

PREHEARING CONFERENCE, EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification for) Docket No.
the Chula Vista Energy Upgrade) 07-AFC-4
Project)
_____)

CHULA VISTA CITY HALL
COUNCIL CHAMBERS
276 4TH AVENUE
CHULA VISTA, CALIFORNIA 91940

THURSDAY, SEPTEMBER 18, 2008

3:02 p.m.

Reported by:
Peter Petty
Contract No. 170-07-001

COMMITTEE MEMBERS PRESENT

Jackalyne Pfannenstiel, Presiding Member

James D. Boyd, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Raoul Renaud, Hearing Officer

Timothy Tutt, Advisor

Susan Brown, Advisor

STAFF AND CONSULTANTS PRESENT

Christopher Meyer, Project Manager

Kevin Bell, Staff Counsel

PUBLIC ADVISER

Elena Miller

APPLICANT

Jane E. Luckhardt, Attorney
Downey Brand Attorneys, LLP

Douglas M. Davy, Senior Project Manager
CH2MHILL

INTERVENORS

Scott Tulloch, Assistant City Manager
Michael Meacham, Director
City of Chula Vista

Kevin Bundy, Attorney
Shute, Mihaly and Weinberger
Leo Miras
Jenny Huerta
Environmental Health Coalition

Diane Takvorian

ALSO PRESENT

Norberto Salazar
CVESD/School Board Candidate

Patty Davis

Theresa Acerro, President
Ed Herrera, Vice President
Southwest Chula Vista Civic Association

Tomm Lemmon
San Diego Building Trades Council

Steven C. Pavko

Lisa Cohen, CEO
Chula Vista Chamber of Commerce

Diana Vera

Kevin O'Neill

Guillermo Lopez
City of Chula Vista

Carlos F. Lopez
Purina Lopez
Hugo Salazar
Gisell Reyes
Communities Taking Action

Jean Costa, coChairperson
Global Warming Committee
Sierra Club

Lupe Montes

Carolina Ramos

Stephanie Miguel

G. Rodriguez

Cindy Gompper Graves
South County Economic Development Council

Ruth Bucio

Max Herrera

ALSO PRESENT

Richard D'Ascoli
Pacific Southwest Association of Realtors
South County Economic Development Council
Chula Vista Chamber of Commerce

Juan Ceseña
San Ysidro Chamber of Commerce

Javier Saunders
Mexican-American Business and Professional
Association

Gardenia Durante

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

2 3:02 p.m.

3 PRESIDING MEMBER PFANNENSTIEL: Good
4 afternoon. This is the Energy Commission's
5 prehearing conference to consider the Chula Vista
6 Energy Upgrade project here in Chula Vista.

7 I'm Jackie Pfannenstiel. I'm a
8 Commissioner of the California Energy Commission,
9 and I am the Presiding Member of the two-person
10 Commissioner Committee that was appointed to
11 consider this project.

12 And second over to my left is
13 Commissioner Jim Boyd, who is the other member of
14 the Commissioner Committee.

15 Between us is Raoul Renaud, who is the
16 Hearing Officer on this proceeding. And Hearing
17 Officer Renaud will preside in the discussion
18 today and in the evidentiary hearing that's been
19 scheduled for October 2nd.

20 But when the evidentiary hearing is
21 completed and all the evidence is submitted, it
22 will be the Commissioner Committee of Commissioner
23 Boyd and myself who will consider the outcome of
24 this proceeding.

25 So, with that, why don't I turn it over

1 to the Hearing Officer.

2 HEARING OFFICER RENAUD: Thank you,
3 Commissioner Pfannenstiel. Is that working now?
4 Yes. Okay.

5 I'd like to have everyone else who's up
6 here introduce themselves. The people seated up
7 here are parties in the case. And that means that
8 they either are the entity that's applied to build
9 the power plant, the Energy Commission Staff, and
10 people who have intervened in the case.

11 And in this case we do have three
12 intervenors, the City of Chula Vista, the
13 Environmental Health Coalition and CURE.

14 And I think we will start to my far
15 right and just ask each of you to state your name
16 and who you're with.

17 MR. MEACHAM: Michael Meacham; I'm the
18 Director of Conservation and Environmental
19 Services for the City of Chula Vista.

20 MR. TULLOCH: I'm Scott Tulloch; I'm the
21 Assistant City Manager for the City of Chula
22 Vista.

23 MR. BELL: My name's Kevin Bell; I'm
24 Staff Counsel for the California Energy
25 Commission.

1 MR. MEYER: My name's Christopher Meyer;
2 I'm the Staff's Project Manager for the Chula
3 Vista Energy Upgrade project.

4 MR. TUTT: I'm Tim Tutt; I'm the Advisor
5 to Chairman Pfannenstiel.

6 MS. BROWN: I'm Susan Brown; I'm the
7 Advisor to Commissioner Boyd.

8 MR. BUNDY: My name is Kevin Bundy;
9 Shute Mihaly and Weinberger, representing
10 Environmental Health Coalition.

11 MR. MIRAS: Leo Miras from Environmental
12 Health Coalition.

13 MS. LUCKHARDT: Jane Luckhardt, Counsel
14 for MMC Chula Vista.

15 MR. DAVY: Douglas Davy; I'm a
16 consultant to MMC.

17 HEARING OFFICER RENAUD: Okay. And let
18 me remind each of you who is up here and has a
19 microphone, that we need to switch those on when
20 you speak, the little button there at the bottom
21 of your screen. I think people could hear your
22 introductions, but for the future just remember
23 that you need to turn these on so you can be
24 heard.

25 Let me explain just a little bit about

1 what we're here to do today. The Energy
2 Commission conducts a public hearing process when
3 someone applies to construct an electrical
4 generating facility.

5 At this point we are preparing to hold
6 evidentiary hearings with respect to that
7 application. And at this point we're scheduled to
8 have that hearing on October 2nd.

9 What we're here to do today is to hear
10 from each of the parties, their views on how
11 prepared we are to proceed on October 2nd. And to
12 find out what areas there are that are still in
13 dispute. And which areas parties are in agreement
14 on.

15 By doing this we hope we can streamline
16 the hearing process and be able to go straight to
17 the issues that are really in contention, and keep
18 our hearing process as efficient as possible.

19 We will really have two major sections
20 to our proceeding today. First, the parties will
21 discuss the matters I talked about. And when
22 that's over we will have an opportunity for
23 members of the public to come up and comment.

24 Now, bear in mind, we're more than
25 willing to hear any of you speak today during the

1 public comment period. But you might want to
2 consider whether coming to the evidentiary hearing
3 on October 2nd and speaking at that time might be
4 more productive for you, because that's the time
5 when actually parties will be presenting their
6 evidence about the case. Today is really almost a
7 housekeeping discussion of deciding where we stand
8 and where we go from here.

9 We have a Spanish translation service
10 available. I believe you were all made aware of
11 that as you came in. If you would like that, you
12 can obtain a headset outside.

13 We would also ask that members of the
14 public refrain from comment or making other kinds
15 of sounds interrupting the proceedings. We'd like
16 to get through this as efficiently and quickly as
17 possible today. And then we'll go into the public
18 comment period.

19 The Commission sent out a notice several
20 weeks ago asking the parties to each file a
21 prehearing conference statement. And the parties,
22 MMC, the Energy Commission Staff, and the
23 Environmental Health Coalition, as well as the
24 City of Chula Vista all filed prehearing
25 conference statements. These statements inform

1 the parties about the state of readiness of each
2 of the parties to proceed on October 2nd.

3 (Interrupting sound.)

4 HEARING OFFICER RENAUD: One of those
5 cellphone noises, I think. Okay.

6 Maybe we can get one of the easy things
7 out of the way first. In reading the prehearing
8 conference statements it appears to me that there
9 were a number of areas of discussion that are not
10 in dispute. That is all the parties are in
11 agreement as to where the matter stands.

12 (Interrupting sound.)

13 HEARING OFFICER RENAUD: If anybody has
14 a cellphone near a microphone, maybe that's what's
15 causing that. Could you all check.

16 Okay. So what I'd like to do is I will
17 say what those areas of agreement are, and then
18 I'd like to just hear from each party verifying
19 that, in fact, those are the areas of no dispute.

20 And those areas, as set forth in the
21 final staff analysis, are cultural resources,
22 facility design, geographical and paleontological
23 resources, project description, soil and water
24 resources, traffic and transportation and waste
25 management.

1 Are there any of the parties that don't
2 agree that we really don't have any further issues
3 to resolve on those topics?

4 All right. Then I would like to ask the
5 parties to stipulate that the testimony and
6 evidence for those topics will be by declaration
7 and that live witnesses need not be present and
8 subject to direct or cross-examination at the
9 evidentiary hearing.

10 Are there any parties that would object
11 to making that stipulation? All right, seeing
12 none, that's the order.

13 Okay. Maybe next we'll move into an
14 area which we're finding perhaps to be the most
15 difficult one at this point. The Committee made
16 the parties aware of this in an email that was
17 sent out, let's see, sent out on September 16th.
18 And this was also placed in the public docket for
19 anyone to read.

20 It concerns the areas of zoning or land
21 use and alternatives to the project. And the
22 proposed project is sited in an area which, under
23 the City of Chula Vista's zoning code or zoning
24 ordinance, is limited industrial. There is
25 currently a peaker power plant there. And the one

1 that's proposed is a replacement of that with a
2 larger one.

3 The Environmental Health Coalition
4 pointed out in its comments to the final staff
5 analysis that the industrial limited zoning
6 designation does not mention power plants, but
7 that the general industrial zoning designation
8 does mention power plants.

9 And the Committee voiced some concern
10 that there may be a conflict there which we need
11 to hear from the parties about.

12 Now, we're not looking to decide that
13 issue today. We're not really deciding any issues
14 today. That's what we do at the evidentiary
15 hearing. But we would like to make sure that the
16 parties are aware of the existence of that issue
17 and will be prepared to present evidence on it.

18 For the most part, cities make their own
19 zoning laws and enforce their own zoning laws.
20 The Energy Commission, however, has been assigned
21 jurisdiction for siting of power plants. And that
22 includes making sure that the power plant complies
23 with all laws, ordinances, regulations and
24 standards.

25 This is an instance in which there may

1 be a problem about a conflict with the ordinance,
2 the zoning ordinance.

3 We did ask the parties in the email that
4 was sent out to be prepared to discuss that today.
5 I don't have any particular format or order in
6 mind to do that. Perhaps we could just start with
7 the City and come on down the row. How does that
8 sound?

9 The City of Chula Vista, do you have any
10 comments or anything you'd care to bring up with
11 us?

12 MR. TULLOCH: During the process it's my
13 understanding that we provided a copy to CEC Staff
14 of the special use permit that was used for the
15 initial facility. And that would be the basis for
16 our input.

17 And since getting the email late last
18 week we now have our staff and our attorney's
19 office taking another look at that. And we'll be
20 prepared at the evidentiary hearing to respond.

21 HEARING OFFICER RENAUD: Perfect.
22 That's what we want to hear, just we want to make
23 sure the parties are aware of the issue and the
24 concern of the Committee. And that they will be
25 prepared to address those concerns and present

1 evidence at the evidentiary hearing. Not today,
2 but then.

3 Okay, how about from CEC Staff.

4 MR. MEYER: Technical Staff has read the
5 email and has been following this issue very
6 closely. And will be prepared to present evidence
7 at the evidentiary hearing and discuss this issue
8 further.

9 HEARING OFFICER RENAUD: Very good,
10 thank you. Turning to Environmental Health
11 Coalition, anything you'd like to add?

12 MR. BUNDY: Not much more than what was
13 in our prehearing conference statement. As you
14 know, we do believe that there is a conflict
15 between the project and not only the zoning
16 ordinance, but also provisions of the general
17 plan. And we will be prepared to address those
18 issues at the evidentiary hearing.

19 We'd also like the opportunity to brief
20 those issues following the hearing, as well.

21 HEARING OFFICER RENAUD: Yes. And we
22 certainly do have in mind that at the close of
23 evidence we will ask the parties to brief this
24 issue because it really is a legal issue. And
25 we'll establish a briefing schedule at that time.

1 Applicant.

2 MS. LUCKHARDT: Okay, I guess initially
3 on the outset I would like to say that we were
4 very concerned when we received the email on
5 Friday. And our concern stems primarily from the
6 fact that no evidence has been taken yet in this
7 proceeding, and yet it appeared to us, from the
8 email, that the Committee may have already formed
9 an opinion on this issue, with the language such
10 as, what appears to be a clear zoning conflict.

11 And that gives us great pause about
12 whether we can truly get a fair hearing on this
13 issue. And that is of concern to us when a
14 statement like that is made prior to the
15 presentation of any evidence.

16 We will be prepared to discuss this
17 issue. And we feel that reliance simply on a
18 comment made by one party on an FSA as to
19 establishing something as important to a case as a
20 zoning conflict is really -- is jumping to a
21 conclusion by a Committee way in advance of the
22 appropriate time. And so we do have grave
23 concerns regarding that.

24 We will be addressing this issue in our
25 land use comments. And we assume that since

1 there's so much interest on land use, that we will
2 be presenting some witnesses on that aspect. And
3 we will have them discuss it.

4 We do note that, you know, the City's
5 zoning ordinance, although it does not list power
6 plants as a permitted use, it also does not list
7 them as a prohibited use. And it lists full
8 permitted and prohibited uses.

9 So I think there are, you know, there
10 are a lot of other things that need to be taken
11 into account when reaching such a conclusion that
12 we feel have not been taken into account with the
13 initial review of this issue.

14 PRESIDING MEMBER PFANNENSTIEL: I'd like
15 to respond, Ms. Luckhardt, to the suggestion that
16 the Committee has already drawn a conclusion about
17 this. That clearly is not the case. The
18 intention of the email that went around was to
19 advise all parties that, in fact, it's an issue
20 that has been identified, and to assure that we
21 will hear evidence and then have an opportunity to
22 review argument thereafter.

23 MS. LUCKHARDT: And I appreciate that.
24 It's just the tone of the email was such to where
25 it gave us quite a bit of concern.

1 ASSOCIATE MEMBER BOYD: Well, I want to
2 join in this dialogue just by saying that you
3 shouldn't conclude that we reached our question on
4 the basis of the statements by another party. I
5 think you have to take into account the fact that
6 we read all the materials that we receive relative
7 to the case. And in reading that material this
8 question is readily apparent.

9 So I think you should take it as just a
10 question that we felt needed further discussion.

11 HEARING OFFICER RENAUD: And I might
12 just add that under the law the Commission cannot
13 decide the case on anything except the evidence.
14 And evidence is what we receive at the evidentiary
15 hearing, which hasn't occurred yet.

16 So, with that reassurance, Ms.
17 Luckhardt, I think we will proceed from there. At
18 the evidentiary hearing we'll look forward to
19 hearing the evidence that you all will present to
20 us, and then we'll set up a briefing schedule and
21 the Commission will make its decision on the basis
22 of that.

23 All right. Let's proceed to the other
24 topic areas, then, from the final staff analysis.
25 Each of you, in your prehearing conference

1 statements, listed the topics which you believe
2 may still have some disputed areas, and also in
3 topics in which you believe may not yet be ready
4 to proceed to hearing as of today.

5 And I think what we'd like to do now is
6 just identify those disputed areas, and also
7 determine whether or not the areas which may not
8 be ready yet can be ready two weeks from now.

9 Let's look first at air quality. The
10 staff and the Environmental Health Coalition have
11 each indicated that that area is in dispute. To
12 sum up, Environmental Health Coalition's
13 contention is that the air quality analysis fails
14 to analyze impacts at the fully permitted capacity
15 factor of the project. And that the mitigation
16 measures are inadequate.

17 And staff, Mr. Bell, could you summarize
18 staff's disputed areas with respect to air
19 quality?

20 MR. BELL: I think your presentation of
21 EHC's position is correct. Staff's position is
22 that this area is complete and we are ready to go
23 to hearing. Staff's testimony has already been
24 outlined in the FSA.

25 HEARING OFFICER RENAUD: All right, now

1 while we're on air quality, the City, in it's
2 prehearing conference statement, indicated that
3 the area of air quality may not be ready for
4 hearing at this point.

5 That seems to relate mostly to the
6 adequacy of the mitigation measures. What do you
7 think needs to happen in order to be fully
8 prepared to present evidence on that topic? Not
9 whether or not we resolve the topic, but just to
10 be ready to go forward on the 2nd.

11 MR. TULLOCH: Just I'd draw our
12 attention to two things. One is that we think
13 that the work that was done on behalf of the Chula
14 Vista Elementary School District by the consultant
15 on air quality is relevant, and that should be
16 included as part of the record and reviewed. And
17 we submitted a copy of that.

18 And then secondly, a broader issue is
19 that we've worked with the applicant on a number
20 of things that we expect would help to mitigate
21 this project if it's, in fact, approved and
22 constructed.

23 And one of those does have to do with
24 the mitigation of air impacts. And we'd like to
25 see that included as a condition in the way that

1 we've suggested and that the applicants agree to.
2 And we've been working with staff to try to get
3 that incorporated, but we don't think the way it's
4 worded now in the FSA is exactly where we'd like
5 to see it.

6 HEARING OFFICER RENAUD: All right. Are
7 talks ongoing between staff and the City to try to
8 resolve this? Or are we pretty much a point where
9 we just need to adjudicate it?

10 MR. BELL: I believe we're ready for
11 hearing on this issue. I do note that on our
12 exhibit list we have listed the Chula Vista
13 Elementary School District's independent air
14 quality analysis as a document that we intend on
15 introducing into evidence to support staff's
16 position.

17 HEARING OFFICER RENAUD: Yes, I
18 understand that that will be offered into
19 evidence. All right.

20 MR. TULLOCH: If that's the case that's
21 fine with that issue. We'd still like to take a
22 turn on addressing the other aspect, as far as how
23 the mitigation would occur. If you want I can
24 tell you what the issue comes down to for us.

25 HEARING OFFICER RENAUD: Please do.

1 MR. TULLOCH: Our concern is that we
2 don't necessarily have a dispute with how the
3 amount of money was calculated. We're relying on
4 the CEC Staff that that's an appropriate way to do
5 that.

