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William Keese, Chairman
Presiding Member

Robert Laurie
Committee Member

STAFF PRESENT

Ed Bouillon, Hearing Officer
Terry O'Brien, Special Adviser to Chairman Keese
Lisa DeCarlo, Staff Counsel
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P R O C E E D I N G S

PRESIDING MEMBER KEESE: Good morning,
we are here today for a prehearing conference
conducted by a committee of the California Energy
Commission on Blythe Energy's application for
certification for the Blythe Energy Power Project.

For the record, the docket number
assigned to this matter is 99-AFC-8.

Before we begin, we are briefly going to
introduce the participants. I am Bill Keese,
Presiding Member of this Committee. To my far
right is Commissioner Bob Laurie, who is second on
this Committee. To my immediate right is Ed
Bouillion, the Hearing Officer and to my left is my
adviser, Terry O'Brien.

We are not using amplification. I don't
think in this room we should need it. These are
recording mikes. All conversation should take
place into a recording microphone.

Mr. Galati, would you like to introduce
your team?

MR. GALATI: Yes, thank you. My name is
Scott Galati. I represent the Applicant, Blythe
Energy Project, and behind us is Sandy Kerry, with
my office as well, and Jeff Harvey with Greystone
Environmental Consultants, who is the lead environmental consultant to the project, prepared the AFC in responses to data requests.

PRESIDING MEMBER KEESE: Fine, Mr. Shaw for the staff.

PROJECT MANAGER SHAW: Lance Shaw, Siting Project Manager on the project, and Lisa DeCarlo, Staff Counsel.

PRESIDING MEMBER KEESE: Thank you. And Intervenor CURE is not in attendance. Thank you.

Carmela Garnica is the only other intervenor. We have a letter from Ms. Garnica, indicating that written statements are being -- as best we can determine, written statements are being translated from her native Spanish into English and will be furnished to us sometime.

HEARING OFFICER BOUILLON: The Prehearing Conference statement filed by Ms. Garnica indicates that she would be submitting the declarations on November the 17th, which is today. The next paragraph of her Prehearing Conference statement is somewhat confusing, because it says that declarations will be accompanied by the petitions on the November 27th hearings, and I'm not sure what that means.
We'll have to find a way to clear this up with her. I think Mr. Galati has indicated a procedure by which he would waive the immediate filing of that testimony, so long as he had it in sufficient time to review it prior to the hearings, is that correct?

MR. GALATI: That is correct, and that sufficient time would be if we received it on Wednesday, November 22nd.

HEARING OFFICER BOUILLON: Wednesday of next week?

MR. GALATI: Wednesday of next week, November 22nd, if we receive it in our office at that time --

HEARING OFFICER BOUILLON: Is that agreeable to the staff also?

PRESIDING MEMBER KEESE: Our Public Advisor, Roberta Mendonca, is not present today. We have had no indications from intervenors or any parties that they wish to participate by telephone. We will ask Ms. Mendonca to be in further contact with Ms. Garnica and inform her that we will receive statements in by Wednesday.

MR. GALATI: If I could just make one comment. It appears that we have not received
this Prehearing Conference statement in our office, although it was docketed. I'm not sure, since this is Ms. Garnica's first filing, whether she understands and/or is serving properly.

If I could just make a request that anything that the Commission or staff receives, if they could fax it and/or let me know, and we'll pick it up at my office.

HEARING OFFICER BOUILLON: What we have done already, and the order granting her intervenor status, was direct her to deal with the Public Advisor and the Public Advisor has agreed to do all of the proper mailing, and that everything should be filed through the Public Advisor's Office.

So I assume one was mailed to you. I received it yesterday, and it may take a day longer to get to your office or something. So, when you get back, you may have it.

But she has also been required to E-Mail everything she files. How well that's working, I don't know, because this Prehearing Conference Statement was not on my E-Mail, but I will speak to the Public Advisor about it and emphasize the requirements that she's subject to.
MR. GALATI: All right, thank you.

PRESIDING MEMBER KEESE: Do we have any agencies present?

Seeing none, we are conducting this proceeding jointly with the Western Area Power Administration and they chose not to be present by telephone today.

Are there any members of the public who care to identify themselves for the record?

Seeing none, that's the introductions.

Blythe Energy filed its application for certification in December, 1999. The project is a 520-megawatt facility that will be built on a site about five miles west of Blythe.

Notice of this hearing was mailed on November 7th, 2000 to all parties adjoining landowners, interested governmental agencies and other individuals. The purpose of the Prehearing Conference is to determine which witnesses will be subject to cross examination in the areas of existing disagreement in the various topics.

Applicant, staff and each intervenor should have prepared a Prehearing Conference Statement and brought it to this Prehearing Conference. As I mentioned, we have Carmela

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Garnica's statement and we have furnished you copies.

We have also received the statements of Applicant and staff. Those statements should have identified, to the extent possible, each topic area where disagreement exists and the anticipated length of cross examination of specific witnesses. Applicant, staff and each intervenor should be prepared to fully discuss their respective positions on all issues.

This will enable the Committee to conduct the evidentiary hearings in an orderly and effective manner to provide sufficient time to thoroughly examine all controverted issues and to free staff and other witnesses from the obligation to be present if no cross examination is needed.

The Commissioners conducting this proceeding will eventually issue a proposed decision containing recommendations on the proposed project. It is important to emphasize that the Committee's proposed decision must, by law, be based solely on the evidence contained in the public record.

We are not receiving evidence today. Today we are going to determine the manner in
which evidence will be received and the need for
cross examination of the various witnesses.

The Final Staff Assessment, which we
call the FSA was issued on November 14th, 2000 and
I believe it covers all the topics. Is that
correct, Mr. Galati?

MR. GALATI: That is correct.

PRESIDING MEMBER KEESE: Applicant filed
its written testimony on November 16th, 2000 in
one volume. Is that correct, Mr. Galati?

MR. GALATI: That is correct. I must
make the Committee aware that there may possibly
be some supplemental testimony on water that we
were unable to get finished. And I can address
that now or address it later on in the hearing.

HEARING OFFICER BOUILLON: Later, you'll
have an opportunity.

PRESIDING MEMBER KEESE: Later.

