

STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Docket No. 97-AFC-2

Application for Certification
for the Sutter Power Plant Project
_____/

Notice of Evidentiary Hearings,

NEPA Comment Hearing, and

Hearing Order

1425 Circle Drive

Yuba City, California

Reporter's Transcript

November 2, 1998

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Reported By: Keli Rutherford, CSR No. 10084

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APPEARANCES

- Commissioners Present:
- Michael C. Moore
- William J. Keese
- Staff Present:
- Gary D. Fay, Hearing Officer
- Stanley W. Valkosky, Public Advisor
- Shawn D. Pittard, Aide to Commissioner Moore
- For the Staff of the Commission:
- Paul C. Richins, Jr.
- Dick Ratliff
- For the Applicant:
- Chris Ellison, Ellison & Snider
- Curt Hildebrand, Project Director
- Charlene L. Wardlow, Environmental Manager
- For Western Area Power Administration:
- Loreen McMahon
- For CURE:
- Ann Broadwell
- For Sutter County:
- George Carpenter

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P R O C E E D I N G S

MONDAY, NOVEMBER 2, 1998 YUBA CITY, CALIFORNIA 9:21 a.m.

HEARING OFFICER FAY: I apologize for the delay.

We're scheduled to begin at 9:00, but one of our commissioners has been hung up in traffic, and we'll just wait a few more minutes, and we'll probably begin at 9:30, one way or the other, but if you can wait a few more minutes, we apologize for the delay.

COMMISSIONER MOORE: I offer you my sincere apology for being late and making you all wait. I expected the fog. I didn't expect the traffic on 99. So I sincerely apologize.

I'm joined on the dais by my fellow Commissioner Bill Keese and to my right are Hearing Officer Gary Fay, my aide, Shawn Pittard, and I will let everyone else introduce themselves as we go around. We turn out to have more people at the head table than we've had in the past.

I have one brief opening remark, and that is to say that this is the beginning of the formal process of taking testimony and evidence on the power plant project.

And I want to state up front that this is the beginning for us at the Commission that we come to these hearings without any preconception about whether this is good or bad. We're willing to listen to the testimony. In no way, shape, or form have we made up our minds or have we

1 begun a decision of any kind. We won't do that until after
2 these hearings are over.

3 So there are various elements of the process where
4 things may have been worked out or appear to have been
5 worked out, but frankly at this level that's all
6 presumption, and frankly, as you would expect from us in the
7 public sector, we remain to be convinced, and that's what
8 these hearings are all about.

9 I welcome you to these hearings. We made a timetable
10 available to everyone. We'll be conducting these as openly
11 and accessibly as we possibly can. We made provision for
12 night meetings and we will extend those night meeting
13 opportunities to people involved in harvest who can't make
14 the meetings as they are originally scheduled.

15 We welcome your testimony and your interest at these
16 hearings and look forward to participating.

17 Commissioner Keese?

18 COMMISSIONER KEESE: Yes, I have reviewed most of the
19 documents that have been prepared by staff and the parties
20 here, and I congratulate them on putting together an
21 excellent package which delineates the issues. I
22 congratulate them on working towards what seems to be
23 agreements among parties, which I am interested in hearing
24 today, and I look forward to hearing from the members of the
25 audience as to those agreements that have been reached by

1 different parties in this.

2 My associate Cynthia Paul, who works in my office,
3 has a hearing at the Energy Commission this morning and will
4 be joining us about noon. That's all I have.

5 COMMISSIONER MOORE: Thank you, Mr. Keese. With that
6 I'll turn to our Hearing Officer, Gary Fay, and ask for
7 opening comments and comments on the procedures that we'll
8 be using in the next couple of days.

9 HEARING OFFICER FAY: Thank you, Commissioner Moore.
10 I'd just like to review something about our process and then
11 after interspersed with my remarks, I'll refer to Stan
12 Valkosky, our acting public advisor, and then ask Loreen
13 McMahon from the Western Area Power Administration to make
14 some remarks. Western is joining the Energy Commission in
15 joint review of this project.

16 The purpose today, as Commissioner Moore indicated,
17 is to begin the evidentiary hearings. And what that means
18 is that we are conducting what's called a quasi-judicial
19 process, and that's just a fancy way of differentiating from
20 the hearings you are usually used to attending where you get
21 up, make your comments to the planning commission or board
22 supervisor, whatever your local district is.

23 These are a little different. They are a little more
24 formal, but they are part of a long, ongoing process. This
25 is the time when we formally introduce evidence into the

1 record, and it's somewhat similar to the process of a civil
2 trial.

3 It's a time that the committee receives the technical
4 data on which they are able to base the findings that are
5 required by law, if they can reach those findings that are
6 required by law to license this project.

7 And I'd like to give a little context to it. Up
8 until now there have been a number of meetings, some
9 hearings, workshops, and conferences to try to better
10 understand the process and receive input from various
11 agencies and members of the public.

12 I think the importance of these preliminary events
13 can be seen not only by the changes that have occurred in
14 the staff evaluation based on input from the public and the
15 local agencies, but probably more significantly by the
16 changes that the applicant has made in their project just
17 from listening to the public and the local agencies.

18 Commissioner Moore made reference to the fact that no
19 decisions have yet been made. I think there was a reference
20 in the press to some assumption that the state had agreed to
21 support the project. I want to make clear that the article
22 was just dead wrong.

23 To the extent that the Energy Commission staff agrees
24 with elements of the applicant's proposal, that represents
25 only the position of the Energy Commission staff. It does

1 not represent the position of the Energy Commission or the
2 position of the state of California.

3 The staff is a separate party, just the same way that
4 Calpine is a separate party in this proceeding, just the
5 same way that CURE is a separate party. Those three parties
6 are before us presenting their views, and they will all be
7 submitting evidence, but none of them have an inside track
8 to committee's opinion or decision-making powers, and the
9 committee has yet to be convinced.

10 What we are about now, after all these rather
11 informal gatherings and discussions, is the formal taking of
12 evidence. I have to point out that it's not a popularity
13 process where we take votes on how many people favor or
14 disfavor the project.

15 It is based on factual evidence that has been
16 submitted in advance in writing, that will be delivered into
17 the record by sworn testimony, subject to cross-examination,
18 and that's the kind of formality that we use in this
19 process. That's what makes it a quasi-judicial process is
20 something the courts understand.

21 It makes the decision more defensible, and it also
22 allows us to test the truth of the matters asserted, and
23 that's really what we're about, to try to reach the truth in
24 this process.

25 The two commissioners, their advisors, and myself

1 will, from time to time, ask questions, and the parties will
2 have the right to cross-examine witnesses.

3 Regarding public comment, we want to emphasize that
4 members of the public are invited to attend all evidentiary
5 hearings. We will reserve time for comment after the
6 testimony from each subject area.

7 And this is important to keep in mind because we will
8 have some time this morning for people to make general
9 comments. I'm afraid we will have to limit the time based
10 on how many commenters there are. Obviously this is
11 intended just to be your general impression of the case.

12 If you have specific concerns about particular
13 subject areas, I urge you to reserve those until the subject
14 area has been dealt with.

15 An example would be water quality matters. Water is
16 the first technical area that we have scheduled on the
17 agenda, and it would be far more useful if you could
18 pinpoint your water concerns immediately after that
19 testimony has been introduced because then our transcript
20 will read continuously, it will all be together, and makes
21 it easier for the committee to relate your remarks to the
22 testimony that's been offered. So it's in your interest to
23 focus your comments, if you can, on those subject areas at
24 that time.

25 The commenters will not be sworn as witnesses, but

1 their comments are very important and will be considered by
2 both the Energy Commission and by Western in making their
3 final decisions. The comments can influence the weight
4 given to evidence that is in the record and may also
5 reinforce what's already in the evidentiary record.

6 Let's see. I did want to address up front the
7 concern about the Final Staff Assessment. I think staff may
8 speak on that more, but there was a delay in getting out
9 some of the copies of that that had to do with some
10 reproduction problems, and on behalf of the Energy
11 Commission I want to apologize to members of the public that
12 were inconvenienced by that delay. There's a lot of
13 material to read, and it's pretty tough to do it in a few
14 days, I know, and so we hope that we can resolve this.

15 We will be receiving your comments at all the
16 hearings, so if you find you are not prepared to comment on
17 an area until November 16th, then we will wait to hear from
18 you at that time.

19 I noted a number of opportunities for public comments
20 at previous meetings and want to emphasize again we will be
21 receiving those comments throughout our hearings.

22 In addition, we have two evening hearings where we
23 will take comments as well as evidence that the process will
24 -- obviously we can't pinpoint exactly how long each subject
25 area is going to take, so we may be taking evidence this

1 evening, but we will also be taking comment -- at our
2 evening session on November 10th we'll also be taking public
3 comment, so if some of your neighbors aren't able to attend
4 day hearings, pass on we'll be here tonight at the City Hall
5 right across the parking lot, and here the evening of
6 November 10th.

7 In addition, you'll have an opportunity, once the
8 committee issues its presiding members proposed decision,
9 you will have thirty days to review that and submit written
10 comments, and then if a revised version of that document is
11 prepared, that depends on what changes the committee thinks
12 are appropriate to make in their proposed decision, then
13 there would be another fifteen-day comment period prior to
14 the Energy Commission taking up its final decision at a
15 business meeting at the Energy Commission.

16 You are all welcome to attend that meeting as well
17 and make comments in front of the full Energy Commission, so
18 there are a number of opportunities remaining to have
19 comment on the project. In addition, of course, we have a
20 number of local meetings. There will be at least two
21 planning commission meetings and at least two meetings on
22 this project before the board of supervisors.

23 Now, turning to the role of the public advisor, the
24 public advisor is appointed by the governor of the state of
25 California to assist members of the public in their

1 participation in our process, so if you have a question
2 about how the process works or how you might best make your
3 arguments, I encourage you to talk to someone from the
4 public advisor's office.

5 Today Stan Valkosky is standing in representing the
6 public advisor. Stan's main job at the Energy Commission is
7 as a chief hearing officer. He's got over twenty-two years'
8 experience in this citing process and has very effectively
9 represented members of communities before in front of the
10 Energy Commission on their behalf, although not in the sense
11 that an attorney would represent, but in terms of being
12 assured the process is open to them and available.

13 So at this time I'd like to ask Stan if he wants to
14 make any remarks.

15 MR. VALKOSKY: Good morning. I'm Stan Valkosky. As
16 Mr. Fay indicated, I'm standing in for Roberta Mendonsa, the
17 normal public advisor. She passes along her regrets to
18 those whom she has dealt with. She is unavoidably -- has an
19 unavoidable conflict in her schedule. And she will not be
20 able to make today's session.

21 I want to expand a little bit on what Mr. Fay said.
22 As members of the public, we have an absolute right to
23 participate and comment on this proceedings. My job is to
24 make sure that you know what your rights are and you avail
25 yourself of them, to the extent deemed appropriate.

1 If you have any questions on how the process works,
2 suggestions on how to participate, how to get the ear of the
3 committee, how to make your presentation more persuasive,
4 please see me.

5 Today I'm set up right by the doorway by the window
6 there. Feel free to come back and talk to me, if you'd
7 like. I'd also ask you if you want to make a comment to the
8 committee at any point, please pick up one of these blue
9 cards, fill it out, and give it back to me. I'll take it up
10 to the committee. It will assist them in scheduling their
11 presentation today.

12 Are there any questions? Thank you. I'll be back
13 there if you need to see me.

14 HEARING OFFICER FAY: Thanks, Stan. I'd like to
15 mention that I hope it's been obvious to date that the
16 committee will extend its personal courtesy and due process
17 to all the participants in this proceeding, and we request
18 that all the participants, as well, conduct themselves in a
19 courteous and professional manner so we can all have a
20 chance to address the committee and get our views expressed.

21 Now, I want to bring your attention to the agenda,
22 which we have on the back table. It's a one-page agenda.

23 When I conclude my remarks, I'll turn the mike over
24 to Ms. McMahon, who is representing Western, then we'll move
25 to opening statements by the parties.

1 As a little change in that, she will not be giving
2 opening remarks. She'll be commenting on the process, then
3 we'll get an idea of how many members of the public would
4 like to address the committee and see how much time there is
5 for each person to make those remarks, then we'll be
6 receiving documents into evidence, just a formality to get
7 them into the record and identify them, and then we'll begin
8 with a real substantive hearing, and that's into our
9 technical areas.

10 There's a little change from what was in the original
11 hearing quarter. We had listed biological resources as the
12 first item to come up. We exchanged that with soil and
13 water resources, so the first item will be soil and water
14 resources and then biological resources. Everything else is
15 in the hearing order that was published in mid October.

16 So also on the agenda we'll try to accommodate
17 people's schedule. If you do have a scheduling conflict
18 with any of these matters, please bring it to my attention
19 during one of the breaks. We can talk about it and see if
20 anything can be done to help you.

21 And with that, I'd just like to ask if there are any
22 questions about the agenda? Okay. I see no indications, so
23 I'd like to turn it over to Loreen McMahon from Western Area
24 Power Administration.

25 MS. McMAHON: Good morning. On behalf of Western I'd

1 like to welcome you here today too.

2 Western, as you know, is a power marketing and
3 administration within the U.S. Department of Energy. Since
4 Calpine Corporation's Sutter Power Plant project proposes an
5 interconnection with Western's transmission system, Western
6 is determining the feasibility and impacts associated with
7 the proposal and is the lead federal agency for the project.

8 The National Environmental Policy Act, most often
9 referred to as the acronym "NEPA," is a procedural tool that
10 will aid in this analysis. The NEPA process is intended to
11 provide Federal decision makers and the public with
12 information on the proposed project, as well as alternatives
13 to that action.

14 The joint Energy Commission/Western document that was
15 released in October contains this NEPA analysis and was
16 noticed in the Federal Register on October 30th, 1998, in
17 Volume 63, number 210 on page 58379 as E.P.A. EIS number
18 98-0430.

19 The NEPA process also focuses on public
20 participation. The public involvement process provides a
21 means of identifying the concerns, needs, and values of
22 interested parties and is a very important part of the
23 decision-making process for Western. Western encourages all
24 interested parties to participate and will consider all
25 comments.

1 All comments made during these hearings and
2 throughout the draft EIS comment period, which closes on
3 December 14th, will be recorded and then addressed in the
4 final EIS.

5 In addition to providing oral comments at these
6 hearings, you may submit comments in writing. You can write
7 to either the Energy Commission or to Western. Contact
8 people and addresses are provided in the Federal Register
9 Notice, on a contact list handout that we have at the back
10 of the room, and in the joint document itself.

11 If you need more information in order to make
12 comments, you may call or write to the contact staff at
13 either agency. All comments, whether written or oral, will
14 become part of the public record if they are received before
15 the close of the comment period on December 14th.

16 All of us at Western believe in the benefits of NEPA
17 public involvement and request all interested parties to
18 participate in this process. There are handouts at the
19 registration table that go into more details on the NEPA
20 process, how to be involved, and identify the various
21 contacts for this project and how to reach them. Thank
22 you.

23 COMMISSIONER MOORE: With that, let me reiterate
24 something that Gary said; that is, this table at the front
25 represents the people who will be making the decision and

1 then our staff will be speaking in just a moment represent
2 an independent party in a similar way that the applicants
3 represent an independent party, so in that sense we really
4 are in the middle appropriately and making a judgment call
5 as to what the evidence says to us.

6 And I believe we're going to have opening remarks
7 from Calpine. Mr. Ellison?

8 MR. ELLISON: Good morning, Commissioner Moore,
9 Chairman Keese, Judge Fay. My name is Chris Ellison from
10 the law firm of Ellison and Snider representing Calpine in
11 this proceeding.

12 Our opening statement this morning will be given
13 first by Curt Hildebrand, the project director for Calpine,
14 and then Charlene Wardlow, the environmental manager.

15 MR. HILDEBRAND: Good morning. I'd like to begin by
16 saying Calpine is very pleased to be here today embarking on
17 this next important phase in the review process of our
18 proposed Sutter Power Plant project.

19 Calpine announced our intentions to develop the
20 Sutter project in February of 1997. Over the past twenty
21 months we've had the opportunity to work closely with a wide
22 array of regulatory and community agencies as well as
23 members of the public.

24 While the entire list of involved parties is too
25 lengthy to mention here this morning, I would like to take a

1 few moments to acknowledge the considerable efforts of a
2 number of the principal participants in the project review
3 process.

4 Firstly, Calpine would like to recognize the fine
5 work and dedication of the California Energy Commission
6 staff and the project manager, Mr. Paul Richins. We have
7 consistently found the Energy Commission personnel to
8 perform their duties in a timely, thorough, and professional
9 manner.

10 Another important participant in the review process
11 has been the Western Area Power Administration. Western has
12 served as the lead federal agency for compliance with the
13 National Environmental Policy Act. Loreen McMahon and
14 Morteza Sabet, along with members of the Western staff, have
15 done an excellent job in coordinating the assembly of the
16 joint Final Staff Assessment/Draft Environmental Impact
17 Study that was issued last month.

18 Sutter County representatives have also been very
19 active in the licensing activities for this project. George
20 Carpenter and numerous other members of the Sutter County
21 staff have consistently carried out their responsibilities
22 in a responsive and highly competent manner. Calpine
23 appreciates Sutter County's significant contributions to
24 this project.

25 Feather River Air Quality Management District has

1 served as the lead agency for review and compliance of air
2 quality matters. Ken Corbin and Manny Ruiz have
3 demonstrated their professionalism and knowledge of this
4 complex subject matter, and Calpine thanks them for their
5 efforts.

6 Lastly, Calpine would also like to acknowledge the
7 involvement of local citizens in this project review
8 process. We clearly recognize the active community
9 participation is a vitally important element in any
10 successful power plant licensing and development program.
11 Calpine appreciates the comments and suggestions received
12 from the public and has attempted to be responsive to issues
13 raised by members of the local community.

14 One point that I would like to emphasize this
15 morning: Calpine remains fully committed to the Sutter
16 Power Plant project. We are also committed to a development
17 that is built and operated in a manner that will benefit
18 both Calpine and the citizens of Sutter County. We believe
19 the project as currently proposed is fully compatible with
20 all local land uses. We feel our testimony to be presented
21 in these evidentiary hearings will further underscore this
22 belief.

23 Calpine has a proven track record of being a
24 responsible corporate citizen in the communities where we
25 operate, and we hope to expand on that tradition with this

1 proposed project on Sutter County.

2 In closing, Calpine firmly believes that the Sutter
3 Power Plant is an important project, not only for our
4 company but for the residents of the Sacramento Valley and
5 the citizens of California as a whole.

6 The Sutter project would have significant economic,
7 environmental, and system reliability benefits in the region
8 and would establish a new industry benchmark for power
9 generation efficiency, prudent water use, and environmental
10 responsibility.

11 I'd like to thank the committee for the opportunity
12 to address you this morning. At this point I'd like to turn
13 it over to Ms. Charlene Wardlow, the environmental
14 permitting manager on the project to elaborate on these
15 thoughts.

16 MS. WARDLOW: Good morning Commissioner Moore,
17 Chairman Keese, and Judge Fay, as you know, the original
18 Sutter project five hundred mega watts nominally, was
19 originally proposed to have a wet cooling tower which used
20 three thousand gallons per minute, had a nitrogen oxide or
21 NOx limit of four parts per million, and had a single
22 circuit transmission line.

23 The mitigated project now proposed before the
24 California Energy Commission uses a dry cooling tower, which
25 dropped our water usage by approximately ninety-five percent

1 and reduces drainage to the local ditch system as the
2 project is also zero discharge. There will be no process
3 water discharged off site. Additionally, storm water flows
4 would be reduced by an onsite retention pond.

5 The dry cooling tower also removed the potential
6 impact of process water to giant garter snake and other
7 threatened and endangered species. The potential impact of
8 the particular matter in the cooling tower drift to rice
9 crops is now removed, as is the visual impact of the cooling
10 tower plume.

11 Calpine has agreed to lower the nitrogen oxide
12 emissions to the lowest achievable emission rate of two
13 point five parts per million, the lowest level of any new
14 plant in the United States. A benefit of this reduction is
15 that the project will require less emission reduction
16 credits to offset the project.

17 The transmission line follows the original four-mile
18 route proposed by Calpine but with a revised switchyard
19 location. We changed this route back to the original
20 proposal after the commission staff and the county requested
21 that we reevaluate it. Calpine has also agreed to build a
22 double circuit configuration at the request of the
23 Sacramento Area Transmission Planning Group.

24 Calpine is now in agreement with Energy Commission
25 staff in virtually every area, even areas we did not agree

1 there would be an impact. This includes the one hundred
2 nine conditions outlined in the Final Staff Assessment. The
3 cleanup issues outlined in our stipulation regarding
4 conditions and findings have also been resolved.

5 The remaining issues are on staff's alternatives
6 analysis and visual impacts that we believe are not
7 significant under the California Environmental Quality Act.
8 While we disagree with staff on these issues, they are not
9 significant to the Commission's authority to approve the
10 project as recommended by staff.

11 We are also concluding discussions with Commission
12 staff on a few technical areas in the Final Determination of
13 Compliance that will be issued by Feather River Air Quality
14 Management District.

15 In conclusion, Calpine's power plant as originally
16 described in our Application for Certification was a
17 state-of-the-art facility we were proud to submit for the
18 Commission's consideration. We believe the project before
19 you today would be the cleanest, lowest impact power plant
20 built, not only in California but in the United States and
21 in the world. Thank you.

22 COMMISSIONER MOORE: Thank you. Mr. Ellison, anyone
23 else to speak?

24 MR. ELLISON: No.

25 COMMISSIONER MOORE: Mr. Richins, would you like to

1 address -- give opening remarks on behalf of the staff?

2 MR. RICHINS: My name is Paul Richins. I'm the
3 project manager for Sutter Power Project with the California
4 Energy Commission. Good morning Commissioner Moore,
5 Commissioner Keese, Gary Fay, and Sean.

6 I want to make three quick points. I want to
7 indicate the uniqueness and explain a little bit about the
8 uniqueness of the joint process that the Energy
9 Commission/Western went through. I'd like to talk about the
10 role and process of the Energy Commission staff, and lastly
11 we can go over some of the recommendations contained in the
12 report.

13 Before I begin, however, I want to apologize to the
14 public. We did have some problems with the production of
15 the final document, and we were not able to get copies out
16 as quickly as we would have liked to, but we do have -- we
17 did make copies available to many of you, and we also have
18 brought quite a few copies with us today, and so if you
19 would like to get copies, we have copies with us.

20 Now, going to the first point, the joint process, I
21 don't know if this is the first one, but it may be the first
22 time that the Energy Commission and Western Area Power
23 Administration has worked to develop both a joint state
24 process and federal process that meets the National
25 Environmental Protection Act requirements.

1 This was necessary because the project is being
2 proposed to interconnect with Western's transmission system,
3 so we felt that this process, by doing a joint process,
4 would streamline things and help reduce overlap and
5 duplication of effort.

6 Also what makes the project unique is that Sutter
7 County will also be using the environmental documents from
8 this process on which to base their land use decisions
9 relating to the general plan amendment and rezone decisions.

10 A little bit of discussion now about the role of the
11 Energy Commission staff has been indicated earlier: We're
12 an independent party in the process. Our role is to gather
13 information, analyze that information, coordinate with all
14 the local, state, federal agencies, coordinate and receive
15 input from the public, and then to come up with mitigation
16 measures addressing the impacts of the project.

17 In a nutshell, the product that we filed a couple
18 weeks ago, we did an analysis in twenty-one different
19 technical areas. Each technical area had a decision about
20 the project in the environmental setting. It has an
21 identification of the conformance with laws, ordinances,
22 regulations, and standards. It identifies specific project
23 impacts as well as cumulative impacts, and we have a
24 proposed mitigation.

25 As you heard from Charlene, there's a hundred and

1 nine proposed mitigation measures in the project, and there
2 will be some additional ones as it relates to air quality,
3 and lastly we also identify environmental consequences of
4 the project under the proposed mitigation.

5 After filing the Preliminary Staff Assessment in
6 July, we've held numerous workshops in the community
7 gathering information and feedback on the Preliminary Staff
8 Assessment that we completed.

9 We had at least eight workshops here in the
10 community. They were well attended by local, state, and
11 federal agencies, and we received a lot of good input that
12 was incorporated into the document based on those meetings
13 and workshops.

14 I want to thank the public for their attendance and
15 for their many fine suggestions at those workshops. I also
16 want to thank the other state and local federal agencies for
17 their participation as well.

18 In the Preliminary Staff Assessment in July there
19 were numerous concerns that were identified by staff and the
20 public and other agencies. You heard some of those from
21 Charlene. I'll quickly list some of them: Water quality,
22 drainage, flooding, impacts to nearby wells, impacts to
23 biological resources, traffic, noise, impacts to
24 agricultural operations, air quality, and visual were all
25 some of the things that our staff looked at, concerned

1 about, and things that came up during the workshops that
2 were identified by the public.

3 As I said, we have over a hundred conditions that are
4 addressing these concerns, and in addition to that, Calpine
5 modified the project and to address many of those impacts as
6 well.

7 We have two recommendations in the report. First of
8 all as it relates to the LORS: The laws, ordinances,
9 regulations, and standards. We believe the project meets
10 all the LORS except for land use and air quality.

11 As it relates to land use, if the County of Sutter
12 approves the Calpine request for rezone and general plan
13 amendment, the project then will be in conformance with
14 Sutter County land use requirements.

