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CALIFORNIA ENERGY COMMISSION

STATUS CONFERENCE ON THE

EL SEGUNDO ENERGY CENTER AMENDMENT

TRANSCRIPT OF PROCEEDINGS

1516 9th Street
Sacramento, California 95814

Wednesday, November 19, 2014
1:32 p.m.

BRITTANY FLORES
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CALIFORNIA REPORTING, LLC (415) 457-4417
APPEARANCES

THE HEARING OFFICER:
Raoul Renaud

COMMISSIONERS:
Karen Douglas
advisors - Jennifer Nelson
Jim Bartridge

STAFF:
Camille Remy-Obad, compliance manager
Elena Miller, legal counsel

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CALIFORNIA REPORTING, LLC (415) 457-4417
SACRAMENTO, CALIFORNIA, November 19, 2014
1:32 p.m.
--o0o--

COMMISSIONER DOUGLAS: All right. Good afternoon, everyone. I think we're ready to go.
So I'm Karen Douglas. I'm the presiding member on this amendment, and we're here for the status conference on the El Segundo Energy Center Amendment. Let's see here.
So I'll just introduce the committee. To my right is the hearing officer, Raoul Renaud. To my left is Jennifer Nelson, my advisor, and to Jennifer Nelson's left is Jim Bartridge. He's advisor to Commissioner Scott.
I'll ask the parties to introduce themselves now beginning with the applicant.

MR. MCKINSEY: John McKinsey here, counsel for the applicant, El Segundo Energy Center, LLC, project owner, and George Piantka is here from NRG as a representative of the project owner.

COMMISSIONER DOUGLAS: Excellent.

MR. MCKINSEY: And I'm assuming I'm getting picked up.

COMMISSIONER DOUGLAS: Um, I just noticed
that you don't have a microphone.

Okay. Go ahead.

MR. MCKINSEY: I don't know if there was anybody on the phone that said they heard me.

COMMISSIONER DOUGLAS: We could ask Leslie.

MS. COCHRAN: Leslie, can you hear us?

LESLIE: Yes, I can hear you.

COMMISSIONER DOUGLAS: Did you just hear -- or all right. Did you just hear John McKinsey introduce himself and the applicant people here?

LESLIE: Yes, I did. I did.

COMMISSIONER DOUGLAS: All right.

Wonderful. Let's go to staff.

MS. REMY-OBAD: All right. My name is Camille Remy-Obad. I'm the new compliance manager for the El Segundo facility modification issue to amend. With me from legal counsel is Elena Miller, and we also have several of the technical staff here for questions and -- as we go along in our agenda.

COMMISSIONER DOUGLAS: Super. Thank you.

All right.

Now, we've got some interveners in this project.

Is Michelle Murphy or Bob Perkins on the phone? Michelle Murphy or Bob Perkins? Doesn't sound like it.

All right. Is anybody here from State, local, or
Federal Government agency or Native American tribes here or on the phone?

All right. So with that, I'll hand over the conduct of the hearing to the hearing advisor.

THE HEARING OFFICER: Okay. Thank you. So this is a status conference we're holding on the El Segundo Energy Center amendment. We noticed this status conference in a notice that was issued November 5. The committee wanted to hold a status conference today to receive information from the parties regarding the progress of the amendment proceeding and to help resolve any procedural issues as well as assess the scheduling of the future events in the proceeding.

The committee's interested in hearing about any barriers to the completion of staff's analysis, date-specific project milestones, and any other matters relevant to the schedule, and the parties may also use this opportunity to address any questions or concerns they may have.

In -- we, at this point, have part one of the FSA, and in reviewing that, a few items have come to light, which the committee felt were worth bringing to the attention of the parties and discussing at today's status conference, and those were set forth in a memo that was issued last week dated November 14th, and I
assumed you all received it or have -- maybe have a copy
of it. You don't. I have some extra copies. Actually,
they're over there on the credenza. So I thought today
we would just -- we would go through those memo items
first and get those aired and then see what else the
parties might want to bring up and then go to public
comment.

That sounds like a good plan to everybody?

All right. So why don't we just turn right into
the first item on the memo, which is an update on the
schedule, and maybe we'll turn to applicant first. The
FSA was issued -- is going to be issued in two parts
because the air quality and GHG sections are held up due
to issues you have raised with the district, the air
district, and a petition to amend also pertaining to air
quality questions. So I wondered if you could just give
us a brief idea of any timelines you might be aware of,
how long that whole process is going to take.

