EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of: )
) Docket No. 99-AFC-4
Application for )
Certification for the )
MOSS LANDING POWER PLANT )
PROJECT )

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

WEDNESDAY, JUNE 7, 2000
10:00 A.M.

Reported by:
Debi Baker
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
COMMITTEE MEMBERS PRESENT
William J. Keese, Presiding Member
Michal C. Moore, Associate Member

STAFF PRESENT
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Susan Bakker, Advisor to Commissioner Moore
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Paul Richins, Project Manager
Rick Buell, Assistant Project Manager
David Flores
Charlie Vartanian
Obed Odoemelam
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PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
PROCEEDINGS

10:00 a.m.

PRESIDING MEMBER KEESE: Good morning.

This is a hearing on the Moss Landing Power Plant project. I would say if things get extremely boring here we can have Mr. Richins describe to us how Tibet was, and I see the mountain didn't win, so at least we do have Mr. Richins with us.

I'm Bill Keese, chairing this Committee, and Commissioner Moore is Second on this siting case. Susan Bakker is his consultant on the right. And Cynthia Praul, mine, on the left. Gary Fay, who will conduct this hearing for us, welcome back. Let's see how expeditiously we can handle this taking of evidence. Mr. Fay.

HEARING OFFICER FAY: Thank you, Mr. Chairman. What I'd like to do is briefly just go around and take appearances from the major players, if the parties could identify their major participants. Mr. Ellison.

MR. ELLISON: Thank you, Mr. Fay, Members of the Committee. I'm Chris Ellison from the lawfirm of Ellison and Schneider, representing the applicant in this proceeding. On my left is -- I'll just have our team
introduce themselves.

MR. TORREY: My name is John Torrey; I'm a consultant to Duke Energy on the Moss Landing project.

MR. SEEDALL: My name is Mark Seedall; I'm the Project Director for the Moss Landing project for Duke Energy North America.

HEARING OFFICER FAY: Mr. Ogata.

MR. OGATA: Thank you, good morning, Commissioners. My name is Jeff Ogata; I'm CEC Staff Counsel. And I'll have the Project Managers introduce themselves.

MR. BUELL: My name is Rick Buell. I'm the Assistant Project Manager to Paul Richins.

MR. RICHINS: Good morning, my name is Paul Richins. And I'm glad to be back.

HEARING OFFICER FAY: Thank you. What I'd like to do first is ask if there's a need for any changes in the agenda, as it appeared in the notice issued May 15th for these hearings. That's attachment A to the back of the notice.

We're going to assume that if we don't make a change that we will proceed in the order that it appears in attachment A.

Applicant has mentioned to me they would
like to consolidated the two transmission-related
subjects, transmission line safety and nuisance
and transmission system engineering.

And so what I would propose is if we
insert transmission system engineering right after
transmission line safety and nuisance, that would
address your concerns for your witness, Mr.
Ellison.

MR. ELLISON: It would, thank you.

HEARING OFFICER FAY: It would. And can
the staff accommodate that?

MR. BUELL: I'd like to make one
observation. I think that we could accommodate
that, staff witnesses are available. The
representative, Peter Mackin, from the ISO will
not be available for today's hearing. So that if
needed to be called as a witness, then that
presents a problem.

I believe the parties are acceptable to
accepting his testimony by declaration, however.
And that may address the scheduling change that
you're proposing.

HEARING OFFICER FAY: Okay, why don't we
give it a try, and if no detailed questions come
up that our own people can't answer, then it will
work.

MR. BUELL: There's one other suggestion that staff would like to make regarding the order of technical areas, and that's regarding traffic and transportation. Staff and the applicant are still in the process of trying to work out details on the conditions of certification. And what we'd like to do is to break into a workshop concurrent with this hearing to discuss those proposed changes.

Which would mean that we may not be prepared to talk about that topic after waste management, but perhaps sometime later in the day.

HEARING OFFICER FAY: Can we just let that trail, then, and have that be the last topic we take up today?

MR. BUELL: That may be acceptable.

HEARING OFFICER FAY: Okay. And since you mentioned this workshop, is it only on traffic and transportation?

MR. BUELL: That's my understanding.

HEARING OFFICER FAY: Okay. I'd like to get into this. The staff and the applicant have proposed a concurrent workshop on traffic and transportation that will take place in the
building while we're in hearings.

And the people who are involved in that, of course, won't be able to hear what's going on in the hearing. And I just want to know if anybody objects to proceeding that way.

MR. ELLISON: The applicant has no objection with one caveat, and that is we would not want to take up the issue of cultural resources until after the workshop is completed. There's a relationship between the traffic issues and the cultural resource issues.

HEARING OFFICER FAY: Okay. And we have cultural fairly down the list. We'll just see where we are when that would come up. And I think we can honor that, as well.

So, with that caveat, is there any objection to conducting a workshop concurrent with the evidentiary hearing? All right, I hear none. We will proceed that way, then.

So, if the people who plan to work on traffic and transportation in the workshop can get started as soon as possible, that would increase our chances of having that wrapped up by the end of today, and in time to hear both traffic and transportation and cultural resources testimony.
In addition, we have a problem, since the staff failed to meet the required filing date in the hearing order, I am told that they will be filing their testimony on water, biology and alternatives two days late, June 8th, which is tomorrow.

And the question arises because this means there will only be 12 days between the date the testimony gets filed and the date of the scheduled evidentiary hearing on June 20th down in Moss Landing.

The Commissioners' schedules are very tight, and so to lose a hearing day at this late date is very problematic for the case.

I have discussed this with the applicant and the staff, and the applicant has considered waiving the regulation requiring the 14-day advance filing requirement. And I'll hear from them in a minute.

But I do want to mention that to my knowledge this case has had very little concern from the local public and we do not have active intervenors who have voiced a need to avail themselves of the full two weeks to review these sections of the FSA.
So this is certainly not a desirable situation, but we're interested in balancing this thing, because we hate to give up a hearing that will actually take us down to Moss Landing and give the local people an opportunity to have input.

Mr. Ellison, have you considered this possibility?

MR. ELLISON: Yes, we have. The applicant's view is -- obviously we're disappointed that this situation has arose. We're concerned that the staff file the remaining portion of the FSA as soon as possible, and certainly no later than tomorrow, in order to preserve the hearing of June 22nd.

Having said that, we think that the underlying purpose of the 14-day notice requirement on the FSA is to facilitate public comment. In this case we think that there is more opportunity for public comment, particularly from folks in Monterey, if we proceed with the hearing on the 20th in Monterey than if we did not.

And the applicant, on that basis, is comfortable waiving the 14-day requirement in the regulations, and proceeding with the hearing on
the 20th, because that actually increases the
opportunity for public involvement, recognizing
that there will be, assuming the staff files
tomorrow, there will be 14 days prior to the
hearing on the 22nd.

So, the bottomline is the applicant is
comfortable with proceeding as planned in the
hearings, and is willing to waive any objections
with respect to that procedure.

HEARING OFFICER FAY: And since we will
be continuing those topics on to the 22nd, we can
certainly accommodate anybody who does feel that
they didn't have enough time to prepare, just be
more flexible than we normally would be. Although
the hearing on the 22nd is up here in Sacramento,
not down in Monterey.

Priscilla, you'll have to come up to the
microphone and identify yourself.

MS. ROSS: I'm Priscilla Ross from the
Public Adviser's office. And just for the record,
the Monterey County Planning Building and
Inspection Department has contacted the Public
Advisor's office and has expressed that there is
some concern about not having enough time to
respond to the FSA under the present schedule.
HEARING OFFICER FAY: When did they contact you?

MS. ROSS: Just yesterday, and we haven't been able to formalize this into any kind of request. It's just been a phone conversation and we haven't been able to finish that. I just heard this and wanted to make sure that that had been brought into --

HEARING OFFICER FAY: I think there's been more recent communication. Mr. Richins, have you talked to Jeff Main of the planning department down there more recently than yesterday? Or -- was it yesterday afternoon?

MR. RICHINS: Well, I spoke with Jeff Main late yesterday, probably 4:30 in the afternoon. And what they indicated is that they would be going to the board of supervisors on the 25th of July with their review of the final staff assessment and that their concerns were. They don't believe there are any outstanding issues, but they want to just make sure that there was consistency between the project that the Energy Commission is reviewing and the projects that the county has lead agency over, as it relates to the tank farm and the SCR
upgrade.

I indicated to him that there were plenty of opportunities for those comments coming in on the 25th without delaying the schedule.

One method would be to keep the record open to receive comments, and the other method I mentioned to him would be during the proposed decision hearing, the comments could come in at that time.

But encouraged him to give you a call and work out the best way of doing that. They felt comfortable with that as long as their comments got reflected in the record in some manner.

HEARING OFFICER FAY: And I received a voicemail message from him this morning that said essentially the same thing, that he'd spoken to Paul Richins, and that they no longer were asking for an extension in the process or anything like that. That they're -- sure --

MR. RICHINS: And if I could just quickly go over, their area that they'll be discussing with the board of supervisors would be in the area of traffic, air quality, land use, hazardous waste and biology are the areas they'll
be concentrating on.

              PRESIDING MEMBER KEESE: Staff, are we
going to have this tomorrow?

              HEARING OFFICER FAY: The testimony.

              PRESIDING MEMBER KEESE: Are you going
to meet the --

              MR. BUELL: Yes. I have talked with the
two authors and those that are reviewing it, and I
have every expectation that we will file tomorrow.
It looks like we're on schedule to do that.

              PRESIDING MEMBER KEESE: Thank you.

Commissioner Moore, do you --

              HEARING OFFICER FAY: Would anybody else
like to address this matter?

Is there any objection to proceeding
this way?

              All right, I hear no objection. We
recognize that the applicant is not the only party
whose rights are protected by this regulation.
And so the fact that they waived should not
indicate that other parties have waived.

However, there's been very little
expression of concerns in this area from the
general public, as I said. And it sounds like the
county is convinced that their needs can be met at
a later time in the process.

So, the order of the Committee will be
that the staff and applicant will file their
testimony in water, biology and alternatives
tomorrow, June 8th. And that although that is
only 12 days before the hearing scheduled for June
20th, that hearing will take place as noticed in
Moss Landing at the power plant.

Any further questions about that?

All right.

MR. BUELL: I have one point of
information. I understand that the workshop on
traffic and transportation has a location. It
will be in our engineering conference room on the
third floor, and staff is ready to proceed to
begin that workshop.

HEARING OFFICER FAY: And they will let
us know as soon as they complete their work?

MR. BUELL: I believe so.

HEARING OFFICER FAY: Okay. All right,
with the exception of the changes that we've
identified in the schedule on attachment A, that
is transmission system engineering will follow
transmission line safety and nuisance, and both
traffic and transportation and cultural resources
will not be heard until the workshop is concluded,
with those exceptions we'll proceed in the order
as shown in attachment A.

And so we'd like to ask the applicant if
they're ready to begin with the project overview,
description, environmental summary.

MR. RICHINS: Gary, did you want me to
report on the information coming in from the
Coastal Commission?

HEARING OFFICER FAY: Oh, yes.

MR. RICHINS: Before we get started.

HEARING OFFICER FAY: Mentioned that
before, yes, before we get started, please do.

MR. RICHINS: I spoke with Michael Bolin
with the California Coastal Commission, and
there's a section 30413 report that they're
required to provide to us in siting cases.

What they propose to do is to provide us
with a letter, two letters. One for land use, and
they'll be taking their comments to their
Commission the third week in June.