15 And then on the subject of air quality, the final
16 determination of compliance has not been issued, but it will
17 be issued shortly, and we anticipate that the project, as
18 indicated by Charlene earlier, will comply with the Feather
19 River Air District's requirements.

20 Regarding mitigation measures for environmental
21 impacts, we believe all the impacts have been reduced to a
22 level of insignificance except for one area, and that is the
23 visual aspects of the project.

24 We do have a workshop planned for Wednesday here at
25 9:00 o'clock where we will be talking more about the visual

1 aspects of the transmission line and other routes. That
2 workshop is at 9:00.

3 With that, that concludes my comments.

4 COMMISSIONER MOORE: Thank you, Mr. Richins.

5 And we have representative from CURE. Ann, would you
6 like to offer some opening comments?

7 MS. BROADWELL: Yes, thank you. And good morning.

8 I'm Ann Broadwell. I'm representing CURE, the Coalition of
9 Unions for Reliable Energy.

10 CURE has been participating in these Energy
11 Commission proceedings because this concern that as power
12 plants come into California, they may create adverse
13 economic and environmental impacts.

14 CURE is a coalition of construction unions that build
15 and maintain these plants, as well as unions that operate
16 these plants. If power plants come into California and
17 don't mitigate their environmental and economic impacts,
18 that can cause a backlash against construction of large
19 power plants and other projects, and of course, construction
20 workers depend on continued, sustainable construction for
21 their livelihood.

22 So CURE has come to these Energy Commission workshops
23 and participated with its consultants and experts in this
24 very open public proceeding and very much appreciated the
25 opportunity.

1 CURE's main concerns about the environmental impacts
2 of the project were air quality and water quality. CURE was
3 concerned about the emission of the air pollutant nitrogen
4 oxide, that emissions were going to be too high and cause
5 reduced construction in this area if it worsened the air
6 pollution.

7 CURE's consultant went out and talked to the vendors
8 of air pollution control equipment and obtained written
9 guarantees from the vendors that the emissions could be
10 reduced below what had been proposed.

11 CURE talked with the other agencies and worked with
12 Calpine, and eventually Calpine did decide that it would
13 reduce the air quality impacts far below what had originally
14 been proposed, and CURE very much appreciates Calpine's
15 willingness to do that, and the Energy Commission process
16 allowed us to reach that agreement.

17 CURE's second area of concern was water: Both water
18 usage and the waste water being discharged into the
19 agricultural ditches which go into the Sutter National
20 Wildlife Refuge.

21 Again CURE participated in the workshops with the
22 Energy Commission staff held with its consultants and raised
23 questions about that and suggestions.

24 Calpine did agree to use one hundred percent dry
25 cooling, which really reduced the discharge to now zero

1 discharge and reduced groundwater usage, so CURE again
2 appreciates Calpine's willingness to make that decision.

3 As to the economic impacts, CURE had been a concerned
4 that if Calpine weren't going to be paying adequate wages or
5 hiring skilled and local workers, there wouldn't be economic
6 benefits to the Sutter County area.

7 Working with Calpine, Calpine has agreed that it will
8 pay adequate wages, it will hire the skilled union workers
9 locally to build, operate, and maintain this project.

10 So CURE feels that it's main concerns have been
11 addressed and really feels that that wouldn't have happened
12 without the open, flexible Energy Commission proceedings
13 that have allowed these issues to come out into the open and
14 to be worked out in advance.

15 So although CURE wasn't on Calpine's thank you list,
16 CURE does very much appreciate Calpine's willingness to
17 listen and to make these decisions.

18 CURE will be presenting testimony only on
19 socioeconomic issues that will be up at the November 10th
20 hearing. Thank you very much.

21 COMMISSIONER MOORE: Thank you very much. We have a
22 section now for general comments by members of the public,
23 and let me remind you if you would like to address us, it
24 makes it easier for our scribe up here and also for the
25 members of the committee to know who you are and what you'd

1 like to talk to us about, will you please pick up and fill
2 out a blue card in the back of the room.

3 The card will be brought up to us and we can, in a
4 sense, manage the time that we need for allowing people to
5 come up.

6 Now, you know, we're going to be having a night
7 meeting tonight, so if you find yourself with comments
8 that you are simply unable to make because time runs
9 out, we'll gladly entertain those comments in the evening.

10 As Mr. Fay indicated, we'd like to try to keep things
11 focused on one topic at a time, but we're not going to
12 preclude anyone from speaking. And if you've got something
13 you want to add to the record this evening because that's
14 when your time allows, that's when we'll be here to hear it.
15 We encourage you to speak up. Four people have indicated
16 they'd like to speak.

17 These are very general opening remarks, as it were,
18 and you are going to have a chance to speak at each point on
19 every one of the topics in the Environmental Impact
20 Statement, so keep that in mind, and with that, I think we
21 can start taking testimony from the public, general remarks.

22 HEARING OFFICER FAY: The first card I have for
23 public comment -- when you make the comments, please come up
24 to the podium and speak into the microphone. Make sure the
25 court reporter can record your comments on the initial

1 transcript.

2 Jim Aiken. Is Mr. Aiken here?

3 MR. AIKEN: My name is Jim Aiken. I farm in the
4 area. I have property that proposed power lines will
5 probably trespass on. I have a comment or two to say about
6 power lines.

7 Power lines are a perpetual problem to a farming
8 operation. Most all operations do -- that we do are
9 affected by it: Tilling, irrigation, weed control,
10 harvesting. All of that is somewhat slowed down by a power
11 line, even though it may be on the edge of your field.

12 And another thing that -- that happens: Compensation
13 is only once. These problems are perpetual. As such, the
14 American way, as I understand it, is to pay your way, and
15 the people of California, and I presume the rest of the
16 United States, has been transgressing on the farmer and the
17 people ever since power lines started and the power line is
18 built and letting the farmer suffer the consequences the
19 rest of the time.

20 Power lines on our ground has killed one man, an
21 aerial applicator, and it didn't killed him instantly, but
22 about fifteen years later he died. He was in a coma the
23 rest of the time.

24 Another man was severely injured by the power lines.
25 A gas line ruptured, badly burned, and to my knowledge, the

1 last time I heard of him, he'd never flown again. So these
2 are a lot of things that are happening, and as such, we're
3 not being compensated for them.

4 The right of public domain may be a right, but what
5 does that do to your farming operation? It's trespassing
6 and so forth, even though they pay a small fee to do this.
7 And to a farmer it's very, very important not to have one
8 whenever it's possible.

9 COMMISSIONER MOORE: Thank you, Mr. Aiken. We
10 appreciate your comments. Thank you, sir.

11 We have about twelve people who would like to talk,
12 so let me ask you to try to self-limit you to something
13 under five minutes when you address yourself on these
14 general comments. That will give us an hour to hear general
15 comments from the public, and then we can open the testimony
16 on the site-specific or information-specific topics within
17 the EIS.

18 So let me ask you to hold it to about five minutes.
19 We won't bring down the hammer, self-limit it so we will
20 have time for everyone to speak.

21 HEARING OFFICER FAY: Next speaker is Ron Bronson.

22 MR. BRONSON: Good morning. I'm the area manager for
23 Air Gas. We're a gas and loan spike company locally. We
24 have eleven employees at this location in Yuba City. We're
25 branched out of -- headquartered out of Sacramento, and we

1 service from Redding to Fresno with another twenty-five
2 locations. It's one of my job descriptions is to find these
3 projects and secure the brisk business.

4 We were involved in building the other three cogen
5 plants in town. We currently supply them with their
6 shutdown needs and their protocol gases, which we inventory
7 in our yards.

8 So these type of projects we're aware of, and it
9 would be a nice boost to our local store, plus it would be
10 trickled down to the whole company to do this because this
11 is our basic reason for being in town is welding supply and
12 equipment needs. Thank you.

13 HEARING OFFICER FAY: Mike Shannon.

14 MR. SHANNON: I'm Mike Shannon. I'm a local grower
15 and landowner next to the project site. One of my questions
16 is we're still in the middle of rice harvest.

17 I think in the meeting, if you remember before, Bob
18 Emeril and I both spoke and said that if we have any of
19 these evidentiary hearings before the 15th of November it is
20 going to interfere with harvesting, and it is. So seeing
21 how there is rain coming the rest of this week, I'm helping
22 a neighbor cut. I'm going to leave probably at 11:00
23 o'clock.

24 I feel two of the areas that I'd like to have some
25 communication in is the noise, which changing from

1 water-cooled to air-cooled, I'd like some answers on just
2 how much noise fans are going to make, how it's going to be
3 set up, and also to have them put up transmission lines.

4 Can these topics be covered tonight?

5 COMMISSIONER MOORE: The topics probably won't be
6 separated, but we'll make sure that you can get a summary
7 and that you have a chance to comment tonight, so we'll make
8 arrangements for you to understand what has happened, what's
9 been presented.

10 If we can -- if we go late enough, then I'll keep it
11 in mind that those are topics we may be able to push over.
12 Otherwise, we'll try to get you a summary so you have a
13 chance to comment to us.

14 MR. SHANNON: Okay. Not being familiar with this
15 process, my question is: If a topic is covered today and
16 you go through the process and there is public
17 participation, are these topics then closed for any further
18 discussion?

19 COMMISSIONER MOORE: No, no. You can offer us
20 comments -- as Mr. Fay indicated, you've even got a chance
21 at the end, once there's a presiding member's opinion out,
22 you can offer comments taken even at that point, and it's
23 not unusual for the presiding member's opinion to be altered
24 before it's finally adopted by the Commission, in whatever
25 form for further public comment to be incorporated in, so

1 you have several chances to have an impact.

2 MS. McMAHON: I would also reiterate from what I said
3 earlier, you can make written comments any time for the NEPA
4 process through December 14th, and you can make comments,
5 again, general comments on the hearing on the 16th.

6 MR. SHANNON: Well, that is my question that we can
7 -- I will have a chance to talk about those two items
8 tonight, and the meeting will start at 6:30.

9 Do you have any idea how long it will last?

10 COMMISSIONER MOORE: We're programmed from 6:30 to
11 9:30. We have three hours set aside.

12 HEARING OFFICER FAY: I'd like to indicate logically
13 you will be commenting today on the evidence being presented
14 or the things you've observed in the process so far or your
15 general concern about subject area, but when you have a
16 chance later to comment in writing, it would be on the way
17 that Western interpreted the information or the way the
18 committee interpreted the information.

19 So these many, many comment opportunities do have
20 slight differences. Obviously you don't know yet what the
21 committee is going to say in writing, that's why we want to
22 give you a chance to comment on the proposed decision after
23 it comes out.

24 Next speaker is Mike Cole.

25 MR. COLE: My name is Loren M. Cole, go by Mike. I'm

1 also a farmer and duck club owner in the area, and one of my
2 prime concerns is the wires as well as everyone else's.

3 The alternative routes will go right across the north
4 side of one of my fields. I already have those large power
5 lines on the west side of the field. It will essentially
6 put me out of business in the duck club business, and it
7 will eliminate me being able to farm about twenty-five
8 percent of my property, so I'm deeply concerned about this.

9 I think that the cogeneration people have done --
10 tried to do something about the water, and it seems like
11 maybe they are trying, but there are still some issues here
12 with noise and the power lines and pollution.

13 I think that's real important, but for me right now,
14 where I'm at is I don't want those power lines on my
15 property, and I don't know what I have to do, but if I have
16 to lay down in front of the bulldozers, by God, that's what
17 I'm going to do.

18 I hope we can work this out. I don't know why an
19 underground system can't be worked out. I know it's
20 expensive. There's not anybody in this room who wants to
21 have anything to do with those power lines.

22 HEARING OFFICER FAY: Ma'am, I just want to clear up.

23 How do you describe the route of the power lines?

24 MR. COLE: The alternative route going directly west
25 across the ag land there. It's also -- we have a Sutter

1 National Wildlife Refuge right adjacent to us. I'm on the
2 west side of Bolton Road. I already have to deal with some
3 wires. There's a certain amount of duck kill due to those
4 wires with birds coming out of the refuge.

5 They put another set of wires on the north side of
6 our property, it is going to impact, in my estimation, about
7 eight duck clubs in the area that border the property, as
8 well as surrounding areas.

9 Mike Shannon has property right to the north of us,
10 so that's an impact too.

11 COMMISSIONER MOORE: Ducks get killed because they
12 hit the wires?

13 MR. COLE: Yes.

14 COMMISSIONER MOORE: It's an impact kill versus they
15 get electrocuted.

16 MR. COLE: I don't know how close they have to get to
17 be killed by them.

18 COMMISSIONER MOORE: There's no source for the bird
19 to get grounded. I mean, once it hits the wire -- I'm
20 assuming that if they die it's because they think the wire.

21 MR. COLE: That's my understanding.

22 COMMISSIONER MOORE: Yes, ma'am.

23 MS. MITCHUM: My name is Nadine Mitchum. I have a
24 place next to Mike's. This will go right through the back
25 of our place. We can't fly. We also have a gun club, and

1 we fly north and south.

2 I have sent to Mr. Paul Richins all our letters that
3 this will impact, and we have specified that we've had
4 Charlie Onstoff, who is our duster flying, has sent letters
5 saying there is no way he can get enough -- we fly north and
6 south, and we can't get the heighth if we put anything on.

7 So this is all private land that you are coming
8 through too.

9 MR. COLE: Because of the power lines on the west
10 side of my property as well as Joe Roberts to the north of
11 me, we don't have the option of flying east and west. Their
12 property is long and narrow, so they have the same
13 situation. Running east and west it's a very short run, and
14 their property is a mile long.

15 It would be very difficult to do it. Our property on
16 our side it's physically impossible. We're going to lose a
17 crop duster as well. The ducks are important, but the loss
18 of a human life is certainly out of the question.

19 COMMISSIONER MOORE: Thank you very much.

20 HEARING OFFICER FAY: First, I'd like to say this is
21 pretty specific stuff. If you look at the agenda, we will
22 be taking up transmission lines today, and that is something
23 -- transmission line route is something we'd be covering in
24 this topic.

25 If you are directly affected by the choice of

1 transmission line routes like these people, you may want to
2 target your remarks when we bring that up.

3 MR. RICHINS: Thank you for your comments. I did
4 receive those letters. They have been docketed and sent to
5 all of the parties in the proceeding.

6 The alternative route they were speaking of was the
7 alternative route that staff was proposing as a mitigation
8 to the visual impacts of the route proposed by Calpine, and
9 we proposed to have a workshop on Wednesday to specifically
10 take and try to work through that issue.

11 So I would encourage you to attend on Wednesday, if
12 at all possible, and it would also be helpful if the flier
13 that sent in the letter, if he could attend, it would be
14 really helpful for our staff so we could better understand
15 the limitations of the aerial applicators. That would be
16 Wednesday in this room at 9:00 o'clock.

17 MR. ELLISON: Mr. Fay, if I could add a comment to
18 make clear what Calpine's proposing and what Calpine's
19 position is.

20 As Mr. Richins just described, the route that
21 Mr. Cole was concerned about is not Calpine's proposed
22 route. It's the route, as Mr. Richins described, the
23 staff's visual expert has proposed. Calpine does not
24 support that route for some of the reasons as well as others
25 that have been described.

1 Also Mr. Aiken mentioned the transmission route as
2 intersecting his property. The route that Calpine is
3 proposing is no longer a route that would intersect his
4 property, so to be perfectly clear, Calpine's proposed route
5 is the route down South Township up to O'Banion, that's the
6 route Calpine is proposing for the transmission line in this
7 proceeding. It is not the route down South Township and
8 continuing down South Township past O'Banion, and it's not
9 the route that goes west as prescribed by Mr. Cole.

10 HEARING OFFICER FAY: We understand it's a little
11 confusing. There have been a number of transmission line
12 routes discussed. We will make it as clear as possible so
13 folks know explicitly whether their land is affected or not.

14 The next speaker is Henry Layman.

15 MR. LAYMAN: Good morning. I'm a general contractor
16 here in town, and the issue I want to address with what I
17 perceive to be the very positive economic benefit that is
18 plaguing half our area for both the construction trades and
19 the operation of the plant.

20 The economic recovery that the nation and the state
21 of California has enjoyed for the past few years has largely
22 bypassed this area. This is an opportunity here for a
23 couple hundred good jobs that will be union jobs, drawn from
24 the local hiring halls, and it could be a real positive
25 impact for the area.

1 COMMISSIONER MOORE: Thank you. Appreciate it.

2 HEARING OFFICER FAY: Next is Walt Christiansen.

3 MR. CHRISTIANSON: Good morning. Walt Christiansen,
4 president of Butte Pipe and Supply, a local wholesale
5 distributor here in town. We employ seventeen people in
6 this location, and like to add what Mr. Layman's comments
7 that it will be good for the community, this type of a
8 development.

9 We sort of got left behind when I-5 went over west
10 about thirty miles as far as development of this general
11 area, both Marysville and Yuba City. This would be a
12 positive opportunity for the community as a whole.

13 HEARING OFFICER FAY: Next speaker is Ed Tomai.

14 MR. TOMAI: Thank you for hearing us. I'm a local
15 resident. Again my name is Ed Tomai. I live at 4345 Oswald
16 Road.

17 The current plant is about a mile south of my home,
18 and I agree that this project would add a tremendous boost
19 to our local economy, but on the other hand, there will be a
20 tremendous cost to the immediate property owners and the
21 quality of life that they enjoy now.

22 You've heard from other people. I don't even fully
23 understand the scope of the project because the Final Staff
24 Assessment analysis was late in getting out and also it's
25 not done. My understanding is there are still parts that

1 are incomplete to that report.

2 I have issue with the fact that October 23rd was the
3 date -- cutoff date to file as an intervenor. This is, in
4 my simplistic view, way before we have an opportunity to
5 look at the whole report.

6 So you know, the Farm Bureau, local Farm Bureau was
7 indicating you can't really say anything about the issues
8 until you understand them, so we're waiting for the truly
9 final staff report to come out, and now it's out late and
10 incomplete.

11 I think that I need more time to review this large
12 document that's not easy to understand by the average
13 person, so I'd like to -- I talked to Roberta last week and
14 apparently there's a California code requirement, number
15 1747, that requires fourteen days prior notification, and I
16 don't think that has been accomplished. Correct me if I'm
17 wrong.

18 So those are my concerns, and I do want to see the
19 thing in Sutter County, but I don't want to have it
20 impacting my property, and I don't think there is a person
21 in here that would like to have it next door to them.
22 That's my position and will look forward to seeing what we
23 can do.

24 HEARING OFFICER FAY: In terms of deciding to
25 intervene, we certainly don't want to wait until you see the

1 FSA. I think the Farm Bureau didn't help you in terms of
2 that advice because this process, as I think you've heard
3 people discuss, has been in the works for quite a while, and
4 it's best to intervene as early as possible so you can be
5 current in it and receive all the documents.

6 However, the committee can entertain any motion to
7 intervene at any time. It's just that the later somebody
8 asks to enter the process, the greater the risk that it
9 would prejudice other parties that have been participating
10 all along, so I will leave that to you to work with the
11 public advisor on whether you want to petition, to
12 intervene.

13 And intervention, of course, it's a two-way street.
14 It's rights and obligations, so you'd have the obligation to
15 serve all the parties on the things you filed. You also
16 have the right to cross-examine witnesses, etcetera, but
17 probably not the right to reopen something we've already
18 passed if it would inconvenience or make it difficult for a
19 party that's participated right along.

20 It's sort of a rule of thumb. It's really practical
21 so someone can't come in at the very end and say -- you are
22 not absolutely precluded. We put the date in there. It's
23 to indicate after that date you have to show cause why you
24 want to intervene. Prior to that time it would be a matter
25 of course. I'll let you make the decision on that.

1 The staff has indicated, you know, their concern
2 about the late notice, and again, I refer you to the public
3 advisor if you want to pursue your concern about the
4 fourteen-day notice. We will have comments open on the
5 16th, and that would give you more than fourteen days from
6 the time you got the FSA.

7 If you believe that the air quality section was
8 incomplete, then you may want to address that as to whether
9 you'll have adequate amount of time to prepare before making
10 comments on air quality.

11 Next speaker is Cookie Emeril.

12 MS. EMERIL: I'm Cookie Emeril. I represent my
13 husband, Bob Emeril, who Mike said before is out in the
14 field harvesting today because it is raining -- has been
15 raining, trying to get rice out of the field.

16 I have several problems we'd like to address, but as
17 we said before and other people during this time would be
18 better.

19 I'm real concerned about the Final Staff Assessment
20 being this late. When we were asked a month ago would we
21 like a copy of it, we sent in our own nickel, and said yes,
22 we would like them, and today they are available. We feel
23 left in the dark.

24 I just feel like it's an undo process when we're not
25 allowed to get fluff and stuff and others were handed copies

1 and had time, and I don't think we have time enough to
2 study. I'm not prepared to discuss a lot of issues, and I'm
3 concerned about that.

4 HEARING OFFICER FAY: Bert Gonzalez.

5 MR. GONZALEZ: My name is Bert Gonzalez. I'm a
6 Calpine employee, and I've worked for Calpine -- actually I
7 have been at one plant for almost five years. I'm a Yuba
8 City resident. I've been here for about twenty-two years,
9 so basically I wanted to kind of speak on behalf of the
10 project in this respect.

11 I'm kind of in the middle in the sense that I'm a
12 Yuba/Sutter resident. I've been here, so I'm concerned
13 about the community. I'm raising a family here, and I have
14 friends out here that have concerns that I've known for
15 longer than I've worked for Calpine.

16 And so basically I'd like to say on Calpine's behalf
17 that, you know, every business has -- any kind of business
18 endeavor you are going to have problems. I don't know if
19 there's any project out there that's going to have maybe a
20 hundred-percent approval. Everybody is going to go along
21 with it.

22 And the thing that stands out to me, the point I'd
23 like to make, is just as concerns have been raised, how has
24 Calpine responded?

25 And granted, I'm a Calpine employee, and it could be

1 perceived that because I do work for them I'm going to speak
2 in high regard of my company, but anybody here that knows me
3 knows that that's just not something that I would do.

4 And so what I say is my own personal experience, and
5 even if we objectively look at how Calpine has conducted
6 themselves, even though I must say when I look at the panel
7 I know Curt. I know Charlene. I've seen them without their
8 suits. It's intimidating for people to see this corporate
9 representation, but they are good people, and they are just
10 like any of us, and Calpine is people just like me and some
11 of the other guys that are here, live here in this
12 community.

13 And my point is basically how they've responded to
14 the concerns, and just for these people that do still have
15 some, what has Calpine done up to this point?

16 I mean, the facts are there, and they have made every
17 effort, and I want to assure them -- I can't speak for the
18 company, but just my own personal perspective is that I
19 believe they will continue to do everything they can to
20 alleviate any of the concerns and do whatever they can do so
21 that this project can be -- maybe you won't get a
22 hundred-percent approval but maybe ninety percent. That's
23 pretty high.

24 We've all talked about the benefits and other things,
25 and basically my point is just that consider what they've

1 done, consider how every time a concern has been brought up
2 we've heard about it, and they've even talked to us about
3 it, what we thought, and our response of "What can we do to
4 make this right?"

5 And in the light of that, that's really all I have to
6 say.

7 HEARING OFFICER FAY: Larry Booth.

8 MR. BOOTH: Good morning. My name is Larry Booth.
9 I'm with a construction company headquartered here in the
10 Marysville/Yuba/Sutter area.

11 Last year we were fortunate we worked on a similar
12 plant, although smaller, in Sacramento. We employed local
13 people, built it in our shop in Marysville, shipped it to
14 Sacramento, and installed it.

15 I was born and raised here. Our company has been
16 headquartered here for over eighty years. As long as I can
17 remember, this community has been plagued with the highest
18 unemployment and the lowest per capita income of all
19 fifty-eight counties. Yuba and Sutter County have always
20 trailed either at the top of the bad list or the bottom.

21 This is a plant that is technologically very complex
22 and has a lot of industrial features. It has a lot of
23 income and a lot of employment opportunities that can take
24 us maybe a little closer to the middle.

25 I would strongly encourage and I would certainly hope

1 on behalf of not only our firm, but also a hundred and fifty
2 employees I represent, that the Energy Commission does adopt
3 this plant, license it, and I'd love to see it be built.
4 Thank you.

5 HEARING OFFICER FAY: Brad Foster.

6 MR. FOSTER: Good morning. My name is Brad Foster.
7 My main concern is the late Final Staff Assessment. We
8 received ours Thursday night, late. Some of the neighbors
9 received theirs Saturday morning. Mike Shannon just spoke.
10 He could not sit through the hearings today. He will not be
11 able to hear the evidence. I guess he will have to figure
12 out some way to run a harvester and read the evidence at the
13 same time.

14 This thing has to stop before it leaves fourteen
15 days, and maybe we can start over again. We don't have
16 evidence. Some of us just got the evidence. Right now it's
17 shame on you, it's late. Fourteen days we don't know what
18 we're doing, shame on us. I think it should stop right now.

19 HEARING OFFICER FAY: Fortunately the hearings are
20 spread out over a long period of time, and we have
21 relatively light loads scheduled for November 16th, so if it
22 turns out that a number of you develop extensive comments in
23 some of these subject areas and you need that long to
24 deliver them to the committee, there certainly will be time
25 available. We also have a hearing set for November 12th as

1 well.

2 Bill Jaeger.

3 MR. JAEGER: Good morning. My name is Bill Jaeger.
4 I'm the president of Jaeger Industrial Construction based in
5 Yuba City.

