

STATUS CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of the)
Application For Certification:)
Hidden Hills Solar Electric)
Generating System)
-----)

Docket No. 11-AFC-2

California Energy Commission

DOCKETED

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Jon Zellhoefer

Jack Prichett
Old Spanish Trail Association

ALSO PRESENT

Dana Crom, County Counsel
Inyo County

Jim Stroeh

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PROCEEDINGS

PRESIDING MEMBER DOUGLAS: Hi. Good morning. I'm Commissioner Douglas, and the Presiding member on this Siting Committee. I wanted to introduce people on the dais and kick off the status conference for the Hidden Hills Solar Energy Generating Systems Project.

To my left, at this point, because the Hearing Officer stepped out, is Commissioner Carla Peterman. To my immediate left, when he returns to his seat, Ken Celli, the Hearing Officer. To Commissioner Peterman's left is Jim Bartridge, her advisor. To his left is Eileen Allen, the technical adviser for siting issues to the Commissioners. And to my right is Galen Lemei, my advisor.

I'd like to thank everyone for being her and welcome you to the Energy Commission. And with that, I'll turn this over to the hearing officer.

HEARING OFFICER CELLI: Thank you, Commission Douglas. Good morning, everybody. Welcome to, I think this is our third status conference, April 3rd, 2012.

First, I'm going to have the applicant introduce his -- their people.

MR. HARRIS: Good morning. That wasn't me coughing.

Jeff Harris on behalf of the applicant. To my

1 right is Susan Strachan and to her right is Mr. Clay
2 Jensen with BrightSource. We also have about seven other
3 folks from the team in the audience available to speak,
4 and they'll introduce themselves, if they do speak.

5 HEARING OFFICER CELLI: Thank you, Mr. Harris.
6 And let's now here from staff. Please, introduce your
7 folks.

8 STAFF COUNSEL RATLIFF: Dick Ratliff, counsel for
9 staff. With me is Mike Monasmith, Project Manager, who is
10 attending today with broken ribs that he experienced, I
11 guess Sunday, which I think is above and beyond the call
12 of duty.

13 HEARING OFFICER CELLI: It certainly is. And
14 I'll ask off line how that happened.

15 MR. HARRIS: I had nothing to do with it.

16 (Laughter.)

17 HEARING OFFICER CELLI: Yes. And to the right of
18 staff, we have Ms. Crom from the County of Inyo. Please
19 introduce anyone from the County of Inyo who's here today.

20 MS. CROM: I'm solo today.

21 HEARING OFFICER CELLI: Okay. Thank you. And
22 now on the telephone we have representing the Center for
23 Biological Diversity, Ileene Anderson. Is there anyone
24 else from CBD on the phone?

25 MS. ANDERSON: I think I'm the representative

1 today. Good morning, everyone.

2 HEARING OFFICER CELLI: Good morning, Ileene.

3 Thanks for being here.

4 We also have Jon Zellhoefer who is representing
5 himself as an Intervenor.

6 Good morning, John.

7 MR. ZELLHOEFER: Good morning, everyone.

8 HEARING OFFICER CELLI: And then the only other
9 intervenor we have left is the OSTA, the Old Spanish
10 Trails Association, Jack Prichett. Is there anyone from
11 that organization on the phone?

12 MR. PRICHETT: Yeah. This is Jack Prichett and
13 I'm on the phone.

14 HEARING OFFICER CELLI: Good morning, Jack.

15 MR. PRICHETT: Good morning.

16 HEARING OFFICER CELLI: Let me find where you
17 are. That's Jack. Welcome. Good morning, Jack. Is
18 there anyone else from your organization with you today?

19 MR. PRICHETT: No, I am it.

20 HEARING OFFICER CELLI: Okay. Well, welcome
21 aboard.

22 MR. PRICHETT: Thank you.

23 HEARING OFFICER CELLI: Good. Do we have anyone
24 here this morning from any federal public agencies who
25 are -- I'm asking not for the people on the phone, but in

1 the room. Do we have anyone from a federal or State
2 agency, federal or State of California? Anyone from the
3 State of Nevada, or -- we have a representative from Inyo
4 County. Do we have anyone here from Nye County or
5 neighboring counties?

6 Okay. Hearing none. I did want to ask on the
7 phone if we have anybody from federal, State, or Nevada or
8 California State agencies, please speak up?

9 Okay. Hearing none. Then I'd like to introduce
10 Jennifer Jennings, who is our Public Adviser. She's in
11 the back of the room, and she's available to help people
12 participate. We will have a public comment period towards
13 the end after our status conference. So if anyone is in
14 the room, then you'll want to fill out one of these blue
15 cards that Jennifer has. Otherwise, we'll just call you
16 on the phone after we get through the people in the room.

17 So these status conferences that we've been
18 having. Again, we said this was the third on the proposed
19 Hidden Hills Solar Energy Generating Systems were set
20 originally at the request of the applicant. The Committee
21 scheduled today's event in a notice that was dated January
22 11th, 2012. That notice is available on the website. We
23 also have copies out on the foyer, if anybody needs to see
24 them.

25 The purpose of today's conference is to hear from

1 the parties regarding the status of the preliminary staff
2 analysis, the status of the case, in general, to help it
3 resolve any procedural issues, and to assess the
4 scheduling of future events in this proceeding.

5 With regard to procedure, the way we proceed is
6 we'll first provide the applicant an opportunity to
7 summarize their view of the case status, and their
8 recommendation for future scheduling, followed by staff,
9 followed by Intervenor Zellhoefer, followed then by the
10 Center for Biological Diversity, and finally Intervenor
11 Old Spanish Trail Association, because that is the order
12 in which the intervenors intervened. And then, of course,
13 we will allow the County of Inyo to act essentially as a
14 party and bat cleanup after everybody else speaks.

15 We will then provide an opportunity for general
16 public comment, which we're always interested in. With
17 regard to the schedule, the Committee acknowledges receipt
18 of the proposed schedule from staff attached to their
19 status report. And the Committee acknowledges receipt of
20 essentially the applicant's objection to that, and we will
21 discuss that. Staff's proposed schedule contemplates a
22 PSA -- when I say PSA, for everybody, we mean the
23 Preliminary Staff Assessment. And when we talk about an
24 FSA, we're talking about the Final Staff Assessment.

25 The PSA is, according to staff's most latest --

1 most recent proposed schedule would be due out on June
2 1st, 2012, with an FSA due out on August 1st, 2012. We're
3 going to hear from all of the parties regarding the
4 schedule, but we want to announce to you, at this time,
5 that the May 22nd status conference, which we have
6 previously scheduled is going to be cancelled. And I'm
7 going to send out a notice to that effect, but I just
8 though since I have you all here, you can plan around May
9 22nd. We have to take that off.

10 I will also send out a notice that we will be
11 adding June 4th, July 9th, and August 16th. Those dates
12 again are June 4th, July 19th, and August 16th status
13 conferences, in light of what appears to be an extending
14 schedule. We will know better in June and July whether
15 we're even going to meet, keep the August status
16 conference date depending on the timeliness of the August
17 1st FSA date. So you're all on notice now that the 5-22,
18 and May 22nd status conference is off calendar, and I'm
19 adding other dates. So that's a preview of coming
20 attractions. You'll be getting a notice soon enough.

21 Now, in the previous status conferences that we
22 had, the parties indicated that the following subject
23 areas were -- well, I'm not going to say not in dispute,
24 but they seem to be not in controversy, project
25 description, hazardous materials, soils, transmission line

1 safety and nuisance, the transmission systems engineering,
2 insofar as we've not received a cluster study yet. So
3 that could, we don't know. But I'm just, for now, as a
4 placeholder, I'm just going to put it in the unresolved
5 column -- or the resolved column.

6 Facility design, geological and paleontological
7 resources, efficiency, general conditions of compliance
8 and closure, air quality, public health, noise and
9 vibration, and reliability. So those are really sort of
10 the settled questions, at least heretofore.

11 The subject areas that continue under the heading
12 of unresolved, according to the last status reports we
13 received, are water resources. And in particular, we're
14 interested in hearing about the pump test results we
15 talked about last time. There's some issues surrounding
16 water use mitigation plan. Specifically, that would
17 address impacts to the Amargosa River, the Pahrump
18 groundwater basin, Stump Springs area of critical
19 environmental concern, impacts to neighboring wells,
20 cumulative effects, and impacts to mesquite bosques, which
21 are mentioned in the BLM's 3-12-12 letter, which was
22 docketed. That's the March 12th letter. So that's water
23 resources.

24 We note that there is some issue with regard to
25 data responses and requests under the heading of waste

1 management. Socio and worker safety and fire protection,
2 we see that there's some question regarding emergency
3 response costs, the source of the labor, whether it's from
4 California or Nevada. Also, traffic and transportation,
5 and specifically impacts to the level of service in Tecopa
6 and the surrounding areas, if the labor force is going to
7 come from California.

8 And biology, we have bats, owls, and eagles
9 surveys. I understand that a lot of surveys have come in,
10 but I don't know if they're -- we'll hear whether they're
11 complete or not. We also have issues regarding Migratory
12 birds, the fox, the Desert Tortoise, rare plants. And we
13 also note that CBD had prepared a couple of data requests.
14 And we note also that the applicant responded to those
15 data requests, and that was all docketed recently.

16 With regard to visual, last we spoke there was
17 glint and glare questions. There were DRs, data requests,
18 148, 149, and 154 were an open question. Land use, which
19 is of particular interest to the Committee, we had a
20 question, we'll hear about it today, in terms of the
21 timing of the applicant's amendment to the general plan to
22 general industrial zoned M1. This is what we glean from
23 seeing the docketed materials. We're going to hear more
24 from the parties themselves, and become enlightened.

25 Inyo says that at least it would require 60 days

1 after the issuance of an environmental document plus
2 merger of parcels and abandonments of right of ways, et
3 cetera. So we'll hear from them.

4 Cultural. We're interested in seeing whether
5 there's going to be a need for a petition to compel. Last
6 we spoke there were data -- open question with regard to
7 Data Requests 105 and 106.

8 Whoever is speaking on the phone, I'm going to
9 need you to mute for the moment.

10 Thank you.

11 We were talking about land use. No, Cultural.
12 Data requests 105, 106, 125, 127, 128, there was some
13 request with regard to ethnographic studies, and sort of
14 this shifting project area of analysis.

15 And finally, alternatives. I'm not sure whether
16 that's resolved or not, what's missing. We'll find out
17 about that.

18 Mr. Harris, is there a particular order that you
19 would like to address the open issues?

20 MR. HARRIS: I think we'd like to follow the
21 Attachment A to our March 28th response to the staff's
22 status report. And that Attachment A goes through in my
23 mind-numbing detail our responses to staff. So if we're
24 going to go through each one subject by subject, we'd be
25 wanting to follow that particular document.

1 HEARING OFFICER CELLI: All right. So for
2 everybody to be on the same page literally, Attachment A
3 is -- the order would be biological resources, cultural
4 resources, land use, socioeconomic, traffic and
5 transportation and visual resources, water resources,
6 waste management, and alternatives.

7 So if that works for everyone, we'll just go in
8 that order. So go head, Mr. Harris, you have the floor.

9 MR. HARRIS: Thank you very much, appreciate the
10 opportunity to speak. Notwithstanding the cancellation of
11 next month's status conference, I do want to reiterate
12 once again how important these status conferences are.

13 You, Commissioners, I know you're engaged in the
14 lessons learned process. And this, to me, is the number
15 one improvement that you've made to your process by far.
16 It is great to see the Committee early on like this. I
17 think the meeting we're about to have today is very
18 indicative of why that's important. We're at a point now
19 where I think we need some Committee direction on schedule
20 and other issues moving forward.

21 Before we turn to the specifics of those
22 subjects, and we'll go through each one of them in as much
23 detail as the Committee wants, we do want to talk a little
24 bit about schedule and that issue, because from our
25 perspective that's the most important thing that will come

1 out of today. There are technical questions, and there
2 are disputes about how much is enough, in terms of
3 evidence.

4 But really schedule is the main thing here. And
5 I really want to try to maintain the civil tone that staff
6 and applicant have maintained in this proceeding. It's
7 been very respectful. And I hope to generate light and
8 not heat, to use the energy terms, and focus on the facts.

9 But the fact of the matter is is we really
10 believe it is time for the Committee to set a schedule for
11 this proceeding. We were frankly a little taken aback by
12 the staff's Status Report number 3. The last two status
13 reports had requested a date of 4-13 for publication of
14 the FSA.

15 At last month's status conference, we did agree
16 to a six week extension. And then, you know, less than
17 basically three weeks later on Staff Report number 3,
18 there's a request for an additional six weeks. So six
19 weeks and six weeks is three months on the schedule.

20 That request is premised on the ground that the
21 staff can go from the PSA to the FSA in only eight weeks.
22 And we're talking about a July -- or June 1st and then
23 August 1st dates for PSA and FSA respectively.

24 That would be unprecedented, frankly. And we
25 have the data to back that up, if you want to see it,

1 especially as it relates to the ARRA cases. But that time
2 frame, we believe, is simply too aggressive. We have no
3 faith that we won't be here, not next month now, but I
4 guess the following month having the same discussion about
5 whether there's more time needed here.

6 The record does show the time between the PSA and
7 the FSA is typically, in the best case, been about 110
8 days. And our schedule that we thought we had all agreed
9 upon last month provided about 105 days. So it would have
10 been -- it would have been at the low end of the heroic
11 efforts that were made during the ARRA case, and really at
12 the very bottom end of that.

13 And so to have a record that shows decisions that
14 have taken about 105 days up to 250 days, I think is an
15 important fact for the Commission to have in making this
16 decision. And again, I have documentation if you want to
17 see that, but the typical PSA to FSA has been, you know,
18 300 days, 200 days, 171 days, 124 days, 105 days. We've
19 proposed 110 in our schedule between PSA and FSA. The
20 staff now is suggesting they can do it in 61.

21 I just think that's not credible. And I think
22 the Committee needs to make their decision with those
23 numbers in mind. And again, I'll be glad to pass that
24 out, if you want to have that.

25 We're a little frustrated, as you can tell in my

1 voice, despite my statement about trying to produce light.
2 The Status Report number 3 is accompanied by two claims.
3 One is that the staff is overburdened. And I believe
4 that, by the way. I know your staff works very hard, and
5 there's a lot of cases still in-house. And the ones that
6 are in-house are very intensive. But we see two claims in
7 that status report.

8 Number 1 is that we simply haven't had the time
9 to review what you've given us to date, and that may very
10 well be true. I guess we want to solve that problem
11 today, as much as anything else, that the Commission and
12 the State has a strong public interest in moving this case
13 along. You know, you are a couple of two people, three at
14 least, maybe short in some of these divisions. There are
15 a thousand, you know, high paying wage jobs that are being
16 slipped day or day for every day the schedule slips.

17 And so we need to -- one of the things we want to
18 accomplish today is to solve that resource issue, because
19 this project needs to be move forward.

20 The other thing we saw in that status report that
21 was troubling is that we were hearing, well, we need more.
22 And those two things are just flat out inconsistent. We
23 haven't had time to review everything you've given us, and
24 we need more. How do you know unless you've reviewed what
25 we've given you.

1 And so that, I guess, at the most base level is
2 the source of some frustration that we have at the way
3 things are moving forward at this point.

4 We really have a simple request today, and that's
5 to have the Committee, you know, issue a schedule for this
6 proceeding that sets a reasonable date for the PSA. And
7 we can talk about what that means. We've provided you
8 with our view of that. And we think it's time for you all
9 to get involved in that. So one of the issues that we're
10 going to have to solve going forward is how much
11 information is enough. And when we go through each one of
12 these subject matters, I think we can have that
13 discussion.

14 But the level of detail that's been requested in
15 some of these areas we think is unprecedented, and I'm
16 thinking particularly about cultural resources. A typical
17 EIR, in the State of California, for a project of enormous
18 magnitude has two cultural resources conditions. And I
19 can bring as many EIRs as you want to look at, because
20 we've done the research on this.

21 But typically, it's two conditions. One, as
22 pursuant to State law, if you find bones, human bones out
23 there, you stop and you call the corner, and you guys have
24 that condition.

25 The second is to train your workers to identify

1 potential resources. And if you find something, you stop
2 work and bring in an expert. Those are the standard two
3 conditions in every other project of size and magnitude in
4 the State of California.

5 And what we have going on here I think is a lot
6 more information being requested, particularly in this
7 area.

8 So we want to have a dialogue around how much is
9 enough on that. And, you know, to be fair, our technical
10 experts, Dr. Spaulding and Mr. McGuirt, have been working
11 very well together. It is a very collegial relationship
12 between those folks. They have a lot of respect for each.
13 So they don't let the lawyer's position color that at all,
14 but we very much are at a point where we think we need to
15 move forward.

16 At the bigger picture level, in terms of how much
17 is enough, your original scheduling order called for
18 basically four rounds of data requests. And if you look
19 at that order it's 1A, 1B, 1C, and 2. Well, to date,
20 we've had 1A, 1B, 1C, 1D, so there's four already, 2A, 2B,
21 2C, 2D. That's eight. And the last set that we received
22 was really the third round of biological data requests.

23 And so I understand the staff's desire to have as
24 much information as they have to publish a PSA, but we
25 really do need to focus on where we are in the process.

1 This is the Preliminary Staff Assessment.

2 It's intended to get the dialogue going. Right
3 now, it's not even a monologue. There is no dialogue
4 going on. It is common, it has been in the past, for the
5 Commission to publish Preliminary Staff Assessments that
6 say as to these subject matters, no significant impacts.

7 As to these subjects matters, we don't know what
8 are the significant impacts yet, and this is the kind of
9 information that we need to be able to make a
10 determination on significance. We would be willing to
11 take a PSA that has sections that say we can't reach a
12 conclusion on this issue, and here are the things we need
13 to reach that conclusion, because a specific list of
14 enumerated needs would really help us focus on moving this
15 process forward.

16 And so the PSA is not intended to be perfect.
17 It's not intended to be the Commission's decision. It's
18 intended to start a public dialogue. It's intended to
19 allow people to have some questions answered and to raise
20 other questions and to have workshops. And we feel like
21 maybe the standard right now is just simply too high.
22 Perfection at this stage is not required. The process is
23 sausage making, and we need at least the sausage casing to
24 start. How is that for a horrible analogy.

25 But it is time to get the public engaged in this

1 process. I think it really is. And I think that the
2 staff, to their credit, feels like they want to put out a
3 document that is really great that they can defend. And
4 good for them for that, and we support that, and -- but I
5 think we're just simply at the stage where we need to move
6 forward.