6 It's just that as originally proposed
7 those funds would go into the Carl Moyer Fund,
8 which would then leave it to the San Diego ABCD to
9 determine where this mitigation would occur. And
10 we're concerned about that because we think if the
11 impact's going to occur in southwest Chula Vista
12 the mitigation should occur there, as well.

13 So, we had been working with staff to
14 take a different approach. and we think that
15 there's general concurrence in a conceptual sense
16 to do that. But we'd like to see that reflected
17 actually in the condition.

18 HEARING OFFICER RENAUD: Is there
19 further work you feel you can do with staff
20 between now and the evidentiary hearing, or,
21 again, is this something we just need to have a
22 hearing on and adjudicate?

23 MR. TULLOCH: I believe that the staff
24 -- I think we both have a clear understanding of
25 what we're after. And there didn't seem to be a

1 significant objection on the part of your staff.
2 So I don't know internally what might be keeping
3 them -- quite getting to the point.

4 It's left as alternatives. And we would
5 like to see it more direct.

6 HEARING OFFICER RENAUD: Okay.

7 MR. TULLOCH: But what we're asking for
8 is that the City of Chula Vista, working with the
9 CEC Staff, have a period of time to attempt to
10 find a mitigation opportunity with that money in
11 southwest Chula Vista. And then if we can't do
12 that in a reasonable period of time, then we would
13 accept that it go to Carl Moyer, and that would be
14 the process.

15 HEARING OFFICER RENAUD: All right.
16 Well, the conditions of certification are a very
17 important part of the Committee decision. And it
18 sounds like you're concerned that we aren't yet
19 ready to state, with precision, some of the
20 conditions.

21 MR. TULLOCH: Yes. And I would also
22 comment that we've spoken to staff at the local
23 ABCD, and they think this is fine with them. So I
24 don't think that's an issue. I think that's an
25 issue. I think it's just maybe not exactly how

1 it's normally done. We just maybe plow a little
2 new ground and try to get the mitigation actually
3 near the impact.

4 HEARING OFFICER RENAUD: Mr. Meyer, did
5 you have a comment?

6 MR. MEYER: Yes. Basically just the way
7 the condition was written by staff was designed
8 specifically to have the flexibility to allow it.
9 So staff agrees with the position of both MMC and
10 the City. And wrote the condition in such a
11 manner that would allow what Scott has proposed.

12 And this is specifically air quality SC-
13 6. And staff would definitely be able to either
14 clarify at the evidentiary hearing that that is
15 our intent. And we can also work, in the interim,
16 between now and that evidentiary hearing, to
17 clarify the language if necessary.

18 HEARING OFFICER RENAUD: Yeah, what I'm
19 hearing is that what -- your concerns are nothing
20 unusual, and is the type of thing we typically can
21 adjudicate at an evidentiary hearing. And that
22 you're ready to proceed. So, I don't think that
23 need to be an issue that's going to hold thing up.

24 MR. BUNDY: Your Honor, should I address
25 you as Your Honor?

1 HEARING OFFICER RENAUD: You can call me
2 Mr. Renaud.

3 (Laughter.)

4 MR. BUNDY: All right. I'm sorry to
5 interrupt, --

6 HEARING OFFICER RENAUD: No, please.

7 MR. BUNDY: -- but so we can be heard on
8 this.

9 HEARING OFFICER RENAUD: Please proceed.

10 MR. BUNDY: All that we've seen, as
11 intervenors, so far are the proposed conditions of
12 certification that have been, you know, published
13 in the final staff assessment. That I think there
14 were a couple of additional conditions -- oh, it's
15 not my phone, it's not on -- sorry.

16 MR. SPEAKER: You need to lean in very
17 close.

18 HEARING OFFICER RENAUD: Either that or
19 the one to your right, which ever is easier.

20 MR. BUNDY: This one may be easier.
21 Thank you.

22 HEARING OFFICER RENAUD: Make sure that
23 one's on. Did you make sure that's on?

24 MR. BUNDY: Thank you.

25 HEARING OFFICER RENAUD: Yeah. Thank

1 you.

2 MR. BUNDY: I'll start again just to be
3 heard on this. The only things that we've seen,
4 as intervenors, have been the conditions that are
5 being proposed in the final staff assessment. And
6 the additional conditions that were attached as
7 part of the applicant's prehearing conference
8 statement.

9 I just wanted to make sure that if we're
10 going to -- that if there are discussions about
11 different conceptual ideas about what these
12 conditions should be if there are communications
13 going back and forth between the City and the
14 staff, we need to have the opportunity to see
15 those materials and to have some time to evaluate
16 those conditions in advance of evidentiary
17 hearing.

18 I don't want to be in a position of
19 trying to evaluate things on the fly on October
20 2nd that haven't already been vetted. So, to the
21 extent there's anything out there that's different
22 from what we've already seen, we'd like an
23 opportunity to look at.

24 MS. LUCKHARDT: I think you've seen
25 everything that there is. What's out there is the

1 two letters, the letter from MMC and the letter
2 from the City, that describes the way the City, I
3 think, would like to see the condition focused.

4 You have the final staff assessment.
5 You have MMC's attempt to write conditions of
6 certification with the remainder of the conditions
7 that are the agreement that MMC and the City, or
8 the additional mitigation that the City was able
9 to extract from MMC, and we believe are
10 improvements on the project.

11 And we would like to see both of those,
12 both the condition that the City has just
13 discussed with staff, included in the final
14 decision; as well as MMC's agreement to provide
15 additional funds to the City.

16 There is actually two separate
17 contributions. There's a contribution of \$210,000
18 that was initially planned to go straight to the
19 Carl Moyer program. We had agreed, and the APCD,
20 San Diego APCD, has agreed to restrict use of that
21 to the City of Chula Vista, I think for the first
22 two years, for projects within the City.

23 The City would like the ability to
24 propose something even closer to the project site.
25 That's the discussion that they're having.

1 There's a second \$210,000 that MMC has agreed to
2 provide to the City for additional mitigation that
3 the City would run; and would not have to meet the
4 typical requirements of CEQA mitigation at the
5 level that the Carl Moyer program would.

6 And so there are two different
7 provisions. And we would like to have both of
8 those in the final decision so that they could be
9 enforced through the Energy Commission compliance
10 process. And we are supportive of both of those.

11 Our only concern regarding changes to
12 the initial \$210,000, that is the \$210,000 that
13 staff has identified is necessary to mitigate the
14 impacts of the project, that that be structured in
15 a way that is legally defensible, including the
16 comments made by EHC. They've had some concerns
17 about whether that truly mitigates the impact of
18 the project.

19 Therefore we are very sensitive to
20 making sure that the mitigation is defined and
21 actual and such that it will withstand legal
22 challenge.

23 HEARING OFFICER RENAUD: Very good. And
24 I can reassure everyone that at the time -- well,
25 both the prehearing conference order and the

1 evidentiary hearing order that we'll issue after
2 this hearing will require that any changes to the
3 conditions of certification be distributed, made
4 public and made part of the record.

5 So you will all have those by the time
6 of the evidentiary hearing and there's no question
7 about that. That's what we always do, and we'll
8 make sure to do it here.

9 All right, good.

10 ASSOCIATE MEMBER BOYD: Question.

11 HEARING OFFICER RENAUD: Yes.

12 ASSOCIATE MEMBER BOYD: Do I correctly
13 infer from the discussion that took place that
14 there is a question about whether or not
15 restricting this money to two years meets the
16 City's desires? Or is that not an item of
17 contention?

18 MR. TULLOCH: That's not an item of
19 contention on our part. We agreed to two years.
20 It's our feeling that that gives us adequate time
21 to find a project that would meet the CEC Staff's
22 criteria and meet the desires, which was just
23 expressed by the applicant.

24 And then we feel if we can't do that in
25 two years, then we're comfortable with it going on

1 into the Carl Moyer Fund.

2 MS. LUCKHARDT: I think the difference,
3 just to clarify, is that the City would like to be
4 able to establish a program that is outside of the
5 Carl Moyer program. And would like the
6 opportunity to do that.

7 What I was speaking about was that we
8 can restrict the funds when they go into Carl
9 Moyer for two years for projects located in the
10 City of Chula Vista. The Air District is willing
11 to do that.

12 But I think, if I'm correct, and the
13 City will correct me if I'm incorrect, I think
14 that they would like the ability to look at
15 projects that might be beyond what would normally
16 qualify under the Carl Moyer program.

17 ASSOCIATE MEMBER BOYD: I guess my
18 concern is whether -- and I guess it'll be a
19 concern right into the hearing on the 2nd of
20 October, then, as to whether two years is indeed
21 an adequate period of time to provide permanent
22 mitigation with regard to emissions from the
23 facility. But we'll have that discussion --

24 MS. LUCKHARDT: Well, but the
25 mitigation, whatever it is, will have to be for

1 the life of the project. It'll have to be
2 permanent.

3 HEARING OFFICER RENAUD: All right.

4 Anything else on air quality? Okay.

5 Biological resources. Staff and the
6 City have indicated some areas of dispute with
7 respect to biological resources. And I think, Mr.
8 Bell, you're referring to the City's issues that
9 were listed in their prehearing conference
10 statement --

11 MR. BELL: Yes.

12 HEARING OFFICER RENAUD: -- I guess.

13 All right.

14 MR. BELL: Yes, that's correct.

15 HEARING OFFICER RENAUD: These items are
16 referred to issues of compliance with the City's
17 multiple species conservation program, sub-area
18 plan. Reading them over they look like technical
19 items that ought to be able to be worked out by
20 the time of the evidentiary hearing between City
21 and staff. And then any changes to conditions of
22 certification can be presented at that time.

23 What's your take on that? Do you think
24 these are insurmountable? Anybody speak on that?
25 Mr. Meacham.

1 MR. MEACHAM: These are comments
2 submitted by the City that are in response to what
3 was submitted originally by the City on the PSA
4 that were not incorporated in the FSA. So it's my
5 understanding that staff has -- City Staff has
6 attempted to work them out with the Energy
7 Commission.

8 There's a difference in agreement here,
9 and I don't know what the position of the Energy
10 Commission Staff is on this issue, but that's our
11 staff reiterating their position, as stated in the
12 PSA process.

13 HEARING OFFICER RENAUD: Anything from
14 staff on that?

15 MR. BELL: Well, I know that there's a
16 fundamental, but very minor, disagreement on
17 mitigation with respect to a gravel field under
18 the biological resources analysis.

19 Of course, I'm not averse to having the
20 City and staff attempt to work that out between
21 now and the hearing. And if we can do away with
22 this, as an issue, prior to the hearing then I'm
23 all for that. We can certainly try to work that
24 out between now and then.

25 HEARING OFFICER RENAUD: All right. Try

1 to work it out, and we'll hear the evidence on the
2 2nd and take it from there. Very good.

3 MS. LUCKHARDT: One of the questions I
4 have is if this, you know, in just trying to
5 determine which witnesses to bring on the 2nd, if
6 that's -- are we talking about that in relation to
7 biological resources?

8 We didn't understand that there was a
9 concern regarding actual impacts to critters, to
10 put it kind of in a gross manner. And so we were
11 not planning on bringing a biological resources
12 expert that can talk about impacts on nesting
13 birds.

14 As I look at the comments from the City
15 it almost looks more like a land use question, and
16 then a request to include the City in review of
17 BMPs for laydown area.

18 Now, if I'm wrong on that I'd like to
19 get that information now so I have the correct
20 witnesses here on the 2nd.

21 HEARING OFFICER RENAUD: Right. And I
22 think it would be up to the parties to indicate
23 whether or not they will want from one of the
24 other parties witnesses here live. So, that's
25 your --

1 MR. BELL: I can speak for Energy
2 Commission Staff. Does not see any problem with
3 the actual biological resources or the analysis of
4 any biological or potential biological impacts.
5 And we agree that it looks to be more of a land
6 use designation.

7 And so Energy Commission Staff does not
8 intend to bring biological resources staff to the
9 evidentiary hearing unless requested by another
10 party.

11 And also we do not intend to request
12 biological staff from the other parties.

13 HEARING OFFICER RENAUD: Okay. Anything
14 further on that? All right.

15 Let's move on to hazardous materials.
16 Staff has indicated that there is disagreement on
17 hazardous materials, but I'm at a loss to see what
18 that might be about. So perhaps you could
19 summarize for me.

20 MR. BELL: Certainly. Through the
21 workshops that we've had there have been some
22 concerns raised by the public, I know, about the
23 handling of certain hazardous materials onsite.
24 Specifically ammonia --

25 AUDIENCE SPEAKERS: Can you speak up --

1 (Parties speaking simultaneously.)

2 HEARING OFFICER RENAUD: Get close to
3 your microphone.

4 MR. BELL: I'm sorry. Can you hear me
5 now? Okay.

6 I know there have been some concerns
7 raised by members of the public and Environmental
8 Health Coalition at different stages of these
9 proceedings regarding the hazardous materials that
10 are handled onsite.

11 If those remain in dispute we do have
12 our staff expert ready to provide testimony on
13 that issue. If that's no longer in dispute, then,
14 of course, that would --

15 HEARING OFFICER RENAUD: I mean our
16 concern here today is whether or not parties have
17 disputes over the analysis of that area. And from
18 what you're saying it doesn't sound like you're
19 aware of one.

20 MR. BELL: It had been raised before but
21 I didn't see anything, I don't believe, in the
22 prehearing conferences statements that I have.

23 HEARING OFFICER RENAUD: All right.
24 None of the other parties mentioned hazardous
25 materials in their prehearing conference

1 statement.

2 MR. BUNDY: That's correct.

3 HEARING OFFICER RENAUD: All right.

4 Okay.

5 MR. BELL: And, of course, this was
6 drafted without the knowledge of what issues would
7 be raised. I was basing it on some of our
8 previous discussions. But if any concerns or
9 fears by other parties have been laid between then
10 and now, then, of course, that would no longer be
11 an issue.

12 HEARING OFFICER RENAUD: Very good. All
13 right, thank you.

14 Now, land use obviously there's some
15 disputes about land use. I think we already
16 addressed those and we don't need to discuss that
17 further.

18 Public Health. the Environmental Health
19 Coalition has indicated that there may be an area
20 of disagreement there. It really relates to the
21 entire over-arching area of environmental justice,
22 correct?

23 MR. BUNDY: It does.

24 HEARING OFFICER RENAUD: All right.

25 MR. BUNDY: It does relate to the over-

1 arching issue of environmental justice. And it's
2 also connected to, like so many other
3 environmental justice issues, it touches on
4 multiple topic areas.

5 And it's specifically connected to the
6 adequacy of the mitigation measures for air
7 quality. Because some of the conclusions in the
8 public health analysis depend on the conclusions
9 about the adequacy of mitigation for air quality.
10 So that's why we identified that as a disputed
11 issue.

12 HEARING OFFICER RENAUD: So, we'll link
13 that up with air quality and hopefully cover it
14 there.

15 MR. BUNDY: In one sense it's linked up
16 with air quality; in another sense we will be
17 prepared to present evidence on the more general
18 relationship between air quality and public health
19 as an environmental justice issue.

20 HEARING OFFICER RENAUD: Great, thank
21 you.

22 MS. LUCKHARDT: Now, I guess I have a
23 question on that. In determining which witnesses
24 we should have available at the hearing, obviously
25 I'm hearing if there's questions about mitigation

1 of air quality conditions we will have our air
2 quality expert there, who happens also to have run
3 our health risk assessment.

4 But if there is going to be a challenge
5 to the adequacy of the standards set for the
6 health risk assessment, I would like to know that.
7 Because that would be a different witness.

8 HEARING OFFICER RENAUD: Parties?
9 Anybody?

10 MR. BUNDY: We've identified that we
11 would like to have the air quality witness
12 available to discuss --

13 MS. LUCKHARDT: Right.

14 MR. BUNDY: -- adequacy of mitigation
15 measures as far as the standards used in the
16 health risk assessment. I don't believe we had
17 any specific cross-examination for that witness.

18 MS. LUCKHARDT: Okay. Well, we also
19 have yet to see the testimony from Environmental
20 Health Coalition. At least I have not had a
21 chance to review it, if it's out there.

22 And so I'm also trying to understand
23 whether we need to have folks available for
24 rebuttal. And it sounds like that's not the
25 direction you're going, so I don't need to address

1 that issue. It sounds like you're looking at
2 environmental justice and air quality in relation
3 to the adequacy of the air quality mitigation.
4 Not to something like how the standards for public
5 health are set.

6 MR. BUNDY: I'll be prepared -- I mean
7 we have the testimony here in conformance with the
8 prehearing conference order. I'll be sharing that
9 with you after the hearing per Mr. Renaud's
10 instructions.

11 So if you feel like you need to
12 introduce rebuttal testimony to what's out
13 there --

14 MS. LUCKHARDT: Okay, okay, it's just
15 that I can't -- from what I know now, I'm going to
16 assume all I need is my air quality expert, who
17 also ran the health risk assessment.

18 If, in reading Environmental Health
19 Coalition's testimony, we determine that we also
20 need an expert on the standards that are used for
21 setting the significance levels for the health
22 risk assessment, we will need to add a witness,
23 I'm just saying that now in case that needs to be
24 done.

25 I'm not hearing that we'll need to do

1 that, but I'm just putting folks on notice.

2 HEARING OFFICER RENAUD: The
3 Environmental Health Coalition has designated an
4 expert, Joy Williams, in connection with air
5 quality and public health and environmental
6 justice implications. So that's perhaps enough
7 information to base your decision on, Ms.
8 Luckhardt, would that --

9 MS. LUCKHARDT: Unfortunately at this
10 point it's not. Like I said, our air quality
11 expert also ran the health risk assessment. And
12 so that may be sufficient.

13 But I'll need to see their testimony
14 specifically to understand exactly what issues
15 they are -- their testimony addresses to determine
16 whether we are going to relitigate in this case,
17 as has been done sometimes in the past, the
18 standards of significance for public health.

19 MR. BUNDY: I don't -- I --

20 MS. LUCKHARDT: You don't think so?

21 MR. BUNDY: I can't speak for how you'll
22 be --

23 MS. LUCKHARDT: Okay.

24 MR. BUNDY: -- you'll be of --

25 MS. LUCKHARDT: That's fine. That's

1 fine.

2 HEARING OFFICER RENAUD: I'd suggest
3 also that perhaps counsel talk about this and try
4 and decide between yourselves exactly what
5 witnesses you would like to bring.