6 On the positive side I can only repeat what's been
7 said, so in the interest of time I won't, but I can only say
8 that our company has worked on the power plants that are
9 here, the Green Leaf I and II projects and also the Feather
10 River Energy Plant that was in Marysville.

11 The only thing I can say is that Calpine's expansion
12 is a good, sound idea for Sutter County, and I encourage
13 support for the project.

14 HEARING OFFICER FAY: And the last card I had is from
15 Mary Woods.

16 MS. WOODS: Good morning. I'm Mary Woods. I live
17 about probably half a mile south of this proposed plant. We
18 can't, at times, sleep at night because of the noise, and
19 there's a vibration like when a freight train goes by. We
20 don't need ten more freight trains. This thing is supposed
21 to be ten times bigger than the one we have now.

22 I would invite any of you to come out in your motor
23 homes, spend the night at my place, and see for yourselves
24 the trouble we have with this thing.

25 Another concern I'm having, they are talking about

1 these dry evaporating type of coolers, and I understand that
2 there's condensation with these things.

3 Now, when these guys are farming, is the dust going
4 to plug these things up? Who's going to go out of business:
5 Is it Calpine or the farmers that have been there for so
6 many years? These are things we need to know.

7 This employment thing, we have people here from Yuba
8 County that are addressing their concerns. This plant is in
9 Sutter County. It is our concern. They talk about the
10 people they will employ. This is one group of people.

11 I'm not trying to tell you Calpine don't belong.
12 Calpine don't belong where they are trying to put it.
13 Calpine might belong somewhere else where they can transform
14 their electricity to Sacramento like they are trying to do,
15 but we can't have this thing where we're trying to fly
16 airplanes and put in our crops, this thing just can't fly in
17 that area.

18 As far as employment goes, these construction jobs
19 that are short-lived things, probably eighteen months,
20 twenty-four months, that's gone. These people have a
21 skeleton crew.

22 As you know, everything is automated nowadays. You
23 push one button, you put a hundred fifty guys out of work.
24 The way I look at it Red Lobster, McDonald's, industries
25 like that hire more people than these people do.

1 I don't think these people -- I never did feel that
2 these people belonged. I still don't believe these people
3 -- and I'll go to my grave saying these people don't belong
4 in our area. I'm not saying they don't belong, but they do
5 not belong in our area. Thank you very much.

6 COMMISSIONER MOORE: Anyone else who wanted to make
7 general opening comments to us. Stan?

8 MR. VALKOSKY: Thank you, Commissioner Moore. I'd
9 just like to advise members of the public that now we're
10 going to commence the individual evidence on the individual
11 topic areas.

12 To the extent that you are interested on commenting
13 on a particular area, please remember you have the right to
14 do that after the witnesses have delivered their testimony.

15 And secondly, part of the duty of the public advisor
16 is to recommend to the committee ways to maximize public
17 participation.

18 From what I've heard today, there seems to be a
19 general concern over the lack of the time available to
20 review the Final Staff Assessment, and also a concern over
21 specific topics, such as transmission.

22 A couple people that have spoke, in my view, would
23 like the committee to specifically indicate that they will
24 be -- that they, the members of the public, will be given
25 more time or additional time to review the FSA before the

1 evidence is presented.

2 And secondly, that certain topics and again, I
3 reiterate the transmission topic, will definitely be dealt
4 with at this evening's hearing.

5 Now, I obviously -- I can only make a recommendation.
6 I can only advise the committee of these concerns from the
7 public participation aspect, but I would suggest that you,
8 at least, address those concerns very specifically so the
9 members of the public know where they stand in this regard.

10 COMMISSIONER MOORE: Thank you, Stan. I appreciate
11 the comments. Frankly, as I indicated at the very start of
12 this meeting, we were aware of the unfortunate snafu in
13 getting the FSA, the Final Staff Assessment, out to the
14 public and are trying to find some additional dates where we
15 might open this up to public comment, evening dates that
16 would be beyond the rice harvest.

17 And at the end of this meeting, assuming we've been
18 able to coordinate the calendars, we will have an
19 announcement on whether additional dates will be possible.

20 Second, as I indicated before, I think, given the
21 number of things that we're going to be going through today,
22 if we move transmission line engineering to the end, there's
23 a very good chance it can be easily dealt with in the
24 evening meeting tonight. I don't think that will
25 inconvenience anyone here, since we're here for the day

1 anyway and the evening.

2 I appreciate the recommendation, and we'll try to
3 accommodate that.

4 COMMISSIONER KEESE: I would recommend that we ask
5 the audience today if it will be an inconvenience if we move
6 transmission -- I see some heads nodding.

7 MR. RATLIFF: I'm not sure the issue is transmission
8 line engineering, although we described to such. It may be
9 visual and land use, which are interaction of the location
10 of the transmission line, which suggests a separate route,
11 and land use is the agricultural impacts would be
12 considered.

13 Those are two areas that are perhaps the most
14 concern. The only interaction of the transmission systems
15 engineering, which are the -- might be whether or not it's
16 feasible to underground line.

17 (Discussion off the record.)

18 COMMISSIONER MOORE: You can argue that the nature of
19 the transmission interconnect could dictate the nature of
20 the impact. For instance, if it were possible to have a
21 line that proceeded in a pipe, cooled by oil or something
22 else such as they use, then you wouldn't have that kind of
23 impact, so people may be associating the two together. No
24 reason why the topic can't literally be discussed in both
25 places.

1 MR. RATLIFF: I just wanted to clarify there may be
2 more than transmission engineering as the issue.

3 COMMISSIONER MOORE: Seems like Mr. Valkosky is
4 slipping behind us with another card. Kevin Schroeder.
5 Nice timing.

6 MR. SCHROEDER: My name is Kevin Schroeder, and I
7 work for Calpine, and I can honestly say that probably
8 ninety percent of everybody here didn't get here by working
9 at McDonald's or Red Lobster.

10 I live here in Sutter County. I have a family. And
11 when I started here, I was trying to raise a family on four
12 fifty an hour. It was hard. Okay.

13 Companies like Calpine come here, employ people, and
14 you are able to raise your standard of living where you can
15 buy a house, get out of the society of poverty, basically,
16 so you can get ahead in life. And I think that's what is
17 good for this community.

18 Granted we have a million McDonald's, Burger Kings,
19 Jack in the Boxes that pay, you know, six bucks minimum
20 wage, whatever it is, but companies like Calpine come in and
21 employ people. Maybe it's only a few, but it's a good job,
22 and you are able to dig yourself out of a hole from where
23 you started, and you know, start a life and a good life.
24 Thank you.

25 COMMISSIONER MOORE: We have a fine that we require

1 you to pay not having filled out a blue card.

2 MR. HUNT: I'm Harry Hunt. I farm right next to the
3 Calpine out there on two sides, and I've been there for
4 nearly seventy years actually.

5 And now they are coming in with this, and everybody
6 wants their jobs, and I don't blame them a bit. Everybody
7 wants electricity, and I don't blame them a bit, but they
8 come into a rural area where we farmed for years and want to
9 put that in.

10 They already have the Green Leaf in there. And if I
11 understand it right, there's a hundred and ninety-five tons
12 of poison put in the air from that. I'm not sure if that's
13 a correct figure. Then they say this new one is two
14 hundred. I can't understand that, but the paper says it's
15 going to be two hundred and seventy-seven, and I'm told
16 that's equivalent of about sixty thousand or seventy
17 thousand cars running around out there for twenty-five miles
18 a day, every day of the year that NOx it puts out.

19 I don't know. That sounds to me like a lot of really
20 good air for us to be breathing. I and my two sons live a
21 half a mile from there. I don't know how much of that winds
22 up in our yard with our grandkids. My son has Hodgkin's
23 disease, which is cancer. I don't know if it was caused
24 from there. I don't know if you can say that it wasn't.

25 Now, there's a lot of people that can benefit by it,

1 but I don't know why it has to be in a rural area where we
2 have that -- they got the first generator in out there. It
3 isn't even an industrial.

4 Now they want to bring in an industrial track. They
5 say they only want to industrialize where they are going to
6 put the new generator. Then I read two or three different
7 places now where they talk about the whole seventy-seven
8 acres. That hasn't been clarified to me whether it's
9 seventy-seven acres or sixteen, whatever they call it.

10 COMMISSIONER MOORE: Let me tell that you on the
11 16th we're going to be considering the question of air
12 quality where we take the things you are saying very
13 seriously, as does the applicant and staff, so it would be a
14 day to listen and make further comments. I think you might
15 put that on your calendar the 16th. Okay.

16 Andy Jansen.

17 MR. JANSEN: Hello. My name is Andy Jansen. My
18 grandpa asked me to come down here today. We own
19 approximately a thousand acres right adjacent to the
20 property where they want to put the power lines right by us,
21 and we're still harvesting rice up by Lincoln, and we don't
22 -- I should be on a harvester right now. I came down for
23 this because this is more important right now.

24 I think -- can we move them to tonight? It would
25 help a lot of the people. We can get more people here who

1 want to speak on the issue of power lines and where they are
2 going to go.

3 COMMISSIONER MOORE: We're going to push it off to
4 the end of the day. I suspect -- in any case it will end up
5 being discussed tonight. We'll start at 6:30 at City Hall.

6 MR. JANSEN: The other issue I want to say is why
7 can't they build it in an industrial park somewhere rather
8 than right by farmers?

9 COMMISSIONER MOORE: One of the things we'll discuss
10 is the alternative sites which is included in the document
11 where they discuss each of the alternative sites in turn.
12 That will come up in this hearing. I suspect your question
13 will be addressed, if not answered.

14 MR. JANSEN: Have they talked about putting the
15 transmission lines underground at all?

16 COMMISSIONER MOORE: We can address that as it comes
17 up, but as a practical matter, to put lines of that volume
18 of heat underground requires very special engineering, so
19 we'll ask them. I think your question simply didn't come
20 up. It's prohibitively expensive. Thank you very much.

21 Mary Hansen.

22 HEARING OFFICER FAY: If I can interrupt. As
23 Chairman Keese reminded me, we want to make sure everybody
24 understands because it is confusing: Transmission line
25 engineering tends to deal with the electrical engineers'

1 point of view, how the electrons move safely through the
2 system.

3 Land use takes up topics like the location of the
4 transmission lines, and visual resources deals with the
5 visual impact of the transmission line.

6 I know a lot of you have those specific concerns, so
7 that will come up on November 10th, and if you come tonight,
8 we'll certainly take your comments on those topics.

9 But if you want to hear the discussion about how the
10 transmission line might affect your view or your use of your
11 land, I believe, including aerial application, staff will be
12 making its presentation and Calpine will on November 10th,
13 Tuesday.

14 MS. HANSEN: I have a couple of questions. I want to
15 make sure I understand how this process works. We were told
16 that we may do written comments, but we were told over here
17 that the written comments are only to address how you guys
18 or Western understood what was happening. I want a
19 clarification on that.

20 COMMISSIONER MOORE: No. You can address us with
21 written comments about any topic that is here, and I promise
22 you the committee will take up those comments prior to
23 writing our decision.

24 The whole purpose of these hearings, the whole
25 purpose of the application and the critique by staff, is to

1 allow the committee, which consists of two commissioners,
2 myself and Commissioner Keese, to write up a proposed
3 decision which we'll present to our colleagues.

4 So any time up to the point where the pen is hitting
5 the paper, you are certainly free to send comments to us,
6 and we'll take them into account.

7 MS. HANSEN: Because what I wrote down here was the
8 way that Western understood the information.

9 My next question is that is there a written summary
10 at the end of these hearings?

11 Because a lot of us are farmers. I'm in walnut. I'm
12 not in rice, and I need to get back to my ranch also, so is
13 there going to be a written summary at the end of this
14 meeting today so we can see what was discussed, or do we
15 need to sit here during our harvest time and listen to
16 everything that was said?

17 COMMISSIONER MOORE: There's a written record which
18 is produced, but it's not turned around in what you would
19 consider a timely fashion. It's not -- I mean, you can
20 imagine mechanically trying to transcribe the notes and get
21 them out. It's not done overnight.

22 MS. HANSEN: So the answer is no.

23 COMMISSIONER MOORE: At least in terms of a summary,
24 you won't see the point summarized, I think, until we
25 produce the presiding member's opinion.

1 MS. HANSEN: If you discuss something that we are
2 unable to be here at the meeting, you said we can come back
3 on the 16th. But at the same time it was said that you
4 would prefer that we be here during the discussions so that
5 the flow of information is not impeded.

6 COMMISSIONER MOORE: I think that's normal for anyone
7 who is conducting a hearing. You'd like to get it in
8 sequence. We will mechanically, after each topic, we will
9 invite people to speak about that topic. That doesn't
10 preclude you from coming back and saying something after the
11 fact. It's a logical flow for us to try to make sure that
12 all the things are grouped as closely as possible. It helps
13 us construct our own analysis, but it doesn't preclude you
14 from making any comments later on.

15 MS. HANSEN: So when does the final analysis going to
16 come out?

17 COMMISSIONER MOORE: We should be out the second week
18 in December.

19 MS. HANSEN: When will public comment on that part be
20 done?

21 HEARING OFFICER FAY: It will be open for thirty
22 days.

23 MS. HANSEN: During that time will you have meetings
24 or just written comment?

25 HEARING OFFICER FAY: Written comment period for

1 thirty days. Towards the end of that, perhaps five days
2 before the comment period closes, we'll probably have a
3 committee conference where people have the option of just
4 coming in and speaking.

5 MS. HANSEN: How often do comments at that time
6 change the plan?

7 HEARING OFFICER FAY: Well, what I intended to convey
8 earlier, I think that's what we are referring to that our
9 comments at that point will also include how the committee
10 interpreted things. You still may be commenting on the
11 basic plan, Calpine, but you would also be able to comment
12 whether the committee, in your view, is presenting evidence
13 the right way.

14 MS. HANSEN: How often do those plans get changed
15 after they are put together?

16 COMMISSIONER MOORE: There's no precedent for it
17 because the two commissioners that you are addressing today
18 have not set on a hearing of this nature before, so I can
19 tell you from myself, and Commissioner Keese can certainly
20 add what he will to this, but if evidence comes in after we
21 published the presiding members' opinion that is compelling
22 or that finds a flaw, I promise you it will be taken into
23 account, and I have a good history, I think, of admitting
24 where I make a mistake and trying to rectify it.

25 MS. HANSEN: Thank you.

1 that she cannot hear correctly. We hate to interrupt you,
2 but what is more important is that we have an accurate
3 record. I've authorized her to just cut people off and make
4 them speak more clearly or in the mike better if she cannot
5 hear what they are saying.

6 I ask your indulgence on that if she does that, but
7 I've told her that's what we need to create an accurate
8 record.

9 So with that, I'd like to ask Mr. Ellison, do you
10 have some exhibits that you want to introduce and mark for
11 identification at this time?

12 MR. ELLISON: Thank you, Mr. Fay. Yes, we do. Can
13 everybody hear me?

14 This evidentiary hearing is the beginning of the
15 evidentiary process, but it's certainly not the beginning of
16 the Energy Commission process, and a large number of
17 documents have been docketed and served on all parties in
18 this proceeding.

19 In order to have the record reflect those documents,
20 we would like to move them into the record. They are
21 incorporated by reference in Calpine's testimony. I've
22 handed out to the parties an exhibit list which Mr. Fay
23 asked us to prepare, which identifies the major documents in
24 this proceeding that have been developed so far that are
25 incorporated in that way. And what I would propose to do is

1 to move all of them as a batch.

2 Now, I understand, Mr. Fay, you would like us to
3 renumber some of these exhibits in order to remove the
4 distinction between staff exhibits and Calpine exhibits. I
5 assume the staff would be moving the admission of their
6 exhibits, and we would do that.

7 So I think the proposal would be from that list that
8 you have to renumber Calpine No. 1 as Exhibit No. 4, and
9 then it would continue down through what is on your paper.
10 Calpine 24 would become Exhibit No. 27, since there are
11 three staff exhibits, and the staff exhibits would then
12 become Exhibit No. 1, which is the Preliminary Staff
13 Assessment, Exhibit No. 2, the Final Staff Assessment, and
14 Exhibit No. 3, which is the staff errata to the Final Staff
15 Assessment.

16 Of most importance in these exhibits are -- first of
17 all, Exhibit No. 4, which would be the application for
18 certification that Calpine filed almost a year ago, eleven
19 months ago, and Calpine's testimony, which is the last
20 exhibit, Exhibit No. 27. And as I mentioned, the testimony
21 was filed and served on all parties in this proceeding on
22 October 23rd.

23 Not on this list are two stipulations that we've
24 entered into with the staff. First of which was entered
25 into and filed and served on all parties on October 26th.

1 That's probably the most important stipulation
2 because that's the agreement of Calpine to most, although
3 not all, but most of the filings and conditions in the Final
4 Staff Assessment, the stipulation that Calpine agrees to
5 those conditions.

6 On that stipulation we identified certain so-called
7 cleanup issues, and I'm pleased to say that all of those
8 cleanup issues have been resolved. So that stipulation
9 represents the agreement of Calpine to all of the findings
10 and all of the conditions in the Final Staff Assessment with
11 the exception of three areas.

12 We're still working on including air quality. We
13 have a disagreement with the staff regarding their finding
14 on visual resources and the significance of a visual impact,
15 and we have a disagreement with the staff on the discussion
16 of alternatives.

17 I emphasize, though, that none of those
18 disagreements, even if the staff position were to prevail in
19 this hearing, none of those disagreements go to the ability
20 of the Commission to approve this project. And the staff's
21 position, notwithstanding these disagreements, does
22 recommend approval of the project.

23 The other stipulation that we have -- I don't know
24 whether the committee wants to take these stipulations into
25 evidence or not, but the other stipulation we have concerns

1 the project benefits testimony of Beth Kientzle, which is
2 part of the testimony package filed by Calpine on the 23rd.

3 It's specific to that testimony, and essentially says
4 that the staff agrees with Calpine and her testimony that
5 there are benefits from the displacement of existing
6 resources by the Sutter project but that the staff were made
7 to do the same analysis might come up with a different
8 estimate of the amount of those benefits. And we have
9 agreed to that language as well.

10 So at this time, Mr. Fay, subject to your direction,
11 would propose to move into evidence Exhibit Nos. 4 through
12 27, which are the Calpine testimony and the various Calpine
13 submissions in this proceeding previously docketed and
14 served, which are incorporated into Calpine's testimony.

15 HEARING OFFICER FAY: If you are referring to the
16 document you passed out, I believe that will be 4 through
17 26, since the original numbering did not contain number 17.

18 MR. ELLISON: I stand corrected, yes.

19 HEARING OFFICER FAY: Now, regarding the alternatives
20 analysis, was that filed with your testimony?

21 MR. ELLISON: Yes, it was. You will find it at the
22 back of the testimony. There's a blue sheet that separates
23 Calpine's testimony with regard to the summaries of all of
24 the material that Calpine had filed previously. And there
25 is a section called "Project Benefits" beginning with

1 testimony of Elizabeth R.Y. Kientzle that testimony -- Beth
2 Kientzle's testimony addresses alternatives.

3 There is also an aspects of Calpine's testimony with
4 regard to transmission line engineering which is relevant to
5 alternatives of ultra support issue, and that begins at page
6 21 of Calpine's testimony.

7 Those are the two pieces of testimony that are
8 relevant to the concerns that Calpine has with the FSA on
9 alternatives.

10 HEARING OFFICER FAY: I just wanted to clarify where
11 that is located in the Calpine's filing testimony. It is
12 not indicated in the table of contents, but there is a
13 separate divider following FSA where the resumes are, and I
14 think that -- now, how would you propose identifying that,
15 just so we can have accurate pagination if it's part of the
16 same exhibit?

17 MR. ELLISON: As a housekeeping matter, presently
18 this entire testimony -- all of Calpine's testimony filed on
19 the 23rd would be Exhibit 26. It is paginated sequentially
20 up through that first blue separator, and Miss Kientzle's
21 testimony begins the supplemental testimony, which is not
22 paginated in that same sequence.

23 It might be more convenient for the committee, we're
24 certainly flexible on this issue, to identify those separate
25 pieces of testimony after the blue separator as separate

1 exhibits.

2 So for example, Miss Kientzle's testimony might
3 become Exhibit 27, and then there's some other testimony --
4 for example, there's some testimony from Gary Rubenstein
5 which might become a subsequently numbered exhibit.

6 We will prepare the exhibit list in any fashion the
7 committee wants it prepared, and we will submit to the
8 committee all of these documents to the project secretary.
9 I've discussed this with Mr. Fay.

10 HEARING OFFICER FAY: Yeah. I'd like the -- if
11 there's a risk of pagination being confusing at all, I'd
12 like them labeled as separate exhibits, so Miss Kientzle's
13 and Mr. Rubenstein's and any of those where there is an
14 overlap of pagination -- the main body of your testimony is
15 not a problem to be labeled a separate exhibit because we
16 can label every page, but for housekeeping so references
17 will be crystal clear and people won't be confused with a
18 separate identification.

19 So will the next one be Miss Kientzle?

20 MR. ELLISON: Yes. Miss Kientzle's testimony will be
21 Exhibit 27, and that testimony consists of, I believe,
22 eleven pages plus some appendices.

23 HEARING OFFICER FAY: That's the testimony of
24 Elizabeth R.Y. Kientzle on Potential Environmental and
25 Economic Benefits of Sutter Power Plant Project dated

1 October 23rd, 1998?

2 MR. ELLISON: That's correct.

3 HEARING OFFICER FAY: Any others?

4 MR. ELLISON: Yes. At the end of Miss Kientzle's
5 testimony, part of the same package filed on the 23rd, you
6 will find the testimony of Gary Rubenstein addressing Air
7 Quality, Sutter Power Project. That would become Exhibit
8 No. 28.

9 And the next after Mr. Rubenstein's testimony is the
10 affidavit of James Armand. I believe it's SARRE, S-A-R-R-E,
11 and that would become the next exhibit in order, 29.

12 And that's it with the exception of stipulations. If
13 the committee wants to take the stipulations into evidence
14 at this time, then I would propose that Exhibit 30 be the
15 stipulation filed by Calpine and the staff jointly on the
16 26th of October in which Calpine formalized its concurrence
17 with the Final Staff Assessment, except in the so-called
18 cleanup issues which, as I mentioned, I think we've
19 resolved, and in the areas of air quality, visual, and
20 alternatives. That would be Exhibit No. 30.

21 HEARING OFFICER FAY: And what is the face of that
22 exhibit? Can you describe it for the record?

23 MR. ELLISON: The face of the exhibit is -- the
24 caption of this proceeding is identified as Stipulation
25 Regarding Findings and Conditions and again it was filed and

1 served on the 26th of October pursuant to the direction of
2 the administrative lodging.

3 Exhibit 31, I would propose, would be the stipulation
4 regarding Miss Kientzle's testimony, which I also summarized
5 this morning.

6 HEARING OFFICER FAY: And the date of that?

7 MR. ELLISON: Date of that is today, November 2nd.

8 HEARING OFFICER FAY: Any other matters for
9 identification?

10 MR. ELLISON: No, not at this time. As we proceed
11 through the hearing, I suspect there may be some additional
12 things people may want to separately offer into evidence,
13 but in terms of offering evidence at this time, that's it.

14 MR. VALKOSKY: Several members of the audience have
15 requested that they be provided copies of Calpine's
16 testimony.

17 I want to know if there are any additional copies
18 available at this time?

19 MR. ELLISON: We did not bring additional copies.
20 We've served them on the entire service list as required.
21 What we will do, though, is we have with us today, in all of
22 those areas on today's agenda, a representative of Calpine
23 who is prepared to summarize what's in that testimony and to
24 discuss and answer any questions regarding it.

25 The testimony largely consists of in those areas

1 which are not -- in almost every area Calpine has agreed
2 with the findings and conclusions of the Final Staff
3 Assessment, so if you have the Final Staff Assessment, and
4 we've certainly talked about that, if you have the Final
5 Staff Assessment Calpine's testimony incorporates by
6 reference the Application for Certification and other
7 documents that have been previously filed and states our
8 agreement with what's in the Final Staff Assessment.

9 And as I say, we have people here who are prepared to
10 answer questions regarding Calpine's position on the issues
11 on the agenda today regarding that testimony, but the
12 testimony itself does not present information that is
13 substantially different than the Final Staff Assessment.

14 MR. VALKOSKY: Thank you, Mr. Ellison.

15 At this point at the request of the members of the
16 public, I would like to request that the committee consider
17 directing Calpine to bring copies -- extra copies of their
18 written testimony to appeal to the hearings as appropriate.

19 HEARING COMMISSIONER FAY: I think that's reasonable,
20 and what I'd like to ask: If there is a central person that
21 people are coordinating with where, in spite of the fact
22 that the members of public have chosen not to intervene, we
23 could at least ask Calpine to send copy of --

24 COMMISSIONER MOORE: Rather than identify a central
25 person, why don't we designate the public library as a

1 source which have reference library. It's a good central
2 place. Everyone knows where it is, rather than depend on
3 one person out in the community to use as a public resource.
4 Mr. Ellison is nodding at that time.

5 We'll designate the public library and resource
6 library as a source of dissemination.

7 (Discussion off the record.)

8 COMMISSIONER MOORE: Farm Bureau? All I'm proposing
9 is one central place. We can get from the library out to
10 the Farm Bureau, not a problem. That's a good call.

11 MR. ELLISON: Let me add Calpine is willing to send a
12 copy of its testimony to anyone who asks for it. If you
13 give us your name and address, we'll send you a copy of the
14 testimony. For those of you on the service list, you should
15 have received one already.