7 There are 21 technical areas in the PSA. Based
8 on the staff's last status report, only eight of those are
9 in play, and two of those were substantially complete, and
10 we expect -- and that report came about two weeks ago. We
11 suspect that number is probably lower. So the
12 overwhelming majority of this document is done. And the
13 remaining sections are likely in management review.
14 Although, there are some other sections that are a little
15 more difficult.

16 You know, granted the ones that are outstanding
17 are the difficult subjects, and the more complex subjects
18 and they'll take some time. But this is not the
19 Commission's final decision. This is a Preliminary Staff
20 Assessment. And we feel like it's time to move forward to
21 get the public involved in that dialogue.

22 So we think there is substantial scheduling
23 advantage to having that document published at a
24 reasonable date here. And we think that the Committee,
25 hopefully in the interim, after this hearing and before

1 the next status conference, will provide some very clear
2 direction.

3 At the end of the day, it is your proceeding and
4 it's your schedule. It's not the applicant's and the
5 staff's to drive schedule. We have very strong feelings,
6 as you can tell, obviously, about schedule, as applicants
7 always do. So I understand a little bit of this washes
8 over you as rote, because you always hear this from
9 applicant.

10 But please understand we think it's very
11 important that we get this case moving forward, and we
12 think we're at a stage where that can happen. So with
13 that, we're willing to go right now subject through
14 subject, unless the Commissioners have any questions or
15 comments at this point.

16 HEARING OFFICER CELLI: Let me -- first of all,
17 thanks for your comments and your update.

18 I do -- I want to observe that by my calculation,
19 I may have this wrong, but by my calculation yesterday was
20 day 180 for discovery purposes. Let me ask the Presiding
21 Members, Commissioner Douglas, any questions?

22 PRESIDING MEMBER DOUGLAS: No.

23 HEARING OFFICER CELLI: You know what I would
24 prefer to do is let's let staff respond to the schedule
25 concerns. We'll hear from the intervenors and Inyo, and

1 then we can go discipline by discipline.

2 So with that, let's hear from staff regarding the
3 comments by the applicant with regard to schedule. And
4 maybe I can focus this a little bit more for you. The
5 schedule -- the original plan was an April 13th
6 publication date for your PSA. The new plan calls for,
7 was it, June 1 -- June 1st. So the Committee probably
8 needs to know what we're going to get June 1st that we
9 can't have now, and any other comments you have with
10 regard to schedule.

11 Go ahead.

12 STAFF COUNSEL RATLIFF: Yes, Commissioners, good
13 morning. Dick Ratliff, staff counsel.

14 Listening to Mr. Harris's comments, I was struck
15 by the fact that the applicant is cross with us. And I
16 think it's understandable that they are. And we're cross
17 with them as well. And I'm trying to understand why we
18 are sideways with each other at this point, and, you know,
19 from their point of view, I think they are working
20 feverishly and diligently to satisfy what they consider to
21 be a voracious staff appetite for information, and they
22 don't see the shore inside. And they keep hoping if they
23 can only see the PSA, then maybe they'll get there.
24 They'll get their feet. They'll get their footing, and
25 there will be some sense of traction and progress.

1 And I have a great respect for the people on the
2 applicant's team. I think they're very diligent and very
3 conscientious. That isn't the problem.

4 The staff, on the other hand, is dealing with
5 significant issues, of which there is not enough
6 information to make good conclusions. And from the staff
7 perspective, and the reason we're cross as well, is we
8 feel like there is pressure to put out an analysis when we
9 aren't ready to put out an analysis, when there are
10 substantial missing pieces, and when we don't even have
11 information, in some cases, which we would expect in a
12 typical 12-month case to be part of the application
13 itself.

14 And this is a very difficult position for staff
15 to be in. And so what I'm hearing, and I think there is a
16 validity to this feeling is where is the information that
17 we need? Why is it coming so late, or, in some cases, not
18 coming at all, to allow us to make basic determinations
19 about significance and mitigation?

20 Turning to the most perhaps significant issue in
21 the case, which is the issue of water, the staff received
22 a 586 pump test report Friday afternoon. It had received
23 earlier the raw data for that report, perhaps two weeks
24 earlier.

25 And we're now in the position of trying to

1 reconcile our original determinations on the raw data with
2 the seemingly inconsistent conclusions in the pump test
3 report.

4 The water issue is an extremely important issue,
5 because it goes to more than to the issue of water itself,
6 but it goes to biological impacts, and it goes to
7 archaeological impacts, or cultural resources impacts, I
8 think better stated.

9 And we started this project -- started this
10 analysis without knowing if there was water sufficient in
11 this very dry desert area to even operate the project
12 itself, and without knowledge about whether or what kinds
13 of impacts there would be to local well owners to areas of
14 critical environmental concern on BLM land just across the
15 border at Stump Springs, and even to the Amargosa River.

16 Now, we expect the pump test to answer some of
17 these questions. And in its pump test report, I'm told
18 that the applicant states that the pump test does. But we
19 have a lot of questions about the pump test itself,
20 starting with the methodology and the time during which
21 the test was -- the duration of the test. These questions
22 may be answered, but they aren't answered yet, but we
23 need -- staff feels the need to workshop this issue, and
24 to consult with other agencies with experience in
25 groundwater issues in the desert, such as the regional

1 water board, the County, and BLM.

2 We haven't had time to do that workshop, because
3 the test results are very fresh, and people are just
4 getting the information now. The issues regarding
5 archaeological resources are tied in part to the pump
6 test, and to the impacts regarding water, because BLM has
7 indicated a very strong desire in its letter that it wants
8 to protect Stump Springs, which is an area of critical
9 environmental concern.

10 And the area of biology is also affected by the
11 issue of water because if, in fact, water levels do drop
12 significantly in the surrounding area, there is the
13 concern that the mesquite groves, which are nearby, will
14 not survive. And those mesquite groves are themselves
15 tied not only to the biology of the area, but also to the
16 archaeology of the area, in as much as those groves,
17 extending from Stump Springs, more or less parallel to the
18 border, have been an area of human activity by Native
19 Americans probably since the pleistocene age, but
20 certainly for many, many years.

21 And there are a number of sites along that area
22 which are within practically a distance throw of the
23 project site itself.

24 Now, staff has requested in its data requests
25 that those sites be examined to determine their

1 archaeological significance. The applicant has rejected
2 those requests, objected to those requests, and we've
3 tried to discuss it with them to try to make sure that
4 work gets done.

5 And I think there has been some valuable progress
6 in the discussions that our respective archaeological
7 experts have made, but the fact of the matter is those
8 sites still have not been assessed. They are very close
9 to the project itself. And under CEQA they have to be
10 assessed for their significance, so we can determine
11 whether or not there is an impact to those resources and
12 what that impact is and whether mitigation is required.

13 We don't have that information. And, at this
14 point, we're going to meet with the applicant today at one
15 o'clock to try to resolve it, take another stab at trying
16 to resolve how we're going to get that done. We postponed
17 doing a motion to compel, because we thought we might be
18 able to resolve it in a different way, but that hasn't
19 been successful, at least at this point.

20 So, at this point, we are confronted with the
21 issue of do we do a motion to compel on this matter or do
22 we contract with Aspen to try to get them to do the work
23 for us. These are all things that we have to explore
24 today.

25 So there are a number of issues that we have

1 going forward. And I could go through, you know, other
2 subject areas as to things that are required to get us to
3 a final document.

4 I don't think that would be particularly useful,
5 but I want to say one other thing. I mean, there was some
6 discussion previously about the time between the PSA and
7 the FSA. And I don't have any quarrel with the time
8 spaces -- the intervals that Mr. Harris has suggested.
9 But what I want to point out is when you do a PSA that
10 isn't particularly useful, when it's just a check-the-box
11 exercise to get something done, it doesn't really push
12 forward your resolution of the issues and get the project
13 done any faster.

14 It just gives you a bad, not particularly useful,
15 document. And it makes for a much greater interval before
16 you actually get to a Final Staff Assessment, because the
17 Final Staff Assessment has to be legally adequate, and
18 we've got to have better answers than we're able to give
19 currently at this stage. Probably, than we'll be able to
20 give, even if we produce the document as we've suggested
21 in June.

22 HEARING OFFICER CELLI: So what about the 60 days
23 that the current status -- the current proposed schedule
24 contemplates if the norm is running, what, 115 days? Then
25 that's, you know, pretty much half. And how can

1 reasonably expect to accomplish something in half the time
2 of the, what sounds like, the low side of what's normal?

3 STAFF COUNSEL RATLIFF: Personally, I think that
4 that is optimistic, but I think it's much more likely if
5 you had a good PSA. The time will be reduced if you have
6 a much more thorough PSA.

7 A 12-month schedule -- I mean, this reminds me of
8 same, you know, I have car that goes 150 miles an hour.
9 So I'm going to drive to L.A. in three hours. Well, you
10 know, theoretically that's possible, but in the process
11 you're going to stress yourself out quite a bit. And I
12 think that's what you're seeing here is a bit of stress.
13 And you're going to break a lot of laws and you might have
14 a bad outcome.

15 We want to keep the speed in the two digits, if
16 we can. We think that that's necessary to do our jobs as
17 it needs to be done.

18 HEARING OFFICER CELLI: Commissioner Peterman, go
19 ahead.

20 ASSOCIATE MEMBER PETERMAN: I had a quick point
21 to raise, perhaps a little unorthodox. But, Mr.
22 Monasmith, thank you very much for your commitment to
23 attending this status conference.

24 However, since I'm directly in your line of
25 vision, I will have to say you look quite unwell to me.

1 And hopefully you feel better than you look, but I did
2 want to take this pause to say that your personal health
3 is important, and that if you need a recess or if you need
4 to take a break, or if you need to transfer to another
5 staff member, at least loosen your tie, I would be
6 greatly --

7 (Laughter.)

8 ASSOCIATE MEMBER PETERMAN: -- supportive of that
9 because this is -- it's a status conference. We're going
10 to have a bunch of other ones, but I am a little concerned
11 frankly.

12 So with that, you make the decision about how
13 you -- whether you want to proceed, but I just wanted to
14 get that out there.

15 HEARING OFFICER CELLI: Thank you. Anything
16 further from staff regarding schedule? I want to just
17 keep this discussion limited to scheduling for starters
18 before we go down the path of each individual area.

19 Mr. Ratliff, anything further?

20 STAFF COUNSEL RATLIFF: No.

21 HEARING OFFICER CELLI: Thank you. Let's hear
22 from Ileene Anderson CBD -- or, I'm sorry, before I get to
23 you Ileene, I need to speak with Jon Zellhoefer. Jon, any
24 comment on scheduling?

25 MR. ZELLHOEFER: Yes. I've been listening

1 carefully. I know that we are impacted out here in Tecopa
2 with the schedule, any shift in the schedule, any requests
3 for data. We're trying to be ready. And I would tend to
4 agree with the applicant that there have been precedents
5 for these types of projects. The question should be
6 fairly well known by staff in advance.

7 And in reviewing all the materials, it seems that
8 a number of questions have kind of come up at the last
9 minute that perhaps should have been addressed earlier.
10 But I also understand you have to do a thorough job.

11 I just want to say that I know its's hard. And
12 if we can meet that early June with Final Staff Assessment
13 sometime 65 days later, I think we can work with that out
14 here in the Tecopa area to do what we need to do and to
15 maintain our activity and participation in the project.

16 HEARING OFFICER CELLI: I agree with that. Thank
17 you very much.

18 Let's hear from Ileene Anderson of CBD. I just
19 want to hear about the scheduling, please.

20 MS. ANDERSON: Yes. We basically support the
21 most comprehensive PSA possible, because of our experience
22 in the past on these projects, where the PSAs have been
23 incomplete at best. And then during the hearings, the
24 staff and the applicant make these agreements off line in
25 the audience, which is hardly part of a good public

1 process.

2 So it resonates with me that the better the
3 Preliminary Staff Assessment is, the quicker it can be
4 turned around to a Final Staff Assessment.

5 HEARING OFFICER CELLI: Very good. Jack
6 Prichett, any comments with regard to schedule?

7 MR. PRICHETT: I just unmuted. I think the Old
8 Spanish Trail Association is okay with the preliminary
9 assessment on June 1st. I have just completed the report
10 on the Old Spanish Trail, the cultural -- historical
11 cultural resources report that I have talked about. It's
12 out for review right now among a number of scholars, but I
13 intend to submit it by next week to the Commission, and,
14 of course, proof of service.

15 So the staff will then have a fully documented
16 historical cultural resources report on the Old Spanish
17 Trail that will be taken as evidence. You will have that
18 almost two months before your preliminary assessment

19 HEARING OFFICER CELLI: That's excellent.

20 Okay. Thank you, Mr. Prichett. Anything from
21 Count of Inyo?

22 MS. CROM: Just briefly. First, I would like to
23 thank both staff and the applicant for attending the
24 workshop before the Board of Supervisors on March 13th. I
25 think it was very productive. We also appreciate staff

1 staying the next day and meeting with our department heads
2 to address the socioeconomic issues that we've outlined in
3 our previous letters.

4 The one thing I will agree with Mr. Harris on is
5 that it is really -- it's critical that we commence a
6 public dialogue. However, that dialogue needs to be
7 meaningful, and it needs to be on a document that is
8 complete or as is complete as we can have it be. And to
9 issue an assessment that has gaps in those areas that are
10 the most controversial does not give the public an
11 opportunity to engage in this process.

12 In the County of Inyo, water is gold. And we just
13 received the pump test report on Friday. Dr. Harrington
14 has not had an opportunity to review it. We also received
15 the response from the applicant on the BLM letter on
16 Friday. Again, Dr. Harrington hasn't had an opportunity
17 to review that.

18 Water is critical for the County. And it is
19 something that we feel needs to be fully vetted before
20 this process is completed. And it should be at least as
21 vetted as much as we can before a PSA is issued for the
22 public to comment on it.

23 In addition at the March hearing, we learned from
24 the applicant that this project will be built by Bechtel.
25 This will be -- there will be a Project Labor Agreement.

1 That is something that Inyo County has been asking for
2 since essentially the commencement of this case, because
3 where the labor is going to come from, where the labor is
4 going to stay is critical to the socioeconomic impacts.
5 And we can address that later in today's hearing.

6 But, you know, a lot of information is new. And
7 when we receive that information, it somewhat snowballs
8 into more questions. For instance, I was just reading the
9 boiler optimization plan, and it raises questions from a
10 tax assessment standpoint if the boiler is going to be or
11 a part of this project is going to flow into the State of
12 Nevada.

13 And as I think staff and the applicant would tell
14 you, the property taxes that are derived from this
15 project, and the fiscal impacts that are imposed on the
16 county are critical.

17 And so I understand the frustration of the
18 applicant, but some of this information, frankly, I was a
19 little surprised that we were just hearing for the first
20 time in March, such as who's building the project, and
21 that this is a Project Labor Agreement.

22 And so we would support the recommendation of
23 staff. We would ask that the PSA be as thorough as
24 possible. We think the June date will allow for that.
25 And what it does to the August date, I don't know. This

1 is my first rodeo. So, hopefully, it can be -- we can
2 meet that date or the staff can meet that date, but I
3 think it's more important that the public have a full
4 opportunity to review all of the information, the best
5 information that's available at the time the documents are
6 issued.

7 HEARING OFFICER CELLI: Thank you all for your
8 comments. I just want to invite everyone to take a deep
9 breath and relax. This is just a status conference.
10 We're not taking evidence today. We -- this is -- it's
11 really quite a privilege to participate in this and to
12 hear the positions of what's going on, where we are at.

13 Let's not forget that this is an iterative and
14 reiterative process. Things will change. We've seen
15 projects completely flip, not only in the middle of it,
16 but after it's been certified. I mean, things just -- it
17 just keeps on changing and changing. And for that reason,
18 it's pretty difficult, unlike a lot of other environmental
19 analysis, to -- it's a moving target. And of necessity,
20 it has to be, because what we're doing essentially is
21 through this process making a -- hopefully, a better
22 project as we go. But all -- I want to thank everybody
23 for your comments with regard to scheduling.

24 What I'd like to do, if we can, just for a moment
25 is go off the record and have a quick little discussion

1 and then come back on. Just a momentary.

2 We're off the record.

3 (Off record: 10:59 a.m.)

4 (Thereupon a discussion occurred off the record.)

5 (On record: 11:04 a.m.)

6 HEARING OFFICER CELLI: Thank you, ladies and
7 gentlemen. We're back on the record.

8 Correct, am I on the record?

9 THE COURT REPORTER: (Nods head.)

10 HEARING OFFICER CELLI: We're back on the record.

11 After a brief discussion, the Committee makes the
12 following -- wants to make -- wants to emphasize certain
13 points.

14 One is discovery is now closed, which should
15 hopefully, you know, speed things along. The petition to
16 compel, there is still an opportunity to bring a petition
17 to compel by staff, if needed, if we have to get into the
18 nuts and bolts of that.

19 The Committee does favor a more complete PSA. I
20 think the point was well made by Ms. Crom that, you know,
21 we -- the very issues that we're most concerned about are
22 the ones that would be unresolved, if we don't get a
23 complete PSA, the ones that are most hotly controversial.
24 And so the staff -- or rather the Committee is inclined to
25 go along with that June 1st date proposed by staff.

1 On the other hand, the Committee is urging staff
2 to make it a priority that they do everything they can. I
3 appreciated the 150 mile an hour car analogy, but we need
4 you to go fast and get this thing done as completely as
5 possible. And we like the August 1st date. I think that
6 that would be -- that's the go-for.

7 We will have two status conferences between now
8 and August 1st, so we will be able to know how the
9 progress is going, find out what the issues are, and
10 hopefully settle them. The Committee wants to have a PMPD
11 done, and hopefully a decision -- a complete decision in
12 2012 as was requested by applicant.

13 And, Mr. Harris, we did read the papers, and we
14 understand the compelling reasons, for the most part, of
15 why the applicant is always in a rush, PPA and whatnot.
16 But the Committee is wondering if there's any other
17 consequences that the applicant is facing, such that it
18 rises to a level that, you know, we want to make sure that
19 the decision gets out and there's some urgency to it?

20 MR. HARRIS: I'll ask Mr. Jensen to add what he
21 can. There are certain things of a confidential business
22 nature that we can't discuss. But a couple of things.
23 Number one, you mentioned the PPA. I think that's
24 paramount here. The project is before you today, because
25 there's a Power Purchase Agreement. There are many

1 projects who are not at this Commission today, and you've
2 seen a real slow down in your siting filings. They're not
3 here because they don't have a PPA.

4 It's that simple. That's the way the California
5 market -- and I use that word extremely loosely, because I
6 don't think we have a market, but that's the way the
7 market is quote unquote operating these days.

8 And I'm very concerned about the possibility that
9 staff may be discounting that as one of our basic
10 objectives is the PPA moving forward. That's a real
11 important part of this. I guess the other thing that I
12 would note is that, you know, this industry is at a
13 crucial, crucial, crucial junction again.