I am aware that Ms. Garnica has been
having her testimony translated from English into
Spanish and intends to file it today, but we may
await that.

No testimony has been received from any
other party, is that correct? Correct.

At this time, I will ask Mr. Bouillon to
explain the role of the Public Advisor in this process.

HEARING OFFICER BOUILLON: As a Committee, the California Energy Commission is interested in hearing from the community on other aspects of the Proposal for Certification. In that regard, the Public Advisor has been up in Blythe several times over the past year, meeting with community groups, community leaders, and individuals and consulting with intervenors and possible intervenors to explain the process to them.

From the feedback I have had from the Public Advisor, it appears that there is only going to be one intervenor, although she is supported by a substantial number of community citizens, and there is much concern over the location of the pipeline that I've heard about from Roberta.

She also indicates that there seems to be some confusion on the part of the citizenry about which pipeline we have jurisdiction over. There is, I think as everyone here knows, two pipelines. One, being built by PG&E, that, I think, is called the Lower Baja, or something like
that, that is going to Mexico, over which we have no jurisdiction. And another one that will be built by the Applicant if certification is received for its gas supply.

But I think there is some concern over that, and Ms. Garnica's Prehearing Statement indicates some other disagreements too that I will have to clear up with her.

Any time that any member of the public or any intervenor has any question about the process that we conduct or the proceedings, they are free to contact Robert Mendonca by telephone, and her number is readily available. And, if for some reason, anyone feels that they cannot get her, they can always call me and I can contact her, since her office is right next door to mine.

I recognize, I think, all of the faces here, so there seems to be no one from the public, so I don't think I need to go into any further detail about what she has done in the community.

PRESIDING MEMBER KEESE: Okay, let's discuss the schedule. The Committee recognizes that the Applicant is very concerned about meeting the 12-month process and we recognize that, as currently scheduled, we will miss that period by
three months.

We are also concerned that the Committee has a complete record available for review at the conclusion of evidentiary hearings later this month. The Committee believes that all topics are complete, other than the submission of some additional material on water and Ms. Garnica's materials.

Keep in mind that we have just received some of these Prehearing Conference Statements, have not gone through them in any detail. We will now turn to each party and ask them to discuss each topic area. In your presentations identify those topics that are, in your opinion, in controversy and which topics can be handled by stipulation.

We will keep this informal, but we must have some order to enable the court reporter to produce an accurate record of this hearing. So we will attempt not to interrupt any speakers.

At this point shall we clarify what our intent is? Commissioner Laurie, would you just state it, please and we'll get concurrence.

COMMITTEE MEMBER LAURIE: Thank you.

One of the major goals that we would
like to seek today, which is going to be challenging without the intervenors present, is by habit or otherwise the way we sometimes conduct our hearings, is even in uncontested proceedings we bring witnesses in and they're sworn and they summarize their testimony and they're made available for cross examination. And there is generally very little cross examination and therefore a lot of unnecessary time is spent and a lot of unnecessary money is spent providing witnesses when it adds nothing to the record.

So, one thing the Committee would look for would be in those areas where there is no contest, that all testimony be submitted by declaration and that stipulation be made now. Which means that we're going to have to contact the other parties and achieve that stipulation. In which case, when the issue is called at the hearing, it is simply a matter of stipulation that it is all being done by declaration and no witnesses need to be present or testifying.

In those areas of contest, it is desirable to determine the nature and extent of cross examination and the basis of cross examination so that the area of testimony remains
focused.

Those are my thoughts, Mr. Chairman.

PRESIDING MEMBER KEESE: Is that acceptable to the Applicant?

MR. GALATI: Yes, that's acceptable.

And if I could add something else with regard to actually achieving a stipulation, which may be difficult, certainly impossible today without all the parties present, but what we did in the Sunrise case is we had an agreement with staff, and we had an intervenor in that case, who was active, CURE, and we had a counsel just stipulate on the record at the time that there were areas that were no longer in dispute and we did that stipulation there and we didn't bring witnesses.

I understand completely what Commissioner Laurie is saying, without Ms. Garnica we don't know whether or not she would want to cross examine an area in which we may have agreement with staff.

I would like to point out, though, according to at least the Prehearing Conference Statement we have in front of us, I think that the areas that we have dispute with staff appear to be areas in which she has some concerns as well. The
only area that she has stated that staff and the
Applicant are in agreement is the area of facility
design and hazardous materials, which we're in
agreement, but we are planning to bring our
witnesses for that subject to the hearing, so that
she can cross examine them, if she'd like.

I can't think of any other area that
deals with pipeline safety, except those two
areas. So, I would hate for staff and for the
Applicant to bear the expense of bringing their
visual resource witnesses down when there's been
no showing by the intervenor that that's not in
dispute.

So I would like to maybe achieve an
agreement today, that that would not have to be
the case.

PRESIDING MEMBER KEESE: The staff -- is
that?

PROJECT MANAGER SHAW: I would agree
with that with one exception.

She mentioned something that, to me,
touches on alternatives when she pointed out in a
previous statement, which was also docketed that
she wanted the facility located out by the
prisons.
HEARING OFFICER BOUILLON: That is in her Prehearing Conference Statement, actually.

PRESIDING MEMBER KEESE: It's in her last sentence, to relocate the proposed gas pipeline -- which we're not sure she understands which one we're talking about, as we previously discussed -- and the electric plant out in the desert. So perhaps, we're correct, that is alternatives.

MR. GALATI: From the Applicant's side, we would be bringing the same people who did project alternatives, who also had done an area of dispute, so we think we can handle alternatives there. Unless they bring issues up that the reason that alternative is better is in another, for example, visual resources or noise, which is not contested.

PRESIDING MEMBER KEESE: Okay. I believe the Applicant and staff are in concurrence here. It would be our intention to continue this hearing and by conference call attempt to get whatever stipulation we work out when we have completed this process.

Mr. Bouillon will proceed with the rest of the hearing.
HEARING OFFICER BOUILLON: I'm going to start with Mr. Galati and ask him to go briefly through his Prehearing Conference Statement. And I'd like Mr. Shaw to pay close attention to this, to make sure that when he says we agree, that, in fact, you do agree and if you can relate your Prehearing Conference Statement to the one filed by Ms. Garnica and expand upon your comment about the need for supplemental testimony on water.

