

MEETING  
STATE OF CALIFORNIA  
LANDS COMMISSION

STATE TEACHERS' RETIREMENT SYSTEM BUILDING  
TRUCKEE RIVER CONFERENCE ROOM  
7801 FOLSOM BOULEVARD  
SACRAMENTO, CALIFORNIA

FRIDAY, JULY 13, 2007

3:30 P.M.

Michael Mac Iver  
Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

John Garamendi, Lieutenant Governor, Chairperson

Michael Genest, Director of Finance, represented by Anne Sheehan

John Chiang, State Controller

STAFF

Paul Thayer, Executive Officer

Jack Rump, Chief Counsel

Kimberly Lunetta

ALSO PRESENT

Matt Rodriguez, Deputy Attorney General

Christine Sproul, Deputy Attorney General

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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CHAIRPERSON GARAMENDI: Okay. We're going to go ahead and start the meeting. Two of my colleagues are otherwise occupied and we have an effective quorum to deal with some of the routine business. We'll get that out of the way and then we may take a break for a while, because I understand that my colleagues, that is the specific members, not the ex-officio or stand-ins, want to be here. So for those of you that know where there's a good coffee machine, we may break for a while.

Okay. The meeting will come to order. This is the July 13th meeting of the State Lands Commission. All representatives of the Commission are not here. We have one representative -- I am here, Lieutenant Governor John Garamendi. We have a representative from the Controller's Office is here and a representative from the Department of Finance is not. So we have a quorum.

As I said a moment ago, I think Mr. Chiang wants to be here and I know that Anne does, so we may take a break after finishing some of the initial business.

For those of you in the audience, the State Lands Commission's purpose is to administer properties owned by the State and by the people, as well as the mineral interests of the State. Today we're going to hear proposals concerning the leasing of and management of some public

1 properties.

2 The first item of business is the adoption of the  
3 minutes from the last meeting.

4 May I have a motion?

5 ACTING COMMISSIONER PLACET: So moved.

6 CHAIRPERSON GARAMENDI: Okay. You have a motion  
7 and I'll second it. And without objection from either of  
8 the two of us that passes and the minutes are adopted.

9 The next order of business is the Executive  
10 Officer's report.

11 Mr. Thayer.

12 EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

13 First I'm going to do a little housekeeping. This  
14 is not our normal room that we work in and people probably  
15 notice we don't have a microphone. It is a small room, but  
16 if people could speak up a little bit when they are  
17 addressing the Commission, that would help us. All the  
18 words will still be recorded by our reporter though and  
19 there will be a transcript.

20 The second thing to note is that the bathrooms are  
21 off of the foyer where the elevators are and there is a code  
22 to get into the women's bathroom. You can see it up there  
23 on the board there. So if anybody has the need, that's how  
24 you get in. There is no code for the men's room.

25 I want to report on a couple of items for the

1 commission. The first is the progress on our Public Trust  
2 workshops. At the Commission's direction, staff is running  
3 three Public Trust workshops in different parts of  
4 California, and we had our first meeting this last Friday in  
5 San Francisco. We met from 4:00 to 7:00 in the Port's  
6 meeting room. We had approximately 40 to 50 members of the  
7 public from various organizations who attended. There was a  
8 very good discussion on Public Trust values and what the  
9 future of the Trust should be.

10 Some of the representatives on the panel that  
11 spoke before the workshop addressed the issue of flexibility  
12 for additional uses to occur on Public Trust land, whereas  
13 generally the people who spoke from the public, the various  
14 public organizations, resisted that and thought that the  
15 Commission should continue to hold on to the existing Public  
16 Trust values.

17 These workshops will continue. There is actually  
18 one starting up at 4:00 o'clock in San Pedro this afternoon  
19 where we will hear from concerned citizens. I anticipate  
20 that the tone of that meeting as we go through the different  
21 parts of the state will be a little bit different because  
22 there is some concerns on the part of citizens there as to  
23 whether or not the Port can fund various community projects.  
24 So our representatives are going to hear about that.

25 Finally, the series will close at San Diego, again

1 at 4:00 o'clock, and again at the Port building in San  
2 Diego. And we will be talking more about Woodfin and  
3 timeshares at that meeting. I should note that Woodfin and  
4 timeshares was one of the -- except for the discussion on  
5 timeshares, it was one of the reasons the Commission wanted  
6 to have these workshops. And at this first meeting in San  
7 Francisco, there were representatives there from Woodfin who  
8 did not speak and there was a union representative who did  
9 speak and continued to oppose timeshares on Public Trust  
10 lands.

11 At that meeting, we distributed a body of  
12 information about the Public Trust Doctrine, including a  
13 brochure which is before the Commission, it is at the table.  
14 The Lieutenant Governor has already had an opportunity to  
15 review this and had some suggested changes. And we would  
16 appreciate any input from the other Commissioner's offices  
17 as well. And we're using this, but we look at it as a  
18 working draft and we want to make sure it does a good job in  
19 representing what the Commission does in the Public Trust  
20 Doctrine.

21 CHAIRPERSON GARAMENDI: Paul, I will interrupt for  
22 a moment. I read this with considerable delight. It's  
23 actually a very, very good document. My changes were very  
24 small, mostly having to do with the fact that I'm now  
25 wearing glasses and for those of us that have reached the

1 mature, if not the age of wisdom, make it a little bigger  
2 and a little more explanation on some of the very good  
3 parts. But overall it is a very, very good piece of  
4 information, and I highly commend you for it.

5 EXECUTIVE OFFICER THAYER: Well, thank you. And  
6 we'll pass that on to the staff that worked on it and as  
7 well make the changes you talked about and make it a little  
8 bit bigger.

9 So that concludes our presentation on the Public  
10 Trust workshops which are ongoing. And we will report back  
11 to you when they are all done and we will do that at the  
12 next Commission meeting, which I would note is September  
13 13th, and scheduled for the state office building in  
14 Oakland. So the next Commission meeting will be in the Bay  
15 Area.

16 The other item I wanted to mention is that the  
17 Commission at its last meeting discussed dock decks and  
18 acted on a lease, and at that meeting the Commissioners  
19 asked staff to return with some mechanisms for informing the  
20 public of the Commission's approach so that there can be  
21 some transparency. Staff has done some work on this, but I  
22 think the Chair has indicated some concern over whether or  
23 not it might be consistent with OAL, the Office of  
24 Administrative Law, the laws approach to regulations and  
25 perhaps we are accidentally getting ourselves into



1 underground regs with what we've come up with so far. So  
2 with the Commission's indulgence, we would like a little bit  
3 more time to work on this and we'll work with the Chair's  
4 office as well as other offices to make sure we come up with  
5 something better. So we'll bring that back at the September  
6 meeting.

7 CHAIRPERSON GARAMENDI: And the board can have  
8 discussion in September?

9 EXECUTIVE OFFICER THAYER: Yes.

10 CHAIRPERSON GARAMENDI: Okay, very good. We'll  
11 pick it up then as we deal with the dock issue. Very good.

12 EXECUTIVE OFFICER THAYER: And that concludes the  
13 Executive Officer's report unless there is something else to  
14 add.

15 The only other thing I might mention is that I  
16 think the agenda lists closed session and we no longer have  
17 a need for that. We had a settlement, so we will not have a  
18 need for a closed session.

19 CHAIRPERSON GARAMENDI: Having completed your  
20 report, we now move to the consent calendar. Mr. Thayer, if  
21 you would enlighten us on the consent calendar.

22 EXECUTIVE OFFICER THAYER: There's only two items,  
23 and the principal reason for having this meeting has to do  
24 with the regular calendar, the North Baja item, but there  
25 were two items that there was some timeliness about that

1 suggested we should act on them before the September  
2 meeting. The first one has to do with an encumbrancing  
3 agreement so that the Riverview Marina can obtain a loan.  
4 It's fairly routine. And the terms of the bank will expire  
5 before the Commission next meets. So we have that on the  
6 agenda.

7           And the other item involves some construction,  
8 some development, where the Applicant had previously  
9 received approval of a lease and of that development. The  
10 Commission typically attaches construction deadlines by  
11 which the development has to be completed. They ran into  
12 some trouble getting the other approvals they needed, they  
13 started construction, but they note they have gone past  
14 their deadline and would like to legalize what they are  
15 doing. So the Commission's approval would extend the  
16 deadline for the project.

17           CHAIRPERSON GARAMENDI: So they're really asking  
18 for permission not forgiveness?

19           EXECUTIVE OFFICER THAYER: A little of each.

20           CHAIRPERSON GARAMENDI: So these items you're  
21 recommending they stay on the consent calendar and as is our  
22 normal practice, if anybody would like to speak to these  
23 issues, now is your opportunity to do so.

24           Then do we have a motion on the consent calendar?

25           ACTING COMMISSIONER PLACET: I make a motion to

1 approve the items on the consent calendar.

2 CHAIRPERSON GARAMENDI: I second.

3 I assume with your motion and my second it's  
4 unanimous, or would you like to discuss that a while.

5 (Laughter.)

