STATUS CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:
Application for Certification ) Docket No.
for the Genesis Solar ) 09-AFC-8
Energy Project )

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

MONDAY, APRIL 26, 2010
10:00 a.m.

Reported by:
Peter Petty, CER**D-493
Contract No. 170-07-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
COMMITTEE MEMBERS PRESENT
Robert Weisenmiller, Associate Member

HEARING OFFICER, ADVISORS PRESENT
Kenneth Celli, Hearing Officer
Sarah Michael, Advisor to Commissioner Boyd

STAFF AND CONSULTANTS PRESENT
Caryn Holmes, Senior Staff Counsel (via WebEx)
Robin Mayer, Staff Counsel
Mike Monasmith, Project Manager

APPLICANT
Scott Galati, Attorney
Galati and Beck

Scott Busa (via WebEx)
Ashley Pinnock (via WebEx)
Meg Russell (via WebEx)
NextEra Energy

INTERVENOR
Rachael E. Koss, Attorney
Adams, Broadwell, Joseph & Cardozo
representing California Unions for Reliable Energy

ALSO PRESENT
Ken Waxlax (via WebEx)

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PROCEEDINGS

10:03 a.m.

ASSOCIATE MEMBER WEISENMILLER: Good morning. This is a status conference conducted by a committee of the California Energy Commission regarding the proposed Genesis Solar Energy Project.

Before we begin we would like to introduce the committee members to you. I am Commissioner Weisenmiller; I am the Associate Member. To my left I have Sarah Michael who is the advisor to Commissioner Boyd, who is the Presiding Member. Hearing Advisor Ken Celli.

And I would ask the parties to please introduce themselves and the representatives at this time, starting with the applicant.

MR. GALATI: This is Scott Galati representing NextEra. I wanted to apologize that both Meg Russell and Scott Busa wanted to be here today and unfortunately were unable to connect in a connection flight last night. So they are calling in, they are both on the phone.

ASSOCIATE MEMBER WEISENMILLER: Staff?

MR. MONASMITH: Mike Monasmith --

MS. HOLMES: Caryn Holmes, staff
counsel.

MR. MONASMITH: And Mike Monasmith, project manager.

MS. MAYER: Robin Mayer, staff counsel.

HEARING OFFICER CELLI: Intervenors.

MS. KOSS: Rachael Koss, California Unions for Reliable Energy. Good morning.

ASSOCIATE MEMBER WEISENMILLER: Good morning.

HEARING OFFICER CELLI: We also have CARE. Is CARE on the phone?

MS. MAYER: Yes.

ASSOCIATE MEMBER WEISENMILLER: CARE.

HEARING OFFICER CELLI: CARE.

MS. MAYER: Oh, CARE, I thought you said Caryn.

MR. MONASMITH: Me too.

ASSOCIATE MEMBER WEISENMILLER: Any representatives of CARE?

(No response)

ASSOCIATE MEMBER WEISENMILLER: Any representatives of the state agencies?

(No response)

ASSOCIATE MEMBER WEISENMILLER: Or federal agencies?
ASSOCIATE MEMBER WEISENMILLER: Or local agencies?

(No response)

ASSOCIATE MEMBER WEISENMILLER: Let me turn it over to the Hearing Advisor.

HEARING OFFICER CELLI: Good morning, everybody. The purpose of this status conference is to inform the Committee, the parties and the community about the project's progress to date and to discuss legal issues raised by the parties.

Following the conference the Committee will hear public comment.

Notice of this status conference was issued on April 7, 2010 and served on all parties and posted on the Energy Commission's website.

The SA/DEIS, which is the Staff Analysis/Draft Environmental Impact Study have been available to the parties since March 26, 2010.

Today is April 26. At this time all parties should be prepared, should at least be able to give us a good idea of their positions with regard to topic areas that are ready for evidentiary hearing, topic areas that require
further analysis including the nature and the time
frame of such analysis, topic areas that are
undisputed and topic areas that are disputed and
require adjudication. The Committee is very much
interested in that.

We are going to start with staff today
because they were the people that put the SA out
most recently. Let's hear first from staff,
please.

MR. MONASMITH: Thank you. Mike

Monasmith again.

Staff published the staff assessment on
the 26th of March, as promised during the last
status conference.

The Notice of Availability went out on
April 9. That commenced a 90 day public review
period under federal regs, which will conclude on
July 8th.

We just finished last week three days of
workshops with the applicant, with the
intervenors, agencies and the public. We had good
progress on the primary areas that we discussed
including cultural resources, biological resources
and soil and water, which continue to be the three
primary areas of work and discussion.
HEARING OFFICER CELLI: I'm sorry, I'm typing too slowly. It's bio, water?

MR. MONASMITH: Cultural resources.

HEARING OFFICER CELLI: Thank you.

MR. MONASMITH: We also discussed on the opening day of the workshops the path moving forward in terms of the new bifurcated process with our partners at BLM in the sense that we will be producing separate, final environmental documents. A Revised Staff Assessment for the Energy Commission and a Final Environmental Impact Statement for BLM.

We talked about the process under which that will happen, the coordination that will continue, primary issues on how we deal with public comments and other areas. And ongoing collaboration, especially in the areas of biological resources where we have a large team from the wildlife agencies, US Fish and Wildlife Service, Fish and Game, BLM and the Energy Commission.

So we discussed that. We found that we needed to have an additional fourth day of workshops, which will be next Tuesday. Excuse me, next Wednesday, May 5th, in Palm Springs to
continue the discussions for biological resources
and soil and water, which are the two areas where
we need some further review. And we can give you
details on that if you'd wish.

We are on schedule or looking to -- in
terms of the schedule I should say, to publish the
Revised Staff Assessment on June 11th,
approximately 30 days prior to scheduled
evidentiary hearings on July 12th.

And we're hoping after today's status
conference to get some clarification from the
Committee in terms of the most recent submitted
schedule in terms of testimony leading up to the
evidentiary hearings. May 20th for the applicant,
May 27th for staff, June 3rd for intervenors.
Rebuttal testimony on June 10th, prehearing
conference on June 17th.

How that all folds in to a revised staff
assessment publication date of June 11th is
something that we would like some direction on --

HEARING OFFICER CELLI: Yes.

MR. MONASMIT: -- in terms of your
anticipation and how we can best do that.

So some ongoing negotiations like we
said that will occur next week but by and large we
feel very good about where we are right now and
can answer any more detailed questions if you
would like.

HEARING OFFICER CELLI: Well that's a
great introduction and thank you for that.

I am going to turn it over to applicant.
Let's hear from applicant next.

MR. GALATI: Thank you again for the
status conference. I think it is important for
the Committee to hear and ask questions.

I would agree with what Mr. Monasmith
said. I think that we have been very productive
in our workshops. While we still have
disagreements I am hoping that we can reach
resolution of those on the May 5th workshop.

I also am concerned, as I have expressed
in other proceedings as well, about the
bifurcation and how that would go forward. So I
am curious as to whether the current schedule is
that evidentiary hearings would be on the 12th and
13th. With the schedule that the Committee
pointed out I think that I'd like to understand
with a June 11th Staff Assessment we have between
June 11th and July 12th for evidentiary hearing.

And what I would ask for is another
opportunity for the applicant and the intervenor
to file additional testimony because we would not
have seen the Revised Staff Assessment by the time
our testimony is due, which is the 20th and the
27th of May.

HEARING OFFICER CELLI: Hold that
thought.

MR. GALATI: Okay.

HEARING OFFICER CELLI: We will get into
that. Go ahead, anything further.

MR. GALATI: No. I think that we have
been, I think largely with the Committee direction
and with Mr. Monasmith and staff counsel's
leadership I think that we are making significant
progress. I am encouraged.

HEARING OFFICER CELLI: Well I
appreciate your thoughts.

Ms. Koss, I want to hear from CURE about
just in general how are you doing on the schedule.

MS. KOSS: Sure. We did participate in
the workshops. They were productive. However,
our concern is that the three largest areas in the
Staff Assessment are lacking. We still need a lot
more analysis. We need mitigation measures.

So as far as the schedule goes, we
appreciate staff's acknowledgement that we need to revise the Staff Assessment and reissue a Staff Assessment. But our concern is that the Revised Staff Assessment is going to be all new material. Not all. A large amount of new material, new analyses, new mitigation measures for the three core areas, Cultural, Bio and Soil.

And we too would like the opportunity for testimony and rebuttal testimony on those new areas. We don't think that it is going to be able to be accomplished in that 30 days because our consultants have to review that and it's all new. I mean, cultural has no mitigation measures at this point. None, not one.

And in addition we think that the Revised Staff Assessment needs to be re-noticed for an additional public comment period. We also would like responses to comments on that, just as the Staff Assessment that was published on March 26th received.

And then we would like testimony to occur after that public comment period. So it will likely bump everything back I think by approximately one month.

HEARING OFFICER CELLI: Okay.
MS. KOSS: And I'd be happy to talk about more details for the various areas that need a lot more information, that will receive a lot more information, or any questions that you have. We're concerned about squeezing all of this in the already outlined schedule.

HEARING OFFICER CELLI: We are going to be talking about the schedule a lot today.

MS. KOSS: Great.

HEARING OFFICER CELLI: And we are going to get in more detail.

MS. KOSS: Good.

HEARING OFFICER CELLI: So thank you. I just needed the overview.

MS. KOSS: Sure.

HEARING OFFICER CELLI: I wanted to hear from the parties regarding that.

I also see that I have a new Call-In User number 4. Is that Mr. Boyd from Californians for Renewable Energy? Are you on the line, Mr. Boyd?

(No response)

HEARING OFFICER CELLI: Okay. I guess they haven't shown today. We should have the record reflect that they haven't made it to any of
our status conferences even though they were noticed as a party. I don't know what we can do about that but that's the way it is right now.

I also note that Ms. Mayer stepped out the room. Is she on her way right back or what?

But Caryn Holmes, you're still on the air?

MS. HOLMES: I am.