And so Friday of that week is June 23rd,
so they expect to have comments to us as it
relates to land use and public access by June
23rd.
And then the issue of water quality and biology they will be taking to their Commission the third week in July. And so they would get comments to us by the end of that week, July 21st. And they envision that the letter that they would be sending to us would satisfy the requirements of section 30413. They also wanted to emphasize that they don't see any surprises, and they don't see any outstanding issues that haven't been addressed in the final staff assessment, and they have been working closely with us in the various workshops as it relates to land use, public access. They will also be attending the workshop on biology and water that's coming up. And so they see it more as a confirmation and support of the final staff assessment. They may have some minor comments, but they categorize them as minor.

HEARING OFFICER FAY: Okay, thank you very much. Okay, anything further before we start taking evidence? All right.

MR. ELLISON: I do have one housekeeping matter and a question for the Committee.

The housekeeping matter is, as I
discussed with the Hearing Officer a moment ago, as sometimes happens we have revised our exhibit list somewhat from the one that's on the table outside.

So the exhibit numbers that I will be asking the Committee to identify for applicants' exhibits are different. I've provided a copy of our updated exhibit list to the Committee and the staff, and I have other copies here for anyone who needs them.

We will provide a cross-reference to the Committee, the updated exhibit list, to the exhibit list that the Committee prepared, to insure that there's no confusion as a result of that.

My question is in many of the areas, in fact, but for the traffic and transportation and cultural resource area, we are in agreement with the proposed licensing conditions in the final staff assessment for those issues that are on the agenda for the next two days.

As a result of that we have the opportunity, if the Committee wishes to, to take witnesses by declaration. We understand the Committee does have questions in some areas, and
we have brought live witnesses in those areas that
were identified to us ahead of time as areas in
which the Committee has questions.

So I have Mr. Seedall here, who's our
first witness. He's prepared to present his
testimony, or we can do it by declaration, as you
wish.

HEARING OFFICER FAY: My suggestion, for
the Committee's benefit, and it's up to them,
would be because Mr. Seedall's testimony includes
a broad overview, it might help explain the
project well, and get things off to a good start.

But I think in general we anticipate
taking the testimony by declaration where there's
no controversy or any questions. That will save
us some time.

MR. ELLISON: That's fine, that's how
we'll proceed. May we have Mr. Seedall sworn,
please?

HEARING OFFICER FAY: Please swear the
witness.

Whereupon,

MARK SEEDALL

was called as a witness herein, and after first
having been duly sworn, was examined and testified
as follows:

DIRECT EXAMINATION

BY MR. ELLISON:

Q Mr. Seedall, could you please state and
   spell your name for the record?

A My name is Mark A. Seedall, S-e-e-d-a-l-l. My position at Duke Energy is
   Director of Electric Modernization, and I'm
   overseeing the Moss Landing, Morro Bay Power
   Plant's modernization efforts.

Q Mr. Seedall, what testimony are you
   sponsoring?

A I'm sponsoring the project overview
   testimony and related prior filings associated
   with that testimony. I'm not sure what exhibit
   number that is.

MR. ELLISON: For the record we would
   ask that this testimony be identified as exhibit
   58, applicant's exhibit 58.

HEARING OFFICER FAY: All right.

MR. ELLISON: And this testimony, as the
   applicant's testimony will do throughout this
   proceeding, incorporates by reference other
   exhibits. Do you want me to identify those for
   the record? These are all stated within the
testimony, itself. They're stated within exhibit 58.

But exhibit 58 incorporates by reference sections 1, 2 and 8 of the AFC. The AFC we would like identified as applicant's exhibit number 5.

It also incorporates certain identified technical appendices which are also a part of exhibit 5. They're again set forth in exhibit 58.

And it incorporates the supplementary AFC filing made by the applicant and docketed on November 22, 1999, and that is exhibit 30.

BY MR. ELLISON:

Q Mr. Seedall, do you have a copy of exhibit 58 before you, the project overview testimony?

A Yes, I do.

Q Do you have any changes or corrections to this testimony?

A No, I don't.

Q Was this exhibit prepared by you or at your direction?

A Yes, it was.

Q Are the facts set forth in this exhibit true and correct to the best of your knowledge?

A Yes, they are.
Q    Are the opinions contained in this exhibit your own?
A    Yes, they are.
Q    Do you adopt exhibit 58 as your sworn testimony in this proceeding?
A    I do.

MR. ELLISON: We would move exhibit 58 into evidence at this time.

HEARING OFFICER FAY: Any objection?
MR. OGATA: No objection.

HEARING OFFICER FAY: So moved.

BY MR. ELLISON:

Q    Mr. Seedall, could you briefly summarize the issues that you reviewed in this testimony and state your conclusions as to those issues? And given that this is project overview testimony, could you also give a brief summary of the project?
A    Yes. The Moss Landing Power Plant is an existing industrial complex located in Moss Landing between Monterey and Santa Cruz, California, on the California Coast.

It's an existing operating plant and has been so since 1950. In 1950 operations began with three units at the site, units 1 through 3, which
were 330 megawatts. And by 1956 an additional 240 megawatts was added to the site, bringing the
total to 600 megawatts.

It operated in that configuration until
approximately 1967 when units 6 and 7 were added
to the site, which increased the capacity of the
Moss Landing facility to 2100 megawatts.

By 1995 units 1 through 5 were retired
by Pacific Gas and Electric, and the operating
level was at 1500 megawatts.

By July of 1998 Duke Energy, through an
option in the deregulated California electric
market, acquired Moss Landing Power Plant.

Subsequent to that Duke Energy had
proposed to modernize the site; and in particular,
to add 1060 megawatts, two 530-megawatt combined
cycle packages, to the project site.

And in the context of that, that's what
we're trying to get certified today. That project
will one, avoid the use of the Elkhorn Slough in
terms of its cooling water discharge; and instead,
combine the discharge with units 6 and 7.

The amount of cooling water used by the
new power plant will be less than what the power
plant 1 through 5 units used previously.
It will use roughly the same amount of
gas, 600 megawatts previously used, but now
produces 1060 megawatts.

It will not require any new gas lines to
the plant. And, in addition, it will directly
connect to Moss Landing's switchyard, owned by
Pacific Gas and Electric, and it will connect to a
230,000 volt system, and hence require no new
upgrades to the electric transmission system.

So, that is the overview of the project
and we're anxious, of course, to see if we can get
this project approved, so that it is available for
power production by the summer of 2002.

And we believe we can do that if we get
the certification by October of this year.

MR. ELLISON: As there are no conditions
of certification related to this topic, that
concludes our testimony with respect to the
project overview and Mr. Seedall is available for
questioning.

HEARING OFFICER FAY: Does staff have
any questions?

MR. OGATA: Staff has no questions.

HEARING OFFICER FAY: Any questions?

All right. Thank you, Mr. Seedall.
And what I'd like to ask the staff, is there anything you wish to add to this, keeping in mind that basically the idea of having testimony on this was to give an overview.

MR. RICHINS: No, we don't have anything to add.

HEARING OFFICER FAY: Okay. And I don't think there are factual matters that need to be received into evidence, unless I'm mistaken on that.

Mr. Ogata, do you wish to introduce that declaration?

MR. OGATA: Well, I guess the only question is do we want to give the final staff assessment an exhibit number now. I know on your list it's number 58, and Mr. Ellison has already used 58, so I don't know how we're going to resolve that.

HEARING OFFICER FAY: Well, I think because the applicant has so many more exhibits we should just ignore the provided exhibit list that the Committee provided, and start working off applicant's exhibit list. I think it might simplify things.

And we will just give the FSA the next
exhibit number, which would be 65. And so we identify part 1 of the FSA as exhibit 65.

MR. OGATA: Well, I can either move to have introduction and project description of staff's FSA in evidence now, or we can just do that at the end.

HEARING OFFICER FAY: Why don't you just move it now.

MR. OGATA: I'll be happy to move that now.

HEARING OFFICER FAY: Objection? All right, so moved, that's received at this point. And, Mr. Ellison, while we're on this, is one of the exhibits your summary of testimony that you provided in the binder? Does that have an exhibit number?

MR. ELLISON: I want to make sure that we're talking about the same document here. I'm sure the answer is yes, we have a very complete exhibit list here, but --

HEARING OFFICER FAY: There's an exhibit entitled, Moss Landing Power Plant Modernization project testimony, dated May 15, that you provided.

MR. ELLISON: Yes. To clarify, that is...
all of the applicant's testimony filed on May 15.

As you recall, we're filing testimony in this proceeding in three waves, if you will. And that's the first wave of the applicant's testimony, addressing a variety of topics, including the one that we just addressed, project overview.

And exhibit 58 is all of that testimony, including everything in that binder that you just identified. So, --

HEARING OFFICER FAY: So this is exhibit 58?

MR. ELLISON: I'm sorry?

HEARING OFFICER FAY: This is exhibit 58?

MR. ELLISON: That is exhibit 58, and it includes the testimony and project overview -- just for the record I'll just read it off -- includes the testimony on project overview, environmental summary, public health, worker safety, transmission system engineering and transmission line safety and nuisance, hazardous materials handling, waste management, traffic and transportation, noise, visual resources, cultural and paleontological resources, socioeconomics,
geologic hazards and resources, agricultural and
soils, facility design, power plant reliability,
power plant efficiency, compliance monitoring and
facility closure.

It was filed, served on all parties, and
docketed on May 15th. We propose to refer to this
as exhibit 58, and then subject matter.

HEARING OFFICER FAY: Okay. And just
for the record, what I'd like to do, as each wave
of testimony comes in, we'll give it an additional
exhibit number.

But I'd ask the parties to please be
sure that all the pagination within an exhibit is
consecutive, so we don't, for instance, have more
than one page 25 in any exhibit. That helps a
lot. I know sometimes things are submitted by
chapter, and each chapter begins with page number
1. It just complicates things.

MR. OGATA: Excuse me, Mr. Fay. So I
understand what you just said, we're going to give
each technical area an exhibit number?

HEARING OFFICER FAY: No. Each
publication, so --

MR. OGATA: Okay.

HEARING OFFICER FAY: -- FSA part 1 is
exhibit 65, and part 2 will have a different exhibit number.

MR. OGATA: I wanted to reserve number 66 for part 2 if I could, right now, so that --

(Laughter.)

MR. OGATA: -- it would be -- before we run out of numbers.

HEARING OFFICER FAY: Get in there while you can. All right, do you just want to identify that now?

MR. OGATA: Yes, please, FSA, final staff assessment part 2, which covers cultural resources errata, hazardous material management errata, waste management errata, public health errata, socioeconomics errata, visual resources errata and air quality and land use testimony which was filed June 1st.

HEARING OFFICER FAY: Okay. Anything further? I think we can proceed to public health.

MR. ELLISON: Mr. Fay, would you prefer to have us do this live or -- Memorex?

HEARING OFFICER FAY: I think if you want to do that on declaration, I do have a question for the staff.

MR. ELLISON: Okay. We have a package
of declarations which are labeled in our exhibit list as exhibit 64. Included within that package, and we have extra copies here for those who want, is a declaration of Eric G. Walther. Dr. Walther is our public health witness, as well as the witness on some other topics areas, specifically waste management, hazardous materials handling, worker safety and fire protection.

Mr. Walther declares that he is presently employed by TRC as a Vice President for Air Quality Services. Includes a copy of his professional qualifications. He describes that he prepared the testimony that I just identified, which would be a portion of exhibit 58, those areas that I just identified.