16 MR. VALKOSKY: I think in addition some other
17 concerns I've heard, I bring this for your consideration, is
18 that certain members of the public would like their own
19 individual copies of the testimony for a couple of reasons:
20 One would assist them in being able to follow these
21 proceedings as they unfold, and two, by having their own
22 copies, they would be able to take them home with them,
23 review them as time permits, and be better prepared to
24 participate in the hearings.

25 So as I understand it, the public concern would be

1 MR. ELLISON: Not at this time, no.

2 HEARING OFFICER FAY: Any objection to receiving
3 these documents into evidence as marked for identification?

4 MS. McMAHON: Gary, I do. There's a draft -- if it's
5 okay with Calpine, I'd like to remove the new numbered
6 Calpine No. 9, the biological assessment. I believe that's
7 a draft Western document.

8 MR. ELLISON: Is it your concern that it's a draft
9 and not the final?

10 HEARING OFFICER FAY: Because you don't want it into
11 evidence, or you just think it's mislabeled?

12 MS. McMAHON: No. We don't want it into evidence
13 until it's finalized. At this point in time it's only an
14 internal Western document.

15 HEARING OFFICER FAY: Is Calpine relying on this for
16 any purpose in its testimony?

17 MR. ELLISON: No. We were just interested in having
18 a complete record. If Western has a concern, we'll withdraw
19 the motion to enter that exhibit at this time. We may want
20 to discuss with you -- want to make sure if any of the
21 testimony relies on that. I don't think so, but if it does,
22 we may want to discuss with Western how to handle that
23 problem, but we'll withdraw the motion with respect to
24 Exhibit No. 9.

25 HEARING OFFICER FAY: We'll strike Exhibit No. 9.

1 There will be no Exhibit No. 9. We'll eliminate that and
2 hold that number.

3 Mr. Ratliff, have you looked at the exhibit list, and
4 do you have some documents to move into evidence?

5 MR. RATLIFF: Yes. The three first documents that
6 are on the list are the staff documents. That's the
7 Preliminary Staff Assessment, which is not offered as
8 testimony but merely for the information of how the staff's
9 position evolved; the Final Staff Assessment would be
10 document number two -- Exhibit No. 2 for us, which is the
11 testimony of the staff; and Exhibit No. 3 are the errata to
12 that testimony, which will give the precise wording to some
13 of the changes and conditions and in the analysis, mostly
14 nonsubstantive changes, but we offer that as well.

15 And those -- that errata, by the way, only goes to
16 those issue areas that have been identified as being offered
17 by declaration rather than by witness who will be present at
18 the hearing. The witnesses who are present at the hearing
19 may --

20 HEARING OFFICER FAY: At the time they testify?

21 MR. RATLIFF: At the time they testify.

22 HEARING OFFICER FAY: Do you have copies of that
23 errata?

24 MR. RATLIFF: Yes.

25 HEARING OFFICER FAY: Any objection to that,

1 receiving these documents? All right. I hear none.

2 Does CURE have any written testimony for which to
3 move into evidence?

4 MS. BROADWELL: No, we don't.

5 HEARING OFFICER FAY: Thank you. That concludes this
6 housekeeping aspect, and now I'd like to ask if Calpine is
7 ready to move forward with their testimony on soil and water
8 resources.

9 MR. ELLISON: Yes, we are. This is an opportunity to
10 explain how we are proposing to proceed in those areas where
11 there is not a disagreement between Calpine and the staff
12 with respect to presentation of testimony. We have
13 testimony which has been filed in these areas to document
14 the basis of that agreement.

15 What we would propose to do, as I mentioned, is to
16 have someone here who is available to sponsor that testimony
17 and answer any questions that the committee or the public or
18 any party may have regarding Calpine's position and to give
19 a very brief summary of it.

20 But as I mentioned, since we are in agreement with
21 the Final Staff Assessment findings and conditions, although
22 I should say, by the way, Calpine's agreements in all of
23 these areas only go to the FSA's findings and conditions of
24 certification. We don't necessarily agree with every word
25 that's in the analysis, but if there's an agreement on the

1 protection of soil and water resources addressed primarily
2 storm water runoff from the project as well as the
3 protection of soils from erosion during construction.
4 Calpine believes that the conditions that have been proposed
5 are adequate to mitigate any project impacts.

6 The groundwater usage, as I described earlier, has
7 been reduced by approximately ninety-five percent by the
8 change in the project from a wet cooling to a dry cooling
9 tower system.

10 HEARING OFFICER FAY: Since the staff is going to be
11 presenting soil impacts with water resource analysis, why
12 don't you go ahead and address water resources as well and
13 cover that.

14 MS. WARDLOW: What I just stated was all I have to
15 say.

16 HEARING OFFICER FAY: I see. All right. This is a
17 very brief summary.

18 And you've submitted Dr. Morath's declaration for the
19 record?

20 MS. WARDLOW: Yes, we have.

21 HEARING OFFICER FAY: Thank you. Mr. Ratliff, turn
22 to staff.

23 MR. RATLIFF: Are you asking us do we have questions
24 for the last witness?

25 HEARING OFFICER FAY: Yes. Do you have any

1 questions?

2 MR. RATLIFF: No, we don't. But I wasn't sure what
3 you were asking.

4 HEARING OFFICER FAY: CURE, as a matter of formality,
5 I hear you don't plan to cross-examine?

6 MS. BROADWELL: No.

7 HEARING OFFICER FAY: Ask the staff, then, to put on
8 their witness.

9 MR. RATLIFF: Our witness is Mr. O'Hagan.

10 Mr. O'Hagan, are you the author of the Final Staff
11 Assessment section for soil and water?

12 THE WITNESS: Yes, I am.

13 HEARING OFFICER FAY: Before he goes further, ask the
14 court reporter to swear the witness.

15 THE WITNESS: Joseph, J-o-s-e-p-h, O'Hagan,
16 O-apostrophe H-a-g-a-n.

17 (Witness sworn.)

18 MR. RATLIFF: Q. Mr. O'Hagan, do you have any
19 changes to make in your testimony at this time?

20 A. Yes, I do. On page 479 of the FSA, the third
21 complete paragraph down, there's a sentence that starts "In
22 addition, Sutter County" and goes on to say that "to be
23 consistent with requirements for other development within
24 the county, receive approval of the proposal from all public
25 and private downstream entities."

1 And the changes that the words "receive approval of
2 the proposal from" would be struck out and replaced with
3 "coordinate with."

4 So the sentence now would read "In addition, Sutter
5 County is requesting that Calpine, to be consistent with
6 requirements for other development within the county,
7 coordinate with all public and private downstream entities
8 that own or maintain these drainage facilities."

9 The other change is on page 483, condition soil and
10 water six. This is a change to be consistent with the one I
11 just discussed. There's two changes.

12 The seventh line starts saying "Specifically, this
13 report shall identify the volume of runoff anticipated from
14 the proposed site for a fifty-year," and then what's being
15 changed is "a" is being struck out and "the twenty-five and"
16 will be included.

17 So now the sentence will read "Specifically, this
18 report shall identify the volume of runoff anticipated from
19 the proposed site for the twenty-five and fifty-year
20 twenty-four hour storm, how this runoff will be accommodated
21 onsite, and the ability of the field drains, the North Drain
22 and Pump Plant No. 2 to accommodate these flows, especially
23 during ten-year, twenty-four hour or greater storms."

24 Then the next change will be the third line up from
25 the bottom of that paragraph where the sentence reads "The

1 plan shall also verify that the project's use of these
2 drainage facilities and any necessary improvements to them
3 has been approved by all public and private entities. And
4 "approved by" would be struck out and replaced by
5 "coordinate with."

6 So the sentence now reads "The plan shall also verify
7 that the project's use of these drainage facilities and any
8 necessary improvements to them has been coordinated with all
9 public and private entities that own and/or are responsible
10 for the operation and maintenance of all downstream drainage
11 facilities affected by project runoff."

12 Q. Does that complete all the changes that you have to
13 make in your testimony?

14 A. Yes, it does.

15 Q. Is it true and correct to the best of your knowledge
16 and belief those changes?

17 A. Yes, it is.

18 Q. Staff offers that as staff's testimony, and we would
19 ask Mr. O'Hagan at this time to summarize that testimony.

20 A. Okay. My analysis addressing soil and water resource
21 aspects of the proposed project specifically focusing on the
22 following areas of concern: How the proposed project's
23 water demand would affect water supply in the area,
24 groundwater quality in the area, whether the project would
25 adversely affect surface water resources, whether the

1 project would accelerate erosion or sedimentation, whether
2 the subproject would be subject to flooding or contribute to
3 off-site flooding and drainage problems, and whether the
4 project would comply with all applicable laws, ordinances,
5 regulations, and standards.

6 My analysis was based on information provided by
7 Calpine, members of the public, representatives from a
8 number of public agencies, including Sutter County Park and
9 Water Resources, Regional Water Quality Control Board,
10 Sutter Irrigation District.

11 Specific issues that are focused on, as I mentioned,
12 that the proposed project as originally described would
13 require an average of about four point three million gallons
14 of water per day. This would be groundwater pumped by a
15 number of wells located onsite. Peak use would raise that
16 amount to about six point three million gallons per day.

17 On average, then, over a whole year, the project
18 would require about four thousand eight hundred acre feet of
19 water per year. About ninety-five percent of this water
20 would be used in the cooling cycle.

21 Staff's concerns with this were how that the
22 groundwater pumping by the project would affect neighboring
23 wells, both domestic and agricultural wells. There was a
24 concern not only with the groundwater level drawdown but
25 also that the pumping would introduce brackish water to move

1 into the capture zones for these various wells and adversely
2 affect their water quality.

3 As Charlene has described, Calpine addressed these
4 concerns by the public, proposed this mitigation that the
5 project use dry cooling. This basically reduced the water
6 consumption on the project from over four thousand acre feet
7 to an average sixty-seven acre feet of water.

8 The project would actually consume more water during
9 peak operation over the course of the year. Calpine
10 estimates the project would now be using about two hundred
11 twenty-five acre feet of water.

12 My analysis looking at this drastically reduced
13 volume would be there would be no groundwater impacts off
14 the project site, the drawdown would be so minimal that it
15 wouldn't affect neighboring with wells.

16 The other issue that was of major concern was that
17 the project would be discharging from about two to two point
18 eight million gallons of waste water per day.

19 This waste water had a number of constituents,
20 including metal and dissolved solids present that were found
21 naturally in the groundwater but were concentrated through
22 the cooling cycle of the project.

23 There were concerns about whether this waste water
24 would violate water quality standards and also concerns
25 about the affects on biological resources. To address these

1 concerns, Calpine has proposed a zero discharge as a
2 mitigation measure.

3 Therefore now, the only water that will be discharged
4 from the site would be storm water drainage. The waste
5 water streams from the project will be either -- would be
6 put into a treatment basin and then any residuals would be
7 taken off-site.

8 The one-way stream that's identified would be brine
9 from the condenser would either be trucked off-site as a
10 liquid, placed in a crystallizer, which is an evaporator, or
11 put in an evaporator pond, which would require approval from
12 the district Water Quality Control Board. I have no
13 concerns with either of those three options.

14 Another concern that I had was how the proposed
15 project would affect drainage facilities, flooding and
16 drainage are problems common in the area. With the zero
17 discharge, several million gallons of water per day that
18 were going to be discharged have been removed.

19 I do have a condition in my testimony that addresses
20 -- that requires the applicant to do a analysis of the
21 effect of the storm water discharge on downstream facilities
22 to make sure they can adequately deal with the flows, and
23 also that the applicant retain storm water onsite during
24 ten-year, twenty-four hour recurrence or greater.

25 Based on this, my analysis is that the project would

1 not lead to any significant environmental impact during soil
2 and water resources.

3 I do recommend that Calpine identify which of the
4 three disposal methods they are going to use for the
5 concentrated brine and also that they indicate how --
6 whether they have access to the downstream drainage facility
7 they would be using for the storm water runoff.

8 Q. Does that complete your testimony?

9 A. Yes.

10 COMMISSIONER MOORE: Q. I have a couple questions
11 for you.

12 You've been talking about the storm water retention
13 pond and downstream acquisition of land, I'm assuming
14 through a lease or some other agreement in fee that would
15 allow you to achieve that.

16 At what point would be expect to see those and be
17 able to opine about their adequacy?

18 A. Calpine's proposal is to use the existing field
19 drains that are currently being used by Green Leaf I Power
20 Plant. These fields head south and west from the proposed
21 project until they reach the North Drain, which is a drain
22 maintained by the Department of Water Resources. And when
23 high levels of water are present, the water from the North
24 Drain is pumped over into the Sutter Bypass.

25 Calpine has indicated to me that they have easements

1 for all -- the whole length of the field drains with the
2 exception of one property owner where they have a verbal
3 agreement.

4 My thought prior to the FSA, before I was aware of
5 it, calpine was indicating they had easements or owned it
6 outright fee simple.

7 Q. How big a storm water retention pond would you
8 estimate?

9 A. The analysis I did is that -- there's a lot of
10 variables involved: How deep you want to build your pond
11 and stuff, but I was looking at about ten acres.

12 Q. It can be done onsite?

13 A. Yes. The parcel they have is, I believe, total of
14 seventy-seven acres. They are only going to be developing
15 sixteen.

16 Q. Why did you change your recommendation from "to be
17 approved by all public and private entities" to "coordinated
18 with?"

19 A. The change was in light that Calpine pointed out that
20 it really would give downstream property owners the right to
21 veto any necessary actions that Calpine would need to do to
22 maintain the drainage ditches. If Calpine has easements to
23 those drainage ditches, they have the right to maintain
24 them. If Calpine is proposing something outside the
25 existing easements, really, they'd need to get an agreement

1 from the property owner to do that. I didn't want to put
2 staff in the position of refereeing.

3 Q. This only pertains to those areas where there is an
4 already established easement for the --

5 A. Yes. But they need to, obviously, establish access
6 for the one property where they don't have an existing
7 easement.

8 COMMISSIONER MOORE: Thank you.

9 HEARING OFFICER FAY: We didn't mean to bypass the
10 parties on that.

11 Do you have any cross-examination?

12 MR. ELLISON: I do have one question just for
13 clarification of a Final Staff Assessment.

14 MR. ELLISON: Q. Mr. O'Hagan, do you have the
15 Final Staff Assessment? If I could ask you to refer to the
16 Executive Summary. It's page Roman numeral four of the
17 Executive Summary right at the very beginning.

18 Have you found that page?

19 A. Yes.

20 Q. Referring to the first full paragraph after the
21 numbered paragraphs two through four, the second sentence
22 reads "These mitigation measures effectively reduce the
23 above identified potential significant impacts to a level of
24 insignificance, except for visual resources and storm water
25 runoff."

1 You just testified that your analysis supports the
2 conclusion that there is no significant impact for storm
3 water runoff.

4 Should this be corrected?

5 A. Yes. Just to reiterate, my analysis is that with the
6 implementation proposed, that storm water would not be a
7 significant impact.

8 Q. It would be appropriate to strike "and storm water
9 runoff" from that sentence?

10 A. Yes.

11 MR. ELLISON: That's all I have.

12 HEARING OFFICER FAY: Thank you. Miss Broadwell,
13 since CURE has indicated they do not have cross-examination,
14 I'll just leave it up to you to jump right in if you have a
15 change in that general comment; all right?

16 MS. BROADWELL: That would be fine. It's not
17 necessary to ask me each time.

18 HEARING OFFICER FAY: I apologize to the committee
19 for skipping over after Miss Wardlow.

20 Now I'd like to ask if there's any questions from the
21 committee regarding Calpine?

22 MR. PITTARD: Joe, I have one question for you on the
23 evaporation quality option, were there any bio -- biological
24 resources concerns, like wildlife?

25 I know in past cases our biologists have been

1 concerned with the attractiveness of ponds to different
2 birds and some of the concentrations, different chemicals in
3 those ponds.

4 Is that considered in this situation?

5 MR. O'HAGAN: Yes. I know that Linda Spiegel, the
6 staff biologist, has concerns about that from a purely water
7 perspective. I don't have a concern with the evaporation.

8 MR. PITTARD: So if we want to ask questions about
9 bio resources, pass it to Linda?

10 MR. O'HAGAN: Yes.

11 HEARING OFFICER FAY: Any other questions of either
12 witness?

13 Miss Wardlow, I think we might as well get this out
14 since it's on the minds of some of the people in the
15 audience.

16 Page 95, in soil's summary, citing "surrounding area
17 are designated farmland of statewide importance."

18 Why select a site on prime ag land for a power plant?

19 MS. WARDLOW: There's already an existing power plant
20 at the location that was permitted approximately 1985/1986
21 by Sutter County for approval, and that's one of the reasons
22 that Calpine selected this location for this new project is
23 we already have an existing power plant and industrial
24 project on this parcel.

25 HEARING OFFICER FAY: Thank you. And on page 97

1 regarding the natural gas pipeline, how long is the surface
2 disturbance likely to occur during construction of the
3 natural gas pipeline?

4 MS. WARDLOW: My understanding is that PG&E or the
5 contractor is capable of opening a section, laying a pipe,
6 and closing it back up within a couple days or a week's time
7 frame. They usually install sections at a time. So they
8 trench open fairly large sections, lay the pipe, and close
9 it fairly rapidly.

10 HEARING OFFICER FAY: So what would a bracket be of
11 the time of disturbance? A week?

12 MS. WARDLOW: I think a week to two for maybe one
13 section. You know, part of it would be dependent on weather
14 conditions, but we are proposing to construct during the dry
15 season of the year.

16 COMMISSIONER MOORE: Let me take off on an edge of
17 Mr. Fay's question. This is probably directed to
18 Mr. Ellison most appropriately.

19 There are seventy-seven acres at the site, and the
20 cogeneration plant did not use all of that land.

21 Was there a plan originally for an additional
22 cogeneration plant?

23 I'm going to the point that says "Why here?"

24 One obvious reason "why here" is you control the
25 land, and I'm assuming own it in fee, so was there a plan

1 for a future power plant at some point?

2 MR. ELLISON: At the time the Green Leaf I was built,
3 it was not owned by Calpine, so we can't speak to what the
4 intentions of the original owner were.

5 At the time that Calpine acquired the project, I
6 think it's fair to say that one of the reasons they acquired
7 the project was because they felt not only was Green Leaf I
8 a good power plant, but this way very favorable site for the
9 additional facilities like Sutter.

10 MR. HILDEBRAND: The timing of that acquisition was
11 early 1995, so deregulation had not fully taken place, so I
12 think the acquisition of Green Leaf I and II, any additional
13 development related with those assets was pretty speculative
14 at that time. None of the acreage on the seventy-seven-acre
15 parcel has been in active ag production since the Green Leaf
16 I facility was built.

17 COMMISSIONER MOORE: Thank you.

18 HEARING OFFICER FAY: Thank you. And I have a few
19 questions of Mr. O'Hagan.

20 HEARING OFFICER FAY: Q. I don't recall if you
21 stated with your testimony the Conditions of Certification
22 and your corrections: In your view, will the project comply
23 with all the laws, ordinances, regulations, etcetera?

24 A. Yes, it will.

25 Q. And the retention basin -- storm water retention

1 basin, whatever size it's determined to be, is that just a
2 function of berming up just like you would for rice just to
3 create low berms?

4 A. That is one possible solution. Another one,
5 obviously, you could go with a lined pond. I think then
6 there's a question, though, if it's unlined you get into a
7 drainage issue. At times the groundwater is coming up
8 within a foot or two of the surface, so I think you might
9 have problems with that under circumstances such as those.
10 But I think that's one of the things that Calpine needs to
11 evaluate in terms of its proposal.

12 Q. And you indicate on page 479 that there will be a
13 field study to evaluate the ability of the drainage system
14 to handle storm water.

15 What standards would be used to judge that?

16 A. Well, basically you are looking at your drainage
17 ditches, you are looking at the amount of growth in them, as
18 well as the size of the drainage ditches, whether they can
19 accommodate the estimate flows from the site, as well as
20 flows from adjacent fields because they are also used by
21 adjacent rice fields, things like that, there would be storm
22 water generated there.

23 There is culverts that pass underneath the Sutter
24 Extension Irrigation District. They would need to evaluate
25 whether those culverts are properly sized and accommodate

1 these flows.

2 Q. So you feel there is an objective way to analyze it?

3 A. Yes. And actually, I'm aware that Calpine has done
4 some of this already, coupled with the water quality
5 modeling efforts they were doing.

6 Q. And on your appraisal of cumulative impacts, the
7 project should not contribute to adverse cumulative impacts
8 regarding drainage or flooding, is that even during flood
9 times, in your opinion?

10 A. During flood times? Well, the whole area is what
11 they call the Flood Hazard Zone X. That's because the area
12 would be, I guess, a hundred-year floodplain, if it wasn't
13 for the levies along the floodplain and rivers. If the
14 levies fail or they are over the top, the flooding could be
15 quite extensive in the area.

16 The amount of land being taken up by the project in
17 terms of such a flood wouldn't have an effect on diverting
18 the flow somewhere it wouldn't have gone to otherwise.

19 Q. But let me ask the same question in terms of heavy
20 rainfall: What standard do you use to determine that the
21 project would not have a cumulative negative impact during
22 heavy rainfall?

23 A. Right. Well, we have -- the county, rather, has
24 developed rainfall factors for different storms, whether
25 it's ten-year, twenty-five year, twenty-four hour storm,

1 ten-minute storm, and that you would estimate based on the
2 coverage of the area.

3 So a lot of the area that would be road construction
4 or pavement you have a hundred-percent pavement. Some of
5 the area might be gravel where you have a fair amount of
6 infiltration into the water or vegetation, so Calpine would
7 sit down and use methods to estimate what these flows would
8 be, and they would then have -- those flows could either be
9 accommodated into the field drains or need to start
10 retaining those storm water runoff on the site and the
11 ponds.

12 Part of the problem with that is to try to evaluate
13 how long that water may need to be retained before it could
14 be discharged or that they could discharge some but maybe at
15 a reduced flow so the downstream facilities could handle
16 that. That will be addressed in the study that is
17 referencing that condition.

18 HEARING OFFICER FAY: And I'd just like to ask, just
19 for the record, Mr. Carpenter, if you can tell us, as far as
20 the Sutter County Planning Staff is concerned, do you concur
21 with the staff's appraisal in the FSA regarding soil and
22 water resources?

23 MR. CARPENTER: At this time we've reviewed the Final
24 Staff Assessment in the soil and water resources section,
25 and we do concur with the conditions as recommended. Our

1 office does not have an official position yet on it and will
2 not have that out probably until our staff report for the
3 planning commission hearing on November 18th, which will be
4 on November 12th.

5 HEARING OFFICER FAY: Would that be the same answer
6 for all the subjects we're going to deal with today?

7 MR. CARPENTER: Not necessarily. We may have
8 specific comments on some areas.

9 HEARING OFFICER FAY: All right. Thank you, very
10 much.

11 (Discussion off the record.)

12 COMMISSIONER KEESE: My question is: Mr. Ellison
13 asked the staff to delete a comment in the front in the
14 Executive Summary indicating there was a significant impact
15 and staff agreed to that.

16 Have we formally done that?

17 HEARING OFFICER FAY: Yes.

18 COMMISSIONER KEESE: Mr. O'Hagan, you agreed to that?

19 MR. O'HAGAN: Yes.

20 HEARING OFFICER FAY: It's getting onto lunchtime
21 now, and I think what we'd like to do, that concludes taking
22 evidence on soil and water resources and the summaries of
23 the witnesses. We'd like to break now and return and 1:45.

24 COMMISSIONER MOORE: Thank you very much.

25 (Discussion off the record.)

1 MR. FOSTER: Brad Foster. Water resources, this
2 site, seventy-seven acres, existing plant on the site uses
3 six hundred gallons a minute of water. This is more water
4 than any operation in the area uses per year.

5 Prune juice two-acre feet per year for irrigating a
6 prune orchard. I will admit they've lowered water
7 consumption, but now we're going to add another two hundred
8 gallons a minute, eight hundred gallons a minute. It
9 doesn't sound like much, but on a drought year, we might be
10 down there again.

11 We shut our pumps off. Our pumps are
12 twelve-hundred-gallon-a-minute pumps, roughly maybe a little
13 less. It's an older pump. We run them a week out a month.
14 Do this three, four months out of the year shut them off to
15 allow the aquifers to recharge.

16 A drought year with the constant pumping, sure, it's
17 only eight hundred gallons a minute, but if these pumps
18 don't shut off, the aquifers are not going to recharge.

19 Another issue I have is with the brackish water
20 retaining pond. We get heavy rains down there. We have
21 water standing everywhere you can see. What is going to
22 keep the brackish water in the retaining pond when a piece
23 of property is under water?

24 And another concern that -- a question I heard asked
25 was is this piece of property going to have another power

1 plant put on it.

2 This is from the use permit from 1984, it states in
3 the property description "site of seventy-seven-acre parcel
4 which has a quarter-mile frontage to Township Road and
5 half-mile deep. The plant will occupy six point five
6 acres." This is the original plant out there now.

7 "The site and structure will be located approximately
8 five hundred feet off the county road in the center of the
9 parcel. A twenty-four-foot-wide asphalt road will be
10 constructed from Township to the plant site. The remainder
11 of the parcel will not be used for the plant will remain in
12 agricultural production."

