

BEFORE THE  
CALIFORNIA ENERGY COMMISSION

In the matter of                    )  
  )  
Order Instituting an                )  
Informal Proceeding                )  
(Lessons Learned)                )     Docket No.: 10-SIT OII-1  
  )     Public Workshop.

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

FRIDAY, MARCH 2, 2012  
8:30 A.M.

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Reported by:  
Peter Petty

 **ORIGINAL**

APPEARANCES

Commissioners Present:

Karen Douglas  
Robert Weisenmiller

Staff Present:

Alan Solomon  
Roger Johnson  
Jeff Ogata, Staff Counsel  
Scott Flint

*Federal Agencies*

Steve Black, US Department of the Interior  
Vicki Campbell, Bureau of Land Management (BLM)  
Ashley Conrad-Saydah, Bureau of Land Management (BLM)  
Cheryll Dobson, Dept. of the Interior (Solicitor's Office)  
Luke Miller, Dept. of the Interior (Solicitor's Office)  
Tom Pogacnik, BLM  
Janea Scott, US Dept of the Interior  
Liz Meyer-Shields, BLM

*State Agencies*

Ashley Blackford, Fish & Wildlife Service  
Billie Blanchard, California Public Utilities Commission (CPUC)  
Mary Jo Borak, California Public Utilities Commission (CPUC)  
Christopher Calfee, Governor's Office of Planning & Research  
Terry Watt, Office of the Governor of California  
Bill Condon, California Dept. of Fish & Game (CDFG)  
Michael Sintentos, Governor's Office of Planning & Research

*Counties*

Gail Barton, Riverside City Habitat  
Anthony Curzi, LA County  
Joshua Hart, Inyo County Planning Department  
Andy Horne, Imperial County, CEO Natural Resources  
Paul McCarthy, Los Angeles County Department of Regional Planning  
Craig Murphy, Kern County Planning and Community  
Development Department  
Greg Neal, Riverside County Habitat/Planning Department  
Gerry Newcombe, San Bernardino County  
David Prusch, San Bernardino County  
Armando Villa, Imperial County, Planning Department

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APPEARANCES (Continued)

Also Present:

Dennis Peters, CAISO

Public Comment:

Donna Miranda-Begay, Tubatulabal Tribe

Ileene Anderson, Center for Biological Diversity

Scott Galati, Galati & Blek

Kate Kelly, Defenders of Wildlife

Mark Sinclair, Clean Energy States Alliance (CESA)

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

2 MARCH 2, 2012

8:38 A.M.

3 COMMISSIONER DOUGLAS: Good morning, everyone. My  
4 name is Karen Douglas; I'm a Commissioner at the  
5 California Energy Commission. To my right is our Chair,  
6 Bob Weisenmiller. And we'll go around and do  
7 introductions in a moment. I just wanted to start by  
8 welcoming everyone here. I know a number of you had to  
9 travel some distance to get here and so I appreciate you  
10 being here, especially from the Counties who are here  
11 today.

12 The Energy Commission has adopted an Order  
13 Instituting an Informational Proceeding on issues  
14 pertaining to licensing power plants, particularly, in  
15 this case, renewables. And as part of that process and  
16 also as part of the overall collaboration that we're  
17 increasingly engaged in with our Federal Government  
18 partners, our State agency partners, and local government  
19 partners, and we wanted to have this workshop in order to  
20 have an opportunity to learn from each other about  
21 different ways that we handle different aspects of the  
22 CEQA or NEPA process, respectively, about how we handle  
23 multi-agency reviews, how we think about planning in the  
24 context of the permitting that all of us have been doing,  
25 either ourselves or in collaboration with sometimes

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1 multiple other agencies.

2           So, really appreciate everyone being here, I  
3 think it's going to be really interesting today, and it's  
4 also a packed and ambitious agenda, so I'm going to keep  
5 my comments quite brief and see if Chairman Weisenmiller  
6 would like to many any introductory comments.

7           CHAIR WEISENMILLER: Again, I will also be very  
8 brief, certainly want to thank everyone for their  
9 participation. It's a key topic today, you know, I think  
10 we're all getting lots of experience and we're going to  
11 get lots more experience on permitting renewable  
12 projects. And we're looking forward and we've sort of  
13 taken the last year to spend some time internally trying  
14 to step back and look at our process, what worked well,  
15 what didn't, how would you do better, and I think it's a  
16 good opportunity here as part of that process to, again,  
17 have that sort of discussion overall among all the  
18 various permitting agencies on what have we really  
19 learned the last couple of years and how can we do  
20 better. So, again, thanks for your participation today.

21           COMMISSIONER DOUGLAS: So with that, I think I'd  
22 like to ask if we could go around the table very quickly  
23 and do introductions, and we'll follow that with the  
24 first agenda. Let's do introductions, if we can.

25           MR. MCCARTHY: All right, I'm Paul McCarthy and

1 I'm with Los Angeles County Department of Regional  
2 Planning.

3 MR. MURPHY: Hello. My name is Craig Murphy and  
4 I'm with the Kern County Planning and Community  
5 Development Department.

6 MR. NEWCOMBE: Good morning. Gerry Newcombe with  
7 the County of San Bernardino.

8 MR. PRUSCH: Dave Prusch with San Bernardino  
9 County also.

10 MR. VILLA: Hi, my name is Armando Villa; I'm  
11 with the County of Imperial, Planning Department.

12 MR. HORNE: Good morning, Andy Horne, Deputy CEO  
13 over the County of Imperial for Natural Resources.

14 MR. CONDON: Bill Condon, Department of Fish &  
15 Game.

16 MR. HART: Good morning. I'm Josh Hart; I'm with  
17 the Inyo County Planning Department.

18 MR. NEAL: Hi, I'm Greg Neal with the Riverside  
19 County Planning Department.

20 MS. BARTON: Gail Barton, Riverside County also.

21 MR. POGACNIK: Tom Pogacnik, Bureau of Land  
22 Management.

23 MS. CONRAD-SAYDAH: Ashley Conrad-Saydah, Bureau  
24 of Land Management. And Roger Johnson from the CEC was  
25 just sitting here.

1           COMMISSIONER DOUGLAS: Thank you, Ashley. So let  
2 me ask if maybe, Tom, you can make your introductory  
3 comment. Also, between Tom and Ashley, going into, you  
4 know, a stage setting, challenges and successes as you  
5 see it, so that -- just a quick introductory comment, and  
6 then we'll kind of go back around and we can go counter-  
7 clockwise this time around.

8           MR. POGACNIK: Well I, like you, Commissioner  
9 Douglas, I'm going to keep my comments fairly brief, but  
10 I want to thank you for the invitation to participate in  
11 this. This has been a unique adventure that started in  
12 2008 when the very first meeting between the Bureau of  
13 Land Management and the Federal agencies got together  
14 with the Energy Commission and Fish & Game, and that was  
15 at the invitation of the Energy Commission as to how are  
16 we going to collaborate and how are we going to process  
17 through all these renewable energy projects that were  
18 pouring in on us. And from that initial introduction,  
19 you know, we've developed a process that I think has been  
20 effective, but of course it could always be better. I  
21 think one of the main lessons that we've learned, just as  
22 a general, is early and often. And that very first  
23 meeting was that early part, is before we actually got  
24 into Notices of Intent, or Notices of Availability, we  
25 started talking about what issues do we face, what are

1 our processes, how do we take what are essentially  
2 complementary processes, but not necessarily compatible  
3 ones, and how we do work through that, and how do we find  
4 a way to issue decisions that are going to be transparent  
5 to the public, result in learned decisions that address  
6 the issues, and then how do we go forward with  
7 implementing these.

8           And I think over the last couple of years, we've  
9 found a process that works fairly well, but we've also  
10 found that there are points in the process that aren't  
11 necessarily compatible, and that we will have to agree to  
12 move forward with implementing the State statutes vs. the  
13 Federal statutes, and be able to communicate those  
14 differences to the public in a way that makes it  
15 transparent to the reader. And I think that a lot of the  
16 discussions that we could have here are the fact that we  
17 recognize and respect one another's statutes, whether  
18 it's the Federal, State, or the County level, and that,  
19 for the most part, we can work through those processes.  
20 But at some point in that final decision, there are going  
21 to be points where we're not going to be able to come to  
22 an agreement, and that's okay. That gets into one of the  
23 strengths of our government, the separation of powers  
24 where we have different people looking at it from  
25 different perspectives and finding the best decision and

1 the best path forward. And so I'm hoping through these  
2 discussions, we could share what works and where we still  
3 have that lack of compatibility, and how we can fine tune  
4 that, and also then be able to find ways of going forward  
5 with these decisions that aren't always going to be as  
6 clean as one would hope, but are effective.

7 COMMISSIONER DOUGLAS: Thanks, Tom. I really  
8 appreciate that. Also, I think all of us have lived  
9 through experiencing the lack of complete harmony between  
10 the different statutory regimes that are concurrent and  
11 generally compatible, especially in the multi-agency  
12 review section where we're talking about some examples of  
13 how some of us try to handle those challenges, it will be  
14 pretty interesting because that's definitely a part of  
15 moving forward effectively, is figuring out how to handle  
16 those issues transparently and in conformance with our  
17 statutes. So we appreciate you being here and thanks for  
18 that.

19 Let me ask Riverside County, we're now on the  
20 Renewable Energy Challenges and Successes portion and  
21 this is really just kind of context setting opportunity.

22 MR. NEAL: Well, I'm not sure I have too much to  
23 say, but, I mean, I thank you for opportunity to  
24 participate. This is something that I think we're all  
25 starting to get our arms around and a lot of things we

1 learn, every day I think I learn something more, so I  
2 just appreciate the opportunity to participate in this  
3 workshop.

4 COMMISSIONER DOUGLAS: Thanks a lot, Greg. Josh  
5 from Inyo County.

6 MR. HART: Thank you, Commissioner Douglas. I,  
7 too, am very happy to be here and I'm looking forward to  
8 hearing about how the State and Federal agencies are  
9 working to improve their coordination process, and  
10 especially with regards to CEQA. And I do have some  
11 prepared comments, but I'll have those in the afternoon.

12 COMMISSIONER DOUGLAS: Great, thank you. Bill  
13 Condon.

14 MR. CONDON: Bill Condon, Department of Fish &  
15 Game. I'm here representing Fish & Game from the  
16 Headquarters perspective, I'm the Manager of the  
17 Department's Renewable Energy Program, the statewide  
18 program, and I'm really here to listen, to look for  
19 opportunities for better coordination between Fish & Game  
20 staff and their lead agency counterparts. And basically  
21 all letters, comment letters regarding the Renewable  
22 Energy projects across my desk, so I have a pretty good  
23 sense statewide of what some of the issues are. But I'm  
24 really here to learn and hear from the counties, in  
25 particular, what their concerns are, and ideas on how we

1 might continue to build on working relationships. Thank  
2 you.

3 COMMISSIONER DOUGLAS: Thank you, Bill. Imperial  
4 County, Armando or Andy?

5 MR. VILLA: Armando Villa, Imperial County. I  
6 just want to echo everybody's comments so far, is that we  
7 are here, we are at the table because we, over the last  
8 couple of months, we have had several projects that are  
9 coordinated with BLM and other agencies, and we hit a  
10 couple of snags and we'd like to be able to learn from  
11 that and participate in discussions to avoid that so that  
12 we can get this thing going.

13 COMMISSIONER DOUGLAS: Great, thank you. San  
14 Bernardino?

15 MR. NEWCOMBE: Thanks, Commissioner Douglas.  
16 Gerry Newcombe. You know, two years ago, I didn't even  
17 know the Energy Commission existed. I wasn't all that  
18 tuned into that and I've been in County Government for 30  
19 years now, so it's been quite an education for us in San  
20 Bernardino County. And becoming an Intervener in this  
21 process and these hearings, and these kind of semi-  
22 judicial processes, I mean, we're used to being in front  
23 of Planning Commissioners and Board Supervisors, so it's  
24 quite an education for us and, you know, maybe a little  
25 Hearing 101 would have been in order from the Commission,

1 but we learned fairly quickly and got involved, and I  
2 would -- one of the successes I guess that we've had is  
3 just our interaction with the Commission staff has been  
4 very good, a lot of help and we've had good support  
5 there, so that's been helpful for us.

6           You know, in the broader context, and we'll get  
7 into this I suppose later on, but we have this general  
8 concern about the proliferation of these renewable energy  
9 projects in our desert, this is huge desert area in our  
10 county that has lots of uses, recreation and other  
11 activities, and lots of habitat areas, and the potential  
12 for significant portions of the desert to be given over  
13 to this land use that has long range implications, and  
14 even though there's great value in it, there's also  
15 broader, I think, implications for the future and of the  
16 land use in the desert. So it's something that we're  
17 just trying to grapple with and watch as these larger  
18 projects come through, and even as all the smaller  
19 projects that are coming through the County planning  
20 authority, and being reviewed now. So lots to learn.  
21 I'm excited about the change to participate today and to  
22 continue the kind of relationship and interaction we've  
23 had with the Commission staff.

24           COMMISSIONER DOUGLAS: Great. Thank you, Gerry.  
25 Craig, working with Kern County.

1           MR. MURPHY: Thank you very much. Kern County is  
2 blessed to have a number of various resources available  
3 to us and, you know, some of our successes have been in  
4 the last couple years we've been able to permit close to  
5 5,000 megawatts worth of wind and solar electricity. You  
6 know, we've had a lot of successes in terms of there's  
7 almost an issue -- I mean, there's always issues that  
8 come up that you didn't necessarily realize, but with  
9 projects jointly with the BLM, projects jointly with  
10 other counties, you know, even though we've had projects  
11 denied by our Commission and our Board, and even that is  
12 considered a success in the fact that we were able to go  
13 through the process and get all the information, have  
14 everything from a CEQA perspective taken care of, and  
15 then let the decision makers take everything into  
16 account. So you know, we're focused on making sure we  
17 can get through the process and allow a decision to be  
18 made one way or the other, and so, again, we've had a lot  
19 of good experiences working with everybody in this room  
20 and with other agencies, and again, part of our success,  
21 I think, has been the fact that we really focus on trying  
22 to make sure we understand what each jurisdiction needs,  
23 and we have tried to make sure that we accommodate the  
24 process by which we process those in a manner that suits  
25 everybody.

1           I guess in terms of challenges, one of the  
2 biggest challenges I can see, at least from my  
3 perspective in the fact that people call me all the time,  
4 is very small projects. Because of the number of  
5 projects that are proposed in Kern County, you know, we  
6 have a process to handle those, one of the challenges is  
7 how you deal with the very very small property owner that  
8 is requesting one megawatt, two megawatts, three  
9 megawatts, and when you look at those in context of  
10 everything else that is being proposed, those small  
11 proposed projects are then required to go through a very  
12 extensive permitting process that, you know, just because  
13 of their size and scale, it's a little bit challenging to  
14 them, and a lot of times these smaller projects indicate  
15 to us that they need to move forward.

16           The other challenge and/or success, I think, have  
17 been in our transmission. You know, Kern County  
18 generally, while we understand the process, we allow the  
19 Applicants to focus on the Power Purchase Agreements, you  
20 know, we're concerned about where is it going, how is it  
21 going to get there, and a lot of times we've had projects  
22 that are proposed in the similar areas where the various  
23 applicants do a good job and we make sure that we let  
24 them know at the beginning that, if they're going to  
25 share lines, things along those lines, they have to be

1 discussed and considered early. And generally, I think  
2 that the process has allowed for a number of different  
3 applicants to work together so that the transmission  
4 lines can be shared, so that they can try to get to --  
5 it's one of those things where everyone is competing  
6 together at the same spot, but at the same time, they all  
7 understand that they have to get there. And generally, I  
8 think we've helped foster an environment that allows that  
9 coordination to take place. And, again, we can talk  
10 later about us working with L.A. County, but it's both on  
11 projects that we join the work together and then even we  
12 have a project that is completely within L.A. County, but  
13 they are interconnecting in Kern County to the  
14 substations, and so we've worked to make sure that that  
15 was understood and, you know, we're working to get their  
16 permits and everything in line so that, you know,  
17 everything can work out. And getting from A to B is the  
18 key, and so I think our biggest success is that we've  
19 really focused on trying to foster a process that  
20 accounts for everyone's needs, that is flexible in the  
21 fact that it gets what we need, but at the same time  
22 acknowledges and is a little bit fluid to make sure that  
23 everyone is happy when, in the long run, it is done.

24 COMMISSIONER DOUGLAS: Great, thank you. Paul,  
25 L.A. County.

1           MR. MCCARTHY: Yes, thank you. Certainly, the  
2 comments made here from some of the other jurisdictions,  
3 particularly Kern County, and we're of course directly  
4 adjacent to Kern County, and the Kern County borders Los  
5 Angeles County on our northerly border, and they border  
6 us adjacent to the Antelope Valley. And the only portion  
7 of Los Angeles County where you can accommodate renewable  
8 energy, wind or solar, or a combination thereof, is going  
9 to be in the Antelope Valley. You're not going to have  
10 it in the fog in Santa Monica, and every other place in  
11 between is pretty well developed, so you don't have the  
12 open acreage. And so we have, as indicated, two  
13 projects, one is about three-quarters of size, is in Kern  
14 County, about a quarter of it is in our jurisdiction, and  
15 I was just out there looking at that area yesterday, and  
16 the whole process -- we had AB 32 passed, and then  
17 quickly we were aware of Barren Ridge, and Tehachapi,  
18 everything really developed quickly and it forced us to  
19 really interact with a whole lot of other agencies that  
20 we had no interacted with before, including Kern County  
21 because you could do our job in Kern County -- in L.A.  
22 County -- and didn't have to talk to people in Kern  
23 County to subdivide Newhall Ranch. Centennial may be a  
24 little bit different. But for many planners on our  
25 jurisdiction, you could go a long time, you could go for

1 decades, without talking to anybody from San Bernardino  
2 County, or much less Riverside County or Imperial County,  
3 or Inyo County. And it's good for the planners to have  
4 this cross-pollination.

5           So AB 32 has imposed upon us an environment that  
6 requires a lot of cross-pollination, and I think that's  
7 the greatest success of AB 32, there's just no question  
8 in my mind about that. It's been a challenge, of course,  
9 and we deal with a lot of new developments, primarily we  
10 are involved in residential developments, track maps and  
11 so on, but we have a \$5 billion project going at  
12 Universal Studios with hotels and high-rise hotels, and  
13 new movie production facilities, and mid-rise and high-  
14 rise residential. We've got a lot of high-rise  
15 development going on, redevelopment really, in the Marina  
16 Del Rey, it's being rebuilt practically, one older  
17 facility after another being removed and replaced with  
18 newer ones, so we have a lot of variety in the kinds of  
19 challenges we face, and this is a new vocabulary for us,  
20 and it's a new process. But as I say, I think it's  
21 required us to adapt to -- to get involved with outside  
22 agencies, we're much less insular today than we were  
23 prior to the passage of AB 32 and that is, again, the big  
24 success.

25           COMMISSIONER DOUGLAS: Thank you. I really

1 appreciate that and it even takes me back to Tom's  
2 comments at the very beginning about, you know, the 2008  
3 and suddenly we were starting to get out of our shells  
4 and into the collaboration and coordination, it's going  
5 to become the norm now.

6 We've been joined by Steve Black and Janea Scott,  
7 representing Secretary Salazar, Department of Interior,  
8 so if you'd like to make an opening comment, we'd welcome  
9 that at this time.

10 MR. BLACK: Thank you, Commissioner Douglas and I  
11 apologize for being late. Thank you, Chairman  
12 Weisenmiller, thank you for including us today. We very  
13 much appreciate the chance to visit with all of you and  
14 want to get each of you, and have a chance, I hope,  
15 during the day to share some of our perspectives and hear  
16 more about what would be useful to each of the counties.  
17 The DRECP for the Secretary and the Department and the  
18 agencies that are within the Department -- I'm sorry, I'm  
19 getting a little bit of feedback.

20 COMMISSIONER DOUGLAS: You are getting feedback.  
21 Is there anything we can do about the feedback? It  
22 stopped.

23 MR. BLACK: Okay, well, I stopped talking. This  
24 is -- I thought Jim did a nice job, Jim Kenna, the State  
25 Director for BLM, last night framing this opportunity for

1 us, this truly is a historic opportunity to plan at this  
2 scale about four large utility scale renewable energy  
3 developments in the California Desert, but also to  
4 identify opportunities for conservation. We are -- the  
5 scale and size of the planning exercise at 22.5 million  
6 acres, the number of stakeholders involved, I think, is  
7 historic. And it gives us an opportunity, building on  
8 what we've done in the Department, you know, programmatic  
9 NEPA document, the Solar PEIS, to identify additional  
10 opportunities for large utility-scale renewable energy  
11 development and conservation. So we very much appreciate  
12 the partnership. This goes back in a Memorandum of  
13 Agreement between Secretary Salazar and then Governor  
14 Schwarzenegger, but we've had a very good working  
15 relationship with the CEC and the State agencies involved  
16 since early in 2009, and so we really appreciate that and  
17 appreciate the chance to be here today.

18 COMMISSIONER DOUGLAS: Great. Thank you, Steve.  
19 Alan Solomon is here from our staff and he's going to be  
20 helping us moderate the next section of the agenda which  
21 is Process Topics and, you know, the next two hours are  
22 going to be fairly nuts and bolts, and that's just  
23 because we found that that's where some of the challenges  
24 and some of the opportunities are to better understand  
25 each other's processes and better understand how to make

1    them work together and, of course, at the Energy  
2    Commission we're also thinking about might we consider  
3    changes to our Regulations and to our process, and so  
4    hearing about how other agencies handle things, or  
5    thinking about how we might better match our process with  
6    other processes is helpful to us in that context, as  
7    well. So, Alan, why don't you take us into the next  
8    section.

9           MR. SOLOMON: Thank you, Commissioner. Before I  
10   actually start the next session which will be the process  
11   topics, I'd like to ask if the participants have not  
12   received their placard that they pick that up. If you  
13   are participating in the workshop and you did not receive  
14   a placard, please see Diane Scott or Jennifer Nelson --  
15   yeah, the name tent. Also, I want to just briefly go  
16   through some of the handouts, there are three handouts  
17   for today, the first is the agenda which I believe  
18   everyone has, the second is more of historical  
19   information, this is the Lessons Learned Status Report 1  
20   and it touches upon what was accomplished at the very  
21   first workshop which was held in December of 2010. The  
22   third item is a flowchart for today, basically a flow of  
23   the topics, a flow of the conversation.

24           And before we begin the process topics, I would  
25   like to ask all those that are listening if you would be

1 kind enough to mute your phone, we would appreciate that,  
2 we are picking up some of the background noise. With  
3 that, I'd like to begin the process topics and the way  
4 we're going to conduct this is I'm going to ask Roger  
5 Johnson, the Deputy Director over Siting, to touch upon  
6 how the Energy Commission handles these different  
7 aspects, and then we'd like to get your take on that,  
8 we'd like to hear what the other agencies, how they  
9 accomplish the same tasks. Roger, if you'd like to begin  
10 with Pre-filing?

11 MR. JOHNSON: Thank you very much, Alan. I  
12 apologize for missing the introductions. I was getting  
13 my notes. The Energy Commission, we have our Regulations  
14 that govern how we process power plants for permitting,  
15 but there is no requirement for pre-filing, it's  
16 something that is available to Developers, we have it  
17 written in the Regulations that essentially we can do  
18 formal pre-filing where they submit a draft application  
19 to us, we go through it and review it before they submit  
20 the real application, but normally Developers don't take  
21 us up on that, they just want to come in and talk to us  
22 about the projects, and we really encourage that. We try  
23 to get Developers to come and talk to us as many years in  
24 advance as they really can because there's a lot that has  
25 to be done for the process to work. So we have no

1 requirements for pre-filing, but we encourage Developers  
2 and typically they'll come in about a year before they're  
3 going to file because they've already started looking at  
4 properties and have a project in mind, and so we  
5 encourage them to share that information with us. These  
6 aren't public meetings because a lot of times the  
7 Developers aren't ready to disclose the location, they  
8 still haven't negotiated the property, and they maybe  
9 even haven't talked to the local agency yet, and so they  
10 don't want it to get out that they're looking for a  
11 project in a county and they hadn't talked to the county  
12 yet.

13           So the Commission, we'll bring in the technical  
14 staff and have them explain their project, and we'll go  
15 over essentially the filing requirements of the  
16 Commission, the kinds of surveys they would need to do,  
17 we'll tell them about the concerns that we're aware of in  
18 that particular area, we'll give them guidance. If  
19 they're looking to do a project in, let's say, Kern  
20 County in the oil fields, we'll say we've done several  
21 projects there in the past, here's the location of the  
22 information on the website for those projects to help  
23 them understand the kinds of impacts that they'll be  
24 essentially perhaps running into, like the previous  
25 project. We'll inform them about what other agencies

1 they need to talk to besides Energy Commission. We'll  
2 definitely encourage them to go talk to the California  
3 ISO if they're going to be interconnecting into the ISO  
4 Grid because that's a several year process to get that  
5 interconnection work done, and it's part of our data  
6 adequacy to have a -- to be in that process.

7           And then we also, during the ARRA permitting we  
8 did a few years ago, we also set up a time every month  
9 where we have the four REAT agencies, that's the Energy  
10 Commission, Fish & Game, Fish & Wildlife Service, and  
11 BLM, we have their technical staff available to  
12 teleconference in to a pre-filing meeting, and so all  
13 agencies will hear the same information at the same time  
14 and be able to talk to the Developer about the project  
15 and give them advice. And then, finally, sometimes we'll  
16 ask the staff to come out and take a look at their site,  
17 so we'll meet them out in the field. We'll look at the  
18 site and we'll give them comments and advice, but we're  
19 not going to recommend a site, we're not going to be part  
20 of the site selection process. So that's pretty much how  
21 we handle the pre-filing.

22           MR. SOLOMON: Why don't we start with the  
23 Counties? Would the Counties like to go through how they  
24 handle the pre-filing task?

25           MR. MCCARTHY: Sure. I can start with L.A.

1 County. After AB 32 was passed, we did have -- we went  
2 through a fairly considerable period where people were  
3 coming in representing various private Developers, asking  
4 how we would go about handle a situation, what zones  
5 could they put the projects in, what would be the zoning  
6 procedures, and we were scheduling meetings with them.  
7 Some agencies charge a fee, I know L.A. City does for  
8 kind of pre-counseling sessions, we don't, and we had  
9 many many sessions with many many folks over a period of,  
10 I would say, a couple years, maybe a little bit longer,  
11 in advance of any projects actually being filed. But,  
12 again, each jurisdiction is a little bit different, and  
13 so these people are dealing with alternative energy  
14 statewide, a private Developer, he may have to be  
15 familiar if he's got multiple projects, if he has a  
16 project in Kern County, a project in L.A. County, another  
17 project in Riverside County, he has to be familiar with  
18 the different procedures of each county. It's the same  
19 with a housing Developer; it's no different, really. But  
20 that takes a fair amount of time to let them know the  
21 differences, the nuances of our processes here in the  
22 local area.

23 One of the aspects of our County-wide General  
24 Plan, which is undergoing an update now, but it was  
25 originally passed and adopted in 1980, it incorporated a

1 requirement that we designate certain areas as  
2 significant ecological areas. And so, from a DCECP  
3 perspective, you might think of it as in terms of your  
4 process, you're looking for the areas with the highest  
5 biological value, and essentially that's what we were  
6 doing at the county level. And we had these areas  
7 designated SEA, Significant Ecological Areas. And we  
8 took pains to mention that, well, that just because an  
9 area is designated as SEA does not mean that you are  
10 precluded from developing, but there will be certain  
11 biotic resources there that you would be expected to  
12 respect and try to protect and preserve, and if you  
13 cannot, then we will accordingly proportion requirements  
14 for off-site mitigation, purchase of additional land  
15 elsewhere that would be suitable as a reserve site. So  
16 we try to make that very clear to them.

17 I think early on in terms of the counseling  
18 process, just amongst us in-house, we at that point were  
19 not aware of DRECP, we were not communicating with anyone  
20 else, but we said, "You know, we've got a water problem  
21 in the Antelope Valley, so a lot of farms have gone  
22 under, why don't you look for former farmland? Why go  
23 out and destroy any Joshua Trees?" And that was good  
24 advice and most of the applicants have followed that  
25 advice. I think that by the time they were coming and

1 talking to us, they were certainly aware that Tehachapi  
2 was on its way and the Tehachapi lines have been erected  
3 in much of the Antelope Valley already, the whirlwind  
4 station looks like it's operational, we were up there  
5 yesterday. So that is an attraction to locate on the  
6 west end of the Antelope Valley, there's very little  
7 activity so far on the east end of the Antelope Valley,  
8 and certainly all of the big projects are on the west end  
9 of the Antelope Valley where they have that attraction.

10 And so what we've been doing is making it very  
11 clear to Developers that, in L.A. County that the tie-in  
12 from the solar project to the Tehachapi line is going to  
13 be underground, and sometimes -- well, the usual response  
14 is disbelief, anger, grief, they go through it all, and  
15 they go through various stages, but we are sticking to  
16 that very solidly. And I appreciated having the  
17 opportunity at one of the initial DRECP meetings to  
18 listen to the Citizens Biological -- the Biological  
19 advisors, the citizens group, discuss this issue. And  
20 there were pluses and there were minuses to doing it  
21 underground. The big minus from the industry is it costs  
22 three times as much, but stringing more above-ground  
23 utility wires across the desert just creates another  
24 problem with attracting ravens and allowing them to prey  
25 on species that we're trying to protect, such as the

1 Desert Tortoise.

2           So there are pluses and minuses. One of our own  
3 Planning Commissioners brought up the question, "Well,  
4 wait a minute, it does cost three times as much, would it  
5 be better to spend that money on buying additional open  
6 space reserve land?" So we've had all of these  
7 discussions in-house, and we have done a pretty good job,  
8 I think, of apprising all of the applicants of what to  
9 expect. This is the law of the land in L.A. County, it's  
10 going underground, that's it, we want it on former  
11 farmland, we would prefer that you have the photovoltaic,  
12 we don't want anything where you're using water to  
13 produce the electricity because of the fact the Antelope  
14 Valley is in adjudication at this time, and there is a  
15 significant water shortage there. So those were some of  
16 the non-negotiable demands that we put down, but I think  
17 it helps. If a Developer says, "I can't live with that  
18 requirement," he goes elsewhere where he's not confronted  
19 with that, he hasn't wasted time and money trying to  
20 develop a program that's going to get shot down. And so  
21 we've been pretty active in that regard and continue to  
22 be for someone who has questions they want to come in,  
23 they can contact myself or other people in the department  
24 and we'll be happy to sit down with them and give them a  
25 briefing.

1           MR. SOLOMON: Thank you. Are there any other  
2 counties? Craig, please.

3           MR. MURPHY: Sure. I think the pre-filing is  
4 critical. I think it's critical for the applicant, I  
5 think it's critical for the County. Especially from the  
6 County perspective, you know, you have an applicant that  
7 deals with multiple jurisdictions. Every jurisdiction  
8 has its own idiosyncrasies, its own requirements, its own  
9 standards, things along those lines. It's very important  
10 for an applicant to come in and get an understanding from  
11 the very beginning what some of our general requirements  
12 would be, what some of the concerns we've identified from  
13 previous projects, what type of environmental document is  
14 going to be needed. It kind of is an opportunity to also  
15 gauge the sophistication of some applicants, and when I  
16 say "sophistication," I just mean their familiarity with  
17 the county, their familiarity with the process. You  
18 know, many times, especially with solar, it's one of  
19 those new uses where it's the next big thing and, "I have  
20 property and I want to produce a solar project," and it  
21 allows us to indicate to them that there's a lot of other  
22 complicated things that you need to be aware of, are you  
23 sure that you understand these things along these lines.  
24 And so, you know, it's very key so that everyone gets off  
25 to the right foot, which I think is important.

1           Again, we kind of have two different types of  
2 pre-applications. Kern County is very open in the fact  
3 that, if someone wants to meet with us to discuss a  
4 project, or anything, you know, we have a number of key  
5 staff that generally work on a lot of these solar  
6 projects, they're familiar with it, you know, we can  
7 accommodate those requests and they can come and have  
8 informal discussions about the process, things along  
9 those lines. I -- you'll probably get to it on your next  
10 step, but when you actually get to a formal application  
11 where we receive an application, you know, that's where  
12 we respond to them in writing, indicate what studies are  
13 going to be required, exactly what type of environmental  
14 document is needed, what are the fees, things along those  
15 lines.

16           One of the other things that the pre-application  
17 lets us do is gets us a gauge in terms of how many  
18 projects we think are coming, things along those lines.  
19 You know, we took steps to hire consultants on -- we have  
20 master contracts with various environmental consultants  
21 that help the county prepare these documents, and so it  
22 kind of gives us an opportunity to gauge what projects  
23 will be coming, let the applicant know that, while you  
24 may be able to prepare these studies, they're going to be  
25 peer reviewed, and just kind of lay the entire process by

1    which the project would go.  You know, again, that helps  
2    people that are --

3               COMMISSIONER DOUGLAS:  Sorry, Craig, let me just  
4    interrupt for just a moment.  If somebody is speaking on  
5    the line, this is -- you're calling in to a workshop  
6    where we're asking people on the line to mute their  
7    phones right now if they're listening, thank you.

8               MR. MURPHY:  Yeah, I was just going to say that,  
9    you know, kind of as previously indicated, if an  
10   Applicant is serious and they understand the  
11   requirements, then they know what's going to be in front  
12   of them and, then, you know, we're working on projects  
13   that know the lay of the land and that are viable, as  
14   opposed to some projects that -- and it's good for an  
15   Applicant, too; as soon as they hear some of the  
16   requirements, you know, I've had a number of meetings  
17   where they say, "Thank you very much, I appreciate that,  
18   I'm going to go somewhere else," or, you know, "I'm going  
19   to rethink this," or things along this line.  So I think  
20   it's a valuable aspect and, you know, the ability to come  
21   in and have these discussions, you know, from my  
22   understanding the Applicants greatly appreciates it.  
23   And, again, partly because they deal with a number of  
24   different jurisdictions and standards, and so a lot of  
25   times they don't necessarily know what application would

1 be appropriate to fill out.

2 COMMISSIONER DOUGLAS: I just wanted to take a  
3 moment and introduce Mary Jo Borak and Terry Watt, Mary  
4 Jo from the PUC, and Terry with the Governor's Office.  
5 Has anyone else come in who I haven't noticed come in? I  
6 don't think so. So, Janea, I think I introduced you --  
7 good. I wanted to make sure. So, yeah, can we mute --  
8 is there anyone here who can mute the phones? Okay, so  
9 Roger muted the phones, that's great, so I don't think  
10 we're going to get anymore noises. We'll definitely  
11 unmute them when it's time for public comment. And also,  
12 I guess BLM might have some people, or Fish & Wildlife  
13 Service might have some people calling in later in the  
14 agenda. So we might have to unmute it at that time. So,  
15 go ahead, Alan.

16 MR. SOLOMON: Thank you, Craig. Are there any  
17 other counties that would like to describe their pre-  
18 filing process?

19 MR. HORNE: I can tell you a little bit about  
20 what we do --

21 MR. SOLOMON: Excuse me, could you please  
22 identify yourself for the courtesy of those on the phone?

23 MR. HORNE: I just assumed they would recognize  
24 my voice. Andy Horne from the County of Imperial, and  
25 Armando might expand on this, we have a pre-application

1 process that we think has worked fairly well and, in  
2 addition to having planning staff and actually my office  
3 available to the Developers that are seeking to get some  
4 idea of what issues that they're going to address during  
5 the permitting process, we do a pre-application meeting  
6 and they do come in with a brief description of the  
7 project and then they can request a pre-application  
8 meeting. And at that pre-application meeting, we  
9 actually invite all of the jurisdictional agencies that  
10 we think are going to be participating in some way, shape  
11 or form during the permitting process. That would  
12 include BLM, the Irrigation District, the Imperial  
13 Irrigation District, State agencies, Border Patrol, some  
14 of the other -- CHP, we invite everybody. And we get  
15 them all in one room on an informal basis prior to the  
16 application starting to be processed, or before actually  
17 receiving it, and then just go around and have the  
18 applicant make a brief presentation on the nature of  
19 their project, and then just go around the room on an  
20 informal basis and have each agency kind of make some  
21 comments and alert them to some issues that they may have  
22 to deal with during the application process, and then  
23 establish that contact, you know, pass around cards and  
24 so forth, and the Planning Department always circulates a  
25 sign-in sheet to the Applicant so they know who was

1   there, so they know who to follow-up with if they have  
2   any questions or issues raised during that pre-  
3   application meeting and that's worked out really well for  
4   the Applicant, and there's no charge for that, in  
5   addition, even though there's some effort involved. And  
6   the Applicants that I've dealt with and talked to really  
7   appreciate that opportunity to have that initial  
8   feedback.

9           MR. SOLOMON: Thank you.

10          MR. JOHNSON: Alan, before we move on, I didn't  
11   mention in my pre-filing process because I guess I was  
12   wanting to see if people would identify the fact that the  
13   REAT agencies put together a Best Management Practices  
14   Manual, I believe about two years ago, as part of the  
15   Renewable Energy Executive Order, and it's something that  
16   we prepared primarily for Developers and agencies to  
17   provide a set of guidelines for Developers to understand  
18   how they might design their projects to improve their  
19   permitting process and to reduce the time. Are the  
20   Counties familiar with this manual? And has anybody ever  
21   suggested it to Developers to take a look at?

22          MR. NEWCOMBE: No.

23          MR. JOHNSON: I see a head nod yes over here by  
24   Josh.

25          MR. HORNE: Well, Roger, if you'd like to run off

1 some copies, we'd be happy to take them back with us.

2 MR. JOHNSON: I'd be glad to. I've got CDs.  
3 It's on the website, it's on the Commission's website,  
4 and I just wanted to make sure that folks knew it was  
5 available. We think it has a lot of good ideas for  
6 Developers to understand how they can better design their  
7 projects to reduce impacts and to improve the permitting  
8 process. So I'll -- actually, I'll grab some CDs at  
9 lunch today and make them available to folks.

10 MR. SOLOMON: Thank you.

11 MR. HART: This is Josh Hart with Inyo County.  
12 We do have a pre-application process and it's very  
13 similar to what the other counties had described.  
14 There's one thing that is unique to our process, there is  
15 a fee, however, if an application is submitted within six  
16 months, the fee is credited towards the application. So  
17 I think that's a good incentive for folks who are serious  
18 to submit an application and when they're considering  
19 filing.

20 MR. SOLOMON: Any other counties?

21 MR. NEWCOMBE: Gerry Newcombe with San Bernardino  
22 County, and we have a process that mirrors everyone  
23 else's very closely. Until recently, though, there was a  
24 cost to it and, in the last year, that fee has been  
25 dropped, so we didn't have a lot of participation

1   beforehand and I think we're getting more now.

2               Just a comment, though, when Roger was talking  
3   about his pre-application process, I don't think I heard  
4   in there that one of the things -- one of the agency's  
5   contacts is the local county, the local agency, and I  
6   think we did get contact ultimately from a lot of these  
7   utility-scale projects that were coming into our county,  
8   but we don't have jurisdiction, so they were a little  
9   different in the way they approached us. And so it might  
10   be helpful if, you know, just as a matter of course they  
11   were directed to at least, you know, sit down and talk  
12   with the local county. In our county, we have a  
13   groundwater ordinance that, if the project is going to  
14   dig a well on their property, they are required to get a  
15   permit from us, so it does bring us into a discretionary  
16   permitting process even if it's on BLM land. So anyway,  
17   in the way that we coordinate with cities who have  
18   spheres of influence that cover the unincorporated area,  
19   and yet the county is still the planning authority, we're  
20   very quick to say you need to go talk to the City because  
21   we don't want to do anything in that sphere area that's  
22   inconsistent with what the City Plan requires. And so,  
23   as much as we can have that coordination, that would be  
24   great, but we're getting a lot of it now, we're doing  
25   quite a bit of it now, and so I think it's probably

1 changed a bit in the last couple of years. So, thank  
2 you.

3 COMMISSIONER DOUGLAS: At what point, typically,  
4 in the pre-filing do you either contact the County or  
5 tell the Developer to contact the County?