Before you begin, I'd like to caution Mr. Shaw that I'm going to be asking you for your comments on his need for supplemental testimony on the water topic, if you have any.

MR. GALATI: I'll go through, starting on page three of the Applicant's Prehearing Conference Statement, there is a table. The first topic area of Project Description, we believe can be on declaration. Project Objectives and Demand Conformance, we believe can be on declaration.

Compliance and Closure, we believe can be on declaration. Project Alternatives we believe can be on declaration. However, we will have a witness present to address the potential raised by Ms. Garnica of moving the proposed gas pipeline and electric plant out in the desert.
We also believe we are agreement with staff on Facility Design Powerplant, Reliability and Powerplant Efficiency, and we could proceed on declaration. However, we will also have those witnesses available at the hearing on the 27th and 28th to -- available for cross examination from the intervenor. That is based on the concern of environmental safety and previous concerns raised in public workshops about the pipeline construction and/or safety.

Transmission System Engineering, we are in agreement with staff and believe we can proceed on declaration. Transmission Line Safety and Nuisance, we are in agreement with staff and believe we can proceed on declaration.

Air Quality, we are largely in agreement with staff. We have one very minor dispute in verifications of, I think, about five conditions, there is a statement that the Applicant should make its site available for inspection to the Energy Commission, to the District, to USEPA and CARB. And we wanted to be clear that CARB does not have the right and authority to inspect. We wanted their name deleted, just so we don't establish a precedence that CARB has inspection
authority over the project, that is the other
three agencies.

That's the only dispute over air
quality. We have made a change in our testimony.
There were a couple of numbers in Air Quality
Table Seven in the FSA that needed some revision.
They used some data that had been updated and
that's in our testimony. We don't think staff
would disagree with that.

But that's the only area that we would
have, and I'm not even sure that that is an area
of dispute. I'll wait until Mr. Shaw and Ms.
DeCarlo comment on that. Again, we still think we
can address that very quickly.

Public health, we are in agreement with
staff and can proceed on declaration, but we will
have our witnesses available, as well, for public
health in case the Prehearing Conference Statement
of environmental safety deals with public health.
We don't think that it does, but in case it does,
those witnesses will be present as well.

The next, on page five, is Hazardous
Materials Management. Again we are in agreement
with staff and believe we can proceed on
declaration. However, we will have our witnesses
available for that area as well at the hearing in case Ms. Garnica wants to cross examine them with regard to either pipeline safety or the term environmental safety in her Prehearing Conference Statement.

Biological Resources, we are not in agreement with staff and this largely deals with specific language that is contained in six conditions. One appears to be duplicative and handled in the soil and water testimony, that is Bio 15.

The other five deal with various timelines and clarification of responsibilities. We have proposed changes to those conditions and from staff's Prehearing Conference Statement, it appears that is still in dispute.

We believe that we can handle our direct testimony, assuming that the dispute still exists, in 20 minutes or less and we believe that we can do cross examination in 30 minutes or less.

We would also point out in this area --

PRESIDING MEMBER KEESE: Excuse me, you're dealing with biological?

MR. GALATI: Yes.

PRESIDING MEMBER KEESE: We sort of

MR. GALATI: I'm sorry, Worker Safety and Fire Protection, we indicated on our Prehearing Conference Statement that we had a dispute. It appears from staff's Prehearing Conference Statement that they have accepted the recommendations filed in our testimony, so we believe there's no dispute on Worker Safety and Fire Protection and believe we can proceed on declaration.

I would also note for the record that that same witness will also be available for cross examination should the intervenor need to.

PRESIDING MEMBER KEESE: Okay.

MR. GALATI: Back to Biology, I just wanted to, for the purposes of timing, for the Committee to be aware that we think that the U. S. Fish and Wildlife Service and the California Department of Fish and Game representatives will be present either by telephone or physically present to update the Committee on the status of their various permits. So if you could leave a small amount of time for that.

Cultural Resources, we have a minor
dispute involving the timing of verification submittals. Geological and Paleontological resources, there's no dispute with staff nor anything appearing to be raised in the Prehearing Conference Statement by the intervenor, Carmela Garnica, so we think we can proceed on declaration for that area.

Soil Resources, that is the same, we are in agreement with staff. I would point out that Soil Resources is combined in staff's as Soil and Water. We have broken them out, so if they have a witness on just soil with staff, we don't think that that witness needs to be present. We don't have any issues with soils.

Water Resources, this appears to be the largest dispute that we have with staff. We think that it deals with a misunderstanding. However, because the law of the Colorado River can be somewhat confusing, we've allotted 30 minutes for direct testimony and we've anticipated an hour of cross examination of staff's witnesses on that matter.

With respect to the Supplemental Testimony, in the final staff assessment, the staff had reevaluated and presented a different
modeling scenario of well draw down modeling and what the impacts would be. We had not discussed that in any of the PSA workshops. This is the first time we've seen those numbers and unfortunately our expert was unavailable, we did the best we could. But we need to file supplemental testimony on that particular modeling that staff did.

We anticipate that we can do that no later than Tuesday and we're hoping, shooting for Monday, if we can get that prepared today. That's the area that we were unable to respond in in the short time before we file testimony.

COMMITTEE MEMBER LAURIE: Mr. Chairman, let me ask you and Mr. Bouillon whether it's your desire to seek input and testimony on the issue of dry cooling comparisons? Perhaps I missed it, but I haven't seen anything on dry cooling. Is there testimony?

STAFF COUNSEL DE CARLO: I do believe there is some testimony regarding dry cooling in the staff assessment.

COMMITTEE MEMBER LAURIE: This project is in Blythe. I would suggest that the issue of dry cooling is a very relevant issue and I would
suggest that you give thought to what we all think
the rules are regarding use of dry cooling versus
wet cooling and be prepared to talk about it.

MR. GALATI: We will certainly be
prepared to talk about it. If I could direct your
attention, we responded to several data requests
as well as the staff assessment, we believe does
an analysis. We agree with the staff assessment
that dry cooling is not a relevant option on this
project for various reasons listed in the staff
assessment, as well as in our -- we did not
address it specifically in our testimony because
we didn't see it as a dispute. We agreed with
staff on that point.

