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

)
)
Petition to Amend the)
HUNTINGTON BEACH ENERGY PROJECT) Docket No. 12-AFC-02C
_____)

PREHEARING CONFERENCE

CALIFORNIA ENERGY COMMISSION
CHARLES IMBRECHT HEARING ROOM
(HEARING ROOM B)
1516 NINTH STREET
SACRAMENTO, CA 95814

MONDAY, November 14, 2016
2:30 P.M.

Reported by:
Kent Odell

APPEARANCES

COMMISSIONERS

Andrew McAllister, Commissioner, Presiding Member

Karen Douglas, Commissioner, Associate Member

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Bryan Early, Policy Adviser to Commissioner McAllister

Le-Quyen Nguyen, Adviser to Commissioner Douglas

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HEARING OFFICER

Susan Cochran, Hearing Officer

CEC STAFF

Kevin Bell, Senior Staff Counsel

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PUBLIC ADVISOR

Alana Mathews, Public Adviser

APPLICANT

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Kristen T. Castanos, Stoel Rives LLP

Kimberly Hellwig, Stoel Rives LLP

Jerry Salamy, CH2M Hill, Inc.

APPEARANCES (Cont.)

AGENCIES

Bhaskar Chandan, South Coast Air Quality Management District

Jane James, City of Huntington Beach

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Committee Closed Session consideration of the following item:	
PETITION TO AMEND THE HUNTINGTON BEACH ENERGY PROJECT	
Deliberation by the Committee on any matters submitted for decision by the Committee including, but not limited to, pending motions and scheduling.	
The Committee will adjourn to Closed Session in accordance with Government Code section 11126, subdivision (c)(3), which allows a state body, including a delegated committee, to hold a Closed Session to deliberate on a decision to be reached in a proceeding the state body was required by law to conduct.	
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P R O C E E D I N G S

November 14, 2016 2:38 p.m.

COMMISSIONER MCALLISTER: Good afternoon,
everyone.

(Brief colloquy re: audio)

This is the Huntington Beach Energy Project
Amendment Prehearing Conference. Thank you all for
being here. My name is Andrew McAllister, Lead
Commissioner, Presiding Commissioner, on this
application of this amendment.

I am going to introduce folks on the dais
here. To my right is my Adviser, Brian Early. To my
left is Susan Cochran, the Hearing Adviser. To her
left is Commissioner Douglas, the Associate Member of
the Committee. And to her left is Le-Quyen Nguyen,
Commissioner Douglas's Adviser. And to her left is Kristy
Chew, the Technical Adviser to the Commission on Siting
Matters.

I would like to go around the room and have
the parties introduce themselves, maybe starting with
Mr. O'Kane.

MR. O'KANE: Thank you. Good afternoon, this
is Stephen O'Kane, Vice President with AES Huntington
Beach Energy, the Applicant. I have my Counsel and
Consultants here. I'll let them introduce themselves.

1 MS. CASTANOS: Good afternoon, Kristen
2 Castanos with Stoel Rives, Counsel for the Applicant.
3 And Kim Hellwig from Stoel Rives is also with me.

4 MR. SALAMY: Hi, this is Jerry Salamy with
5 CH2M Hill. I'm the Project Director for the AES
6 Licensing Project.

7 COMMISSIONER MCALLISTER: Okay.

8 MR. BELL: Kevin W. Bell, Senior Staff
9 Counsel on behalf of staff. With me is John Heiser,
10 Project Manager, other staff are also present.

11 COMMISSIONER MCALLISTER: Okay. Thanks.

12 Is that it? Yeah, let's see who all is on
13 the line. I'm going to ask for elected officials
14 first, do we have anyone from the federal government,
15 any agency of the federal government? Feel free to
16 break in if you're on mute and just getting to it.

17 Any agencies from the State of California?
18 That would include --

19 MR. CHANDAN: Hi.

20 COMMISSIONER MCALLISTER: Oh, who's that?

21 MR. CHANDAN: Yeah, hi. This is Bhaskar
22 Chandan from South Coast Air Quality Management
23 District.

24 COMMISSIONER MCALLISTER: Oh, great. I was
25 going to ask for you guys specifically, but terrific.

1 Thanks for being with us.

2 Any Native American tribes represented on
3 the phone?

4 Any representatives from the City of
5 Huntington Beach or nearby jurisdictions?

6 MS. JAMES: Good afternoon. This is Jane
7 James with the City of Huntington Beach Community
8 Development Department.

9 COMMISSIONER MCALLISTER: Great, thanks for
10 being here with us.

11 Any other agencies that I might have left
12 out?

13 (No audible response.)

14 Okay. I will note for the record that Alana
15 Mathews, our Public Adviser, is in the back of the
16 room there. So she's with us as well.

17 So I think having the introductions out of
18 the way, I'm going to pass off to Susan Cochran, the
19 Hearing Adviser, to continue through our agenda. We
20 do have a number of issues to get through, so
21 hopefully we can be expeditious about that. We've got
22 a couple of hours.

23 So thanks, Susan.

24 HEARING OFFICER COCHRAN: Well, thank you so
25 much, and good --

1 COMMISSIONER MCALLISTER: Commissioner
2 Douglas, did you want to say anything? No. Okay,
3 great.

4 Okay, on to Susan.

5 HEARING OFFICER COCHRAN: The Committee
6 Noticed today's Prehearing Conference in its Notice
7 of Prehearing Conference and Evidentiary Hearings
8 issued on October 21, 2016. I'm going to remind
9 everyone that we have Noticed a November 30, 2016
10 Evidentiary Hearing on all subject areas except for
11 air quality and public health.

12 As explained in the Prehearing Conference
13 Notice the basic purpose of today's meeting is to
14 assess the project's readiness for hearings, to
15 clarify areas of agreement or dispute, to identify
16 witnesses and exhibits, to determine those areas the
17 parties need to question the other parties' witnesses
18 on, and to discuss associated matters including the
19 Applicant's motion to submit supplemental testimony
20 as well as to discuss the informal versus formal
21 hearing procedures that we have used in these
22 matters.

23 To achieve these purposes we require that
24 any party seeking to participate at this conference,
25 or who desires to present evidence or cross-examine

1 witnesses, file a Prehearing Conference Statement.
2 And timely Prehearing Conference Statements were
3 filed by both Applicant and staff.

4 Staff published the Part 1 Final Staff
5 Assessment or FSA on October 17, 2016. It covered all
6 areas except for air quality and public health. The
7 FSA serves as staff's testimony on all subject matter
8 areas and the FSA has been marked for identification
9 as Exhibit 6000.

