the "dust"  
15 came from, presumably, Mr. White or someone from staff.

16 Don't let me put words in your mouth, Ms. Sommers?

17 MS. SOMMER: I'm satisfied with the answer.

18 HEARING OFFICER CELLI: Okay. So, as I come around,  
19 I'm going to give staff an opportunity to speak to their own  
20 witnesses and clarify, as needed. So, keep notes, okay. But  
21 I really want to keep the flow going. I'm just going to go  
22 party by party, and then we'll come back to, well, interest  
23 on that.

24 So, overruled on the objection. Go ahead, Ms.  
25 Sommer.

1 MR. WHITE: I wonder if I could expand just a bit?  
2 As far as we look at dust, at its potential adverse effects  
3 to biological resources, wildlife, wildlife habitat, really,  
4 the main issue is what we are aware of. Where a lot of dust,  
5 like from a -- such as from a dirt road, a construction site,  
6 on vegetation immediately adjacent to the site, or even on  
7 rare plants, dust can cover up the plants and prevent them  
8 from photosynthesizing. And in this case, I'm thinking of a  
9 much more vernacular term, dust, what we see coming up from a  
10 dirt road as the truck goes by. Those are the kinds of  
11 effects, whether cumulative or the simple effect of the  
12 project, itself, that we're thinking about when we talk about  
13 dust as an effect on biological resources.

14 I'm not aware of any published research on PM-10s  
15 might affect plant photosynthesis, and so the dust is much  
16 more vernacular.

17 HEARING OFFICER CELLI: While our people are trying  
18 to isolate where the extra noise is from, the questioning is  
19 still with you, Ms. Sommer.

20 MR. WHITE: I apologize, this is Scott White, again.  
21 Were you able to hear my reply a minute ago?

22 HEARING OFFICER CELLI: Yes, we were able to hear  
23 you. But right now, I have a quick housekeeping -- is Mr.  
24 Edwards here, on the phone? Can you speak up, if you're on  
25 the phone, Mr. Edwards?

1 MR. EDWARDS: Oh, great, they want me to talk, now.

2 HEARING OFFICER CELLI: Okay.

3 (Audio discussion)

4 HEARING OFFICER CELLI: All right. We're going to go  
5 -- actually, I would rather stay on the record, if we can, if  
6 this is going to be quick.

7 (Pause.)

8 HEARING OFFICER CELLI: Okay, thank you. We're still  
9 on the record. And from time to time, ladies and gentlemen,  
10 it's 2016 and we are relying on electronics, and people  
11 testifying from Sacramento, on the telephone, and we're at  
12 the mercy of many, many, many technical, potential issues  
13 that can arise. So, from time to time things like this will  
14 happen and we need to interrupt the proceedings to get clear  
15 on how to make the phones work better, et cetera. And we  
16 apologize for those sorts of inconveniences when they happen.  
17 Apologies to the parties.

18 So, Ms. Sommer, go ahead.

19 MS. SOMMER: Has Staff analyzed human health impacts  
20 of demolition? Question for the panel.

21 HEARING OFFICER CELLI: Say again?

22 MS. SOMMER: Has there been any Staff analysis of  
23 human health impacts of demolition?

24 HEARING OFFICER CELLI: Human health. Would that be  
25 Public Health? I think we have Public Health and Air



1 Quality for the -- Part Two is going to be Air Quality, which  
2 includes Greenhouse Gases and Public Health. So, the FSA  
3 Part One included everything except Air Quality and Public  
4 Health.

5 MS. SOMMER: Okay. Okay, I will table questions on  
6 those matters for now, then.

7 HEARING OFFICER CELLI: Thank you.

8 MS. SOMMER: Has staff analyzed the cumulative  
9 impacts of the battery energy storage system project?

10 HEARING OFFICER CELLI: That's one that I think you  
11 better go witness by witness on.

12 MS. SOMMER: If, Staff, you could go through, if you  
13 could please indicate if there's any Staff analysis on the --  
14 I think they call it the "BESS Battery Energy Storage System  
15 Project?"

16 HEARING OFFICER CELLI: So, the question is whether  
17 there's any analysis on the battery, on the BESS. So, I'm  
18 just going to ask each witness and you can respond. Mr.  
19 White?

20 MR. WHITE: Sure, this is Scott White. And with  
21 Biology, no specific analysis of that energy, of that battery  
22 storage system. Again, the types of effects that we were  
23 looking at were off-site effects to the wildlife habitat, in  
24 the Wetlands. And, in general, we looked at cumulative  
25 effects. So, the project, with other types of construction

1 and other activities in the area, without specifically  
2 looking at that one.

3 HEARING OFFICER CELLI: Ms. Worrall, the same  
4 question?

5 MS. WORRALL: Yes. Staff -- Lisa Worrall. By the  
6 way, I want to clarify the spelling of my last name. It's W-  
7 o-r-r-a-l-l. So, there's two Ls at the end.

8 Staff included the Battery Energy Storage System  
9 Project in Traffic and Transportation, Table 11, beginning on  
10 page 4.10-27. And it's part of the cumulative impact  
11 analysis for traffic. And, so, that has been included with  
12 respect to traffic generation and impacts to traffic.

13 HEARING OFFICER CELLI: Mr. Abulaban, the same  
14 question?

15 MR. ABULABAN: No, Soil and Water did not, you know,  
16 consider any specific impacts, you know, from the BESS  
17 project. But the assumption that Soil and Water Staff always  
18 works under is that any project will be under certain Clean  
19 Water Act, you know, permits that will manage any impact from  
20 that project on water quality from that project.

21 So, the cumulative impact would be since, you know,  
22 both projects would be under the pertinent permits, then the  
23 cumulative impact would still be in compliance with those  
24 permits and no impact.

25 HEARING OFFICER CELLI: Mr. Hughes?

1           MR. HUGHES: This is Joseph Hughes. We acknowledged  
2 and included a brief discussion of the AES Battery Energy  
3 Storage as part of the Cumulative Impacts assessment, on page  
4 4.6-23. However, at the time it was noted that when we were  
5 doing our evaluation, it was just a conceptual site plan that  
6 was submitted to the City of Long Beach, and it was still  
7 proposed -- it was still in the entitlement process. It  
8 hadn't yet entered the EIR phase. So, we were informed that  
9 the City expected to consider AEC, together with the battery  
10 energy storage, at the time that it entered the EIR phase.

11           We weren't able to do a quantitative analysis because  
12 it would be uncertain what construction activities, if any,  
13 would occur concurrently between the battery energy storage  
14 and AEC, because there wasn't that little information  
15 available at the time. So, it's there somewhat qualitative.  
16 We weren't able to quantitatively do any type of assessment  
17 with that.

18           MS. SOMMER: This one, it's in the rebuttal  
19 testimony, so I think I'd have to put this out to the panel,  
20 again. This is Rebuttal Exhibit 2004, page 7. Staff states,  
21 "Given the industrial setting and temporary nature of any  
22 demolition of AGS, and lack of corresponding impacts from  
23 AEC, Staff disagrees with the Wetlands Trust, the detailed  
24 information on the time and methodology of demolition is  
25 necessary to assess cumulative impacts."

1 Can Staff please clarify what they mean by temporary?

2 MR. HARRIS: Can we have the cite?

3 HEARING OFFICER CELLI: Yeah, could we have the  
4 citation again, please?

5 MS. SOMMER: That's in the rebuttal testimony, on  
6 page 7, Staff's rebuttal.

7 MR. HARRIS: And which portion are you reading from?  
8 I haven't --

9 HEARING OFFICER CELLI: I'm opening it right now.  
10 Page 7 is -- this is having to do with Bio.

11 MR. WHITE: Yeah, this is Scott White, again, I found  
12 the sentence.

13 MS. SOMMER: Like I said, I'm not sure who. This  
14 seemed to be kind of a general section, so I don't know who  
15 prepared that part.