PRESIDING MEMBER KEESE: Are we still
using the brackish --

MR. GALATI: Yes, we are still using --
PRESIDING MEMBER KEESE: The well water
was, in our workshop, was indicated as a thousand
parts per million and unacceptable for any
purpose, irrigation or use.

MR. GALATI: Actually I do need to
correct you there. It is appropriate for
irrigation. However, it meets the criteria of a
thousand TDS or more and that criteria is what the
Policy 7558 of that deals with the Inland Cooling Policy, as well as the applicable water codes that deal with the availability of recycled water. That has been analyzed both by the Applicant and staff.

There is no available recycled water, so we think that dry cooling is not -- as well as, there is an issue of our water conservation offset program, but it hasn't been raised in the context that it's an improper use of water and therefore should be a possibility of dry cooling. That Water Conservation Offset Program has not been raised in that context, but we are prepared to talk about that at the hearing.

PRESIDING MEMBER KEESE: We should have some testimony on that.

HEARING OFFICER BOUILLON: Mr. Galati, is the witness that you need for the supplemental testimony one of the same witnesses you have listed here --

MR. GALATI: Yes, I put his name on there. His name is Marc Snyder from Greystone Environmental, because I knew who we were going to use. I didn't know exactly what we were going to be able to say, though.
So, I can elaborate more on that again. It deals with only the issue of the modeling that we've seen, which was a correction of our modeling and we haven't been able to have that expert in the short period of time since we've seen that, to take a look and say does he agree with that or not.

We have put in our testimony that we disagree just to raise it that there's a potential dispute, but it may be that we agree with that modeling and as soon as I am able to get that statement from the expert, we'll file it as supplemental testimony.

HEARING OFFICER BOUILLON: We'll defer that until we've heard from Mr. Shaw.

MR. GALATI: The next issue is Waste Management, and Waste Management, we have no disputes with staff, nor does it appear that there is any dispute raised by Ms. Garnica. We think that we can proceed on declaration on that area.

The next area is Land Use, again this is page eight of our Prehearing Conference Statement. This dispute is very much linked to the Water Conservation Offset Program. What we would recommend and we think would be helpful is if the
land use in water resources sections could be
taken as a panel, because if the Water
Conservation Offset Program is interpreted under
land use concerns, there is a potential for
conditions that preclude its use on water
concerns.

And then if you talked about it in
water, the potential condition precludes its use
under land use concerns. And we think that,
together as a panel, that should be addressed.

Again, the dispute revolves around the
timing of verification submittals. We believe
there is a repetition of a condition in land use
that is also handled in traffic and transportation
which deals with the Airport Land Use Commission's
decision on October 19th that the project is
consistent with the Blythe Airport Master Plan,
with the incorporation of certain conditions.

Those conditions have been incorporated
in traffic and transportation and there's one
portion of it that's been repeated in land use.

We think that that's our issue, and again the
Water Conservation Offset Program.

We've allotted 15 minutes for direct
testimony and 30 minutes for cross examination on
that issue.

   The next topic area is Noise and we are
in agreement with staff and we believe that can
proceed on declaration. It doesn't appear to be
raised in Ms. Garnica's Prehearing Conference
Statement or in any of the workshops in which she
has participated.

   The next area is Socioeconomics. Again
we are in agreement with staff. It appears that
there is a sentence is Ms. Garnica's Prehearing
Conference Statement that says "Expert Social
Economic Impact Declarations will be submitted."
So it appears that that may be an issue and we
will have that person available.

   HEARING OFFICER BOUILLON: Let me
interrupt you, Mr. Galati. A minute ago I was
handed a package by a person from the Public
Advisor's Office. It appears to be the
declarations you just spoke of. I have what
appears to be a package for each of us, which I'll
hand you. I'll hand one to staff and one to you,
Mr. Galati.

   I would suggest, maybe what we should do
is to take maybe a five-minute recess so we can go
over this, each of us, and then maybe we can
incorporate the contents of those declarations in our discussion here today.

Is that agreeable, Mr. Chairman?

PRESIDING MEMBER KEESE: Yes. Let's take a five-minute break here.

(Thereupon a recess was taken.)

HEARING OFFICER BOULLION: After reviewing this packet of declarations, which is approximately ten, it appears that a number of citizens have submitted declarations addressing the socioeconomic and environmental impact on farm workers in the area.

The petitions look at casual grants to be identical and I think that will prove to be the case. My review of Ms. Garnica's Prehearing Conference Statement indicated that she was going to be submitting, quote, "Expert social economic impact declarations after translation," unquote, and I believe this to be them, this packet.

They are not by any stretch of the imagination expert witness declarations. She also indicates that that packet would eliminate direct testimony. I would propose that the parties stipulate to the admission of that testimony at the hearing and eliminate the need for any of
those persons to be present at the hearing to
testify, unless you see the need for cross
excamination of those witnesses. And I'll give
each of you a chance to address that when you
resume your statements.

And I think, given that testimony, the
concerns of Ms. Garnica, other than moving it out
into the desert, may be somewhat changed from what
Mr. Galati has already said, so I'll give you a
chance to revise anything you've previously said.
So, go from there.

MR. GALATI: We agree to allow those
declarations submitted to be taken into evidence,
without objection, and those witnesses do not need
to be present. We don't intend to cross examine
them.

With respect to Socioeconomics, we think
we can then take the rest of the matter on
declaration. We are in agreement with staff.

I would like to point out that I have
made a mistake on the name of the witness who will
be testifying on socioeconomics in my Prehearing
Conference Statement. The name of the witnesses
will be Sally Zeff and Jeff Harvey, who will also
be present on other matters at the hearing in case
there are questions that arise from the public.

HEARING OFFICER BOUILLON: I'm sorry,

what was the name of that first witness again,

Sally --

MR. GALATI: Sally Zeff, Z-e-f-f, and

Jeff Harvey, sitting to my right, H-a-r-v-e-y,

both from Greystone Environmental Consultants.

I'll move on to Traffic and

Transportation. While we're in the mode of

handling corrections, I have to add a witness that

is on the testimony that didn't make it into our

Prehearing Conference Statement. The witness

listed is O. Leon Crain, which is correct. And

there is also Robert -- oh, he is there. I'm

sorry, I apologize. I did that one right.