14 We had a major announcement of another bankruptcy
15 this morning from someone who's been before you. And
16 getting projects up and operating and showing a cash flow
17 will demonstrate that this industry is viable. And this
18 Commission and this Governor have made it very clear that
19 meeting the RPS is very important. And, frankly, every
20 day that we delay to make a perfect PSA, is a day that's
21 lost.

22 There are over a thousand jobs associated with
23 this. And we can quibble about when this all starts. But
24 at the end of the day, there are unemployed steamfitters
25 and laborers and other folks out there who will not have

1 work for every day we delay this project.

2 And we've got to get through all those other
3 things. And so we built this project around a pro forma
4 that had an on-line date that was expected. We've been
5 able to move forward on those expectations, and we've been
6 trying to work with all the various parties involved about
7 those expectations.

8 And I think maybe now I've stated the obvious
9 enough that I'm going to ask Mr. Jensen, who represents
10 the company and can actually -- who knows what he knows,
11 if he can say, if you know what I mean, to expand upon
12 that.

13 HEARING OFFICER CELLI: Thank you. And before
14 you do Mr. Jensen, I just want to -- I'm looking to staff
15 about the June 1st date, because the understanding -- the
16 presumption here is that if we have a June 1st PPA, we
17 won't have any sections that say we just don't have enough
18 or we can't say. I mean, we're looking -- we want a PPA
19 on June 1st that is 22 subject areas, complete with
20 substantial basis for what their conclusions are.

21 STAFF COUNSEL RATLIFF: We want that too. And
22 that is what the Deputy Executive Director has asked us to
23 do. And, you know, we're gratified if we get the extra
24 time. I'm sure the PSA will not be perfect. They never
25 are, but we will do everything we can to make that date

1 for the PSA. We don't -- we realize we've exhausted our
2 possibilities for asking for more time on the PSA.

3 HEARING OFFICER CELLI: And really if staff -- it
4 seems to me that you're going to have to treat the PSA
5 like an FSA, in order to meet the kind of deadlines that
6 we're talking about, June 1st and August 1st.

7 Because the whole point, obviously, is that to
8 the extent that you've got a complete PSA, it's a lot
9 easier to jump from your PSA to your FSA. So the push
10 isn't between PSA and FSA, the push is to the PSA, sounds
11 to me.

12 SITING PROJECT MANAGER MONASMITH: Mr. Celli, can
13 I just say something, Jeff, before you --

14 HEARING OFFICER CELLI: Go ahead, Mr. Monasmith.

15 SITING PROJECT MANAGER MONASMITH: I just want to
16 articulate a bit on behalf of staff. This really started
17 when we met as a team, as we were getting ready to draft
18 Status Report number 3 that we put out on the 15th of
19 March.

20 I asked staff if we could -- it was clear in
21 meeting that we were going to have gaps, that we were not
22 going to be able to publish on the 13th of April. And if
23 we were going to ask for more time, it would have to be a
24 definitive date that we would hold ourselves to
25 regardless.

1 And, you know, going through subject matter by
2 subject matter, particularly those that are the more
3 complicated and we know those -- which subject matters
4 those are, the June 1st date was one that I got a
5 commitment from everyone on my staff -- on our staff that
6 that would be a date that we would be above 95 percent
7 complete.

8 We obviously -- we felt -- you know, we were
9 somewhat wary about the applicant having recently give us
10 the boiler optimization plan and a new schedule. They
11 indicated an 8-1 FSA date. Moving backwards from that, we
12 would prefer as a staff that we'd have more time to put
13 together a PSA that was complete. And then have our
14 30-day comment period this summer, have a workshop in
15 early July, and be able to primarily focus on response to
16 comments, so that the document itself would be complete
17 with certain discrete subject matters, some of the botany
18 spring surveys that we've asked for, that the applicant
19 graciously offered to provide us, trying to make sure that
20 Inyo County was made complete.

21 That we'd be able to tie those little bits
22 together, but that the document itself would be above 95
23 percent complete. That we felt we could do that with a
24 30-day comment period, a workshop, and then focusing the
25 month of July on nothing but response to comments and

1 having a good FSA out on 8-1 that would not necessitate an
2 addendum of any sort. If we put out a PSA on April 13th,
3 there would be big gaps that folks won't really get an
4 opportunity to see until the 8-1 document came out.

5 And some felt that that would then require
6 another review period On the FSA itself, and an addendum
7 to deal with those response to comments for information
8 that was going to be released primarily for the first
9 time.

10 So we felt it made sense that none of -- that
11 nothing that we contemplated would jeopardize the
12 Committee's needs, in terms of their schedule, their
13 hearings, to put together a PMPD this fall, and to come
14 together with a 12-28-12 final decision that the applicant
15 had indicated in their boiler optimization plan they put
16 on the 29th of February. So we felt good about that. We
17 still do. And you would have our commitment.

18 We'll try to get it out before June 1. I think
19 all of us would like to have it out before Memorial Day
20 weekend, and to put something out that -- so we don't have
21 to work over Memorial Day weekend.

22 Clearly, you know, the best that we can, and to
23 put things out that the end of that Friday -- the last
24 Friday in March, I think which is I believe the 25th or
25 26th. So we'd actually try to put it out before then.

1 That was the thinking behind staff's rationale in asking
2 the Committee for more time.

3 HEARING OFFICER CELLI: Well, I appreciate that.
4 It sounds like what we have now is a workable framework
5 that everybody can work within.

6 Mr. Jensen, you were going to address -- we
7 just -- really, I think we've taken this as far we need
8 to, but the Committee was interested in the case for why
9 there was a need to really push the Hidden Hills project.

10 So go ahead.

11 MR. JENSEN: Clay Jensen, BrightSource Energy.

12 I believe that Mr. Harris outlined the key facts.
13 I'd like to just add a little bit more color. We do have
14 the Power Purchase Agreement commitments that are real,
15 very real for us, as a company.

16 I would also like to point out that in today's
17 environment, economic environment and project finance
18 world for projects of this sort that have -- are so
19 capital intensive, those efforts for project finance start
20 very, very, very early. And the more certainty that's
21 introduced to that process, the easier it is to facilitate
22 early start of that process.

23 So I think that, you know, other than the reasons
24 outlined by Mr. Harris, just particularly interested in
25 getting a secure schedule. There is -- through the ARRA

1 and the most recent rounds of projects that have come
2 through, you can imagine our investors are very savvy to
3 the process. They're going to do the same effort that
4 we've done to go through what's the gap between a typical
5 PSA and FSA.

6 Their responses are very, very well thought out.
7 So when we're starting early financing discussions and we
8 project construction start dates, and certainty on
9 timelines, the more realistic and well-documented those
10 schedules are, that make -- the better it makes it for us.

11 So we appreciate staff's position and the
12 position of wanting more time for the June 1st date. What
13 we face, as the applicant, is somebody looking at the
14 typical time between a PSA and an FSA and then projecting
15 where that heads versus us trying to say, no, really, we
16 think we can make August 1st work for an FSA.

17 So I think that's part of our hesitation to the
18 approach. We have to deal with the reality do we all
19 really think this is going to happen this way? If we do,
20 as a team, buy into that approach, then the next level is
21 how do we communicate that to outside investors to get us
22 where we need to be to make it happen?

23 But other than that, I think Mr. Harris pointed
24 out the key facts.

25 HEARING OFFICER CELLI: All right. I think what

1 we have here is a split baby situation, where basically if
2 we give staff enough time to give them -- give us a PSA
3 that we can all work with, that has the depth that we
4 need, then that would accelerate the FSA.

5 I also want to thank you. We have this list of
6 average time Between a PSA and a FSA provided by applicant
7 that shows that applicant -- they go as much as 330 days.
8 Now, you understand that some of these, like Ivanpah, are
9 just monsters that just grow. I'm proud to say that I was
10 the hearing officer on the fastest one.

11 (Laughter.)

12 HEARING OFFICER CELLI: And so you could tell
13 your investors that you got a real race horse as a hearing
14 adviser --

15 (Laughter.)

16 HEARING OFFICER CELLI: -- because we're going to
17 get this thing done quickly. So thank you for your
18 comments.

19 I think we need to move on quickly. Let's go
20 ahead. We're into the biological is the first area. So
21 let's go with that.

22 MR. HARRIS: Okay. I'm going to turn to Ms.
23 Strachan at this point and let her deal with the
24 biological issues, and then we'll have various people deal
25 with the subsequent issues including cultural sources, and

1 Ms. Pottenger will be starting on that one.

2 Ms. Strachan, please.

3 MS. STRACHAN: Thank you. In our status report
4 each month, we've been keeping a running list of all the
5 documents that we've submitted, and those that have yet to
6 be submitted. And we've made good progress in getting
7 those survey reports, et cetera, documented -- or
8 docketed.

9 Staff has also documented in its Status Report
10 number 3, the survey results that were submitted in March.
11 We believe that the information that we've submitted is
12 complete in those reports and we haven't received any
13 comments from staff to the contrary.

14 We also, in March, submitted the State waters
15 delineation, which is something that staff had been
16 waiting for. We had submitted a draft of that report to
17 the Department of Fish and Game, and met with them on
18 March 13th, and then formally docketed that final
19 delineation on March 23rd. We're now proceeding with the
20 application for Fish and Game which is for the 1600
21 permit, which goes along with the State water delineation,
22 and then the 401 water quality certification to the
23 Regional Water Quality Control Board.

24 Obviously, Fish and Game, Water Board, need to
25 sign off on the delineation, concur with the delineation,

1 but we're nevertheless proceeding with those applications,
2 so that they can get submitted immediately upon that
3 determination being made.

4 We also have a meeting with the Water Board this
5 Thursday to go over the draft application with them. So
6 we feel that we have been making good progress. It's a
7 lot of documentation. We have data requests pending on
8 biology that we're working on now, and feel that we're
9 making progress in that area.

10 HEARING OFFICER CELLI: So we were -- where we
11 were at, let's see, so there were bats, owls, eagles. The
12 surveys that are -- in our last status conference, we were
13 talking about surveys coming in. And those, I trust, have
14 all come in. I've seen what's coming through from the
15 listserve.

16 So I understand there are some winter surveys
17 that would probably be, you know, subsequent to our
18 evidentiary hearing, but would that -- that's not
19 unprecedented, so -- but are there any outstanding surveys
20 right now, that --

21 MS. STRACHAN: No, not now. The only
22 clarification I want to make from what staff had in its
23 status report is that we did submit winter surveys for
24 burrowing owl, avian bird counts, and bats. Staff had
25 stated that the bat data was results of the Anabat monitor

1 that we submitted in January. That is -- the bat surveys
2 were submitted were visual surveys that were conducted
3 during the wintertime. The Anabat survey results are
4 being submitted this -- in April. So we're doing it on a,
5 you know, quarterly -- quarter by quarter basis, so the
6 Anabat monitoring data for the first quarter of 2012 gets
7 submitted in April.

8 HEARING OFFICER CELLI: Oh, I thought we already
9 received that.

10 MS. STRACHAN: You received bat survey data, but
11 it was visual survey data as opposed to the Anabat, which
12 picks up on the sounds that the bats make.

13 HEARING OFFICER CELLI: Okay. Migratory birds,
14 fox, Desert Tortoise, rare plants --

15 MS. STRACHAN: If I could just add. Mr. Carrier
16 clarified that the bat data did include some sound data
17 that we got from the Anabat in January.

18 And then on the -- also, on the Anabat monitoring
19 data that staff had committed that since that is going to
20 be submitted throughout 2012, it would not result in a
21 delay of the project.

22 HEARING OFFICER CELLI: Okay. Staff, let's talk
23 about --

24 MR. HARRIS: Let me state that a little stronger.

25 HEARING OFFICER CELLI: Oh, go ahead.

1 MR. HARRIS: Yeah. We agreed to provide the
2 Anabat data, which is not required by any applicable LORS,
3 on the condition that it not be something that slows down
4 the PSA. And I think we had that commitment from staff.

5 HEARING OFFICER CELLI: Let's hear from staff. I
6 want to make sure that we're all on board with bio, that
7 we're current. There's no outstanding surveys. There's
8 no outstanding discovery.

9 STAFF COUNSEL RATLIFF: Well, I think there is.

10 HEARING OFFICER CELLI: Okay. Go ahead.

11 STAFF COUNSEL RATLIFF: We have a -- as I
12 understand it, we are waiting for a Solarflex report,
13 which is supposed to be filed in mid-April 16th of April
14 regarding impact to birds. This is the same --
15 apparently, the same information that has been filed in --

16 HEARING OFFICER CELLI: Rio Mesa.

17 STAFF COUNSEL RATLIFF: -- by the applicant in
18 Rio Mesa.

19 HEARING OFFICER CELLI: Okay. So this is
20 migratory birds.

21 STAFF COUNSEL RATLIFF: Yes. And among -- yes.
22 And we have a spring survey for rare plants, which is
23 being, I think, conducted now, and is supposed to be filed
24 sometime in May or early June, as I understand it. And
25 then I'm not certain, we'll have to ask the staff,

1 technical area specialists, but I believe we have some
2 outstanding questions about burrowing owl and kit fox on
3 the site, both regard to -- at least with regard to
4 presence.

5 And we may -- I frankly need, you know, to have
6 them elaborate any further on that, because --

7 HEARING OFFICER CELLI: But is that outstanding
8 data requests?

9 STAFF COUNSEL RATLIFF: I'm not sure exactly. So
10 maybe Mike can answer. I don't know.

11 SITING PROJECT MANAGER MONASMITH: I think just
12 on burrowing owl, we did receive late the submittal from
13 the applicant. And the presence, in terms of number and
14 of pairs burrowing owls was somewhat different than what
15 we'd received earlier. And we can resolve this on a, you
16 know, an unofficial informal or we can ask it through a
17 data request, you know. Just to caveat, staff's
18 impression, at least my impression was that discovery
19 would conclude on April 5th, given that it commenced with
20 data adequacy on October 5th.

21 But 180 days it may, in fact, have been yesterday
22 when I was absent, but --

23 HEARING OFFICER CELLI: You know something, I
24 might wrong. I went on -- I actually went on the Internet
25 and you can -- and I said calculate 180 days from whatever

1 the date was for data adequacy, and it gave me April 2nd.

2 SITING PROJECT MANAGER MONASMITH: We had them on
3 Friday before the weekend, and I -- it's my intention to
4 have put them out, to issue them yesterday. And they're
5 sitting approved on my desk. I would still like the
6 opportunity to -- there's just a couple of them to follow
7 up on the glint and glare, and a question in terms of the
8 burrowing owl data the surveys.

9 HEARING OFFICER CELLI: Do you have any sense --

10 SITING PROJECT MANAGER MONASMITH: Relatively
11 minor. Nothing major.

12 HEARING OFFICER CELLI: Do you have any sense,
13 Mike, of how many DRs we're talking about?

14 SITING PROJECT MANAGER MONASMITH: There's one
15 glint and glare for traffic and trans; one for vis, and
16 then the bio. And that is, to my -- you know, also,
17 there's some -- I'm not sure if we need to incorporate
18 what the County of Inyo has, they asked in terms of
19 specifics that Kevin Carunchio had asked on project labor
20 and Power Purchase Agreement information. I don't know if
21 we need to officially ask that on behalf of the County of
22 Inyo or if those can stand on their own.

23 But that would be the only outstanding issue, in
24 terms of whether we want to wrap this into this last set
25 of data requests. Again, relatively minor, just a

1 clarifying question.

2 HEARING OFFICER CELLI: Okay. So just to bring
3 you up to date Mr. Harris, because you were out, staff's
4 calculation is that 180 days is April 5th, not April 2nd.

5 MR. HARRIS: Okay. Well, that's easily
6 resolvable with a date calculator, but they are wrong. It
7 was the 2nd. It was yesterday. You know, and part of
8 what we're talking about here is your process, and that's
9 what your process provides.

10 HEARING OFFICER CELLI: So do you oppose the --
11 apparently, there's some more questions having to do with
12 burrowing owl and -- what was the other thing?

13 SITING PROJECT MANAGER MONASMITH: Glint and
14 glare.

15 HEARING OFFICER CELLI: Glint and glare.

16 SITING PROJECT MANAGER MONASMITH: Again, we can
17 resolve them informally. I guess my hesitation is that,
18 you know, as project manager much of the informal work
19 that I've encouraged staff to engage with, with
20 applicant's staff, was in large part discounted in the
21 applicant's letter, which they responded to our status
22 report with, essentially giving credit to only those items
23 that were data requested and data responded and/or
24 officially objected to.

25 And so a lot of the informal work that's been

1 occurring that we try to encourage to try to cut time, so
2 we don't have to have 30 days was discounted. And we --
3 in the presence of that, I was somewhat hesitant about
4 continuing those informal conversations, if, in the end,
5 they weren't going to be counted.

6 HEARING OFFICER CELLI: And when is your next
7 workshop? Do you have one yet scheduled?

8 SITING PROJECT MANAGER MONASMITH: Susan and I
9 haven't the specific day. We were going to wait for
10 today. It was going to be probably the 3rd or 4th week in
11 April. We're still talking about it.

12 HEARING OFFICER CELLI: So obviously, Mr. Harris,
13 the Committee is interested in resolving issues quickly
14 and fully and completely. And we like informal, if that
15 works, but -- your response.

16 MR. HARRIS: Well, whether we call it formal or
17 informal, what it is is a data request that requires us to
18 respond. And I want to point out that if it's a formal
19 one, it will be number nine of four. Okay. All right.
20 So, you know, we've gone over twice now what the Committee
21 originally ordered.

22 And, you know, I hear staff saying it would be
23 great to workshop these issues. Well, there's not going
24 to be a workshop though to the PSA, right. So I think
25 we're at a point again where we're back to what is the

1 process and what's the schedule. And the applicant's
2 concern is that the lagging items are driving the entire
3 schedule. And this then gets turned around from an
4 applicant's perspective to be, "Well, gee, we can't
5 complete our report, because you guys haven't given us
6 everything".

7 And so one of the ways staff extends the schedule
8 is by asking for more. So we are concerned about these
9 issues.

10 I don't think these are the kind of issues that
11 would prevent the issuance of the PSA. And I think
12 they're perfectly the kinds of issues that get worked out
13 between PSA and FSA when there is a public dialogue. And
14 so we're going to be very concerned. We will work with
15 staff to look at what their requests are. If they are
16 reasonable and things that we can put together in, you
17 know, days or, you know, five, 10 days worth of work,
18 we'll do that.

19 But if they are, for example, give us the
20 complete history of the Mormon Trail, which is one of the
21 outstanding items we'll get to, starting in Utah ending in
22 San Bernardino type requests, then the informal response
23 is going to be no.