He states, quote, "It is my professional opinion that the prepared testimony is valid and accurate with respect to the issues addressed therein."

He further states, "I am personally familiar with the facts and conclusions related in the testimony, and if called as a witness could testify competently thereto."

"I declare under penalty of perjury that the foregoing is true and correct to the best of
my knowledge and belief." Dated June 5, 2000, at Irvine, California, and signed by Mr. Walther.

We would ask that the package of declarations be identified as exhibit 64 and admitted into evidence.

HEARING OFFICER FAY: Any objection to receiving the declarations?

MR. OGATA: No objection.

HEARING OFFICER FAY: All right, those will be identified as exhibit 64, and received into evidence at this time.

And now that you've indicated the format, I think you can dispense with reading the declarations as we move along.

MR. ELLISON: Okay, that's fine. Let me specify that for public health, the portion of the testimony is the public health portion of exhibit 58, which includes, by reference, certain identified sections of exhibit number 5, the AFC.

And I would ask that the public health portion of exhibit 58 be admitted into evidence at this time.

HEARING OFFICER FAY: Any objection?

MR. OGATA: No objection.

HEARING OFFICER FAY: It is entered at
this point.

Does that conclude your presentation?

MR. ELLISON: That does conclude our testimony on public health.

HEARING OFFICER FAY: Okay. Staff?

MR. OGATA: Thank you, Mr. Fay. Public health testimony by Dr. Obed Odoemelam, contained in exhibit 65, beginning at page 19. And we also have errata contained in exhibit 66. And Dr. Obed is here if you'd like to ask him some questions.

HEARING OFFICER FAY: Yes, since he is here I think it would be appropriate. He can come up and be sworn and respond to questions.

MR. OGATA: Is there any particular location you'd like him to sit?

HEARING OFFICER FAY: Do you have some -- make some room for him over there at your table? Right there. Please swear the witness.

Whereupon,

OBED ODOEMELAM

was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

BY MR. OGATA:

Q Dr. Odoemelam, do you have before you your testimony on public health?
A Yes, I do.

Q Does that contain your professional opinion?
A Yes, it does.

Q Do you have any changes or corrections you'd like to make to that?
A No, I don't.

Q Except for the errata that's contained in the June 1st filing, exhibit 66, is that correct?
A Yes, it is.

Q Okay.

MR. OGATA: We have no further questions.

HEARING OFFICER FAY: He's available for questions?

MR. OGATA: Yes.

HEARING OFFICER FAY: Any questions from the applicant?

MR. ELLISON: No questions.
Q     Dr. Odoemelam, I just wondered, on page 22 of your testimony, if you could clarify for us the paragraph in the middle of the page. It talks about the method used by regulatory agencies known as the hazard index method to assess acute and chronic effects.

And does that index that you refer to in the paragraph tell you that if something achieves, or achieves that index, is that a significant impact, or is that just a threshold level that then triggers an additional level of analysis?

A     Yes, it is, threshold level.

Q     It's a threshold level?

A     Yes.

Q     So if something exceeds the exposure, or the hazard index, it is not necessarily -- that does not necessarily show a significant impact to health, is that correct?

A     That is true.

Q     Thank you. I just wanted to clarify that.

HEARING OFFICER FAY: Thanks very much, that's all I have. Thank you, you're excused.
MR. OGATA: I'd formally move his testimony into evidence.

HEARING OFFICER FAY: Any objection?

All right. Staff's public health testimony is received at this point into the record.

Worker safety and fire protection, Mr. Ellison.

MR. ELLISON: The applicant's witness on worker safety and fire protection is again Mr. Walther. His declaration has been previously admitted.

The testimony the applicant has filed on worker safety is the worker safety portion of exhibit 58. It includes, by reference, section 6.15 of the AFC, which is exhibit 5. It includes responses to data adequacy requests filed June 16, 1999, which is exhibit 11. And it includes, by reference, the applicant's comments on the preliminary staff assessment dated March 1, 2000, which we've identified as exhibit 48.

We would move the admission of the worker safety and fire protection portion of exhibit 58, and the exhibits included therein.

HEARING OFFICER FAY: Any objection?

MR. OGATA: No objection.
HEARING OFFICER FAY: So moved.

Anything further from the applicant on worker safety?

MR. ELLISON: No, nothing further.

HEARING OFFICER FAY: All right, we'll move to staff.

MR. OGATA: Staff's witness is Kathi Hann. She needs to be sworn.

HEARING OFFICER FAY: Please swear the witness.

Whereupon,

KATHLEEN S. HANN

was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OGATA:

Q Ms. Hann, could you please state your relationship to the Commission, please.

A I'm a contractor from the environmental consulting firm of Entrix, Incorporated.

Q You have before you the testimony worker safety and fire protection, testimony of Kathleen Hann?

A Yes.
Q Did you prepare this testimony?
A Yes, I did.

Q Does this contain your professional judgment?
A Yes, it does.

Q And do you have any changes or corrections you'd like to make to this testimony?
A Yes, I do. On page 1 at the very last sentence of the introduction, the very last line it refers to proposed conditions of certification worker safety 3, it should also include conditions worker safety 3 and 4.

HEARING OFFICER FAY: Sorry, what page is that?
MS. HANN: That would be the very first page, sir.

MR. OGATA: That would be page 27 actually in the staff's FSA.

HEARING OFFICER FAY: Okay, and could you repeat the correction, please?
MS. HANN: At the very last sentence under the introduction it refers to proposed conditions of certification worker safety 3. It should also include worker safety 3 and 4.

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BY MR. OGATA:

Q    Anything else?

A    Yes, and I don't have the right pages --

Q    The pages --

A    Oh, okay. Sorry. About the middle of page 29, the paragraph that starts, "Finally California Senate Bill 198..." in that sentence it refers to the injury and illness prevent program, it should be prevention program.

And then on page 32, under the section impacts, project specific impacts, fire protection. Second paragraph, beginning of the second sentence, it says "In includes fixed water fire suppression," and it should say "It includes," i-t.

And then on page 38 under personal protective equipment program, the third bullet, eye and face protection policy. Again, the second sentence should say "It covers numerous types of eye and fact protection" instead of "In". So it should start with i-t.

And at the very end under worker safety under the proposed conditions worker safety 4, --

HEARING OFFICER FAY: What page?

MS. HANN: This would be the last page,
page 42. At the very end of worker safety 4 it refers to "agreeable to the North County Fire project division." It should be "the North County Fire Protection District."

MR. OGATA: Okay, thank you.

Mr. Fay, would you like a summary of this testimony, or would you just like --

HEARING OFFICER FAY: Just I have one question.

EXAMINATION

BY HEARING OFFICER FAY:

Q On page 40, cumulative impacts. The last sentence, "Staff will hold meetings with the District, provide analysis of their mitigation requirements in the final staff assessment."

Since this is the final staff assessment, is there some explanation needed? It's a little confusing. It sounded like it anticipated another document, but this is the final document.

A That's correct, sir. What we have been working out with the fire protection district and the applicant is a memorandum of understanding between them as to how they would pay for the ladder truck under worker condition 4. And that
agreement is being worked out, and as I understand, is pretty close to being finalized.

However, it isn't required under the condition until 30 days before groundbreaking. So that should be forthcoming.

Q All right, so the current document allows for this to occur in the future, and the conditions reflect that?

A Yes, sir.

Q And so at some future point the agreement will be entered into the record so that the compliance unit can determine whether it's been carried out?

MR. OGATA: That's correct, it would be a compliance matter.

HEARING OFFICER FAY: Okay, fine. Thank you.

MR. ELLISON: Can I suggest it might be appropriate to strike that sentence because it is confusing.

HEARING OFFICER FAY: Are you willing to do that? Do you want to take a look at it? Page 40, cumulative impacts paragraph, the last sentence.

MS. HANN: Yes, that would be fine.
HEARING OFFICER PAY: Strike the last sentence on the cumulative impacts paragraph, page 40.

MS. BAKKER: It strikes me that the part of this that ought to be stricken is the part that says "in the final staff assessment". That, in fact, you still need to discuss the concerns and provide the analysis of mitigation requirements.

MR. ELLISON: Perhaps I can comment on this. The verification to worker safety number 4 requires that the applicant provide the compliance project manager with a copy of an agreement with the North County Fire Protection District and the owners of the project relative to the agreed-upon fees and the payment for the truck and staffing.

That is the mitigation that we're talking about. So, by striking that entire sentence, but leaving in the verification, I think we've correctly stated what is required of the applicant here.

The problem with the sentence, even if you just strike "in the final staff assessment" is that it implies -- it's vague as to what mitigation we're discussing, and implies that perhaps there's something other than condition
number 4 being discussed here, which is not the case.

So, my proposal would either be to strike it, which I think is the simplest thing to do. Or alternatively, amend it so that it makes a clear reference to the agreement that's discussed in the verification of condition number 4.

HEARING OFFICER FAY: The witness is comfortable striking it?

MS. HANN: Yes, I am, sir. That would be fine.

HEARING OFFICER FAY: All right. Is Ms. Hann available for questions?

MR. OGATA: Yes, she is.

HEARING OFFICER FAY: Any questions of the witness?

MR. ELLISON: No questions.

HEARING OFFICER FAY: Okay, thank you very much, Ms. Hann.

MR. OGATA: I'd like to move her testimony into evidence, if I may?

HEARING OFFICER FAY: Any objection? So moved. The public health section of staff's FSA -- or the worker safety, rather, section is received into evidence at this point.
In the areas where we do not have a live
witness, and in fact even where we do, can we just
dispense with the typographical corrections and
rely on an errata sheet to help move things along?

MR. OGATA: That's fine.

HEARING OFFICER FAY: Is that
acceptable? Obviously your corrections for a
witness who is not here will have to come in on an
errata sheet. I think it will help us use our
time effectively.

All right. Are we prepared to move
forward on the transmission line topics? Mr.
Ellison? Go ahead.

MR. ELLISON: The applicant's witness on
transmission line safety and nuisance is Mr.
Graham Allen Jones. Mr. Jones has submitted a
declaration which is included in exhibit 4, which
has previously been admitted.

His testimony is the transmission line
safety and nuisance and transmission system
engineering section of exhibit 58. And that
testimony includes by reference certain portions
of the AFC identified as exhibit number 5; it
includes reference to a Pacific Gas and Electric
Company preliminary facilities study dated May 14,
1999, which we've identified as exhibit number 6. It incorporates by reference certain responses to CEC data requests filed July 30, 1999, which we've identified as exhibit 15A. It incorporates by reference PG&E power flows filed June 16, 1999 and June 23, 1999, exhibits 11 and 13.

It includes the California Independent System Operator comments on the PG&E preliminary facility study dated November 3, 1999, which we identify as exhibit 27A. And it includes the applicant's comments on the preliminary staff assessment filed March 7, 2000, which we identify as exhibit 50.

We would move the transmission line safety and nuisance and transmission system engineering portions of exhibit 58 and the exhibits included therein.

HEARING OFFICER FAY: Any objection?

MR. OGATA: I have a question. Mr. Ellison, you referred to exhibit 27A, I believe?

MR. ELLISON: That's correct.

MR. OGATA: I didn't see that on your exhibit list.

MR. ELLISON: It's a new one. Let me
read it again. And this is set forth on the
transmission line safety and nuisance and
transmission system engineering testimony that we
previously filed on May 15th, so I'm just reading
from that under section D, prior filings.