Traffic and Transportation, we have a

minor dispute involving changes to conditions

Trans Six and Trans Seven from the staff

assessment. This has to do with the Airport Land

Use Commission's approval of finding that the

project is consistent with the incorporation of

conditions. We believe that the staff assessment

summarized the conditions in a way that's

inconsistent with the record of decision.

We have proposed modifications and
changes to that which haven't been agreed to yet, so we think that that is something that needs to be taken up by the Committee and cannot be submitted on declaration. However, we think it is a very short matter. We've only allotted five minutes for direct testimony to explain that and we think we need less than ten minutes for cross examination.

Visual Resources, the staff has agreed with the recommendations that we suggested. One small minor change to three, they've stated so in their Prehearing Conference Statement and so there are no disputes on Visual Resources and we think we can go forward on declaration for Visual Resources.

Again, I need to substitute O. Leon Crain, who is listed as direct testimony on the Prehearing Conference Statement, with Sally Zeff, Z-e-f-f and Jeff Harvey.

In summary, Mr. Bouillon, we will still have our witnesses available in those areas that I indicated earlier, prior to these declarations. In case the public has comments that need to be addressed, those witnesses are coming down to the hearings for other matters that are in dispute.
with staff and we will make them available for those other areas as I indicated earlier.

HEARING OFFICER BOUILLON: Thank you, Mr. Galati.

Ms. DeCarlo, are you or Mr. Shaw going to make your presentation?

STAFF COUNSEL DE CARLO: Yes, I will, I will give the presentation and I will follow the same format that the Applicant did and just go through their list.

Project Description we can do by declaration. Compliance --

PRESIDING MEMBER KEESE: May I just ask a question here?

HEARING OFFICER BOUILLON: Certainly.

PRESIDING MEMBER KEESE: At the hearing, are we going to start with the Project Description for the audience?

HEARING OFFICER BOUILLON: I think Project Description should be where we start, so that everybody at the hearing understands where we are, even if we take the evidence by stipulation.

One of the things, I'm not sure if we covered it in our notice, one of the things we're going to do that's out of the ordinary is we're
going to take stipulations last rather than first. We will note the areas that will be covered by stipulation, but at the beginning of the taking of evidence, we will not receive those stipulations in the interest of saving time, because we're only going to have roughly a long day and then an additional half day in Blythe. And we have reserved the 30th of November in Sacramento for an additional day, if needed.

And I hope that nothing more would be needed on that additional day other than the receiving of those stipulations if we can't get to them on the second day of hearings.

COMMITTEE MEMBER LAURIE: As to project description, Mr. Chairman, would you want to consider a nontestimonial presentation at the beginning of the --

PRESIDING MEMBER KEESE: That was my point. I think we can stipulate we don't need testimony on the project description, but I would like to make sure we leave time for a project description as we start. And perhaps -- we're going to do an afternoon hearing and then we're going to do an evening hearing?

HEARING OFFICER BOUILLON: Yes.
PRESIDING MEMBER KEESE: It may be that we have to do a brief project description twice.

MR. GALATI: We'll be prepared to give a 15, 20-minute presentation on the project, including all of its components, describing them.

HEARING OFFICER BOUILLON: I think that would be appropriate. If you can put it in the context of a normal court proceeding, it would be like an opening statement, you could cover the project description and the order in which you intend to call witnesses.

PRESIDING MEMBER KEESE: Okay. I do that just so -- when we're done here, I'd like to look at our timing. So, we'll put 20 minutes for that? Fifteen minutes for that?

HEARING OFFICER BOUILLON: As needed.

PRESIDING MEMBER KEESE: All right. I'm putting 20 minutes.

STAFF COUNSEL DE CARLO: Compliance we can do by declaration, that's sufficient. Project Alternatives, we can also do by declaration, although we can have someone available from staff if the intervenor would like to cross examine staff on that.

Facility Design, we can do by
declaration, but I understand that Ms. Garnica has
issues with the gas pipeline safety, so we can
have Mr. Kisabuli, I believe, is responsible for
that portion of testimony. We can have him
available for cross examination.

Transmission System Engineering, we can
do by declaration, as well as Transmission Line
Safety and Nuisance.

Air Quality, we still have some dispute
over the Applicant’s request to eliminate CARB
from the conditions and verifications. As we
stand now we would like to have CARB remain in the
verification portion. It is standard, we have
done that on other cases, such as High Desert, so
we believe that it's necessary to leave them in.
So we would have some testimony on air quality
regarding that.

SPECIAL ADVISOR O'BRIEN:  Mr. Bouillon,
could I just ask a question about that?

HEARING OFFICER BOUILLON:  Certainly.

SPECIAL ADVISOR O'BRIEN:  It pertains to
a couple of the technical areas where there appear
to be very very minor differences between the
staff and the Applicant. And I'm wondering if on
a couple of these areas where the disputes are so
minor whether or not it's within the discretion of
the Committee to have both parties submit in
writing a very brief description of the dispute
and then the rationale for their position. So
that we might, if this is appropriate, spare the
parties, particularly the staff, given the siting
workload we have, having to go down to Blythe and
appear before the Committee on a very minor issue
for about five minutes.

So I just raise that issue for the
Committee's consideration.

HEARING OFFICER BOUILLON: It would
appear that the parties have a dispute, but
they're quite capable of putting it in -- it
should be covered by their direct testimony. That
should have already been done.

The question is whether or not either
party or those present here needs any cross
examination of the other's witness on that topic.
If it's a legal issue, if the Applicant is worried
about setting a precedent on a legal basis, that's
more an issue to be briefed by the attorneys
involved rather than dealt with by cross
examination. If you're going to be asking the
witness for some legal conclusions or something,
I'm not going to allow those questions anyway.

So I would -- Ms. DeCarlo, I'll ask you first, do you think you need any cross examination of the Applicant's witness on both this issue with regard to CARB or some of these other minor details?

STAFF COUNSEL DE CARLO: No, no, we don't anticipate any cross examination on air quality.

HEARING OFFICER BOUILLON: And Mr. Galati?

MR. GALATI: Yes and, as I indicated, we didn't think we needed cross examination either on those witnesses. What I would propose is we've had a chance to see that that is included. This is the first time that staff has seen that we've had a discrepancy with that. We would have no problem with supplemental filing from staff and we'll just handle it in our brief.

