

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 10, 1998

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Reported By: Keli Rutherford, CSR No. 10084

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 Sutter County:

George Carpenter

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P R O C E E D I N G S

TUESDAY, NOVEMBER 10, 1998 YUBA CITY, CALIFORNIA 6:26 p.m.

COMMISSIONER MOORE: Can we get everyone to come back to their seats, please.

HEARING OFFICER FAY: When we broke for dinner we had concluded everything except taking minutes on land use, and we had received a few comments -- just one comment on land use just to accommodate the schedule.

Before we start, though, I'd like to ask Mr. Ellison, I believe he's got some preliminary housekeeping matters.

MR. ELLISON: I do. A couple evidentiary matters. We have four exhibits that we would propose to move into the record, three of which were docketed very recently.

The first is, and we would propose to be Exhibit No. 33, would be the visual aids that Elizabeth Kientz presented as slides when she presented her testimony.

The second exhibit, which would be No. 34, consists of various air quality information that was docketed on the 6th, and this includes air dispersion modelings, sulfuroxides, and particulate matter calculations, as well as road paving, emissions reduction, and credit application.

The next exhibit, which would be 35, is the revised power plant site plan and landscape plan, which is the revision from what was formerly Exhibit No. 15.

And similarly, the other exhibit, which would be 36, would be information requested by the Energy Commission staff, which Miss Wardlow can describe if anybody needs more detail. It was also related to what was formerly Exhibit No. 15 of the landscaping plan.

And lastly I would suggest that we identify as Exhibit No. 37 the testimony of CURE, which was entered into the record earlier this afternoon.

So we would move Exhibits 33, 34, 35, and 36 at this time.

HEARING OFFICER FAY: All right. Is there an objection?

MR. RATLIFF: No.

HEARING OFFICER FAY: And we will accept or designate the testimony of CURE, which has already been entered as Exhibit 37.

And Mr. Ellison, can you be sure we get another copy of that?

I asked Mr. Davy to give the single copy to the project secretary, but if you could fax one over on Thursday, whatever that would help.

(Discussion off the record.)

MR. ELLISON: We've given one copy to the project secretary, but I think that she wants another one. So we'll do that as well.

HEARING OFFICER FAY: All right. Now, I understand that you'd like the staff to proceed initially on this; is that correct?

MR. ELLISON: Yes, we would. We understand the staff witness on land use has some changes to describe, and it would be probably more logical for our witness to respond to those changes rather than try to anticipate them.

With Mr. Ratliff's concurrence and the

committee's concurrence, we would suggest that the staff go first on land use.

MR. RATLIFF: The staff witness on land use is Amanda Stennick.

HEARING OFFICER FAY: Miss Stennick has already been sworn as a witness.

MR. RATLIFF: Q. Miss Stennick, did you prepare the staff testimony on the FSA entitled "Land Use?"

A. Yes, I did.

Q. Do you have some changes to make in that testimony?

A. Yes. There are a number of changes in the amended testimony, which was handed out to the commissioners, Calpine, and staff, and there were some copies that were placed at the table in the front.

Q. So you provided a hard copy with those changes to the parties, and they are available to the public?

A. Yes. The most significant changes are those that pertain to the November 4th workshop on the transmission lines and a new condition certification was added as a result of that.

And unfortunately, the amended testimony, the Land Use Condition 5 that's in there has gone through some further revisions, and I can read that in full.

Land Use-5 states that "The transmission line shall be designed to satisfy the safety concerns of Sutter Extension Water District and Sutter County, including any applicable provisions of Article 86, State of California High Voltage Electrical Safety Orders, Section 2946."

Q. And did the verification stay the same in that?

A. The verification -- I can read the verification. It's the same as --

Q. Is that in your copy?

A. The verification has changed. "At least sixty days prior to the start of construction the project owner shall submit to the compliance project manager a copy of a letter from the Sutter County Board of Supervisors stating that the board of supervisors has conferred with Calpine and the Sutter Extension Water District to agree on any measures necessary to ensure compliance of the transmission line with the applicable provisions of Article 86, Safe California High Voltage Electrical Safety Orders, Section 2946."

Q. This particular change, did you say it's from the workshop we held last week?

A. Yes. It was put into the testimony to address the Sutter Extension Water District's concerns that they have at least a minimum of seventeen feet of clearance between the lowest sag point of the conductor of the line -- excuse me -- and any equipment that they would use to operate for their cleaning and maintenance of the canals.

Q. So this condition is our effort to try to provide a requirement that there be conference between the county and the water district and the applicant how that line would be constructed?

A. Yes.

Q. Do you have any other things that you would like to point

out about any changes that you made?

A. Well, I don't know if you would prefer that I go through and read them page by page.

Q. No.

A. Okay.

Q. It would be better just to summarize your testimony then.

A. Okay.

HEARING OFFICER FAY: Mr. Ratliff, is this being submitted now for the record, these written corrections?

MR. RATLIFF: Yes, it is. And we apologize. It's a bit extraordinary to be presenting these kinds of hard-copy changes on the day of hearing, but it is the direct result of a workshop that we had in our efforts to try to reflect what we learned in that workshop and what -- in this instance, to have an additional condition which we thought satisfied the water district's concern.

COMMISSIONER MOORE: You are talking about 5, Condition 5?

MR. RATLIFF: Yes.

COMMISSIONER MOORE: You are not talking about the whole written submittal?

MR. RATLIFF: The entire written submittal responds to the workshop as well.

HEARING OFFICER FAY: Can we describe this, then? I'm not even sure I have a complete copy.

Could you describe it in terms of page numbers?

It looks to me like it's a strikeout and underline modification of the land use section of the FSA.

MR. RATLIFF: That's correct.

HEARING OFFICER FAY: What pages are included in the handout?

THE WITNESS: Page 188, 194, 196, 197, 198 and pages 203 to the end of the land use testimony.

HEARING OFFICER FAY: And the last page is what?

THE WITNESS: The last page? 2 --

HEARING OFFICER FAY: 213?

THE WITNESS: 213, correct.

HEARING OFFICER FAY: Is there any objection to receiving these modifications into evidence?

MR. ELLISON: No.

COMMISSIONER MOORE: You are just seeing them for the first time too?

MR. ELLISON: That's correct. But we do not have an objection.

HEARING OFFICER FAY: Go ahead.

THE WITNESS: The assessment of land use impacts looks at the conformity of the project with Sutter County land use plans, ordinances, and policies and the potential of the proposed project to have direct, indirect, and cumulative land use conflicts with existing and planned uses. The analysis indicated the following area of concern. I would say that the largest area of concern regarding this proposed project has to do with the issue of the rezone and general plan amendment.

Sutter County in 1993 underwent a three-year general plan update, an extensive revision of their general plan policies, and it resulted in the adopted general plan, the 1996 plan.

And one of the issues that Sutter County looked at in their general plan update was the implementation of the general plan on agricultural land. And the implementation of the general plan resulted in a loss of agricultural land to Sutter County. And as a result of that, they adopted specific policies regarding agricultural land, as well as criteria for ag land conversion, which is in the testimony as Appendix A.

Those criteria spell out how Sutter County would consider a general plan amendment and a rezone for land that's zoned agriculture -- agricultural for conversion to urban and suburban uses.

Appendix B is a letter from Sutter County Community Services Department stating how the proposed Sutter power project would -- in other words, how Sutter County would treat this proposed project in light of their criteria for ag land conversion.

Sutter County has stated that in the case of the Calpine project, county staff believes that the information generated by the criteria is essentially superfluous because the land in question was converted to industrial use in 1984 when the planning commission approved the original use permit.

In my amended testimony, I stated that the Energy Commission staff notes that the SPP parcel was not converted to industrial use by the 1984 use permit. The use permit, which stipulates the conditions under which Green Leaf could operate the facility, did not change the zoning for general plan but allowed a use on an agricultural parcel that Sutter County deemed consistent with the ag zoning and ag eighty general plan land use designation.

There was no condition in the use permit that stipulated that Green Leaf or Calpine cease or cause to cease farming operations on the parcel. It is only by a general plan amendment and rezone that the project can be consistent with the general plan.

MR. RATLIFF: Q. Does that complete your summary, or do you have any additional --

A. That completes my summary of the land use section.

MR. RATLIFF: The witness is available for cross-examination.

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

MR. ELLISON: No questions.

COMMISSIONER MOORE: Q. I have a question.

Can you summarize for us the major differences that are in this document that we just got tonight and the document that we have in the Final Staff Assessment, the FSA, just so I know the differences?

Because I just listened to your summary right now, I didn't hear anything that was saying it was radically different than the conclusions you drew in the FSA.

So I'm wondering: Did I miss something or is this cleanup?

A. The major differences in the amended testimony have to do with the workshop on November 4th that was held to discuss the relative merits between staff's proposed west transmission line route and Calpine's proposed route down South Township to O'Banion.

As a result of that workshop, staff is no

longer recommending the west route to the existing PG&E lines.

Q. But in terms of the core conclusion that you just ended on right now; which is, that this project could not proceed without a general plan amendment and zoning change is still relevant?

A. That's correct.

Q. Still at the heart of the land use section. You describe what's going on, but in the end you end up with an industrial use in an agricultural surround, which has to be dealt with in a different public arena?

A. Correct.

COMMISSIONER MOORE: Good. I didn't miss it. I'll probably have more questions. Why not take some public testimony.

Do you have any questions?

MR. PITTARD: Amanda, can I clarify one of your statements? I kind of got lost for a minute there.

There's a letter from George Carpenter to Paul Richins that you included in your testimony.

THE WITNESS: Yes.

MR. PITTARD: In it it says that -- and the title of this is "Criteria for agricultural land conversion."

And the last paragraph of this letter says that "The county staff believes that the information generated by the criteria is essentially superfluous because the land in question is converted to industrial use in 1984 when the planning commission approved the original use permit."

Did I hear you say that you disagreed with that conclusion?

THE WITNESS: What I am saying is I believe there is an inaccuracy in the language or in the way that that could be interpreted.

"The land in question was converted to industrial use." The land in question was not converted to industrial use. There was a use on the site that was deemed consistent by Sutter County with the granting of the use permit, which did not indicate that there was any conversion of land to industrial use.

MR. PITTARD: Thanks.

MR. RATLIFF: Just to be clear, those are two different sentences in that last paragraph, the first sentence and the last sentence that we're talking about.

HEARING OFFICER FAY: Q. Miss Stennick, on page 197, the last paragraph you state that "If the transmission"-- "If the transmission lines are not placed in the Sutter Extension Water District's right-of-way and not in the county road right-of-way, then the line will transverse land designated by the California Department of Conservation as prime farmland."