13 This is what we were told. I heard the question come
14 up during that, that's why I'm asking.

15 COMMISSIONER MOORE: I appreciate you bringing it up.
16 As Mr. Fay indicated, the question of land use, which is the
17 relationship of the county general plan to this project, is
18 going to come up not only in these hearings, but it will be
19 a subject of debate by the county planning commission and
20 board of supervisors, so that question of whether or not
21 they are going to maintain that language, which you just
22 read, is clearly on the table.

23 MR. BURKE: My name is Jerome Burke. I live here in
24 Sutter County, although I'm not a neighbor down of Calpine's
25 project.

1 I did have a question here on the concentrated brine
2 retaining ponds: Are those going to be lined, clay lined?

3 MR. O'HAGAN: Yes. They would be what Regional Water
4 Quality Control Board would identify as a class two. It
5 would be -- it would be -- they would probably have a double
6 liner, actually. You'd have a leakage detection equipment.
7 There's monitoring requirements.

8 So if there's a problem, you know, this is away
9 streams, a small flow, but if there's problems, your
10 detection is beneath the liners, would catch that, and they
11 could identify the problem.

12 HEARING OFFICER FAY: And there was one other
13 gentleman who wanted to make a comment.

14 MR. RUSSELL: Yes. My name is Paul Russell. I'm
15 with Sutter Extension Water District. I would like to know
16 where the alternate supply of water, if they are planning to
17 have a alternate supply of water, in case brackish water
18 enters our system, how would that be addressed?

19 HEARING OFFICER FAY: Did that come up in -- Miss
20 Wardlow, can you address that?

21 MS. WARDLOW: The groundwater modeling that was done
22 by Calpine had the original proposed average of three
23 thousand gallons per minute showed that historically this
24 included groundwater data that Department of Water Resources
25 have collected since the early 1920s, that the groundwater

1 supply in that part of Sutter County would never be an issue
2 for the project.

3 So to answer that specifically, we have not looked at
4 an alternative water supply that is not based on groundwater
5 wells at the project. We will drill a backup well, so for
6 example, if the pump fails in the well that's supplying that
7 we do have backup, but we're not planning an off-site
8 alternative source.

9 MS. EMERIL: Cookie Emeril. I had some concerns
10 about during drought years. Those of us that have lived
11 there through drought years, we got severely limited to the
12 amount of water prune trees could have.

13 We were told this year by Sunsweet that they are
14 monitoring our soil, and if we put certain things in our
15 soil and it's not good for our soil, we can't sell them our
16 prunes.

17 Do we know for sure that what's going to come
18 downstream during a drought year or other years is going to
19 affect our trees?

20 I'd like to know who the easement is with for the
21 drainage water, where it's going to go.

22 COMMISSIONER MOORE: Let me ask Mr. Ellison that.

23 Mr. Ellison, I'm assuming the names of owners of the
24 easements -- I'm sorry -- names of the owners of the
25 property on which there is an easement are in one of your

1 exhibits; is that correct, Chris?

2 So you've got a map that literally shows the easement
3 line over an APN page, for instance?

4 MR. ELLISON: I believe that the names of the
5 neighboring property owners are identified as part of the
6 transmission line map and the route of the drainage is
7 certainly identified, so one could, from the exhibits, get
8 the names that you are looking for. I don't think there is
9 a specific exhibit that lays out the names of the --

10 COMMISSIONER MOORE: By looking at the map that shows
11 the names of actual landowners, you can see the easement and
12 it's on their property?

13 MS. EMERIL: If we know which way the drainage is
14 going, which way because we've been told two different ways
15 the power lines are going.

16 MR. ELLISON: The information about the route of the
17 drainage is definitely in the document and --

18 COMMISSIONER MOORE: There's only one of those.
19 There's no alternative on that, okay.

20 MRS. FOSTER: Rosie Foster. I live near the plant.

21 One of the things that just came up: Department of
22 Water Resources, we called them regarding these water
23 studies. They stated emphatically do not use those studies,
24 that they would not be reliable in a case such as this.

25 COMMISSIONER MOORE: Who did you talk to?

1 MRS. FOSTER: I don't know the name, but Ethel
2 Mackelfresh, she was from the community water area -- Sutter
3 Community Water Area, she can also testify to this fact.
4 She's the one that noticed it first.

5 As for as easements, I think that's very important
6 because we've been told by one of the farmers that would be
7 holding one of the easements there is no easement.

8 We have not a lot of faith in Dr. Morath. They
9 provided two hydrologists: One was Dr. Morath. One was
10 Mr. Martin. I'm not sure if it's doctor or not, and they
11 both disagreed with each other. Dr. Morath said that living
12 between two rivers, the Sacramento and Feather River, had no
13 effect on rural groundwater availability. And Mr. Martin
14 had a conflict with that at one of the public workshops.

15 We'd also like to know who takes priority for water
16 in dry years, will it be ag or industry? How will that be
17 balanced.

18 As far as the location on the choice on prime ag
19 land, our hopes is that when the PG&E contract is up in a
20 number of years now, that if we don't change this to an
21 industrial site, that when it's done, it will go back into
22 the farming, which the remainder was supposed to remain in
23 farming, which my husband showed, and that's what we'd like
24 to see it go back into, so there will be no hampering on the
25 ag lands in the area.

1 COMMISSIONER MOORE: Mr. Richins, perhaps after lunch
2 can pick up on that one question of the priority in the
3 drought year, who has --

4 MR. O'HAGAN: I can answer it right now. For the
5 groundwater, there is no controlling mechanism.

6 COMMISSIONER MOORE: First in line, first in right
7 for surface water doesn't pertain to that?

8 MR. O'HAGAN: That's correct. Part of the problem
9 for the local areas during the droughts, a lot of the
10 agricultural, the Sutter Extension Irrigation District
11 provides Feather River water. When there's cutbacks in the
12 amount of Feather River water, people turn to pumping
13 groundwater in past during droughts, there has been a
14 significant drop in the groundwater table that has, into the
15 drought, has rebounded pretty well.

16 But in terms -- to reiterate, in terms of mechanisms,
17 people pumping ground water in drought or extremely wet
18 year, there is no mechanism for priorities.

19 COMMISSIONER MOORE: Thank you. I think we'll break
20 now for lunch.

21 MS. WOODS: I've got a short comment. We've got the
22 closest ag well, probably, to Calpine to the existing Green
23 Leaf thing, and at the end of the drought year, we had to
24 lower our well because the darn thing just come out, you
25 know, groundwater got too low for it to pump, and we had to

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AFTERNOON SESSION

(Whereupon, the appearances of all parties having been duly noted for the record, the hearing resumed at 1:58 p.m.)

COMMISSIONER MOORE: Can I ask everyone to come back and take their seats, please.

Welcome back after our luncheon break. We're going to proceed with the agenda today. Let me give you an idea of timing as far as remarks go.

We'll continue the afternoon session until approximately 5:00 o'clock. At 5:00 o'clock we'll take a dinner break. We'll return here at 6:30, and then we'll entertain public comments in the evening session as well.

As I indicated previously, transmission line engineering will come up at the last part of our session, which may mean that it's taken up in the evening, but as my colleague Commissioner Keese has pointed out, transmission line engineering really doesn't address the problem that many people are concerned with, which is the siting of the transmission lines themselves, the visual impacts, or the land use considerations that the county will give transmission lines.

As a consequence, this question of where transmission lines are located and the nature of the connect in the context of land use plans will be treated in some depth at a later hearing on the 10th.

1 Application for Certification for Calpine. I've been doing
2 biological studies in that particular project since January
3 of '97.

4 HEARING OFFICER FAY: Go ahead.

5 MR. ELLISON: Q. Miss Crow, do you have a copy of
6 the testimony that was filed as Exhibit 26 and specifically
7 the biological resources section beginning at page 83?

8 A. Yes.

9 Q. Attached to that is a declaration.

10 Do you see that, Declaration of Deborah Crow?

11 A. Yes.

12 Q. It's dated October 22nd, 1998.

13 Is that your signature on that declaration?

14 A. Yes.

15 Q. Would you please summarize for the committee and for
16 the audience your testimony on biological resources?

17 A. Sure. When we do the biological resource studies, we
18 -- I looked at about a ten-mile radius out from the project
19 site to look at the vegetation habitat types, wildlife
20 usage, and looking for threatened and endangered species
21 that could use the area.

22 And that overlay shows the project site in green in
23 the middle of the rice fields, and it's looking west, so you
24 can see the Sutter National Wildlife Refuge in the
25 background there and further west is the Sacramento River.

1 On the plant site, the seventy-seven-acre parcel,
2 there are several habitat types. Green Leaf I is in the
3 center of that picture there.

4 The major habitat type is annual grassland. That's
5 the green out in the area, and the acreage that will be
6 taken by the Sutter Power Plant is the sixteen acres
7 outlined in black out there, including the X, and the site
8 also has seasonal wetlands that are outlined in blue, I
9 think, and there will be five point eight three acres of
10 wetlands that will be mitigated. They aren't losing that
11 many acres of wetland, but they will mitigate for the entire
12 area to avoid temporary impacts to those wetlands during
13 construction.

14 Also there's -- the annual grassland is habitat for
15 the threatened Swainson's hawk, and so the entire sixteen
16 point seven three acres is considered Swainson hawk habitat.
17 We're mitigating for that. There's two point seven acres on
18 that site that is giant garter snake upland habitat, and
19 that's all for that site.

20 Then in the gas pipeline route the habitat types are
21 mostly annual grassland along these irrigation ditches, and
22 this is a photo going through the Sutter Refuge with the
23 brand new paved road, and it shows that there are shoulders
24 on that road where the pipeline will be placed.

25 It's either -- depending on the rainfall for that

1 year as to whether it blows out the road, then they can put
2 it underneath the pavement of the road. Otherwise it will
3 be on the shoulder for easier access for maintenance and so
4 forth. And that pipeline will be temporarily disturbing the
5 habitat along that. They'll revegetate it afterwards.

6 And the mitigation to compensate for impacts to these
7 vegetation types and habitats for the threatened and
8 endangered species is summarized here where there's sixteen
9 point seven three seven acres of Swainson's hawk habitat
10 that will be mitigated, fourteen point seven acres of giant
11 garter snake habitat that will be replaced, and five point
12 eight three acres of wetlands.

13 When they end up mitigating for -- at the ratios that
14 were negotiated with the Natural Resource agency, then
15 they'll be mitigating twice as much land -- enhancing and
16 preserving twice as much land as what they are taking.

17 HEARING OFFICER FAY: Excuse me. Miss Crow, do we
18 have all these in the record in your testimony, including
19 the photographs?

20 THE WITNESS: Not those particular photographs, but
21 you have others.

22 HEARING OFFICER FAY: Can we have those for the
23 record?

24 MR. ELLISON: Yes. We'll make sure that those
25 photographs are submitted for the record.

1 HEARING OFFICER FAY: Copies of them to the docket
2 and have to be served.

3 MR. RICHINS: I'd suggest that the very first slide
4 that you had might be useful when we discuss the westerly
5 transmission line route as well later today.

6 MR. ELLISON: Do you want to identify those now as
7 exhibits for convenience?

8 HEARING OFFICER FAY: Yes. Just to be sure we have
9 it. Our next exhibit number is 32.

10 Do you want to describe those for the record?

11 MR. ELLISON: Assuming we want these to be one
12 exhibit, this would be two photographs, one of the power
13 plant site looking west, and one of the proposed natural gas
14 line that were used in the explanation of the biological
15 resources testimony of Deborah Crow.

16 Sorry, was there a third photograph? I apologize,
17 too busy taking notes. Three photographs, an overview
18 photograph as well.

19 MR. ELLISON: Q. Deborah, that final slide is in
20 the testimony already?

21 A. The table, yes. There's a slight correction on that
22 table, though.

23 Q. Why don't we go ahead, and do you have any other
24 corrections that you need to make to your testimony?

25 A. Just two minor corrections on the testimony.

1 Q. Is your testimony complete other than that?

2 A. Excepting to just list the different mitigation
3 measures that Calpine is going to use, if you needed to know
4 that again. It's in the testimony.

5 Q. Why don't you list the mitigation measures, and we'll
6 summarize the corrections that you have to your testimony.

7 A. Besides the habitat compensation for the areas that
8 are going to be permanently impacted, revegetation of the
9 temporarily disturbed areas, like lay-down areas in the
10 pipeline route, will be done after construction.

11 And there's no aquatic or fish impacts anymore from
12 the project because they changed to dry cooling, so all of
13 the waterways that support fish will be bored underneath
14 with a pipeline so there's no trenching through the
15 waterways.

16 There are going to be doing construction on that
17 pipeline and in giant garter snake habitat during their
18 habitat period, which is during the summer. Calpine will be
19 setting up construction zone limits in sensitive areas, like
20 wetlands in the refuge or other sensitive wetlands on the
21 site during pole construction.

22 Preconstruction surveys will be conducted for
23 Swainson's hawks and giant garter snake and any other
24 potential nest sites along the routes that could not be
25 identified or were not there during the original surveys.

1 There will be a designated biologist onsite during
2 ground breaking events and available throughout the
3 construction period to give worker awareness training and
4 make sure all the compliances have been met.

5 The transmission line will be monitored on a
6 quarterly basis to determine if there are sensitive
7 endangered birds that are -- they are striking the lines,
8 and wetlands will be monitored for at least the first year
9 of construction.

10 Transmission lines will be fitted -- the top ground
11 wires will be fitted with bird flight diverters to enhance
12 the visualness of that top line. It also helps with the
13 crop dusters so they can see the lines that are there.

14 On the site they are going to mow instead of disk
15 because it is considered giant garter snake habitat so they
16 will mow to a height of six inches.

17 And if they are going to use the evaporation pond,
18 there's going to be measures put in place to deter birds and
19 prevent them from getting in there for a net flagging,
20 flashing --

21 Q. Why don't you describe the corrections that you have
22 to your testimony.

23 A. On page 87 the electric transmission line section,
24 it's supposed to be thirty-two single metal poles instead of
25 thirty-four.

1 And in that next paragraph the switchyard size is two
2 point two acres of grassland or a rice crop instead of two
3 point one. This incorporates a ten-foot wide area that's
4 going to be kept bare on the outside of the switchyard.

5 And that change in acreage affects the table, the
6 acreage in the table also. For everywhere where it says
7 switchyard is two point one it should be two point two.
8 That's it.

9 Q. You've reviewed the proposed biological resources
10 findings and the decisions in the Final Staff Assessment?

11 A. Yes.

12 Q. Are they all acceptable?

13 A. They are now. Biological -- the Conditions of
14 Certification BIO-11, number seven, said to put the pipeline
15 underneath Hughes Road. Well, we know that we can put it
16 alongside the shoulder also, so that's something that they
17 are going to correct.

18 Q. This is one of the cleanup issues we identified in
19 our stipulation?

20 A. (Witness nods head.) And BIO-13 it says that there
21 will be a nonrefundable mitigation fund, and the company
22 that Calpine is looking to use wildlands is willing to
23 refund mitigation dollars if the acreage impacted is less
24 than what was originally proposed.

25 MR. ELLISON: That completes our testimony.

1 HEARING OFFICER FAY: Is Miss Crow available for
2 cross-examination?

3 MR. ELLISON: She is.

4 HEARING OFFICER FAY: Staff have any questions of the
5 witness?

6 MR. RATLIFF: No.

7 COMMISSIONER MOORE: You know, I do have a question.

8 You gave a figure that was very, very precise down to
9 thousandth of a digit in terms of Swainson's hawk habitat
10 that would be lost, and I'm curious: How could you quantify
11 something to such detail when, in fact, probably the range
12 of those birds is measured in square kilometers as opposed
13 to square yards?

14 And so I'm wondering what the value of quantifying to
15 such a level of precision really is.

16 THE WITNESS: The acreage taken for each transmission
17 pole was included in that, and there was thirty-two poles,
18 forty inches in diameter, came up to point zero zero seven
19 acres, so we included that.

20 COMMISSIONER MOORE: Perhaps I'm not asking my
21 questions correctly. If you put yourself in our shoes, and
22 you try to ask what the impact on the habitat is by that,
23 having a measurement that's so precise doesn't really give
24 me a feel for the question "So what?" What do I do with
25 that information?

1 I'm dealing with a bird that's probably, who knows,
2 hunts in a range of ten or fifteen square kilometers a day.

3 What does it care if there's a loss of tenth of an
4 acre or something else? What does that do to the bird or to
5 the family of birds? What happens as a result of that?

6 THE WITNESS: It reduces the forage habitat that it
7 has, even just a tiny bit. We just need to address all of
8 the impacts from Fish and Game standpoint.

9 COMMISSIONER MOORE: It clearly impacts it by
10 eliminating a portion of the habitat, but I -- and at the
11 risk of sounding heretical, so what?

12 COMMISSIONER KEESE: I think it sets a number to
13 mitigate.

14 COMMISSIONER MOORE: It does and it doesn't. At some
15 point the threshold may be so minuscule it simply doesn't
16 matter. In other words, if you pull out ten square meters
17 of habitat, for all practical purposes, the birds shift off,
18 forages in the next field over.

19 I'm trying to get a sense of the magnitude. I get
20 the precision. I understand how you got that number. I
21 guess in all of the dealings with these kinds of energy
22 matters, I have to ask the question: What does the level of
23 precision give me as far as the decision-making tool? Is it
24 significant? Is it not?

25 I'm assuming it's not at that level, so I'm just

1 asking why go the three significant digits, why not say X
2 square meters or something?

3 THE WITNESS: Like roundup or something? Well, it's
4 -- mitigation costs are by acreage, and if you roundup to a
5 significant number, then you could be paying a couple
6 thousand or more for mitigation.

7 COMMISSIONER MOORE: So it's a monetary issue in this
8 case?

9 THE WITNESS: Yes.

10 COMMISSIONER MOORE: Thank you.

11 HEARING OFFICER FAY: If there's no other questions
12 from the committee, I have a few.

13 HEARING OFFICER FAY: Q. Did you examine
14 potential impacts on the Sutter National Wildlife Refuge
15 from the project?

16 A. Yes.

17 Q. And could you briefly summarize what they are likely
18 to be in terms of environmental impacts?

19 A. In the refuge there's giant garter snake habitat.
20 The gas pipeline will be placed alongside irrigation canals,
21 which are considered giant garter snake, aquatic habitat, if
22 we have fish and amphibian prey species.

23 The waterways, the two channels, could be chinook
24 salmon migration habitat, as well as Central Valley
25 steelhead and Sacramento splittail, all endangered,

1 threatened, special status species.

2 Q. And was the agency that administers the Sutter
3 National Wildlife Refuge consulted?

4 A. Yes.

5 Q. Does the project have its permission to go forward
6 with the mitigation as proposed?

7 A. The refuge is managed by the Fish and Wildlife
8 Service, and they are giving their biological opinion.
9 We've submitted the biological assessment, and they should
10 be getting that to us any time.

11 We've had verbal conversations with them, and they do
12 not -- we don't expect them to be implementing additional
13 mitigation from what we've already proposed because we've
14 been talking with them throughout the whole project.

15 Q. As an estimate, when do you think you'll hear from
16 Fish and Wildlife Service?

17 A. Within -- I can't say for sure, but it's late already
18 so --

19 Q. But would you expect an answer within a month?

20 A. Hopefully.

21 HEARING OFFICER FAY: Miss McMahon, will you?

22 MS. McMAHON: It's the same thing we discussed
23 before.

24 HEARING OFFICER FAY: So we have no answer. Okay.

25 HEARING OFFICER FAY: Q. And I take it that that

1 would be definitive to the wildlife refuge's answer to the
2 project? Their biological opinion will be the last word on
3 whether they acquiesce on the project?

4 A. They will also want to know when construction will
5 begin. They kind of want to oversee what's happening in the
6 refuge. There is a culvert that they would like to have
7 replaced.

8 Q. But if they give the okay, then that's the last word
9 from the wildlife refuge; is that correct?

10 A. Correct.

11 Q. On the project, that's your understanding?

12 A. (Witness nods head.)

13 HEARING OFFICER FAY: Anything further?

14 MR. ELLISON: I would just note for the record in
15 response to your last question, Miss Crow nodded her head
16 yes. Other than that, that's all we have.

17 HEARING OFFICER FAY: Okay. Then we'll move to the
18 staff, then, for your witness on the biological resources.

19 MR. RATLIFF: Staff witness is Linda Spiegel.

20 MR. RATLIFF: Q. Miss Spiegel, did you prepare
21 the portion of the FSA entitled "Biological Resources?"

22 A. Yes, I did.

23 Q. Do you have any changes to make with that testimony
24 at this time?

25 A. Yes, I do. Following conversations --

1 HEARING OFFICER FAY: Excuse me, Miss Spiegel, I have
2 to have you sworn.

3 Please swear the witness.

4 (Witness sworn.)

5 THE WITNESS: We have some changes to the FSA
6 following conversations with Calpine and the consultant.
7 Several of the pages of changes that really relate to
8 changes in the acres based on what Deborah Crow mentioned
9 here a minute ago with the slide.

10 They are -- basically they went from thirty-four
11 poles to thirty-two poles. They requested me to round to
12 three decimal point places rather than two, and to change
13 the square foot of the holes from twelve point two five
14 square feet to ten, so as a result there was a change in the
15 acreage calculations.

16 Then the switchyard the, calculations for the
17 switchyard actually went up based on an error, so the actual
18 acreage change went from thirty-eight point four seven to
19 thirty-eight point four eight eight acres, and the monetary
20 value increased by four hundred five dollars, and that's in
21 this package you have here.

22 The first -- rather than go through each page
23 specifically, the first several pages of changes relate to
24 those simple acreage changes because they are mentioned in
25 various tables in several places in the text.

1 The other two changes that are notable are on page
2 457, BIO-11, number seven. It did say before "Place the
3 pipeline under Hughes Road." Now it says "Place the
4 pipeline under or in the shoulder of Hughes Road."

5 And then on page 459, BIO-13, first paragraph.
6 Originally it said "The project owner shall provide a
7 nonrefundable six hundred and sixteen thousand seven hundred
8 twenty dollars in the form of a check or money order to
9 Wildlands."

10 That's been changed to "The project owner shall
11 provide a nonrefundable six hundred seventeen thousand one
12 hundred twenty-five," and then parenthetically "less any
13 discount offered by Wildlands Incorporated." And the last
14 two were changes requested by Calpine.

15 The verification on BIO-13 also changed. It now says
16 -- used to say "Within sixty days after the Commission
17 decision is issued, the project owner shall provide the CPM
18 a copy of the check or money order."

19 Now it's "Within sixty days after the Commission
20 decision is issued, the project owner shall provide the CPM
21 a copy of the land purchase agreement between the project
22 owner and Wildlands Incorporated. At least ten days prior
23 to construction, the project owner shall provide the CPM a
24 copy of the check or money order delivered to Wildlands
25 Incorporated."

1 MR. RATLIFF: Q. Does that conclude the changes
2 that you have in your testimony?

3 A. Yes.

4 Q. Could you summarize your testimony briefly for the
5 committee?

6 A. The biological resource analysis was conducted
7 bearing impact on state and federally listed species,
8 species of special concern, wetlands, and migratory birds.
9 I'll just briefly discuss the environmental setting and the
10 impacts during construction and operation and mitigation.

11 Environmental setting of the project vicinity was
12 historically wetlands and grasslands. And as you can see
13 from that slide Miss Crow showed earlier, that the area is
14 now mostly ag land, and basically in the county there's very
15 few wetlands and grasslands remaining, particularly in that
16 area other than at the refuge.

17 That due to the soils onsite and the high
18 groundwaters, a lot of the wetlands were reestablished on
19 that particular parcel, and the wet lands on that site are
20 considered moderately sensitive habitat by the County of
21 Sutter.

22 During the dry season, both the wetlands and the
23 grasslands are foraging habitat for several species of
24 hawks. The field drains that are used to convey irrigation
25 water in the area are used by a lot of aquatic species,

1 including the threatened giant garter snake.

2 The project is located within the Pacific Flyway,
3 which is a major migratory route for winter and waterfowl,
4 and it's also within the major wintering grounds of those
5 waterfowl. Basically the vast majority of the species of
6 waterfowl species that are here in the winter are in the
7 Sutter National Wildlife Refuge and near the Butte sinks.

8 The Sutter Bypass, it is used by several aquatic
9 species, including either listed or proposed listed species
10 of chinook salmon, Central Valley steelhead, and then the
11 inland fish of Sacramento Splittail.

12 The impacts during construction include temporary and
13 permanent loss of the wetland and grassland habitat, and the
14 wetlands, there's a federal policy for no net loss of
15 wetlands and the grasslands of foraging habitat for the
16 threatened Swainson's hawks, which is here from the summer
17 months, comes from Central America. This is where it nests.
18 And the grasslands are also upland habitat for giant garter
19 snake.

20 Permanent loss of habitat will result from footprints
21 from the power plant, access road, transmission lines,
22 switchyard, and the dehydrator stations.

23 Temporary habitat loss will result from construction
24 activities, mainly from the gas pipeline. Construction
25 activities could also result in incidental take of giant

1 garter snake, if conducted during the hibernation period, or
2 could also disturb nesting Swainson's hawks, if conducted
3 near a nest site.

4 And the impacts caused by the operation of the plant,
5 initially the plant does not call for wet cooling, and
6 impacts associated with the discharge were elevated
7 temperatures and toxic concentrations of metals in the field
8 drains and possibly into the Sutter Bypass.

9 The transmission lines, the conductors could have a
10 potential for increase collision risk for avian,
11 particularly the waterfowl long-bodied birds that are using
12 the area during the winter season. And those conditions
13 would mostly occur with the small diameter ground or shield
14 wire at the top. These are more difficult for birds to see.