6 CHAIRPERSON GARAMENDI: Okay. So the consent  
7 calendar is out of the way. That leaves one more item for  
8 us to discuss which is the principal purpose for this  
9 meeting, which is the North Baja pipeline. We're going to  
10 send a representative downstairs, perhaps me --

11 I note the arrival of Controller Chiang and Anne  
12 Sheehan from the Department of Finance. And we are now then  
13 prepared to take up the North Baja pipeline issue.

14 There are two items before us with regard to this.  
15 First is a lease amendment for an additional pipeline right  
16 of way and, secondly, the certification of the Environmental  
17 Impact Report.

18 Let's start with the staff presentation.

19 EXECUTIVE OFFICER THAYER: Thank you, Mr. Chair.

20 CHAIRPERSON GARAMENDI: Excuse me, before you do,  
21 my colleagues, we took up the Executive Officer's report in  
22 your absence and the consent calendar. The consent calendar  
23 was adopted by your representative, John, and myself. So  
24 those are out of the way and done.

25 Now, Mr. Thayer.

1 EXECUTIVE OFFICER THAYER: We have two members  
2 from the staff that will make presentations on this and then  
3 I think the Applicant has someone to make a presentation as  
4 well. And, of course, there are a number of speaker slips  
5 from people in the public that would like to speak.

6 The first part of the presentation will be made by  
7 Jim Porter of our Land Management Division and the second  
8 part will be by Tom Filler from our Environmental Division.

9 PUBLIC LAND MANAGEMENT SPECIALIST PORTER: Good  
10 afternoon, Mr. Chairman, Commissioners.

11 My name is Jim Porter, I'm a Public Land  
12 Management Specialist with the Land Management Division. I  
13 will be presenting background information regarding the  
14 proposed project that you are considering today.

15 The Applicant for the project is North Baja  
16 Pipeline LLC. North Baja is a limited liability company  
17 that was organized under the laws of the state of Delaware  
18 and now is a wholly owned subsidiary of TransCanada, an  
19 energy infrastructure company based in Canada.

20 On January 30th, 2002, the Commission certified an  
21 Environmental Impact Report and authorized the issuance to  
22 North Baja of a 20-year general lease right of way use of a  
23 parcel of state school land located in Imperial County. The  
24 lease, now identified as PRC 8378.2 authorized the  
25 construction, use, and maintenance of an underground 30-inch

1 steel pipeline for the transmission of natural gas. The  
2 lease premises is comprised of a strip of land approximately  
3 50 feet wide by 1,035 feet long containing a total of  
4 approximately 1.15 acres of land.

5           The purpose of the pipeline was to carry gas from  
6 the western United States to western Mexico. This existing  
7 pipeline is part of a larger pipeline system that begins  
8 near Ehrenberg, Arizona, which is here, and proceeds to  
9 California in Riverside and Imperial Counties through an  
10 interconnection at the international border between the  
11 United States and Mexico. This system consists of a buried  
12 steel pipeline approximately 79.8 miles in length, 12 miles  
13 of 36-inch diameter pipe, and 68 miles of 30-inch diameter  
14 pipe with one natural gas compressor station, two gas meter  
15 stations, and other related facilities.

16           Please note that the only improvements placed on  
17 this school land parcel under Lease PRC 8378.2 were the  
18 1,035 feet of buried 30-inch steel pipeline and above ground  
19 markers. Throughout this presentation this original  
20 pipeline will be referred to as the A line.

21           This existing pipeline system was constructed and  
22 tested to meet or exceed the U.S. Department of  
23 Transportation construction and safety regulations. These  
24 regulations which are intended to protect the public and  
25 prevent natural gas facility accidents and failures includes

1 specifications for material selection, minimum design  
2 requirements, protection of the pipeline, et cetera.

3           The pipeline system has been operated and  
4 maintained in accordance with all applicable federal and  
5 state regulations and is monitored and controlled 24 hours  
6 per day by a remote dispatch center located in Portland,  
7 Oregon. In addition, a crew located at the Ehrenberg  
8 compressor station conducts on-site operations and  
9 maintenance and is on call 24 hours a day. As far as its  
10 safety track record goes, since it went into service in  
11 2002, this system has had zero reportable incidents as  
12 defined by the Department of Transportation Office of  
13 Pipeline Safety.

14           On May 17th, 2005, North Baja submitted an  
15 application to the Commission to amend Lease Number PRC  
16 8378.2 to construct, use and maintain an additional steel  
17 pipeline within the existing lease area right of way. This  
18 second pipeline hereafter referred to as the B Line also  
19 will be used for the transportation of natural gas. This B  
20 Line is part of the North Baja Pipeline Expansion Project  
21 which will be constructed in three phases designated as  
22 Phase 1, Phase 1A and Phase 2. Representatives of North  
23 Baja are here today and will be discussing the details of  
24 these phases later.

25           Overall, the expansion project involves the

1 construction of 79.8 miles of a 42-inch and 48-inch diameter  
2 pipeline loop that will be constructed adjacent to the  
3 existing pipeline, two new lateral pipelines to the metering  
4 stations, modification of existing compressor and metering  
5 stations and various other ancillary improvements.

6           There will be modifications at the existing  
7 Ehrenberg compressor station and existing Ogilby meter  
8 station to allow the northbound flow of natural gas. There  
9 also will be modifications to the existing El Paso meter  
10 station, the Ehrenberg compressor station, to allow  
11 liquified natural gas, LNG source gas, to be delivered into  
12 the El Paso system.

13           This new pipeline construction project as far as  
14 the state lands are concerned involves only the installation  
15 of approximately 968 linear feet of new 48-inch pipeline and  
16 above-ground markers. All of the other improvements of this  
17 pipeline project will be constructed on land owned by  
18 others.

19           The purpose of this project is to allow LNG source  
20 natural gas from a new terminal being constructed by Sempra  
21 Energy at Costa Azul, here, on the Mexican coast to be  
22 transported into the United States. The existing A pipeline  
23 is authorized to transport up to 512,500 dekatherms of  
24 natural gas a day in the southbound direction. Well, the  
25 proposed new pipeline system once completed will be capable

1 of transporting up to 2,932,000 dekatherms of natural gas a  
2 day in the northbound direction. The proposed North Baja  
3 Pipeline Expansion Project also will be constructed and  
4 operated to meet or exceed U.S. Department of Transportation  
5 construction and safety regulations.

6 There are two actions that staff is asking the  
7 Commission to consider today. First is the certification of  
8 the Environmental Impact Report that was prepared in  
9 conjunction with the Federal Energy Regulatory Commission as  
10 part of a Joint Final Environmental Impact  
11 Statement/Environmental Impact Report for the proposed  
12 pipeline expansion project. The second action involves the  
13 authorization of the amendment to Lease PRC 8378.2 for  
14 construction and use of the pipeline that will be installed  
15 within the existing lease premises and for use of a  
16 temporary construction area.

17 In addition to authorizing the installation of  
18 this new pipeline in the existing school land right of way,  
19 the amendment corrects the legal description of the lease  
20 premises and increases the annual rent from \$655 per year to  
21 \$1,551 per year.

22 Now I would like to introduce Tom Filler with the  
23 Division of Environmental Planning Management who will  
24 provide information relative to the joint Environmental  
25 Impact Statement/Environmental Impact Report that was



1 prepared for this project.

2 Thank you.

3 CHAIRPERSON GARAMENDI: Thank you very much.

4 Tom.

5 MR. FILLER: Good afternoon, Mr. Chairman,  
6 Commissioners. I was introduced by my colleague, my name is  
7 Tom Filler and I'm a staff environmental scientist with the  
8 Division of Environmental Planning and Management.

9 Today we'd like to present to you background  
10 information regarding the process that was followed in  
11 preparing the environmental documentation for the North Baja  
12 Project, and also discuss the primary environmental issues  
13 associated with this project as currently proposed.

14 Regarding the process, on August 30th, 2005, the  
15 FERC and the Commission issued a Joint Notice of Intent and  
16 Notice of Preparation, also know as NOI/NOP, for the  
17 preparation of the Joint Environmental Impact Statement and  
18 Environmental Impact Report, also known as EIS/EIR, for the  
19 proposed project. The underlying NOP was sent to 684  
20 interested parties, including federal, state, and local  
21 agencies, elected officials, environmental and public  
22 interest groups, Native American tribes, affected  
23 landowners, local libraries, newspapers, television  
24 stations, and other interested parties, and intervenors in  
25 this proceeding before the FERC.

1           In addition, the supplemental NOI/NOP was sent to  
2 69 additional landowners along 18th Avenue on March 10th,  
3 2006. And also on September 27th, 2006, the FERC and the  
4 Commission sent letters to landowners and tenants that might  
5 potentially be affected by one of the proposed alternatives  
6 known as the Arrowhead Lateral Alternative. No comments  
7 were received from the public for either supplemental  
8 mailing.

9           Two public scoping meetings were held. The first  
10 was held in El Centro, California on December 5, 2006, and  
11 the second meeting was in Blythe, California on December 6,  
12 2006. Issues raised during the scoping and the public  
13 comment period on the Draft EIS/EIR were addressed in the  
14 Final EIS/EIR that was released in June 2007.

15           While all the environmental issues associated with  
16 this project were fully addressed in the final EIS/EIR, I  
17 will be focusing my presentation on those issues that were  
18 the most significant. And these are Native American  
19 consultation, biological resources and air quality.

