

COMMITTEE CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification for)
The Solar One Power Project by)
Stirling Energy Systems)
-----)

Docket No.
08-AFC-13

DOCKET

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CALIFORNIA ENERGY COMMISSION
HEARING ROOM B
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

ORIGINAL

TUESDAY, NOVEMBER 10, 2009

1:04 p.m.

Reported by:
John Cota
Contract No. 170-08-001

COMMITTEE MEMBERS PRESENT

James D. Boyd, Presiding Member

Jeffrey Byron, Associate Member

HEARING OFFICER AND ADVISORS

Paul Kramer, Hearing Officer

Kelly Birkinshaw, Advisor

Kristy Chew, Advisor

Jim Bartridge, Advisor

STAFF AND CONSULTANTS PRESENT

Christopher Meyer, Project Manager

Caryn Holmes, Staff Counsel

Raoul Renaud

APPLICANT

Allan J. Thompson, Attorney
on behalf of Tessera Solar

Sean Gallagher, Vice President
Tessera Solar
Stirling Energy Systems, Inc.

Felicia Bellows, Vice President
Tessera Solar
Stirling Energy Systems, Inc.

Bob Therkelsen
Energy and Environmental Consulting
Tessera Solar

Camille Champion
Tessera Solar

INTERVENORS

Joshua Basofin, California Representative
Defenders of Wildlife

Loulena A. Miles, Attorney
Adams, Broadwell, Joseph and Cardozo
California Unions for Reliable Energy

ALSO PRESENT

Steven J. Borchard, District Manager
Greg Miller (via teleconference)
Bureau of Land Management

Jim Carter (via teleconference)
Logan Simpson Design
Consultant to Bureau of Land Management

Michael Picker, Senior Advisor on Renewables to
Governor Schwarznegger

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

2 1:04 p.m.

3 PRESIDING MEMBER BOYD: Good afternoon
4 and welcome to this unique and novel set of
5 hearings. I'm Commissioner Jim Boyd; I'm the
6 principal, Presiding Member on the SES, or Solar
7 Energy Systems Number One project. And the
8 Associate Member of that Committee is Commissioner
9 Byron, two chairs to my right.

10 And following this discussion
11 Commissioner Byron will kick off the next hearing
12 on Solar Two. We chose not to take them in order
13 of how they were filed because that confused
14 people enough, as it was. So we'll do One, Two in
15 order.

16 To my immediate left is my Advisor Kelly
17 Birkinshaw. To Commissioner Byron's right is his
18 Advisor Kristy Chew. And between us is the
19 Hearing Officer Paul Kramer, who I'm going to turn
20 this over to in just a moment -- we get all the
21 introductions and what-have-you.

22 In any event, this is a Committee
23 Conference, a status report, let's just say, to
24 ascertain where we are at this point in time with
25 regard to finishing these projects.

1 So, Hearing Officer Kramer, why don't I
2 let you pick up from this point.

3 HEARING OFFICER KRAMER: Okay, thank
4 you, Commissioner Boyd. Let's begin with the
5 introduction of the parties, starting with the
6 applicant.

7 And for those in the room who are not
8 used to all these microphones we have, you need to
9 press the green button to activate it. You'll see
10 that there's a red light around the tip of the
11 microphone. And then when you're done talking,
12 please turn it off because only a few of these can
13 be on at one time.

14 MS. BELLOWS: I'm Felicia Bellows with
15 Tessera Solar; Vice President of Development.

16 MR. THOMPSON: Allan Thompson, Counsel
17 to Tessera Solar.

18 MR. GALLAGHER: Sean Gallagher with
19 Tessera Solar and Stirling Energy.

20 MR. THERKELSEN: And Bob Therkelsen,
21 consultant to Tessera Solar.

22 HEARING OFFICER KRAMER: Okay. And
23 staff.

24 MR. MEYER: Christopher Meyer. I'm the
25 Energy Commission Project Manager for the Stirling

1 Energy Systems Solar One project.

2 And I have Caryn Holmes, who's staff
3 counsel for the Solar One project.

4 HEARING OFFICER KRAMER: And we have two
5 intervenors at the table with us.

6 MR. BASOFIN: Josh Basofin with
7 Defenders of Wildlife.

8 MS. MILES: Loulena Miles on behalf of
9 California Unions for Reliable Energy.

10 HEARING OFFICER KRAMER: Okay. Do we
11 have any other intervenors in the audience.
12 Seeing none. We have some people on the
13 telephone. Could you introduce yourself and spell
14 your last name for our court reporter.

15 MS. CHAMPION: This is Camille Champion
16 for Tessera Solar; C-a-m-i-l-l-e C-h-a-m-p-i-o-n.

17 MR. CARTER: Jim Carter with Logan
18 Simpson Design. We're providing assistance to
19 Bureau of Land Management -- manager. My last
20 name is C-a-r-t-e-r.

21 THE REPORTER: Excuse me, Hearing
22 Officer Kramer, that was very faint on the
23 recording.

24 HEARING OFFICER KRAMER: Okay, that was
25 Jim Carter. Could you speak up, Mr. Carter?

1 MR. CARTER: Yes, -- even closer. Do
2 you need me to repeat anything?

3 HEARING OFFICER KRAMER: Yeah, please go
4 ahead.

5 THE REPORTER: That mic is not on.

6 HEARING OFFICER KRAMER: Well, if this
7 mic is on, then the phone can't hear all the rest
8 of us. Let me move one of your mics closer to the
9 telephone. See if that helps.

10 Mr. Carter, try again.

11 MR. CARTER: All right, I will. This is
12 Jim Carter; I'm with Logan Simpson Design. We're
13 providing assistance contracting for the Bureau of
14 Land Management. I'm sitting in for Jim Stobaugh,
15 the BLM Contract Manager.

16 HEARING OFFICER KRAMER: Okay. I know
17 that we have some BLM personnel in our audience
18 here, too, today. Anyone else on the telephone?

19 MR. MILLER: Yes, this is Greg Miller
20 with the California Desert District. Miller,
21 M-i-l-l-e-r.

22 HEARING OFFICER KRAMER: That's BLM,
23 right?

24 MR. MILLER: Correct.

25 HEARING OFFICER KRAMER: Anybody else?

1 Okay, those of you on the telephone if you have
2 any ambient noise in your area, if you could mute
3 your mouthpieces we'd appreciate that. But please
4 do not put us on hold, because some office phone
5 systems play music, and that's -- we're not here
6 to listen to music today.