24 So let's see what the nature and the scope of the
25 requests are and we'll try to resolve those informally.

1 HEARING OFFICER CELLI: I would just say that for
2 all parties, applicant included and the Committee, a more
3 complete PSA -- the more information they have, the more
4 data that is the basis for their conclusions, the better
5 off we all are. And so let's work to that common end, and
6 see if we can't make that happen, because that's critical
7 to this process.

8 And so with that, I'm just going to -- we're
9 talking about bio. Staff, so the sense I got is that
10 there are some loose ends that, staff, you need to tie up.

11 Let's hear from Jon Zellhoefer regarding bio
12 anything?

13 Jon, are you there?

14 Jon Zellhoefer?

15 MR. ZELLHOEFER: Yeah, I'm here. Unmute myself.

16 No, I don't have anything on the bio, at this
17 point.

18 Thank you.

19 HEARING OFFICER CELLI: Thank you.

20 Ileene Anderson, let's talk about anything on the
21 matters raised with regard to biology.

22 MS. ANDERSON: Yes, I do have actually a couple
23 of questions. First, so Hearing Officer Celli, I heard
24 you mention that there was a response to our data
25 requests, and --

1 HEARING OFFICER CELLI: Yes. I saw that was
2 docketed, I think, yesterday. Do I have it? Yesterday or
3 the day before a response was docketed.

4 MS. STRACHAN: Friday, March 30th.

5 HEARING OFFICER CELLI: Friday. Okay. Did you
6 not receive that Ms. Anderson?

7 MS. ANDERSON: No. And I went on the website,
8 because I was thinking, "Oh, my gosh. Did I miss
9 something?" And I don't see it docketed there. Maybe I
10 just -- I don't know what to say about that, but --

11 HEARING OFFICER CELLI: You know, as far as the
12 website is concerned, sometimes there's a bit of a lag
13 between when things are docketed and when they show up on
14 the website, and if they show up on the website. But
15 certainly if you're on the POS, on the proof of service,
16 then you certainly should have gotten direct email
17 electronic service. Let's hear from Applicant on that.

18 MS. STRACHAN: Yeah, I'm looking at my email that
19 I received for being on the proof of services list, it did
20 go out on the 30th. Lisa Belenky is the one that's on the
21 POS for Center for Biological Diversity, but it did go out
22 on Friday.

23 HEARING OFFICER CELLI: Did you hear that, Ms.
24 Anderson? So it went to Lisa Belenky.

25 MS. STRACHAN: Actually, I correct that. Ileene

1 Anderson is on it also. Both of them are on it.

2 HEARING OFFICER CELLI: And what is the address
3 for Ileene Anderson?

4 MS. ANDERSON: 8033 Sunset Boulevard, Los
5 Angeles.

6 HEARING OFFICER CELLI: Oh, so you mailed it?

7 MS. STRACHAN: Oh, that's the electronic -- oh,
8 sorry, ianderson@biologicaldiversity.org.

9 HEARING OFFICER CELLI: Is that right,
10 ianderson@biologicaldiversity.org.

11 MS. ANDERSON: That is correct, but I sure don't
12 see it. And it didn't get trapped in my junk mail either.

13 HEARING OFFICER CELLI: You may want to check
14 with Lisa Belenky.

15 MS. ANDERSON: I got something --

16 MR. HARRIS: It came -- our date stamp is 2:29 on
17 Friday the 30th. And Anderson's name is on that list, but
18 we'll resend it right now.

19 HEARING OFFICER CELLI: Okay. They're going to
20 resend it to you, Ms. Anderson.

21 MS. ANDERSON: Greatly appreciate that. Thank
22 you.

23 HEARING OFFICER CELLI: Anything further
24 regarding biology?

25 MS. ANDERSON: Actually, yes. So I think Mr.

1 Ratliff mentioned a meeting today that's going to occur
2 between CEC staff and the applicant at one o'clock to try
3 to resolved some issues. And this has been one of our
4 frustrations is that I didn't know about any meeting.

5 HEARING OFFICER CELLI: Let's hear from staff on
6 that, please.

7 STAFF COUNSEL RATLIFF: I wasn't -- I was
8 distracted momentarily. I didn't hear the --

9 HEARING OFFICER CELLI: So Ms. Anderson
10 mentioned, as you mentioned earlier, there's a meeting
11 between you and the applicant Today at one o'clock, and --

12 STAFF COUNSEL RATLIFF: Well, actually there
13 isn't. I've been corrected. That's been cancelled, but
14 this is the ongoing effort, which has been discussed. And
15 I think was Ms. Ileene -- Ms. Anderson has heard it. It's
16 a staff meeting with the applicant to try to negotiate
17 answers to the cultural data requests for which we were
18 trying to avoid filing a motion to compel. This has been
19 discussed in a prior status conference, which I think she
20 attended.

21 HEARING OFFICER CELLI: Okay. Ms. Anderson, did
22 you hear that?

23 MS. ANDERSON: Yes. It wasn't clear to me that
24 it was only on cultural issues.

25 STAFF COUNSEL RATLIFF: It is.

1 MS. ANDERSON: And so I was concerned that, you
2 know, there was going to be additional issues discussed
3 relating to biology that we wanted to be part of as well.

4 HEARING OFFICER CELLI: That's great. That's
5 what status conferences are for. So you're voicing your
6 consideration, and it's being heard, and I appreciate
7 that. So we know that, now that it's cultural.

8 And it's -- really, it's procedural having to do
9 with their discovery back and forth. But anyway, anything
10 further with regard to biology?

11 MS. ANDERSON: No. But just to confirm, are we
12 going to be talking about water as well later?

13 HEARING OFFICER CELLI: Certainly.

14 MS. ANDERSON: Okay. Great. Thank you. I think
15 that's it.

16 HEARING OFFICER CELLI: And finally, Jack
17 Prichett for Old Spanish Trails Association. Anything
18 with regard to biology?

19 MR. PRICHETT: No, nothing with regard to
20 biology.

21 HEARING OFFICER CELLI: Great. Thank you. Then
22 we are now on to cultural. Let's -- where are we at with
23 cultural, Applicant?

24 MR. HARRIS: Yeah. Ms. Pottenger will handle
25 this issue.

1 HEARING OFFICER CELLI: Cultural sounds like it's
2 a bit of a hot one. So let's hear what's going on there.

3 MS. POTTENGER: I think that's a fairly accurate
4 assessment of the cultural resources subject to date.
5 This in Samantha Pottenger on behalf of Applicant.

6 If it is permissible with the Committee I am
7 going to address our statements that applicant provided in
8 Attachment A to Applicant's comments on staff's Status
9 Report 3.

10 I think it's important to note that Applicant's
11 position has been that the information submitted to date,
12 including the AFC, the Supplement B to the AFC and with
13 all the data requests provided to date, that staff has
14 sufficient information to evaluate the cultural resources
15 on the project site, and to make a determination regarding
16 the significance of the cultural resources on site.

17 Now, when we reviewed staff's Status Report 3, it
18 appeared that there were two reasons why the cultural
19 resources staff has stated that the cultural resources
20 section at the PSA would not be able to be completed in
21 time for an April 13th publication date. One, was that --

22 HEARING OFFICER CELLI: Right. I don't mean to
23 interrupt, but I'm just saying we did read this, so we
24 understand that on the one hand they're saying give us
25 information. On the other hand, they're going that's too

1 much information. So we understand that.

2 MS. POTTENGER: Exactly. And, you know, you can
3 see our concern. And Applicant did provide objections to
4 several of the data requests provided by staff. And we
5 heard your admonition that more data is good. However,
6 Applicant would also say that while more data is good, we
7 also need to keep in mind that such data needs to be
8 relevant or reasonably necessary to the Committee's
9 decision.

10 And in Applicant's opinion, some of the data
11 requests by staff crossed that line, and weren't
12 reasonably necessary for the Committee's decision in this
13 proceeding.

14 But again, as Mike Monasmith -- excuse me, Mr.
15 Monasmith mentioned, Applicant did commit to working with
16 staff to provide responses to some of the data requests to
17 which applicant objected.

18 Now, of the data requests that staff identified
19 as outstanding in its Status Report 3, I would note that
20 four of those 98, 104, 125, and 137 has already been
21 responded to completely by applicant, and we have received
22 no objection from staff on those data requests.

23 I would also note that the time for filing a
24 petition to compel on those data requests have passed.
25 Maybe not for 137, but for sure for 98, 104 and 125.

1 As to data requests 105 and 106, Applicant was
2 concerned with data requests 105, because it requested an
3 extensive study of the step fault zone that stretches from
4 Mound Spring to Stump Spring. It requested a complete
5 investigation of the paleo hydrology, aboriginal water
6 management, paleo, ecology, and ethnobotany of that area.

7 We consulted with our experts as to what kind of
8 undertaking would be necessitated by this data request.
9 And our experts said that this kind of study would take
10 two to three years at a cost of anywhere from 500 to two
11 million dollars.

12 Staff heard our concerns and reassured us that
13 that wasn't exactly the type of information that they were
14 looking for, and that they were concerned with the
15 mesquite thickets in Stump Springs. And so we agreed to
16 work with staff to provide information.

17 I would also note that Applicant has provided
18 information on potential impacts to Stump Springs. ACEC,
19 actually prepared by Dr. Spaulding in response to some
20 biological data requests. And we have stated that there
21 is no indication that there will be impacts to the
22 mesquite thickets as a result of the project.

23 To date, applicant has continued to attempt to
24 work with CEC staff to provide a response to 105 and 106,
25 but has not yet received clarification from staff as to

1 what was needed.

2 Our experts have repeatedly tried to reach out to
3 CEC staff to receive guidance as to what exactly staff is
4 looking for, in terms of data requests 105 and 106. And
5 to date, such guidance has not been provided.

6 We understand that staff has reached out again to
7 our experts and has committed to sitting down and
8 discussing what further informational needs are required
9 for those data requests. And we're encouraged by that.
10 But at the same time we would note, we have been looking
11 for such guidance from staff since December and January,
12 and to date we have received none.

13 So I would state that to the extent that such
14 information is lacking, it's not as a result of
15 applicant's unwillingness to work with staff, because I
16 think to date the efforts by our experts has indicated
17 that we are more than willing to work with staff.

18 As to data requests 127 and 128, those are
19 directly relevant to the cultural resources on the project
20 site. Applicant initially -- partially objected to data
21 request 127 as it believed that further cultural
22 investigation, specifically the Phase 3 study, I
23 believe -- Phase 3 -- Phase 2 study of those resources
24 were not necessary.

25 However, after discussions with the experts on

1 the CEC side, applicant agreed to provide the Phase 2
2 investigations of all 11 cultural resources on site.
3 Applicant provided the workplan required in data request
4 127 to CEC staff on February 6th.

5 To date, applicant has not received sign-off on
6 that workplan, despite having been told by CEC staff that
7 such plans could be turned around in 48 hours. I think
8 that leads, in part, to applicant's second concern
9 regarding the cultural resources data requests is that
10 staff apparently does not have the resources to fully
11 analyze the Hidden Hills project, at this time.

12 Staff has indicated that increasing workloads
13 between January and February has resulted in part in
14 staff's inability to process the information that
15 applicant has submitted to date.

16 So I will just reiterate again the statements
17 that we made in Attachment A. Applicant believes that
18 it's fully responded to all the data requests submitted by
19 CEC staff to date. As to 105 and 106, staff -- excuse me,
20 applicant is waiting for further direction from staff on
21 those data requests.

22 As to 127 and 128, Applicant is again waiting for
23 direction from staff. Applicant would actually request
24 that Applicant be given permission to carry out the
25 workplan, actually submitted in data request 127 right

1 now, so we can bring -- begin processing of those data
2 requests that are called for in data request 128, so that
3 there's no further delay in this proceeding.

4 I believe that's it for now.

5 HEARING OFFICER CELLI: Okay. I just -- I want
6 to reiterate that everybody is in a hurry now. We're
7 going to get moving on this case. We need to get moving.
8 We need a lot of cooperation between the parties. I
9 disagree with one thing that you pointed out, Ms.
10 Pottenger. And that is that although discovery is closed,
11 a petition to compel isn't. They can bring a petition to
12 compel now, if they need to. And they can bring it, I
13 think, any time. And, you know, if I'm wrong about that,
14 I'm sure you'll correct.

15 But a motion is a motion that can be brought any
16 time. Discovery is different. So we may, depending on
17 December -- I'm sorry, April 5th, April 2nd, I don't know.
18 But, I mean, it's clear that's when discovery is over.
19 But a motion to compel can still be brought. And I would
20 encourage staff, because listen if it sounds to me -- and
21 we'll hear from you next. If there are impasses, if there
22 are certain things you have to have and they're not given,
23 or whatever, then let's deal with it and sort it out now
24 and get on with things is my thought.

25 MR. HARRIS: I'll guess respond on the motion

1 thing. Motions are governed by the regulations, and they
2 must be brought within 30 days. So there is a --

3 HEARING OFFICER CELLI: From the date of the --
4 that's there. And there was a waiver of only the last
5 time of the 10 days, that's correct.

6 MR. HARRIS: But again, as a practical matter, we
7 don't expect to have to get to that point with staff. And
8 if do, we might make the objection that it's not timely,
9 but we'll also respond substantively.

10 HEARING OFFICER CELLI: Right. But what's good
11 about that whole process is it does require focus, and it
12 will focus the parties on -- and you'll know where the
13 areas are of dispute. But really, we need to get through
14 this. We need to start moving on it, and you need to
15 start writing the PSA. So they need whatever information
16 they need. Parties need to work this out.

17 Let's hear from staff.

18 MR. HARRIS: Can I just add one thing. I
19 guess --

20 HEARING OFFICER CELLI: We're still talking about
21 cultural.

22 MR. HARRIS: Still talking about cultural. And I
23 guess this is important for the Commissioners to
24 understand, that the outstanding cultural information
25 that's requested by staff is the type of information that

1 by statute has to be filed under confidential designation.
2 It will never be part of the PSA. It will never be part
3 of the hearing record.

4 Now, staff will tell you they need it to analyze
5 the potential impacts, but I guess I want to make sure
6 that we're all clear that we're not holding up public
7 review of something. This is more of the staff's internal
8 review. And, by statute, it will never be part of the
9 hearing record.

10 HEARING OFFICER CELLI: Staff your response
11 regarding cultural.

12 STAFF COUNSEL RATLIFF: Well, there's good news
13 and there's bad news. And I'll start with the good news
14 and then I'll go to the bad news. The good news, and if
15 there are any caveats to this I'm sure Mr. McGuirt will
16 correct it, is that the Applicant has, in fact, provided a
17 research plan for analyzing the onsite resources that have
18 archaeological importance. And we have that. It appears
19 to be an adequate plan. We'll give them feedback on that
20 in the very near future.

21 The bad news, and we touched on this already, is
22 that we're never able to reach closure with the Applicant
23 on what's called the Planning Area for -- or the Project
24 Area of analysis, which staff believes should be a
25 somewhat wider area beyond the site, and which the

1 Applicant believes should be confined to the site.

2 Now, to put it in a CEQA context, if I'm a
3 developer who wants to build a Burger King or WalMart
4 across the street from the Governor's Mansion, I have to
5 discuss the significance of that impact to the historical
6 context of the resource that has been identified as being
7 historically or culturally significant. That's -- despite
8 the fact that the Governor's Mansion is not the site of
9 the project.

10 Here, some 200 meters, or thereabouts, from the
11 project site we have areas of human habitation that have
12 not been investigated. Now, I'm sure the applicant would
13 be quick to say, hey, that's not the Governor's Mansion.
14 That's not Machu Picchu. But that begs the point, we
15 don't know what it is. The sites have to be characterized
16 for a thorough CEQA analysis. And that's what we're
17 arguing about when we talk about data requests 105, and, I
18 believe, 106.

19 So we've had discussions with the Applicant about
20 how to get that done. And I think we've both been
21 somewhat remiss on getting this issue settled. I don't
22 want to say it's all the Applicant's fault, but it has to
23 be done, and we're going to make another stab, not today,
24 but soon, at trying to get closure on that issue.

25 We aren't even going to try to close the issue on

1 what the area of analysis should be. We want to get
2 closure on the issue of these particular sites, which are
3 so proximate to the power project project site. And we
4 hope that we will be able to do that without the filing of
5 a motion to compel.

6 Now, when we originally talked about the motion
7 to compel, we talked about waiving time until we could
8 have a chance to resolve this. It's not resolved. I
9 think it can be resolved. Certainly, we believe that the
10 work could have been done in the time we've been talking
11 about it, and we could probably have the analysis and be
12 going forward.

13 But because of certain problems on both of our
14 parts, and staff hasn't been perfect here. The person who
15 was assigned to the project left and Mr. McGuirt was
16 called off to fight fires at Genesis on the cultural
17 resource issues there, that, by the way, grew up because
18 of, I think, you know, the rush-rush with that project in
19 getting it sited without actually analyzing the cultural
20 resources on the site.

21 So Mr. McGuirt now has taken over in a
22 significant part of the responsibility of this analysis.
23 And we want to be cautiously optimistic that we will be
24 able to resolve it soon.

25 HEARING OFFICER CELLI: Well, you've got -- you

1 know, the time is slipping by, and we need to make sure
2 that you're either bringing a motion or we're -- or you're
3 in communication and you're settling it. And all I can do
4 is encourage the parties to get together and make it work.
5 Find a way to get it resolved, because we want to keep
6 that -- keep the dates that we're talking about that.

7 Did you have a comment, sir?

8 MR. MCGUIRT: Yes, sir. I'm Michael McGuirt.
9 I'm a Cultural Resource Specialist here at the Energy
10 Commission.

11 The motion to compel centered on the questions of
12 data requests 127 and 128, which were about putting
13 together, and then in turn executing a plan to do field
14 work to support the evaluations of the historical
15 significance of the archaeological sites that are on the
16 project site.

17 That plan -- there was some discussion about how
18 many -- we had originally asked for eight of the 14 sites
19 that were on site to be investigated in the field for this
20 study. I believe originally the applicant came back and
21 said well they thought two would be good. And we said,
22 no, we thought eight would be good. And that was the
23 motion to compel issue that we were working with.

24 Since then, they have, in fact, submitted this
25 plan to investigate all eight sites. That plan has been

1 reviewed by us. It's currently under review by the BLM.
2 I came to find out that the BLM didn't receive a copy of
3 it. They wanted to see it, because obviously they're
4 involved in this as well.

5 So we hope to -- the plan itself on first review
6 looks to be that it's workable. I don't see that as being
7 any kind of an impasse. We do want to solicit and
8 incorporate the input from the BLM to keep our
9 relationship with them in tact. And as it stands now, I
10 would hope later this week or early next week to be able
11 to have the BLM's comments back and to begin to work
12 towards the authorization from the BLM for them to begin
13 implementing this plan.