MR. MCKINSEY: I'm going have Mr. Piantka
address the -- kind of, the discussion around the
timeline for South Coast Air Quality Management
District, but I would say that the, the air quality
petition to amend that would modify the start-up
definitions for the existing units is being done in a
separate process by the air district from the
determination of compliance for this modification, the additional units, so they're really separate from each other so that whatever they're doing on that, that sequence -- which will actually be shortly done because they're doing it as part of the Title V permit renewal issuance -- that will be completed as a separate piece completely from addressing the comments on the final determination of compliance and issuing that document, and George can address that.

THE HEARING OFFICER: All right.

MR. PIANTKA: Yes. George Piantka for NRG, the applicant. So as John said, the, the air quality petition amends that all indications are that, that the language that would be incorporated into the Title V is complete, and I know they've been communicating their progress to staff, and we believe that the Title V renewal will be issued as administrative -- release to that permit very soon and that that language that, that their district has completed, will then allow the air quality petition to amend to proceed. So we don't see any, any complications there. I know we had in our status report that we thought this would come to fruition in a December business meeting but certainly recognizing the timing in that we're anticipating there being a January business meeting, which is agreeable to
Regarding the FDOC and the comments that we had to them, we -- you know, we understand from the air district that they will finish an errata of the FDOC by the end of the year. You know, that's the specificity that I have so far from them and then that will enable part B of, you know, the proceeding.

MR. MCKINSEY: And I'm going to add to that that they have indicated that they're doing this as an errata so that it would not trigger any type of a notice in review and comment period. So when they issue it, it's the document just as if --

THE HEARING OFFICER: All right. Very good.

Staff, you have anything to add to that?

I guess, the main question that the committee might -- I'm sorry.

MS. REMY-OBAD: No, go ahead, please.

THE HEARING OFFICER: The main thing the committee would like to know is once those two processes are complete, can you give us a ballpark idea of how much time staff would need before you could issue part two.

MS. REMY-OBAD: Okay. Well, what, what we are hoping for is that we can go to a January business meeting on units 5 and 7, because there does need to be
a 30-day comment period for the staff's analysis. Staff
is still waiting, I believe -- and correct me if I'm
wrong -- for a finalized version from South Coast for
that amendment.

Is that correct?

MS. QIAN: Yes.

MS. REMY-OBAD: Okay. But we do believe
that that would be forthcoming, and so that's our hope
on that end, and I think that we can close that one up
in January.

In terms of FS -- FSA part B, one of the things
that staff was hoping to do today was, sort of, come to
the committee and talk through schedule and a preferred
approach because we did bifurcate these two processes
and so it -- we're -- staff's, sort of, looking for some
guidance also from the committee as to how they think it
would be best for us to proceed if we want to go to
hearings on FSA part A and -- in the interim of waiting
for FSA part B to be completed or if there is a more
cohesive way to address issues that have come up. So
that -- I don't mean to be evasive on that.

THE HEARING OFFICER: No, no.

MS. REMY-OBAD: Yeah.

THE HEARING OFFICER: No, that's fine and I
can tell you off the -- right off the bat, that the
ideal plan would be that we have the complete FSA before
we go to evidentiary hearings, and then we can issue a
complete PMPD as a result of that. Obviously, we're not
proceeding in that fashion in this case, and it's good
to have part one of the FSA anyway so that we can be
working on that in the meantime and that enables us, in
fact, to, you know, surface issues that we have seen
there and get those taken care of before we get to
hearings.

I take it you're, you're wondering whether we
might have two sets of evidentiary hearings?

MS. REMY-OBAD: Well -- and one of the
things that I was going to propose is I think there's
going to be some discussion today about some of the
issues that were brought up by the committee and what
I -- and maybe some direction from the committee as to
what they would like to see in terms of either
supplemental testimony or additional analysis, so I was
thinking that maybe I could do a better job of answering
that question at our December committee status
conference just, sort of, based on the discussions that
we have today.

COMMISSIONER DOUGLAS: So how good a sense
do you have, though, of how long it would take to finish
part B of the FSA once you have got the errata from
final action by South Coast?

MS. QIAN: So the district -- so this is --

Wenjun Qian. I'm the air quality staff for this project.

So the district agreed to send us a draft of the errata to the FDOC before they finalize it, so we will be able to review the changes, and we will try our best to finalize our staff analysis.

COMMISSIONER DOUGLAS: Do you know how long it might take to do that? Can you --

MS. QIAN: I think usually we have 30 days after the FDOC but --

COMMISSIONER DOUGLAS: Okay.