7 The purpose of this meeting is to
8 discuss a new schedule for the project because the
9 old schedule is a bit out of date. And also in
10 the meantime the Commission, for other solar
11 projects that were filed more recently than these,
12 has adopted a different paradigm for the sequence
13 of events that occurs in the processing of the
14 application.

15 We put out an order asking for the
16 parties to comment specifically about that
17 paradigm, and they did. And there were some
18 differences in the staff-proposed schedule and the
19 applicant's proposed schedule.

20 Mr. Carter, I think we're hearing your
21 office noise.

22 MR. CARTER: Actually I -- on mute. Let
23 me do that again.

24 HEARING OFFICER KRAMER: Okay, it's
25 somebody else, then. Maybe Mr. Miller.

1 MR. MILLER: No, not me, I'm on mute.

2 HEARING OFFICER KRAMER: Well, okay,
3 we'll try to work with that.

4 In any event, the applicant has proposed
5 a schedule that results in the final Commission
6 decision at the end of September. And staff's
7 proposal has it occurring the first of November.
8 So they're about a month apart.

9 Starting with the applicant, do the
10 parties wish to make any additional comments about
11 the schedules and how to reconcile them and how
12 best to get to a decision in this case?

13 MR. THERKELSEN: This is Bob Therkelsen.
14 Do you want me to walk through what we see as the
15 differences and why we proposed the schedule that
16 we did?

17 HEARING OFFICER KRAMER: I think that
18 would be helpful.

19 MR. THERKELSEN: Let me, for the benefit
20 of that discussion, hand out some paper that has a
21 comparison of both staff's schedule and the
22 applicant's proposed schedule.

23 And you'll notice I started with --
24 mistakenly with Solar Two up on top. So you'll
25 have to flip to the second page.

1 PRESIDING MEMBER BOYD: We tried to
2 train you, Bob.

3 (Laughter.)

4 MR. THERKELSEN: So, are there enough
5 copies?

6 (Pause.)

7 MR. THERKELSEN: The other thing I blew
8 was I should have numbered each of the lines; it
9 would help the flow here.

10 In terms of the dates, you'll notice the
11 dates are basically the same for the applicant and
12 the staff for the first four lines, down through
13 submitting the data responses. And our intention
14 is to submit responses to the data requests in mid
15 December.

16 Our hope is, and our schedule is based
17 upon the fact, that rather than too much after
18 those are all submitted, within six weeks after
19 those are submitted, that the CEC and BLM would be
20 able issue the staff analysis and the DEIS.

21 So we're actually asking for a little
22 more accelerated time between when they get the
23 last of the data responses and the time that the
24 documents are actually produced.

25 To accommodate that, we recognize that

1 that will require staff to begin working actually
2 on the documents well in advance of receiving all
3 the data requests. Not all the technical areas
4 have data response or data requests in there, so
5 that may be possible.

6 I think the other thing that's fair to
7 say, we recognize that the staff is under huge
8 pressures right now in terms of all the cases that
9 are before them, all the priorities. We also
10 recognize the fact that they have huge limitations
11 in terms of their resources. And have been making
12 several suggestions that we think may help
13 alleviate those, or help reduce some of those
14 pressures.

15 And would continue to encourage, not
16 only the Commission, but the Governor's Office and
17 other entities to work on some of those resource
18 issues that we see.

19 Moving on then to the next slide, so
20 basically we're proposing a February 1 release
21 date for the staff assessment and DEIS. At that
22 same time we would see that the BLM submits their
23 biological analysis to U.S. Fish and Wildlife
24 Service. And I'll get to that time period here in
25 just a little bit.

1 And then our suggestion was soon after
2 that document's release, and after the staff
3 assessment/DEIS is released, is that we start
4 holding workshops.

5 The feeling there is that a number of
6 the issues probably will be noncontroversial. And
7 the suggestion is to start dealing with those,
8 identifying the noncontroversial issues; talk
9 about them; discuss mitigation measures and
10 conditions of certification and get them out of
11 the way.

12 I think one of the things from my past
13 experience that's been extremely valuable is for
14 the staff and the applicant, the agencies and
15 intervenors, to come to an agreement early on, on
16 conditions of certification. And we start those
17 workshops while the documents are fresh in
18 everybody's mind. That will give us an
19 opportunity to start reaching closure on those
20 conditions of certification.

21 The other thing that's different in our
22 schedule is we propose a prehearing status
23 conference sometime about a month after those
24 workshops begin. And the purpose of that is to
25 allow the Committee to really understand what the

1 progress is in dealing with the issues; where we
2 are in terms of the schedule in terms of dealing
3 with the issues; how workshops are proceeding.

4 And, again, from my experience that
5 allows the Committee to closely monitor what is
6 going on within a proceeding; make sure that
7 they're engaged in the proceeding. And they can
8 provide direction to the staff, to the parties
9 early on, rather than waiting for things later on
10 if you run into bumpy problems or difficulties,
11 for the Committee to be involved and help provide
12 some guidance and to move things along.

13 We recognize schedule is very critical
14 for this case and other cases before you. And so
15 the Committee involvement early on to make sure
16 things are moving, I think, is important. And
17 something that we would request that you work into
18 the final schedule.

19 You notice there, the other difference
20 is terms of the starting of the evidentiary
21 hearings. And, again, we're proposing that begin
22 earlier so the Committee can actually identify, in
23 the scheduling conference, would identify what
24 issues are ready for hearings and put together a
25 schedule. But the Committee can hold hearings on

1 the less-important issues, or the ones that don't
2 have any controversy to early on get them out of
3 the way so the rest of the proceeding can be
4 focused on issues that may have some degree of
5 controversy or further discussion.

6 Notice that we put in there another
7 status conference at the end for the Committee to
8 monitor progress through the workshops and discuss
9 where we are in the hearing process.

10 And then 30 days after the staff
11 assessment is submitted and the DEIS, is obviously
12 the close of the BLM comment period. And our
13 proposal would be that if we request the U.S. Fish
14 and Wildlife Service to also issue its biological
15 opinion within 90 days, that has two advantages.

16 Number one, it allows any subsequent
17 hearings to consider not only the comments, but
18 also the biological opinion. It allows all of
19 those things to happen together.

20 If the biological opinion is issued 135
21 days, as is the normal process, then that makes
22 biology, if you will, the lagging issue. This way
23 it keep all of the issues tied in close together.