6 MR. JOHNSON: We tell the Developer they should  
7 go talk to the County and make sure that they're  
8 informing the County about their project, as well. We  
9 don't, because again, sometimes they haven't talked to  
10 them yet, they're not ready to talk to the County, but we  
11 encourage it.

12 MR. NEWCOMBE: Thank you.

13 MR. SOLOMON: Are there any other Counties that  
14 would like to add their thoughts on pre-filing process?

15 MR. MCCARTHY: If I could just comment on the  
16 CEC. I think sometimes Developers, particularly if  
17 they're in the alternative energy field, which is  
18 relatively new, they may not have had experience with the  
19 planning process previously, and they may think, "Okay,  
20 I've got to touch bases with the CEC," or, "I've got to  
21 touch bases with the PUC," or, "I've got to touch bases  
22 with Edison," and so on. They're thinking of  
23 organizations. What they have to recognize is that, at  
24 the local level, the Planning Departments can give you  
25 the contact people that you need to deal with in the

1 community because the planning process has a significant  
2 political component to it involving public hearings and  
3 scoping meetings, and just a lot of stuff at the local  
4 level, and which you, if you're a Developer of one of  
5 these projects, you're going to get to know a lot of  
6 folks that you had never known existed before in the  
7 local community. And so it's important to let them know  
8 that they have to contact the local planning agencies to  
9 get a courtesy list and lists of town councils, and HOAs  
10 and other organizations that they're going to be dealing  
11 with. But if they proceed too far down the line, and I  
12 know that there's a conflict here, the industry in fact  
13 mentioned it at the DRECP meeting in Victorville, they  
14 were asking, "Could you guys keep some of this quiet so  
15 that property values would not increase?" Well, I can  
16 understand why as a business person that would seem like  
17 a reasonable request, but once someone is coming in to  
18 talk to us, there's something in the file about that  
19 meeting and that's public information and we don't -- we  
20 cannot withhold it. It's not going to be classified in  
21 any way. So they may feel a financial incentive to try  
22 to come in with a stealth project, but later on in the  
23 process when they open up and everything becomes public  
24 at the Planning Department, oftentimes that stealthiness  
25 has generated a lot of antipathy in the community and

1 makes it more difficult for the community, for the  
2 Planning Department to work with the community and for  
3 the Developer to work with the community, and so I  
4 understand their financial scenario, but there's a  
5 balancing goal, and from our perspective we would say  
6 earlier disclosure, rather than later in terms of going  
7 public with your project.

8 MR. SOLOMON: Thank you. I'm going to ask the  
9 Federal agencies to describe their pre-filing process.

10 MS. CONRAD-SAYDAH: This is Ashley Conrad-Saydah  
11 from the Bureau of Land Management. So the BLM process  
12 is large scale wind and solar applications as rights-of-  
13 way, whereas we're usually seeing for geothermal and  
14 other actions, so it's a right-of-way process and we  
15 actually have a Code of Federal Regulations that dictates  
16 how we manage those rights-of-way. And in the CFR, under  
17 rights-of-way management, a pre-application is actually  
18 not required, and our local offices, our field offices  
19 worked very closely with the Counties on other rights-of-  
20 way, so you probably heard from them when they were  
21 seeking application for a linear right-of-way, or other  
22 types of things that we were used to doing.

23 Then we got this massive influx of wind and solar  
24 applications, and we learned very quickly that we needed  
25 to keep that sort of engagement going up, but that

1 because a pre-application meeting wasn't required, we  
2 needed some sort of policy to manage that. So a year  
3 ago, we passed an instructional memorandum, which is  
4 internal to the BLM, but it's posted on our website, you  
5 can find it, and this one is IM061, so it's 2011-061 is  
6 the Code. And it requires two pre-application meetings  
7 before the BLM would actually accept an application, and  
8 the first meeting is internal to the BLM, where all the  
9 BLM resource specialists will sit down with the Applicant  
10 and get a sense of where the project area is, the  
11 Applicant is encouraged to bring in maps on what the area  
12 is, and the Resource Specialist can talk about water  
13 issues, or wildlife issues, or anything else that comes  
14 up. The second meeting is intended to include outside  
15 parties, as well, so Counties, local governments, and the  
16 IM does say explicitly Counties are right on there, so  
17 the expectation is that county partners would come in for  
18 that second meeting before we would even accept an  
19 application. And in that second meeting, tribes,  
20 counties, state agencies, interested parties, can  
21 actually express frustrations or satisfaction with the  
22 application, talk about some of the resource  
23 implications, and BLM can take that all into account  
24 before they accept an application. At the same time, the  
25 Developer can decide, like Craig from Kern County was

1 talking about, if they want to continue pursuing that  
2 application or walk away.

3           Some of our pre-filing consists of just a phone  
4 call where we say right away we're going to ask you for  
5 cost recovery, you'll cover all the cost of the project,  
6 of the processing time from the BLM's perspective, you'll  
7 also have to get into the CAISO, and so once we lay out  
8 some of those costs upfront, a lot of people stop  
9 calling. Once we go past that and we have the meeting in  
10 person, I think we lay out some of the resource issues,  
11 some folks also go back and re-format their applications,  
12 others continue along knowing what the limitations may be  
13 to their application, and I think probably in the next  
14 section we can talk about how BLM would prioritize those  
15 applications based on the resource issues. But I'm  
16 hoping that all of you from the Counties have been  
17 invited into some of these pre-application meetings, and  
18 this item came out almost exactly a year ago in February  
19 of 2011, so we're adopting it slowly. I think we adopted  
20 it very quickly right away and then it may have died out  
21 a little bit, but any feedback on whether or not you're  
22 being invited into those pre-application meetings would  
23 be helpful.

24           MR. SOLOMON: Any other Federal agencies that  
25 would like to discuss the pre-filing process? What about

1 State agencies? Oh --

2 MR. BLACK: I'll speak for the Department, not  
3 the specific agencies, but I just wanted, since we don't  
4 have Fish and Wildlife Service or Parks here, I don't  
5 think today, I'll just add to what Ashley described.  
6 Within the Department, we have a fairly robust  
7 interagency consultation process, so in addition -- and  
8 building on the information that BLM collects during its  
9 pre-application meetings with an Applicant, and typically  
10 the Department interaction occurs a little bit later  
11 after an application is filed, and BLM is getting ready  
12 to publish a Notice of Intent to proceed with a NEPA  
13 analysis, but one of the things the Secretary has  
14 encouraged all of us to do is, even though each of these  
15 agencies have different statutory missions, resources,  
16 and responsibilities, to work together to help to de-  
17 conflict projects, if you will, so that we have input  
18 from the Park Service, from the Fish & Wildlife Service,  
19 from Bureau of Indian Affairs early, not at the end of  
20 the NEPA analysis. That's not a formal pre-application  
21 process or a formal regulatory process, but it's one that  
22 happens in a fairly robust way within the Department.

23 MR. SOLOMON: Thank you.

24 MS. BORAK: Good morning. I don't know how  
25 relevant our pre-filing process is to the Counties.

1 Basically, the Public Utilities Commission, as our title  
2 might imply, we deal with the public utilities, and so  
3 our job is to make sure that there is a substation and  
4 transmission line capabilities, so when renewable  
5 projects get up and built, that they'll actually get the  
6 power into the Grid, and to the places where people are  
7 going to use the energy. So most of our interface with  
8 renewables has to do with making sure that the utilities  
9 file with us in a timely manner to make sure that, when  
10 all these thousands of Megawatts are coming online that  
11 there will actually be transmission capability to bring  
12 things into the Grid.

13           We work with the utilities pretty regularly, I  
14 have quarterly meetings with Edison and San Diego and  
15 Pacific Gas & Electric, we go over their projects,  
16 there's long timelines from the time that a transmission  
17 line is proposed until it actually gets built and gets  
18 connected to the Grid. Edison likes to say it's seven  
19 years, we like to tell them that it doesn't need to be  
20 that long.

21           So it's a long process. Basically what we do  
22 with the utilities is we have a fairly robust pre-filing  
23 application process where, about six months before they  
24 actually give us a formal document, sometimes up to a  
25 year before they give us a formal document, we'll meet

1 with them informally and, a lot of times we partner with  
2 a Federal agency because there's a NEPA side and a CEQA  
3 side to the project, and then six months, say, into the  
4 project, the utilities will file with us a formal PEA, a  
5 Preliminary Environmental Assessment. It's a fairly  
6 robust document of several hundred pages, it lays out a  
7 lot of the environmental information that we'll need.  
8 And then we have 30 days to look at it and deem it  
9 complete or let the utilities know what they need to do  
10 to make it a more robust document. Ultimately we accept  
11 it as a Preliminary Environmental Assessment. We have a  
12 group of environmental consultants that we -- that  
13 actually we hire to do the California Environmental  
14 Quality Act review, we have public meetings, at some  
15 point when we get a Draft Environmental document and  
16 we're getting toward the Final EIR, we'll actually work  
17 with our Administrative Law Judge Division and they will  
18 do the kind of Administrative Law part of the  
19 application, and ultimately the EIR and the ALJ's form a  
20 document that goes before our Commission and gets voted  
21 out that approves the transmission lines and substations  
22 and basically allows the utilities to get a return on  
23 their investment.

24 So that's kind of our process. There's an  
25 additional process that I'm less familiar with, that the

1 utilities come to us for Power Purchase Agreement  
2 approval. One of the things I think is important for the  
3 Counties and also Applicants, the Generators, to realize  
4 is that sometimes when you're talking when a Generator, a  
5 or a County is talking to the utility, there is an  
6 assumption that somehow the utility is going to tell the  
7 PUC about what's going on; when there are Power Purchase  
8 Agreement discussions and applications, oftentimes the  
9 CEQA, the infrastructure side of our Energy Division, is  
10 completely unaware of that. Every once in a while, we'll  
11 have a project that has been approved that everyone  
12 thinks is moving smoothly, and there is a little tiny  
13 piece of interconnection that goes to a switching  
14 station, or goes into a substation, or maybe there's a  
15 tiny tiny gen-tie line, and that's never been properly  
16 vetted and reviewed, and suddenly the PUC is in the place  
17 where we're like, "Wow, we didn't hear about this," and  
18 we have a responsibility to make sure the California  
19 Environmental Quality Act is adhered to, and we don't  
20 want to be the people at the last minute telling somebody  
21 that they can't move forward with their project because  
22 something slipped through the cracks, so hopefully when  
23 people are -- when the Counties, for instance, are  
24 preparing their environmental documents, make sure to  
25 include that little tiny missing link that goes to --

1 that actually connects the whole thing together, because  
2 that's one of the areas that we've seen that it's a  
3 problem. We can often rely on County documents, one of  
4 the things that the PUC is really interested in is the  
5 greenhouse gas section of things, and so that's an area  
6 that we'd like to make sure is robustly covered in  
7 whatever environmental documents we might be reviewing  
8 and utilizing.

9 MR. SOLOMON: Thank you very much. Before we  
10 move on to the next topic, which will be determining the  
11 completeness of the initial application, I do have a  
12 question for the participants. How much guidance do you  
13 give to the Applicant, to the proponent, with regards to  
14 where to place the project?

15 MR. MURPHY: Craig Murphy with the County of  
16 Kern. I think it's a little bit dependent on the size of  
17 a project that is proposed. I mean, generally if it's  
18 within our zoning ordinance as an allowable request, we  
19 don't dictate what requests can be made in terms of what  
20 we will process or what we won't process. However, when  
21 someone gives us an application, you know, we try to at  
22 the very beginning indicate areas of known concern based  
23 on our experience in similar projects, our experience in  
24 working with members of the community, our experience in  
25 working with other jurisdictions, things along those

1 lines. So, while it's our position that we won't say  
2 "don't submit this application," and "move it here,"  
3 things along those lines, we do want to let people know  
4 at the earliest stage whether there is a major hurdle  
5 that needs to be addressed, or that we would recommend  
6 that they consider, or look at, or think about prior to  
7 moving forward. One example, you know, our Board of  
8 Supervisors actually has, especially with Solar, there is  
9 a number of different emerging concerns coming out, and  
10 so we're working to take any actions that the Board may  
11 determine are appropriate related to Ag conversion. You  
12 know, we've been going through our standard process of  
13 preparing our documents and requiring mitigation and  
14 things along those lines, you know, right now most of the  
15 projects we've had proposed before are located in limited  
16 areas of water, other areas of the county, you know,  
17 we're starting to get applications now that are actively  
18 on farmland, and so our Board has tried to be proactive  
19 and has made referrals to us to bring to them various  
20 policy options, or things for them to consider so that  
21 actual things could be vetted by the Board, and  
22 Applicants, then, would know, "Okay, this is the Board's  
23 position when it came to a land use on this type of  
24 property," things along those lines. So those are some  
25 of the things overall we're trying to do, but when it

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1 comes to site-specific projects, we always want to make  
2 sure that we identify things that we know based on our  
3 previous experience, things along those lines, so that  
4 the Applicant can make their determination whether or not  
5 they want to move forward at that particular location.

6 MR. SOLOMON: Thank you. Anyone else?

7 MR. CONDON: Alan, this is Bill Condon, Fish &  
8 Game. I wanted to actually get back to the previous  
9 question as a State agency representative, but it relates  
10 to what Craig brought up in his response to your  
11 question. Fish & Game has always regarded pre-filing  
12 engagement with Developers and lead agencies as an ideal.  
13 We like to be part of the conversation to inform  
14 Developers and lead agencies about occurrences of  
15 sensitive resources in locations where projects are being  
16 contemplated. Lorelei Oviatt of Kern County related to  
17 me that the County often has shied Developers away from  
18 areas of known habitat of Blunt-nose Leopard Lizard  
19 because it's a fully protected species and siting  
20 projects in the habitat has proven to be really  
21 challenging. So that's the kind of information we'd like  
22 to be relaying to Developers and lead agencies as  
23 necessary, many of the lead agencies are well familiar  
24 with the extent and location of sensitive resources.  
25 Nevertheless, we see our role as helping lead agencies

1 and Developers in lining them up in terms of accepted  
2 protocols for wildlife surveys and inform them of what  
3 level of effort and expenses made in carrying out those  
4 protocol surveys may entail. We also appreciate many new  
5 Developers in this relatively new sector are not familiar  
6 with the regulations and the actual costs involved from A  
7 to Z in terms of project developing and permitting. So  
8 we would like to have the Developers see everything with  
9 their eyes open from the get go. We also like to use the  
10 opportunity to apprise them of permitting requirements  
11 under our authority, as well, the California Endangered  
12 Species Act, Lake or Streambed Alteration Agreements,  
13 these are things that should be incorporated into the  
14 project planning from the beginning, rather than  
15 sometimes it seems to be almost an afterthought, which is  
16 not an ideal situation.

17 Sometimes it takes a significant emotional event  
18 such as a delay in a project to actually make strides  
19 forward; we have an example, recently a County in the  
20 Central Valley, I won't name the County, I don't need to,  
21 where a project went through, a Mitigated Neg Dec went  
22 through circulation three times, I think largely in  
23 Response to Comments from the public, but the project  
24 also changed significantly, as well. And in the third  
25 iteration, because of the project change, all of a sudden

1 certain resource issues came up that we didn't flag in  
2 our initial comment letters because the initial project  
3 as proposed did not raise those issues in terms of  
4 project conflicts with resource values, in this case it  
5 was a key corridor for San Joaquin Kit Fox. So because  
6 of the challenge, the change in the project, these issues  
7 came up and we sent in a comment letter, and these were  
8 seen as new comments coming from the Department, kind of  
9 a late hit sort of thing. So there was some angst over  
10 that, but in the end we have an agreement with the County  
11 that we are invited to go out with the County staff to  
12 look at projects, those projects that have legs, in your  
13 view, and evaluate the project setting in terms of  
14 sensitive resources and apprise the Developers of what  
15 would be recognized in the survey protocols to make sure  
16 that the project as developed identifies those resources  
17 and, as needed, mitigates those resources, impacts to  
18 those resources to less than significant. That's the  
19 ideal. Fish & Game, you know, we're responding to  
20 timelines and CESA and CEQA, as well, so with the time  
21 leftover in engaging those processes is really the time  
22 when we're available to engage in the pre-filing process.  
23 In the end, it's more effective to be engaged in the pre-  
24 filing process so that there is that much fewer issues to  
25 raise in conjunction with the CEQA review process and

1 permitting process. So I just wanted to put in a plug  
2 for that. We see that as an ideal, we like to be  
3 responsive to invitations to pre-filing discussion, and  
4 we'll continue to try to do that as our staff time and  
5 availability allows. So, thank you.

6 MR. SOLOMON: Thank you. Are there any other  
7 comments?

8 MR. MCCARTHY: Paul McCarthy, L.A. County. You  
9 want to remember that the local jurisdiction does not  
10 have the authority prior to a public hearing to say we,  
11 at the staff level, are going to deny this application.  
12 If the Applicant comes in and he chooses to ignore every  
13 piece of advice, every counseling advice we've given him,  
14 that's his prerogative. So, what we do as part of the  
15 pre-counseling, pre-project counseling, we certainly  
16 advise them of what the provisions of the Zoning  
17 Ordinance are and what you can do in this zone, and if  
18 you need a zone change to do something in the other zone.  
19 We apprise them that, on our website, you can come in and  
20 look at your property and find out how to zone. So if  
21 they're doing a search for 100 different properties, they  
22 could do that on their own. And, again, we emphasize the  
23 significant ecological areas which gets back to Fish &  
24 Game type issues, and that that would have to be  
25 considered. And we have on our website now, we have each

1 of the SCAs is numbered and the SCA, they're not designed  
2 to protect the same resource; one may be riparian  
3 resources, another may be some desert habitats, and so  
4 you can go in on the website, look at your property, and  
5 say, "Okay, that's an SCA number so and so," pick up the  
6 write-up that this SCA is established for this purpose,  
7 and so we advise them of that, and to design their  
8 project to protect whatever resource it is trying to  
9 protect within that SCA. But in terms of do we say, when  
10 they hand something in over-the-counter, "No, it's not  
11 going anywhere, we're going to tear up the application,"  
12 we have no such authority.

13 MR. SOLOMON: Thank you. Anyone else. Gerry.

14 MR. NEWCOMBE: Gerry Newcombe from San Bernardino  
15 County. You know, I think one thing that's missing from  
16 certainly our pre-application conversation, and maybe  
17 from others, is a conversation about transmission  
18 capability, interconnectedness. I mean, frankly, if  
19 they're not picking a piece of property that's sitting  
20 underneath power lines, it's going to be difficult to do  
21 anything once the project is built, or if it ever gets  
22 built. And we've been hearing from a number of  
23 Developers who are frustrated that they can't even get in  
24 the queue with Southern California Edison because of  
25 bottlenecks in transmission capability. So I'm not sure

1   how to fit that into the conversation, we could provide a  
2   lot of information about resource issues and habitat, and  
3   those kinds of things, but we spent two hours a couple  
4   months ago having Edison take us to school on  
5   transmission process and interconnection and Grid  
6   planning, and it was certainly from their perspective,  
7   but this three to 11-year process to permit new  
8   transmission lines and concerns about the environmental  
9   process that Edison goes through, and then it's an  
10  additional process with the PUC, and maybe there's some  
11  ways to squeeze that timeline down a bit, there was a lot  
12  of conversation about that. But I think, overall,  
13  Developers are starting to see that, in spite of all the  
14  other on the ground environmental issues they have to  
15  deal with, that the transmission capability is going to  
16  be the real limiting factor. And I don't know how that  
17  needs to fit in to the conversation of pre-application,  
18  but I think it's probably really important because, if  
19  you can survive all the other issues and build the  
20  project, if you can't get the power in the system, then  
21  it's not going to have any value.

22           MR. SOLOMON: Thank you. Any other comments?

23           MR. MURPHY: Real quick, for what it's worth,  
24  Craig Murphy, Kern County, it's just kind of funny you  
25  said that because every Applicant that I ever talk to

1 says, "Don't worry about transmission, I've got it  
2 covered. We're okay. It's getting worked through." You  
3 know, I never had an Applicant come to me yet and say,  
4 "Well, I have some concerns about whether I'm going to  
5 get in."

6 MS. CONRAD-SAYDAH: Yeah, and this is Ashley  
7 Conrad-Saydah from BLM, I think it's a double-edged sword  
8 because we don't necessarily want Developers to come in  
9 with all their transmission plans worked out, and then  
10 have pressure put on us later saying, "We have our  
11 transmission, we have a PPA, we have all of this, you  
12 have to permit us," even though it's in this type of  
13 habitat. But at the same time, we do want them to come  
14 in and be well aware of the transmission limitations for  
15 the project, so I think it's a really good point to at  
16 least bring up the discussion in the beginning and agree  
17 that, when you get further down the line, you do want to  
18 know that the project has at least gotten in the queue,  
19 has started trying to secure a PPA. But we struggle with  
20 that at BLM, putting the PPA into a due diligence type of  
21 requirement because, if you have the PPA, again, it's  
22 that double-edged sword of knowing that the pressure will  
23 come down the line, to make sure that you agree with that  
24 permit application.

25 And I guess the other piece, too, just in terms

1 of coming in early, I think one thing that we're trying  
2 to get towards is also having Developers come in and be  
3 ready to talk about mitigation, so being prepared to talk  
4 about trying to find lands for mitigation in the future,  
5 and we haven't quite figured that out yet, but we're  
6 working towards that.

7 MR. SOLOMON: Any other comments. Before we move  
8 on to the next topic --

9 MR. JOHNSON: This is something that I was  
10 recently made aware of that I didn't know about, so I  
11 thought I'd just share it, it goes to Gerry's comment  
12 about transmission -- and maybe Gerry can speak to this  
13 better than I -- the PUC has a requirement that the  
14 utilities develop these maps for public consumption, that  
15 show where it's preferable to connect small renewable  
16 energy projects, and so I looked at the Edison maps and  
17 pretty much they're shades of color and it gives you an  
18 idea where Edison thinks you could better connect, and  
19 then you're encouraged to go talk to Edison once you have  
20 identified the area. PG&E maps I looked at were a lot  
21 more detailed, they actually showed the substations and  
22 suggested how many megawatts of capacity would be  
23 available at that substation, in that area. So I don't  
24 have the websites, but I know that the utilities are  
25 required to have this information up and they do it

1 differently, but it's something that I definitely would  
2 encourage you to send the Developers, to go look at the  
3 website, and then go talk to the utilities.

4 MR. SOLOMON: Thank you. Mary Jo.

5 MS. BORAK: Alan, I'll just add a little bit to  
6 that. You know, I don't think -- if we had to do it all  
7 over again, and we don't get that opportunity at this  
8 point, I don't think, I think we'd have a whole different  
9 process. I mean, the whole way the entire renewable  
10 field is structured, and who has jurisdiction, and if  
11 it's over 50 megawatts or under 50 megawatts, or if it's  
12 thermal, or if it's not thermal, it's -- when I got out  
13 of graduate school 100 years ago, and I went to work at  
14 the Public Utilities Commission, we actually did power  
15 plant siting, and did transmission siting, and the  
16 utilities did everything from soup to nuts, and it maybe  
17 wasn't an ideal situation, but at least it was organized  
18 in some sense. And now it's very very fragmented. And  
19 it is -- and I think that the State, I think rightly so,  
20 moving into the 33 percent renewable world, the ARRA  
21 funding that has really accelerated a lot of renewable  
22 generation planning and getting people into the field, I  
23 think it has accelerated a lot of this, and the utilities  
24 are really behind in their ability to plan. And I'm  
25 certainly not one to try to carry the water for the

1 utilities, but there is a lot of projects that are in  
2 various stages of planning, some of them are going to be  
3 built, some of them are never going to be built. You  
4 know, the potential capability for renewables is way in  
5 excess of our 33 percent renewable goals. So it's a hard  
6 thing to try and plan. I mean, for those of us who  
7 actually permit these big 500 KV transmission lines, I'll  
8 tell you that nobody in the world wants these lines close  
9 to where they live, it is not a pretty picture. So, I  
10 mean, we can all sit here in this room and say, "Wow, we  
11 really need the transmission, we really need the  
12 transmission," but these big transmission lines cost in  
13 excess of \$2 billion, they take years to construct, they  
14 have real environmental consequences, and they're not  
15 well received by the people who have to live with them.  
16 So these are really complex challenges that somehow we  
17 all in this room have to sit around and figure out how to  
18 make work, and I think the utilities especially -- you  
19 know, Edison has more renewable projects in their service  
20 area than any of the other utilities, so they obviously  
21 have more work to do. They need to get a little bit  
22 better organized and helpful to Applicants early in the  
23 process.

24 MR. SOLOMON: Thank you. I'd like to move on to  
25 the next topic. However, before we do, I'd like to point

1 out that our goal is to take lunch at noon, at 12:00,  
2 which is in just over two hours. We have approximately  
3 six other topics that we'd like to cover during that  
4 time, therefore, I would appreciate that, if an earlier  
5 speaker has a similar process, or your thoughts would  
6 echo an earlier speaker, that you would simply say that  
7 in the interest of time. Thank you. Roger.

8 MR. JOHNSON: Okay, that's great, we were an hour  
9 ahead of schedule, but now we're back on schedule. Okay,  
10 let's talk about -- so after pre-filing, then we have the  
11 application filing with the Commission, we have formal  
12 regulations at the Energy Commission that describe what  
13 content is supposed to be in an application for the  
14 entire project. The Commission does more than just CEQA,  
15 we do the engineering review, as well, so there's a lot  
16 of additional information required for the engineering.  
17 So the Commission receives the correct number of copies.  
18 We used to get binders, each project would get a couple  
19 binders, but then with the advent of computers, now  
20 applicants can submit compact disks, actually now they're  
21 usually DVDs because there's so much information and in  
22 lieu of some of those paper copies. They have to attest  
23 that the application is complete and, then, we will  
24 review it, we have 30 days to go through it, we go  
25 through a Data Adequacy Review against our Regulations.

1 If the Applicant is missing information, we do a Data  
2 Adequacy Efficiency Letter that the Executive Director  
3 gives to the Commissioners, the Commissioners decide  
4 whether or not they agree with the staff, and determine  
5 within 45 days of the filing of the application whether  
6 or not to accept it or to reject it for additional  
7 information. Typically, applications take one or two  
8 additional supplements, we try to encourage applicants to  
9 give us complete supplements for the next round, we have  
10 30 days to review each supplement, and then, when the  
11 staff recommends completeness, the Commission usually  
12 meets with staff and we start our 12-month process.  
13 However, just to clarify, this is essentially the main  
14 information that the Energy Commission staff needs to  
15 review the project, depending on the project specifics,  
16 the location, the technology, whatever, there could be,  
17 and there usually is, a need for additional information.  
18 So that will be the next topic, but right now, it's just  
19 a basic amount of information that is required for every  
20 project and it's whether or not they meet those  
21 regulations.

22 MR. SOLOMON: Thank you. Starting with the  
23 Counties again, how do the Counties determine the  
24 completeness of the initial application that they  
25 receive?

1           MR. MCCARTHY: Well, certainly in Los Angeles  
2 County, we have a process where we will not accept the  
3 application if it is not complete, we can deny it -- deny  
4 or accept it, refuse to accept it. But it's a  
5 combination of factors, there's a list in the County  
6 Zoning Ordinance of materials that must be submitted and,  
7 so, all of those materials must be in the package.  
8 Obviously, we don't expect the EIR to be done. Normally,  
9 we would do an environmental review if it's a large  
10 project that was going to require an EIR. We would do  
11 the environmental review, but we expect a minimum amount  
12 of information so we can start that process of reviewing  
13 it, then make a determination as to whether or not an EIR  
14 is necessary and, in that process, identify which  
15 subjects would have to be covered within the EIR. That  
16 process, and when we get back to the cost factor, we have  
17 a drawdown account, and so you have to give a deposit; in  
18 a significant project, it might be a \$10,000 deposit to  
19 get your account established. So obviously, if the check  
20 isn't there for \$10,000 -- or frequently our problem is  
21 they write the check to L.A. City, we're not going  
22 anywhere with that, so send them back to the Office to  
23 get the check made out to L.A. County. So first things  
24 first.

25           MR. SOLOMON: Thank you. Any other County.

1           MR. VILLA: Yeah, Alan, just real quick, I think  
2 for the most part --

3           MR. SOLOMON: I'm sorry, for the benefit of those  
4 on the phone, if you could identify yourself?

5           MR. VILLA: Armando Villa, Planning Director for  
6 the County of Imperial. For the most part, you're going  
7 to find that most counties and jurisdictions have this  
8 initial acceptance of the application, you have 30 days  
9 to deem it complete, or incomplete, and then you have  
10 another 30 days to determine what type of environmental  
11 document you're going to need and what type of technical  
12 studies you're going to need. So I think the process is  
13 pretty straightforward if you have that permit  
14 streamlining requirement that you have to do with so much  
15 time.

16          MR. SOLOMON: Thank you.

17          MR. MURPHY: Craig Murphy, Kern County. The only  
18 thing I would offer, especially if you know a project is  
19 going to need an Environmental Impact Report, you know,  
20 if that involves them getting consultants on board,  
21 taking things to the Board to approve, contracts, things  
22 along those lines, I think generally, especially compared  
23 to the CEC, our application necessary to deem a project  
24 complete is less extensive. And again, partly it's  
25 because, if it's a solar project that is -- you know,

1 it's a typical solar project, and we're looking more at  
2 just the land use, you know, we can relatively get enough  
3 information at an early stage to deem an application  
4 complete and let everybody know that, hey, we have an  
5 application, again, we hire the EIR consultant, and they  
6 work for the County, but we do allow the Applicant to  
7 provide studies which are peer reviewed by the County, so  
8 many times we don't need the studies at the time we deem  
9 an application complete, we identify what studies are  
10 going to be required, but there is work that can be done  
11 while studies are still being prepared, while the  
12 applicant is still kind of getting their information to  
13 us that allows us to kind of get the project moving  
14 forward and, you know, ultimately, of course, if we're  
15 still waiting on something from the Applicant, and they  
16 have not given it to us for us to do our job, then a  
17 project, then, would go in suspense because, you know,  
18 we're waiting on them. But you know, that's just  
19 something to think about in terms of the type of use and,  
20 again, any type of solar thermal is a little bit  
21 different than a photovoltaic and, again, what we usually  
22 are concerned about is the land use, where it's going to  
23 connect, knowing some of the basic information. So,  
24 again, while we do have our standards and we want to  
25 require, and we make sure to identify what studies will

1 be needed, generally knowing if you're going to go  
2 through an EIR process that takes anywhere from 10 to 12  
3 months to complete, sometimes a little bit longer  
4 depending on the project, we generally don't need as much  
5 information right at the beginning. And one thing we do  
6 think that that helps a little bit is that, once we know  
7 we have an application, we've deemed it complete, you  
8 know, it's clear -- I've got an application, people know  
9 about it, you know, we can say where it is in the  
10 process, things along those lines. When you go back and  
11 forth too many times, then it's kind of a question, you  
12 know, you know you're going to have a project, let's just  
13 get it in, get the fees so that when we do our review, we  
14 can spend time and it gives us the effort and, again,  
15 that's just kind of something depending on the scope of  
16 the project that we've seemed to find beneficial in terms  
17 of trying to process some of these documents.

18 MR. MCCARTHY: Can I just jump in on that? Paul  
19 McCarthy again, L.A. County. I'm very glad he reminded  
20 me of a big difference between us County planning  
21 agencies. It goes back to what we're talking about in  
22 terms of pre-counseling a moment ago, and that is that,  
23 in some counties like Los Angeles County, the Applicant  
24 can go out and hire the EIR preparer on his own and  
25 submit it. However, we require -- we require as part of

1 the submission process that they assign a three-party  
2 agreement in which there are restrictions about the  
3 communication between the Applicant and the EIR preparer;  
4 he's not allowed to go back and tell the EIR preparer  
5 "forget you saw that endangered species," that sort of  
6 thing. And there's a big difference in that process from  
7 other jurisdictions where the County or the City  
8 contracts out with the EIR preparer. And that's  
9 something that an Applicant needs to know early on. And  
10 again, we were getting back to the earlier discussion  
11 about why a Developer might have some qualms about going  
12 down to the Planning Department early, because he is  
13 letting neighbors know he's interested and might increase  
14 costs. Well, this is something that they do need to know  
15 early and, if you can tip them off at the Energy level,  
16 that might be one of the first things you want to check  
17 -- how does that County handle their EIR process? Do  
18 you, Applicant, get to hire the preparer yourself? Or is  
19 it going to be a County contract process? It's a big  
20 difference and it's an important difference.

21 MR. SOLOMON: That is an important distinction,  
22 thank you. Any other Counties?

23 MR. NEAL: Hi, this is Greg Neal with Riverside  
24 County. I just want to reiterate, you know, we're all  
25 obligated to follow the Permit Streamlining Act, so I

1 think we're very similar in it and I would concur with  
2 L.A. County, we allow outside consultants hired by the  
3 Developer to prepare the EIR through a third-party  
4 contract. So I think we have some very similar  
5 processes. I guess I sort of want to just throw out  
6 there and maybe in the form of a question that, from the  
7 CEC standpoint, I -- one of the biggest things I struggle  
8 with is trying to tie the CEQA process to your process,  
9 and semantics and terminology and this whole term of data  
10 adequacy has been a mystery to me in that, you know, it's  
11 data adequate, but you can still get more data. So it's  
12 tying almost what your process is, kind of tying into  
13 what we're all familiar with, and in a sense the Permit  
14 Streamlining Act, you know, we asked for additional  
15 information, so we have that 30 days to deem an  
16 application complete, and if you ask for additional, it's  
17 not. So how we tie that to that data adequacy is really,  
18 you know, I've struggled with.

19 COMMISSIONER DOUGLAS: I think it's a really  
20 interesting point because, you know, the Energy  
21 Commission process functionally kind of looks and is very  
22 different to the process, the EIR process that the  
23 Counties undertake. And Gerry pointed that out just in  
24 terms of the kind of -- you know, being thrust from one  
25 process into the other and having to figure it out very

1 quickly with different terminology, and we've had  
2 stakeholders point out the same thing, we're more  
3 accustomed to EIR processes and then ours and the Energy  
4 Commission process has pros and cons, but very iterative,  
5 very accommodating of changes that in other processes  
6 might be treated differently. So it's kind of  
7 interesting as we go into it, but you raise a really good  
8 point because, as we think about what we call things,  
9 functionally how does that compare to CEQA. You know,  
10 this is going to be really helpful to us in trying to  
11 make sure that we don't have an arcane language here that  
12 only Energy Commission specialists know how to speak and  
13 translate.

14 MR. SOLOMON: Any other Counties that would like  
15 to add any thoughts? What about State agencies?

16 MR. MCCARTHY: Just on -- one other thought came  
17 on with regard to -- L.A. County again, Paul McCarthy --  
18 with regard to the EIR process and the different  
19 processes. Even if two Counties had the same system like  
20 L.A. County and Riverside County, we allow the Applicant  
21 to prepare his own -- select his own EIR preparer and  
22 submit it. There are two other major differences in the  
23 way local jurisdictions process EIRs, which the Applicant  
24 would benefit from knowing about early on. And in L.A.  
25 County, we have just recently gone over to this other

1 approach, which involves preparing the Final EIR before  
2 the public hearing in front of the Planning Commission  
3 commences. I don't know if you do that in Riverside  
4 County or not. No. And so this is relatively new with  
5 us, and so I am the County's first Hearing Examiner, I go  
6 out into the community either at nighttime or on the  
7 weekends, hold a hearing on the EIR, alone. The public  
8 submits their testimony and we have Court Reporters there  
9 who take it down, and we have the EIR preparers there who  
10 are listening, as well. And then the transcript is  
11 prepared and they go back and prepare the Final EIR. So  
12 there are all these issues that are brought up by the  
13 community on the environmental -- every aspect of the  
14 environmental impacts of the project. All of those  
15 issues brought up by the community have a specific  
16 response within the documents that the Planning  
17 Commission gets to look at a month before the hearing.  
18 And so, at the public hearing, then the testimony is  
19 limited to the project itself, testimony for the EIR is  
20 over at that point. So that's the big distinction  
21 because, on the older approach that we use, the approach  
22 is used in many jurisdictions, one that I'm frankly a lot  
23 more familiar with than the one I'm working with now,  
24 it's only a year and a half old.

25 The other approach that's very common is that the

1 EIR remains open for comments throughout the public  
2 hearing process before the Planning Commission, and at  
3 the end of the public hearing process before the Planning  
4 Commission, they will direct the EIR preparer, either the  
5 contract preparer or the Applicant preparer, to go  
6 prepare the Final EIR. And so that's a big difference,  
7 again, in terms of how the environmental process is  
8 conducted in each jurisdiction; each process is legal  
9 under CEQA. And you will get comments from, you know,  
10 some Planning Directors like it that way and others  
11 don't. But there are two roads that the Applicant may  
12 find himself going down, and that's something he needs to  
13 know in advance. So sometimes an Applicant may say, "Oh,  
14 I understand what Scoping Meetings are about," no. You  
15 can have a Scoping Meeting and then have the Hearing  
16 Examiner Hearing in the community because the Scoping  
17 Meeting was what was used to develop the information,  
18 initial information from the community, to put forth the  
19 Draft EIR. The Hearing Officer does not go out into the  
20 community until that Draft EIR has been distributed to  
21 the community for 30, 45, 60 days prior to my hearing.

22           So you can have a scoping meeting and you can  
23 have the Hearing Examiner meeting in the community, and  
24 then you would have the hearing before the Planning  
25 Commission, which is usually in downtown Los Angeles in

1 L.A. County. So there are different approaches in  
2 different jurisdictions and those are things that, again,  
3 an Applicant needs to keep in mind because, again, it  
4 indicates how often you're going to be out there in front  
5 of the community. You could have two separate  
6 proceedings in the community and, if they perceive you as  
7 being that stealth Developer who is trying to sneak one  
8 past him, it can be a very unpleasant experience.

9 MR. SOLOMON: Thank you. Let me ask the Federal  
10 agencies how they determine the completeness of the  
11 application.

12 MS. CONRAD-SAYDAH: Ashley Conrad-Saydah, BLM. I  
13 think points 2 and 3 on the agenda, determining  
14 completeness of the initial application, and requesting  
15 additional information from the applicant, sort of fall  
16 together. We have a Plan of Development checklist that  
17 all of our Developers can find and many of you could use,  
18 too, it's posted on our website. And so we'll look  
19 through our Plan of Development checklist for both wind  
20 and solar and see how complete that information is, and  
21 if we can pass the red face test in sharing that with the  
22 public through the NEPA process. So, basically it's a  
23 judgment call -- is there enough information that we can  
24 go out to the public, we can initiate the Environmental  
25 Impact process, how much more information do we need

1 before we can do that? Is the Developer so set in stone  
2 with one preferred alternative that there aren't other  
3 alternatives to this project? And we go through that Q&A  
4 process both internally and with the Developer. And at  
5 some point we say it's complete enough to share with the  
6 public; it's not completely complete because, when that  
7 happens, the Plan of Development is an appendix to the  
8 Record of Decision, and so it's at the very end of the  
9 process that the POD is actually completely done.

10 Another part that is tricky is that we have to  
11 ask for cost recovery funds at some point in this  
12 process, and we don't want to do too much work for free,  
13 essentially, so we have our Pre-Application meetings for  
14 free, and then if we do receive an application, we'll go  
15 out with cost recovery with an estimate of the amount of  
16 time we think it will take, and then we'll start the  
17 process. So we don't actually start really reviewing the  
18 POD until we receive an initial investment from the  
19 Developer. And typically, if it's a large project, we'll  
20 ask for \$50,000 upfront, to which we bill our time, and  
21 we can return any money that we don't spend. And then  
22 we'll ask for more money as we go along, but we'll give  
23 an initial assessment of how much we think it will cost,  
24 ask for that deposit, start going on the back and forth  
25 to determine, again, how robust that POD is.

1           Something else we do that's a little different is  
2 we ask for a 30 percent Engineering Design Plan before we  
3 actually go out to the public, and that's mostly because  
4 we are not an engineering agency, or a land management  
5 agency, and we need to have a third-party contractor who  
6 is an engineer actually review the project and see if  
7 it's feasible. And we recognize that we can judge where  
8 the project is located, if it seems like a good or bad  
9 location, but we can't really think about the financial  
10 capability of that project, or the technical feasibility,  
11 so we look to some third-party contracts to help us with  
12 that before we initiate a Notice of Intent and start  
13 talking to the public.