10 I brought with me today exhibit lists. They
11 are located on the table by the Public Adviser if
12 anyone wants to play along at home. You can also
13 print your own out using the Energy Commission's
14 eDocketing system.

15 Staff's rebuttal testimony was filed on
16 November 3rd and has been marked for identification
17 as Exhibit 6001.

18 The Applicant has also filed a number of
19 exhibits that have been pre-marked for identification
20 and those are also reflected on the exhibit list here
21 in the room. That exhibit list will be subject to
22 update as we move forward throughout the hearings.

23 Part 2 of the FSA is still pending. As we
24 talked about Part 2 covers air quality and public
25 health. And part of the reason for its pendency is

1 the need for the issuance of the Final Determination
2 from South Coast Air Quality Management District. I
3 understand we have someone on the phone from South
4 Coast. Is that correct?

5 MR. CHANDAN: Yes, hi. This is Bhaskar, it's
6 B-H-A-S-K-A-R. The last name is Chandan, C-H-A-N-D-A-
7 N.

8 HEARING OFFICER COCHRAN: Okay. Thank you for
9 joining us today.

10 So obviously the first question that we
11 would like to ask is can you give us an update on
12 when you believe the District may issue the Final
13 Determination of Compliance? And we again would like
14 to thank you for your submittal of status reports,
15 trying to keep us apprised of them. Do you have a
16 date for us?

17 MR. CHANDAN: We are working diligently. We
18 have received some comments and we are working
19 diligently to address those. We are trying our best
20 to get everything out by next week. But next week
21 being Thanksgiving, for Huntington Beach it might be
22 end of the week, but we will try our best to get it
23 out by next week.

24 HEARING OFFICER COCHRAN: So that I can
25 confirm, so you're then saying that the Final

1 Determination of Compliance will be issued for
2 Huntington Beach either the week of November 21st, or
3 November 28th?

4 MR. CHANDAN: Right.

5 HEARING OFFICER COCHRAN: Okay. I noticed
6 that last Thursday there was a Notice that South
7 Coast filed in the docket that reopened the public
8 comment period on a document. So will that re-
9 noticing period affect the issuance of the FDOC?

10 MR. CHANDAN: The re-noticing was done from
11 advice of our legal counsel that we needed to do
12 that. But what we have decided is to go ahead and
13 issue the FDOC. The re-noticing has already been
14 done, so the FDOC will be issued, as I said, in the
15 next week or two.

16 HEARING OFFICER COCHRAN: Okay. Thank you
17 very much.

18 So that leads me to questions then about the
19 -- about where we are. And I guess the question I
20 would have is we have bifurcated this proceeding --
21 strike that. Never mind. We'll go on.

22 Before we get to schedule let's talk about
23 what we're generally going to cover today at a pre-
24 hearing conference. And the first is that we'll
25 discuss the motion to allow the Applicant to file

1 supplemental rebuttal testimony.

2 Second, we'll discuss the parties' pre-
3 hearing statements. Specifically what subjects are
4 disputed that need live testimony, and what subjects
5 can be submitted on written testimony. Then, we'll
6 discuss the exhibit lists and witness lists. Fifth,
7 we'll discuss the agenda for the hearing itself.
8 Sixth, we will discuss the formal and informal
9 processes that the Committee may utilize in
10 conducting Evidentiary Hearings in this matter. And
11 then we'll discuss other items including scheduling.
12 And finally, there will be an opportunity for public
13 comment.

14 So first, let's talk about the Motion to
15 Supplement Testimony that was filed by the Applicant
16 last week. And usually motions are not acted on until
17 after a certain amount of time to allow the parties
18 to comment or object. Does staff have a position on
19 the Motion to Supplement?

20 MR. BELL: At this time staff has no
21 objection to the Motion to Supplement. Staff
22 originally had land use as an uncontested issue, but
23 has not had a chance to fully digest the information
24 that's in the testimony. Of course staff wants as
25 much information as we can in order to make an

1 informed and thorough decision for the Committee.

2 So it very well may be that if that
3 testimony is allowed, that could become a contested
4 issue. I can't say whether or not it will be at this
5 time.

6 HEARING OFFICER COCHRAN: Okay. Do you --
7 would it help you if you had additional time to look
8 at the proffered testimony to let us know whether
9 that is then a contested issue?

10 MR. BELL: I think a decision can be made
11 today by the Committee that wouldn't prejudice staff.
12 And in any event, we've always reserved the right to
13 call additional witnesses or conduct cross-
14 examination in subject areas where necessary. It
15 could very well be that after having read and
16 considered the additional testimony, staff may agree
17 with the Applicant's position.

18 HEARING OFFICER COCHRAN: Okay.

19 MR. BELL: And if so then it will not be
20 contested. If staff disagrees it would be remade a
21 contested issue. So I don't think that waiting to
22 decide whether or not to allow that supplemental
23 testimony would make a difference.

24 HEARING OFFICER COCHRAN: Okay.

25 As the maker of the motion, does the
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1 Applicant wish to make any statements about its
2 motion?

3 MS. CASTANOS: Nothing more than what's
4 stated in the motion itself.

5 HEARING OFFICER COCHRAN: Okay. So then the
6 Committee will take that motion under advisement.

7 Which leads me then to the next topic, which
8 Mr. Bell sort of teed up for us, which is the topics
9 that are in dispute according to the Pre-Hearing
10 Conference Statements filed by Applicant and staff.
11 And by my reckoning, they are a few. There is
12 cultural resources, biological resources, geological
13 and paleontological resources, visual resources and
14 compliance enclosure.

15 Have I missed anything that either party
16 believes is still contested?

17 (No audible response.)

18 Land use being a late-breaking development
19 that may or may not be contested depending upon
20 staff's review of the substance of the testimony
21 being offered in the Supplemental Declaration.

22 MR. BELL: Those are the subject areas that
23 staff shows as being contested. There are certain
24 areas that -- within those subject matters -- that
25 may not be contested where other issues may be.

1 HEARING OFFICER COCHRAN: Right.

2 MR. BELL: Particularly with the visual
3 resources. I believe that staff is now in agreement
4 with the Applicant on certain aspects of visual
5 resources with respect to timing issues.

6 HEARING OFFICER COCHRAN: Right.

7 MR. BELL: However, for the substantive
8 matter of whether or not there are visual impacts
9 requiring mitigation, there remains a dispute.