6 MS. LUCKHARDT: Once we have a chance to
7 read their testimony we'll know.

8 MR. BUNDY: I'll be happy to do that --

9 MS. LUCKHARDT: I just didn't know if he
10 could tell me enough right now so that I could say
11 okay, we need this person or that person. But it
12 sounds like I'll need to look at it.

13 HEARING OFFICER RENAUD: Okay.

14 MR. TULLOCH: So then from the City's
15 perspective, it's much like what was just said
16 from EHC, we put the air quality and public health
17 issues together. We've already talked about our
18 two concerns with the air quality.

19 I would just use this opportunity to say
20 that we've asked in the most recent correspondence
21 with you to, since we're relying to heavily on
22 some of these air quality reports, we're asking
23 that you take the necessary steps to have
24 representatives from the APCD, as well as if
25 possible the consultant from the school district

1 to be able to answer questions on those reports.

2 MR. MEYER: I can speak to that. The
3 Energy Commission Staff has contacted APCD to let
4 them know that their presence was requested. And
5 I have not gotten an answer yet. We made that
6 request yesterday.

7 HEARING OFFICER RENAUD: Typically the
8 pollution control district representative is at
9 the evidentiary hearing or available at least, by
10 phone.

11 MR. TULLOCH: And also if you could ask
12 the school district if they could provide their
13 consultant, as well, then we're requesting that as
14 well. Since that report has been submitted as
15 evidence, or is in the record.

16 HEARING OFFICER RENAUD: Well, it's been
17 offered in evidence by the City. And I believe by
18 staff, right. If someone wants the author of the
19 report here, as well, I think you make that
20 request. And then whoever's proposing the exhibit
21 will have that person here.

22 So, City, you're requesting that the
23 author of the report be present to testify?

24 MR. TULLOCH: Or someone from that same
25 firm that can answer, you know, speak to the

1 report.

2 HEARING OFFICER RENAUD: All right.

3 Well, you're also planning to offer the report in
4 evidence? So, if -- am I correct about that? Or
5 am I confused?

6 MS. LUCKHARDT: I don't think the City
7 listed any witnesses.

8 HEARING OFFICER RENAUD: No, but they've
9 listed some exhibits.

10 MS. LUCKHARDT: Right.

11 MR. MEACHAM: That's correct. Our
12 intention, our approach, as we explained in our
13 submittal from the preconference hearing, was that
14 we have some resource constraints. But we were
15 directed by the Commission to participate. And
16 we've submitted, you know, a budget and request to
17 take care of these issues as we proceeded through
18 the process. And were declined.

19 We don't have the resources to compel,
20 you know, that witness and to provide the service
21 for that witness. And we're asking that the
22 Commission, because that question was actually
23 made of us from staff and of other participants
24 and the parties, that they said they heard that
25 there was a report out there.

1 And we got a copy of the report and sent
2 it to the Commission. And they have subsequently
3 entered it into evidence. It's been discussed as
4 one of the, you know, critical issues to the
5 community.

6 And we have also stated how reliant we
7 are on the Commission and their data and research
8 and analysis of this process. And there are
9 certain things that you're asking us to make
10 comment on. We think it would be very helpful for
11 us in making those comments completely, if that
12 item was fully discussed by the authors as it was
13 presented.

14 MS. LUCKHARDT: Okay, so it looks like
15 it's floating out there. So we will contact the
16 school district, and we will see if they are
17 willing to have their author attend. And see if
18 we can get the individual who drafted the report
19 to attend the hearing.

20 And, if necessary, we'll sponsor that
21 witness.

22 HEARING OFFICER RENAUD: All right.

23 MR. MEACHAM: Thank you. And for the
24 Commissioner and parties' sake, we did notify
25 everyone immediately when we submitted the

1 documents. And we also notified them when you put
2 out the original dates, the same day of the
3 notices, we made them aware of the dates and the
4 estimated times. And told them that we would be
5 asking for their presence, so they're aware of
6 that. Although we have not heard a response,
7 either, from them that they would participate.

8 HEARING OFFICER RENAUD: Well, we
9 appreciate applicant's offer to step in on that.
10 But I should point out that when you take on
11 intervenor status you assume some
12 responsibilities. And one of those is if you want
13 to have a witness testify you need to bring the
14 witness.

15 The problem has been taken care of
16 apparently in this case. But, I just wanted to
17 make sure you were aware that no one has an
18 obligation to acquire or bring your witnesses.

19 All right. But I think we've got it
20 covered now, so we can drop further discussion of
21 that. All right.

22 The final actual area of dispute that I
23 noted from the prehearing conference statements
24 was alternatives. In the final staff analysis
25 there is a discussion of alternative -- and in the

1 application, there's a discussion of possible
2 alternatives to the project. And this includes an
3 analysis of alternative sites for it, and also the
4 alternative of not having the project.

5 And both staff and City of Chula Vista
6 have indicated that this area has some disputes.
7 I think the Committee, as well, has expressed some
8 concern over the need for evidence upon which it
9 can base a finding of public convenience and
10 necessity and no more prudent alternatives.

11 And I think you're aware of all of that.
12 And I trust that there will be evidence in that
13 regard presented at the evidentiary hearing.

14 EHC, in addition, Environmental Health
15 Coalition, has expressed concern over the impacts
16 of deleting the blackstart diesel engine from the
17 project. Would you like to address that briefly
18 here?

19 MR. BUNDY: I will address it briefly.
20 Just as a side note we do have a socioeconomic
21 issue, as well. So I wanted to flag that so it
22 doesn't get lost.

23 We have several issues on alternatives.
24 Two of them are characterized as CEQA issues,
25 predominately legal, having to do with analysis of

1 a reasonable range of alternatives.

2 The second one having to do with the
3 discussion of the no-project alternative, and the
4 relationship between this project, any potential
5 relationship between this project and removing the
6 RMR status from the South Bay Plant.

7 There have been some assertions
8 throughout the process that -- actually I put this
9 in two different places in the prehearing
10 conference statement because I wasn't sure whether
11 there had been a full analysis of the implications
12 of getting rid of blackstart capability at this
13 site, in terms of whether -- how that would affect
14 ISO's calculations about South Bay.

15 It's an issue that we didn't see fully
16 addressed. There are a couple footnotes in the
17 FSA on this, but it seems like it may be a more
18 significant change in the project description than
19 that.

20 I want to be clear. We're not asking
21 for the blackstart generator to be put back there.
22 We just want to make sure that the analysis of the
23 implications of taking it out in the context of
24 no-project alternative, is really carried through.

25 I hope that's --

1 HEARING OFFICER RENAUD: Great. Thank
2 you.

3 MR. BUNDY: And I'm also -- we do have
4 -- we will be introducing evidence on the more
5 prudent and feasible means issue, specifically a
6 broader kind of alternatives analysis than I think
7 the CEQA context requires. But that the
8 Commission's findings do seem to require that
9 there is a LORS inconsistency. So we'll be
10 prepared to offer evidence on that.

11 HEARING OFFICER RENAUD: All right. So,
12 parties -- did you have something, Ms. Luckhardt?

13 MS. LUCKHARDT: I guess I have to say,
14 you know, we were quite surprised to see this
15 because we originally proposed a blackstart
16 generator with this project. And they have
17 certain emissions issues associated with them.

18 We know, based on our initial analysis
19 that was performed, the air quality modeling
20 analysis, that it would not violate any air
21 quality requirements to put a blackstart generator
22 with this facility. And, in fact, we're happy to
23 put one back in.

24 So we find it quite surprising that
25 Environmental Health Coalition on one side says

1 that the alternatives analysis is insufficient
2 because you don't have a blackstart generator, and
3 you won't have an impact on -- or potentially may
4 not have an impact on the RMR status of South Bay
5 without one. And yet, on the other hand says they
6 don't want us to put a blackstart generator in.

7 We just want to be clear. We'll put it
8 in. We know it will not cause air quality
9 violations. We've already run the analysis. And,
10 in fact, since we ran that analysis the options
11 for blackstart generators have been expanded
12 because of the addition of low emissions, tier two
13 engines for blackstart.

14 And so we, in fact, could easily add a
15 blackstart generator without having any air
16 quality emissions impacts associated with it.

17 Nonetheless, we do feel that even
18 without the blackstart generator that this project
19 clearly helps to remove the RMR status at South
20 Bay. But if there's any question about that, we
21 just wanted to be clear that that's not a concern
22 for us, and we're willing to put that in at
23 anytime.

24 HEARING OFFICER RENAUD: As we indicated
25 earlier we aren't really here today to argue the

1 substance of the issues, but we are here to make
2 the parties aware of what the issues are. And
3 what each party is viewing as important.

4 So, --

5 MS. LUCKHARDT: Yeah, and I --

6 HEARING OFFICER RENAUD: -- everybody's
7 aware now that an intervenor feels that the
8 existence or nonexistence of the blackstart
9 generator has impacts that may not have been
10 analyzed fully. And, parties, feel free to take
11 that or leave it.

12 ASSOCIATE MEMBER BOYD: I don't want to
13 protract this discussion, --

14 HEARING OFFICER RENAUD: Yes.

15 ASSOCIATE MEMBER BOYD: -- but in
16 accordance with what you just said I would urge
17 the parties to look at all the points in the
18 Environmental Coalition's questioning of the
19 blackstart generator. We haven't talked about
20 them all. There are other issues they raise that
21 will have to be addressed, in my opinion, on
22 October 2nd. But not wanting to turn this into a
23 hearing, I won't reference the specifics.

24 HEARING OFFICER RENAUD: Yeah, I echo
25 that sentiment. I would hope that all parties

1 will read with care and respect the other parties'
2 prehearing conference statements. And make your
3 judgments about what issues are being raised that
4 you may wish to be prepared to address.

5 That's something you can all do, and I
6 trust you will.

7 MR. TULLOCH: If I could just mention,
8 from the City's perspective, this is another area
9 that in our prehearing letter we asked that the
10 CEC at least consider having someone from the ISO
11 available to discuss these issues.

12 It's their letter that we're all taking
13 a look at, and now that there's some other issues,
14 it seems like that would be prudent to see if we
15 could get them down here.

16 HEARING OFFICER RENAUD: Let's see. I
17 see, City, you have appended that letter to your
18 prehearing conference statement. Off the top of
19 my head I can't remember if any other parties have
20 offered, are offering, are planning to offer that
21 as an exhibit. Applicant?

22 MS. LUCKHARDT: We have it offered as an
23 exhibit, as well, just to make sure that all the
24 potential evidence gets in the record.

25 HEARING OFFICER RENAUD: Well, I think

1 what I'm hearing is a request from a party to have
2 the author of the letter available for testimony
3 or questioning. Would telephone availability be
4 acceptable?

5 MR. TULLOCH: Sure.

6 HEARING OFFICER RENAUD: You think that
7 could be worked out?

8 MS. LUCKHARDT: That's probably more
9 realistic than getting somebody down here. So, --

10 MR. TULLOCH: That's fine with us.

11 HEARING OFFICER RENAUD: Yeah, they are
12 up in Sacramento -- northern California, so --

13 MS. LUCKHARDT: Right, right. I think
14 that as a sister agency you will probably have
15 better luck as either the staff or the Committee
16 requesting Cal-ISO to be available.

17 PRESIDING MEMBER PFANNENSTIEL: I think
18 that we should have somebody from the ISO
19 participating. By phone would be find for me.
20 We'll see what we can do.

21 MS. LUCKHARDT: Okay, yeah. I just
22 think that your request will carry more weight,
23 with all respect.

24 HEARING OFFICER RENAUD: Thank you.
25 Okay. We appreciate that.

1 MR. MEYER: If I --

2 HEARING OFFICER RENAUD: Yes, Chris.

3 MR. MEYER: -- I will follow up with
4 staff on the ISO. As well as just wanted to say
5 that staff has looked at the Environmental Health
6 Coalition's issues on the blackstart very
7 carefully. And we'll be prepared to address that
8 at the evidentiary hearings.

9 HEARING OFFICER RENAUD: Very good,
10 thank you. We appreciate that.

11 MR. MEACHAM: If I may, we appreciate
12 the Commission's addition and willingness to ask
13 the Cal-ISO. We attempted to do what we could to
14 make it easy in the process, and we identified not
15 only the author, but the Southern California
16 Transmission Manager in the witness list, who was
17 also a party to the conversations, discussion
18 about the RMR and the reliability value of the
19 project. So we would ask that both those folks be
20 available, if possible.

21 MS. LUCKHARDT: Yeah. Well, as Mr.
22 Meacham mentioned, Gary DeShazo is now doing
23 northern California. And so the other rep that
24 Mr. Meacham has identified is probably the better
25 individual from Cal-ISO.

1 MR. MEACHAM: Yes, that would be Ali
2 Chaudry.

3 MS. LUCKHARDT: Thank you.

4 HEARING OFFICER RENAUD: All right,
5 let's move on to the socioeconomic topic. The
6 Environmental Health Coalition, you have indicated
7 environmental justice issue.

8 MS. TAKVORIAN: I'm sorry to interrupt
9 you, but it's impossible to hear, especially you,
10 but many of you. So this is a public meeting, we
11 should be able to hear you.

12 HEARING OFFICER RENAUD: Yes, all right,
13 well --

14 MS. TAKVORIAN: So could everyone kind
15 of talk into the mike, because we -- it's really
16 impossible.

17 HEARING OFFICER RENAUD: Yeah, everybody
18 needs to --

19 MS. TAKVORIAN: Thank you.

20 HEARING OFFICER RENAUD: -- speak quite
21 close to these microphones, so just try and bear
22 that in mind. I have mine pulled out as far as it
23 goes. I'll do that and lean forward.

24 MR. SPEAKER: That's better.

25 HEARING OFFICER RENAUD: And we're doing

1 the best we can.

2 MS. TAKVORIAN: Thank you.

3 HEARING OFFICER RENAUD: And I think
4 we're getting an increase in the volume here, too.
5 Maybe that will help.

6 MR. BUNDY: Maybe a couple inches
7 taller.

8 Just to address socioeconomics very
9 briefly. We do have some disputed issues
10 regarding compliance with environmental justice
11 LORS, and we will be prepared to offer evidence
12 and testimony regarding the project's substantive
13 and procedural consistency with environmental
14 justice principles.

15 And not knowing a better place to put
16 that than socioeconomics, that that's where the
17 discussion will -- that's why we put it there.

18 HEARING OFFICER RENAUD: Very good,
19 thank you.

20 MR. TULLOCH: Also, then, from the
21 City's perspective we've identified one particular
22 issue in that area with respect to the utility
23 users tax. And just before we started today we
24 had discussions with your staff. And we think
25 we're close to working that out.

1 HEARING OFFICER RENAUD: Good. Well,
2 keep up the good work and see what you can do.
3 Thank you.

4 Now, City, you have indicated some other
5 areas that may not be complete. And reading your
6 descriptions of those, and I appreciate your
7 thorough descriptions, that's very helpful to us.

8 Noise and vibration really looks to me
9 like more of an issue of dispute rather than being
10 incomplete. Your description is thorough enough
11 that I think those interested in that issue or
12 concerned with that issue can see what you're
13 talking about and be prepared to address it if
14 they deem it necessary.

15 MR. MEYER: I do have a brief question.
16 I was reading that and I just wanted to make sure
17 that it was not a typo that the Environmental
18 Health Coalition did, indeed, mean from 10:00 a.m.
19 to 7:00 p.m., basically the entire peak portion of
20 the day?

21 HEARING OFFICER RENAUD: I assumed that
22 was a typo, but I meant to ask that, as well.

23 MR. BUNDY: You can see how red my face
24 is here. Let me check that.

25 HEARING OFFICER RENAUD: All right.

1 MR. BUNDY: The a.m.'s and p.m.'s are
2 reversed, thank you very much for bringing that
3 up. I'm sorry about that.

4 HEARING OFFICER RENAUD: So the request
5 would be that it not be run between 10:00 p.m. and
6 7:00 a.m. so people can sleep.

7 MR. BUNDY: Yeah.

8 HEARING OFFICER RENAUD: All right.
9 Okay, good, thank you. Thanks for bringing that
10 up.

11 Worker safety. City, you have raised an
12 issue regarding something -- an issue raised by
13 the fire department, I guess, a design mitigation
14 plan. Can you tell us what that's about and what
15 we need to think about?

16 MR. MEACHAM: Yes, Commissioners and
17 parties. The fire marshal for the City of Chula
18 Vista has not had adequate time to review the
19 plan, although the plan has been commissioned.
20 And I believe it's been delivered to the parties,
21 but he has not had adequate time to comment on it.
22 And has made some comments, I think is working
23 with staff with regards to their description of
24 the second entrance.

25 But those are issues which I believe the

1 City can work out and resolve between now and the
2 final date of the evidentiary hearing.

3 HEARING OFFICER RENAUD: All right,
4 good. I reviewed with some alarm the indication
5 that we might need a few additional days. And
6 delaying the -- not keeping the October 2nd date
7 could result in quite a long delay just by virtue
8 of people's schedules and not getting them back
9 together.

10 So, you think we can keep that -- the
11 first department will have time to complete its
12 work in time for the evidentiary hearing.

13 MS. LUCKHARDT: And I think just one
14 quick clarification. I'll try and talk into the
15 mike, sorry about that.

16 The document that they are referring to,
17 the design mitigation plan for fire protection, is
18 actually -- we are moving into final design for
19 this project. Because if this project is
20 permitted we would like to have it online for next
21 summer.

22 As a result of that, Worley Parsons has
23 been working very hard to get early reviews of
24 some major design issues such as fire protection.
25 And to get early review from the City.

1 So, I don't see this item so much as a
2 hearing question, although if there is a
3 substantive issue that the fire marshal has, you
4 know, the intent of providing that to the fire
5 marshal was to get their review and approval. And
6 any design changes that they require put into the
7 design at this stage so that they can be included
8 in the final design.

9 And it wasn't intended as a document
10 that is normally done prior to final Commission
11 approval of a facility.

12 So, this is, you know, an early version
13 of final design. And we don't anticipate there
14 being any kind of concerns with comments the fire
15 marshal may have on that final design, and
16 including those comments in the final design for
17 the facility.