16 MR. WHITE: It's in Biology. I'm sorry, could you  
17 read the first few words of the quote, again?

18 MS. SOMMER: "Given the industrial setting and  
19 temporary nature of any demolition at AGS" --

20 MR. WHITE: Yeah, okay. So, that's the last sentence  
21 in the second-to-the-last paragraph, of the Biology section  
22 of Staff's rebuttal, I guess?

23 MS. SOMMER: Correct.

24 HEARING OFFICER CELLI: Right. Let me -- so that  
25 everybody's on the same page, it says, "Given the industrial

1 setting and temporary nature of any demolition of AGS, and  
2 lack of corresponding impacts from AEC, Staff disagrees with  
3 Wetlands Trust that detailed information on the time and  
4 methodology of demolition is necessary to assess cumulative  
5 impacts."

6 MR. WHITE: So, this is in the context, as far as I  
7 understand it, this is in the context of dust and debris, and  
8 the potential for cumulative effects of the operation of AEC,  
9 along with demolition of the AGS, and making an assumption,  
10 which I'm not sure if it's warranted or not, making an  
11 assumption that demolition of the AGS would, by that  
12 implosion method shown in the video that the Trust introduced  
13 into the record.

14 So, I guess what Staff is saying, what we are saying  
15 here is when, exactly, that might happen, the demolition,  
16 wouldn't make a difference in terms of trying to evaluate  
17 whether operation of the AEC has a considerable contribution  
18 to any significant cumulative impacts regarding dust. And,  
19 you know, whether that happened, you know, four years from  
20 now, or five years from now, it would happen in a moment and  
21 the overall impact of the dust -- well, it would be what it  
22 is. But the AEC's contribution that effect, to that  
23 cumulative effect would be less than considerable.

24 MS. SOMMER: So, as my question was on what you meant  
25 by "temporary," since you refer to the temporary nature of

1 the demolition of AGS, I'll be a little more specific. The  
2 Trust has submitted evidence, from Coastal Commission,  
3 showing demolition of the South Bay Power Plant would take 12  
4 months, five days a week, 12 hours a day. Do you consider  
5 this to be temporary?

6 MR. WHITE: Yeah. Yes would be more formal, wouldn't  
7 it.

8 HEARING OFFICER CELLI: I mean, if I'm reading this  
9 correctly, basically do you mean, then, that once the  
10 demolition is done, it's done. You're not going to keep  
11 going with the demolition over, and over, and over again.  
12 Once you've demolished the units, they're demolished and  
13 they're gone, and then that's the end of demolition.

14 So, I think that's probably what they mean by  
15 temporary. But don't let me put words in anybody's mouth, if  
16 I'm not --

17 MR. WHITE: Not at all. We don't see the demolition  
18 process as a long-term, permanent process.

19 MS. SOMMER: So, you did not consider demolition that  
20 would, you know, take about a year, with continuous truck  
21 travel, and all of those to be -- that did not meet your  
22 definition of the demolition? You were simply talking about  
23 the moment of the explosion?

24 MR. BABULA: I'm going to object because that's  
25 really about the demolition.

1 HEARING OFFICER CELLI: Sustained. It's asked and  
2 answered, so we'll sustain the objection.

3 MS. SOMMER: Can you clarify how that was answered?  
4 I'm legitimately confused because it seems what they're  
5 saying is they're -- the demolition, they're talking about  
6 one point in time versus the entire project of demolition.

7 HEARING OFFICER CELLI: Well, I think that --

8 MR. HARRIS: Well, I'd add a further objection that  
9 there's no evidence in the record about a potential explosive  
10 demolition of the AGS here, at an existing, brand-new power  
11 plant.

12 HEARING OFFICER CELLI: And which calls up a -- so,  
13 I'm going to sustain the objection on -- okay, so there are  
14 no facts in evidence with regard to how the demolition is to  
15 be achieved.

16 MS. SOMMER: That's the problem.

17 HEARING OFFICER CELLI: Well, that's right. But the  
18 problem is, and we've tried to make clear through an order,  
19 is that the demolition is going to happen whenever it's going  
20 to happen. The demolition is not a reasonably foreseeable  
21 consequence of the AEC's construction. That is something  
22 completely independent.

23 And so, that's why the ruling came down and said,  
24 because it's not a part of the project, there is no need for  
25 direct and indirect impacts analysis. However, the Committee

1 did order the Staff to analyze the cumulative impacts.  
2 Because it will probably happen sometime, we just don't know  
3 when. And I think that, based on the testimony that you've  
4 cited here, in the rebuttal testimony, there's a reasonably  
5 inference that by temporary, that means this isn't going to  
6 be ongoing for the life of the AEC, demolition, after  
7 demolition, after demolition. They demolish Units 1 through  
8 6, and they're demolished.

9 And, yes, there are the disparate impacts, traffic --

10 MS. SOMMER: I do think, though, and what I'm really  
11 getting at here is what was staff using as their definition  
12 of demolition.

13 HEARING OFFICER CELLI: Okay.

14 MS. SOMMER: That's the answer that I'm looking for  
15 and I don't feel I've gotten.

16 HEARING OFFICER CELLI: All right, that's a different  
17 question, but that's a reasonable question. Let's ask that.

18 MR. WHITE: Sure.

19 HEARING OFFICER CELLI: Yes.

20 MR. WHITE: Scott White, again. We don't have a  
21 definition of how those units would be demolished. The only  
22 -- you know, I suppose it makes an impression, having watched  
23 that video for a couple of minutes, the implosion but,  
24 honestly, I don't know if they're going to take it apart  
25 piece by piece, or I don't know how that would work.



1           We did assume that the process of demolition of those  
2 units would be temporary, not permanent. And for the purpose  
3 of evaluating cumulative impacts of the AEC operation, with  
4 the dust and debris impacts of demolition of the AGS, our  
5 conclusion was that the AEC operation would have produced dust  
6 and debris, and so it wouldn't have a contribution to any  
7 such cumulative effect. And so, we don't have a significant  
8 cumulative effect, or at least not a considerable  
9 contribution to any cumulative effect. That's the conclusion  
10 we're reaching for Biology.

11           MS. SOMMER: No further questions, thank you.

12           HEARING OFFICER CELLI: Thank you. Staff, I'm going  
13 to allow you to ask any follow-up questions you feel are  
14 necessary.

15           MR. BABULA: At this point, I think Staff had  
16 clarified through additional testimony, so I have nothing  
17 further to ask.

18           HEARING OFFICER CELLI: Thank you. Applicant?

19           MR. HARRIS: Yeah, the questions that I was going to  
20 ask before. So, I'm referring back to the question on  
21 applicable LORS. And the question about the South Coast PDOC  
22 in your analysis. And so, my question for you, first Mr.  
23 White, are you aware of any applicable LORS that would  
24 require you to consider the South Coast Air Quality  
25 Management PDOC in your analysis?

1 MR. WHITE: No, I'm not. And I wanted to add, too,  
2 that the nitrogen definition issue, as it pertains to  
3 Biology, is addressed in an appendix to the Biology section,  
4 authored by the Air Quality staff, and that's complete at  
5 this time as, you know, supporting evidence for the Biology  
6 conclusions.

7 MR. HARRIS: Okay, thank you. I'll go to Ms.  
8 Worrall, now. The same question, are you aware of any  
9 applicable LORS that would require you to consider the South  
10 Coast Air Quality Management District PDOC in your analysis?

11 MS. WORRALL: No, I am not.

12 MR. HARRIS: Mr. Abulaban, are you aware of any LORS  
13 that would require you to consider the South Coast Air  
14 Quality Management District PDOC in your analysis?

15 MR. ABULABAN: No, I am not.

16 MR. HARRIS: And Mr. Hughes, are you aware of any  
17 applicable LORS That would require you to consider the South  
18 Coast PDOC in your analysis?