14           MR. SOLOMON: Thank you. Any other thoughts or  
15 comments?

16           MR. CONDON: Bill Condon with the Department of  
17 Fish & Game. We are usually in our role as Responsible  
18 and Public Trust Agency for Fish & Wildlife under CEQA.  
19 Occasionally we're lead agency, although we don't like to  
20 be in that role because we don't do it often enough to be  
21 really efficient at it.

22           But I wanted to bring up the difficult topic of  
23 Wildlife Surveys and Data Adequacy. As you all know,  
24 that's a common theme in our comment letters that we  
25 recommend, or we say Wildlife Surveys are warranted, and

1 we're in the role of advising the lead agencies as to  
2 what we believe would be necessary for the lead agency to  
3 make informed decisions about, potential impact to  
4 resources and ultimately how to approach mitigating those  
5 impacts if they're forthcoming to the project. So,  
6 again, it's not timely for us to call for surveys during  
7 the CEQA process, we recognize that, but if there is a  
8 paucity of information, or uncertainty in terms of  
9 location of sensitive resources, wildlife, or plant  
10 resources, we're obligated to inform the lead agency of  
11 that concern. And we don't like to be in that position.  
12 And the Developers, no doubt, once they're confronted  
13 with that, if they for some reason weren't aware of this  
14 issue, we don't like to put them in the position of  
15 potentially facing delays in their project timeline, and  
16 permitting and environmental review timeline.

17 So again, it gets back to that theme of pre-  
18 filing meetings. We, as the project becomes more clear  
19 in the environmental review process, we can actually be  
20 in the role of on a site-specific project basis,  
21 informing the lead agency and, by extension, the  
22 Developer of what would be an efficient approach for  
23 wildlife surveys. And sometimes through avoidance,  
24 surveys may be deemed unnecessary. So I just wanted to  
25 acknowledge that, that's an ongoing sort of tension

1 between us and our role as public trust agency, that we  
2 sometimes have to say things in our comment letters that  
3 are maybe not well received, or just assume not hear from  
4 us, frankly, sometimes. But that's -- we're going to  
5 continue to make those kind of comments as needed. And,  
6 again, we don't like to be in that role, but that's what  
7 we're paid the big bucks for, to do that as the  
8 responsible agency. Thank you.

9 MR. SOLOMON: Thank you. Any other comments?

10 MR. MCCARTHY: Again, Paul McCarthy, L.A. County.  
11 I think what Bill is alluding to is the spring survey.  
12 So if you're in the business and we're talking about we  
13 need to have a survey regarding biological impacts,  
14 everybody knows that, but there may be a lot of people in  
15 the solar industry that are electrical engineers that  
16 don't know that. And so, in terms again of timing and  
17 what Bill is indicating, you get this long period where  
18 you're gathering all this information about the EIR, if  
19 that Applicant doesn't know that, maybe he's dealing with  
20 a traffic engineer, maybe he's dealing with somebody  
21 about a dust issue, and at the end he gets to Biota and  
22 it's June -- oops, now we've got to wait until next  
23 spring to do that survey. And it's these little things  
24 that they come up on, it's amazing how many projects  
25 these issues come up on. And if you get a loan, a

1 construction loan you've taken out, a project loan you're  
2 paying interest on it, that's a real big OOps with all  
3 capital Os. And as Bill is nodding in the affirmative,  
4 it's painful to tell people that. I mean, people go back  
5 and tell their boss and lose their jobs because of it.

6 MR. SOLOMON: Anything else?

7 MS. WATT: Terry Watt, Governor's Representative  
8 to DRECP. You know, I'm just curious from the Counties'  
9 standpoint, whether you've had to add consultants at the  
10 outset, the application period, to interact with you and  
11 the Applicant to be sure that project information from a  
12 project description standpoint is complete. Because  
13 these projects have completely different elements than,  
14 as Planners, we were used to seeing for the last few  
15 decades. So, at this early stage, engineers, engineering  
16 support?

17 MR. MCCARTHY: The answer to that question,  
18 certainly for L.A. County, would be no. What we do --  
19 you mentioned outside consultants -- we distribute them  
20 to a number of departments within the County that would  
21 be impacted. For example, when you're dealing with the  
22 Tehachapi line, we were in the role of reviewing the EIR,  
23 you want the Fire Department to look at it because the  
24 line went relatively close to a reservoir that we used  
25 for helicopter, you know, buckets going in to fill up for

1 firefighting, and that was a big issue. We have the  
2 Public Works Department looking at it from a number of  
3 perspectives, they may have dams in the facility, they  
4 may have sewer treatment plants in the facility, but also  
5 they might be looking at it from a geologic and safe  
6 grading perspective. What we -- we go the gamut and we  
7 have our biologists look at it.

8           And just briefly back to what Bill mentioned  
9 there, too, about methodology, we do have a debate  
10 ongoing now where, one, if a solar Developer is saying  
11 your SEATAC committee, L.A. County, is asking for a  
12 methodology that is different than what everybody else in  
13 the State has agreed with, and so we get into issues like  
14 that, too. But we have those private biologists come in  
15 to give us that counseling. So we have Engineers in the  
16 Public Works Department, but they're going to be  
17 primarily concerned with geology, grading, flood impacts,  
18 because if you change the grading, you're going to change  
19 the potential for where sheet overflow is directed, all  
20 of those kinds of issues in there, but we don't have any  
21 electrical engineering expert that we've contracted with.

22           MR. SOLOMON: Thank you. Any other comments?

23           MR. NEWCOMBE: Just quickly from San Bernardino  
24 County, we still do everything in-house, we haven't had  
25 to hire any outside consultants.

1           MR. SOLOMON: Let's move on to the third topic,  
2 requesting additional information from the Applicant.  
3 Roger.

4           MR. JOHNSON: So, we didn't do scoping and I  
5 thought that was sort of an important one, so I'd like to  
6 jump back up to that one. Some people mentioned scoping,  
7 but let me describe the Energy Commission Scoping  
8 process. After we receive an application and deem it  
9 data adequate, then the staff prepares an Issues and  
10 Identification Report and at the Commission, we have  
11 Commissioners that oversee proceedings there. We have a  
12 situation here, and it's much different than CEQA, we  
13 have two Commissioners that oversee the proceeding, the  
14 staff is a party to the proceeding, we're independent  
15 parties like the Applicant and any Interveners, we can  
16 only communicate with the Commissioners during public  
17 hearings, there's an ex parte rule between the parties.  
18 But we do prepare an initial Identification Report to  
19 describe to the Commissioners and the public and the  
20 Applicant what the staff believes are going to be the big  
21 issues that need to be identified upfront, so we can  
22 focus our efforts to make sure we cover those issues.

23           And we do a public information hearing and a site  
24 visit, and it's also a Scoping meeting, and we have joint  
25 processes with the BLM, we try to notice it if we can, to

1 also be the NEPA Scoping Meeting. And our noticing, and  
2 this is something I'd like to talk about, is your  
3 noticing, how you notice the public. We have a  
4 requirement where we notice any property owner within  
5 1,000 feet of the project and 500 feet of any linear  
6 facility that is associated with the project, and so  
7 that's our public notice that gets a letter in the mail  
8 saying that there's a meeting coming up. We also do a  
9 notice in the newspaper for general public information,  
10 as well.

11 So at that meeting we, the Commission, explains  
12 our Energy Commission CEQA equivalent process, the  
13 Applicant describes the project, the Applicant takes  
14 folks out to the site, shows the site, tries to describe  
15 what the project is going to look like, and then we have  
16 a public comment period and scoping questions, and  
17 comments from the public. So that's pretty much our  
18 scoping process.

19 MR. SOLOMON: And for the Counties, would you  
20 like to describe your scoping process?

21 MR. MURPHY: Sure. Craig Murphy, Kern County.  
22 Again, for Kern County, we hire the consultant to prepare  
23 the EIR. So it has generally been our practice where, you  
24 know, once that has happened, the Applicant is  
25 peripherally but really not involved in the preparation

1 of the document. When it comes to a project description  
2 that we have finished preparing, to make sure that we're  
3 describing and analyzing the project that they want, we  
4 allow them to review the project description and go from  
5 there. And they also get to see the Draft EIR and review  
6 it prior to us releasing the document for public review  
7 and allow them to provide as feedback in terms of what  
8 they think. But generally they are separated out from  
9 the EIR preparation process. So knowing that as the  
10 background when it comes to scoping, especially in the  
11 beginning, you know, we're primarily focused on complying  
12 with scoping that's required for preparation of the EIR,  
13 you know, we'll send out a Notice of Preparation, we have  
14 to do a scoping meeting, and those are all done by County  
15 staff; it's actually not even done by the consultant, and  
16 that's another distinguishing factor that is different  
17 for every county to county. When it comes to scoping  
18 meetings, when it comes to presenting the project to our  
19 Planning Commission, to our Board, when it comes to  
20 hearings -- or, not hearings, but for whatever reason we  
21 need to go to the public and have a description of the  
22 project, things along those lines, those are always done  
23 by County staff, they're not done by the Applicant,  
24 they're not done by the EIR consultant, you know, we  
25 think that that generally helps ensure that the residents

1 and members of the public, you know, we want them to be  
2 comfortable, that if they want to understand a project,  
3 who they can talk to, you know. Ultimately, they're  
4 going to speak in front of our Planning Commission and  
5 our Board, so it's important that they have that direct  
6 link with us. So, when it comes to noticing, we do the  
7 standard notices described by CEQA, but we also send out  
8 basically letters that indicate that a Notice of  
9 Preparation has been prepared, we're going to hold the  
10 Scoping Meeting, this is where it's going to be held,  
11 usually it's held at the County Department. And, again,  
12 in our Scoping Meeting, which again it's different  
13 depending on whether you're just CEQA, CEQA/NEPA, you  
14 know, the purpose of the Scoping Meeting for us is to get  
15 comments from residents, from responsible agencies, as to  
16 what information needs to be included in the  
17 environmental document.

18           You know, we really want to make sure that when  
19 we speak with our residents and, you know, there's two  
20 separate processes, there's the process of preparing the  
21 environmental document which is a disclosure document,  
22 it's supposed to identify the mitigation measures, if a  
23 project were approved what are the impacts, things along  
24 those lines. You know, up until -- even until that is  
25 done, the Planning Department hasn't even determined the

1 recommendation on a project, and we try to always make  
2 sure that everybody understands the difference. The  
3 first three-quarters of this until you get a final  
4 Environmental Impact Report that has the Response to  
5 Comments finished is addressing the environmental  
6 concerns, identifying what the potential impacts would  
7 be, how are they going to be mitigated, can they not be  
8 mitigated, things along those lines.

9           Only at the end do you actually really start  
10 focusing on should the project be approved, yes or no,  
11 how does this fit in with everything else? So in terms  
12 of understanding our Scoping from our perspective, it's  
13 always done -- County staff is charged with doing that.  
14 I know in some of our joint projects with BLM for NEPA  
15 and everything else, they've kind of morphed a little  
16 bit, and that actually gets into us understanding that  
17 and accommodating to how that happens.

18           Again, most of our scoping meetings are always  
19 held at the Planning Department. Well, a lot of times  
20 other jurisdictions want to have it in the areas where  
21 the project is going to be proposed; usually we have one  
22 meeting, other jurisdictions want to have two or three,  
23 depending on -- and so we kind of go through. But  
24 generally, if it was a project that just we were doing,  
25 we wouldn't have a presentation on the project, you know,

1 but we're also open to informal calls from a resident  
2 asking, "I don't understand what this project means, what  
3 is it," things along those lines. And so we kind of keep  
4 the scoping really focused at, you know, what are your  
5 concerns regarding environmental impacts, what do you  
6 want addressed, things along those lines. But then,  
7 throughout the whole process, informing residents,  
8 working with them, letting them know what the project is,  
9 what the general timeline we're assuming, things along  
10 those lines.

11 MR. NEWCOMBE: Gerry Newcombe with San Bernardino  
12 County, ditto. The only thing to add to that is that we  
13 also send a notice out to surrounding property owners  
14 when the Application has been accepted as complete, and  
15 then we do an additional notice for scoping for the EIR  
16 for the environmental work, but essentially the same  
17 description as Kern.

18 MR. JOHNSON: Gerry, what distance -- when you  
19 said "surrounding property owners," how far out?

20 MR. PRUSCH: Dave Prusch with San Bernardino  
21 County. It's a graduated distance and I can't tell you  
22 exactly, depending on the acreage of the project, it  
23 starts at like a 300-foot radius from the project  
24 boundary for much smaller projects, typically a solar  
25 project it's going to go out much further, you know,

1 1,600 feet, and again capturing every property that falls  
2 within that radius, as well as anyone that wishes to be  
3 -- you know, specific people that wish to be notified, we  
4 will add anybody to a list for notification ultimately,  
5 when the project -- an action is taken on the project.

6 MR. SOLOMON: Any other comments from Counties?

7 MR. VILLA: Armando Villa, Planning Director,  
8 Imperial County. And, you know, the typical distance, I  
9 think, is 500 feet for us and we do the typical notice in  
10 the paper. The problem with our scoping is that I've had  
11 several scoping meetings where we get very minimal input  
12 from anybody. And we do get the occasional -- or the  
13 traditional environmentalists that don't want any project  
14 in the county at all. But for the most part, I have very  
15 little success with getting some substantive comments on  
16 the scoping meetings.

17 MR. MCCARTHY: Paul McCarthy, L.A. County again.  
18 Our process, we have the County staff is present at the  
19 scoping meeting; however, we have the Applicant select  
20 where the meeting will be. In other words, if it's going  
21 to be in a hotel ballroom, he gets to pay for it. And we  
22 do not, however, have our staff lead the meeting and we  
23 do not have the Applicant staff lead the meeting, we have  
24 some third party come in who is not involved with the  
25 Applicant and not involved with our Department, it might

1 be a former staff member who is working for a private  
2 Developer now, it might be a former staff member who is  
3 working with another City or County public agency, but  
4 somebody that has some familiarity with the process, but  
5 we have that third party as the independent moderator.

6 A key distinction in some of these, there's a lot  
7 of variability now with regard to how to conduct a  
8 scoping meeting. In some scoping meetings, some  
9 jurisdictions don't take any testimony at all. They'll  
10 have visuals on the Board, and print-outs, and you go  
11 around and you look at them, and it's -- there's no  
12 interchange. Some of them I've seen allow people to look  
13 at a computer program or some such, you know, a video on  
14 a computer screen, and with ours, for the most part, we  
15 have testimony from the community as they come up to give  
16 their testimony at the Scoping Meeting, verbally. I was  
17 at one in Diamond Bar where they told people that they  
18 could talk to the Court Reporter, but they could not talk  
19 to any staff, either the Applicant or the City, and there  
20 was about 400 people in attendance and the message was,  
21 you know, if you want to go home tonight to see your  
22 family, we're going to get to talking, and they won. The  
23 crowd said, "We are going to give oral testimony." They  
24 didn't like the idea of talking to a Court Reporter. So  
25 it varies from jurisdiction to jurisdiction, but that is

1 the way we do it in L.A. County, we have the third party  
2 as the Moderator and we take testimony from individuals  
3 coming up. We may also have the poster board kind of  
4 presentations available in the room for people to look at  
5 prior and following the meeting.

6 MR. SOLOMON: Thank you. Any other experiences  
7 from the County?

8 MR. HART: Josh Hart with Inyo County. I'm  
9 sorry, I missed the question, but I did want to say in  
10 our county a lot of the county is pretty isolated and,  
11 so, I think as the Energy Commission could see, it is  
12 sometimes difficult to find a spot to have a scoping  
13 meeting. And we've actually held public meetings in the  
14 great outdoors just because there was no place to  
15 actually have the meeting.

16 MR. MCCARTHY: I might note, L.A. County has the  
17 same problem in the Antelope Valley where the solar  
18 projects are located, getting a venue of sufficient size  
19 is challenging sometimes. And there just aren't that  
20 many -- you know, the school auditoriums are usually  
21 booked well in advance, so that's another challenge.

22 MR. SOLOMON: Any other comments from the  
23 Counties? Let me ask the same question to the State  
24 agencies.

25 MS. BORAK: Wow, this is such a big topic for us,

1 and I don't know that we do this as well as we'd like.  
2 I'm envious of the Counties because at least -- there's  
3 58 Counties in the State, and at least you know your own  
4 county. As a State agency, you know, our headquarters  
5 are in San Francisco and we really don't know a lot about  
6 local information. Usually, the public utilities do a  
7 lot of outreach prior to doing any filing with us. I  
8 think some of it is informational and I think some of it  
9 is a sales job. When we get an application in, we have  
10 kind of a two-lane process that goes on. Our staff goes  
11 out with our environmental consultants and we have public  
12 participation hearings; depending on the size of the  
13 project, maybe we'll have them in several different  
14 locations, maybe it will just be in one location. Our  
15 Administrative Law Judge at some point in the process,  
16 sometimes it's early, sometimes it's later, they will go  
17 out and have a scoping hearing or a prehearing conference  
18 where they kind of lay out what they want to find out and  
19 make their legal findings when we finally come to the  
20 conclusion of the project. We, obviously, in  
21 coordination with all of the other responsible agencies,  
22 try to get information. We work with the utilities  
23 oftentimes through formal data requests as we move down  
24 and really dig into the projects, we realize even though  
25 we've deemed their preliminary environmental assessment

1 complete, there's always more information. And sometimes  
2 it's a quick phone call. If it's a thornier issue, we  
3 actually do formal data requests and say we want this  
4 information, we lay it out pretty rigidly, and say we  
5 want to hear back from you in 12 days, or two weeks, and  
6 normally they say, "Oh, it's going to take us three weeks  
7 to get this back."

8           When we get the Draft EIR complete, if it's a big  
9 project, we'll go out and have another public  
10 participation hearing; if it's a smaller project, we  
11 won't. And then, when we get to completion, sometimes  
12 the Administrative Law Judge will have another hearing  
13 where people can participate. We're all over the map. I  
14 agree with Armando that sometimes we go out and have  
15 hearings, or public participation hearings, and no one  
16 shows up; other times, we go out and the rooms are over-  
17 packed, and we actually send California Highway Patrol  
18 out with our people because sometimes the tensions are so  
19 great that I worry that our staff is going to be safe, so  
20 it really -- it varies. But it's a real challenge for us  
21 because we're just so far away from so much of the  
22 action, especially about the renewables.

23           MR. SOLOMON: Thank you. Okay, let me ask the  
24 same question to the Federal agencies.

25 MS. CONRAD-SAYDAH: Ashley Conrad-Saydah, BLM. Well, the

1 BLM is -- well, all of our scoping happens through NEPA,  
2 so we actually have mandated time periods during which we  
3 have to listen -- open the document to the public, and  
4 provide -- or allow for written comment. We have to hold  
5 at least one public scoping meeting. We like to hold  
6 those, again, where the action is, we try to go out into  
7 the field to do that. We do have sometimes the same law  
8 enforcement issues and we've found that, if we pick a  
9 meeting location that starts at 7:00, but that is too  
10 near a bar with a happy hour special, we get into  
11 problems, so those are actually things we have to  
12 consider when we're selecting the location, you know,  
13 what time is it, E And we're honing in on that, but  
14 we're not quite there yet because, as you know, the  
15 projects are a bit scattered, but we would like to be  
16 able to say 6:00 to 9:00 p.m., you know, these nights of  
17 the week, in these locations, depending on where the  
18 project is located. So we're getting a little closer.

19 We got into some trouble last year when we had some  
20 direction to not accept public comment at the meetings,  
21 and the poor Project Manager who was told to embrace that  
22 method was just excoriated in the Press, you know, in  
23 letters to us, and that hadn't been his plan, so I think  
24 it was really tough for him to handle, so we did go back  
25 and say, "New policy, we will always accept public

1 comment. You can come up to the mic and say what you'd  
2 like to say." But we do have a hard time balancing  
3 giving -- allowing someone to grandstand vs. allowing  
4 someone to provide very useful comment that would help us  
5 actually refine the document that we're working on. So  
6 I'm sure you all find that, but finding this very fine  
7 line of soliciting helpful public comment and, at the  
8 same time, allowing neighbors to speak to one another in  
9 a public format can get tough. So we're working on it  
10 and it's good to hear that all of you are working on the  
11 same thing, so we'll get there together.

12 MR. SOLOMON: Thank you. Are there any other  
13 comments? Let's move on to the next topic.

14 MR. JOHNSON: Requesting additional information.  
15 I heard it said, you know, we never have a complete set  
16 of information and that's probably true. But the  
17 Commission has a formal Data Request process, I think I  
18 mentioned before, the Application -- you meet the basic  
19 requirements of the Regulations, but there is also always  
20 a need to expand, depending on the issues associated with  
21 the site or the technology. So the staff prepares formal  
22 Data Requests. We do have informal -- if it's just we  
23 don't understand, there's a citation here that doesn't  
24 seem correct, we'll just pick up the phone and we'll call  
25 and get that confirmed, but because we try to have a

1 public process and include the public in this, we issue a  
2 formal Data Request, we give the Developer 30 days by  
3 Regulation to provide the responses, or to notify the  
4 committee and the Project Manager why they don't want to  
5 answer questions, or why they might need additional time.  
6 And then we offer -- it's not a requirement, but there's  
7 an opportunity to have a Data Request Workshop if the  
8 Developer -- if we have a huge set of Data Requests and  
9 they're very complicated, the Applicant might say, "Can  
10 we sit down and talk about these?" And so we'll have a  
11 public workshop where the staff will go through the Data  
12 Requests and explain what we're asking for, and also,  
13 then we allow that on data responses. With getting  
14 responses back, the staff might have a need to sit down  
15 with the Developer in a public workshop and go through  
16 the responses to understand what they are saying and then  
17 we may do some follow-up data requests after that.

18 MR. SOLOMON: And, again, starting with the  
19 Counties, I would be interested in hearing how you  
20 request additional information from the Applicants, from  
21 the proponents.

22 MR. MCCARTHY: Again, McCarthy, L.A. County. The  
23 public will, of course, become involved quickly when  
24 these cases are filed and, oftentimes, they are  
25 submitting questions to us and letters, and that may be

1 something that sets off a request from the staff to get  
2 more information on Issue A, B, or C. Maybe we thought  
3 we had -- maybe we didn't even think of that issue, maybe  
4 we thought we had enough to deal with it prior to  
5 receiving some of that input, but now we find that we're  
6 going to have to have a lot more. And that's frequently  
7 a cause for a request for additional information.

8           And then, of course, as issues are raised by  
9 other agencies that are contributing their comments on  
10 the process, we may do it, and so it becomes an ongoing  
11 effort. Just because we've accepted the application does  
12 not mean we stop asking for additional information. And  
13 it goes, as I say, right through to the very end of the  
14 process because you can be before the Planning Commission  
15 and a member of the public, or a member of a competing  
16 firm could come before the Planning Commission and  
17 testify and raise a question that we don't have an answer  
18 for, we don't have enough information for, and that might  
19 require a continuance to get that information. That's  
20 not rare, that happens. So it's an ongoing process that  
21 starts from the first day the Applicant shows up at the  
22 public counter to submit his Application, right through  
23 the very last Planning Commission hearing.

24           MR. SOLOMON: Thank you. Anyone else?

25           MR. MURPHY: Craig Murphy, County of Kern. I

1 guess the only part -- I think depending on where you are  
2 in the process, maybe the way in which information is  
3 requested changes, I think. You know, at the beginning,  
4 if something is brought up in terms of a review of a  
5 technical study, you know, our consultant identifies and  
6 they have some concern as to whether or not this meets  
7 the standard, things along those lines, they need  
8 additional information, you know, they communicate to the  
9 County. So then the County would then either -- maybe  
10 they know it -- contact the Applicant and have a  
11 question, get that answered, and then transmit that  
12 information back to the consultant. If it's something  
13 that's very technical in nature, again, we still don't  
14 allow the Applicant to work with the EIR consultant, so  
15 what we would do is we would facilitate a technical  
16 meeting, you know, especially traffic -- and people speak  
17 traffic and other people don't speak traffic. And so if  
18 we need two people that understand everything, you know,  
19 we'll kind of set that up. So that's kind of getting the  
20 basics forward and then, you know, kind of doing the  
21 initial analysis.

22 I guess I would offer that it changes a little  
23 bit, at least in the EIR process, when you get to the  
24 Response to Comments, things along those lines. It's  
25 important to note that, although the document is the

1 County's, and the County is responsible, or whoever the  
2 lead agency is responsible for it, the Applicant pays for  
3 the document, but more importantly, the Applicant will  
4 pay to defend the document, if needed. So when you have  
5 a question, it's raised during the review of the EIR by  
6 the public, or anybody else that is interested, and  
7 you're coming up with your response, it's a little bit  
8 different in the fact that the Applicant and/or their  
9 counsel, or other people that ultimately will be  
10 responsible for paying if the document were challenged,  
11 you know, they work with us a little bit differently and,  
12 you know, then we work together in terms of how we're  
13 going to respond to that particular comment, things along  
14 those lines. And, again, a lot of times that's needed,  
15 1) because a question could be brought up that, you know,  
16 requires more technical answers, things along those  
17 lines, or a question is brought up and then it becomes  
18 one of those, you know, legally defensible type of  
19 responses, and so, whether or not at that time we believe  
20 based on what is in the document, do we need to  
21 supplement, do we need to expand in our Response to  
22 Comments as to what this really meant, or things along  
23 those lines. So, again, I guess the only thing I would  
24 offer is that I think it changes, depending on where the  
25 process and how the document evolves and then,

1 additionally, you know, we always try to make sure that  
2 -- for us, in terms of our process -- that the County is  
3 involved and that we don't have the Consultant to  
4 Applicant conversations without our involvement or  
5 knowledge, and things along those lines.

6 MR. SOLOMON: Thank you. Any other Counties that  
7 would like to speak? Let's move on to the State  
8 Agencies.

9 MS. BORAK: I think I've already sort of talked a  
10 little bit about our data request process.

11 MR. SOLOMON: Okay.

12 MS. CONRAD-SAYDAH: I'll just add -- this is  
13 actually BLM -- one thing. I think we have the same  
14 undue influence issues, so when it comes to collecting  
15 other information from the Applicant, we actually set up  
16 our third-party contract between us and the third-party  
17 environmental contractor, and we actually sign an MOU  
18 that that contractor cannot communicate with the  
19 Developer on specific elements of the project, especially  
20 when it comes to our Impact Analysis, so we like our  
21 Impact Analysis and the mitigation measures to be  
22 independent of any influence from the Applicant. And  
23 it's up to the Applicant to provide us enough information  
24 that we can come up with those mitigation measures and  
25 that we can do an appropriate Impact Assessment. And we

1 really make sure to keep those two pieces separate  
2 because we don't want a Developer saying -- you know,  
3 we'd like a Developer to actually try to design a project  
4 that avoids as many impacts as possible, and then we do  
5 the Impact Assessment, come up with mitigation measures,  
6 put out a Draft Environmental Impact Statement, and at  
7 that point the Applicant can make comments the same way  
8 the public can on the Impact Assessment and can, between  
9 the Draft and the Final, if possible, try to refine the  
10 Plan of Development to avoid even more impacts.

11 But, you know, we see it as a really important  
12 role to keep the Developer out of that Environmental  
13 Impact Statement process and to make sure we're keeping  
14 with the spirit of NEPA.

15 MR. SOLOMON: Thank you. Are there any other  
16 comments? Let's move on to the next topic, which is  
17 Dealing with Project Changes.

18 MR. JOHNSON: This is an important topic for us.  
19 Project changes can be minor or major; sometimes you get  
20 into the review of the project and you start asking  
21 questions about potential impacts and a light bulb comes  
22 on and the Developer says, "Well, you know, we're going  
23 to make a change to take care of that so it won't be an  
24 impact anymore." Well, that might be a minor change and  
25 we might be able to take it with Data Requests, Data

1 Responses, but then there are other times when, for  
2 whatever reason, a Developer says, "Uh, we just realized  
3 we need to change the project. So I know we're half-way  
4 through the analysis, but now we're going to, you know,  
5 change something," and it's something significant and we  
6 have to stop, essentially, and have the Developer file a  
7 formal Supplement to describe the change and how that  
8 change affects all the information and analysis they gave  
9 us in their application, and then the staff has to  
10 essentially start again and -- we don't start over, but  
11 you have to start again and so it really can put a lot of  
12 delay in the schedule. So, let's see, the new  
13 information that comes in, it's not subject to Data  
14 Adequacy like the original Application was, but staff  
15 will have to go through it to see if the Developer has  
16 provided all the information they need, then, to continue  
17 their analysis. So it's a big -- sometimes it's a big  
18 deal. And we want to know what you do when you see  
19 project changes.

20 MR. MURPHY: Craig Murphy, Kern County. I guess  
21 the first thing we do is, if we know that there's maybe  
22 an issue that, "Hey, I don't know what I want to do,"  
23 things along those lines, our first response to them is,  
24 well, you want to go through the process for preparing an  
25 EIR, let's analyze both, and let's put both alternatives

1 -- let's put all aspects of what the potential project  
2 could be in the environmental document. That way, you  
3 don't have to make a formal determination as you go  
4 forward from an analysis perspective, they'll be covered  
5 and then the jurisdictions can take actions as they go,  
6 appropriate.

7           In terms of whether or not there is a significant  
8 project change, I guess the one thing I would offer is  
9 that sometimes a project change is -- it's good, that's  
10 what CEQA is intended to do, you go through a Notice of  
11 Preparation, you go through a Draft Environmental Impact  
12 Report, you get comments from agencies, you get comments  
13 from the public, and we've had a number of projects  
14 where, between the time we've sent out the Draft EIR, and  
15 then before we send out our Response to Comments, the  
16 Applicant comes to us and says, "This is a concern, I'm  
17 going to revise my boundaries," or, "I'm going to do  
18 this, I'm going to do X, Y, I" from the project  
19 perspective, not really mitigation, but from a project  
20 perspective, that addresses and alleviates a lot of those  
21 concerns. But if it's something along those lines, and  
22 especially from a significance level, it lessens impacts,  
23 things along those lines, we simply in our Response to  
24 Comments identify that this portion of a project has  
25 changed, these portions that are requests are no longer

1 before the Commission, before the Board, things along  
2 those lines, and we kind of go -- and we just continue to  
3 move on. You know, clearly it's a different matter if  
4 the identified change either was not included in the  
5 initial information that was provided, in terms of the  
6 studies that were prepared, or if it's an increase in  
7 terms of what was previously provided. At that point,  
8 for us, the first thing we do is I tell the Applicant,  
9 "Well, you understand that we didn't have this  
10 information before." "Yes, Craig, I understand that."  
11 "Okay, you understand now that before you can move  
12 forward, I've got to put your project in suspense and I  
13 have to contact our consultant and let him know what are  
14 your proposed changes." And they would have to identify  
15 to me what additional work would be needed and what  
16 additional costs would be -- "Yes, Craig, I understand  
17 that. It's too important, this came up, we want -- this  
18 needs to be the change now," things along those lines.  
19 And then, at that point, you know, we would simply kind  
20 of put it in suspense. We would have additional cost  
21 revisions identified by our EIR Consultant, we would then  
22 provide that information to the Applicant, and they would  
23 supplement any fees needed. And then, if there were  
24 additional studies that were required, it would almost be  
25 kind of like what we did at the beginning, they would

1 provide us those studies, we'd go through the peer  
2 review, things along those lines. But, again, to kind of  
3 help at the very beginning, if we think that, you know,  
4 this happened a couple of times where it's just nothing,  
5 thought of it, they at the very end said, "Well, now that  
6 I've worked this out, this is what the answer is." And  
7 so, well, you're kind of stuck, and so we go through it  
8 that way. But if it's something that at the very  
9 beginning is ever "I don't know how it's going to be,"  
10 our initial reaction is, "Well, we're going through the  
11 process, let's just analyze both." And in that way, or  
12 through whatever it could be, so that way you don't have  
13 to make a decision at this time, from the environmental  
14 perspective, it's covered, and again sometimes that may  
15 require more extensive studies or -- but again -- and if  
16 an Applicant wants flexibility when it comes to a  
17 decision-making process, then they need to realize that  
18 the only way for us to do that legally and have an  
19 adequate document is if more work gets done at the  
20 beginning, or through the process.

21 MR. MCCARTHY: Paul McCarthy, L.A. County. The  
22 key factor here is at what stage of the process does the  
23 Applicant tell you that we are going to change something.  
24 And, as we've indicated, the earlier in the process you  
25 make a change the easier it is for us to turn around that

1 tanker that's called the planning process, the oil tanker  
2 that doesn't turn too well. The worst time for someone  
3 to come in with a change is after the public hearing has  
4 been concluded. And, remember, when someone comes in  
5 with a change, the first thing you've got to do is  
6 evaluate the impact on CEQA. Maybe you have an EIR that  
7 claims that everything is being mitigated, and now this  
8 change makes it clear that you should have had a  
9 Statement of Overriding Considerations; we cannot just do  
10 that in-house at the staff level, you're going to have to  
11 go back through a public hearing process again to have  
12 that revised document reviewed and have that Statement of  
13 Overriding Considerations prepared and adopted by the --  
14 if it was on appeal, to the Board of Supervisors,  
15 otherwise to the Planning Commission. So it would be a  
16 situation almost like having the case thrown back from  
17 the Court and being instructed to significantly re-do the  
18 EIR, it could easily rise to that level.

19           There may be, particularly in L.A. County we have  
20 a 100,000-cubic-yard threshold and if you are going to  
21 exceed that, you need a Conditional Use Permit for that  
22 grading capacity. If the Applicant had told the staff,  
23 or his Engineer had told the Applicant that it was going  
24 to be close to this 50,000, or 60,000, or 70,000,  
25 whatever, they didn't bother, they thought they had a

1 cushion, and they didn't bother to file for that  
2 Conditional Use Permit, and then afterwards it comes out  
3 in the sum of the final paperwork, and Public Works is  
4 looking at it and says, "Oops, this looks like 150,000-  
5 cubic-yards. You have to go back and do your Conditional  
6 Use Permit again." And that's another case, another  
7 filing fee, the least of their worries, but it would be  
8 another environmental assessment and you'd have to amend  
9 the Environmental Review, you'd have to go back and hold  
10 more public hearings. And that, of course, is very  
11 costly for everybody in concern. So, we've seen not just  
12 with solar issues, but with all kinds of projects, where  
13 something like that comes about and then it has to go  
14 back to public hearing, and it just winds up killing the  
15 project. All of a sudden, the project becomes  
16 financially infeasible now the market has changed, the  
17 interest rate has gone up, or the cost of the value of  
18 the property has gone down, or something of that nature.  
19 That has happened with many housing developments, in the  
20 subdivision developments. And it can happen here. But  
21 clearly you have to determine whether or not your  
22 environmental document is still valid, even if it's in  
23 the EIR, does it or does it not need a State of  
24 Overriding Considerations if the first iteration did not  
25 have it. Those are key considerations, and do you need

1 to go back to a public hearing for another round of  
2 hearings. There is a process which we call a Revised  
3 Exhibit A, there is a public hearing, and there is a plot  
4 plan which is on display at the Public Hearing, and we  
5 refer to that as the Site Plan, as Exhibit A. There is a  
6 provision where the staff, following a public hearing,  
7 the process has authorization to make adjustments within  
8 certain limitations. And in terms of quantity, it might  
9 be like 10 percent is a figure we usually use, maybe it's  
10 going to be a building might be added, 10 percent in  
11 terms of square footage; however, one thing we cannot  
12 change is the legal boundary. If the blue line boundary  
13 is legally described and advertised for that whole public  
14 hearing process, and now for some reason you have to make  
15 it bigger, that's a problem. If you want to shrink it,  
16 that's not a problem. So shrinking, making it smaller,  
17 avoiding an impact over in this corner, you find the  
18 Applicant may say, "Well, I'm going to not try to develop  
19 the solar panels over there because I've got to address  
20 some landslide problems." It would cost me -- it would  
21 be cheaper to just let that go, rather than try to  
22 mitigate; that's not a problem. But if you're going over  
23 that blue line into something that hasn't been previously  
24 advertised, you've got to go back to public hearings. So  
25 changes can be very difficult and can kill projects if

1 they come at the wrong time.

2 MR. SOLOMON: Any other County agencies?

3 MR. VILLA: Armando Villa, Imperial County. I  
4 think when a project changes, I think of two kinds of  
5 project changes, one, a project change that is  
6 recommended by staff after you do your environmental  
7 evaluation and you're trying to treat the project to be  
8 less significant and try to avoid impacts, and that's  
9 good, that's the purpose of CEQA to make sure that you  
10 refine your project description to be less intense and  
11 invasive. And then I think of the project change when  
12 the Applicant comes to you and says, "Well, you know, we  
13 want to change technology, or we want to have more area."  
14 That's when you start thinking about revising or re-  
15 noticing your Notice of Preparation to go back and redo  
16 it again. Either way, and the worse kind as Paul  
17 mentioned, is when the project is approved and they come  
18 back to you and they want to change the whole project  
19 over again, which in almost all cases trigger going back  
20 to the Planning Commission.

21 MR. SOLOMON: Thank you. Any other Counties?

22 MR. NEWCOMBE: Gerry Newcombe from San Bernardino  
23 County. Just a comment. 100,000-cubic-yards, wow, I  
24 think our limit is 10,000, so that is a lot of dirt you  
25 can move without a grading permit.

1           MR. MCCARTHY: Oh, no, that's not a grading  
2 permit, a Conditional Use Permit with the Planning  
3 Department. The Grading Permit is a separate with Public  
4 Works.

5           MR. NEWCOMBE: That seemed like a lot. Some of  
6 the more sophisticated applicants, I think, start out  
7 bigger and then contract as the project comes along,  
8 which is acceptable and I think we see a fair amount of  
9 that. There was a fairly large project in our County  
10 under CEC's jurisdiction and I think the Calico project  
11 started out at like 8,600 acres and then slowly pulled  
12 back from more sensitive areas, seemed rather calculated,  
13 but maybe that makes some sense. And so oftentimes those  
14 changes are significant, but they minimize the impact of  
15 the project and it's fairly easy to move on ahead with  
16 it.

17          MR. SOLOMON: Any other comments from the  
18 Counties? Let's move on to the State. How do the State  
19 agencies deal with project changes?

20          MS. BORAK: This is Mary Jo Borak from the PUC.  
21 This is probably the biggest thing that gives me  
22 heartburn out of everything we do, and there's a lot of  
23 things that happen in my shop that give me heartburn.  
24 The transmission system is a network and everything is  
25 connected to everything else, and it's hard to get your

1 arms around how a transmission addition, or a substation,  
2 or whatever, how that fits into the entire network  
3 system. And under CEQA, we have to look at the whole  
4 action. One of the things we try to do early on, and  
5 this probably is more crucial for us than it is for  
6 anybody else who is permitting projects in this room, is  
7 we look at the project objectives because, ultimately,  
8 when you get down to the end of the project and there is  
9 inevitably changes, big or small, like you have to go  
10 back to the project objectives of what you were trying to  
11 solve -- was this a reliability project? Is it just  
12 needed to bring renewables from remote areas to the load  
13 center? And the other thing that the PUC has to look at  
14 if it's a big project is the need and the cost. And so  
15 the County, you know, it's up to the Developers to figure  
16 out if this is going to pencil out for them. Ultimately  
17 the ratepayers in the state are going to pay for a lot of  
18 these projects that come before us, so we have an  
19 additional responsibility to look at the need and the  
20 cost. Inevitably, things change when they change too  
21 late in the game. The longer the projects take, the more  
22 likely there are to be changes. You know, we're right  
23 now grappling with the Tehachapi Renewable Transmission  
24 System, which is -- I think 70 percent of it is built;  
25 it's been a big controversial project, we are looking at

1 a small piece of it in the City of Chino Hills and the  
2 Commission is relooking at did we make the right choice  
3 and how we're bringing that 3.5 miles of transmission  
4 line through a highly urban neighborhood; it's  
5 complicated. Additionally, part of the -- we're looking  
6 at a Petition for Modification for Federal Aviation  
7 Administration on lighting and marketing for the  
8 transmission towers and the catenary lines. Part of our  
9 EIR said, you know, you shall go forth and consult with  
10 the FAA, and somehow a lot of this fell through the  
11 cracks. Probably the most important thing we do at the  
12 PUC is worry about public safety, and obviously at the  
13 end of the day we're going to want to have those towers  
14 lit and those catenary lines marked so that people that  
15 are fighting fires or crop dusting, or whatever it is,  
16 that they'll be safe. But what do you do with a project  
17 that some of it is completely built, some of it is 70  
18 percent built? It is a nightmare. So the more things  
19 change late in the game, the harder it is for us. And  
20 because we are such an Administrative Law agency, when we  
21 have to make changes, it's not just going before the  
22 Planning Commission and getting some approval by the  
23 County Supervisors, it's a much more laborious  
24 administrative law process. So, but I mean, we go back  
25 to the better you can define your project objectives

1 early on, the better you are in the long run. We're  
2 looking at a substation right now that we came up with  
3 some alternatives in our EIR, and the utility is saying  
4 to us, "Well, that doesn't help our system enough." But,  
5 in their project objectives, this was a local need energy  
6 fix, and suddenly it's become much more of a regional  
7 issue. And, of course, normally we're looking at greater  
8 capacity as the population grows, as we move into  
9 different areas that need more energy because of new  
10 subdivisions and stuff, and with the retraction of the  
11 economy, we're seeing the opposite of that. And so it's  
12 -- you think you have it figured out and some other thing  
13 happens, so it's a real challenge.