14 HEARING OFFICER CELLI: Thank you. Well, that's
15 good. I'm heartened to hear that it sounds like that
16 there's good faith on behalf of the Applicant to try to
17 resolve these issues. If all the parties respond in kind,
18 I think we can make some progress on this. So that's what
19 the committee would encourage.

20 Mr. Zellhoefer, any comments on cultural?

21 MR. ZELHOFER: Just a general comment in
22 listening to the discussion on the discovery period, the
23 180 days, whether it's April 2nd or April 5th, and also
24 the discussion of the submitted plan on these cultural
25 sites on the project.

1 To me, as an outsider, these seem to be pretty
2 troubling, because whether it's April 2nd or April 5th,
3 that should be a fact determinable quite easily. And when
4 a request is put in for a particular plan -- and at least
5 I'm going by the comments I heard that it might take 48
6 hours to approve that, and the applicant is still waiting,
7 it's somewhat troubling to me, because I just see kind of
8 a veil over this process where simple things aren't being
9 done in a timely manner between the parties. That's my
10 only comment. I'm a bit confused why there are such
11 difficulties.

12 HEARING OFFICER CELLI: And I appreciate your
13 concern. You know, our process is a little bit unique,
14 Mr. Zellhoefer. It's not like a court of law where things
15 are hard and fast. You know, what happens usually in
16 these situations is you have staff and applicant barking
17 at each other, but at the end of the day, they're going to
18 be eating out of the same bowl.

19 (Laughter.)

20 HEARING OFFICER CELLI: And I think that we're
21 watching that process take place. So I understand what
22 you're saying though. And I thank you for your comments.

23 Let's hear from CBD, this is about cultural.

24 MS. ANDERSON: Hearing Officer Celli, I don't
25 have any comments at this time. Thanks.

1 HEARING OFFICER CELLI: Thank you. Anything from
2 you, Mr. Prichett, on cultural resources?

3 MR. PRICHETT: Yes. This is our bailiwick. I'm
4 speaking on behalf of the Old Spanish Trail Association.

5 I am troubled. I have raised at one official
6 hearing and at the last status conference, the issue that
7 I have never been contacted by CH2MHill or anyone from the
8 Applicant regarding the Old Spanish Trail.

9 They attempted to send us a letter they said in
10 their cultural resources -- in the appendix to their
11 cultural resources report. They sent it to Las Vegas,
12 Nevada. The address, which -- the official address they
13 should have sent it to was Las Vegas, New Mexico.
14 Obviously, we didn't get that letter.

15 It's not hard to reach us. I've raised the point
16 twice, and no one has attempted to reach me.

17 So now --

18 HEARING OFFICER CELLI: Mr. Prichett, let me just
19 interrupt.

20 MR. PRICHETT: Yes.

21 HEARING OFFICER CELLI: I have that you're in
22 Venice, California.

23 MR. PRICHETT: That's right.

24 HEARING OFFICER CELLI: Old Spanish Trail
25 Association, care of Jack Prichett, 857 Nowita Place,

1 Venice, California, 90291.

2 MR. PRICHETT: That's correct. Yeah. And I get
3 proof of services things. But the idea was, on the last
4 conference, I am trying to remember who it was. I think
5 it was Tom Priestley that said we need to have a meeting
6 on cultural resources, so as we can define what is the Old
7 Spanish Trail, what rules govern the Old Spanish Trail as
8 a historical cultural resource. Tom Priestley said that.

9 I never heard back from him. I did send him an
10 email. So I have never heard -- I get your proof of
11 service, but I want to address this issue. The reason is
12 the Old Spanish Trail is a historical cultural resource.
13 And I want to ask Mr. McGuirt, are you considering, and is
14 the Applicant considering, the Old Spanish Trail, and
15 associated historical sites, under the rubric of cultural
16 resources, yes or no?

17 HEARING OFFICER CELLI: Go ahead, Mr. McGuirt, if
18 you can.

19 MR. MCGUIRT: Sorry. I didn't hear that
20 question.

21 HEARING OFFICER CELLI: His question is, are you
22 considering the Old Spanish Trail as cultural resources in
23 this analysis?

24 MR. MCGUIRT: Most definitely. There's no
25 question about that. In fact, we've met with the Old

1 Spanish Trail Association people on the ground several
2 times. We've walked parts of the trail. We are taking
3 their comment completely into account. We also understand
4 the National Parks Service has recently contacted the
5 Energy Commission and wants to be involved in discussions
6 about the Old Spanish Trail as well.

7 So we are taking their opinions very much into
8 account. We're also -- have the Applicant's framework on
9 it, their perspective on it. We received their report, I
10 believe, a couple of days ago -- yeah, Friday. We
11 received their report, a more comprehensive report on the
12 Old Spanish Trail from the Applicant. That's currently
13 under review. And we understand Mr. Prichett's report is
14 going to come in here in the next week or so.

15 MR. PRICHETT: Yes.

16 MR. MCGUIRT: So all of this will be taken into
17 account. And I'm sure there will be one or a couple more
18 follow-up on-the-ground visits to look at trail segments
19 to completely address this issue.

20 HEARING OFFICER CELLI: Did you get all that, Mr.
21 Prichett?

22 MR. PRICHETT: Okay. I did. And I'm now
23 looking -- there's been discussion today of data requests
24 127 and 128. I'm looking at 127 here, and it talks about
25 the historical significance of archaeological sites, CA --

1 this is jargon CA for California, INY for Inyo County,
2 2492, S-2, S-4, S-6, S-10, S-11, S-23 and SAF-1. I'm not
3 familiar -- I presume that California Inyo 2492 is a
4 prehistoric site.

5 What are these other sites that are mentioned?
6 Can you characterize them? Are they prehistoric sites or
7 are -- i.e, Native American sites, or are these historic
8 sites?

9 MR. MCGUIRT: I'm checking my records while we're
10 sitting here.

11 HEARING OFFICER CELLI: And while he's checking
12 his records, I just want to inquire, Mr. Prichett, because
13 it seems to me these are the kinds of questions you could
14 just, in a phone call, ask us off line and get your
15 answers from staff. Was there some -- we're mostly
16 concerned about your views of where you think we're at
17 with regard to cultural resources in a broader view, more
18 general.

19 MR. PRICHETT: Well, I'm reassured to hear that
20 the Applicant has done a supplementary report, because
21 what they did before didn't even qualify as a beginning.

22 As I said, mine will be on the way, but I want to
23 be sure I work closely with your staff, so that we don't
24 get left to the side. It seems like most of the data
25 requests and most of the sites mentioned have to do with

1 prehistoric cultural resources.

2 The Old Spanish Trail is covered under the
3 National Trails System Act and I cited chapter and verse
4 and put the entire act in as an appendix in my report to
5 document precisely what aspects of the trail are covered
6 as a historic cultural resource. So I'm concerned that we
7 not just be pushed to the side and that pre-historic
8 sources are the real focus.

9 HEARING OFFICER CELLI: Did McGuirt you have a --

10 MR. MCGUIRT: Yes, sir. Of the 14 sites --
11 archaeological sites -- and that was what the focus of 127
12 and 128 is. Of the 14 archaeological sites there are on
13 the project site, 11 are categorized as prehistoric lithic
14 scatters, one of them is categorized as a fire affected
15 rock and lithic scatter. Then there's a rock cairn, the
16 association with which is anybody's guess. And then a
17 historic refuse scatter of some sort, probably a tin can
18 scatter would be my guess.

19 The reason that those are the only resources that
20 are mentioned in 127 and 128, is that the trail is, by no
21 means, being swept off to the margins or to the sides.
22 It's squarely in the middle of our analysis, and it's
23 being treated separately with its own context and its own
24 consideration. And these are just focused in -- these
25 particular two data requests are just focused in on

1 basically your plain old archaeological sites that are in
2 the project site.

3 So please don't take the focus of 127 and 128 to
4 mean that somehow we've marginalized the trail. We have
5 not.

6 MR. PRICHETT: All right. Well, that -- I've
7 stated my concerns. And, for the record then, I think
8 I'll probably leave the call, because that's essentially
9 what I was going to express in my -- when you
10 asked -- when my turn came to speak these concerns. And
11 secondly, that our report will be submitted within 10
12 days. It will be about 50 pages.

13 HEARING OFFICER CELLI: Thank you. And I just
14 want to say that it is important. There are a lot of
15 members of the public and intervenors who feel that
16 they're not being paid enough attention to by applicant or
17 staff. And I just want to say that it's really incumbent
18 upon you to stay in contact with them. You know, it's
19 been said that rights belong to the belligerent claimant.

20 You need to be active in your participation. So
21 I do appreciate. I'm really glad you're involved in this,
22 and I appreciate your comments. So thank you.

23 MS. STRACHAN: Excuse me, Hearing Officer Celli,
24 just before Mr. Prichett oat --

25 MR. PRICHETT: All right.

1 HEARING OFFICER CELLI: Before you go, stay here,
2 Mr. Prichett. Go ahead, Ms. Strachan.

3 MS. STRACHAN: Thank you. This is Susan
4 Strachan. I just wanted to respond to a comment Mr.
5 Prichett made about CH2MHill or Tom Priestley not
6 responding to him. Tom Priestley is our visual person.
7 Whereas, Old Spanish Trail we're looking at from a
8 cultural resources standpoint.

9 Gary Kazio, who's the Assistant Project Manager
10 for BrightSource Energy for this project, contacted Mr.
11 Prichett about having a meeting with him to specifically
12 talk about the Old Spanish Trail.

13 The thought was that it would be better for our
14 folks to get their report in to the staff, and Mr.
15 Prichett to submit his report. Give everybody an
16 opportunity to review both reports, and then have the
17 meeting.

18 There was a response back from Mr. Prichett about
19 meeting in mid-April, which we thought was a good idea.
20 So I did want to just clarify that there was communication
21 about having a meeting. It just came from Mr. Kazio as
22 opposed to Mr. Priestley.

23 HEARING OFFICER CELLI: Thank you. Did you get
24 that Mr. Prichett.

25 MR. PRICHETT: I did. My memory is a little

1 different, but anyway. Yeah. So you'll have both of our
2 reports very shortly, and then will come the issue of
3 revolving them.

4 HEARING OFFICER CELLI: Thank you very much.
5 Thanks for your participation. Have a good day.

6 MR. PRICHETT: Okay. Yeah. Thank you.

7 HEARING OFFICER CELLI: I just want to note,
8 before we get to County of Inyo on the question of
9 cultural, that we're moving a little slower than I would
10 like, so let's kind of bottom-line it, if we can. This is
11 on cultural.

12 Nothing from the County?

13 MS. CROM: Nothing.

14 (Laughter.)

15 HEARING OFFICER CELLI: Thank you. Let's move on
16 to --

17 MS. CROM: How was that? Quick

18 HEARING OFFICER CELLI: That's bottom line.

19 I'm sorry, Ileene Anderson. Go ahead.

20 MS. ALLEN: This is a question.

21 MS. ANDERSON: I had no comment.

22 HEARING OFFICER CELLI: Oh, I'm sorry. I said
23 Ileene Anderson and I meant Eileen Allen.

24 (Laughter.)

25 HEARING OFFICER CELLI: I'm sorry. It's getting

1 late.

2 MS. ANDERSON: Oh, right.

3 MS. ALLEN: This is Eileen Allen. I have a
4 question for Mr. Ratliff. Regarding the one o'clock
5 discussion with the Applicant that you mentioned on
6 cultural resources, I was wondering whether part of the
7 discussion was going to include the scope of data request
8 105? The Applicant has stated their estimates on how long
9 it would take to get it done, and the cost. And I
10 wondered whether staff would be talking with them about
11 that, and providing a different perspective?

12 STAFF COUNSEL RATLIFF: Well, the simple answer
13 is we've already discussed that and clarified the nature
14 of the work that we think is necessary. I was not at
15 those discussions, because we kept the lawyers out of that
16 meeting. I don't know if that was a good idea or a bad
17 idea, but.

18 MR. HARRIS: Good idea.

19 STAFF COUNSEL RATLIFF: Well, good idea, but it's
20 still not resolved.

21 (Laughter.)

22 STAFF COUNSEL RATLIFF: So let me let Mr. McGuirt
23 elaborate.

24 MR. MCGUIRT: The original data request was to --
25 let's see. I know you said you wanted this to be

1 nutshell.

2 As Dick mentioned -- as Mr. Ratliff mentioned
3 earlier, right off the project site there is a mesquite
4 bosque that was pretty unquestionably important through a
5 lot of pre-history, and is ethnographically may still
6 be -- there's evidence that says it's still in use by the
7 Native Americans in the area.

8 So there's a possibility that there's a resource
9 there on which this project would have a visual effect, a
10 very direct visual effect, because it's so close to this
11 mesquite bosque area.

12 So it could be significant in terms of its
13 archaeology, the data potential. It could significant --
14 the archaeology could be significant in terms of its
15 association with the patterns and pre-history, and the
16 ethnographic recent times.

17 And it may also be an ethnographic resource that
18 has value for living people's today. So with all these
19 things in mind, the original point of 105 was to ask for a
20 paleoenvironmental study to reconstruct what the past
21 environment had been like at this place to set the context
22 for an evaluation of whether or not this was historically
23 significant in these three different areas that I just
24 described to you.

25 The applicant wasn't sure of the scope that this

1 study should have. And the answer to the question is, is
2 one scope's study like this relative to one's developing
3 impressions about whether or not it's historically
4 significant.

5 If one can make the argument that such a resource
6 would not be historically significant, because there's
7 many of them in the region or for whatever reasons one
8 could come up with, the scope that would be necessary for
9 such a study would be relatively small. It could maybe be
10 done on the exist -- on the basis of existing literature.

11 If something is looking like it's more
12 significant and resources are going to have to be spent
13 both in time and money to preserve, to conserve the
14 resource, then it would be necessary to have a more
15 in-depth study, so that one could justify what one has and
16 what one is doing in relation to it.

17 So we had a couple of meetings where staff tried
18 to clarify for the applicant that look you all need to
19 scope this study, and relative to your consideration of
20 how significant or not you think this area is.

21 And so these discussions are still ongoing. They
22 haven't been resolved and we're hoping in this meeting
23 that was alluded to earlier to take one more crack at
24 trying to get this resolved between the applicant and
25 staff. And that's the status of that.

1 MS. ALLEN: Are tribes that are interested in the
2 area part of the overall discussion?

3 MR. MCGUIRT: Yes, ma'am. We've done a very
4 robust Native American consultation cycle in this case.
5 In fact, we undertook in-house to do the ethnography of
6 the local Native American communities. And that report
7 is -- we have a draft of that prepared and we're reviewing
8 that in-house. So we have a lot of Native American input.
9 We've met with them an awful lot of times, and have
10 established some relationships there. And so we have
11 good, current, relevant, recent information on the Native
12 American perspective on this area as well.

13 MS. ALLEN: Well, I was specifically wondering
14 whether they were concerned with the topic of data request
15 105?

16 MR. MCGUIRT: Data request 105 -- and I don't
17 want to speak for other people, but data request 105, my
18 impression is, is it's very technical. And so per se, are
19 they interested in that data request? No. But are they
20 interested in the mesquite bosque? Most definitely.

21 MS. ALLEN: Thank you.

22 MS. STRACHAN: Ms. Allen, if I could just add.
23 We're looking forward to meeting with staff this afternoon
24 to get further clarification on 105. It's an item that
25 we've been waiting for for some time. In fact, I have an

1 email from Kathleen Forrest back from February 1st that
2 says that they're working on the guidance to clarify the
3 scope of 105, and will get it to us in the next couple of
4 days. So we're again looking forward to meeting with
5 staff this afternoon.

6 MS. ALLEN: Thank you. I wish you productive
7 discussions.

8 (Laughter.)

9 HEARING OFFICER CELLI: Is that all, Eileen?

10 MS. ALLEN: (Witness nods head.)

11 HEARING OFFICER CELLI: That's all. Thank you.
12 We're on to socioeconomics. And the point was made in the
13 Applicant's papers that it's unclear why this discrete
14 subject should hold up publication of this larger
15 socioeconomic section.

16 We're talking about -- who's doing this by the
17 way? Is this Ms. Pottenger or Mr. Harris's section?

18 MS. POTTENGER: You want to flip a coin for this
19 one?

20 (Laughter.)

21 MR. HARRIS: Ask the question, and let me
22 determine which one of us is ready?

23 HEARING OFFICER CELLI: Okay. What we're talking
24 about is -- the concern was where is the workforce coming
25 from. And then I think there's some ancillary fire things

1 that are typically resolved pretty quickly between the
2 Fire Department's and the applicant. And then I think
3 that was everything. I'm sure we'll hear if there was
4 more, but let's go ahead.

5 MS. POTTENGER: As to the construction workforce,
6 we're still not quite sure where the additional
7 information on where the construction workshop will be
8 coming from, where that data request came from. We're
9 still not sure, but what we do believe is that the
10 information that we set forth in the AFC represents the
11 best information that we have available to date.

12 To the extent, that something might change later
13 down the road, we'll update it as it comes. However, we
14 believe that the information set forth in the AFC is
15 sufficient for Applicant -- or, excuse me, for staff to
16 conduct its analysis at this time.

17 As to the discussions that Applicant has been
18 having with the Southern Inyo Fire Protection District,
19 Gary Kazio, who unfortunately can't be here today, has
20 been in continuous discussions with -- or previously in
21 discussions with Southern Inyo Fire Protection District
22 trying to obtain a needs letter from the District.

23 To date, he's been unsuccessful in receiving that
24 letter. However, Applicant has moved forward in
25 conducting a needs and risk assessment, and we've retained

1 Wes Alston to produce this document. And that will be
2 forthcoming.

3 HEARING OFFICER CELLI: About the workforce, is
4 there anything about the location of the workforce that
5 arises from your labor agreement?

6 MR. JENSEN: Clay Jensen, BrightSource. We made
7 mention, and Ms. Crom made mention of the comments
8 regarding the Project Labor Agreement. Those -- we have
9 selected Bechtel to be the PC for the project.

10 Historically, Bechtel uses Project Labor Agreements.
11 We've used a Project Labor Agreement for the Ivanpah
12 Project, who also Bechtel is constructing for us.

13 But there have not been Project Labor Agreement
14 negotiations ongoing. That effort it's premature still at
15 this point to have those efforts. Bechtel reviews the AFC
16 document. Their current position is that, as stated, the
17 numbers in the document are the best information we have
18 available to us at this time. The Project Labor Agreement
19 negotiations will be occurring over the next several
20 months.