20           Regarding Native American consultation. As a  
21 result of the consultation with Native Americans, a cultural  
22 site present on the IID lateral was identified. The Bureau  
23 of Reclamation, the Quechan Indian tribe and the Kwaaymii  
24 Laguna Band of Indians all requested this site be avoided.

25           The agency staffs recommend that North Baja adopt

1 a modified ISDRA Transmission Line Alternative located south  
2 of this cultural site to avoid impacts. In addition, in  
3 response to other requests from Native American tribes and  
4 individuals, North Baja would have a monitor present during  
5 ground-disturbing activities along this alternative route  
6 south of the cultural site.

7           Regarding biological resources. Based upon  
8 information and informal consultation with the U.S. Fish and  
9 Wildlife, nine federally listed species potentially occur in  
10 the general vicinity of the project. After further  
11 consultation with the Fish and Wildlife Service, the U.S.  
12 Bureau of Land Management, also known as BLM, California's  
13 Department of Fish and Game and the completion of field  
14 surveys, the determination of the effect that the project  
15 would have on each of these species was developed. Two of  
16 the nine species, the desert tortoise and the Peirson's  
17 milk-vetch, as well as critical habitat for the desert  
18 tortoise, were identified as likely to be adversely affected  
19 by the proposed project. In compliance with Section 7 of  
20 the Endangered Species Act, the agency staffs submitted the  
21 Draft EIS/EIR to Fish and Wildlife with a request to  
22 initiate formal consultation for the desert tortoise and  
23 Peirson's milk-vetch.

24           In the biological opinion issued on April 20,  
25 2007, the Fish and Wildlife Service concluded that the

1 proposed action is not likely to jeopardize the continued  
2 existence of the desert tortoise and its critical habitat or  
3 the continued existence of the Peirson's milk-vetch.

4           As required by the California Endangered Species  
5 Act, consultation occurred with Fish and Game to determine  
6 the proposed project's effect on California listed species.  
7 As I've already mentioned, the desert tortoise and Peirson's  
8 milk-vetch would likely be adversely affected by the  
9 construction of the project. Because these species are  
10 California listed, as well as federally listed, Fish and  
11 Game is in the process of reviewing the biological opinion  
12 prepared by the U.S. Fish and Wildlife Service and will  
13 issue a take permit in accordance with the California  
14 Endangered Species Act in August for the project to be  
15 approved.

16           Fish and Game has also determined that impacts to  
17 the flat-tailed horned lizard which is considered a species  
18 of special concern to be significant and not fully  
19 mitigated. And to provide some examples of mitigation.  
20 Some examples of mitigation for the Peirson's milk-vetch  
21 would include topsoil segregation to conserve the existing  
22 seedbank, in addition to respreading the topsoil on  
23 completion of construction, the imprinting of the right of  
24 way during restoration to provide micro-catchment areas for  
25 seed retention.

1           Mitigation measures for the desert tortoise  
2 include the clearance survey that would be conducted by  
3 authorized biologists within 24 hours before ground  
4 disturbance. If a tortoise is located in a construction  
5 work area and is not moving, adjacent activities would be  
6 halted until an authorized biologist is able to move it out  
7 of harm's way. Also a worker training and bonus program  
8 that would reward construction staff who spot a tortoise  
9 within a construction work area and without touching or  
10 disturbing the animal notify the authorized biologist. Just  
11 a couple examples.

12           And for the flat-tailed horned lizard, the  
13 biologist would conduct a final clearance survey one to two  
14 days before construction activity, which would include  
15 excavating potential burrows, relocating the lizard to  
16 nearby suitable habitat.

17           Since the impacts to these three species would be  
18 significant even after implementing all feasible mitigation,  
19 CEQA requires the Commission -- that for the Commission to  
20 approve this project, the Commission must adopt a Statement  
21 of Overriding Concern or Consideration. The staff has  
22 prepared a Statement of Overriding Considerations which is  
23 attached as Exhibit E.

24           Regarding the air quality, emissions from the  
25 proposed project would occur in two distinct categories,

1 construction and operation. Emissions from the construction  
2 of the pipeline and its above-ground facilities are not  
3 expected to cause or significantly contribute to a violation  
4 of an applicable ambient air quality standard or contribute  
5 substantially to an existing or projected air quality  
6 violation. This is because the construction impacts will be  
7 temporary in nature and the equipment would be operated as  
8 needed during a relatively short period of time. Emissions  
9 from gasoline and diesel engines would be controlled because  
10 the engines must comply with applicable state and federal  
11 standards for mobile sources, including such additional  
12 standards as may be adopted and become effective before or  
13 during the construction of the pipeline.

14 For operational emissions, the potential for the  
15 proposed project to expose the public to substantial  
16 pollutant concentrations from operational emissions include  
17 those resulting in a cancer risk greater than or equal to  
18 one in a million and/or a hazard index, non-cancer risk,  
19 greater than or equal to .1, and would be less than  
20 significant. Therefore, a health risk assessment was not  
21 conducted for the proposed project.

22 However, a health risk assessment was conducted to  
23 address the cumulative impacts associated with the  
24 facilities in Mexico which are outside of state and federal  
25 jurisdiction to determine the potential impact of the

1 regulated air pollutants emitted by the existing power  
2 plants and proposed compression stations. The assessment  
3 concluded that the average cancer risks as well as the  
4 chronic and acute hazard indices would be well below the  
5 established significance thresholds used by the California  
6 air districts. In addition, the future chronic and acute  
7 hazard indices would be well below the more stringent  
8 threshold set by the South Coast Air Quality Management  
9 District for these evaluations at a level of 0.5 for these  
10 indices. Therefore, the cumulative risks associated with  
11 emissions from the existing power plants and the future  
12 compressor stations are considered less than significant.

13           Comments on the Draft EIS/EIR were received from  
14 the U.S. Environmental Protection Agency, the South Coast  
15 Air Quality Management District, SCAQMD, as some of you  
16 would call, the Imperial County Air Pollution Control  
17 District, and the Border Power Plant Working Group, among  
18 others. Their comments expressed concern that the supplies  
19 of natural gas from Mexican LNG facilities that would be  
20 transported on the North Baja pipeline system would have a  
21 higher Wobbe Index.

22           The Wobbe Index measures the heating potential of  
23 a gas, the higher the index, the higher the heat value.  
24 Contribution of natural gas with higher heating values and a  
25 higher Wobbe Index results in an increase combustion

1 temperature and possible increased nitrogen oxide or NOx  
2 emissions compared to the gas historically transported  
3 through the SoCalGas and SDG&E system.

4           The EPA, SCAQMD, the Imperial County Air Pollution  
5 Control District, and the Border Power Plant Working Group  
6 refer to this LNG source gas as hot gas and assert that the  
7 introduction of the LNG source gas would substantially  
8 increase emissions of the ozone precursor NOx in the south  
9 coast air basin directly affecting air quality and making  
10 attainment of the federal air quality standards more  
11 difficult. In addition, some of the commenters requested  
12 FERC and the State Lands Commission impose an upper limit on  
13 the Wobbe Index for the gas received into the North Baja  
14 system.

15           However, it was determined that the indirect  
16 impacts from burning the natural gas, the end use if you  
17 will, that would be transported by the project were too  
18 speculative to be analyzed. The impacts from the end use  
19 are not reasonably foreseeable due to some of the following  
20 factors. The Wobbe Index of the natural gas to be delivered  
21 was unknown other than it would be required to meet the  
22 California Public Utility Commission's or CPUC Wobbe  
23 standards. Two, the lack of evidence of whether or not the  
24 gas will be consumed in the south coast air basin due to the  
25 competition from existing suppliers. Three, the final



1 character of the natural gas delivered to the end users  
2 after blending it, blending in the SoCalGas distribution  
3 system. Four, no specific end users were identified in the  
4 south coast air basin. Five, the lack of conclusive data on  
5 the actual emissions changes resulting from the future  
6 combustion of the natural gas with a Wobbe Index of 1385  
7 versus 1360 proposed by the SCAQMD in the 2007 Air Quality  
8 Management Plan. That is to say insufficient and inclusive  
9 test data is available. Six, the lack of baseline emissions  
10 inventory to compare speculative emissions changes against.

11 So regarding gas quality and the fact that we  
12 thought that it was unreasonable and unforeseeable to  
13 include that in the project. The CPUC is the regulatory  
14 agency responsible for setting the appropriate quality and  
15 interchangeability standards for gas in the SoCal and SDG&E  
16 pipeline systems. The CPUC has determined the appropriate  
17 maximum Wobbe index for gas received on these systems should  
18 be 1385. Precedent agreements between North Baja and all of  
19 the shippers require that the gas delivered to the North  
20 Baja system meet the most stringent gas quality standards of  
21 any of the pipelines to which the North Baja system might  
22 ultimately deliver gas. The precedent agreements also  
23 states that North Baja would file with the FERC to modify  
24 its gas quality standards to be consistent with the most  
25 stringent standards of any directly interconnecting

1 downstream pipeline. These requirements mean that either  
2 the gas delivered to North Baja and California would meet  
3 the most stringent gas quality standards or the receiving  
4 terminal would have to process the gas before delivering it  
5 to the pipeline to meet the standard. Thus the gas quality  
6 interchangeability standards that SoCalGas and SDG&E would  
7 be met as required by the CPUC.