Is that still part of the plan? Is that an alternative?

A. I apologize for the perhaps confusing construction of the testimony. What we're reading in this section is the proposed transmission line. This is not Calpine's mitigated route.

Q. This is the one that carries on on South Township and does not turn west on O'Banion?

A. That's correct.

Q. Fine.

A. As you know, Calpine submitted a mitigation package in October, I believe.

Q. So that -- how far does that discussion go, then, as to that, everything under proposed transmission lines?

A. Up to page 203. The discussion of the mitigated transmission line begins on page 205, and under the section titled "Mitigation." Actually, more on page 206, at the top of 206.

HEARING OFFICER FAY: Okay. Thank you. That clears up and eliminates a lot of my questions.

COMMISSIONER MOORE: Q. I do have a couple other things.

If this general plan change were not approved by the county, is there any language in the existing general plan that would allow an exception to be made, another conditional use permit or extension of a preexisting nonconforming use, or something else that you know of in your research of the county zoning -- current zoning statutes or the general plan zoning regulations -- I said statutes -- zoning regulations that would allow that to take place?

A. As far as I'm aware, there is no way that this project could take place without a general plan amendment and rezone in terms of Sutter County's general plan. There would be no use permit that could be granted for a project of this size and this intensification of land use in an agricultural area.

Q. And in light of the transmission siting that would have to take place, could that siting, given that we don't have a precise location at this point, be done absent a general plan change?

Is that allowable under current easements or current existing use permits?

A. Not that I'm aware of.

COMMISSIONER MOORE: Thank you.

HEARING OFFICER FAY: Thank you.

Mr. Ellison, are you prepared to present your witness?

MR. ELLISON: Thank you. Calpine's land use witness is Thomas Priestly.

HEARING OFFICER FAY: Please swear the witness.

(Witness sworn.)

(Pause in proceeding.)

MR. ELLISON: Q. Mr. Priestly, do you have before you the land use portion of Calpine's testimony which appears beginning at page 34 of Exhibit 26?

A. Yes, I do.

Q. And did you prepare that testimony?

A. No, I did not. I should explain at the beginning that the AFC testimony for this project was prepared by Ken Mastufca (phonetic), who was the land use and visual person working in the Foster-Wheeler office of Sacramento at the time this project began.

Ken has since moved on to a job at CalTrans, and I was asked to take over Ken's responsibilities on this project, and I have done so.

So my very first step was to do a review of Ken's work, go out to the field, take a careful look, take an independent look at some of the source materials, and I got comfortable with what Ken had done, and I have adopted Ken's initial analysis as my own. Then I have picked up with the subsequent analyses that had been done on the project.

Q. So do you adopt the testimony that is presented at page 34 of Exhibit 26 as your testimony in this proceeding?

A. Yes, I do.

Q. And attached that testimony is a declaration. Do you see that?

A. Yes, I see it. I remember it.

Q. Is that your signature on that declaration?

A. Yes, it is. So in fact, this most recent testimony that was filed is the testimony that I prepared myself.

Q. Do you have any additions or corrections that you wanted to make to that testimony?

A. No.

Q. And you've heard the changes that staff witness Miss Stennick just described to the Final Staff Assessment and the staff's position?

A. I have.

Q. Does anything in the staff's changed position change your testimony, in any way?

A. No, it does not.

Q. Could you briefly summarize for the committee and for everyone present your testimony on land use issues?

A. Yes. I think the bottom line is very fair to say is that there is no disagreement between our analysis of the land use issues and that that has been prepared by staff. And we are comfortable with the conditions that they have proposed. In fact, I think that they are very reasonable and quite helpful conditions, and we concur with staff's assessment that this project would not entail any significant impacts on land use.

And if you'd like, I could take a few minutes to highlight a few points that I think perhaps would supplement staff's presentation.

COMMISSIONER MOORE: Absolutely.

(Pause in proceeding.)

THE WITNESS: In terms of evaluating the land use impacts of this project, there are three project components that we need to be thinking about: The pipeline, the power plant itself, and the transmission line. And you can see each of these features on the map on the overhead. In fact, this is included in your copy of the -- your copies of the AFC and the FSA as well.

COMMISSIONER MOORE: When you say "transmission line," are you including the switching station as well?

THE WITNESS: Yes, I am. As a component of the, should I say, transmission system.

MR. ELLISON: For the record, the figure that's being displayed, if my eyes are getting old here, I believe it's figure 8.4.1 from the applicant's Application for Certification.

THE WITNESS: So what I'd like to do now is just very briefly review some of the issues associated with each of these components.

As you know, the gas line would run for about thirteen miles from the Sacramento River over to the plant. It would, of course, be buried and follow the alignment of the existing gas line that serves the GreenLeaf I plant.

And I agree with CEC staff's assessment that the only land use impacts that would be associated with this pipeline would be some minor disruption that could take place during the construction period. And PG&E would coordinate construction activities with landowners to minimize this disruption, and landowners would be compensated for losses to agricultural production that this construction might entail.

And the only -- I guess the only little wrinkle associated with this gas line would be that it would tie into a gas line that comes from Colusa County on the other side of the river. And on the Colusa side, to accommodate this new gas line, a change would have to be made to an existing PG&E drip station, which would have to be converted to a dehydrator station.

This would entail using about five thousand square feet of pasture land, and a permit to do this would be required from Colusa County, and acquisition of this permit is one of the conditions that has been established by CEC staff.

Now, the plant itself would be located on Calpine's seventy-seven-acre parcel, and if we could have the next slide?

MR. ELLISON: Q. Mr. Priestly, could you state for the record, as each of these come up, where they appear in the AFC, assuming that they do, and if not, where you got them?

A. I think this one needs to be flipped over. There we go. You can see best row coming in there to the existing Green Leaf plant.

This slide does not appear in the AFC, and I guess what we would have to submit it as a new exhibit.

Q. This is the same photograph -- aerial photograph of the site that was used in the testimony of Miss Crow and was submitted as Exhibit 32?

A. Okay. How convenient. Good.

This gives you, very quickly, an idea of the land use setting of the plant. As you can see, it's a parcel that is now not in cultivation. It's surrounded by very large-scale rice fields on the north, south, and west.

And interestingly Township Road, which runs north/south in front of the plant, is more or less the dividing line between the rice lands to the west and the lands that tend to be used as orchards and field crops on the east.

You can see the Sutter Bypass far to the west. If you have really good eyes you might be able to see the 500 kv line and 230 kv lines that parallel the bypass.

If I could have the next slide?

This may be a new slide. This is an -- this is also a part of Deborah Crow's biology submission. This is an airview focusing directly on the site, and you can see the Green Leaf I facility on the front part of the parcel. Right behind the power plant south there is a very large area that is used for storage of agricultural materials that are processed at the plant, and then to the south you can see those little blue and very dark green areas, which are some ponds surrounded by very rapidly growing trees.

And the proposed plant site, then, is a sixteen-acre chunk of this parcel located directly behind that area that you see used for the storage of agricultural materials.

And as the CEC staff has indicated, back in 1986 or so, this site was taken out of rice production and converted to use for the Green Leaf I power plant, and since that time no agricultural production has taken place on this site. And if we could have the next slide?

This slide is the newly submitted revised site plan for the site. And this was, I believe, referred to just a little while ago as a new exhibit.

MR. ELLISON: This is a portion of Exhibit 35.

MS. STENNICK: I also want to indicate that this replaces -- what I forgot to mention earlier in the amended testimony was this replaces Land Use figure 2, this new PD site plan.

THE WITNESS: This map will give you a pretty good idea of how things are going to fit together on this site. You have Green Leaf -- first of all, on the east side of the property you have a vacant setback area, then you have Green Leaf I, and then behind Green Leaf I first you'll have the combustion turbines, then behind them the steam turbines, and just to the south there you will see the switchyard, and a little bit further to the west the air-cooled condenser, then at the northwest corner you will see the evaporation pond.

Other features to note are the transmission line coming off the south side of the switchyard and then along the southern end of the site out to South Township Road. And an important thing to note on this graphic, although it's probably a little hard to see from your seats, I know that staff -- CEC staff was handing out copies of this site plan up at the back a little earlier today. If you happen to have your copy, you could look at it.

You will see around the northern, eastern, and southern boundaries of the property there will be a twenty-foot-wide berm that is going to be planted with a variety of plant species, tree species, and shrub species that are native to this region that will grow very fast and will help to provide visual screening for the plant.

MS. STENNICK: Tom, on this site plan, aren't there going to be additional storm water retention ponds proposed?

THE WITNESS: Yes. There is a need for storm water retention plans. It's my understanding that the precise locations of those ponds has not yet been worked out.

MS. WARDLOW: We're still waiting on the surface water hydrologist to finish the analysis of how much storage is required and then that will determine the placement of the pond.

THE WITNESS: And one of the things you will note, too, is that this plant has some pretty good setbacks from the adjacent agricultural lands. If you have a copy of this plan in front of you yourself, you can kind of look at the scale and then use that scale to measure the distances between the outline of the plant site and the surrounding -- and the outer boundaries of the seventy-seven-acre property. You can see that in general the setbacks are in the range of three to four hundred feet from the outline of the area that the plant would occupy.

And as staff indicated, the present general plan designation of this area is for agricultural -- is an agricultural designation.

If I could have the next slide?

This is, in fact, one you should all be familiar with because it appeared both in the Application for Certification and the Final Staff Analysis. It provides, first of all, the general plan designations and --

HEARING OFFICER FAY: Excuse me, Mr. Priestly. In the AFC that is figure 8.4-2.

MS. STENNICK: That's Figure 1 in the land use section.

THE WITNESS: You can see that at present this area does have a general plan agricultural designation and a zoning agricultural designation under zoning, as well.

And as staff indicated, an amendment will be required to the Sutter County General Plan to an industrial or general industrial zone and/or land use category, and a change will also be required in terms of the zoning designation for this parcel. And these changes are now under review by the county. They are making their way through the county process.

And as staff indicated, the county has indicated that their opinion is that at the -- in 1984 at the time processing was started for the permit for the Green Leaf site, that the use of this site essentially converted from agriculture to industrial use, and in fact, the general plan amendment and the changes in zoning designation will bring the formal plan and zoning designation into consistency with the use that's been existing on that site for a number of years now.

So I concur with the staff assessment that if buffers are provided as indicated in staff conditions, and if the general plan and zoning designations are made, the plant would be consistent, of course, with the adopted plans and ordinances and that a significant land use impact would not be created.

The third component of this project that has potential land use implications that we need to think about is the transmission system, which consists of both the transmission line and the transformer station.

