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2 PUBLIC SCOPING MEETING RE:

3
4 INTENT TO PREPARE ENVIRONMENTAL IMPACT STATEMENT
5 NOTICE OF FLOODPLAIN AND WETLANDS INVOLVEMENT
6 BAJA CALIFORNIA POWER, INC., AND SEMPRA ENERGY RESOURCES
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12 Calexico, California
13 November 20, 2003
14 5:00 P.M. to 8:00 P.M.
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18 RAYNBO COURT REPORTING, LTD.
19 3625 West Gailey Drive
20 Tucson, Arizona 85741
21 520/744-2293
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25 Reported by: Joyce L. Davenport, RPR, CCR

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2 PANEL:

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4 ANTHONY COMO, Department of Energy
5 ELLEN RUSSELL, Department of Energy
6 LYNDA KASTOLL, Bureau of Land Management
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13 The above hearing was held at the CITY OF CALEXICO
14 CITY HALL, 608 Heber Street, in the City of Calexico, County
15 of Imperial, State of Californial, before

16 Joyce L. Davenport, RPR, CCR, Court Reporter No. 50685, in
17 and for the County of Pima, State of Arizona, on the 20th of
18 November, 2003, commencing at the hour of 5:16 p.m.

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1 MR. ANTHONY COMO: Good evening. My name is Tony
2 Como with the U.S. Department of Energy. With me here this
3 evening is Ellen Russell, also with the Department of
4 Energy, and Lynda Kastoll with the U.S. Bureau of Land
5 Management.

6 We're primarily here, actually, we're only here to
7 listen to you tonight. I thought it might be helpful to
8 some of you if I gave a very brief opening statement on what
9 brought us here and why we're here tonight. At that point
10 it will be your meeting to talk to us.

11 The Department of Energy has the responsibility to
12 issue something called a Presidential permit. And we do
13 that any time somebody wants to build an electric
14 transmission line across the U.S. International border.

15 I think it was in February, or the beginning of
16 the year 2000, companies that we will colloquially refer to
17 as Sempra and InterGen came to us and they independently
18 filed permits to build double-circuit 230,000 volt
19 transmission lines from San Diego Gas & Electric Companies,
20 Imperial Valley Substation approximately 6 miles across
21 Federal land, managed by the Bureau of Land Management,
22 crossing the Mexican border and connecting to separate
23 electric power plants that each company was building inside
24 of Mexico, about 3 miles inside the Mexican border.

25 So the two Federal actions that we had would be

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1 for the Department of Energy to issue Presidential permits
2 to Sempra and InterGen separately; and then because the
3 lines were proposed to be built on Federal land, the Bureau
4 of Land Management would have to issue right-of-way grants
5 to allow construction of Federal lands to occur.

6 At the time, the Department of Energy and the

7 Bureau of Land Management thought that a proper and
8 reasonable level of environmental review for a project this
9 size would be an Environmental Assessment. We prepared one
10 of those. And following the completion of the Environmental
11 Assessment, each of our two agencies, DOE and BLM, prepared
12 something called a Finding of No Significant Impact, FONSI,
13 if you will. And then subsequent to that, each agency, in
14 DOE's case, we issued two separate Presidential permits; and
15 BLM issued their right-of-way grants for the construction on
16 Federal land.

17 In February or March of 2002, the Border Power
18 Plant Working Group filed suit in Federal District Court
19 alleging a variety of violations of the National
20 Environmental Policy Act, the Administrative Procedure Act,
21 and other issues. Ultimately, the court ruled partially in
22 favor of Border Power and ultimately remanded the case, if
23 you will, back to the Department of Energy and the Bureau of
24 Land Management for additional Environmental Review to
25 address a number of analytical deficiencies that the court
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1 noted, leaving it up to the discretion of BLM and DOE to
2 decide what level of Environmental Review should be done.

3 We decided what we're going to do now is instead
4 of modifying or amending the original Environmental
5 Assessment, we're going to the next step up, actually, the
6 highest step up of NEPA review, if you will, the
7 Environmental Impact Statement. And that's why we're here
8 tonight.

9 The start of any Environmental Impact Statement is
10 to conduct scoping, which basically is what issues should be
11 addressed as we prepare the Environmental Impact Statement.
12 And that's why we're here. We have a 30-day period opened
13 up, and during that time, you can submit comments to us in
14 any way, shape, or form: e-mail, Fax, snail mail, or here at
15 this public meeting. So when I say we're really just here
16 to hear you, it's for you to identify to us what issues we
17 should address.

18 Let me talk just a little bit more about what the
19 remainder of our environmental process is going to be. So
20 we're here, we can collect your comments. The comment
21 period closes December 1st. So any additional comments that
22 you or some of your neighbors or colleagues care to make
23 that either couldn't make it here today or additional

24 thoughts you had, you can get them in certainly by
25 December 1st.

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1 At that point we actually start preparing the
2 document, the Environmental Impact Statement. It's going to
3 take a couple of months. And, clearly, during the first
4 quarter of calendar year 2004, we will have a draft ready to
5 distribute.

6 Which brings me to my next point. Please, it's
7 very important that you sign the list, even if you don't
8 want to speak today. We need to develop a decent mailing
9 list so that everybody who is even remotely interested in
10 the project at least gets a copy of the Draft EIS to review.

11 So once that draft is distributed, it will be
12 distributed for at least a 45-day comment period. And
13 sometime, probably toward the end of that 45 days, we will
14 be back here to conduct hearings that look exactly like
15 this. So while now we're asking you to tell us what issues
16 we should study, when we come back sometime within the first
17 few months of 2004, we'll be asking you to tell us how well
18 we studied them by having reviewed the draft document.

19 When you comment on the draft, whether it's here
20 in person or again paper, or e-mail, or anything like that,
21 every comment that we receive will be photographically
22 reproduced verbatim in the Final EIS and you will be able to
23 see what you said or what you sent us. And next to each one
24 of the points that you have raised, we will tell you how we
25 have responded to them. In some cases it just might be

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1 comment noted. Some cases we might have had to modify the
2 document in some way to address your point or to correct
3 something that you might have pointed out to us. So all
4 that will happen.

5 Then we distribute the Final EIS, the same thing,
6 the mailing list again. Each of our agencies, BLM and DOE,
7 we cannot make a final agency decision any sooner than 30
8 days after that Final EIS is on the street.

9 Now, we have a little bit of an unusual
10 circumstance over here. Typically, when we do an EIS, it's
11 for a project that people are proposing to do. Well,
12 needless to say, both projects are up and operating. The
13 power plants are operating, the transmission lines are up.
14 But, again, pursuant to the court's orders, the approach

15 that we're using on this Environmental Impact Statement, we
16 are going to be calculating the Environmental Impact as if
17 nothing had happened. So it's going to include what would
18 be the impacts of constructing the transmission lines if
19 they were constructed from a green field type of an
20 assessment. Same thing, power plants were up and running.
21 We don't have jurisdiction over the plants, but presumably
22 if a transmission line were not constructed, there would be
23 no place for the power to go. So the full breath of impacts
24 will be addressed from a "what if" point of view. What if
25 nothing is there yet and what if DOE and BLM had never
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1 issued a permit, construction of the transmission line had
2 not occurred. That's a little bit of an unusual twist but
3 it's something which needed to be done for this sake. Okay.

4 Just a little bit of housekeeping. We have a
5 court reporter here. That's not to imply a level of
6 formality. We just want to make sure we don't miss anything
7 that you say. But in deference to her, every time you get
8 up to speak, and we're really not limiting how many times
9 you do that, please say who you are, and at least the first
10 time if you can spell your name for her. And especially if
11 you have a prepared statement that you're reading from,
12 people tend to read a little bit more quickly when things
13 are written out. So if you could sort of keep her in mind
14 as you read any prepared statements that you have.

15 If you use any technical terms or any terms of
16 art, you really could help her out by spelling them. She
17 had a lot of problems in El Centro earlier today. So if you
18 could pay particular attention and help her out.

19 And, occasionally, the only interruption we'll
20 have is if the court reporter, or myself, if we don't
21 understand something that you've said, we'll just ask you to
22 clarify it or something like that. All right.

23 Couple of other things I neglected to mention.
24 With me here today is our NEPA Attorney for the Department
25 of Energy, Rick Ahern. He's sitting in the front row.

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1 Also, by the way, the Environmental Impact
2 Statement is being prepared for DOE and BLM by Argonne
3 National Laboratory. We have a few of our consultants
4 scattered through the audience over there.

5 And someplace, cleverly hidden, is Carolyn Osborne

6 with the Department of Energy's Office of NEPA Compliance
7 and Policy. So that's the full complement. I think I've
8 taken care of all of my obligations from that point of view.