24 We've had some preliminary discussions
25 with BLM on their interest or ability to do that.

1 And I think it's something that they are willing
2 to consider. We did not perceive any strong
3 negatives, if you will, from that, in terms of
4 possibly pushing that up. They're willing to
5 consider that, I think, in light of the fact that
6 they recognize that the Commission has a hearing
7 process and wants to consider all of the issues
8 during the hearing process.

9 So, after the biological opinion is
10 issued, on our schedule we've got preparing
11 responses to the supplemental staff analysis, and
12 final EIS. And again, our schedule now is moving
13 further ahead of the staff. But basically is, in
14 timelines, pretty much tracking it.

15 I think our schedule calls for releasing
16 the final staff assessment a week ahead of the
17 staff's proposal, if you follow the schedules.
18 And, again, I think that that's possible, that the
19 staff is basically working on the final staff
20 assessment before comments are received;
21 incorporating those comments into the document.
22 And then submitting the document after that.

23 And the rest --

24 HEARING OFFICER KRAMER: It looks to me
25 like you're a month ahead of them.

1 MR. THERKELSEN: Well, we're a month
2 ahead of them because we gained a couple of weeks
3 early on in terms of release of the draft
4 environmental impact statement. And I think we
5 picked up another couple of weeks in terms of when
6 they release the final.

7 HEARING OFFICER KRAMER: Yeah.

8 ASSOCIATE MEMBER BYRON: I think we both
9 heard you say a week ahead of staff's schedule.

10 MR. THERKELSEN: I should have said two.
11 Well, okay, overall, yes, we're a month ahead.

12 HEARING OFFICER KRAMER: Cumulatively --

13 MR. THERKELSEN: We picked up two weeks
14 when the draft was issued and we picked up two
15 more weeks when the final was issued. That's
16 where I got my total of a month.

17 Go ahead.

18 MR. GALLAGHER: If I may, the rationale
19 for this is that these two projects, and Solar Two
20 being slightly ahead, and I know we'll talk more
21 about that in a few minutes, are two of the
22 projects that are certainly most advanced in the
23 permitting process for both the Energy Commission
24 and BLM. And that have the greatest opportunity
25 to actually complete the permitting process in

1 time to make the stimulus deadlines that were
2 enacted earlier this year.

3 So we're really trying to put together a
4 schedule. I know this is one, this is tight, that
5 will work both from the perspective of the
6 Committee and the BLM. And from the perspective
7 of having a decision at a time which actually
8 allows construction to commence on the project
9 before the end of the year in order to qualify for
10 the stimulus funds.

11 And the one point that we tried to make
12 in the written comments provided to you was that a
13 decision date in November probably doesn't
14 actually enable us to close the financing,
15 mobilize the manufacturing crews, mobilize the
16 construction crews to satisfy the deadlines.

17 And so that's kind of the broader
18 context in which the detailed schedule suggestions
19 that we've made occur.

20 MS. BELLOWS: Right. Specifically, if
21 we look at the schedule provided by the CEC we end
22 up in construction in January. So, all we're
23 really trying to do is back it up so that we can
24 make sure that we're in construction in December.

25 MR. THERKELSEN: There's one other

1 driver you ought to know about in terms of Solar
2 One schedule, and that's the desert tortoise. If
3 there, there are desert tortoise onsite and there
4 would also need to be relocation of those. That
5 has to happen between the months of October and
6 December. So again that's something that needs to
7 be done before construction can begin on the
8 project.

9 HEARING OFFICER KRAMER: Staff, would
10 you like to respond to the applicant's proposal?

11 MR. MEYER: Christopher Meyer with the
12 Energy Commission Staff. A lot of the time
13 savings, I think, are beneficial. The prehearing
14 status conference, I'll leave that up to you to
15 determine the necessity of that.

16 Staff based its analysis or its schedule
17 on the 135-day consultation, so if that changes
18 with the Fish and Wildlife Service, if they can go
19 faster, you know, that would be wonderful. I
20 haven't had any conversations with them, so that's
21 something.

22 As far as moving up the publication of
23 the draft document, a couple weeks doesn't sound
24 like much, but unfortunately when the two
25 projects, Solar One and Solar Two, got closer

1 together, or attempt to get the most expertise
2 with staff by using the same staff on both
3 projects has put us into a little bit of a crunch
4 where staff has to, you know, to finish Solar Two
5 first. Get that one done. In some case, or in
6 many cases they're working on both currently, to
7 the greatest extent possible.

8 So, I tried to develop as aggressive a
9 schedule as I believed that we had a good chance
10 of meeting, and also providing a very defensible
11 document. You know, getting all the issues so we
12 wouldn't have any major issues that we either
13 missed or that we didn't fully have analyzed that
14 could come back and cause issues later in the
15 process.

16 So, anyway, that's -- I'm concerned
17 about the moving up the first date even a couple
18 weeks. Staff will definitely work to get it done
19 as fast as possible, and not relax if we think we
20 have a couple extra weeks before the 15th. We're
21 not going to wait until the 15th to publish. But
22 I can't in all honesty say that we can meet the
23 earlier date, just with the other review issues,
24 and with the other documents that the siting unit
25 is going to be trying to get out in that couple-

1 week period.

2 I think we have five either draft or
3 final joint documents for large projects going out
4 that same week. So, support staff says they can
5 handle one in a week. So trying to do five might
6 be a problem. So I'll definitely trying to work
7 to get this project a priority of those. But I
8 can't speak to that, as far as, you know, who's
9 going to get the ultimate priority from the siting
10 unit.

11 HEARING OFFICER KRAMER: So are you --
12 I'm not sure if I understand whether or not you're
13 comfortable with us setting the target that the
14 applicant proposes. Moving the production date up
15 to, well, basically two weeks, from February 15th
16 to February 1.

17 MR. MEYER: Moving the target up I have
18 no problems with, just as long as it's understood,
19 you know, that I think that is beyond the
20 aggressive schedule that I set. And it starts to
21 involve a lot of things beyond my control, such as
22 environmental siting unit -- environmental and the
23 siting unit staff management review --

24 MS. HOLMES: I guess I would ask what it
25 means to the Committee to move the target up.

1 What is your expectation associated with that?
2 Might be able to provide a better response if we
3 understood what it means to you.

4 HEARING OFFICER KRAMER: I walked into
5 that one.

6 (Laughter.)