15 Mitigation for these for the permanent loss of
16 habitat, Calpine has provided a compensatory habitat
17 off-site. We're working with Wildlands, which is a habitat
18 development corporation dedicated to restoration and
19 preservation of habitat and wildlife.

20 These areas are approved by Fish and Game and Fish
21 and Wildlife, and they are protected in perpetuity, and once
22 Calpine gives the money to Wildlands, they are no longer --
23 they are relieved of any further obligation. Wildlands will
24 take care of all of the endowment funds and management and
25 monitoring of lands. This package will fully compensate for

1 all of the loss of Swainson's hawk, giant garter snake, and
2 wetland habitat.

3 The dry cooling and zero discharge has eliminated any
4 impacts associated with the potential elevated temperature
5 and toxics in the groundwater being discharged into the
6 field drains and any of the fisheries into the Sutter
7 Bypass, as well as any potential problems with cooling tower
8 drift to vegetation and wetlands and the surrounding rice
9 land.

10 To reduce potential for avian collision, they are
11 going to put bird flight diverters on the top shield wire,
12 which is known to reduce collision risk by an eighty-nine
13 percent.

14 And they've established very seasonal restrictions,
15 preconstruction surveys, and other measures to intake and
16 train the construction workers and plant operators in
17 environmental awareness training.

18 Staff believes that the mitigation measures proposed
19 in the conditions will reduce impacts biological resource to
20 less than significant levels.

21 We have a letter of concurrence from Fish and Game,
22 and I have a verbal concurrence from Fish and Wildlife
23 Service, and I'm expecting them to give me a biological
24 opinion in the next couple of weeks.

25 Q. Miss Spiegel, you heard the -- Commissioner Moore's

1 earlier questions concerning why the decision makers should
2 be concerned with such seemingly small acreage impacts.

3 You heard those questions and are familiar with them;
4 is that correct?

5 A. Yes.

6 Q. Do you know whether or not the Department of Fish and
7 Game, in its custodian role as the custodian of the state's
8 natural resources, has a position that cumulative impacts,
9 no matter how small, of habitat to endangered species must
10 be mitigated to prevent a significant cumulative impact
11 according to CEQA?

12 A. That's correct.

13 Q. Is that the reason why agencies such as ours are
14 required to acknowledge and seek mitigation for such
15 impacts?

16 A. Yes.

17 MR. RATLIFF: Thank you.

18 COMMISSIONER MOORE: Actually, just so I can clarify
19 my question, that wasn't my question.

20 My question had to do with the level of precision
21 that was being attempted here, wherein you define a problem
22 in terms of three significant digits when the only
23 information you got on behavior of the animal or action of
24 the animal within its habitat can only be measured in terms
25 of tens or hundreds rather than significant digits past the

1 decimal.

2 I was in no way trying to suggest that cumulative
3 impacts weren't important, simply how do you relate them on
4 that kind of a scale?

5 Thousands of an acre, frankly, don't mean much to me
6 in one specific case. If you had a hundred projects all
7 lumped together and each one of them generated impacts that
8 could be measured in thousands of an acre, if you
9 cumulatively examined those, we might have something we can
10 deal with on a decision-making basis.

11 My question had to do with the way the analysis was
12 constructed rather than the issue of whether or not
13 cumulative impacts were important. I just wanted to make
14 sure that's clear.

15 I don't understand that level of precision, and I'm
16 still not persuaded. I don't -- no one has made a case for
17 me to understand other than for monetary compensation and in
18 terms of actual set aside of land, a thousandth of an acre
19 is not a reading in the book here for me. I'm struggling to
20 understand that.

21 MR. ELLISON: Mr. Moore, since you mentioned that you
22 still weren't satisfied, let me take a crack at this.

23 There are two aspects, I think, to your question, if
24 I understood it. One is: Can you calculate to that level
25 of precision? And the other aspect is: What's the point of

1 calculating to that level of precision?

2 With respect to the first, can you calculate to that
3 level of precision, you can, once the habitat is identified,
4 then the calculation is a function not of the behavior of
5 the animal, but rather of how much of that habitat are you
6 consuming with the project by taking that habitat away in
7 some form or fashion. That can be calculated to that level
8 of precision in the way Miss Crow described in the number of
9 transmission towers and their size, so I think you can
10 calculate to that level of precision.

11 The reason for doing it is the monetary one you
12 mentioned earlier. These have been translated into dollar
13 obligations for Calpine. In order to get the right number
14 of dollars, you have to have the right number of acres.

15 COMMISSIONER MOORE: Thank you.

16 HEARING OFFICER FAY: Mr. Ellison, any
17 cross-examination of the witness?

18 MR. ELLISON: No.

19 HEARING OFFICER FAY: I have a few questions.

20 HEARING OFFICER FAY: Q. Miss Spiegel, in your
21 conclusion you mentioned that additional mitigation measures
22 may be necessary once the consultation agencies are done.

23 Do you anticipate any coming? You said U.S. Fish and
24 Wildlife Service is the only one?

25 A. The verbal -- well, when I've talked to them most

1 recently, what I've gotten from them verbally is they don't
2 anticipate any further mitigation at this time.

3 Q. And regarding the Sutter National Wildlife Refuge,
4 can you tell us whether the facility -- the permanent
5 facilities that will affect the refuge from the project will
6 be consistent with the primary land use of that area?

7 A. The Sutter National Wildlife Refuge is managed mainly
8 for four waterfowl, and secondarily it's starting to manage
9 for giant garter snake. And to the facility, the pipeline
10 will be a temporary impact. It won't have any long-term
11 impact for the refuge, particularly in its -- if it's in the
12 shoulder or under the road. It shouldn't be a problem.

13 The transmission line, that could have an impact. It
14 will probably increase potential for collisions with the
15 waterfowl there. Waterfowl that are in flocks, as well as
16 long-bodied, like herons, are most susceptible for
17 collision. These bird flight diverters are known to reduce
18 collisions in the area where the sandhill cranes and such
19 threatened species that we have here by up to eighty-nine
20 percent.

21 So I assume with the monitoring program in place, I
22 think that the impacts will be reduced to less than
23 significant levels, and the refuge seems to be in agreement
24 at this time with us.

25]Q. So in your view would that make those facilities

1 consistent with the primary use of the refuge land?

2 A. Yeah.

3 Q. And I think you've also stated that that would avoid
4 any substantial adverse environmental effects at the refuge
5 those environmental mitigation impacts?

6 A. Yes.

7 Q. With the biological opinion from U.S. Fish and
8 Wildlife Service, will the applicant have the approval of
9 the agency having ownership or control of the Sutter
10 Wildlife Refuge?

11 A. Yes.

12 HEARING OFFICER FAY: Thank you.

13 COMMISSIONER KEESE: I have a general question.

14 COMMISSIONER KEESE: Q. We heard earlier that
15 when Green Leaf I was constructed, this property was
16 expected to remain in crops, and evidently it was allowed to
17 go to grasslands and wetlands.

18 Had it remained in crops, would any mitigation be
19 required to build this new power plant?

20 A. No, not for the power plant site itself, but for
21 possibly some other -- could be the transmission line, but
22 not -- if it was in rice field or something, no, probably
23 not.

24 Q. Having let it go from croplands to grasslands, they
25 incurred a responsibility to mitigate?

1 A. Well, I think -- I'm not a hundred percent certain
2 because it's not under our jurisdiction. I think that ag
3 lands are still responsible for endangered species. They
4 still would have to do some sort of consultation.

5 COMMISSIONER KEESE: Thank you.

6 HEARING OFFICER FAY: Additional question: If all
7 the mitigation measures are implemented and the U.S. Fish
8 and Wildlife Service biological opinion comes in as you
9 anticipate, will the project comply with all applicable law,
10 ordinances, regulations, and standards?

11 THE WITNESS: Yes.

12 HEARING OFFICER FAY: Anything further, Mr. Ratliff?

13 MR. RATLIFF: Yes. I would like to ask a couple
14 other questions that will be relevant to later testimony to
15 tie this up.

16 MR. RATLIFF: Q. Miss Spiegel, you are familiar
17 that the applicant is now proposing to direct its
18 transmission line down to O'Banion Road and west to the
19 Sutter Bypass where it will connect into a switchyard.

20 You are familiar generally with that transmission
21 route as is proposed; is that correct?

22 A. Yes.

23 Q. You are aware that the staff has also discussed the
24 possibility of another transmission route which would run
25 almost directly west from the power plant and in the

1 direction of the PG&E power lines and directly south to that
2 switchyard; is that correct?

3 A. Yes.

4 Q. Do you have a preference between those two potential
5 routes as to which one would be more favorable or less
6 impacting biologically on avian mortality?

7 A. Well, I think that the routes that are proposed by
8 Calpine would have less collision potential than the route
9 that goes westerly for the portion of the route that is in
10 the ag -- middle of the ag land.

11 Once the route hits the existing lines and parallels,
12 the collision potential is probably reduced just by the mere
13 clustering of the lines rather than adding to the problem.

14 As long as the lines are -- the height of the
15 conductors are similar to those, as much as possible, to
16 those existing throughout so it doesn't create sort of a
17 wall of lines.

18 Q. Am I correct in -- would it be correct to say that
19 you prefer the O'Banion route to the other route?

20 A. Yes.

21 Q. At the same time, is there any significant biological
22 impact associated with the other one?

23 A. The other route, the westerly route?

24 Q. Yes, the westerly route.

25 A. Not that is something that we can mitigate to less

1 than significant levels.

2 Q. By the same types of mitigation that you've already
3 proposed?

4 A. (Witness nods head.)

5 MR. RATLIFF: Thank you.

6 HEARING OFFICER FAY: Anything further?

7 MR. RATLIFF: No.

8 MR. ELLISON: Mr. Fay, if it's permissible, I'd like
9 to ask one follow-up question.

10 HEARING OFFICER FAY: Sure.

11 MR. ELLISON: Q. Miss Spiegel, in response to
12 questions from your counsel, I would like to ask you this:

13 The westerly route that he was referring to, the one
14 that's distinct from the O'Banion route, isn't it correct
15 that that route would bring the transmission line closer to
16 the existing boundaries of the wildlife refuge?

17 A. Well, I think the wildlife refuge goes as far south
18 as O'Banion Road. It's actually on the north side of
19 O'Banion Road, the area where your original switching yard
20 is stationed, so it's still going to be adjacent to the
21 wildlife refuge.

22 Q. Let me rephrase the question. If you were to look at
23 the two routes and picture in your mind the boundaries of
24 the wildlife refuge and ask yourself: What's the, if you
25 will, the sort of average distance of the line, not just the

1 end point, the closest point, but looking at the route
2 overall, which one comes closer to the wildlife refuge?

3 Do you have an opinion of one being closer than the
4 other?

5 MR. RATLIFF: Can we just take a moment to look at
6 the map?

7 (Pause in proceeding.)

8 THE WITNESS: Yes, it would be closer to the refuge.

9 MR. ELLISON: Westerly route would be closer to the
10 refuge?

11 THE WITNESS: Yeah.

12 MR. ELLISON: Thank you.

13 HEARING OFFICER FAY: All right. That concludes
14 taking testimony on biological resources. And now we'd like
15 the open it to public comment on this topic. Please come
16 forward. Please restate your name for the record and try to
17 aim that microphone right to your mouth.

18 MR. AIKEN: I'm Jim Aiken. We own about a half a
19 mile of Gilsizer Slough, both sides of it, including all the
20 tule patches and so forth.

21 Fish and Wildlife conducted a three-year study on the
22 giant garter snake, and they concluded that study in '97.
23 When they started it, I told them they was going to find
24 more damn garter snakes than they ever saw before, which
25 they did. The garter snake in this area is certainly not an

1 endangered species because he's all over the place: Rice
2 fields, ditches, and everything else.

3 I wonder about the credibility of Fish and Wildlife
4 and Fish and Game in the state of California. I think they
5 are very misinformed, either that or damn blind. Thank you.

6 HEARING OFFICER FAY: Thank you, sir. Any other
7 comments on biological resources?

8 MR. FOSTER: My name is Brad Foster. Concern I have
9 with biological resources is that the surrounding property
10 of the plant. We farm near the plant. They've let the
11 plant pretty much go back to nature. The problem with that
12 is weeds. The farming community around the plant, we don't
13 need weeds. This year they grew the best Johnson weed plant
14 you ever saw. A month ago they finally mowed it for the
15 first time this year.

16 If this is going to take place, we need a schedule,
17 stick to the schedule, keep the weeds from invading our
18 property.

19 Another thing I'm having trouble understanding is the
20 amount of Swainson hawk territory being taken out for the
21 poles. I understand ten-square foot. I'm sure Swainson
22 hawk has enough common sense to know that he can't hunt up
23 to that pole, so I don't know how to say we want to take
24 this small piece out without a buffer zone around each pole
25 for this animal.

1 Same with the wires. These wires are impacting these
2 animals, and to say ten-square-foot per pole, I don't
3 understand it. When there's poles along the highway, you
4 don't drive your car within an inch of it. These animals
5 need a right-of-way.

6 HEARING OFFICER FAY: Any other comments from the
7 public on biological resources?

8 MR. ELLISON: One brief clarification for the record.
9 The first is that the gas line route through the Sutter
10 National Wildlife Refuge follows a county road. We want
11 everyone to understand that we're not going through the
12 refuge, in any way, that would deviate from that existing
13 county road intrusion.

14 Secondly, the transmission line route does not
15 actually enter the refuge at any point. It backs up to, its
16 neighboring the refuge, but does not, in fact, intrude into
17 the refuge, in any way.

18 HEARING OFFICER FAY: So just to clarify: The only
19 part of the facility the intrudes onto refuge property is
20 the pipeline; is that correct?

21 MS. WARDLOW: Well, it does in that the county road
22 goes through the refuge. The county road predates the
23 refuge, so -- and the existing gas line for Green Leaf I
24 follows that right-of-way that we're proposing to use. PG&E
25 has a fifteen-foot easement with the refuge along the county

1 road, so it goes through the refuge only because the county
2 road is there.

3 HEARING OFFICER FAY: Thank you.

4 Miss Woods, do you want to make a comment on
5 biological resources as well?

6 MS. WOODS: They keep talking about the refuge and
7 their ducks. The Appeal Democrat can show you more pictures
8 of ducks right along Township Road and O'Banion Road. They
9 can show you the refuge. Those things pick up, and the sky
10 is just black with them.

11 We have enough trouble with them ducks running into
12 our little power poles now. When they quit feeding in the
13 morning it's still dark. I don't care if you -- what you
14 put up there for them to see, they aren't going to see it.
15 They take off and go back to their ponds of water, what have
16 you. They ain't going to see nothing. They are just going
17 to run into those lines.

18 What these people are proposing to do is enclose that
19 thing on two sides. When you go down O'Banion Road, you are
20 closing off the south end of the ducks. When you go down
21 Township, you are closing off the east end of the ducks.
22 There's no way you are going to eliminate the ducks.

23 And this man can bring you a stack of pictures that
24 thick taken by the Appeal Democrat every year. I wouldn't
25 even want to guess how many ducks are in those flocks and

1 geese.

2 I was born and raised out there. Believe me, I know
3 what I'm talking about. I used to go out there and hunt
4 them when I was a kid. They fly up, they hit those lines,
5 they break their necks. If they happen to hit at a slant,
6 they cut off their breasts, and we need more of this? I
7 don't think so.

8 HEARING OFFICER FAY: Thank you for your comment.

9 Any other comments on biological resources before we
10 leave this topic? Okay.

11 That concludes our taking testimony and comment on
12 topic biological resources. Now we'll ask the applicant if
13 they are ready to present their testimony on noise.

14 MR. ELLISON: We are. The applicant's noise
15 testimony appears at page 43 of Exhibit 26. Our
16 environmental manager, Charlene Wardlow, will present the --
17 sponsor the testimony this afternoon.

18 MR. ELLISON: Q. So Miss Wardlow, can you
19 summarize the testimony that Calpine has presented on the
20 issue of noise?

21 A. The Sutter Power Plant has been designed to meet the
22 county's very low nighttime noise ordinance at forty-five
23 decibels at night at the nearest residence.

24 This table that Doug Davy has put up, which is in the
25 testimony that has been filed, just gives you an

1 illustration of what forty-five decibels equates to, and the
2 lines that drawn is at fifty on there, which is -- and I
3 can't even read from this far away. Doug?

4 MR. DAVY: For the sound level at fifty decibels
5 here, this is a table that is based on the Final Staff
6 Assessment -- a table in the Final Staff Assessment.

7 THE WITNESS: What's the fifty decibel line
8 specifically just to give them an idea?

9 MR. DAVY: Fifty decibel in this table is the
10 threshold between a level of noise that is perceived as
11 quiet and a level of noise that is perceived as moderately
12 loud.

13 So below the line is perceived by the ordinary person
14 as quiet is equivalent to the level of noise that light
15 traffic would generate at a distance of a hundred feet.
16 It's also roughly equivalent to the level of noise in the
17 interior of the office.

18 THE WITNESS: Thank you. Calpine agrees to all the
19 conditions with -- that the Commission's staff has
20 recommended for the project, and even the change, the
21 project dry cooling. The noise of the project has been
22 reviewed, and again will continue again to meet the
23 forty-five decibel limit that the county requires for the
24 project.

25 I might say that the forty-five decibels at night,

1 because the way the project is designed, will be met in the
2 daytime, even though the county's daytime ordinance is a
3 higher number.

4 MR. ELLISON: That completes our testimony on noise.
5 Miss Wardlow is available for any questions.

6 HEARING OFFICER FAY: Mr. Ratliff, any questions?

7 MR. RATLIFF: No.

8 HEARING OFFICER FAY: Any questions from the
9 committee?

10 Miss Wardlow, change was proposed on page 44 to the
11 condition six.

12 Could you just describe the reason for the suggested
13 change?

14 THE WITNESS: Yes. The change had to do with the
15 county's noise ordinance for noise levels at the nearest
16 residence or nearest property line, and conferring with the
17 county and in agreement with their regulations, that it's
18 the nearest residence not property line. Actually, it's
19 correctly sensitive receptor.

20 HEARING OFFICER FAY: What about the elimination of
21 the words "that draws complaints, reference to noise that
22 draws complaints?"

23 THE WITNESS: It was a duplicative sentence. I think
24 you'd have to go back and read the whole sentence to make
25 sense of it, but the whole sentence was if a specific piece

1 sentence delete the phrase "the property line of" and delete
2 footnote number three.

3 The next change would be on page 232, the second
4 paragraph under the heading "PROJECT SPECIFIC IMPACTS dash
5 OPERATION," and the last sentence delete the phrase "the
6 property line of," and also delete footnote number six.

7 The third change would be on page 233, first
8 paragraph under the bulleted portion in the second sentence,
9 delete the phrase "the property line of."

10 And the final change is on page 238, in the body of
11 Conditions of Certification NOISE-6, delete the entire third
12 sentence which currently reads "No single piece of equipment
13 shall be allowed to stand out as a dominant source of noise
14 that draws complaints." Also in the fourth sentence, delete
15 the words "property line of the."

16 HEARING OFFICER FAY: Are all these corrections
17 reflected in Exhibit 3?

18 MR. RATLIFF: No. Exhibit 3 only reflects the
19 corrections to the witnesses who are not testifying in those
20 areas that we submitted an affidavit on.

21 HEARING OFFICER FAY: Noise is included.

22 MR. RATLIFF: Oh, is it? I'm sorry.

23 HEARING OFFICER FAY: But I believe it only refers to
24 the condition.

25 MR. RATLIFF: The cleanup condition, I guess, was

1 included as well.

2 MR. RATLIFF: Q. Mr. Baker, can you summarize
3 your testimony briefly?

4 A. Noise is created by both construction and subsequent
5 operation of any power plant. Excessive noise can annoy the
6 facility's neighbors and endanger the health and safety of
7 the workers at the facility.

8 Chief concerns are that the noise produced by the
9 project complies with all applicable legal limits and that
10 it does not represent a source of significant annoyance to
11 the project's neighbors.

12 Federal and state laws are in place to protect
13 workers at the project from noise-related safety hazards and
14 adverse health effects. Local laws, in conjunction with
15 California Environmental Quality Act, serve to protect
16 neighbors of the project from adverse affects due to noise.

17 The applicable local law is the Sutter County General
18 Plan. The noise element of this plan limits daytime noise
19 from sources such as the Sutter project to fifty dBA and
20 nighttime noise to forty-five dBA measured at any sensitive
21 receptors. Since the plant is intended to run 'round the
22 clock, it must meet the more stringent nighttime limit of
23 forty-five dBA.

24 Calpine's ambient noise survey indicated nighttime
25 background noise levels as low as forty-one to forty-five

1 dBA; a power plant that contributes no more than forty-five
2 dBA to that background noise level will increase total noise
3 levels by only three or four decibels. This is generally
4 regarded as an insignificant increase in noise.

5 Calpine must design and construct its project to
6 limit noise emissions such that the legal limits are not
7 exceeded. In order to ensure that this occurs, the plant
8 owner will perform another noise monitoring survey after the
9 plant has commenced operation.

10 If actual noise levels, measured at nearby sensitive
11 receptors, exceed the permissible levels, mitigation
12 measures must be incorporated to achieve the required
13 compliance. We have proposed a set of Conditions of
14 Certification to ensure that any problems due to excessive
15 noise are identified and corrected.

16 MR. RATLIFF: Q. Mr. Baker, were you here earlier
17 today when members of the public expressed concern that this
18 plant will create noise that is added to the current Green
19 Leaf power facility?

20 A. Yes.

21 Q. Do you have any response or comment you would make at
22 this time concerning that?

23 A. Yes, I do. The Green Leaf I facility has proven to
24 be somewhat noisy, and it's drawn many complaints from the
25 neighbors over the year, but that was built before the

1 County's General Plan went into effect.

2 Some of the legal protections against excessive noise
3 that apply to the Sutter project did not apply to Green
4 Leaf, so it's been grandfathered in. The Green Leaf plant
5 does not comply with current laws, but since it was there
6 before the law, it's allowed to continue to operate.

7 Now on behalf, let me say, for Calpine that they have
8 spent some money, gone to some effort, to quiet the Green
9 Leaf plant. They've installed mufflers on steel pipes,
10 which greatly reduces some of the annoyance of intermittent
11 steam emissions from the plant, but you know, the plant
12 complies with the noise laws that were in existence when it
13 was built.

14 The new project, the Sutter project, will be built to
15 much, much more stringent noise restrictions, and by
16 complying with the current county noise element limiting
17 total noise emissions to forty-five decibels at the nearest
18 receptor, this project should be all but inaudible. One
19 would have to deliberately sit down and listen and listen
20 hard to determine whether this plant is operating or not.

21 Under common typical interpretations of CEQA, this is
22 an insignificant impact.

23 Q. Does that conclude your testimony, Mr. Baker?

24 A. Yes, it does.

25 MR. RATLIFF: Thank you.

1 HEARING OFFICER FAY: Is the witness available?

2 Mr. Ellison, any questions?

3 MR. ELLISON: No questions.

4 COMMISSIONER MOORE: I have a question with regard to
5 the old plant.

6 COMMISSIONER MOORE: Q. If you are successful or
7 if the plant was successful in eliminating noise from the
8 new facility, it wouldn't do anything to mitigate the old
9 noise?

10 In other words, if the old noise levels from the
11 existing plant would be just as audible?

12 A. That's correct.

13 Q. Are there mitigation measures that you looked at that
14 could be used in combination with the new plant to diminish
15 the noise levels of the existing plant?

16 A. No, we did not look at that. The legal requirements
17 are that the new project is not allowed to contribute more
18 than a certain amount of noise to the existing environment.
19 There is no legal basis for asking the applicant to reduce
20 the existing amount of noise.

21 Q. No legal basis? Excuse me. I mean, if I liken this
22 to the subdivision process, the exactions -- there are no
23 exactions available in terms of broad-scale mitigations?
24 That's prohibited?

25 A. The project will be mitigated to comply with the

1 noise laws in effect. In fact, there will be quite a bit of
2 money spent by Calpine to quiet the project simply to the
3 level permitted by law.

4 Please understand that the -- the noise law in effect
5 now, the current general plan, is very stringent, and many
6 of the projects we deal with, the local noise element and
7 noise ordinances permit a much noisier power plant. Sutter
8 County has very stringent noise laws, and the power plant
9 will be very quiet.

10 Again, I've never heard of a project where the
11 applicant was required to go back and reduce existing noise
12 in the neighborhood.

13 Q. In the San Francisco project we had a proposal that
14 the applicant go in and provide parks and other civic
15 improvements tied to PF10 levels, didn't have anything to do
16 with the plant itself, but they did have to do with civic
17 improvements.

18 So I'm not sure I understand the lack of a nexus that
19 you are taking pains to point out here.

20 MR. RATLIFF: If I may, I can attempt to answer your
21 question, which I think involves the legal requirements of
22 the California Environmental Quality Act.

23 In San Francisco the mitigation that you are speaking
24 of was offered not actually as mitigation but as an
25 enhancement by the developer, but the staff considered the

1 mitigation for an air quality -- accumulative air quality
2 impact. That's the way the staff looked at that mitigation.

3 When an agency such as the Energy Commission requires
4 mitigation under the Environmental Quality Act, it does so
5 on the basis of a finding that there would be a significant
6 impact without that mitigation. If the agency finds that
7 there is no significant impact associated with the project,
8 it has no basis for requiring such a mitigation.