9 So let's get down to the real reason -- oh, one
10 last thing. And I don't know if all of you are equipped to
11 write this down. Argonne National Laboratory has created a
12 web site for this project for DOE. It will be a two-way
13 street. As documents are prepared, maps, and the like on
14 our part, information will be out there for you to access.
15 But in addition, if you have any information that you would
16 like to provide us, whether they're just comments, studies,
17 things that you would like us to consider in the course of
18 preparing it, that's the greatest way, it's the most direct
19 and the quickest way of getting it. I don't want to bother
20 you with details. Mailing us stuff through the conventional
21 mail is the worst thing to do, thanks to the anthrax scare.
22 It could literally take three weeks. If you mail us
23 something through conventional mail, it could take three
24 weeks to get to our desk by the time it goes through the
25 radiation process. Overnight mail is different. FedEx and
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1 things like that, which is expensive, they don't seem to
2 hold that stuff up.

3 Anyway, if you wouldn't mind, let me read the web
4 site to you. And it's <http://web.ead.anl.gov/bajatermoeis>.

5 MS. ELLEN RUSSELL: Or if anybody from the Federal
6 Register Notice knows my address, my e-mail address, I will
7 send you the link.

8 MR. ANTHONY COMO: Yes. The Federal Register
9 Notice also provides Ellen Russell's personal e-mail
10 address. That's also the same thing as sending it to
11 Argonne or sending it to Argonne is the same as sending it
12 to us. So that will facilitate communications back and
13 forth.

14 So I'm going to start calling people then. At the
15 request of one of our guests, I would like to call Kimberly
16 Collins first.

17 MS. KIMBERLY COLLINS: Thank you very much for
18 letting me speak first. I have to go home and write a
19 paper.

20 My name is Kimberly Collins. And I'm speaking as
21 a resident of Calexico.

22 As a community member, I am concerned about the

23 impact the power plants will have on the environmental
24 health of this community. We know that the
25 Imperial/Mexicali Valley already has extreme environmental
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1 and health problems. Building two powers plants in the
2 region has brought about real concern. We do not know what
3 the impact will be on the health.

4 I'm very pleased that an Environmental Impact
5 Review will be done and we will be able to understand the
6 impact and can work a deal with some of the negative
7 consequences for this region.

8 Specifically, I'm concerned with the negative
9 impact on the air quality in this joint air basin,
10 particularly the PM10, carbon monoxide, nitrogen oxide
11 levels that could be released into the area.

12 I'm also concerned about the impact on the New
13 River as it crosses the border into Calexico. It seems to
14 me taking the only treated water out of the system will not
15 be good for the health of the residents of Calexico.

16 Additionally, I'm concerned about the potential
17 impact on the Salton Sea, an eco-system that is already
18 under extreme pressure with the transfer of the water to the
19 coast of California.

20 Finally, I would like to thank you for coming to
21 Calexico and seeing our community and to hear from us who
22 have to live and work here, how we are concerned about the
23 power plants that have been put into this region and to
24 thank you for all the children of Calexico because please
25 remember them as this EIS is being prepared and the analysis

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1 being done because they're the ones who are going to have to
2 live with it for 40, 50 years.

3 Thank you.

4 MR. ANTHONY COMO: Thank you.

5 Victor Carrillo.

6 MR. VICTOR CARRILLO: Good evening. And welcome
7 to Calexico on behalf of Calexico, the City Council and
8 community, as well as Imperial County and District I.

9 My name is Victor M. Carrillo. I'm an elected
10 member of the Imperial County Board of Supervisors
11 representing District I.

12 I am here this evening to urge you to reject the
13 preferred alternative, and instead, to consider the 4th

14 alternative. When the initial FONSI, Finding of No
15 Significant Impact, was filed in response to the original
16 Environmental Assessment, there was little thought given to
17 the effect that the power plants in Mexico would have on the
18 air and water quality on the Imperial Valley.

19 Part of the rationale for not considering the air
20 and water impacts was that the transmission lines were
21 thought to be independent projects from the power plant
22 projects. The power plants were under construction in
23 Mexico and were being built according to Mexican standards
24 under the Mexican permitting regime. I strongly suggest
25 that this full NEPA review consider the total impact of the

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1 transmission lines and the power plants on the environment
2 of our region as they are inexorably linked to one another.

3 InterGen has told the Imperial County and the
4 state legislature that they have the option of selling their
5 power into either Mexico or the United States. In fact,
6 they do not.

7 The Mexicali Valley is an isolated electricity
8 market from the rest of the state of Baja California, and
9 the Mexican mainland in terms of their ability to transmit
10 electricity. They do not even have transmission line
11 capability from Mexicali into the San Felipe coastal region
12 bordering the Sea of Cortez, which is part of Mexicali's
13 political government. San Felipe's electricity must come
14 from the Pacific Ocean side of Baja California, due to the
15 limited transmission infrastructure in and out of the
16 Mexicali Valley. Surplus electricity from Mexicali's
17 generators has historically been exported through the
18 Imperial Substation and their imports have come from
19 connections with the Imperial Irrigation District.

20 Since the original InterGen plants were proposed,
21 Mexicali's demand for electricity has remained constant or
22 even declined due to the flight of numerous maquiladoras'
23 assembly plants from Mexicali to Asia or the Pacific rim.
24 To state it more succinctly, there will be very limited
25 demands for new power from these plants in Mexico. We can

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1 expect all the power produced from the Sempra plant and up
2 to 75 percent of the generation from the InterGen plant to
3 be produced specifically for export into the United States
4 at the environmental expense of the Imperial County.

5 I mention all of this to emphasize the concern
6 that without the transmission lines under consideration in
7 these studies, the Mexican base power plants would have no
8 market and no reason to operate.

9 It is not the purpose or the intent of the people
10 of Imperial County to deny urgently needed power supplies
11 and access to the rest of California. It is, however, our
12 intention to protect the health and environment of this
13 economically challenged and largely Hispanic population. We
14 expect you to do this first by finding that the operation of
15 the power plants is dependent on the construction of these
16 transmission lines, and therefore, it's logical to consider
17 a requirement that the increased pollution generated from
18 these plants be fully mitigated as a condition of approval
19 of the lines.

20 Because of the close proximity, 3 miles, of these
21 plants to the District I and the Imperial County, and the
22 fact that but for the transmission lines, the plants would
23 necessarily remain idle for lack of an alternative market
24 for their power, the pollution from the plants must be
25 considered as a direct result of the construction of these

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1 lines. CEQA, NEPA, and the Clean Air Act all require that
2 the added pollution be addressed and mitigated.

3 We've also heard reports that the companies who
4 own the existing power plants, InterGen and Sempra, are
5 planning to build two additional power plants in Mexicali.
6 We believe this is a wanton act and lack of communication in
7 good faith and a complete disregard for Imperial County
8 residents. This should be investigated and any final permit
9 to operate the transmission lines should necessarily include
10 requirements to fully mitigate any additional pollutants
11 from future power plants that may be built with the
12 expectation of exporting power on these lines.

13 Imperial County took this issue to the state
14 legislature and they are currently in the process of
15 considering legislation, Assembly Bill 151, that would
16 establish a mitigation fund to enable Imperial County Air
17 Pollution Control District, the ICAPCD, to acquire
18 mitigation offsets to accomplish this objective. Given the
19 uncertainty of this legislation, and given your legal
20 obligation to propose mitigation for adverse environmental
21 or health consequences resulting from a proposed project,

22 alternative four appears to be the most appropriate choice
23 in this process.

24 We in the Imperial County further believe that
25 even with the selective catalytic converters that are
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1 proposed for the InterGen plant, that there will still be
2 significant increase in measurable pollutants that will
3 cross into the Imperial County air shed. In fact, the
4 InterGen plant will have no carbon monoxide controls and the
5 city of Calexico is already classified as nonattainment for
6 carbon monoxide.

7 If these plants were built in the United States,
8 the operators would be required to obtain mitigation offsets
9 for every new pollutant that is introduced into the
10 environmental. Because these transmission line projects are
11 totally reliant on the production of electricity at the new
12 power plants, it is within the power of the Department of
13 Energy to require the acquisition of full mitigation offsets
14 for these plants.

15 These offsets should be measurable, enforceable,
16 and preferably located in the United State's portion of the
17 shared air basin. If the offsets are obtained in Mexico,
18 then the ICAPCD, Imperial County Air Pollution Control
19 District, should have the ability to inspect and verify that
20 the offsets are real and permanent.

21 Given the recent decision of the Ninth Circuit
22 Court of Appeals that overruled an EPA decision that waived
23 certain air standards in the Imperial County, due to the
24 fact we have no control over emissions that originate in
25 Mexico, yet pollute our skies, it is imperative these new
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1 sources of PM10s, carbon monoxide, and NOx, and other
2 contaminants be mitigated to the full extent that would be
3 required if they were built on the United States side of the
4 border.

5 This is the correct and just thing to do. I urge
6 you to do it.

7 Thank you very much. Victor Carrillo, Imperial
8 County Board of Supervisors.

9 MR. ANTHONY COMO: Thank you.

10 Carlos Y. And I will ask you to spell your name
11 for the court reporter.

12 MR. CARLOS YRURETAGOYENA: I will.

13 My name is Carlos E. Yruretagoyena. And I am a
14 citizen from Mexico. And maybe my comments will have an
15 added input as to what has been said here.