It is the California Independent System
Operator comments on the PG&E PFS dated November
3, 1999. And we would ask that be identified as
exhibit 27A.

HEARING OFFICER FAY: Could I have the
date, again, of that document?


MR. OGATA: I have no objection.

HEARING OFFICER FAY: Okay. Proceed.

MR. ELLISON: That concludes our
testimony on transmission line safety and
nuisance.

HEARING OFFICER FAY: And transmission
system engineering, as well?

MR. ELLISON: Yes, at the Committee's
pleasure that is also included in the testimony
that was just admitted, so we can take examination
on both those topics.

HEARING OFFICER FAY: Okay. Fine.

Let's do that. Is that acceptable, Mr. Ogata?
MR. OGATA: That's fine.

HEARING OFFICER FAY: Okay. Let's move to the staff, then.

MR. OGATA: Staff's witness for transmission line safety and nuisance, Dr. Obed Odoemelam's testimony begins on page 45. He has also submitted a declaration stating that this is his testimony and if called as a witness would testify to the contents thereto.

Staff's witness on transmission safety engineering is Charles Vartanian. That testimony begins on page 285 of the FSA, part 1. He's also submitted a declaration stating that the testimony contained therein is his own professional judgment.

HEARING OFFICER FAY: I don't believe that there's any questions on transmission line safety and nuisance. I do have a question on transmission system engineering. So, if you could have the witness come up and be sworn, that would help.

MR. OGATA: Certainly. Mr. Vartanian.

Whereupon,

CHARLES VARTANIAN was called as a witness herein, and after first
having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OGATA:

Q Mr. Vartanian, could you please state your relationship with the Energy Commission?

A I'm an Energy Commission Staff Member, working in EFS and EPD in the engineering section, transmission system engineering area.

Q Did you prepare the testimony entitled transmission system engineering?

A Yes, I did.

Q Do you have any changes or corrections to that testimony?

A No.

MR. OGATA: He's available for cross-examination.

HEARING OFFICER FAY: Yes.

EXAMINATION

BY HEARING OFFICER FAY:

Q Mr. Vartanian, just one question. In fact, this is regarding the testimony that I hope the staff will be introducing on behalf of the Cal-ISO.

But did you work with them at all in the
preparation of their testimony?

A    We had compared information in general
during the period between my FSA and their
testimony, which just came in. But I didn't
contribute directly to the preparation of Mr.  
Mackin's testimony.

Q    Do you have a copy of Mr. Mackin's
testimony?

A    Yes, I do.

Q    Could you turn to page 9, please. Under
recommended conditions of certification, is that
included in your conditions, or something that
addresses the concerns in that?

A    Yes, in my TSE section 1.

Q    TSE-1, okay. So you feel that your
testimony and your recommended conditions of
certification have addressed all the concerns
expressed by the ISO?

A    Yes, I believe it's consistent with his
testimony and his recommendation.

Q    Okay. Fine. And, in fact I think the
applicant -- probably something I should have
asked them -- in their testimony they discuss the
preliminary facility studies that identified an
overload situation on breaker number 152.
I'm not familiar with transmission system engineering that well, but it sounds to me like an overload is not something that is a good thing to have. Can you put that into perspective for us, is this something the Committee needs to be concerned about?

A They have identified this overload, and that's identified as an action item. It's replacement of this particular circuit breaker. A circuit breaker is a key component, that if it's overloaded over its rating, would usually trigger replacement on behalf of the equipment operator.

The piece of equipment, though, is within the fenceline of an existing substation external to Moss Landing. But it would be, in terms of physical dimension, it would be a like-for-like replacement.

Actually, it's not a matter of regular load-carrying capability, but its ability to interrupt a fault. If there were a fault on the system that it had to open up. That is actually the condition for which it's overloaded.

Q And as a result -- so this is a result of adding the upgrades of the Moss Landing Power Plant?
A Yes. The additional capacity provides more fault, what's termed fault duty, in the case of a line outage.

Q And what solution will be taken, what mitigation or correction?

A They will replace that specific breaker number 152 with a higher interrupting capability breaker.

Q And this is actually a PG&E facility --

A Yes.

Q -- in the switchyard? Okay. And so that is already provided for as a result of the study?

A Yes.

Q Okay. So you're not concerned that that is an unmitigated impact that would somehow affect reliability of the system?

A No. And, in fact, that mitigation response is noted in the ISO's testimony as a bullet item for response, mitigation response.

Q Okay, great.

HEARING OFFICER FAY: Thank you very much. Thank you, you're excused.

Mr. Ogata, do you want to identify the ISO testimony, give it an exhibit number?
MR. OGATA: Certainly. Signed by R. Peter Mackin, dated May 22, 2000. It's entitled transmission system reliability testimony. And I guess we can put that in as --

HEARING OFFICER FAY: Next exhibit number is 67. So that will be exhibit 6-7.

Do you have a declaration from Mr. Mackin?

MR. OGATA: Yes, there is a declaration of Mr. Mackin attached to his testimony.

HEARING OFFICER FAY: Would you like to introduce that testimony at this time?

MR. OGATA: Certainly. Exhibit number 67, transmission system reliability testimony submitted by Peter Mackin from the California Independent System Operator. Mr. Mackin is a Senior Grid Planning Engineer employed by the Cal-ISO. He's stated that his professional experience and qualifications and experience attached to his declaration; that he prepared this testimony based upon his independent analysis of the AFC, the preliminary facility study, the detailed facility study, data from reliable documents and sources, his professional experience and knowledge.

It's his professional opinion that the
testimony is valid and accurate with respect to
issues addressed therein. He is personally
familiar with the facts and conclusions related to
testimony, and if called as a witness he could
testify competently thereto.

Signed under penalty of perjury May 22nd
at Folsom, California.

HEARING OFFICER FAY: Any objection to
receiving Mr. Mackin's testimony on behalf of the
California Independent System Operator?

MR. ELLISON: No objection.

HEARING OFFICER FAY: All right. That
testimony is entered into evidence at this point.

Anything further on transmission issues,
Mr. Ogata?

MR. OGATA: We'd just move staff's
testimony into evidence.

HEARING OFFICER FAY: All right. Any
objection to moving the staff testimony on
transmission line safety and nuisance and
transmission system engineering into evidence at
this time?

MR. ELLISON: No.

HEARING OFFICER FAY: All right, so
moved.
Move to hazardous materials management.

MR. ELLISON: The applicant's witness on hazardous materials handling is Mr. Eric Walther, whose declaration has been previously admitted as part of exhibit 64.

The hazardous materials handling testimony is a portion of exhibit 58, is identified as hazardous materials handling. It incorporates by reference hazardous materials portions of the AFC, exhibit number 5, as well as related appendices to the AFC, also exhibit number 5. And the applicant's comments on the PSA filed March 1, 2000, which is exhibit 48.

We'd move the admission of those portions of exhibit 58, and the exhibits included therein.

HEARING OFFICER FAY: Any objection?

MR. OGATA: No objection.

HEARING OFFICER FAY: All right, so moved.

And I think we can move to the staff, then, on hazardous materials.

MR. OGATA: Staff's witness is Rick Tyler. He needs to be sworn.

//
Whereupon,

RICK TYLER

was called as a witness herein, and after first
having been duly sworn, was examined and testified
as follows:

DIRECT EXAMINATION

BY MR. OGATA:

Q    Mr. Tyler, could you please state your
job title at the Commission.

A    Yes, I'm Senior Mechanical Engineer, and
I prepared the hazardous materials analysis.

Q    And that testimony begins on page 55 of
the FSA?

A    That's correct.

Q    Do you have any changes or corrections
you'd like to make to this testimony at this time?

A    There's an errata that was prepared
basically responding to comments from the
Department of Fish & Game included in part two of
the FSA.

Q    That's page 13 of the FSA, part two?

A    That's correct.

Q    Is this testimony your best professional
opinion?

A    Yes, it is.
Q: What is your conclusion?
A: My conclusion is that the project won't have any significant impacts in the area of hazardous materials handling, provided the conditions of certification that staff has provided are adopted.

Q: Thank you.
MR. OGATA: Mr. Tyler is available for questions.

HEARING OFFICER FAY: Any questions from the applicant?
MR. ELLISON: No questions.

EXAMINATION

BY HEARING OFFICER FAY:
Q: Mr. Tyler, HAZ-2 on page 61 of your testimony, it says the project owner shall provide a risk management plan for Monterey County. Is that a contingent requirement, or will they be doing a risk management plan?
A: I believe they'll be required to do a risk management plan. They may not be required to do a -- or probably won't be required to comply with PSM.

Q: With what?
A: With the process safety management part
of the -- depending on the amount of material, the
type of material, and the mitigation, you are put
in three different categories under the R&P
program.
The final category would require --
would be triggered if you were in CalOSHA's PSM
program. Which is triggered for very large
quantities of material.
I don't believe that this project will
trigger PSM. But I believe it will require an
RMP.
Q And what determines whether a risk
management plan is necessary? Does the Commission
decide that, or is that Monterey County that's
determining that?
A I've asked for -- oh, you mean the RMP.
The RMP would be determined by the requirements of
both the federal government and the local
administering agency.
If it's required, it would be submitted
to both EPA and the local administering agency,
which is the Monterey County.
Q All right.
A And it's really triggered by the amount
of material and the type of material that you
propose to handle, whether you have to do it or
don't have to do it.

And then, additionally, the local
administering agency has some discretion to
require things that they believe, for whatever
reason, are.

Q    And in this case what is the predominant
material?
A    Aqueous ammonia.
Q    So this doesn't have anything to do with
site preparation or moving contaminated soil or
anything? It's just the --
A    No.
Q    -- the ammonia?
A    This would only be related to the
storage and use of aqueous ammonia.
Q    All right. And now does this plan come
up in our other cases where we have similar
amounts of aqueous ammonia, or is it different in
Monterey County and at this site?
A    No, it's the same virtually throughout
the state.
Q    Okay. Just I recall the term risk
management plan being sort of a large task that
had a high threshold. Perhaps I'm confusing it
with another analysis.

A Actually, the category one facility, if you have minimal risks and you have passive mitigation, and you don't, which this facility does not show any potential for impact off the site property.

If you do not have any potential to cause an impact, you're what's called a category one facility, which simply requires you to demonstrate that you don't have an impact, and give a discussion of what you're handling, and I believe also that you have not had any accidents, or your accident history for the last five years. So, it's pretty minimal at category one facility, which I believe this one would be.

The reason I asked for a safety management plan, and I specified that that only applied to delivery, because there are -- even though there is very adequate mitigation proposed, there's a sump underneath the actual railcar loading area and so on, I believe that's very adequate and appropriate. And I don't believe that there should be any problem at all.

However, delivery of ammonia is clearly the highest potential cause of accidental release.
So I was -- just wanted to see a thought process and some checklists and so on to insure that, in fact, the train's wheels are blocked, and things like that are taken care of, to make sure that we really reduce, to the maximum extent feasible, any release during that sort of process.

Q Am I recalling correctly that the design for this facility includes a lot of passive controls --

A That's correct, it has a sump --

Q -- of ammonia spills?

A -- it has a catchment basin under the actual delivery station so that anything that got away between in connection or during delivery of the material to the tank from the railcar would actually drop into the catchment and then be directed to an underground sump.

The tanks, themselves, also have catchment basin underneath them which drain to an underground sump.