8           The current gas quality and interchangeability  
9 standards for delivering it to the SoCalGas and SDG&E local  
10 distribution system were established in September of 2006 by  
11 the CPUC. In the proceeding, the CPUC specifically adopted  
12 new gas quality and interchangeability standards for  
13 SoCalGas and SDG&E and reduced the upper Wobbe Index limit  
14 to 1385 for SoCalGas and SDG&E. The limit set by the CPUC  
15 is based on the recommendations set forth in the White Paper  
16 on Natural Gas Interchangeability and Noncombustion End Use  
17 issued by the NGC+Interchangeability Work Group on February  
18 28, 2005.

19           In its policy statement on Provisions Governing  
20 Natural Gas Quality and Interchangeability in Interstate  
21 Natural Gas Pipeline Company Tariffs issued on June 15,  
22 2006, the FERC encouraged the use of the White Paper as a  
23 common scientific reference point for gas quality and  
24 interchangeability issues. All gas delivered to the end  
25 users of Southern California is transported through the

1 SoCalGas and SDG&E system, at some point before delivery,  
2 and therefore, it must comply with new CPUC approved gas  
3 quality standards. Before the adoption of the new  
4 standards, SoCalGas and SDG&E would have been able to accept  
5 natural gas with a Wobbe Index as high as 1437.

6 No long term cumulative impacts on air quality are  
7 anticipated because existing and probable future projects  
8 would take place over a large area and have varying  
9 construction schedules and adhere to federal, state, and  
10 local regulations for protection of ambient air quality.  
11 Additionally, because no compression facilities or  
12 additional compression facilities would be installed as part  
13 of the North Baja Pipeline Expansion Project, the proposed  
14 project would not add any stationary or permanent sources of  
15 NOx, CO, VOC, PM-10, PM 2.5, or SO2 to the environment.  
16 Therefore, operation of the North Baja Pipeline Expansion  
17 Project would not contribute cumulatively to air quality  
18 impacts.

19 Regarding nonjurisdictional facility emissions. A  
20 nonjurisdictional facility, Sempra's existing Gas ducto  
21 Bajanorte pipeline would be expanded in coordination with  
22 North Baja's phased expansion, as mentioned earlier. The  
23 Gas ducto Bajanorte pipeline which currently takes gas from  
24 the North Baja system at the U.S./Mexico border and moves it  
25 west would be reconfigured to move gas in the opposite

1 direction similar to the reconfiguring of the North Baja  
2 system that would occur during Phase 1. Because of the  
3 proximity of the proposed Mexicali and Algodones compressor  
4 stations in Mexico, the potential exists for operating  
5 emissions to affect air quality in the United States,  
6 specifically in the Imperial Valley portion of Imperial  
7 County. However, modeling analysis provided in the EIS/EIR  
8 predicts that the Algodones compressor station's incremental  
9 impact would not exceed the federal significant impact level  
10 and it is well below .5 percent of applicable federal and/or  
11 state standards, therefore it would not significantly impact  
12 the existing non attainment area.

13           Based on this preliminary modeling analysis, it is  
14 unlikely that emissions from the proposed future compressor  
15 stations would result in any significant cumulative ambient  
16 air quality impacts at the receptors in the vicinity of or  
17 across the U.S. border.

18           At the time the environmental document was being  
19 developed, there was no specific requirement to evaluate the  
20 potential impacts of greenhouse gases. This is due in part  
21 to these types of emissions not being considered criteria  
22 pollutants. Recently, however, with the enactment of the  
23 California Global Warming Solutions Act of 2006, commonly  
24 known as AB-32, there has been an increased concern over  
25 greenhouse gas emissions and their effect on climate change.

1 In the interest of providing a complete environmental  
2 analysis for the proposed project, the Commission requested  
3 that the lessee prepare an analysis for greenhouse gas  
4 emissions which is included in Exhibit C of this Calendar  
5 Item.

6 At this time there are no regulatory requirements  
7 governing greenhouse gas emissions and no established  
8 criteria for determining the significance of these emissions  
9 or determining the appropriate mitigation. Although  
10 emissions occurring in Mexico are outside of state and  
11 federal jurisdictional control, the total greenhouse gas  
12 emissions from both the Gas ducto Bajanorte pipeline in  
13 Mexico and the North Baja Pipeline Expansion Project in the  
14 United States were analyzed by North Baja and summarized in  
15 the Calendar Item.

16 The analysis showed that the greenhouse gas  
17 emissions for the project represent a minor percentage of  
18 the total greenhouse gas emissions for California, the U.S.,  
19 or Mexico. These estimates, however, are tentative,  
20 conservative, and subject to fluctuation due to variability  
21 in the current greenhouse gas emissions inventories and for  
22 all these reasons the greenhouse gas emissions attributable  
23 to the proposed project are considered less than  
24 significant.

25 And that presents the conclusion to my

1 presentation and I would be happy to answer any questions  
2 that you may have.

3 CHAIRPERSON GARAMENDI: There may be some  
4 questions that will come up a little later as we hear from  
5 the proponent and opponent. So I assume you will stand by.

6 MR. FILLER: Yes. If there are no further  
7 questions, I believe that Henry Morse of North  
8 Baja/TransCanada would like to address the Commission in  
9 order to provide additional information.

10 Thank you.

11 CHAIRPERSON GARAMENDI: Thank you.

12 MR. MORSE: Thank you, Tom.

13 Mr. Chairman, Members of the Commission, my name  
14 is Henry Morse and I'm the General Manager of the North Baja  
15 Pipeline. I'd like to open my comments by thanking the  
16 Commission for scheduling this special meeting to consider  
17 this matter. North Baja appreciates the Commission's  
18 concern for our project schedule and the need to address  
19 this matter prior to your next regularly scheduled meeting  
20 in September. We are obviously hopeful that we will leave  
21 the meeting today with this Commission's approval to proceed  
22 with the construction of the first phase of the project  
23 which needs to be completed by the end of the year.

24 I'd also like to thank the staff of the  
25 California State Lands Commission for their diligent effort

1 in preparing a very complete and comprehensive EIR. Those  
2 of you on the Commission may not be aware, but when the  
3 original Baja pipeline was permitted in 2000 and 2001, there  
4 was an appeal suggesting that the EIR was inadequate. It  
5 withstood all of those challenges. It is clear that the  
6 staff of the State Lands Commission has pursued the  
7 preparation of this EIR with a view toward the potential of  
8 a legal challenge on adequacy grounds.

9           Staff suggested that I describe the various phases  
10 of the project. The first phase of the project which is  
11 necessary that the result of the terminal currently under  
12 construction and expected to be completed at the end of this  
13 year, North Baja requires that this meter station right  
14 here, I can't hold my hand quite steady enough, this meter  
15 station needs to be modified so that it can measure gas  
16 going in the other direction. But this compressor station  
17 here is going to be modified so it could push gas in the  
18 other direction. But the meter between North Baja and El  
19 Paso be modified so it could measure gas going in the other  
20 direction. And that this new two-mile piece of pipeline to  
21 directly connect North Baja with Southern California Gas  
22 Company be installed.

23           The second phase or Phase 1A is known as the  
24 Imperial County Lateral, it is this pipe, over to a proposed  
25 power plant near El Centro owned by the Imperial Irrigation

1 District.

2 Phase two --

3 CHAIRPERSON GARAMENDI: Is that an existing power  
4 plant?

5 MR. MORSE: It is an existing power plant that is  
6 going through some proposed modifications. I think they  
7 plan to make power when the units there take more gas and  
8 they need additional pipeline capacity to serve that margin.

9 CHAIRPERSON GARAMENDI: Thank you.

10 MR. MORSE: The third phase would be subject  
11 to -- or Phase Two, as we refer to them, would be subject to  
12 either the expansion of this terminal or at one time there  
13 was a proposal for another terminal off shore. And our  
14 Phase Two proposal has always been one that said we will  
15 build pipeline capacity as necessary to meet the final LNG  
16 terminal built off of the coast. And what was described by  
17 the staff, the combination of 42 and 48-inch pipe being  
18 along the whole length of the existing line is what would be  
19 necessary if both the Sempra terminal were expanded and  
20 another terminal were built there. It now appears quite  
21 likely that the largest reasonable expansion will be only  
22 the expansion of the Sempra terminal, so the environmental  
23 impact that is described in the Environmental Impact Report  
24 is probably overstated by that fact.

25 Let me make several points. And a couple nuances



1 about the phased nature of the project. Phase 1 is to be  
2 constructed this year. Phase 1A is to be constructed  
3 probably in 2009. Phase 2 is to be constructed probably at  
4 the earliest now in 2010.

5 Phase 1 is there to allow us to receive natural  
6 gas from Mexico when Semptra's Costa Azul terminal goes into  
7 service early next year. The existing pipe in the ground is  
8 large enough to flow all of the gas that's been contracted  
9 to be moved from Mexico into California as a result of those  
10 terminals.

11 CHAIRPERSON GARAMENDI: And how much gas is that?

12 MR. MORSE: We have contracts to move 600 million  
13 cubic feet a day of gas from south to north through the  
14 pipeline.