14 MR. SOLOMON: Thank you.

15 MR. CONDON: Bill Condon, Fish & Game. To add to  
16 the practical questions that Craig Murphy of Kern County  
17 relayed in asking the Applicant when they're considering  
18 changing the project, I think it's useful also to ask the  
19 Applicant, or consider, "Will the change result in  
20 additional or new impacts to the resources?" And it  
21 could be project changes in terms of the footprint of the  
22 project may be reduced, but it may be shifted over to  
23 some different type of habitat that wasn't considered  
24 initially, and that happened with a recent project where  
25 the project footprint actually was about the same, but it

1 shifted from Almond Orchards to open grassland, and then  
2 all of a sudden all these other issues that Fish and Game  
3 certainly didn't comment on, but were raised by the  
4 project change. So ultimately the Developer -- it's sort  
5 of a business decision in terms of potential delays and  
6 also looking ahead at what sort of mitigations they will  
7 need to address to produce impacts less than significant,  
8 or to fully mitigate in the case of, say, a species. So  
9 that's kind of one of those other questions is a reality  
10 check, I think, that would be in the interest of the  
11 Developer to ask his or her -- himself. Thanks.

12 MR. MURPHY: Real quick, to respond, I completely  
13 concur that if the change would identify something that  
14 was not analyzed in a previous document, or something  
15 along those lines, then clearly you're looking at either  
16 having to prepare a Supplement, or an Addendum, or  
17 depending on what the change is, you know, it would need  
18 additional review and go to hearing, things along those  
19 lines. Yeah, that's happened a couple times where  
20 something came up afterwards, and so additional hearing  
21 and CEQA was required to cover those proposed changes.

22 MR. SOLOMON: Thank you very much. And same  
23 question to the Federal agencies.

24 MS. CONRAD-SAYDAH: I think we concur with -- it  
25 depends on the timing of the change, how big it is, and

1 if we've analyzed the largest impact project and it  
2 shrinks, then we're okay. But I think something that  
3 we've learned in our lessons is, going back to the  
4 beginning, sufficiently defining the purpose and need of  
5 the project and opening it up enough such that you can  
6 analyze a number of alternatives. So if the project  
7 changes over time, you've analyzed some of those  
8 alternatives. And when it comes to the final decision,  
9 even if it's not exactly what the applicant proposed in  
10 the beginning, you don't necessarily have to re-initiate  
11 the draft, or supplement the draft, because you've opened  
12 up the purpose and need in the beginning enough. And you  
13 haven't narrowly defined your Plan Amendment, or so  
14 narrowly defined your purpose or need that making these  
15 changes takes a lot of time, or takes you back to the  
16 beginning of the process. So with the projects with  
17 technology after we've issued the grant, we're rethinking  
18 should we be analyzing different types of technology in  
19 that initial project. So even if a Developer comes to us  
20 and says, "I can only build power towers," or, "I can  
21 only build solar thermal," well, we heard that two years  
22 ago, so should we be analyzing photovoltaic as another  
23 option for every project? And we're discussing that  
24 internally because it seems like, with the shifting  
25 market, it could be back to solar thermal tomorrow. And

1 we want to make sure that we've analyzed enough that we  
2 can frontload and save ourselves time in the long run,  
3 and actually permit projects that will be built. And I  
4 know that, you know, this might be unhappy for some  
5 developers to hear because it would add costs. Under  
6 NEPA, if you consider an alternative, you actually have  
7 to analyze the whole thing, it's not like under CEQA  
8 where you could partially analyze and throw it out, and  
9 so it would add a lot of cost to the Developer in the  
10 frontloading. But in the long run -- and I shouldn't say  
11 "a lot of cost," it would add some costs. But in the  
12 long run, it could save all of us a new EIS, another year  
13 of timing, reinitiating a new Plan Amendment, and so it  
14 really could save some time to do that. So we're  
15 thinking about that internally, it could be a slippery  
16 slope; if we say PV, we could then analyze everything.  
17 So we need to figure out how far is enough in that early  
18 purpose and need analysis and alternatives analysis.

19 MR. SOLOMON: Thank you. Any other comments,  
20 questions on this topic? Okay, let's move on to  
21 developing and monitoring mitigation measures.

22 MR. JOHNSON: Thank you. And this goes into both  
23 mitigation and also, then, monitoring mitigation  
24 measures, which I'd like to talk about, as well as --  
25 because it's also post-certification changes, so I'll get

1 to that.

2 But as part of staff's engineering, environmental  
3 and public health and safety analysis, it looks at  
4 potential impacts of the project and it recommends  
5 mitigation measures to avoid or minimize those impacts,  
6 or to mitigate those impacts. And those mitigation  
7 measures are developed into Conditions of Certification.  
8 A Condition of Certification is a requirement section  
9 that says, "This is what you shall do by this date, or  
10 with this much time," and then there's a verification  
11 section that says, "And this is how we'll verify that  
12 information." Once those conditions are approved by the  
13 Commission in the final decision, only the Commission can  
14 change a condition, but the staff can modify the  
15 verification. So that's one of, when it comes time to  
16 monitor conditions of certification, it's pretty much you  
17 look at the condition, are you meeting it or not.  
18 However, there is a verification that says, you know, you  
19 need to do this 30 days before you start construction and  
20 that's in the verification, and then the Developer says,  
21 "We need 60 days," the staff can agree to that change and  
22 we don't have to go back to the Commission. But if  
23 there's a Condition of Certification that changes, for  
24 whatever reason, a project change or an inability to do  
25 it, or something comes up, then they have to go through

1 an amendment process. And if it's a change to a  
2 condition, they have to come back and file an amendment,  
3 the staff has to review that amendment, make a  
4 recommendation to the Commission, and the Commission has  
5 to change that Condition of Certification in a post-  
6 decision process typically at a business meeting at the  
7 Energy Commission.

8 But there's also a type of change that is an  
9 insignificant change where it doesn't change the  
10 condition, but there's a change to the project and if the  
11 staff can determine there's no change for a significant  
12 environmental impact, and if it doesn't change the  
13 condition, then the staff can do a staff approved project  
14 change, as well, and without going to the Commission we  
15 can let the Developer change the project for those  
16 situations. So that's how we develop mitigation measures  
17 and monitor them.

18 MR. SOLOMON: And question to the Counties: How  
19 do you develop and monitor the mitigation measures?

20 MR. MCCARTHY: Paul McCarthy, L.A. County. The  
21 mitigation conditions, of course, are developed as part  
22 of the Environmental Impact Statement or process, EIR  
23 process. And there again, as I noted going back to the  
24 Scoping Meeting, you may say, "Well, we're getting  
25 letters from the community about Problem A here and

1   there's no mitigation measure for it," and so you would  
2   call up the Applicant and tell him to get your traffic  
3   engineer, or your biologist, or whatever the issue is on  
4   to this matter and we want it addressed in the EIR, we  
5   want a mitigation measure added to it. That's one way in  
6   which we could be adding to the mitigation measures that  
7   come on because they are initially prepared by the EIR  
8   preparer.

9           The other input comes from the Planning  
10   Commission and there will frequently be direct directions  
11   from the Planning Commission with regard to the  
12   mitigation monitoring -- the mitigation condition. And  
13   so maybe the condition says you shall provide 100 acres  
14   of open space to mitigate the impact on this certain area  
15   by a like value. The Planning Commission may say, "We  
16   find that's totally inadequate and we want to double, or  
17   triple, or quadruple it." Maybe they want a financial  
18   contribution to some project that they're aware of in  
19   their District; if the case is in the Commissioner's  
20   district and he or she is aware of something going on  
21   that's dealing with this issue, they may want a financial  
22   contribution to help mitigate the impact that way. So  
23   it's part of the process. The initial product is  
24   produced by the preparer of the EIR, whether that  
25   preparer is hired by the Applicant, or hired under

1 contract by the County. Staff can add to that and the  
2 Planning Commission can add to that, and if there is an  
3 appeal, the courts can certainly add to that. But all of  
4 that is being done often times, most often times, in  
5 response to public input.

6 MR. SOLOMON: Okay, thank you.

7 MR. MCCARTHY: Oh, and I just might note, we do  
8 have -- the conditions are enforced by our Zoning  
9 Enforcement Unit, so the same people that would be  
10 enforcing other zoning regulations do that, and what we  
11 do is, if they get into something that is a little bit  
12 technical, in the environmental section we'll loan them  
13 the use of our staff biologist, or something of that  
14 nature, and they will enforce them in that regard. We  
15 have other county agencies that there may be mitigation  
16 conditions are being enforced by the Fire Department's  
17 enforcement mechanism, or the County Health Department's  
18 enforcement mechanism, and Public Works -- the traffic  
19 situation, maybe they've said there's going to be a  
20 traffic light installed at this particular intersection,  
21 they would be doing that. So there are a number of  
22 agencies from each of their independent purviews, they  
23 have the pages of the program that interest them, they  
24 open it up to that, and they follow through on them. And  
25 we are all required at the local level by state law to

1 have a Mitigation and Monitoring Enforcement Program.

2 MR. SOLOMON: Thank you.

3 MS. WATT: I just wanted the Counties to add, if  
4 they have them or are merging -- I know, Craig, you  
5 mentioned -- oh, Terry Watt, Governor's Office -- you  
6 mentioned Ag, if you have merging standardized mitigation  
7 measures for this type of project, and obviously there's  
8 always going to be site specific or project specific, but  
9 that are adopted as policy, or ordinance, and have any  
10 kind of -- have been formally adopted and are  
11 standardized, I would be curious.

12 MR. MURPHY: Yeah, Craig Murphy, County of Kern.  
13 A couple things with mitigation, you know, generally  
14 mitigation for Kern County is an ongoing thing meaning  
15 that, you know, how we go through the process, up until  
16 one minute before the Board of Supervisors, or whoever  
17 the final adopting agency that would certify the EIR, and  
18 either deny or approve the project, you know, they can  
19 make change to a mitigation measure up until that point.  
20 We're required under CEQA, especially if you're preparing  
21 an EIR, to have all reasonable mitigation, to reduce a  
22 project if you have a significant impact, and it is the  
23 elected official's job and responsibility to take the  
24 information that it has and determine whether or not what  
25 we've identified is appropriate.

1           Some mitigation, we have actively had standards  
2 for. One good example for Kern County, and I know in  
3 other counties they're kind of going through this, as  
4 well, is public service. You know, these proposed solar  
5 projects are usually located in more rural areas, there  
6 is still potential vandalism, things along those lines.  
7 So it was our determination early on in the process that  
8 it is inappropriate to say that there are no potential  
9 public service impacts with these uses. Solar is unique  
10 in the fact that they also can't be recessed, so it's not  
11 like we get any additional property taxes for the panels  
12 themselves to cover the Sheriff, or anybody else that may  
13 have to go visit the site, or if the worker breaks their  
14 leg, happened to -- you know. So we actually early on in  
15 the process engage with the solar developers, the County  
16 Administrative Office, and actually proactively look at,  
17 well, what is the standard in terms of fees that we would  
18 require for an industrial project? Okay, now how does  
19 solar compare to that industrial project? And you  
20 basically -- we went through a hearing process where we  
21 determined that, you know, it's all based on panel  
22 coverage and five percent, and basically, depending on  
23 where you're located, there's a set fee that is required  
24 for every 1,000 square feet of panel coverage. So that  
25 would be an example of the mitigation measure that we

1 identified early on in the process, it's been adopted, or  
2 the Board took action to say, hey, this is what we want  
3 to go through, you know, it involved solar developers,  
4 the CAO, a number of different groups. Some mitigation  
5 is determined based on as projects go forward, screening  
6 is a good example where, clearly, if you put a solar  
7 project in a proposed location, it changes the aesthetic  
8 environment, solar is unique in the fact that it's  
9 difficult to screen it because that would then create  
10 shade and other things. And so, through our public  
11 hearings, and we've kind of identified, all right, well,  
12 this is the type of fencing that would be required, it's  
13 required when you're adjacent to residentially zoned  
14 areas, things along those lines, and you kind of have  
15 that type of mitigation measures where, you know, they've  
16 been applied to other projects and it seems to have  
17 worked, and so we have kind of a history of what the  
18 Planning Commission and the Board has accepted.

19 And then there's other types of mitigation where  
20 they are very site specific and, you know, a lot of times  
21 biology is one of those ones that you generally have  
22 rough ideas in terms of how the mitigation is going to  
23 go, but biology is always site specific, and so that's  
24 where we rely on the comments that we received to help  
25 identify -- should the fence be raised? Should it not be

1 raised at this location? You know, all that type of  
2 stuff. And it's one of those things that is ongoing and,  
3 at least for Kern County, I can say that every comment  
4 goes to the Board in some fashion or another, where it  
5 comes in Response to Comments, and we will formally  
6 respond to it in a Response to Comments, comments that  
7 are received or that people suggest mitigation measure  
8 after our Response to Comments has already been  
9 circulated, whether or not it gets addressed in the staff  
10 reports and things along those lines. So mitigation is  
11 one of those things that we consider ongoing, and up  
12 until the final action of the project, you know, even  
13 though you're actually considering the project, part of  
14 that for us is they certify the EIR, and then decide the  
15 mitigation can be changed. And I think generally there  
16 are three types of mitigation, there's the very site  
17 specific that has to be -- each project is unique,  
18 there's some of the standards that have either been  
19 adopted based on previous resolutions or policies, things  
20 along those lines, and then there's kind of historical  
21 "this is how we mitigate for Ag land," "this is how we  
22 mitigate," you know, things along those lines, and we  
23 kind of go from there.

24 MR. SOLOMON: Thank you.

25 MR. PRUSCH: Dave Prusch with San Bernardino

1 County. We typically incorporate our mitigation measures  
2 into our Conditions of Approval, and so we identify them  
3 for the Developer as something they need to do prior to  
4 each stage of permitting, be it grading, building  
5 permits, so we feel it's pretty concise and they're able  
6 to see right in one document all of the mitigation  
7 measures from any agency, be it County or outside agency  
8 for whom we condition. So we do that with not only our  
9 solar projects, but for any project, and it's worked very  
10 well for many years.

11 MR. SOLOMON: Thank you.

12 MR. HART: Josh Hart with Inyo County. I had one  
13 observation and one question. The observation was the  
14 Energy Commission's BMP Manual provides a great resource  
15 for mitigation measures, and we actually have used that  
16 manual extensively. I did have a question for Roger. I  
17 was wondering, can you elaborate on noticing and  
18 processing for significant changes and mitigation  
19 changes?

20 MR. JOHNSON: For a significant change that comes  
21 in post-certification, we will notice -- we develop a  
22 post-certification mailing list, it's typically now to  
23 Listserv, we notify the Listserv of the Request for  
24 Project Change, we post that change on the Web, we  
25 determine whether or not we're going to do a staff

1 approved or recommend that it be a condition approved  
2 change, the staff does the analysis, we prepare the  
3 analysis, post that on the Web for a 30-day comment  
4 period, and it also goes out to any mailing list that we  
5 have developed for that project, and then the staff makes  
6 a recommendation to the Commission and the Commission  
7 decides whether or not to make the change.

8           There is a cost to that. We have a compliance  
9 fee that is charged to each project upon certification at  
10 the Commission, it's an annual fee that they have to pay  
11 every year. And that's how all their amendment costs are  
12 covered. And one thing, you know, thanks for mentioning  
13 your zoning enforcement, I neglected to mention that,  
14 here at the Commission, we have two ways of monitoring  
15 mitigation measures and the Commission is the Chief  
16 Building official for the projects that we permit, and so  
17 we have a third-party independent Chief Building official  
18 that we have the Developer contract, and they're on-site  
19 for us, and they oversee all the engineering and  
20 construction and take care of all those sign-offs.  
21 Sometimes it's the County as the Chief Building official,  
22 but usually it's a third party.

23           And then the Energy Commission staff ensures the  
24 compliance with all the Conditions of Certification. We  
25 try to use the same staff that permitted the project, or

1 were involved in the permitting, so they wrote the  
2 condition, they understand what is in it. There, we have  
3 certain requirements, you know, for cultural resources,  
4 for biological resources, there's a requirement to  
5 develop a plan and to identify a chief cultural -- a lead  
6 cultural person on-site, a lead biologist person on-site,  
7 that oversees all those requirements. And, again,  
8 they're third party, paid for by the Developer, but  
9 reporting to the staff and monitoring all the mitigation  
10 measures.

11 MR. MCCARTHY: I might add also that, when it  
12 comes to mitigation and monitoring enforcement, we get a  
13 lot of input from the public and, so, the people who are  
14 concerned with a case, that follow it from scoping  
15 meeting through the last hearing at the Board of  
16 Supervisors, they know what's in that mitigation and  
17 monitoring requirement, what the requirements of the  
18 program are, and they will notify us if they feel that  
19 the Applicant is not performing. I might note, it might  
20 be of interest to folks and a lesson, a cautionary  
21 lesson, we had a scenario in terms of fire protection up  
22 in the Antelope Valley where the Fire Department  
23 requested to mitigate a fire hazard, it's in the high  
24 fire severity zone, a 100-foot down to mineral earth,  
25 clear to mineral earth, barrier completely surrounding

1 the perimeter of the property, which was about 2,400  
2 acres in size. And the condition was written in such a  
3 way that that would be installed prior to the development  
4 of -- prior to the initiation of construction. And that  
5 appeared to be appropriate to all of us at the time. On  
6 the Fourth of July weekend, a gentleman who was awarded  
7 the contract to do surveying work on the project, who  
8 happened to live in Long Beach, drove all the way out  
9 from Long Beach on the Fourth of July weekend to get a  
10 look at the property, he wanted an advance look, there  
11 was no construction taking place, so that condition  
12 hadn't been -- the trip wire hadn't been passed. And by  
13 the time -- the temperature was up close to 100 that day  
14 and, by the time he got from Long Beach to Lancaster,  
15 your catalytic converter is really hot, and so when he  
16 drove out onto the property, he started a significant  
17 brush fire. In fact, we had to call in Kern County for  
18 mutual aid. So here we are, we hadn't even broken ground  
19 on the project, and we had a tremendous uproar in the  
20 community. Fortunately, the Applicant responded, I mean,  
21 they were down, they had top personnel down from San  
22 Francisco within 24 hours talking to the community,  
23 "Here, give us your claims, we're going to write the  
24 check," there was no hassle. But then we negotiated and  
25 the neighbors said, "We don't feel safe with these guys,

1 so we want a fire truck on scene all the time." That was  
2 not in the mitigation requirements, initially, and the  
3 Applicant said no argument, and there's a tanker truck  
4 there now at all times.

5 And another mitigation where we modified on that  
6 same project, again, the dust control was during  
7 construction time that you were supposed to water and  
8 take various methods to control dust during the  
9 construction time, well, lo and behold, when the wind  
10 comes up on the weekend and there's no construction going  
11 on, you have an area that's been scraped bare, you have a  
12 lot of dust. And so now they have crews out there even  
13 when construction is not -- and they took certain  
14 measures to deal with that. Apparently, they're doing  
15 pretty well because it was very windy yesterday and they  
16 were out there and there was no dust. So they're putting  
17 palliatives, and so on, on the soil. But it's just a  
18 word to the wise that it depends on how you word these  
19 things, and if you say, "Prior to the commencement of  
20 construction," there can be pre-construction activities,  
21 or if your dust control is limited to during construction  
22 hours, there's a lot of wind that takes place before and  
23 after construction hours, and those are a couple things  
24 to keep in mind. But with cooperation from the  
25 Applicant, without having to go to court, or issue -- get

1 into that, in effect, we modified those conditions.

2 MR. SOLOMON: Thank you.

3 COMMISSIONER DOUGLAS: Alan, quickly, before we  
4 go on, I just realized that when we muted the phones, we  
5 may have muted the Fish & Wildlife Service entirely.  
6 Shall we unmute the phones?

7 MR. SOLOMON: Let me unmute the phones.

8 COMMISSIONER DOUGLAS: And let's see if -- that  
9 would be great, thank you, Ashley, but we can go on and  
10 continue.

11 MR. NEWCOMBE: We've been trying to do that for  
12 years. [Laughter]

13 MR. SOLOMON: Let me use this time to ask the  
14 State agencies if they have any comments.

15 MS. BORAK: Just like everybody else, we do  
16 mitigation monitoring and enforcement. Normally, our  
17 environmental consultants are the entities that are on  
18 the ground to watch the project as it gets built.  
19 There's, you know, sometimes some compliance issues and  
20 we have a sort of system that we deal with that. If  
21 things get out of hand, we can shut down the project and  
22 that's a Draconian measure, but we do it on occasion. We  
23 occasionally fine if we find that something has happened  
24 that is just so egregious that we feel like we need to do  
25 something. When we shut down projects, talk about

1   delaying projects, you know, the longer it takes the more  
2   it costs, the more changes that occur. We hate to do it,  
3   but sometimes it's necessary. We did that last -- late  
4   spring, early summer -- for the Sunrise Power Link  
5   Project about helicopter construction activities, there  
6   was a -- PG&E was building a substation and it had  
7   recently been approved, and we had a pause period before  
8   they can start any construction activities, and before we  
9   have monitors on-site, and during that timeframe,  
10   somebody came in and completely scraped the entire seven-  
11   acre site, and destroyed a lot of sensitive environmental  
12   plants species. And the Commission did an Order  
13   Instituting Investigation and they received a huge fine.  
14   And PG&E now has a much better environmental monitoring  
15   system that they do with their construction consultants,  
16   and so it's a challenge. And these are big projects and  
17   they go on for years. I think our Commission thinks,  
18   once they've issued a decision, we're kind of done with  
19   the project, and it's really only the beginning in a lot  
20   of cases, so, I mean, these projects are long and they  
21   take a lot of staff time, and a lot of care with our  
22   consultants.

23               MR. SOLOMON: Thank you.

24               MR. CONDON: Bill Condon, Fish & Game. We in our  
25   role as responsible and public trust agency, we provide

1 lead agencies with comments and recommendations with  
2 regard to mitigations to reduce impacts to less than  
3 significant levels and also provide recommendations for  
4 monitoring approaches, and under our own authority  
5 pursuant to CESA and Section 1600 of Fish & Game Code, we  
6 also rely on the lead agency's CEQA document as a vehicle  
7 for purposes of issuing our own permits. And in  
8 preparing those permits, pursuant to, for example,  
9 California Endangered Species Act, we're obligated to  
10 ensure that the impacts related to the authorized  
11 incidental take are fully mitigated, which is oftentimes  
12 a higher standard, so to speak, than mitigating to less  
13 than significant under CEQA, but it depends on the  
14 circumstances. In many cases, the mitigations under the  
15 CEQA process are adequate to meet that full mitigation  
16 standard under CESA. And oftentimes the mitigations that  
17 we come up with pursuant to our permitting authority may  
18 be more specific than what the permit conditions that  
19 come out of the CEQA process, for example, or in Lake or  
20 Streambed Alteration Agreements, we may get literally  
21 into the weeds in terms of coming up with an agreed upon  
22 approach in terms of how to minimize surface erosion, the  
23 timing of installment of installations, culverts and  
24 bridges, and that sort of thing. So oftentimes the  
25 mitigations that we're involved in are either more

1 specific or, in some cases, additive to the mitigations  
2 that come out of the CEQA process.

3 MR. SOLOMON: Thank you very much. What I'm  
4 going to do is we're going to move on to the Federal  
5 Agencies and how they address mitigation, and Diane,  
6 could you please unmute all the lines just in case  
7 someone from Fish & Wildlife Service is on line right  
8 now? And for those of you that are listening, I'm going  
9 to ask that you remain quiet. What we would like to do  
10 is find out if Fish & Wildlife Service is on the line.  
11 Thank you. Is anyone -- to those on the line, is anyone  
12 from Fish & Wildlife Service -- is there anyone on the  
13 phone from Fish & Wildlife Service? Okay, thank you.  
14 Will you mute the phones, please? And let's continue  
15 this discussion with the Federal agencies and how they  
16 address mitigation.

17 MS. CONRAD-SAYDAH: Ashley Conrad-Saydah, BLM.  
18 And I think all of you have said essentially how we  
19 manage monitoring and mitigation, but I think the one  
20 piece that would be good for us, as maybe next steps, is  
21 we've learned so much along the way with permitting these  
22 projects, but now a lot of them are underway in  
23 construction in the next phases, and so we're just going  
24 to continue learning over the next 20 or 30 years, and it  
25 might be a good next step for us to think about this

1 joint monitoring piece and how to jointly share funds to  
2 monitor, or make sure that the project is being covered.  
3 BLM assesses one cost recovery fee to monitor the project  
4 for the lifetime of that project, and you know, this is  
5 new for us, these massive projects with big impacts,  
6 where fire management is coming from the counties in some  
7 cases, or from us, or from the state. So I think it is a  
8 -- this is a good flux point for all of us to work  
9 together and come up with a way to just make it as  
10 efficient as possible.

11 MR. SOLOMON: Thank you. Any other comments on  
12 this topic?

13 COMMISSIONER DOUGLAS: Just briefly. I think  
14 Ashley raises a really good point that, to the extent we  
15 can collaborate on monitoring effectiveness of the  
16 mitigation conditions, what the conditions actually are,  
17 just so that -- and hopefully the DRECP can help us  
18 advance this idea, but just so that, especially with the  
19 biological mitigation conditions, you know, we're working  
20 synergistically. And maybe we can save some money or do  
21 better monitoring if we can find a way to collaborate on  
22 monitoring.

23 MS. CONRAD-SAYDAH: I forgot to add one more  
24 thing -- again, Ashley at BLM -- we are looking at the  
25 framework for a large scale monitoring program across

1 Western BLM lands to get a better sense of what the  
2 baseline condition is, so that when we put these projects  
3 on we know more about the impacts -- are the impacts  
4 coming from climate change? Are they coming from the  
5 projects? Are they coming from something else? And it  
6 would be both in concert with these projects, the  
7 monitoring would be on the project sites, but we would  
8 also be looking for some control sites that we could  
9 monitor where there won't be development impacts, so that  
10 we can really tease out those differences over time, and  
11 help with the adaptive management piece of siting  
12 projects and managing them over time. Because the more  
13 we learn through these processes, the more we can better  
14 site projects right at the very beginning.

15 MR. SOLOMON: Thank you. Any other comments?

16 MR. CONDON: Alan, this is Bill Condon from Fish  
17 & Game. I wanted to add to what you said, Karen, about  
18 the DRECP, and one of the advantages we see is that, when  
19 developing the DRECP, we anticipate a fairly standard set  
20 of mitigation approaches, and that provides the  
21 Developers and everybody else some certainty in terms of  
22 what they would expect as far as what their obligations  
23 to mitigate project impacts. And that has been an issue,  
24 at least for Fish & Game, in that we're very aware of the  
25 specter of being seen as promulgating underground

1 regulations by consistently presenting certain --  
2 offering up or recommending certain mitigations  
3 recurrently for similar situations. And so there's a  
4 tension, concern about wanting to avoid that perception,  
5 or even reality; at the same time, we're interested in  
6 providing Developers and lead agencies some certainty in  
7 terms of what they should expect as far as mitigation for  
8 certain types of impacts. That doesn't become such a  
9 problem under a programmatic process such as the DRECEP.

10 COMMISSIONER DOUGLAS: A really interesting  
11 point. Yeah, I was just struck by what Ashley said about  
12 the complexity on the compliance side, you know, just as  
13 permitting the large scale renewable projects after  
14 literally almost two decades of not having seen a large  
15 solar thermal projects stressed our permitting process  
16 quite substantially and we learned a lot from that, and  
17 we're still digesting and moving forward with some of the  
18 very different ways that we had to handle that challenge,  
19 but the compliance now is presenting a similar  
20 opportunity to learn because there are a lot of projects  
21 that are a very substantial number of conditions. You  
22 know, as Paul said, the way that you write the conditions  
23 matters a lot and sometimes, you know, you'll write a  
24 condition in a way that seems perfectly reasonable and,  
25 as it turns out, when push comes to shove, you sure wish

1 it had been written just a little bit differently;  
2 sometimes everybody wishes it had been written a little  
3 bit differently. So, anyway, that's pretty fertile  
4 ground for us to continue to improve, I think.

5 MR. SOLOMON: Thank you. Any other comments?  
6 Let's move on to the last topic, which is Cost Recovery.

7 MR. JOHNSON: For the Energy Commission, the cost  
8 recovery is, well, we get part of our fees covered by  
9 application fees for the projects. The AFC is based upon  
10 a filing fee of \$255,000 plus \$510.00 per megawatt, not  
11 to exceed \$765,225. So there is a cap on our fees. We  
12 also charge the annual compliance fee I mentioned right  
13 now, it's \$25,500 a year. And the life of a project, the  
14 project might be 20 to 30 years, but there's a lot of  
15 work that happens in those first couple years during  
16 construction that this \$25,000 a year is not covering, so  
17 when you amortize that out, it will catch up.

18 And also, these fees are adjusted annually based  
19 upon the price deflator, so every year we post a new fee.  
20 One year it went down a little bit, but then mostly it  
21 goes up. And there's also projects at the Commission  
22 that we exempt, we have small power plant exemptions that  
23 are certain kinds of projects, 50 megawatts to 100 if  
24 there is no significant environmental effects, that would  
25 require a DIR. We can do a Mitigating Neg Dec and exempt

1 it from the Commission's jurisdiction, and then the  
2 Developer then takes that exemption and that Neg Dec and  
3 goes to the County and does their local permitting.  
4 Those projects, when we do CEQA on those, we get full  
5 recovery, we just get a deposit, a \$200,000 deposit, and  
6 then we true-up at the end on what the staff actually  
7 spent processing that.

8 And also, we have in our regulations a  
9 requirement, I think it's State Code, we collect a fee of  
10 \$965.00 for Fish & Game, for the AFC, and the SBPE, Fish  
11 and Game receives \$2,044 for each project.

12 And then finally, as far as cost recovery, the  
13 Commission has a set of Regulations that allow local  
14 agencies -- and it's limited to local agencies, it's not  
15 available to State Agencies, but they can set up a cost  
16 reimbursement for participating in our process, where  
17 they can submit -- the Regulations are pretty specific,  
18 you have to submit a proposal, essentially a cost for  
19 participating, you have to do monthly invoicing, it has  
20 to go through, get approved by the Committee, the Lead  
21 Commissioner. It works, I've done it a few times, but in  
22 lieu of that, what we tell Developers when they come in,  
23 we tell them when you work with the County, we would  
24 encourage you to set up a reimbursement account with the  
25 County so you guys can just take care of this and we

1 don't have to go through all this paperwork at the  
2 Commission and involve everybody. So hopefully they're  
3 doing that for the projects that come through here,  
4 you're setting up these accounts with the Developers.

5 MR. SOLOMON: Thank you. And for the Counties,  
6 how do you handle cost recovery?

7 MR. MCCARTHY: A very similar process. We have  
8 the cost recovery process at the time the application is  
9 submitted, of course, as a filing fee. And then we have  
10 a cost recovery account set up with regard to the  
11 processing of the environmental document. As I indicated  
12 earlier, the \$10,000 would be a typical down payment and,  
13 then, each application is given a project number, and  
14 each staff person who participates on a staff meeting, or  
15 telephone call, writing a report, going out to a field  
16 trip, a scoping meeting, whatever, they bill to that  
17 account, all of those hours to that account.

18 And then our bookkeeping people, as the \$10,000  
19 deposit is being drawn down, then they're notifying them,  
20 you're getting close and you have to give us additional  
21 monies, or we don't take this case to public hearing.  
22 And when that is done, as was alluded to by Kern County,  
23 where the Applicant has to indemnify the County so that,  
24 if there's a challenge to the County's approval of the  
25 project, all of that is paid for by the Applicant.

1           In addition to that, there is an account set up  
2   in terms of deposits required for mitigation and  
3   monitoring. And so, again, this is a new kind of use and  
4   it may be that we'll learn that we need greater deposits,  
5   but we do have that set up, as well. So there's a pretty  
6   fair amount of cost recovery.

7           MR. SOLOMON: And, I'm sorry, for the benefit of  
8   those on the phone, could you please identify yourself?

9           MR. MCCARTHY: Paul McCarthy, L.A. County  
10   Regional Planning.

11          MR. SOLOMON: Thank you. Comments from other  
12   Counties?

13          MR. MURPHY: Craig Murphy, Kern County. Our  
14   process is very similar. We have our application fees  
15   that are based on time and materials basis, and so that  
16   accounts for staff time, staff that works on a project  
17   bills to those. Because we hire the EIR consultant, what  
18   we do is, before we take that contract to the consultant  
19   we selected based on our RFB, the project proponent is  
20   required to submit to us the entire amount that the  
21   consultant has identified that would be required to  
22   prepare that document. That then sits into a little  
23   trust that we have and, then, as work is done on the  
24   environmental document, we then take that and provide  
25   that to the consultant. So, you know, that way we ensure

1   that we have the entire cost to prepare the document  
2   upfront. And then, as the staff time -- I usually -- if  
3   you're preparing an Environmental Impact Reporter,  
4   usually between your fees and your EIR deposit, you know,  
5   usually the upfront cost is around \$15,000 to \$16,000.  
6   But then, usually before we go to hearings, we request a  
7   little bit more to cover costs that have been done and  
8   things along those lines.

9           One of the challenges that we'll have to deal  
10   with if we have any projects is the AB 900, any projects  
11   that decide to take advantage of AB 900, clearly, if  
12   we're supposed to be keeping an administrative record  
13   online, and you know, a lot of that will probably require  
14   additional monies by the Applicant and, you know, how we  
15   allocate those and get all that work done, you know, that  
16   is something we'll kind of figure as we go forward, but  
17   you know, we'll work that in if we have a project that  
18   goes down that road, things along those lines.

19           MR. SOLOMON: Thank you. Comments from other  
20   counties?

21           MR. NEWCOMBE: Gerry Newcombe with San Bernardino  
22   County. We're full cost recovery, as well, and it's  
23   based on actual cost. I think the issue that we're  
24   struggling with a little bit is the ongoing cost  
25   implications of some of these projects, and so certainly

1 for projects that have been under CEC's jurisdiction,  
2 we've worked hard to try and identify what those ongoing  
3 impacts would be and, at least in one case, a case with  
4 BrightSource for their Ivanpah project, we were able to  
5 enter into a fair share agreement, a reimbursement  
6 agreement, and negotiated that with them and got it  
7 executed shortly after they were approved. And we're  
8 working to do that with other similar projects.

9 I'm a bit envious of what Kern has been able to  
10 do in terms of making some determination on, you know,  
11 per square foot a panel coverage basis, you know, how to  
12 assess an ongoing fee because these projects pay really  
13 very little in property tax income to the Counties,  
14 although, in our analysis of the PV projects, they  
15 ultimately have a pretty low impact overall on service  
16 demand, they're really not generating -- other than  
17 during construction, they're not generating a lot of  
18 impacts. But I think, given the exemptions that they  
19 have for a lot of the facility that they're building,  
20 there needs to be some way to address that kind of cost  
21 recovery.

22 And then, not to get into what Riverside County  
23 is working on doing, or may be facing a challenge on, but  
24 with the fee that they've tried to implement, I do think  
25 there is some process that needs to be given some thought

1 to about the fact that counties with large amount of  
2 desert area like Riverside, and San Bernardino, and Kern,  
3 and others, we're going to have the potential to have a  
4 significant number of these renewable energy facilities  
5 in our county. And is it appropriate for those counties  
6 to reap some benefit of kind of being the storehouse or  
7 the generation point for all this renewable energy that  
8 benefits everyone else in the state? And so I'm not sure  
9 of the answer to that, I appreciate that Riverside took a  
10 step in a direction that said we're just going to assess  
11 a fee and try and gain some value back from that kind of  
12 a land use, you know, being so prevalent in the desert.  
13 And so we've not decided how to do that in San Bernardino  
14 County yet, we're kind of watching with interest the  
15 challenge that's going on, and so we'll let Riverside  
16 battle that through and we'll be standing behind cheering  
17 you on. But I think that is something in the long run  
18 that is kind of an unknown issue that needs to be  
19 addressed somehow.

20 MR. SOLOMON: Any other comments? Let's move on  
21 to the State agencies, how do you do cost recovery?

22 MS. BORAK: This is Mary Jo with the PUC. We  
23 aspire for 100 percent cost recovery, I don't think we  
24 ever get there. When a Preliminary Environmental  
25 Assessment Application comes in, the utility has to give

1 us a check and it's a formula based on expected cost of  
2 the project. We pay our Environmental Consultants out of  
3 that fee. When the kitty gets low, we ask the utility to  
4 give us more money. My staff also, they bill to that  
5 account through some mysterious process that goes on in  
6 our fiscal office that I don't totally understand. Our  
7 Administrative Law Judges, for their part of the  
8 application process, that is not cost recovered, it's  
9 something that the agency absorbs because it's part of  
10 our doing business. So we do attempt. When we do --  
11 when it's a big project coming in and there's going to be  
12 a lot of pre-application consultation, we enter into a  
13 Memorandum of understanding with the utility where they  
14 actually give us some money early on, so that we can get  
15 a consultant on board and maybe do some traveling. So we  
16 do -- we make an effort to have good cost recovery.

17 MR. SOLOMON: Thank you. Other comments?

18 MR. CONDON: Bill Condon, Fish & Game --

19 MS. BORAK: Oh, wait, before Bill -- I want to  
20 add one thing and maybe Bill can explain this to me --  
21 normally when we get a project approved and the  
22 Commission decides on a project, we have 10 days to get a  
23 check to Fish & Game, and I think it's -- I don't know if  
24 it's a Mitigated Negative Declaration, I don't know what  
25 it is, it's \$2,200, and if it's an EIR, it's \$2,500 or

1   \$2,700. And normally it's just one more thing our  
2   project managers have to worry about. If we happen to be  
3   in the place where we don't have a State Budget in place,  
4   we can't cut a check, and this gives us some heartburn.  
5   And I guess there was a State law that was passed a few  
6   years ago? You're the only agency that we do this with,  
7   maybe you could enlighten us.

8           MR. CONDON: Mary Jo, I wasn't sure what the  
9   question was -- what happens in the event we don't have a  
10   State Budget?

11          MS. BORAK: No, no, no, why is it that we only  
12   send checks specifically to Fish & Game when we finish a  
13   project for your review of the project?

14          MR. CONDON: It's the intent of the Legislature,  
15   I guess, that's prescribed by statute. And why that is,  
16   I really can't answer --

17          MR. JOHNSON: Mary Jo, the Commission only  
18   carries the check, the Developer writes the check, we  
19   just carry it over.

20          MR. CONDON: That probably wasn't a satisfactory  
21   answer --

22          MS. BORAK: I just find it, you know, it's like  
23   the one final thing that we have to do, and it's -- I'm  
24   sure it doesn't go anywhere near recovering your cost of  
25   your involvement in the project, but we don't do this

1 with any other State agency, it's an oddity. But,  
2 anyway...