9 In this particular case we found that there was a
10 significant cumulative impact and reckoned that from visual
11 resources area, and in that case, we requested cumulative
12 because of the existing power plant and the additional one,
13 and in that instance where you had this cumulative impact,
14 we requested the applicant to mitigate not only the new
15 facility but the existing facility by making -- providing
16 certain amenities to make the existing facility a less
17 visually intrusive one.

18 However, by contrast in the area of noise, the staff
19 has found that there is no significant impact associated
20 with the new facility. It is virtually going to be
21 inaudible against background noise.

22 Given that it has no significant impact, the staff
23 did not feel it was appropriate to require noise mitigation
24 for the existing power plant, and that would be my attempt
25 to try to explain the legal situation with regard to that

1 mitigation.

2 COMMISSIONER MOORE: Thank you.

3 HEARING OFFICER FAY: Any further questions?

4 COMMISSIONER KEESE: Yes, I have a general question.

5 I noted that -- I think this was rated at forty-five,
6 which on the scale that you had in your exhibits is quiet,
7 so the new power plant is quiet, where would you put the old
8 one in a rough range.

9 THE WITNESS: Slightly noisier. The ambient noise
10 monitoring that Calpine performed found, at some locations,
11 the old power plant produced noise up to forty-eight
12 decibels.

13 Charlene, does that sound familiar?

14 COMMISSIONER KEESE: Which is still in the quiet
15 range.

16 THE WITNESS: Yes, sir. Forty-eight is still in the
17 quiet range, particularly for city dwellers like ourselves.
18 If you stand out in one of these fields on a particular day
19 with a light breeze blowing, and particularly when there are
20 no cars driving by and there are no airplanes flying
21 overhead, no tractors driving by you, just listen to the
22 light wind and the grass and the crops and just normal the
23 world turning, that's about forty-five decibels.

24 COMMISSIONER KEESE: And so the times when this the
25 Green Leaf I is noisy is when they are venting.

1 Is that an occasional incident.

2 THE WITNESS: Let me please direct you to Charlene
3 Wardlow for that one.

4 MS. WARDLOW: When we announced the Sutter Power
5 Plant, we found out that there was a noise issue with the
6 neighbors we weren't aware of before, and it turned out the
7 primary noise was that there were no silencer on the steam
8 vents, so when there was an emergency trip at the plant,
9 they lost the transmission, not a scheduled outage, it's
10 like a pressure cooker, and you have to release steam, and
11 it's high-pressure steam.

12 So about a year and a half ago now we installed
13 silencers on the steam vents to alleviate that high-pitched
14 noise that occurred in the emergency situation.

15 COMMISSIONER KEESE: So you brought them down
16 significantly?

17 MS. WARDLOW: Yes. But that doesn't impact the
18 day-to-day noise. It impacts the periodic releases of
19 steam.

20 COMMISSIONER MOORE: What's the vibration people have
21 been complaining about? Where's the source of that?

22 MS. WARDLOW: I don't know the answer to that
23 question.

24 HEARING OFFICER FAY: Mr. Baker, is there -- also
25 regarding steam venting, wasn't there something in your

1 testimony that a different technique is going to be used
2 once construction is completed to clean out the lines and
3 instead of blowing them out in the traditional way, which
4 doesn't produce a lot of noise temporarily, they are going
5 to be using a different practice?

6 THE WITNESS: Calpine's indicated that they may use a
7 newer process called the silent blow or quiet blow, some
8 patented name for it.

9 It's a relatively recent process that instead of many
10 short, very noisy blasts of steam to clean out the system,
11 it uses one long continuous blow that lasts a day and a
12 half. Lower pressure steam is used for a much longer period
13 of time, for thirty-six hours or so, and it achieves the
14 same purpose as many short noisy blows.

15 I observed this quiet blow process at the Campbell
16 project in Sacramento. It was amazingly quiet. The noise
17 predictions in the application show that it will probably
18 come in in the low fifty decibel range, and I can easily
19 believe that it's a very quiet process.

20 Add to that the fact that's it's purely temporary,
21 it's a short-term construction noise impact. There's no
22 reason to believe this is an unreasonable or significant
23 impact.

24 HEARING OFFICER FAY: Also, I understand that as one
25 of your Conditions of Certification under noise that you

1 will put in place the noise complaint process that the staff
2 had used on other power plant projects.

3 Just so the members of the public understand, would
4 you briefly review how that would work if they heard a noise
5 that annoyed them, what recourse do they have under your
6 conditions? A noise associated with the project, that is.

7 THE WITNESS: If the Commission adopts these
8 Conditions of Certification, it would propose the applicant
9 will be required from the very first day of the construction
10 to set up a noise complaint process.

11 They have to set up a person and a procedure to
12 receive noise complaints from anyone who makes one. They'll
13 have to set up a special telephone line with its own number.
14 They'll have to publish that number. As a minimum we
15 require them to put up a sign at the gate or another very
16 visible area of the construction site giving a telephone
17 number inviting anyone with a noise complaint to call it.

18 When they receive a complaint about noise, they are
19 required in twenty-four hours to begin dealing with the
20 problem. They have to identify the problem. They have to
21 do whatever is feasible. First they have to identify that
22 it's caused by them and not by some other noise over which
23 they have no control.

24 Then they have to do what's feasible to stop the
25 cause of the problem and where possible they try to get

1 feedback from the person who made the complaint to find out
2 if they were, indeed, successful. They have to do this
3 within a very short period of time.

4 We monitor this closely. On other projects there
5 have been noise complaints. Turned out that all but one of
6 them were not really the cause of the project but rather by
7 neighboring facilities.

8 This process has worked very well in the past. When
9 people did make complaints about noise, the problems were
10 dealt with very quickly, within a day or two, and the only
11 cases where -- that we saw where there was no success in
12 dealing with them were in cases where the noise was someone
13 else rather than the power plant.

14 HEARING OFFICER FAY: Thank you. Would the
15 Conditions of Certification that you propose and Calpine has
16 agreed to the project comply with all the laws, ordinances,
17 regulations, and standards.

18 THE WITNESS: Yes, it would.

19 HEARING OFFICER FAY: Mitigate all environmental
20 impacts to a level of insignificance?

21 THE WITNESS: Yes.

22 HEARING OFFICER FAY: Thank you, Mr. Baker.

23 That concludes our taking of testimony on the subject
24 of noise. Now we'd like to ask members of the public to
25 address this topic, if you have some concerns or comments

1 you would like to make regarding noise.

2 MS. FOSTER: Hi. I'm Rosie Foster. I've got some
3 minutes here, first of all, that go with the planning
4 commission meeting back in 1984, and it talks about "Upon
5 completion and operation of the plant, if found, a noise
6 assessment shall be conducted at the nearby residences and
7 sound continuation measures shall be provided to reduce any
8 noise associated with the power plant operation to a level
9 not to exceed forty-five dBA within the residences."

10 It would be interesting to take a measurement of the
11 nearest residence. The nearest residence belongs to the
12 Rose family. The easiest way to gain access would be
13 through Calpine. I believe they've leased it long-term, at
14 least five years. It was boarded up until we complained
15 about that at the public forum. That might be an
16 interesting place to take a noise check.

17 We're also wanting to make sure that the cumulative
18 affect is addressed, although we're also concerned that the
19 old plant, being as loud as it is, will drown out the new
20 plant, if it really is a state-of-the-art project as
21 claimed.

22 We're also concerned somewhere in the FSA it says it
23 will be built on an eight-foot pad. We're afraid it will
24 come down at us like a speaker, and we can also attest that
25 it does vibrate in our bedrooms at night. Those of our

1 includes South Township Road, George Washington, Highway 99,
2 Highway 20, and to the plant by Oswald Road and South
3 Township.

4 Calpine is in agreement with the seven conditions
5 that have been outlined in the Final Staff Assessment by
6 Energy Commission staff and agreed to all of them which
7 includes repaving of primary county roads that are impacted
8 by construction.

9 One change I might mention that is different because
10 of complaints we've had with traffic with Green Leaf I,
11 which has a drier facility that dries prune pits and wood
12 chips and has a lot of traffic is the Sutter Power Plant
13 will not have that type of facility and will not have the
14 amount of traffic that the Green Leaf I facility does have.

15 Also, the Green Leaf I facility is currently allowed
16 to use South Township Road for truck traffic. Calpine has
17 agreed to not allow truck traffic for the Sutter project to
18 use that route. It will use George Washington or Highway 99
19 and Oswald to South Township Road to the plant. That
20 concludes my testimony.

21 MR. ELLISON: Miss Wardlow is available if there are
22 any questions.

23 HEARING OFFICER FAY: Mr. Ratliff?

24 MR. RATLIFF: I have none.

25 HEARING OFFICER FAY: Any questions from the

1 committee?

2 Miss Wardlow, it looks to me on your summary of
3 mitigation that the roadways, to the extent they are
4 disturbed during construction, will be resurfaced to their
5 existing condition; is that correct?

6 THE WITNESS: That's correct. And I think that was
7 primarily directed to the gas line construction. For
8 example, if the gas line is constructed underneath Hughes
9 Road, we would need to repave it.

10 What Deborah alluded to is the last two winters,
11 because the Sutter Bypass has been so extensively flooded
12 for such a long period of time, the Hughes Road tends to get
13 destroyed, and the counties had to go back and repave it.

14 If that happens, if the winter prior to construction
15 of the gas line that that road gets destroyed, then that's
16 perfect for us to construct and then repave it for the
17 county.

18 HEARING OFFICER FAY: Then the county gets a road for
19 free?

20 THE WITNESS: Correct.

21 HEARING OFFICER FAY: Mr. Ratliff, your witness.

22 MR. RATLIFF: Mr. Newhouse is a witness for traffic.

23 HEARING OFFICER FAY: Please swear the witness.

24 (Witness sworn.)

25 MR. RATLIFF: Q. Mr. Newhouse, did you prepare

1 the portion of the FSA entitled traffic and transportation?

2 A. Yes, I did.

3 Q. And do you have any changes to make in that?

4 A. I have no changes.

5 Q. Is that testimony true and correct to the best of
6 your knowledge and belief?

7 A. Yes, it is.

8 Q. Would you summarize it briefly?

9 A. I'll be glad to. What staff looks for in the traffic
10 and transportation analysis is the impact on transportation
11 system, both from the construction and operation of the
12 proposed power plant.

13 We're interested as well in the truck traffic and the
14 levels of truck traffic that would affect existing roadways,
15 how the linear facilities, meaning the gas pipeline or
16 transmission line, would affect the roadway and existing
17 roadways as well.

18 Typically in terms of volumes of traffic, what is
19 concerned in the construction period with the commute of
20 construction worker traffic to and from the project and use
21 of roadways, what we have found in our analysis of
22 construction and commute traffic is that while there will be
23 a noticeable affect of the community, certainly it will be
24 different from what you all have experienced typically.

25 It will not produce any significant effect. It will

1 be in the criteria laid out by Sutter County, as well as
2 criteria on highways that CalTrans supplies statewide.

3 The truck traffic to and from the project,
4 particularly any of that that will transport hazardous
5 materials, will be under a permit. Those permits will be
6 acquired as agreed to by the applicant.

7 But we've also found in terms of our analysis is that
8 the truck traffic, which, although, has been a problem with
9 the existing facility for the people in the community, at
10 least that's been alleged and identified in some areas, that
11 because of compliance with conditions that have been layed
12 out should not create a significant adverse impact from the
13 project.

14 In addition, the applicant has suggested, and we
15 agreed, they will prepare a traffic and transportation plan
16 that would be due thirty days before the start of the
17 construction which would lay out primarily the types of, oh,
18 traffic signaling or safety effects that are going to apply
19 for putting in the linear facilities that would identify the
20 major transportation routes used for heavy equipment and
21 would also include some indication of primary commute
22 periods to ensure that there would not be any significant
23 effect on local roadways. That concludes my summary.

24 MR. RATLIFF: The witness is available.

25 HEARING OFFICER FAY: Mr. Ellison, any questions?

1 MR. ELLISON: No questions.

2 HEARING OFFICER FAY: Any questions from the
3 committee on traffic and transportation?

4 HEARING OFFICER FAY: Q. Mr. Newhouse, if these
5 conditions are applied, then would the project, in terms of
6 traffic and transportation, meet all applicable laws,
7 ordinances, regulations, and standards?

8 A. Yes, it would.

9 Q. And have no significant impact on the environment?

10 A. That's correct.

11 Q. And if we can -- if you can rephrase the impact at
12 the worst that people living near the project could expect,
13 this would, I understand, be during construction; is that
14 correct?

15 A. That is correct, it would be during construction.
16 And the worst would be during peak construction and also
17 where you would have a peak demand of construction workers
18 and a peak -- probably one-day demand or possibly two-day
19 demand of truck traffic to the site, such as when they are
20 pouring concrete, foundations, et cetera.

21 Q. So for the concrete foundations there might be a
22 number of trucks lined up to make the pour?

23 A. True.

24 Q. And that's of a one- or two-day duration?

25 A. Depending on what's going on during the day, the

1 weather, that could stretch out, but you are basically
2 talking of up to four-day, five-day time period.

3 Q. What measures are going to be taken to -- that will
4 make the commute of the construction workers a little less
5 than kind of traffic jam we see in town?

6 A. Typically we have with a project of this type, is
7 that your construction period is going to begin earlier in
8 the morning than what is typical for most workers, anywhere
9 from 6:30 to 7:30, arriving even earlier sometimes onsite,
10 and also your afternoon time period is 3:00 to 4:00, in
11 terms of leaving the site. Again that can vary a little bit
12 with temperature. Hot days can make that an earlier commute
13 in terms of leaving.

14 Undoubtedly there would be some ride sharing going
15 on, although that's not a significant occurrence usually for
16 construction but basically the shift in hours of the
17 workload.

18 HEARING OFFICER FAY: All right. Thank you. That
19 concludes our taking of evidence on traffic and
20 transportation, and I'd like to ask if any of the members of
21 the public would like to make comments on this?

22 MR. FOSTER: Brad Foster. Worst case scenario
23 traffic, you know, for us out there would be -- I would take
24 it construction trucks not carrying to the truck route and
25 destroying the roads during wet time of the year.

1 County had a truck route proposed with the original
2 plan. The wording made it to where it was really
3 unenforceable. No one would enforce it. No one would
4 adhere to it.

5 So they say "We're going to build another plant.
6 We're going to build a pad of eight feet." That's a lot of
7 material being hauled into this project. If this is done
8 during the wet times of year, our county roads will not
9 handle these loads.

10 My main concern is keeping the traffic where it's
11 designated to be, making sure it is worded so we can enforce
12 it. I really don't see how -- they promise we're going to
13 run these roads, how can you enforce it? I talked to a
14 highway patrolman. He said "I can't enforce that. It's a
15 truck route. There's no signs out there." You guys are
16 making us a promise that you can't keep.

17 If you were building this project next to a freeway
18 or different site where it's not in a rural area where the
19 truck routes come right into it or out of it, they don't
20 have to make six or seven shifts to get into this. It would
21 simplify things very much, especially the traffic. Thank
22 you.

23 HEARING OFFICER FAY: Q. Mr. Newhouse, just as a
24 follow-up, based on your experience with the Energy
25 Commission, are you aware of what enforcements there are and

1 the applicant agrees upon the route?

2 A. The primary section we use for enforcement is Section
3 25534, and then there will be a number of procedures as
4 well.

5 We use the compliance project manager. In terms of
6 being onsite, we've used onsite in a number of different
7 technical areas, whether it's cultural, paleo, etcetera, so
8 we can do onsite visitation inspection or people not in
9 compliance with our conditions similar to the noise example
10 you heard earlier today. We can use those types of
11 procedures.

12 And in worst case, the section I mentioned spells out
13 what types of volumes and other enforcement mechanisms the
14 Commission has.

15 Q. What if somebody living along one of the routes that
16 is not supposed to be used calls up the Energy Commission
17 and says "The big trucks are going to the power plant
18 construction site and not supposed to be going this way,"
19 does the compliance unit respond to those?

20 A. My understanding is yes, they do.

21 Q. So people can just call in with complaints as they
22 found in violation?

23 A. That's correct. There will be one compliance project
24 manager identified for the project, and they can call into
25 that person with their complaint or concern. That would be

1 followed up.

2 HEARING OFFICER FAY: Okay. Thank you.

3 Any other comments from the public regarding traffic
4 and transportation concerns? Okay. Thank you very much.

5 Our next topic is hazardous materials.

6 MR. ELLISON: Calpine hazardous materials testimony
7 is set for beginning at page 24 of Exhibit 26. That
8 testimony is again being sponsored by environmental manager
9 Charlene Wardlow.

10 MR. ELLISON: Q. Can you summarize Calpine's
11 testimony in regard to hazardous materials?

12 A. The primary chemical of concern hazardous material on
13 the Sutter Power Plant site would be anhydrous ammonia,
14 which is used for the control in the emission control system
15 for nitrous oxides, and we are proposing to use a
16 twelve-thousand-gallon tank.

17 The conditions that have been proposed by the Energy
18 Commission staff are acceptable to Calpine Corporation for
19 this project.

20 I'd like to state that this involves working with the
21 Sutter County Office of Emergency Services Fire Department
22 to upgrade the fire stations that are located closest to the
23 project in order for them to have adequate training and
24 equipment onsite to respond to any type of an emergency at
25 the project, whether it be hazardous materials or confined

1 space emergency, anything like that. And that's the summary
2 of my testimony.

3 HEARING OFFICER FAY: Mr. Ratliff, have any questions
4 of the witness?

5 MR. RATLIFF: No.

6 HEARING OFFICER FAY: Any questions from the
7 committee?

8 COMMISSIONER MOORE: I have one question.

9 COMMISSIONER MOORE: Q. On the storage of the
10 anhydrous ammonia, what's the nature of the storage facility
11 and are there monitors on the storage tank itself that, in
12 any way, would be somehow communicated to have an alarm or
13 anything else that goes to the fire department?

14 And to follow on to that, what's the response time of
15 the fire department, do you estimate?

16 A. The closest station is at Barry Road and Highway 99,
17 which I'm going to guess is five or ten minutes away, at the
18 most, from the Sutter location. Barry Road is just like
19 three -- checking my geographic knowledge here -- about
20 three roads south of the project, and I think each road is
21 about a mile apart, so probably about five miles from the
22 project.

23 Q. That station is not full-time manned, that's a
24 volunteer station?

25 A. Right. That's one of the changes that we're having

1 to work with is a lot of the stations in the rural areas of
2 Sutter County are not full-time staffed. They are
3 volunteers, and so that's also a change is that they will
4 have to have more full-time staff on board, besides the
5 additional training and equipment that will be onsite.

6 Q. Part of the Calpine mitigation is to help with that
7 cost?

8 A. Right. We're working with a Memorandum of
9 Understanding with Sutter County OES, Office of Emergency
10 Services right now to basically prefund them about three
11 hundred thousand dollars to go ahead and buy new fire
12 equipment because the lead time is so long on that. There
13 will be a prepayment from future property tax that's would
14 be paid by the project any way.

15 Gary Krause, the director of Office of Emergency
16 Services, also looked at the property tax funding that would
17 come to his department to find out if there was going to be
18 adequate funds to help him meet the staffing needs, and
19 there was plenty. On the questions of --

20 Q. And let's stay on staffing for just a second. Right
21 now that money, unless I'm wrong, goes into the general
22 fund, then reallocated back out to the special district; is
23 that correct?

24 A. That's correct.

25 Q. And that means that, in essence, the level of funding

1 for any given substation is, at least in terms of personnel,
2 is effectively made by the board of supervisors and not the
3 fire chief?

4 A. Right. The county tax assessor has helped Gary
5 Krause evaluate what his funds would be. He's taken the
6 breakdown that the county tax collector has, based on the
7 three million dollars a year we'd come in, just the
8 breakdown that comes through that. I believe you are
9 correct in that analysis. I don't know directly of the
10 involvement of the board of supervisors in that decision.

11 Q. Just to summarize, Charlene, right now the way it
12 stands, going to generate significant additional property
13 taxes out of a development like this. I mean, clearly
14 nontrivial amount, but the ability to actually target that
15 and get it dedicated to a fund which would increase the
16 permanent or full-time personnel staff at that fire station
17 is not part of this agreement.

18 Am I stating that correctly?

19 A. That's correct. The amount that would go to the
20 department is based on current allocations in the county tax
21 percentages.

22 Q. So we know there's enough money to do it. We don't
23 have a mechanism right now that could direct, in one way or
24 the other, Gary Krause with the fire district or the county
25 supervisors to dedicate the position?

1 A. Well, it's not a rural fire district. It's Sutter
2 County. This isn't a district out where we're at.

3 Q. I thought Gary was the -- well, okay. Gary is the
4 fire marshall; right?

5 A. He's the Sutter County Fire -- marshall, maybe, is
6 not the right term. And he's also the Sutter County Office
7 of Emergency Services director. There are some districts,
8 but we're not in one.

9 Q. Then you were going to talk about my question about
10 the storage.

11 A. The storage. There's federal requirements for tanks,
12 and it's a double-walled contained tank. It will also have
13 secondary containment onsite.

14 The alarm system, to my knowledge, would not be tied
15 into the fire department, but would be tied into the control
16 room at the power plant site.

17 COMMISSIONER MOORE: Thank you.

18 HEARING OFFICER FAY: Ms. Wardlow, based on your
19 conversations with Office of Emergency Services, do you have
20 an idea of what they would plan to acquire with the money
21 that you'd be putting forth for fire services?

22 THE WITNESS: I have not seen Gary Krause's latest
23 numbers. Actually, if it would be all right, Carolyn Baker
24 has been working with Gary on the Memorandum of
25 Understanding, and she can address that specifically.

1 HEARING OFFICER FAY: Carolyn, I think we'll swear
2 you as a witness. Please swear, Ms. Baker.

3 (Witness sworn.)

4 MS. BAKER: Thank you. I can answer that briefly. I
5 know that Mr. Krause plans to purchase a fire truck,
6 equipment for that truck, and then use some of the remainder
7 of the monies for staffing, to send staff to training, and
8 then overtime for the employees that have to cover while
9 some of the staff is in training.

10 As far as the exact dollar amount of each of those
11 items, I can't tell you how much each one is, but it does
12 total approximately three hundred thousand dollars.

13 HEARING OFFICER FAY: Those additional facilities,
14 are they only to compensate for the existence of the power
15 plant or would they be available for any local emergencies?

16 MS. BAKER: I'm not sure. Perhaps Mr. Carpenter can
17 answer that. I don't know.

18 MR. CARPENTER: It was my understanding that those --
19 that the equipment that would be bought would be used for
20 whatever type of emergency and the additional personnel
21 would be at the fire station and that sort of thing. I'm
22 sure if another emergency in their service area was
23 occurring, that they would respond to that accordingly.

24 MS. WARDLOW: If I can clarify on the three hundred
25 thousand dollars. Approximately that is going to be

1 A. The purpose of staff's hazardous materials management
2 and testimony is to determine if the hazardous materials
3 could be used during routine operations of the facility
4 would cause any potential for significant impact to the
5 public.

6 I want to clarify that this analysis does not address
7 waste management practices, and it does not address the
8 employees at the site. Those would be dealt with in the
9 waste management testimony or in the workers' safety
10 testimony.

11 The primary focus of this is to determine if any
12 accidental leaks at the facility would pose a risk to anyone
13 off site, and so we're not talking about waste. We're
14 talking about in-use hazardous materials.

15 The first thing that staff does in making this type
16 of analysis is determine the types of materials that are to
17 be handled at the site and to evaluate the types of
18 equipment that they are handled in.

19 Generally that information is supplied by the
20 applicant and the AFC. We reviewed that information and
21 determined there were several materials to be handled that
22 are listed as hazardous materials in current law.

23 However, most of those materials do not have
24 significant vapor pressures or mechanisms that would result
25 in them causing a release that would migrate off the site.

1 So our conclusion was in looking at those materials,
2 the primary material found in this facility is anhydrous
3 ammonia, as was identified by Calpine, in our review, the
4 most dangerous hazardous waste material.

5 Staff, in many cases, has proposed alternative
6 materials to anhydrous ammonia where the risk of handling
7 that material would be significant to the public. In this
8 case we did not propose that mitigation because we do not
9 believe that in this application that the handling of
10 anhydrous ammonia poses a significant risk to a surrounding
11 population because of the handling mechanisms and because of
12 the distances and numbers of residences and their proximity
13 to the project itself. So in this case we did not recommend
14 that mitigation.

15 Generally the types of mechanisms for accidental
16 releases of ammonia include human errors, equipment
17 failures, or external events. In this case, to give you an
18 examples of those types of things that could -- human errors
19 that could result in during a transfer operation between a
20 delivery vehicle and the tank itself where the materials
21 could be accidentally released as a result of the human
22 interface with the equipment.

23 Equipment failure could be any type of rupture of the
24 tank or that sort of thing that -- or failure of the
25 pressure relief valve, that sort of incident.

1 With regard to external hazards, the most common
2 would be earthquakes. In all cases, we've found that the
3 measures provided by the applicant are adequate to protect
4 against all of those types of hazards.

5 I'd like to point out that at this stage of a
6 project, staff does not -- or the applicant does not have,
7 staff does not have the benefit of final design of the
8 project.

9 Once the project has -- is in complete design or
10 finished design, then the project would be subject to the
11 federal risk management program. Because this facility
12 handles anhydrous ammonia, it would be categorized in the
13 most stringent or category three of that program, that would
14 require them to have operability studies and require them to
15 prepare an RMP and to participate and prepare a process
16 safety management plan for Cal OSHA.