MS. QIAN: -- we can probably do it much faster, because we have already completed most part of the air quality section.

COMMISSIONER DOUGLAS: Okay. So you were saying -- we were saying that the FDOC might be done in January; is that it?

MR. PIANTKA: Well, I heard -- this is George Piantka again -- so the end of the year was the verbal confirmation from the air staff. As we provided comments to the FDOC, you know, everything that we communicated back and forth, it seems that, you know, the process moving forward, it doesn't seem like there's...
any difficulties or, you know, or any conflicts from the analysis then that the district's going through. That's the best schedule I have -- is by the end of the year from them.

COMMISSIONER DOUGLAS: If that's the case, and then we have part B of the staff assessment in January, for example, then it really seems like there's nothing gained in splitting the evidentiary hearings because having them, you know, during the holidays doesn't make a lot of sense. So -- um -- so if that's the way this plays out, it makes more sense, I think, to put the focus on finishing the air quality section and getting both parts of the staff assessment published and moving the hearings after that, but, but we're happy to, you know, hear more. And I don't know if -- Applicant, we haven't asked you if you have an opinion on that question yet.

MR. MCKINSEY: We have the same position you're reaching. We didn't think it would be a good idea to try to bifurcate the evidentiary hearings into two parts but just the logistics of finding a location and everything else alone, makes it -- really, we want to do it once and be done.

COMMISSIONER DOUGLAS: Okay.

MR. MCKINSEY: One of the things that -- we
have read some informal discussions with staff about comments on the -- from the FSA.

COMMISSIONER DOUGLAS: Uh-huh

MR. MCKINSEY: And so it certainly makes sense to try and, I think, use this opportunity, you know, use lemons to make lemonade, since we're waiting on the FDOC errata from South Coast, we have an opportunity to give some comments and feedback to staff on the FSA as well, which might allow them to incorporate anything they want to adjust when they issue that part B to the FSA and they may also say --

(Interrupted by recording on teleconference call.)

MR. MCKINSEY: So, so that, you know, normally, the FSA is a final document and then probably go into evidentiary hearings with their issues. It would give us a chance to clean out some of the issues where we can reach agreement with staff, and the only concern I have a little bit with that procedurally is that there isn't a public notice out there for comments because you don't normally do comments on an FSA, but we could still submit our comments as part of a, you know, public record document and that would allow the staff to, basically, make a decision on components that they
agree with for these decisions on any adjustments they
want to make, and I think that would result in a cleaner
position between the parties and ultimately reduce
the -- any unnecessary work in evidentiary hearings.

COMMISSIONER DOUGLAS: I think that sounds
very helpful. I'm seeing staff nod. Good.

THE HEARING OFFICER: So we'll hope to be
able to do everything in one fell swoop, but if stuff
comes up that looks like that's not going to be
feasible, we'll, you know, we'll discuss that if we need
to.

All right. Okay. But at this point, the goal is
going to be to do a single evidentiary hearing and not
bifurcate that hearing.

MS. REMY-OBAD: Okay.

THE HEARING OFFICER: Good. Okay. We next
raised an issue from visual resource section relative to
the Scattergood project, and it's simply on cumulative
impacts. The text in the FSA --

MR. KANEMOTO: This is Bill Kanemoto.

Sorry. I was disconnected. I had to re-call in.

MS. REMY-OBAD: Bill's one of the authors
for the visual resources section.

THE HEARING OFFICER: Okay. Good.

COMMISSIONER DOUGLAS: Oh, good.
MS. REMY-OBAD: So we'll be with you in just a bit.

THE HEARING OFFICER: Okay. Thank you.

Thanks for getting back in here, and we're just getting to the visual issue. So --

MR. KANEMOTO: Yeah, sorry about that.

THE HEARING OFFICER: That's fine. No problem. Your timing is perfect. The, the text of the FSA relative to the cumulative impact with -- in conjunction with the Scattergood project is inconclusive based on essentially not being sure how Scattergood's going to look when it's done, and we were wondering if there's going to be a possibility of getting more information that will enable a more conclusive determination than that.

MS. REMY-OBAD: All right. And Dave Flores was our technical senior for visual resources and Bill Kanemoto, who is on the phone, have been looking into that, so I'm just, sort of, going to hand over the discussion.


MR. FLORES: Good afternoon. My name is Dave --

MR. KANEMOTO: Yes. Bill Kanemoto, again.
MR. FLORES: Oh, Hi, Bill. This is David.