16 Bi-national partnerships are not easy. In fact,
17 they're so new, that we don't find a way to work with them.

18 Having these two power plants built in my country
19 with foreign capital and focusing the market output towards
20 a foreign country and its majority output being the United
21 States, becomes a very challenging and interesting
22 situation. Because in most cases, each government says to
23 the other, I cannot go beyond the border because it is not
24 our legislation and it is not our sovereignty. So they end
25 up by saying, well, it's now up to you to decide what is

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1 needed to be in your respective country.

2 In the case of the two power plants, there are a
3 lot of issues that have never been clarified to the
4 community, to both communities. One of the things that has
5 concerned us a lot have been the environmental impacts that
6 are going to be produced or maybe produced. And surely, one
7 of the issues that are very disturbing in our case is that
8 during the preliminary sessions and community talks that we
9 had with these two power plants and the managers and the
10 speakers that they brought in, they promised us they were
11 going to be building around the power plant a series of
12 monitoring stations to secure, to know, and to validate that
13 their impacts were under the Mexican laws or were under
14 whatever EPA what's going to be demanding of them.

15 Well, to our surprise, now that the two power
16 plants have been finished and they're like doing their
17 testing, these power plants have omitted in building these
18 air monitoring stations. And if air quality is the issue
19 that is mainly pestering us, how then will we, the
20 community, be able to know for a fact that what they're
21 doing is right or not. And how will they, because they will
22 have the way to do their own monitoring, but that's up to
23 them and it's not an open statement, it's not a clear
24 invitation like they promised it at the beginning of their
25 presentations.

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1 So we see that one suggestion to this new
2 evaluation would be for them to consider the operation, the
3 construction, and the sharing of that data with the

4 scholars, government representatives, and their own staff,
5 their own air quality experts so that the communities could
6 be at least aware as to what was going to be emitted in the
7 air.

8 The other aspect that has been also causing a lot
9 of concern is the way that they will be cooling their
10 towers. They are using our city water discharges to cool
11 their towers. And this, of course, is going to impact the
12 Salton Sea. Because for years the city of Mexicali
13 negligently donated, and I'm phrasing that, that water so
14 that the Salton Sea could have it. But in our mission, that
15 water never did have any value. And so the water was given
16 away for free because it meant a problem for the Mexican
17 side.

18 Well, somebody smarter than the rest of the
19 Mexicali residents decided it could be a salable resource
20 for the power plants. So they went ahead and they
21 structured without any community intervention, without any
22 community participation, they decided to sell the water to
23 these two power plants for their cooling purposes.

24 Of course, the impact that is going to be felt on
25 the Salton Sea is going to be direct. The political
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1 implications, as we all know right now, because these are
2 the times that we're living, related to water, not to
3 energy, but to water, have been broken so seriously within
4 the two countries that we are seeing that this could be used
5 as an argument to further obligate the Mexican side.

6 So implicating these resources in other boxes, in
7 other, in other negotiations, should be considered under
8 this new reevaluation because if the U.S. side had for many
9 years a water resource that was given to them for free, now
10 days is no longer a bargaining chip for the Mexican side to
11 go back and deal with these water transfer issues that are
12 becoming such a pest and such a nuisance to both countries.

13 If there is a suggestion to be made in this
14 respect, maybe the possibility of reevaluating the design,
15 the engineering design from a water cooling approach to a
16 dry cooling approach would be pertinent. If they say that
17 the markets are out there, then they will be able to make a
18 profit and pay for those rearrangements, those technical
19 rearrangements. Because they have said that the market is
20 out there and the booming opportunities will come once they

21 start operating and generating.

22 And last but not least, what community benefits
23 the Mexican side will get? What environmental benefits we
24 will get? Those are some of the issues that are very
25 troublesome, in my mind at least, and I can only speak for
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1 what my environment, or my little piece of the environment
2 and my health and my family's health is pertinent to this.

3 If I see that with these two power plants we will
4 have an increase in the pollutants in the air, then people
5 like me will be forced to leave the city and go and live
6 somewhere else. And that is not fair for me. And it's not
7 fair for anybody. It's not also fair to allow the two
8 governments to deal with a very easiness in saying, well,
9 the power plants are built in Mexico and they were built
10 under the Mexican laws, specs, and limitations but the
11 energy is going to go to the U.S. markets. The two power
12 plants were built with foreign capital, at least in the
13 majority, and so there is a responsibility of your citizens
14 to be accountable for in my country. And if the levels of
15 corruption in my country are permitting this, then we don't
16 have no chance except to ask your government to do something
17 about it. And that is my statement.

18 Again, my name is Carlos Yruretagoyena. And
19 hopefully you did get it right.

20 Thank you.

21 MR. ANTHONY COMO: Thank you.

22 MR. CARLOS YRURETAGOYENA: Thank you for allowing
23 me to speak.

24 MR. ANTHONY COMO: Our pleasure, and to meet you
25 after all the e-mails that we've seen.

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1 MR. DANIEL SILVA: Danny Silva. I'm just a
2 resident of Calexico. And I'm a layman in this area but I
3 would just like to give my sentiments.

4 First, I would like to ask a question. When the
5 Presidential permits were given to these power plants, were
6 they given to them with the consideration that they had to
7 meet EPA requirements?

8 MR. ANTHONY COMO: No. The permits were just for
9 the construction of the transmission lines. We don't issue
10 a permit for the power plants. We only allowed a
11 transmission line to cross the border. So the answer to

12 your question is no.

13 MR. DANIEL SILVA: So, in other words, we can
14 assume now since there aren't any EPA requirements, that the
15 emissions are coming out of there are toxic?

16 MR. ANTHONY COMO: Well, that's why we're
17 performing this Environmental Impact Statement. We're going
18 to take information that we get here, plus other information
19 that we obviously know about and we're going to do an
20 analysis and it's the Environmental Impact Statement that
21 will tell us what the impacts of the plants are.

22 MR. DANIEL SILVA: So the Department of Energy is
23 going to do this assessment by themselves or they going to
24 include the EPA?

25 MR. ANTHONY COMO: Well, we are going to be doing
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1 it, the Bureau of Land Management is a cooperating agency.
2 When Environmental Impact Statements are prepared, the EPA
3 is not a party to it but every federal agency that prepares
4 an EIS, you send it to EPA after it's in draft form, not
5 final. You send it to EPA. In fact, the start of the
6 comment period doesn't start until EPA actually announces
7 that they've received it. And that every Environmental
8 Impact Statement, EPA rates it. There's a complex system
9 that they use. So EPA is never a participant. The only
10 time, I think, EPA would actually prepare an Environment
11 Impact, if they were promulgating their regulations. So
12 they're not party to federal agencies. EIS it doesn't work
13 like that.

14 MR. DANIEL SILVA: This is looking like the movie
15 Erin Brockovich, you know. That's what it reminds me of.
16 Because we're situated in the geographic area in which we
17 have these two power plants. We have this river that has
18 all these antigens in it and pollution coming out of it,
19 then we have fertilizers that is being fertilized. And so
20 all this, I believe, and I'm hearing more and more -- and
21 I'm the President of the Lions Club here in the city, and we
22 have an orthopedic clinic. And I've gotten within the last
23 three months, I've gotten three petitions of birth defects
24 of children that their intestines are out or the intestines
25 coming out or limbs missing and so on and so forth. And we
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1 usually help in that area and we work with them. I think
2 with all these toxins in the air, you know, we are actually

3 affecting the health of our entire community.

4 I've heard more -- I've heard stories about people
5 dying of cancer. Just last week one of our
6 ex-representatives from District 1, his wife died of cancer.
7 And I hear more cases of cancer. So the environment, our
8 environment, there definitely has to be something wrong.

9 I cannot see just the Department of Energy, you
10 know, not collaborating with the EPA and doing a full
11 assessment, not only on the power plants -- because we know
12 they're not built with the requirements of the EPA, which is
13 pretty strict as far as emissions are concerned. And so,
14 you know, we can cause an actual hysteria behind this whole
15 thing. And it can turn into hysteria because we actually
16 are aware of all the things that are affecting around us.

17 We have planes, you know. I mean, our major
18 industry is agriculture. And here, you know, we've planes
19 all day fertilizing the entire county and all that air
20 moves, including the power plants, including the New River
21 which is all polluted with additives and PCPs and with
22 everything else.

23 So we look at it is as a concern in our city. And
24 that's what's going on within the grass roots of the people.
25 And that's why I kind of use it as more or less as an

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1 example of Erin Brockovich situation, you know, scenario
2 because, you know, things are happening. Things are
3 happening within this city, you know, that at more or less
4 in the level of grass roots, the people themselves. And I
5 see this, like I said, the case two days ago, a kid's
6 intestines coming out. We want to do something. The Lions
7 want to do something.

8 So I just hope that there's more that the
9 Department of Energy would cooperate with the EPA concerning
10 the other problems and environment itself. We can kill an
11 entire community here.