21 We don't anticipate, at this time, having a
22 significant change from what we're looking at today. So,
23 you know, maybe we have a change in position on that, but
24 at this time, I think what we've got is still the best
25 information. We don't readily have available or we don't

1 foresee an immediate change, significant change in that
2 submittal.

3 HEARING OFFICER CELLI: Thank you.

4 Staff, on socioeconomics.

5 STAFF COUNSEL RATLIFF: Well, the Project Labor
6 Agreement was announced at the March -- I believe it was
7 March 12th Board of Supervisors meeting. That was the
8 first time that we knew there was such an agreement.

9 Originally, staff had realized that there wasn't
10 such an agreement. And I think our assumption was that
11 the labor force would come, for the most part, from
12 Nevada, because the labor force areas that are closest to
13 the project site are in Pahrump and Las Vegas.

14 If that was the case, we assume that the impact
15 on Inyo County would be lower. The Project Labor
16 Agreement indicates at least that the jobs will originally
17 be offered in labor halls in California. The significance
18 of that change is not altogether clear to me. I think we
19 don't really know how to analyze it at this point.

20 But the County has suggested in its own letters
21 and at the Board of Supervisors meeting, that a California
22 labor force may be much more likely to impose burdens on
23 the County, in terms of where that labor force would
24 settle, and what additional social services would need to
25 be provided, both in the form of law enforcement and other

1 forms, in an area of the County where there presently is
2 almost no County infrastructure.

3 HEARING OFFICER CELLI: This doesn't sound like a
4 big one to me though, usually.

5 STAFF COUNSEL RATLIFF: Well, it's big if you're
6 the County. It's quite big. And I'll let Ms. Crom
7 discuss that further, but, you know --

8 HEARING OFFICER CELLI: Just in terms of just
9 being able to reach agreement between the parties, this
10 is --

11 STAFF COUNSEL RATLIFF: Well, I don't know what
12 we're going to agree to. It's one worker or a thousand.
13 It's -- you know, people are going to live in trailers or
14 they aren't. I don't know how you -- I don't know -- and
15 perhaps this is a difficult kind of issue to get your arms
16 around in the first place, and I acknowledge that.

17 I think the original analysis of where the
18 workforce was coming from in the AFC, which the applicant
19 says they're sticking too, was done without the Project
20 Labor Agreement, and I think it was a blue sky number. I
21 think we all thought it was just a guesstimate.

22 We'd like to think that the issue is subject to
23 some further analysis that would be more useful, so we can
24 then try to get a better grasp on what the County is
25 facing in this regard, but it doesn't sound like we are.

1 I've, by the way -- you know, I didn't file data
2 requests on this, but I have asked the applicant twice for
3 new information, better information on this issue. I
4 mean, I personally made that request. I've encouraged
5 staff to ask for information if they need it without
6 necessarily going through the data request process,
7 because we're trying to hurry our analysis in many ways.
8 And the data response process is somewhat burdensome to
9 getting things done. And we don't have any better
10 information than what the AFC provides at this point.

11 I find that a little bit bothersome, frankly.
12 And I'd like to have at least the Applicant to give us
13 their thoughts on where -- what it means to have a Project
14 Labor Agreement, and what -- you know, have some further
15 thinking about what that means for the County. I think we
16 need to workshop the issue, frankly, and we haven't been
17 able to yet. That, I think, should happen, because I
18 think we might learn something about the issue.

19 MR. HARRIS: Can I respond at this point, because
20 I think it will help?

21 HEARING OFFICER CELLI: Yes. I just want to make
22 the point that you did say that this is sort of an ongoing
23 relationship. You're early on in your labor negotiations,
24 and it's an amorphous area, but go ahead.

25 MR. HARRIS: Correct. Actually, number one,

1 there is no Project Labor Agreement for this particular
2 project. There was no announcement at the Board of
3 Supervisors hearing. There was maybe mention of a
4 possible PLA, but there is not a PLA for the project. And
5 so, you know, in terms of information leads, we think the
6 staff needs to rely on the information in the AFC.
7 Nothing has changed.

8 You should also know, just as a matter of law,
9 BrightSource cannot enter into a PLA. To enter into a
10 PLA, you have to be primarily engaged in the business of
11 construction, which BrightSource is not. So the EPC
12 contractor, in this case Bechtel, can enter into a PLA.

13 And, Mr. Jensen, sort of characterized where he
14 think things are at this point. But there will never be a
15 PLA between BrightSource and anybody in this respect.

16 HEARING OFFICER CELLI: Good. Thanks for that
17 clarification. I'm going to -- before I get back to
18 County of Inyo, let me get to our intervenors first, just
19 to see if they have anything to say on socioeconomics
20 starting first with Mr. Zellhoefer. Any comment on
21 socioeconomics?

22 MR. ZELLHOEFER: Yes, I do. And unfortunately, I
23 can't follow along when people are speaking there in the
24 room as to who it is that's speaking. But the gentleman
25 who was speaking a little while ago and was bringing up

1 the concerns about the Project Labor Agreement and where
2 the labor would be coming from, to give the folks there an
3 understanding, this entire part of Inyo County has a total
4 population of 120. Inyo County itself, and Ms. Crom can
5 speak to the exact number, is a very small county
6 populationwise.

7 I cannot emphasize or concur enough with the
8 concerns that we need to identify early where their labor
9 force is coming from, and where they're going to stay.
10 Unlike Ivanpah, we do not have Primm, Nevada next door to
11 us with apartments -- I mean, with motel rooms and
12 restaurants.

13 This is why I became an intervenor early on,
14 because the area around Tecopa could be a gateway to this
15 project from southern California. And the property owners
16 there are all stabilized to our current economic
17 situation. The County has very few resources out there.
18 Until several months ago, I was on the Board of the
19 Southern Inyo Fire Protection District, and I understand
20 their difficulties.

21 And I can only encourage the applicant and their
22 prime contractor Bechtel to, as early as possible,
23 identify where the labor force is going to be coming from,
24 and what resources this is going to require from the
25 private and the public sector in this southern part of

1 Inyo County.

2 Right now, I am deeply troubled that we will not
3 be able to meet the needs of the construction workers on
4 this project.

5 HEARING OFFICER CELLI: Thank you. And
6 certainly, that's an issue that is addressed in the --
7 will be addressed in the PSA in the next couple months.

8 Let's hear from Ileene Anderson regarding
9 socioeconomics.

10 MS. ANDERSON: I have no comment on this issue at
11 this time.

12 HEARING OFFICER CELLI: Okay. Thank you. Now,
13 let's hear from the County Inyo.

14 MS. CROM: Dana Crom on behalf of the County.
15 Obviously, socioeconomics is a huge issue. It's solves --
16 in addition to just what is required by the analysis of
17 staff, it's also a LORS, and with respect to Title 21.
18 And Title 21 requires, under the Inyo County code, a
19 socioeconomic analysis of the project.

20 We have raised this issue since the very first
21 workshop in Tecopa. Unfortunately, I guess I misheard the
22 BrigtSource presentation that was made to the Board of
23 Supervisors on March 13th, because I believed I heard that
24 there was a Project Labor Agreement. And now I have been
25 corrected that there isn't.

1 However, the AFC does not analyze the workforce
2 under a circumstance or scenario, which there is a Project
3 Labor Agreement. And it appears that Bechtel, I believe,
4 is the contractor also on Ivanpah, and there is a Project
5 Labor Agreement. And what we understand from the
6 socioeconomic staff at the CEC, is that if there is a
7 Project Labor Agreement, the labor will need to come
8 through the Bakersfield Trades Office, the Inyo Mono and
9 Kern Trades Office. And if there is insufficient labor in
10 those three counties, then it would go to the State of
11 California and then to Nevada.

12 And I think that that's a significant change in
13 what is anticipated in the AFC, because the AFC
14 anticipates 95 percent of the workforce coming from the
15 State of Nevada and it doesn't appear that that
16 would -- that that would be possible under a Project Labor
17 Agreement.

18 Mr. Zellhoefer is correct. I mean, there is only
19 120 people that reside out in this area. There are 18,000
20 people in the County of Inyo. The infrastructure out in
21 the Tecopa, Shoshone, and Charleston View area is just
22 non-existent.

23 So, from the County's standpoint, and I think
24 that the various department heads that spoke at the
25 meeting on the 13th for the County, indicated that the

1 more people we have out in that area, the more costs will
2 be incurred by the County. Whether it be through the
3 Sheriff's's Department or through health and human
4 services or even through waste management, we're going to
5 have increased costs.

6 And so I guess I just can't emphasize enough that
7 if there is going to be a Project Labor Agreement, the
8 County and the County's consultants need to know sooner
9 rather than later, so that the County can adequately
10 provide the information to staff and to this Commission as
11 to what the economic impacts will be to the County.

12 And it may be that we end up with some sliding
13 scales, five percent, 10 percent, 20 percent, et cetera,
14 but we need to know that sooner rather than later. And I
15 know I'm sounding like a broken record, so I'll stop.

16 HEARING OFFICER CELLI: But I appreciate your
17 comments. And I'm -- and when I say that it doesn't seem
18 like a big deal. Unlike a lot of other areas, this seems
19 pretty quantifiable. And I like your idea of a sliding
20 scale. And I'm hoping that the parties will be working
21 shop -- workshopping this issue in the near future so that
22 we can --

23 MS. CROM: Well, we hope that too. And I will
24 say, I mean we have Gruen, Gruen Associates working for
25 the County. They are our socio economists. They have

1 been working with CH2MHill and also with Aspen. And so I
2 know that everybody is talking, but this is kind of the
3 elephant that's sitting in the room because the reality
4 is, is that if people are going to be coming from
5 California, we're really not that far from the Inland
6 Empire if we're talking four-day work days than we can
7 have people traveling with travel trailers, motor homes,
8 those types of things.

9 Mr. Scow, who represents the Wiley Trust owns a
10 significant number of lots around the project site,
11 proudly announced at the board meeting that he has all of
12 these two and a half acre sites for sale, and that people
13 can live there.

14 And so there's -- you know, obviously, there's a
15 push by the landowners there to have people reside on
16 their property. And I can't necessarily blame them, but
17 that is going to result in some impacts.

18 HEARING OFFICER CELLI: Very good.

19 And that bleeds right into the next, which is
20 Traffic and Transportation, because obviously that
21 workforce issue that affects traffic and transportation, I
22 think. That was the point made. Applicant.

23 MS. STRACHAN: We have no further update on
24 traffic and transportation. We've submitted documentation
25 as requested by staff, so we have no further comments on

1 that.

2 HEARING OFFICER CELLI: Staff on traffic.

3 DR. IRVIN: This is Gregg Irvin. I would like to
4 be able to address glint and glare a little bit.

5 HEARING OFFICER CELLI: Gregg, you're with who.

6 SITING PROJECT MANAGER MONASMITH: Dr. Irvin is a
7 staff consultant who is doing glint and glare analysis as
8 it relates to traffic and transportation and visual
9 resources. In fact, it's his data requests that are
10 follow up to Applicant's data responses that we're
11 received on this issue, but I think Dr. Irvine had some
12 questions despite those data responses, because data
13 response is not always a hundred percent. Sometimes, they
14 require a follow-up. And he may want to speak to that
15 issue. Dr, irvine if you'd like to.

16 HEARING OFFICER CELLI: Go ahead.

17 DR. IRVIN: Well, I'll keep this kind of brief,
18 but essentially, I do appreciate the analysis and the data
19 that applicant has already provided regarding this issue.

20 And the data has been in the form of computed
21 irradiance, and retinal irradiance. And we have no
22 objections or contentions whatsoever with your
23 calculations for maximal permissible energy, and the
24 probability of any kind of retinal damage. And I also
25 want to state that I really have no issues with heliostat

1 glare.

2 But when it comes to traffic and transportation,
3 in terms of the luminance and the brightness of the tower,
4 as well as visual resources and the impact of the visual
5 signature, we really have to have luminance information.
6 Irradiance is essentially all the energy at all wave
7 lengths that enter the eye. And luminance is just that
8 subset of radiation that is visible to the human eye. And
9 that subset is what is responsible for visual perception
10 and perceived brightness.

11 So we'd really like to be able to have you
12 convert your irradiance measurements, which we can't
13 because we don't know the spectrum or the wave length
14 range over which it's computed, into luminance values, so
15 that we can get a good handle on human perception with
16 respect to glare and brightness.

17 HEARING OFFICER CELLI: Thank you, Dr. Irvin.
18 Anything further on that?

19 DR. IRVIN: No.

20 HEARING OFFICER CELLI: Thank you. I'm just
21 going to -- so I take it that's his concern, his question.
22 Is there -- Applicant, are you on that, taking care of it?

23 MS. STRACHAN: This is -- we appreciate the
24 feedback. This is the first we've heard of it, so it's
25 something we'll have to discuss and maybe talk further

1 with Dr. Irvin.

2 HEARING OFFICER CELLI: Okay.

3 MS. STRACHAN: To make sure we fully understand.

4 HEARING OFFICER CELLI: Anything further from
5 staff on traffic?

6 SITING PROJECT MANAGER MONASMITH: No. Just as
7 it relates to potential increased traffic Tecopa Road
8 through Immigrant Pass which is one of the larger issues
9 that Inyo County had expressed concern about. The
10 Department of Public Works Inyo County, we -- again, we
11 heard the presentation that they made to the Board of
12 Supervisors on the 13th of March. We met with them in the
13 morning of the 14th with the Acting Director of Public
14 Works. And our staff continue to work with the County and
15 the Applicant.

16 This gets back to the whole question of where the
17 workforce is coming from and the Project Labor Agreement
18 and why it's important to get an understanding of what
19 kind of increased traffic could be expected from workers
20 on Tecopa Road, as folks who are potentially coming from
21 Tecopa headed eastward to the project site.

22 We do now know that there will not be truck
23 traffic necessarily coming that way. Initially, the AFC
24 would have indicated that that was coming from the Ports
25 of Los Angeles and Long Beach, but the presentation on the

1 13th, Joe Desmond indicated that, in fact, that material
2 would be coming from Arizona, so -- precluding truck
3 traffic coming through and over Immigrant Pass, which the
4 Committee probably remembers as we went from the project
5 site to Tecopa for the informational hearing, it was that
6 kind of really cut back as you go over the mountains or
7 the -- I forgot the name of the road right -- or the
8 mountain. But anyway, it's a very narrow hairpin cutback
9 over Immigrant Pass. So that was the traffic and trans
10 concern.

11 HEARING OFFICER CELLI: Thank you.

12 I'm going to ask Mr. Zellhoefer if he has
13 anything on traffic or visual?

14 MR. ZELLHOEFER: Yes. And I might be able to
15 answer -- put some light on this for both applicant and
16 staff. Currently, there is an alternative that is not
17 seeking to go over Immigrant Pass. That is Mesquite road.

18 And that road is currently being used by a mining
19 company up in the Kingston area. And it is something that
20 I would urge the staff to take a look at, because these
21 mining trucks are using the same highway that passes right
22 in front of the project site. That's not necessarily a
23 bad thing, but it is an alternative for truck traffic.

24 Also, I am just hearing about the truck traffic
25 now coming in from Arizona, which would mean that it would

1 be coming through Las Vegas and over 160, which may also
2 not be the best situation, because of the commuter
3 traffic. That's known as death highway out here in
4 Pahrump.

5 So that could have actually more negatives to it
6 than bringing trucks in through on 127 and then over on
7 Tecopa road and that using Mesquite Road.

8 I think what this points out is that the
9 transportation issues are vast. Inyo County is, for the
10 most part, responsible for the roads out there. They have
11 a very limited crew. Roads cannot be upgraded or paved or
12 widened overnight.

13 And most of the construction is early in this
14 project, including the concrete, which is going to have to
15 come in from somewhere. And I would only urge the staff
16 to continue with the Applicant to address as many
17 transportation issues as possible, because this is --
18 again going to be a great impact on all of us who live out
19 there.

20 HEARING OFFICER CELLI: Thank you for your
21 comments. And just to point out that commonly -- I mean,
22 I think it's required we have a condition that says that
23 any impacts to traffic due to the construction trucks must
24 be corrected and cleaned upped and fixed by the Applicant
25 at the completion of construction.

1 Ileene Anderson, anything with regard to traffic
2 and transportation and visual?

3 MS. ANDERSON: No, I don't have any comments at
4 this time.

5 Thank you.

6 HEARING OFFICER CELLI: Thank you. Ms. Crom.

7 MS. CROM: Just to indicate that we're continuing
8 to work with staff and the Applicant on these issues.
9 I'll be meeting with staff this afternoon.

10 HEARING OFFICER CELLI: Good. Thank you.

11 Let's get to the big one, water resources from
12 Applicant.

13 MR. HARRIS: Yeah. We'll let Mr. Jensen handle
14 this. But actually from our perspective, we're surprised
15 that is the big one given the information that we just
16 provided, but go ahead, Clay.

17 MR. JENSEN: Yeah. Clay Jensen, BrightSource.
18 I'm interested in hearing the concerns as well.

19 HEARING OFFICER CELLI: Apparently, it has to do
20 with the timeliness of the information. It came on Friday
21 and it's voluminous.

22 MR. JENSEN: Yeah. That's completely
23 understandable. And if that's the concern to digest the
24 information, that's understandable. I won't recap what
25 was in the report. I know you've read it. I think the

1 only thing I would like to understand, and staff will no
2 doubt go in this direction, there were comments made early
3 today that there were questions regarding the duration of
4 the test as well as the test procedures and methods that
5 went into the aquifer pump test.

6 I'd like to hear a little bit more about, it was
7 our pre-pump test effort to try to get a consensus built
8 with Inyo County and with the Energy Commission staff to
9 make sure that the procedures were followed, and that we
10 were all on the same page. And so curious, particularly
11 to hear about the concerns that may arise from that.

12 Regarding analysis of the results, obviously
13 staff needs time to review these and we look forward to
14 helping clarify.

15 HEARING OFFICER CELLI: Thank you.

16 Staff.

17 STAFF COUNSEL RATLIFF: Mr. Conway may want to
18 supplement my response. We don't want to try to
19 adjudicate the issues regarding the pump test today.

20 There is, in my understanding, some question
21 about how the -- about the duration of the pump test. It
22 was our understanding it was going to be a two-week test.
23 It turned out to be a four-day test because the --
24 apparently the site was vandalized.

25 So we have much more limited pumping data. That

1 may or may not be a problem. It may turn out that the
2 data that the applicant has been able to glean from that
3 is entirely adequate. And Mr. Conway can speak to that.

4 But it may also mean that the data is good for
5 some things and not for others. And those are the kinds
6 of things that we want to have time to discuss and to talk
7 with other agencies about, and we haven't had an
8 opportunity to do that.