Hold on, Bill. Let me just introduce myself real quick.

This is David Flores. And online, as you know, is Bill Kanemoto, who actually wrote the visual analysis. Bill and I both have had the discussion and I know Bill also provided a memo, which I believe he can read into the record, but just for information and I'll provide this to the commissioner and to the hearing officer, just to reflect the Scattergood project that the major portion of the work is occurring behind the existing facility.

And so I believe this -- and this information was received from Kiewit Construction, which is -- which is essentially constructing this project as we speak.

And so from there, Bill, I'll let you go ahead, and if you'd like to read into the record your memo.

MR. KANEMOTO: Sure. Yeah, we are able to obtain some more current information, and we're able to determine that there would not be a cumulative impact in relation to the Scattergood project. Shall I read the whole paragraph?

COMMISSIONER DOUGLAS: Please.

MR. FLORES: Yes, Bill.

MR. KANEMOTO: "Staff reviewed new information regarding new generation units at the Scattergood power plant. Based on the siting of the new
Scattergood units, staff concludes that these would not have a cumulative impact on the ESEC viewshed. Because they would be largely screened from public view by the large, existing Scattergood power plant building, the new units would not be prominent to motorists or other viewers on the nearby roadway and would therefore not contribute to cumulative visual impacts in the ESEC viewshed."

THE HEARING OFFICER: Okay. Are you done?

MR. KANEMOTO: Yep.

THE HEARING OFFICER: Okay. Thank you for that. What about view from the west? People on the beach? Is that going to be an issue?

MR. KANEMOTO: Yes, that is the same viewshed, so they would not be affected either.

THE HEARING OFFICER: Okay. Good.

MR. KANEMOTO: Both the road and the beach are to the west.

THE HEARING OFFICER: So I think what the committee would want so that this can be made part of the evidentiary record when the time comes is that either you, you know, change that section of the FSA or issue some sort of an addendum or errata or something that we can -- that can be docketed or something --

MS. REMY-OBAD: Okay.
THE HEARING OFFICER: -- mark it as an exhibit.

MS. REMY-OBAD: Okay.

THE HEARING OFFICER: Great. Thank you. I'm glad you were able to do that.

Okay. Next, the issue we raised on the memo pertains to the general issue of water supply assessments and the necessity of preparing one, or not, for this case. The FSA, as currently written, states that one is not necessary because the -- because of the use of recycled water. But the FSA does indicate that there is some use of freshwater as well. So we, we wanted to -- so that this doesn't become a complicated factor when we get to evidentiary hearing, it would be better if we could have this on the table at this point and, kind of, make a procedural decision about whether or not a WSA should be part of the evidentiary record, and I'll throw that out to whomever wants to address it first, but maybe, maybe staff first because we're talking about the FSA.

MS. REMY-OBAD: Okay. Both Matt Layton and Mike Conway from our engineering technical staff are here, and we were all interested in hearing what the committee was thinking in terms of the information that they would want staff to provide in regards to the water
supply assessment and if the committee is interested, staff can talk a little bit about what -- what are the understood regulatory requirements for the analysis and also some of their recent agency consultations in regards to it for, for El Segundo modification project.

COMMISSIONER DOUGLAS: Why don't you start with that.

MS. REMY-OBAD: Okay.

MR. CONWAY: Good afternoon. My name is Mike Conway, and I'm the lead author on the FSA for the water supply section of the FSA. I think if the question is whether or not a WSA should be prepared for the record, our preliminary investigation would say, "no," based on a few different factors. One, the, the recycle water use aside, the potable water use is very low. We're proposing up to four acre feet per year. If, if recycled water were to be considered as part of the, the total water being used and a threshold for a water supply analysis, there are a couple ways to look at it. One would be -- would, would the total volume of water meet any threshold? And our preliminary answer is "no" based on local water use data on a per person basis and also based on Department of Water Resources guidance. And so right now our in-house low number would be 150 acre feet a year for something that would
trigger a water supply assessment. So this water use
doesn't meet that, that number to begin with even if the
recycled water were combined. Also, when considering
the local data for water use per capita and potential
dwelling units, we would come up with a fairly similar
low-end estimates of perhaps 150 as a threshold. So
this project would also meet that.

Furthermore, we had some follow-up conversation
with the lead author of the Senate Bill 610, Department
of Water Resources, and he reaffirmed the range of, you
know, the threshold range of about 150 to 250 acre feet
per year. We got that just on Monday. Also, though,
staff hasn't found any example in the Water Code itself
or in any CEQA document where recycled water use alone
triggered a water assessment. So we don't have any
example of that anywhere to look to.