HEARING OFFICER CELLI: The first thing we need to acknowledge is that this is an accelerated application and we need to move with alacrity in all of the dealings, in everything. We are all doing that. And we are all, and when I say "we" that includes the hearing advisors, everybody is moving quickly.

I guess it's sort of an unfair question. Is it even possible for us to short-set the Revised Staff Assessment? When you look at that date that you said was June 11th, is that a date that we could accelerate in any way?

Because I'll tell you what my reasoning is. I really like the schedule right now. It gives everybody a week between each parties testimony. Everything comes in at a regular interval before we get to rebuttal and prehearing conference.
And I would hate to have to shortchange the parties on their ability to respond to briefs and testimony as it comes in. And right now I feel that we have a very comfortable margin between each event and I wouldn't, I don't want to have to mess with that if we can avoid it.

Let's hear from staff first on the possibility -- what are we waiting on?

MR. MONASMITH: First of all I think the June 11th date I would really like to keep in terms of 100 percent completion of our document. Accelerating it, I think it just would be virtually impossible in terms of the other proceedings in which staff are analyzing as is CURE and other participants.

What we talked about at the workshops with the May 27th, with our May 27th date, the existing staff testimony date that the Committee most recently issued, was the possibility of perhaps providing updates in those areas which we discussed in the Executive Summary. That is, areas where there were still some small gaps and ongoing negotiations that would still need to occur.

For instance, the water conservation
program which would constitute the offsets in
terms of the project's water use. We identified
an array of measures which could constitute that
program but we still need to talk with all parties
and that's part of what we're doing next week. We
could provide an update perhaps on the 27th of
May.

Likewise with the Cultural Resources.

CURE is correct, the Staff Assessment did not have
all mitigation measures in that respect at that
point. We were still moving forward with a
program of a joint review and using the
programmatic agreement with the Bureau of Land
Management. At this point we will be issuing our
own stand alone analysis.

HEARING OFFICER CELLI: So looking at
your staff testimony being due on the 27th.

MR. MONASMITH: Right.

HEARING OFFICER CELLI: Generally that's
everything you have up until the 27th.

MR. MONASMITH: Right. But perhaps we
could provide 95 percent of what we have on the
27th or 90 percent. But we would still like to
reserve the right to have until the June 11th in
terms of our own internal review and having what
goes out on the street to be final and the sworn testimony of staff.

We could provide the outlines of the water conservation program, the mitigation measures for cultural resources and define refinements of the biological resources. Because we are, we are a long ways in to biological resources, 90, 95 percent. But we need to get a little further, we understand that.

Perhaps that is what we file on the 27th. Perhaps that would suffice what the Committee needs, would also provide the intervenors and others the ability to look at what staff is going to be testifying in our final conclusions and recommended conditions of certification.

We also had discussed at the workshop the possibility of couching all of that in a status report with the overriding issuance of the Committee to provide status reports the 1st of every month. Perhaps we would use the status reports as a vehicle to let the Committee and the parties know where staff is.

But I think -- and staff counsel and I, we have talked about this. But I think we would
like to reserve the right to have the June 11th
date stay.

HEARING OFFICER CELLI: Let's do this
then. Let me take a different tack. Let's talk
about what isn't in dispute. That which at this
moment looks like all of the parties think that
they are complete, there is no dispute.

If I take us through the topics, let me
just ask. Air Quality. What is the status of Air
Quality?

MR. MONASMITH: Well we're still waiting
on the Final Determination of Compliance from the
Mojave Air Quality Management District.

HEARING OFFICER CELLI: Okay.

MR. MONASMITH: Until we have that and
until we deal with some issues on fugitive dust
and some other -- and in fact air quality was a
topic of conversation during this past Wednesday's
workshop so we are not there on air quality.

Almost.

HEARING OFFICER CELLI: It's a solar
project.

MR. MONASMITH: Very true.

HEARING OFFICER CELLI: Okay.

MR. MONASMITH: There's still issues.
HEARING OFFICER CELLI: So there are still issues. So we can say that air is not ready, pending an FDOC.

MR. GALATI: And Mr. Celli, if I could add to that.

HEARING OFFICER CELLI: Please.

MR. GALATI: Some of our comments on Air Quality have been questions or tweaks to the conditions.

HEARING OFFICER CELLI: Okay.

MR. GALATI: Even if we don't have full agreement with staff we feel very comfortable that we could write those up in a way to not have lots of testimony. So when you say, ready for hearing versus undisputed, I consider that air quality, as soon as the FDOC, to be ready for hearing. And the disputes would be in the minor category from the perspective of lots of expert testimony and panels.

HEARING OFFICER CELLI: Right.

MR. GALATI: We would be probably, if we don't come to agreement -- and to staff's credit, we just gave them those comments recently so they have to have some time to take a look at our
proposed changes to the conditions. But my experience has been that that will probably become -- the disputes would be relatively minor and handled quickly.

HEARING OFFICER CELLI: And in the scheme of things, I understand we're sort of early on. But since this is accelerated that's why I want to get into this level of detail. Because that which we know is not in dispute would help us a great deal in planning how we're going to tackle this.

So what I'm really asking is kind of what you're saying. Which is, what is headed in the direction of that which will be, you know, testimony by declaration, essentially, that people will not be disputing. So air is probably headed in that direction you think, Mr. Galati?

MR. GALATI: Well it certainly is between staff and the applicant.

HEARING OFFICER CELLI: And Ms. Koss?

MS. KOSS: Yeah, agreed.

HEARING OFFICER CELLI: Okay. So we're looking at that's probably not -- we'll say it's okay to go by way of declaration on that.

Alternatives, I'm going to leave that
open because I suspect that's always, that's pretty broad.

Bio you're saying is not ready. Where are we at there, what percentage? Give me like a sense, if you could.

MS. MAYER: I would say 80 percent. There's disputes about desert tortoise mitigation. That's probably the sharpest dispute we have.

HEARING OFFICER CELLI: Okay.

MS. MAYER: What a ratio will end up being, what exactly that will look like. There are some, it's not really a dispute but under the category of more analysis needed we have some rare plant analysis that needs to be done. And then most of the rest of it I think is in really good shape.

HEARING OFFICER CELLI: That rare plant analysis, now. Oftentimes rare plants or plants in general require some sort of seasonal survey. And unless that season is between now and let's say hearings is there a possibility that it could be created as one of these worst case scenario-type performance conditions?

MS. MAYER: Right. And we're writing them and we're working on them. That's what we
did at 9 a.m. this morning, the staff was on the phone with the plant consultants and trying to work those out.

HEARING OFFICER CELLI: Okay, well that's great. So you think that's about 80 percent.

Now, Ms. Koss, you had mentioned earlier that you felt that the analyses were insufficient. I dealt with CURE on some similar solar issues where they wanted a higher quality of let's say pedestrian surveys and that sort of thing. Is that what you're talking about?

MS. KOSS: Well, at this point we have outstanding desert tortoise surveys for the transmission line route. We have the outstanding special status plant surveys that Ms. Holmes discussed, which won't be completed until the summer or early fall.

HEARING OFFICER CELLI: That's Ms. Mayer over there.

MS. KOSS: I'm sorry. Ms. Mayer, I'm sorry.

We have outstanding golden eagle surveys, which I believe will be completed in May.

We have outstanding Couch's spadefoot
toad surveys along the linear facilities, which
can't occur until after summer rains.

We have uncertainty with regards to
potential impacts to groundwater dependant
vegetation, which is linked to soil and water
resources. Until we get that analysis completed
these impacts we will not know.

We also have to identify the
compensatory mitigation lands and the desert
tortoise translocation lands.

And these are just a glimpse of what
CURE is looking at. There's a long way to go for
Bio.

HEARING OFFICER CELLI: So Bio is
disputed.

MS. KOSS: Yes.

HEARING OFFICER CELLI: Okay.

MR. GALATI: It is disputed. But what
is also disputed is whether every one of those
things is needed for a decision.

HEARING OFFICER CELLI: But the point is
what I'm looking at is what are we going to be
hearing testimony on and what are we just going to
take by way of declaration. It sounds like Bio
we'll probably end up hearing from some witnesses.
MR. GALATI: That is correct. As well as what you will hear from us as an overriding concern for Bio is arguing for conditions with performance standards allowing this data to come in at a later date to reduce the mitigation requirements.

HEARING OFFICER CELLI: Um-hmm.

MR. GALATI: As opposed to necessary to determine if there are some or need to be increased. So what you will hear from us is -- and I am very, very concerned and very clear on this point is that CEQA does not require every analysis that can be done, be done. And so we have done quite a bit of surveying and we can move forward.

So I didn't want to -- I just wanted the Committee to understand that we dispute vigorously the concept that a golden eagle analysis cannot be done until golden eagle surveys are performed and evaluated. A CEQA level of analysis can be done, has been done, and we should continue to move forward. So that's what you will hear from us.

HEARING OFFICER CELLI: And I appreciate that. When I think about this the thing that concerns me is that typically things aren't, you
know, 0/1, black/white. It's often, you know, you try to create mitigation and then something comes up in a study or whatever that was unforeseen. And so really what we want to make sure is that we leave no holes --

MR. GALATI: Yes.

HEARING OFFICER CELLI: -- in any of these sorts of worst-case scenario performance conditions that we're talking about.

MR. GALATI: And I would point out that the Staff Assessment, I believe, did that. Where when in doubt imposed mitigation at a maybe higher ratio or concluded that there were potentially significant impacts when in doubt. So we support that approach for moving forward.

HEARING OFFICER CELLI: So let's talk about cultural. Ms. Koss mentioned that there are no cultural conditions yet. What's going on with cultural?

MS. MAYER: What's going on with cultural is mostly we have 30 days instead of 90 days. So staff is relying on the programmatic agreement that we don't really expect to be in place that quickly. And so we are writing out, writing out the conditions specifically. So they
will be done and we have every confidence they will be done.

HEARING OFFICER CELLI: Now I'm just going to take a quick check on the phone here. And I still don't have CARE.