10 HEARING OFFICER COCHRAN: Right. I wasn't
11 getting yet into the exact contours of what the
12 issues are, merely the broad areas that we're talking
13 about. Because from my reckoning, it seems that many
14 of the remaining issues are actually regarding the
15 Conditions of Certification and the language in
16 those, not necessarily the conclusions in the overall
17 FSA Part 1, as it relates to the identification of
18 impacts.

19 MR. BELL: I think that's fair. I think that
20 for the most part, correctly characterizes the
21 dispute, the nature of the dispute.

22 HEARING OFFICER COCHRAN: Well, and as an
23 amendment that would tend to be what one would
24 expect, because we're looking at usually the
25 incremental changes.

1 MR. BELL: Correct.

2 HEARING OFFICER COCHRAN: So with that in
3 mind there are still though some topics of interest
4 to the Committee as a whole or to the Committee. And
5 so this may affect some of then the timing, and the
6 areas that are in dispute.

7 And so one of the fist questions I have is
8 regarding a phasing plan or again because of the
9 language of the Conditions of Certification, the
10 original Conditions of Certification had sort of a
11 clear phasing between Power Block 1 and Power Block
12 2.

13 And for example, NOISE-4, I want to make
14 sure that that phasing plan still works and that I
15 have a clear understanding of the phasing plan. So it
16 maybe that I -- we need some testimony or someone to
17 point to us where that exists, so that we can follow
18 though to make sure all of the conditions continue to
19 track.

20 I think that that's part of what's going on
21 in the Visual Condition of Certification that's still
22 at dispute, because the need for access and things of
23 that nature. So that's just an overall comment that I
24 want to make sure that I'm understanding correctly.

25 MR. BELL: You also touched on one matter,
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1 which is that we have looked at the incremental
2 changes from the original project to the amended
3 project, analyzed those for LORS consistency and also
4 potential for environmental effects.

5 However, there are some aspects of the
6 original project that may no longer apply to the new
7 project. The phasing plan, that's one that I'm -- I
8 have to admit I don't have on the tip of my tongue
9 right now, but I can go back and take a look at that
10 -- I'm not sure how that's going to change from
11 original to as amended.

12 Perhaps Applicant, Mr. O'Kane, could talk to
13 the phasing aspect?

14 HEARING OFFICER COCHRAN: And let me be very
15 specific. What I'm talking about is ensuring that --
16 you'll recall that in the original proceedings we had
17 a lot of discussion about making sure that because
18 there was such a long construction timeframe, that
19 certain interim steps were taken especially in like
20 visual screening, landscaping, things if that nature.
21 So that it wasn't wait until the very end of the last
22 construction to get these things in place.

23 And I want to make sure that the Conditions
24 of Certification are still then in compliance with
25 what we're now talking about regarding this project.

1 I'm sorry. Go ahead.

2 MR. O'KANE: Stephen O'Kane with the
3 Applicant. Yeah, the general concept about the phase
4 approach is still consistent. I think we still have
5 it.

6 We have a different visual mitigation -- or
7 sorry for using that word -- a different visual
8 architectural treatment for this plant. So the
9 phasing of that, it does require us to do -- we have
10 to delay some of the things that would apply to say
11 the Power Block 1, because of the nature of access
12 and things.

13 So that's one area where it's a little bit
14 different than the first time around.

15 HEARING OFFICER COCHRAN: And obviously we're
16 not going to be able to resolve this today, but I
17 just wanted to highlight for you that this is
18 something that we're looking at as the Committee.

19 And the second area is the intersection
20 improvements at Magnolia and Banning. And the direct
21 question that I'm struggling with still, even after
22 reading the project description and traffic and trans
23 and bio-resources, among other things is whether this
24 is part of the project, or if it's covered by the All
25 Plains Permit?

1 And what I'm also going to be looking for on
2 this is a proper accounting for the impacts, which
3 may just be answering questions regarding what the
4 City of Huntington Beach processes for allowing the
5 construction of these improvements. Because at this
6 point the discussion is that it's going to fall under
7 essentially the original Condition of Certification,
8 traffic and trans, dealing with the need to repair
9 roads damaged by heavy haul, which I believe is
10 TRAFFIC and TRANS-2 or 3.

11 And so I believe that the conclusion of
12 traffic and trans is that that's how this
13 intersection is also going to be treated. And I am a
14 little bit concerned that with an encroachment
15 permit, it's a ministerial action by the City. This
16 intersection improvement may be something far
17 different. And so I'm seeing the need for additional
18 information, testimony on that issue, as we get
19 closer to Evidentiary Hearing.

20 MR. O'KANE: Could I --

21 HEARING OFFICER COCHRAN: Yes?

22 MR. O'KANE: -- yeah, hopefully respond a
23 little bit to that. So the intersection of Magnolia
24 and Banning is definitely part of the project, part
25 of the project description. It is not part of the

1 Plains American CDP-4, their demolition. There is no
2 description of any new entrance or need for an
3 intersection at Banning and Magnolia that is clearly
4 under the scope of this project.

5 And I think some clarification around that
6 issue for the City's benefit would be good, so they
7 understand who's got the discretionary authority
8 versus the ministerial authority for permits. So
9 thank you for bringing that issue up.

10 HEARING OFFICER COCHRAN: So again, that's
11 probably going to be something that we're going to
12 have to cover at the Evidentiary Hearing. So I don't
13 know who will be that witness or panel of witnesses.
14 And perhaps I know that Ms. James from the Community
15 Development Department of the City of Huntington
16 Beach is on the phone. She may be able to assist us
17 in this as well, but I think that we need to close
18 that gap.

19 The next question is that we have received a
20 document from the California Coastal Commission. And
21 the Energy Commission and the Coastal Commission have
22 a Memorandum of Agreement regarding the -- we'll call
23 them reports, with a small "r" reports -- that are
24 submitted. And part of that is that the Coastal
25 Commission is supposed to send a witness to the

1 Evidentiary Hearing. Does either party know whether
2 the Coastal Commission will be sending someone to the
3 Evidentiary Hearing?

4 MR. BELL: Staff has no information whether
5 or not they will, but staff's understanding of this
6 is that this is not a 30413(d) Report. It does not
7 require Coastal Commission sponsorship in this
8 proceeding. This proceeding is not an AFC proceeding,
9 which is what the underlying statutes and also what
10 our Memorandum of Understanding covers with the
11 Coastal Commission. These are comments that have been
12 submitted under the heading of a 30413(d) Report. In
13 fact, these would be comments under subsection (e).

14 Of course if a Coastal Commission
15 representative would like to attend the hearings, we
16 would welcome them. And we welcome their
17 participation.