I think we might need to reorient that drawing. No? You should note in looking at this drawing -- I can't read the figure number from here. This would be figure? MS. BAKER: 6.1-3.

THE WITNESS: That, in fact, this is not oriented north/south. West is at the top, so it might be a little misleading. Perhaps you can point to the plant site.

(Discussion off the record.)

THE WITNESS: The point of this is to illustrate Calpine's proposed transmission line route, which goes down South Township Road to O'Banion Road and west along O'Banion Road and has been noted -- the transmission line would consist of two 230 kv circuits, which would be carried on tubular steel poles.

And these poles would be located approximately or spaced approximately seven hundred and fifty to eight hundred feet apart; however, I should note here that if necessary or desirable, if we need a wider span, for example, to avoid placing a pole in front of somebody's view, it's possible to extend the spans up to twelve hundred feet. But normally they would be more on the order of seven hundred fifty, eight hundred feet apart.

Just for kind of a visual image of this, those existing PG&E

poles that go down to the east side of South Township Road are approximately, oh, about two hundred and seventy feet apart, so you'd have one of these new poles for every three of those existing poles.

In terms of location on South Township Road, these poles would be located in the area between the road and the Sutter Extension Water District canal. Along O'Banion Road the poles would be located on the south side of the road. There is an existing PG&E distribution line there right now that would be taken out and put underground, and these poles would occupy -- the new poles would occupy the alignment now followed by those existing PG&E poles. And again, there would be one pole per three existing poles along that route. So there certainly has been a lot of discussion here for the potential land use effects of this transmission line, so to put things in perspective, I thought it would be useful, first, to make reference to the body of literature that has been prepared on land use effects or -- and particularly agricultural effects of transmission lines. Much of this is summarized in the Colusa County transmission line element.

And this literature suggests that there are three things that you need to be thinking about in terms of agricultural effects of transmission line lines.

One is the effect of the actual placement of the transmission line on the land and the amount of land that it might take up and preempt from production.

The second area is the effect of the presence of the transmission line on the use of equipment and on irrigation practices in the field. And then the third area that you have to worry about is aerial application.

In terms of the transmission line that has been proposed, there would be no agricultural impacts associated with the first of these areas, the presence of the actual transmission line footing on the agricultural land, because in this case the transmission line is going to be located on a right-of-way, which at present and in the future, is probably not likely to be used for agricultural purposes.

In the second area interfering with the use of agricultural equipment, again, there will be no impacts because these poles do not sit on land used for agricultural production.

And something else I might point out is the selection of tubular steel poles, in general, has been very helpful. Many of you are probably familiar with the steel towers which have these flanged bases which actually, physically take up quite a bit of space and can be quite problematic in agricultural areas, both because the footings take up a lot of space, and secondly, it's hard to get at the areas in the middle and they often become harborages for weeds. They are kind of a nuisance. The selection of the tubular towers has been very helpful in terms of reducing any potential impacts.

In any case, the first two of these areas, the presence of the footings and the presence of the pole essentially creating equipment problems, we're not going to see any impacts.

The third area, the area of aerial application, we've certainly heard over the past week or so many of the concerns

that have been expressed by people who apply aerial materials or people who make use of the services of aerial applications.

But there are some things that we can say here, and I think the main one is that the transmission line route that Calpine has selected here conforms to the principles that have been developed for siting of transmission lines in areas where there is a lot of use of aerial applications. Again, if you look in that Colusa County transmission line element, you'll see a summary of the literature in this area and the siting guidelines that have been developed.

So in this case where the transmission line goes along the edges of the field, that's a very good thing. The literature has suggested that the very worst siting for transmission lines in the areas where there are a lot of aerial application is kind of cutting diagonally across the field.

So we're in the doing that. We're following along the edges of the fields, and the lines are in alignment with the land division pattern, which are both quite helpful. Finally, provisions are being made to avoid the creation of barriers. One of the things that pilots have identified as being a serious problem is when you have a transmission line that also might have a distribution line underneath it or other kinds of objects that make it very, very difficult for them to fly underneath.

So here along O'Banion Road, the plan will involve removing that existing distribution line and placing the transmission line whose conductors will be located high enough to permit the pilots to fly underneath the lines. Another area, though, related to the question of aerial application is landing strips. Off at the end of O'Banion Road, both on the south side and the north side, on the north side at Bolton Road and the south side close to the duck club there are two strips that are used by aerial applicators.

And with the presence of the new line, those won't work quite as well, so as a condition and a condition that Calpine agrees to, those landing strips will be removed and replaced by a new strip putting at a location which is mutually agreeable both to Calpine, to the pilots, and to landowners.

And then the final issue related to our transmission system is the transformer station that we have been hearing so much about today.

At present, because CEC staff has asked us to take a look at and make use of that parcel on the south side of O'Banion, Calpine has prepared two alternative schemes for allocation of a transformer station on that property.

The facility we're talking about is a -- would be approximately two acres in size. And I'm sorry, I don't really have a blown-up version of this, but I have a photograph here -- perhaps I can pass it over to the commissioners in just a second -- which is an aerial view of that property right there at the Bypass at the end of O'Banion Road.

It shows the major features. I know you can't see it, so I'll explain it. What we have here is at the end of O'Banion Road you have the levee for the bypass. Then there is a little open area between the PG&E 500 kv line and the Western Area Power

Administration 230 kv line. These go together, and between them in the levee there is some space that is now occupied by the duck club, and again I'll pass this over.

The preferred location for the station would, in fact, be at the site occupied by the duck club. From a completely technical point of view this would really be the best location; however, it's also feasible to site the station to the east side of that PG&E 500 kv line, which would spare the duck club, and in fact, it would also retain the area that is now used for agricultural equipment storage and would create something of a buffer between this facility and the existing duck club. So let me pass this over.

MR. ELLISON: Mr. Fay, we will prepare a copy of this and present it as a supplementary exhibit as we did with the visual aids of earlier witnesses' testimony.

HEARING OFFICER FAY: It would also help, frankly, if you could, perhaps based on that photo, prepare a blown-up schematic because of the interest in this particular location so that we could have a diagram of what this site is like and the alternatives that Mr. Priestly has identified.

Is that something that could be done in the time that is available?

THE WITNESS: I guess when you say time available --

HEARING OFFICER FAY: We hope to close the record on December 1st. If you could get something that could be submitted that would represent in a diagram form this site and the alternatives, I think it might help.

MR. ELLISON: We have some preliminary drawings that we could submit that show a couple of the options that we're looking at. I would emphasize these are preliminary. These aren't the site layout drawings that we've submitted for the power plant, for example.

HEARING OFFICER FAY: Because this photograph, even if blown up and submitted, just doesn't -- without knowing and having it explained, doesn't have enough information.

THE WITNESS: I guess you had to be there.

HEARING OFFICER FAY: And a diagram could label things: Label the duck club, label the equipment area, label the alternative site possibilities for the switching station. I think that would be helpful.

MR. ELLISON: I would emphasize that one of the reasons these drawings are very preliminary is we would want to sit down with, of course, the landowner and talk to them about their preferences, and we haven't had the opportunity to do that. So we would submit these proposed drawings showing a couple of the options with the understanding that they are preliminary.

HEARING OFFICER FAY: It's fine if it's with the understanding of helping to explain Mr. Priestly's testimony today.

MR. ELLISON: That's fine.

THE WITNESS: In fact, it would be very, very useful to submit a site plan so that we can study, evaluate the various things that are happening on this parcel.

It is a big enough parcel so that all of the existing uses and the new station could be accommodated on the site potentially.

A final point that I would like to make is to go back to the discussion of agricultural impacts of the transmission line. There is clearly a little tradeoff here. In its routing, Calpine has minimized the impacts on agriculture by locating the transmission poles on the water district's right-of-way and we have heard that the water district, in fact, has some concerns. But the condition that staff has suggested, I think, addresses that concern in a very useful kind of way.

MS. STENNICK: If I could say something a moment, Tom?

That condition had to do with vertical airspace on a portion of O'Banion Road. What came out of the workshop on November 4th was that the water district is opposed to the transmission line being routed within their right-of-way. In addition to that, Sutter County Public Works has a right of way, and they plan on building a drainage ditch along that portion of South Township Road to alleviate flooding.

So at this time I don't understand how the poles could go between the canal on South Township and the road.

MR. ELLISON: Well, as I recall, what was said in the workshop: There is already a drainage ditch. There was some discussion, perhaps, of expanding it.

Is that what you are referring to?

MS. STENNICK: That's what I understood George Carpenter to say at the workshop.

MR. ELLISON: I think you are referring to Paul Russell for the district.

MS. STENNICK: No. I'm talking about Public Works, Sutter County Public Works.

MR. ELLISON: All right.

THE WITNESS: And all I can say is that it will be very important for Calpine, then, to work very closely with Public Works, feel them out on what they have planned, and do some collaborative planning to try to accommodate everybody's needs within that area. Again, I think it's worthwhile doing because then it helps to avoid direct impacts on farmers' fields.

MR. ELLISON: Q. Does that conclude your testimony?
A. Yes.

MR. ELLISON: With that, Mr. Priestly is available for examination.

I would want to point out one other thing, though, about Calpine's testimony on land use issues; which is, that Calpine, in addition to Mr. Priestly's testimony, has also submitted Exhibit 29, which is the affidavit of James Armand Sarre. Mr. Sarre is a crop duster with a great deal of experience in the area. That affidavit speaks for itself. I would want to make the record clear that Mr. Sarre had surgery today and is not able to be here, but in recognizing that, we made Mr. Sarre available to the parties, to the proceeding for questioning if they wanted to do so. Staff originally did have some questions, but then concluded that they did not, but he was made available.

So Calpine's testimony in this issue, in addition to Mr. Priestly's testimony, also includes Exhibit 29.

With that, Mr. Priestly is available for examination.

HEARING OFFICER FAY: Exhibit 29 was submitted when?

MR. ELLISON: It was submitted at the hearing of the 2nd.
HEARING OFFICER FAY: Mr. Ratliff, do you have any cross-examination?

MR. RATLIFF: Yes.

MR. RATLIFF: Q. Mr. Priestly, the site plan that we saw tonight is ultimately to be the site plan that would be incorporated into the plan development combined; is that correct?

A. With the exception of the issue that Amanda mentioned a little while ago, which is we need to figure out exactly how big those drainage retention ponds need to be and what the optimal location for them is.

Q. Is it your understanding the retention ponds will be on the seventy-seven-acre parcel?

A. If you take a look at the plan, it might give you a better idea --

MS. WARDLOW: Yes.