7 PRESIDING MEMBER BOYD: Interesting
8 question, Ms. Holmes. I mean it does no good to
9 set the date up to satisfy people when, in
10 reality, staff feels that that's a date that
11 they're not likely to be able to meet, but would
12 try to meet if they could. So we're not
13 accomplishing much.

14 I think I heard staff say that while
15 they would try like heck to meet the date, they're
16 not comfortable documenting the 1st as the date,
17 but rather would feel more comfortable leaving the
18 date the 15th, and then try like heck to meet a
19 more accelerated date.

20 Also I heard staff indicate that
21 changing dates commits a lot of other units that
22 they cannot speak for at this moment in time.

23 So, I'm not clear at all if we've
24 accomplished anything yet in this discussion. And
25 I don't think our interpretation of the date is

1 any different than anyone else's. So, I don't
2 know if I've clarified the question. But it's not
3 a clear issue.

4 MS. HOLMES: If your question is can we
5 make that a likely date, I think the answer that
6 we're giving you is no, it's not likely that we
7 could meet that date. We could try to meet that
8 date, but it's just not likely we could do that.

9 MR. MEYER: And I could clarify in the
10 second part the time savings that the applicant
11 has proposed after that first draft date, I think,
12 are more realistic for staff's ability to meet.

13 So, even if we're not able to meet the
14 date of February 1st, the time savings that are
15 built into the applicant's schedule therein, which
16 may give us, instead of being a month, sooner at
17 the end, at least a couple weeks sooner. I think
18 that's actually more within staff's ability.

19 So we might not be able to get all the
20 way to the September 30th date, but I think staff
21 has a better chance of making it to more of an
22 October 15th date.

23 HEARING OFFICER KRAMER: Hold on a
24 second. Camille? I'm trying to solve the problem
25 of somebody having --

1 MR. SPEAKER: I think it's the next room
2 over there.

3 MS. SPEAKER: It's the training room
4 behind you.

5 HEARING OFFICER KRAMER: No, it's coming
6 out of -- we're closer to the speaker -- Camille?

7 PRESIDING MEMBER BOYD: You've just got
8 to call on everybody in general and say that we're
9 having a listen to a side discussion since the
10 moment we started this hearing. Someone out there
11 has an open phone and doesn't realize that the
12 dialogue going on in their office is carrying into
13 this room. And we can only ask people who are
14 listening to try to mute their phone.

15 Our only alternative is going to be to
16 shut the phone system down, because this is
17 disturbing the hearing. And I have no indication,
18 based on what I'm hearing, that anybody heard this
19 message.

20 HEARING OFFICER KRAMER: Yeah, because
21 Mr. Carter and Mr. Miller said they were muted.

22 PRESIDING MEMBER BOYD: Who's left?

23 MR. SPEAKER: Yeah, this is Richard
24 (inaudible), Tessera Solar. I have my phone
25 muted, as well.

1 MS. CHAMPION: Yes, I'm muted, also.

2 I'm in quiet, there's no one around me.

3 HEARING OFFICER KRAMER: Okay, so that's
4 Camille?

5 PRESIDING MEMBER BOYD: Can you hear the
6 discussion going on on your phones?

7 MS. CHAMPION: I do hear it, as well.

8 PRESIDING MEMBER BOYD: Yeah.

9 MR. SPEAKER: Yeah, I can hear the
10 discussion, as well. Richard (inaudible).

11 MR. MEYER: Could people check the El
12 Centra -- or excuse me, the local BLM Office.
13 Either El Centro or --

14 MS. SPEAKER: (inaudible), we're muted
15 also.

16 HEARING OFFICER KRAMER: It sounds like
17 somebody's on here who did not identify
18 themselves. Who else is on the telephone, please?

19 MR. KELLY: Bill Kelly with California
20 Energy Circuit, but my phone has been muted.

21 HEARING OFFICER KRAMER: Can you spell
22 your last name?

23 MR. KELLY: K-e-l-l-y.

24 HEARING OFFICER KRAMER: Okay. Very
25 well, we're just going to turn down the volume

1 here for us hearing you a bit and try to carry on.

2 MR. MILLER: This is Greg Miller with
3 the California Desert District. I checked with
4 the Barstow Field Office and nobody's on the phone
5 there listening in. So, there's nobody there to
6 my understanding.

7 HEARING OFFICER KRAMER: Okay.

8 PRESIDING MEMBER BOYD: We have a
9 phantom audience.

10 HEARING OFFICER KRAMER: All right,
11 well, you may have to speak up for us to hear you
12 when it comes that time, but we'll turn you back
13 up then. You should be able to hear us.

14 Okay. Mr. Meyer, were you finished?

15 MR. MEYER: Yes, I was, thank you.

16 HEARING OFFICER KRAMER: Okay. Now
17 let's hear from the intervenors to ask them if
18 they have any comments on the schedule issues.

19 MR. BASOFIN: Josh Basofin, Defenders.
20 A couple issues. It concerns me that there are
21 currently outstanding data requests both from
22 staff and intervenors. And this is an extremely
23 ambitious schedule in light of those outstanding
24 data requests to receive responses, particularly
25 in the instance where there may be follow-up data

1 requests.

2 You know, we're looking at the
3 applicant's proposed schedule of less than a month
4 to finalize all the data responses. And that's
5 even very very ambitious considering the number
6 and range of outstanding issues that we're
7 currently looking at.

8 Also, I'm not sure I understand the
9 utility of having an NOA go out before all of the
10 responses are received. That seems a little bit
11 of a strange sequence to me.

12 HEARING OFFICER KRAMER: Well, I don't
13 see any outstanding responses. I think this
14 assumes that all the responses are in, in
15 December. And the NOA is going out in February.

16 MR. BASOFIN: Oh, I see. I'm sorry, I
17 apologize. And the second issue I have is it
18 looks like on the schedule, and again I apologize,
19 I'm new to this process, but it looks like,
20 according to the schedule, that that prehearing
21 and some evidentiary hearings would start before
22 the end of the BLM comment period, before the FSA/
23 DEIS is out.

24 I'm not sure, considering that the
25 FSA/DEIS is the primary staff document in the

1 proceeding, how hearings could commence.