Also, I contacted the director of Public Works at
City of El Segundo, and they stated that they would not
prepare a water supply assessment for this project,
which would be their duty being that they are the water
system in the area. We also contacted West Basin
Municipal Water District, who would be serving the
recycled water, and though they are not a public water
system by the definition of the law, they also stated
that this is not something they could do, would do, or
would consider. And so we have those -- we have records of conversation of each of those as of Monday.

So at this time, we would say, no, a water supply assessment would not need to be prepared for this project. If, if there were a different determination somewhere along the line to our preliminary assessment, this would be the first of its kind and would require substantial increase in staff time to be able to come up with such a unique document.

THE HEARING OFFICER: All right. A question for you; isn't there an acreage threshold also?

MR. CONWAY: Sure.

THE HEARING OFFICER: If you have a industrial project --

MR. CONWAY: There is.

THE HEARING OFFICER: -- that is above x-acres?

MR. CONWAY: That's 40. In this project, we're below that.

THE HEARING OFFICER: Is above that?

MR. CONWAY: I'm sorry?

THE HEARING OFFICER: I just didn't hear what you said.

MR. CONWAY: I'm sorry. Would be below.

Would be below the 40 acre, the surface threshold.
THE HEARING OFFICER: The entire El Segundo project or just the amendment portion?

MS. MILLER: This is Elena Miller from chief counsel's office. The footprint of the project is 33 acres, and the threshold in the Water Code is 40 acres.

THE HEARING OFFICER: Okay. Well, that's good to hear.

COMMISSIONER DOUGLAS: So in the FSA, when the term "city water" is used, because there's a reference I think to the use of city water, does that mean potable water, or is that something else?

MR. CONWAY: The way the conditions are written, they should explicitly define what is potable, or water fit for drinking, versus recycled. We tend to stick to those two terms, and so in whatever sense that reference is made, it should indicate City of El Segundo and potable, and if we're talking about recycle, it should say "recycle" and "West Basin Municipal Water District." And if not, we need to make those changes.

COMMISSIONER DOUGLAS: Okay.

THE HEARING OFFICER: Anyone else want to comment on the water supply assessment issue?

Yes.

MR. LAYTON: This is Matt Layton. How do you want us to provide this to you? Do you want us to...
amend the FSA, assuming that we'll get comments from the applicant, because apparently, what was in the FSA wasn't enough. So we appreciate the guidance that you have provided here, but now how do we get it to the committee because I'm not sure doing it at a status conference without the applicant having witnesses -- if this was controversial. I don't think they're worried about this particular -- but other issues like this might be more controversial.

COMMISSIONER DOUGLAS: So we're not taking evidence at the status conference.

MR. LAYTON: I know.

COMMISSIONER DOUGLAS: This is a dialog to inform the committee and, and have -- and ensure a thorough, a complete analysis for a complete record. We can get to the question of whether we approach this through -- ask staff to do supplemental testimony or to incorporate changes into the FSA when part B is published. I mean, that will be a question we have for you, really, as to what you would -- what you would suggest or, or want to do. And we may want to go through all the topic areas before we really get to the question of how additional evidence is brought into the record.

MR. LAYTON: So what visual staff did
wouldn't be necessarily adequate to get that into the record so you would expect them to also come back and provide -- I'm just trying to understand. All these topics are going to lead to something eventually.

COMMISSIONER DOUGLAS: What visual staff just did with reading the paragraph to us was helpful to us in understanding where they are with a certain issue, but it's not evidence. So we would need it in supplemental testimony or in some form that would be docketed and go into the record.

THE HEARING OFFICER: And as to the water supply assessment, I think at this point, the committee is listening with great interest to everybody and is taking that all under advisement, but it has not made a decision about how far we want to go with that.

MR. LAYTON: Okay. Well, staff is making sure that what we have in there is -- we have our numbers to even understand and reference them and therefore provide you with the logic of how we got to our conclusion and our recommendation.

COMMISSIONER DOUGLAS: That would be very helpful.

MR. LAYTON: Great. Thank you.

COMMISSIONER DOUGLAS: And if we have additional questions, we will ask them either at another
status conference or we'll put something out in writing
or do something to communicate that if we have
additional questions.

MR. LAYTON: Thank you. This helps.

COMMISSIONER DOUGLAS: Thank you.

MS. MILLER: This is Elena Miller again.