Well let me ask you, Ms. Koss, first. Your issues with cultural besides the fact that there's an absence of conditions right now. Anything that is specifically proactively that CURE has in mind for cultural?

MS. KOSS: No, we would just like to see what staff is proposing. Don't get me wrong, I'm not, I'm not trying to burden staff with any more tasks as far as scheduling goes. We understand completely what they are going through, especially with the bifurcation. You know, we're not, I'm not trying to say that staff hasn't done a good job.

HEARING OFFICER CELLI: You just don't know because you haven't seen the conditions.

MS. KOSS: Exactly.

HEARING OFFICER CELLI: Okay. So it's not like --

MS. KOSS: We need to see something.

HEARING OFFICER CELLI: It was CARE that
came in representing Mr. Figueroa. That was the
real cultural issue. As far as I know that was
their only issue. I have never heard from, I have
not heard from CARE since the inception of this,
since their petition was granted to intervene.

MS. MAYER: They did attend part of the
workshop last week.

HEARING OFFICER CELLI: Okay.

MS. MAYER: So they are alive, so to
speak. But yeah, I agree, their main focus has
been cultural.

HEARING OFFICER CELLI: Did they have
any other issues besides cultural?

MS. MAYER: They are somewhat concerned
about water.

HEARING OFFICER CELLI: So water and
cultural and nothing else?

MS. MAYER: I'm not really, I don't
remember anything on Bio.

MR. MONASMITH: Given the opportunity,
you know, Mr. Boyd obviously having experience
with proceedings, is never hesitant to comment and
to participate, as is his right. But you're
right, the overriding issues upon which he did
come in was the cultural resources. But with
experience, biological resources as well and
others, he has questions.

But his primary questions during these
last workshops were with water, which was held on
Wednesday, a day he participated. Cultural
Resources was discussed on Monday and which he
didn't so his opportunity in there was not
available.

But let me say this. In terms of
Cultural Resources the new bifurcated process
which we are going to, we are going to embrace
this and we are going to get it worked on. The
one section that is impacted most by this is
Cultural Resources, without any doubt.

The process upon which we had engaged
and were going to engage with BLM and the State
Office of Historical Preservation for the
programmatic agreement was something we all felt
comfortable with. Absent that programmatic
agreement staff now has to engage in the writing
of the conditions in a very accelerated manner.

We had a number of mitigations in mind.
The reason we didn't go public with them was we
wanted to make sure they were coordinated in terms
of the other proceedings on the I-10 corridor,
specifically the Palen and Blythe proceedings. We have those.

I think we can, again, provide all parties including CURE an outline of what we are looking at before June 11. It won't be final until June 11 but we can begin providing the broad strokes and even some of the more details in terms of cumulative impacts, what we are trying to do in those areas to make sure we address that.

HEARING OFFICER CELLI: Do you think, Mr. Monasmith, that that will be in your testimony on May 27th in a broad brush sort of way?

MR. MONASMITH: Well that's what we are thinking out loud about. That May 27th would not obviously be 100 percent, that would be June 11th. The 27th could constitute those areas that we identified in the Executive Summary, including Cultural Resources, Biological Resources, Soil and Water, TSE, Transmission System Engineering, in terms of the cluster study, the Phase 2.

Anything else that we may have additional information at that point we can provide you some details so you will understand it, as can CURE, where staff is going. But full, completed, vetted, sworn testimony that we are
ready to put out on the street, not until June 11.

HEARING OFFICER CELLI: Okay. So what I am going to do is I am going to treat cultural as disputed because we haven't heard from CARE but we expect that that is their main issue.

Then Facility Design.

MS. MAYER: That should be fine.

HEARING OFFICER CELLI: That should be an issue-less area, Facility Design. I see nodding heads from staff.

MR. GALATI: That's correct.

HEARING OFFICER CELLI: And applicant.

Ms. Koss?

MS. KOSS: Agreed.

HEARING OFFICER CELLI: Thank you. So there's one.

MS. MAYER: Once you get done with A-B-C it's easier.

HEARING OFFICER CELLI: How about Geo and Paleo? Staff, anything?

MS. MAYER: Unaware of any issues.

HEARING OFFICER CELLI: And applicant?

MR. GALATI: Yes, unaware of any issues.

There might be some minor tweaks to verifications or something like that, very simple.
HEARING OFFICER CELLI: And Ms. Koss?

MS. KOSS: Agreed.

HEARING OFFICER CELLI: I'm going to say that that's probably going to come in also as stipulated testimony.

Hazardous Materials?

MR. GALATI: Hazardous Materials, there were a couple of changes that we requested based on my participation in another project with similar staff. Those are likely to be accepted. So I think that we'd be, I feel confident that Hazardous Materials will also be one of those that's on declaration, maybe minor tweaks.

HEARING OFFICER CELLI: Okay. I just want to, from my experience in Beacon, want to mention that there was some confusion between Hazardous Materials and Waste Management with regard to the heat transfer fluid.

MR. GALATI: Um-hmm.

HEARING OFFICER CELLI: To the extent that you can conform to staff's treatment of these areas that would be most helpful. I would appreciate it if you could do that, Mr. Galati.

MR. GALATI: Yes.

HEARING OFFICER CELLI: Ms. Koss.
MS. KOSS: Yes. I will conform, CURE will conform to however staff has analyzed heat transfer fluid in the land treatment unit. It will be disputed?

HEARING OFFICER CELLI: Yes.

MS. KOSS: I don't know off the top of my head. It was actually in several resource areas in the SA so I am not, I don't know off the top of my head which areas. But whichever areas it is in it will likely be disputed.

HEARING OFFICER CELLI: Okay, that's great. So Hazardous Material is likely to be disputed.

Land Use. Applicant.

MR. GALATI: Land Use is one of those interesting ones where staff adopts a CEQA threshold of if there is another impact somewhere else then it translates to an impact in Land Use. So to the extent that things like visual or something else are not mitigated fully it seems to translate towards Land Use.

So I don't want to say that it's -- we don't have any Land Use issues other than any of those conclusions that incorporate other significant unmitigateable impacts.
HEARING OFFICER CELLI: I'm thinking typically things like merging parcels, legal rights, real estate issues, that kind of thing.

MR. GALATI: I do not believe we have those issues.

HEARING OFFICER CELLI: Staff?

MS. MAYER: We don't have those issues but we have a concern, I would say concerns about recreational use in the area. It's a cumulative impact question that we're dealing with.

HEARING OFFICER CELLI: So there is right now recreational use like off-road vehicles in the areas that --

MS. MAYER: Well, my understanding is technically on this site there is no off-road vehicle use. That's why it's a cumulative impact. There's hiking, there's a wilderness area nearby.

HEARING OFFICER CELLI: Okay.

MS. MAYER: I guess I could be describe it as an area of possible dispute. It's certainly not buttoned up.

HEARING OFFICER CELLI: In terms of access? In terms of access to the areas where the hikers and the bikers want to get to? Because I'm talking Land Use right now.
MS. MAYER: I understand, I understand.

MS. HOLMES: I think that my recollection is that the concern relates to the impacts of the project on people who are using adjacent lands for recreational purposes and the quality of their recreational experience being affected by the existence of the project.

HEARING OFFICER CELLI: All right. But that sounds, Ms. Holmes, like kind of a visual-type.

MS. HOLMES: I think it certainly has a visual component but I believe that the staff position is also that because people are engaging in a recreational land use it also has a land use component as well.

HEARING OFFICER CELLI: Okay, all right. So I believe Land Use is -- what do you think? Are these surmountable issues?

MS. MAYER: Yes sir.

HEARING OFFICER CELLI: CURE, do you have any issues with regard to Land Use?

MS. KOSS: Not at this point.

HEARING OFFICER CELLI: Okay. I suspect that you all should be able to come to a stipulated agreement in the end and submit by way
of -- unless there is some organized intervenor
that's going to come in and represent the off-road
vehicle crowd or something like this. It sounds
to me like that's something that should be able to
be negotiated between the parties.

MR. GALATI: Yes. I would say to the
extent that it is not I think that we could still
submit upon declaration our contentions. You
know, sworn, what our witnesses say are the
recreational opportunities. To the extent that
the Committee then reads those and can decide, I
don't see lots of evidentiary hearing time
necessary for that issue.

HEARING OFFICER CELLI: Very well.
Let's get on to Noise. I can't imagine there's a
big noise issue out in the desert but I have been
surprised before. Anything?

Okay, staff says no. Applicant, no
issue there?

MR. GALATI: I'm checking my notes here
for just a minute.

HEARING OFFICER CELLI: While you're
checking, CURE, is there any issue as to noise?

MS. KOSS: No.

HEARING OFFICER CELLI: I'm going to
MR. GALATI: Yeah, we proposed some changes to conditions and we hope to work those out on the 5th.

HEARING OFFICER CELLI: Okay. Public Health. Now Public Health typically is sort of tied into Air and you don't have an FDOC, I understand. Again, we're talking about a solar project out in the desert. I just wonder if anyone has any issues as to public health. Please, Ms. Koss.

MS. KOSS: As long as HTF is described in Public Health, and I can't recall whether it is or not, that may be an issue.

HEARING OFFICER CELLI: Staff, is HTF described in Public Health?

MR. MONASMITH: No, it's described in Air Quality Waste Management HazMat.

MR. GALATI: Worker Safety.

MR. MONASMITH: And Worker Safety, correct. It's not in Public Health.

HEARING OFFICER CELLI: And is that because HTF is determined not to be, I forgot the language. But it's sort of a --

MS. HOLMES: It's because the public
isn't going to be exposed to it.

HEARING OFFICER CELLI: Okay. Good enough. So Public Health. CURE, your concern is you want a discussion of HTF?

MS. KOSS: No, I recall HTF being analyzed in various sections and I just can't recall all of the sections right now.

HEARING OFFICER CELLI: Usually it's Waste Management; it's the Hazardous Materials, which is the big one.