STAFF COUNSEL DE CARLO: My only concern, Mr. Bouillon, would be with the public, if they would want a synopsis of our testimony on air quality, since it tends to be a very interesting issue to the public.

HEARING OFFICER BOUILLON: The only --
other than the two of you and with the possible
exception of CURE who may or may not have retained
any rights by failing to participate in the
process so far, would be Ms. Garnica. And I don't
see anything specifically with regard to air
quality in her prehearing conference statement, so
I don't believe there's anyone who can cross
examine either of your witnesses on air quality.

Mr. Shaw, you have a comment?

PROJECT MANAGER SHAW: I do have one
question, that is the farm workers mentioned
working in the lemon grove which adjacent to the
plant. I don't know if air is a concern.

COMMITTEE MEMBER LAURIE: Well, let me -
- I'd like to know, Mr. Chairman, a couple of
things. One, you don't need agreement as to all
facts or terms and conditions in order to accept
testimony by stipulation. That is the Committee
can be handed the disagreement by stipulation and
you don't need witnesses, unless, as noted, there
is cross examination necessary.

As to the question of the interest of
the public I'm not sure that you need the expert
witnesses there to give a presentation or have a
discussion and respond to public comments on
specific items. The Project Manager should be
summarize those issues.

So unless something is to be gained by
cross examination, and we would want to have that
spelled out in advance, I don't see any reason to
have witnesses.

MR. GALATI: And again, we would not
object to staff filing supplemental testimony on
-- rebuttal testimony on that one point of CARB to
inform the Committee, we would allow that in by
declaration and we will handle the issue in our
brief.

PRESIDING MEMBER KEESE: I concur with
Commissioner Laurie, I think we should be able to
handle this by stipulated statements. So we're
going to close that one off, right?

HEARING OFFICER BOUILLON: We'll take
that by declaration.

PRESIDING MEMBER KEESE: By declaration.

HEARING OFFICER BOUILLON: Including
supplemental testimony if staff cares to file any
and briefed arguments to be submitted at the
conclusion of the hearings -- on the second day of
hearings, let's say.

PRESIDING MEMBER KEESE: And just as a
comment I would think that in the opening
statement on project description that we should
have some comment on the air.

STAFF COUNSEL DE CARLO: Public Health,
we can do by declaration. I'm not sure if our
staff would be able to address the pipeline issue
in public health. I think that's mainly Facility
Design and Hazardous Materials, so I'm not sure
that they would be needed for the Intervenor.

Hazardous Materials, we agree with
Applicant's testimony. However, we can have
someone available, Mr. Alan Greenberg, for
Intervenor cross examination.

Worker Safety and Fire Protection, we do
agree to Applicant's recommendations, so there's
no dispute there, so we can do that by
declaration.

Biological Resources, there remains some
dispute with Applicant and I would like to reserve
about 30 minutes for cross examination on the
areas of dispute. And we are attempting to get
Fish and Wildlife and Fish and Game to be present
at the hearing, and I believe the 28th is the best
day for all parties in regard to that.

HEARING OFFICER BOUILLON: The 28th?
STAFF COUNSEL DE CARLO: Yes.

COMMITTEE MEMBER LAURIE: And, Mr. Chairman, is it your intent to, in developing the schedule, would it be your intent to assign specific topics to specific days so that the parties would know when to have their witnesses present?

PRESIDING MEMBER KEESE: Yes, as soon as we've completed this, yes, that would be our idea. And our idea is actually to deal with the issues that would affect, for instance, our farm workers in the evening portion of the first day. So, specifically, we're trying to get those and what the public might be most likely to be interested in at that time.

And, as we said, we'll take the stipulations last, hopefully on the second day, and complete them. But if we have to roll over, we'll roll the stipulations over.

STAFF COUNSEL DE CARLO: Cultural Resources, we do still have the disputed issue of verification, but we can do that by stipulation and rebuttal testimony.

MR. GALATI: Yes, we agree and we agree that staff can file rebuttal testimony to the
verifications and we will handle it in our brief.

HEARING OFFICER BOUILLON: Mr. Shaw, do you see any need for supplemental testimony?

PROJECT MANAGER SHAW: No.

STAFF COUNSEL DE CARLO: Geology and Paleontology, we can handle by declaration. We have one staff that does Soil and Water Resources, so we do that as one section.

We do have a dispute, I believe the Applicant intends to file a detailed Water Conservation Offset Plan and I believe that that will resolve some of the issues staff has. But we still have an issue with the well drawdown.

MR. GALATI: Just a correction there. We already have the Water Conservation Offset Program. What we're filing is what we're calling a long-term irrigation rights agreement and it was reached with the City of Blythe for us to retire certain lands under the Water Conservation Offset Program. And, quite frankly, that's being Fed Exed to us today. It's probably at my office now and we will file it today, this afternoon, and also make sure that the Project Manager gets enough copies to distribute to staff.

But, not the Water Conservation Offset
Program, it's the Irrigation Lands Agreement.

STAFF COUNSEL DE CARLO: And staff would like to reserve about 30 minutes for cross examination.

Waste Management we can handle by declaration --

PRESIDING MEMBER KEESE: Excuse me, did we say Soil Resources is okay?

STAFF COUNSEL DE CARLO: No, we'll be having a witness.

PRESIDING MEMBER KEESE: You'll be doing both of them together?

STAFF COUNSEL DE CARLO: Yes.

PRESIDING MEMBER KEESE: Okay.

STAFF COUNSEL DE CARLO: I mean we'll be focusing on purely the Water Resources, but we handle it as one section.

Waste Management we can handle by declaration.

Land Use, some of the issues may be resolved by submittal of the irrigation plan, but there might be still other outstanding issues. We do agree with the repetition of the condition and we will amend our testimony on that. I don't anticipate needing any cross examination time for
Land Use.

Noise, we can handle by declaration.

SPECIAL ADVISOR O'BRIEN: If we could go back to Land Use for just a second.

HEARING OFFICER BOUILLON: Certainly.