18 HEARING OFFICER COCHRAN: Applicant?

19 MS. CASTANOS: We agree.

20 HEARING OFFICER COCHRAN: Okay. I thought you
21 might.

22 Okay. So that then obviates -- my next
23 question is that the Warren-Alquist Act, in Section
24 25523(b), talks about how the Energy Commission is
25 supposed to respond to comments made by the Coastal

1 Commission in a 30413(d). So is it staff's position
2 then that that analysis is inapplicable?

3 MR. BELL: Correct. I believe that we've
4 covered this in one of our previous filings. We also
5 briefed this in the underlying proceeding as well.

6 And the only change between what we cited
7 and what we argued in the underlying proceeding and
8 here, is that now the ambiguity of whether or not the
9 timing of the report that they submitted, which by
10 the way was after our proceeding -- sorry after the
11 hearings and before the decision -- the timing of
12 that was really the only issue. You know, we had
13 conceded that there was an AFC proceeding. They could
14 if they chose, participate in that proceeding
15 according to our Memorandum of Agreement.

16 However, here we have a different
17 circumstance. This is not an AFC proceeding. It's an
18 amendment to an existing Commission decision, which
19 is not covered under the relevant statutes or under
20 the Memorandum of Agreement. However the standard
21 that would apply here is, as it would with any other
22 government agency, which is a due deference standard.

23 Staff really does take seriously, and take
24 to heart the comments and the participation of other
25 government agencies, of our sister agencies. In this

1 circumstance however, I believe that there may have
2 been a misreading or misunderstanding of the relevant
3 statutes and also the Memorandum of Agreement.

4 Staff has read and considered the comments
5 that were submitted by the Coastal Commission. And as
6 we'll point out later, because I'm sure we'll be
7 briefing the issue, where applicable we have
8 incorporated those comments. However some of the
9 comments filed by the Coastal Commission have already
10 been considered, not just by staff, but by the
11 Commission. In fact, they're saying the same thing
12 that they did the last time where there are areas of
13 really no change.

14 COMMISSIONER MCALLISTER: I just want to make
15 sure in the spirit of deference to our brethren
16 agencies, sister agencies, and just making sure that
17 as you said -- well, I guess I would like to have the
18 details of that.

19 MR. BELL: Sure.

20 COMMISSIONER MCALLISTER: Sort of what
21 consideration has been given to those original
22 comments? And I don't know that those have really
23 been put on the record yet, the response?

24 HEARING OFFICER COCHRAN: What I will say is
25 that there is some discussion in the Final Staff

1 Assessment. And I think what the Committee was --
2 well what I was looking for was a discussion of the
3 standard in the Warren-Alquist Act regarding the
4 30413(d) Report.

5 MR. BELL: Sure.

6 HEARING OFFICER COCHRAN: And by your saying
7 that that's not what is required, that that would
8 explain why there is never a mention of 25523 in the
9 FSA, which is what I was looking for and expecting.
10 Because you'll remember, you're correct that last
11 time the report came late and there was no witness.
12 And as a result applying 25523 in the original
13 proceeding led us to find most of the proposed
14 Conditions of Certification from the Coastal
15 Commission to be infeasible, because we didn't have
16 evidence to substantiate them -- those things.

17 So we don't have those timing issues this
18 time, which is why I don't think a 15162 approach or
19 a 1749 approach works when we're dealing with the
20 Coastal Commission, because it can't be just about
21 the incremental, we're supposed to address their
22 comments. But that presupposes that we're within the
23 statutory framework.

24 MR. BELL: Correct.

25 HEARING OFFICER COCHRAN: And I've not seen
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1 the legal discussion of why we are in or out of that
2 framework, in this timeframe.

3 MR. BELL: Sure. Much of what staff filed,
4 when we briefed the issue in the underlying
5 proceeding, also applies here. The timing issue is
6 actually what everything revolved around there in
7 that proceeding. However, I can say that staff
8 certainly didn't not take into consideration the
9 comments filed by the Coastal Commission the last
10 time, we certainly did. We looked at everything that
11 they filed. And I believe that we addressed those.

12 This time we were fully prepared to brief
13 the issue again, but the same reason that we used the
14 last time applies this time as well. And
15 additionally, we're not even in the same statutory
16 framework at this point. This is not an AFC
17 proceeding. In fact, they've even titled their
18 document, I believe it was the 30413(d) Report for
19 the Application for Certification, which this is not.
20 It's an amendment proceeding, an entirely different
21 animal.

22 HEARING OFFICER COCHRAN: Understood, so
23 maybe that's something that we'll like to see some
24 briefing about to make sure that in our final
25 decision that we have the ducks in a row and

1 discussing it appropriately.

2 MR. BELL: We already have the brief written.

3 COMMISSIONER MCALLISTER: Okay, great.

4 So yeah, I mean I want to just make sure
5 that the legal framework is understood and what we do
6 and don't have to do and it sounds like mostly it's
7 don't. But also make sure that the underlying issues
8 to the extent that they're substantive and relevant,
9 we will also want to just make sure that we give that
10 deference to our sister agency. So you've already
11 done all that, but I think just having that be more
12 explicit would be helpful.

13 MR. BELL: Yes, sir.

14 HEARING OFFICER COCHRAN: So another briefing
15 item then, is you'll remember at the August status
16 conference, I had talked about Water Code Section
17 10910(h), which creates an exemption to additional
18 water supply assessments if you've already done one.
19 And there was no discussion of that in the FSA. So is
20 that something then that you want to do a legal brief
21 on?

22 Because I would rather not do a Water Supply
23 Assessment again if we can avoid it by saying, "We're
24 subject to (h)."

25 MR. BELL: Yeah, staff believes it's

1 categorically exempt. Therefore they didn't do it.

2 HEARING OFFICER COCHRAN: Well, no, they did
3 include a Water Supply Assessment in the FSA.

4 MR. BELL: In this one?

5 HEARING OFFICER COCHRAN: Yeah.

6 MR. BELL: Out of an abundance of caution,
7 I'm told.

8 HEARING OFFICER COCHRAN: Okay.

9 So and I'm not going to be calling on you,
10 so if you want to say something just turn on your mic
11 and I'll watch your little red lights come on.

12 Then one of the things too is I am -- as we
13 talk about the Plains Tank site where the laydown
14 yard and construction parking are going, that
15 Magnolia/Banning is part of, is that the 2007 Coastal
16 Development Permit 05-07 that's referenced in the BIO
17 Section? Because there's a reference to a 2007
18 Mitigated Negative Declaration for a Coastal
19 Development Permit in BIO. And I don't know if that's
20 the Plains Tank site or what that relates to or how
21 it integrates with this project.