15 Much of the construction is either in that meter  
16 station or in that compressor station which are federal  
17 lands or they are zoned. The only California jurisdictional  
18 action for Phase 1 is the construction of this two-mile  
19 connection between the existing North Baja pipeline and  
20 Southern California Gas.

21 The EIR that you are being asked to certify will  
22 be used by local agencies in issuing their permits for the  
23 construction of that pipeline. If you were not to approve  
24 the EIR and this short segment of pipe was not built, and  
25 assuming that FERC issues a certificate authorizing federal

1 action associated with this project, gas would still be  
2 imported from Mexico and it would still be transported on  
3 the North Baja pipeline. It would just be unable to be  
4 directly delivered in California and it would instead have  
5 to be delivered to the El Paso Natural Gas Company at their  
6 location in Ehrenberg just to the other side of the  
7 Arizona/California border. But since the pipe, El Paso's  
8 pipeline grid is not set up to transport gas east from  
9 Ehrenberg, that gas will just get mixed with existing gas  
10 flowing from east to west on El Paso and immediately flow  
11 right back into California. The only difference is that  
12 California's favorite pipeline company, El Paso Natural Gas  
13 Company, would receive a payment of over 30 cents per MCF  
14 for a trip of about a half a mile. The reason that two mile  
15 interconnection between North Baja and Southern California  
16 Gas Company has been proposed is to help hold down the cost  
17 of gas for gas consumers in California, with the side  
18 benefit of preventing unreasonable enrichment of El Paso.

19 Phase 2 of this project --

20 CHAIRPERSON GARAMENDI: I assume El Paso is a  
21 competitor of some sort?

22 MR. MORSE: Well, I think in what transpired in  
23 2000 and 2001, El Paso was not a particularly favored entity  
24 by California. I'll leave it at that.

25 Phase 2 of this project, as I said earlier, was

1 included in the application even though it's open, it's not  
2 certain. And the result of including it is that we probably  
3 have an EIR that describes large potential environmental  
4 impacts that are unlikely to occur.

5 In reviewing the comments that have been filed in  
6 this proceeding, I can find no evidence of any outright  
7 opposition to the project. There are a few parties that  
8 have raised concerns about the potential impact of the gas  
9 transported through the pipeline and consumed in areas as  
10 much as 250 miles away from the pipeline. And there are  
11 others who have raised concern about the potential impacts  
12 of gas that might be burned, that might or will be burned,  
13 in Mexico before even reaching this proposed project.

14 But no one has said that the construction of the  
15 pipeline itself creates an unacceptable environmental impact  
16 or that the mitigation proposed for what environmental  
17 impacts have been identified are insufficient. For an  
18 infrastructure project of this size in the state of  
19 California, that is quite uncommon. In fact, the records  
20 show outright support for the project by most of the city  
21 councils and many nongovernmental organizations in the  
22 relevant areas in the two California counties in which the  
23 pipeline will be constructed.

24 Your offices have raised the question of how can  
25 we be assured that the gas that goes through this pipe will

1 go to consumers in California. With a project with an  
2 economic and a physical life of 50 years or more, one cannot  
3 say with certainty what will happen over the full life of  
4 the project. But clearly in the first years, the LNG source  
5 gas transported from south to north on the North Baja  
6 pipeline can only physically be delivered ultimately to  
7 California, either directly through the proposed  
8 interconnection two mile pipeline or indirectly after a  
9 brief transit through a half a mile of El Paso's pipeline in  
10 Arizona.

11 As I said earlier, the El Paso system is not  
12 currently capable of physically moving gas east from Arizona  
13 to central Arizona. And modifying the existing pipeline to  
14 flow gas from west to east will take the installation of a  
15 compressor station as well as modifications to the pipeline.  
16 El Paso has made no apparent preparations to do either and  
17 it would take several years to get the permits and construct  
18 the facilities to do so. Also, the amount of gas that North  
19 Baja's system will be transporting in Phase 1 is  
20 insufficient to completely offset the gas that's currently  
21 flowing from east to west. You would only diminish that.  
22 Until El Paso is clear that it would completely have the  
23 amount of gas it's flowing from east to west offset as a  
24 result of gas coming off of North Baja, it makes no sense  
25 for them to make the financial commitment to change the way

1 their system currently operates.

2           Finally, I want to touch on gas supplies and  
3 demand. No one that I'm aware of predicts that California's  
4 need for gas is going to decline in the future. You can  
5 include in a very aggressive requirement for renewables to  
6 provide electricity, the CEC is predicting moderate  
7 increased demand for natural gas. No one disputes that  
8 Southern California's current primary sources of natural gas  
9 are from the San Juan and Permian Basins. The San Juan  
10 Basin is up here in the four corners area, the Permian Basin  
11 is over in west Texas. That gas flows to California through  
12 the El Paso natural gas pipeline system or the El Paso  
13 Transwestern pipeline system.

14           The vast majority of the gas consumed in Southern  
15 California comes from those two pipeline systems from the  
16 San Juan Basin or the Permian Basin. And no one disputes  
17 that these basins are already in decline and predicted to  
18 decline further. These basins are also capable of shipping  
19 gas east rather than west to California or Arizona. No one  
20 disputes that other states are beginning to follow the lead  
21 of California and shifting away from coal-fired power plants  
22 so that the demand for natural gas in the midwest and the  
23 east with new gas-fired power plants is going to increase.  
24 And no one disputes that Phoenix and Las Vegas located  
25 between these two basins and California are two of the

1 fastest growing metropolitan areas in the country and their  
2 demand for natural gas for domestic use and power generation  
3 is growing quickly.

4           So what does this mean? It means that over 60  
5 percent of the gas consumed in Southern California with its  
6 growing demand comes from sources already in decline and  
7 with ever increasing competition for the remaining supply.  
8 Even if the demand in California for natural gas was flat or  
9 in moderate decline, California will still have ever greater  
10 competition for gas from these basins. The only identified  
11 source of supply that could offset the likely shortage that  
12 will occur is from LNG source gas. The CEC's most recent  
13 forecast suggests that one and a half billion cubic feet per  
14 day of Southern California's natural gas use will be met by  
15 LNG source gas in the next ten years. That's over half of  
16 Southern California's current average daily consumption.

17           CHAIRPERSON GARAMENDI: Excuse me, can I stop you  
18 there for a moment?

19           MR. MORSE: Sure.

20           CHAIRPERSON GARAMENDI: You said the CEC's most  
21 recent estimate?

22           MR. MORSE: Yes.

23           CHAIRPERSON GARAMENDI: What estimate is that?  
24 When was that?

25           MR. MORSE: Two months ago.

1 All of that one and a half billion cubic feet a  
2 day that the CEC report suggests will come to Southern  
3 California can be provided through an expanded Costa Azul  
4 Phase 2 of North Baja without the need for an LNG terminal  
5 on or off shore in California. Given the fact that the  
6 Costa Azul terminal does exist, the North Baja Project which  
7 is being paid for by the LNG source gas marketers and not by  
8 California companies, has the least environmental impact on  
9 California and is the most economic way to get much of the  
10 needed gas to consumers in Southern California.

11 Earlier I mentioned what would happen if you  
12 didn't certify the EIR. Another potential is that you do  
13 certify the EIR but for some reason the world changes and in  
14 some way that no one can predict today, somehow Southern  
15 California does not need LNG source gas to meet its needs.  
16 What would have happened? A two-mile section of new  
17 pipeline would have been built in the shoulder of a county  
18 road west of the town of Blythe. It would have been paid  
19 for by somebody other than the consumers of California and  
20 it wouldn't get used. I wouldn't be happy because Phase 2  
21 wouldn't need to get built. But the consumers of California  
22 would suffer little to no effect.

23 In addition to being the most environmentally  
24 benign and economic way to provide LNG source gas to  
25 Southern California, the North Baja Project is the least

1 expensive insurance that California will ever acquire to  
2 protect itself from the potential of insufficient supplies  
3 of natural gas.

4 CHAIRPERSON GARAMENDI: Would you add manipulation  
5 of the gas market?

6 MR. MORSE: I'll let that one go.

7 I thank you for your consideration. I hope that  
8 after you've heard the presentations of those that follow me  
9 and give full consideration to all aspects of this proposal  
10 that this Commission will certify the EIR and approve the  
11 modification of the existing lease.

12 I will be happy to answer any questions you might  
13 have now.

14 CHAIRPERSON GARAMENDI: I do have a couple of  
15 questions and I would like to pursue them with you.

16 You mentioned that Phase B --

17 MR. MORSE: Phase 2.

18 CHAIRPERSON GARAMENDI: Phase 2. You did not  
19 indicate the capacity of that pipeline?

20 MR. MORSE: At its largest, it would have 2.2  
21 billion cubic feet of new capacity, in addition to the  
22 roughly 800 million cubic feet of capacity of the existing  
23 pipeline and it would be able to move gas if full  
24 compression were installed. That pipeline today only moves  
25 500 million cubic feet because the compression station here



1 is not as large as it could be.

2 CHAIRPERSON GARAMENDI: All right. You gave the  
3 figure 600 million cubic feet a moment ago, so it's  
4 somewhere between five and --

5 MR. MORSE: We have contracts for 600. Given the  
6 compressor station that is being built in Mexico, the  
7 pipeline will have the capacity to move that 600. If  
8 additional compression were added in Mexico, it could go up  
9 to 800 without having to put any new pipe in.