18 So we don't see that as being something
19 that would be needed at an evidentiary hearing
20 because the fire marshal pretty much has final say
21 anyway on what they want.

22 MR. MEYER: Staff can confirm that that
23 is something that's normally addressed post-
24 certification by the compliance unit.

25 HEARING OFFICER RENAUD: All right, very

1 good. I think we --

2 MS. LUCKHARDT: But if the City still
3 has a concern we can talk about it.

4 HEARING OFFICER RENAUD: I think we've
5 covered that adequately then.

6 MR. BELL: Mr. Renaud, before you move
7 on, --

8 HEARING OFFICER RENAUD: Yes, Kevin.

9 MR. BELL: I just want to know what the
10 expectation was on noise and vibration. I
11 understand that the City has some concerns and the
12 Environmental Health Coalition had proposed a
13 condition with respect to running times.

14 Is it the expectation that our expert
15 witness would be here to testify? Of course, that
16 section is complete and he is ready to testify if
17 necessary. But, is this an area that's ripe for
18 adjudication?

19 HEARING OFFICER RENAUD: Would you like
20 their witness here to testify? I think that's
21 really the party's call. If the party wants the
22 witness here, they can ask for it.

23 MR. BUNDY: I'd defer first to the City
24 on that, being that they raised this more as a
25 disputed issue.

1 MR. MEACHAM: It was my understanding
2 earlier in our discussion that you were asking us
3 to attempt to work this out prior. You know,
4 again, this is an item that our staff is stating
5 that they have submitted earlier in the process
6 and, you know, has not been responded in a way
7 that would be adequate to the process if we were
8 the lead agency.

9 And they're resubmitting the comment;
10 and this time provided a statute or, in this
11 particular case I believe it's actually a standard
12 that's used consistently throughout the State of
13 California, as opposed to the standard or
14 threshold that was recommended by the Energy
15 Commission Staff.

16 So, I don't know what the Energy
17 Commission Staff's willingness is to compromise
18 back to what the City sees as the standard that's
19 normally applied throughout California, but that's
20 the City's position.

21 We'd be glad to work with the Commission
22 Staff between now and the hearing.

23 HEARING OFFICER RENAUD: I can say from
24 experience that when at the evidentiary hearing
25 there is conflicting evidence as to differing

1 opinions the Committee typically likes to have the
2 witnesses here so that they can be questioned; and
3 perhaps any difference can be resolved or at least
4 the reason for it understood.

5 And I'm in favor of erring on the side
6 of having a witness here as opposed to not.
7 Telephone presence can be arranged if bringing the
8 person here in-person is problematic.

9 But, you know, it sounds to me like
10 there may well be some parties who would like to
11 ask them, may want to question that witness.

12 MR. BELL: Okay, thank you for that
13 clarification. I just didn't want to leave that
14 out there, and I appreciate the opportunity to --

15 HEARING OFFICER RENAUD: Thanks for
16 bringing it up.

17 MR. BELL: All right.

18 MR. MEYER: Just wanted to add one
19 thing. This is an issue that staff will work with
20 all the parties to see if we can resolve this
21 issue prior. It's like we're talking about a
22 difference of two decibels, so it's fairly close.

23 So I will work with staff and all the
24 parties to see if this can be addressed prior to
25 the evidentiary hearing.

1 HEARING OFFICER RENAUD: Good. Please
2 do. Thank you.

3 All right, now, City, in your prehearing
4 conference statement, page 5, you listed as an
5 issue that's not complete, visual resources. And
6 I read what you said there but I'm afraid I can't
7 really quite understand it. Maybe you can explain
8 it for us.

9 MR. MEACHAM: Again, the City of Chula
10 Vista has been relying on the Energy Commission
11 Staff and the applicant, in their presentations,
12 and as the lead agency, as we pointed out in our
13 letter, we had some significant discussion with
14 the Commission about, you know, where that
15 responsibility appropriately lie. And what our
16 resources limitations were from the beginning.

17 We have pointed out some errors in what
18 we think are some omissions to staff subsequent to
19 these comments. And made it pretty clear to them
20 what we think that those, particularly the
21 omissions -- the omissions -- are in that process.
22 And I think that they're, you know, prepared to
23 address them.

24 For our purposes it's really critical in
25 what we see our strength going forward is to be

1 present to see that you are able to demonstrate
2 that you are meeting, you know, as robustly as you
3 can, your own process. And that comes as close as
4 we can to identifying it as consistent with our
5 process.

6 The PSA and FSA processes are different
7 in many ways in how you apply standards like the
8 noise standard or the alternative standards and
9 those kinds of things. And we are just trying to
10 make sure that we understand your process, the one
11 that you've controlled, the timeline and the
12 budget and those kinds of things, and that they
13 meet the standards that you have set up for
14 yourself.

15 And in this particular case we
16 identified a couple of very specific omissions and
17 we've brought those to the attention of staff.

18 HEARING OFFICER RENAUD: Okay, thank
19 you. That's the type of thing that we do address
20 in performing the analysis, and that leads to the
21 final Commission decision. So I think you will
22 find that the Energy Commission is going to work
23 within its own process and come to a supported
24 decision, supported by the evidence.

25 MS. LUCKHARDT: So then I guess I have a

1 question. Are we bringing witnesses then on
2 visual?

3 HEARING OFFICER RENAUD: I haven't seen
4 anybody saying that there is -- any party saying
5 that there is an area of dispute with respect to
6 something a witness has written or said. So I
7 don't, at this point, see a need for that.

8 But, if any party wants to say
9 otherwise, this is the time.

10 MR. TULLOCH: No, I think in general if
11 the CEC Staff and what you just said, if you feel
12 that's adequate, then we don't -- we're not
13 insisting on that. We just -- I guess what we're
14 saying is in a lot of cases we're really relying
15 on your process. And what you said is exactly
16 what we're looking for.

17 HEARING OFFICER RENAUD: All right,
18 well, that's the whole idea. That our process
19 could be relied upon, and thank you for relying on
20 it.

21 But it doesn't sound like anybody is
22 calling for that area to be live testimony. All
23 right.

24 City, you've also listed power plant
25 reliability and transmission engineering as not

1 complete. But, again, it sounds like kind of the
2 same concern you were just expressing on visual.
3 And I think we have pretty much the same response.

4 MR. TULLOCH: Yes, and we talked before
5 about the value of having somebody from the ISO
6 here and I think we all agree to that support.
7 And that, in fact, addresses our concern.

8 HEARING OFFICER RENAUD: All right,
9 good. That, I believe, covers the topics that any
10 party has raised for discussion today. If I'm
11 wrong about that, let me know.

12 Okay. Another topic we talk about today
13 before we go to public comment is briefing.
14 Typically the close of evidence there are issues
15 that the Committee would like to receive briefing
16 on in the form of legal briefs.

17 We can't predict what those will be yet,
18 but we will know by the end of the evidentiary
19 hearing and will then establish a briefing
20 schedule that everybody can live with. And I
21 understand people have different commitment and
22 maybe differing amounts of time, and we'll do our
23 best to accommodate everybody's schedules and
24 establish a briefing schedule that will allow all
25 issue to be fully briefed.

1 MS. LUCKHARDT: Can we just clarify,
2 before we move to briefing schedule if we are,
3 kind of the subject matters which are going to
4 hearing. I have air quality and I have
5 alternatives. I have environmental justice, land
6 use, noise potentially, public health, at least as
7 it relates to environmental justice,
8 socioeconomics as it relates to environmental
9 justice as opposed to the calculations of impacts
10 on fire services and things like that.

11 I have -- I don't think I would have
12 someone specifically on reliability. I think that
13 could be dealt with under alternatives. Under the
14 blackstart engine issue and the Cal-ISO statements
15 as to whether that would be under alternatives or
16 transmission system engineering.

17 But that's what I have. Is there a
18 different list that folks have? Is there a
19 subject area that I have neglected to mention?

20 MR. BELL: I would also add the
21 possibility of having biological resources as an
22 area of dispute. I say possibility because we are
23 going to try to work that out with the City
24 between now and then. But if we're not able to
25 come to some agreement, staff will be prepared to

1 present evidence in that area.

2 MS. LUCKHARDT: Okay. And as we spoke
3 earlier, that would be the land use portions of
4 biological resources as opposed to impacts on
5 birds and other wildlife and the preserve, is that
6 correct?

7 MR. BELL: I believe that there was some
8 possible misunderstanding or dispute regarding the
9 multi-species conservation plan in that area.
10 that was my understanding of the area of
11 misunderstanding or dispute. And as stated, we're
12 going to try to work that out between now and the
13 hearing.

14 MS. LUCKHARDT: Okay.

15 HEARING OFFICER RENAUD: Did you mention
16 public health?

17 MS. LUCKHARDT: Yeah, I've got public
18 health in relation to environmental justice, and
19 it may just be public health. But I am planning
20 on bringing our public health, at least one public
21 health witness. Maybe two, depends on --

22 HEARING OFFICER RENAUD: It's closely
23 linked with air quality, too, so --

24 MS. LUCKHARDT: Right.

25 HEARING OFFICER RENAUD: Yeah, but

1 anyway, we've got that. All right. Good.

2 I think that is all we need to cover
3 with respect to the discussion of getting ready
4 for the evidentiary hearings.

5 MR. MEACHAM: Mr. Renaud, if I may.

6 HEARING OFFICER RENAUD: Yes.

7 MR. MEACHAM: If I may, the comment was
8 made earlier about with regards to reliability.
9 We'd greatly appreciate having the Cal-ISO witness
10 here. But for us it was a bit more than the
11 blackstart issue. And I don't know if the
12 applicant feels that they'll need their witness,
13 other than the Cal-ISO's for the purpose.

14 But with regards to discussing the
15 comments made in the FSA and the items submitted
16 by the applicant with regards to its, I want to
17 say, the word is escaping, but it was like an
18 integral or a partial --

19 MR. MEYER: Special protection scheme,
20 possibly?

21 MR. MEACHAM: Well, the special
22 protection scheme and the system impact study and
23 all those things speak to this issue. But the
24 issue was a response that was repeated by the
25 staff that the applicant originally submitted that

1 said that it would have some effect in reducing
2 the need for RMR and eliminating the power plant.

3 So I think those -- and specifically the
4 reliability component. So those issues may be
5 something that the applicant may want to rely on
6 their own witness for, as well as the Cal-ISO's
7 witness.

8 MS. LUCKHARDT: Yeah, I kind of grouped
9 that in with transmission system engineering as
10 maybe the slot to set it in. But I understand
11 your issue there.

12 HEARING OFFICER RENAUD: All right.
13 Let's talk a little bit about the logistics of
14 October 2nd. We initially thought we'd start that
15 hearing at 3:00. Having seen the prehearing
16 conference statements and the amount of testimony
17 that's anticipated, it looks to me like that
18 hearing will probably require something on the
19 order of ten hours.

20 The suggestion was made and I think the
21 Committee is heartily in favor of starting earlier
22 that day and then just going as long into the
23 night as is necessary to complete it in that one
24 day.

25 If it starts to get ridiculously late,

1 well, we might have to just figure out when we can
2 reconvene. But by starting in the morning it
3 gives us a good chance of accomplishing everything
4 we need to accomplish in a single day.

5 We would still, of course, have the
6 public comment period which was already scheduled
7 for 5:30, and we would keep that, taking a break
8 if we needed to for public comment.

9 Does any of the parties have any
10 objections to renoticing the hearing for 10:00
11 start time?

12 All right. We will be issuing a
13 evidentiary hearing order shortly. And we'll
14 include that, as well as an additional notice so
15 that everybody's aware of that change in the time.

16 MR. TULLOCH: I would just remind
17 everyone that right now you've asked to use this
18 same facility, and that's fine with us. And we'll
19 accommodate that change in time.

20 HEARING OFFICER RENAUD: We very much
21 appreciate that, thank you.

22 Okay, I think we may as well go straight
23 into the public comment period. Those of you who
24 wish to speak --

25 MS. LUCKHARDT: May I ask, do you want

1 comments on hearing dates?

2 HEARING OFFICER RENAUD: Hearing dates?

3 MS. LUCKHARDT: I mean on briefing
4 dates.

5 HEARING OFFICER RENAUD: I think not at
6 this point --

7 MS. LUCKHARDT: Okay.

8 HEARING OFFICER RENAUD: -- since we
9 don't really know the topics or the scope.

10 MS. LUCKHARDT: Okay.

11 HEARING OFFICER RENAUD: I've seen that
12 some of you have varying requests about that. And
13 we'll, as I said, try to make sure to accommodate
14 everyone's schedule.

15 MS. LUCKHARDT: Sorry. Thank you.

16 HEARING OFFICER RENAUD: All right.
17 maybe I should get a show of hands of who wants to
18 come up and address the Committee. And we have
19 some blue cards. Now, each of you -- so I'm
20 counting, okay. And each of you has filled out a
21 blue card, I believe, from our Public Adviser,
22 Elena Miller, is handing me those. Thanks a lot,
23 great.

24 I think the way we'll proceed is I will
25 call you by name and you can come up here and

1 speak into the microphone, address the Committee.
2 And we'd like you to keep your comments on point,
3 that is to address the topics that we've discussed
4 today. And bear in mind that we will also have a
5 public comment period at the evidentiary hearing,
6 which may be a better forum than today, to
7 actually discuss the project, itself, as opposed
8 to the scheduling we've talked about today.

9 Okay, thank you. I think again we will
10 ask that you keep your comments as brief as
11 possible. We don't want to cut anybody off, but
12 we also would like not to keep people here too
13 long. So if you can keep your comments to the
14 point and relatively brief, we'd appreciate that.

15 First card I have is from Norberto
16 Salazar. I believe you are a school board
17 candidate, Mr. Salazar? You've indicated that
18 here.

19 MR. SALAZAR: That's right. My name is
20 Norberto Salazar -- excuse me?

21 HEARING OFFICER RENAUD: You've
22 indicated that on your card so I thought I'd say
23 it.

24 MR. SALAZAR: My name is Norberto -- can
25 you hear me all right?

1 PRESIDING MEMBER PFANNENSTIEL: Mr.
2 Salazar, I think the mike is up there, probably
3 the best to speak in.

4 MR. SALAZAR: Is that better?

5 HEARING OFFICER RENAUD: That's great.

6 MR. SALAZAR: Okay. My name's Norberto
7 Salazar and I live in Chula Vista, in the East
8 Lake area. Zip code 91915.

9 And, yes, I am a candidate for the Chula
10 Vista Elementary School District Board of Trustees
11 Board seat number 2.

12 And even though I'm completely against
13 favoring any project that would impact however
14 insignificantly -- that would negatively impact
15 however insignificantly the health of school-age
16 children because I am -- even though nothing can
17 truly mitigate the negative impacts of the plant,
18 I'm definitely opposing replacing the current
19 peaker plant with a larger one. Because impacting
20 on the health of kids, which would deter them from
21 learning, is just unacceptable.

22 And I say even though because I need you
23 to understand that I'm well aware that each board
24 member possesses only one vote, and that consensus
25 usually wins at the end of the day. But I do want

1 to repeat that I am definitely opposing replacing
2 the current peaker plant with a larger one.

3 Thank you very much.

4 HEARING OFFICER RENAUD: Thank you for
5 your comments. Patty Davis.

6 MS. DAVIS: I'm Patty Davis, and I was
7 on the city council when we approved the original
8 peaker plant. And I've looked at all this
9 information and I believe the upgrade is very
10 good, so I favor it. I think we should move
11 forward with it.

12 HEARING OFFICER RENAUD: Thank you for
13 coming to speak to us.

14 MS. DAVIS: Thank you. I think it would
15 be good for us.

16 HEARING OFFICER RENAUD: Ed Herrera,
17 Vice President of the Southwest Chula Vista Civic
18 Association.

19 MR. HERRERA: Thank you very much. I
20 just first want to thank you very much for taking
21 your time here and being part of the democratic
22 process.

23 My name is Ed Herrera and I'm in the
24 91911 zip code, and my residence is southwest
25 Chula Vista region.

1 You know, there's no question that we
2 need energy for this region. And I'm 22 years
3 old. And I'm interested in moving forward, not
4 backward. Which is why I will be presenting at
5 the evidentiary hearing my reasoning behind
6 alternative energy so that we can be able to apply
7 clean and efficient, and not -- forms of energy
8 and finally have energy dependence here in Chula
9 Vista. Thank you so much.

10 HEARING OFFICER RENAUD: Thank you very
11 much for your comments. We'll look forward to
12 hearing from you on the 2nd.

13 Tom Lemmon, I think I'm reading that
14 correctly. San Diego Building Trades.

15 MR. LEMMON: That is correct; it's Tom
16 Lemmon. I represent 35,000 working men and women
17 who build San Diego. Right now the economy is
18 slow and good jobs are hard to come by. This
19 project, as it is slated, will generate 150 good
20 union jobs.

21 One of the things I heard you guys talk
22 about was safety. And our workers are the best
23 trained and the most qualified workers to do this
24 type of work. I want you to note that 90 percent
25 of all apprentices in the State of California come

1 through joint labor/management apprenticeship
2 programs. And those apprentices, upon graduating,
3 will be the next contractors who do this type of
4 work. This plant will provide them the
5 opportunity to move forward in their careers.

6 It's important to note that when you
7 double the size of the plant you also double the
8 capacity. Therefore, doubling the amount of
9 available energy during peak energy needs. For
10 that reason we're here to support the project.

11 Thank you.

12 HEARING OFFICER RENAUD: Thank you.
13 Steven C., I'm really having a hard time with
14 this. Okay, state your name for us, would you,
15 please.

16 MR. PAVKO: I'm Steve Pavko, and I'm
17 just here on my own. I'm an old citizen. I pay
18 my taxes and everything. I've gotten a little
19 interested in government now that our council no
20 longer represents the old people at all.

21 And I was sitting right over here when
22 they had the big protest about this power plant.
23 And the city council, in a secret meeting, not
24 open to the public, which I thought was against
25 the Brown Act, but I don't know anything,

1 recommended this. And I sat through many citizens
2 coming up, parents who have sick children because
3 of this plant. There were health professionals
4 who testified that this plant was the cause of
5 this.

6 And, of course, if you're going to
7 increase it you're going to do more of this. I
8 get a little emotional. I then heard the paid
9 spokesman from this MMC who, what, there is no
10 health problems with this. None whatsoever.