2 HEARING OFFICER KRAMER: Here they're
3 calling it a single staff assessment. That's
4 something I was going to get into with the staff
5 and the applicant, so --

6 MR. BASOFIN: Okay, I guess -- and I'd
7 like some clarification as to that.

8 HEARING OFFICER KRAMER: Okay, did you
9 have any other comments?

10 MR. BASOFIN: No, that's it for now.

11 HEARING OFFICER KRAMER: Thank you.

12 MS. MILES: Yeah, I definitely feel
13 this is a pretty ambitious schedule. We recently
14 submitted data requests. And it was my
15 understanding that some additional information was
16 going to be submitted by the applicant about the
17 transmission line and the substation expansion.
18 And apparently through the CPUCN process at the
19 CPUC. But apparently that has not happened. And
20 doesn't look like it's going to happen.

21 And so seems to me additional analysis
22 is needed about the transmission line construction
23 and demolition, especially considering it's going
24 through very sensitive habitat with desert
25 tortoise onsite.

1 Additionally, I'm not sure -- I would
2 like to hear it from the applicant or anyone,
3 actually, if they've contacted Fish and Wildlife
4 Service. And whether Fish and Wildlife Service
5 thinks that they can accelerate the consultation
6 process.

7 But my understanding with the Ivanpah
8 proceeding was that it was not simple to trans-
9 locate and relocate desert tortoise. In that
10 proceeding it took about six months just to work
11 out a trans-location plan. And in this instance
12 in one data response we got from the applicant it
13 says that there is a potential of following the
14 Fort Irwin model, which just basically crashed and
15 burned. And the Army said because of the massive
16 die-off of desert tortoise they are not going
17 forward with that trans-location. So I don't even
18 think that there's a viable model right now on the
19 table for Fish and Wildlife Service.

20 So, besides that I'm just -- I don't
21 know about going forward with the staff assessment
22 before the analysis is done. Now, I could
23 understand maybe on a few issues to resolve those
24 and get those off the table.

25 I don't think we necessarily have any

1 problem with that. But I think that there is a
2 significant amount of analysis that is going to
3 need to take place, that hasn't taken place yet,
4 that really needs to happen before evidentiary
5 hearings start.

6 It just won't work if we're trying to
7 change the plan or the project after evidentiary
8 hearings are going forward.

9 So I heard from the applicant that we
10 may have -- there's going to be a final staff
11 assessment, I think that I heard that term. And
12 there isn't a final staff assessment in this
13 schedule. There's an errata or supplemental staff
14 assessment and that is not appropriate under
15 Energy Commission regulations, to have additional
16 information, significant information, after the
17 evidentiary hearings.

18 So I'm not sure that it's going to be
19 efficient. It will lead to duplication of effort
20 because we will need additional evidentiary
21 hearings after the staff assessment supplement or
22 errata document. Because the Energy Commission --
23 the Committee cannot consider anything that was
24 not in the evidentiary hearing record.

25 HEARING OFFICER KRAMER: Anything else?

1 MS. MILES: That's all for now, thank
2 you.

3 HEARING OFFICER KRAMER: Okay.

4 PRESIDING MEMBER BOYD: I have a couple
5 of comments or questions of what I've heard so
6 far. Number one, I've heard the staff say they're
7 not comfortable with moving the NOA, et cetera,
8 date from the 15th to the 1st.

9 But I also heard staff say that further
10 down in the schedule the collapsing of date. I
11 think Mr. Meyer said that he could see us gaining
12 perhaps two weeks. So I'd like to at least
13 benchmark that statement and indicate that maybe
14 at least we gained the better part of two weeks
15 inside the rest of the schedule.

16 And then the last comment I wanted to
17 make, I thought I did hear the applicant, some
18 representative of the applicant, say they had
19 discussions with Fish and Wildlife Service. And
20 that they were amenable to trying to speed up
21 their process. So I just want that on the table
22 to answer some people's questions.

23 Mr. Meyer, you had your --

24 MR. MEYER: Yeah, another issue that
25 Defenders of Wildlife, Josh brought up, that is

1 the receipt of all the remainder of the data
2 responses.

3 I want just to clarify with the
4 applicant that the receipt of the data responses
5 on 12/15 would, if we have any follow up, because
6 I think we're expecting the responses to the -- we
7 have some June 17th data requests on soil and
8 water that have been the responses that you've
9 requested, until November 21st to get those.

10 Staff will review those as quickly as
11 possible. But if those responses would need any
12 follow up, is the applicant willing to sort of
13 waive the 30 days and get those to us by the 15th?

14 MR. THOMPSON: If I may?

15 HEARING OFFICER KRAMER: Certainly.

16 MR. THOMPSON: With regard to data
17 requests we will get you the information as
18 quickly as possible. And if you feel like it
19 would help to send it in in more than one package,
20 I know that staff likes to get them all tied
21 together, we can do that, possibly get some of the
22 information to you earlier.

23 We have had late data requests in this
24 proceeding. And, in fact, both Defenders and
25 staff sent us data requests after the 180 days

1 following data adequacy.

2 Our position is, I believe, unless
3 someone on either side of me hits me here, I think
4 our position is that we will respond to the ones
5 that are appropriate, and then we will get those
6 responses out as soon as possible. But I do think
7 it would be unfortunate to dictate a schedule by
8 data request that came in not on time.

9 HEARING OFFICER KRAMER: Okay, thank
10 you. Couple questions raised by the comments.
11 Regarding the biological opinion and the Fish and
12 Wildlife Service review, I think what I heard was
13 that the Fish and Wildlife Service had not said no
14 to the request to speed up their process. But I
15 think that's different than what they've signed on
16 for the program.

17 So is somebody from BLM either on the
18 telephone or in the audience? Have any of you
19 spoken to the Service, and do you have an update
20 as to what their position is on that?

21 MR. SPEAKER: BLM doesn't --

22 HEARING OFFICER KRAMER: Well, go ahead,
23 and then, gentleman, could you come to the
24 microphone over here.

25 MR. BORCHARD: Steve Borchard with BLM.

1 B-o-r-c-h-a-r-d. I am not aware of our
2 conversations with the Fish and Wildlife Service
3 about compressing the schedule. Maybe Sean knows
4 more about that.

5 MR. GALLAGHER: We met this morning with
6 the Fish and Wildlife Service and there was a
7 representative of BLM there, as well, from the
8 state office.

9 And as Bob said earlier, they're willing
10 to look at what they can do to accelerate from 135
11 days to 90 days, but it's the beginning of that
12 conversation and they have not committed to being
13 able to that on this project yet.