Would it help the committee if I recite some of the
numbers for you, because I know that you're well aware
of what the Water Code states. The hearing officer
asked about the 40 acre threshold. Would it be helpful
for you to give you two numbers?

COMMISSIONER DOUGLAS: Sure.

MS. MILLER: Okay. So the Water Code
Section 10912, not only does it have the 40-acre
threshold, but it also says 500 dwelling units, and so
you heard from staff today. They provided you
information of conversations that they have had with the
local district. The two numbers I wanted to iterate for
you, we've got potable water in a small amount. It's
.84 acre feet per year, and then recycled water at 137
acre feet per year, and I know that there's been
discussion about what to count and what to not count,
but we don't, obviously, want to get into that today.
But I wanted to recite for you those numbers, because
they are low numbers, and as best I can tell looking at

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the design of the project, it's just the way the main
amendment for units 9, 10, 11, and 12 is designed that
we have those low water numbers.

COMMISSIONER DOUGLAS: Okay.

THE HEARING OFFICER: Great.

Okay. Anything else on that?

Okay. Thanks.

Now, the next issue we raised in the memo is just
about the Coastal Commission's involvement. Contained
within the FSA appendix VR 2 is the Coastal Commission
report from March 2002 concerning the original AFC
proceeding to which this is an amendment. And it's not
abundantly clear, but it can be inferred that the Costal
Commission is, is satisfied with the ongoing validity of
that report and is not planning to involve itself
further. And I wanted to -- if we wanted some
verification of that and make sure we're, we're not
going to leave the Coastal Commission out of this
proceeding when they, in fact, want to be included.

MS. REMY-OBAD: Well, I know that both Dave
Flores and Elena Miller are pretty well versed on the
issues that have come up with the California Costal
Commission, so I'll let them also speak to this.

One of the things that I did want to emphasize is
that our acting chief counsel, Jeff Ogata, and the
deputy director of the Step Division, which is Roger
Johnson, have an appointment amendment with Tom Luster
with the California Coastal Commission on November 21st
and -- to discuss how our two agencies can assist one
another and offer assistance to Coastal Commission by
recommending how most effectively they can participate
in the siting proceedings. So we -- and I think one of
the things that I hope that they'll also, you know,
bring up is to be able to reiterate with the Coastal
Commission, you know, specific to El Segundo -- I don't
know that for a fact, but I think we can request that as
well. So if either of you have any other comments about
that.

MS. MILLER: I have only one point to make,
and that is that I have been reassured by staff and
prior project managers on this case since I was assigned
that there have been efforts to contact the Coastal
Commission, though those conversations are not on the
record that what I have been told is that the Coastal
Commission, they have not -- not only have they not
provided comments but that they do not plan to provide
comments in this proceeding and I think that speaks to
the inquiry that the committee made in the November 14th
memo.

MR. MCKINSEY: I wanted to add a little more
on that. The original permitting of the units that are
now operating there that the AFC, the Coastal Commission
was an active party and issued, what they refer to as, a
30143D report, which is the section of the act that
defines the various roles of the Coastal Commission in a
proceeding, and then subsequently to that decision
approving that project and essentially overruling the
Coastal Commission's position, the owner submitted a
major amendment to eliminate limited cooling for those
new units and changing their design. And those changes
effectively calm the Coastal Commission down
significantly about the project. And this new position
to amend has that same characteristic along with a lot
of the other features. And so part of the -- what was
going on in the middle of the last decade -- and there
was some dialogue and I think there's actually a little
bit buried back there in the old docket log for the
original proceeding near the end of -- more importantly,
during the approval of the amendment was the Coastal
Commission giving that indication relative to, to their
major concerns having been the use of once-through
cooling being discontinued at the site. And then the
other thing that I'd say is that, that one of the things
I have become really careful with the Coastal Commission
and these projects is to make sure that we always keep
track of the difference between any mandated necessary participation in a proceeding versus their comments and their position, and I won't try to go any farther than saying that 30143 is the place where you look to see what is required and what isn't required, and we're definitely comfortable in that, this proceeding can move forward without any further Coastal Commission participation, but certainly, if that ends up being an issue, it's something we can do legal briefs on and expound.

THE HEARING OFFICER: Good. I think that's what we need to know. Thank you.

Okay. Now, next is the -- in meeting alternative section, we're looking for some discussion of the whole concept of demand side resources and their applicability as potential alternatives.

Wondered if any member of the staff cared to comment on that and from the applicant as well?