11 The Chula Vista Elementary District, oh,
12 but they, unlike what they just told you, they
13 said they wouldn't take a stand. They didn't say
14 there were no health problems.

15 I thought we had learned something from
16 the tobacco industry. From when I was a kid they
17 said, why, there's no proof that cigarettes cause
18 any health problems. How many million people have
19 died from those.

20 And now if you approve this, and it
21 could be built somewhere else out of the
22 neighborhood of these -- out of the area of the
23 school, which is against all of the city
24 regulations. Of course, they don't care about
25 that. When they want something, the city's going

1 to get their utility tax, couple hundred thousand
2 dollars.

3 Now, there is absolutely no -- well,
4 they're going to put some bigger windows in.
5 They're going to do a few things on some houses
6 close by. Well, if there's nothing happening, why
7 are they going to do this some \$200,000 for this?
8 For nothing? Gosh, I could use some of that money
9 if they've got it to throw away.

10 I just hope that you really analyze the
11 health of the kids when you approve this thing.

12 (Applause.)

13 HEARING OFFICER RENAUD: Lisa Cohen.
14 Chula Vista Chamber of Commerce.

15 MS. COHEN: Good afternoon; my name is
16 Lisa Cohen; I'm the CEO of the Chula Vista Chamber
17 of Commerce. Our Chamber is an 81-year-old
18 community organization that serves a voice for
19 over 1000 local businesses that provide jobs,
20 generate tax revenue, build infrastructure and
21 provide consumer services for the City of Chula
22 Vista.

23 As you know, the California Independent
24 System Operator has designated San Diego region as
25 a reliability-constrained area. Meaning that

1 local peak power generation is needed to support
2 the local demand for electricity.

3 To that end we are pleased to support
4 the efforts of MMC Energy to upgrade its existing
5 peaker plant to increase generating capacity to
6 meet the region's need for electricity.

7 This project is a win/win for our
8 community. By utilizing the latest technology the
9 plant would decrease its carbon emissions while
10 generating more power for the region.

11 The upgrade is designed to minimize
12 noise and air pollution and will include the
13 construction of a fence and soundwall, combined
14 with specialized landscaping to minimize any
15 potential impacts.

16 More importantly, from a health
17 standpoint, an expert hired by the Chula Vista
18 Elementary School District concluded that no
19 significant health risk impacts are anticipated as
20 a result of the proposed project.

21 We also have an elementary school that
22 has no windows in our district that relies on
23 strict power to keep the air moving, electricity
24 and everything for our school So we do care about
25 the children, also.

1 Additionally, the peaker plant will
2 utilize existing facilities and infrastructure
3 already onsite including the gas supply, water
4 supply and electrical interconnection. And will
5 enhance the buffer between the plant and the Otay
6 Valley regional park to the south of the site.

7 The upgrade will create 120 to 150
8 short-term construction jobs, and bring new
9 redevelopment dollars to the City of Chula Vista.
10 New capital investment of roughly \$90 million will
11 result in approximately \$850,000 of property taxes
12 annually.

13 And since the upgrade is in the
14 redevelopment area, the City of Chula Vista would
15 receive approximately \$110 -- to \$330,000 to
16 redevelopment agency in taxes which can be
17 invested for improvements in our community.

18 The MMC peaker upgrade will be cleaner,
19 more efficient, more reliable and of greater
20 economic value to the city. In its commonsense
21 approach to enhancing energy reliability in our
22 community we are pleased to support this important
23 project which is not only good for business but
24 good for our community.

25 The Chamber of Commerce thanks you for

1 your attention to the energy reliable needs of our
2 community. Thank you.

3 HEARING OFFICER RENAUD: Thank you for
4 your comments. Diana Vera.

5 MS. VERA: California Energy Commission,
6 my name is Diana Vera. I live 400 feet from the
7 peaker plant. The actual plant has a sign that
8 reads: Warning, this facility contains one or
9 more chemical known to the State of California to
10 cause cancer, birth defects and reproductive
11 harm."

12 How can we feel safe and not be against
13 a monster that will invade our neighborhood? The
14 South Bay community will see the 70-foot towers as
15 a reminder of the unfairness of socioeconomic.
16 The City of Chula Vista needs to enforce the
17 zoning laws.

18 Commission, how can -- you have loved
19 ones. Will you place your loved ones close to the
20 plant, 350 feet, like we are? Think about that.
21 It's not about the money, think about the safety
22 of our children and our senior citizens. That's
23 what life is about, about being fair, not about
24 the money.

25 Thank you very much.

1 (Applause.)

2 HEARING OFFICER RENAUD: Thank you.

3 Kevin O'Neill.

4 MR. O'NEILL: Good afternoon. My name
5 is Kevin O'Neill; I'm a resident of Chula Vista.
6 A businessman in this town, I rely on a reliable
7 source of electricity. I'm not a troglodyte in
8 that I'm probably one of the few that will speak
9 to you today that has a photovoltaic array on his
10 own home.

11 So, I want to talk about the siting of
12 this plant in that it's not capricious. It was
13 sited there because of the SDG&E substation and
14 the high-pressure gas lines there that were in
15 existence.

16 I happen to own one of the heavy
17 industrial sites just to the east of that, and I'm
18 probably talking against my own economic best
19 interest by saying that this plant is here and
20 that you should allow it to upgrade. Because if
21 you don't allow it to upgrade, you send a message,
22 and you'll probably end up then with all of the
23 existing plants, old technology, dirtier
24 technology, less fuel efficient, are going to stay
25 there as long as they're license and their lease

1 runs.

2 So, here you have an opportunity to get
3 a little more power, arguably maybe a little bit
4 more pollution based on the power that it gives,
5 but it's cleaner per kilowatt or however you're
6 going to measure that. And we're going to get a
7 more efficient one, and all of that that goes with
8 it.

9 So, you send a terrible message if you
10 simply say we're not going to do this thing,
11 because then you keep the old technology in place.

12 This talk that I've heard about the
13 socioeconomic justice and environmental justice, I
14 will point out to you that I've been around long
15 enough that I remember when South Bay Power Plant
16 went in. And I live now, as I did when I grew up,
17 directly downwind of that plant.

18 And at the time that plant went in it
19 was blue collar, as it is today. The people who
20 lives in those homes were predominately of western
21 -- Americans of western European heritage. And if
22 we thought about it at all, and by the way, those
23 were bunker-oil-fired plants, much dirtier -- if
24 we thought about it at all we were thankful that
25 we had the reliable power that allowed more to

1 operate that gave us the jobs and fed our
2 families. Or in my case, my family.

3 So I want to ask you to take a pragmatic
4 look at this. And it's not a perfect site, not
5 the best location. It is the one we have. I
6 would suggest to you that when this plant works
7 there is a shortage of electricity. Most likely
8 because it is in the summer peak times, but it
9 also might be during a time of catastrophe or
10 other issues.

11 So, you're going to take the argument
12 whether or not having power that will allow the
13 seniors and the sick to have air conditioning and
14 other health services, or to have the brownouts
15 and have a little more particulate or other things
16 in the air.

17 You know, everything in life is a
18 tradeoff, and it's hard to be green, as Kermit
19 says. But, I think on balance this is probably a
20 reasonable request and a reasonable solution to
21 our regional power demands.

22 Thank you.

23 HEARING OFFICER RENAUD: Okay, thank you
24 for your comment. Guillermo Lopez.

25 MR. LOPEZ: Thank you, council members.

1 Well, Kevin O'Neill (clapping), I applaud you. He
2 says that a couple of western Europeans there
3 living, you know, when the other plant was
4 operation, but there are no more. I think they
5 realize that we're getting sick and they move out
6 of town. They went someplace else, okay.

7 The only reason why this permit was
8 given is because you work to take out the
9 blackstart generator, man. And not to put it back
10 in existence. That was the deal.

11 Okay, I have given, and I have come to
12 this meetings, you know, council meetings, several
13 times. And just like I presented you with a piece
14 of paper, sorry that I didn't have no more, okay,
15 to give away, because I gave it all to the
16 councilmembers so they can study it. And still
17 they have come to close their eyes.

18 I just speak to Mr. Castenada in the
19 thing; it's just, I don't have this yet sufficient
20 evidence. And I said, did you read my stack of
21 papers that I gave you. And he says, these are
22 very types of things.

23 And let me rephrase something from the
24 L.A. Times on May 22, 2008. I know you rely in
25 data. But this is part of the data, okay? So

1 bear with me.

2 "As many as 24,000 dead annually in
3 California are linked to chronic exposure to fine
4 particles pollution, triple the previous official
5 estimate of 8200, according to the state
6 researchers. The revised figures are based on a
7 review of a new research across the nation about
8 the hazard exposed of microscopic particles which
9 sink deep into the lungs. Our reports conclude
10 these particles are 70 percent more dangerous than
11 previously thought, based on several major studies
12 that have occurred in the last five years, said
13 Bart Croels, Chief Researcher for the California
14 Air Resources Board."

15 Okay. "Croels will present his findings
16 at the board meeting in Fresno this morning."
17 Apparently he was going to present it on May 22nd,
18 so that should be available to review through the
19 internet.

20 You know, discusses heart attacks,
21 strokes, lung disease, various things. And
22 they're more likely to happen in the children and
23 the elderly. Which are the ones that cannot
24 protect themselves and protest against this plant.
25 And that's why I'm here for, as a concerned

1 citizen, father, grandfather. Because they're
2 still going to the schools nearby. Okay.

3 I can easily pick up, just like this
4 western, you know, Europeans did, pick up my home
5 and then move someplace else. But, you know, when
6 I fought in the war in Viet Nam I landed in Hawaii
7 and I said, Hawaii, Chula Vista. You know what,
8 this is my beloved city and I wasn't giving it up.
9 So I came back here.

10 And I grew roots in Palomar Street, your
11 humble home. And that's where I stayed and raised
12 a family and kids. And there has been three
13 generations of Lopezes going through that Palomar
14 Elementary. And we know all the teachers and all
15 the PTA and everything like that.

16 So we go after our kids' health, you
17 know. Apparently some people don't think,
18 somebody said that it was -- I'm a union member,
19 by the way. And I always says union makes you
20 live better, indeed.

21 But there is only 200 short-term jobs of
22 union which I work for that company, which is all
23 construction. I seen it in the construction
24 business already, going around the plant before it
25 even was approved. They were already building it.

1 So, it's not about a decision, it's
2 about a, hey, look, we're going to do it. I have
3 asked and pleaded with the council and have given
4 facts and figures. And just this morning I
5 delivered this to them -- I have a couple of them
6 to give away if you need to have -- to the city
7 clerk because it was giving my attention by the
8 officer here that I could not just address him.

9 But I saw very important for him to see
10 these facts that I have given to the city council
11 and to the city manager and everything else. And
12 they just seem to go with it and they say, oh,
13 okay, good. That's not the way to approach
14 business, you know.

15 I mean it's going to bring money into
16 the city. Well, fine and dandy. But it's going
17 to have a long-term effect in our kids. The
18 elderly, like I say, I survived Viet Nam. I was
19 19 years old and I'm grateful every day of my life
20 when I wake up and thank god that he gave me 37
21 years more of life, you know. For me the other
22 life is overtime. I don't care if I go tomorrow,
23 I'm in peace with the lord. I will go quietly,
24 you know.

25 But our kids, somebody says, we're not

1 going to have social security in the year 2000-
2 and-some. No, we're not. Because we're giving
3 our future already. There's going to be sick and
4 dying people instead of working people up there.
5 Because the way it works, I think, is I work for
6 my generation before me and the other generation
7 before me works for me. And that's a better, very
8 good social structure.

9 And that's what we depend on. And when
10 there is facts like this, even though it says, oh,
11 okay, this is in the L.A. Times, dated March 22,
12 2008, which was recently. They are facts. You
13 can see it, we can find them.

14 And so, with all due respect, I don't
15 want to take more of your time because I know
16 there's people that want to talk. But I'm here,
17 you know. I was living a peaceful time and I was
18 watching channel 24 every time, seeing the city
19 council, how they mediated about Chula Vista, how
20 they build this park and this other park and
21 everything else.

22 But, you know, what happened is all of a
23 sudden they going to pollute that very existence
24 of our life. We won't be able to take a walk in
25 the afternoons again in our parks unless we wear a

1 mask or buy some kind of toxic mask against the
2 pollution, because these are small particles. And
3 they don't kill you right now.

4 I work in the construction industry for
5 many years. And thank god I was safety first, on
6 it, and protected a lot of people that are still
7 living today and drawing their retirement. Just
8 like I say, never mind how many I have to deal
9 with in Viet Nam, ask me how many I brought home.
10 That's what I care about. And now what I care
11 about is the future of my country and my city most
12 of all.

13 Thank you very much.

14 HEARING OFFICER RENAUD: Thank you.

15 (Applause.)

16 HEARING OFFICER RENAUD: Theresa Acerro,
17 Southwest Chula Vista Civic Association.

18 MS. ACERRO: Hello, I'm President of the
19 Southwest Chula Vista Civic Association. I have
20 copies of what I'm saying. Would you like me to
21 give them to you now or give them to Elena, or
22 what?

23 HEARING OFFICER RENAUD: Yes, of course.
24 And any document you give us we will make sure
25 gets docketed and so it's available to the public.

1 Thank you.

2 MR. LOPEZ: Can I give you this, also?

3 HEARING OFFICER RENAUD: Is that the
4 newspaper clipping?

5 MR. LOPEZ: Yes.

6 HEARING OFFICER RENAUD: If you'd like
7 to, please do, we're happy to take it. Yeah, give
8 it to the Public Adviser there; she'll take care
9 of it for you.

10 MS. ACERRO: To Elena, okay. Well, this
11 is kind of an unacceptable time and an
12 unacceptable place, if the CEC is really serious
13 about wanting public comment, as you can see. It
14 is very inconvenient for people, the time, and the
15 place is also inconvenient for the people who are
16 most impacted by this.

17 This building is a part of the city's
18 \$200 million-plus bond. As a bond debt, is a
19 reminder to many of us of the financial
20 irresponsibility of the City of Chula Vista. It's
21 also a reminder of how the city prefers to look
22 good to the outside world with its great structure
23 here, while it ignores environmental and social
24 injustices that have gotten worse over the last 24
25 years.

1 It is inconveniently located for our
2 growing population in the east, and it's
3 inconveniently located for those of us in the
4 southwest, as well. It is set out for the
5 convenience of the city staff and to inconvenience
6 normal citizens who wish to present visual and
7 other testimony,.

8 We are going to have to bring our own
9 computers, speakers and projector in order to get
10 into the public record, the DVD video testimony of
11 businesspeople and residents who are not able to
12 take off and come down here at 3:00 p.m. on
13 October 2nd.

14 The visual testimony is very important
15 because it will visually document the alleys that
16 look like third-world countries that we have in
17 this neighborhood that's going to be impacted by
18 this peaker plant. The streets that are a hazard
19 to the disabled, to mothers with strollers and
20 drivers of two-wheel vehicles. The lack of
21 sidewalks that present safety hazards. The lack
22 of well-maintained parks. The mosquitoes, the
23 dust in the dry weather and the mud in the rainy
24 weather that affected many southwestern residents
25 negatively for 24 years that we've been part of

1 the City of Chula Vista.

2 The neighborhood within a mile of this
3 proposed plant is suffering from environmental
4 injustice now, as we will document in our video
5 testimony, which, unfortunately, will be -- I
6 can't get it down to less than an hour and a half
7 because there are so many people with so many
8 separate issues.

9 And it's --

10 HEARING OFFICER RENAUD: Ms. Acerro.

11 MS. ACERRO: Yes.

12 HEARING OFFICER RENAUD: I hate to
13 interrupt you. I just wanted to say that you're
14 apparently reading the statement that you handed
15 us, and --

16 MS. ACERRO: Yes.

17 HEARING OFFICER RENAUD: -- we're
18 willing to let you read it. But I must say that
19 we will put this in the public record and it will
20 be available for the whole world to read.

21 MS. ACERRO: Well, I'd like to finish
22 this part of it.

23 HEARING OFFICER RENAUD: Go ahead, all
24 right.

25 MS. ACERRO: And actually I have a

1 picture to show, too, which I left over there.

2 Any increase becomes -- any increase at
3 all in any kind of impact, it becomes significant
4 when you view it in the context of the particular
5 circumstances of this particular area, as required
6 by CEC guidelines. Because in your environmental
7 justice things they say you have to consider the
8 specific area.

9 Now, this is our situation here. This
10 is a picture of Larkspur, which is down in Otay
11 Mesa, but it is using the same exact generators.
12 And therefore, this was what it's going to look
13 like. This does not belong in our neighborhood,
14 which is already heavily impacted. And our
15 neighborhood already has lower property values
16 than the rest of the city, and already has more
17 renters than property owners.

18 I mean something like this in our
19 neighborhood is really going to degrade our
20 neighborhood.

21 These are some of our specific
22 complaints and disagreements with the FSA.
23 Actually, I guess I won't -- don't have to read
24 those, but I have very specific complaints about
25 each part of the FSA.

1 And I would say -- or maybe I do have to
2 read it. This is not the appropriate location for
3 this plant. It needs to be somewhere else,
4 further away from schools, further away from
5 people. I mean this is huge. This is incredible.
6 And this only has 40-foot smoke stacks -- not
7 smoke stacks, they're not smoke stacks, okay,
8 they're vents. Whatever they are. But they are
9 going to be 70-feet tall. I mean this is
10 outrageous, this is an insult to our neighborhood.

11 I can't believe that the city would
12 allow something like this after all the rest of
13 the stuff that we have to put up with down there.
14 Supposedly we're trying to improve our
15 neighborhood. This is not a way to improve it.
16 This is going to make it so much worse.

17 And I mean, and the FSA, I mean they're
18 still saying the property tax is going to be over
19 \$800,000. That would mean that the assessed value
20 of this thing is going to be \$80 million. That's
21 ridiculous. The existing peaker is assessed at
22 \$2.9 million. I mean it doesn't matter how much
23 it takes them to build it, that's not what the
24 assessment is going to be.