19 MR. HUGHES: This is Joseph Hughes. No, I'm not.

20 MR. HARRIS: We have no more questions.

21 HEARING OFFICER CELLI: Thank you, Mr. Harris. I  
22 think that, unless you have anything further, Ms. Sommers,  
23 this would be a great opportunity to segue into the questions  
24 that the Committee had with regard to LORS. But let's finish  
25 up on the Cumulative Analysis questions. Ms. Sommers?

1 MS. SOMMER: I do not have any further questions.

2 HEARING OFFICER CELLI: Thank you. Well, then, that  
3 takes care of the whole area of Cumulative Analysis.

4 And, finally, then -- now staff, according to my  
5 notes, you earlier testified that there were -- now, 2012,  
6 Exhibit 2012 only related to conditions of certification, not  
7 LORS. Do I have that right?

8 MR. BABULA: Yeah, Exhibit 2012 was the updates to  
9 the Worker Safety 8 and CUL 6, based on comments we had  
10 received. And so, that's updates from what had been  
11 published in FSA. And I believe that CUL 6, as we had  
12 updated it, is acceptable by the Applicant and that condition  
13 can be taken off of the list of conditions that we have  
14 issues with, with the Applicant. But they should confirm  
15 that.

16 MR. HARRIS: Yes, I'd like to confirm that. I'd like  
17 to also acknowledge the Tribe's presence here. I think their  
18 comments were very helpful in us reaching a final agreement  
19 on this issue, and I think we're all on the same page. So,  
20 thank you very much to the Staff, for their hard work, and  
21 the Tribe for their contributions.

22 HEARING OFFICER CELLI: Thank you. We're at the  
23 final part of today's evidence taking. And this was at the  
24 urging of the Committee, not any party.

25 And, basically, the situation was that we had

1 requested staff to give us more detail of certain analysis of  
2 what we call LORS. LORS is an acronym. LORS is Laws,  
3 Ordinances, Regulations and Standards. And, you know, we're  
4 talking about very many deep and narrow subject area of  
5 disciplines. And all of them, whether it be worker safety,  
6 or noise levels, or biology, they all have their own  
7 standards. They all have their different laws, they all have  
8 their different regulations.

9 And we had asked Staff to give us a few more details  
10 on certain LORS, as they were explained or described in  
11 Staff's Final Staff Assessment.

12 So, this morning, when Staff put in their evidence,  
13 they put in Exhibit 2013, which is -- what are we going to  
14 title this thing? I have LORS Table, is that what it's  
15 called, 2013?

16 MR. BABULA: 2013, that would be the exhibit number  
17 for it.

18 HEARING OFFICER CELLI: Okay. So, at this time --

19 MS. SOMMER: Is there a copy available, of that?

20 HEARING OFFICER CELLI: Yeah.

21 MR. BABULA: It was docketed. I didn't --

22 HEARING OFFICER CELLI: Are you online right now?

23 MS. SOMMER: No, I don't know --

24 HEARING OFFICER CELLI: Are you on?

25 MS. SOMMER: Yeah, if someone has the password?

1 HEARING OFFICER CELLI: Oh, the Wi-Fi password. I'll  
2 tell you what, because I don't think --

3 (Off-mic comments.)

4 HEARING OFFICER CELLI: Right. The exhibit list that  
5 I put out -- so, Mr. Kramer is helping out Ms. Sommer by  
6 giving her the Wi-Fi password.

7 What we do, ladies and gentlemen, is we require  
8 people, who are going to put in evidence, in our proceedings,  
9 to put them in, essentially publically, by docketing them.  
10 We call it e-Filing. You go to the Energy Commission's  
11 website, energy.ca.gov, and there's a place where you click  
12 on e-Filing, and that's how you would upload the documents.  
13 And that is how staff uploaded this particular document, on  
14 what we call the dockets page.

15 So, this is available for everyone to look at. The  
16 problem I have is that when I printed off the exhibit list,  
17 this exhibit hadn't been docketed, yet. So, my exhibit list,  
18 that I gave to the Public Adviser, only goes up to Exhibit  
19 Number 2011. So, Exhibit 2012, as you heard, were further  
20 testimony with regard to Worker Safety, and Fire Protection,  
21 and --

22 MR. BABULA: Cultural.

23 HEARING OFFICER CELLI: -- Cultural Resources  
24 conditions. And then, we have this new LORS table.

25 So, I guess the way I'd like to go about this is -- I

1 really don't know that I need to get any live testimony about  
2 this, if --

3 MR. BABULA: Yeah, that was my understanding. I  
4 mean, my understanding was our effort was to get it into the  
5 docket beforehand, and do it as a written document, so we  
6 wouldn't need any live testimony. So, there wasn't really a  
7 plan to move forward with that. We tried to match, and a lot  
8 of the information and changes aren't really new, per se,  
9 it's just that we're moving stuff and putting it in the table  
10 form, and pulling some of the info in the text so that it's  
11 easier to see how the LORS is met.

12 And then, for the LORS that actually don't apply to  
13 this project, because they are more -- like they would be  
14 applicable to the County, or some other jurisdiction, those  
15 LORS have been removed and shown through strikeout. So, that  
16 when the PMPD is put together, it can just note that those  
17 aren't included because they're not necessary because they  
18 don't apply to the project.

19 So, those are the two primary -- the two primary  
20 changes was ensuring that the LOR actually applied to the  
21 project and then also clarifying how the LOR was met.

22 HEARING OFFICER CELLI: Okay. So right now, on the  
23 projection screen we are looking at Exhibit 2012, right?

24 MR. BABULA: Correct.

25 HEARING OFFICER CELLI: Okay. So, what we would like

1 to be looking at is --

2 MR. BABULA: No, no, this is the correct one.

3 HEARING OFFICER CELLI: This is --

4 MR. BABULA: Yeah, this is the LORS table. Some of  
5 the topics have a little introductory paragraph to kind of  
6 explain, and there's an introductory paragraph at the  
7 beginning for the public to understand what this about, and  
8 what the strikeouts and underlines mean.

9 HEARING OFFICER CELLI: So, just so everybody  
10 understands what we're doing and why, all of these tables  
11 were already in Staff's Final Staff Assessment, and in the  
12 Preliminary Staff Assessment. But the Committee wanted some  
13 further clarification on a lot of these because, as we read  
14 these LORS we were wondering, well, why are we including LORS  
15 that put no affirmative obligation on the project, itself.

16 In other words, some of these say the State shall  
17 promulgate laws to carry out the intent of, let's say, the  
18 Clean Water Act, or the Clean Air Act, or something like  
19 that. But there was no -- that was an obligation put upon  
20 the State, not necessarily the project. And we didn't feel  
21 it was necessary to clutter the LORS analysis with those LORS  
22 that really didn't apply to the Applicant directly, over  
23 which they didn't have any obligation to take actual action.

24 And so, that is what we required, and that's why we  
25 required it. And this is for your benefit, too, Ms. Sommer.

1 Why we asked Staff to give us this further analysis in these  
2 tables.

3 So, did you have any question on that, Mr. Sommer,  
4 before I move on?

5 MS. SOMMER: Yeah, one thing I'm not seeing in here  
6 is any Public Utilities Code Sections. I just wanted to make  
7 sure I wasn't missing those.

8 UNIDENTIFIED SPEAKER: What page are you on?

9 MS. SOMMER: Just the entire document. I was just  
10 doing a search since this was just posted, I think today.

11 HEARING OFFICER CELLI: Public Utility Code?

12 MR. BABULA: For which topic?

13 MS. SOMMER: The Loading Order.

14 HEARING OFFICER CELLI: I didn't hear what your last  
15 -- what you said just now?

16 MS. SOMMER: The Loading Order, Preferred Resources.  
17 I mean, for example, 4.5.

18 MR. BABULA: Well, those wouldn't be LORS.

19 HEARING OFFICER CELLI: Right. And that wouldn't be  
20 -- a Loading Order is exactly what I was just describing to  
21 the public. That is something that the CAL ISO has  
22 obligations to deal with, but not -- the Alamitos Energy  
23 Center wouldn't have a direct obligation under that -- under  
24 that scheme.