12 And I thank you for being here.

13 MR. ANTHONY COMO: Thank you, Mr. Silva.
14 Bill Powers.

15 MR. BILL POWERS: Hi, Tony. Hi, Ellen. Finally,
16 it's nice to meet you.

17 Thank you for coming.

18 I think I want to start off by letting you know
19 that I came with various gifts, which I will give you in a

20 few minutes, just some documents I will explain as I walk
21 through this.

22 I appreciate you asking me if I need more than ten
23 minutes. I think I will probably need a few more minutes
24 than ten minutes. I will go ahead and just get into it.

25 I did look at the Federal Register announcement.

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1 It thought it was very comprehensive. I think the DOE is
2 making a wise move to tackle all these issues we dealt with
3 in the court case, all the expert declarations that went
4 back and forth trying to sort out what is the core facts and
5 what is the best way to go.

6 And I think what I will do is go ahead and hit the
7 main issues that I think it would be much better for the DOE
8 to have all of the substantive issues that I think the
9 Border Power Plant Working Group thinks should be dealt with
10 in the EIS, so we don't wait until six or eight months from
11 now to tackle those. What we deal with in six or eight
12 months is the next phase, not we're holding something back
13 and delaying procedure.

14 I would like to start with the air impact
15 analysis, the issue of using a PSD increment analysis for
16 this particular situation. I know that in the EIS, that was
17 used. In some ways the DOE looked at it, stepping beyond
18 the necessities since we're dealing with International
19 border using the tools available for the EPA.

20 MR. ANTHONY COMO: Bill, I'm going to second-guess
21 the reporter. I think she might need you to slow down just
22 a little bit especially in using some of the acronyms on the
23 air module.

24 MR. BILL POWERS: PSD, Prevention of Significant
25 Deterioration.

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1 And just background for the civilians in the
2 crowd, this is air quality term that identifies what type of
3 analysis you do depending on what the situation is of the
4 source that you're located -- where the new source to be
5 located.

6 The way this was handled in EA, was the
7 presumption was made Mexicali is an attainment area. It is
8 a mythical attainment area. And the resources are impacting
9 either another attainment area or nonattainment area. In
10 reality, Mexicali is demonstratively not an attainment area.

11 But there's our standards and their standards. The problem
12 that we have, I say demonstrably, 'cause one gives in the
13 ARB's monitoring data for this area which includes the ARB
14 Mexicali's monitoring station through the year 2001. The
15 bottom line, Mexican standard is slightly more restrictive.
16 They're a nonattainment area. Why don't they have offset
17 requirements in Mexico? Because they have a loophole. They
18 have ambient air quality standards. They identified it's
19 way over the ambient air quality standards. And what do you
20 do when you've identified it's way over their air standards?
21 Nothing. Because they don't have a program for areas that
22 are out of compliance.

23 And so what we have happening here is that because
24 we have this loophole in Mexico, we have a situation where
25 our Department of Energy is essentially facilitating two
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1 U.S. companies driving right through a loophole. Because
2 we're all completely aware of it here, and saying, hey,
3 everything is A-okay, because Mexico didn't cover that
4 particular nuance of the regulations with a system like we
5 have, a new source review.

6 This may be just an academic statement except the
7 judge explicitly said she wants to know the impacts of
8 Mexico. And so I think that we're obligated to look at what
9 we've got there. EA included the ambient area quality
10 condition in Imperial County and ignored the conditions in
11 Mexico. I think we have to look at those.

12 And I also think that this increment analysis
13 simply doesn't apply in this case. That if we're looking at
14 it strictly from a science basis and we're not allowing the
15 International border to create a fiction in Mexico that
16 allows it to happen, we can't use the PSD increment
17 analysis. We have to offset. Because common sense would
18 say, if they're out of compliance and we're out of
19 compliance and we're adding pollution, we're not doing
20 anything to offset it, then we are making the situation,
21 which is already serious, incrementally more serious.

22 The issue in the second round of the hearings had
23 a lot to do with ammonia for a number of reasons but which
24 aren't worth getting into it. But ultimately, the
25 intervenor and the plaintiff dug deep into the secondary
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1 ammonia emissions. And ultimately, the intervenor came up

2 with an estimate of ammonia emissions so we can figure out
3 approximately how much secondary PM10 is being formed. What
4 they came up with is a very high number, close to a thousand
5 tons of ammonia coming off the plants.

6 The next round we actually got to the point where
7 in response to this back and forth, the intervenor presented
8 calculations of PM10 generated, secondary and generated by
9 this ammonia, except that the consultant's estimate of
10 ammonia emissions dropped by a quarter of magnitude from 900
11 plus tons to 90 tons when doing this number crunching for
12 this increment. And it's very interesting how this all
13 worked out. But anyway, almost miraculously, we dropped
14 emissions up to by a factor of ten. Taking the science of
15 air quality, turning it on its head, instead of being
16 conservative, now assuming that those systems over in
17 Mexicali would be operated at their absolute theoretical
18 maximum best operations manufactured, absolute minimum
19 emissions, grasping it all down to the absolute minimum, we
20 still get an increment of almost two micrograms per cubic
21 meter.

22 And I should have backed up and said -- just
23 stepping aside for a minute as to whether this increment
24 analysis is even a legitimate way to go. The increment of
25 PM10 is five micrograms per cubic meter. The EA says that
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1 these plants contribute on 24-hour basis, three. We go
2 through the exercise of secondary PM10 and the intervenor
3 states max contribution 1.8. Judge's staff, I was very
4 impressed, simply added the two numbers, 3 plus 1.8 is 4.8.
5 Well, the trigger for significance, which triggers a whole
6 lot of stuff, offsets a whole lot of things, is five. Now
7 final decision from the judge was 4.8, very close, which
8 they acknowledged in the decision.

9 But believe me, we will be looking very closely
10 and really focusing on the fact that we went from 900 tons
11 to 90 using very shaky assumptions to come up with this
12 increment which the judge acknowledged was just a hair under
13 what would have triggered offsets and other things as well.

14 And that presumed -- I'm doing this for the sake
15 of argument right now -- I think PSD analysis shouldn't be
16 there. But even presuming that somehow that applies, these
17 other calculations were used to justify that before the
18 judge. We're going to heavily scrutinize that again.

19 To put this in a more context so that, you know,
20 taking inventories of ammonia and doing something with it is
21 just starting in this country. And the power plants are now
22 required to inventory their ammonia emissions starting next
23 year, because the science is now catching up where the
24 significance of secondary PM10 is now acknowledged and the
25 regulatory structure is now kicking in due to inventory so
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1 that we can do something about this problem. So it
2 definitely belongs in EIS, which is beyond the scope of just
3 ABCD regulations.

4 And the final comment on the air quality impact
5 analysis is the judge accepted the fact that even though we
6 built double-circuit transmission lines, we've got
7 transmission line, one circuit 600 megawatts; second circuit
8 600 megawatts; we got another transmission with energy on
9 it, one circuit 600 megawatts; second circuit 600 megawatts.
10 Both companies are on record they're going to build a second
11 plant. It's really picking up now. Both companies are on
12 record, and we're on record when this began, they're going
13 to build a second plant. They, obviously, anticipated it.
14 They built a double-circuit line. And in the give and take
15 of that round of hearings that we had, the judge accepted
16 the fact that was too conceptual to add to the analysis.
17 We'll be looking at that because why would you build a pole
18 with two circuits and only use one circuit and say, we can't
19 conceive of a situation in the future we would build a
20 second circuit, and yet the companies are on record to do
21 that.

22 The reason I say that is important is, if with the
23 single-circuit and a single plant, both companies, we hit
24 4.8 micrograms per cubic meter of PM10, I guarantee we're
25 going way over five if we include both circuits and two more
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1 plants. So I think that, again, just from the remorseless
2 logic of science, that that has to be in the EIS. That
3 there is a second plant that each company is building. So
4 we can look at the impacts from that. And so that's the
5 extent of my comments on air quality impact analysis.

6 I would like to hit the offset issue.

7 Given what I just said, the only way to address
8 the situation we've got that would be fair to these
9 communities is that we have offsets. So that these plants

10 are doing no more damage to the air quality after they start
11 up than before they start up.

12 And I do want to underscore something that doesn't
13 get talked about much. I hadn't been at the earlier
14 hearing, but this county has got by far the worst level of
15 childhood asthma of any county in California. We've looked
16 for the statistics in Mexicali. I don't have them. But I
17 have to believe that Mexicali is at least bad or maybe
18 worse. So there is already a major public health problem in
19 the county. And it's true that quantity of PM10 and
20 quantity of NOx by these plants is relative to what is there
21 now is not huge. But you are already dealing with an area
22 where the public health issue is of great importance in the
23 county and in Mexicali.

24 At least one of the intervenors really stressed
25 this concept of ex post facto offsets. We put in a gas line
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1 to Mexicali in '97, we converted a number of facilities, not
2 converted, but now these facilities in Mexicali, they have
3 the option to burn natural gas or they can burn diesel, they
4 have that as a backup, or they can burn petroleo, a heavy
5 oil. They have that as a back up. And wants to take credit
6 for that. But we've already done far more for the community
7 by doing that than what we are adding in terms of the power
8 plants and, therefore, you need to give us credit for that.