Under those conditions the mass transfer from the surface of the ammonia is virtually eliminated. The only transfer to the atmosphere is through the vents or through the holes where the material drops out.
They've also discussed use of balls to float on the surface with netting on top of that. This is, in my opinion, state of the art mitigation. And that's why you're not seeing any potential for impact beyond the fenceline of the facility.

Q: Okay, great.

HEARING OFFICER FAY: All right, thank you very much. No further questions.

MR. TYLER: Thank you.

MR. OGATA: We would move Mr. Tyler's testimony into evidence.

HEARING OFFICER FAY: Any objection?

MR. ELLISON: No objection.

HEARING OFFICER FAY: So moved.

Now move to waste management.

MR. ELLISON: The applicant's witness on waste management is again Mr. Eric Walther. Mr. Walther filed testimony as part of exhibit 58 on May 15, 2000. However, that testimony was revised in a subsequent filing on June 1, 2000. The subsequent revisions to the applicant's testimony we have identified as exhibit 63.

The waste management portion of exhibit 63 incorporates, by reference, section 6.14 of the
AFC, which is exhibit 5, and the applicant's
commments on the preliminary staff assessment filed
March 7, 2000, which is exhibit 48.

Mr. Walther's declaration has previously
been received into evidence, so I would move into
evidence exhibit 63 and the exhibits incorporated
by reference therein.

HEARING OFFICER FAY: Any objection?
MR. OGATA: No objection.
HEARING OFFICER FAY: So moved.

Anything further then on waste management from the
applicant? Mr. Ellison, anything further?

MR. ELLISON: No.

HEARING OFFICER FAY: Okay. Mr. Ogata.
MR. OGATA: Okay, we have staff's

witness, Mike Ringer, available. Would you like
to have him sworn?

HEARING OFFICER FAY: I have no

questions of Mr. Ringer, so if you want to just
submit it on declaration, that's fine.

MR. OGATA: Well, since he's sitting

here we'll just ask him the questions quickly.

Oh, okay, errata to the errata.

HEARING OFFICER FAY: Well, if he's
going to answer questions, we're going to swear
MR. OGATA: Mr. Ringer apparently needs to be sworn.

HEARING OFFICER FAY: Please swear the witness.

Whereupon,

MIKE RINGER was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OGATA:

Q Mr. Ringer, could you please state your job title at the Commission.

A I'm a Health and Safety Program Specialist in the Environmental Office.

Q Did you prepare the waste management testimony beginning on page 69 of the FSA?

A Yes, I did.

Q Do you have any changes or corrections you'd like to make at this time?

A I do. To condition Waste-4. I had submitted waste management errata, and I'd like to make a slight change to that.

In the first sentence it should read,
"silt or related dredge material removed by the project owner" instead of Duke Energy. Actually that's an addition. Right now it just says removed during work or maintenance, so I'd like to insert "the project owner".

HEARING OFFICER FAY: And this is a correction to the errata you're making?

MR. TYLER: Correct.

MR. OGATA: Which is on page 15 of FSA part two.

MR. TYLER: And then the very last sentence, "Similar work performed by the Moss Landing Harbor District for the project owner shall comply with the District's permit."

BY MR. OGATA:

Q Does that include your changes?

A It does.

Q Is your conclusion in the testimony that there is no significant impact?

A Yes, it is.

MR. OGATA: I'll move Mr. Ringer's testimony into evidence at this point.

MR. ELLISON: We have no objection but I would like to clarify. The first of the two corrections?
MR. TYLER: Yeah, silt or related dredge material removed by the project owner during work or maintenance on the cooling water intake system.

MR. ELLISON: Thank you.

HEARING OFFICER FAY: Anything further?

MR. OGATA: That concludes our testimony.

HEARING OFFICER FAY: No questions.

Questions from the applicant?

MR. ELLISON: No questions.

HEARING OFFICER FAY: All right, thank you, Mr. Ringer, you're excused.

That concludes waste management. We're going to, as we said earlier, we'll defer traffic and transportation till later.

And now move to noise.

MR. ELLISON: Applicant's witness on noise is Mr. Chris Cannon. Mr. Cannon's declaration is included as part of exhibit 64.

Mr. Cannon filed supplementary -- filed testimony as part of exhibit 58 on May 15th, which was slightly revised in exhibit 63 filed on June 1st. Exhibit 63 incorporates by reference a portion of the AFC, which is exhibit 5, as well as the applicant's comments on the PSA, which is...
exhibit 50.

We would move the admission of the noise portion of exhibit 63, and the exhibits incorporated by reference therein.

HEARING OFFICER FAY: Any objection?

MR. OGATA: No objection.

HEARING OFFICER FAY: So moved. And does that conclude the applicant's presentation on noise?

MR. ELLISON: It does.

HEARING OFFICER FAY: Mr. Ogata.

MR. OGATA: Staff's witness is Steve Baker. We'd like to have him sworn.

Whereupon,

STEVE BAKER

was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OGATA:

Q Mr. Baker, what's your job title at the Commission?

A I'm a Senior Mechanical Engineer in the Engineering Office.

Q And you are the author of the noise
testimony of the FSA?

A    That's correct.

Q    Do you have any changes or corrections to your testimony?

A    I have none to my testimony, but I do have a comment on the applicant's rebuttal testimony filed with exhibit 63 on June 1st.

Q    Okay, go ahead and please describe it.

A    On page 55 of Chris Cannon's testimony near the bottom we see a proposed condition of certification Noise-1, in which it's said that a noise survey shall be performed within 90 days of the start-up of commercial operations to verify that the modeled noise levels are met.

        In my final staff assessment testimony, part one, at page 111, I offer condition of certification Noise-6, and in this condition I would require the noise survey to be conducted within 30 days of the plant first achieving 80 percent of maximum generating capacity.

        The reason for this is at 80 percent the plant's probably putting out the most noise it will at any time. And I'd like to see the survey within 30 days, so that if there is a significant noise problem it's taken care of expeditiously.
I believe that the applicant's rebuttal testimony suggestion of 90 days, if there is a problem, could be a problem.

HEARING OFFICER FAY: Because it may not measure at the noisiest period, if you will?

MR. BAKER: Well, what I'm saying is if there is a significant noise problem the sooner it's dealt with, the better.

In my condition of certification Noise-6 I'm proposing that the noise survey be conducted within 30 days. The applicant's rebuttal testimony suggests 90 days. I'm just pointing out that difference to you, and explaining why I think 30 days is appropriate.

MR. ELLISON: The applicant has no objection to the 30-day requirement.

HEARING OFFICER FAY: Glad we got that clarified.

MS. BAKKER: Excuse me, there is the other aspect of this, too, am I correct, that you also indicated that 80 percent level --

MR. BAKER: Yes, --

MS. BAKKER: Is that distinct from the commercial operation?

MR. BAKER: The actual point in time
where the unit is declared commercial can vary. That may be soon after it's first started up; it may be after everything is up and tested and accepted, and all the contracts are signed and the checks are signed.

MS. BAKKER: I understand that, the point I was making is that you're distinguishing your condition in two ways, --

MR. BAKER: Right, yes.

MS. BAKKER: -- rather than just one.

MR. BAKER: Yes.

MS. BAKKER: The 30 days and the 80 percent of maximum output.

MR. BAKER: And the reason for that is commercial operation doesn't necessarily mean that the plant would be producing maximum noise. For instance, this project is actually two combined cycle power plants.

The first portion could go commercial sometime before the second. But what I'm saying is by the time the entire 1060 megawatt project has reached at least 80 percent of output, you can be fairly certain that most of the equipment is operating and creating the most noise that it ever will. At that time I think it's appropriate to
take the noise survey.

HEARING OFFICER FAY: Thank you for that explanation.

MS. BAKKER: Don't we need to get the applicant's -- I thought they agreed just to the 30 days.

HEARING OFFICER FAY: Well, the 80 percent has been here all along in the FSA.

MR. ELLISON: We do not have an objection to the 30 days. Our noise witness is in the building, but he's in the workshop that is being conducted concurrently.

So, what I would like to do is go ahead and proceed with this testimony, but hold the record open and give us an opportunity to talk to him over the lunch hour. And then we will report back to the Committee after the lunch hour if there is any concern.

HEARING OFFICER FAY: Okay, I assume, since you only mentioned the 30 days, that the rest of the Noise-6 was acceptable.

Did the rebuttal testimony take issue with any other aspect of the conditions?

MR. BAKER: No, sir.

HEARING OFFICER FAY: And just that
MR. ELLISON: But there is a difference, as Mr. Baker's pointed out, and Ms. Bakker has pointed out, between the rebuttal testimony proposed condition and Mr. Baker's proposed condition in both respects; with respect to the 30 days, which we do not have a concern with, and with respect to the different definition of commercial operation.

What we would like to do is have an opportunity to discuss the second issue, a different definition of commercial operation, with our noise expert over the lunch hour.

If there is a concern we'll report back to the Committee right after lunch.

HEARING OFFICER FAY: Okay, yeah, please let us know either way.

MR. ELLISON: All right.

HEARING OFFICER FAY: Thank you. Any further questions on noise? Thank you, Mr. Baker, you're excused.

MR. OGATA: I'd move Mr. Baker's testimony into evidence.

HEARING OFFICER FAY: Any objection?

MR. ELLISON: No objection to moving
Mr. Baker's testimony. I would ask that he not be
excused until we report back, however. Just in
case there's still an issue here I may need to
recall him.

MR. OGATA: That's fine.

MR. ELLISON: Why don't we do this, the
applicant is comfortable with excusing Mr. Baker
with the provision that he could be recalled this
afternoon if we have a --

HEARING OFFICER FAY: Are you available
this afternoon, Mr. Baker, if you need to be
recalled?

MR. BAKER: Yes, I am.

HEARING OFFICER FAY: Okay, fine, we'll
leave it that way then. Thank you.

All right, visual resources.

MR. ELLISON: Applicant's witness on
visual resources if Mr. David Blau. Mr. Blau has
filed a declaration which is included as part of
exhibit 64; filed testimony on visual resources
which is included in exhibit 58 filed May 15th;
and revised that testimony in visual resources
portion of exhibit 63 filed on June 1st. Exhibit
63 incorporates by reference portions of the AFC
which is exhibit 5, in response to CEC data
request filed June 30, 1999, which is exhibit 15A. That's identified on our exhibit list as exhibit 15A. Response to the CEC data request filed June 16, 1999, which is exhibit 11. Response to the California Coastal Commission data request dated August 26, 1999, identified as exhibit 16. And the applicant's comments on the preliminary staff assessment filed March 1, 2000, which is exhibit 48.

We'd move the admission of exhibit 63 and the exhibits incorporated by reference therein.

HEARING OFFICER FAY: Any objection?

MR. OGATA: No objection.

HEARING OFFICER FAY: So moved.

All right, Mr. Ogata.

MR. OGATA: Staff's witness is David Flores. He needs to be sworn.

HEARING OFFICER FAY: Please swear the witness.

Whereupon,

DAVID FLORES was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:
DIRECT EXAMINATION

BY MR. OGATA:

Q    Mr. Flores, could you please state your job title.

A    I'm a Planner II with the Environmental Section.

Q    Did you prepare the visual resources testimony beginning on page 121 of the FSA?

A    Yes, I did.

Q    Does this testimony incorporate your professional opinion?

A    Yes, it does.

Q    Do you have any changes or corrections?

A    Only what was provided in the errata, part two.

Q    What is your conclusion?

A    There will be no significant visual resources effect from the project.

MR. OGATA: He's available for questions.