25 MR. HARRIS: And I think maybe the issue here is the



1 key term is applicable LORS. And I think that what you have  
2 from both the Applicant and the Staff are our assessment of  
3 what LORS are applicable. If the Intervenor's believe a LORS  
4 is applicable, they have to make a case for that.

5 HEARING OFFICER CELLI: Thank you, Mr. Harris. Who,  
6 as usual, did a good job of making it very clear.

7 So, I'm just asking if the Intervenor has any  
8 questions on these LORS?

9 MS. SOMMER: Well, yeah, I mean, I guess you're  
10 talking about LORS that are applicable to the Applicant. But  
11 what about LORS that are applicable to the Commission. And  
12 that --

13 HEARING OFFICER CELLI: Well, the LORS that are  
14 applicable to the Commission are not applicable to the  
15 project. We're really interested in what LORS -- because we  
16 are also the compliance people. We don't just certify a  
17 power plant and walk away. We also have a complete  
18 compliance section. And so, it is really important that we  
19 know what are the obligations that the Applicant has to do,  
20 ongoingly [sic]. And so that's why anything that would  
21 apply to the Energy Commission, well, that's not the  
22 Applicant. That wouldn't be the Alamitos Energy Center.

23 MR. BABULA: Similarly, like we wouldn't have CEQA  
24 because CEQA applies to the agency. And so, the LORS are  
25 just what would apply to the Applicant. And then what

1 conditions, if relevant, would be listed then as in the  
2 conditions for certification would need to be done to meet  
3 that LOR. And so it's always the purpose of that table is,  
4 again, what the Applicant must do.

5 HEARING OFFICER CELLI: Thank you, Mr. Babula, who  
6 also did a good job of making it clearer than I could.

7 And one more thing, Ms. Sommer, just so you know,  
8 there is going to be an opportunity for briefing. So, you  
9 know, that's really, for all intents and purposes your briefs  
10 are your closing argument.

11 MS. SOMMER: I mean, I don't have any further  
12 questions on this, at this time.

13 HEARING OFFICER CELLI: Okay. Applicant, with regard  
14 to LORS?

15 MR. HARRIS: No questions. Just want to make sure we  
16 move this into evidence.

17 HEARING OFFICER CELLI: Okay, they've already been  
18 moved into evidence. I believe that all of the evidence has  
19 been received into evidence that was offered today. Okay.

20 MR. HARRIS: Yeah, just 2012 and 2013 are in, as  
21 well. and I guess that was covered by my obnoxious blanket  
22 statement at the beginning, so thank you.

23 MR. BABULA: Yeah, I moved those specifically in and  
24 noted that those were going to be added.

25 HEARING OFFICER CELLI: Just to be clear, 2012 and

1 2013 have been received into evidence.

2 MR. BABULA: Yeah, 2012 and 2013.

3 HEARING OFFICER CELLI: As have all of the evidence  
4 that the proponents requested that we receive, and it's all  
5 in, now.

6 So, which is perfect, because it's 3:00 and it's time  
7 for public comment.

8 MR. LAYTON: Mr. Celli?

9 HEARING OFFICER CELLI: You're not a member of the  
10 public.

11 MR. LAYTON: I'm not a member of the public. I'm  
12 Matthew Layton.

13 HEARING OFFICER CELLI: Matthew Layton, go ahead.

14 MR. LAYTON: I do want to point out, because Jared  
15 has been so polite as to not point it out, that none of the  
16 Engineering Office sections are in 2013 exhibit. I did not  
17 have my staff do the table updates, as you requested. I had  
18 different priorities. We were planning to publish with Part  
19 B. We'll look at what the Environmental Office has done, try  
20 to figure out if we think that's a workable system.

21 Because I'm -- well, I'm still evaluating what this  
22 might do to our sections because I just don't want to clutter  
23 up the sections.

24 HEARING OFFICER CELLI: Well, I'll tell you what,  
25 that's a question for the Committee, and we'll see what the

1 Committee wants to do on that.

2 MR. LAYTON: Feedback on what you have received in  
3 2013 would be helpful, in Exhibit 2013. If you could provide  
4 some feedback you think that actually meets your needs and  
5 why, and why not?

6 HEARING OFFICER CELLI: I'll tell you, one of the  
7 concerns I had, and I thought you were at the prehearing  
8 conference, and you may remember --

9 MR. LAYTON: Absolutely, I was, yes.

10 HEARING OFFICER CELLI: There was one table, I think  
11 it might have been Facility Design, if I'm not mistaken, that  
12 said, you know, column one is applicable LORS, column two is  
13 a description.

14 MR. LAYTON: Yes, I remember the discussion.

15 HEARING OFFICER CELLI: Okay. Well, all it said  
16 under LORS was "Federal," just the word "Federal" and nothing  
17 further.

18 MR. LAYTON: Again, we will work to provide this in  
19 Part B.

20 HEARING OFFICER CELLI: All right. So, okay.

21 MR. LAYTON: And I do have another question.

22 HEARING OFFICER CELLI: The only concern I have is  
23 that if I'm closing the record on all of the subject areas  
24 today, with the exception of Air Quality and Public Health,  
25 then that would require a reopening, and that would probably

1 require a motion by staff, and that would require an  
2 opportunity for all of the other parties to be able to  
3 inquire and ask questions.

4 Now, I think it would be limited to LORS in this  
5 case, because that's what we're talking about.

6 MR. LAYTON: I'll leave it to the Committee to decide  
7 how to do that.

8 HEARING OFFICER CELLI: Okay.

9 MR. HARRIS: Mr. Celli, I would note that the LORS  
10 issues are questions, legal questions, not actual questions.

11 HEARING OFFICER CELLI: That's true.

12 MR. HARRIS: We didn't take any testimony on it for  
13 that reason, today, I think.

14 HEARING OFFICER CELLI: Well, they are legal  
15 questions and it's something that I think the Legal Office of  
16 the Energy Commission needs to participate in with more  
17 enthusiasm, I guess, in the future, when it comes to these  
18 tables.

19 MR. LAYTON: It's always helpful to rework the  
20 process, perhaps outside of a proceeding. Having input on  
21 Wednesday, for a Monday product is prone to run into errors.

22 HEARING OFFICER CELLI: Yeah, the problem with that  
23 is we had a status conference a good month and a half before  
24 then, and the one before that where we made it really clear  
25 that the LORS were a little lagging.

1 MR. LAYTON: Apparently, it wasn't as clear as you  
2 thought, Mr. Celli.

3 HEARING OFFICER CELLI: It must not have been. So,  
4 in any event, thank you for your comments and --

5 MR. LAYTON: I'm going to ask you another question,  
6 thought.

7 HEARING OFFICER CELLI: Go ahead.

8 MR. LAYTON: On the FDOC --

9 HEARING OFFICER CELLI: Yes?

10 MR. LAYTON: -- if it comes out this Friday, do you  
11 still plan to require that we publish in two weeks, over the  
12 Thanksgiving Holiday?

13 HEARING OFFICER CELLI: No, what we'll -- good  
14 question, and thanks for raising that. Okay, ladies and  
15 gentlemen, what we're waiting on, from the South Coast Air  
16 Quality Management District, who will, if they're not here,  
17 address us on the telephone, is a Final Determination of  
18 Compliance. And that's a requirement for us to proceed on to  
19 the Air Quality section.