9 I have a few things to say about that. One is,
10 this would be a novelty to grant ex post facto emission
11 offset, to reach back into history, you happen to do
12 something is completely unconnected to this action but now
13 the light has gone on, you recognize it, but you might be
14 able to reach and claim that, but go for it. That's not
15 legitimate. That hasn't happened in this country. It
16 shouldn't happen in this case.

17 But there is another thing to point out about
18 that, and that is that how all these facilities converted to
19 natural gas. Especially if they had no option, that might
20 be a more salable point. We had an energy crisis here in
21 2000 and 2001. And one of the effects of that energy crisis
22 was the natural gas price shot up. And when it shot up,
23 these folks in Mexicali that had switched to natural gas,
24 many of them had decommissioned to backup systems. There
25 was a mad scramble in Mexicali to get those petroleo

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1 burners up and get those diesel burners up. And if you
2 looked at what's happened in Mexicali in 2001, the emissions
3 were bad or worse than they were before that gas pipeline
4 shut up.

5 So if you got a situation where someone wants to
6 claim ex post facto offsets for a situation that is not real
7 and not permanent and then tomorrow all of these facilities
8 could be back on heavy oil or diesel, that needs to be
9 considered in the EIS.

10 We do have a history of the emissions trading in
11 the border region. That project is constantly brought up by
12 the EPA and their counterparts in Mexico, Guerrero/Juarez/El
13 Paso situation. They got a power plant or some operation in
14 El Paso that is trading with Juarez. It's got a lot of
15 momentum in the border right now in these basins like
16 Calexico/Mexicali, Imperial/Mexicali is to get emissions
17 offsets going and trading.

18 We have a first time NAD Bank approved a loan --
19 North American Developing Bank. I think it was either late
20 2002 or early 2003, they approved the first air quality
21 improvement loan. And what that loan consisted of, it
22 involved several border cities, but it definitely involved
23 Mexicali. And it's a road pave program. And it's an
24 interesting loan package. They've gone into great detail to
25 calculate what's the PM10 reduction per kilometer per mile
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1 of road; exactly how much it costs to pave that distance of
2 road. And so they have calculated it all out. They're
3 loaning 30, 40 million dollars across the border. This is
4 how much PM10 reduction you expect to see. It's all a nice
5 package.

6 One of our recommendations is that this is an
7 off-the-shelf package presenting the only type of offset
8 that we think is real and permanent in Mexico since they
9 have no infrastructure to administer an offset program.
10 Road pave. You got a loan packet that says exactly how much
11 you're going to get per kilometer; exactly how much it's
12 going to cost. And you can in five minutes calculate how
13 many kilometers and how much money you need to spend to get
14 an equivalent amount of PM10 offset to deal with the profit.

15 And also, we do have cross-pollutant emissions
16 trade. You can calculate how much PM10 to reduce for the
17 NiOx as well.

18 Now some of the impacts are going to be on the
19 Imperial side. And so that's one way to go on Mexicali. I
20 think it would be fairer if it were balanced so that the
21 Imperial impacts are also addressed to Imperial. And they
22 already have a system for dealing with emission offsets. So
23 there isn't a need for a separate package, for example, like
24 we have for this.

25 But it's important that the DOE is aware of that

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1 program and aware that in this case the taxpayers in Mexico
2 and the United States are ultimately paying for these PM10
3 reductions through this loan program. And it's an ideal
4 situation for the DOE to set a wonderful precedent of having
5 industrial operations like this to take their share of that
6 so that they lessen that burden somewhat on the taxpayers.

7 I think that's it for air quality.

8 I'll take another five minutes on water issues.

9 First water issue I want to talk about is that
10 during -- I don't know how many of you followed this
11 closely, but we had from January of 2003 this year through
12 June of 2003 was our DOE Border Power Plant Working Group.
13 And we prepared many expert declarations. They responded
14 with counter declarations. We prepared other expert
15 declarations, counter declarations, back and forth. And we
16 created a huge body of information. And some of what I'm
17 dealing with came out of that. So that's the background.

18 Now, one of the things that happened during the
19 final round of decisions was the intervenor introduced
20 experts and introduced attorneys, went to the podium under
21 oath and said, hey, because we're building waste water
22 treatment plants and they're going to remove 8 or
23 9 million pounds a year of salt, we're actually improving
24 the quality of the New River. If you do not let us operate,
25 the quality of the New River will actually be poorer than if

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1 these plants operate. What is the presumption behind that
2 statement? And it sold. I think in part the reason the
3 judge didn't suspend the operation of the plants is because
4 that was an excellent sales pitch. And I say that with a
5 little bit of cynicism, but not much. What would make it
6 not cynical is that in the DOE Presidential permit, there is
7 a condition that says those waste water treatment plants
8 shall operate 24 hours, seven days a week and they will

9 operate at rated capacity. If they do that, then the claim
10 that those plants are removing 8 or 9 million pounds a year
11 of salt and actually improving the condition of the river is
12 legitimate.

13 So I think it would be worth the DOE going through
14 all those expert exchanges and the decision because anywhere
15 in the intervenor or intervenor's attorneys or the
16 intervenor's experts under oath claim that they were going
17 to operate those plants in such a way that it would improve
18 the New River or result in an environmental benefit we will
19 expect that would be the DOE condition, Presidential permit
20 condition.

21 The one issue that I know is going to be very
22 prominent in this round is cost. It is always prominent.
23 Cost is always prominent when someone doesn't want to do
24 something they don't want to do. That's nature, I think.
25 But it's definitely true of these types of analyses.

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1 The first thing I would like to mention is that I
2 get a lot of trade publications. And I got one 2 days ago.
3 It's called Diesel and Gas Turbine World. I'm sure all of
4 you are avid subscribers. Let me read a one-paragraph
5 statement. Retrofit SCR Systems for Power Plants in Mexico,
6 Peerless Manufacturing Company, Dallas, Texas, USA,
7 announced that it received an order in excess of 3-million
8 U.S. dollars for Selective Catalytic Reduction Systems to
9 reduce nitrogen oxides from multiple power plant units in
10 Mexico. The first unit of the multi-plant order is
11 scheduled to ship in the first quarter of 2004 with the
12 remaining units presently scheduled to ship for 2005 and
13 2006.

14 Now I called Peerless today to find out exactly
15 what the scope of this \$3 million plus award was. It
16 appears apparently from this they're talking about four SCR
17 systems. Four SCR Systems - \$3 million. For two years,
18 they're generally saying that adding two SCR Systems for the
19 remaining two turbines in Mexico would cost them
20 \$20 million. So I think it's important. Frankly, I usually
21 use what I call the factor three. If someone doesn't want
22 to do it, you usually multiply what it actually costs by a
23 factor of three. I'd say the factor is up, at least in this
24 case, probably to a factor of five or six, meaning, what it
25 actually costs to put that equipment in. Based on the

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1 subcontractor's proud claim in the trade publication, it's
2 on the order of one-fifth of what -- actually in this case,
3 this is just over 3 million -- I'm almost certain, I can
4 check this out -- for four SCR systems.

5 And so I think we're going to be holding the EIS
6 to a high standard of fairness in evaluating what are the
7 legitimate costs. Because here we've got four SCRs. I
8 would guess this is installed. Installing a SCR on a cubic
9 coverage steam generator that where it's been designed to
10 accommodate an SCR, which these are, is a relatively trivial
11 exercise. That may add 15, 20 percent to this cost. We may
12 be talking 4 million or four and a half million.

13 And so what I have on the CD is -- I did a review
14 of the California Energy Commission and the Electric Power
15 Institute. Did a study of the cost of putting dry cooling
16 on power plants in California a couple years ago. And
17 actually was sufficiently pleased with that study, Electric
18 Power Institute. But they're now developing a national
19 study for dry cooling on power plants. And I know the
20 author. And I did a review of his paper and of its costs,
21 which I think are excessive, which I included case studies
22 that have been done for an actual power plant in New Mexico,
23 identical to the 600 megawatt electric plant case studies we
24 did. So you have those costs, at least my prospective on
25 those costs.

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1 The other paper on here is, obviously, a huge
2 issue in this case. Our recommendation is that these plants
3 are currently using water at a rated capacity probably
4 around 10 to 12 million gallons a day of water and that
5 they, one, should never have been water cooled power plants.
6 They should have been dry cooled. But they got the water,
7 they got the systems, how do we meet this halfway? One way
8 we can do it is to retrofit them with a dry system so
9 they're wet/dry, which for desert environment I think, as an
10 engineer, is probably the best way to go anyway. And that
11 you got a dry system that takes most or all of the load up
12 until you hit 80 or 85 degrees and then your wet system
13 kicks in. In this case they built these waste water
14 treatment plants. If you were to go with that design, you
15 can use that water capacity. In fact, you probably use
16 about 50 percent of each plant's capacity if you had a

17 balanced wet/dry system. They're both planning to build the
18 second plant. So within a few years, you can use all that
19 waste water treatment capacity at certain times of the year
20 when it's really hot. You need that water to supplement the
21 dry/cool system so you get good power, good performance on a
22 117 degree day.