EXAMINATION

BY HEARING OFFICER FAY:

Q    Mr. Flores, I had the impression, reading your testimony, that there's actually a visual improvement as a result of the project, is
That's correct. With the removal of the eight stacks and also the removal of fuel tanks, it will be actually a visual improvement.

We don't often see the addition of a power plant making things look better, so that's another unique aspect of this project.

No questions, all right. Thank you very much.

Thank you.

I move his testimony into evidence, including the errata in the FSA part two.

Any objection?

No objection.

All right, then the staff testimony on visual resources is entered at this point into the record.

We'll move to socioeconomics.

The applicant's testimony on socioeconomics is sponsored by Chris Cannon. Mr. Cannon's declaration is included in exhibit 64, which has already been admitted. Mr. Cannon's testimony is the socioeconomics portion of exhibit 58; incorporates by reference portions of the AFC,
which is exhibit 5; responses to CEC data requests
of June 16, 1999, exhibit 11; and the applicant's
comments on the PSA, exhibit 50.

We'd move into evidence the
socioeconomics portion of exhibit 58, and exhibits
incorporated by reference therein.

HEARING OFFICER FAY: Any objection?
MR. OGATA: No objection.
HEARING OFFICER FAY: So moved.

Mr. Ogata.

MR. OGATA: Staff's witness is Amanda
Stennick. Her testimony begins on page 219 of the
FSA part one; exhibit 65 includes errata and
exhibit 66, FSA part two, beginning on page 19.
Ms. Stennick has included in her
testimony her declaration which by now you're
already familiar with what it says. We'd move her
testimony into evidence.

HEARING OFFICER FAY: Any objection?
MR. ELLISON: No.
HEARING OFFICER FAY: All right, so
moved.

Are there any questions on
socioeconomics? No, so thanks very much. We'll
just take that on declaration.
HEARING OFFICER FAY: We just had a discussion about the requirement encouraging local purchases, and my understanding is that that is a long-standing practice of licensing. Mr. Ogata is indicating yes.

MR. OGATA: That's correct. The basic philosophy behind that is that staff believes that to the extent possible applicant should try to bring a benefit to the local area, since there is perhaps some burden to having a power plant. And that is a typical condition that staff submits as part of its testimony.

HEARING OFFICER FAY: And if I recollect correctly, it's flexible to the point that if materials aren't available locally, for instance you don't need to buy your turbine in Monterey County, if those aren't available there.

MR. OGATA: I don't have the actual condition in front of me, but my recollection is that in most cases that's correct, it is a flexible condition. It requires best efforts. I don't think we use that language anymore, but the concept that's what, we require them to try their best.
HEARING OFFICER FAY: All right, let's move to geology and paleontology.

MR. ELLISON: Applicant's witness on geology and paleontology is Mr. Dennis Padgett. Mr. Padgett's declaration has previously been admitted as a portion of exhibit 64. In geology his testimony was filed as a portion of exhibit 58, and then revised as a portion of exhibit 63.

Pardon me for the confusion. The applicant filed its testimony on paleontology in conjunction with its testimony on cultural resources. And since we are deferring the testimony on cultural resources, what I'd prefer to do is to divide geology and deal with that, and admit our testimony on that, and then admit our testimony on cultural resources and paleontological resources when we deal with cultural resources, if that's acceptable.

HEARING OFFICER FAY: Does that create a problem for you, Mr. Ogata?

MR. OGATA: I don't believe so.

MR. ELLISON: I do not have a problem with addressing staff's testimony which combines geology and paleontology at this time. But would prefer not to proceed with the applicant's
testimony that combines cultural and paleontological resources at this time.

If you wish, however, to take them up all together, I would suggest we defer geology and paleontology until cultural resources.

HEARING OFFICER FAY: All right, let's put over geology, then, and deal with them all at the same time.

MR. ELLISON: Okay.

HEARING OFFICER FAY: Is that all right?

MR. OGATA: Yeah. Just for your information we have no changes or corrections to our testimony, so if the Committee doesn't envision any questions for Mr. Anderson, I would just like to let him know that so he doesn't have to appear today.

HEARING OFFICER FAY: Yeah, I have no questions. And I think that's fine. We can assume we can take Mr. Anderson's testimony on declaration this afternoon.

MR. OGATA: Okay, that's fine, thank you.

HEARING OFFICER FAY: Thank you. All right, can we move to facility design?

MR. ELLISON: The applicant's testimony
on facility design, power plant efficiency and
reliability is Mr. Ted Muallem. Mr. Maullem's
declaration has been previously admitted as a
portion of exhibit 64.

His testimony was filed on May 15th and
revised as part of exhibit 63 on June 1st. His
testimony incorporates by reference section 8 of
the AFC, exhibit 5, as well as certain appendices
also in exhibit 5. It incorporates by reference
the data adequacy responses filed June 16, 1999,
which is exhibit 11, June 23, 1999, which is
exhibit 13, and July 30, 1999, which is exhibit
15A. It also incorporates by reference the
supplementary AFC filing change in the project
description filed November 22, 1999, which is
exhibit 30.

Move the admission of exhibit 63, the
portion of exhibit 63 which addresses facility
design, power plant efficiency and reliability.

HEARING OFFICER FAY: Is there

objection?

MR. OGATA: No objection.

HEARING OFFICER FAY: So moved.

And, Mr. Ogata.

MR. OGATA: Staff's testimony on
facility design was prepared by Steve Baker, Al McCuen and Kisabuli. Their declarations are attached to the FSA which is exhibit 65. There are no changes or corrections to their testimony. They found no significant adverse environmental impacts in these areas.

HEARING OFFICER FAY: All right, so --

MR. OGATA: We'd move admission of their testimony.

HEARING OFFICER FAY: Objection?

Hearing none, so moved.

HEARING OFFICER FAY: And just to clarify, so under facility design there are no errata?

MR. OGATA: Correct.

HEARING OFFICER FAY: All right. Power plant reliability.

MR. ELLISON: I'd just note the testimony just submitted addresses facility design as well as reliability and power plant efficiency. So that testimony has previously been admitted.

HEARING OFFICER FAY: Mr. Ogata.

MR. OGATA: With your permission, Mr. Fay, we can do power plant reliability and efficiency together, since they both were prepared
by Mr. Baker, Steve Baker.

HEARING OFFICER FAY: Sure, same witness.

MR. OGATA: He was previously sworn, and you have his declarations. And as conclusion, there is no adverse impacts. The liability testimony begins on page 269 of the FSA, and efficiency begins on page 277 of the FSA, part one.

HEARING OFFICER FAY: Are there corrections to either of those sections?

MR. OGATA: There are no changes or corrections to either of those areas. I'd move those into evidence at this time.

HEARING OFFICER FAY: Compliance monitoring and facility closure.

MR. ELLISON: Applicant's witness on compliance monitoring and facility closure, Mr. James Vigor. Mr. Vigor's testimony was filed as the appropriate portion of exhibit 58 on May 15, 2000, incorporates section 4.0 of the AFC, which is exhibit 5. His declaration has been previously admitted as a portion of exhibit 64.

I would move the admission of the compliance monitoring and facility closure portion
of exhibit 58.

HEARING OFFICER FAY: Any objection?

MR. OGATA: No objections.

HEARING OFFICER FAY: So moved.

Mr. Ogata.

MR. OGATA: Compliance monitoring plan including general conditions of closure testimony was written by Jeri Zene Scott. Ms. Scott's declaration is attached to the FSA part one, and I would move her testimony into evidence at this time.

HEARING OFFICER FAY: Okay. Objection?

MR. ELLISON: No.

HEARING OFFICER FAY: It's received at this time.

All right. That concludes the taking of the evidence that we can manage before the lunch break.

After lunch we will be, I presume we'll hear from the applicant on the question regarding noise-6. We will take up geology and paleontology, traffic and transportation and cultural resources. Does that conform to everybody's understanding?

MR. ELLISON: That's correct.
HEARING OFFICER FAY: Good. Then we're adjourned until 1:00.

MR. OGATA: Excuse me, Mr. Fay. Mr. Buell has just gone out to check on the status of the workshop and he has something to report.

MR. BUELL: What they told me is they're making progress. They have one item to resolve at this point, so that's encouraging. But they indicated that they probably would be available at 1:30 versus 1:00.

HEARING OFFICER FAY: That's fine. We'll start with the other items first, and look forward to seeing them at 1:30.

Why don't we return here at 1:15.

MR. OGATA: Okay.

MR. ELLISON: Actually, Mr. Fay, if I could, given the progress that we've made this morning, can I ask that we just resume at 1:30. The reason for the request is that there is a relationship between the traffic issues and the cultural resource issues.

HEARING OFFICER FAY: You'd like the people all here?

MR. ELLISON: And we'd like to know that the traffic issues are resolved, and how -- the
issue, one of the big issues that's being discussed with respect to traffic is the protection of certain cultural resources with respect to the traffic mitigation that's going to be done, so depending upon the outcome of the traffic discussion, it could potentially change the cultural resources testimony.

And so I prefer not to proceed with the cultural resources testimony until traffic is resolved.

HEARING OFFICER FAY: That's fine. All right, we'll return here at 1:30.

(Whereupon, at 11:45 a.m., the hearing was adjourned, to reconvene at 1:30 p.m., this same day.)

--o0o--
AFTERNOON SESSION

PRESIDING MEMBER MOORE: Welcome back.

We're back on the record on the Moss Landing evidentiary hearings. And, Mr. Fay, I'll turn to you to read through the items, I understand we'll start with noise.

HEARING OFFICER FAY: Yes, we had a pending question regarding condition Noise-6, I believe. And, Mr. Ellison, have you had a chance to check with your witness on that?

MR. ELLISON: We have, Mr. Fay. We have a slight change to propose to staff's condition Noise-6.

Turn to page 111 of staff's FSA you'll find condition Noise-6. In the first line it states, "Within 30 days of the project first achieving an output of 80 percent..." and goes on. We would like to change it to read "... first achieving a sustained output of 80 percent...".

And with that slight amendment we are comfortable with Noise-6 as proposed by the staff.

HEARING OFFICER FAY: Have we got a staff reaction to that change?

MR. BAKER: Staff agrees with the
change.

HEARING OFFICER FAY: Okay, so we're just inserting the word "sustained" before output?

MR. ELLISON: That's correct, and changing the and to an a.

HEARING OFFICER FAY: And keeping the 30 days. Good. Thank you.

And now Mr. McCuen spoke to me during the break, indicated that they had an expanded definition, or an expanded analysis of cumulative impacts for transmission system engineering.

And, Mr. Buell, do you have people available to present that?

MR. BUELL: Yes, I believe we have.

Charlie would be available to provide a brief summary of the cumulative impacts.

HEARING OFFICER FAY: He has previously been sworn and remains under oath.

DIRECT TESTIMONY

MR. VARTANIAN: To summarize, the TSC portion of the FSA gave an opinion, qualitative opinion of low expectation of cumulative impacts for the project.

Our FSA also did identify several specific power flow scenarios which were to be
performed by PG&E, in the then-pending detail
facility study for the project, in which they
would model the project on line in conjunction
with several other potential projects in the area.

Subsequent to the FSA PG&E did complete
this analysis. I have reviewed the analysis, as
well as the ISO's review comments on this
particular aspect of the detailed facility study,
DFS.

My conclusion is the quantitative
analysis by PG&E and related Cal-ISO review
comments are consistent with the earlier
qualitative finding of no significant cumulative
impacts expected.