20 What's going to happen is when they file the FDOC,  
21 the FDOC, Final Determination of Compliance, the Committee  
22 will issue another schedule, just as we did in the Notice of  
23 Prehearing Conference, we'll have a new notice. Because we  
24 have to notice the second or the Phase 2 Evidentiary Hearing.

25 So, what we'll have, if the Committee wants, and

1 we'll see what the Committee wants to do, but if they want  
2 another prehearing conference, we may or may not have one.  
3 We may just go directly to the Evidentiary Hearing. Since  
4 everybody, now, kind of understands how we do things, I don't  
5 know that a prehearing conference is necessary.

6 But what we will do, then, is notice the Evidentiary  
7 Hearing. And in that notice there will be other orders,  
8 including a schedule that says, you know, opening briefs are  
9 due on this date, and rebuttal briefs on that date. And, you  
10 know, witnesses lists, you know, the things that we usually  
11 have, contained within our Notice of Prehearing Conference.  
12 The identified witnesses, how much time they need, that sort  
13 of thing. That would all be in that notice.

14 Okay, so you're waiting on a notice from us. As soon  
15 as we get an FDOC published, then that will trigger the  
16 Committee to issue a notice of the Part 2 Evidentiary  
17 Hearing. Okay?

18 MR. BABULA: I just want to add on, the Engineering  
19 LORS, the -- I mean, we could leave the record open just to  
20 receive that. Because, really, I believe my understanding  
21 with the Engineering LORS is it's going to be, really, just a  
22 repackaging of what's already in the record, in the FSA. So,  
23 it's not like it's going to be new stuff. It would be a  
24 matter of cleaning up some of the LORS that don't apply and  
25 then, potentially, if this format is acceptable, then maybe

1 adding the column, tying it into the specific conditions.

2 But it's not going to have like new information. So,  
3 it's more of sort of a repackaging of what the existing FSA  
4 has, but in a more visually clearer table that would then be  
5 consistent with what the Environmental Sections have done.

6 So, I don't necessarily know we need to make it super  
7 cumbersome on how to handle this, where we can still achieve  
8 closure of the record with just the accepting, within the  
9 next week or so. These things would be docketed and then  
10 anybody can -- if the parties need to comment or have a  
11 concern. But, in reality, it's not going to be new stuff.

12 HEARING OFFICER CELLI: So, just to answer your  
13 question, yes, that format is just great. So, yeah, use it  
14 now.

15 Okay, are we ready for public comment, then, parties?  
16 Okay. So, here's what's going to happen, ladies and  
17 gentlemen, and this is for everybody's benefit, those of you  
18 on the phone and those of you who are in the room. We have a  
19 number of people, I'd say, my guess is there's probably about  
20 40 or 50 people in the room. And many of them have filled  
21 out a blue card and they want to make a comment.

22 What I'm holding up is the blue card. And if you  
23 want to make a comment, and you haven't filled one of these  
24 out, I need you to the back table, in the back of the room,  
25 and fill out a blue card, and give it to Jocelyn, who is our



1 acting Public Adviser today.

2           What we do is we will call your name. When your name  
3 is called, please come up to this podium here, this is for  
4 the people in the room, and speak directly into the mic. And  
5 we will give you, oh, let's see if you can get your comment  
6 out in about three minutes. I think, if you've ever tried to  
7 talk for three minutes, that's a long time.

8           So, the other option, by the way, is there are people  
9 who are too shy, or for many other reasons, maybe you have  
10 laryngitis, and they don't want to speak publicly, but you  
11 want to make a comment. You want to have your comments be  
12 heard, or be made aware of, or put into the awareness of the  
13 Committee. Well, you can fill out comments on the form.  
14 There's a place where you can actually put in your remarks  
15 and then you don't have to speak. And you might even mark on  
16 this thing you don't want to speak publicly. So, the option  
17 is yours.

18           So, first, I'm going to call Michael O'Toole. Please  
19 come forward and speak directly into the mic, just like I'm  
20 going right now. Shoot right into that mic.

21           MR. O'TOOLE: Just like this?

22           HEARING OFFICER CELLI: Yes, perfect. Go ahead, Mr.  
23 O'Toole.

24           MR. O'TOOLE: My name is Michael O'Toole. I'm here,  
25 representing the Naples Improvement Association. It's a

1 community group that's down on Naples Island, that sits in  
2 the middle of Alamitos Bay.

3           The main thing that I wanted to talk about was to  
4 kind of to congratulate AES on the way that they've handled  
5 our community, and I know the surrounding communities.  
6 There's been a tremendous amount of outreach. And it's been  
7 nice, when this was a big concern of ours, to have very easy  
8 access to any of the information. That's been helpful. One  
9 of our big parts of it, since we can't actually see where the  
10 plant is, is the water quality in Alamitos Bay.

11           Now, the Alamitos Bay has grown dramatically over the  
12 years, and there's a lot more water flowing through there  
13 than there used to be. And ever since we've been doing that,  
14 the dredging or whatever it took to make the Bay bigger, that  
15 plant has been producing a pump that was used as, I believe,  
16 a cooling agent for the facility.

17           That pump actually acts as a tremendous filter,  
18 within Alamitos Bay, that actually pumps the water through it  
19 all day long. And that has a lot to do, we believe, with the  
20 water quality in Alamitos Bay.

21           So, our concern has been how to keep that pump  
22 possibly going, even with the movement of this. I know that  
23 there's a lot of sides to it of what -- of, probably, some  
24 pros and cons. But what I appreciate is the fact that AES  
25 has been very informative about it, and very willing to work

1 with the City, and very willing to work with the community on  
2 this actual concern.

3           It might not be the big power concern, but the  
4 waterway is certainly a very viable area for the community  
5 and keeping it the way it is, now, would be a big bonus. So,  
6 again, it's more of a thanks for keeping an eye on that. I  
7 hope we stay together on moving forward on that project. And  
8 I feel very comfortable that we will because of the history  
9 that we have with AES and the communicative abilities that  
10 they've had for us.

11           So, thank you very much for having this and allowing  
12 for me, thanks.

13           HEARING OFFICER CELLI: Thank you for your comments,  
14 Mr. O'Toole.

15           Sam Dunlap, are you still here? Sam Dunlap, please  
16 say forward. You're going to all hear me say over, and over,  
17 again, please speak directly into the microphone. Thank you  
18 for doing that.

19           MR. DUNLAP: Good afternoon. My name is Sam Dunlap.  
20 I'm a Cultural Resource Director for the Gabrielino-Tongva  
21 Nation.

22           I did submit comments, e-mail comments in on November  
23 3rd. My concern, as a Tribal member, and someone actively in  
24 the field of archeology and cultural resource protection for  
25 our Tribal group, I just wanted to emphasize, especially to

1 the Applicant, that cultural items -- I hate to call them  
2 artifacts. But cultural items are very sacred to our Tribe.  
3 I'm sure we're all aware of it. I have been in this field  
4 for nearly 25 years.

5 And I did comment directly on Condition 6, as did our  
6 Tribal Chairwoman, Sandonne Goad.

7 But in reading a supplemental testimony by Gabriel  
8 Roark, which I believe came out last week, on the 10th, he  
9 states here that, "Staff recommends against the Applicant's  
10 proposal that Native American monitoring would only be  
11 required in non-fill material or encountered."

12 My recommendation would be that, in the years that  
13 I've been doing this, and I've seen it happen, that fill  
14 material does contain, at times, sacred items to our Tribe,  
15 whether it be in the form of ground stone, shell items, such  
16 as shell beads, these isolated items still do happen to be in  
17 fill material. Whether the fill material has actually come  
18 from offsite, or whether it was original material that has  
19 simply been moved around within the project area.

20 And, unfortunately, I did not have a chance to submit  
21 this into the docket, but these are just examples, photos of  
22 items. This one being a pestle, these two being ground  
23 stone, what we call monos. They were found in fill material,  
24 on a site, within the last two years, in Los Angeles County.