3 MR. CONDON: I can provide you a more complete  
4 answer when I talk to our own fiscal people in mysterious  
5 processes.

6 MR. MCCARTHY: Important to note, though, that  
7 fee -- the Fish & Game fee does not apply just to  
8 alternative energy projects, that would be a residential  
9 subdivision, across the board. And it's the same process  
10 and, as Roger indicated, we don't pay the fee, we have  
11 the Applicant pay that fee.

12 MR. CONDON: It depends on whether it's a State  
13 project or a local project in terms of who receives that  
14 fee, the County Clerk or otherwise. So we -- in the  
15 unusual event we're lead agency, we have a similar  
16 process in terms of arranging for an initial deposit. I  
17 think the number that we've -- practice of use is \$10,000  
18 and, as needed for cost recovery purposes, when we're  
19 lead agency we invoice the Developer to achieve cost  
20 recovery as far as our role as lead agency. And I know  
21 we're talking about CEQA, but I thought I'd bring up to  
22 everybody's attention something new, and that is pursuant  
23 to AB X113, SB 16, these are statutes of 2011, we are now  
24 obligated to collect CESA permit fees for eligible  
25 projects, renewable energy projects, and those projects

1   that are generating energy under the Renewable Portfolio  
2   Standard. And there is a fee schedule in the Statute,  
3   it's a sliding scale based on megawatts produced, ranging  
4   from \$25,000 to \$50,000, then \$75,000, or, if needed, up  
5   to \$200,000 per project. And the scale is from zero to  
6   30, I think, megawatts -- 30 or 50, I forget all the time  
7   -- anyway, small projects would be subject to a fixed fee  
8   of \$25,000 and a larger project, \$75,000, and in addition  
9   there's a fixed \$25,000 fee for consistency  
10   determinations under CESA. We are also obligated to  
11   track our effort to validate this fee schedule is  
12   correct, that we're not asking for too much, or not  
13   enough, and I understand the Legislature is going to  
14   revisit these fees in a few years, according to statute.  
15   So that's something that we're getting the word out and  
16   not all the Developers know about this, the larger ones,  
17   I think, do; the smaller ones, you know, the single  
18   turbine projects, they probably don't know about this,  
19   and not surprisingly. But it's something that we are  
20   endeavoring to get the word out and we are obligated to  
21   track and obligated to collect these fees under these new  
22   statutes.

23               MR. SOLOMON: Thank you. And the same question  
24   to the Federal agencies, how do you recover costs?

25               MS. CONRAD-SAYDAH: We also do follow cost

1 recovery, so we have a fee schedule for processing  
2 permits that anything under 50 hours for processing time  
3 has a set fee, but once you go over 50 hours to process a  
4 permit, or an application, you can actually charge full  
5 cost recovery based on each of the individuals who are  
6 working on a project. And we actually funnel money to  
7 Fish & Wildlife Service, so there is a fee for every  
8 project on which they consult that, again, the Developer  
9 pays it, but it goes through us, the same thing, weird  
10 fiscal practices somewhere in Denver that send a check  
11 elsewhere for us. One thing that we do that is somewhat  
12 interesting that might be relevant for all of you is that  
13 we have an opportunity to set up a master service  
14 agreement with developers or entities who come to us a  
15 lot for actions, so, for example, Southern California  
16 Edison is attempting right now to set up a master service  
17 agreement with our California Desert District Renewable  
18 Energy Coordination Office. And what would happen is  
19 that they would actually fund a position, and the  
20 position would be hired by BLM and overseen by BLM, but  
21 it would basically help us with the staffing piece, so it  
22 would be a term level position not to exceed a certain  
23 amount of time, funded fully through Southern California  
24 Edison in an effort to get some of their applications  
25 through the Desert District, and this person would be

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1    seated with a Renewable Energy Coordination Office and,  
2    you know, we have mechanisms in place to make sure it's  
3    not that the person is working for Edison, but that  
4    they're still working for BLM, it's just additional  
5    assistance for us that doesn't have to go under any sort  
6    of staffing cap, or any budget changes that we have  
7    because it's a separate service agreement. And I don't  
8    know how feasible that is for other entities, but it's  
9    helped us in Nevada with everything going on around Las  
10   Vegas, it helped us a lot in Nevada, and we're going to  
11   give it a try with Edison here in California. So we'll  
12   see how it goes. One note that I have, that I think is  
13   tough for Developers, is that, with all of our processes,  
14   if you have a 75 megawatt project, or a 1,000 megawatt  
15   project, it almost takes about the same amount of time to  
16   get that project through the permitting process because  
17   you still have to consult with the same number of people.  
18   You know, maybe there's fewer surveys that need to be  
19   done, and so there is some scalability of costs, but in  
20   general, I think there's a chance that we're favoring  
21   larger projects because the process is just as involved  
22   with the not so large projects as it is with the large  
23   projects. And, you know, I don't know what we can do  
24   about that, but it's just something that's been in the  
25   back of my mind as I've seen costs just -- for one wind

1 project, for example, it's about 67 megawatts, we're  
2 closing in on about \$250,000 of recoverable costs for  
3 that project, and yet that was about the same as a 1,000  
4 megawatt project. And you know, I just see that and I  
5 don't know what we can do there, but it's something that  
6 we think about and, you know, we have to follow NEPA for  
7 us, and that's what the costs come out to be. But I  
8 wonder if there is a scale of projects where we could  
9 potentially come up with some sliding costs.

10 MR. SOLOMON: Thank you. Any other comment on  
11 cost recovery?

12 MR. BLACK: Alan, I'd like to not speak on behalf  
13 of the Fish & Wildlife Service because I don't think  
14 anybody is on today, but just announce that the Service  
15 has -- the President's Budget request for '13 and I think  
16 some money was used for this purpose in the Fiscal Year  
17 '12 Budget, and approved by Congress last year, the  
18 Service has dedicated, I think, about \$2 million here in  
19 the region for additional permitting under Section 10 of  
20 the ESA for projects on private lands, and that's  
21 important because we don't have the Federal nexus,  
22 necessarily, and therefore BLM is not the NEPA lead, and  
23 the service is consulting under a different section of  
24 the ESA, which doesn't have the same statutory timelines  
25 and deadlines, and so that's been a challenge just in

1 terms of allocation of resources, that those projects are  
2 a priority for the Department, we're working in  
3 partnership with the State and the Permitting authorities  
4 there. But, importantly for this discussion, we've been  
5 working at Senator Feinstein's request and at the request  
6 of Secretary Salazar on a pilot project that would allow  
7 the Service to adopt some cost recovery authority, and so  
8 the Service will announce here very shortly a template  
9 agreement with Developers that allows cost recovery for  
10 consultation for projects on private land under Section  
11 10 of the ESA. I've got the details here on my laptop if  
12 -- but, as I say, that should be really shortly and I  
13 just want to make you all aware of it.

14 MR. SOLOMON: Thank you. Any other comments?

15 MR. JOHNSON: Steve, to follow-up on that, if a  
16 developer provides cost recovery, does that give them  
17 some kind of priority for review for their project?

18 MR. BLACK: What it will allow the Service to do  
19 is say, you know, we will be able with that kind of  
20 dedicated funding to allocate staff to the review and  
21 consultation of whatever is necessary under Section 10.  
22 I should have added that the REAT Agencies published two  
23 or three years ago milestones for permitting and  
24 consultation under Section 10, and this essentially  
25 builds on that commitment so that we can complete

1 consultation within a two-year timeframe. So, Roger, you  
2 know, it's not going to mean dedicated staff in every  
3 instance, it's not going to mean priority of the projects  
4 whether they're under Section 7 or Section 10, except to  
5 the extent that you've got committed resources that we  
6 can allocate to a particular project. So the goal is to  
7 identify priority projects and move those forward as  
8 expeditiously as possible. But the Service doesn't have  
9 adequate funding and, as the economy comes back and  
10 housing development and other pressures increase, the  
11 Service is stretched pretty thin with listing  
12 applications, other Section 10 consultation obligations.  
13 But this is an effort to allow private Developers to help  
14 dedicate some funding to this purpose.

15 MR. SOLOMON: Any other comments? It is now  
16 lunch time and I would like to thank all of you for your  
17 participation in this morning's session. For the agency  
18 participants, I'm going to ask you to check in with the  
19 security guard, and then followed by Ann Scott up to the  
20 second floor. For those of you in the audience and for  
21 those of you on the phone, we are going to be taking a  
22 30-minute lunch break. We'll be coming back here at  
23 12:30 where we're going to begin a discussion on CEQA and  
24 NEPA coordination. Thank you very much.

25 (Recess at 11:56 A.M.)

1 (Reconvene at 12:37 P.M.)

2 MR. OGATA: Good afternoon, welcome back from  
3 lunch. Thank you all for coming back pretty timely. My  
4 name is Jeff Ogata, I'm Assistant Chief Counsel here at  
5 the Energy Commission, and I have the privilege of  
6 introducing this next panel. To my right, Cheryll Dobson  
7 and Luke Miller who are both Assistant Regional  
8 Solicitors with the Department of Interior; to my left,  
9 Chris Calfee, who is Senior Counsel with the Governor's  
10 Office of Planning and Research; and to his left is  
11 Michael Sintentos, who is also with OPR. So they're  
12 going to be talking about the subject of CEQA and NEPA  
13 coordination, and so we'll do this for about 30 minutes,  
14 I understand they have a presentation, and then they're  
15 going to take some questions and provide some answers, as  
16 well. So we'll let them begin.

17 MR. MILLER: Take a run at it. Well, we were  
18 asked to sit in and maybe provide a different perspective  
19 on some of the issues you guys, I think, ran through in  
20 part from what I heard in the 10:00 to 12:00 session this  
21 morning, kind of highlighting some of the issues that  
22 arise or bubble to the surface when two different levels  
23 of government are trying to mesh together versions of  
24 their own environmental review processes. Obviously, as  
25 Jeff just mentioned, we're from the Solicitors Office

1 and, for those who don't know who we are, what we do,  
2 we're in essence the in-house counsel for the Department  
3 of the Interior. We advise the multiple agencies under  
4 the Fed umbrella. BLM happens to be one of the primary  
5 clients we have here in Southern California.

6 And during this first big block of projects that  
7 were coming to the pipelines starting roughly in 2010,  
8 there was a lot of interest in making sure these projects  
9 were as valid as possible, hopefully producing a good  
10 result towards the end. So our office was asked to step  
11 in and kind of keep track of the NEPA Review Process as  
12 it went along, and so that required us, of course, to  
13 start getting much more familiar with our State  
14 counterpart, who was trying to do their environmental  
15 review at the same time. And so our discussion today may  
16 focus more on the CEC aspects of what we understood to be  
17 the NEPA/CEQA coordination, understanding that not  
18 everybody in the room is going to be practicing that same  
19 CEQA process, but will probably be focused on that a  
20 little bit.

21 Something we found just to be clear on, or  
22 something we think maybe should establish right up front  
23 is just the basic threshold we're always keeping in the  
24 back of our mind, maybe from kind of the legal  
25 perspective on down; whenever there's problems that arise

1 through these processes, we're always couching them in  
2 terms of what is your target to begin with. And in the  
3 NEPA context, it's just looking at your purpose,  
4 reminding yourself constantly what are you trying to  
5 achieve here, so in a generic sense here, and I've just  
6 got kind of a generic statement here, at least for NEPA,  
7 and I think CEQA would encompass this, as well, your  
8 target is more or less to facilitate kind of a  
9 comprehensive environmental review of a project, and  
10 you're trying to inform your decision maker to a very  
11 appropriate extent, there's a little variance in the  
12 statutes. That's kind of the basic threshold. So when a  
13 problem arises, we're going to first couch that as -- are  
14 you sticking within? Or is this really a problem in the  
15 NEPA context? Is this a scope of information problem  
16 that really is facilitating a NEPA purpose? Or are you  
17 properly informing your publics? That's kind of a basic  
18 threshold question we're always keeping in the back of  
19 our mind, I don't know if there's a different threshold,  
20 or a different concept for CEQA.

21 MR. CALFEE: Yeah, I would say that, in addition  
22 to obviously informing our decision makers and the public  
23 about the potential environmental effects of the project,  
24 CEQA is much different than NEPA in that it has,  
25 obviously, the substantive component. So if there is a

1 potentially significant effect, the CEQA lead agency is  
2 required to mitigate that effect, or consider  
3 alternatives that would lessen that effect.

4 MR. MILLER: Right. And so I think that's the  
5 follow-up question we keep in the back of our mind is,  
6 and the ultimate purpose of NEPA and CEQA, there's a very  
7 distinct difference and that is, as multiple cases out  
8 there would tell you, and it's something we always  
9 measure issues again, NEPA is procedural -- and you guys  
10 have probably heard this before, but this is a key  
11 concept and it relates to how you draft your documents,  
12 and how you address problems as they arise, they're going  
13 to be handled in quite a different context at times. So  
14 that's just something to highlight right up front -- NEPA  
15 is procedural. As Chris was just mentioning, CEQA has a  
16 much more, I think, substantive outcome that it mandates.

17 So that's just, again, kind of the brief overview  
18 of our purposes that we're keeping in mind and the kind  
19 of generic differences, as well, we have to keep in mind.

20 Now, to take that a step further, then, the next  
21 level is asking, okay, if you have to coordinate your  
22 CEQA and NEPA, what is your actual requirement? And it,  
23 at least from the legal standpoint, never hurt us to  
24 actually go back and look at your statute and your Regs,  
25 and what does it actually tell you to do, specifically.

1 And I pulled a few sections from NEPA, and I think Chris  
2 has a few sections from CEQA he can highlight for you.  
3 In the NEPA context, we're looking not so much at the  
4 statute, but the CEQ Regulations that implement the  
5 statute, and it has words such as, "Agency shall  
6 cooperate to the fullest possible. Such a cooperation  
7 shall, to the fullest extent possible, include joint  
8 Environmental Impact Statements," let's see, "...where  
9 State laws or local ordinances have Environmental Impact  
10 Statement requirements in addition to, but not in  
11 conflict with those in NEPA, Federal Agencies shall  
12 cooperate to fulfilling these requirements." CEQ also  
13 puts out the 40 most asked question document, a Reference  
14 Guide to its Regulations. It also echoes that type of  
15 sentiment, it indicates Section 1506.2 of the Regs, also  
16 strongly urges State and local agencies and relevant  
17 Federal agencies to cooperate fully with each other.  
18 Now, I'm not saying these to make light of them, I'm just  
19 trying to highlight the type of language used to tell you  
20 what you need to do. I would say, at best, those are  
21 strong encouragements and strong directives, but it  
22 leaves you with a couple different options on how to view  
23 that. If you're going to slam through your processes and  
24 mash them together at all cost, or you look back and say,  
25 "Well, there is a little bit of leniency in those Regs,

1 they're strongly encouraging us to, but it also  
2 references 'to the extent possible,' or 'extent  
3 feasible.'" So there's a little leeway in there to  
4 realize at some point maybe our two obligations under the  
5 two different statutes aren't perfectly aligned, and  
6 that's okay. Maybe from the CEQA standpoint, you have  
7 something else to add.

8 MR. CALFEE: No, I think that's absolutely right.  
9 Both the statute and the CEQA Guidelines do provide for  
10 coordinating the review as much as possible. The general  
11 rule is make the processes work together better, so we're  
12 talking about joint scoping, joint documents, joint  
13 hearings, if possible. But the objective to keep in mind  
14 is we're trying to streamline, we're trying to not  
15 duplicate, we're trying to educate our decision makers.  
16 But as Luke said, obviously those processes don't mesh  
17 100 percent, so agencies need to think creatively about  
18 how to address those issues where the two statutes don't  
19 line up exactly.

20 MR. MILLER: And, I don't know, this might be a  
21 good kind of leeway section here, I think OPR is actually  
22 working to look at this issue of coordinating NEPA  
23 specifically with CEQA, with a CEQ, I guess the office,  
24 to try to work this out. I don't know if you want to  
25 speak a moment on that?

1           MR. CALFEE: Sure. I'll just spend a couple  
2 minutes talking about that. Back in October at the  
3 Environmental Law Conference, CEQ's Director, Nancy  
4 Sutley, met with OPR's Director, the Office of Planning  
5 and Research, Ken Alex, and they talked about how, given  
6 the 40-year history of both statutes and that both  
7 statutes strongly encourage as much coordination as  
8 possible, we ought to sit down and think about are there  
9 ways -- are those statutes and the Guidelines achieving  
10 the objectives that they set forth? And, if not, are  
11 there things that we could do better? Since the agency  
12 has met in October, staff at the two agencies have been  
13 having ongoing discussions to try to figure out what is  
14 the realm of the possible; we could do something as  
15 simple as just identifying some success stories and  
16 highlighting those on the website, or we could do  
17 something more in depth like frequently asked questions  
18 or some guidance memo that would set forth the  
19 differences and similarities between the statutes and,  
20 more importantly, how to work through some of those  
21 similarities.

22           Since that time, in addition to talking to each  
23 other, CEQ and OPR, OPR has been reaching out to various  
24 State agency partners and others that may have a whole  
25 lot of experience in this realm. We've, I'm sure, missed

1 a few million people so far, but we're really excited to  
2 be sitting in this room, getting this wealth of  
3 experience today. So I'll turn it over, actually, to  
4 Mike to talk about some of the conversations that we've  
5 had with State agency partners so far.

6 MR. SINTENTOS: Thank you. So like Chris  
7 mentioned, we've started our outreach on the State side  
8 and we've reached out to some folks at CEC, Department of  
9 Fish & Game, Public Utilities Commission, starting to ask  
10 the question, "In your experience trying to mesh these  
11 two statutes together, what are some of the challenges  
12 you've faced? Do you have ideas about how to overcome  
13 those challenges?" And so I wanted to run down a  
14 preliminary list of what we've heard are some of the key  
15 challenges in terms of integrating these two statutes.  
16 And once I do that, I'd like to then ask the group, does  
17 that jive with your experience? Have you faced these  
18 similar challenges? Do you have ideas about how to  
19 overcome them? Have you faced other challenges that  
20 maybe we haven't identified yet, so we can start thinking  
21 about those, too?

22 So number one is kind of the scope of the  
23 analysis, and so, on the NEPA side, an agency defines  
24 their purpose and need, which is why they're putting  
25 together this document, why they're doing this analysis,

1 and on the CEQA side, or the CEC side, they have this  
2 project objectives. Those purposes, or those objectives  
3 for the project, don't always fit together. Agencies may  
4 have different missions which then translate into  
5 different goals. And because an agency will then  
6 determine its alternatives based on that purpose, you  
7 could end up with two agencies with slightly different  
8 ranges of alternatives, which can cause some hassles in  
9 terms of trying to fit those together. So that's one  
10 that we're starting to think about.

11           The two statutes have slightly different language  
12 in terms of analyzing alternatives. NEPA tends to  
13 require that you analyze alternatives in more detail,  
14 whereas, on the CEQA side, generally what we see is --  
15 "superficial" might be the wrong word -- but a slightly  
16 more superficial analysis of alternatives, but maybe  
17 you're analyzing -- you're looking at more alternatives,  
18 how do we fit those two slightly differing requirements  
19 or tendencies together?

20           We've heard today a little bit about project  
21 changes and how different agencies react to those. CEC  
22 seems to be able to incorporate those in their iterative  
23 process a little bit better than, say, BLM. And that can  
24 cause problems if one agency thinks that they need to go  
25 back and supplement their analysis, but the other agency

1 feels okay about kind of just incorporating that in their  
2 process going forward, that can produce difficulties.  
3 The CEC hearing process, I think, has been a little bit  
4 befuddling to the BLM, which hadn't dealt with it before  
5 and we've been hearing that that hearing process has  
6 repercussions earlier in the process, and that CEC will  
7 write its documents in a slightly different style  
8 because, you know, they're going to be basing their  
9 hearing testimony on that document, so it's written  
10 almost more like testimony, which is a stylistic  
11 difference vs. what BLM does. So, I mean, those are  
12 little things, but they can make it more difficult to  
13 jive two documents together.

14 And then, of course, the issue of significance  
15 and how CEQA requires significance determinations. And,  
16 Luke, if you want to talk more about how NEPA deals with  
17 significance, feel free to jump in, otherwise I'm about  
18 at the end of my list.

19 MR. MILLER: Finish your list and we can come  
20 back and talk about a few.

21 MR. SINTENTOS: Okay. The final item on my list  
22 was just the timing of the process, whether comment  
23 periods line up, whether agencies have different waiting  
24 periods for their decisions, and just how the timing of  
25 the whole process shakes out. It seems like the EIR/EIS

1 process maybe makes a little bit more intuitive sense to  
2 put together than the staff assessment EIS process, it  
3 might take a little more work to fit those together, but  
4 anyway, that was my preliminary list, which should be no  
5 big deal to figure those out. Do you want to talk about  
6 significance a little bit?

7 MR. MILLER: Yeah, I can reference that maybe as  
8 an example, maybe kick off a discussion with other folks  
9 who may have something to add to that type of list. In  
10 the NEPA context, significance is dealt with, I would  
11 say, at two basic levels. There's an assessment right up  
12 front under NEPA over the potential impact of a project,  
13 to determine if it raises or rises to the level of having  
14 what they consider a significant impact on the human  
15 environment, and that necessitates the form of documents  
16 you're going to have to then follow-up with, either  
17 environmental assessment, so lesser degree of the  
18 environmental impact statement. And so there's, like I  
19 said, kind of the initial broad stroke assessment of a  
20 project right up front. That's one of the few NEPA  
21 significant determinations.

22 And then, within the document, you have a  
23 secondary layer of significance analysis and that is  
24 related to the impacts for the various resources, and BLM  
25 and the other Federal agencies will discuss impacts in

1 relation to significance, but it's not necessarily to  
2 define or clearly articulate a specific significance  
3 level for each and every single impact, and I think  
4 there's a slightly different perspective on the use of  
5 significance in a CEC or CEQA document. And this relates  
6 to something Mike mentioned, is also the drafting style  
7 because of this type of different approach to the use of  
8 significance.

9 Another example is our office got involved at  
10 looking at the first cut of CEC and BLM coordinated  
11 documents, it was a Staff Assessment/Draft EIS, and when  
12 we first started peeling through this document, we  
13 noticed that each, say, resource section was drafted as  
14 like little testimony by the expert, who would be in the  
15 future testifying to this. Now, that makes perfect  
16 sense, I understand in the CEC context understandably  
17 that expert is going to have a robust discussion,  
18 emphasizing certain things that they know they're going  
19 to have to defend specifically later in a hearing process  
20 that reads totally different than a standard NEPA  
21 document when you're flipping through it. This created  
22 some drafting conflict between, say, BLM experts, CEC  
23 experts, on what they were emphasizing, or how they would  
24 say certain things. It's not something that couldn't be  
25 overcome, but it did present just a stylistic problem,

1 kind of one of those minor things you don't give much  
2 thought to until you start trying to tell an expert,  
3 "Well, we don't really like the way you said that. Can  
4 we adjust that?" And, "No, I've got to go defend this  
5 myself in front of all these other people." So that did  
6 create some conflict there. And significance was the  
7 primary driver in a lot of that discussion.

8           As my office would look at some of these  
9 documents, we would read through the CEC section and be  
10 like, "Wow, they're saying "significance" every third  
11 sentence. What is going on here?" You know, why are we  
12 saying this over and over? But understandably, it's a  
13 different threshold they're trying to hit, or different  
14 statutory or regulatory requirement. But that's just one  
15 of those examples where the two documents, when you put  
16 them together, it didn't jell very well. So that's kind  
17 of an example of a significance issue.

18           MR. CALFEE: This is Chris Calfee at OPR. Just  
19 to follow-up on that discussion of significance, one  
20 thing that we've heard quite often in talking to  
21 different State agency partners is, in trying to mesh the  
22 documents, there does need to be an effort at some cross-  
23 cultural communication and cultural competency in terms  
24 of what are the cultures of the different agencies. And  
25 this issue of significance is a perfect illustration

1 because we have understood that, on the Federal side,  
2 there's a great deal of reticence about even using the  
3 word "significant" or "significance." And that might  
4 only come up at the Record of Decision stage; whereas, as  
5 Luke pointed out under CEQA, CEQA absolutely requires  
6 that the lead agency make a conclusion as to the  
7 significance of any particular given effect, and you can  
8 get into a lot of trouble if you don't reach that  
9 significance conclusion. So, from the California State  
10 agency perspective, we absolutely have to use it every  
11 other sentence, or every third sentence, as you observed.

12 MR. SINTENTOS: This is Mike Sintentos with OPR  
13 again. I wanted to make just one last point that I  
14 forgot to -- that I glossed over -- and then -- I wish  
15 I'd forgotten to gloss over it, and then I'd like to open  
16 it up and hear from you all, which is the number one  
17 thing that we've heard from our somewhat limited outreach  
18 so far is that, back to the point that I think has been  
19 mentioned earlier, is early and often, a common  
20 understanding of the different agencies' requirements and  
21 their differences at the beginning, or as close to the  
22 beginning as we can get, will make things go so much  
23 smoother, and if we can talk to each other and identify  
24 barriers or challenges early on, then you don't get that  
25 thing that pops up, you know, a week before you're trying

1 to publish your document, and makes everyone go crazy,  
2 and causes a three or four-week delay. So, anyway, we  
3 definitely have heard that loud and clear and I think  
4 that that's a good point to just reemphasize.

5 So I'd like to ask the group now, from your  
6 experiences so far, do any of these particular issues hit  
7 home as being, you know, particularly troublesome, or  
8 issues that you face that have come up often? Or are  
9 there other issues that we haven't mentioned that have  
10 really troubled you or thrown a wrench in things for you?

11 MS. BLANCHARD: This is Billie Blanchard of the  
12 PUC, and I'm a Project Manager and do a lot of the  
13 environmental projects with transmission. And what we've  
14 discovered historically is that, when we've done joint  
15 documents, joint EIR/EISs with other Federal agencies,  
16 there hasn't seemed to have been a problem with blending  
17 together, for some reason it all worked out. But when we  
18 try to use a NEPA document and make it CEQA compliant,  
19 that's -- which I was going to talk about today with the  
20 Red Bluff Substation, Desert Sunlight, that's where we  
21 ran into problems of trying to figure out where to put  
22 PUC significance and things like that. So we have some  
23 thoughts about that we could share.

24 MS. BORAK: Yeah, I'll just tag on to this. This  
25 is Mary Jo from the PUC. This -- Luke made it such a

1 pretty picture about, well, it's just a word and we don't  
2 need to use it every three sentences, but, I mean, we  
3 really -- this was a big -- you know, the use of the term  
4 "significant," which is a real term of art in the  
5 California Environmental Quality Act when we were trying  
6 to get a joint document out under some pretty tight  
7 deadlines and didn't have a lot of opportunity to review  
8 an Administrative Draft in advance. I mean, this became  
9 a huge huge issue for us and there was actually some talk  
10 of maybe we were going to have to have a divorce and we  
11 couldn't go forward with two documents. We did work it  
12 out. But we found this to be a big problem and because  
13 the term "significant" is so embedded into the CEQA  
14 process.

15 MR. MILLER: This is Luke with the Solicitor's  
16 Office, just to follow-up on that, that's an excellent  
17 point and you have to remember the context that we're  
18 kind of giving some lessons learned here, was based on  
19 those first series of projects, which were pressured by  
20 some other timelines that may not be as relevant now, but  
21 you're correct, in some of those projects the end results  
22 were different documents; the agencies did decide, "You  
23 know what? As the final product, we're not going to  
24 pressure each other to pigeonhole each other's process so  
25 much, we're going to be -- it raises other concerns about

1 your legal sufficiency of your end result, so don't force  
2 it if you're not that comfortable. And that goes back to  
3 that original thought, which is when you look at NEPA  
4 and, you know, the underlying requirements of how you're  
5 supposed to work the other, there is a little leniency  
6 there to recognize you can, if need be, go in a different  
7 direction.

8 MR. MURPHY: This is Craig Murphy, Kern County  
9 Planning. Yeah, I think that is kind of the approach  
10 that we've looked at a little bit, is work together, but  
11 identify our areas that we need to be different and  
12 separate them. So, for example, and it's kind of unusual  
13 because people that usually review an Environmental  
14 Impact Report, you know, they're familiar with the layout  
15 of how an analysis goes, and a determination. You know,  
16 a lot of -- many joint projects we're working on now, you  
17 kind of have the NEPA analysis and determination, and  
18 then you've got to go to a different chapter to find the  
19 CEQA analysis, and the significance level, and I think  
20 once we're starting to get a standard that, you know,  
21 hey, this will work for everybody, then I think  
22 everything goes a lot smoother because you know what  
23 you're supposed to look at, the agency that is  
24 responsible for NEPA knows how they're supposed to look  
25 at it. You know, the alternatives are definitely one of

1 those things that are different and you can't organize  
2 your document the way that a CEQA -- or, yeah, an  
3 Environmental Impact Report would be organized just  
4 simply because of the level of detail required in the  
5 Alternatives section, and the hearing process is a little  
6 bit different. And, you know, some of this I'm not 100  
7 percent sure if it is NEPA standards, or whether it's  
8 just the agencies that we've worked with in terms of  
9 opportunities for an Applicant, or whoever, to review or  
10 comment, or things along those lines, you know, and each  
11 jurisdiction handles that a little bit differently, too.  
12 So, you know, I think as you kind of go through the first  
13 one, you're like, "Oh, that didn't work too well; how can  
14 we do it better the next time?" And I think once you  
15 kind of get the base down and you kind of know who --  
16 these are real simple things -- which agency looks at the  
17 document first? After that agency looks at it, the other  
18 agency looks -- you know, because if you start to have  
19 where you look at it the same time and you provide -- you  
20 kind of need the level playing field in terms of going  
21 through the organizational structure of how it's going to  
22 go, and I think that helps in terms of at least getting  
23 everything processed. And, again, the way that we've  
24 kind of looked at it is, "What is your requirement?  
25 Good. How are you going to fulfill that? It's going to

1 be there? Okay, this is our requirement; we're going to  
2 put it in here. Is that okay? Does that screw you guys  
3 up?" "No, that'll be fine." You know, it's kind of one  
4 of those things where -- I mean, if you're looking for  
5 any requests or things along those lines, I mean, I know  
6 CEQA is very good about identifying "this is what you  
7 need to have in your document," you know, you have  
8 suggested guidelines in terms of where it goes, things  
9 along those lines, and every jurisdiction kind of morphs  
10 into their own standard. But if there was some sort of  
11 specific guideline that said -- but then you get to a  
12 question where you could have a joint CEQA and NEPA, but  
13 then you could have a joint NEPA and whatever other  
14 state, and so then you kind of get into a problem where  
15 you've got a whole bunch of different guidelines, but at  
16 least a standard form that kind of helps direct everybody  
17 to know, "I'm looking at the NEPA portion and their  
18 concern, that's where it's going to be," you know, I  
19 think that could help a little bit because, if you don't  
20 have that, you kind of create it as you go the first time  
21 and everyone is really confused, and then it kind of  
22 works itself out once you at least understand and figure  
23 out the organizational aspect in terms of where  
24 everything is going to go within the document, and then  
25 you kind of just focus on that. And then the other part

1 is just interesting and, again, I don't know if it's  
2 necessarily a NEPA or an agency difference, in terms of  
3 project design features and things along those lines,  
4 again, those are things that every jurisdiction does  
5 differently. And so, to one jurisdiction, what a project  
6 design feature is, another jurisdiction would consider,  
7 "Oh, I've got to have a mitigation measure that ensures  
8 that that project design feature is in place," and if you  
9 don't work that stuff out at the very beginning, then  
10 you're really kind of confused and you don't give your  
11 consultant much direction in terms of how they're  
12 supposed to draft and put together the document because,  
13 again, so for every difference there is in terms of the  
14 CEQA vs. NEPA, there's also a list of differences that  
15 you probably need to make sure you work out just in terms  
16 of how you each process, and what you consider the  
17 project, and what you consider mitigation, and the  
18 alternatives, and things along those lines.

19 MS. MEYER-SHIELDS: This is Liz Meyer-Shields,  
20 I'm with the BLM, and I just want to echo what I'm  
21 hearing with the early and often, and included in that is  
22 contractor selection. I think that's very important.  
23 Some, we've had some really good experiences with some  
24 contractors. We've had some experiences where the  
25 contractor was selected before we got involved in the

1 project, and the contract was written before we got  
2 involved in the project, and that did create some hiccups  
3 and, so, if we can be jointly writing the scope of work  
4 and selecting the contractor, I think that that has the  
5 potential to make this process a lot smoother, so that  
6 the contractor doesn't get surprised when they were hired  
7 to write a CEQA document and all of a sudden they're  
8 writing a CEQA/NEPA document.

9 Another thing I think, Mike that you could add to  
10 your list as far as challenges with NEPA/CEQA is  
11 cumulative effects. NEPA and CEQA have different  
12 standards for cumulative effects. We've heard from some  
13 of our partners that they don't have a problem, I think  
14 the NEPA standard is a little bit higher than the CEQA  
15 standard, and requires a little bit more analysis; we've  
16 heard from most of our partners that they don't have a  
17 problem just meeting the BLM Standards, that that meets  
18 their standards, as well. But it is a conversation that  
19 needs to happen at the forefront because if the  
20 cumulative effects aren't set up correctly when we see  
21 the administrative draft, that has the potential to  
22 create a lot of delays because that can potentially take  
23 a lot of time to do if it's not done correctly the first  
24 time. And I think that, again, goes back to having these  
25 initial meetings and discussing what needs to be in the

1 document and communicating to the contractor what  
2 standards need to be in the document.

3 MR. SINTENTOS: Thanks, Liz. This is Mike  
4 Sintentos again, OPR. I wanted to follow-up, Craig, that  
5 conversation that you were discussing when you're going  
6 back and forth with a NEPA agency, and this can be a  
7 question for anybody, when does that conversation happen?  
8 Are you trying to have that conversation upfront? Is  
9 that getting memorialized in an MOU or something like  
10 that? Or is that a little more informal?

11 MR. MURPHY: I think it could be either/or. I  
12 think, to answer -- Craig Murphy, Kern County -- we've  
13 had some people say that they needed an MOU, some people  
14 have said, you know, as long as we're comfortable with  
15 how we have this discussion, then we're okay, we don't  
16 need an MOU. So I think it kind of varies from  
17 jurisdiction to jurisdiction. I know, in a more recent  
18 one that we've done, we always have a Scoping Meeting  
19 once the consultant has been selected and, in this case,  
20 we made sure that, you know, this one was good because we  
21 knew from the very beginning there was going to be an  
22 EIR/EIS. Sometimes we've had some -- you know, we know  
23 we needed an EIR from a CEQA perspective, we haven't  
24 gotten an answer as quickly in terms of do I need an EIS  
25 or an EA, so then we're kind of like, okay, well, we

1 can't do anything because if you need an EIS, that's  
2 completely different in terms of -- so, in the case where  
3 you know that you have an EIR/EIS up at the front, and  
4 once we kind of went through and got the selection and  
5 everyone was on board with the consultant, our first  
6 initial kick-off meeting where we had all agencies and  
7 the consultant in the same room, we were able to kind of  
8 map out -- and it's amazing what an eye-opening  
9 experience it was, I mean, we were going through our  
10 process and then, "No, you can't do that. I've got to  
11 notice it this time." "Well, I don't know how long it's  
12 going to take us to get that." "Well, I have to have so  
13 many days before," you know, it was just kind of mapping  
14 that out and whether we still got it right, or at least  
15 we're a lot closer, I think. And then, even with the who  
16 takes the money for the consultant and who -- you know,  
17 that's all stuff that -- that part probably needs to be  
18 worked out a little bit ahead of time. So I think it  
19 kind of depends. If you know from the very beginning,  
20 it's easier. And then it's a lot easier if there's some  
21 way that you know who the person is that's going to be  
22 working on it from the NEPA perspective because, once you  
23 actually make those connections and you know, "John is my  
24 person who so and so...", it's amazing how much easier it  
25 is to go through the process as a opposed to, "Well, I

1 know I need a NEPA component, so and so, we turned in an  
2 application, we don't know who is going to sign," you  
3 know, those are some of the things that makes it a little  
4 bit more difficult from the CEQA perspective, especially,  
5 just looking at the County. I mean, for a local, it's  
6 real easy to know who everyone is, and who is working on  
7 things just because we're a smaller organization, things  
8 along those lines. When you get to some of the other  
9 agencies and, you know, the different responsibilities,  
10 and who looks at things, it's a little bit different.  
11 And so, you know, the key part is once you know who and  
12 where and what, you can actually then have the follow-up  
13 conversations to make sure everything works. Sometimes,  
14 it's -- painful is not the right word -- but it's --  
15 you're in a state of limbo trying to find all that  
16 information out, know all of that, and, again, that just  
17 is the part, and then Applicants get frustrated because  
18 they don't feel that their project is moving forward, or  
19 things along those lines. And then, some of the posting  
20 is just different, as well, and we post and it goes to  
21 OPR, and we're good, and then NEPA, you know, "Well,  
22 we're still waiting, we can't get it yet." "I've sent it  
23 to so and so for review," and some of that is kind of --  
24 they're more the mundane issues in terms of just the  
25 processing, processing things that just -- and, again,

1 especially if you're familiar with CEQA, you're kind of  
2 ingrained in terms of understanding what's next and where  
3 you come forward, and then it takes a conscious effort to  
4 make sure. The question about the NEPA vs. CEQA, I  
5 think, is a really good question because, from an overall  
6 perspective, you would like to say, well, it doesn't make  
7 sense, this process went through a complete NEPA project,  
8 or had a complete EIS done, the project was approved,  
9 things along those lines, the project is being changed a  
10 little bit, now it requires CEQA. I really can't just  
11 use the NEPA document, you know, and then it's kind of  
12 you're having to do things twice, and so if there is any  
13 way to actually focus in terms of, hey, if you've gone  
14 through this process for NEPA, you know, maybe the scope  
15 gets required for a CEQA could be less, or -- those are  
16 just things that I think are coming up more and more as  
17 projects and different jurisdictions get involved and as  
18 we kind of learn, but that is definitely a question in  
19 terms of -- or a good question in terms of, you know,  
20 what's in the -- if you look at the CEQA book, it doesn't  
21 say what happens if you had an EIS that was already  
22 approved and what to do, so you just kind of have to go  
23 from that perspective.

24 MR. OGATA: Okay, great. Thanks very much for  
25 coming here and presenting your thoughts on that. I

1 think the next part of our agenda actually is going to be  
2 continuing to highlight some of these issues, as we're  
3 going to have specific discussion about specific cases.  
4 So I think Alan is going to be moderating that  
5 discussion, so we'll just take about 30 seconds to move  
6 some seats, and then move on to the next section.

7 MR. SOLOMON: Thank you very much, Jeff. For the  
8 next session, we are going to be looking at Multi-Agency  
9 Environmental Reviews. And simply put, the purpose for  
10 these discussions is for the participants who are  
11 involved with some of these examples that we've listed to  
12 discuss how the reviews were handled. And let's start  
13 with our County with County example, which was the  
14 Antelope Valley Solar Project, which concerned Kern  
15 County and Los Angeles County.

16 MR. MURPHY: All right, Craig Murphy, County of  
17 Kern. The project that we're talking about here today is  
18 the Antelope Valley Solar Project. It is a proposed  
19 solar photovoltaic facility where 3,544 acres were in  
20 Kern County, 1,238 acres were in Los Angeles County; 462  
21 megawatts of energy would be generated for the Kern  
22 County portion and 188 megawatts would be generated in  
23 the Los Angeles County portion. And, again, this was  
24 something we hadn't done in a while in terms of working  
25 directly with L.A. County on processing an environmental

1 document. I believe that the Applicant came to Kern  
2 County first, I don't know if that's necessarily true,  
3 but we were in the process of preparing a number of  
4 Notice of Preparations for various projects we had  
5 proposed, so we had indicated when we had gotten the  
6 application, we had provided a letter to L.A. County that  
7 says we're in the process of moving forward with this,  
8 we've got an EIR consultant on board already, and so we  
9 basically kind of went out and started with the Notice of  
10 Preparation and kind of got the ball rolling, and I guess  
11 that kind of made Kern County the lead agency, we had a  
12 consultant on board, things along those lines.