MR. ELLISON: Your question, Mr. Ratliff, was just: Will they be somewhere on the parcel as opposed to exactly where?

MR. RATLIFF: Yes.

MR. ELLISON: The answer to that question would be yes.

MR. RATLIFF: Q. If it should be the case that the retention pond is large enough to require the removal of additional wetlands or habitat for raptors, such that we've already intended to mitigate in our biological resources mitigation, would I be correct in assuming Calpine will -- again will recalculate the amount of wetlands that have to be replaced?

A. Yeah. I would need to defer to those who are speaking in more explicit terms about habitat issues.

MS. WARDLOW: Calpine would add to the mitigation. That was one of the reasons for the very large wetland. There was concerns about indirect impacts, too, that encompassed not just outside of the sixteen-acre parcel to the west that would allow either because we couldn't protect it during construction or there would be other changes. This is a perfect example of something that came up that we would have already mitigated for that. If we haven't, then we'll add that acreage in.

MR. RATLIFF: Thank you.

MR. RATLIFF: I don't have any other questions.

MS. STENNICK: Excuse me. I have a question, procedurally: Will Sutter County have a final and completed site plan when they review this project to make the necessary findings to either adopt or refuse the general plan and rezone?

MS. WARDLOW: Unfortunately the surface water hydrologist who is doing the storm water pond has been sick. I had a voice mail from him this afternoon that he's working on it. I'm striving to get that as soon as I can, realizing the time constraints for the planning commission hearing.

MR. RATLIFF: If I can answer my own witness' question: The answer is yes. If the question is whether Sutter County has to have a final site plan, that becomes the determining document in their land use action, so I would assume they want a very specific and finalized site plan before they take any action.

HEARING OFFICER FAY: They are having two meetings, I understand; is that correct?

MR. RATLIFF: I'm not certain about that.

HEARING OFFICER FAY: Mr. Carpenter, can you help us on that?

The planning commission is meeting twice on this matter?

MR. CARPENTER: At this time we're contemplating the planning commission meeting twice, beginning November 18th and whenever they decide to have the second meeting.

It is conceivable they could take an action at the first meeting and there would be no need for a second meeting. That's within their discretion.

HEARING OFFICER FAY: I'm wondering if they didn't have a complete site plan at the first meeting would they still be able to preliminarily address the matter and if they have final site plan on the second meeting, take their final action?

MR. CARPENTER: I can't speak for how the planning commission would act with respect to that. I know they certainly would not be likely to make any kind of favorable recommendation without that element on there, without the drainage specifically shown.

HEARING OFFICER FAY: But their final action could be at a second meeting?

MR. CARPENTER: That's possible, yes.

HEARING OFFICER FAY: And is that something that they won't decide until they have their first meeting, whether they --

MR. CARPENTER: That's right. It's certainly up to the commissioners. We would set it up so procedurally we would have a place available and have our staff available if they wanted to have a second meeting to take additional testimony from the public.

For example, if the meeting on the 18th were to have substantial testimony and run late into the evening, then we could continue on another date before taking final action. They may give the planning staff specific direction in the first meeting, which they want us to reevaluate or prepare certain documents for the second meeting.

MR. RATLIFF: My comment was related to any final action that the county took.

COMMISSIONER MOORE: Let me direct my question, first off, then, to Mr. Carpenter. I think as a follow-up: Does the county expect that the plan that will be submitted to them will have the transmission alignment, the site of -- the proposed site in its final form of the substation and the final alignment of the retention ponds determined at that time?

Are they expecting a final location on all those items as they make their determination?

MR. CARPENTER: When you say "the county," you must be referring to the board of supervisors, who have ultimate authority on the land use action.

They would necessarily have to have a final site plan. They may not necessarily need to have a transmission line exact alignment because that's not a subject of the project they are considering. Rezoning and general plan amendment are particular to the property and not to the transmission line route.

COMMISSIONER MOORE: Thank you. Let me turn to Mr. Priestly then.

COMMISSIONER MOORE: Q. You made a comment about trees and screening on the property on a set of berms that were literally on three sides.

A. Yes.

Q. Is it your understanding or would it be the intention from a land use point of view to create those types of landscape screens no matter what, whether this project was approved or not?

A. Yeah. My sense is that these are project specific, that they are part of this package in an effort to address, among other things, the visual concerns that have -- that might be associated with this project.

Q. Associated with the new project, not the existing project?

A. Yes.

Q. So the answer to my question is there wouldn't be a tree planting plan if this project didn't go ahead?

A. Right, there would not.

Q. If this project did not go ahead, would there be a resumption of active agricultural on the property or the introduction of active agricultural, and I'll use as an example, orchards, almonds, or stone fruit, something like that?

A. I think I would have to defer that question to the property owner.

MR. HILDEBRAND: Calpine does not have any current plans to return that to agricultural at this time.

COMMISSIONER MOORE: Q. In this sense, in doing the analysis of the impact on agricultural, we have -- the reason that you are able to say there is no net impact on agricultural is that there isn't any agricultural that's being taken out of production because it's not in existence there?

The only time that would take place is if an alternative site were selected where there was active agricultural, then in turn, got taken out of production?

A. Exactly.

MS. WARDLOW: Now we have habitat. We couldn't just turn it back into ag because now you would have to mitigate all your biological issues on the acreage if you return it back to agriculture.

COMMISSIONER MOORE: Having the land go fallow for X number of years has basically moved it into a new category of land use during that period of time, so now it has a different signature, if you will, in the land use process.

MS. WARDLOW: (Witness nods head.)

COMMISSIONER MOORE: Q. Mr. Priestly, one of the comments that was made in previous testimony concerned, what I would, I guess, think of as a zone of influence around a power pole, that you can't really get close to, you can't farm within -- whether it's on a right-of-way or not. Imagine in this case it might be a half-moon oak tree has a drip line that extends out to the radius of the leaves in the crown.

So is there a zone of influence around the base of the power poles that, in fact, moves out into the active farmland that is taken into account by your analysis and your statements?

A. In fact, I have been thinking about the specific element, the specific dimension of things because the presence of the power

poles, again, affects agricultural in three ways: One, the fact it takes up the space. Secondly, then it becomes an object that you have to work around. However, if in this case where the poles are well off the site, the equipment doesn't have to maneuver around it, there really wouldn't be any impact, any zone of influence related to the presence of the pole.

And then the other way in which the presence of a pole could potentially affect agricultural activity is in its effect on aerial application. If, you know, the pilots obviously are avoiding the pole so it may mean that the areas around the power poles don't get as much fertilizer, herbicide, all the things that they need, and there might be a reduction in production in a zone of influence around the power poles.

Q. I generally acknowledge, at least from what I heard from farmers in the area and heard in earlier testimony, there's some zone where it's almost like a social distance of birds, you simply don't close it, so whatever that is, you define it.

Is that taken into account in your statements?

A. Yes, it is. For example, I looked at some very nice research that PG&E sponsored back in the late 1970s. They hired Resource Economics. I don't know if you've heard of them. Agricultural economics firm that did a series of case studies in agricultural areas all through the Sacramento and San Joaquin valleys.

They did field studies of agricultural practices in yields in a sampling of fields representing different kinds of crops, and they discovered that in rice fields there was a zone of something, I want to say -- maybe I have it in my notes here. I might.

(Pause in proceeding.)

THE WITNESS: I'll look in one more place. There was a zone of influence, I want to say, was something like twenty-one feet, but I'd have to check to tell you.

COMMISSIONER MOORE: Q. If we take every pole and we say there's an eight- to ten-meter radius around it, then that can define, in some way, a zone where there's diminished agriculture and you took that into account in your remarks?

A. Yes. Again, however, my assumption was that with the transmission poles located on this right-of-way where the poles would be some distance from the fields in active use, there would not be a substantial effect.

Q. Let me ask you one last question, and I'm going to ask it to the staff witness as well; that is, there is a contention that was advanced earlier that addition of industrial properties in an ag zone tends to promulgate an echelon of other industrial or higher intensity uses, a keyway, if you will, into future land use changes or an incentive for the board of supervisors or planning commission to consider additional support changes, like putting a school in the middle of the lemon fields, and you suddenly find out you need a maintenance yard. You put that in. You need a road, then it keeps growing.

Is it your opinion -- what is your opinion actually?

A. I guess my opinion is not necessarily. Ultimately land use decisions are, in fact, are decisions made by the community, and in this case it's clear that given the kind of special development

status that this seventy-seven-acre parcel will have, that if any further development wants to take place, if a proposal is made to utilize land on that parcel for further, say, industrial or energy-generation use, it would take a decision by the planning commission and board of supervisors.

Q. I'm asking about the tendency to do that.

Does it, in your professional opinion, provide the incentive for a key way that creates weight, it's own weight to generate the need for change, a reason for change, and incentive for change?

A. I would have to say no. I'll tell you the reason why. You need to start thinking about the linkages between this activity and other kinds of activities.

For example, if you had some kind of a use that had a very high level of activity, lots of people coming and going, you could see how the presence of that facility would essentially create a market for other kinds of things to happen and happen around it. But in the case of a power plant, I think that's not quite so clear.

COMMISSIONER MOORE: All right. Can I ask you the same question?

MS. STENNICK: Certainly. I would agree with Mr. Priestly that you need to look at linkages for similar market activities, but I would also point out that in the Sutter County General Plan, one of their policies is to designate certain areas suitable for commercial and industrial development and reserve such lands and parcel sizes to accommodate a variety of those uses.

So conceivably with this kind of policy in their general plan, the seventy-seven-acre parcel, if it were to be rezoned, would be could be a link to other related markets and other potential conversion of ag land into industrial use.

COMMISSIONER MOORE: Thank you. All right. I don't have any other questions. Mr. Fay?

HEARING OFFICER FAY: Q. Mr. Priestly, on page 36 of your testimony, land use, page 36 of the Calpine -- and that is the third page of your testimony on land use under electric transmission line, when you refer to the structure base just taking ten square feet, you would add to that your discussion with the commissioner about this zone of reduced ag production in the case of aerial applicators.

A. You know, I would probably make two changes to this sentence. I would say, first, very little land would be occupied by the base of the pole since the approximate area required by the base is just ten square feet.

Because again, in all cases on the alignments that we are proposing, it's not agricultural land that's going to be affected. It's right-of-way land.

And you know, I would hesitate to add a reference to this kind of zone of influence. In this right here, in this context, again, because the transmission poles are not being located within agricultural fields, they are being located far enough away that, again, there is no disruption to agricultural equipment being used in the field, there's no disruption to irrigation.

Q. All right. And when you talked about the flexibility of extending the span between the towers, that maximum extension, did

you say twelve hundred feet?