14 I think they've committed to sort of see
15 what they can do.

16 HEARING OFFICER KRAMER: Historically in
17 the Commission processes we've not always waited
18 to conduct evidentiary hearings for the final
19 biological opinion to be available.

20 Yet this schedule seems to -- this has
21 to be set coming before the PMPD is issued. So,
22 I'm wondering -- and so in those other cases where
23 we have been pretty confident we know what the
24 biological opinion is going to say, we've just
25 gone ahead. Normally we haven't adopted a final

1 decision until it comes in. But we've done much
2 of the labor to be ready to do that.

3 I'm wondering, is this a case where
4 basically the biological assessment is expected to
5 go through pretty much unscathed and become the
6 biological opinion?

7 I'm a little troubled by comments Mr.
8 Therkelsen made that suggested that there'd be a
9 negotiation on conditions during the comment
10 period on the DEIS, which might be problematic if
11 that's going to resolve in any major change in a
12 mitigation plan or process.

13 MR. THERKELSEN: I think one of the
14 things that's important during those workshops is
15 to deal with them based upon how much degree there
16 is of controversy, difference of opinion, whatever
17 else.

18 Biological resources may be one of those
19 that workshops and evidentiary hearings, if you
20 will, fall toward the end of the process. And, if
21 possible, you know, it is dealt with, if you will,
22 before the biological opinion is released and once
23 that document comes out, everything is closed up
24 on it.

25 Again, the idea of having a biological

1 opinion done earlier is so that we come out
2 roughly at the same time the comments would be,
3 and could be dealt -- all the biological issues
4 could be dealt with and hearings closed up as soon
5 as possible.

6 HEARING OFFICER KRAMER: My
7 understanding of the way BLM is approaching these
8 things is that they expect the draft EIS to be --
9 to use a legal term I have not copyrighted --
10 fully baked.

11 In other words, everything --

12 (Laughter.)

13 HEARING OFFICER KRAMER: -- is worked
14 out; the mitigation is pretty much decided upon;
15 the applicant has said that that will work; BLM's
16 experts believe that the mitigation will work.

17 And so they're not expecting things to
18 change after they release that.

19 So, I wonder, from BLM's standpoint, is
20 that still the way you're approaching this? Or
21 are you thinking that you're going to engage in
22 this sort of iterative process during the
23 workshops, during the comment period?

24 MR. BORCHARD: Because of the time
25 schedule that we believe is necessary for this

1 project, we're willing to accept less than fully
2 baked on specific issues. Because we do go out
3 with a draft environmental impact statement. And
4 there's a significant amount of time between
5 publication of the draft and the final.

6 We feel that because of the time
7 schedule we're looking at, we're going to have to
8 use that time period between the draft and the
9 final to complete some of the details that have
10 not been fully negotiated prior to preparation of
11 the draft.

12 HEARING OFFICER KRAMER: Does that
13 create a danger of needing to recirculate the
14 file?

15 MR. BORCHARD: Of course it does.

16 HEARING OFFICER KRAMER: And what would
17 that recirculation period be? Would it be 90 days
18 again, or something less, if you --

19 MR. BORCHARD: It would be 90 -- if we
20 had to produce an addendum to the draft, rather
21 than being able to address the differences between
22 the draft and the final, in the final, then it
23 would be another 90-day comment period.

24 But we don't anticipate the need for an
25 addendum for this project.

1 HEARING OFFICER KRAMER: So there's
2 enough flexibility to accommodate some tweaking of
3 the mitigation measures?

4 MR. BORCHARD: And the Fish and Wildlife
5 Service employee assigned to this project is co-
6 located in my office in Moreno Valley. And there
7 are regular conversations going on between the BLM
8 biologists and then the Fish and Wildlife Service
9 biologists regarding the data that's been
10 collected and analyzed so far. And the thinking
11 regarding mitigation.

12 So these conversations have started.
13 The discussions back and forth have been ongoing.
14 The analysis of the data submitted has been
15 ongoing. The BA, I don't think we're waiting for
16 significant additional data to be submitted.

17 And we have it, the biologists have been
18 working on it, the concepts that would be embodied
19 in the BA, the mitigation has been discussed. I
20 don't anticipate any surprises for this issue.

21 HEARING OFFICER KRAMER: Okay, thank
22 you. I think that's answered my questions. Do
23 any of the Committee Members have any additional
24 questions?

25 Did anyone on the telephone wish to make

1 a comment? Hearing none, and also hearing
2 silence, which is pleasant. Thank you, whoever
3 finally muted themselves.

4 We have one request to speak from the
5 audience. That's Michael Picker from the
6 Governor's Office.

7 MR. PICKER: Thank you. I'm Michael
8 Picker --

9 HEARING OFFICER KRAMER: Press the
10 button on your mic there.

11 MR. PICKER: Thank you. It wasn't
12 recognizable as a button.

13 I'm Michael Picker, P, as in Paul,
14 i-c-k-e-r. I'm the Senior Advisor to the Governor
15 for renewable energy facilities; newly appointed.
16 And I want to thank the Commissioners for inviting
17 me to be here.

18 I've already expressed some of the
19 general interest that the state has to the
20 Commissioners, and I'll probably repeat some of
21 them to their growing irritation over and over and
22 over again, because it is essential to the state's
23 interest that as we make good decisions about the
24 permitting of renewable energy facilities, that we
25 not let the process, itself, be the source of

1 failure of the facilities.

2 And so I just wanted to speak to a
3 couple of issues that I heard here. And I thank
4 the Commissioners for their kind attention.

5 First is that I hear some issues about a
6 continuing scoping process where more information
7 is required. And I hope that the Commissioners
8 can help their staff to be more precise in the
9 kinds of questions that they ask.

10 My experience in other kinds of facility
11 processes and siting processes is that there are
12 questions that can always be asked; more
13 information is useful, particularly when there's
14 tough decisions to be made. People always hope
15 that the next layer of information will lay bare a
16 clear decision.

17 But I'm not sure, from my experience,
18 that the public policy issues change that the
19 Commissioners will have to answer. And it's
20 probably valuable for you to start asking your
21 staff how badly they need this additional
22 information, if it's going to contribute to
23 additional delays in the process.

24 It's just a continual challenge that we
25 all face in any kind of a siting decision. And

1 particularly when questions are coming in after
2 the close of the general scoping process if it
3 raises questions. I heard that here today. I've
4 heard that anecdotally elsewhere.