MS. KOSS: And also it's in, sorry, in Air Quality. And sometimes the Air Quality and Public Health analyze similar issues.

HEARING OFFICER CELLI: With some overlap.

MS. KOSS: I just couldn't, I can't recall.

MR. GALATI: To the extent that the emissions, VOCs and things like that from HTF fluid, they're addressed in Air Quality from a perspective because those are the air quality public health standards for those particular emissions. Any other emissions that the public is not exposed to or there's not like an ammonia within a release that leaves off the site, that
kind of thing. I think that's why it's not addressed. And I haven't seen it addressed in the other projects as well in Public Health.

HEARING OFFICER CELLI: And Public Health, so I'm going to treat Public Health as something that the parties would stipulate in terms of declarations, testimony by way of declaration.

Efficiency. That's something that everybody, there's not going to be an issue on Efficiency, is there?

MR. GALATI: No.

HEARING OFFICER CELLI: I'm seeing nos, thank you, from everyone.

The same with Reliability?

MR. GALATI: I would say no with one caveat.

HEARING OFFICER CELLI: Okay.

MR. GALATI: And the caveat, it did not show up in Genesis although there was some conversation from CARE at the workshop that I'm anticipating as being brought up as whether the project has a reliable water supply. And to the extent that that is brought into, out of Water, into Reliability, I'd like to make the caveat to
address it in Reliability as well.

We had a lot of discussion about that at
the workshop and I didn't think we were making
very much progress with CARE on that that issue is
a Soil and Water issue and not a Reliability
issue.

HEARING OFFICER CELLI: Well that's good
and I appreciate that. Because really this is the
beauty of the status conferences, for all of us to
know this so that the parties can be prepared that
this is coming down the pike, have their testimony
ready for that.

Soil and Water I know is disputed. I
take it we are not going with dry cooling still.

MR. GALATI: That's correct.

HEARING OFFICER CELLI: Okay. And I
know that you are still workshopping on that so
I'm just going to consider Soil and Water
disputed.

MR. GALATI: I would point out to the
Committee that the issues we are working on on dry
cooling would almost equally apply -- for use of
water for wet cooling would almost equally apply
to the water that is used for dry cooling.

There are issues of impacts and there
are issues of a counting surface and there are
issues of mitigation for the water. So absent the
policy discussion the physical ways that we work
the water issue, in my opinion, are equivalent to
both a wet cooling or the dry cooling alternative.
We are continuing to have those
discussions with staff. They adopted a series of
mitigation measures, one for Colorado River water
and one for mitigating impacts or a water
conservation program. And we had a lot of really
good discussion on how staff saw those two things
working together, which gave us a lot of insight
into being able to put together a program that
would meet more than one objective.

I would just let the Committee know that
if the project's water use was reduced we would
still be doing that exact, same thing.

HEARING OFFICER CELLI: Okay, staff,
your comment on Soil and Water.

MS. MAYER: Yeah, I'd roughly agree.
The main point in dispute right now is what is the
impact on the Colorado River. But we have been --
we are basically seeing eye to eye on working
together to develop a package that would make up
for those impacts once they are measured and
conserving water to the extent of the other water use.

HEARING OFFICER CELLI: Okay. And CURE on Soil and Water?

MS. KOSS: I think we see a larger issue or more issues. First let me say it's true that a water conservation plan is going to have to be developed, regardless of whether there is wet cooling or dry cooling. But it's a little misleading. I mean, it would be much easier to develop a water conservation plan for dry cooling. Talking about, you know, considerably less water.

So the mitigation would have to be much more minimal. Just remember that.

But CURE believes there are still issues regarding the magnitude of potential impacts to the Chuckwalla Valley groundwater basin. According to the Staff Assessment the impacts could not be determined because the calculations used by the applicant to evaluate the impacts were imprecise, they were uncertain. So it's still an issue.

There's also only preliminary studies and calculations that have been performed by the applicant to quantify the impact to water levels.
in wells. Hopefully we will get some more
clarification from responses to our data requests,
we are waiting for those.

Staff and Mr. Galati pointed out the
impacts to the Colorado River. Still unsure
about. And of course how the wet cooling would be
consistent with LORS is an outstanding issue.

HEARING OFFICER CELLI: Okay.

MR. GALATI: Just to provide a finer
point on that. What I wanted to make sure that I
did not leave the Committee with the impression
with is that, you know, a lower water use would
automatically result in the same kind of
conservation plan as a higher water use.

What I'm saying is the issues on how to
quantify the impacts and how to quantify both the
impacts to groundwater-bearing plants or
groundwater dependent plants and the impacts
associated with the Colorado River are the same
issues, no matter how much water is used. It may
result that mitigation looks differently based on
solving one or the other.

And I would also like to point out that
this was a case in which staff assumed the worst
and wrote the condition in and we are continuing
to refine it. So I think that's a, that's a positive. We did ask staff to do that and we asked staff to engage in assuming the worst. And then let's figure out a way if that we can refine it. And I think that's what staff has done.

HEARING OFFICER CELLI: Okay, that's excellent. Because my recollection was early on when I got the Staff Assessment I had highlighted in yellow, I went through those sections where there was insufficient information for staff to be able to come to a conclusion.

I don't exactly remember what those things were. But the reason I did that was so that the parties can get together and get the data they need in order to be able to tie those loose ends together. So I am still going to treat soil and water as, and I do appreciate this discussion and I am glad. It's good for the Committee to know what direction we're going in.

And so at this moment in time it sounds like -- is applicant still looking at dry cooling or is it just you are just looking to mitigate groundwater use?

MR. GALATI: Yeah, that is currently where we are. We submitted a dry cooling study
why we did not believe it was feasible for us here
and submitted that to staff. The staff disagreed.

So again I will tell you, at the risk of
opening a broader discussion is, we are all sort
of grappling with the 2003 IEPR and the
Committee's scheduling order where it was boiled
down to a different test. And in that test there
is not a dry cooling component like there was in
the 2003. And in fact Ms. Koss and I had quite a
bit of debate at the workshop of how this is
interpreted.

So there is, like always, whenever you
ask for clarification additional questions come
up. So we are doing the best we can to work
within that. We do believe that there is a way
for wet cooling to comply with the state policy.
It appears that the staff does as well since they
proposed some mitigation that might get us to
comply with the policy. They saw water
conservation.

This was our discussion. I'll assume
staff counsel will correct me if I say it too
broadly. We think the discussion was that there
are three things we are worried about. There are
impacts to the Colorado River. And if there are
impacts how do they quantify and how do you mitigate those. That's one issue.

The second issue is there is potential impacts to groundwater-dependent vegetation. And the question is how to quantify that, how to mitigate that. That's the second issue. And the third issue was a water conservation offset program that works in such a way as to comply with the policies. And so those are the three ways that those were addressed.

MS. HOLMES: I think, Mr. Galati -- this is Caryn Holmes, staff counsel. I don't want to leave the record incomplete. We also have a condition addressing potential impacts to wells. We don't expect them but that's sort of a fourth component. It's one we haven't discussed at length because I don't think there is much dispute about it. But we did look at and analyze and include conditions of certification addressing potential impacts to other users of groundwater.

MR. GALATI: I would definitely agree with you, Ms. Holmes, and I think that we are in pretty good shape on that particular one.

MS. HOLMES: But I just wanted to make
it clear that that was that fourth water issue
that we had spent some effort on.

MR. GALATI: Yes, thank you. So from
that perspective, especially that third piece, is
water conservation as a way of complying with the
policy. That was something that we are going to
continue to have discussions with and that is
probably at some point in time a Committee
decision.

HEARING OFFICER CELLI: I'd be
interested to see this. When I think of things
like pulling, what are those plants, Tamarisks
out. I mean, that is so de minimis in terms of an
offset. But we will see. I don't know. But I
hope the efforts that you're making are realistic
and that they kind of neutralize whatever impacts
there might be. So again, Water is disputed.

Socioeconomics, any dispute there?

Staff says no.

MR. GALATI: No.

HEARING OFFICER CELLI: Applicant says
no.

MS. KOSS: No.

HEARING OFFICER CELLI: CURE says no,
thanks you.
Traffic and Transportation. Applicant, any issues there?

MR. GALATI: No. I think we had some minor modifications to the conditions of certification. And I think what you will find is all the projects are struggling with a condition that staff has placed that they all coordinate and work together. So I think all the applicants are asking for some caveats when they go it alone or when they work with others depending on construction schedules. And if they actually overlap then how do you coordinate that.

HEARING OFFICER CELLI: So there is nothing in operation, we're just talking about construction.

MR. GALATI: I believe so.

HEARING OFFICER CELLI: For Traffic and Transportation Mr. Monasmith is nodding yes. And Ms. Koss, you are also nodding that there is no issue there?

MS. KOSS: Correct.

HEARING OFFICER CELLI: Okay. Okay, now there were some questions with regard to, well, not TLSN, TSE. But I can't imagine there's any Transmission Line Safety Nuisance issues outside
MR. GALATI: No.

HEARING OFFICER CELLI: Everyone is nodding their head no.

There were some questions on TSE. First of all is TSE a disputed -- TSE is Transmission Systems Engineering. Is there any dispute there that you see?

MS. MAYER: Just waiting for the Phase 2 study, which the earliest would be June.

HEARING OFFICER CELLI: That is the cluster study from the CAISO?

MS. MAYER: Yes, the revised cluster study with the lower load because of the fewer, fewer projects the CAISO was looking at. As it is they are rushing to get it out by June.

HEARING OFFICER CELLI: June what? Do we know?

MS. MAYER: I believe it's, I think --

MR. BUSA: June 30th is their proposed date.

HEARING OFFICER CELLI: And who just was speaking?

MR. BUSA: This was Scott Busa.

HEARING OFFICER CELLI: Thank you,
Scott. June 30th, okay.

MS. MAYER: Yeah, I'm afraid so.

HEARING OFFICER CELLI: Any anticipated issues with TSE? Staff, you're shaking your head no. Ms. Koss?