A. Yes.

Q. If you go out to there, how do you do that compatible with what the water extension district requested in terms of seventeen-foot vertical clearance?

A. The tradeoff for increasing the span is to increase the height of the tower. So this is something you have to do very judiciously and decide how do you balance all the different factors so that you get a result that optimizes, say, for visual concerns, for safety, for agricultural practices, and so on.

Q. And perhaps this is a question for Miss Stennick, but when a condition is put in to satisfy the water extension district that there will be a seventeen-foot clearance, is that on a hot day? Is that a worse case scenario that it's at least seventeen feet?

MS. STENNICK: According to the information that I have, that would be the worst case scenario, but I would like to point out that this condition is not solely to satisfy the water district.

It was -- there are synergistic effects of designing the transmission line route with potential impacts to visual resources, land use impacts, crop dusters, and the water district.

And with this condition -- with -- to observe the safety to the water district to allow seventeen feet, it would address all three of those potential impact areas.

HEARING OFFICER FAY: Q. Mr. Priestly, you talked about by removing the distribution line that the transmission line would be high enough that the planes could fly underneath.

A. Yes.

Q. And are we talking about a zone as little as seventeen feet high?

A. No. I think Amanda was talking about clearance between the water district's equipment, the top of their equipment, seventeen feet from the top of their equipment and the sag point.

Q. I understand. And is it identified some arbitrary height measurement of their equipment?

I mean, have they designated to you what they want in addition to seventeen feet for an assumption?

MS. STENNICK: My understanding is that the machinery that they use to clean the canals and to maintain the canal extends twenty-five feet vertically.

And Mr. McCuen stated that the clearance -- the safety clearance would have to be seventeen feet between the top of their equipment and the lowest point of the line.

HEARING OFFICER FAY: And has that been designated in the condition?

MS. STENNICK: Yes, it has.

(Pause in proceeding.)

HEARING OFFICER FAY: That concludes our taking testimony and cross-examination on land use. Now we'd like to take comments.

And Russell Young has been waiting patiently to make his comments regarding land use. We thank you for your patience and ask you for your comments.

MR. YOUNG: The name is Russell Young. After sitting here all day, I've learned a valuable lesson, that's once you get up to

the podium, you don't give it up.

I'm here and speaking on behalf of the Yuba/Sutter Farm Bureau Board of Directors. Land use is one of the areas that Yuba/Sutter Farm Bureau Board has concerns with. I know that probably this isn't a major issue with the commission because this is an issue that has to be settled at the county level, more than here probably, but it is referred in your report more than once, probably three or four times it's referred, that the county in the general plan has committed to saving agricultural land.

We feel that this plant project is not -- is an industry, and as an industry, it should be put in an industrial tract, and since you say there are two of them in the county.

Being that the Calpine has said that they could put an air-cooled plant in, it could be built just about anywhere then.

And probably one of the things that you have already answered but that's been down on my list all day is: Will this project be a magnet for the future growth in that area? And one final thing and comment that this will not affect land use in that area, I disagree with that. It will affect land use in an agricultural area. Thank you.

HEARING OFFICER FAY: Thank you, sir. Thanks again for your patience. Mary Henson.

MRS. HENSON: I'm sorry I couldn't be here this afternoon when you talked about schools. I had to substitute. I'm a farmer's wife. I'm a member of the Yuba/Sutter School District. There seems to be a little confusion about tax money or lack of -- mostly lack of it in the school district.

Number one we are revenue-based limit school; therefore, our money comes mostly from the state. Whatever we get in local monies, the state takes away and gives us a little bit more so we equal a certain amount.

So therefore, if Calpine pays money in the local coffers, that's fine and dandy. The state amount they give us is less. We will see a net increase of zero. I hope that clarifies a point.

COMMISSIONER MOORE: Is there not a district impact fee that the county can administer on a square-foot basis?

MRS. HENSON: Two thousand --

COMMISSIONER MOORE: The sum of two thousand some odd dollars --

MRS. HENSON: But if they'd like to volunteer two thousand dollars a day, I'd be glad to take that too.

COMMISSIONER MOORE: It's not a square-foot basis?

MRS. HENSON: It's a square-foot basis of the plant.

COMMISSIONER MOORE: So any plant that came in, if it was ten thousand square feet or fifty thousand square feet, two thousand dollars is --

MRS. HENSON: No square footage.

COMMISSIONER MOORE: So that is not something that's going to be diminished or interfered with?

MRS. HENSON: It's a one-time fee.

COMMISSIONER MOORE: Goes into capital facilities for the school district --

MRS. HENSON: Goes into the developer fees.

COMMISSIONER MOORE: Which they use for

capital improvements?

MRS. HENSON: Right.

COMMISSIONER MOORE: I want to make sure that's clear. That's different than the ADA or the other moniesthat come in.

MRS. HENSON: The local taxes they give every yearthey put into the coffers. The state takes out whateverthey put in.

COMMISSIONER MOORE: You use it to pay the ADA?

MRS. HENSON: Yes.

COMMISSIONER MOORE: Good.

MRS. HENSON: Any questions on that?

Now can I go on to land use? I have a couplequestions -- I guess a couple statements.

As I read or look at or try to understandtransmission lines, there seems to be a drop from whereverup to thirty feet where they sag and then they go back up, but the drainage district has this piece of machinery that'stwenty-five feet with a seventeen-foot clearance.

According to my addition, that's forty-two feet. That's a little close to the sag, and I guess there'ssometimes a little arc from things, from electrical lines.

MR. PRIESTLY: In order to meet the requirement thatthe seventeen-foot clearance be maintained, we'll have to look very carefully, but in areas where there's likely to beequipment from the water district, the sag, the very lowestpoint of the line, will have to be at least forty-two feetabove.

MRS. HENSON: That part of the line will have to besixty feet high.

MR. ELLISON: Perhaps I can clarify this. Therequirement is that at its lowest point, which occurs on theworst case hottest day on full load, the line cannot sagbelow forty-two feet. And the forty-two feet, as I thinkyou've described, is the twenty-five feet of the district'sequipment plus seventeen feet of the required clearance. And seventeen feet is, of course, to prevent the kind ofarc that you were concerned about.

So the distance, as I understand it from Ms. Stennick's conditions, is the total distance from theground to the lowest position of the --

MRS. HENSON: In your papers it says thirty feet.

MR. ELLISON: She's made changes in that requirement.

MRS. HENSON: The second part I have to do with is --I guess I have a little concern -- I'm really interested indrainage.

My particular piece of land is located on a littlehill because when Grandpa Doc built our house eighty yearsago, that was the only place that wasn't flooded. So I'mreal interested in the drainage district making sure theyhave really good drainage, since JJ didn't pass on theNovember election.

If the drainage district does actually make thedrainage ditch and it goes the way I think it's going to go, where are you going to get ten feet to put your pole? Is itgoing to be in the middle of the drainage district? Are yougoing to put it on the corner a foot away from thelandowners' land?

MR. PRIESTLY: Well, if -- now are you talking aboutSouth Township?

MRS. HENSON: I'm talking about anyplace there's adrainage

ditch.

MR. PRIESTLY: In this case along South Township Road you have the road right-of-way, the edge of the road, then there's a drainage ditch, and there is some unused right-of-way area, and then you come to the Sutter Extension canal, so we're talking about putting it --

MRS. HENSON: Where are you putting the pole?

MR. PRIESTLY: Our assumption is we're still putting the pole between the drainage ditch and the canal.

Maybe Calpine has more to say.

MR. HILDEBRAND: We're maintaining some level of flexibility at this point for the reason we don't know if the drainage ditch -- and any other variables, so we don't have a finite final engineered design today.

MRS. HENSON: I understand. So you could put it within a foot of the landowners' land on the right-of-way?

MR. PRIESTLY: Probably not because between -- you have the canal and then you have a row between the area where we're talking about putting the transmission route and the farmers' land.

MRS. HENSON: But the drainage ditch is going to be big. Okay. All right. So we don't know exactly where our pole is going.

COMMISSIONER MOORE: No, we don't have that alignment yet. I think it's clear that's what you've been told.

MRS. HENSON: Mr. Carpenter, Exhibit B said that anytime you get a use permit that essentially means you have a change in the zoning, is that correct, according to your letter? Did I miss something?

COMMISSIONER MOORE: You are asking Mr. Carpenter whether in his letter the statement is that every time you get a use permit it means a change in the general plan?

No. I mean, the interpretation of the general plan to give a use permit -- conditional use permit is a permissive activity under the existing general plan. You don't have to change the general plan to do that.

MRS. HENSON: Right. But Mr. Carpenter's comments at the end of his letter would lead, I guess, me to believe -- my little Italian mind -- that what he's saying is once you get a conditional permit, it means go ahead and change the zoning; is that correct?

HEARING OFFICER FAY: Are you asking Mr. Carpenter?

MRS. HENSON: I'm asking Mr. Carpenter. He wrote the letter.

MR. CARPENTER: I don't think this is the proper forum to address that tonight. At the planning commission hearing we'll have a report on the letter and how we think it applies to the project.

COMMISSIONER MOORE: In general, though, a conditional use permit carries with it conditions that are specific to whatever parcel or land. I mean, in general we're not talking about the conditional use permit being the equivalent of the change in --

MRS. HENSON: That was issued in 1986. It said the land was to remain in agriculture. Most people think Johnson grass is not in agriculture.

So how do you control a conditional use permit?

COMMISSIONER MOORE: I'm sorry. I missed your last comment.

MRS. HENSON: How do you know a conditional use permit or this permit that says you will put in berms or anything else will be maintained?

COMMISSIONER MOORE: Ma'am, all I can say is you have moved into the realm of the county. The county supervisor shall and will have that for you.

HEARING OFFICER FAY: Just one additional thing: That is to the extent you mentioned berms, if that's a condition of the Energy Commission's license, it will be enforced by the state.

COMMISSIONER MOORE: With that I guess we're going to take a five-minute break and come back at 8:15.

(A brief recess was taken.)

COMMISSIONER MOORE: Let's have everyone take their seats.

Mary Henson, did you -- I'm sorry. We just called on you, and I put your card back on top. Sorry.

Leonard Henson.

MR. HENSON: My name is Leonard Henson. I farm in Sutter County, and first quick question: What's the diameter of these power poles at the base?

MR. HILDEBRAND: Three to four feet in diameter at the base.

MR. HENSON: I've been taking notes all day. Western Power guy said -- I forget his name. I don't know. First one that spoke said there was no proven health problems from EMSI.

COMMISSIONER MOORE: He was careful to say in the literature that he reviewed he was unaware of any health problems.

MR. HENSON: He was pretty careful on what he said.