EXAMINATION

BY HEARING OFFICER FAY:

Q    And when you looked at cumulative
impacts, can you give us a sense of how far away
from the project you examined the system?

A    In terms of the quantitative input there
were four specific projects analyzed in
conjunction with the project.

The farthest, both geographic and in
terms of electrical integration, was Sutter. And
that was just left and not turned on and off for
They also ran cases with Los Medanos Energy Center, Delta Energy Center and Metcalf Energy Center where they incrementally added those projects to the power flow case.

In all cases the effect electrically was minor. And, in fact, turned back some of the overloads that were seen under contingency, without those projects operating.

I expanded this qualitative consideration to assess the additional plants in the San Francisco area being analyzed within the AFC process, Contra Costa, Newark Energy, Potrero and the South City Projects, which are at various stages, either licensing project or prefiling, and it's safe to assume, or I'm assuming that the impacts would be similar to what they've analyzed for Los Medanos, Delta Energy and Metcalf.

The other plants concerned qualitatively were the ones, plant projects in the AFC process in Kern County, LaPaloma, Midway Sunset, Elk Hills and Sunrise. And those I made the determination of no minimal electrical interaction so no cumulative impacts.
And I think this is supported by the fact that PG&E, within their analytic case, chose the southern tie between Mendive Way and Vincent with Edison as what's called a swing buss. And if a buss is designated that within the power flow it's basically acknowledging that there's very electrical interaction with that physical location and a location of interest, where they were analyzing Moss Landing Power Project.

Those were the other plants given a second qualitative look beyond the quantitative info from PG&E.

HEARING OFFICER FAY: Thank you. Does the applicant have any questions regarding this testimony?

MR. ELLISON: No, no questions.

HEARING OFFICER FAY: Mr. Ogata, I know I talked to Mr. McCuen about filing this with your testimony tomorrow, but it might be better for the record if we could mark this as an exhibit today.

(Pause.)

HEARING OFFICER FAY: Do you have some concerns about that?

MR. OGATA: Yeah, Mr. Fay. We would like to take a look at what's here before we
actually file it. I had a chance to review it, but I'm not sure that actually it's been reviewed by management, so --

HEARING OFFICER FAY: All right.

MR. OGATA: -- I mean we were prepared to present Mr. Vartanian's findings as he did orally to give basically the Committee an update from the FSA till what we've learned to date.

But in terms of having something actually filed, I think these are more speaking notes, and I think we'd be better served if we had something that was properly reviewed.

HEARING OFFICER FAY: So, when will you file it?

MR. OGATA: Two days. Friday, this week.

HEARING OFFICER FAY: Okay. And what will it be labeled, supplement to the transmission system engineering testimony?

MR. OGATA: I think that's what it will be called, yes.

HEARING OFFICER FAY: All right. Is there any objection to staff filing it that way at this time?

MR. ELLISON: Assuming that it comports
with the oral testimony that was just given, no,
there's no objection. If we have a concern after
we see it, we'll raise it at a later date.

HEARING OFFICER FAY: Let me just say
that any party, after being served with this
testimony, makes an objection to the way it came
in, should just contact the Hearing Officer. And
file an objection in writing, as well, to the
record.

All right. Thank you for that expansion
on your analysis.

Mr. Ellison, I'd like to ask you, in
terms of traffic, cultural, geological and
paleontological, is there an order that is more
logical one way or the other? I know traffic was
sort of guiding a lot of this.

MR. ELLISON: My suggestion would be
that we take traffic and transportation first, and
then take the cultural and related topics second.

My understanding from the workshop is
that there has been a proposed change by staff to
the traffic conditions, which is acceptable to the
applicant. I think it's appropriate to take that
issue up first, and then we can go to the others.

HEARING OFFICER FAY: Meaning take up
the staff's presentation first?

MR. ELLISON: Yeah. Actually, I think that makes more sense if you're prepared to handle it that way.

HEARING OFFICER FAY: All right.

MR. OGATA: Yes, I think we're prepared.

Okay, staff will call Steve Brown. He needs to be sworn.

HEARING OFFICER FAY: Please swear the witness.

Whereupon,

STEVE BROWN

was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. OGATA:

Q Mr. Brown, would you please tell us your relationship to the Energy Commission.

A Yes. I am a consultant working on behalf of the Energy Commission.

Q You have before you your testimony titled traffic and transportation?

A Yes.

Q Which begins on page 81 of the FSA part
one. Do you have any changes or corrections to
your testimony?

A Yes, we do. I have prepared this
morning an errata that has been, I hope,
distributed to the Commission, and it's four pages
in length.

Q Could you briefly describe for the
Committee the main changes between the errata and
your testimony as contained in the FSA?

A Yes. The two primary changes in the
errata are that we clarified, or I clarified the
cumulative nature of the impacts associated with
this project.

Cumulative, as defined by this project,
the other activities on the site, as well as other
developments in the surrounding area.

And so the impacts that are identified
in the FSA, in the errata are clarified to state
that those are cumulative in nature, as opposed to
solely project-driven impacts.

The other primary clarification in the
errata relates to the conditions. And there are
about seven or eight conditions that have been
modified, mostly to a minor nature for
clarification. However, one or two probably
warrant a more complete discussion.

The one I'd like to highlight would be condition number 6, which has been modified to read as follows:

Prior to reaching a construction staffing level of 400 for the project, the project owner shall implement the following physical improvements at the State Route 1/Dolan Road intersection to the satisfaction of Caltrans.

I won't read the specific improvements, but I'll continue on:

If any of the above physical improvements cannot be completed prior to reaching the project construction staffing level of 400, the project owner shall implement a program that restricts all project-related trucks from making turns at the intersection of State Route 1 and Dolan Road until all the physical improvements have been completed.

The project owner must request and receive CPM approval to cease the restrictions on project-related turns at the intersection of State Route 1 and Dolan Road.

The clarification there being that there may be some difficulties in implementing the
physical measures due to cultural resource findings in the area. And if those improvements are delayed, there's essentially a back-up mitigation measure which says that the trucks cannot be allowed to turn at that critical intersection of Dolan Road and Highway 1.

So that was the clarifications to provide that second or alternative mitigation, if you will, if there's a delay in the physical improvements.

The other condition that probably warrants highlighting is number three, which previously had been more generic. It was made more specific in the errata to identify the exact grate crossings that are to be looked at as far as a management plan, to make sure that they're safe crossing. The distinction being that the applicant does not have control over private crossings, but does have control over public, or can work with public agencies to deal with potential hazards at public crossings. So that was hopefully made clearer in the errata.

Q  Okay, with the errata that you just testified to, does this change your conclusion about any significant impacts resulting from this
The conclusion previously still stands, which are with these mitigation measures, with these conditions that all significant impacts can be mitigated.

Thank you.

MR. OGATA: Mr. Brown is available for questioning.

HEARING OFFICER FAY: Mr. Ellison, any questions?

MR. ELLISON: Just a couple of clarification questions, if I may.

CROSS-EXAMINATION

BY MR. ELLISON:

Mr. Brown, I'd like you to refer again to transportation number 6, as modified. And specifically the mitigation measure which is the fourth bullet after the introductory paragraph, and reads: Lengthen of the southbound left-turn pocket on State Route 1, and modify the southbound acceleration lane in the median of State Route 1. Do you see that mitigation measure?

Yes.

With respect to that mitigation measure, does this include any alternative designs that may
be approved by Caltrans?

A It does in the sense that Caltrans has what's called a design exception process, and it's conceivable that they will allow a certain degree of construction initially, and then may have some follow-up construction.

The condition is meant to apply to the functionality of the improvement. If the improvement is functional with the initial construction, then the condition's been satisfied. Any fine-tuning later on as a request of Caltrans would be over and above what's necessary to satisfy the functional aspect of the condition.

Q So, for example, if Caltrans were to approve a design exception to its normal turn pocket lane, the initial pocket lane subject to the -- with the exception, pursuant to the exception, would satisfy this condition?

A Yes. By definition, the design exception implies that Caltrans is satisfied with the improvement, given the exception.

Q Okay. And if Caltrans were to later decide to lengthen the pocket to the normal design standard, this would not render the completed work incomplete and violative.
A Correct.

MR. ELLISON: That's all I have.

HEARING OFFICER FAY: Thank you very much. Let's be sure that's well identified. I want to be consistent with what we've done before, but I believe all your other errata has come in as part of exhibit 67.

Are you docketing this today, or how do you intend to --

MR. BUELL: Yes, we can docket it today.

HEARING OFFICER FAY: Why don't we just give it a separate exhibit number, so there's no risk of confusion.

MR. OGATA: Number 68?

HEARING OFFICER FAY: Yes. I misspoke previously, exhibit 66 is staff FSA part two, and all the other errata, but this will be exhibit 68, traffic and transportation errata, testimony of Stephen J. Brown.

MR. OGATA: Okay, so at this time then I would move the exhibit 68, Mr. Brown's errata, along with his prior testimony, to the extent it's not overridden by the errata, but is consistent with it, into evidence.

HEARING OFFICER FAY: Any objection?
Mr. Ellison?

MR. ELLISON: Oh, I'm sorry, no. No objection.

HEARING OFFICER FAY: No objection. All right, the testimony of Stephen Brown in part one of the FSA, and exhibit 68 which modifies that, are entered into evidence at this point.

Thank you very much.

Mr. Ellison, to you on traffic and transportation.

MR. ELLISON: Okay, thank you, Mr. Fay.

The applicant's witness on traffic and transportation is Chris Cannon, who is sitting immediately to my left.

Mr. Cannon's testimony has been previously filed as the traffic and transportation portion of exhibit 58; the traffic and transportation portion of exhibit 63; and the traffic and transportation portion of the applicant's rebuttal testimony, which is identified as exhibit 62, and was filed and served on June 1, 2000.

Exhibit 63 incorporates by reference certain prior filings, a section of the AFC, which is exhibit 5, responses to certain CEC data
requests, which are exhibit 11 and exhibit 21; the applicant's comments on the PSA, which is exhibit 48; and the AFC supplementary filing which is exhibit 30.

Although Mr. Cannon has submitted a declaration, given the circumstances I think we'll do Mr. Cannon as a live witness.

Mr. Cannon, you need to be sworn.

Whereupon,

CHRISTOPHER CANNON

was called as a witness herein, and after first having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ELLISON:

Q Mr. Cannon, could you state and spell your name for the record, please.

A Chris Cannon, C-h-r-i-s C-a-n-n-o-n.

Q And would you briefly describe your occupation.

A I'm an environmental consultant.

Q And what is your association with the Moss Landing Power Plant?

A I've been asked, or I've been managing and developing the traffic and transportation
analyses for the AFC.

Q With respect to the traffic and transportation portions of exhibit 63, as well as the traffic and transportation portions of exhibit 62, first of all, were these exhibits prepared by you or at your direction?

A Yes, they were.

Q Are the opinions contained in this exhibit your own?

A Yes, they are.

Q Are the facts contained in these exhibits true and correct to the best of your knowledge?

A Yes, they are.

MR. ELLISON: I would move the admission of the traffic and transportation portions of exhibit 63 and the exhibits incorporated therein, as well as the traffic and transportation portions of exhibit 62.

HEARING OFFICER FAY: Is there objection?

MR. OGATA: No objection.

HEARING OFFICER FAY: So moved.

BY MR. ELLISON:

Q Mr. Cannon, you have reviewed the
proposed conditions of certification in the final staff assessment, have you not?

A   Yes, I have.