MS. KOSS: Not at this point, no.

HEARING OFFICER CELLI: Okay. And applicant?

MR. GALATI: We have a way to solve this problem if we are all willing to think a little differently. The first cluster study was not very useful for purposes of determining compliance with LORS. There were too many megawatts that were studied. But it is particularly useful for overestimating indirect impacts under CEQA. And so from my perspective the Phase 2 study demonstrates compliance with LORS but is not necessary to do the CEQA analysis.

So if it's just a compliance with LORS why can't we condition the project that it must comply with the generator interconnection agreement and the upgrades identified in the Phase 2 study without actually having it brought into the Energy Commission record.

It is a compliance with LORS. And I
believe that if we can think differently, and the
Energy Commission would not be shirking its
responsibility if it required compliance during
compliance with a future LORS or LORS compliance
in the future. We have never had to do that
before so we are not used to it but I think it has
some merit. And I proposed it to staff in another
project, they are thinking about it.

But I would like to at least throw it
out to the Committee because my experience has
been, and I'm sure everyone in this room their
experience has been, is that when it comes to
transmission studies they are often later, not
earlier. I don't want us all depending on a June
date and that date becomes September. Then we're
stuck. Let's think about what would we do if it
doesn't come in. And I think a condition would
solve that problem.

HEARING OFFICER CELLI: Well, I'm sure
that if all of the parties put their heads
together with an eye towards avoiding deferred
mitigation that hopefully you could come up with
something that would convince the Committee that
all impacts would be mitigated.

Commissioner, did you have any questions
on Transmission?

ASSOCIATE MEMBER WEISENMILLER: I had a couple. I think we went through sort of similar questions before.

MS. HOLMES: I'm sorry, the Committee is cutting in and out. Could people please speak more closely to the microphone, please.

ASSOCIATE MEMBER WEISENMILLER: Sure. I think we have walked through some of these questions before. So the system impact study date is expected July 2nd, June 3rd, June 30th, in that time period. Are the project descriptions done?

MR. GALATI: Scott Busa, we have received the project description for the Colorado River Substation, correct, from SCE?

MR. BUSA: We have received a project description for the 230 kV portion of that. The 500 kV portion has already been analyzed in another proceeding.

ASSOCIATE MEMBER WEISENMILLER: And has that been provided to the staff yet, the project description?

MR. GALATI: Scott, is that final that we can provide that to staff?

MR. BUSA: It has not been provided to
staff yet. And Scott Galati, you know, we were discussing how that would be entered into the record.

MR. GALATI: Yeah. What we were planning to do is to make sure that what we received was final. Because I know that on another project I'm working on SCE changed since we had this conversation last, modified it a bit. Once we know that that is final our plan is to throw that in as our final comments, as a document in our final comments on the Staff Assessment.

ASSOCIATE MEMBER WEISENMILLER: And in terms of -- are there any associated spring surveys?

MR. BUSA: There were. They were actually conducted by SCE in another one of the project proponents that is also connecting to Colorado River Substation.

HEARING OFFICER CELLI: And that's Scott Busa speaking, correct?

MR. BUSA: Yes it is.

MR. GALATI: That's correct. I could provide some clarification on that. The Blythe project conducted those spring surveys. And the area in which the spring surveys were done cover
the expansion to accommodate the Blythe project
and others, including this one. So that
information will be in the Blythe proceeding. Not
necessarily in this proceeding but staff will have
it.

ASSOCIATE MEMBER WEISENMILLER: Is there
any associated telco facilities with this project?

MR. GALATI: Scott Busa, do you know
that? Any telecommunication facilities necessary
for this interconnection?

MR. BUSA: Well there certainly will be
a distribution power line run to the site that may
have telephone communication lines on that also.
But was the Commissioner referring to the
substation itself?

ASSOCIATE MEMBER WEISENMILLER: Right.

MR. GALATI: Yes.

ASSOCIATE MEMBER WEISENMILLER:
Basically trying to make sure as part of the
project description that there is an associated,
if there is an associated telco line that that
also become part of the record in a timely
fashion.

MR. BUSA: I'll have to double-check on
that and make sure that that's in the description
that we were provided.

ASSOCIATE MEMBER WEISENMILLER: Well actually I just want to follow up with the staff. Assuming that you get the system impact study on June 30th. How much time would the staff need to assess that?

MR. MONASMITH: I'm assuming by then most of the work will be out in terms of the ARRA projects; This will be obviously a priority because it will affect more than just one proceeding so I am sure this will be the highest priority within the division. I would think between ten days to two weeks, probably that being the out, I would know.

Again, I can't speak for them specifically but they'd have the entire team working on it. So we'd hope that it would be able to be out quickly. And perhaps in time for our evidentiary hearings would be the goal so we would even make it sooner.

HEARING OFFICER CELLI: And how does that affect the cumulative analysis? Because you've got these three, Blythe, Palen and Genesis all going in at the same time and they cumulatively would have an effect downstream. Are
you going to need that report before staff can come to a conclusion? I'm talking about the system impact study from CAISO.

MR. MONASMIT: It is the cumulative effect, obviously, and the impact on three projects, which is why it would have that high priority. I believe -- I'm not quite sure how the unit would suggest that staff come out on the issue. I'm assuming that the conditions would stipulate if the identification of a problem were to arise, suggested mitigation or not to deal with it appropriately.

HEARING OFFICER CELLI: So that was what Mr. Galati was talking about.

MR. MONASMIT: Correct, correct.

HEARING OFFICER CELLI: You will have to deal with the deferred mitigation issues later on.

MR. GALATI: I would like to address it because I think we're -- it's not deferred mitigation in any way, shape or form under CEQA. There is a Phase 1 cluster study that had all of the projects and others that over-estimated the downstream facilities that are necessary. Those can be evaluated and determined to be indirect impacts.
The staff typically from that perspective, since all of those upgrades are permitted by the Public Utilities Commission, does not impose mitigation upon the applicant for downstream facilities. They are the responsibility of the person who is permitted. What happens in reality is the utility charges us for that.

The Phase 2 study, because many megawatts have dropped out, the megawatts that are in, those impacts will be reduced. So there will be no deferred analysis or deferred mitigation, only with respect to what are the electrical effects and do you need a transformer here and what size. Those kinds of things.

And again, that's compliant with the tariff and those LORS. I think you can do that by condition without deferring mitigation at all.

MS. HOLMES: This is Caryn Holmes, staff counsel. I would add a little bit of a refinement to that. The requirement -- Mr. Galati is correct, we wouldn't be imposing mitigation.

But typically when we have projects with downstream effects the requirements under CEQA are that we disclose what those potential impacts are...
and that we suggest -- we identify whether or not they are significant and whether or not there are mitigation measure that would be available to mitigate them. And we suggest some types of mitigation measures that could be considered. Although as he points out we wouldn't be imposing them ourselves.

In this case we do have an earlier study that does provide an estimation of potential downstream impacts. And it is my understanding that we have looked at that information in trying to assess what the reasonably foreseeable impacts would be associated with the transmission build-out.

So I guess I am in agreement with him that we don't have a CEQA problem but I do think our obligations are a little bit greater than he has implied but I think that we have met them.

HEARING OFFICER CELLI: Well thank you for that. I just happened to notice that there's another caller on the phone and I was wondering if Mr. Boyd from Californians for Renewable Energy is on the line?

(No response)

No, okay. Let's move on.
I have Visual next. I'm dealing with Visual in Beacon right now. It's kind of a fuzzy area there. And I recall hearing during testimony that there was some kind of conference coming down the pipe where there were going to be some sort of metrics, lumens or something like that that people could use to measure other than, you know, staff's witness's gut feeling that it might be brighter than usual. I don't mean to cast any aspersions. I'm just saying -- is there something like that happening where we are going to have a little more, a little more quantifiable detail in that area?

MR. MONASMITH: That may be under work in terms of the cumulative question, which is the one that staff has identified with this project. The Genesis project is far enough removed from the freeway that it was not found to have direct Visual Resource impacts.

But we did identify significant cumulative in relation to what staff counsel Holmes had talked about earlier for Land Use and that is the recreational areas that exist north of the project area. And it was in fact in relation to that that we did determine significant impacts.
for both Land Use and Visual.

That was the reason why. So that is probably an area that we are probably going to need to talk about some more. I can't speak for anyone but I wouldn't say it's necessarily undisputed because of the cumulative issue.

HEARING OFFICER CELLI: And isn't it, my recollection -- is where the field that the mirrored array is going in on Genesis, elevated above the road or below it?

MR. GALATI: Which road, I-10?

HEARING OFFICER CELLI: The I-10. In other words, I don't remember seeing another road out there, actually. But as you got off the freeway and you were looking out. I recall that we were on the bus, we were looking out between, across the dry lake. You had I believe the Palen Mountains on the left, the McCoy Mountains on the right. And I can't recall whether there was a depression where the mirrored arrays were going in or whether that was an elevated area or was it flat?

MR. GALATI: I think what happens is as you look over -- and Scott Busa, correct me if I'm wrong. As you look over the landscape from the
top of I-10 the depression is Ford dry lake. And
on the other side the alluvial fan has a slight
moderate grade upwards towards the mountains. But
I don't think it's, I don't know what the
elevation is, but I think -- is that right, Scott?

MR. BUSA: I believe your description is
correct because all the water is, you know,
basically running downhill to Ford dry lake. It
is not very much but it's the distance, I think,
that's pretty significant there as far as, you
know, several miles to look across that open
desert before you can actually see the project.

HEARING OFFICER CELLI: Right. How many
miles approximately, Mr. Busa, was that, the
distance?

MR. BUSA: I believe it's roughly three
to four miles.

MR. MONASMIT: And there's a key
observation point, existing conditions and then
with the simulated facility within the Staff
Assessment. On the simulation it's very hard to
discern it.

There's a series also when you're out
there, this series of kind of rolling hills right
on I-10 in terms of when you're driving on it. So
it's not like it's on a high elevated, sticking
out like a sore thumb. At least that would have
been my impression. And the key observation point
simulation also bears that out.