SPECIAL ADVISOR O'BRIEN: One point I wanted to make for staff was that in reading the FSA, staff's testimony on Land Use, one issue I think that the Committee may have questions on is this issue of the water conservation program, and why staff believes that if the Applicant is going to take certain types of agricultural land out of production why staff believes that is, indeed, a significant impact. Whether that is based upon CEQA or based upon other factors or issues, I think that is an issue that may need to be clarified in the hearings if that is still a disputed issue between the parties.

MR. GALATI: If I may interrupt I can update the Committee on the land irrigation agreement, which was for lands owned by the City of Blythe near the airport. These were previously irrigated lands, but they're not currently in production.

So if those are the lands that are
retired, it should meet the concerns raised by
land use and the farm land production issue will
go away, taking lands out of current agricultural
production. And then the focus becomes on water,
and we'll wait for staff's evaluation of that. I
just wanted to provide that update.

STAFF COUNSEL DE CARLO: I believe staff
will analyze the Applicant's submittal and we will
file supplemental testimony with regards to that.

HEARING OFFICER BOUILLON: And when do
you think you could file that?

STAFF COUNSEL DE CARLO: Considering the
holidays, would the 22nd be too late?

MR. GALATI: We will not object to the
staff bringing the testimony to the hearing on the
27th, as long as we're given a few minutes to look
at it ahead of time. We think the testimony will
be favorable and not make additional disputes.
Plus, we will already have those individuals
available to be able to testify on that matter at
the hearing.

HEARING OFFICER BOUILLON: I think that
if you can get it done by the 22nd, I think that
would be best, because I don't want to speak for
Ms. Garnica, but I don't want to set a precedent
by people bringing direct testimony to the hearing
and having to deal with it at that time on the
part of other people.

STAFF COUNSEL DE CARLO: I will have to
consult with staff with that to ensure that we do
have that timeframe, because we will not receive
the supplemental testimony from Applicant until
Monday or Tuesday.

HEARING OFFICER BOUILLON: The
difference between filing it on the 22nd and
bringing it to the hearing is working over
Thanksgiving holiday. I don't know how many
people on the staff you're going to find wanting
to work on Thanksgiving.

STAFF COUNSEL DE CARLO: We will try to
file it on the 22nd.

We are in agreement with Applicant on
Socioeconomics. However, we can bring staff to
the hearing if the Committee believes that it's
necessary to address Intervenor concerns.

HEARING OFFICER BOUILLON: I believe
that would be appropriate.

STAFF COUNSEL DE CARLO: Okay.

Traffic and Transportation, we still
have a few minor disputes with the Applicant, but
we can dispose of those with stipulation and
rebuttal testimony.

Visual Resources, we have resolved our
issues with Applicant, so we can do that by
declaration.

And I believe that's all.

HEARING OFFICER BOUILLON: All right.

Now that we've both had an opportunity to do that,
I would ask Mr. Galati first and then Ms. DeCarlo
to go back over the list, keeping in mind the
comments of both the Chairman and Commissioner
Laurie with regard to what should be included in
the taking of evidence, and if you could each make
a proposal as to the order in which you would like
to put the topics on, given the times that we've
already scheduled. And then, Ms. DeCarlo, if you
could comment on his proposal, maybe we can work
that schedule out as we sit there.

COMMITTEE MEMBER LAURIE: I would note,
Mr. Bouillon, that the proposed timeframes listed
in the statement are really conservative. And it
takes five minutes to drag somebody up off their
chairs and to state their names, so you may want
to double the time, if you're going to be
practical about it.
MR. GALATI: We'll begin with a project description comment, which we think we can do in 20 minutes.

We would then propose that Water and Land Use be taken up together since that doesn't appear to be significant issues that the Intervenor is interested in. Oh, actually she has raised that. I was trying to see which one she has not raised to take in the afternoon session and leave the ones which she has raised to the evening session.

The areas where we actually need live testimony are Water Resources, Land Use, Biology and the rest have now been agreed to testimony by declaration. Although I think that we will have people available in case there's questions from the public, but it wouldn't be in the form of testimony.

So, if Biology Resources, the best day is the 28th to handle Biological Resources because the U. S. Fish and Wildlife and CDFG are available, that leaves doing either Land Use or Water Resources on the first day and preferring to do Facility Design in the evening with respect to the pipeline.
So, again, I would recommend that we do Water and Land together as a panel in the afternoon. And then in the evening we schedule the Facility Design, without precluding the ability for the Intervenor to raise water related issues, and then take Biology on the next day.

The only change to that would be whether or not we will have our Hazardous Materials people available there in the evening as well, if there's a cross over.

Other than that, everything else can be submitted upon declaration, which we can do at the end of the day or on either session if we complete early.

HEARING OFFICER BOUILLON: Ms. DeCarlo?

STAFF COUNSEL DE CARLO: That sounds fine with me.

I just want to clarify what staff members the Committee would like to have present for the Intervenors. I have here Socioeconomics, Alternatives, and reading over the declarations by Intervenor I think Public Health might be necessary as well to deal with the farm worker concern, working near the power plant.

HEARING OFFICER BOUILLON: I agree. I
think the main thrust of the comments by the
Intervenor is Public Health for the farm workers
and probably the safety of the gasline design and
construction and maintenance.

STAFF COUNSEL DE CARLO: So I believe
those can be handled at the evening session.

HEARING OFFICER BOUILLON: Yes.

COMMITTEE MEMBER LAURIE: Mr. Bouillon,
what would be your plan for handling those issues?
If there are not matters in dispute, but it is
felt for public information there should be some
discussion, would you want to go through the
formality of having these folks sworn and then
talk about what their testimony is? Or would you
suggest that it be handled in a more informal
nontestimonial fashion?

HEARING OFFICER BOUILLON: I think it
should be handled in a more formal fashion in
swearing the witnesses in and having them
summarize their direct testimony and giving Ms.
Garnica a chance to cross examine them if she
wishes. Although their summary can be relatively
brief and be confined to the areas that appear to
be of concern to the local citizenry. And that
should be true of both the witnesses for the staff
and the witnesses for the Applicant.

COMMITTEE MEMBER LAURIE: My only comment is that -- and I don't have any problem with that, but when we go through the formality of having somebody summarize their formal testimony, then, as a matter of practice, their comments are very stilted and formal, and the public doesn't pick it up very well.