25 Some of us believe that these items are not just

1 uncovered inadvertently. Some of us believe that these items  
2 -- I apologize, I get emotional. But some of us believe that  
3 these items are meant to be found. And that they will come  
4 home to us. These items are home at this point because they  
5 are with our Tribe.

6 And I see I'm out of time. However, I would like the  
7 Committee just to consider that the need for additional  
8 monitoring within fill material is very important. Thank you  
9 for your time.

10 HEARING OFFICER CELLI: Thank you, Mr. Dunlap and  
11 thank you for sharing those photos.

12 Sandonne Goad, are you here, still? Thank you.  
13 Please come forward. Also with the Gabrielino-Tongva Nation.

14 MS. GOAD: I'd like to thank you for giving me the  
15 opportunity to speak today. My name is Sandonne Goad. I'm  
16 the Tribal Council Chairwoman of the Gabrielino-Tongva  
17 Nation. I was duly elected through our constitution and our  
18 election process.

19 My thoughts on this is that the sacredness of  
20 something so insignificant, that somebody might pass over it  
21 as being in the fill, when you go in and you churn up the  
22 dirt, and you take the blades through a set of remains,  
23 you're scattering those remains. And if they have any  
24 stringed beads, they go, and they're going to look like  
25 little, tiny rocks. And most people are not going to see

1 them.

2           And as I put in my comments, a 2 millimeter bead is  
3 very, very small. That's what we use nowadays, size 11 seed  
4 beads are 1 and a half millimeters across. And that's the  
5 beads that are used in all these, not just Native American  
6 beadwork, but all kinds of beadwork. It's very hard to see.  
7 And a lot of people would pass over a tooth, because a tooth  
8 is insignificant.

9           And the University High, we repatriated and reburied  
10 seven sets of remains. One set was a handful of teeth. That  
11 was it. It wasn't a full set of remains from skull to toes.  
12 It wasn't but a handful. I think it was just, maybe, eight  
13 teeth.

14           Another set was shards of bone. Another set, a  
15 handful. I think altogether, out of the seven sets that we  
16 reburied, there was only one complete set and I'm not sure if  
17 the skull was actually there.

18           The institution that I'm talking about was built in  
19 1920. They had churned up that track and field several times  
20 and this time, when they did it, they went in and they found  
21 seven sets of remains. The items that he showed you, we  
22 can't take pictures of the remains, it's just too sacred.  
23 But we'd be able to show you those.

24           Anyway, the whole thing is, is that you don't know  
25 what's there. You can guess, because somebody in 1955 went

1 in there, without any laws governing them, or anybody  
2 watching over the ground, and turned the soil up. And now,  
3 we would just like the opportunity to go in and make sure  
4 that any of our ancestors can be collected, no matter if it's  
5 one tooth, or a full set of remains. A full set of remains,  
6 most likely in this situation, is not going to happen. And  
7 where you're going to find these little shards and these  
8 little sets of teeth are going to be in the field dirt that  
9 was churned over, probably several -- I'd say, dozens of  
10 times. Because you scrape up the dirt with the excavator,  
11 and you throw it in the truck, and the truck hauls it off,  
12 and the truck dumps it, and then you have to pick it up again  
13 and put it in, and it just keeps tumbling. It just keeps  
14 tumbling.

15 So, we would like the opportunity to look at the fill  
16 dirt. I understand that there is an agreement between the  
17 Applicant and the Staff, and that excludes the fill dirt.  
18 But we've found over, and over again, items of significance  
19 to us, and sacred to us in that churned up dirt. Thank you.

20 HEARING OFFICER CELLI: Thank you for your comments.

21 So, ladies and gentlemen, I see some new people have  
22 shown up. If you wish to make a public comment, we want you  
23 to go to the Public Adviser's table, in the back of the room,  
24 and fill out one of these blue cards, and they will give it  
25 to me. And that's how we know you're here and want to make a

1 comment.

2 Is Keith Harkey here? Mr. Harkey, come forward,  
3 please, and speak into the microphone.

4 MR. HARKEY: Yes, my name's Keith Harkey. I'm an  
5 iron worker, a Business Agent for the Iron Workers Local 433.  
6 But today, I'm being -- I'm speaking on behalf of 140,000  
7 members of the Los Angeles and Orange County Building and  
8 Construction Trades.

9 We're a hundred percent in support of this AES Power  
10 Plant Project. We believe it's environmentally sound. We  
11 don't build just to build. We build because there's a need,  
12 or a change, or something that's a reason we build. We don't  
13 just randomly build things that aren't needed.

14 We already have an all-union agreement on this  
15 project, so that's a good project that we have with AES and  
16 we're looking forward to working with them. That means good  
17 careers are going to come out of this.

18 The local hire, and the Veteran's, they have  
19 preference. So, it's good for the local economy, it builds  
20 back into the economy.

21 We also have a partnership with the Long Beach City  
22 College, for their Apprenticeship Preparedness Program, so we  
23 can also bring those students in and start their careers  
24 right here, locally. It's a valuable pipeline into that  
25 apprenticeship program, as well.



1           We have the most skilled and highly trained workforce  
2 that enables efficiencies, and we'll have the highest  
3 industry standards on this project.

4           And once again, I'll keep it short, we are  
5 definitely, 100 percent in support of this project. Thank  
6 you.

7           HEARING OFFICER CELLI: Thank you, Mr. Harkey.

8           Keith Simmons, President of the Los Cerritos Wetland  
9 Trust, unless there's another organization that's an LCWLT.

10          MR. SIMMONS: That's it. Thank you for the  
11 opportunity to speak. I'm here with another member of the  
12 Board of Directors. And, as the Committee is aware, our  
13 Executive Director, Elizabeth Lambe, and the consultant  
14 assisting her review of this power plant application, are  
15 currently out of the country.

16          We're disappointed you chose to ignore their request  
17 for a short postponement, to allow them to be here and  
18 testify.

19          The Board has been closely following this process to  
20 ensure the greatest possible protection and restoration of  
21 the Los Cerritos Wetlands. And we are also keenly aware of  
22 the need to retrofit the region's electrical system to ensure  
23 grid reliability, while transitioning to the future of  
24 renewable energy.

25          As you probably know, the Alamitos Power Plant was

1 built where coastal wetlands once existed. The dredging and  
2 filling of those wetlands for this, and other projects, was  
3 done before the science understood the enormous value of  
4 wetlands. And the noise of the generators and the air  
5 emissions falling on the wetlands is a constant source of  
6 habitat degradation that impairs restoration.

7 Finally, the cooling water system, and the intake and  
8 mortality of marine life has likewise made restoration  
9 challenging for decades.

10 In hindsight, it was clearly a costly mistake to  
11 build these power plants in coastal wetlands. And those  
12 decisions, and others, have left the State with about 5  
13 percent of historical coastal wetland areas, making  
14 restoration a daunting challenge.

15 We can't blame our parents' generation for mistakes  
16 they clearly didn't understand. But we know better, now.  
17 What we can do is not repeat those mistakes. Even better  
18 yet, when the timing is right, as it is now, we can try to  
19 undo some of the unintentional errors of the past and try to  
20 provide a better future for our children and their children.

21 As you know, we are advocating for this process to  
22 document and thoroughly review preferred alternatives to what  
23 AES is proposing. And we understand that the Commission  
24 Staff feels bound by CEQA law to compare the adverse impacts  
25 for the proposed project to those created by the existing

1 plant. In this circumstance, that is an unfortunate  
2 approach. But right or wrong, or however unfortunate it  
3 might be, that CEQA standard does not preclude looking at  
4 preferred alternatives.

5           The PUC has already reviewed the need for this  
6 project and approved a contract for 640 megawatts of gas-  
7 fired generation and 100 megawatts of battery storage at this  
8 site. And that PUC decision was not limited to their duty to  
9 ensure grid liability, while protecting ratepayers from  
10 utilities' overcharging PUC -- from overcharging. PUC  
11 decision are now enforcing their loading order. That is,  
12 they are enforcing State regulations to minimize greenhouse  
13 gas emissions.