22 MR. O'KANE: Stephen O'Kane with AES. And
23 Jane James is on the line too. She may be able to add
24 a little bit to this as well, but as I understand
25 that Coastal Development Permit that was referenced,

1 was for the widening of the Newland Street. That was
2 the City's own CDP.

3 HEARING OFFICER COCHRAN: Okay.

4 MR. O'KANE: So a completely different
5 project, completely different area.

6 HEARING OFFICER COCHRAN: Okay. Is -- and
7 this is something that I'll need you to go back and
8 check -- is the Coastal Development Permit for the
9 Plains Tank site an exhibit in this proceeding? And
10 if not, can we make it one?

11 MS. CASTANOS: I don't believe it is an
12 exhibit currently. I don't think it's been docketed
13 in this proceeding.

14 HEARING OFFICER COCHRAN: Okay.

15 MS. CASTANOS: What would be the reason that
16 it would be relevant here?

17 HEARING OFFICER COCHRAN: Well, we're saying
18 that some of the activities that are on the site, on
19 the Plains site are covered by that development
20 permit, correct?

21 MS. CASTANOS: No. None of the activities
22 associated with this project are covered by that CDP.
23 That is a separate CDP for demolition, grading of
24 that site.

25 HEARING OFFICER COCHRAN: Okay.

1 MS. CASTANOS: And then the additional work
2 that will occur on that site to facilitate this
3 project will be covered by this decision. And this
4 decision will be in lieu of the additional CDP that
5 would otherwise be required.

6 HEARING OFFICER COCHRAN: Right. Okay. I was
7 trying to trace all of these--

8 MS. JAMES: (Indiscernible)

9 MS. CASTANOS: Ms. James, is that you?

10 MS. JAMES: Yes. I would like to jump in, if
11 that's appropriate?

12 HEARING OFFICER COCHRAN: Please do.

13 MS. JAMES: Thank you.

14 I just wanted to offer one clarification.
15 That the PSA describes that the grading that was
16 approved under that Coastal Development Permit for
17 the demolition of the tanks was for future
18 undisclosed development purposes. That's a little bit
19 incorrect.

20 The demolition of the tanks was permitted by
21 the Coastal Development Permit. And grading just to
22 the level to level out the site associated at both
23 tanks' location. It did not anticipate any future
24 development. And that's important to the City for
25 that distinction, because no additional development

1 has been approved on the site at all.

2 HEARING OFFICER COCHRAN: Okay. Thank you for
3 that clarification.

4 MS. JAMES: Thank you.

5 HEARING OFFICER COCHRAN: In TRANS-9 it says
6 that replacement parking will be assured. What does
7 "assured" mean? And because you're using TRANS-9,
8 then to create consistency with the LORS requirement
9 for parking in the Huntington Beach Code, so what
10 does assured mean? And how do we make that work then
11 as actual mitigation to ensure consistency with the
12 LORS for parking?

13 So we had talked about the areas that were
14 in dispute according to the parties. So it sounds to
15 me as though it may be that we need to be having
16 traffic and trans added to the disputed area, to do
17 this cleanup on the intersection improvements and on
18 the assured language in TRANS-9. Does that make sense
19 to everyone? Briefly, I think we can do that briefly.

20 MS. CASTANOS: Yeah. I mean, I guess I don't
21 know that it would be a disputed topic, but certainly
22 the Applicant will be available to answer questions
23 related to it.

24 TRANS-9 does specify that the replacement
25 that's required is a one-for-one basis consistent

1 with the City Code. And so I guess I read "assured"
2 to mean assure that there is a one-for-one
3 replacement consistent with the City Code.

4 HEARING OFFICER COCHRAN: And to be clear,
5 when we talk about disputed it's not necessarily that
6 there are alternate contingencies. It may just be
7 that something requires additional testimony or
8 clarification. And so it's on our list of things to
9 talk about. That's how I use dispute.

10 So that means that the following topic areas
11 are not at issue for the Evidentiary Hearing:
12 facility design, power plant efficiency, power plant
13 reliability, transmission system engineering,
14 transmission line safety and nuisance, waste
15 management, worker safety and fire protection, socio-
16 economics, hazardous materials management, noise and
17 vibration. And obviously air quality, greenhouse
18 gasses, and public health are of an unknown category
19 since we don't have a document yet.

20 MR. BELL: And I would also add executive
21 summary introduction and project description as well,
22 unless there's some additional testimony for those
23 that you need?

24 MS. CASTANOS: I would like to point out that
25 in our comments on the FSA, we did provide some

1 clarifying comments on some of the project
2 description statements in both the Executive Summary
3 and the project description. And we would like to
4 make sure that those are accurately reflected in the
5 Final Decision. But with those clarifications to the
6 project description we would agree that those are not
7 contested.

8 MR. BELL: Also, they got traffic and
9 transportation out of uncontested since there's
10 additional information. Soil and water resources, the
11 Committee will require additional information on
12 that?

13 HEARING OFFICER COCHRAN: No. I think that
14 that's a legal issue that I want to hear from the
15 lawyers about. I don't know if we require testimony
16 on that.

17 MR. BELL: No, and alternatives?

18 HEARING OFFICER COCHRAN: I was thinking more
19 of the more substantive sections, not the intro
20 stuff, but yeah we can add that as well.

21 So that do the parties understand that for
22 those areas that are undisputed, all testimony will
23 be submitted by declaration. And that live testimony
24 of witnesses is unnecessary.

25 MS. CASTANOS: Yes.

1 MR. BELL: Yes.

2 HEARING OFFICER COCHRAN: Excellent.

3 As to the topic, so no one said that there
4 were any areas that were incomplete other than air
5 quality, greenhouse gas and public health. I feel
6 like a broken record. Entering a dispute, we expect
7 you to work together to determine whether or not any
8 of these topics can be moved into the undisputed
9 column. So if there's a way to answer some of the
10 questions, especially from the Committee, that were
11 presented today that would be helpful.

12 So I'm assuming you two can work together on
13 that?

14 MR. O'KANE: Yeah, as much as we can, I
15 believe so. It's the Applicant's point of view that
16 those items that we still call in dispute that no
17 live testimony is required. That it can all be -- it
18 should all be resolved by declaration.

19 HEARING OFFICER COCHRAN: Well, I know that
20 staff had asked -- and that was the next thing I was
21 going to skip to -- is the witness list. And the
22 amount of time that folks had said they wanted to
23 examine witnesses. So when we have disputed we expect
24 that there is going to be a panel of witnesses.