10 CHAIRPERSON GARAMENDI: Okay.

11 MR. MORSE: Above 800 we need to put new pipe in.

12 CHAIRPERSON GARAMENDI: Now, describe for me the  
13 contracts that you have for the movement of 600?

14 MR. MORSE: In round numbers, I have a contract  
15 for 200 million a day from Coral, which is a subsidiary of  
16 Shell. And I have a contract for a hundred a day from  
17 Sempra LNG Marketing. In addition, two of the original  
18 shippers on the North Baja pipeline have taken advantage of  
19 the opportunity that we provided for them to convert their  
20 existing contracts which have north to south capacity into  
21 south to north capacity. The sum of those two contracts add  
22 up to about 300 million a day as well. Those two shippers  
23 which currently supply power plants either in Mexicali or  
24 over here on the coast are going to do what in the business  
25 is known as a capacity lease because they're going to

1 release their rights to that new northbound capacity to  
2 Sempra LNG Marketing and to Coral. Sempra and Coral each to  
3 my understanding have 500 million cubic feet a day of LNG  
4 permanent capacity here, so they are looking for access out  
5 of the terminal.

6 CHAIRPERSON GARAMENDI: Okay. There will be some  
7 questions for Sempra and I understand that they are here,  
8 then we'll further enlighten this part of the discussion.  
9 So we're looking at a situation where current circumstances  
10 you can deliver 600 by contract, and up to 800 with  
11 additional contract and additional modifications at a couple  
12 of compressor stations?

13 MR. MORSE: Correct.

14 CHAIRPERSON GARAMENDI: So there's a potential for  
15 800. Do you have contracts that relate to the quality of  
16 the gas that you're transporting?

17 MR. MORSE: They do. And I can explain that.  
18 Anticipating that a gas quality issue might arise at times.  
19 And understanding that as a pipeline, we really have no  
20 ability to mitigate that issue. We're a common carrier, we  
21 move gas to other people. We place the risk and  
22 responsibility for delivering the gas on the shippers. And  
23 by we, I say both the North Baja pipeline and the Gas ducto  
24 Bajanorte pipeline.

25 Both sets of contracts require that the shippers

1 deliver through the pipelines gas that meets the most  
2 stringent quality specifications of any downstream pipeline  
3 to reach the gas and ultimately the consumer. We, the  
4 pipeline, have the obligation once the new gas quality  
5 standard is established, to file, for us with FERC and for  
6 the Mexican pipeline with their equivalent in Mexico, gas  
7 quality standards that match those stringent gas  
8 requirements. And it is a filing we will be making in the  
9 near future, it only comes into play when really LNG source  
10 gas starts to flow in the pipe.

11 CHAIRPERSON GARAMENDI: So if, for example, San  
12 Diego Gas & Electric, one of the recipients of the gas sets  
13 a standard that has a Wobbe Index of 1350. You would be  
14 required to deliver gas with that? The gas coming through  
15 your pipeline would have the --

16 MR. MORSE: That is correct. Shippers who are  
17 putting that gas onto our pipeline would have to meet that  
18 standard and we could and would refuse to take that gas. We  
19 have the obligation to accept when the standard gets  
20 established. Now, that would be established by an  
21 appropriate authority. San Diego Gas & Electric could not  
22 just say, well, we won't accept a Wobbe Standard of 1350, it  
23 would have to be approved by the California Public Utilities  
24 Commission which sets the gas quality standards for  
25 utilities in California.

1           CHAIRPERSON GARAMENDI: Are you then suggesting  
2 that individual suppliers of gas to customers in the basins  
3 cannot set a standard of what they want the gas delivered  
4 at, for example, 1350?

5           MR. MORSE: Not by themselves. It has to be  
6 approved by the California Public Utilities Commission.

7           CHAIRPERSON GARAMENDI: I thought the Commission's  
8 current standard is up to 1450?

9           MR. MORSE: It was. It was. The Commission last  
10 fall --

11          CHAIRPERSON GARAMENDI: They reduced it?

12          MR. MORSE: They reduced it to 1380.

13          CHAIRPERSON GARAMENDI: But the gas can be  
14 delivered below that standard?

15          MR. MORSE: Correct.

16          CHAIRPERSON GARAMENDI: At the request of delivery  
17 of Southern California Gas Company? We'll ask them, unless  
18 you have the answer. But my point is to your obligations?

19          MR. MORSE: On a FERC regulated pipeline, as long  
20 as the gas satisfies the minimum standard, I would have to  
21 take it, independent of whether somebody downstream who was  
22 going to receive it said I would like gas that's better.  
23 The gas came to me and it's got my standard, as a common  
24 carrier, I would have to flow it.

25          CHAIRPERSON GARAMENDI: But without a change in

1 the CPUC --

2 MR. MORSE: Or any other regulatory body that has  
3 the authority.

4 CHAIRPERSON GARAMENDI: All right. Okay.

5 COMMISSIONER CHIANG: I'm not sure if you said you  
6 said met my minimum standards. What does that mean?

7 MR. MORSE: Well, I said we have committed in our  
8 contracts that our minimum standard will be the most  
9 stringent standard that any downstream pipeline we deliver  
10 the gas to.

11 COMMISSIONER CHIANG: But if you accept and your  
12 acceptance is one designated by a regulatory body, you could  
13 say at my minimum standard which some downstream recipient  
14 designates?

15 MR. MORSE: I cannot do that as a common carrier  
16 under FERC regulations.

17 CHAIRPERSON GARAMENDI: Okay. So we know the  
18 current capacity that this gas moves at and we know your  
19 contractual obligation.

20 MR. MORSE: Contractual obligations for Phase 1.  
21 We have contracts that currently come to about an additional  
22 1.1 billion cubic feet of gas for Phase 2, but those  
23 contracts are subject to modifications depending on what  
24 ultimately happens with the project. We have signed  
25 contracts for shipment for the original 600, plus another

1 1.2 billion cubic feet. That extra 1.2 would come as part  
2 of Phase 2, but those contracts are subject to modification  
3 based on ultimate terminal size.

4 CHAIRPERSON GARAMENDI: So if the terminal is not  
5 increased in capacity, you will not build Phase 2, correct?

6 MR. MORSE: Correct.

7 CHAIRPERSON GARAMENDI: Stand by, there may be  
8 additional questions. Thank you very much.

9 MR. MORSE: Thank you very much.

10 EXECUTIVE OFFICER THAYER: As the Commission saw,  
11 I want to make sure you understand that we have Pat Perez  
12 here from the Energy Commission who can answer questions  
13 about what their current forecasts are. He's the same  
14 gentlemen who was at your BHP hearing. We also have Bob  
15 Fletcher from the California Air Resources Board that can  
16 talk about the relationship with AB-32 to this project. We  
17 did extend an invitation to the California PUC to send  
18 someone because we figured there would probably be questions  
19 about that. They declined based on the ongoing litigation  
20 in the South Coast Air Quality Management District over the  
21 1385 standard. There is also a representative here from the  
22 South Coast District.

23 CHAIRPERSON GARAMENDI: And I understand they want  
24 to testify.

25 I think it's now appropriate for us to continue

1 gathering additional information about the Costa Azul LNG  
2 plant itself and Sempra's intention there so that we can  
3 better understand Phase 1 and 2.

4 So if there's a representative here from Sempra, I  
5 would like to hear from them about this additions, what they  
6 intend to do.

7 MR. KELLY-COCHRANE: My name is Dale Kelly-  
8 Cochrane. I'm with Sempra LNG. I'm the Vice President of  
9 Planning and Analysis. There are other folks here, so  
10 depending on questions, I may answer them or defer to them.

11 Let's start with there are several Sempras. Sempra  
12 companies, under the Sempra umbrella.

13 CHAIRPERSON GARAMENDI: Okay. And you're Sempra  
14 LNG?

15 MR. KELLY-COCHRANE: Correct.

16 CHAIRPERSON GARAMENDI: Which does what?

17 MR. KELLY-COCHRANE: We build and operate LNG  
18 facilities.

19 CHAIRPERSON GARAMENDI: And there's a Sempra  
20 Marketing.

21 MR. KELLY-COCHRANE: There's a Sempra LNG  
22 Marketing which in the case of the Costa Azul plan, rents  
23 space in the facility and has purchased gas and then we'll  
24 resell that gas.

25 CHAIRPERSON GARAMENDI: So your task is to build

1 and operate the facility, the regasification storage  
2 facilities?

3 MR. KELLY-COCHRANE: Correct.

4 CHAIRPERSON GARAMENDI: Sempra Marketing then buys  
5 the gas from you?

6 MR. KELLY-COCHRANE: No. The Sempra Marketing --  
7 Sempra LNG essentially builds the terminal, and the purpose  
8 of that terminal is to take liquid gas and turn it into  
9 natural gas. And so Sempra Marketing is renting capacity  
10 from that terminal, buys LNG, in this case from Indonesia,  
11 runs it through that facility and when it becomes natural  
12 gas, sells it into the marketplace.