17 HEARING OFFICER FAY: What was that last reference?

18 THE WITNESS: RMP, Risk Management Plan, under
19 federal law, which is an extensive analysis of any potential
20 scenarios that would result in release of material and so
21 those are all identified.

22 Staff has proposed three issues of certification.
23 First one is basically there to ensure that once the
24 facility is in operation that materials are not changed so
25 that the assumptions we made and the analysis that we

1 conducted at this point in time remains relevant for the
2 life of the project so that if any additional or different
3 hazardous materials or larger quantities are proposed at a
4 later date, those have to come back through staff to be
5 evaluated.

6 We've also required that the state of the risk
7 management plan, the RMP, be provided to us at the same time
8 it's provided to the federal E.P.A. and county fire
9 department. We will review that plan and make any comments
10 that we have to.

11 And in particular, this is a point at which we can
12 address any concerns we have about the funding of the fire
13 department. Right now the issue is rather open-ended in
14 that regard that there has to be funding.

15 I believe that the fire truck that was talked about
16 would actually be a particular for hazardous materials
17 management; in other words, it would be a haz mat team or
18 haz mat type truck. I personally believe that this would
19 provide some significant benefit to the surrounding
20 population in addressing other types of emergencies that
21 would be perhaps even more probable.

22 That pretty much concludes my summary. The final
23 condition that we have addresses the fact that they have to
24 fund. The reason we did this -- one of the key reasons that
25 we did this condition is that materials will be handled

1 before, perhaps, the fire department could actually purchase
2 the types of equipment that need to be in place to respond
3 effectively.

4 We wanted to make sure that, in fact, the fire
5 department has the equipment, training, personnel it needs
6 from the very first time that any anhydrous ammonia is
7 handled. That's why the condition we have states for the
8 RMP that there would be no handling of this material at the
9 site until they have an approved plan.

10 So within that context we have a great deal of
11 control over what ultimately happens with the fire
12 department. That concludes my summary.

13 MR. RATLIFF: The witness is available.

14 HEARING OFFICER FAY: Mr. Ellison, any questions?

15 MR. ELLISON: No questions.

16 HEARING OFFICER FAY: Mr. Tyler, you've done an
17 excellent job summarizing. You answered all our questions.
18 We have none for you. Thank you very much.

19 Mr. Carpenter, can I just ask if the county or at
20 least the staff, as far as you know, is comfortable with the
21 Conditions of Certification required in this area?

22 MR. CARPENTER: With respect to condition number
23 three, I have not heard back from Gary Krause, the fire
24 chief on whether that is going to be sufficient or not. I
25 have to report back to the committee on that.

1 I would like to ask Miss Wardlow a couple questions
2 just clarifying her testimony.

3 MR. CARPENTER: Q. With respect to the facility
4 that you were referring to, is that the Barry Road station?

5 A. Correct.

6 Q. And was it your understanding that that's unattended,
7 purely voluntary?

8 Because the Barry Road station is the Oswald 2 or
9 fire department which is locally understood around here, and
10 it does have two permanent employees there, so it's
11 full-time staff.

12 And then I was wondering on the MOU, did you say that
13 that would not require board of supervisor approval?

14 I didn't quite catch all of what you'd said there?

15 A. No, not specifically the MOU. But just the
16 allocation of funds to the fire department that that three
17 hundred thousand, whatever it is, goes to them because and
18 then ultimately because of the property tax allocation to
19 the fire department. Not that the MOU wouldn't have to be
20 approved.

21 Q. That might goes to answer Commissioner Moore's
22 question about whether board of supervisors deal with that
23 issue. It's my understanding that our department policy
24 would require that the MOU go to the board of supervisors
25 for approval before it was entered into with Calpine.

1 A. That's correct. It wasn't specific as to the MOU as
2 a document.

3 MR. CARPENTER: Thank you.

4 HEARING OFFICER FAY: That concludes our taking of
5 testimony on hazardous material handling for the project.
6 I'd like to ask if any people from the public would like to
7 comment on this.

8 MR. BURKE: Q. My name is Jerome Burke. I've
9 been up here one time before. I just had a quick question.
10 I believe it's for Mr. Tyler.

11 Is the RMP prepared by the federal government, the
12 E.P.A.?

13 A. No. It is prepared by the project owner. It is
14 submitted to the federal E.P.A. for review, and is also
15 submitted to the local fire department for review, and in
16 this project case it will be submitted to me for review, so
17 all three parties will review, and it must be approved by
18 our compliance project manager before any handling of
19 anhydrous ammonia can occur at the facility.

20 Q. In the normal course of your business in these
21 things, do they normally have any training for local
22 residents in case there is a leak, you have a cloud of
23 anhydrous ammonia running around?

24 I understand the fire department gets it, but a lot
25 of these things happen in urban environments where you can

1 get information to people in a real quick way and get police
2 out, get the loud speakers and so forth, get inside,
3 whatever we do.

4 Out there you are liable to have people out in
5 relatively isolated incidence, driving tractors. It's hard
6 to do it the same way you do it in the urban environment.

7 Have you taken that into consideration, I'm
8 wondering?

9 A. Normally responsibility -- once there's an accident
10 at the facility, the responsibility for handling that
11 resorts to the county. They have the primary responsibility
12 for emergency response. The applicant's responsibility is
13 to immediately notify them that they've had an accident that
14 could result in any kind of off-site impact.

15 Q. So what you are telling me it would be up to the
16 county to provide any information or training to the local
17 residents out there?

18 A. It's their responsibility to address any form of
19 emergency response action. Once the material goes off site,
20 it's no longer just the applicant who is involved.

21 Q. I understand that, but I'm talking about let's do a
22 little preplanning here, assume something is going to happen
23 because if we don't, it will.

24 A. That should be part of the RMP process.

25 Q. That would be the county's responsibility for that?

1 A. They could suggest any type of action. For instance,
2 in some cases the counties have what they call one-call
3 systems where all of the numbers for residences in the area
4 that may be affected, they can identify that, and make one
5 response, and it goes out to everybody in that area. But
6 ultimately I think that will be the county's decision how
7 they want to go about.

8 Q. That's what my point was. One call won't get to me
9 on a tractor.

10 A. That's a public process as well. When the fire
11 department reviews that, I would strongly suggest that you
12 make those comments.

13 Q. We should be at those things?

14 A. Absolutely. I will keep your comment in mind. When
15 I review the RMP, I will bring that up.

16 MR. BURKE: Thank you.

17 HEARING OFFICER FAY: Q. Just one more question,
18 Mr. Tyler: Did you have an added conservatism?

19 I thought I saw in your analysis that you used a
20 seventy-five parts per million standard when E.P.A. usually
21 uses a two hundred part per million standard?

22 A. Yes, I do use a different standard. And the primary
23 reason for that is that the federal government's program is
24 really more to address emergency response plan.

25 When we make a discretionary decision in citing the

1 power plant, we have the ability to make changes to the
2 project that would be -- that would not necessarily be
3 available during an RMP process.

4 So the criteria I use is an exposure criteria. It is
5 the best one that I can find that basically balances the
6 unlikely occurrence of the event against potential impact
7 such that we're allocating resources, limited resources, to
8 those types of scenarios that truly could result or we
9 believe may result in significant impacts.

10 Keep in mind this standard -- even the standard I
11 propose would imply some significant irritation but would
12 not generally suggest any long-term affect from the exposure
13 at all, but it's for one-time exposure on an accidental
14 basis only, so that's the reason that we chose that
15 criteria.

16 Q. But E.P.A. and Cal E.P.A. actually uses a two hundred
17 part per million criteria?

18 A. That's correct.

19 Q. I believe that's in Appendix A of your testimony?

20 A. That's correct. And that criteria also in the
21 verification of that and in the documentation guidelines for
22 that. The agency that did that specifically warns against
23 using that criteria in the context of an exposure criteria
24 for the general public.

25 Q. Using the two hundred part per million?

1 A. Yes.

2 HEARING OFFICER FAY: Thank you. If there's no
3 further questions from the committee, then that concludes
4 our taking of evidence on hazardous material and handling.

5 One last call, any comments from the public on this
6 matter? I see no indication, so we'll move forward.

7 What we'd like to do, we're shifting in our agenda a
8 little bit. As Commissioner Moore spoke about earlier,
9 we'll take up transmission line engineering later on. That
10 will come up this evening.

11 And what we'd like to do now is begin the
12 presentation on alternatives. Project alternatives is a
13 rather wide range, and so I'll ask Mr. Ellison if he's ready
14 to proceed with that.

15 MR. ELLISON: Yes, Mr. Fay, we are ready to proceed.
16 This issue is a little different than the ones we've been
17 dealing with in there is a disagreement with Calpine and
18 staff with respect to alternatives. I want to describe it
19 so you can put the testimony you are about to hear in
20 context.

21 Secondly, Calpine has two witnesses on this issue:
22 One of which is a portion of the transmission line safety
23 and engineering testimony as relevant to alternatives.

24 Before I go any further, let me ask whether you'd
25 prefer to have that portion, I'm speaking of the voltage

1 support question, addressed now in the context of
2 alternatives, or would you rather have it dealt with this
3 evening when we deal with the rest of the transmission line
4 engineering questions?

5 HEARING OFFICER FAY: I think since the two topics
6 are back to back, can we put off the transmission line
7 engineering question and voltage support and get a little
8 closer in time to when Mr. McCuen testifies and deal
9 directly with transmission line engineering.

10 MR. ELLISON: That's fine. The context of the
11 testimony that you are about to hear and the disagreement
12 -- I would characterize it as a slight disagreement that
13 exists between the staff and the applicant is as follows:

14 Among the things that the staff has looked at is the
15 -- under the California Environmental Quality Act the
16 so-called no-project alternative. The staff's Final Staff
17 Assessment concludes that the no-project alternative, in
18 other words, doing nothing, is environmentally preferable to
19 going ahead with this project.

20 Now, I emphasize that the staff then goes on to say
21 that on the larger question of whether the no-project
22 alternative is preferable overall, looking at environmental
23 issues as well as everything else, that the no-project
24 alternative is not necessarily preferable. And Calpine, of
25 course, agrees with that.

1 Q. Did you prepare that document that testimony?
2 A. I did.
3 Q. There is a declaration attached to that testimony.
4 Do you have that declaration?
5 A. Yes, I do.
6 Q. Is that your signature on the declaration?
7 A. It is.
8 Q. Is the testimony set forth in Exhibit 27 true and
9 correct to the best of your knowledge?
10 A. It is with the exception of a few minor corrections.
11 Q. What corrections or additions would you like to make
12 to your testimony?
13 A. In regard to the carbon dioxide emission rate,
14 there's a couple of errors in the testimony. On page ES-2
15 of my testimony, where it says a thirty-nine percent
16 decrease in emissions of carbon dioxide, that should read a
17 thirty-four percent decrease in emissions of carbon dioxide.
18 And on page 3 in table one, the carbon dioxide
19 emission rate for the generation displaced by the project
20 should actually be twelve hundred pounds per megawatt hour,
21 and the emission rate for the project should be seven
22 hundred and ninety-seven pounds per megawatt hour.
23 That same correction needs to be made in, I believe
24 it's, table C1 of my appendix, the CO2 emission rate for the
25 project is seven hundred ninety-seven pounds for carbon

1 dioxide per megawatt hour.

2 Then there's one minor clarification. In my
3 testimony I've presented some rate payer savings
4 calculations, and what I've said in my testimony is that it
5 will lower the cost of power to rate payers.

6 The numbers I've presented there actually the --
7 decrease in costs of generation because the lower cost will
8 actually lower the market cost of power and thereby lower
9 the price paid to other generators as well, the rate payers
10 will realize a much larger savings than I have indicated.

11 So for example, on page ES-3 in my executive summary
12 I indicated that the rate payers' savings would be
13 approximately forty-three million dollars per year on
14 average, and that would be the savings in costs.

15 The rate payers would be likely to realize a much
16 higher, on the order of one point three billion dollars per
17 year on average, four hundred million, for example, in the
18 first year.

19 COMMISSIONER MOORE: Let me clarify: That's assuming
20 it's bid in at marginal cost, you made that assumption.

21 THE WITNESS: I assume that all the projects in the
22 system will bid in on their operating costs. It depends
23 what you mean by "marginal cost."

24 COMMISSIONER MOORE: Marginal cost of operation,
25 which has not been the case so far. I mean, it may approach

1 that, but there may be gaming strategies that don't -- in
2 other words, this statement that you just made is based on
3 the idea that the producer will bid at marginal cost.

4 THE WITNESS: Marginal cost based on average cost of
5 gas, for example, rather than marginal cost of gas, but
6 operating cost, yes, it is.

7 MR. ELLISON: Q. Miss Kientzle, do you have any
8 other corrections or additions?

9 A. No, I don't.

10 Q. With those corrections and additions, then, is
11 Exhibit 27 correct to the best of your knowledge?

12 A. Yes, it is.

13 Q. Your qualifications are set forth as Attachment A1 to
14 Exhibit 27; is that correct?

15 A. That's right.

16 Q. Could you briefly summarize the testimony that's set
17 forth in Exhibit 27?

18 A. Each gigawatt hour that the proposed Sutter Power
19 project will generate means that one less gigawatt hour that
20 will be generated from more expensive resources. And
21 because the project will displace in general resources that
22 are older, less efficient, and higher polluting, the net
23 effect of the project is to lower total electric system
24 error emissions and to decrease the fuel consumption for
25 electric production, as well as lowering rate payer costs.

1 Calpine asked me to estimate those benefits, and I
2 did so using the Environmental Defense Funds Elfin
3 Production Cost Modeling.

4 I simulated the California Electric System, both
5 without the project, which is sometimes seen as the
6 no-project alternative, and with the project. A comparison
7 of those two runs then gave me an indication of what power
8 plants will be displaced, and therefore, what benefits will
9 occur due to the project coming onto the system.

10 I forecasted this benefits using a number of
11 different sets of assumptions, and under each of these
12 assumptions my analysis shows that the project had
13 significant environmental and economic benefits to the
14 electric system.

15 For example, my best case analysis shows that
16 compared to the generation resources that would otherwise
17 generate, the Sutter Power Plant would have a ninety-five
18 percent lower nitrogen oxide emissions, as you can see in
19 the chart; ninety-four percent lower sulfur dioxide
20 emissions; forty-four percent lower fine particulate
21 emissions; ninety-seven percent lower reactive organic gas
22 emissions, and eighty-four percent lower carbon monoxide
23 emissions.

24 What is not shown on that chart there is also there
25 would be a thirty-four percent decrease, as I mentioned

1 earlier, in carbon dioxide emissions.

2 What that translates to in total impacts, for
3 example, for nitrogen oxide is in the first year, as you can
4 see from the chart, there will be about twenty-six hundred
5 tons of nitrogen oxides that will be displaced by the Sutter
6 Power project on the electric system. That translates into
7 roughly removing about two hundred and fifteen thousand
8 average passenger cars from the road.

9 And as you can see from the chart, the emission
10 reductions for nitrogen oxides are roughly equivalent
11 throughout the ten-year period that I forecast.

12 In addition to the emission reduction benefits, there
13 will also be benefits because the plant is much more
14 efficient than existing thermal resources. It will lower
15 fuel consumption for the production of electricity by about
16 sixty-eight hundred MMBtu or a million British thermal units
17 per year.

18 And finally, the rate payers' savings come about by
19 lowering the market price of power. As you can see from the
20 chart, the power plant will lower the price of power
21 substantially throughout the ten-year period, and this
22 translates into, for example, a four-hundred-million-dollar
23 savings in its first year of operation.

24 Finally, because the project will displace older,
25 less efficient, higher polluting plants, it's likely to have

1 other benefits as well.

2 For example, as Miss Wardlow mentioned earlier, this
3 plant will be an air-cooled plant; whereas the plant it
4 displaces are largely water-cooled, and will thereby likely
5 lower water consumption for the electric system, and
6 likewise, this is a zero discharge plant and the plant it
7 displaces are not, so it will lower discharge. That
8 concludes my summary.

9 Q. Miss Kientzle, you've made a number of assumptions in
10 doing your modeling analysis; isn't that correct?

11 A. That's correct.

12 Q. And different people might make different
13 assumptions; isn't that correct?

14 A. That is certainly correct.

15 Q. And if they did so, they might get different results?

16 A. They might get different results, yes.

17 Q. Are there any assumptions that you would consider
18 reasonable that you could have used that would have
19 produced, in your opinion, the result of there not being a
20 significant benefit from this project?

21 A. No. There are no reasonable assumptions that I can
22 see that would produce no benefits from this project. As I
23 said earlier, I examined it under a number of different
24 scenarios, and many of those assumptions I used purposely,
25 looked at conservative assumptions to bound what the

1 benefits of this project might be, and I always came up with
2 substantial, positive benefits from the project.

3 MR. ELLISON: Thank you. Miss Kientzle is available
4 for cross-examination.

5 HEARING OFFICER FAY: Mr. Ratliff?

6 MR. RATLIFF: The staff does not object to Miss
7 Kientzle's testimony, nor do we really wish to cross-examine
8 her. We do wish, however, to inform the committee that
9 today Calpine and its staff entered into a stipulation
10 regarding that testimony, which I feel I should read and
11 explain briefly.

12 The stipulation is one sentence long and reads as
13 follows: "By this stipulation, Calpine Corporation and
14 Energy Commission staff hereby stipulate the system-wide
15 error emission reductions are likely to result from the
16 project, but that Calpine's testimony quantifying emission
17 reductions may differ from those that the staff might have
18 estimated doing a similar analysis."

19 The purpose for that stipulation, which is fairly
20 obtuse in the way it's worded, was that staff was concerned
21 that --

22 COMMISSIONER KEESE: Deliberately obtuse.

23 MR. RATLIFF: -- it was a product of numerous
24 conference calls with people and was written by a committee,
25 but if I could explain the idea behind it: It's that

1 staff's concern is that the Elfin modeling that provides the
2 displacement estimates is using files that have not been
3 updated, as yet, to include all of the district's
4 requirements with ARCT or to reflect the changes that result
5 for reclaim in the subbasin.

6 And as a result of that, they may differ in some
7 significant way from similar analysis that the staff would
8 do. At the same time, we are not taking issue with the
9 applicant's claim there is a displacement benefit from this
10 project with regard to the generation of older plants that
11 will no longer be generating as much because of the project.

12 HEARING OFFICER FAY: Could you explain for the
13 audience what ARCT is?

14 MR. RATLIFF: Well, the ARCT are the retrofit
15 requirements that districts are required to impose on
16 existing boilers, and in some cases, other equipment to
17 reduce error emissions in future years the retrofit
18 requirements.

19 I believe it's an acronym for best Available Retrofit
20 Control Technology, and in the future, there will be some
21 substantial reductions which occur, I think particularly
22 after the year 2000 and some of the older facilities of this
23 state as a result of those error emission requirements.

24 And what the staff intends to do but has not done,
25 and this is certainly no fault of Miss Kientzle or the

1 applicant, is to update the Elfin files to reflect this
2 requirement so we can more accurately model the precise or
3 more precise air quality benefits a new generation brings.

4 HEARING OFFICER FAY: Does the committee have any
5 questions?

6 COMMISSIONER MOORE: I have some questions.

7 COMMISSIONER MOORE: Q. First of all, going back
8 to the Elfin model, Miss Kientzle, do you have that model on
9 your own computer, or were you using the Energy Commission
10 resources, including the database that counsel just talked
11 about?

12 A. I licensed the model myself.

13 Q. And the data source, you are using our database to
14 feed into the model?

15 A. I built my own database because there is not
16 currently available an Energy Commission staffed data set
17 that covers the whole state of California. The most
18 recently developed data sets were for the 1996 electricity
19 report, and those were individual utilities systems.

20 So I built my data set using those individual data
21 sets, and then updating with some of staff's more recent
22 assumptions and some other modeling they've done to forecast
23 market clearing prices.

24 Q. Where the Elfin model is used, can you get a regional
25 difference, for instance, this plant exists in isolation

1 from what might take place in the south of path fifteen
2 south of path twenty-six?

3 Does your model take into account those regional
4 differences so that when you are saying that there would be
5 displacement, the displacement factor is localized?

6 A. I'm not exactly sure. I understand your question,
7 but it does give me output which would show which plants are
8 displaced from which regions. I have not captured any
9 instate transmission constraints such as path fifteen in
10 this model.

11 Q. Right now we're in surplus generation, even
12 accounting for some of the exigencies of this many reserve
13 categories.

14 What your remarks would seem to suggest is that you
15 assume a situation which is in equilibrium or in surplus so
16 that you displace -- in other words, automatically having
17 this come online, you displace anything else that's out
18 there. We haven't seen that. So far everyone has made
19 adjustments.

20 And I'm not sure how the model accounts for the fact
21 that you don't simply come online and automatically displace
22 someone else, especially when there's a surplus.

23 A. Well, any new plant that could bid a much lower cost
24 than the plants that are out there would tend to shove those
25 plants off the system in certain hours.

1 And in terms of assuming an equilibrium, for my best
2 case, I did, in fact, assume that power plants were added as
3 load increased, but I also did a case in which no new power
4 plants were added other than this one in the incase, and I
5 also, in that case, showed substantial environmental
6 benefits.

7 Because even though those plants out into the future
8 might be necessary to meet the increased load, there are
9 only some hours where a less expensive plant can come in and
10 lower their generation.

11 Q. No question about that. I wouldn't even begin to
12 question that. But they are not all hours that do that.
13 Right now, if we're in surplus, then your argument would
14 suggest all those people who can't supply at low cost are
15 getting outbid anyway, so they are simply not running.

16 They have no reason to if they can't get -- not
17 unless they have a direct access contract of some kind.
18 They are not competitive, so they are not running. So if
19 they are not running, you can't knock them out of
20 competition.

21 A. My analysis assumes, of course, that they would -- I
22 forecast over the future that absent this project, those
23 plants would run and that with this project they would run
24 less, so that's where the benefits come from.

25 MR. ELLISON: Can I ask a clarifying questions on

1 that?

2 If there was a plant out there today, in your best
3 case, the no-project case, that were sufficiently uneconomic
4 -- with or without this project it's not running, it's a
5 surplus project, would that be counted?

6 Would displacing that project be counted in the
7 analysis you've done, or would that project simply not run
8 under both scenarios?

9 A. That project would not run under either scenario, so
10 I haven't counted any benefits from displacing that.

11 COMMISSIONER MOORE: I think it took that into
12 account; otherwise, you wouldn't have the eleven biomass
13 plants shut down. They would be up and struggling along,
14 trying to compete.

15 Okay. I'm still not closing in on how the model
16 identifies what may be a very regional effect.

17 In other words, the effect of this project coming on
18 in this location, in Sutter County, basically is very
19 regional in nature, may not have the effect on system-wide,
20 when you look south of Fresno, for instance, and yet Elfin
21 is modeling the system as a whole, when in fact, the system
22 is behaving as if it has localized constraints, at least in
23 practice it is.

24 And so I'm wondering just how does the model treat
25 that.

1 A. Well, I haven't captured any of the local
2 transmission constraints that you are referring to.

3 I have captured transmission constraints in effect
4 with the areas outside of California, but even if the
5 precise -- the particular plants I've identified as being
6 displaced are not actually the ones that would be displaced,
7 some other plants in -- more in the regional --

8 For example, if my analysis shows that some Southern
9 California plants would be displaced by this plant, because
10 I haven't captured those transmission constraints, I think
11 that once you captured those transmission constraints, you
12 would, indeed, find that instead of displacing those plants,
13 it would displace some plants from Northern California, and
14 although that might impact the magnitude of the benefits,
15 they would still be quite substantial.

16 COMMISSIONER MOORE: Okay. Thanks.

17 HEARING OFFICER FAY: Anything further, Mr. Ellison?

18 MR. ELLISON: No, that's all.

19 HEARING OFFICER FAY: I want to thank you Miss
20 Kientzle for your testimony. We're at 4:30 -- past 4:30
21 now, and we plan to start again at 6:30.

22 We want to give people time to have a decent dinner
23 break, I think this is a good breaking spot, and so I think
24 we'll break now until 6:30 and return.

25 MS. FOSTER: Gary, is it okay if we have public

1 comment?

2 HEARING OFFICER FAY: Oh, on Miss Kientzle? What I
3 envision is we would complete alternatives after we come
4 back and that will do two things: It will give you time to
5 comment but maybe some of your neighbors will have returned
6 by then and they'd hear some of the alternatives discussion,
7 and their comments would reflect the entire subject, so hold
8 on just a minute.

9 (Pause in proceeding.)

10 HEARING OFFICER FAY: Mr. Valkosky reminded me we
11 want to make sure everyone understands: When we return at
12 6:30, we are across the parking lot at the City Hall in the
13 Council Chambers.

14 Any questions about that?

15 Don't come back here. Come over to City Hall at
16 6:30, so we're in recess for now.

17 (Whereupon the dinner recess
18 was taken at 4:34 p.m.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, KELI RUTHERDALE, a Certified Shorthand Reporter licensed by the State of California, and empowered to administer oaths and affirmations pursuant to Section 2093(b) of the Code of Civil Procedure, do hereby certify:

That the said proceedings were recorded stenographically by me and were thereafter transcribed by me via computer-assisted transcription;

That the foregoing transcript is a true record of the proceedings which then and there took place;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on November 6th, 1998.

KELI RUTHERDALE
Certified Shorthand Reporter #10084