COMMISSIONER MOORE: And also he's not a physician, so he's restating what he knows.

MR. HENSON: Page 194 on the gas line, third paragraph, last sentence, talks about getting a permit for this dehydrator. These permits are superseded by commission action on -- these requirements are superseded by commission action on certification, the requirements, the permits from Colusa County for this dehydrator, but somebody this evening said a permit will be required.

COMMISSIONER MOORE: They've been incorporated into our requirements.

MR. HENSON: That satisfies that. Then flying under the power lines with crop dusters because several of the old poles would be removed for each new pole: Where are the wires going to go?

HEARING OFFICER FAY: Mr. Priestly?

MR. ELLISON: I'll answer that. For the facilities that are being removed for O'Banion, they would be put underground.

MR. HENSON: Earlier today -- well, you were here, too. They said the bearing, the little one would be pretty easy, but burying the 60 kv would be as expensive as burying the 230s. It probably won't be done. Why bury one if you can't bury the other.

MR. ELLISON: To clarify the record, there's a 60 and 12 kv on South Township. What the statement you just referred to and we are looking at undergrounding the South Township line, but the problem exists on that one. For the O'Banion there's only the 12 kv, and we have proposed to underground the 12 kv, and the poles

being removed are on O'Banion.

MR. HENSON: And then it was stated that this new facility would not be a key way for more land -- for more industrial areas. I disagree with that.

Here in Green Leaf I has been a key way for this new project, and now as soon as the new project is in line and the old one wears out, they'll take it down.

I see by the site map that was up on the screen the new project's only half of the seventy-seven acres, so you take the old project out, and you've got more than enough room to put another new one in, so you could have two power plants there.

And since it's an industrial area, I could see this being a key way for this site, and I've seen Sutter County planning at work, and you know, if one guy can do it, somebody can do it too, so there's a real good chance for it being a key way for more industrial uses out in that area. And my wife did school money, didn't she? Okay. That's all I have to talk about.

COMMISSIONER MOORE: Thank you very much.

HEARING OFFICER FAY: Rosie Foster.

MRS. FOSTER: Hi. I want to touch upon one of the things that Mr. Henson mentioned, also. This was in my mind. Funny that both of us -- the original plant has already attracted a new power plant, so it seems this is already attracting unplanned growth, and an industrial designation would enhance the attraction.

In regards to the county not needing a confirmed transmission line route, wouldn't it be premature for the county supervisors to grant an industrial rezoning when they have no idea how to deliver power or this power to the area that needs to go?

As far as the poles not interfering with agriculture, when Mr. Priestly mentions that it won't be in the fields, it will be out near the roads, the big right harvester. We see all this rice land. You can see these rice harvesters coming in on these low-bed trucks, working around the poles. That needs to be taken into consideration.

We are also wondering for a clarification, I guess: Is it Calpine's intention to rezone just the land needed for the project or the entire seventy-seven acres?

One of the other things that comes to mind is that many of the residents who have attended even here tonight have been at the meetings and workshops for the general plan and felt that a need for the industrial setting was addressed while preserving ag lands.

As you know, we cannot manufacture any more ag land. I can't -- my own notes are pretty bad. There was a time when the general plan was being formed and not long ago, it's actually mentioned in the land use section, talks about coming in if you felt you had a parcel that needed to be rezoned that was running under an existing type of a use that you had an opportunity --

And as far as I know, Calpine was not one of the applicants when they had the opportunity, and I think that would have been the time to put that into a request from the county. That's it. Thank you.

Oh, one other. One of the things brought up earlier in the spring and early summer workshops was parking farm equipment

underneath these power lines.

Does it have the potential to draw from the battery so when you go out to work the next day, will it pull from the battery?

This is something we have a question on that never really got answered. We were curious if anybody had the answer to that.

HEARING OFFICER FAY: I'm not sure we have anybody here who is expert in that.

COMMISSIONER MOORE: But it's worth finding out. We'll ask.

HEARING OFFICER FAY: Try to get an answer on that.

David Massey wanted to address visual matters and wasn't available at the time we were taking comment, so we'll take the comment now.

MR. MASSEY: I'm a landowner on the southeast corner of South Township Road and O'Banion Road. I think I can speak for most of my neighbors on South Township Road that we resent this whole project and darn tired of having to come to these meetings and fight these people. They are an outside source and don't belong in our community.

Eight years ago, just before I bought my parcel of land, I spent a great deal of time looking for a place to build a home that had a nice view of the Buttes, and I spent a great deal of time, and I finally bought the property. Now they want to come along and put a large transmission line right in front of my house, and my house is situated so it's facing right in that direction. That's going to be the dominating feature on the landscape, and it's going to affect my property value. I don't think anyone else that lives in that area it's going to affect their property values.

It's something that I really am upset about, and I think most of the other people that live along South Township are upset also, and I doubt very seriously if the county is going to reassess our property values and give us a property tax break. I doubt that is going to happen, and I don't think Calpine will reimburse us for it either. Another thing is at nighttime, the present Green Leaf plant, looks like a Christmas tree. I would assume when they put this other plant in behind it, it will be even more lit up.

You can't convince me that a hundred-and-forty-foot-high building is going to be concealed by thirty- or forty-foot trees that will take twenty years to get that big, but at a forty feet, it will not cover up a hundred and forty foot building. I'm sorry. Thank you. That's all I have.

HEARING OFFICER FAY: Roy Stevenson.

MR. STEVENSON: Roy Stevenson. I live at 3551 Oswald Road. I've got a question for Curt, if possible.

Is Calpine or are they intending to join U.S.A.? You don't know what that is?

It's underground location of pipes, wires, anything of -- are they a member of U.S.A.?

MR. HILDEBRAND: I'm not aware of us being a member. I can research that for you more in detail.

MR. STEVENSON: Something that you do need to do is whether this thing goes in or doesn't go in because the plant that you have there now, you should join.

We sent a line crew out there from Marysville. We likely lost a line crew the other day. We were told there was no gas lines south of the plant. They hit a pipeline ten inches in

diameter, nine hundred pounds of pressure. It probably would have killed the whole crew.

MR. ELLISON: Well, just for record, we talked to Mike Horn, the plant manager, about that issue, and he informs me, and I pass on to you, that the line was marked, and they should have known it was there.

MR. STEVENSON: Markers have been knocked down by somebody mowing the field. I talked to the foreman. This is something that you should look into.

Any wire that is buried, any gas lines, where are you going to put this other gas line? Out to the meridian?

These people, the farmers hit that with a ripper, I guarantee you somebody is going to get killed.

MR. ELLISON: We agree with that. And Calpine, in addition to the concern of everybody around us, has a very large economic interest in ensuring that doesn't happen. I think I can assure you whatever is appropriate will be done with respect to preventing that.

MR. STEVENSON: If you are not a member of U.S.A., PG&E has no way of knowing where your lines are. Nobody can mark them, and we can't locate the mark ourselves. We can do our own, we do everybody else's, but we can't do yours. I know that for a fact.

HEARING OFFICER FAY: Mr. Stevenson, help the rest of the audience, for the record, can you explain what U.S.A. if?

MR. STEVENSON: It's an underground survey where they locate underground wires, pipes, water lines, gas lines, anything that's buried, something you cannot see, they will come out and locate phone cables, whatever.

We are required by law to notify them of a project going in in that area, project location, and they go out and do the marking before we are allowed to go to work. If it's not marked, like I said, the other day this supposedly was marked, it was marked with stakes. That's not always the way we mark. It might have been a local mark on their own. If they are knocked down, what are you going to do?

A crew went in and talked to Mark and the whole bit and came back out and said they put it where a stake should have been and turned around and hit a ten-inch gas pipe, which wasn't supposed to be there, according to your plant manager.

HEARING OFFICER FAY: Thanks very much.

MR. ELLISON: One thing I can add is the new line will be a PG&E line, so they should know where it is.

MR. STEVENSON: We are a member of U.S.A.

Second thing is that flying under power lines, at anytime, under any power lines, period, is illegal.

HEARING OFFICER FAY: The project has to conform to, I believe, it's Geo 95, one of the conditions contained in the license. That's Geo 95 refers to Public Utilities Commission's rules on what you can and can't build under a transmission line, so I think the project is required to comply with that anyway.

Bob, you are the lucky last guy, according to my cards. Bob Emeril.

MR. EMERIL: I'm Bob Emeril. I live along South Township Road, and I guess the first thing I need to find out is who owns

this easement where you are going to put these power lines presently?

MR. HILDEBRAND: Can you be more specific, Bob? There's more than one easement.

MR. EMERIL: I'm being as specific as you are. I mean, where you propose to put the poles, who presently owns the easement? Who owns -- who controls that property right now?

MR. HILDEBRAND: There are numerous owners along that route.

MR. EMERIL: I'm talking specifically -- let's be very specific. I'm talking across the street from where I am on South Township Road.

The way I understand you want to put the poles between the drainage ditch and the canal channel; is that correct?

MR. HILDEBRAND: That's our current preferred route, and that will be modified as appropriate with landowners and others.

MR. EMERIL: But what I'm saying: Who controls that piece of dirt between the drainage ditch -- we know we have a road. We have a drainage ditch, and we have a canal bank, and then we have a canal, then we have a second canal bank.

MR. HILDEBRAND: The answer to your question, Bob, for the South Township route, Sutter Extension Water District has a sixty-foot, and I believe a portion of that's a fifty-foot-wide easement. They own the land in fee all the way down to O'Banion, from my understanding.

MR. EMERIL: That's my understanding also, and the canal district has made it very clear that they do not want those poles in their easement.

Now, do you folks have the ability to be able to basically take that easement away from them?

MR. HILDEBRAND: They have stated that they have concerns and are not currently willing to grant us access to those lands; however, we remain hopeful and optimistic that given future discussions with them that those discussions will be more fruitful.

MR. EMERIL: Okay. I think, basically, what's going on here is you are going to try to build something -- you are going to try to build a house and you don't have the land to build it on. That's the bottom line here.

I don't know about the landowner that owns the property on the outside of the canal. I don't know whether that's a possibility. I thought I understood that's what you were going to do.

I've had numerous discussions with the district, and they absolutely are adamant about not putting those poles in their easement. They are concerned about leakage from the canal where they have liability, where water would come out of there. I don't know.

MR. HILDEBRAND: We'd like to resolve problems, and there's a number of issues that we've talked to with the Sutter Extension folks in terms of potentially lining their canals, buying them lower profile maintenance equipment for their berms, looking at incremental cost of using helicopters spraying over fixed-wing.

These are the sorts of solutions that we're fully prepared to discuss with local growers, local water districts.