13 CHAIRPERSON GARAMENDI: Well, is Sempra Marketing  
14 here?

15 MR. KELLY-COCHRANE: I can represent them as well.

16 CHAIRPERSON GARAMENDI: Okay. So Sempra  
17 Marketing, does it control the flow of capacity of the -- I  
18 guess rent the full capacity of the existing and proposed  
19 expanded plant?

20 MR. KELLY-COCHRANE: No, it does not. As Mr.  
21 Morse explained, we have 50 percent of the capacity, about  
22 500 a day. Shell has the other capacity, 500 a day. You  
23 know, the expansion, nobody owns that at this point. The  
24 expansion really won't get built until there are other  
25 customers like Shell that come up and say, yes, we'd like to



1 see an expanded facility built and contract.

2 CHAIRPERSON GARAMENDI: Okay. The current  
3 capacity of that is how much?

4 MR. KELLY-COCHRANE: One billion cubic feet a day.

5 CHAIRPERSON GARAMENDI: And how much of that is  
6 contracted and consumed in Mexico? I guess that is to say,  
7 the Tijuana region, and then we'll talk about the Mexicali  
8 region.

9 MR. KELLY-COCHRANE: I'm not sure that I can  
10 answer that question in that regard. Let me explain how gas  
11 is consumed in Mexico, who the customers are. There is CFE,  
12 Comision Federal de Electricidad, which operates a number of  
13 power plants in this area here. Then there are two other  
14 power plants further to the east, one of those is owned by  
15 another Sempra company, the TDM plant, and another one by  
16 InterGen, which I don't know CalSTRS may have. And so that  
17 is really the bulk of the load in Mexico. There is  
18 virtually no other gas consumption except for the power  
19 plant load. For example, there is no distribution facility  
20 in Tijuana, so there's virtually no gas consumed. There  
21 might be a few factories, a very, very less than a percent  
22 type of you're looking at.

23 CHAIRPERSON GARAMENDI: And so this facility, this  
24 LNG facility, will be the supplier of natural gas because  
25 everything is going north, I suppose?

1 MR. KELLY-COCHRANE: Yes.

2 CHAIRPERSON GARAMENDI: All right.

3 MR. MORSE: And if I might to your specific  
4 question, since we ship all of the gas south, the load on  
5 those power plants varies from as low as a hundred million  
6 cubic feet a day to a little over a 400 million cubic feet a  
7 day, it's been the historical range. In the winter it's  
8 very low, in the summer it picks up to 400. So that's the  
9 swing of what occurs on that pipeline which would be the  
10 load for the facility that currently exists.

11 MR. KELLY-COCHRANE: And on average around --

12 MR. MORSE: About 250 to 300.

13 MR. KELLY-COCHRANE: So about a quarter of the  
14 plant on average would serve load.

15 And sometimes there's a confusion like what about  
16 the rest of Mexico. If you think about Baja, it is really  
17 isolated from the rest of Mexico, I mean it's almost part of  
18 California from a gas service perspective.

19 CHAIRPERSON GARAMENDI: And other perspectives.

20 That's very helpful to have that understanding.  
21 So without expansion of these power plants or expansion or  
22 creation of some residential and commercial activity in  
23 Tijuana, about 40 percent of the total capacity at some  
24 point during the year, the total capacity of the plant would  
25 be used for these power plants, 400?

1 MR. KELLY-COCHRANE: Sure. At peak. I average  
2 250.

3 CHAIRPERSON GARAMENDI: Very good. Now, so the  
4 LNG facility is really designed for the American market and  
5 according to earlier testimony the California market?

6 MR. KELLY-COCHRANE: I would say it is designed  
7 for --

8 CHAIRPERSON GARAMENDI: A combination?

9 MR. KELLY-COCHRANE: -- the southwest American  
10 market. You know, I mean this region, right. And  
11 definitely right now it is most -- for gas that is not sold  
12 in Mexico, it is most economic to deliver that gas to  
13 California, particularly if this project is approved. We  
14 avoid that high rate for very little work on the El Paso  
15 system. There is also as part of this project work being  
16 done to allow gas to flow directly into California through  
17 the Otay Mesa.

18 MR. MORSE: That's not part of this project.

19 MR. KELLY-COCHRANE: Not part of this project, but  
20 in wanting to know where the gas goes, I mean on that day  
21 when the demand is as low as a hundred, if there's only 600  
22 a day going this way then some of that gas would get stuck.  
23 But it really doesn't get stuck because there's about 400 a  
24 day that flows through Otay.

25 CHAIRPERSON GARAMENDI: Okay. So we're looking at

1 an on average 750 million cubic feet of gas available, of  
2 which depending on contracts could be fully delivered to the  
3 pipeline serving Southern California, either directly over  
4 and across the Otay Mesa or through the Baja pipeline  
5 service?

6 MR. KELLY-COCHRANE: Yes, sir.

7 CHAIRPERSON GARAMENDI: Just stand to one side, I  
8 want to hear from the Energy Commission on demand.

9 COMMISSIONER CHIANG: John, can I ask a question?

10 CHAIRPERSON GARAMENDI: Yes, please.

11 COMMISSIONER CHIANG: Let me ask a question.

12 CHAIRPERSON GARAMENDI: And while you're asking  
13 this question, if the Energy Commission representative could  
14 come up.

15 Please go ahead.

16 COMMISSIONER CHIANG: If there was greater demand  
17 out of Mexico, could there be a hundred percent flow into  
18 Mexico?

19 MR. KELLY-COCHRANE: Well, if there was greater  
20 demand in Mexico and it was all along here, I mean there's a  
21 lot of huge ifs. I mean you're talking about tripling, you  
22 know, the capacity there. I mean these facilities could  
23 handle that. I don't know of anybody that believes that  
24 that's going to happen, certainly in my lifetime. You know,  
25 I mean CEC does predict some growth to meet their needs, but

1 nothing substantial. And one of the TDM power plants that's  
2 in Mexico actually sells its electricity here in the United  
3 States.

4 CHAIRPERSON GARAMENDI: And how much?

5 MR. KELLY-COCHRANE: 600 megawatts.

6 CHAIRPERSON GARAMENDI: I want to try to get a  
7 sense of some information that was passed across here in the  
8 earlier testimony about the demand for natural gas going  
9 forward in Southern California.

10 MR. PEREZ: I will give you the large perspective.  
11 We just released a new forecast in May as part of our  
12 comprehensive natural gas assessment for North America, the  
13 United States and California. Now, the estimates are for 11  
14 million we're at at this point in time, but from our  
15 forecast that was prepared two or three years ago in the  
16 2005 Integrated Energy Policy Report, we see overall demand  
17 rising looking out for the next ten years. A lot of that  
18 increase is in the electric generation sector. If you look  
19 at the commercial, industrial and other sectors, it looks  
20 like it's going to be flattening out.

21 The bigger issue for us has to do with the  
22 competition for supplies. And the Las Vegas market for  
23 natural gas is growing two to three times faster than  
24 California's, so there's going to be some tremendous  
25 competition for that gas. So we see a slight increase just

1 under about 1 percent per year out for the next ten years,  
2 the expected growth rate we're looking for for natural gas.

3 CHAIRPERSON GARAMENDI: Let's hold the competitors  
4 aside for a moment. What is the anticipated growth in  
5 demand over the next ten years? One percent? I can  
6 probably do the math correctly.

7 MR. PEREZ: Let me ask technical staff, I believe  
8 he might have that. If he can come up and give you the  
9 actual.

10 COMMISSIONER CHIANG: For my edification, is that  
11 one percent in that region?

12 MR. PEREZ: For the entire state of California.  
13 And Jim I believe can break it down to the San Diego and  
14 SoCalGas Company.

15 CHAIRPERSON GARAMENDI: No, let's stay with -- for  
16 starters, let's say the Southern California basin served by  
17 Sempra. For the Southern California Basin, the demand  
18 anticipated?

19 While you're looking at that, let me go back to  
20 Sempra here for a moment, and you can have a few moments of  
21 less stressful.

22 So Sempra Marketing will bring the gas into the  
23 North Baja pipeline then into the Southern California Gas  
24 Company pipeline, which I think is owned by Sempra. So  
25 Sempra really is controlling the whole loop thus far,

1 correct?

2 MR. KELLY-COCHRANE: Well, certainly not this  
3 loop.

4 CHAIRPERSON GARAMENDI: Correct. But it loops  
5 back into Sempra operation?

6 MR. KELLY-COCHRANE: Yes.

7 CHAIRPERSON GARAMENDI: And then how is that gas  
8 then distributed once it gets to the western portion of the  
9 Southern California gas pipeline? What happens then?

10 MR. KELLY-COCHRANE: You know, here is where I  
11 would defer to the representative from SoCalGas. That's  
12 within the utility system, but from a marketing perspective  
13 I would expect that we would find customers, that wouldn't  
14 necessarily be SoCal's responsibility, that would be our  
15 responsibility as marketers to find end users and then once  
16 it gets into the system, you know, it's not like they buy a  
17 molecule here and that molecule gets delivered there. Once  
18 it gets into here it's part of all of the supply.

19 CHAIRPERSON GARAMENDI: I understand. But you're  
20 not going to deliver it there without having somebody buy  
21 it.