As opposed to the staff member standing up and pointing to a map and just discussing the issue, which is much more informative to the public. So, it depends on what the goal is.

If these are issues that there will be cross examination on, well, fine. I understand that. If the witnesses are being brought solely for the purpose of informing the public, and it's not anticipated that there is cross examination, then perhaps a staff presentation similar to the project description is more helpful to the public. So it really depends on what the goal is here.

HEARING OFFICER BOUILLON: I think that has to await a discussion with Ms. Garnica about whether or not there's going to be any cross examination.

COMMITTEE MEMBER LAURIE: I concur.
HEARING OFFICER BOUILLON: And we'll try to resolve that rather quickly by way of conference call, and we'll issue an order that is appropriate based upon her comments.

Is that acceptable?

COMMITTEE MEMBER LAURIE: Sure.

MR. GALATI: So we're looking at Water and Land Use in the afternoon, number one; Public Health Facility and Design in the evening; and the Biology on the morning of day number two, as the --

PRESIDING MEMBER KEESE: I'm sorry, what did you say on the second day?

MR. GALATI: Biology.

PRESIDING MEMBER KEESE: The second day is definitely Biology. I'm sorry, the -- right, and I am --

HEARING OFFICER BOUILLON: I'm sorry, would you repeat what you just said? My notes are confused.

MR. GALATI: Water and Land Use on afternoon one for testimony. Evening would be Public Health and Facility Design testimony. And day number two would be Biology testimony. And again, just to clarify, we will give a quick
project description overview in -- nontestimonial
project description overview in each session if
you would like, considering that each session may
draw different members of the public.

PRESIDING MEMBER KEESE: I'm listing
here -- the major ones are Soil, Water and Land
Use, and that goes the first day after the
description.

On the second day we'll deal with
Biological Resources and then stipulations at the
end of it. And that left me putting for the
evening an informal project description again.
And I have four topics here that may or may not
informally or formally be included, and that is
Project Alternatives, Public Health,
Socioeconomics and Facility Design.

STAFF COUNSEL DE CARLO: I would also
like to add Hazardous Materials.

PRESIDING MEMBER KEESE: And Hazardous
Materials.

MR. GALATI: I think what I was trying
to address was that the only -- again it depends
on whether Ms. Garnica wants to cross examine,
because if there is going to be no cross
examination by the Intervenor all of those can be
taken on declaration and the entire session in the
evening can be an informal nontestimonial session.

PRESIDING MEMBER KEESE: And that's what
I would -- that would be very nice.

MR. GALATI: Okay.

PROJECT MANAGER SHAW: Mr. Bouillon, I
do have one comment, if this is an appropriate
time to mention it.

According to Ms. Garnica's statement,
there might be a need to translate back and forth
English to Spanish, so do bear that in mind.

HEARING OFFICER BOUILLON: We do bear
that in mind and we'll discuss that through the
Public Advisor's Office and determine whether that
needs to be done. And I'm sure the Applicant can
arrange for a translator if needed.

Can the Applicant arrange for a
translator?

MR. GALATI: I'll have to check into
that, we had not thought about doing that. I'm
sure we can, but is there a process through the
Energy Commission which that has been done, like
in Otay --

HEARING OFFICER BOUILLON: I'm sure
there is, and I don't know what it is.
MR. GALATI: Okay.

HEARING OFFICER BOUILLON: But we can discuss that outside the confines of this room.

COMMITTEE MEMBER LAURIE: I don't know -- well, I would suggest, first of all, does Ms. Garnica speak English?

HEARING OFFICER BOUILLON: She does.

COMMITTEE MEMBER LAURIE: Okay, so this is a question of the audience, is that right? And so there is an expectation that much of the audience is not English speaking, is that right?

MR. GALATI: I think that expectation is raised by her Prehearing Conference Statement about these particular declarations. But the people who have participated in the workshops have not expressed the need for interpreters, to date.

PRESIDING MEMBER KEESE: I would concur in that. In reading her letter, these were waiting for translation.

COMMITTEE MEMBER LAURIE: If, through the Public Advisor's Office, a determination is made that the audience would require it, then, Ms. DeCarlo, you have experience in the Otay case?

STAFF COUNSEL DE CARLO: Yes.

COMMITTEE MEMBER LAURIE: We used
interpreters in the Otay case. We can find out how that was done.

STAFF COUNSEL DE CARLO: I can look into that.

HEARING OFFICER BOUILLON: And since it's for the benefit of the audience and not for the benefit of testimony, it would not have to be any sort of court certified reporter and it can be handled on a pretty informal basis, I would think, which would give us a much wider selection in securing an interpreter. In fact it's possible that Ms. Garnica herself could do the interpreting, I don't know.

COMMITTEE MEMBER LAURIE: No, I wouldn't suggest -- if you're going to do it, then you hire somebody to do instantaneous interpretation and have the earphones available, otherwise you'll never be able to get through the proceeding.

PRESIDING MEMBER KEESE: Okay. And just for my notes here, the only one that -- we indicated that we would do Air Quality in the project description. We didn't incorporate informal conversation about Air Quality into the project description?

MR. GALATI: Our presentation will
include a description of the Air Quality features
of the project and the mitigation incorporated,
both by the conditions and already incorporated
into the project.

PRESIDING MEMBER KEESE: So the two
substantive issues we have are Soil and Water and
Land Use the first day; Biological Resources the
second day; and if we finish the first day
promptly, we'll do stipulations right then,
because we're not going to go into Biological
Resources.

So we'll leave stipulations on both
first and second day. If we have some time, we'll
crank out the stipulations the first day and if we
don't, we'll finish them up the second day.

I don't have any closing comments.

HEARING OFFICER BOUILLON: Do either of
the parties have any closing comments?

STAFF COUNSEL DE CARLO: No.

MR. GALATI: No, thank you.

PRESIDING MEMBER KEESE: Thank you.

HEARING OFFICER BOUILLON: We will put
out a formal schedule and I will try to set up a
conference call with Ms. Garnica. I'll try to
make some arrangements.
PRESIDING MEMBER KEESE: So we are
recessing this and it is going to be continued as
a conference call. This hearing will continue as
a conference call.

(Thereupon the California
Energy Commission Prehearing
Conference on Blythe was
recessed at 10:35 a.m.)
CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of November, 2000.

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