5 Secondly, again, this challenge of
6 trying to actually speak to the Commissioners, so
7 that they're in a position of codes of conduct and
8 your rules, to be able to talk to the proponents
9 and to ask questions. I'd encourage you to listen
10 to what the petitioner said about prehearings,
11 status conferences.

12 Perhaps even look at some of the
13 critical decision points from your perspective, as
14 Commissioners. When would it be valuable to you
15 to have a snapshot of information and issues so
16 that you can actually help to speed this process
17 along, rather than waiting towards later stages in
18 the process.

19 We think that that would be very
20 valuable both for you to help give some direction
21 to staff, what's useful for you, as
22 decisionmakers, to have the quality information
23 you need to make a good public policy decision.

24 Again, there's a difference between all
25 the information that we might like to know, and

1 what it is that we need to actually make that good
2 public policy decision.

3 And last, but not least, again when your
4 staff comes to you and they face a challenge in
5 terms of critical staffing to be able to make
6 milestones, we ask that you direct them to speak
7 up their chain of command, and then come to us
8 because we're working very hard to develop
9 additional resources to resolve those same kinds
10 of problems that staff are facing in terms of
11 workload, access to critical resources.

12 You, as the decisionmakers, should dig a
13 little deeper, I hope, and actually give them some
14 direction so that they can then start to ask us
15 for the resources they need to make these
16 decisions.

17 It's not just the challenge of trying to
18 qualify projects to get those federal stimulus
19 dollars. It's also creating pipeline for deals
20 and projects that will be able to help us meet our
21 renewable energy goals.

22 Again, I'm not going to speak to the
23 merits of any particular project today; that's
24 beyond my capacity right at this point. I'm
25 simply going to reiterate that the state's

1 interest is not to have the process, itself,
2 create failure.

3 So, thank you.

4 HEARING OFFICER KRAMER: Thank you.

5 MS. HARMON: Can I ask a question?

6 HEARING OFFICER KRAMER: Yes. Who is
7 this?

8 MS. HARMON: This is Edie Harmon. I'm
9 at the BLM Office in El Centro.

10 HEARING OFFICER KRAMER: Your last name
11 is spelled H-a-r-m-o-n?

12 MS. HARMON: Yes.

13 HEARING OFFICER KRAMER: Go ahead.

14 MS. HARMON: Unfortunately we didn't get
15 on at the very beginning. First, I have growing
16 concern about the impacts of the project, and
17 maybe I missed something at the beginning --

18 HEARING OFFICER KRAMER: Are you
19 speaking specifically to Solar Two?

20 MS. HARMON: Yes.

21 HEARING OFFICER KRAMER: We have not
22 started that hearing yet, so --

23 MS. HARMON: Oh. Okay, I'm sorry, I
24 thought that's what this was.

25 HEARING OFFICER KRAMER: No. This is a

1 carryover of Solar One. But I think we'll be
2 finishing shortly.

3 MS. HARMON: That explains why some of
4 the things I heard didn't quite make sense. Thank
5 you.

6 HEARING OFFICER KRAMER: Okay. Stand
7 by.

8 MR. THOMPSON: Ms. Harmon is not with
9 BLM. She's, I suspect, taking a phone call in BLM
10 Offices. Just a point of clarification.

11 MS. HARMON: Yes.

12 HEARING OFFICER KRAMER: Okay.

13 ASSOCIATE MEMBER BYRON: Ms. Harmon, who
14 are you with?

15 MS. HARMON: I'm a resident of Imperial
16 County and I submitted comments on behalf of the
17 Sierra Club San Diego Chapter on Stirling Solar
18 Two.

19 HEARING OFFICER KRAMER: Okay, thank
20 you.

21 Okay, Ms. Holmes, did you -- could you
22 discuss how or what staff intends as the
23 supplement staff assessment to be? As I
24 understand it, the Commission's rules do not
25 require a preliminary and final staff assessments.

1 So, to answer the earlier questions
2 about that, the SA filed in February, under both
3 proposals, that is the one staff assessment for
4 this project. And then you're talking about some
5 kind of supplement.

6 Now, do you intend -- does staff intend
7 that the SA be, to use my term, fully baked? Or
8 are you looking to do something similar to what
9 BLM described to us?

10 MS. HOLMES: I think, to be realistic, I
11 think that there is going to be some continuing
12 discussion on some topic areas. To conclude that
13 a staff assessment could be fully baked at the
14 date that we currently have scheduled for
15 publication, I think, is not particularly
16 realistic.

17 Obviously, as we said before, we're
18 going to do our very best to have it be as
19 thorough and as complete as possible. We do think
20 that it's likely that there will need to be
21 amendments, changes, errata to the staff
22 assessment in order to make it complete and
23 address the resolution of issues that come up
24 during the time period between the publication of
25 the SA and then the supplement or errata.

1 HEARING OFFICER KRAMER: And you fully
2 expect the record to remain open until all that
3 information is in?

4 MS. HOLMES: I would certainly recommend
5 that the Committee keep the record open. I
6 suppose it's possible that the changes would be so
7 minor as to not require a subsequent evidentiary
8 hearing. But I also think that it's possible that
9 they could. So it makes no sense to me to close
10 the evidentiary record.

11 It would probably be more efficient to
12 keep the record open. And then if it turns out no
13 hearings are needed, close it at that time.

14 HEARING OFFICER KRAMER: Yeah, I think
15 that's -- as far as I understand, that was always
16 the intent of the Committee.

17 We weren't -- we'll have to balance
18 efficiency. Getting this group together multiple
19 times may not be as efficient as waiting until
20 just about everything is ready to be heard.

21 But I don't think we'll know exactly how
22 to staff that, if you will, until we get down the
23 road and a little bit better view of what is ready
24 for decision, and what requires a little more
25 work.

1 MR. THERKELSEN: Excuse me, Hearing
2 Officer. That's one reason, in terms of our
3 proposed schedule, we actually identified a target
4 date, if you will, for closing evidentiary
5 hearings.

6 Notice that after the supplemental staff
7 assessment/EIS is distributed, there is, you know,
8 a date of foreclosure, if you will, of the
9 hearings and record.

10 HEARING OFFICER KRAMER: And that looks
11 like to be a pretty tight timeframe for people to
12 react to this. So we may need to extend that a
13 little bit.