But again I think it was from the other
perspective from those that are using it for
recreational purposes, hikers and such, up the
McCoy areas, that would see it because it would be
below them.

HEARING OFFICER CELLI: It would be good
to know, I went back and read the SEGS decisions
just to see how they dealt with visual because I'm
working in the Beacon matter right now. And in
that case they determined that it was so far away,
the SEGS, from any existing road that it wasn't
going to be an impact.

In Beacon you have, 14 is right next to
it. But the impacts did not come from the
roadway, it came from looking down from Red Rock,
which is a state park, and another canyon, which
is a recreational vehicle area. Because they were
elevated above the -- they had a panoramic view of
the site.

But it would be really important to know
how, to see if we could get a quantity. How many
people are using these mountains. How many people
are actually, you know.

MR. MONASMITH: The number is, and I'm
sure we can try to get some estimations from BLM,
of course, or at least we can ask. It's very
remote. There are no roads into this area at all,
as you know. We've, I think, described it to the
Committee before.

When we did our on-site visits we were
joined by CARE, other intervenors, some local
environmental organizations. You have to drive in
in a four-wheel-drive vehicle and it stops. You
have to get out and hike by foot. This is not
easily accessible. This is not an area that any
vehicles really can provide in terms of the
northern areas. It would be those that are
looking for the very isolated experience. But
those still have value and that's why staff
concluded as it did.

HEARING OFFICER CELLI: I just hope that
we can get, you know. Yes, there will be
contrast. But I hope we get to a point where --
personally I'm not -- speaking for myself, not for
the Committee. I just want to say that the idea
that all contrast equates to a significant impact
by virtue of just the existence of contrast, an
unquantifiable contrast. We would need more
detail than that, I think.

MR. GALATI: Mr. Celli, I don't actually
think we are going to have that issue here because
staff did not find any direct impacts from our
project and the only impact is one that is
cumulatively. And so I think we're talking about
this project in combination with other projects,
as they say in the Chuckwalla Valley and more
region-wide in the Southern California desert.

So I think there is a, I think the way
that the issue has been framed is one in which
there's a chipping away at an experience. And so
I think we're going to find, I think that is an
easier issue to have a conversation about.

HEARING OFFICER CELLI: Do you think we
could have stipulated testimony by declaration?
Do you think we are headed in that direction?

MR. GALATI: Yeah, I think so. Because
I think it's a very finite issue about is this a
cumulative significant impact or not as opposed to
direct and what's the glare and what's this and
can you measure that. I think that we are in
agreement with staff that there are no direct
impacts visually from the project.

HEARING OFFICER CELLI: So staff, you think that we wouldn't need testimony on Visual when we get to the evidentiary hearing?

MS. MAYER: I think it's a possibility, yeah.

HEARING OFFICER CELLI: Does CURE have a position on Visual?

MS. KOSS: No, not right now.

HEARING OFFICER CELLI: All right, well I'm going to mark that as such. Let's move on.

MR. GALATI: How about cautious optimism on Visual?

HEARING OFFICER CELLI: Yes.

MS. MAYER: That's a good way to phrase it.

HEARING OFFICER CELLI: It just happens to be my personal bugaboo right now because I'm writing that section.

MS. MAYER: I think it also lies into the question of the scope. You know, what is the scope of the cumulative impact. And that's something that's kind of fuzzy, frankly.

HEARING OFFICER CELLI: Okay, so I'll be cautiously optimistic on visual.
What's left is waste, which we talked about. There's the HTF issue. I'm just going to treat that as a disputed issue because -- and also I think the same would be true for worker safety because it's an HTF issue.

And lastly, Project Description, I don't think we need to get into.

That covers everything except I kind of gave short shrift to Alternatives because I kind of figured we'd have a big discussion about Soil and Water in Alternatives. What other Alternatives issues might we have besides Water?

MS. MAYER: Well at the very least it needs more analysis because things are shifting because of the bifurcation. And so we're working with that staff now to figure out, you know, we're folding -- what was split out over the sections is now being combined into one Alternatives section using the previous work of staff. But kind of lining that all up and figuring out what exactly the differences are now because it's CEQA only. It's something we just have to work on. And it's just taking time and we need to work it out.

HEARING OFFICER CELLI: That's great.

You know, I just want to say that I ran into a
little problem in Beacon where what happened was
the FSA was written in such a way that --

Beacon initially wanted to use fresh
groundwater and they ended up changing over to
using recycled water from one of two options, two
cities that had water to offer. But the FSA was
written at a time and from a point of view that
these are the reasons why you can't use the
groundwater and it was kind of tunnel vision in
that regard. So when they switched over to the
new alternative it didn't translate very well.

So I just want to -- things may change.
And if they do then I hope the analysis will be
able to be flexible enough to assume that, okay,
if you use this alternative, these impacts. If
you use this other alternative, these impacts.
That kind of thing. Just a heads-up. That really
covers that.

We talked about the schedule a little
bit. Again, I really like the schedule as we have
it, only because it gave all of the parties such a
nice, regular interval between each party's
testimony being submitted and then, you know, we
have a status conference between staff's testimony
and intervenor's testimony. And then another week
between intervenor's testimony and rebuttal testimony. And then it looks like two weeks before prehearing statements.

Because this is an accelerated ARRA case we are going to be very, by the time we get to prehearing conference -- and I know that this is a status conference and it's unusual to go through the detail that we did today in terms of going topic by topic. But we won't have the time by the time we get to the evidentiary hearings to goof around with new evidence.

Ms. Koss, I ran into that problem at Beacon recently where CURE did not have all of their evidence at the prehearing conference. They came to the evidentiary hearing with about a three inch stack of new evidence, which we excluded. So if you don't want to be in that position again everything is going to have to be in at the prehearing conference.

The reason we have a prehearing conference is so that there are no surprises at the hearing. So everybody knows what the testimony is, everybody is bringing in the testimony that we have. Generally speaking what that means is that since everybody has read
everybody's testimony, everybody has seen
everybody's direct testimony and everybody's
rebuttal testimony, that ideally we can reduce our
evidentiary hearings down to essentially
surrebuttal because everything else is in.

So I'm saying this now because I want to
be clear. And I'm sorry that CARE isn't here
today because I want that prehearing conference to
be a line in the sand after which we are not
taking in any new evidence unless there is some
surprise or something that needs to come in on
cross.

MS. KOSS: May I?

HEARING OFFICER CELLI: Please.

MS. KOSS: I can assure you that won't
happen.

HEARING OFFICER CELLI: Thank you.

MS. KOSS: However, that said, we are
now talking about having a Revised Staff
Assessment come out --

HEARING OFFICER CELLI: June 11th.

MS. KOSS: Six days before our
prehearing conference statements are due.

HEARING OFFICER CELLI: Yes.

MS. KOSS: So we will essentially have
that time to review basically three large sections of information, have our consultants review it, know all of our issues, draft a prehearing conference statement in six days.

HEARING OFFICER CELLI: So let's anticipate this because I want to be -- first of all, as of today you have a heads-up on this and you can alert all of your experts that this is what's coming down the pipe.

Secondly, staff should be able to provide you, I hope, with cross-out and underline sections. So in other words, so that you don't have to read the whole section again trying to figure out what the changes were if staff could provide you with the cross-out and underline version then that would streamline the process.

So basically all that's coming to your attention are those changes. Because you already have what they have up to date at this point.

Because this is accelerated I want all the parties to know that yes, it's a bit of an imposition. And in a perfect world and if we weren't under the gun as we are under these ARRA cases we'd be able to stretch things out.

MS. KOSS: Speaking -- sorry.
HEARING OFFICER CELLI: Go ahead.

Ms. Koss, you have the floor.

MS. KOSS: Maybe we need to take a step back. Speaking to the ARRA cases and the acceleration. I'm not sure if the Commission is aware but in March there was new guidance issued for ARRA which basically states that there does not need to be a permit issued for this case or any of the ARRA cases by the end of the year. I am not sure if the Commission is aware, if the applicant has brought it to --

ASSOCIATE MEMBER WEISENMILLER: Are you referring to the IRS, the Treasury guidelines?

MS. KOSS: Yes, exactly.

ASSOCIATE MEMBER WEISENMILLER: We're aware of that.

MS. KOSS: Okay. So basically physical work. So basically it says, you know, construction begins when physical work of a significant nature begins. But the physical work can be when more than five percent of the total cost of the property has been paid or incurred. So essentially ground doesn't have to be broken. All the applicant would have to do is spend five percent of the property.
And for example, the applicant can, say, order a steam turbine, put five percent of the project cost down, no permit would need to be granted by the end of the year. This would alleviate staff significantly. They are so under the gun.

ASSOCIATE MEMBER WEISENMILLER: But in --

MS. KOSS: This would alleviate our schedule. Sorry.

ASSOCIATE MEMBER WEISENMILLER: But in general the applicants, and it may not be the case in this specific, but general the applicants would have to close financing to get the money to put down for the construction.

MS. KOSS: Yes.

ASSOCIATE MEMBER WEISENMILLER: Certainly there are implications if anyone can do balance sheet financing. But for those that can't do balance sheet but have to do project financing, the time line still pushes us towards a September decision.

HEARING OFFICER CELLI: I just want to say that until my marching orders are changed, which is impossible.
HEARING OFFICER CELLI: Not impossible but so unlikely as to be practically impossible. We are directed to move these cases forward. I want to point out though that you are going to have staff's testimony on May 27. What you are going to have on May 27 should be everything except System Impacts and Cultural. I thought you said there were some -- what are we waiting on between staff's testimony and the June 11th date?

MR. MONASMITH: By the 27th we get the administrative draft. I'll have the administrative draft in from technical staff on the 22nd or thereabout. And so we can put something out on the 27th that will be, like I say, 95 percent if not higher of what we will ultimately publish on the 11th.