13           So we went forward and prepared the Draft  
14 Environmental Impact Report and, you know, as you can  
15 tell by today's discussions, there's a lot of differences  
16 between Kern County and L.A. County in terms of how  
17 things are processed and what some of the requirements  
18 are, and you know, we knew that going in, and so some of  
19 the things, I think, worked really well. You know, I  
20 kind of put a note here is that we worked independently,  
21 but we worked together, which I think was kind of  
22 something that helped facilitate the process. So, you  
23 know, one example, what does that mean, you know to my  
24 knowledge not too many, maybe there's a number of  
25 different jurisdictions that have done this, but we had

1 two sets of mitigation measures. So, as opposed to  
2 having one set draft mitigation measures that the county  
3 would use, and then asking LA County to use ours, or  
4 things along those lines, from the very beginning the  
5 document specified it's in two jurisdictions, we had the  
6 Executive Summary laid out, two different sets of  
7 mitigation measures, one was clearly labeled "this is  
8 what L.A. County is requiring, this is what Kern County  
9 is requiring," you know, we provided the opportunity for  
10 L.A. County to clearly look at that, give us feedback,  
11 and I think we took our draft, what we did for ours, and  
12 maybe identified some of the known things that we knew a  
13 little bit, but we kind of turned everything over and  
14 said, "Hey, here's a copy of the mitigation measures,"  
15 well, the first thing we asked them was, "What do you  
16 want? Do you want to rely solely on our analysis and our  
17 mitigation measures? Or would you like to have some of  
18 your own independent analysis for various things?" And  
19 they kind of indicated, "Well, we're concerned about  
20 these particular areas." So we focused to make sure our  
21 analysis covered some of that stuff. They did want to  
22 see a complete set of all mitigation measures so they  
23 could identify any changes, things along those lines, you  
24 know, they had the opportunity to review the biota  
25 studies on that one, something new that indicated that

1 they wanted earlier, hey, when you have the biota  
2 studies, let's take a look at them, make sure that we  
3 sign off on them, and then we'd kind of go from there.

4 And ultimately what happened is they had the  
5 opportunity to get the administrative draft of the EIR,  
6 and provide any feedback to us on that prior to us  
7 circulating it for public review. They were able to give  
8 us feedback on the mitigation measures and everything  
9 along those lines. And so, you know, I think that helped  
10 a lot just simply because it didn't put Kern County in  
11 the position to interpret things for LA County, it didn't  
12 put us in the position to try to write a mitigation  
13 measure that met their specific language because  
14 everybody has different language and different standards.  
15 You know, while generally I think that LA County maybe  
16 would have had a few more differences than what it was,  
17 you know, they reviewed it and said, "You guys are acting  
18 first," you know, "this is generally following, we're  
19 going to tweak this language here, we're going to do  
20 this," and I think it kind of fostered a good  
21 relationship in terms of getting a document that both  
22 groups were satisfied. And, again, part of the  
23 differences, you know, water was one of the bigger  
24 concerns, how the transmission line was going to be  
25 handled. I think Kern County's portion had Ag

1 conversion, I don't believe LA County's did, I don't  
2 remember off the top of my head.

3 And, again, it was kind of just in my similar  
4 discussion, is the hardest part was just getting in touch  
5 with everybody and knowing who the person is, and how  
6 each jurisdiction reviews different things. I know  
7 Anthony was my primary person that Kern County Staff  
8 would coordinate with, but then once we understood,  
9 "Okay, I got this, we're looking at this, I've had to  
10 coordinate," you know, it kind of helped foster --  
11 because they have various people within LA County that  
12 are focused and looking at different things, and just  
13 once we knew who to go to, it kind of helped facilitate  
14 the processing of it.

15 You know, afterwards Kern County did take action  
16 first, so our document was certified and our portion of  
17 the project was approved, and then it went to LA County  
18 and, you know, we even had follow-up phone calls as they  
19 were getting ready for their hearings, just, you know, "I  
20 know we did this; remind me how we did this." We talked  
21 about it, "Where are these things located again?" You  
22 know, it made for a -- to my understanding -- a pretty  
23 good relationship in terms of getting -- knowing that you  
24 had one larger project, knowing that we had differences,  
25 you know, what was the best way to help highlight those

1 differences so that they could be easily recognized and  
2 analyzed and understood by both of our decision-making  
3 bodies. And again, one of the things that we did, and I  
4 think it helped, is having the two sets of mitigation  
5 measures and to have some of that little early  
6 coordination and providing the opportunity for LA County  
7 to give us feedback before we circulated the document; I  
8 think that was important because, again, we don't want to  
9 interpret various things for other jurisdictions, it just  
10 works better to kind of lay down the framework and then  
11 have them be able to modify it so that it matches what  
12 they need and what they expect to see, and things along  
13 those lines, because the last thing we wanted to do was  
14 have an Applicant go through our complete process only to  
15 have to go through -- it wouldn't be the same, but it  
16 would be enough that it just needed to kind of mesh  
17 together as we went forward. So those are some of my  
18 initial thoughts.

19 MR. MCCARTHY: Yes, I think that was a pretty  
20 good description of what took place. We did -- our  
21 County Counsel did want us to do an addendum to the EIR  
22 with regard to water on the LA County side. They felt  
23 that they had some concerns because we are a participant  
24 in the litigation on the adjudication of the water rights  
25 in the Antelope Valley at this time, and so we went ahead

1 with that. I think it is interesting and it may be a  
2 little bit difficult for the public and maybe some people  
3 here listening, that you want to keep it clear that we  
4 are holding two different sets of hearings, there is a  
5 big hearing taking place up in Kern County, when they are  
6 done then there's a public hearing taking place down in  
7 LA County. And they vote independently because there's a  
8 boundary there between the two counties, and so the  
9 authorities in Los Angeles County cannot approve a  
10 project in Kern County, and they cannot approve a project  
11 in Los Angeles County. And yet, at another level you  
12 say, "Well, isn't it common sense that some one person  
13 would have authority over all of this?" And it doesn't  
14 quite work that way.

15           We have had experience with -- I think this is  
16 the first time we've had one with Kern County, joined  
17 with Kern County, I might be wrong on that, but we have  
18 had more experience with Universal City, and many of you  
19 are familiar with Universal City and the Universal  
20 Studios compound, and the boundary between LA City and LA  
21 County Unincorporated goes about right through the  
22 middle. And so, on that one, we did hold a Hearing  
23 Examiner hearing where we took testimony on the EIR, we  
24 had a joint hearing. So the LA City staff sat next to me  
25 and I Chaired the hearing, so it was a joint hearing.

1 And we do have, when we conduct -- of course, it's very  
2 easy because LA City is just across the street from City  
3 Hall, but it's easy to have them designate a  
4 representative at the Planning Commission, to come in and  
5 sit at our hearings when we do joint hearings. I don't  
6 know that anyone has explored that between the two  
7 counties, but it might be something to give a thought to  
8 because it doesn't seem to be all that -- it makes it a  
9 little bit smoother. And the weather is different there;  
10 because it's the County vs. the City, and there's some  
11 difference between the two Counties there, I'm not sure,  
12 but I would like to see us be able to explore those kinds  
13 of arrangements because they can save time. And that  
14 way, if everyone is at the same meeting, it's not a  
15 matter of, "Well, I didn't get a chance to read the  
16 transcript," or, "I didn't read that portion of the  
17 transcript," you know, everybody heard everything at that  
18 meeting and they see the issue evolving, ongoing.

19 So it's worked out fairly well so far and I think  
20 -- and this case, too, with the amount of land about  
21 three-quarters of the project was located in Kern County,  
22 one quarter on ours, so there's no question about who was  
23 going to be lead agency. There have been other cases  
24 where it was -- there was the dueling between the two  
25 agencies as to who was going to be the lead, it wasn't

1    such a clear-cut decision -- I'm not saying with Kern  
2    County, but with other agencies. So that is a big help  
3    when you have everybody agreeing who is going to be the  
4    lead.

5           MR. MURPHY: This is a follow-up, too. Another  
6    thing, you know, there's the important distinctions you  
7    have to remember to make sure that both groups have an  
8    adequate document in terms of you can't get caught up in  
9    the notification, you know, you've got to make sure LA  
10   County has their own standard people that they notify for  
11   these types of projects. So if you forget to ask and you  
12   don't include them on the notification list for the  
13   documents and things along those lines, they don't get  
14   the EIR, or the Notice of Availability, or you don't go  
15   and talk to the adjacent property owners and get the  
16   contact information from them. Those are the things  
17   that, you know, it's just important to put extra  
18   attention towards so that you don't go through an entire  
19   process and then you have someone that comes out and  
20   says, "I didn't know this Draft EIR was available. I  
21   live right next door." Those are the things that just  
22   require the extra attention when you do these types of  
23   projects.

24           MR. MCCARTHY: Yes, and on the field trip we had  
25   out in that area, it was interesting to me that some of

1 the Town Council Representatives from L.A. County,  
2 Lorelei Oviatt, the Director from Kern County, was on the  
3 field trip, they all knew her, they were all on a first  
4 name basis. So the Town Council people south of Avenue  
5 A, do talk to the planning people and the government  
6 people on the north side of Avenue A, and maybe more so  
7 than the government people on the south side of Avenue A!  
8 But that's the boundary -- Avenue A is the boundary  
9 between the two counties. And I was impressed by that.  
10 She was so familiar that she had as good an understanding  
11 of what was going on in the Town Councils in the Antelope  
12 Valley as any of our staff, and I was very favorably  
13 impressed by that. And that helps because both sides  
14 know what's going on.

15 In our county, for example, we do have differing  
16 notifications if you're down in the basin, it's a 500-  
17 foot notification, 500-foot radius from the furthest end  
18 of the subject property; however, when we're up in the  
19 Antelope Valley, it's 1,000-feet. And for the purposes  
20 of solar, I would just stick with the 1,000-foot number  
21 because you're not going to have a solar project down in  
22 the middle of Arcadia or someplace like that, so it is  
23 1,000-feet up there. In addition, we notify all the Town  
24 Councils and we have a provision up there which is a  
25 little bit unique, again. We don't have it elsewhere in

1 the County, but the Application is required to give a  
2 presentation to the Town Council. And the Town Council  
3 then, we won't act on it until we get something back in  
4 writing from the Town Council with a recommendation one  
5 way or the other. Sometimes they'll say they don't want  
6 to take a position, that's fine, and they've put down  
7 that they've been briefed and that they don't want to  
8 take a position, that's fine. But they normally will say  
9 an eye or nay recommendation on a case. And that's  
10 something, too, that's very unique to the Antelope Valley  
11 and therefore to all in terms of energy projects.

12 COMMISSIONER DOUGLAS: It's really interesting to  
13 hear this because obviously in the county to county  
14 coordination with a project like the AV project, you  
15 know, some of the same issues that arise when we're  
16 trying to coordinate with BLM or something like that, on  
17 one of our projects, fortunately, you know, it's just  
18 CEQA and that helps a lot. But, you know, just to  
19 understand that you had one document that Kern was the  
20 lead agency on, but there was an addendum from LA County  
21 that was part of -- it was a single document, though,  
22 right?

23 MR. MCCARTHY: Again, this gets back to the fact  
24 that we allow the Applicant to prepare the EIR  
25 independently, as opposed to a County contractor. And so

1 it relates to that. So the courts have held that we must  
2 make clear that the document is our document, the  
3 County's document. And so I think we're a little bit  
4 more sensitive to that and, in this case, we didn't feel  
5 that the document specifically addressed the water issue  
6 in L.A. County, we wanted to make sure it was very clear  
7 that the water issue was being addressed to both -- you  
8 know, to LA and Kern County. But it has a good deal to  
9 do with the fact that our process is structured somewhat  
10 differently than Kern County. And here again, it really  
11 is, I think, a testimonial to both staff that, despite  
12 significant differences in the way their CEQA processing  
13 mechanisms are structured, that they overcame those  
14 differences and got through with an approved project.

15 COMMISSIONER DOUGLAS: I agree. It's -- that's  
16 exactly right. You know, and I mean, I'd be curious on  
17 the hearings since there were hearings in Kern County and  
18 hearings in LA County, and the LA County ones would be  
19 administered by LA County staff, and would Kern County be  
20 there? Or -- you know, did you attend each other's  
21 hearings?

22 MR. MCCARTHY: No, I don't believe they did, no.  
23 We were aware of them. Our hearings are on the Web and  
24 they're recorded and they can be viewed on the Web. But  
25 in this particular case, we did not and, as I say, in

1 other cases where we've had -- with LA City -- we've had  
2 representatives from them sitting with the Planning  
3 Commission, or with myself as Hearing Examiner. And I  
4 think that in the future that might not be a bad  
5 approach. I remember, I'm trying to think now if the  
6 fellow who was with LA City was able to vote with the  
7 Planning Commission, I think he was mainly there for  
8 commentary. But, to me, we're taking a step further in  
9 the right direction if we can move in that direction that  
10 would be my recommendation.

11 MR. MURPHY: Yeah, I guess the other part that I  
12 would add, too, is through the course of processing the  
13 project, I don't believe anything came up, to my  
14 knowledge, that necessitated or made it to where someone  
15 from LA County or Kern County needed to be at either one  
16 of the hearings. You know, I know for a fact that if  
17 something had come up, we would have been able to just  
18 call and say, "Hey, you know, we're having our hearing,"  
19 things along those lines, but really for this project a  
20 need didn't necessarily arise that indicated that that  
21 type of coordination was necessary to have each other at  
22 both our hearings, things along those lines. And, you  
23 know, in this case, too, I think we had an Applicant that  
24 was fairly familiar with both counties and knew that,  
25 when we said, "Okay, is your application with LA County,"

1 they knew what that meant and they knew what their  
2 process was in terms of how they need to get an  
3 application in, you know, how they do an application, you  
4 know, some of the biggest challenges, and this is some of  
5 the other things, a lot of times I don't know if projects  
6 that members of the public know and they're different  
7 names, and the biggest part was just identifying --  
8 making sure we both knew which project we were talking  
9 about because of how some of these things are named, and  
10 things along those lines. But, again, once you got past  
11 that first part and you knew which project, you knew who  
12 your person was, you knew what was going on, and it  
13 flowed fairly straightforward and easily.

14 MR. MCCARTHY: I think we now have three projects  
15 that are called Antelope Valley Solar. So it gets a  
16 little bit difficult, so we're going to have to come up  
17 with a Joshua Tree Solar, or something, or South of  
18 Avenue A Solar, or something different. But that is a  
19 problem in terms of I think you want to keep that in  
20 mind. If you're calling up somebody, you say "I'm with  
21 the AV Solar case," it's best to stick with the project  
22 number to make sure everyone is on board with the same  
23 case. We've had a number of cases where they've come in  
24 to us and they've been filed, and then the ownership is  
25 changed, so then we have to replace a portion of the file

1   that gives the ownership information and all of that, but  
2   the project number remains the same. So then they change  
3   the nickname from, you know, Company X to Company Y  
4   Project, but some people may not have caught up with that  
5   change, but that project number does remain the same on  
6   our website and all our written documentation. And I  
7   think it's just a good word of caution that there are a  
8   lot of projects that are changing names and we have  
9   multiple projects with the same name, but those project  
10  numbers are unique to each project.

11           MS. WATT: So I'm just curious to that earlier  
12  list that we heard NEPA/CEQA, whether you learned  
13  anything from each other, or had to adjust anything  
14  related to significance criteria or mitigation in the  
15  process for document sort of equivalency.

16           MR. MCCARTHY: Not on this particular project  
17  that I'm aware of. Are you aware of anything? No, not  
18  on this particular project. We did have a project where  
19  there was Federal funding, the stimulus funding was in  
20  question. And timing was of the essence and we were  
21  told, well, if our environmental finding came up with a  
22  significance conclusion on any impact, that would require  
23  them to get a NEPA EIS and they probably would not be  
24  able to complete the process on time. So that created a  
25  real challenge.

1 MS. WATT: Back to the difference of NEPA and  
2 CEQA.

3 MR. MCCARTHY: Yeah. And that created a real  
4 challenge. Fortunately, we did not come to that, but, as  
5 I said to the Applicant at the time, my counsel normally  
6 would be to make a significant finding because that's  
7 more bulletproof if it comes to a court challenge. And  
8 so, although I believe we made the correct finding, or it  
9 could be mitigated, potentially significant but it could  
10 be mitigated, so I stand by that decision. But normally  
11 I would have gone the other route to feel much safer in  
12 court. And fortunately, although there was a challenge  
13 filed, it was settled out of court because of a very  
14 different set of issues.

15 MR. SOLOMON: Thank you very much. Are there any  
16 other comments or questions?

17 MR. VILLA: I have a quick question, Armando  
18 Villa, Imperial County. How did you, when you were  
19 coordinating, how did you resolve the lead responsible  
20 agency issue?

21 MR. MURPHY: Yeah, for this one it made sense in  
22 terms of because of the size and, you know, we were  
23 actually in the process of already putting one together,  
24 and so it kind of just internally made sense to us that  
25 that's what it would be, and when we indicated that to LA

1 County, they were fine with it and said that's fine,  
2 we'll just kind of go forward and so it didn't come up to  
3 where there was a question as to who should or should not  
4 be lead agency or anything along those lines.

5 MR. VILLA: So the second part, LA County was the  
6 responsible agency?

7 MR. MURPHY: Technically, I would say yeah, that  
8 they were the responsible agency and, you know, we just  
9 wanted to make sure we drafted our document to meet all  
10 their needs and so that they would have to do less later  
11 on.

12 MR. MCCARTHY: We have a map here, we could pass  
13 it around, and this is the property we're talking about  
14 here. In yellow is Los Angeles County Unincorporated  
15 territory, a portion of the Antelope Valley, not all of  
16 it, but a portion of it, all of which -- the yellow is  
17 unincorporated, the white areas are the Cities of  
18 Lancaster and Palmdale. And throughout here we have  
19 plotted all the boundaries of the current numbers of  
20 projects we have -- are we up to 33 or 36 -- 32 -- but  
21 are on this map. And you can see the project we were  
22 just talking about here, and we can pass this around and  
23 you'll get an idea of it. When you just take a look at  
24 it, you'll see the vast majority of it is north of Avenue  
25 A, the smaller part south of Avenue A, and it certainly

1   seemed that it made sense to have Kern County easily then  
2   go first.  So there was no -- it wasn't a problem.  But  
3   when I have been involved in other cases, not involving  
4   Kern County, but other jurisdictions where it was really  
5   close, it was almost 50-50, and where do you go?  And so  
6   in this case it was easy in that regard.  But we can just  
7   send that around if you want to take a look at that.

8           MR. SOLOMON:  Thank you very much.  If there are  
9   no further questions or comments, why don't we move on to  
10  the Desert Sunlight Project, which involved Riverside  
11  County, the PUC, and BLM.

12           MR. NEAL:  We can have the little guy go first.  
13  This is Greg Neal with Riverside County and this is a  
14  project that I think was alluded to in some of the prior  
15  discussion that almost led to a divorce between the PUC  
16  and the BLM, and, you know, maybe I would characterize  
17  we're the love child of this process.  But our portion of  
18  it was really very small, primarily this project, the  
19  power plant portion, was totally on BLM land.  PUC was  
20  the CEQA lead for this project, I think because of the  
21  tie-in to the transmission lines, and so we were just a  
22  responsible agency dealing with the Gen-tie lines that  
23  went through our county jurisdiction.  So it made it very  
24  easy for us because basically the EIR was done by the  
25  time the Applicant actually approached us and, so, it was

1 a fairly easy decision to just make us the responsible  
2 agency.

3 But kind of because of that, I just wanted to  
4 pick up on something that was said earlier about the BLM  
5 is taking new processes or approaches on this, that we  
6 now are working on at least three other major projects  
7 that I can think of right now that we're doing a joint  
8 NEPA/EIR document, CEQA document with the BLM, and I  
9 think the comment that BLM is reaching out earlier, we're  
10 getting that earlier contact and starting to have those  
11 initial planning meetings is very accurate. You know,  
12 whereas the Desert Sunlight was kind of a fete accompli,  
13 this is actually we're being brought in, in the  
14 beginning.

15 Some of the interesting things are, because we're  
16 very similar to LA County we allow outside consultants to  
17 produce EIRs; in a certain sense it might be easy because  
18 BLM is maybe more restrictive in their consultants and  
19 how their consultants can interact with Applicants. You  
20 know, in the primary project, these we're talking about,  
21 the bulk of them are on BLM lands, so it's kind of easy  
22 to let them somewhat take the lead on those from a  
23 choosing the consultant and using the rules established  
24 under them, and then we look at setting up memorandums of  
25 understanding and maybe third-party contracts that we

1 have to enter into with the consultant just to meet our  
2 rules. But it allows us to just kind of coordinate,  
3 again. But it's a very -- communication, I think, is the  
4 key point of the whole process is we're all just really  
5 really busy and we try to just keep talking and  
6 coordinating. But, I'd like to say that the process,  
7 again, since the Desert Sunlight to today's processes, I  
8 think, our coordination and our communication are much  
9 improved.

10 MS. BLANCHARD: You, why don't you go ahead and  
11 I'll just tag on to whatever you don't.

12 MS. CONRAD-SAYDAH: This is Ashley Conrad-Saydah  
13 from BLM. And Mike Sintentos, whose name tag is at OPR  
14 right now, but he was at BLM when we were working on  
15 this, he is just on detail, and Liz Meyer-Shields also  
16 worked on part of Desert Sunlight. So, I mean, I think  
17 that we -- Desert Sunlight came right on the heels of all  
18 the joint CEC BLM projects, and it just -- I would say  
19 that having BLM suddenly in the lead role without a  
20 partner right from the beginning was definitely an  
21 adjustment for us. The field office -- this came out of  
22 the Palm Springs South Coast Field Office -- they  
23 actually are very good at reaching out to their partners,  
24 so they did do some outreach with the partners, but I  
25 think they have improved, as Greg noted. And the Red

1 Bluff substation was really the piece where we needed the  
2 PUC, and I think that's where some of the challenges came  
3 down the line, the connected action piece of the other  
4 project. So it was a project to the north, an  
5 interconnection line coming south into the Red Bluff  
6 substation that was an application by Southern California  
7 Edison, and it was -- there was challenges over the parts  
8 that Edison was controlling and building and would manage  
9 the parts that Desert Sunlight would be owning and  
10 building, and there was just a lot of different  
11 discretion over who was doing what, who was building  
12 what, who was responsible for what, who would mitigate  
13 which pieces, who would be responsible in terms of the  
14 compliance section. And we find that, actually, on a lot  
15 of projects where a utility is involved. We struggle  
16 with knowing, you know, is the Developer going to build  
17 it and then pass over the management to the utility? Or  
18 how is it going to happen? When is it going to happen?  
19 And who is responsible? Because, ultimately, BLM just  
20 cares about who they need to contact if something goes  
21 wrong. So we have definitely struggled there and I think  
22 that entered into part of the challenges with working  
23 with the PUC.

24 MS. BLANCHARD: Well, yeah, I am the Project  
25 Manager at the PUC, Billie Blanchard. And I had been a

1 Project Manager on the Devers-Palo Verde Project, Number  
2 2, and had done a joint EIR/EIS with BLM and specifically  
3 the Palm Springs office, and that was, I think, a good  
4 outcome and everything went well, we had an MOU upfront.  
5 John Kalish participated in our interviews of our  
6 contractors, so everything went pretty smoothly.  
7 Unfortunately, I can't say the same for the Desert  
8 Sunlight. And not to make -- it's not saying anything  
9 disrespectful of anyone, I think we were all under the  
10 gun and also dealing with some things that we had not  
11 ever tried before. So in that case, we became  
12 incorporating agency with BLM. BLM was to do a NEPA  
13 document and we agreed through an MOU to ensure that it  
14 was CEQA adequate. And so it was a pretty tight  
15 schedule, you know, because there were ARRA fundings  
16 involved, etc., so everybody, as I said, was under the  
17 gun to get this done.

18 And so we could use the EIS to meet the CEQA  
19 requirements because the CEQA Guidelines does allow for  
20 that use, but it states that it has to be consistent,  
21 that the NEPA document must be consistent with all the  
22 CEQA Guidelines. So we went into the MOU with that in  
23 mind and we ran into a number of problems with this. And  
24 one of them was that we found that no one else had done  
25 this before, there was no CEQAized NEPA document out

1    there for a process that had happened before. And we  
2    said, "Oh, my God." And we found no case law. Aspen  
3    Environmental was our consultant who had done Devers and  
4    we were able to keep them under the contract to help us  
5    with the Red Bluff incorporating agency role, and I had  
6    lots of lawyers, we could not find any case law on how to  
7    do this, so that was a big problem. And then we found  
8    there were a lot of differences; of course, as has  
9    already been mentioned, there were a lot of differences  
10   between CEQA and NEPA that we had to struggle with, that  
11   we hadn't somehow struggled with before in a joint  
12   EIR/EIS project. And then we just found there were  
13   different agency ways that we looked at things, in  
14   general.

15           I think some of the things that we found that  
16   CEQA requires, that NEPA doesn't, was everybody has  
17   talked about the significance issues, adopting of  
18   feasible mitigations for significance, and alternatives  
19   that, in our case, meet most project objectives. And  
20   then CEQA requires, but NEPA doesn't, a comparison of  
21   alternatives, environmentally superior alternatives that  
22   we have to, as CEQA people, have to identify in the draft  
23   document. Somebody mentioned the difference of how we  
24   look at cumulative impacts, and we tend to look more at  
25   what we call the contribution of the project, itself, to

1 the impact. And then there are some other things, growth  
2 inducing, for instance, that we have to deal with. And  
3 then, also, as we've talked about, we have PEAs that come  
4 in, and filings, and we have Applicant proposed measures  
5 many times in our PEA filings, which I think in the BLM  
6 plans aren't so defined, so how do we deal with the APMS?  
7 So those questions kept coming up. We found that we  
8 needed a lot more detail in project description because  
9 we look at the significance criteria issues.

10 And because of the intense pressure on everyone  
11 for the schedule, there was problems of incorporating our  
12 comments as incorporating agency, incorporating our  
13 comments into the public Draft EIS -- big problem --  
14 because then we ended up commenting on the public draft  
15 for the first time, rather than getting our comments into  
16 an administrative draft. So that resulted in further  
17 issues regarding how do we deal with Response to Comments  
18 on this document. And so we had a lot of debates about  
19 that. And so we're dealing with things at the eleventh  
20 hour trying to figure out, how do we deal with these  
21 significance things? How do we deal with comments that  
22 people made, environmental groups? How do we feel  
23 comfortable with what was said in terms of Response to  
24 Comments? So it was a big struggle going on between us  
25 about that.

1           So the end result on this was that we finally  
2 came to a resolve by, for instance, having a significant  
3 section in one part of the NEPA document, we had an  
4 environmental superior discussion in one part of the  
5 document, so it was kind of, we felt, a little bit  
6 chaotic in terms of how it got put together in the end.  
7 And so, from our standpoint, we had issues of whether or  
8 not we could even use the document at the end. We were  
9 trying to figure out whether -- do we have an adequate  
10 CEQA document on our hands or not? And so -- and we  
11 didn't have a lot of time, and because of the pressures,  
12 nobody had a lot of time. The other thing, the Applicant  
13 kept changing the project description, but the schedule  
14 didn't change, but the impact analysis needed to change.  
15 So it was just BLM, PUC, we were all struggling with all  
16 of that. So we were all in it together. Anyway, we  
17 finally came to a resolve, we got a document, and it's  
18 out there.

19           So what would we do again if we did it?  
20 Definitely, the MOUs that we had on joint EIR/EISs didn't  
21 work on this one, and so I think one of the things that  
22 you need in an MOU is you need a very detailed outline of  
23 what is this document going to look like, you know, what  
24 is this NEPA document going to look like that is going to  
25 satisfy CEQA on this case? And also, we need to talk

1 about the legal -- CPUC's legal and the Solicitors need  
2 to come to an agreement about how we're going to deal  
3 with the definitions of impact significance. So this  
4 needs to all be upfront, a schedule about how we all get  
5 to comment, what stated timeframes, we need to have an  
6 agreement about that.

7 And also, the other thing is that, I think for  
8 both BLM and the PUC, there needs to be a lot more  
9 pressure on the Applicants to more clearly define their  
10 projects upfront so there's not a lot of changes, that  
11 would really help. So anyway, that's our comments.

12 COMMISSIONER DOUGLAS: You know, it's a really  
13 interesting report, it's always -- there is -- a lot of  
14 people did a lot of things for the first time going  
15 through that permitting process, but to take a NEPA  
16 document and make it CEQA compliant, you know, I agree,  
17 if there was precedent for that, I'm sure you would have  
18 found it. It also struck me as you were talking that we  
19 also had an MOU with the BLM on how we were going to mesh  
20 our processes together, and I think we did it in 2008,  
21 right, and when we got this rush of projects, I had staff  
22 come up to me and say, "Well, you know, a lot of them are  
23 on Federal land, and the good thing is we have an MOU  
24 with BLM; the bad news is it's just not going to work."  
25 What's actually written in the MOU is kind of -- was done

1 before we really got into the thick of it and realized  
2 what it entailed. So, you know, I think that your  
3 suggestion of the detailed outline of kind of what a NEPA  
4 document should look like to make it something that  
5 reasonably facilitates putting a CEQA overlay on it is a  
6 really important suggestion. I'm sure you would have a  
7 lot of ideas if we asked you to do that.

8 MS. BLANCHARD: I was mentioning, in fact, I had  
9 talked to the people from OPR that it would be really  
10 helpful if somebody could help work out a template that  
11 could then be used to help people out, so that everybody  
12 had something to follow and could agree to; otherwise, we  
13 were really on a learning curve on this one.

14 COMMISSIONER DOUGLAS: You know, I'm also  
15 impressed, speaking of learning curves, that you talked  
16 about not having too many challenges, or not having too  
17 many challenges rise to the surface on doing joint  
18 documents because, of course, in our process we  
19 ultimately did not -- we started out with joint documents  
20 until about half way through the process, so I think the  
21 Draft EIR/EIS was a Draft EIR/EIS, but the Final was  
22 separate.

23 MR. SINTENTOS: This is Mike Sintentos from once  
24 in future BLM, and a couple things that I could relate to  
25 or wanted to respond to from what Billie said, first of

1 all, I think a really good lesson is that, once you start  
2 a truck down path, it's pretty hard to make a change  
3 going in different direction, so we were kind of on the  
4 opposite side of working with an administrative draft  
5 document that was supposed to be an EA/EIR with Imperial  
6 County, actually. And the way that the -- I guess the  
7 way the contractor had drafted the document was it was  
8 CEQA heavy, and we were trying to get it to meet our  
9 needs. And trying to do that with a 300-page document  
10 that's already been written is very difficult. And, I  
11 mean, we ended up just putting a lot of "according to  
12 CEQA" phrases before every significance -- probably not  
13 ideal, but the point that if you start writing a NEPA  
14 document, or you start writing a CEQA document, and then  
15 you have to change at the end, it's difficult. And  
16 sometimes you can't avoid it, but I think that's a good  
17 lesson for us moving forward, that if we can get out in  
18 front and talk to each other early and try to get this  
19 thing on a path that's going to meet both agencies' needs  
20 from the beginning, we'll save ourselves a lot of  
21 headaches down the road. And secondly, which I think is  
22 related, the point about trying to articulate what you  
23 want to do in as much detail as possible and in some type  
24 of an MOU at the beginning, I think, can be tremendously  
25 valuable. And obviously, you know, CEC tried that and it

1 didn't work super well, but we've learned from that and  
2 we can build on that, and we can make adjustments and  
3 make those MOUs or those agreements upfront better as we  
4 move through this process and learn from it. So I think  
5 that's a good approach and let's just make sure that we  
6 incorporate everything we learn the next time around.

7 MS. BORAK: I just want to underscore -- this is  
8 Mary Jo from the PUC -- one of the things that Billie  
9 said, and you know, it's always hard to anticipate where  
10 the pitfalls are going to be before you fall into the  
11 pit, but I think one of the key areas that would have  
12 been really helpful to us is if we could have been able  
13 to comment on an administrative draft before it actually  
14 went out as a Draft EIS, because then we were in the  
15 position of trying to correct deficiencies in a document  
16 that we had to do through a much more laborious, wordy,  
17 time-consuming process, and it really put us in a tough  
18 place. And so, you know, just something as simple as  
19 having that really clearly delineated in an MOU with a  
20 schedule would have really helped us before we almost  
21 went to divorce court.

22 MR. SOLOMON: Thank you very much. Were there  
23 any other comments on this project? All right, let's  
24 begin a discussion of the third project, which is the  
25 Abengoa Project. But before that begins, earlier, a map

1 of the Antelope Valley Solar Project was being  
2 distributed. I had staff make a copy, so continue that,  
3 if there aren't enough copies, please let me know.

4 MR. NEWCOMBE: Well, this is Gerry Newcombe with  
5 County of San Bernardino. I guess I'll just take a brief  
6 start, we only have a couple minutes left if we're going  
7 to stay on schedule, but this won't take long.

8 This was a great project, actually, for the  
9 County of San Bernardino because it was on fallow Ag  
10 land, fairly close in and not quite so remote, and so it  
11 really met a lot of the criteria that our Board was  
12 looking for in renewable energy projects. CEC was the  
13 CEQA lead, but they reached out to our staff, I think,  
14 early and often, coordinated well. We got a chance to  
15 provide input on a number of the issues that went into  
16 the project. It is a 250 megawatt solar thermal, it's a  
17 parabolic trough technology, and it went well for us. I  
18 mean, we didn't have a lot of issue, there was, I think,  
19 some questions early on about the replacement of Ag land  
20 and some other habitat issues, but we had good  
21 coordination and we came away satisfied with the result.  
22 We got some ongoing issues with that project that are  
23 unrelated to the environmental analysis, that are more  
24 related to some other conditions that CEC put on the  
25 project related to worker safety, but I will just take

1 this opportunity to say that we've had really excellent  
2 support from CEC staff through this, and weren't able to  
3 come to an agreement with the developer on worker safety  
4 issues, and now it's kicked back into CEC's hands to hire  
5 a separate consultant and do another analysis, and that  
6 project is nearing its end right now. I think we have a  
7 meeting next week on the initial results from that  
8 consultant, but we've had Dr. Alvin Greenberg has been a  
9 real champion for including our information and our  
10 analysis in that process. So that, separate from the  
11 environmental, that's gone very well, so we have nothing  
12 but good things to say about that. I don't know if  
13 there's anything else, Roger, to add to that.

14 MR. JOHNSON: I think the reason we picked this  
15 is it was a multi-agency project, in addition to the  
16 County worked with the Commission. This is one of the  
17 projects where the substation for the project was located  
18 on the project site, so the Commission did the full CEQA  
19 analysis and permitting of that substation for the PUC,  
20 essentially, and the PUC was able to use the Commission's  
21 decision, then, for the EA for that substation -- I mean,  
22 excuse me, for the CPUC and for the substation. And yet  
23 there was more project coordination, this was also a  
24 project that was applying for DOE loan guarantee funding,  
25 and so DOE was also involved in the project and had to do

1 an Environmental Assessment because there was connected  
2 actions, if you would. And we had to involve the BLM, in  
3 addition to the substation, and it was a very short --  
4 just from the substation up to the transmission system,  
5 we covered that, as well, in our analysis. But the  
6 project also -- this is one of the things that came up  
7 late in the permitting that we all didn't understand the  
8 need for telecommunications associated with projects, so  
9 in addition to transmission to get the electricity where  
10 it needs to go, you need to have communication to direct  
11 the generator on when to generate and when not. And so  
12 there's a need to have sometimes redundant facilities,  
13 and so there were many miles of fiber optic cable that  
14 had to be looked at and permitted by the BLM on existing  
15 BLM right-of-way, and the DOE had to do it, we had to --  
16 BLM had to consult with Fish & Wildlife Service for a  
17 second Biological Opinion, in addition to the one that we  
18 did for the project because of Desert Tortoise. So this  
19 is a very -- and, again, it was compressed, so it was  
20 fast, but we appreciated all the cooperation that we got.  
21 And then, here Edison stepped up and we had weekly  
22 meetings with the utility, as well, because it just had  
23 to be that way. And I don't know if Ashley wants to talk  
24 about what they learned as far as working with  
25 telecommunications.

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1 MS. CONRAD-SAYDAH: This is Ashley at BLM. The  
2 only thing I would learn is that actually was a little  
3 bit tricky for us because the telecom upgrades only  
4 triggered an environmental assessment, and so trying to  
5 do the environmental assessment piece as a connected  
6 action to this much bigger piece was a good precursor to  
7 some of the other projects where we did an EA in that  
8 situation. But it was just a little tricky in the  
9 beginning, and also trying to figure out how much  
10 information we needed because, in this case, there were  
11 actually new poles needed and new lines on some sections,  
12 but not on others, and so getting enough information to  
13 satisfy the larger project analysis was the part that  
14 just troubled us.

15 MR. MURPHY: I have a question I'd like to ask.  
16 How did your residents get along in terms of getting  
17 communication and everything? Did they -- it was just  
18 kind of an overall question -- if the CEC was the lead, I  
19 was kind of curious what your experience was in terms of  
20 members of either your constituency providing comments  
21 and getting those transmitted, and I was just curious  
22 what your overall thought was on that portion of the  
23 process.

24 MR. NEWCOMBE: Even though the project is closer  
25 in, there's not a lot of neighbors, so I don't think

1   there's really been much input or comment that I'm aware  
2   of, certainly not any issues with that, and I think it's  
3   still just at enough -- frankly, the County has been  
4   permitting a co-composting facility out in the general  
5   vicinity that's been the subject of a large lawsuit and a  
6   lot of fighting, and I think that took the neighbors off  
7   to that fight with the County, and so they didn't really  
8   pay a lot of attention, I'm thinking, to this one. But I  
9   don't recall that there was any particular issue. I  
10   don't know, Roger, if you --

11               MR. JOHNSON: And we were familiar with this  
12   area, this is where the existing SEGS (ph) projects are  
13   out at Harper Lake, so it's an area we've been to years  
14   ago and did permitting there, and the facilities were  
15   built, and so those neighbors aren't the same probably  
16   today, but we use our standard noticing procedures and I  
17   don't think -- the Public Advisor is here, maybe she has  
18   information about how it went for Abengoa. She wasn't  
19   here, either. Okay.

20               MR. MURPHY: Well, it must have gone good  
21   considering everything worked out all right, so...

22               MR. SOLOMON: Are there any other questions or  
23   comments?

24               COMMISSIONER DOUGLAS: If it's about the Abengoa  
25   project, go ahead.

1           MR. SOLOMON: Hello, caller? Do you have a  
2 question about the Abengoa Project?

3           MS. BLACKFORD: Oh, hi. Sorry, I was on an  
4 additional mute that I had on myself. This is Ashley  
5 Blackford. I'm with the Fish & Wildlife Service and I  
6 just wanted to add a little bit about the project in  
7 coordination from the Service's perspective.

8           MR. SOLOMON: Please.

9           MS. BLACKFORD: I think one of the challenges  
10 with sometimes integrating the BLM and the CEC process is  
11 the different timelines and the data collection that  
12 sometimes occurred on these projects, in particular on  
13 the permitting side for the Abengoa project, because the  
14 consultation was initiated originally with the Department  
15 of Energy and, on the project site, you know, we learned  
16 a little bit late in the game that we were going to need  
17 to do this -- include the additional element of those  
18 fiber optic lines, and so we found that we were lacking  
19 some of the data that we needed, the biological data we  
20 needed, to complete the consultation, and so it's just a  
21 good reminder to, you know, at the onset of projects, to  
22 make sure you're thinking about the entire project, which  
23 I know, you know, lessons learned, we've gotten that far  
24 at this point.

25           But in addition, you know, when we have these BLM

1 and CEC projects with the permitting process and the data  
2 adequacy set up that CEC has, sometimes that is not quite  
3 on track with the BLM process, and so sometimes in our  
4 desire just to provide support for the CEC, and assist in  
5 your process, sometimes we're a little behind in the game  
6 on the data collection that we need to write our  
7 biological opinion, and so just to kind of -- I think  
8 everyone is still working to refine that, but it's  
9 something that we're still striving to sync up a little  
10 bit better.