25 For example, the dispute in biological
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1 resources relates to the approval of the biological
2 monitors -- I mean, I'm in bio, right -- bio
3 monitors, under BIO-1. And you have similar issues in
4 CUL-1 and PAL-1 or GEO -- PAL-1. GEO-3 is our tsunami
5 mitigation drill stuff. So that I'm assuming that
6 there was going to be testimony that. Was that
7 staff's assumption as well?

8 MR. BELL: Unless the Committee just wants to
9 take everything in the declarations without hearing
10 testimony. But I can imagine that on some of these
11 issues, especially with the timing issues, then we
12 have two very different opinions on the timing issue.
13 And I would imagine that unless the Applicant just
14 wants to agree with us that they may want to make a
15 case.

16 MS. CASTANOS: So our position is that all of
17 the testimony has been submitted in writing. And it's
18 not necessary to present live witnesses on the issue
19 unless the Committee has specific questions for those
20 witnesses to try to understand that testimony.

21 HEARING OFFICER COCHRAN: We'll take that
22 under advisement and we'll let you know what we're
23 thinking.

24 MR. BELL: The only substantive issue that we
25 had left however, was in visual resources, which is

1 not a timing issue. Ironically, that's the one area
2 where it seems like we agree on timing. The issue
3 there is whether or not there are significant visual
4 impacts that require mitigations.

5 It could be possible, I don't want to cut
6 off the Applicant for their right to cross-examine
7 the witness, but it could be possible that we could
8 submit that to the Committee as well absent live
9 testimony. It's something that the Committee may want
10 to consider.

11 I can say that staff's position will not
12 change and I can't imagine that the Project Owner's
13 position will not change either. We are diametrically
14 opposed on the issue of whether or not impacts exist.

15 MS. CASTANOS: And we have the same position
16 with respect to this issue as we did with the BIO and
17 CUL and PAL-1 conditions -- that, you know, we
18 disagreed on this condition or this significance
19 determination in the underlying proceeding and we
20 still maintain that disagreement. We believe that the
21 written record is complete enough to provide the
22 Committee with all of the reasons for that
23 disagreement. And that it can be decided on the
24 written record.

25 (Brief pause in audio.)

1 HEARING OFFICER COCHRAN: Sorry, we were
2 talking up here about inside baseball.

3 So the exhibit list, as I said, has been
4 generated. Please look it over. We'll want to make
5 sure that everything is included. If not, let us
6 know. And then you have all provided witness lists
7 and you've asked for about four to five hours of live
8 testimony. But what I'm hearing you all say now is
9 that for many areas, you're looking instead at doing
10 it solely on the declarations.

11 So I know, Mr. Bell, you're voting for
12 visual. Anything else that you absolutely, positively
13 want live testimony on?

14 MR. BELL: What was I voting on?

15 HEARING OFFICER COCHRAN: What other areas
16 besides visual, do you think live testimony would be
17 helpful?

18 MR. BELL: Well, from staff's perspective,
19 I'm not sure that any of these other areas such as
20 biological resources, cultural resources, those that
21 involve the timing issue?

22 HEARING OFFICER COCHRAN: Uh-huh.

23 MR. BELL: I'm not sure that from staff's
24 perspective that we need to cross-examine anybody on
25 those issues. We could proceed on declarations.

1 However, from a decision maker's standpoint it seems
2 that based on the assertions that are being made by
3 the Applicant, and also staff position as well,
4 that's something that a decision maker may want to
5 resolve. But I'm trying to be fair and objective
6 here.

7 HEARING OFFICER COCHRAN: Right.

8 MR. BELL: It'd be easy for us to sit back
9 and say, "Here's our testimony. Decide." But the
10 Applicant has testimony that's in conflict with that
11 and it's on an issue that's not necessarily black and
12 white.

13 HEARING OFFICER COCHRAN: Right. It's not
14 about how many tortoises there are.

15 MR. BELL: Yeah.

16 COMMISSIONER MCALLISTER: Just to be clear,
17 Mr. Bell, you are saying that you would like there to
18 be live testimony on visual? Or is the same kind of
19 thing, you think it's a good idea for policy reasons,
20 but you're not personally committed?

21 MR. BELL: Altruistically, I can understand
22 why the Committee would want to take live testimony.
23 From staff's perspective we don't believe that we
24 need live testimony on that issue.

25 As to visual resources, again this is
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1 something that we have thoroughly hashed out,
2 especially in the original proceeding. Now, we do
3 have some changes to the project. The project is
4 changing in configuration and size. And we also have
5 a different visual screen in place. And if I can just
6 outline the issue here, this might help everybody
7 understand where we're at.

8 There is a disagreement as to whether or not
9 there is a visual impact, in this case based on the
10 changes to the project from the license project.
11 Staff's position is that there is a visual impact and
12 requires mitigation. The project owner's position is
13 that there is no visual impact.

14 That being said, there is an agreement
15 between the Project Owner and the City of Huntington
16 Beach. That staff also believes that this is an
17 adequate agreement for the Project Owner to come up
18 with a visual screen that we colloquially call the
19 "ball wall." That it's already been put out -- at
20 least the conceptual design for this visual screen
21 has been put out. From a LORS Consistency Analysis
22 staff does believe that this furthers the Coastal
23 Commission's Restore and Enhance Provision and that
24 is enhancing in some way the coastal zone.

25 So at the end of the line, whether or not

1 there's a visual impact, this is going to be part of
2 the license. And it will be ordered by the
3 Commission. So they're going to have to deal with the
4 visual treatment one way or the other, which makes
5 the underlying argument as to whether or not there's
6 an actual impact that would justify this, from a
7 mitigation perspective, almost academic.

8 It's for that reason that staff believes
9 that submitting this on the declarations I believe is
10 adequate. I'm not sure what Applicant -- Ms. Castanos
11 is nodding her head. May the record reflect that.

12 MS. CASTANOS: Right. I mean, that's the
13 Applicant's position. We have a fundamental
14 disagreement on whether or not there is an impact,
15 but the Applicant is committed to implementing a
16 visual enhancement screening, which in staff's
17 opinion mitigate that impact. So we don't have a
18 disagreement about the condition itself.

19 HEARING OFFICER COCHRAN: Mr. Knight?

20 MR. KNIGHT: Right, this is the Environmental
21 Office Manager, Eric Knight here.

22 There is a misunderstanding here. My
23 recollection, and Janine, please correct me if I'm
24 wrong, the Commission decision found significant
25 visual impacts at one or two KOPs, I believe. And so

1 what our position here on the amendment is those
2 impacts would continue, but also would be mitigated
3 with this new design.