MS. REMY-OBAD: Well, who I'd like to introduce is Eric Knight. He is the manager for the environmental protection office, and I think he can probably do the best of any of us to speak to -- more to that demand side resource issue.

THE HEARING OFFICER: Great. Thank you.

MR. KNIGHT: Good afternoon. Eric Knight.
Yeah, we have -- we have seen the committee's request to include a discussion of demand side resources, such as demand response, and I saw that that was something that was included in the commission decision for Huntington Beach, so that is something that we can address and will address, I guess, in a supplemental filing, a supplemental FSA. I think we'll -- to the, you know, similar conclusions, Huntington Beach decision, made to that -- those types of activities don't meet most of the basic objectives of this project and in some cases, may not be feasible.

THE HEARING OFFICER: Great.

COMMISSIONER DOUGLAS: Good. Thanks for that. I think that was very helpful, and really, it's in the interest of having a complete record and just ensuring that issues are discussed, so thank you.

THE HEARING OFFICER: Perfect. Thank you.

Okay. And then Item 6 in the memo was with reference to air quality and GHG, and I think we've exhausted that topic at this point. I guess one question that I'm not sure I have heard answered was whether the applicant has any time constraints or, or deadlines or anything in mind in the future that, that we ought to bear in mind in thinking about our scheduling, yeah.
MR. MCKINSEY: The -- well, you know, one thing I try to always emphasize especially for this project is it's in a very urban location, so the sooner that we set dates for anything where we have got to find space and figure out how to arrange it, the better. That saying, "Hey, you want to do something in 20, 30 days," when it's really 30, 40 days advance planning, but sometimes, everybody's booked up, et cetera. So the earlier we set some dates, the better. In particularly, here, because it's in a very dense and high usage area right now in terms of space, but other than that, I think Mr. Piantka can, kind of, address where NRG is at in terms of schedule-wise on the project.

THE HEARING OFFICER: Great.

MR. PIANTKA: Right. Thank you. George Piantka again. No, we don't have any, you know, immediate schedule constraints. Don't ask me for a very specific schedule. We're anticipating from what we have discussed here today and the progress on the part A, part B, and district, you know, encourage them. You know, we're talking about evidentiary hearings and it feels like a first quarter type activity and a decision, you know, ensuing thereafter. So we're supportive, and, in fact, you know, to go back to the progress, you know, we're supportive and have been pleased with the overall
progress, and I know we, we supported bifurcation, and
we did want to see progress of staff, and we also felt
very important to get the FDOC accurate and resolved
with South Coast, and so we know we had a part in
creating this schedule. So we're, you know, we're
pleased we're progressing and no immediate, you know,
concerns about the schedules.

THE HEARING OFFICER: Okay. Thank you.

MR. MCKINSEY: I have one suggestion, too,
on this. Since we have a status conference, it might be
a really good agenda item for the -- for the December
status conference to say where do we think we're at, at
South Coast's FDOC errata because then we might actually
be able to discuss more specifics on schedule.

MR. PIANTKA: I might add -- George Piantka
again. It might be like we have seen in other committee
conferences now and even having participation in South
Coast if they have an update as well or maybe we'll all
probably have an FDOC by that time, we can discuss it.

So -- at that time. So --

THE HEARING OFFICER: We'll make sure to
discuss that at that time.

COMMISSIONER DOUGLAS: So I just want to say
something about the status conferences. I mean, we have
been moving towards having monthly status conferences
because it's helpful to the committee and hopefully helpful to everyone to have some early engagement and communication, and, you know, at the same time, we don't want to exhaust everyone with status conferences. We want to make sure that it's a good use of time and it can be more informal. They can be by phone, you know, so we just want to make sure that they are useful to everybody. We do have some agenda items it sounds like for December particularly scheduled, and I think, Mr. McKinsey, you're right that scheduling evidentiary hearing dates is not always easy. We try to line up two commissioners and venues in an urban environment and, you know, the witnesses that all the parties need, and so I really think as soon as we can get to having a schedule and locking in dates for hearings, you know, we should go ahead and do that. So I would be hopeful we could do it in December. If we found that our agenda was relatively light on the other hand in December, we could make this more of a phone check-in and, and, you know, move towards either another status conference or, or deal with scheduling another one in January.

So what, what do the parties have and staff and applicant in mind in terms of December. Like, what, what do you think would be helpful for us to have on our agenda in December? I have got, schedule, and maybe
evidentiary hearing dates on my list.