23 What I've included in here is intervenors stating
24 that retrofitting one of these plants with a dry/cool system
25 is maybe a 200 million-dollar project. In reality, it's

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1 like 20 million, maybe 30 million dollar project depending
2 on the size of the air cool system you add on to it.

3 I actually gave a presentation. There was a Clean
4 Water Act 316-B symposium put on by EPA, well attended by
5 DOE from Washington DC. I did a presentation on air
6 cooling. And at that had panel discussion, people really
7 drilled me for DOE. And what they were drilling me about
8 was, was I recommending -- this is retrofitting power plants
9 throughout the United States that used once-through cooling
10 to cool either wet cooling or dry cooling. And they were
11 drilling me. And are you saying we could take our old coal
12 fire plants, pull out that once-through cooling system and
13 just drop air cool condenser in and make it work? I said,
14 well, probably not on the old plants because the way they're
15 designed. You probably would have to do it wet/dry. And we
16 were in the court, the DOE -- I don't recall her name.
17 She's an economist. I think she's a political appointee.
18 She was saying, my guys tell me it's got to be wet/dry. And
19 I said, well, in most cases, I think they're right, it has
20 to be wet/dry unless it's a modern plant. But DOE was on
21 board at that conference. That if we are going to do it, it
22 has to be wet/dry. They don't want to do it.

23 I gave a presentation in New Orleans about a month
24 ago on this retrofit issue. And one part of this is about
25 doing a wet/dry retrofit and how much is it going to cost.

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1 And it's also got ten slides from the one wet/dry retrofit
2 that has been done in the United States which is done at a
3 coal fire power plant in Iowa. And the project manager and
4 the plant manager at that plant in Iowa did a beautiful job
5 photographing the whole retrofit. You see the condenser.
6 You see them determining where to cut the hole in the
7 condenser for those air cool ducts. You see how they

8 brought it up through the floor. They did a beautiful job.
9 It's only a 35, 40 megawatt steam turbine. Whereas, these
10 are more like 200 megawatt steam turbines. It's bigger.
11 But conceptually they're very similar. How much money did
12 they invest in that conversion? Out-of-pocket expense was
13 \$20,000. They went to the steam condenser manufacturer and
14 said, look, we need to know where to beef up the condenser;
15 we need to know where to cut the holes in it for this air
16 takeoff. And they charged them 20,000 for a final analysis.
17 The plant steam fitters did the work. And then the
18 contractor put the rest of it in.

19 That's not to say it would be so simple and so
20 cheap for these two plants to do. The bottom line is that
21 the photo sequence of how it was done is in this paper and
22 the costs that they ran into, the issues they ran into are
23 there. The bottom line, it's been done. And it's been done
24 cost effectively, and it performs very well. It's been
25 operating for about eight years.

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1 Last comment is the U.S. EPA issued an Environment
2 Assessment and Finding of No Significant Impact for the
3 waste water treatment plant. It's been discussed for years.
4 It would be located about 25, 30 miles south of the border
5 called Las Mananitas. This has been in the works for a long
6 time. And the interesting thing about this plant is, it
7 would not be located in the water shed in New River. It's
8 going to be located in the Hardy River water shed. And so
9 waste water from Mexicali instead of being treated and
10 dumped into the New River, would be treated and sent to the
11 pipeline to the Rio Hardy which eventually drains into the
12 Colorado River Delta. And took a look at this. And said,
13 well, this kind of complicates our lives. Here we are
14 arguing with the DOE, instead of five percent or eight
15 percent flow reduction in the New River is going to cause
16 major impacts on the New River and Salton Sea. And yet the
17 EPA is coming out and said a 10 or 12 percent flow reduction
18 in New River is worthy of a FONSI, Finding of No Significant
19 Impact, and we're not adding salt or anything, so everything
20 is fine. And we're going to divert the flow to the Rio
21 Hardy. And this is our comment letter on that assessment.
22 But ultimately, there's nothing really double-handed or
23 anything like that in their assessment. In effect, they're
24 fairly enamored with the Colorado River Delta.

25 I don't know if you are familiar with that

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1 Colorado River Delta. But it's one of the most spectacular
2 environmental success stories in the century. It's an
3 accidental success story. Is that the farmers' fields above
4 Yuma, the return flows from those fields in late 60s and
5 early 70s were so high in salinity, they were dumping it
6 right back in the Colorado River. It was causing havoc for
7 Mexican farmers. There were sending that flow to Mexico and
8 they were pouring it on fields. There were basically
9 killing their fields. So there was a huge ruckus. We built
10 a desalination plant in Yuma, which we never used. We also
11 build a canal to divert those return flows from the Colorado
12 River to the Colorado River Delta about 40, 50 kilometers
13 south. Canal just ended. What was a desert, is a delta.
14 Well, in 30 years, it has sprung into a 50,000-acre
15 wonderland, not unlike the edge of the Salton Sea. It has
16 all sorts of birds.

17 And so the EPA -- we have a draft minute in our
18 U.S./Mexico water treaty that is intending to guarantee
19 flows to the delta because the environmental communities in
20 this area of the world recognize it as an amazing success
21 story. Well, the EPA is on the board with that too. Part
22 of the reason they want to get it into the Rio Hardy is to
23 get it down to the delta to in effect do their part to
24 preserve this amazing development. The problem is, there's
25 no way to get it in contract, to get Mexico to say, no

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1 problem, you clean up that water and, sure, we'll send all
2 50 million gallons straight into the delta. That's unlikely
3 it will happen. Their intent is good. Their hearts are
4 good, trying to get water in the delta. It's not going to
5 happen.

6 For us the problem and the complication is we got
7 a FONSI on their sheet that says a 10 to 12 flow reduction
8 from the U.S. EPA is no problem for the New River. We have
9 challenged that. We haven't received a response from them
10 yet but we're waiting. You should be aware of that, that
11 it's not as simple as them saying a 10 to 12 percent flow
12 reduction is no big deal. Their intent is to in effect to
13 save another wildlife area to the south instead of the
14 north. And I think that is really it for my comments.

15 And what I got here is this disk. I've got the

16 data from the ARP, the monitoring data from Mexicali,
17 Imperial. And then I've got this -- I will go ahead and
18 write up these comments as well before the December 1st
19 deadline.

20 MR. ANTHONY COMO: Bill, are you going to be
21 writing up something different than what you said here? But
22 it's up to you.

23 MR. BILL POWERS: I think just in knowing Murphy's
24 law of how things work sometimes, I will write it up and
25 send it in later.

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1 MR. ANTHONY COMO: Glad to have it. Thank you for
2 your comments, Bill.

3 Sir, if you will identify yourself.

4 MR. RUDY MALDONADO: Good evening.

5 Thank you for having this workshop.

6 My name is Rudy Maldonado, Director Imperial
7 Irrigation District, Division 5. I want to speak with three
8 different hats. The first one would be as a private
9 citizen; the second is civic, a community-minded individual;
10 and the third under government.

11 Number one, as a private citizen, I have two
12 teenagers that are impacted by asthma. Today they go to
13 school in San Diego. When they're in San Diego, they don't
14 use their puffers; but as soon as they come down the stretch
15 of mountains into Ocotillo, they start using their puffers
16 almost automatically.

17 I ask myself as a parent, will these power plants
18 knowing that their location is in the foreign country,
19 improve our air quality or have no impact at all? And I
20 just find it very ironic that the bureaucrats think there
21 isn't anything to that. There's impacts. There always will
22 be. We share the common air base.

23 But yet as a citizen, the red tape, the
24 bureaucracy that we go through, it's in the stage of denial.
25 I wonder why. Are we really doing our job or we just here

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1 to patronize the local citizenship. I have a grave concern
2 about this process as a private citizen and its value.
3 There's a process out in the real world about outsourcing.
4 Maybe it's best we take that avenue and get what we're
5 paying for. Right now it doesn't seem that we are.

6 Now, wearing the hat of a civic-minded community

7 responsible individual. I'm also the chairperson for the
8 Calexico New River Committee. We have already seen the
9 impacts of the New River. The drop in water flow coming
10 across the border is anywhere from a foot and a half to
11 sometimes two and a half foot. What we have coming across
12 today is like sludge. And yet there is no impact according
13 to experts.

14 When we have westerly winds, it picks up that foam
15 that comes from that river and blows it into the downtown
16 Calexico. It blows it up the hill to the residential area
17 where we have four elementary schools -- check that -- three
18 elementary schools and one junior high school. And there
19 are no impacts.

20 Where have been the studies for the health due to
21 the New River? The New River is known to be the filthiest
22 river in North America, and yet we sit here with our arms
23 folded in denial. Where is due process? Where is the
24 responsibility of government?

25 The discharge from the cooling towers, the blow
0048

1 down is in higher concentrated solids. Where is that going?
2 To the New River. New River that has less water flow. Now
3 it has a discharge from the blow-down of the cooling towers
4 at a higher temperature. What are we waiting for, an
5 epidemic to attack Calexico? Where is the study behind that
6 on health issues?