9 HEARING OFFICER CELLI: Okay. Let's hear next
10 from Mr. Zellhoefer regarding water.

11 MR. ZELLHOEFER: I really don't have any data
12 that would add to the conversation at this time, so no
13 problems.

14 HEARING OFFICER CELLI: Thank you.

15 Ileene Anderson, water.

16 MS. ANDERSON: A question and a comment. My
17 question is was that report docketed, because I didn't
18 receive that either on the 30th?

19 HEARING OFFICER CELLI: The pump test -- was the
20 pump test docketed?

21 MS. STRACHAN: Yes, it was.

22 HEARING OFFICER CELLI: Okay. Apparently, yes it
23 was docketed. And was it served on --

24 MS. STRACHAN: On March 30th.

25 HEARING OFFICER CELLI: On March 30th it was

1 served on Ileene Anderson?

2 MS. STRACHAN: Correct.

3 MS. ANDERSON: Gosh, I don't know what's
4 happening to that, but I don't have that coming through on
5 my -- I have other things from Hidden Hills coming through
6 on my email, but I don't have that on the 30th or the --

7 STAFF COUNSEL RATLIFF: That presumably would be
8 a very large file.

9 HEARING OFFICER CELLI: It would be a huge file.

10 MS. ANDERSON: Yeah.

11 MS. POTTENGER: Ms. Anderson?

12 HEARING OFFICER CELLI: Go ahead, Ms. Pottenger.

13 MS. POTTENGER: My apologies for interrupting.
14 Are there any size restrictions on your inbox? Do you
15 know whether five megabytes or of six megabytes
16 restrictions on your inbox or --

17 MS. ANDERSON: There isn't any limit on my inbox
18 incoming.

19 HEARING OFFICER CELLI: Okay. Well, I'm going to
20 invite you to please get to the bottom of this, because
21 you're going to need this information. Apparently,
22 applicant is --

23 MS. ANDERSON: Yeah.

24 HEARING OFFICER CELLI: -- doing on their end,
25 they're sending this stuff out, so there's some glitch

1 here. Maybe it can be recent again as the other document
2 was.

3 HEARING OFFICER CELLI: But go ahead. You had a
4 question, Ms. Anderson?

5 MS. ANDERSON: Actually, that was my question.
6 But my comment is, is we still have grave concerns about
7 the duration of the pump test only being four and a half
8 days long, and feel much more comfortable with the full
9 duration of a pump test being done, so that data can be
10 then used from that full pump test.

11 HEARING OFFICER CELLI: And I recall that you
12 raised that same question and it was responded to by
13 applicant at the last status conference, but I -- you've
14 registered your concern and appreciate that.

15 Anything further?

16 MS. ANDERSON: That's it. Thanks.

17 HEARING OFFICER CELLI: Thank you. Let's hear
18 from the County of Inyo, and this is regarding water
19 resources.

20 MS. CROM: As I indicated earlier, we just
21 received the report on Friday. Dr. Harrington will be
22 looking at it and we will be filing a response to that.
23 And likely a response also to the comments to the BLM
24 letter.

25 I just wanted to note from Ms. Anderson that the

1 documents are actually being sent by CH2MHill. And I
2 believe it's under Mary Finn's name and so she might want
3 to check her junk mail.

4 HEARING OFFICER CELLI: Did you hear that, Ms.
5 Anderson?

6 MS. ANDERSON: Yeah, I did. And I got something
7 from her on the 30th the DR set 1A-2, but that's -- I
8 don't believe that that is the water test.

9 MS. CROM: No. There are quite a few documents
10 that she sent out on Friday.

11 MS. ANDERSON: Okay. I only received one.

12 HEARING OFFICER CELLI: Okay. Well, thank you,
13 ladies and gentlemen. We're going to get onto waste
14 management next. I almost said, "This doesn't sound like
15 a big one", but last time I said that, I was -- completely
16 put my foot in my mouth.

17 (Laughter.)

18 HEARING OFFICER CELLI: So I'm not going to say
19 that. Let's hear about waste management from Applicant.

20 MS. POTTENGER: Applicant has nothing to add
21 beyond what was set forth in Attachment A, and we look
22 forward to hearing from staff whether it has any
23 additional concerns in response to our statements.

24 HEARING OFFICER CELLI: Thank you. Staff on
25 waste management.

1 STAFF COUNSEL RATLIFF: Before we leave that, I
2 think I need to raise one additional issue and --

3 HEARING OFFICER CELLI: Regarding water?

4 STAFF COUNSEL RATLIFF: Regarding water. And
5 that is that for some time now, staff has been expecting
6 the receipt of a water mitigation plan. And we received I
7 think what was described as a plan on Friday, but it is
8 not to us a water mitigation plan. It is very much like
9 the AFC's filing that well, if it's a significant impact,
10 we'll find someway. We might do -- we might purchase
11 water rights somewhere and take care of it in some manner.

12 And that isn't a water mitigation plan. We've
13 been waiting for something that addresses the issues of
14 impact more specifically. And I think by that, I mean, we
15 know we're in a water that is in significant overdraft.
16 And we have assumed that to address that issue, there
17 would be some presumable retirement of water rights in the
18 adjudicated area on the Nevada side of the border.

19 We're also in an area where there are the
20 possibilities, and I think the Applicant may discount the
21 likelihood of this, but we think that there is a possible
22 significant impact on Stump Springs and on local wells.
23 And we would assume that there would be some kind of a
24 proposed monitoring plan to determine whether or not
25 that's true.

1 In fact, that is in the BLM. Those kinds of
2 concerns are reflected in the BLM's letter --

3 HEARING OFFICER CELLI: Yes.

4 STAFF COUNSEL RATLIFF: -- which the Applicant,
5 in its response to our document, embraced, but we don't
6 see that kind of mitigation being proposed. We don't see
7 any real mitigation being proposed here. And so we feel
8 that that is still a document outstanding that we need to
9 talk about further and need better information on.

10 HEARING OFFICER CELLI: Right. I remember
11 reading the BLM. It was sort of like giving their list of
12 what they thought would constitute adequate mitigation.
13 So I'm sure that's something though that staff and
14 Applicant can workout.

15 Go ahead, Mr. Jensen.

16 MR. JENSEN: If you don't, mind I'd like to make
17 just a few comments regarding this topic.

18 So the BLM letter, we have to keep in mind, was
19 generated prior to having an analysis or review of the
20 aquifer pump test results that we have submitted. The
21 original AFC was a very, very conservative model run that
22 looked at potential impacts of the project on drawdown.
23 That understandably could lead to the conclusion that we
24 may have offsite impacts to the mesquites at Stump Strings
25 and perhaps the wells in Charleston View, the private

1 wells.

2 The results of the report, we believe, are
3 conclusive in showing that we will not have drawdown
4 impacts through the Operational phase of the project
5 Outside of the project boundary. And so the water
6 mitigation response that we've provided last Friday
7 indicates clearly that it's our belief that we will not
8 have offsite drawdown impacts on Stump Springs, and
9 especially not the Amargosa River region, and it points
10 out to some of those facts.

11 Now, we understand and we know that BLM didn't
12 see those results, so we're going to share those results
13 with BLM, as well as the Energy Commission staff. So I
14 think that that's a very significant change in
15 understanding of the impacts of this project.

16 Now having said that, in our letter, we also made
17 it clear that we are making the argument because we think
18 it's scientifically factual that we won't have offsite
19 impacts, that we are going to agree to forms of
20 mitigation. And that sounds strange, but I think from our
21 perspective retirement of water rights in Nevada continues
22 to be an acceptable mitigation to us, and we'll talk with
23 staff about that and how that plays out.

24 And then additionally, there's standard
25 conditions for monitoring of onsite wells through

1 operation of a project. And providing that data for
2 general observation is key to understanding the way the
3 aquifer reacts.

4 We're more than willing to discuss additional or
5 shifts in how we approach the water mitigation plan.
6 We're ready and able to do so. I just think it's
7 important for us to keep in mind and want to make sure are
8 clear that we think that the test results that were just
9 submitted on Friday will provide a lot of assurance that,
10 in fact, the impacts of water from this project are not
11 going to be significant. And that as a good corporate
12 citizen and as a good community citizen, we understand the
13 issues in the Pahrump Valley aquifer of an overdrawn
14 state, and we'd like to continue to discuss our
15 cooperation towards helping correct that.

16 HEARING OFFICER CELLI: Excellent. Let me just
17 say --

18 MR. HARRIS: Can I add one thing here, too.

19 HEARING OFFICER CELLI: Yes.

20 MR. HARRIS: The results show that there are --
21 the cone of depression is limited to about 200 feet from
22 the wells. Is that -- do you want to explain that a
23 little bit. I'm not sure people are appreciating the
24 minute nature of the results.

25 HEARING OFFICER CELLI: You know, actually we

1 kind of got that last time, and I don't think we need to
2 cover that ground again. So I appreciate that point.

3 But I want to just make a point, step back a
4 little more macro, and say that with regard to all of
5 these issues that we're talking about here -- and I
6 acknowledge that we're in the middle of -- we have yet to
7 finish waste management and alternatives, but it sounds to
8 me like you need a workshop sooner than later. I would
9 encourage the parties to -- you know, Mr. Monasmith is
10 nodding. And it sounds like that's something that should
11 be noticed just as quickly as possible.

12 Let's get the parties in the same room. Let's
13 get the parties talking, find out -- nail down what's
14 needed. Let's get to it. If there's an impasse on
15 something, let's bring a petition to compel and get on
16 that. Let's move through discovery and get -- we've got
17 to get moving on this PSA.

18 So thank you for that. You'll do that, but I
19 just want to encourage that, because I think this is -- I
20 haven't heard anything that's insurmountable, and I
21 haven't heard anything that communication couldn't
22 resolve. So I'm encouraging the parties to communicate.

23 Let's get back to waste management.

24 STAFF COUNSEL RATLIFF: Well, before we leave
25 this issue. This is the most important issue we think in

1 the case, and it's the most difficult in terms of trying
2 to grasp exactly what the problem is and what the impact
3 is. And we haven't had the time yet to examine fully the
4 pump test results as they've been presented to us in the
5 Applicant's most recent filing. We have looked at the raw
6 data, and we drew different conclusions than the
7 conclusions of the pump testing, which have been filed.

8 Now, that may be reconcilable, and we'll find
9 out. That's one of the things we're going to find out by
10 further discussions with the Applicant in workshops. But
11 yes, it is difficult, and, yes, I think we do want to have
12 all of the agencies that have expertise in this area
13 looking at this data and being informed by it and agreeing
14 on the adequacy of the analysis that we received.

15 HEARING OFFICER CELLI: I'd like to move on now
16 to west management.

17 We already heard from Applicant regarding that.
18 Staff, anything further on waste management?

19 STAFF COUNSEL RATLIFF: No.

20 HEARING OFFICER CELLI: Okay. And by that, it
21 sounds to me like we're coming to resolution on waste
22 management.

23 Anything from Ileene Anderson regarding waste
24 management?

25 MS. ANDERSON: No.

1 HEARING OFFICER CELLI: And, I'm sorry, I skipped
2 Jon Zellhoefer. Jon, anything on waste management? Jon
3 Zellhoefer?

4 MR. ZELLHOEFER: Only a comment that I read that
5 Inyo County is currently not in compliance with the State
6 recycling requirements. And this, project again going
7 back to my point earlier, right now we have 120 residents.
8 If we even double that, that is going to put the
9 requirement on Inyo County to do some kind of waste
10 recycling. And we don't have any facilities to do that,
11 nor do we have a public landfill. All of our waste goes
12 to Nevada. So this is just another area that, while maybe
13 not of significance to a larger county, could have an
14 impact out of proportion to our local community around
15 Tecopa.

16 HEARING OFFICER CELLI: Thank you, Mr.
17 Zellhoefer. Let's hear directly from the County of Inyo
18 on this.

19 MS. CROM: With respect to this issue is there
20 are certain mandates of percentage of recyclables that we
21 have to meet. I don't see that this is really going to be
22 an issue here. We've talked to Applicant about it. It's
23 mainly just making sure that the waste that is generated
24 from this site is recycled. I believe from my landfill
25 people that that can be recycled in Nevada, which is what

1 is anticipated. We just need to make sure that the
2 documentation is provided to the County, so that we can
3 report it to the State of California.

4 And then the other issue is just -- and I think
5 it was addressed in the socioeconomic and that is the
6 anticipated increase in waste hauling from the area -- not
7 necessarily from the site. I understand that applicant
8 will be removing their own waste from the site. However,
9 when you increase people, you increase the usage of the
10 dumpsters, and they'll have to be dumped more often. And
11 we have a contract with Pahrump to handle that. So that
12 will relate -- or result in a direct economic impact to
13 the County.

14 HEARING OFFICER CELLI: Thank you. Lastly, we're
15 onto alternatives. My recollection in our last status
16 conference was that alternatives was sort of winding down
17 and coming to resolution. What's going on with
18 alternatives?

19 MR. HARRIS: Well, I think that's pretty much our
20 understanding as well. The only comment of substance in
21 our discussion about alternatives is just a couple passing
22 statements about staff about eliminating or editing some
23 of our basic project objectives. We don't think that's
24 appropriate.

25 I think the staff can argue that they shouldn't

1 be given as much weight as some of the -- as staff does.
2 But what we don't want to end up with is an analysis that
3 says we're only going to look at three of the nine or ten
4 basic objectives of the project.

5 The basic objectives of the project are the
6 Applicant's basic objectives. And the law requires that
7 the alternatives analysis be done within the context of
8 the Applicant's basic objectives. And so we hope the
9 staff will retain all those objectives. They can
10 certainly weight them.

11 They can certainly make the argument that the
12 only have to meet some and not all. That's certainly
13 correct as well. There is some flexibility for the staff
14 there, but I really -- I just wanted to emphasize that the
15 alternatives analysis does have to be framed up in the basic
16 objectives of the Applicant. And that's the point we make
17 in our Attachment A.

18 HEARING OFFICER CELLI: Staff.

19 STAFF COUNSEL RATLIFF: I absolutely disagree.
20 And what we consistently find when we receive statements
21 of project objectives in AFCs is a very constricted set of
22 project objectives, which would basically mean there is
23 only one project in the world that would satisfy the
24 Applicant's project objectives.

25 There is significant CEQA case law that says that

1 you must not do that to have a legally sufficient
2 alternatives analysis, and we don't intend to do that. It
3 would be a mistake to do so.

4 HEARING OFFICER CELLI: Understood. That was my
5 understanding.

6 MR. HARRIS: I actually don't think we disagree
7 by the way. And I don't disagree with anything you said,
8 Dick. I think we're on the same page. I think you have
9 some discretion and you should exercise it. I just don't
10 want you to discount what we've put out there, but you do
11 have a broader scope. I agree with what you've said.

12 STAFF COUNSEL RATLIFF: Okay.

13 HEARING OFFICER CELLI: That's again workshop
14 material, as far as I'm -- I can see.

15 Anything on -- and, by the way, I skipped land.
16 We're going to have to go back and do land.

17 Anything on alternatives, Ileene Anderson or Jon
18 Zellhoefer?

19 MR. ZELLHOEFER: This is Jon. No. Nothing

20 HEARING OFFICER CELLI: Okay. Ileene Anderson,
21 we're talking about alternatives?

22 MS. ANDERSON: Yes. We'd like to see a
23 distributed generational alternative analysis.

24 HEARING OFFICER CELLI: Do you have an
25 understanding that that wasn't going to be part of the

1 analysis, because it usually is.

2 MS. ANDERSON: No, I don't have that. I don't
3 have any understanding of what the alternative analysis
4 is.

5 HEARING OFFICER CELLI: Okay. Which underscores
6 again the need for a PSA.

7 But go ahead, staff.

8 STAFF COUNSEL RATLIFF: Staff will be addressing
9 the feasibility of an alternative -- of a distributed
10 generation analysis. I believe -- well, I don't want to
11 mislead anyone, so I want to -- I believe that we're
12 screening it on the basis of feasibility, but it will be
13 addressed.

14 HEARING OFFICER CELLI: Thank you. Anything on
15 alternatives from Inyo County?

16 MS. CROM: Just that I'll be meeting with staff
17 this afternoon to address some issues on Sandy Valley

18 HEARING OFFICER CELLI: That's great. Thank you.

19 I'm so sorry I jumped over land use. Land use is
20 really important.

21 I want to just bring you -- or let me sort of put
22 out what I was able to glean from the parties' documents,
23 the status reports, and that is that I read the letters
24 back and forth between BrightSource and County -- Inyo
25 County regarding Inyo County's request that the applicant

1 amend -- try to amend the general plan. I have some notes
2 on that. Amend the general plan to a general industry
3 zoned M1. And then there were some issues with regard to
4 merger of parcels and right of ways that needed to be
5 abandoned, I think.

6 But, of course, the concern is you've got two
7 processes sort of running parallel that are interdependent
8 and it's chicken and the egg. And I just want to hear
9 form Applicant about that issue with regard to land.

10 MR. JENSEN: Clay Jensen, BrightSource. I'll be
11 real brief. We had a very -- you refer to the letter
12 exchange that we had with Inyo County. We found that
13 process to be helpful. Since that time, we've presented
14 the project to Inyo County. It's been referred to several
15 times, the Board -- Inyo County Board. We had -- it was a
16 very open dialogue.

17 Needless to say, I don't think that there was
18 anything that was off the table for discussion. And I
19 think it really helped us gain a better understanding of
20 Inyo County's concerns. It very much correlated with what
21 staff had been telling us. And not that we were ignoring
22 those concerns, but I think that there's a certain time in
23 the process where it makes sense to more fully engage on
24 the dialogue that was discussed, and now is that time.

25 We've agreed to move forward with a general plan

1 amendment application. The zoning, as proposed by Inyo
2 County, is consistent from our perspective. That's the
3 direction we plan to go.

4 As you can imagine, the details of how the two
5 processes will merge together continues to be the subject
6 of the discussion. I think that the more immediate
7 concern is getting the application in. And sometimes
8 that's not quite as easy as it seems to be. There's
9 some -- an agreement that we're working on with Inyo
10 County covering indemnification and funding, distribution,
11 that we think we can drive to close here rather quickly.
12 And we hope in the next couple of days to get that
13 agreement worked out, and then subsequently submit the
14 general plan amendment application.

15 And then from that point, we've detailed a plan
16 with Mr. Carunchio to meet with the department heads of
17 each of the groups from a socioeconomic perspective, as
18 well as a more open dialogue with the -- how the processes
19 will merge together.

20 We presented to the Inyo County Board a scenario
21 where we would use the FSA as a governing document for
22 that process. There were some comments made that perhaps
23 the PMPD makes more sense to integrate into that process.
24 That dialogue is continuing to emerge, and we hope to have
25 resolution of that in the next few weeks, so that we can

1 have a map of exactly how the process will come together.
2 But it is, in our opinion now, open dialogue, and we're
3 looking forward to moving forward.