But until it goes through final vetting by staff counsel, by management within the division, for what we will put out on the street as our sworn testimony, what we will go into evidentiary hearings on, that won't be until the 11th. But we will have the bulk, the vast majority of everything done by the 27th that we can put out for those sections that we identified.
HEARING OFFICER CELLI: And Mr. Monasmith, we're talking again. That 95 percent, the 5 percent that is going to be added between May 27th and June 11th, you would be able to provide in a format so that CURE or any user would be able to look and see just exactly what the additions are so they are not trying to figure out where the camouflage is in the writing.

MR. MONASMITH: If so ordered I guess.

Caryn?

MS. HOLMES: This is Caryn Holmes, staff counsel. I'm hearing a couple of different things and I think this is really critical for the Committee to understand what is and what isn't happening.

Earlier in the conversation I heard staff, Mr. Monasmith saying that what would come out on the 27th is the final versions of those sections that are ready to go and a summary of potential changes and a summary of where we are headed on those topics that are not currently ready to be completed. That would include Alternatives, Biology, Cultural Resources, Soil...
and Water and possible TSE.

Then later on in the conversation I heard Hearing Officer Celli say that he wanted any changes in those areas, which presumably would be presented to be filed in underline and strikeout version. Is that how people are seeing this proceed? I'm having trouble putting together the two different conversations.

HEARING OFFICER CELLI: What we are trying to do is avoid essentially ambushing CURE by submitting testimony six days, additional testimony six days before their testimony is due. Because essentially CURE's testimony is going to be all rebuttal testimony so it's reactive to whatever staff is putting in.

MS. HOLMES: Right. And what they are going to have on the areas that they have expressed an interest in is they have got the Staff Assessment right now and they are going to have not a Revised Staff Assessment but some sort of a narrative or bullet points about what the changes will be in those contested areas and where we're headed. And then they will get the final on the 11th June. And I'm quite concerned that we all be talking about the same thing.
I most recently heard you, Hearing Officer Celli, suggest that we provide something in underline and strikeout, which I think would take an enormously long period of time given the way the review process works at the Energy Commission and would actually extend the schedule quite dramatically, or potentially could do so.

HEARING OFFICER CELLI: So what is your recommendation? What we are trying to do is facilitate CURE's ability to get their testimony in on time.

MS. HOLMES: I'm supportive of the, of the concept that was raised earlier in the hearing by Mr. Galati of allowing for a filing by the applicant and any other party subsequent to the publication of the Staff Assessment.

MR. GALATI: And I would agree with that. I think what we could do is file on the 20th and the 27th those areas in the Staff Assessment where we do not expect changes, but not necessarily file all our testimony on these contested areas. And then when the revised Staff Assessment comes out file additional testimony.

And again, I want to characterize it a little bit differently than CURE. These are not
major rewrites of Biology; they are not major
rewrites of Soil and Water. Soil and Water is
incomplete in one area and that is a condition on
water conservation plan. We will have to file on
the 20th what we are proposing as a water
conservation plan. So everyone will know what
that is. If not we will try to file it before as a comment. I don't know if we are going to be able to do that; we are going to have additional discussions on the 5th.

When it comes to Biology, they are not major rewrites. There are disputes over mitigation ratios. Staff applied a 1-to-1 mitigation ratio. So if there is anything it is our testimony arguing for less.

There is an issue on the Mojave fringe-toed lizard, which staff proposed mitigation for habitat compensation, and we had some conversations about doing some sort of sand movement to help the sand transport corridor. So by the 20th everyone will know, at the latest date everyone will know what we're planning.

So I don't see who rewrites. I see the Revised Staff Assessment largely being staff taking out the BLM NEPA stuff and insuring that
the document is more consistent throughout. But
they are not -- and I think the staff did a good
job in this particular project. There are not the
gaping holes that there might be in some other
projects.

So I don't see, for example, my workload
on the 11th being reading a 1500 page document and
having to file testimony. And we have done this
before. We have gone to hearing in 14 days after
the Final Staff Assessment. And I have filed
testimony and so have intervenors in the meantime.

So I would suggest we continue along and
file what we can in those areas that -- for
example let's say we have a dispute in Visual on
cumulative impact and after the 5th of May we
don't make any progress on it. I'll file our
testimony because I don't think it's going to
change in the Final Staff Assessment even though
it's a disputed area and CURE should do the same.

So I think we'll know more on the 5th
but I don't, I do not believe. And I would
recommend is that we take the prehearing
conference. The prehearing conference is on the
1st, the prehearing conference statement is on the
17th. That gives the Committee two weeks for the
prehearing conference statements. We move that
one week so that you have one week between the
prehearing conference statement and the prehearing
classic and we make the 17th the date that
rebuttal testimony to the Revised Staff Assessment
is due by all parties.

HEARING OFFICER CELLI: And when am I
getting prehearing statements?

MR. GALATI: You would get prehearing
statements on the week after, so the 24th.

HEARING OFFICER CELLI: The 24th.

MR. GALATI: That still gives you a week
to review prehearing conference statements. But
that allows us an opportunity to file testimony.
Because I am concerned as well about the Revised
Staff Assessment. The applicant needs an
opportunity to respond to the language changes in
the Revised Staff Assessment.

MS. HOLMES: Another possibility, this
is Caryn Holmes, staff counsel. Another
possibility that we have exercised in other cases
is to hold the prehearing conference at the
beginning of the evidentiary hearings. Under that
scenario you could give the parties a little bit
longer time to prepare any rebuttal testimony and
their prehearing conference statements.

There is no legal requirement that the prehearing conference be separated by ten days from the evidentiary hearings. It has been on more than one instance held on the first day of the evidentiary hearing.

HEARING OFFICER CELLI: But those cases are ones where, where we combine a prehearing conference with evidentiary hearing is when 100 percent of the testimony comes in as undisputed declaration generally.

MS. HOLMES: Not in the history of the CEC, perhaps in your experience. And I can understand why you would like to have some additional time. I am just pointing out that it is not a legal requirement if we are trying to look for additional time.

HEARING OFFICER CELLI: I understand.

MS. HOLMES: I am somewhat sympathetic to CURE's interest, I think, in having more than one week to respond to the Staff Assessment.

MS. MAYER: Mr. Celli, I have a practical suggestion for CURE. Instead of the strikeout just use the "compare document" function. It's really helped me. I have had to
review documents under the gun, quite a few recently. If you take the old version and compare it with the new version all the changes pop out at you in a left hand column and make it very, you can make it very fast. You don't have to reread anything that isn't changed.

MS. KOSS: I appreciate that. I'm not aware of that function but I'll certainly --

MS. MAYER: I'll be happy to show it to you.

MS. KOSS: I'll look into it.

MS. MAYER: I'd be happy to show it to the applicant as well.

MS. KOSS: I'll ask our IT person.

I also would like to --

HEARING OFFICER CELLI: Okay.

MS. KOSS: Let me wait until they're finished.

HEARING OFFICER CELLI: Let me ask you this. Let's answer this question first and then get to that, which is a good one.

If we move the June 17th date for a prehearing conference to June 24th and allow June 17th to be the date where rebuttal testimony is due.
MS. KOSS: Mr. Celli, may I ask a
question?

HEARING OFFICER CELLI: Yes.

MS. KOSS: CURE would like the
opportunity to submit testimony on the Revised
Staff Assessment and have an opportunity to submit
rebuttal testimony to the applicant's testimony on
the Revised Staff Assessment.

HEARING OFFICER CELLI: Here is what we
have got. We have got applicant's testimony that
is going to come in on May 20th. We have staff
filing their testimony on May 27th. We are having
a status conference on Friday, May 28th.

Commissioner Weisenmiller raises the
spectrum of potentially changing that status
conference to a mandatory settlement conference.
I would want to hear from the parties about that
because some parties may or may not want the same
Committee that is going to hear the evidence
participate in a mandatory settlement conference.
We can discuss that in a moment. But be aware
that we have this Friday, May 28th status
conference to discuss the issues.

The last day to file petition to
intervene, June 1.
Intervenors file testimony on June 3rd.

So that would be your direct testimony, Ms. Koss.

MS. KOSS: Yes.

HEARING OFFICER CELLI: And that, and my experience so far with CURE is that it is pretty much everything that CURE is going to be filing is really rebuttal testimony to what you have already received. I understand under these circumstances it is an incomplete package. But at that moment in time, which is June 3rd, you are going to be rebutting, essentially, staff and applicant's testimony to date as of June 3rd.

MS. KOSS: We will be putting on our evidence for the issues that see. And we're fine with that. We're fine with having two rounds of testimony, that's not our issue.

HEARING OFFICER CELLI: Okay. But I'm just walking us through this because you will get the benefit of coming in last. You bat last, as it were.

MS. KOSS: Yes.

MR. GALATI: That is right, I would like to point that out. That's not how it is normally done. What is normally done is all parties file direct testimony on a date and all parties file
rebuttal testimony. I don't have rebuttal testimony to anything CURE files.

MS. KOSS: Yes you do.

MR. GALATI: Where?

MS. KOSS: Parties file rebuttal testimony one week after we file our testimony.

MR. GALATI: On the undisputed areas. I have no --

MS. KOSS: Right. Which is why I'm saying we would like rebuttal testimony after testimony for the Revised SA.

MR. GALATI: And if I am giving up rebuttal testimony after the Revised SA, CURE should as well.

HEARING OFFICER CELLI: Yes, that actually doesn't work procedurally because the applicant has the burden. And with that they would have the opportunity to have the last word.

MR. GALATI: And I am willing to take the last word after the Staff Assessment, even though I have not seen what staff will be -- I will give up rebuttal testimony to keep the schedule.

HEARING OFFICER CELLI: All right. Because the problem I have, I'm faced with, is
that if we choose to go, to require all parties, everybody files their rebuttal on June 17th, that means that everybody is rebutting the final state of the evidence as it would be after the 11th. Then your prehearing conference statements would come in on the 24th. So pretty much what we're capping is evidence coming in after the 17th.