Q   And you just heard the testimony of Mr. Brown regarding the changes to those conditions?

A   Yes, I did.

Q   And you've reviewed the written copy of those proposed changes?

A   I have.

Q   With the staff's amendments and those changes, are the traffic and transportation conditions acceptable in your opinion?

A   Yes, they are acceptable. I've read the transportation errata and I'm comfortable with the changes that have been made.

Q   Okay.

MR. ELLISON: That's all we have, thank you.

HEARING OFFICER FAY: Thank you. Any questions?

MR. OGATA: No questions.

HEARING OFFICER FAY: Thank you, Mr. Cannon, you're excused.

Do you have a preference as to the next topic? Go to cultural or -- well, let's just go
MR. ELLISON: We're taking cultural first?

HEARING OFFICER FAY: Yes.

MR. ELLISON: Okay. Applicant's testimony on cultural, as well as paleontological resources testimony is being sponsored by Mr. Robert Mason.

Mr. Mason has submitted a declaration which is contained in exhibit 64. His testimony is the cultural and paleontological resources portion of exhibit 58. He also submitted rebuttal testimony which is the cultural portion of exhibit 62.

Exhibit 58, the cultural portion of that incorporates sections of the AFC, as well as appendices, which are exhibit 5; and two sets of responses to data requests filed June 16, 1999 and October 4, 1999, which are exhibits 11 and 22, respectively.

I would move the admission of cultural and paleontological resources portion of exhibit 58, as well as the cultural portion of exhibit 62, as well as the exhibits that are incorporated by reference therein.
HEARING OFFICER FAY:  Is there objection?

MR. OGATA: No objection.

HEARING OFFICER FAY: Before I rule on that, have the changes that have been made in traffic and transportation addressed the concerns expressed earlier regarding cultural resources?

MR. ELLISON: Yes, they have. The rebuttal testimony that was submitted by the applicant with respect to these issues made some proposed changes to cultural resources-2 and cultural resources-10.

With the adjustments that have now been made in the traffic and transportation section, the applicant is comfortable with staff's proposed cultural resources conditions, and retracts the proposed changes in the rebuttal testimony.

HEARING OFFICER FAY: Thank you for that clarification. And the identified cultural resources testimony and associated documents identified by the applicant are entered into evidence at this point.

Mr. Ogata.

MR. OGATA: Thank you, Mr. Fay. Thank you for asking that question. I was going to ask
Mr. Ellison that question, myself.

Given that answer, do you wish to hear from our witnesses, or shall we just take this section by declaration?

HEARING OFFICER FAY: If your witnesses are comfortable, and I assume they are since they have proposed the condition, then we can just take it on declaration.

MR. OGATA: Since they're sitting here, if you wouldn't mind just taking a few minutes to allow them to present one additional change.

HEARING OFFICER FAY: Clarification?

Certainly. Please swear the witness.

Whereupon,

DOROTHY TORRES and DEBORAH McLEAN were called as witnesses herein, and after first having been duly sworn, were examined and testified as follows:

MR. OGATA: Okay, we have as staff's witnesses Dorothy Torres to my left, and Deborah McLean to the far left.

DIRECT EXAMINATION

BY MR. OGATA:

Q Ms. McLean, would you please tell us what your relationship is to the Commission.
MS. McLEAN: I'm the Cultural Resources Consultant.

MR. OGATA: And you work for?

MS. McLEAN: For LSA Associates in Irvine.

MR. OGATA: And you have before you the cultural resources testimony?

MS. McLEAN: Yes.

MR. OGATA: And did you write that testimony?

MS. McLEAN: Yes, with assistance by Dorothy Torres.

MR. OGATA: And, Ms. Torres, could you also describe your relationship to the Commission.

MS. TORRES: I'm an Energy Analyst here at the Commission.

MR. OGATA: And did you also co-write the cultural resources testimony?

MS. TORRES: Yes, I assisted Debbi McLean's writing the testimony.

MR. OGATA: And currently your conclusion is that there will be no significant impacts from this project?

MS. TORRES: Yes.

MR. OGATA: With the conditions that
you're proposing?

MS. TORRES: Yes.

MR. OGATA: All right, do you have any changes or corrections to that testimony?

MS. TORRES: Yes. We recently filed final errata, but we have one additional correction, and that's to condition number 10. We're proposing language that serves to better make clear our intent of the condition.

And that is on page 221, the first paragraph, the last line of the first paragraph.

Oh, page 212, I'm sorry.

HEARING OFFICER FAY: Ms. Torres, could you locate that for us again?

MR. OGATA: We will be referring to the errata submitted in FSA part two, cultural resources errata starts on page 7. Ms. Torres will be referring to cultural 10 which is on page 8 of the FSA part two.

MS. TORRES: Sorry, I was sending you to the original FSA.

The change that we're making is to delete the period after the word activities under protocol and add the language "where cultural resources monitoring is occurring." Period.
MR. OGATA: And, Ms. Torres, what do you believe is the effect of that addition?

MS. TORRES: I believe a misunderstanding could occur from the previous sentence which said that Native American monitors shall be present during any project-related earth-disturbing activities.

Our intent is to have them present whenever cultural resources monitoring activity is occurring. Not at any time there's earth-disturbing activities.

MR. OGATA: And you're also sponsoring the errata that was submitted as part two of the FSA, is that correct?

MS. TORRES: Yes.

MR. OGATA: Okay.

EXAMINATION

HEARING OFFICER FAY: This correction just offered regarding the Native American observer, is that included in the errata?

MR. OGATA: No, it is not. It's an additional phrase.

HEARING OFFICER FAY: So this is cultural-10, at the end of the first sentence following the word "activities"?
MS. TORRES: It's actually the second --

MR. OGATA: The last sentence.

HEARING OFFICER FAY: The last sentence.

MR. OGATA: Under the protocol. Go to protocol, the last sentence. This phrase will be added to the very end of the protocol.

HEARING OFFICER FAY: And could you repeat the change?

MS. TORRES: Yes. Instead of having a period after "activities", we'll delete the period and say, "where cultural resources monitoring is occurring."

CROSS-EXAMINATION

MR. ELLISON: Just for clarification, you're making this change at the end of the condition, itself, as opposed to the protocol?

MS. TORRES: We're making the change at the end of the protocol.

MR. ELLISON: Okay. The same language appears in the condition, itself. Would it be appropriate to make the same change there?

MS. TORRES: I don't think it has the same connotation that the Native American monitor is to be there all the time.
HEARING OFFICER FAY: Well, the protocol is part of the condition; it's as binding as the condition, unlike the verification. I'm not sure that the distinction matters that much.

MR. ELLISON: Would the staff object to adding those same words to the end of the condition, itself, along with the protocol?

MS. TORRES: No. It should be fine.

MR. OGATA: Is there anything else you want to add to your testimony right now?

MS. TORRES: No, this is enough. I'm finished, thank you.

MR. OGATA: Thank you. They're available for questioning.

HEARING OFFICER FAY: Thank you. Mr. Ellison, any questions?

MR. ELLISON: I just have a couple of clarification questions.

CROSS-EXAMINATION

BY MR. ELLISON:

Q If I could ask you to refer to the FSA, exhibit 65, at page 201. In the first paragraph, midway through the paragraph, appears a sentence: This designated specialist must have the -- and this refers to the cultural resources specialist.
"This designated specialist must have the authority to halt or redirect work if cultural resources are encountered."

Do you see that sentence?

MS. TORRES: Yes.

MR. ELLISON: Am I correct in my understanding that the designated specialist has the sole authority to do that, as opposed to sharing it with the Native American monitor?

In other words, if there is a dispute about that question, it's the cultural resources specialist's opinion that controls?

MS. TORRES: I would think it would have to be.

MR. ELLISON: That's my only question, thank you.

HEARING OFFICER FAY: All right. Questions? Thank you very much, thank you, both.

MR. OGATA: Staff would move that testimony into evidence.

HEARING OFFICER FAY: Any objection? So moved.

Mr. Ellison, do you have a witness on geologic resources?

MR. ELLISON: Yes, we do. The
applicant's witness on geologic resources is Mr. Dennis Padgett. Mr. Padgett has submitted a declaration which is included within exhibit 64. His testimony was included in the geologic hazards and resources portion of exhibit 58, as well as exhibit 63.

Exhibit 58 incorporates by reference section 6.3 of exhibit 5; responses to the CEC data requests filed October 4, 1999, which are exhibit 21; and the applicant's comments on the PSA, which is exhibit 50.

In light of Mr. Padgett's declaration I would move the admission of geologic hazards and resources portion of exhibit 63, as well as the geologic hazards and resources portion of exhibit 58, and the exhibits incorporated by reference therein.

HEARING OFFICER FAY: Any objection?

MR. OGATA: No objection.

HEARING OFFICER FAY: So moved. Thank you.

Mr. Ogata.

MR. OGATA: Staff's witness is Robert Anderson. Attached to his testimony, beginning on page 229 in the FSA, is his declaration stating
that this testimony was done by him. We have no
corrections or additions to his testimony, so we'd
move it into evidence at this time.

HEARING OFFICER FAY: Any objection?

Hearing none, so moved.

And that concludes geology. I believe
that completes the taking of evidence on the
topics that were noticed for today.

Are there any follow-up matters that we
need to address?

MR. BUELL: Mr. Hearing Officer, didn't
we notice this for compliance monitoring and
facility closure, or was that taken while I was
out of the room?

MR. OGATA: Yes, we did that one.

MR. BUELL: Okay, sorry.

HEARING OFFICER FAY: I want to call the
parties' attention to the fact that -- a reminder
that the original notice of evidentiary hearings,
as modified by the revised notice, is still in
effect.

We had some temporary confusion, but the
next hearing will be June 15th, here. And
following that will be June 20th in Moss Landing.
And if we're not able to complete our business on
June 20th, the overflow day is June 22nd here in Sacramento. So, in spite of all the confusion, we are back to the schedule as published in the two notices.

Any questions about that?

All right. And we do have an early start, as I check my revised notice, I believe it's a 9:00 start on the Moss Landing hearing. On the 15th, as well, okay. So that's a little different. Please flag your calendars for that.

In addition, I'd call your attention to the fact that the exhibit list that the Committee put out is not to be used. We're going to rely on, and as the record has been building, making use of the applicant's proposed exhibit list. Applicant has offered to send us a copy of that. Can we get that by Monday? I know I told you about a week, but can you have that provided by Monday?

MR. ELLISON: We can get you that by Monday, and we will also do the cross-referencing to the other list that we mentioned, and get you that as quickly as we can.

HEARING OFFICER FAY: Okay. My main concern is just a copy of this proposed exhibit.
list. And then once we have looked it over and
brought it up to date, we'll make that available
to the parties at future hearings so they can sort
of keep track of exhibits as they go.

Any other matters before we adjourn for
today?

Okay, great. I want to compliment the
parties on being very efficient in providing the
record and the evidence. And also, on solving
your last-minute problems on traffic in an
efficient manner even while we were here in the
hearing. So, nice work. I hope that's an omen
for how things will go for the rest of the case.

Any closing remarks from the Committee?

PRESIDING MEMBER MOORE: No.

(Laughter.)

HEARING OFFICER FAY: All right. Thank
you. We are adjourned.

(Whereupon, at 2:25 p.m., the hearing
was adjourned, to reconvene at 9:00
a.m., Thursday, June 15, 2000 at Moss
Landing.)

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CERTIFICATE OF REPORTER

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

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

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of June, 2000.

DEBI BAKER

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