25 Over half of that will not go to the

1 RDA. Only 40 percent will, because the southwest
2 redevelopment area, 20 percent goes to schools, 20
3 percent goes to the county, 20 percent to
4 affordable housing and 40 percent to the RDA. And
5 the city is only going to get 14.5 percent of the
6 \$25,000 or so taxes on the land that they now get.
7 Not one penny more, because the land is not going
8 to improve in value.

9 The total tax bill of existing facility
10 is \$49,000 a year. I mean the city is getting
11 thousands of dollars, not huge amounts of money.

12 There's no southwest area plan. This
13 does not comply with the five-year plan of the
14 RDA. There is just a repeat here of all the wrong
15 information that was in the preliminary staff
16 report. The final staff report did not correct
17 any of it.

18 The peaker is contrary to six goals of
19 the current five-year redevelopment plan. It does
20 not eliminate blight; it puts in blight. And is
21 going to help spread blight and deterioration all
22 around it.

23 Does not stimulate economic growth.
24 It's not going to attract expand. I found on that
25 video actually those businesses that are to the

1 east of it, they've got little spots of oil all
2 over their buildings and all over their cars from
3 the existing plant. Because when it runs that's
4 what it puts out into the air.

5 It's just -- that is certainly not
6 raising their property values. That is lowering
7 their property values. And they are very upset
8 about this.

9 Well, et cetera, et cetera. I'm not
10 going to -- the two 70-foot towers are going to
11 create visual blight for the businesses, the
12 homes, the users of the Otay Valley regional park
13 that are right next to this thing. Millions of
14 dollars have been spent on this Otay Valley
15 regional park with these trails. The lady I was
16 talking to yesterday was saying how she walks with
17 her disabled brother there all the time. And that
18 this is ridiculous to have something like this
19 next to the trail.

20 I'm not going to read all of this. This
21 is --

22 HEARING OFFICER RENAUD: I can assure
23 you it will get read --

24 MS. ACERRO: It will get read?

25 HEARING OFFICER RENAUD: Yeah, and it

1 will be made public, so --

2 MS. ACERRO: Well, I don't know, but --

3 HEARING OFFICER RENAUD: -- I don't want
4 to put you on the spot --

5 MS. ACERRO: -- people won't read your
6 thing. I want to skip down to we think the
7 project will contribute to what's called urban
8 decay, as mentioned in a Bakersfield case in 2008,
9 that now has -- well, it now has standing at CEQA
10 because it was an appeals court ruling that -- and
11 that's because of the heavy industrial nature of
12 this project.

13 In close vicinity to residences,
14 schools, and recreation centers. That's going to
15 contribute to a further devaluing of the local
16 property values and the neighborhood in general.
17 It is adjacent to the OGRP in which millions of
18 dollars of public funds have been invested and
19 habitat restoration and a trail system. It's
20 adjacent to a 100 percent reserve area.
21 Diminishes both the recreational value of the park
22 and its value as a preserve.

23 Certainly this contributes also to urban
24 decay. Also some of the trees that are listed are
25 invasive plants and needs to be removed, et

1 cetera.

2 And another thing, they are still using
3 the figures of eight schools within a mile, which
4 is from the AFC. And that is wrong. I mean I
5 have the 18 schools here that are within a mile,
6 all marked. There are 18 schools, and that
7 doesn't include the private preschools, because I
8 didn't look into them. This is just the public's
9 preschools, and the elementary schools, the middle
10 schools and the high schools.

11 They totally ignored -- yeah, headstarts
12 or federal, yeah, the federal preschools. That's
13 a huge number. If you look at all of the peaker
14 -- at other power plants that are in the County of
15 San Diego now, none of them are as close to homes
16 and schools as this one would be.

17 Why our neighborhood? And we're also
18 afraid, if you allow the city to dump this on us,
19 what are they going to dump on us next? We have
20 had it. It is time to start thinking about
21 improving the southwest, not further deteriorating
22 it.

23 Thank you.

24 HEARING OFFICER RENAUD: Thank you.

25 (Applause.)

1 HEARING OFFICER RENAUD: All right,
2 thank you. Carlos Lopez, please.

3 (Pause.)

4 MR. LOPEZ: Okay, I just want to
5 basically address the historical part of this
6 area. We have -- I have some information that I
7 would like to be part of the record. And can we
8 pass it on? Thank you.

9 HEARING OFFICER RENAUD: Yes.

10 MR. LOPEZ: Okay, basically this area,
11 you know, when I was growing up I remember, you
12 know, basically riding around the part of Chula
13 Vista and looking at the girls and we knew
14 basically that that was the area where basically
15 that was the Mexican-American community.

16 And, you know, somehow I got drafted
17 into the Army; came back -- ended up in Viet Nam,
18 came back along with my brother. And so, you
19 know, I was doing real estate one day and I was
20 going to some of the places.

21 Because when I came back I went and
22 looked for a place with my wife and my daughter.
23 And I was the only Hispanic in the whole block
24 there. It was back in 1972. And I looked around,
25 and you know, the lucky thing was that I enter

1 into this home that was the worst home on the
2 street. So when they looked at me, you know, they
3 were looking at me with some kind of suspicion,
4 but then the house started looking really nice
5 and, you know, very beautiful. And so everybody
6 say, hey, you know what, gee, you know, that ain't
7 bad, you welcome, you know.

8 And so, but later on I was looking at
9 the -- when I was selling real estate one time,
10 and I was looking at this restrictions. And if
11 you look at the restriction number six, basically
12 it says that neither premises or any portion
13 thereof shall ever be used, lived upon, occupied
14 by, own or lease by persons of other than the
15 Caucasian race. Except that other persons may be
16 kept thereon by Caucasian occupants strictly in
17 the capacity of servants or employees. And so on,
18 so on, so on, you know.

19 So basically this, you know, now, you
20 know, I got it and say, oh, yeah, that's the
21 reason that we were not there before.

22 So, that area has been discriminated.
23 You know, the City of Chula Vista has done a very
24 good job of discriminating the area, too. Because
25 they came in and they put the buses in there, you

1 know, and a lot of those buses have the -- some of
2 them are gas and some of them have the diesel.
3 And diesel, as we know, you know, thank god that I
4 live away from that area basically. Okay? Thank
5 god, I was able to make enough money to be able to
6 live away from that area because I see the -- and
7 in fact, I'm going to start looking where white
8 people live because I'm going to go and live over
9 there because I know that I can be safer there
10 than closer to my people.

11 You know, because I really, you know,
12 and I'm not being, you know, -- about it, but I'm
13 really disappointed with the Chula Vista. You
14 know, I have passed by to Main Street, and, you
15 know, you're always going 100 miles an hour. And
16 now what's happened, you know, now it's time to,
17 you know, as a result of this I was totally
18 retired, taking care of my granddaughter, you
19 know, minding my own business.

20 My daughter comes to me and says, hey,
21 you know, come in, you got to come to this
22 meeting. Said, yeah, you know what, I don't want
23 to do anything. I just want to retire; I want to
24 go, you know, I just want to travel. Okay.

25 So I came and back to this guys, the

1 Environmental Health Coalition, and pretty soon I
2 was hooked. I cannot let go of this thing. Why?
3 Because there's such an injustice. And I said,
4 you know, I can't believe that the City of Chula
5 Vista, and you know, we have come to the -- not
6 only the City of Chula Vista, we have gone to the
7 Chula Vista Elementary School District. And they
8 said, oh, we don't think there's a significant
9 effect on children.

10 And I'm looking, shoot, you know, what,
11 this guy must be on another planet. You know, are
12 they smoking dope or what? I mean reminds me of
13 the guys in Viet Nam, you know, sniffing that
14 (inaudible), you know. I mean, what are these
15 people taking, you know, valium or what.

16 You know, just the idea that you're
17 putting 45 tons of pollutants up there. You know,
18 350 feet away from a living room, okay. By the
19 time those kids graduate from seventh grade they
20 going to have at least 11 years of that
21 contamination.

22 You know, I'm not against the plant.
23 I'm not definitely against. I'm against the
24 location. I mean these guys, they come from New
25 York, they want to make energy and they want to

1 sell this energy somewhere else. They want to
2 take this energy and sell it somewhere else.
3 Because this energy is not being produced for
4 Chula Vista consumption, I can assure you of that.

5 And so if they're doing that, I'm
6 saying, wow, you know, why are these people,
7 everybody so quiet. We came here to the city
8 council. They go into their own closed door
9 session, you know, and they send a letter to these
10 guys. They didn't even allow us to have, you
11 know, public comments. They didn't even allow us
12 to have a debate.

13 The other night we had a debate with the
14 owner of the -- well, the president of the plant,
15 and there were 38 of us at the South Bay Forum,
16 38. And, you know, I'll bet you, because Josie is
17 a good friend of mine, and she's for the plant.
18 You know, we met when we were little kids. I
19 don't know why she's working for them, but that's,
20 you know, another matter.

21 But the point is that, you know, it's,
22 you know, and they know her and she's been there,
23 and that was her little kingdom there. The guys
24 used to do everything they wanted to.

25 After we had that debate 30 of those, 38

1 of those people, 28, I believe, was it, 28, 27,
2 whatever, voted against the plant.

3 MS. SPEAKER: Two-thirds.

4 MR. LOPEZ: Yeah. Over two-thirds,
5 okay? And I'm saying, you know, people realize
6 when you have a debate and you say, hey, this is
7 really going to hurt kids, it is going to hurt
8 those children. You know, those children should
9 not be subjected to this kind of environmental
10 injustice.

11 You know, I mean if Hitler wanted to do
12 something of that effect, you know, to the Jewish
13 people in Germany, you know, he would have done
14 probably the same thing, you know. This is
15 totally wrong, you know, I don't want to bring
16 Hitler in because, you know, everybody gets
17 stirred up with Hitler, nobody likes the guy. You
18 know, I'm sure, don't even, you know, care for
19 this guy.

20 But at the same point that I'm saying,
21 you know, is -- this is totally wrong. It is
22 wrong where the place it is. You know, this is
23 about money. Let's get this plant and put it
24 somewhere else where it's not going to poison
25 those children. And that's all I am asking.

1 You know, just tell those people, you
2 know what, they're violating the zoning, they're
3 violating the general plan, and they want to make
4 the general plan fit.

5 You know what, the other day I was
6 playing with my granddaughter, and you know those
7 things that you can put in, the round with the
8 square and that kind of thing. And I was telling
9 her, you know, this has got to be round, you got
10 to put it in there, or the square object into the
11 square object.

12 Well, you know what, I don't care what
13 they do, this thing does not fit in the same thing
14 there. Because it's totally wrong.

15 Thank you.

16 (Applause.)

17 HEARING OFFICER RENAUD: Thank you.
18 Before I call the next person up let me ask if we
19 have anyone waiting on the phone.

20 MS. SPEAKER: No, we don't.

21 HEARING OFFICER RENAUD: No, okay.
22 Angelina Loiza. Now, some of you, including
23 Angelina, have written comments on your blue
24 cards. And if you'd like we will obviously read
25 your comments and they can be put into the record.

1 And you needn't repeat what's on your cards.

2 AUDIENCE SPEAKER: She had (inaudible);
3 she asked (inaudible) comment be read.

4 HEARING OFFICER RENAUD: All right. Her
5 comment. She says she's a 12-year resident.
6 Don't let MMC put a peaker plant near our homes.

7 All right, thank you.

8 Helen Bourne. You also wrote comments.
9 And the Committee will read those comments.

10 Graciella Ramon. Written comments on
11 the card, and again, we'll take those into
12 account.

13 Ramona Sufle, I'm doing my best.

14 AUDIENCE SPEAKER: She also (inaudible).

15 HEARING OFFICER RENAUD: She writes
16 she's a six-year resident and no power plant.

17 Jean Costa. All right. Did you wish to
18 speak or shall -- you've written comments. You
19 are the coChair of the Global Warming Committee of
20 the San Diego Chapter of the Sierra Club.

21 MS. COSTA; Yes. And it is the Sierra
22 Club's position that we need to leave fossil fuels
23 in the ground. We have less than ten years to try
24 to mitigate, to use your words, the problem of
25 global warming.

1 And to approve an upgrade of a fossil
2 fuel plant is using 20th century technology when
3 we should be using 21st century technology,
4 alternative energy.

5 Thank you.

6 (Applause.)

7 HEARING OFFICER RENAUD: Lupe Montes.

8 MS. MONTES: I'd like to say that I
9 oppose you building this peaker plant. I believe
10 that this peaker plant is going to cause a lot of
11 cancer. You're going to create a dead zone.
12 People who live close to there are going to get
13 asthma; they're going to get cancer; they're going
14 to have heart problems.

15 If you don't care then who will care for
16 us? Would you want your children to live close to
17 this plant? I don't think so. We don't want this
18 plant in our backyard. I live about half a mile
19 from there. And I can tell you, I can tell you
20 that nobody around there wants this.

21 If you're going to build this, get rid
22 of the people. Tell them move. Don't let the
23 children breathe this stuff. Close down the
24 schools. Move the citizens, the old senior
25 citizens out of there. Buy the land. Buy the

1 land around there if you're going to build this
2 plant.

3 What you should do is build this plant
4 east of Chula Vista where there is no seniors, no
5 children, you know, and the pollution won't cause
6 that much damage. Please hear our pleas, don't
7 build this peaker plant.

8 Thank you very much.

9 (Applause.)

10 HEARING OFFICER RENAUD: Thank you.

11 Purina Lopez. Carolina Ramos.

12 AUDIENCE SPEAKER: I think they're
13 outside.

14 HEARING OFFICER RENAUD: Okay. Jenny
15 Huerta. Oh, I'm sorry. And you are?

16 MS. RAMOS: Carolina.

17 HEARING OFFICER RENAUD: Carolina Ramos.

18 MS. RAMOS: Yes. Good evening.

19 HEARING OFFICER RENAUD: Ms. Ramos.

20 MS. RAMOS: Good evening, California
21 Energy Commission members. My name is Carolina
22 Ramos. And I live here in Chula Vista. And I
23 oppose the MMC power plant.

24 The power plant is -- the expansion of
25 this MMC power -- the problem is that the

1 expansion of the power plant is too close to
2 schools and homes and it violates the general
3 plan.

4 I am also very concerned because the
5 peaker plant is next to an elementary school and
6 my church. We should not suffer with the fear of
7 bad health in our vibrant community. We deserve
8 to have clean air because it belongs to us all,
9 not MMC.

10 I'm also here on behalf of my friend
11 Rita. Today she wanted to come and support us but
12 unfortunately her daughter is sick. She gets
13 asthma every so often and she can't go to school.
14 And also on behalf of my community, all my
15 community.

16 The solution is to invest in solar
17 energy. Why are we putting in dirty peaker plants
18 when nature gives us all we need. The answer to
19 this problem is to deny MMC's application. It
20 violates the general plan and it's also 250 feet
21 from the nearest home.

22 So, in conclusion, I would like to say
23 that if you can please support us, and I beg you
24 to support us, and it's like our community against
25 MMC. And I also would like to invite all my

1 community members -- to join together in their
2 homes to pray to god so he can intervene for us
3 and also help us.

4 And, so, thank you.

5 (Applause.)

6 HEARING OFFICER RENAUD: Jenny Huerta.

7 (Pause.)

8 HEARING OFFICER RENAUD: Is Jenny coming
9 or should I call someone else? Oh, you're Jenny.
10 All right. Thank you.

11 MS. HUERTA: Hello. My name is Jenny
12 Huerta from the Environmental Health Coalition.
13 I'm the community organizer for the Environmental
14 Health Coalition.

15 I wanted to speak, as well, on behalf of
16 one of the community residents that lives within
17 the one-mile radius of the peaker plant, and whose
18 child also goes to Otay Elementary.

19 I just want to mention that her daughter
20 is an over-achiever. Her daughter is always
21 coming up first or second in her class. She's in
22 third grade. And this child has severe asthma.
23 This child missed two to three days of school per
24 week because of her asthma conditions. And, in
25 fact, her mother could not be here because the

1 child was so sick with asthma today. She takes
2 several different types of medications. She is a
3 beautiful and intelligent child.

4 And this is just one of many cases that
5 I've experienced in working closely with the
6 community. And this would be an atrocity to have
7 a peaker plant emitting particulate matter in a
8 community within the vicinity -- not only does
9 this child live in that community, but she goes to
10 school in that community.

11 And she could be a doctor; she could be
12 the next Einstein for all we know. She could be a
13 number of things and be able to achieve academic
14 excellence, but it's being held back because of a
15 sickness that is easily preventable.

16 I want to remind the CEC that Chula
17 Vista has not yet complied with any of the
18 renewable energy sources that they're supposed to
19 comply with, that's mandated by the State of
20 California.

21 And this not a way to bring energy into
22 our community. There's several types of
23 alternative energy that work just as well,
24 including solar panels that are not being put.
25 Even energy efficiency within the homes would

1 lessen the power demand of the community.

2 I also want to remind the CEC that the
3 community that you're thinking about allowing this
4 application to go through is 71 percent nonwhite
5 community. That means that 71 percent is Hispano-
6 Latino people of color. And we also, in
7 comparison to our counterparts, as you can see in
8 your packets of evidence, that over -- that 64
9 megawatts are produced for every 10,000 people in
10 comparison to 2 megawatts for every 10,000 people
11 in some counties. This is clearly an
12 environmental justice, environmental racist issue.
13 And it needs to be addressed.

14 Also there has been some other, you
15 know, people in favor of the plant that say the
16 community members are being roused up, and there's
17 only a few of the community members that are
18 against this power plant.

19 Today I have here over 1000 petitions,
20 1000 petitions that are opposed to this power
21 plant. And this is what this petition says: The
22 project is too close to homes, too close to
23 schools, makes bad air quality even worse,
24 violates the general plan and also perpetuates
25 environmental injustice and sacrifices our health

1 for profits.

2 And these people signed on to this.

3 These people said that this is an injustice to our
4 community. This power plant is 350 feet away from
5 the nearest home. And I know you've heard it over
6 and over again, but we're going to keep repeating
7 it until someone hears us.

8 Because this is not the way that we need
9 to go. We already know that particulate matter
10 and this type of pollution causes a lot of health
11 problems that are even unknown. And they're not
12 even taking into consideration the cumulative
13 impacts that are surrounding the neighborhood
14 including being zoned as a light industrial area
15 where these community members live, breathe and
16 worship.