We're going to have prehearing conference statements on the 24th; we'll have our prehearing conference on July 1st. I think that that gives everybody pretty much an equal opportunity to deal with any what's starting to sound like, I'm not going to say insubstantial but not substantial changes on June 11th.

Especially if you're given a heads-up on the 27th when they say, this is 95 percent of our testimony and we're submitting a summary of potential changes. So that you know where you're looking for the changes and your witnesses will be given the opportunity to prepare for what's coming down the pipe in that way.

I think that's the best we are going to be able to do here because I have to tell all of you that with all of these projects occurring at the same time it is getting really difficult for
me to be able to schedule time.

And in this period in the summer when
all of these projects are being heard at the same
time, you have Commissioners with weeks blocked on
these other cases where they are doing evidentiary
hearing after evidentiary hearing after
evidentiary hearing. I can't get two
Commissioners in the same room, typically.

What I am saying is I am loathe to
change anything. I mean, for me that prehearing
conference date is etched in stone, July 1. As
are the July 12 evidentiary hearings, July 12th,
13th and 14th. And I had to pull teeth to get
those dates I want you to know. I don't know if
you remember, this had been a week or two beyond
in the calendar. At this point there is just no
wiggle room in a calendar anymore.

So I appreciate your concerns, Ms. Koss.
The Committee hears them. And I think that we
have done our best to respond by bumping the
rebuttal testimony up a week and prehearing
conference statements up a week.

But I really want to be clear that the
prehearing conference is the rubicon. And that's
the last. I don't want to hear about new, needed
evidence after that fact. And I want all of the parties to have in their hands everybody else's testimony so that we are not haggling over discovery, we are not haggling over any procedural issues. We can hit the ground running and call your first witness and do the evidentiary hearing on day one. I really don't want to take up time with administrative stuff.

There was one other thing. Oh, the mandatory settlement conference. You know what, let's do this. Rather than have a mandatory settlement conference that would require the involvement of the Committee, what we can do at the status conference on the, the status conference is May 28th. Is have the parties --

So we'll have a status conference like this. The Committee leaves, the parties remain and can workshop and work out essentially their own internal status settlement conference on that same day for any remaining issues, if that's acceptable to the parties.

MR. GALATI: From the applicant's perspective we appreciate that. I would like to ask the Committee whether or not on the 28th we would be as productive as, and I know the
schedules are rough, if we moved that date into
June after the parties had seen each others'
testimony.

HEARING OFFICER CELLI: The problem with
that is I don't have Commissioners in June.

MR. GALATI: Okay.

HEARING OFFICER CELLI: Everybody is,
I've got one coming, the other ones going.
Commissioner Weisenmiller is gone while
Commissioner Boyd is gone. And I'm sorry to tell
you this but I have a vacation overlapping both of
their, we are all in transit in June. June is a
very rough month.

MR. GALATI: The other thing we could
do.

HEARING OFFICER CELLI: But the parties,
there is nothing to preclude the parties from
noticing a workshop in June if you think that that
would be productive.

MR. GALATI: I think sometimes, first of
all I always think that's productive, to get in
the room and talk. There is also a possibility of
noticing after the prehearing conference for us to
do the exact same thing. We will have seen
everybody's testimony, we will have weighted, you
know, our changes for prevailing. We could talk
to the Committee about it. If the Committee had
read the testimony and had some advice or
direction that might be really useful. And I
think we have done that before on evidentiary
hearings and other things.

So maybe if we noticed the afternoon for
a workshop. Have the prehearing conference and
have the Committee leave and we do our best there
as well. I don't mind trying it twice.

HEARING OFFICER CELLI: That's great.
My request then would be that staff would notice a
workshop immediately following the prehearing
conference on July 1st. That would be mission
accomplished in that regard. And I hope that by
then we can really use that time effectively and
have a meeting of the minds from the parties.

I know that it worked in Beacon. There
was a meeting post-prehearing conference but
before the evidentiary hearing. Which is why I
kind of like that separation of time. Where they
hammered out, they knocked out all of the issues
with regard to Bio and Cultural in terms of the
conditions. So that would be something I think
would be useful.
MR. GALATI: Sometimes the parties are not completely ready to do that until they have gone through the effort of reading and writing their own testimony and reading other's testimony and then sometimes another idea comes out that's a compromise.

HEARING OFFICER CELLI: No, I'm in favor of that. I think that's a great idea and I appreciate the staff's willingness to accommodate that. Because I think that workshop would be probably one of the better ones you are going to have. So with that --

MS. MAYER: As long as you don't anticipate the prehearing conference to take all day that sounds like a great idea.

HEARING OFFICER CELLI: You know, a prehearing conference would take -- let me look at my notice here. The prehearing conference was set for --

MR. GALATI: July 1 at, I have it at ten a.m.

HEARING OFFICER CELLI: Thursday, July 1 at ten.

MS. MAYER: Okay.

HEARING OFFICER CELLI: Prehearing
conferences are running like three hours essentially. I think that's a reasonable guess. And so in the afternoon. The only thing you would need to check with, Mr. Monasmith, would be the availability of Hearing Room A that afternoon. I think that we have it. I believe I blocked it for the day but you might want to double-check with Cathy Graber on that.

MR. GALATI: Again, being very concerned with the Committee's time. We do have May 28th still on the schedule as a status conference. And I would suggest that we keep it on the status conference but maybe a week or two before we could, if the parties agree that one is not necessary or not helpful at that time, we could let the Committee know.

What I don't want to do is to come without a lot more to update. Rachael will have seen our testimony. I will have had one day to see the update. So will Rachael but I hadn't seen Rachael's testimony. So I don't, I don't know if there is a lot more to update on the 28th. There might be.

HEARING OFFICER CELLI: I'm tempted to leave it and I'll tell you what. Right now we are
at 50 percent stipulated testimony, 10 out of 22. And we need to shorten that if we are going to be able to get evidentiary hearings done in the amount of time we have.

So I would like to treat the next status conference, as we did in this case, with a little more, dial down a little more on what areas we have got cleared up and those areas that you have been able to settle. If we do that on the 28th then our prehearing conference will be a breeze if we can get some commitment on the 28th. So we'll see how we do then.

MR. GALATI: Okay, fair enough.

HEARING OFFICER CELLI: So I appreciate that.

Mr. Galati, I am going to ask if there is anything further that you would want to raise at this time for our status conference today?

MR. GALATI: I do not. I usually lean over and whisper to Scott Busa so let me do that now. Scott, do we have anything else?

MS. RUSSELL: Scott just stepped away from the phone but that's all that we wanted to discuss today, we appreciate everybody's time. This is Meg Russell, by the way.
MR. GALATI: Thanks, Meg.

HEARING OFFICER CELLI: Thank you.

Staff, please.

MS. MAYER: Nothing further.

HEARING OFFICER CELLI: And does that include you, Ms. Holmes?

MS. HOLMES: It does.

HEARING OFFICER CELLI: Thank you. And Ms. Koss?

MS. KOSS: No, thank you.

HEARING OFFICER CELLI: And I'm just going to, I see now I have a Call-in User number 6. Is that Mr. Boyd from Californians for Renewable Energy? Are you on the line, Mr. Boyd?

(No response)

HEARING OFFICER CELLI: Or Mr. Figueroa?

(No response)

HEARING OFFICER CELLI: Okay. At this time since we have completed the status conference it's an opportunity for the public to make a public comment on any aspect of the Genesis Solar Energy Project.

I want the record to reflect that the only people in the room here in Hearing Room A are the parties themselves, the court reporter and the
Committee. There is absolutely no audience sitting here.

I have on the line Bill Kelly, Ashley Pinnock, Susan Sanders, these are all people affiliated with parties. I have some unknown call-in user number 4. I have Caryn Holmes who is a party. Ken, Waxlax, Meg Russell and Scott Busa, all associated with other parties.

Is there someone on the line who would like to make a public comment?

MR. WAXLAX: This is Ken Waxlax. I am actually not associated with anybody, I'm just general public.

HEARING OFFICER CELLI: Thank you, sir. I'm sorry, I had associated you with the applicant. Please go ahead, you have the floor.

MR. WAXLAX: You know, I just wanted to make one, quick comment regarding kind of the slow-down issue. There was a great editorial in the New York Times this Sunday by Thomas Friedman and he quotes a noted physicist named Joe Romm. And part of the quote says:

"We simply aren't sufficiently desperate to do what is needed, which is nonstop deployment of a
staggering amount of low-carbon energy, including energy efficiency, for the rest of the century."

So I don't think slowing down anything is a good idea.

HEARING OFFICER CELLI: Let me ask you, Mr. Waxlax. If you don't mind my asking, are you in favor of this project or are you opposed to it?

MR. WAXLAX: I'm supportive of all solar renewable energy issues. We have to have solar, we have to have clean energy in order to mitigate climate change and we need to go forward with it now.

HEARING OFFICER CELLI: Very good.

Anything further, Mr. Waxlax?

MR. WAXLAX: No, that's it, thank you.

HEARING OFFICER CELLI: Well thank you very much for calling in, we do appreciate your comments.

Is there anyone else on the telephone who would like to make a public comment at this time?

And as I look I see that there really is nobody else. Ashley Pinnock, are you associated
with the applicant?

MS. PINNOCK: I am.

HEARING OFFICER CELLI: Okay. I'm sorry
to have said that about Mr. Waxlax, I thought he
was.

MR. WAXLAX: No problem.

HEARING OFFICER CELLI: Everyone else
appears to be accounted for so with that I'm going
to give the meeting back to Commissioner
Weisenmiller for adjournment.

ASSOCIATE MEMBER WEISENMILLER: I would
like to thank everyone for their participation
today and the hard work in moving the case along.
I certainly appreciate the public comments on this
particular proceeding. Again, thanks for your
work, it is going to be a long summer. Bye.

(Whereupon, at 11:48 a.m. the
Status Conference was adjourned.)

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CERTIFICATE OF REPORTER

I, Peter Petty, a Certified Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; that it was thereafter transcribed into typewriting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of May, 2010.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345