7 There's a great weakness in this process. I just
8 hope somebody responsible reads it and it goes to the proper
9 channels so that something is done, something is considered.

10 In the evaluation of the Presidential permit, that
11 has to be redone with local stakeholder input. Wherever the
12 border is, if not here, between Mexico and Canada -- excuse
13 me. It's between here and Mexico and also Canada and the
14 United States. That's the border, right? I think there has
15 to be a lot more on Presidential permits.

16 There has to be criteria that has to be new,
17 'cause this is something new, or is this being done in Texas
18 where energy is being produced in Mexico and shipped over to
19 Texas or New Mexico or Arizona?

20 Is this the first time this has happened? Yes or
21 no?

22 MR. ANTHONY COMO: This is first. I think this is
23 the first application we've had with this situation where

24 power plants are built in Mexico coming to the United
25 States. I think that's correct.

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1 MR. RUDY MALDONADO: Okay. Well, I think with
2 that it sets a precedent. There should be a sense of
3 urgency as to how we do this process, how we implement, how
4 we monitor, and how we follow up. I hope this is your
5 process you're going to be going through. I can only hope.

6 In government, I'm also a Board of Director,
7 representative of Irrigation District. And we have a lot of
8 concerns about the future. The Imperial Irrigation District
9 generates approximately 55 percent of the electricity or
10 energy within a service area. Our equipment is 40 to 50
11 years old. We're going through a remodernization program.
12 But one thing that is not available in the near future are
13 air credits. So I think there should be some due diligence
14 in trying to incorporate El Paso's GeoModel model for this
15 air basin, air shed. And I believe the Department of Energy
16 should work a little bit closer to the U.S. EPA in making
17 sure this happens because this is the first time it happened
18 with the power plant being built in Mexico in a foreign
19 country and energy flowing north into the United States.
20 You'll be seeing more down east of us, okay, down to the
21 Gulf of Mexico.

22 In air credits, there has to be a mechanism to
23 finance these also. That I hope the El Paso and
24 Guerrero/Juarez model will establish here. Because we
25 cannot build, we cannot prosper, we will be stymied for the

0050

1 future if we don't have access on some mechanism to generate
2 air credits because of these power plants.

3 It was inevitable but it seems, fortunately now,
4 that these power plants have expedited the process. So we
5 would like consideration for that also on how we're going to
6 deal with that.

7 In closing, the IID did not make comments before
8 because there was legal issues. Now that they've been
9 resolved, we're willing to speak as to what the concerns are
10 for IID.

11 Thank you.

12 MR. ANTHONY COMO: Thank you.

13 MS. AIDA GATES: My name is Aida Gates. I'm a
14 field representative for Senator Denise Moreno Ducheny who

15 could not make it here tonight.

16 I need to apologize. I just found out I was
17 supposed to be at the El Centro meeting and you were calling
18 my name. I always intended to be here tonight.

19 I've been listening to what everyone has said. I
20 also, as Mr. Maldonado said, I also speak with two hats.

21 I do not know all the scientific background that
22 Mr. Powers has or Kimberly Collins or so many of the people
23 who have spoken here tonight. But I did want to pass this
24 along, as the senator has asked me to, that she is
25 monitoring both the energy project at Imperial County and in
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1 Mexico.

2 She's particularly tracking the progress of the
3 Salton Sea, unit six geothermal plants. Any of you that are
4 familiar with the senator and her works already know that
5 she is very committed to the environment, water quality, and
6 air quality issues and especially those that affect us here
7 at Imperial Valley.

8 While she understands that we need a diversity and
9 an energy portfolio, she also understands it's very
10 important to us, to the residents here in Imperial County,
11 that the air quality be maintained. And I seem to think
12 those were the words that she used, that they not only have
13 to be maintained, they have to be improved.

14 As somebody already mentioned, I'm kind of one of
15 the last to speak. So I'm going to be repeating a lot of
16 things that have already been mentioned here tonight.

17 And one is the extremely high asthma rate. Now,
18 also children, God bless them, we always mention children
19 because they have their whole lives ahead of them. But I
20 think we would be remiss in forgetting our senior citizens,
21 our aging population. Those of us that have compromised
22 immune deficiencies or allergies here are horrific which
23 also contributes to the asthma rate. But in addition, I've
24 spoken to two or three different doctors and also it's tied
25 in with arthritis, and I can go on and on and on.

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1 The senator is committed to trying to help, trying
2 to do something to help us with water as well as the air
3 quality. She's committed to this. She wanted me to make
4 sure that you know that she has been working on several
5 issues that have to do with the environment.

6 A lot of you, I don't think, realize she has a
7 local office here in Imperial Valley. I will leave my cards
8 up at the front. If there's anything that the senator can
9 do to help, please feel free to call us, the three offices.
10 The information is on the cards. I will leave a few here.

11 Now as a resident, I was born and raised here.
12 I've lived here all of my life with the exception of three
13 years that I went away to school.

14 I would really ask you to keep a couple of things
15 in mind. While the energy plants -- and this has been
16 mentioned as well, but I think it bears repeating. The
17 energy plants pollute a little. You think, well, they have
18 the right to make a profit. They have a right to do what
19 they have to do, sell the energy back into the United
20 States. But it can't always mean profits. It can't always
21 mean money. It has been mentioned what it would cost for
22 them to maybe install safeguards. We have to think of our
23 children, you know, what price can we pay on our children,
24 on our grandchildren's health. That's one thing.

25 The other thing, too, that I ask that you keep in
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1 mind when you go back and write your reports and consider
2 all of this, I know it's been mentioned, however, it's one
3 more thing to add to the air that has already been polluted
4 here by smog and dust and we have feed yards and we have
5 dust and mold.

6 My son lived here for 20 years, went away to
7 school. When he went to San Diego, and sometimes the air
8 quality isn't the best there, he said, mom, I can't believe
9 it, my eyes don't itch any more. I fell so much better.

10 It's just one more drop added to a quickly filling
11 glass of pollutants here. And the thing is, when we go back
12 and we think, it's just one thing, we have to keep the whole
13 picture in mind of what's happening to Imperial Valley. And
14 one gentleman mentioned Erin Brockovich. Well, look at our
15 water, look at the per chloride. You know, we don't mention
16 that our water is a little bit of a problem here.

17 I ask that when you go back and you look and you
18 are about to render the decision or work on this and come
19 back to us in 45 days, ask yourself this, the Imperial
20 Valley, if you think that we're not in trouble, that our air
21 is okay, that it's all right, that it's not impacting the
22 Imperial Valley, stop and think, would you want to come and

23 live here for six or seven months at the worst time of the
24 year? Which is not, believe it or not, the summer when our
25 temperature can reach 120. It's when there are more cars on
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1 the roads. It's when fields are being cultivated. It's
2 when we have more cars on the road, all of that contributes.

3 It would be very beneficial to have these plants
4 that are in Mexico not create more pollution, not to add to
5 the pollution that is already here. I don't think it's fair
6 to say they are polluting our air. I don't think anyone
7 here tonight has said they are responsible for the
8 pollution. But, yeah, there are responsible in adding to
9 it. And I just don't know how much more we can take of
10 this. And somebody needs to stop and say we're not going to
11 add to a bad situation.

12 Thank you very much for giving me the opportunity
13 to speak tonight.

14 MR. ANTHONY COMO: Thank you.

15 Mike Morgan?

16 Brad Poiriez?

17 MR. BRAD POIRIEZ: Brad Poiriez. I'm a Senior
18 Manager with Imperial County Air Pollution. Thank you for
19 the time to speak.

20 And, Ellen, thank you for personally sending me an
21 e-mail. It was a pleasure sitting with you over dinner and
22 speaking about this subject.

23 MS. ELLEN RUSSELL: We didn't speak about this
24 subject.

25 MR. BRAD POIRIEZ: Well, briefly, we touched upon
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1 it. Mostly, we had fun.

2 MS. ELLEN RUSSELL: I said, off limits.

3 MR. BRAD POIRIEZ: I'm going to be stating some
4 of the things you've already heard, but I do want to repeat
5 some of them for some of my colleagues that weren't at the
6 first meeting at the risk of being duplicative.

7 Since 2000, the Imperial County Air Pollution
8 Control District, ICAPCD, along with EPA, CARB, and
9 concerned Imperial County cities and community
10 representative groups, such as the ones who have spoken here
11 today and earlier at the first meeting, have been assessing
12 or reviewing and commenting on the proposed Presidential
13 permits and the potential adverse impacts the two projects

14 will have on the residents of Imperial County and Mexicali.

15 And I want to emphasize that, you know, everyone
16 here has been talking a lot about Imperial County residents.
17 We want to be good stewards. We are friends to our
18 neighbors to the south. We share an air shed here. We want
19 to keep in mind that people in the U.S. aren't the only ones
20 being effected by this; people in Mexicali are also.

21 I'm going to share some of their requests we have
22 that we would like for you to address in your EIS. And we
23 feel strongly that the operation of the two power plants and
24 their associated transmission lines and associated pipelines
25 will have the adverse impact on air quality for

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1 Imperial/Mexicali Valley region.