14 But there is a fair amount of room in
15 here for the Committee to do the work of writing
16 the decision, so to the extent we take some of the
17 information early, we can begin at least preparing
18 the shell decision. That should help speed the
19 ultimate production of the decision.

20 MS. HOLMES: I would note that there is
21 a 14-day requirement that applies to what's called
22 the final staff assessment. It would be up to the
23 Committee, I think, to determine whether the
24 errata, if it were to be subject to a hearing more
25 of such a nature that it required the 14 days.

1 But it is a procedural point that the
2 Committee should consider, and think about, a
3 subsequent set of evidentiary hearings.

4 HEARING OFFICER KRAMER: Thank you. I
5 think we have the information we need. We've
6 already asked for comments from the telephone, and
7 nobody responded.

8 Is there anyone in the audience who
9 wishes to make a comment? Seeing none, I guess we
10 can close this hearing and start --

11 PRESIDING MEMBER BOYD: Let me --

12 HEARING OFFICER KRAMER: -- another
13 after comments.

14 PRESIDING MEMBER BOYD: Let me make a
15 comment. I'd like to respond to Mr. Picker.
16 Thank you for being here. And, as he indicated,
17 we've had recent discussions. He's new to this
18 particular assignment, but some of us have known
19 him for a long time, and know he knows government
20 pretty well.

21 I'm going to start backwards on the
22 suggestions that he made. Always thinking of the
23 dilemma that the two Commissioners face when they
24 are chairing siting hearings and wearing their
25 judicial robes and subject to ex parte

1 communication.

2 The invitation to encourage staff to
3 seek additional resources if we see that need is
4 highly unorthodox and welcome. And I'm sure the
5 staff is listening closely to that invitation to
6 perhaps modify the process by which you normally
7 seek resource relief. And I'm sure we'll all pay
8 attention to that invitation, and probably take
9 Mr. Picker up on it.

10 Secondly, the idea of taking advantage
11 of status conferences is something that we do
12 recognize. Commissioner Byron and I,
13 coincidentally, were conducting a hearing on
14 another brand new case last night out of town.
15 And we had the same discussion about scheduling
16 prehearing or status conferences.

17 And I think the important thing is for
18 us to telegraph the idea that we're amenable to
19 this idea. We recognize the value. We're willing
20 to invest the time if and when it become
21 necessary. And we accept the invitation of the
22 applicants to do so.

23 It gets a little sticky if we actually
24 try to put one in the schedule and set a date,
25 because it requires actions by people that may or

1 may not take place.

2 So just recognize that while we agree to
3 the idea of status conferences, we may or may not
4 schedule a specific date. Or we may put some real
5 weasel words in about when it will occur in order
6 to avoid people filing a lot of paper and a lot of
7 response relative to a status conference that's
8 not going to occur then, but is going to occur at
9 some other point in time because something
10 changed.

11 So we do recognize it as a tool. And we
12 will so use it.

13 And I guess the last point gets to my
14 first point about ex parte communication. We use
15 these types of hearings to communicate with our
16 staff, issues of substance relative to the case,
17 and answers to substantive issues that we seek
18 answers to.

19 We can, as you know, per the law, talk
20 process, timetable and procedure without benefit
21 of public hearing and public notice. And take
22 advantage of that opportunity to have extensive
23 discussions internally with staff, particularly
24 through the auspices of our Siting Committee that
25 Commissioner Byron happens to chair, seeking

1 always ways and means of speeding up and
2 simplifying process.

3 And as many of you have heard today,
4 this dialogue has resulted in some tug-and-pull on
5 process dates. And while it seems to me we're not
6 going to be able to say, okay, we're going to
7 accept this date from column A and this date from
8 column B, we've heard some concessions about,
9 yeah, we can speed up here; we're willing to speed
10 up there; we don't want to document a new date,
11 but we're willing to commit we're going to try to
12 beat that date. And in other areas internally,
13 yes, it looks like we can collapse up to two
14 weeks, so on and so forth.

15 So that will cause the Committee to go
16 back and look at the timetable and do the most
17 that it can to compress and speed it up. And
18 constantly harass the staff about trying to better
19 any of the dates that are published.

20 But it will be very difficult to public
21 a hard-and-fast change in schedule based on the
22 dialogue that has occurred here today. I think
23 the agencies, particularly our new partners and
24 newfound friends at BLM, are absorbing a lot of
25 this process over the past many months. And I've

1 heard them make every effort to indicate that they
2 can think on their feet pretty quickly, and try to
3 move things more rapidly if that's at all
4 possible, versus a few dates that they are
5 statutorily or otherwise having to adhere to.

6 So, I think the result of this hearing,
7 and perhaps the next one, will result in continued
8 learning about how to deal with this new novel
9 process. And how to maybe make some changes and
10 concessions. So just to put that on the record.
11 And to thank Michael for being here and indicating
12 the interest of the Administration in this
13 suffices. So, thank you.

14 MR. THOMPSON: Mr. Kramer.

15 HEARING OFFICER KRAMER: Go ahead.

16 MR. THOMPSON: Thank you. Allan
17 Thompson. One minor, fairly minor point that
18 could have some schedule implications.

19 I heard Mr. Meyer talk about support
20 staff being available at the time when these
21 documents are produced, and horror stories that
22 you have five or six cases just as this with a
23 very very large document and everybody clamoring
24 for it to come out at about the same time.

25 And I would urge staff, and possibly the

1 Committee, to help us get through that. I think
2 there are other avenues to the actual
3 reproduction, of course there's nothing for senior
4 staff review, but the actual reproduction of
5 documents could be done, for example, through BLM.

6 And there may be other avenues if that
7 indeed appears to be a choke point.

8 HEARING OFFICER KRAMER: Thank you, Mr.
9 Thompson. I think we have everything we need to
10 issue a new schedule. And we'll try to do so
11 within the next two weeks.

12 So, now we will begin -- we will adjourn
13 the Solar One hearing and begin the Solar Two
14 hearing. And we will just take a two-minute break
15 for set-up.

16 (Whereupon, at 2:00 p.m., the Committee
17 Conference was adjourned.)

18 --oOo--

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CERTIFICATE OF REPORTER

I, JOHN COTA, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Conference; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

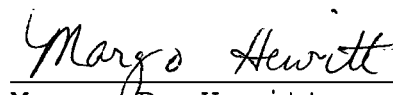
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JOHN COTA

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November 17, 2009