MS. MILLER: And a status update to see if we're on track for the petition for units 5 and 7 so the air quality. So, you know, if we can speculate today that, that -- that best case scenario will be on the January business meeting, then when we come into the committee in December, we'll know and be able to update you on if we're on track. Of course, you will -- there will also be other signs like public notice saying if we're on track, so I think that's a good topic.

COMMISSIONER DOUGLAS: Okay. There's, of course, completion of part B of the FSA, and by December, hopefully, we would be able to have a date when we'd be expecting that.

MS. MILLER: Yes, but there's also I think -- leads to a question and the question that I don't think we have answered yet today is though we have heard from the committee and we appreciate the committee wants a single evidentiary hearing, the committee presented questions to staff that staff have largely answered today, but we need to get those into the record and we have heard people phrase it in different ways today, but what they're asking is are we doing a supplemental to FSAA or are we going to present all of this in the end with one final document, and I realize that the
committee may not be prepared to answer that right now,
but I would ask that the committee consider that staff
do need direction on how to get that into the record
because that's unclear.

COMMISSIONER DOUGLAS: So it's often better
for the public to have one document where they can find
everything they need to find and not be chasing down,
you know, supplemental testimony and parts A and B and
so on. So I think that if it, you know, all other
things being equal that would be our preference.

MS. MILLER: That is staff's preference if I
can be so bold as to speak for staff.

COMMISSIONER DOUGLAS: Good. Then let's do
that.

MR. MCKINSEY: Yeah, I was going to suggest,
related to that, that I think by the next status
conference that you should have a good idea that the
project owners submitted comments and staff's had a
chance to see them and can say, "Yes, we can roll these
into that final document," or "We will know what the
outstanding issues are from this part," and so I think
that relates directly to that, that should be the items,
so where are we at overall between both the FDOC errata
timing and, kind of, closing these open-ended things on
the part A.
COMMISSIONER DOUGLAS: Well, let me ask another question then. For the parts of the analysis that are in FSA part A that's published, would we be far enough along in December to start going through some of the work that we might normally do in a prehearing conference, you know, for example, talking through what issues we think may need to go to hearing and what -- you know, what amount of time, what witnesses you might be looking for, because the more that we can clarify, you know, the coverage of hearings and the length of the hearings, the -- you know, the better off we'll be but I don't want to push this either if you think you may need more time to do that.

MR. MCKINSEY: I, I think our comments might trigger the staff's ability to say, yeah, we're either on the page of applicant on this issue or not. The only other concerns I have got working in all of this is that we don't have any intervention in this proceeding. There also hasn't been a deadline, and normally with prehearing conference type formalities, you'd say, "This is your deadline to be a party," so perhaps something, setting a deadline on intervention would be helpful as well related to that. Or at least, you know, if -- what I don't want to see is a party come along in January and say, "I want to intervene," and then say, "Wait. How
can all these things be closed," et cetera. And then on
the other hand, if it's more informal and we're just
simply giving the committee an idea, then that doesn't
concern me.

THE HEARING OFFICER: Just to set things
straight, we do have an intervener in the case, Michelle
Perkins and Bob Murphy.

MR. MCKINSEY: Oh, they haven't been -- were
they granted intervener status?

THE HEARING OFFICER: Yeah.

MR. MCKINSEY: Oh, I guess -- but they
haven't participated. I forgot they have intervened.

THE HEARING OFFICER: Right. But they
are --

MR. MCKINSEY: You talk to them a lot

anyway.

THE HEARING OFFICER: Yes, they're involved.

MR. MCKINSEY: Okay.

THE HEARING OFFICER: But that's it.

MS. REMY-OBAD: Well, just on behalf of
staff, I just want to thank the committee for providing
this opportunity for staff to update the committee and
being also to, to give us a forum for open dialog and
some guidance on some of these outstanding issues and
also on the recent inquiries that you have had, so thank
COMMISSIONER DOUGLAS: Good. Thank you, and we'll, we'll look forward to doing this in December and making as much progress as we can. And so I guess with that, we're through everything? Or no, we need public comment.

THE HEARING OFFICER: And before we go to public comment, let me just check on the phone to see if, perhaps, intervener Michelle Perkins or Bob Murphy have joined us?

Apparently have not. If you have, speak up.

No. Okay. So the next item on the agenda then would be public comment. Are there any members of the public present who wish to comment?

Anyone on the phone wish to provide a public comment at this time? If so, just go ahead.

Okay. Hearing none, I think, right, we're adjourned.

COMMISSIONER DOUGLAS: We're adjourned.

Thank you.

(Whereupon the proceedings ended at 2:21 p.m.)

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