2 And our following concerns -- I'm not going into
3 attainment status that was brought up earlier. Most of us
4 here know that Imperial County is a nonattainment for PM10,
5 CO for Calexico, and ozone, which NOx is the precursor for
6 it. But in order to make a realistic air quality impact
7 analysis on the level of significance of all emissions, not
8 just one or two, all emissions, the EIS should contain a
9 full impact analysis of the construction and operation of
10 the two project facilities and associated transmission lines
11 and also analyze the cumulative impact of these two
12 projects.

13 The Imperial County Air Pollution Control District
14 requests that this analysis encompass the impact to the air
15 quality in Imperial County, as well as the community of
16 Mexicali and its surrounding area. The analysis should also
17 identify the specific control measures that will be applied
18 to control all emissions and the methods of securing
19 appropriate offsets, which was touched upon by Mr. Powers
20 and several others.

21 I guess it was about last year when InterGen, or
22 BCP, who we formerly know as InterGen, announced its
23 intention to install Selective Catalytic Reduction control
24 measures on the remaining two power units that do not
25 currently have SCR. These controls are scheduled to be

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1 installed by the first quarter of 2006. The ICAPCD requests
2 that this EIS make a full impact analysis from all power
3 units for the first phase of the operation until such time
4 as the proposed additional controls are installed during the

5 first quarter of 2006.

6 The ICAPCD also requests that the EIS include a
7 comprehensive health risk assessment that thoroughly
8 identifies all emission pollutants and the cumulative health
9 risks they impose on the residents on both sides of the
10 border.

11 ICAPCD requests that this comprehensive health
12 risk assessment include the following: One, the impacts of
13 the two projects for the operating time period prior to
14 installment of controls in the first quarter of 2006; and
15 two, the impacts of the two projects when all units are
16 equipped with the control devices.

17 ICAPCD feels that Best Available Control
18 Technology, BACT, for all pollutants must be installed on
19 all power generating units located at the two project
20 facilities immediately, and that the offsets of all emission
21 increases associated with the operation of these two
22 projects be secured as per the Clean Air Act and the
23 California Clean Air Act.

24 And in conclusion, I think all of us in this room
25 are pretty eager to see what the Draft EIS is going to

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1 contain and we look forward at the ICAPCD to comment fully
2 on that.

3 Now as the private citizen who lives here also.
4 Part of my goal and part of my charge working for the Air
5 Pollution Control District was to protect the health of the
6 residents, my friends, my neighbors, and my community. And
7 I personally feel a little bit handcuffed by my own Federal
8 Government agencies in following through with that charge.
9 And that's really disruptive to me. And I'm also appalled
10 at that. But anyway, that being said, I will give way to
11 someone else.

12 Thanks.

13 MR. ANTHONY COMO: Mr. Giorgino.

14 MR. MIKE GIORGINO: Mike Giorgino, for the record.

15 I rise tonight as a friend of this Valley to first
16 thank the Department of Energy for conducting these
17 workshops today and giving everyone an opportunity to
18 express what I have seen to be very heartfelt concerns about
19 the impacts of these two power plants on the lives of the
20 people here in Imperial Valley.

21 I also rise to express my strong support for the

22 position that has been taken by Victor Carrillo and the
23 Board of Supervisors in calling a commitment on your part to
24 a Comprehensive Risk Assessment for the health risks of
25 these power plants that have on the people on Imperial
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1 Valley.

2 I believe from everything that I've heard and
3 everything that you've said today, that the Environmental
4 Impact Study will be such a thorough review of the impacts
5 on the health, both the air quality and the water quality
6 and how it will affect the health of the people in this
7 Valley.

8 I've recently seen a study that showed that the
9 main source of pollution in the Imperial and Mexicali air
10 shed are industry polluters and cars that don't meet U.S.
11 pollution standards. I saw a chart that indicated that this
12 problem is only getting worse. And these statistics were
13 drawn up before the plants even went into operation down in
14 Mexicali.

15 I'm here tonight because I'm very concerned about
16 the role of the Federal Government in this entire process.
17 And I've learned so many things tonight. I had no idea this
18 was the first of its kind - Presidential permits. And it
19 really does have the potential for creating precedent and
20 how we should look at these types of projects in the future.

21 I'm also very concerned about the Federal role in
22 this. Because for the past two years, I have watched our
23 Federal Government involve itself in the water transfer
24 issue here in the Valley, which last month culminated in the
25 Board of Supervisors doing something, which I oppose, but
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1 which I respect, and that is agreeing to fallowing. As
2 fallowing wraps up, that is going to cost thousands of acres
3 of land to be taken out of production, it creates more dust
4 and it's going to further increase the air pollution. So
5 our Federal Government has been very involved in a process
6 which is going to have a very negative impact on the air
7 quality in the Valley to begin with, you know, taking the
8 issue of the power plants off the table.

9 And so I think that there's a moral obligation on
10 the part of our Federal Government to ensure that we take
11 those measures which will ensure that if we are going to
12 allow natural gas to go into Mexico for these plants and if

13 we are going to allow transmission lines so that the power
14 can come out of Mexico and be purchased by American markets,
15 that we ensure what the Board of Supervisors has called for
16 and has demanded and, that is, full mitigation of the
17 pollution from the power plants. That has to be required.
18 There has to be a mitigation fund and there have to be
19 offsets. This has to be tied to the approval of the power
20 lines. And there has to be a measurable and enforceable
21 system of offsets and it should be located in the United
22 States. If it's not located in the United States, the
23 American government agencies should be empowered and it
24 should be part of the deal, any deal that we are able to
25 monitor these offsets.

0061

1 I really am sincere in saying that I sat through
2 hours earlier today and I've listened to the comments
3 tonight, and I really am getting a sense that this is a
4 positive process and this will result in a real assessment
5 of the health risks here. And when the costs are added to
6 that, then those costs should be factored in. And if these
7 power plants can't operate profitably by meeting those
8 costs, and the costs are the health of the children that
9 live here in this Valley, then perhaps those plants should
10 not be allowed to sell their power in the United States and
11 they shouldn't be receiving natural gas from this country.

12 MR. ANTHONY COMO: Thank you.

13 Monilla Appel. No?

14 Well, at least at the moment we've seem to run out
15 of people who wanted to speak. If nobody has any
16 objections, can we take like a ten-minute coffee break, just
17 go off the record and you might want to rethink in saying
18 something else. We have the room until 8 o'clock. Let's
19 take a ten-minute break. And the refreshments are in the
20 room off to my left here. Thank you.

21 (A recess was taken from 6:55 to 7:26 p.m.)

22 MR. ANTHONY COMO: Back on the record for a
23 minute. I believe Mr. Powers would like to make some
24 additional comments.

25 MR. BILL POWERS: Thank you, Tony.

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1 Just in conversation, I realized that I hadn't
2 mentioned one thing that I did want to mention. And that is
3 the whole issue of dry cooling and the emphasis that was

4 placed on it by us in the issue of the EA. And it is
5 directly related to the fact that Mexico is one of the world
6 leaders in the use of dry cooling. They currently have
7 eight operational combined cycle power plants using dry
8 cooling. In fact, I would say that most of their combined
9 cycle plants in the northern region of Mexico are dry
10 cooled. And prior to even getting involved in this, it was
11 our, as a group, Border Power Plant Working Group -- what we
12 saw as a somewhat unique opportunity to mesh the advantages
13 or advances in our two countries. The surprising fact that
14 Mexico, a developing nation, is, on a percentage basis, a
15 much greater user of dry cooling than the United States is
16 and the fact that our air quality standards are higher, so
17 that we can come to the table as equals and combine the best
18 of what both countries are using instead of part of it or
19 none of it.

20 That's all I wanted to say, is to recognize that
21 they are a world leader in dry cooling.

22 MR. ANTHONY COMO: Thank you, Bill.

23 While we were having refreshments and the like,
24 did anybody else have thoughts they would like to share for
25 the record or suggestions on issues that we should consider?

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1 Well, I will take another gamble, at least
2 temporarily close the record. We will be here for yet
3 another half hour. So again, if any of you has anything
4 else you would like to say just like Bill did, we'll be glad
5 to reopen the record. So we'll close the record
6 temporarily.

7 Thank you.

8 (A recess was taken from 7:30 to 7:50 p.m.)

9 (Whereupon, the hearing was concluded at
10 7:50 p.m.)

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1 STATE OF ARIZONA)
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2 COUNTY OF PIMA)

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5 I, JOYCE L. DAVENPORT, Certified Court Reporter in
6 the County of Pima, State of Arizona, certify:

7 That the foregoing Public Scoping Meeting was
8 taken before me at the time and place therein set forth;

9 That the foregoing 63 pages comprise a full, true
10 and accurate transcription of my notes of said Public
11 Scoping Meeting;

12 That I am not of counsel nor attorney for or
13 related to either or any of the parties in this action, nor
14 interested in the outcome thereof.

15 DATED this 3rd day of December, 2003.

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Joyce L. Davenport, RPR, CCR
Certified Court Reporter No. 50685

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