4 So I don't think there's a fundamental
5 dispute between -- I mean maybe there is a dispute
6 between us and the Applicant, but our position is we
7 were working off of the delta, which is the
8 Commission's decision. Commission decision found
9 significant visual impacts, which could be mitigated
10 with the visual enhancement proposal, which also
11 ensures conformance with the Coastal Act and the
12 City's LORS.

13 So we didn't see that the changes in the
14 project, except for actually one KOP where we did
15 find that the revisions to the project would actually
16 make that one KOP that was originally found to be
17 significant, not significant. But the other impact
18 for the marsh would remain.

19 So the new project does or the redesigned
20 project does get better. One KOP goes to less than
21 significant, one significant, whereas the original
22 project was both significant at those two KOPs. But
23 nonetheless, all is mitigated with the new design.

24 So the Applicant may disagree with that, but
25 I think we're taking our charge from the Commission

1 decision. So (indiscernible)

2 MR. BELL: At least I think Mr. Knight's
3 contribution --

4 MR. O'KANE: Yeah, so I think he got that
5 most of it right there and spoke to what the changes
6 -- the changes of the project. And as he just said,
7 the new design is actually an improvement from one of
8 the KOPs. So then you end up with a project that from
9 however many KOPs we ended up analyzing -- I can't
10 remember -- there are no significant impacts.

11 So we're saying that on a whole, the project
12 has no significant impacts on the visual resources.

13 MR. BELL: Anyway, I would like to thank Mr.
14 Knight for his contribution. As I said, there does
15 exist --

16 MR. KNIGHT: (Indiscernible)

17 MR. BELL: -- a dispute between staff and the
18 Applicant on this issue. However, I believe we can
19 proceed based on declarations. I don't believe that
20 we need live testimony on this issue, because it
21 really does end up being an academic discussion.
22 Whether or not there's an impact is not going to
23 matter at the end of the day, because the mitigation
24 that staff is requiring is the same visual treatment
25 that the Applicant is agreeing to undertake.

1 HEARING OFFICER COCHRAN: Right, okay. Thank
2 you.

3 So then let's have a little bit of
4 discussion about the informal procedure. Is there a
5 desire by either Applicant or staff to have the
6 formal procedure?

7 MR. O'KANE: I think it's our desire to do
8 the informal, because I think we're really close
9 here.

10 HEARING OFFICER COCHRAN: Right.

11 MR. O'KANE: And without taking words from
12 Mr. Bell's mouth I think we're offering live
13 testimony for the Committee's behalf, and not any new
14 live testimony for (indiscernible)

15 MR. BELL: I personally always prefer the
16 formal procedure, but on behalf of the Client and the
17 ease of these proceedings, I think the informal
18 procedure will work just fine based on the stance of
19 the parties and where we are in the proceedings.

20 HEARING OFFICER COCHRAN: Okay. So I assume
21 everyone understands what this means, is to save time
22 we are not going to describe the exhibits that are
23 moved into evidence, or describe the topics covered
24 by an individual declaration or declarations. And it
25 will mean that all parties with opening and rebuttal

1 testimony, that's their direct examination.

2 So there's no need to discuss the experts'
3 resumes and there's no objection to a witness as an
4 expert. If you have an objection when we come time to
5 the Evidentiary Hearing, we'll expect you to state
6 the objection first. And don't try to do what we call
7 a speaking objection. You're both lawyers, I don't
8 have to get into that. But it's not a, "Let's talk my
9 way into why I think it's not subject -- why it's not
10 following the Evidence Code."

11 And rather than taking time with the usual
12 formal question and answer, what we'll do is we'll
13 swear in panels. And we may allow cross-examination
14 on issues as we see fit, but we'll expect you to be
15 prepared and ready to conduct that cross-examination.
16 It's not the time to be sitting there and fumbling.
17 We need to move quickly, again because you've asked
18 for a certain amount of time and we're going to try
19 to come up with a time budget.

20 So we'll call the panel. We'll swear the
21 panel. We'll ask staff what the factual disputes
22 under this topic are, including any subtopics. Most
23 of them, as we've talked about today, are fairly
24 minor or limited in their scope. And then we'll ask
25 if the Applicant concurs and then we'll talk thought

1 those issues that remain disputed.

2 So are there any other questions about that?
3 Do we see a need for briefing after the Evidentiary
4 Hearing? I don't recall that in the Pre-Hearing
5 Conference Statement.

6 MR. BELL: On certain topics, yes. The issue
7 of the Coastal Commission participation I believe
8 that's something that we'll have to brief. In fact,
9 we already wrote the brief. We're ready to submit
10 that along with our briefing after the hearing.

11 There may be some other issues based on
12 questions that are asked by the Committee during the
13 proceeding, issues related to timing and the like. So
14 I do believe we should have a briefing statement.

15 HEARING OFFICER COCHRAN: Yes, Ms. Castanos?

16 MS. CASTANOS: Our Pre-Hearing Conference
17 Statement indicated we did not believe there would be
18 a need for any post-hearing briefing. But I agree
19 that some of the briefing on the Coastal Commission
20 participation is appropriate.

21 We did propose in our Pre-Hearing Conference
22 Statement a pretty aggressive post-hearing briefing
23 schedule, which would be opening briefs due by
24 December 7th and reply briefs by December 15th.

25 HEARING OFFICER COCHRAN: And that
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1 presupposes that you have transcript. Yes?

2 MS. CASTANOS: I don't. We were operating
3 under the assumption we would not necessarily need
4 the transcript in order to prepare the briefs at this
5 time.

6 MR. BELL: Yeah, staff would anticipate you
7 needing a transcript only if something came up during
8 the questioning of the Committee, of the witnesses or
9 the panels that are presented. Based on the position
10 of the parties and the evidence as we believe it will
11 be, we don't believe that we'll need a transcript. At
12 least not to brief the Coastal Commission issue.

13 HEARING OFFICER COCHRAN: Okay. Because last
14 time what happened, as you may recall, is we had had
15 Evidentiary Hearings. I'm writing the PMPD, the PMPD
16 is almost done, and then I got everybody's briefs.
17 And it was like, "Oh, well this is fun."

18 So I would like to not have --

19 MR. BELL: We can do that again if you like.

20 HEARING OFFICER COCHRAN: Fool me once. So I
21 would like to have them earlier, rather than later,
22 because it helps me then be able to draft -- help the
23 Committee draft the decision.

24 So with that do you want to take over?

25 (Off mic colloquy.)