11 MR. SOLOMON: Thank you very much.

12 MR. CONDON: Alan, this is Bill Condon from Fish  
13 & Game. I thought I'd pass on some comments from Fish &  
14 Game Field staff based on their experience with this  
15 project. And her comments include the agencies' and her  
16 experience, relatively speaking, they were able to  
17 respond very quickly to whatever needs came up during the  
18 development and review in permitting this project. The  
19 Applicant in this particular case communicated well with  
20 all the agencies, kept everybody in the loop, which in my  
21 experience can be very effective. And the fact that the  
22 Applicant had experience with this project apparently  
23 helped a lot. That's something we have no control over,  
24 but it's something that was a positive aspect of this  
25 project. And I guess I'm inferring from her comments

1   there was some disagreement as to whether the project  
2   might impact certain species, which happens fairly often,  
3   and yet the agencies conditioned the project in a manner  
4   that anticipated, in the event the species were  
5   encountered during construction that there was a process  
6   in place to deal with those issues, and those who are  
7   directly involved can maybe comment on that, or explain  
8   exactly what that means. But, in other words, they saw  
9   -- they planned ahead to deal with a contingency in the  
10  event a certain resource, whether it's the Desert  
11  Tortoise or some other species were encountered, there's  
12  something already in place to address that particular  
13  circumstance, which I think sounds like good planning to  
14  me. Thank you.

15           MR. SOLOMON: Thank you. Are there any other  
16  questions or comments? Okay, thank you all very much for  
17  this discussion. And at this time we're going to discuss  
18  the Renewable Energy Planning. Commissioner Douglas.

19           COMMISSIONER DOUGLAS: Thanks, Alan. I wanted to  
20  just say a few kind of high level words and then, I  
21  think, pass this to BLM, as well. You know, early on in  
22  the experience of seeing 10 and later nine solar thermal  
23  applications appear at our doorstep, it became pretty  
24  clear to us that the kind of project-by-project review  
25  about planning overlay was not optimal from the

1 perspective of avoiding impacts, and also that, when  
2 you're reviewing things on a project-by-project basis for  
3 mitigation, you know, we didn't necessarily have the  
4 tools, although we tried to develop them quickly, to  
5 ensure that mitigation went to -- mitigation funding, for  
6 example -- went to a highest and best use, so that, a)  
7 projects are hopefully triggering much lower mitigation  
8 ratios if they do have to purchase private land, and they  
9 might not have to purchase as much of it and, too, rather  
10 than have a Developer put in the position of going out  
11 and finding land to purchase as mitigation, how do we  
12 ensure that, you know, we might get the same mitigation  
13 value at less cost doing a mix of measures, as opposed to  
14 just that one tool. So we were -- so that's why  
15 Executive Order called for us to begin working on the  
16 DRECP and that was really the genesis of our thinking on  
17 the Desert Renewable Conservation Plan, just because, you  
18 know, the State has very very strong climate and  
19 renewable energy goals, and I think we all foresee that  
20 the 33 percent RPS is the beginning and not the end of  
21 the road for us, it's certainly not a ceiling, and so  
22 we're really actively working to plan on how to go above  
23 that. And yet, venturing into planning on Renewable  
24 Energy, which makes so much sense in so many ways, also  
25 entailed another first of its kind effort, at least in

1 terms of scope, and at least in terms of certainly the  
2 number of partners we have, and the mix of land ownership  
3 from private land and counties who, you know, we are  
4 working with, and really appreciate working with, the  
5 Military, BLM, the other landowners, the State players,  
6 and of course we've got a number of State players and, in  
7 fact, it's only really working together and creating a  
8 common vision and finding a way to do that with tools at  
9 the Federal level, and tools at the State level, and  
10 tools at the local level, and robust public input, that  
11 we can really realize the promise of planning in  
12 Renewable Energy.

13           So I thought it would be helpful to have BLM set  
14 the stage and talk about the PEIS and their role in  
15 DRECP. I don't know, Steve, if you want to say anything  
16 on the outset, or if I should just go straight to Ashley.  
17 Straight to Ashley.

18           MS. CONRAD-SAYDAH: Ashley Conrad-Saydah, BLM.  
19 So the BLM has been engaged in a Solar Programmatic  
20 Environmental Impact Statement that covers not only  
21 California, but additionally five western states where  
22 solar development is feasible, or where we think that we  
23 have the insulation and the type of lands possible for  
24 solar energy development. This process started actually  
25 in 2008 as an entire West-wide look, but after

1 considering the number of acres that we were looking at,  
2 you know, 250 million acres, we thought let's bring this  
3 down to something more feasible and we started looking at  
4 zones, or a zone-based approach, for development areas.  
5 In California, we identified actually nine potential  
6 zones, which we ended up cutting down to about four  
7 potential zones once we looked at all the different  
8 resource issues. And then, across the rest of the  
9 Western States, there were additionally 20 zones.

10 So we started looking at 24 zones and a draft  
11 came out in December of 2010. We had really good public  
12 comment. The public comment period went from December  
13 until May of 2011, so we received a lot of comments,  
14 80,000 comments, and after all those comments we  
15 understood that it was important to supplement the draft,  
16 cut down the number of zones, consider a different  
17 preferred alternative, and talk about how we would  
18 address specifically mitigation, monitoring, and  
19 transmission. So we've learned a lot through the  
20 process, we've engaged with the public a lot throughout  
21 the process, and just bringing it down into California,  
22 we're trying really hard to keep the PEIS and the DRECP  
23 together. The PEIS only affects BLM managed lands, only  
24 for solar. So it's much smaller scale to some degree  
25 than the DRECP. But, from another perspective, it's the

1 60,000 foot view, the PEIS is largely a desktop analysis,  
2 we collected data up until October of 2008, and have  
3 collected some additional data in terms of visual  
4 resources, but we haven't collected species level data,  
5 we haven't done a lot of field trips the way the DRECP  
6 has done these field trips, and so we're trying to make  
7 decisions that are appropriate at that 60,000-foot level.  
8 And then, what we would like is to see that, once those  
9 decisions are made, again, from the programmatic  
10 Washington office led level, that then in States and  
11 regions, specifically, those types of analyses that are  
12 closer to the ground can happen with the people who are  
13 more affected by the decisions. So we see the DRECP as a  
14 really great add-on at the completion of the PEIS and  
15 other planning efforts. Arizona has a planning effort  
16 that would dovetail nicely with the PEIS, we have the  
17 West Chocolate Mountain EIS that's going on down in  
18 Imperial, that's also a nice fit.

19 But we see that the PEIS is laying some  
20 groundwork in terms of public engagement, tribal  
21 engagement, working with all the different stakeholders.  
22 But we're really excited to see how the DRECP can help us  
23 hone what we're doing.

24 Just so you know, for next steps with the PEIS,  
25 the Department is really committed to seeing a completion

1 or a Record of Decision within this year for the  
2 Government, which ends the end of September, so we're  
3 really looking forward to having a decision by September  
4 of this year and we hope that you'll see a final EIS by  
5 the end of July and a Record of Decision by -- before  
6 early September, so we're working really hard to make  
7 sure that happens. You may see -- we're working on these  
8 pieces, mitigation, monitoring, transmission -- you may  
9 see some of those pieces coming out on the solar EIS  
10 website just as a way to look at them, we're not sure if  
11 we'll be able to put those out anywhere before the Final  
12 EIS, but we see certain pieces that we want to also  
13 separate from the Final, so that it can get additional  
14 attention and doesn't get lost in, say, a 12,000-page  
15 Final, so we may pull some of those pieces out and just  
16 really highlight them on the EIS website for folks to  
17 comment on.

18 COMMISSIONER DOUGLAS: So Scott, I don't know if  
19 you wanted to add anything really briefly, and then I  
20 know we had a number of people who wanted to speak on  
21 this topic.

22 MR. FLINT: All right, just wanted -- thank you,  
23 Commissioner Douglas -- I just wanted to add briefly that  
24 the State jumped in to the process of doing a DRECP, a  
25 Desert Renewable Energy Conservation Plan, for three

1 primary reasons and one of them was to basically  
2 accelerate permitting, to get renewables out there on the  
3 landscape. Early on, we looked at -- and we had some  
4 early at the kick-off meeting, we had some slides of all  
5 the multiple permitting processes out there for getting  
6 renewables on the ground and how they overlapped and  
7 caused confusion, so one of the things was to get the  
8 agencies together to work on a plan that could  
9 incorporate and facilitate either all those things  
10 working or come up with some innovative ways that they  
11 worked together. So we took that on.

12           Secondly, the DRECP is a Natural Community  
13 Conservation Plan and those have been going on in other  
14 places in the state, and two big benefits from those  
15 plans are, 1) on the development side, certainty,  
16 certainty in where you can go, where you can't go to  
17 build for environmental reasons, primarily, certainty in  
18 your mitigation obligations and what those mean, and what  
19 those cost to your project. On the conservation side,  
20 there's a huge benefit to enhancing conservation by  
21 having it implemented on a plan scale instead of shotgun  
22 piecemeal mitigation, so you get better conservation.  
23 And so those are some of the things that we jumped into  
24 doing in the plan, and that's why we jumped in. It  
25 wasn't to really facilitate ARRA projects, but we

1 continue to plan because we're going to need far beyond  
2 our 33 percent goal to deal with climate change going  
3 forward. So one thing we've been doing working with BLM  
4 is we have -- the CEC and the other REAT agencies have  
5 been cooperating agencies in development of the Solar  
6 PEIS, so we're working closely to make sure that those  
7 plans integrate together in that fashion. There's been  
8 reciprocal commenting and reciprocal work, so each  
9 planning effort facilitates and compliments the other  
10 planning effort as we've gone along, and we continue to  
11 do that going forward.

12           The second benefit to that is we've looked at  
13 within the DRECP, we're looking at accommodating  
14 renewable energy in that plan that would assist other  
15 technologies beyond solar. So we're looking at wind and  
16 other technologies to be out there and address those in  
17 our plan, and then the other complementary thing we're  
18 doing is working with BLM to, where their jurisdiction in  
19 the Solar PEIS ends at their ownership boundary, we're  
20 looking at bringing in the other appropriate lands that  
21 may be directly adjacent to and complementary to those  
22 Federal lands that should also be looked at for  
23 development, so we're looking to integrate that way so  
24 that we get the benefit of using the adjacent private  
25 lands and have both of the plans work together to

1 facilitate that development on public/private adjacent.  
2 So that's some of the ways we've been staying together  
3 and some of our goals and why we're working together.

4 COMMISSIONER DOUGLAS: That's great. Thanks,  
5 Scott. I know a number of the Counties indicate an  
6 interest in speaking on this topic. And we also have  
7 Dennis Peters at CAISO to talk about land use planning  
8 and transmission. So let's go to the -- Dennis, you  
9 don't have to go, right? You'll be here? So I was just  
10 making sure. Do you have a time that you have to leave?  
11 Are you -- all right, so we'll get to you before 3:00  
12 because the Chair asked me to make sure we do that. So  
13 if we could, let's start with Inyo County and your  
14 thoughts on the planning process.

15 MR. HART: Yes, thank you. I was going to talk  
16 about our experience with renewable energy planning just  
17 to convey the lessons learned for the DRECP. So we have  
18 been participating in State and Federal Renewable Energy  
19 planning efforts for wind and solar and geothermal  
20 resource development for the last five years, at least.  
21 And through this participation, it became apparent that  
22 our County's planning did not adequately address wind and  
23 solar energy, in particular. So, due to the rising  
24 interest in development of those resources, the County  
25 undertook a planning process beginning in 2009 to provide

1 local input into renewable solar and wind energy  
2 development. And we also started work on updating our  
3 County's Ordinances and our General Plan to address those  
4 technologies.

5           So today I'm going to focus on our Renewable  
6 Energy General Plan Amendment, which addresses wind and  
7 solar energy, and that is due to its relevancy to the  
8 DRECP. Ultimately, our GPA was rescinded due to  
9 litigation, but I'm going to instead focus on the process  
10 and the lessons that we learned.

11           So through our participation in the Renewable  
12 Energy Transmission Initiative, preliminary policies  
13 began to be developed to reflect the County's position,  
14 and a Renewable Energy Ordinance was adopted by the  
15 County in 2010 to encourage and regulate the development  
16 of solar and wind energy resources to protect the  
17 environment, to recover increased County costs, and to  
18 ensure that the Inyo County citizens shared in renewable  
19 energy development's benefits. Concurrently, there was  
20 an effort that began to update the General Plan,  
21 beginning with the incorporation of those policies that I  
22 just discussed, as well as reviewing and appropriately  
23 updating the specific General Plan policies and mapping  
24 areas where wind and solar energy might be considered.

25           Based on review of the General Plan, updates were

1 developed for the land use, public services and  
2 facilities, economic development, conservation and open  
3 space, and public safety elements. These specific  
4 updates involved encouraging appropriate development of  
5 renewable wind and solar energy resources, and associated  
6 transmission, provided that social, economic and  
7 environmental impacts would be minimized.

8           We also included policies to minimize conversions  
9 of productive agricultural lands, minimize water  
10 consumption and use of potable water, and provide for  
11 siting and screening to minimize impacts to visual  
12 environment. And of great interest in our county was  
13 maintaining recreational access. Of particular interest  
14 throughout the process were the land use overlays that we  
15 developed and these were proposed to be incorporated into  
16 the land use diagrams in the land use element. These  
17 identified areas where renewable energy might be  
18 considered, and that's solar and wind energy, and provide  
19 compliance with the County's Renewable Energy Ordinance.  
20 The mapping effort took over a year and change throughout  
21 the process, but ultimately excluded wilderness areas of  
22 critical environmental concern and other areas of  
23 important biological and scenic resources. Specific  
24 species of concerns were addressed, including Black Toad,  
25 Desert Tortoise, and Mojave Ground Squirrel, and specific

1 areas where Black Toad, in particular, might exist were  
2 excluded.

3 The work ultimately reduced the share of the  
4 County in which solar and wind energy could be developed  
5 according to the General Plan, from over 90 percent to  
6 about five percent.

7 We did undertake a very broad public outreach  
8 effort. We included many public meetings in our towns,  
9 but we also met with interested individuals and  
10 organizations and we consulted with tribes, Federal and  
11 State agencies, including several folks here, and we  
12 consulted with the Military. We did receive a variety of  
13 input throughout the process, a lot of people wanted us  
14 to actually expand areas and identify new areas for  
15 development; a lot of people thought we should reduce  
16 areas and eliminate some areas from development. And  
17 there was quite a bit of input on the specific language.  
18 So this is obviously, through any planning process, an  
19 effort of balancing and we tried to address all the  
20 issues that we heard and incorporate it into the General  
21 Plan Amendment.

22 One of the, what I believe, one of the failings  
23 of our effort was it started out with solar development,  
24 and so wind was ultimately kind of an afterthought, and  
25 although we did incorporate it in the end, it probably

1 would have been better to have started out addressing  
2 both technologies.

3           So there are two lessons learned that I wanted to  
4 convey to everybody here. The first is that planning for  
5 archaeological resources at a landscape level was far  
6 more difficult than I had thought. I had hoped that we  
7 would be able to identify areas that would be more  
8 sensitive and exclude those, and unfortunately that did  
9 not happen.

10           For cultural resources, we did receive some input  
11 in regards to the Old Spanish Trail and identify ways to  
12 minimize impacts to that resource. But for  
13 archaeological resources, we did not. The second thing I  
14 wanted to convey is we continue to learn and this points  
15 up the need for adaptive management. You know, we  
16 continue to find out new issues and areas that we  
17 probably should have addressed. For example, we recently  
18 found out that the water quality can be a very important  
19 issue for solar technology. In many areas in our county,  
20 water quality is not that great. So adaptive management,  
21 as we all know, is very important and needs to be  
22 incorporated into the process. So that's kind of a brief  
23 summary of something that took over a year to do and  
24 hopefully it provides some lessons for the DRECP.

25           COMMISSIONER DOUGLAS: Thank you, Josh. I

1 absolutely think it does. Let me go to San Bernardino  
2 County.

3 MR. NEWCOMBE: Thank you, Commissioner. I want  
4 to focus just on one element of this whole process and a  
5 concern that we have in our county. We enjoy touting the  
6 fact that we're the largest county in the lower 48  
7 states, and talk about all the challenges that come with  
8 that. But when you step back and look at ownership, you  
9 quickly realize that there's only about under 14 percent  
10 of the land in the county is private. And the rest of it  
11 is government land, and the majority of that is Federal  
12 land. So when these large utility scale projects began  
13 appearing on BLM land in our desert, and the initial  
14 fairly predictable, I guess, reaction to mitigate  
15 environmental impacts was to require mitigation lands to  
16 be acquired at either 3:1 or 5:1 levels; we started to  
17 look at the impact that that has and when you start  
18 acquiring that volume of private land in the desert, the  
19 desert is going to be gone, it's not -- there's going to  
20 be nothing left for any other kind of development or,  
21 frankly, for even the breadth of the solar projects that  
22 could happen. We developed a policy statement for our  
23 Board two years ago and at that time there were about a  
24 million acres worth of potential project sites in our  
25 county, and if those were all mitigated, there's another

1 three million acres, it would exceed the amount of  
2 private land available in the county to mitigate those  
3 projects. So we are quite concerned about that and think  
4 that there needs to be a more creative approach and  
5 certainly in lieu fees that could be used by the resource  
6 agencies to provide for expanding or improving habitat,  
7 improving conditions, controlling access, lots of things  
8 that could be done short of just acquiring additional  
9 private land, I think, need to be explored with more  
10 aggression than they have been in the past.

11 And then, more recently, an idea has come to the  
12 fore, I think a number of you have heard about it because  
13 we talked a bit about it last night, and that is the  
14 opportunity for some of the ranchers in the Mojave Desert  
15 who are interested in divesting themselves of their  
16 grazing allotments and maybe putting those allotments on  
17 the table to be acquired by developers for use as  
18 mitigation, and we think that creates an excellent  
19 resource that really, up until now, has not really been  
20 part of the discussion, at least I think in our county  
21 there's 260,000 acres of grazing land that could be made  
22 available that's really not been on anybody's radar as  
23 mitigation. So it certainly creates, you know,  
24 consistent bands of area that, right now, when you look  
25 at the spattering of private land and the mix with

1 Federal land, you know, it's a lot tougher to cobble  
2 something together. I think these grazing lands might  
3 create a real viable alternative to that and something  
4 that we all, I think, are starting to explore now and I  
5 really think should explore further. So we're very much  
6 in support of that.

7 But, anyway, we're just concerned that we want  
8 the renewable energy projects to come, we think there's  
9 great value, we think there's some economic drivers  
10 associated with them, but what we don't want to see is  
11 that all the mitigation land available to mitigate desert  
12 tortoise impacts or other species impacts gets gobbled up  
13 by a few large projects and then cities that are trying  
14 to develop or expand, and incorporated communities that  
15 have plans to grow have lost the opportunity, then, to  
16 mitigate their own impacts, and that can really stifle  
17 that kind of growth in the future, so something on a  
18 broad scale that I think needs to be addressed, and so we  
19 look forward to continuing in that conversation with the  
20 CEC and with the other resource agencies, and through the  
21 DRECP process, as well. Thank you.

22 COMMISSIONER DOUGLAS: Great, thank you. You  
23 know, I know that we could easily have discussion on any  
24 one of these topics, I thought I would kind of go through  
25 the people that have indicated that they wanted to say

1 something on this topic and make sure I get to Dennis  
2 before 3:00, and then have some time for discussion,  
3 additional discussion, we'd like to do that. So let me  
4 see if LA County -- would you like to talk on the  
5 mitigation side, or the planning side?

6 MR. MCCARTHY: We had a very interesting  
7 discussion just yesterday up in the Antelope Valley, the  
8 Antelope Valley Air Resources Agency up there, it's  
9 similar to a Conservancy. And we're going to, with the  
10 help of the fifth Supervisorial District, they have a  
11 nursery, this group has a nursery, of native plants,  
12 native to the desert, and one of the issues that comes up  
13 when we're talking about these projects is whether or not  
14 these plants can re-grow under the solar panels, and my  
15 biologist is saying, "Oh, no, they wouldn't get enough  
16 sun." But every time I drive around and I look, the  
17 ground looks pretty ripe to me, I don't see it as being a  
18 dark shadow. So we're going to arrange to give them some  
19 solar panels for solar they can conduct an experiment to  
20 determine which plants will grow under these and document  
21 it, and I hope they're able to follow through with it,  
22 this is very preliminary, we had our first -- it just  
23 came out of a discussion similar to this brainstorming  
24 and I think that sort of thing is where we need to go.  
25 There are so many unanswered questions in terms of how

1 will this work, how will that not work, that we need to  
2 get some documentation so that we can come up with better  
3 mitigation measures. For example, a lot of Planning  
4 staff are under the impression that -- and again, they've  
5 been told by many biologists trying to save a Joshua Tree  
6 and transplant it, they're going to have to transplant  
7 it, is a waste of time, it's going to die. If that's  
8 correct, then we'll deal with it, taking it as a loss and  
9 we'll just have to deal with it, but I'm talking to  
10 others who are saying, "No, it's not correct," and  
11 including the people yesterday, and they say, "We have  
12 got some of them at our nursery that they're doing well  
13 and we could transplant them to another site." And so it  
14 could work either way, either the solar company could be  
15 digging up the Joshua Trees and giving them to  
16 organizations such as this to maintain at a nursery, and  
17 then other projects, not just solar projects, but other  
18 projects that need a visual buffer or a landscape buffer,  
19 and preferably a native type for the desert, could avail  
20 themselves of that supply. So there's a possibility here  
21 for a two-way street. But it seems that there's a  
22 difference of opinion here as to whether or not it's  
23 worth the effort. When we're dealing with Oak trees, we  
24 do at the County level regard -- if you claim you're  
25 going to re-plant the tree, we count it as a taking, and

1 we count it as a loss of the tree because of the high  
2 mortality rate; nonetheless, a very good number do  
3 survive. So it's that sort of thing I think we need to  
4 look into more to help us come up with some very good  
5 mitigation measures, and we'll try to get their help in  
6 doing that because, you know, frankly, a lot of the  
7 mitigation measures are standard that are coming from  
8 other kinds of projects, and we need some more that are  
9 really specific, and we need some specific information  
10 that enables us to write up a good mitigation project.  
11 So I hope that we can do that, and I suggested to them,  
12 in fact, on this matter that if they could find a young  
13 biologist who is working on a PhD, this would be a great  
14 project. And, you know, for someone to do that, how  
15 could they afford to buy these panels, but we're pretty  
16 certain we could get this company to donate them, and you  
17 get the nursery which already has the plant stock there,  
18 a variety, this is really something that has some  
19 potential to play out. So I think that there are a lot  
20 of opportunities here, and there are a lot of challenges,  
21 and so the work lies ahead, but that's interesting work,  
22 it's fun kind of work, and I think we can come up with a  
23 better set of mitigation measures in the future when we  
24 get input from that. Nonetheless, we have to go ahead in  
25 the mean time, we've got deadlines, and we can't wait.

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1 So -- but I'm encouraged by how some attitudes have  
2 changed on this, there had been quite a bit of resistance  
3 to the whole notion of solar, particularly we have a good  
4 deal of it out in the Antelope Valley from a lot of  
5 members of the community out there. And maybe there are  
6 problems, as we cited here earlier today, we had the  
7 problem with the fire coming unexpectedly. But we have  
8 to expect the unexpected when we're dealing with  
9 basically new technology. And I remember many years ago  
10 when I was dealing with MRI, MRIs had just come out, and  
11 a doctor when ahead and installed his office building in  
12 West Hollywood. And I was dealing with that project. We  
13 soon found out that the MRI interfered with the elevator  
14 and so it had to be taken out to the parking lot. Well,  
15 if you have to set up in a new building out in the  
16 parking lot and you have any planning background, you  
17 automatically realize, well, wait a minute, that parking  
18 is required parking, so now they need a variance and now  
19 I've got to go to City Hall to get the variance, that's  
20 how I got dragged into this mess. So we calculated the  
21 whole thing out and we had to deal with all the neighbors  
22 around there about it, you know, on the side of the  
23 property that weren't too happy about the parking  
24 variance. And we got it approved from the City Council  
25 and West Hollywood.

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1           And the structure was installed and the MRI was  
2   installed and, within the structure out in the parking  
3   lot. Well, it turned out that there was a cardiologist  
4   who had offices in this building and, as his patients  
5   were getting out of their cars in the parking lot, and  
6   they were cranking out the MRI, these guys started doing  
7   summersaults across the parking lot -- you know, their  
8   pacemakers were going berserk. So then we had to go back  
9   and widen the area, the buffer area. Now, and we  
10   succeeded once again in doing that, and there was  
11   tremendous progress made because within -- while we were  
12   involved in this project, that was when they discovered  
13   that they could actually see AIDS on the MRI, the AIDS  
14   virus in the brain; they had never seen that before --  
15   any virus in the brain, and they could see that. And  
16   this has implications for Alzheimer's research, and so  
17   on. So, do we say, "Oh, my God, we had this problem,  
18   this heart patient I the parking lot, we had this problem  
19   with these neighbors who were upset about the parking  
20   variance, so let's throw away the technology?" No. So  
21   we've got to move on, perfect the technology, and learn  
22   how to deal with the problems, and try to enjoy the  
23   process because it really is interesting material, it  
24   really is exciting.

25           COMMISSIONER DOUGLAS: Thank you, Paul. That's a

1 really great example. I mean, honestly, I never had to  
2 deal with MRIs and elevators and parking, but it kind of  
3 sounds -- yet -- I've dealt with a lot of elevators --  
4 but it kind of sounds like the rollercoaster that we have  
5 experienced, that all of us have experienced, so thanks  
6 for sharing that. Let me go to Riverside County.

7 MS. BARTON: Thank you, Commissioner. This is  
8 Gail Barton from Riverside County and I thank you for the  
9 opportunity to speak and for the opportunity of this  
10 experience to share our thoughts and ideas and concerns.  
11 Riverside County is a recognized leader in the protection  
12 of natural communities and endangered species via MSHCPs.  
13 We have two large -- one probably the largest in the  
14 nation, MSHCP, the Western Riverside County MSHCP, which  
15 I know a lot of the Fish & Wildlife Service and Fish &  
16 Game people still are experiencing pain over, and the  
17 Coachella Valley Plan. And we recognize that there are  
18 benefits and there are difficulties of such things and  
19 that they don't come without a price. Having worked  
20 intimately on the Western Riverside County MSHCP, I know  
21 that one of the first things from the beginning, was  
22 always a part of the conversation, was how much, from  
23 where, and how. And it usually really meant money.

24 And the acquisition of the land, while costly, is  
25 a one-time expense. The management and monitoring is

1 ongoing, long term, costly, and generally under-budgeted.  
2 And besides that, you have the start-up of the program  
3 itself, the process, the management, the organization  
4 that's going to handle it. So assuming that the DRECP is  
5 adopted, I'm curious as to how the funding strategy will  
6 be defined. I'm sure that everybody will be looking at a  
7 toolbox of opportunities, but part of that toolbox always  
8 has to be money, and keeping in mind that management is  
9 not just management of, you know, habitat and species,  
10 but it's patrol, it's fire, it's all of those kinds of  
11 things. The monitoring has to be funded and any research  
12 that's required, how will be it limited, how will it be  
13 defined, allocated, prioritized, overseen and, of course,  
14 funded.

15           So really what my question is, is how is the  
16 DRECP going to memorialize guarantees in order to ensure  
17 that the burden of this HCP will not directly or  
18 indirectly fall on the local jurisdictions? So if the  
19 plan lacks appropriate funding or has a temporary  
20 shortfall, what entity or entities will pick up the slack  
21 and ensure that adequate management continues and that  
22 the burden of the management -- and I mean the broad  
23 management -- does not fall on the local jurisdictions.

24           COMMISSIONER DOUGLAS: Thanks, Gail, it's an  
25 important question. Obviously, Riverside County as

1 direct experience in this area and we all often look to  
2 Riverside County for your practical thoughts,  
3 suggestions, advice, and questions because it helps us.  
4 Let me see if -- let's see, it's 20 to three, so I'm  
5 still not running out of time, but the Chair is still not  
6 -- he's starting to glare, but it's still not glaring.  
7 So, Scott, why don't you -- let me see if Scott or Vicki  
8 want to respond and then we'll go to Dennis. I mean,  
9 obviously we're early in the process and, so, there are a  
10 number of steps that we're going to need to take before  
11 we have to cross the bridge of funding, but it's  
12 important to start thinking about it now so that we are  
13 comfortable and our partners and potential partners are  
14 comfortable in -- go ahead, Scott.

15 MR. FLINT: I was going to let Vicki answer that  
16 question, but first I wanted to say, do you really want  
17 answers to all that today? And secondly, this was a  
18 lessons learned, so we expected you to come up here and  
19 tell us how to do that.

20 MS. BARTON: You notice I used the word  
21 "toolbox." So, that was one lesson learned. And I  
22 didn't say money too much, but that was the second lesson  
23 learned, that there's never enough. So, no, I'm not -- I  
24 realize the complexity of what I've asked and posed, but  
25 what I'm saying is it is something that has to be part of

1 the process, you know, really from the onset, how are we  
2 going to do this? And I'm sure that you are working on  
3 it because I know that everybody thinks about it, we're  
4 all working on it. So I'm not asking for an answer, I'm  
5 just saying that I hope this is a part of the thought  
6 process as this all moves forward because, whether or not  
7 all of these counties, however they decide to  
8 participate, if only as a neighbor, it's really important  
9 that when, if there are glitches -- there will always be  
10 glitches -- but you know, the glitches won't be the  
11 pitfalls and we won't have a realized it after we're in  
12 the pit, and that the counties don't have to come in and  
13 try and clean up, or deal with it at our end, you know,  
14 it would probably come to Greg and others of, you know,  
15 how do we fix this, if there are patrol issues, fire, as  
16 was stated before, and things like that.

17 MR. FLINT: Thank you for letting me tease you a  
18 little bit.

19 MS. BARTON: I love it.

20 COMMISSIONER DOUGLAS: So, Vicki, is there  
21 anything you'd like to add? Gail has slightly let us off  
22 the hook by saying she doesn't expect the full answers,  
23 and she's posing an important question, but if there's  
24 anything you would like to add, go ahead, and then we'll  
25 go to Dennis.

1 MS. CAMPBELL: Sure, I'm Vicki Campbell, I'm the  
2 DRECP Program Manager for Bureau of Land Management, and  
3 most of you know me and see me every month. Just to  
4 answer Gail's question, and I just want to find it  
5 interesting when Scott and I came in, you guys kept  
6 talking about pits and pitfalls and falling in and not  
7 getting out, and I'm like, "Oh, my God," what was going  
8 on in the conversation before we walked in the room? But  
9 regarding funding, and Gail is right, Riverside County  
10 has some of the most experience doing this, addressing  
11 the governance, factual implementation, the funding  
12 element of any plan of any size, but especially one of  
13 this size, is very very difficult, and we want to remind  
14 folks that the DRECP is interagency, it's public and  
15 private lands, it is a land use plan amendment for the  
16 Bureau of Land Management for the California Desert  
17 Conservation Area, and three Resource Management Plans,  
18 it will also be a Habitat Conservation Plan under the  
19 Endangered Species Act, Section 10, and it will also be a  
20 Natural Communities Conservation Plan under the  
21 California Natural Communities Conservation Planning Act.  
22 So when you think about the DRECP, we do want you to  
23 think about it as all three, and that sometimes helps or  
24 adds more questions, actually, and the funding element is  
25 it plays in a lot of our minds, especially those of us

1 that have a lot of experience with HCP and CCPs, and  
2 we're not there yet. And we're actually going to look to  
3 the Counties and your experience, especially Riverside  
4 County, Gail and Greg, you guys came up with for both  
5 Western Riverside and for CVAG some really innovative  
6 funding ideas, some of them the economy kind of had an  
7 effect on it, and we have lessons learned from that, and  
8 just the innovation that you guys took on both of those  
9 plans, we really hope and we know that you will bring  
10 those forward into the DRECP. And for the other  
11 Counties, the same thing, is whether or not you join in  
12 and, of course, we hope you all do, but just as a good  
13 neighbor policy, the plan has to work for all of you,  
14 just like it does for BLM and for Fish & Wildlife  
15 Service, Fish & Game, and CEC, also. And so we are  
16 approaching it that way and implementation and  
17 governance. The mitigation land issue, the land-base,  
18 that's a huge issue. We've dealt with it in other parts  
19 of the nation, think Las Vegas, Clark County, Nevada,  
20 which is very similar to what San Bernardino is dealing  
21 with. And so we can look to other parts of the nation  
22 where it has worked, or has not worked, lessons learned  
23 that they have, but concerns you have now. We want all  
24 of that to come in and all of it to play in the work that  
25 Josh in Inyo has done. So, all of that factors in.

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1           We're still formulating; right now, we laugh as  
2 the interagency team with the four primary agencies, we  
3 spend at least 15 hours a week together with one another,  
4 in the last couple of weeks it's been a lot more than  
5 that. And we're doing some initial alternative  
6 formulation right now, which you guys will see soon, and  
7 then we start those details, is okay, great, we have  
8 broad based lines on a map, but what -- it's that devil  
9 is in the details where any plan of this scale, whether  
10 it be on public or private land, it's the details that  
11 make or break these plans. And so the detail and your  
12 involvement in those details is absolutely critical.

13           COMMISSIONER DOUGLAS: Thanks, Vicki, that was  
14 great, really helpful. Let me go to Dennis. Hopefully  
15 you'll keep your comments to 10 or 11 minutes, or less.

16           MR. PETERS: There we go. Thank you,  
17 Commissioner Douglas. Dennis Peters from the California  
18 ISO, and I appreciate the opportunity to be here. And I  
19 know you wanted me to talk kind of about the importance  
20 of land use planning and transmission planning, and right  
21 before I get to that, I'll try to real briefly kind of  
22 talk about who we are because I know, particularly the  
23 Counties probably aren't familiar with us like you are  
24 with State or Federal agencies. We're not a State or  
25 Federal agency, we're actually a Non-Profit Public

1   Benefit Corporation, and we were established by State law  
2   in 1996 with electric industry restructuring. We are  
3   regulated by the Federal Energy Regulatory Commission  
4   where we have what is called an Open Access Transmission  
5   Tariff that's filed and approved by them, so they are our  
6   Regulators.

7           We are responsible primarily for reliable  
8   operation of 80 percent, approximately 80 percent, of the  
9   transmission Grid in California. Along with that role,  
10   we also run an open access electricity market and we're  
11   what's called a Balancing Authority. What that means in  
12   very simple terms is we're constantly, second by second,  
13   balancing generation with load, so resources and loads.  
14   We are also a planning authority for that balancing area  
15   and what that is is we annually conduct a transmission  
16   planning process where we come up with a plan, it's a 10-  
17   year plan, so year by year we keep updating that 10-year  
18   plan. So just at a very high level for the transmission  
19   planning process, there really are three, among other  
20   things -- there are some other studies that are done as  
21   part of our annual transmission planning process -- but  
22   really three main areas; first, we're always looking at  
23   the entire system that we're responsible for from a  
24   reliability perspective, to make sure that we're meeting  
25   North American Electric Reliability Corporation

1 Standards, they're the electric reliability organization  
2 for North America. We also do some economic studies --  
3 I'm not going to get into what those are, but it has to  
4 do with congestion on transmission lines. And then kind  
5 of the one that people hear and are most interested in is  
6 our planning for 33 percent Renewable Portfolio  
7 Standards, okay, so that's really getting into where we  
8 are starting to look more at land use planning informing  
9 the transmission planning, or people like to say the  
10 Wires Planning Process. So in that part of it, and about  
11 a little over a year ago, we filed with our Regulator,  
12 FERC, for a change to our tariff that would allow us to  
13 plan for policy driven lines, which is really about State  
14 policy goals, like RPS, to give us the ability to  
15 recommend transmission lines that would meet that 33  
16 percent RPS. The way that we study that is to come up to  
17 work with renewable resource portfolios that are  
18 developed by the CPUC and the CEC. So last year was the  
19 first time that we really did that, and this year we're  
20 doing something a little bit different where we're  
21 bringing in -- this gets to the crux of, I know, what you  
22 wanted me to talk about, which is the incorporation of  
23 more land use planning. So what we've been doing  
24 collaboratively with the CEC and the PUC, and we're just  
25 about there for this year's cycle, we're kind of in the

1 planning assumption cycle, putting together our unified  
2 planning assumptions, is to actually put together -- we  
3 call it kind of a base case portfolio and, you know, what  
4 we call stress cases, kind of based upon weightings on  
5 different factors like environmental scoring, commercial  
6 interest scoring, cost, and permitting scoring.

7           So what we've done in terms of the projects that  
8 populate this portfolio to meet what we call the Net  
9 Short, essentially what the net energy is in order to  
10 achieve 33 percent by 2020, is we this time around looked  
11 at what has been developed as part of DRECP and the  
12 understanding of, you know, especially I'm sure you're  
13 all familiar with the RESAs, the Renewable Energy Study  
14 Areas, what we've done is put together some more  
15 sophisticated scoring of those areas such that projects  
16 that are part of the PUC's portfolio of projects that  
17 have permits and PPAs, there's more preference given to  
18 projects that have better environmental scores. So what  
19 that does in our planning process is, if we're looking at  
20 projects that fall out of what's call the CPUC's RPS  
21 calculator, different from the acreage calculator at the  
22 CEC, what we end up with, then, is a portfolio that we  
23 study and we end up developing transmission, these policy  
24 driven lines such that they're in the right location,  
25 they're serving the right areas, so instead of chasing

1 around -- for those of you who were at the December  
2 meeting, you heard us talk about chasing generation  
3 around the desert, you know, the idea is that we get  
4 right in terms of where the best places for generation,  
5 for renewable generation should be, and then that informs  
6 where we plan the transmission. So you end up -- but  
7 right now, we have transmission, a plan that would  
8 achieve 33 percent, but some of those lines are going  
9 forward, as you're well aware; others are just as part of  
10 our plan, and that could change. So, sort of the nuance  
11 to -- we've kind of been in different forums talking  
12 about, well, we've got transmission planned for 33  
13 percent in 2020; well, that is dependent upon what  
14 portfolio we worked with last year in terms of where the  
15 generation is. It'll be interesting to see with this  
16 year's cycle where it's more informed by some of the land  
17 use planning, particularly for the DRECP, what we'll come  
18 up with there. You know, some projects that we saw were  
19 needed last year may not be needed. So this is a big  
20 change for those that are kind of closer to the process  
21 see that, and if you're not connected to the process,  
22 maybe you don't, but it is a big change for us to say,  
23 "Yes, we're taking into account land use planning in the  
24 transmission planning process." It's still five 'til.

25 COMMISSIONER DOUGLAS: Well, that was excellent,

1 Dennis. Does anyone have a question for Dennis before we  
2 let him run upstairs? Okay, thanks for being here. I'm  
3 sure Bob will be delighted if you're in his office before  
4 3:00.

5 MR. PETERS: In fact, that's what we're going  
6 over to talk about is exactly --

7 COMMISSIONER DOUGLAS: I know. All right, thank  
8 you so much. So are there any other questions or  
9 discussion in general on the planning point? We went  
10 through kind of a lot of comments without much time for  
11 discussion, so don't be shy about taking us back because,  
12 you know, we're kind of open to all comments.

13 MR. HART: Commissioner Douglas, I have a  
14 comment, just a response to something Paul indicated  
15 about native nurseries. We think that's a very  
16 intriguing idea that something like that be established,  
17 that research be undertaken to figure out how to -- if  
18 these sites are ever returned to their current condition,  
19 about how plants can be planted in the future and how  
20 they will regenerate. So I think that's a really good  
21 observation and I hope that the Commission is considering  
22 that, too.

23 COMMISSIONER DOUGLAS: That's a great point. I  
24 heard Paul's point kind of more in the context of how you  
25 might have some native vegetation under the panels, but

1 you're absolutely right, that that also goes to site  
2 restoration after a project.