17 I mean this is an injustice and we're
18 not going to stop until our needs are met in the
19 correct way. We're not going to let people bring
20 down our communities because we need energy.
21 People need to turn off their lights. We could
22 turn off all these lights right here and we could
23 still be functional with the sun. We need to have
24 better types of efficiencies, better types of ways
25 of producing our energy and not polluting

1 communities. And not killing and making children
2 suffer for the needs of energy, just to have a
3 pretty extra light bulb in houses.

4 There's no proof that energy's even
5 going to be staying or used by the Chula Vista
6 community. And yet we seem to be producing more
7 and more energy here. That doesn't make any
8 sense.

9 (Applause.)

10 HEARING OFFICER RENAUD: Robert Borboa.

11 MR. BORBOA: Good afternoon and thank
12 you for allowing me to speak this afternoon. My
13 name is Robert Borboa; I am a 40-year resident of
14 Chula Vista. I've lived in front of the South Bay
15 Power Plant for those 40 years.

16 I think one of the things that we really
17 need to look at in terms of the peaker plant is
18 really communitywide. Because if we look at the
19 correlation between the peaker plant and the
20 upgrade of that particular peaker plant in which
21 it will run more efficiently, in which it'll be a
22 cleaner energy source for us in the southwest
23 Chula Vista power grid, we see that that
24 particular project will allow for the South Bay
25 Power Plant, which is really the peaker -- in this

1 entire chamber, which we're not taking into
2 consideration.

3 That's the power plant that we should be
4 talking about in terms of retiring. Not degrading
5 or putting all of our energies against upgrading a
6 power plant which currently, and for the last six
7 years since it has been owned by MMC has averaged
8 anywhere between 200 and 300 hours per year; 200
9 and 300 hours per year.

10 The last that I -- my last figures
11 indicate that there are 7986 hours in the year.
12 So, we're looking at 200 hours in which this power
13 plant is being used, on average, for the last six
14 years. And I'm supposed to stand here and believe
15 that those particular 200 hours that it's been
16 used have caused an epidemic of asthma and an
17 epidemic of environmental catastrophe within this
18 neighborhood.

19 Now my heart goes out to anyone who has
20 asthma, because I have asthma. And I have asthma,
21 so I understand and my heart goes out to any
22 child, to any individual that has that ailment. I
23 understand it, I've lived it, I've had to survive
24 it.

25 But when we look at the real numbers

1 here and we look at it pragmatically and we look
2 at it from a practical point of view, here we have
3 a peaker plant which will be used only in times in
4 which it is necessary. When it is necessary it
5 will be because the existing power plant that's
6 antiquated, the 60-year-old plant that's
7 antiquated, is at the point of meeting additional
8 energy.

9 Now, when this peaker plant is upgraded
10 it'll probably average anywhere between 400 to 600
11 hours of use per year. Again, 600 hours in
12 regards and in ratio to the entire year is less
13 than 10 percent.

14 And even if we use that particular 10
15 percent, we're looking at a plant which will run
16 much more efficiently, which will run much more
17 cleanly. And it'll use a fossil fuel to run that
18 plant, which is gas. Which is ultimately much
19 more cleaner than what they use at the South Bay
20 Power Plant.

21 So I ask you today to look at the
22 evidence and to look at what everything -- and to
23 look at all of the numbers and look at all of the
24 data. And I think what you will see is that, you
25 know, for the common good of the entire community

1 that the peaker power plant is a much more -- it's
2 a much better alternative at this point than
3 extending the life of the South Bay Power Plant.

4 Because if we do upgrade the peaker
5 plant, if it does produce that additional energy
6 that we need at times of emergency and times of
7 crisis, and at times in which the South Bay Power
8 Plant cannot deliver the energy that it needs, if
9 we do approve that particular plant, it will allow
10 towards credits for the more expedient retirement
11 of the South Bay Power Plant, which is the real
12 culprit in our city.

13 Thank you very much.

14 (Applause.)

15 HEARING OFFICER RENAUD: Stephanie
16 Miguel.

17 MS. MIGUEL: Good afternoon, ladies and
18 gentlemen on the council. I opposed to this
19 peaker plant. I've seen the upsides, obviously,
20 because it's going to be clean and new, so what
21 I've heard. But I'm still opposed to it because I
22 see the City of Chula Vista, I personally, I live
23 in the City of Chula Vista. I live close to this
24 peaker, too.

25 I go to school at Montgomery High, and I

1 see this other peaker on top of our stadium, you
2 can see the whole City of San Diego, the City of
3 Chula Vista and everything. I see everything, how
4 contaminated the City of San Diego. You can see
5 the smoke. You can see the plant that's over
6 there near the South Bay area.

7 I definitely do not want to see this
8 peaker here. It looks horrible. The City of
9 Chula Vista is an amazing place to live in. And
10 it is, it really is. Maybe some of you guys don't
11 live here, but you guys do. But it's a beautiful
12 place to live in.

13 Many people don't appreciate the fact
14 that we have such beauty and the plants, the
15 environment, that you know, the -- you have here.
16 You see all this stuff, and then you just drive on
17 by and you look to your left and you're going to
18 see a peaker plant this big. It's the most
19 horrible image ever.

20 Yeah, it's going to help us with the
21 energy and the electricity and all sorts of stuff,
22 but you also got to think, you know, what about
23 go-green. What happened to all that going green
24 talk that we had over the years about how
25 protecting us from global warming and stuff. This

1 is like a big slap in the face. That's a bunch of
2 hypocrisy then. By putting this it's a bunch of
3 hypocrisy. Yeah, going green, okay.

4 But there's like okay, solar power, ever
5 heard of that. I know everybody's heard of that
6 solar power system. I can't believe that we can't
7 run off solar power and we need billions of
8 dollars, like millions of dollars to put into this
9 energy peaker plant when there is many other
10 people losing their jobs, many teachers losing
11 their jobs and you guys are wasting money on this.

12 Coming from, people from New York, they
13 don't even live here. They don't even know what's
14 going on here. How long have they lived here?

15 (Applause.)

16 MS. MIGUEL: You know what I mean, I'm
17 not coming in here and yelling at your. I'm not
18 here to be opposed to you. I'm not here to tell
19 you what to do your job. But I'm telling you, as
20 a citizen, as a resident, as a student it's going
21 to affect us a lot.

22 As a student many athletes are going to
23 be having health issues. We're not going to be
24 witnessing as much athleticism as we are. And
25 that's going to affect us a lot.

1 Our school's getting new turf, and you
2 know what, it's not going to matter any more that
3 we have new turf. It's not going to matter that
4 we have the best football team in the district.
5 It's not going to matter who has the best football
6 team. It's not going to matter who has the best
7 sports. Why? Because we're not going to be able
8 to witness that. Why? Because most of our
9 athletes are going to be running the risk of
10 having sickness because of this power plant.

11 And you know what, it's not right. And
12 if we don't have athleticism, we're going to have
13 obesity. And it goes straight to that. And we're
14 going to have more kids that are diabetic because
15 we're not allowed to go outside because obviously
16 this thing's going to affect us health issues.

17 So when I tell you this, when you guys
18 are making a decision on this situation think
19 about us. I might not be a little kid that has
20 asthma. I have family members that do. And I
21 know you guys have heard that subject, asthma,
22 asthma, asthma. Okay, yeah. And I'm sure you're
23 getting pretty sick and tired of hearing it.

24 But you know what, if you're so sick and
25 tired of hearing it, don't put this plant. It's

1 as simple as that. You guys can invest in so much
2 things, you guys can put your money in something
3 else more efficient, more, you know, more, you
4 know, green, efficient.

5 I say, you know, think about it. Think
6 about us. Think about yourselves. If you guys
7 don't want to ruin your image, as, you know, as a
8 council, you know, think about what the community
9 wants. The community doesn't want this. The
10 community wants to see that our council is
11 considering us as, you know, as an individual.
12 That we want what's best for us. We want to know
13 that you guys want what's best for us, for your
14 city, for us.

15 So, as I speak to you today, please
16 consider what you're doing, the decisions that
17 you're taking. You know, just consider it,
18 please, because whatever you do it might be in the
19 matter of life and death. Because many people,
20 you know, you hurt already, are running the risk
21 of health issues. You just have to consider it,
22 you know.

23 And I know I'm running on the time, but
24 you just have to see, you know, that just pay
25 attention to what you guys are doing. Pay

1 attention to what you guys are signing. Pay
2 attention to what you're giving your city up to.
3 Corporations in New York, they don't even live
4 here.

5 Okay? Thank you very much.

6 (Applause.)

7 HEARING OFFICER RENAUD: G. Rodriguez.

8 MS. RODRIGUEZ: It seems like a lot of
9 things are very repetitive, but it's very much of
10 our concern. We are very much concerned with the
11 health issue of children attending surrounding
12 schools and the residential area of about 350 feet
13 from the proposed plant.

14 Somebody mentioned, you know, building
15 that plant will generate a lot of jobs. But that
16 will be at the cost of a lot of health issues.
17 Somebody else mentioned that this is not a
18 significant health issue, but just by saying not
19 significant she is acknowledging that there is a
20 health issue. It may not be significant now, but
21 it's going to grow as time goes by.

22 You, sir, you mentioned that you will
23 read this very substantial -- excuse me, a very
24 substantial packet of information that a lady
25 brought. You know, there'll be a few areas that

1 you should read, but also you should also feel,
2 you know, what this lady is trying to tell you.

3 Now, somebody else mentioned that the
4 plant will only be used as necessary. And none of
5 us have air conditioning. It will be used when
6 somebody in Del Mar is using air conditioning.

7 Another thing that I wanted to say, had
8 the peaker plant been built some time ago, and if
9 the proposal was now to build a school, a close
10 school like Otay School, and have residential area
11 there, what will the result be? Will the City of
12 Chula Vista will immediately allow this, or will
13 deny it?

14 Do you see what I'm saying? If the
15 plant was already there, they wouldn't allow a
16 residential area to be constructed there, nor
17 schools surrounding that.

18 And that's my comment for this
19 afternoon.

20 HEARING OFFICER RENAUD: Thank you.

21 (Applause.)

22 HEARING OFFICER RENAUD: Cindy Graves.

23 MS. GRAVES: Good evening; I'm Cindy
24 Gompper Graves representing the South County
25 Economic Development Council at 1111 Bay Boulevard

1 in Chula Vista.

2 First off I want to thank you for
3 holding the hearing here. Because you're holding
4 it here it's much more orderly and it actually
5 allows all of us to comment, and I appreciate that
6 very much.

7 The South County EDC supports MMC peaker
8 plant. From our standpoint you have experts in
9 the field telling us from Air Pollution Control
10 District and also the consultant hired by the
11 Chula Vista Elementary School District, that this
12 peaker plant, in its current capacity, as well as
13 in the future capacity, that we're discussing
14 today, will and is currently meeting air emittant
15 requirements.

16 Second of all is you have an existing
17 need for energy, particularly in southern
18 California where we're at the end of the energy
19 cul-de-sac.

20 And third, we need your help getting an
21 adequate energy supply so we can get the South Bay
22 Power Plant off our bayfront and use it to create
23 jobs.

24 And for those reasons the South County
25 Economic Development Council Board of Directors

1 voted to support the MMC peaker plant.

2 You know, people have mentioned social
3 economic injustice and environmental injustice.
4 Let me tell you how I see it, because I think I
5 see it in a different light. When I think about
6 injustice I think about cars on highway 5 every
7 single morning stuck in bumper-to-bumper traffic.
8 I think about it on the 805 coming home, stuck in
9 bumper-to-bumper traffic, emitting air pollution.
10 Putting more smog into the air.

11 And the reason why is because all those
12 people are going to work out of Chula Vista and
13 going to work out of South County. That is social
14 economic injustice. And that is part of the
15 reason why we are here today.

16 We need to create those jobs in Chula
17 Vista. We need to create those jobs in Otay Mesa
18 and in East Otay Mesa, and part of the necessary
19 infrastructure to support the jobs we're trying to
20 create, to change the trend that people keep
21 talking about when they talk about social economic
22 injustice, is energy. And part of that solution
23 is the MMC peaker plant.

24 So I ask you today to support the MMC
25 peaker plant. We know it's going to look better.

1 We know it's going to run more efficiently. And
2 we know we need it. And for those reasons I
3 respectfully request, on behalf of the South
4 County Economic Development Council, that when you
5 consider air pollution consider the traffic on
6 highway 5.

7 When you consider social economic
8 injustice, you think about those people who are
9 not going to be able to work in South County if we
10 don't have the infrastructure we need to support
11 those jobs and those companies. And part of that
12 infrastructure is energy, and part of that is the
13 MMC peaker plant.

14 Thank you, again, for holding the
15 hearing here at the City Council Chambers. We
16 appreciate it. And thank you for doing it in
17 Chula Vista.

18 HEARING OFFICER RENAUD: Thank you.

19 (Applause.)

20 HEARING OFFICER RENAUD: Ruth Bucio. Am
21 I saying that correctly? Bucio, thank you.

22 MS. BUCIO: Good evening. I want to
23 start by saying that I want you to consider
24 opposing this expansion. My family has lived in
25 Otay for 38 years, and that's what we used to call

1 it. This area where I live on Montgomery Street
2 was not part of the City of Chula Vista. It was
3 annexed in the '80s. And actually I was part of
4 the committee called Otay Committee, to insure
5 that Chula Vista, the city provided -- to insure
6 that our tax dollars were going to benefit our
7 community.

8 And just to give you one example. I
9 was pregnant with my son, and one of the things
10 they promised was they're going to improve Otay
11 Park. And it took them 18 years. My son is now
12 18 in July and that's how long it took for us to
13 get our park. Just to give you an example.

14 I don't live there anymore, but my mom
15 does. And I sure go there a lot. My oldest son
16 went to Castle Park High School -- sorry, my
17 voice, I'm sick -- my oldest boy went to Castle
18 Park High School who just graduated. Half of his
19 life he grew up in Otay, but as I said, later he
20 didn't because we moved away. But he continued to
21 go to that school.

22 And I just want to let you know that a
23 lot of kids besides Montgomery High School might
24 not be going to school while that plant is close
25 to them, but they live in the area. So the kids

1 that go to Castle Park Middle School and Castle
2 Park High School live in that area where Main
3 Street is at, Tremont, Montgomery, all those kids
4 go to that -- I mean live in that area.

5 And besides that I just wanted to
6 clarify when that one person was talking about --
7 I just wanted to make sure you knew that Cal-ISO,
8 they published a letter stating that the expansion
9 of the MMC does not remove the RFP on the South
10 Bay Power Plant. Just want to make sure you guys
11 make a note of that.

12 And lastly I want to say that I do know
13 a couple of people who talked for the peaker
14 plant. And I want to say that none of those
15 people, everybody who is for it, live in that
16 area. So that's one thing you need to consider.

17 (Applause.)

18 MS. BUCIO: Please consider that.

19 (Applause.)

20 HEARING OFFICER RENAUD: Hugo Salazar.

21 MR. SALAZAR: Good afternoon. Thank you
22 very much for holding yet again another hearing.
23 I'll just start first by saying that I mean the
24 evidence is very clear, and it's clear that
25 efficiency does not equate to a safer project for

1 our community.

2 You may want to compare apples to apples
3 by kilowatt to kilowatt, but the problem lies that
4 when this peaker plant runs far more hours than
5 the current peaker plant, that as a whole, there
6 will be far more particulate matter, far more NOx,
7 SOx and VOC that ultimately end up in the lungs of
8 every single child around that area.

9 And you can come here and give me some
10 sort of specific, you know, study or something
11 that suggests that it might not kill you, but I
12 assure you in the long run these particular power
13 plants do affect health. And it's been published
14 by numerous studies, specifically in regards to
15 particulate matter. You know, I don't need to
16 cite them because most of you may have read them,
17 or they're in your notes, or some of your interns
18 may have done the abstracts and given them to
19 you. So, please be aware of that.

20 And I just want to point out another
21 issue. That in the last CEC hearing in May the
22 hearing was around 5:00. Approximately 2:00 for
23 the earlier hearing and 5:00 for the comments.
24 Now it's today at 3:00. The reality is that
25 people work. People have jobs to do. And they

1 can't take days off or hours off sometimes for
2 this particular issue.

3 So I really encourage you all to take
4 into consideration, I think Christopher, I spoke
5 to Christopher last time, that the hours, having a
6 particular meeting in city hall at 3:00 p.m. is
7 not the most conducive to creating an environment
8 that provides the comments from the residents of
9 the area.

10 And, again, the people supporting this
11 peaker plant, it is clear that the lobbyists, the
12 special interests are getting these particular
13 folks not even from that area. They're just
14 getting anybody. And it's a shame that
15 individuals who are supporting this peaker plant
16 are being misguided by the lies of these
17 particular special interests that promote some
18 sort of social justice, when it's a clear and
19 present example of social injustice and
20 environmental racism and injustice.

21 And all of you have your respective
22 degrees, and all you took your respective general
23 ed courses where you learn about social injustice
24 and social justice, so I'm not going to reiterate
25 the importance of why social injustice is wrong.

1 If it requires more protests, if it
2 requires more walk-ins and more political clout to
3 get this power plant off, and I'm not talking
4 about MMC right now about the expansion, I'm
5 talking about the original plant, then we will do
6 it.

7 I am the representative of Communities
8 Taking Action, and we will be back on October 2nd.
9 Thank you.

10 (Applause.)

11 HEARING OFFICER RENAUD: Richard
12 D'Ascoli, perhaps. Did I get that right?

13 MR. D'ASCOLI: D'Ascoli.

14 HEARING OFFICER RENAUD: You can correct
15 me.

16 MR. D'ASCOLI: Hi, my name's Richard
17 D'Ascoli. I'm here on behalf of the Pacific
18 Southwest Association of Realtors, the South
19 County Economic Development Council and the Chula
20 Vista Chamber of Commerce.

21 Back a few years ago I sat on a citizens
22 advisory commission with a few of the folks that
23 are in this room. And one of the issues we were
24 looking at was the South Bay Power Plant that's
25 sitting out on the bayfront.

1 And I recall specifically having
2 conversations with members and people in this room
3 about the solution to getting rid of that power
4 plant was providing peaker plants. And it's
5 frustrating to be here right now, having to talk,
6 you know, in favor of building a peaker plant when
7 that was ultimately going to be the ultimate
8 solution to this problem.