4 HEARING OFFICER CELLI: Thank you very much.

5 MR. HARRIS: Let me add just a couple things, if
6 I could

7 HEARING OFFICER CELLI: Please.

8 MR. HARRIS: As Clay mentioned that the general
9 plan amendment zoning application will be filed -- or
10 general plan amendment will be filed. There's still a
11 couple business issues to workout between the County and
12 BrightSource that have no effect on the PSA that relate to
13 indemnification and the possible issue of abandonment of
14 some dedications. And there's some open legal questions
15 there, which again I won't bore you with the details, but
16 those are business issues that will be worked out.

17 I guess the one point that I want to make, and I
18 think this is very important for the Committee to
19 understand, that once a general plan amendment is filed
20 with the County, nothing can happen until the Final Staff
21 Assessment at the earliest. So I don't want you to leave
22 with the impression that this issue between the County and
23 the applicant is affecting the analysis or affecting the
24 publication of the document.

25 By law, Inyo County will have to let this

1 application sit on the shelf until they have an
2 environmental document which would be your FSA. So there
3 is no delay associated with working out these issues, in
4 terms of publication of the PSA or FSA. And that's really
5 the point I wanted to make.

6 HEARING OFFICER CELLI: Thank you, Staff. About
7 that, let's hear from staff and the land analysis that
8 would go into the PSA and FSA, if any Inyo County can't
9 act.

10 STAFF COUNSEL RATLIFF: Well, I mean, for the
11 PSA's purposes, we assume that the County -- I'm sorry,
12 that the applicant will apply for the general plan and
13 zoning changes that would make the project consistent,
14 because that's what they've told us they intend to do.

15 And I agree with Mr. Harris that this can't occur
16 until there's an environmental document for the county to
17 rely on. And so more than likely that's -- our analysis
18 is going to be kind of frozen until they're -- until
19 beyond the FSA. And when -- at such time as there is
20 actual action by the County to make those conforming
21 changes.

22 This does not, to my mind, represent a barrier to
23 our filing of our land-use analysis. I think it's just
24 something we have to acknowledge and it will have to be
25 addressed when it gets addressed, which in the cases where

1 this has been addressed is always at the very late moments
2 of the proceeding when the County then, using the Energy
3 Commission's analysis, actually makes the conforming
4 changes.

5 HEARING OFFICER CELLI: Okay. Land use, Jon
6 Zellhoefer.

7 MR. ZELLHOEFER: No issues with that. Sounds
8 good.

9 HEARING OFFICER CELLI: Thank you.

10 Ileene Anderson, we're talking about land use.

11 MS. ANDERSON: Yes. No comments at this time.
12 Thanks.

13 HEARING OFFICER CELLI: Thank you. Dana Crom.

14 MS. CROM: I'd just indicate that, yes, we are
15 working with the applicant on an agreement, so that they
16 can file, what I thought was going to be, a general plan
17 amendment and a zoning change. This is actually the first
18 time I'm hearing that maybe the zoning change is not
19 included.

20 We've actually expanded that to also include a
21 lot line adjustment or a reversion to acreage and
22 abandonment of certain public roads that are on the
23 project site, which I think is -- I understand Mr. Harris
24 has described those as being a business decision. They
25 could actually turn into more of a legal issue, which

1 hopefully we will all be able to address and resolve as we
2 move forward.

3 I think the conversation between the applicant
4 and the Inyo County Board of Supervisors on the 13th was
5 quite frank. Mr. Jensen is correct when he said that
6 nothing was off limits, and it wasn't. And the Board
7 asked some very tough questions of the applicant, and I
8 appreciated them being there and answering those
9 questions. And at least as a member of the team, I can
10 say we told you so.

11 (Laughter.)

12 MS. CROM: We are following our marching orders.
13 This is a very important issue for the Board of
14 Supervisors. Land-use control is obviously something
15 that's near and dear to their heart, and we look forward
16 to receiving that general plan application and moving
17 ahead.

18 As for the timing, we -- our office does have an
19 issue with the acting on the FSA. That is something that
20 we will talk to the lawyers for the Applicant about and to
21 Mr. Ratliff, so that we can all try to agree as to what
22 document we would be using as our environmental to go
23 forward. So that's it.

24 HEARING OFFICER CELLI: Can you give us, without
25 showing us too many of your cards, what's the -- what can

1 the County do to expedite that process?

2 MS. CROM: Are you talking about the process once
3 we have a -- once we have an environmental document, it
4 will need to go to the planning commission, and the
5 planning commission will need to review the application
6 for the general plan amendment. There will be the
7 required public notification period. And then once the
8 planning commission acts, it would then have to go to the
9 Board of Supervisors.

10 That's a process that the County can actually
11 kind of truncate. We can have a planning commission
12 meeting one week, and a Board -- take it to the Board
13 within the next two-week period.

14 So once we have met the necessary public review
15 period under CEQA, which I think, in this case, would
16 probably be a 30-day review period, we can then move
17 rather quickly. Our planning commission only meets once a
18 month. However, you know, we can always call a special
19 meeting if we have to, if that is what the applicant would
20 be requesting of us.

21 The Board of Supervisors meets every Tuesday with
22 the exception of five Tuesday months, and then they only
23 meet the first three Tuesdays.

24 HEARING OFFICER CELLI: And then the
25 environmental, did you have a question?

1 MR. HARRIS: Can I ask for some clarification?

2 HEARING OFFICER CELLI: Yes.

3 MR. HARRIS: So if you use the FSA, just assume
4 that, I know that's still in the air, are you going to
5 have that document as essentially a Draft EIR, a 30-day
6 comment period, response to comments, and then a Final
7 EIR?

8 MS. CROM: Well, that's where we're still
9 grappling. If the public review process has been
10 completed to the Energy Commission which is why we were
11 looking at the Presiding Member's decision, where it's
12 been essentially fully commented on, we thought that we
13 could probably truncate the review period.

14 MR. HARRIS: And not do a Draft EIR, Final EIR
15 process?

16 MS. CROM: Right. Exactly.

17 MR. HARRIS: Okay. We should talk about that,
18 because I'm concerned about needing to go through both
19 those processes and seeing that being more like at least a
20 90-day, maybe 120-day, process, which adds, you know, four
21 months to this Commission's process, which is -- have I
22 mentioned, I'm interested in schedule today.

23 (Laughter.)

24 MR. HARRIS: So anyway, it's something we need to
25 work out.

1 MS. CROM: And it is something that we need to
2 work out. I mean, I will say, I was a little disheartened
3 that the first time that we heard that the Applicant was
4 requesting us to act on the FSA was at the meeting on the
5 13th. I think that, you know, you probably would have
6 received a better reaction from my boss if it had been
7 suggested prior to that meeting.

8 HEARING OFFICER CELLI: Well, I think -- I don't
9 want to step too far into this discussion, but I want to
10 say that I'm sure we'd all appreciate the County's working
11 hard to do whatever you can to facilitate that process,
12 because land use is something that we just right now looks
13 like an open wound. And I'd like to see it cleaned out
14 and fixed, if we can.

15 MS. CROM: Hopefully, we can.

16 MR. JENSEN: Could I just have 30 seconds. Clay
17 Jensen with BrightSource.

18 HEARING OFFICER CELLI: Yes.

19 MR. JENSEN: First, I'd like to clarify the
20 application will be for a general plan amendment and a
21 zone change. Clarify.

22 Second, also involved - it hasn't been discussed
23 - is the Applicant funding Inyo County's efforts to
24 participate in the Energy Commission process as well as
25 the funding of the general plan amendment and the zone

1 change process. That is we do plan to continue to fund
2 those efforts, and that's part of this agreement we're
3 working out as well. I just wanted to point that out,
4 that we encourage Inyo County to stay involved. We look
5 forward to working with them through the process.

6 I also wanted to state that you've heard a lot of
7 us joke a little bit about the Board meeting, and the tone
8 and the tenor. It was open dialogue. It was very
9 difficult questions being asked. We found it very
10 encouraging, and I would characterize the end of that
11 meeting as being very optimistic. So I don't want to give
12 the impression, based off what you've heard, that it's
13 going to be -- I think it helped push the process forward,
14 rather than identify continued gaps.

15 And so I think that we are starting to get some
16 better direction. And I think today, as compared to our
17 last two status conferences, that we are becoming more and
18 more aligned. So I wanted to provide some optimism from
19 the Applicant's point of view that I think that we've got
20 a path that we're starting to investigate fully now, and
21 we're going to start moving in that direction.

22 HEARING OFFICER CELLI: I'm happy to hear that.
23 Thank you for those comments. I want to --

24 ASSOCIATE MEMBER PETERMAN: A quick questions.
25 Ms. Crom, regarding that meeting, was there an usual

1 amount of public attendance?

2 MS. CROM: Yes. Actually, the Board room was
3 nearly full. And I had comments afterwards that a number
4 of people had actually come to watch it, a handful of
5 residents from Independence, and decided to go watch it on
6 TV.

7 ASSOCIATE MEMBER PETERMAN: Really.

8 MS. CROM: It's broadcast -- our Board members --
9 our Board meetings are broadcast live on TV, so there were
10 a number of people that watched it on our local media.

11 ASSOCIATE MEMBER PETERMAN: Well, then I'm glad
12 that staff was able to attend --

13 MS. CROM: Yes.

14 ASSOCIATE MEMBER PETERMAN: -- and that it was a
15 productive meeting.

16 Thanks

17 HEARING OFFICER CELLI: I think this has been
18 very productive. I'm really anxious to hear -- to get to
19 our next status conference. I'm hoping that you'll at
20 least be able to get one workshop in between then and now.
21 Looks like that's what everything is -- that's what's
22 called for.

23 So before we get to public comment, and I just
24 want to see if there's anything? Last parting shots from
25 the Applicant?

1 MR. HARRIS: Never a parting shot. And again, I
2 was not near Mr. Monasmith when this occurred.

3 (Laughter.)

4 MR. HARRIS: Just a couple things. Thank you
5 very much for this conference. It's been very helpful. I
6 think just this communication has been helpful for
7 narrowing our issues.

8 I was out of the room and came back in about the
9 additional data requests, because we were having a
10 discussion about whether we should request a bifurcation
11 of the PSA. And I'm -- we're not going to do that. I see
12 you -- I'm picking up the nonverbal, that was a good
13 decision.

14 (Laughter.)

15 MR. HARRIS: But we did seriously talk about
16 that, because a lot of these issues are pretty close to
17 go, and we would rather have staff focus on getting a PSA
18 as opposed to PSA Part 1 and PSA Part 2. We are a little
19 concerned about workshops and other things in the interim
20 driving that schedule out.

21 And so the last thing I guess I would close with
22 is that we do have a specific request, and that is
23 basically that the job will expand to fill the available
24 time. And we would specifically request that when you do
25 issue an order on this, that rather than June 1st, that

1 you consider May 14 -- Monday, May 14th as the date.

2 That's a month past the date that the PSA was
3 due, based upon our agreement last month. It's two weeks
4 shorter than the staff has requested, but I think it would
5 be good to help them along. And the thing I particularly
6 like about that day is it then adds about 18 days more to
7 the time between PSA and FSA, which instead of the 61 days
8 proposed by staff, it would be more around 80 days -- 79
9 days, which since you've done it in 105 before, I have a
10 whole lot more confidence you could do it in 80 than 60.

11 And so our specific request is that when you
12 issue your order, that you think about May 14th as the
13 date.

14 HEARING OFFICER CELLI: Thank you. Staff, any
15 last matters, and also what do you think of that 5-14-12,
16 is that doable? Is that feasible?

17 STAFF COUNSEL RATLIFF: Well, one of the good
18 things about the Applicant's criticism of the staff's
19 efforts to get this thing out on time is that it has made
20 us focus much more intently on what it is that's missing
21 that we think we need to have to have a -- I'm not even
22 going to call it a good analysis, but at least a decent
23 analysis.

24 And, you know, these things are really -- I mean,
25 there's always the tradeoff between the amount of time

1 that you have and the quality of the product that you put
2 out. And we have a strong preference to stick with the
3 June 1st date, because we know, or at least we think we
4 know, that we can put out a product that won't be an
5 embarrassment on that date. And we think that, in
6 reality, the time difference, in terms of getting the FSA
7 out, is not going to be dependent on getting out an
8 earlier PSA that isn't good. So we're much happier, much
9 more comfortable with meeting the June deadline. Our
10 strong preference is to keep it there.

11 HEARING OFFICER CELLI: Anything further?

12 STAFF COUNSEL RATLIFF: No.

13 HEARING OFFICER CELLI: Okay. Let's go to Mr.
14 Zellhoefer, did you have anything final that you wanted to
15 say to the Committee?

16 MR. ZELLHOEFER: Just to kind of support what the
17 Applicant had said, public input is going to be critical,
18 if that date of May 14th could be met. And I think there
19 was already some earlier discussion by staff that they
20 might be trying to get it out by May 24th or 25th anyway.
21 That would certainly give us all a little more time to
22 look at it before the final staff recommendations come
23 out. But with that, I think it was a very helpful meeting
24 today.

25 Thank you.

1 HEARING OFFICER CELLI: Thank you, Mr.
2 Zellhoefer.

3 Ms. Anderson, Ileene Anderson.

4 MS. ANDERSON: Yes. We support the longer
5 timeline for the PSA, just because it's going to give
6 staff more of an opportunity to make more of a complete
7 document which makes commenting on that document much more
8 relevant.

9 HEARING OFFICER CELLI: Thank you.

10 Clearly, everybody is benefited by a more
11 complete PSA, I think. And so what we said earlier was
12 June 1st, but I was -- I like what Mr. Monasmith said
13 about trying to beat the holiday. Anything that staff can
14 do to speed this up, that's why I think that what might
15 really speed this up is a sooner rather than later
16 workshop to get resolution on whatever you can. And we
17 encourage those efforts.

18 Anything from Inyo County?

19 MS. CROM: Nothing further.

20 HEARING OFFICER CELLI: Okay. With that, we're
21 going to go to public comment. I'm getting an indication
22 from the Public Adviser that there's nobody here from the
23 public who wants to comment. And, as I look around the
24 room, the facts bear it out.

25 (Laughter.)

1 HEARING OFFICER CELLI: I have a person here
2 named anonymous who sent me an email saying she's --
3 he/she is listening only and did not wish to participate,
4 so we will honor that.

5 I have Christina, did you wish to make a comment?
6 Christina?

7 She's on headphones. People with headphones only
8 may not even be able to speak into their computers.

9 We heard from Ileene Anderson.

10 J. Stroeh?

11 MR. STROEH: Hi. This is Jim Stroeh in
12 Independence. And I do have a comment. Once again,
13 thanks for always inviting the public.

14 As some of the folks in the room know, I'm a
15 retired geologist college professor. And I have a lot of
16 experience with deadlines and reports over the years, and
17 especially in graduate programs and whatnot where thesis
18 are due.

19 And my take on the schedule is that even with
20 holes in it, sooner is better than later. It just seems
21 to be human nature in the way information comes together,
22 that if it's later, the wholes still remain. They might
23 be a little bit smaller, but they can be equally hard.

24 So I was going to suggest about a May, mid-May,
25 push to get the preliminary assessment out. You took care

1 of that very beautifully. Anyway, I think it would
2 benefit everybody to have an earlier Staff Assessment
3 rather than later, despite staff's comments. And I know
4 they're working very, very hard to get things out, and are
5 doing a very complete job. But that was my one comment is
6 go for a sooner Preliminary Staff Assessment.

7 HEARING OFFICER CELLI: Thank you, Mr. Stroeh and
8 thank you for your comment. And I'm sure that we can all
9 appreciate how motivated staff would be to have a full
10 Memorial Day weekend off.

11 MR. HARRIS: I'd like to petition for the
12 Applicant to have one too.

13 (Laughter.)

14 MR. HARRIS: So if we can get the 14th. My wife
15 misses me on these holidays. Every Christmas, I get a
16 present from you folks.

17 (Laughter.)

18 MS. CROM: Well, you're all invited to Bishop to
19 attend Mule Days from Memorial Day, so we would like you
20 to have it done and come over and spend some time with
21 mules.

22 MR. HARRIS: Is there a relationship between
23 mules and the FSA that I need to understand?

24 (Laughter.)

25 MS. CROM: You know, I won't go there.

1 (Laughter.)

2 HEARING OFFICER CELLI: Oh, boy. We've had
3 some -- well, I'm not even going to talk about that.

4 Let's see I have Jay Leyva. Jay Leyva did you
5 wish to make a comment?

6 And again, some people are on computer only.
7 They're just listening in, and that may be the case. You
8 can come back, if you want.

9 Lisa DeCarlo is staff counsel. Matt Layton works
10 for staff. Not that I'm precluding anybody from making a
11 comment, if they wish, but if they wanted to I'm sure
12 they'd speak up. M. Taylor. Is M. Taylor, did you wish
13 to make a comment?

14 Pierre Martinez is with staff. Shaelyn Strattan
15 is with staff. Timothy Thompson -- oh, did someone wish
16 to make a comment there.

17 Timothy Thompson, did you wish to make a comment?

18 MR. THOMPSON: No, not at this time. Thank you.

19 HEARING OFFICER CELLI: Thank you. And then
20 lastly, I have some people who's names I did not call who
21 are on line, but unidentified. If you wish to make a
22 comment, at this time, please speak up now, and just go
23 ahead and make your comment.

24 Anyone?

25 Thank you.

1 Hearing none. Then I would hand back the status
2 conference back to the Presiding Member, Commissioner
3 Karen Douglas.

4 PRESIDING MEMBER DOUGLAS: Thank you. This has
5 been a really helpful status conference. It's been -- it
6 is very helpful to the Committee to get earlier respective
7 on issues as they arise, and on potential issues as they
8 impact the schedule.

9 As the Hearing Officer indicated earlier, the
10 Committee would very much -- very, very much like to see
11 us stay on the schedule as proposed. And so while we are
12 going along with the request for more time for the PSA,
13 we'd very much like to keep therefore the back-end of that
14 schedule and to see a complete PSA.

15 I know not everything is within your control, but
16 hopefully working together with the other parties you'll
17 be able to make that happen.

18 Let me ask if Commissioner Peterman has any
19 comments?

20 ASSOCIATE MEMBER PETERMAN: No.

21 PRESIDING MEMBER DOUGLAS: Not at this point.
22 Okay. So with that, I'd like to thank everybody and we'll
23 look forward to seeing you again at the next status
24 conference.

25 We're adjourned.

(Thereupon the California Energy Commission
hearing concluded at 1:15 p.m.)

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CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California Energy Commission Status Conference was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed under my direction, by computer-assisted transcription.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of April, 2012.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063