So you state where things stand today. Again, we

see opportunities to resolve concerns of the folks in the area.

MR. EMERIL: You sound to me like you are being pretty flexible with it and also flexible enough to come up with twenty-five million dollars to build a completely redesigned plant.

I'm concerned with this amount of flexibility. Why we didn't take that money and build it in the industrial park in the Buttes where there would be no power line issue? You just basically make your switching station and hook up to the wires. They go right across the wires, the industrial park.

MR. HILDEBRAND: I think we've stated previously on numerous occasions what our stance is on plant relocation. Calpine finds it unacceptable for a number of reasons. MR. EMERIL: Well, I understand you guys are footing the bill, but you also have to live with us or we have to live with you, whichever way you want to look at it.

Quite frankly, I think you made a mistake. I think you should build it where it belongs, then you wouldn't have had any problem.

Do you have to buy easements? Is that how it happens?

I want to understand what's going on in the land, how the land gets transferred.

Do you have to go to Sutter Extension and buy the easement, if you get together with them and do all these things for them? Is that how it works?

MR. HILDEBRAND: The other thing I stated on numerous occasions in the past is Calpine is not in the transmission business. We're in the power generation business.

We currently would expect Western Area Power Administration to be responsible for operations, maintenance, land acquisition for the transmission facilities.

Western's current role as lead federal agency in the permitting of the Butte process for the National Environmental Policy Act precludes them from contributing any nonretrievable resources; i.e., land negotiations, entering into interconnection agreements with Calpine, etc., until after their decision is published in January, Loreen?

MS. McMAHON: Yes.

MR. HILDEBRAND: So in terms of answer your question, Bob, there is expected to be an acquisition of easements for the entire right-of-way for the transmission line. Whose name those will be in, I can't tell you today. But again, we expect, speaking for Calpine, that Western would be the agent that would be responsible for those activities.

MR. EMERIL: They do have the power of condemnation?

MR. HILDEBRAND: That's my understanding.

MR. EMERIL: So that would probably be the most likely avenue?

I'm beginning to figure out how this is going to work now. I was concerned as to, you know, how the people that are living in that area are going to have really any kind of impact on this. I'm beginning to understand. I don't think we're going to have a whole lot. Looks like you are basically just going to come in and do it anyway.

MR. ELLISON: Bob, let me state for the record that I don't

want this to deteriorate into a sort of interrogation. It's not really the purpose of public comment.

But since we've gone this far, let me say that certainly Calpine's desire and intention, I can't speak for Western, we've spoken with them. I think I can safely say it's their desire and intention that the acquisition of land that's necessary for these transmission routes would be an arm's length negotiations with the landowners and would result in a payment of fair market value, and condemnation would not be used as an absolute last resort.

MR. EMERIL: What I need to understand is who is the landowner? Is it the district? I don't think so. The district just owns the easement.

MR. HILDEBRAND: It's our understanding that they own that in fee, at least the Township portion of that route.

MR. EMERIL: They own the easement, okay, but not the property.

MR. HILDEBRAND: They own the land in fee.

MR. EMERIL: Are you sure?

MR. HILDEBRAND: My land man in the back row is nodding yes.

MR. EMERIL: I thought the landowners owned the middle of the road in each direction. I know I granted them an easement. I just figured Siller granted them an easement, that's how they got the parcel, but that's not true, I guess.

MR. HILDEBRAND: From our understanding they own that in fee. We've pulled those records.

MR. EMERIL: The gentleman said something about in his opinion this would not be a key way into for another business. The nice thing about opinions is everybody can have them.

The thing I'm a little concerned about is it seems to me like the natural thing to do here, once you have a power plant, is if you find somebody that uses a lot of power, then they should locate right next to a power plant.

I mean, it would seem to me that would be the natural thing to do, which would seem to me like it would have a tendency to pull in heavy industry. May or may not happen.

MR. HILDEBRAND: Let me restate some of the linkages that the experts testified were required for logical expansion.

In terms of our project we're not planning a thermal host, not designing any opportunity to utilize exhaust heats. That would not provide an avenue of expansion for thermal uses. The generation is to be transmitted at two hundred thirty kilovolts. That's a voltage that is expensive to step down to more useful voltages for industrial use.

Basically anybody that would use our power plant power directly from the plant, it's not what we would deem a feasible application of an industrial customer.

More typical locations for taking power are at substations where there's alternate voltages available for the customers.

In terms of additional power generation capacity at or near the site, basically there is little to no additional capacity, as we understand the Western and PG&E existing lines out there beyond what's being proposed today, so short of new transmission being built in the area, we don't see an opportunity to expand beyond what's being proposed today. Those are some of the linkages

that I don't see fitting here that would lead to the logical conclusion that we would be expanding or industry would be rapidly expanding in that area.

MR. EMERIL: The only reason I say that is if you take a trip back to the midwest, you see the caterpillars basically built their smelting plants right next to power generation plant so there wouldn't be the problem of diluting the power. You have a large producer and a large consumer. It makes perfect economic sense.

As far as the expansion of the plant, I think it would also be a very natural thing for you folks to do down the road five, six, ten years to get rid of the front plant because everyone, including you, admits that it's dirty, so we get rid of it.

And as Mr. Stevenson pointed out, you just simply build another five hundred megawatt plant in front, so then you do have excess capacity.

I'm only pointing out that there are some very real possibilities, and maybe I'm sitting here cutting my own throat because I'm right there. Let's bring Caterpillar in. I'll sell them my property.

MR. HILDEBRAND: Couple points of clarification I want to state for the record: Calpine has not agreed that the Green Leaf I plant is dirty. It's actually emits less than half the nitrogen oxide parts per million than the average PG&E plant.

Secondly, we have explored language and are continuing to explore the language with the county that would limit our future development on that parcel to no additional generation capacity to be built on that parcel. Again, we're trying to be responsive to the concern that this is a key way. We hope to reach successful conclusion on language that would preclude additional buildout there.

MR. EMERIL: The problem we have with that is when you went in there to begin with -- you didn't go in there to begin with. Green Leaf or whoever built the plant -- and said specifically that the rest of the property was going to remain in agricultural use. Didn't happen. It just flat didn't happen.

COMMISSIONER MOORE: Bob, can I ask a favor of you? You've gotten into a dialogue with the applicants.

Really, what I would prefer -- I've got to write this up. In the end, you know, you are going to lean on me to make a decision, so I appreciate your statements very much and your opinion very much and the questions that you have. So maybe if you could just kind of put them on the table, then we get them and it goes a little bit above the dialogue.

MR. EMERIL: I apologize for getting out of order there, but there are several things we were really concerned about. I really got to tell you, I think the forum this should have been resolved at is at the county level. There's no question in my mind. I'm sorry it has to be brought up here first. I don't understand why it's being brought up here when the county hasn't even resolved their problems.

HEARING OFFICER FAY: You may want to bring this all up.

MR. EMERIL: You can bet we'll be there. I guess, I basically am just saying I think the plant is being shoved down our throats. I'm saying "our throats," I'm talking about the

people that live in the area, simply because somebody in the company wants to build it wants it in that particular area.

I don't think -- I don't think that it must be a personal decision that they own the property and want to build it there. I think they are building it there only for the wrong reasons, so there's two other places, at least one I can think of in the Buttes, that have really no concerns, that all these concerns will evaporate, and Calpine will make its money and the county will make its money and we'll all be winners. Thank you.

HEARING OFFICER FAY: Thank you, Bob. One last card from Brad Foster. Then we're going to take some comments from Mr. Carpenter from the county.

MR. FOSTER: Brad Foster. One of the things I just heard is they don't consider the existing plant a dirty plant. It puts out a hundred ninety-four tons of NOx emission a year, and here we have a plant that's going to be ten times bigger and puts out five hundred tons a year. I consider that a dirty plant, considering the amount of power it's putting out, the plant we're putting in next doors supposedly.

Question was asked earlier: Are we going to rezone the whole seventy-seven acres or just rezone what is needed for the new plant?

COMMISSIONER MOORE: We can't answer that because I don't know what the county is going to do. I'm assuming that when the application finally goes to the county, it will be for the entire area, but frankly, I won't know that until George reports back to me what happens.

MS. STENNICK: Can I comment on that?

The application from Calpine is to rezone the entire seventy-seven acre parcel.

COMMISSIONER MOORE: I stand corrected. Please, excuse me.

MR. FOSTER: Power lines and land use around them: Power lines don't belong in an orchard practice. We farm along Township Road. I invite you out, look at any of the power poles along our property line. They all have a thing called tractor blight, where the tractor got tangled up with the pole. You won't find a round pole in an orchard around Sutter County.

I know we were talking that no one knows where the transmission lines are going, that makes it hard. They are talking about burying the PG&E lines on the east side up Township Road. We're going back and forth. We've raised the lines up so aircraft can fly underneath them. We've raised the lines so the water district can work underneath them.

Now you've got to lower them for me. For me to do my job on the other side of the creek, I have to fly over them, and you've raised them. Our piece of property is farmed east and west when it comes to aerial application. North of Mrs. Woods, my mother-in-law's property, they fly east and west. This summer I notice Siller Brothers flying their rice crops east and west.

The transmission lines along Township Road now. You have a man on one side wanting to fly under them. You have us on the other side wanting to fly over them, we've got a problem.

HEARING OFFICER FAY: You need to clarify, again, the definite underground, as I understand it is only --

MR. FOSTER: That's right. But raising this for, you know, we're trying to fly over sixty-foot line now. We're making these across the street from us, we're going up an extra height to get the excavators and equipment underneath these lines. We're having to fly over the added lines which means the plane has to pull up even sooner.

This year we had a blight problem in that general area. That means our dormant sprays are going to have to cover every tree and be a thorough job to kill the blight so they don't winter over.

If we get rain, we can't go in with a ground rig. We have to go in with an aircraft. This portion of our property won't be covered properly because of having to pull up over the lines. If we don't do the job right this winter, we have to come in over the summer. Bob can tell you it's about thirty dollars an acre for materials. Ours was thirty-seven. He got a better deal than we did. This is an added cost that we have to come up with.

Another thing that was brought up was the existing plant being in an industrial -- existing plant is drawing ag products that is an agricultural plant, in my view.

Someone else that was left out on the land use was the duck club. We talked about how it was going to impact farming and everything else. The ducks fly along the transmission route. There isn't going to be good duck shooting if the guys' out and away from them.

One other thing I want to bring up is in the year 2001, we have to have this plant running. Have we given ourselves -- I should say -- has the Energy Commission given itself enough time to look at all the alternative sites and weigh all this in and still meet this date?