9 What we're really looking at from our
10 perspective is that we have to get rid of that
11 South Bay Power Plant. We have the bayfront
12 project that we're trying to move forward, and
13 that's going to mean jobs and economic development
14 to folks in this room.

15 And getting rid of that plant, I would
16 like to see analysis on how much pollution will be
17 removed if we can actually get rid of that plant.
18 I think this peaker plant will probably produce a
19 fraction of the pollution that's created by that
20 larger plant.

21 There's another thing happening here in
22 Chula Vista that I've been kind of looking at and
23 watching. And Michael Meacham's been working on
24 it. The climate control working group down here
25 in Chula Vista has been working on reducing

1 greenhouse gases.

2 And one of the components that you need
3 to reduce the greenhouse gas is to have solar
4 energy. And we're all in favor of more solar
5 energy. And the city's coming up with a great
6 plan to make it available through bonding for
7 residents in the city.

8 The problem with solar energy is that
9 when it's a cloudy day, you need to have power.
10 You can't turn the lights off and have candles.
11 You need to have power. And on that cloudy day we
12 need to have a peaker plant that can provide the
13 energy on the one or two days a year when it's
14 cloudy down here in southern California.

15 We have sun most of the time, but we
16 really need that peaker plant in order to provide
17 energy when the sun isn't shining. And SDG&E is
18 working on a large project to put solar power
19 throughout San Diego. And we're advocating for
20 that and more of it.

21 I've looked through most of our document
22 here, the analysis and I applaud the amount of
23 work you did. It was a lot of work just reading
24 it. And the fact that California, which is one of
25 the strictest, has some of the most strict

1 regulation in the country, gave a lot of these --
2 the Air Resources Board and some of the other
3 groups in here that they accepted it. You know,
4 that carries a lot of weight.

5 So, thank you for your time and coming
6 down here.

7 HEARING OFFICER RENAUD: Thank you.

8 (Applause.)

9 HEARING OFFICER RENAUD: Max Herrera.

10 MR. HERRERA: Hi, guys. I'm a senior,
11 I'm 17, and I'm kind of new at this, so if I'm a
12 little awkward and stutter a bit, I'm sorry.

13 I was just listening to what you guys
14 are all saying. And I'm looking out here in the
15 crowd and I see this group, all of you support
16 this plant, the peaker plant. And I look at this
17 whole majority, the community, and it shows a lot
18 right here.

19 I see you guys --

20 (Applause.)

21 MR. HERRERA: -- and some people are in
22 the business of just making money; but I believe
23 that our business as citizens come before the
24 money that you're going to make out of this.

25 So, like people were saying, I believe

1 we have other things we can use. We have solar
2 panels, wind turbines, all these things that can
3 be used that haven't even been looked at by the
4 majority of people here.

5 And I just think this is ridiculous that
6 we're turning to this, that it's going to affect
7 the community. It's not going to affect the
8 people in New York, like everyone is saying. This
9 is our community and I know I'm young and this
10 really doesn't affect me as much. But I care
11 because I'm a human, I have a soul, I have a
12 heart. And the fact that people are getting hurt
13 by this disappoints me, it's disturbing.

14 And I don't know how people can come up
15 here and say we should support this, it's going to
16 help us, it's going to be good for the community.
17 Because I'm looking at the community, and it's
18 suffering. And this just, it hurts as a citizen.
19 And I know I'm young, like I don't know if you
20 guys take me serious, but I'm here and this is
21 really a disappointment to the community, to all
22 of us.

23 And honestly, it really hurts that
24 people that don't even live here are going to have
25 such an impact on our community, that they're

1 going to be prospering from something that's going
2 to be hurting us.

3 And that's all I really wanted to say to
4 you guys. Thank you.

5 (Applause.)

6 HEARING OFFICER RENAUD: Juan Ceseña.

7 MR. CESEÑA: Good afternoon. My name's
8 Juan Ceseña and I've been a resident in the South
9 Bay, Chula Vista, San Ysidro, Imperial Beach and
10 the South Bay region for over 46 years. I'm very
11 very happy to be here.

12 I'm very very very bothered -- have been
13 bothered for the last 30-some years in looking at
14 that power plant out in the bay. It really is a
15 very dysfunctional plant. It's antiquated, 60
16 years in existence.

17 I think it's time for a change. I think
18 it's time for a change for this generation, I
19 think it's time for a change for the next
20 generation. Jobs is what we need, and a bigger
21 picture is really what we should be looking at.

22 There are few interests, there's a lot
23 of emotions going on, a lot of people thing
24 they're going to feel sick, they're going to be
25 sick, they're going to carry asthma. The truth is

1 people with asthma sit on the top of Palomar
2 Mountain and they could have asthma sitting right
3 next to a landfill.

4 But the point is here is that the
5 greater good for the region, there's a lot of
6 people that live in the Chula Vista area that will
7 be affected by the construction when it's
8 constructed. But once it's constructed, in the
9 ground and operating, people are employed and not
10 having to leave the area to go out and work in the
11 north county or anywhere else, will really kind of
12 forget all the emotions and will forget whether
13 they got a pain in the back, a pain in the neck,
14 or a little bit of asthma, or whatever they
15 thought, they will forget because a lot of these
16 jobs will be affecting their children. Great
17 paying jobs.

18 I should say a lot of the great
19 redevelopment is coming to Chula Vista and which
20 supports the regional economy. That's really the
21 focus, the regional economy. Looking at what's
22 going to happen for the better good of San Ysidro,
23 for the better good of Imperial Beach, for the
24 better good of Chula Vista and the rest of the
25 localities. And that is my opinion.

1 I'm in favor of this project, and very
2 proud of that.

3 HEARING OFFICER RENAUD: Thank you.

4 (Applause.)

5 HEARING OFFICER RENAUD: I have a number
6 of blue cards now from people who wish to have the
7 Committee consider their written comments, but not
8 speak today. And I will simply, for the record,
9 read their names and whether they would speak in
10 favor or in opposition.

11 Margo Lopez, teacher, in favor.

12 William Lansdown, Chula Vista citizen,
13 in favor.

14 Lynda Gilgun, Chula Vista resident,
15 opposed.

16 Gabriella Padilla, Chula Vista resident,
17 in favor.

18 Armida Noriega, Chula Vista resident, in
19 favor.

20 Helen Bourne, opposed.

21 Graciela Martinez, community of Chula
22 Vista, opposed.

23 Ruben Durante, Chula Vista resident, in
24 favor.

25 Gabriela Lopez, freelance artist and

1 poet, in favor.

2 Frank Lopez, concerned citizen, in
3 favor.

4 Graciella Ramon, community member,
5 opposed.

6 Monica Montano, resident, in favor.

7 Javier Sanders, Mexican-American
8 Business and Professional Association, in favor.

9 Ramona Sufle, community member, opposed.

10 Gardenia Durant, Chula Vista resident,
11 in favor.

12 Rafael Lopez, in favor.

13 Reyna Montano, Chula Vista resident, in
14 favor.

15 Rudy Borboa, South Bay resident, in
16 favor.

17 Rodolfo Borboa, South Bay resident, in
18 favor.

19 Angelina Loiza, community member,
20 opposed.

21 Eustolia Solorzano, Chula Vista
22 resident, homeowner, in favor.

23 That's all the blue cards. Do we have
24 anyone on the phone at this point?

25 (Pause.)

1 HEARING OFFICER RENAUD: No?

2 MR. SPEAKER: No.

3 HEARING OFFICER RENAUD: All right.

4 PRESIDING MEMBER PFANNENSTIEL: Is there
5 somebody else who'd like to speak? If there's
6 anybody else who has not yet spoken and would like
7 to speak, please --

8 MR. SAUNDERS: I must have marked my
9 card incorrectly. I'm Javier Saunders, Mexican-
10 American Business and Professional Association.
11 And I would like the opportunity to speak.

12 PRESIDING MEMBER PFANNENSTIEL: Yes.

13 HEARING OFFICER RENAUD: Yes, you did
14 submit a card, and please go ahead.

15 MR. SAUNDERS: Okay. Thank you very
16 much for this opportunity to speak. My name is
17 Javier Saunders and I'm representing the Mexican-
18 American Business and Professional Association.
19 This Association wholeheartedly supports the
20 replacement of the peaker plant.

21 The Association is regional, but it's
22 predominately made up of members and professionals
23 in the South Bay area.

24 Replacement of the peaker plant will
25 create many benefits to the community, city and

1 region. Most importantly the replacement of the
2 peaker plant will create a more efficient power
3 plant, which will greatly reduce the emissions in
4 the community and to the region.

5 The California Energy Commission, APCD
6 and independent studies conclude that there will
7 be no significant health effects with the
8 replacement of the peaker plant.

9 The Chula Vista School conducted an
10 independent study by Jones and Stokes, a very
11 reputable firm. And they also concluded there was
12 no significant health effects with the replacement
13 of the peaker plant.

14 In fact, the studies have concluded that
15 emissions will be reduced substantially. Carbon
16 monoxide 85 percent; nitric oxide about 25
17 percent. And this would also be one more step in
18 removing the old dinosaur power plant at the
19 bayfront, and will help the city meet its long-
20 term development goals.

21 And this truly will create a win/win
22 situation for the city. Not only will this
23 benefit the community by reducing emissions,
24 create a more efficient power plant, but also
25 generate a substantial amount of revenue for the

1 city. Approximately \$800,000 in revenue.

2 Imagine all the wonderful things that
3 could buy or do to the community. Additional
4 parks, replace curbs and sidewalks. Some areas of
5 the community do not have sidewalks. This would
6 go a long ways in helping replace sidewalks,
7 deteriorated stormdrains, replace streets.

8 So, to conclude, the Mexican-American
9 Business and Professional Association fully
10 supports the replacement.

11 Thank you.

12 HEARING OFFICER RENAUD: Thank you.

13 (Applause.)

14 HEARING OFFICER RENAUD: We have two
15 more speakers, James Biddle, are you here?
16 Gardenia Durante.

17 MS. DURANTE: Good afternoon. My name
18 is Gardenia Durante and I appreciate the
19 opportunity to be here this afternoon to address
20 you.

21 I would like the record to reflect that
22 I am a Chula Vista resident. I went to school
23 here. I have family here. I have roots here.
24 And more importantly, I still live here. Area
25 code 91911.

1 And I recognize the increasing demand
2 for electricity and the need for reliable energy
3 sources in San Diego County. And more
4 importantly, Chula Vista, an energy-constrained
5 region, which is why I support MMC's Chula Vista
6 energy upgrade project.

7 The existing peaker was approved back in
8 2001, 2000, and built. And it currently runs on
9 older and less efficient technology. MMC is
10 proposing an upgrade to that that will be cleaner,
11 more efficient and more important, more reliable.
12 Resulting in an increase in generating capacity
13 while lowering emissions.

14 The Chula Vista peaker possesses a
15 special use permit that will operate for 30 years
16 at its current location. The removal of the
17 peaker is not an option. So I asked myself, would
18 I rather keep an older, dirtier and inefficient
19 peaker running for the remainder of the permit.

20 No, I would rather have an upgraded
21 peaker plant that runs cleaner, more efficiently,
22 and as I said, most importantly, more reliable.

23 I'd like to wrap up my comments by
24 reading a letter that was sent by a community
25 resident to the San Diego Union Tribune, titled,

1 misleading campaign against the plant upgrade.

2 "My family and I signed the Southwest
3 Chula Vista Civic Association's petition opposing
4 the Chula Vista peaker at a community fair. We
5 were asked to sign in order to oppose a bad peaker
6 plant in the area that would have negative and
7 adverse effects to the community. Keep in mind,
8 my family and I had no reason to question the
9 Southwest Civic Association's opposition. After
10 all, they were formed to represent the Southwest
11 Chula Vista community.

12 "However, when we reached MMC's booth
13 its representatives took the time and interest in
14 talking to us and explaining the Chula Vista
15 energy upgrade project. MMC's proposal to upgrade
16 its existing peaker plant on Main Street to a new
17 and improved peaker with state-of-the art
18 technology will produce twice the amount of energy
19 more cleanly and efficiently.

20 "We were now to learn of Southwest Chula
21 Vista's growing need for energy and that the
22 peaker will serve as an added resource to support
23 bigger baseline power plants when they have
24 reached their maximum capacity and are unable to
25 meet the demand for energy.

1 "My family and I appreciated talking to
2 MMC's representatives, and being given the facts
3 to read and draw our own conclusions. We naively
4 put our signatures on the petition to oppose the
5 peaker because of the Southwest Civic
6 Association's vague and misleading claims.

7 But the energy upgrade project and MMC
8 have earned our wholehearted support. Just caring
9 about getting signatures on a petition rather than
10 informing the residents of all the facts
11 surrounding MMC's peaker project is no way to
12 build support for any cause. Reyna Montaño, Chula
13 Vista."

14 With that I conclude my discussion and
15 thank you for the opportunity to be here. And,
16 again, reiterate my support for the Chula Vista
17 energy upgrade project.

18 Thank you.

19 HEARING OFFICER RENAUD: Than you.

20 (Applause.)

21 HEARING OFFICER RENAUD: We have one
22 last card. I'll just check again. James Biddle.
23 Not here. Okay.

24 Gisell Reyes.

25 MS. REYES: Hello and good afternoon.

1 My name is Gisell Reyes. I was born and raised
2 here in Chula Vista. I am a very concerned
3 citizen.

4 As you can see, I'm pregnant with my
5 first child. And the effects of the pollution
6 that's going to be emitted from this power plant
7 have been shown by researchers, environmental
8 researchers, to cause low birth weight of the
9 fetus and birth defects, as well as other -- I'm
10 sorry -- as well as other effects, health effects,
11 due to the particulate matter.

12 And I'm just here to talk to you. I'm
13 not paid by anybody. I'm here as a volunteer, an
14 organization called Communities Taking Action.
15 And what's going on here is such an insult to all
16 of us that have been members of this community
17 that are taxpaying citizens. We should have a
18 right; we should be heard of what is going on, the
19 decisions that are being made in our backyard.

20 And I don't think it's fair that we are
21 looked upon as citizens, we're looked upon as a
22 burden to speaking out against this issue. I am
23 very concerned about the future of this community.
24 Myself, as well as a few of the other members
25 here, have gone canvassing door to door to the

1 communities surrounding this power plant. And not
2 one person has been in favor. Everybody is
3 outraged.

4 And nobody can believe what's going on
5 without their consent in their own backyard, all
6 for profit, okay. And I know that you guys heard
7 this before, and I know that maybe to a lot of you
8 it goes in one ear and out the other, but I want
9 to plead with you and tell you this is an
10 injustice. And we're not going to stop fighting
11 this. We're not going to stop fighting this. I'm
12 not going to allow my children to grow up --

13 (Applause.)

14 MS. REYES: -- in a community that is
15 ran by a council and by profit companies that are
16 going to just rip us off of our health and our
17 well being. Okay. This is my human right, this
18 is my child's human right, and I'm not going to
19 stop talking until you guys listen to us.

20 Thank you.

21 (Applause.)

22 HEARING OFFICER RENAUD: Thank you.

23 Any final comments from members of the
24 Committee before we adjourn.

25 PRESIDING MEMBER PFANNENSTIEL: Are

1 there any -- I think for people who have spoken
2 before, I don't think it's really --

3 MS. ACERRO: Well, I have a comment
4 about something somebody else said.

5 PRESIDING MEMBER PFANNENSTIEL: Please
6 come up, but we will ask you to please respect the
7 fact that everybody else --

8 MS. ACERRO: Yeah, thank you.

9 PRESIDING MEMBER PFANNENSTIEL: -- has
10 been limited to a single opportunity.

11 MS. ACERRO: Oh, yes. Well, this
12 particular letter, when that letter appeared in
13 the newspaper I went back and checked all of our
14 petitions. And actually our petitions were handed
15 in to you in November. And we did not have them
16 at that fair at all, actually.

17 PRESIDING MEMBER PFANNENSTIEL: Thank
18 you.

19 (Applause.)

20 MS. LUCKHARDT: My concern is that, you
21 know, this is public comment. This is an
22 opportunity for people to make comments without
23 having to have a response from someone else.

24 There are a lot of things that have been
25 said today that we would dispute as being correct.

1 And I think if we're going to allow --

2 AUDIENCE SPEAKER: I'm sorry,

3 (inaudible) --

4 MS. LUCKHARDT: -- I'm sorry --

5 PRESIDING MEMBER PFANNENSTIEL:

6 (inaudible).

7 MS. LUCKHARDT: I'm sorry, if we're
8 going to allow people to respond to other people's
9 comments, then we're creating a much different
10 environment, and that would lead to grave concerns
11 on my behalf.

12 PRESIDING MEMBER PFANNENSTIEL: I'm
13 going to --

14 AUDIENCE SPEAKER: Are you mad that
15 we're against you?

16 PRESIDING MEMBER PFANNENSTIEL: I'm
17 going to just suggest at this point we really
18 wanted to get -- we're here because we wanted to
19 hear from people in the community.

20 I really personally appreciate the fact
21 that so many people are here and came to talk to
22 us. This is why we come down to your community;
23 we want to hear from you here in the community. I
24 appreciate the fact that so many people did come
25 out to tell us your concerns. And we've heard the

1 concerns.

2 This is part of the record that we're
3 building. We have a large record, not just the
4 technical record, that we're talking about,
5 clearly that the record of the comments here
6 today.

7 You've heard that on October 2nd we will
8 have an evidentiary record. And that the decision
9 on this power plant, from the Energy Commission's
10 standpoint, will be based on an evidentiary record
11 having to do with the material, the kind of
12 technical information that the experts are going
13 to present to Commissioner Boyd and myself.

14 We'll be back here for that evidentiary
15 hearing. And it will be done in a formal way. It
16 is, in fact, a formal process. So we certainly
17 invite members of the community to come back then
18 to hear the record, to hear the information as we
19 discuss the issues that are on the record of air
20 quality and of land use and the other matters of
21 great concern to all of you.

22 We will have opportunity then again for
23 public comment. So, we'll be back to you.

24 And I think with that I want to thank
25 you all for your participation today. And we will

1 be adjourned.

2 (Whereupon, at 6:03 p.m., the
3 conference/hearing was adjourned.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of September, 2008.

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