14           We feel strongly that the proposal you are  
15 considering, a 1,040-megawatt generating station is  
16 inconsistent with what the PUC approved. Consequently, the  
17 proposal is inconsistent with State laws, ordinances,  
18 regulations and standards, what you call LORS.

19           I guess I'll cut it short there, since I'm out of  
20 time. Thank you.

21           HEARING OFFICER CELLI: Thank you, Mr. Simmons, for  
22 your comments.

23           Tony Gentile. I hope I pronounced that right. I'm  
24 Italian, I would have --

25           MR. GENTILE: Close enough, Gentile.

1 HEARING OFFICER CELLI: Okay.

2 MR. GENTILE: That's good. Tony Gentile, Peninsula  
3 Beach Preservation Group. I live on the Bay. A little  
4 history, my family bought a house in 1959, that is just to  
5 the north of the power plant, on Lees Way. And my mother  
6 lives there and my brother lives around the corner.

7 So, I've been familiar with that generating facility  
8 all my life and I've lived within two or three miles of the  
9 facility pretty much my whole life.

10 I see this as a huge improvement over the existing  
11 facility, from several stand points. From an esthetic stand  
12 point, as a gateway from the east into our city, I think it's  
13 going to be a huge improvement.

14 I know that this is a more environmentally friendly  
15 power plant. It's going to create jobs. I think that the  
16 battery storage idea is really important in the grid. So,  
17 I'm strongly in favor of it.

18 I'd like to echo what Michael O'Toole was saying  
19 about the water quality. I know that our Bay is one of the  
20 cleanest bays on the coast, and largely that is because of  
21 the pumps that pump water from our bay, over to the San  
22 Gabriel River. That flow, through our Bay, has meant that  
23 the sea life and the cleanliness of our Bay is outstanding.

24 And so, the one caveat that I have is we want to make  
25 sure that those pumps keep pumping water through. And I know

1 that that's supposed to go away, but I believe that AES has  
2 been working with the city as a way to facilitate that water  
3 flow.

4 So, just in summary, I'd like to say that we strongly  
5 support the new facility.

6 HEARING OFFICER CELLI: Thank you, sir, Mr. Gentile.

7 I have Lenny from Los Cerritos Wetlands.

8 MR. ARKENSTAHL: Hello, Board. Lenny Arkenstahl, CEO  
9 and Founder of the Los Cerritos Wetlands Stewards. And I've  
10 been caring and maintaining the Los Cerritos Wetlands for 25  
11 years, now.

12 We strongly support this project as it will reduce  
13 noise, air, and light pollution. My hope, also, is that you  
14 will respect the request of the Tongva Nation. It's a point  
15 I didn't consider.

16 However, this is a great opportunity for the city.  
17 We also welcome the AESC family. They are great people to  
18 work with and they care about our community. So, we strongly  
19 support this much-needed project. Thank you.

20 HEARING OFFICER CELLI: Thank you for your comments,  
21 sir.

22 Andrew Mayorga, from LIUNA.

23 MR. MAYORGA: Hello. My name is Andrew Mayorga. I'm  
24 a Business Agent with LIUNA Local 1309. LIUNA stands for  
25 Laborers International Union North America. We represent

1 2,400 members that live within the city and surrounding  
2 cities of Southern L.A. Counties and Orange County.

3           The uniqueness of this project, of course, we're 100  
4 percent in favor. Like my brother, Keith, came up here and  
5 stated, it's obviously going to create jobs, but opportunity.  
6 And opportunity can be used so many different ways. One of  
7 the opportunities for us, as the trades, is becoming more  
8 grass roots, helping out the impacted areas of our community.  
9 Those that are looking for help for the future, we're getting  
10 them, training them, pre-apprenticeship, and having them move  
11 into an apprenticeship program, having them work on projects  
12 like this. People that live in our community, work in our  
13 community, it seems to have a better benefit for our  
14 community. And that's why we're in support of this project.  
15 Thank you.

16           HEARING OFFICER CELLI: Thank you, sir.

17           Again, if anyone just came in and you want to make a  
18 public comment, we need you to fill out one of these blue  
19 cards. And you do so by going to the back table, and talking  
20 to the Public Adviser, and she'll give you the card to fill  
21 out and bring it up here.

22           W.I. Thomas. Mr. Thomas.

23           MR. THOMAS: Yes, good afternoon, Board. My name is  
24 Bill Thomas. I'm a resident of Alamitos Heights. I'm  
25 speaking on behalf of myself. I've also had the experience

1 of being with the City's Advisory Committee in the Southeast  
2 Area Special Plan, that has worked diligently over a number  
3 of years, trying to find a good balance towards planning for  
4 the benefits of the people, as well as preservation of the  
5 wetlands area. And I think we're getting close to the end of  
6 that process and it looks like we have a very good, balanced  
7 solution.

8           Also, as a retired businessman, I understand the  
9 power situation. Used to have a plant over in the Torrance  
10 area, and AES has an excellent reputation, both in that area,  
11 as well as in this area, for being responsive to the city's  
12 needs and being quite cooperative. And the whole concept of  
13 the battery storage is a look towards the future. And that's  
14 what we need, we need developments that look towards the  
15 future, rather than just look at the past. Thank you for  
16 your time.

17           HEARING OFFICER CELLI: Thank you, Mr. Thomas.

18           Neal, forgive me if I mispronounce names, Lauzon,  
19 IBEW.

20           MR. LAUZON: You're very close. Afternoon ladies and  
21 gentlemen. My name is Neal Lauzon. I represent the  
22 International Brotherhood of Electrical Workers. I'm the  
23 President of Local 441.

24           I'm here to speak in favor of the Alamitos Energy  
25 Center. As some other brothers have come up and spoken

1 already, this is a project that obviously supports a lot of  
2 local jobs.

3           We have a place, already, there's a project labor  
4 agreement that guarantees local hire, Veterans preference.  
5 These are some of the parts that give back directly to the  
6 communities that surround projects of this size.

7           What this also does, it's a project that is cutting  
8 emissions nearly in half. You're looking at improving a  
9 project, improving an existing plant right now, currently,  
10 that's going to cut down on the use of ocean water, like I  
11 said, as well as cutting emissions.

12           It creates nearly 4.7 million man hours of  
13 construction style of work. That's a lot of time and a lot  
14 of jobs for people in this area to be able to work where they  
15 live, spend that money where they live, and not have to  
16 travel many miles, hundreds of miles, sometimes, to do work  
17 in their trade, whether it be as an electrician, and  
18 ironworker, a laborer, a plumber. These are all jobs that  
19 support the middle class, support the people that live in  
20 these communities. And we just want to make sure that  
21 everyone here is aware that not only the building trades of  
22 L.A. and Orange County, but the laborers, ironworkers,  
23 electricians, we all support this project very much and we  
24 hope that you will, too. Thank you.

25           HEARING OFFICER CELLI: Thank you, sir. Thank you



1 for your comments.

2 I only have one card left. Now, if you're here and  
3 you want to make a comment, please fill out a blue card in  
4 the back, with the Public Adviser. If we have everybody,  
5 then what we'll do is we'll go to the phones, because there  
6 are people on the telephone who would like to make a comment.

7 So, lastly, but not leastly, we have Lara Laramendi.

8 MS. LARAMENDI: You said it right. Good afternoon.  
9 Thank you, Commissioners and Hearing Officer Celli, for the  
10 opportunity to provide comment today on the application for  
11 certification to modernize the existing Alamitos Generating  
12 Station, Alamitos Energy Center, AEC.