I see where we're really pushing to get this through, and we don't even have a transmission route yet. We have the cart before the horse. Before the Energy Commission -- I can't believe the state has spent this much money on something, and they don't know if they can get the power off the site.

For some reason we're doing this different. We're looking at the site and hoping we can find a way to get the power off. This past six months maybe you should have been looking at alternative sites.

Number one, I'm going to say it again, south Sutter County. It's a mile and a half from the Elverta switching substation. That's where the power seems to be headed. Phase two, I'll bring it up again, that's an extra twenty-three miles of transmission line. Where is it going? The Elverta substation. It's snowballing again.

If you put the plant here, we have to add another transmission line. Why not put another five hundred megawatt right there because now we have a new transmission line to handle the power.

I really don't think the Energy Commission and the state hasn't given themselves enough time to weigh all these out. The alternative sites -- to me, this Sutter site, if there's any chance whatsoever, twenty-three more miles of transmission line is going to be attached to it to make it a more reliable source of power for somebody, this is a part of the project.

We're not all looking at it the same way I do, but if that plant doesn't go here -- I remember talking with Mr. McCuen last week if this project were in south Sutter County that twenty-three miles of transmission line wouldn't have been to be built.

Chris will bring it up again tonight that if they don't build a plant we will have to build one from Orville all the way down, but I think if Calpine steps away from the plate and the market being the size it is in the greater Sacramento area, some other power company is going to step up to the plate and take over where they left off. Thank you.

HEARING OFFICER FAY: What we neglected to do earlier is hear from Mr. Carpenter. He's representing Sutter County here and the county, of course, is very involved in the language question and is going to have to rule at the planning commission level and board of supervisors' level whether this applied for general plan amendment and overlay plan is going to be adapted.

MR. CARPENTER: Thank you, Mr. Fay. Our comments will be embodied in our report to the planning commission and that will be available on Thursday in the Community Services Department of 1160 Civic Center Boulevard, most likely Thursday afternoon.

What we will do is have our assessment of the project from the land use changes, inform the planning commission of the proceedings that have gone on since the FSA was released, for example, updates, conditions, that sort of thing.

Additionally we're going to point out to the planning commission that we don't agree with the land use assessment that was done in the FSA. And to put the Energy Commission committee on notice, we're also -- we take exception with the fact that we don't think the procedure that should have been followed was followed.

Our reading of the siting guidelines say that the agency in charge of enforcing the local regulations is the agency who should provide the assessment, and that's what should be presented to the Energy Commission.

And through most of this process the Energy Commission staff consulted with the county, but when there was an alternative mitigation route because of the visual resources, the Energy Commission staff changed their recommendation to go with an alternative route without consulting the county, and that was subsequently removed from their recommendation.

But today we received additional testimony from the Energy Commission staff in which they made comments that were contrary to a letter that we sent out, which was our position on the conversion of the site in 1984 from agricultural to industrial use.

And to the extent that any of the Energy Commission staff's comments on local land use regulations and laws are inconsistent with the county's, we think it's inappropriate to have that in the record.

On Thursday when the planning commission and general report comes out, it will identify the inconsistencies that we have found and the concerns that we have with the staff assessment.

COMMISSIONER MOORE: Thank you, Mr. Carpenter. I regret briefly at the start of this process I suggested an MOU with the

county that might have dealt with this upfront, and I was overruled by county counsel -- not asupervisor anymore -- well, by chief counsel's office and bythe siting division in recommendation to my board members. I'm sorry that happened because I think that we might haveavoided this kind of a recommendation.

MR. CARPENTER: If I might address that: On April14th I wrote a letter to the project manager identifying howI understood the county's role to be in the land useassessment. I thought that was pretty clear and said ifthere was anything in there that was inaccurate to let meknow, and the county was not informed that anything wasinaccurate in that letter.

COMMISSIONER MOORE: Okay. Well, we're not here norI think would the applicant want us to be here to beobstreperous to the county process. We're here to work withyou and make sure your concerns are satisfied. I think theapplicant would wish that upon us that we do that in thisexpeditious a manner as possible.

I promise you as presiding member of this committeethat will happen. We'll accommodate whatever we can tofacilitate your process, and I assume that we'll get copiesof that as soon as it's released as well.

MR. CARPENTER: Yes, that's correct.

COMMISSIONER MOORE: That's interesting, and probablyshouldn't be surprising, but somehow I am surprised athearing that tonight.

Let me turn to staff before I close this up tonight. We have another hearing that will be happening on Monday. And we'll of course have access to those documents that willbe released by them.

I would like to have, and I don't know whether thereis such a device available today, a schematic. George, youmay have such a thing your possession or be causing one tobe developed.

What I have in mind is if I had an acetate overlay, and I had each parcel within the range of the proposedtransmission line, and frankly, we've only got two majoralignments that seem possible from the power station out. On each parcel where there's active agriculturaltoday, could I get a simple schematic that's a directionalarrow that says the typical direction that they are flownfor spray applications? Some will be flown north/south. Some will be flown east/west, just so I can have and mycolleague, Mr. Keese, could have a schematic of thepotential conflicts that were talked about here.

It's come up over and over. Again, just to kind ofgive us another tool to look at that. I haven't seen thosein here, but perhaps Mr. Emeril and others could help usjust create a simple vector schematic by parcel.

MR. EMERIL: That's very easy to do, Mr. Moore. I mean, basically everything from the plant to O'Banion Roadis flown east and west and everything, I mean, it'sperpendicular to the way they want to run the plant.

COMMISSIONER MOORE: I understand that. But it wouldappear from some of the testimony that we got that somepeople had changed their practices. I would just like tohave it down in -- maybe there's one big arrow on one sideand one big arrow on the other side, but I would just liketo see it in plan.

MR. EMERIL: Look at the parcels. They are all long to the east and west and long to the north and south as you go along O'Banion.

COMMISSIONER MOORE: I don't think this is difficult for staff to come up with. We'll just enter it as a staff entry.

MR. FOSTER: I hate to say it, but a lot of this changes when the wind blows. It depends on the direction of the wind.

COMMISSIONER MOORE: I'm asking for predominant and--

MR. RATLIFF: Are we --

COMMISSIONER MOORE: I'm asking for my own staff to construct this, if possible. I looked at Mr. Carpenter because perhaps he had something, Energy Commission staff. And I thought perhaps Mr. Carpenter might have -- no? Okay. Is that -- Chris, do you have any objection to producing just a visual more for me to try to understand some of the testimony that has been presented?

MR. ELLISON: We're certainly happy to have that kind of information in the record, if it can be obtained.

As I mentioned, the individual we've been working with, crop duster, had surgery today. We're reluctant to ask him to do anything for a little while, but we'll see what we can do in terms of getting that information.

I think, however, what Brad Foster said might be right, I'm not sure there is a uniform practice.

COMMISSIONER MOORE: If there isn't, you guys will come back and tell me there isn't and there won't be. Allright.

With that I'm going to close this hearing, and I'm going to cut Mr. Valkosky off before he has a chance to say anything. I have to give him tribute. He is masterful at representing the public interest. Every time we stray, and it looks like I'm going to cut somebody off and do something else which precludes public testimony, he's up here.

And on behalf of the public, Mr. Valkosky, I certainly thank you. You keep us tuned to the straight and narrow.

MR. VALKOSKY: Thank you, Commissioner. And in that vein, I've got a few items I need clarified, not only for the public present here but for any public that's going to call in and ask when certain topics are coming up.

As I understand it, tomorrow's hearing is canceled.

COMMISSIONER MOORE: That's correct.

MR. ELLISON: Thursdays' hearing.

MR. VALKOSKY: Sorry. Correct. In this morning's session you indicated you want a staff witness concerning need conformance; is that correct?

And that witness will appear on which of your available hearing dates? Monday, November 16th or Tuesday, December 1st?

COMMISSIONER MOORE: I anticipate it will be on the 1st.

MR. VALKOSKY: December 1st. All right. Thank you.

And you also indicated that you wanted a county witness to explain roughly the tax revenue distribution. Was that also going to appear -- was that witness also going to appear on December 1st?

COMMISSIONER MOORE: I believe we're going to get a letter on that. I don't know that we'll have a witness. We'll have some sort of a letter.

MR. CARPENTER: It was my understanding we were going to try

to get something in the written form.

MR. VALKOSKY: Regards to what the county just said about its position concerning land use, are you going to include that on the agenda for one of your future hearings?

COMMISSIONER MOORE: I believe that that is going to be significant enough. I don't -- I can't say what the outcome is, but I think it will be significant enough that we will reserve time to discuss that, and frankly, I will want it to come up on Monday, talk about the fact that we've gotten such a report, and that we'll discuss it in more depth at the following meeting.

MR. VALKOSKY: So that would be discussed, at least summarized, on Monday, November 16th with the potential that it will be discussed more in depth on Tuesday, December 1st?

COMMISSIONER MOORE: Correct.

MR. VALKOSKY: Finally, Mrs. Emeril offered to produce a witness concerning the diminution in land values, and I'm unclear as to whether you wish to give her leave to do that or exactly what's happening.

COMMISSIONER MOORE: She mentioned that and said that there was an individual from a local bank who would provide testimony, and she later asked would it be possible for that testimony to be provided in a letter that we would docket, and I indicated that was perfectly appropriate.

I'm going to expect that letter, should the individual want to supply it, so the land value question is at least explored by someone local who has experience in lending. We will expect a letter.

HEARING OFFICER FAY: I would just like to point out, Mrs. Emeril, that unless the person does come in person and testifies under oath and is subject to cross-examination, it's not testimony on which a finding could be based, so to get your message that you think that person can deliver into the record in the strongest possible way, you want him here as a witness.

And it would sure be helpful, just out of fairness to the parties, if they are prepared to write a letter, that they write it, and get it to the respective attorneys in advance so they are not surprised and can be prepared to cross-examine the witness. It's up to you whether you want to submit a letter.

MR. ELLISON: Mr. Fay, on that note, can I make clear if we are going to have people who are not interveners in this proceeding producing witnesses, I have two concerns: One, you just mentioned if we are going to have sworn testimony we want the opportunity to cross-examine and have prefiled testimony in the ways all other parties have been required to file it, and in that regard this testimony would be late.

Secondly, equally important, we can all go out and get letters from people at the last minute. If we are going to take this issue up in the nature of having sworn testimony, we should be granted a right to produce a witness on this issue as well.

If we are going to go down this path, we've heard a lot of public comment. There's a lot of public comment I would have cross-examined on if it had been sworn testimony. If it's public comment in the same vein as what we've had before, I don't mind a submission of a letter in that way, but if it's going to be

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

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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.

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