3 MR. MCCARTHY: And it's interesting, too, in that  
4 light, Anthony Curzi here from my department is with me,  
5 and we were going over in the office some materials I was  
6 giving him that I had with regard to surface mining, and  
7 in the surface mining reclamation protocols there's a lot  
8 there that can be used potentially applicable to this  
9 kind of a project out in the desert. And I had this  
10 department, the Conservation Department, State of  
11 California, used to produce a marvelous marvelous  
12 magazine called *California Geology*, and many years ago,  
13 maybe it's 10 years ago now, 15, in another budget crisis  
14 they discontinued the publication of that. But I still  
15 have all my *California Geology* Magazines, and I was going  
16 through them to get information because periodically they  
17 would have articles about surface mining, and on the  
18 cover they had some beautiful photographs of these  
19 nurseries where they had these plants that had been taken  
20 from areas that we're going to be engaged in surface  
21 mining. So I go, okay, so now the biologists that are  
22 telling me they can't be done have to be wrong because  
23 I'm looking at the picture and it's there, they're alive  
24 and well. And that's what triggered the idea in my mind,  
25 and we had that meeting up in the AV yesterday, by

1 coincidence. So a lot of stuff coming together just by  
2 coincidence, so that must be good.

3 COMMISSIONER DOUGLAS: I think so, can't be bad.  
4 Go ahead, Ashley.

5 MS. CONRAD-SAYDAH: Ashley Conrad Saydah, BLM.  
6 And along those same lines, just for a resource, the  
7 National Renewable Energy Lab was trying to do some of  
8 these experimental treatments, more lab-based --

9 MR. MCCARTHY: Which national --

10 MS. CONRAD-SAYDAH: National Renewable Energy  
11 Lab.

12 MR. MCCARTHY: Oh, okay.

13 MS. CONRAD-SAYDAH: So it's one of the national  
14 labs that receives funding from the Department of Energy,  
15 and they were just -- I don't know if they actually ended  
16 up getting out in the field to do experimental  
17 treatments, but they were looking into that. And for all  
18 of you, too, Lawrence Berkeley National Labs puts out  
19 publications fairly regularly about the impacts of wind  
20 and solar development on property values, and I know that  
21 is a lot of concern with some of your residents, so there  
22 was a study that came out a couple years ago about the  
23 impacts of wind turbines on property values, and  
24 surprisingly, they found that actually there weren't many  
25 impacts. And they're doing a similar study now on solar

1 development. So they don't have the same sample size  
2 with solar as they did with wind, it was a study from  
3 upstate New York, but both of those labs might actually  
4 have some interesting information for all of you to take  
5 a look at and, in terms of experimental treatment, I  
6 think BLM would also be really interested in taking a  
7 portion of specific projects and doing some experimental  
8 treatments, maybe not grading as completely, looking at  
9 different sorts of ways to manage water flow through  
10 projects, and we don't quite know how that will happen  
11 yet, but we're really interested in engaging on that. So  
12 if there are any projects where there's joint County BLM  
13 work, maybe that's one of the things that we could work  
14 on.

15 MR. MR. MCCARTHY: And, Karen, I might mention to  
16 the -- at the same meeting yesterday, the local  
17 representative, the AV representative regarding air  
18 pollution, dust issues, was there at the meeting, and  
19 they were concerned about, again, the scraping down to  
20 bare earth and then the wind comes along and you get the  
21 dust issue before the project is completed. And I asked  
22 him if he had been in contact with LA City Department of  
23 Water and Power because, you may know, they're proposing  
24 to go ahead with at least a pilot project with  
25 photovoltaic panels in an effort to mitigate the dust up

1 in the Joshuas neighborhood up there. Is it going to be  
2 in Mono County or Inyo County?

3 MR. HART [presumed]: That's proposed on Owens  
4 Lake.

5 MR. MCCARTHY: Oh, Owens Lake, yeah. And so I  
6 asked him if he had talked to them and he said he hadn't,  
7 and so I told him who to contact in that regard. So here  
8 we had a group that was very very coming into the meeting  
9 very negative about the whole process, the prospect of  
10 moving ahead with more of these projects, and all of a  
11 sudden, they see that there is some potential advantages  
12 here. So we need to continue to think a little bit  
13 outside the box. Just because this type hasn't been to  
14 these meetings before doesn't mean that they couldn't,  
15 and they may be opposed simply because they don't realize  
16 there is some opportunities, and whatever we can do to  
17 get feedback from them, or to help them realize there are  
18 opportunities just helps everything along.

19 COMMISSIONER DOUGLAS: Right. Thank you. Other  
20 comments from around the table? Comments or questions?  
21 If not, I'll go to public comment and questions from the  
22 floor. We usually ask the people to fill out blue cards  
23 if they'd like to speak, I've got three cards, we'll go  
24 through people in the room and then we'll go to the  
25 phones. And we're honored to have Tribal Chairwoman

1 Donna Miranda-Begay here to speak. Go ahead, yeah, any  
2 microphone. And I will -- we sometimes have a three-  
3 minute rule, but given that we don't have very many cards  
4 here, more than that is just fine.

5 CHAIRWOMAN MIRANDA-BEGAY: I took the opportunity  
6 to draft out some ideas during lunchtime and, first of  
7 all, I want to say thank you for hosting this, a really  
8 good hearing and listening session in regards to  
9 renewable energy. Tribes within California, you know,  
10 California has -- I think we're the largest number of  
11 tribes in the United States, we have 110 Federally  
12 recognized tribes -- Tejon just joined us as Federally  
13 recognized, and we have over 80 tribes that are non-  
14 Federally recognized. I'm a non-Federally recognized  
15 tribe leader, just want to clarify that. In California,  
16 we're very lucky, though, that SB 18, the protection of  
17 sacred lands, includes both Federally and non-Federally  
18 recognized tribes.

19 The CEQA process, that's what interested me  
20 today, the concept of CEQA, and I wanted to just give you  
21 kind of on-the-ground scenarios of some things that we've  
22 experienced as a tribe, but other tribes are experiencing  
23 this, as well. So I also want to say thank you to the  
24 Kern County folks, the Planning Commission, they've been  
25 really gracious and open to meet with us face to face and

1 have a meaningful consultation at times where we need it,  
2 and so not all the time we have to meet, but there's a  
3 lot of times when we should meet and we do. Number one  
4 is, I just really can't promote enough how we're at a  
5 point where we have the technology to do this, is we need  
6 to develop in California a tribal cultural resource and  
7 area of interest map, and this will help in a number of  
8 ways to help with renewable project planning, help be  
9 able to outreach to the tribes, there's so many good  
10 things that could come out of this and it has to be  
11 coordinated, I think, through the newly appointed  
12 California Tribal Advisor, Cynthia Gomez, out of the  
13 Governor's Office, and I think this is something that we  
14 can work on.

15           We've already kind of done the groundwork, Kern  
16 Council of Governments and our tribe, through a Caltrans  
17 Environmental Justice Grant, had already moved in that  
18 direction, and we have on our website, catribalej.com, a  
19 collaborative grant website, and you can grab all kinds  
20 of reports and mappings and things that we were working  
21 on, but we stopped short of actually implementing the  
22 mapping scheme. So just something to think about.

23           Item 2, we have recently gotten approval to put  
24 some electricity on a tribal allotment in California,  
25 there is reservations, Rancherias and allotments, those

1 are lands held in trust by Department of Interior, Bureau  
2 of Indian Affairs. And it's important that people  
3 understand the historic value of these lands, it's  
4 important that we have to deal with NEPA and CEQA, and so  
5 we had a situation where there was a North Sky River Wind  
6 Energy Project that was approved recently, and it's  
7 adjacent to 160-acre tribal allotment. The Department of  
8 Interior, Bureau of Indian Affairs never notified about  
9 that energy project. The landowners were never notified  
10 about that project. There's been a lot of verbal  
11 interaction now, now that the project has been approved,  
12 that some things are being committed to the owner, but  
13 nothing in writing. So we'll see how that works out. I  
14 attached the last page, which is kind of an overview of  
15 the mapping of that project, it's an outline in red, and  
16 there's a little blue rectangle to the left of that area,  
17 that's Judy's allotment. We got the Bureau of Indian  
18 Affairs Hydrologist out to measure her water well, we  
19 just got a new water well put in for her, and then her  
20 mother's wind -- she has a little windmill thing for the  
21 pumping of her water, so we measured the water, we tested  
22 the water, and so, as this 10,000-acre energy fill gets  
23 built and constructed, we'll be monitoring this. I don't  
24 think there was any mitigation written into the project  
25 plan for the water issues, but her water source comes

1 from that 10,000 acres, so we'll see. But just something  
2 at the ground level, just think about these things that  
3 happen, tribal lands.

4 Our tribal experience in regards to working with  
5 cultural resource consultants, many of them don't want to  
6 really hear about the tribal history, they don't want to  
7 get the ethnography, you know, they just want to get to  
8 the arch site, this is a recorded site, is it  
9 prehistoric, you know? Is it a mortar rock, you know?  
10 Is it a dot on a map vs. the meaning of it, the cultural  
11 value landscapes, and so we can't say enough about we  
12 need to kind of work in this area and somehow figure out  
13 a solution to address working with the cultural resource  
14 consultants.

15 In Kern, our tribe goes between Kern and Tulare  
16 County, our territories and, on the second page, I kind  
17 of put a map that I had access to on my laptop, of our  
18 traditional territories. And it's important that we  
19 would love to share with the County, you know, our GIS  
20 data, we have recorded sites, over 3,900 prehistoric  
21 recorded sites, arch sites, that we have from the  
22 California -- it's called the California Historic  
23 Information Center and it's at California State  
24 University at Bakersfield. And Dr. Brian Hemphill and I  
25 have developed a Memorandum of Agreement to share that

1 data and, again, we got that through the Caltrans  
2 Environmental Justice Grant. And so we developed an MOU  
3 with the University Information Center. And I think with  
4 the County, at least this is maybe something that you  
5 guys could develop as a MOU template that would -- I know  
6 what the Bureau of Land Management and U.S. Corps of  
7 Engineers and U.S. Forest Service, we have an agreement  
8 with them on sharing confidential data that is sensitive  
9 because, when I respond to the public comment, you know,  
10 and again, tribes are -- they are the public, but they  
11 also are tribal governments and they're sovereign, and  
12 their data should be protected as best you can, so if I  
13 send a comment to my County Planning folks, that whole  
14 stuff is going to be put into the public report, so  
15 everybody gets to go treasure hunting with the dots that  
16 are on the map, they go look for cultural sites. So  
17 there's got to be a way to protect that data. And Tulare  
18 and Kern, as far as I know, don't have an MOU arrangement  
19 yet with, I don't think, any of the tribes to help  
20 protect that. And, again, Kern County, now you have a  
21 Federally recognized tribe in your County, so I think  
22 it's probably even better to get going on that.

23 Kern County, I know we're working on a renewable  
24 resource planning map for the Greater Tehachapi area and  
25 that's like regarding to the wind energy fields out

1   there, I think that's a good idea, I think they're on a  
2   good track. I think they slowed down in the process to  
3   get more community input from the Greater Tehachapi area.  
4   And we get put in situations as a tribe where the  
5   community may not want that wind energy field, and they  
6   will seek everybody and anybody to defend why that field  
7   shouldn't go there, so we get a lot of calls from  
8   community saying, "Why don't you say something? Why  
9   don't you go fight the county?" And so we have to -- we  
10   support renewable energy, its location, its consultation,  
11   and it's a planning process and I think that's what you  
12   guys are all working on here today.

13               So I'll conclude to say that we have worked  
14   successfully with our County Planning folks, Kern Council  
15   of Governments, we continue to get notified with the SB  
16   18 process for any kind of land zoning changes or  
17   planning, and can't say enough about the good example  
18   that our county has provided us. And so just want to  
19   keep going and thank you again. I learned so much today.  
20   I'm also with the CalEPA Tribal Advisory Committee and I  
21   think things are going to be happening with the new  
22   California Indian Advisor, Cynthia, I think new policies  
23   are going to start to roll out so that all the different  
24   departments within the State of California will be on the  
25   same playing field for communicating outreaching and

1 working effectively with California tribes, both  
2 Federally and non-Federally recognized. And I can't say  
3 enough about the Ridgecrest and Bakersfield Bureau of  
4 Land Management Offices, really effective communication  
5 consulting processes they have in working with tribes.  
6 And so thank you.

7 COMMISSIONER DOUGLAS: Well, thank you. Thank  
8 you so much for being here and thanks for your  
9 suggestions. I know we might definitely follow-up with  
10 Cynthia, it sounds like a really great suggestion.  
11 Ileene Anderson.

12 MS. ANDERSON: Thanks, Commissioner Douglas. I'm  
13 Ileene Anderson, I'm with the Center for Biological  
14 Diversity. And I just wanted to weigh-in here with some  
15 of the lessons learned that we've communicated to the  
16 CEC, but maybe not to some of the other agencies. We  
17 submitted a letter last year that I think got docketed at  
18 the beginning of last year, that got docketed early this  
19 year, so you can read our full comments there. But,  
20 anyway, in the notion of only having three minutes, I  
21 just have three points that I want to talk about.

22 First, and I tried to open this up to the larger  
23 agency groups as far as covering issues that we've seen  
24 in lessons learned, not just the CEC. Attention really  
25 should be paid to the Interveners and public comments.

1 We feel, as a result of some of the rush processes and  
2 specifically the two solar projects that are currently  
3 being constructed, that we're approved by the agencies,  
4 these projects have basically been given black eyes, both  
5 of them have significant problems. And I am really -- I  
6 don't like having to say this, but I will, that we told  
7 you so. We told both the Federal and the State agencies  
8 that there were problems with these projects and,  
9 unfortunately, it turned out we were right. Besides for  
10 the environmental problems, I think that it really is  
11 unfair to the industry. I think we can all around this  
12 table agree that we desperately need to have successful  
13 projects so that we can transition off of fossil fuels,  
14 and try to preclude some of the worst potential problems  
15 with global climate change. So I really think that the  
16 agencies should take into consideration some of these  
17 comments, especially from some of our expert witnesses  
18 that we've brought to the table to address some of the  
19 issues.

20 Another thing I think is a good lessons learned  
21 now, since we're into the compliance phase, is that there  
22 needs to be great transparency for the public. Most of  
23 the mitigation for the project impacts rely upon draft or  
24 nonexistent plans at the time of environmental review and  
25 we think it's imperative to be able to track the outcome

1 of the implementation of these plans, actually see the  
2 plans, and then make sure they're being implemented so  
3 that we can fold into the lessons learned from that  
4 implementation into future projects, so we would like to  
5 see more of publicly accessible reports, compliance  
6 reports, that sort of thing. And I know the CEC has  
7 talked about putting a lot of that on the website, and I  
8 think that's really helpful and I encourage other  
9 agencies to do the same.

10           And then, lastly, there should be a mechanism  
11 somewhere in the process to deny projects that are in  
12 inappropriate places very early in the process. I mean,  
13 some of the information we do know out there, that  
14 there's just bad places, and what we see is that  
15 oftentimes agencies agree to have millions more dollars  
16 spent on surveys and studies, and those surveys and  
17 studies, yeah, they give us more information and we're  
18 all for that, but they do little to change the fact that  
19 the project site is just a bad site. So we'd really like  
20 to see something early in that project process that could  
21 just weed out those that are in inappropriate areas.

22           And then I actually had a question. And it's  
23 just because I don't understand. I know that I've  
24 reviewed a lot of CEQA/NEPA processes that were, you  
25 know, joined together in Draft EIRs and EISs; do each one

1 of those take an MOU between the agencies? I was just  
2 sort of surprised to hear that discussion.

3 MS. BLANCHARD: Yeah, I just answer for the PUC  
4 as a Project Manager in the Environmental Group, is that  
5 whenever we've gotten into joint documents, we I think  
6 historically have been doing MOUs with those, at least  
7 since I've been with the PUC. And I can't speak for  
8 other agencies, but that's what we've been doing; we find  
9 it's better if we try to be on the same page upfront, and  
10 that's why --

11 MS. ANDERSON: Sure, so that's why each project  
12 has its own MOU, then?

13 MS. BLANCHARD: Yeah, like if we're just doing a  
14 CEQA document, we want a transmission project, you know,  
15 we of course wouldn't have anything -- it's just when we  
16 have a joint with another agency, Forest Service, BLM, or  
17 whoever -- NEPA/CEQA -- we do MOUs.

18 MS. CONARD-SAYDAH: This is Ashley from BLM, and  
19 that's true for us except that, with the CEC, we had that  
20 one MOU that all the other projects flowed from, and we  
21 are trying to amend that MOU now, to update it based on  
22 what we have learned, but when we work on -- we have a  
23 project right now with a municipal utility, that's the  
24 Co-Operator and we had to write an MOU with them and a  
25 third-party contractor because, also, the third-party

1 contractors, if they're party to that MOU to control  
2 communications, all of them, you know, each individual  
3 consulting firm may have different things that they want  
4 to sign onto or not. So we have templates, but they do  
5 need to be amended project by project.

6 MS. ANDERSON: Got it. Okay, I'd just like to  
7 say as a member of the public, those joint documents are  
8 very much appreciate because it's much easier to be able  
9 to see what the actual project and the mitigation  
10 strategy is and all that in one document vs. getting  
11 conflicting reports from different documents. So, thank  
12 you very much.

13 COMMISSIONER DOUGLAS: Thank you, Ileene. And,  
14 you know, we're going to go to next steps next, but I  
15 think that we heard a lot today that makes me think there  
16 might be a next step on joint documents. Scott Galati.

17 MR. GALATI: Thank you for opening this up to  
18 public comment. I represent Applicants and I'm going to  
19 try not to complain this time, so take a photograph, it  
20 might be the only time.

21 First of all, I'd like to tell you what I think  
22 went well, okay? I think the coordination at the Energy  
23 Commission and Fish & Game is at an all time high, and I  
24 think that works very well now. I don't yet see that  
25 translated to the County and Fish & Game, probably

1 because there are so many people involved, but I know  
2 that, prior to the Energy Commission's documents coming  
3 out that recommend mitigation, that Fish & Game is in the  
4 midst of helping to craft that. I don't necessarily see  
5 that at the County level, but what I see happen at the  
6 County level, or what I hear from County staff, as well  
7 as Applicants, is that they solicit input, don't get very  
8 much until they put out a draft document. The draft  
9 document comes out and then there are comments that  
10 they're trying to incorporate in a short period of time,  
11 so I recommend that Fish & Game also help out the  
12 Counties because the Counties often do not have the  
13 biological expertise that, for example, the other State  
14 agencies do. I think that would be very very helpful.

15 I would also say that what has occurred, I think,  
16 over time, and we are certainly there now, is BLM is, I  
17 believe, very accessible, both at the field level and at  
18 the Management level, so that you can have the kind of  
19 dialogue that you all talked about as having in our pre-  
20 filing application meetings, of which we do, we have  
21 them, I haven't had one recently, but I did have some  
22 two, or three, or four years ago, and a lot of the  
23 direction I got was very vague and no one wanted to make  
24 any decisions. So I found myself having a lot of issues  
25 highlighted, but not having any direction, which, if any

1 of those issues were deal killers. I can also tell you,  
2 I haven't come to a pre-filing meeting with any project  
3 in my entire career that didn't have an issue  
4 highlighted, so it's difficult to determine which of  
5 those are actually you can't solve and which of them you  
6 can. So we generally take the view, unless you're very  
7 clear to us, because we are optimistic people as  
8 Developers, that if there is something we cannot  
9 overcome, you need to be bold enough to tell us that at  
10 the beginning. We're not going to be able to read  
11 between the lines when you say, "Oh, this is an issue."  
12 What quality is an issue in our county; that doesn't tell  
13 me you can't build your project here, okay? And so I  
14 would ask for that kind of direction, and I know that  
15 it's difficult for you to give it, but as difficult as it  
16 is for us to hear, we'd rather hear it now than here it  
17 three or four years and several million dollars later.

18 I think the industry is changing and, again, in  
19 case I'm offending anybody, I will make it very clear  
20 that I am speaking on my own behalf and not on behalf of  
21 any of my clients. Many of them won't like what I want  
22 to say, they're not all in agreement, but part of the  
23 problem that we're in is the industry rushed to file a  
24 bunch of applications, there was a land grab, we have  
25 abused it, there were too many 299 applications filed;

1   that is the start of the new industry, that's not what  
2   you see in the natural gas side of things, which is a  
3   very mature electrical industry. There is a lot that  
4   goes into site selection. Hopefully we have learned  
5   enough now to help select sites, but I will tell you  
6   that, on Christmas morning, what we like to see in our  
7   stocking is a plan that shows this is where the next four  
8   transmission lines will be built and, in fact, along  
9   those lines, these are the land use zoning designations  
10   that have been changed to encourage you because, I tell  
11   you what, that would be a target where we will put our  
12   projects. It is like the movie *Field of Dreams*, if you  
13   build it, we will come, we will.

14           But we're doing things backwards and we have been  
15   doing things backwards, and I want to point out one other  
16   thing that's backwards. We get a Power Purchase  
17   Agreement, we need to get a Power Purchase Agreement  
18   because we need to go to the equity investors and say,  
19   "Please give me \$10 to \$12 million to develop a project  
20   in California." And they're going to say, "Okay, how  
21   will you pay that back?" If I don't have a Power  
22   Purchase Agreement that I can show is my stream of -- my  
23   revenue -- I never get the \$12 to \$15 million to develop  
24   the project. So we go get a Power Purchase Agreement, we  
25   have a vague idea of a site, we have a vague idea of

1 where the transmission will come in the future, and we  
2 have no idea what it will cost. But we bid in a price  
3 that we're held to. And you know what we bid in? The  
4 price we know will win because that's the only way you  
5 can get a Power Purchase Agreement. And then, a bunch of  
6 smart people -- not me, but others -- figure out how to  
7 do that. So then we come and we file an application with  
8 the agencies and then you ask us to move the site --  
9 we're never going to move the site, we're locked into the  
10 Power Purchase Agreement, we have raised equity money  
11 based on this site, we are limited.

12           There is a general feeling in the industry that,  
13 if we don't have a Power Purchase Agreement, none of you  
14 will take us seriously. You have to change that message  
15 if you want us to behave in the way that we've behaved in  
16 the past, which is when we had a bad site, we have time  
17 to move it. When we have to make it smaller, we can.  
18 When we have to avoid something, we at least have an  
19 opportunity to do that. But when we have a Power  
20 Purchase Agreement for X amount of megawatts, delivery at  
21 a certain time, we have paid \$250,000 and a couple  
22 million dollars in Letters of Credit to get that  
23 transmission study through CAISO, there is no way we have  
24 the flexibility to do the things you'd like us to do, so  
25 we can't do them.

1           I have a couple different recommendations for  
2 you. The first recommendation -- and this is to the  
3 Counties -- one thing that works very well, in my  
4 opinion, is this kind of thing -- if you could do this  
5 kind of thing, this dialogue, during the permit process,  
6 Applicants -- not all of us -- some Applicants will do  
7 their best to solve the problems that are raised if we  
8 know what they are. But we do that from dialoging. So  
9 when you get a comment from somebody that doesn't want  
10 the project because they think it's going to be noisy,  
11 forward that to us, we'd like to talk to that person.  
12 Many of us would like to talk to that person, maybe even  
13 outside the process, to see -- maybe take them to a plant  
14 -- I've don't this before -- show them what it sounds  
15 like, it's actually communication. The Energy Commission  
16 does this very well because they have a lot of workshops,  
17 meaning we get into, we kick off our ties, we roll up our  
18 sleeves, we sit in a roundtable and we try to solve the  
19 problems. Commissioners aren't there, decision makers  
20 aren't there, we try to be adults and solve the actual  
21 problems, come up with mitigation, "why doesn't this  
22 mitigation work?" In the County processes, sometimes  
23 with only one public hearing, there isn't that  
24 collaborative effect. So I actually recommend that you  
25 do more workshops without decision makers, your Planning

1 staff, members of the public, tribal representatives,  
2 environmental groups, and we sit down -- it only takes a  
3 few, and if everybody lays their cards on the table and  
4 isn't playing a game of "I hate the project, I'm going to  
5 hold back to kill it," or, "I don't want to mitigate, so  
6 I'm not going to tell you something," but most people  
7 won't play that game and we can actually solve some  
8 problems. It's going to make it easier for you in your  
9 public hearings, it's going to make it easier for you on  
10 your documents if we come to agreements on our own. You  
11 should help facilitate that.

12 BLM -- my recommendation to BLM is, when there  
13 are comments on the Draft EIS, BLM will not respond to  
14 them when the public raises it. You wait and then you  
15 prepare your Response to Comments document. Even with  
16 answers you know, I would suggest, and I know it's a  
17 Fiscal problem, bring some of your technical experts. I  
18 want to answer the question for you because I see a  
19 member of the public, or I see a tribal member who has  
20 made a comment that we can easily dispense with right  
21 then, but instead we're going to wait 45 days to 60 days  
22 and have a written response that is just like trying to  
23 tell somebody "I love you" in an email, okay? It doesn't  
24 come through. We need to communicate. And that's  
25 something you can do, I think you're capable of doing it,

1 and I don't think you should be afraid to do it.

2           And the last thing that I'll recommend to the  
3 Energy Commission is I think the Counties do have it  
4 right, that CEQA does not require you -- that CEQA does  
5 allow you to maybe permit more than one option. We've  
6 done this here recently, but I know there's been  
7 reluctance to do that. If you have two gas lines, or two  
8 access roads, and you don't know until final design which  
9 one, evaluate them both and let the Applicant -- the  
10 Applicant can only build one -- we can have mitigation  
11 tables, we can figure that out, that's different than an  
12 alternative. It's an option. And I think you can do  
13 that under CEQA, so I'd recommend that the Energy  
14 Commission continue to pursue that, especially in this  
15 time where technology is changing; so we can't specify  
16 the exact dimension of a panel unless I'm a panel  
17 manufacturer. And I know which panel I'm going to use,  
18 it's the one I make. But if I'm not a panel manufacturer  
19 and they want to have the option to select the most  
20 efficient, best panel possible, and so I would urge you  
21 to evaluate on the worst case scenario from several  
22 options. And anyway, thank you for the opportunity to  
23 speak.

24           COMMISSIONER DOUGLAS: Thanks, Scott. Thanks for  
25 being here and thanks for your comments and your ideas.

1 Kate Kelly, Defenders of Wildlife.

2 MS. KELLY: Good afternoon. Kate Kelly for  
3 Defenders of Wildlife. First of all, thank you very much  
4 for holding this session today, these lessons learned are  
5 very important for us to be able to talk about and take  
6 home to our jurisdictions and our agencies and  
7 organizations, and continue to talk about them.

8 Most of the conversation today was fairly desert-  
9 centric, but Defenders of Wildlife has been tracking  
10 renewable energy projects and their permitting and  
11 processing issues, at a statewide level, with an intense  
12 interest both in the desert and in the Southern San  
13 Joaquin Counties, the five counties, in particular  
14 Fresno, Kings, Kern, Madera, and Tulare. And what we  
15 have seen is that the local jurisdictions are very  
16 efficient at processing projects. For example, in those  
17 five counties, they have already approved 45 projects in  
18 the last two years. They're good at getting the projects  
19 through the pipeline and there's currently another 60  
20 projects in those five jurisdictions moving through the  
21 pipeline right now. They have the ability to work with  
22 their local communities, they know their lands, they know  
23 the resources and, as a result, the projects we're seeing  
24 that are being processed at the local level often are  
25 very well sited, they make sense in many many ways, and

1 the local jurisdictions are doing a good job in finding  
2 ways to work with the tools that they currently have.  
3 They do need a better toolkit, though. And this is  
4 something that we've talked about in a variety of venues  
5 across the state, both within the community, energy  
6 community, as well as the Planning community, of needing  
7 to catch up our planning tools, things like renewable  
8 energy General Plan elements, renewable energy combining  
9 districts, the workshops at the community level to do the  
10 education that was suggested by the previous speaker,  
11 those types of things.

12           And so our hope is to see that there's better  
13 funding to support the local jurisdictions to do the kind  
14 of planning to facilitate these mandates for the amount  
15 of renewable energy that we all want to see get on the  
16 ground in a timely fashion. I know there's money  
17 outlined in the EPIC Program for some local planning, but  
18 in looking at the EPIC process, I'm very concerned that  
19 it won't get on the ground quickly enough. These  
20 projects are happening today, and there's another 60  
21 projects in the pipeline that are very likely to have a  
22 decision made on them within the next year at the most,  
23 18 months at the furthest out. The funding that's  
24 available for planning for these projects and for  
25 planning for renewable energy will not be available to

1 the local jurisdictions until they're already done doing  
2 the permitting of the projects that are being requested  
3 in their areas. So we need to find a way to move that  
4 money to them more quickly.

5           The other thing that was an important thread that  
6 I heard today was transparency for everyone involved in  
7 these processes, and back in 2010, December 2010, when  
8 you had your lessons learned session then, a number of  
9 speakers, including Defenders, talked about the need for  
10 transparency on the tail end of the project where we're  
11 looking at the mitigation, how it's being implemented,  
12 what's really happening on the ground. And to that end,  
13 again, requesting that the Energy Commission put the  
14 compliance documents online. There's smatterings of them  
15 out there right now, but they really do need to be  
16 online. And at the local level, under the Mitigation  
17 Monitoring Implementation Reports and Programs, those  
18 also need to be online and accessible where there's just  
19 a simple spreadsheet of "this is what the condition was,  
20 this is how it was met, this is when it happened," so  
21 that people that are interested in the project have  
22 access to that information. It's sort of maintaining  
23 that relationship with the community, so those are the  
24 lessons learned that we'd like to see happen both at the  
25 Energy Commission and at the local level. And, again,

1    thank you for having the workshop today, for listening,  
2    and look forward to participating with you further.

3               COMMISSIONER DOUGLAS:  Thank you.  Any questions?  
4    Thanks.  Mark Sinclair, Clean Energy States Alliance.  
5    Mark, you might want to know, is here instead of skiing,  
6    so it shows his tremendous commitment and interest in  
7    these issues.

8               MR. SINCLAIR:  Hi.  I won't take up much of your  
9    time because you've been here a long time already and  
10   it's Friday afternoon.  My name is Mark Sinclair and I  
11   have a confession to make, I don't live in California, so  
12   take my words with a grain of skepticism because this is  
13   a very complex state you live in and you're facing some  
14   major challenges and opportunities.

15              I work for a very small nonprofit organization  
16   called The Clean Energy States Alliance, or CESA, and  
17   what we do is basically try to help states across the  
18   country spend their public funding on clean energy,  
19   renewable energy, you know, in a smart way, and to learn  
20   from each other and to develop policies and programs that  
21   are effective and efficient.

22              So I have also, in my former life, been an  
23   environmental lawyer for a nonprofit NGO, like Defenders  
24   of Wildlife, but a much smaller organization in the  
25   northeast.  So I've always been interested in

1 environmental regulation and how we can do it better to  
2 get better decisions. So I want to say that this is such  
3 an impressive initiative that you folks have got going  
4 here in California with your Desert Renewable Energy  
5 Plan; actually, it's one of the most important  
6 initiatives that has happened in the country to advance  
7 renewable energy through coordination between local,  
8 State and Federal Governments. And I'm constantly trying  
9 to package what you're doing here to bring it to other  
10 areas of the country involving study of offshore wind, of  
11 land based wind, in regions outside of California because  
12 this is a unique model, and obviously you don't have it  
13 all correct yet, but you're asking all the right  
14 questions and you are -- you've got an awful lot to share  
15 with the rest of the world. And the leadership that is  
16 around this table and with the Department of Interior is  
17 truly impressive. Now, having said that, I just wanted  
18 to make a couple of recommendations that, again, may not  
19 be California tailored, and may also indicate my  
20 ignorance as to what is already happening here, but let  
21 me give it a try and you can laugh me out of the room,  
22 and it won't take very long.

23           Number one is, I don't know whether you use  
24 these, but I think setting some sort of recommended  
25 timeframes for agency decisions would be very useful.

1 There's an Executive Order that was issued by the Obama  
2 Administration at the beginning of his Administration for  
3 the oil and gas industry in Alaska, and it required all  
4 the Federal agencies to put a priority on oil and gas  
5 permitting in Alaska and to establish deadlines and  
6 timeframes within which they would make decisions. And  
7 if there were good causes for why those decisions  
8 couldn't be made, then you just had to lay out the  
9 justification. So timelines that are -- that have an  
10 ability to be waived, but that provide some efficiency  
11 requirement to the review; once you no longer have your  
12 ARRA grant incentive deadlines to force action, I think  
13 it will be important to have other stimuli to ensure  
14 effective, timely decision-making. Number two is, again,  
15 I don't know whether you use these, but I always find it  
16 interesting when processes that are complex with  
17 regulatory permitting use a professional facilitator so  
18 that it's not BLM, or CEC, or the Regulator, who is  
19 facilitating because they have a vested interest in the  
20 process, too, but somebody who can help break through  
21 some of the conflicts. And I know it can be expensive  
22 and you want an effective facilitator, but I would  
23 recommend that, if you're not doing that, you think about  
24 that.

25 Another recommendation is, and, again, you may

1 have this, but we've been recommending that the  
2 Department of Interior create a Ombuds(man) position for  
3 offshore wind, somebody who can get inside the regulatory  
4 process and take complaints and policy issues from  
5 outside stakeholders without interfering with the project  
6 by project specific reviews where they're ex parte rules,  
7 so having some person at the State, Federal, and County  
8 level who is responsible as a point person for bringing  
9 issues to the attention of Commissioner Douglas, or the  
10 CPUC, or the Department of Interior, I think, would be --  
11 and usually you have those people, it's just a matter of  
12 making them -- identifying who they are and then making  
13 it clear to the public that they are out there as a  
14 resource.

15           Two more recommendations -- well, one  
16 observation, I guess -- is that you may be aware of this,  
17 but there is a new CEQ Council -- environmental quality  
18 draft guideline document on NEPA that you ought to take a  
19 look at because it has some wonderful ideas that could be  
20 actually piloted here within your Desert Program; for  
21 example, reducing the amount of NEPA documents by looking  
22 at what documents are already out there that can be  
23 referenced by addressing issues in proportion to the  
24 potential significance, so that all issues are not the  
25 same, and actually considering the benefits to carbon

1 reduction of renewable energy technologies. So I think  
2 the Guidelines that are in draft form are a wonderful  
3 document to really rethink how we apply NEPA to -- in  
4 this case -- renewable energy.

5           Finally, I was involved with a Federal Advisory  
6 Committee the Department established to deal with avian  
7 and bat impacts from land-based wind and, again,  
8 California was a leader in creating some State  
9 Guidelines. And the Federal Government then decided to  
10 convene stakeholders, including Defenders of Wildlife, to  
11 come together to deal with this very big issue and, after  
12 three years, we came up with some guidelines that I think  
13 are almost signed, but the major takeaway is that the  
14 approach that we adopted and that we hope the Department  
15 of Interior and U.S. Fish and Wildlife Service will  
16 adopt, is based on what's called risk-based decision  
17 making, or risk tiered decision making, and the idea in  
18 its basic form is that you require studies, length of  
19 studies, deep dive of studies, length of monitoring,  
20 based on what you find out in preliminary studies in  
21 terms of the significance of the risk and amount of risk,  
22 so that projects that are located in non-sensitive areas  
23 don't have to do much in the way of studies or  
24 monitoring, and you're learning from those early studies  
25 and monitoring. Now, you're already talking about this

1 and doing this, but I think the Federal Advisory actually  
2 captured how you actually implement it in terms of one  
3 environmental issue, so I would recommend that  
4 recommended protocols and guidelines to your review and  
5 seeing where it might fit in with the biological  
6 resources you're trying to protect here in California.  
7 And with that, I thank you for your time and I wish you  
8 all the best of luck in continuing to be a leader in  
9 terms of renewable energy in this country. Thanks.

10 COMMISSIONER DOUGLAS: Thank you, Mark. Thanks  
11 for being here. Let's go to comments on the phone to see  
12 if we have any public comment on the phone. Okay, no  
13 comment on the phone, we've exhausted them.

14 So, you know, I guess I'm on the agenda now to  
15 talk about next steps, and I'm really open to everybody's  
16 thoughts on next steps. I definitely heard enough to  
17 make me really interested in the idea of asking OPR and  
18 the Solicitors to continue to help us on a template for  
19 CEQAtizing NEPA documents for doing joint documents. It  
20 would be really nice to not have to invent it again and  
21 again and again in order for jurisdictions in different  
22 ways. And while the Energy Commission process and the  
23 local government processes function differently, that  
24 doesn't mean that the documents can't follow the same  
25 template anyway for how they're organized if you're doing

1 a joint document.

2 MR. SOLOMON: Excuse me, Commissioner. The  
3 Public Advisor would like us to ask if -- to make an  
4 announcement if anyone on the phone has a comment.

5 COMMISSIONER DOUGLAS: All right, we've gone  
6 straight into next steps, but if anyone on the phone has  
7 a comment, please do what? Please speak up. All right.  
8 Thanks, Lynn. Just speak up, anyone on the phone, if you  
9 want to and we'll give you time. So I definitely heard  
10 that and I think that would be really extremely helpful.

11 We're obviously continuing to work fast and hard  
12 on DRECP as Vicki kind of managed to capture very  
13 eloquently, she's probably come from those meetings and  
14 she's probably going to those meetings, this is her  
15 break, so to speak. So, you know, we really want to work  
16 with everybody, we want to make sure that, in the DRECP,  
17 we're able to streamline renewable energy, create a  
18 conservation vision that makes sense and that works, and  
19 that's respectful of the needs of all of the participants  
20 and all of the neighbors, and that very much puts the  
21 Counties front and center as our partners. And we've all  
22 been working on that together and, no doubt, that will  
23 continue.

24 You know, we at the Energy Commission have taken  
25 away a lot from this, I mean, just kind of speaking for

1   myself now, I think that we're going to need some time to  
2   reflect and look at the transcript and, you know, we're  
3   being pretty introspective about our own Regulations and  
4   our own processes and, you know, what might we be able to  
5   do better.

6           I also heard a lot in terms of the multi-agency  
7   review and I think we captured a lot of it with the  
8   discussion on NEPA/CEQA and some follow-up on that, but  
9   I'm interested if anyone has thoughts for how we might  
10   further improve multi-agency review.

11           You know, one idea I heard was just on the San  
12   Bernardino County raising, well, at what point when  
13   somebody comes to the Energy Commission with a project do  
14   we contact the County, and is it automatic? Or is it  
15   just that we recommend it? And you know, so maybe we can  
16   solidify that more concretely so that, by a point certain  
17   in the process, the Applicant has talked to the County,  
18   and so what is the appropriate point certain? It might  
19   not be the first speculative phone call, it might be, you  
20   know, so again, I definitely heard that. And I heard a  
21   couple of other things that I wrote down, but I might not  
22   be able to find at this -- go ahead.

23           MS. BORAK: Well, one of the things I heard, and  
24   maybe everyone heard it, but I'm not sure, is these three  
25   delightful gentlemen, they were talking about their

1 coordinated approach to that one project, and one of the  
2 things that I heard was that, when Greg had Anthony as  
3 kind of his contact person, that before that you'd been  
4 dealing with several different people at the Los Angeles  
5 County level, that when you actually had one single  
6 contact person, it seemed to go more smoothly. And I  
7 think that's often true, that if you can -- that we all  
8 have big diverse organizations and different people that  
9 do different things, and if there can be just one point  
10 of contact, it's often helpful. And also, it's just a  
11 relationship building kind of thing. And I think one of  
12 the things that's really great about today is that people  
13 do get to sit around a table and put faces and voices  
14 together, and hear other people's stories of what they're  
15 trying to do and their challenges. And I think it just  
16 helps to get everybody working together.

17 COMMISSIONER DOUGLAS: Just an opportunity for  
18 anyone else to make any comments, otherwise -- I don't  
19 see anyone rushing to the microphone -- so otherwise,  
20 I'll just say, you know, it's not easy to get everybody  
21 around the table like we've done today. I really want to  
22 thank you all for coming and appreciate your  
23 participation. I hope that you've gotten a lot out of  
24 this and hope that you enjoyed the day. And you know, we  
25 look for -- you're all our partners and we really look

1 forward to working with you. So thank you. And we're  
2 done.

3 (Adjourned at 3:49 P.M.)

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**REPORTER'S CERTIFICATE**

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

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

IN WITNESS WHEREOF,

I have hereunto set my hand this 15th day of March, 2012.

A handwritten signature in cursive script, reading "Peter Petty", is written over a horizontal line.

PETER PETTY  
CER\*\*D-493  
Notary Public