1 So we are now to the public comment portion
2 of the today's exciting meetings. Are there any
3 members of the public who are here in the room with
4 us who would like to speak to the Committee regarding
5 Huntington Beach amendments? Don't all rush to the
6 mic.

7 Is there anyone on the line who would like
8 to speak to the Committee?

9 (No audible response.)

10 Okay. With that we are going to adjourn --

11 MR. O'KANE: Excuse me.

12 HEARING OFFICER COCHRAN: I'm sorry?

13 MR. O'KANE: Just, can we give the phone-ins
14 one more chance?

15 HEARING OFFICER COCHRAN: Sure.

16 MR. O'KANE: And in particular I was thinking
17 about the City of Huntington Beach to make sure that
18 they have said all they wanted to say now.

19 HEARING OFFICER COCHRAN: Anyone on line?

20 Ms. James?

21 MS. JAMES: Yes, please.

22 HEARING OFFICER COCHRAN: Okay. Please do.

23 MS. JAMES: We do have a couple of comments
24 on the FSA. And I will go through them quickly. And I
25 know that the preference is also to have them in

1 writing, so we will submit comments in writing as
2 well.

3 We do believe that the demolition of Units 1
4 and 2 is still unclear in the project description. It
5 seems to indicate that the demo of Units 1 and 2, to
6 grade, was described in the original permit. And now
7 the addition to amend describes it's a demo to the
8 turbine deck.

9 Staff believes that a total demolition of
10 the old and obsolete structures, which should be
11 required by the Conditions of Certification -- this
12 is Surf City. It was our iconic coastline, and our
13 community deserves the demolition of all of the
14 obsolete structures.

15 Secondly, we wanted to note that it's
16 difficult to understand how the conclusions regarding
17 noise from the construction laydown on 22 acres is
18 the same as the noise that would have been emanating
19 from the site when it was construction worker parking
20 on 1.9 acres. And this is in reference to the Plains
21 All American site.

22 We would prefer that the Conditions of
23 Certification in the description about the parking
24 and staging plan, that it be tightened up so that the
25 construction hours are observed on that site as well.

1 And that construction workers shall not be permitted
2 to arrive onsite nor stage on the surrounding street
3 system, prior to the 7:00 a.m. construction hours.

4 We feel that with this many activities going
5 on and bringing it closer to our residential
6 neighborhoods, it is a potential for greater impact
7 to those residential neighborhoods. It seems as
8 though the description regarding the use of the
9 Plains site is a little bit too loose. And it should
10 be tightened up.

11 Another comment is that in the visual
12 resources section we have two kind of main comments.
13 One is that the plans for the visual screen wall,
14 does not seem to be occurring early enough in the
15 process. And our fire department is unable to assess
16 whether fire department lanes and emergency access to
17 the site can be met with the visual screen wall. So a
18 precise plan of that screen wall should be submitted
19 much earlier in the process.

20 And then I'm reading in the visual
21 certifications, in which both the Applicant and CEC
22 staff seem to be agreeing to the timing. However, it
23 looks to me if there will be visual screen wall is
24 not required to be implemented until 12 months after
25 the plant has been in operation. And the City feels

1 that that is way too long. Visual screening plans
2 should be implemented and should be in place before
3 the plant begins operation. And that goes back to
4 this is our coastline, this is our important part of
5 our city. And we feel that our community deserves
6 better than to have that visual screen wall delayed
7 for such a long time.

8 One comment that Ms. Cochran raised, on the
9 land use issue with the lot line adjustment that the
10 City is supposed to be reviewing and approving for
11 consolidation of lots. That lot line adjustment
12 itself is in the -- is sited in the coastal zone.
13 That lot line adjustment would require a Coastal
14 Development Permit. It's not exempt from a Coastal
15 Development Permit.

16 So I'm a little bit confused by the
17 Applicant's description that the City cannot process
18 the Coastal Development Permit, but we can process
19 the lot line adjustment. Those two things don't --
20 they go together. And the City would have
21 jurisdiction over both of those items in our opinion.

22 Finally, our comments are in relation to the
23 intersection improvement and the traffic information.
24 We are disappointed that we have continuously made
25 comments that the intersection improvement should

1 have their own environmental analysis. And that has
2 not occurred.

3 However, the City is offering to continue to
4 work with the Applicant regarding those intersections
5 reconfiguration and reviewing of the engineering
6 drawings and plans for processing.

7 We understand the importance of the timing of the
8 project. We do feel that the CEC staff should have
9 been requiring that environmental analysis of those
10 intersection improvements beforehand.

11 And finally, also in traffic and
12 transportation, we do feel that the Poseidon
13 Desalination Project has not been adequately covered
14 in the cumulative project analysis.

15 I'm sorry, one additional item from our
16 transportation staff. The FSA describes a pedestrian
17 crossing for construction worker parking across
18 Newland Street. It should be pedestrian crossing
19 rather than pedestrian crosswalk, because using that
20 term implies that a crosswalk is the correct and
21 accurate interim improvement. And our public work
22 staff does not believe that's the case and so
23 additional analysis of that pedestrian crossing
24 should be made.

25 Those are the highlights of our comments. We

1 do have several other things that we believe can be
2 incorporated into the decision. And we will put that
3 in writing and provide it to you shortly. Thank you.

4 HEARING OFFICER COCHRAN: Thank you very
5 much.

6 Anyone else, either in the room or on the
7 phone?

8 (No audible response.)

9 With that, the Committee is going to adjourn
10 to closed session. You don't need to stick around.

11 (Off mic colloquy.)

12 We'll put out a document in writing. We are
13 going into closed session pursuant to the Government
14 Code that allows us to do so. So with that, we're in
15 closed session.

16 Thank you all very much for coming today.

17 (Adjourned to closed session at 3:38 p.m.)

18 HEARING OFFICER COCHRAN: This is Susan
19 Cochran on the Huntington Beach Energy Project
20 Amendments Prehearing Conference. We have returned
21 from closed session at 4:15. There is no reportable
22 action. This meeting is adjourned.

23 (Meeting adjourned at 4:15 p.m.)

24

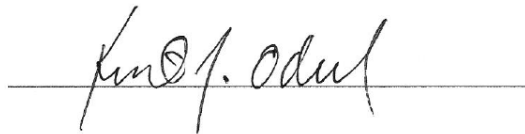
25

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 30th day of November, 2016.

A handwritten signature in black ink, appearing to read "Kent Odell", is written over a horizontal line.

Kent Odell
CER**00548

TRANSCRIBER'S CERTIFICATE

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of November, 2016.



Myra Severtson
Certified Transcriber
AAERT No. CET**D-852