13 My name is Lara Laramendi, and I'm Advocacy Director  
14 for the Los Angeles County Business Federation, also known as  
15 BIZFED. We're a grass roots alliance of more than 160 top  
16 business groups, representing 325,000 employers, with 3  
17 million employees throughout L.A. County.

18 Our members include large and small employers,  
19 minority business owners, and job creators from a wide range  
20 of industries.

21 The Alamitos Energy Center is a highly-efficient,  
22 natural gas-fired, combined-cycle, air-cooled, not using  
23 ocean water, power plant with a capacity to power 1.5 million  
24 homes and businesses. That's a lot.

25 The benefits in improvement of the Alamitos Energy

1 Center are many. It helps California meet its aggressive  
2 green energy goals by integrating more renewable power and  
3 using the highest-efficiency technology. As has been  
4 mentioned, it will use 50 percent less fuel to deliver the  
5 same electrical service.

6 Air-cooled condensers allow the plant to eliminate  
7 the use of ocean water and a significant release of the use  
8 of fresh water by 70 percent.

9 Economic benefits, local, \$1.3 billion in private  
10 investment, in California, the electric infrastructure, which  
11 is in need. Over \$130 million in local purchases.

12 The gentleman mentioned 4.7 million hours in  
13 construction-related work and payroll. And it will also  
14 contribute over \$8 million to the local economy, generating  
15 tax revenues for local services, such as public safety,  
16 public works, et cetera.

17 This Alamitos Energy Center will comply with all  
18 applicable laws, ordinances, regulations and standards, LORS,  
19 with the implementation of its recommended mitigating  
20 measures.

21 California Energy Commission staff has also concluded  
22 that AEC will comply with the above.

23 On behalf of all the grass roots members of BIZFED,  
24 we urge the California Energy Commission to make the final  
25 decision to approve this project. Thank you for your time

1 and consideration to this matter.

2 HEARING OFFICER CELLI: Thank you for your comments,  
3 Ms. Laramendi.

4 So, if there's no further comments, I'm looking back  
5 at the Public Adviser. Nothing further. Okay, then let's go  
6 to the telephone.

7 Now, the way I'd like to proceed on the phone is I'd  
8 like to hear from the agencies, first, before we take comment  
9 from general members of the public.

10 Is anyone on the phone from South Coast Air Quality  
11 Management District? South Coast Air Quality Management  
12 District, Boscar (phonetic), Chandan (phonetic)?

13 (Comments on the phone cause laughter.)

14 HEARING OFFICER CELLI: I had no idea the South Coast  
15 Air Management District was that much fun.

16 Okay. Well, is there anyone on the phone, on behalf  
17 of South Coast Air Quality Management District?

18 Okay, hearing none, then is there any -- are there  
19 any people on the phone who would like to comment, who are  
20 associated with local associations, State agencies, cities,  
21 counties, Water Boards?

22 Okay, hearing none, are there any members of the  
23 public who would like to speak up and make a comment at this  
24 time? Please speak up. Anyone?

25 I, actually, don't have a list on my computer, so I'm

1 looking at that monitor there. Anyone who's on the phone,  
2 who would like to make a public comment at this time, now is  
3 the time to speak up and make it. So, please speak up,  
4 anyone, if you'd like to make a comment.

5 Going once, going twice. No further comments, okay.

6 MR. HARRIS: Mr. Celli?

7 HEARING OFFICER CELLI: Yes.

8 MR. HARRIS: If I could, I just want to make sure  
9 that you asked about Mr. Simpson's availability, again, since  
10 he seemed to be in the process and I thought it was good that  
11 you return to that issue, if you would.

12 HEARING OFFICER CELLI: Yes. We had asked whether  
13 Mr. Simpson was available, earlier this morning. Mr.  
14 Simpson, Rob Simpson, are you on the phone at this time? Rob  
15 Simpson?

16 Is everyone unmuted? Everybody's unmuted. So,  
17 anyone who would like to make a comment, please speak up,  
18 now.

19 Okay. Mostly, I can just say for the -- I recognize  
20 a lot of the names are members of Energy Commission staff  
21 that are listening in, that would want to make the comments.

22 So, okay, with that, then, what we will do at this  
23 time is declare the evidentiary record closed on all subject  
24 areas, except Air Quality, Greenhouse Gases and Public  
25 Health.

1           The Committee will allow the parties to reopen  
2 subject areas, in the Part One, that we've just closed, only  
3 upon a demonstration that the subject area is materially  
4 affected by the evidence received on Air Quality or Public  
5 Health.

6           Now, we're going to talk about opening briefs.  
7 Again, I --

8           MR. BABULA: Before you jump to that, I just have a  
9 question.

10          HEARING OFFICER CELLI: Yes, Mr. Babula.

11          MR. BABULA: Do you have a thought on the Engineering  
12 LORS? I mean, do you want me to -- I was thinking, if we can  
13 keep the record open for that, I can have something filed in  
14 a week or so, that would repackage the LORS as we discussed,  
15 or, would you rather have that as a short, little motion to  
16 reopen the record, just to accept that?

17          HEARING OFFICER CELLI: That's a good question. Just  
18 we're staying on the record, but I'm just going to have a  
19 quick, little conference with the Committee.

20          (Pause while Committee has a short conference.)

21          HEARING OFFICER CELLI: Okay. So, Mr. Babula, to  
22 answer your question, it isn't necessary to reopen for the  
23 Engineering. I think that the Committee can work with what  
24 we have.

25          Now, that said, if I am talking out of turn or if

1 I've made some oversight, or I need some further information  
2 on any particular LORS, or anything like that, what I would  
3 say is I would put that in our notice.

4 MR. BABULA: Okay. So, you're saying that you don't  
5 need anything additional on the LORS front, from Engineering?

6 HEARING OFFICER CELLI: That's correct.

7 MR. BABULA: At this point, unless I see something in  
8 your notice.

9 HEARING OFFICER CELLI: Right.

10 MR. BABULA: Thanks.

11 HEARING OFFICER CELLI: Thank you. So, now, then, if  
12 there's nothing further, I want to just talk about opening  
13 briefs, again. You know that an opening brief, in my point  
14 of view is like your opening argument. That's your best  
15 opportunity to explain to us what your position is, what  
16 facts support your position, what law, in addition to your  
17 facts, support your position.

18 But you do not have to, they are optional. So, if  
19 the parties don't want to do an opening brief, that is your  
20 call to make. But if you do want to make one, we're going to  
21 -- and I will put this in our next schedule, so you will be  
22 able to see this. But basically, generally, the opening  
23 briefs will be two weeks after the transcripts are published  
24 and docketed.

25 The transcripts, we've asked for to be expedited in

1 this case, so we'll see when those -- those should be coming  
2 out shortly. Opening briefs would be due within two weeks of  
3 that date.

4 And then, rebuttal briefs would be due one week after  
5 the opening briefs. So, I recall encourage the parties to  
6 provide opening and rebuttal briefs, but you don't have to.

7 HEARING OFFICER CELLI: All right. With that, I'd  
8 like to thank all of the parties and we'll look forward to  
9 the FDOC, and moving forward with the schedule, and with the  
10 proceeding. So with that, we're adjourned.

11 (Thereupon, the Hearing was adjourned at  
12 3:37 p.m.)

13 --oOo--

14

15

16

17

18

19

20

21

22

23

24

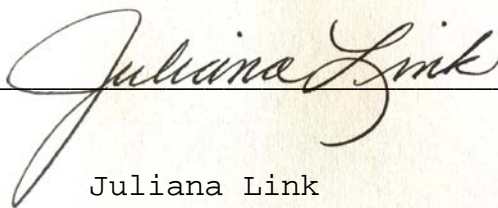
25

**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 18th day of November, 2016.



---

Juliana Link  
CER-830




**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 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 18 of November, 2016.



---

Barbara Little  
Certified Transcriber  
AAERT No. CET\*\*D-520