22 MR. KELLY-COCHRANE: Exactly right. So there  
23 are --

24 CHAIRPERSON GARAMENDI: SoCalGas is one of those  
25 customers?

1           MR. SCHWECKE: I'm Roger Schwecke, Southern  
2 California Gas Company and San Diego Gas & Electric.

3           Basically the customers that we have on the SoCal  
4 Gas and San Diego Gas & Electric system, about 40 percent of  
5 those customers SoCalGas and San Diego buy the gas primarily  
6 for a residential customer. The other 60 percent of that  
7 demand is bought by the individual customers. So when you  
8 bring gas into our system, we're actually selling it really  
9 at the California/Arizona border to those customers. So in  
10 this case customers in Southern California would be buying  
11 the gas at that interconnect at the end of that two-mile  
12 piece of pipe, that interconnect with SoCalGas and North  
13 Baja pipeline. And we would transport that gas for those  
14 customers all the way down to the individual resident's home  
15 and commercial operations, power plants, whatever, serving  
16 the customers.

17           CHAIRPERSON GARAMENDI: Since the CEC is still  
18 trying to find the amount of increased demand.

19           MR. BORE: Well, I'm Jim Bore with the California  
20 Energy Commission.

21           We're showing an overall increase of about .6  
22 percent for the residential, commercial and industrial  
23 sector, and the utility sector is about 1.1. So the overall  
24 gas increase in California, we're saying over the time  
25 period, is about .8 percent.



1           CHAIRPERSON GARAMENDI: Can you translate that  
2 into cubic feet?

3           MR. BORE: We have about 1200 million cubic feet  
4 per day in the residential sector for all of California.

5           CHAIRPERSON GARAMENDI: 1,200 million is 1.2  
6 billion?

7           MR. BORE: 1,200 million. The commercial sector I  
8 believe is running around 600 and 700, the industrial sector  
9 is a little bit higher around 800, and then we're having  
10 about a little over 600 to 700 for the natural oil, which is  
11 the heavy oil that we're seeing, used to heat --

12          CHAIRPERSON GARAMENDI: That's all in Kern County?

13          MR. BORE: That's all in Kern County. And with  
14 the high oil prices we see that maybe going up a little bit.  
15 If oil prices fall, we look for that to decline.

16          CHAIRPERSON GARAMENDI: Okay. So total statewide,  
17 I could add this up, but why don't you tell me.

18          MR. BORE: We're pretty close. We're slightly  
19 under 6,000 MSPF per day. We're at 1.2, we've got about  
20 1,070, so we're under -- I will have to go back and look to  
21 make sure, I don't want to quote you a bad number here.  
22 It's around 5,000.

23          CHAIRPERSON GARAMENDI: All right.

24          MR. BORE: But we see that as being fairly flat  
25 throughout the time table. It's residential, commercial,

1 industrially managed basically based on the type of  
2 equipment being used. Certainly we could ask at some point  
3 how efficient equipment is to decrease the demand for gas in  
4 California.

5 CHAIRPERSON GARAMENDI: So if we took .8 increase  
6 for the year and run it for ten years, at the end of the  
7 ten-year period the total increase in volume?

8 MR. BORE: I don't think we have that here. This  
9 is the old report.

10 CHAIRPERSON GARAMENDI: You've got to do a little  
11 calculation here.

12 Let me ask the Southern California --

13 MR. KELLY-COCHRANE: 480, because just ten times.

14 MR. BORE: 480.

15 CHAIRPERSON GARAMENDI: For Southern California  
16 Gas, what do you anticipate to be the need for additional  
17 gas supplies ten years out?

18 MR. SCHWECKE: Well, I think what we're looking at  
19 and there's a California Gas Report a very similar increase  
20 in natural gas and that. But as Henry and Bob mentioned,  
21 you have to find the reserves, so we're looking that the  
22 need for natural gas will continue to slightly grow but the  
23 available supplies for natural gas --

24 CHAIRPERSON GARAMENDI: I want two numbers.

25 MR. SCHWECKE: Okay.

1           CHAIRPERSON GARAMENDI: One number is the need and  
2 the second number is additional supplies or competition  
3 which was mentioned earlier?

4           MR. SCHWECKE: Well, I think the 480 million, 500  
5 mentioned is a reasonable estimate of the growth of demand  
6 in California. With regard to the supply, I guess I don't  
7 understand exactly.

8           CHAIRPERSON GARAMENDI: I didn't want to -- the  
9 competition gas being sucked away to Phoenix or whatever,  
10 that's another set of issues that has to do with the  
11 potential for substitution?

12          MR. SCHWECKE: Correct.

13          CHAIRPERSON GARAMENDI: Okay. Or from other  
14 sources other than Permian or the San Juan Basin. So we're  
15 looking at something right around a little less than half a  
16 billion cubic total demand, or total additional demand for  
17 the next ten years.

18          MR. SCHWECKE: And I think demand in New Mexico  
19 will increase by 50 to a 100.

20          CHAIRPERSON GARAMENDI: 50 to 100 million per day?

21          MR. SCHWECKE: Yes.

22          CHAIRPERSON GARAMENDI: That's very helpful and I  
23 think we can go with that basic agreement.

24          MR. BORE: We look for a decline in production in  
25 the southwest.

1           CHAIRPERSON GARAMENDI: Well, my issue is --  
2 there's two issues, where the gas is coming from and  
3 secondly how much is going to be needed or first how much is  
4 going to be needed, and secondly, where would it come from.

5           Okay. Questions?

6           Thank you for that.

7           Let's move on. I think that's about all I have  
8 for right now. Thank you.

9           Okay. Just hang on a second here.

10           I think we will now move to those others who  
11 wanted to testify. We have two public agencies that would  
12 like to testify. Imperial County and South Coast Air  
13 Quality Management District. Let's hear from the South  
14 Coast Air Quality Management District and then Imperial  
15 County.

16           DR. LIU: My name is Chung Liu, I'm the Deputy  
17 Executive Officer for the agency. I'm also the chief  
18 scientist for the agency.

19           The South Coast Air Quality Management District  
20 really needs a lot of help in terms of improving air  
21 quality. We may not have all the authority and tools to  
22 really make the basin comply with the federal air quality  
23 standards. Let's go to the next slide, please.

24           I show this picture many places and this is the  
25 data presented to us by the state Air Resource Board. The

1 South Coast air basin has 52 percent of the health burden of  
2 fine particulates of the whole nation, even though we have  
3 only five percent of the population. Next slide, please.

4 Which translates to a health risk of about 5,400  
5 premature deaths per year in our basin, which is a  
6 significant number we're working on.

7 The most important pollutants, the regional  
8 pollutants, is the ozone smog problem and also the PM 2.5  
9 problem. PM 2.5 stands for particulate matter 2.5 micron  
10 size or less in diameter. Very, very fine small particles  
11 that really contribute to the problems.

12 The PM 2.5 and ozone are formed, most of them are  
13 formed in the air, they are not directly emitted. The  
14 precursor, the original material to make those pollutants  
15 are nitrogen oxide. What's the concern here about this  
16 natural gas quality issue to us is really the nitrogen oxide  
17 as a combustion product is really causing problems. And we  
18 have estimated we have to actually achieve some reduction in  
19 order to attain those standards. Next slide, please.

20 We have done some testing together with the gas  
21 company that we have shown that gas quality makes a  
22 difference here. The higher the BTU content of the natural  
23 gas in terms of what we call the Wobbe Index here, that is  
24 really the proportion of the nitrogen oxide emissions, it's  
25 actually the equivalent. As you can see, there's almost a

1 linear relationship there. What's showing this red line is  
2 the applicable rules for this equivalency in the South  
3 Coast. As the quality of the natural gas gets bad, that's  
4 the chance to meet the emissions standards. So we really  
5 have a direct problem here in that we don't maintain the  
6 natural gas quality in terms of what the impacts and we're  
7 going to have higher nitrogen oxide emissions and we're  
8 going to have higher health impacts. We try everything to  
9 reduce nitrogen oxide emissions. With our natural gas  
10 quality getting worse, we're now getting worse, we're losing  
11 ground. So that's something we really don't want to see.  
12 Next slide, please.

13 To prepare for this presentation, we looked at  
14 agency staff responsible. Talking about CPUC, they recently  
15 set a limit of 1385. Well, what we want to say is that at  
16 this juncture what's concern about this project the two  
17 miles stretch that's being talked about here is really the  
18 difference in the real world what that means. At this time  
19 1330 come from the El Paso line. Next slide, please.

20 This is the gas company data that continues to  
21 show on line. They are monitoring the gas quality, the  
22 Wobbe numbers. This is exactly what we're talking about  
23 here. On that date we have 1330. And for the past five or  
24 ten years we have numbers always lower than that. So we're  
25 talking about, if we talk about this two miles pipeline

1 means is the El Paso line gas quality when we talk about  
2 import LNG quality. That's for air quality, that's  
3 strictly, that's what it is. And your agency has the  
4 authority through this EIR process to determine that they  
5 can really play a role. Maybe the scenario is not as simple  
6 as I described, but that's what we see here. If anybody  
7 want to bring LNG gasses we want them to help us to meet  
8 that. We set a 1360 limit maximum in order to achieve those  
9 numbers. So if there is a new player coming to replace the  
10 old gas, the Wobbe number increase, we have a problem. Next  
11 slide.

12           While we're about ready to argue with the agency  
13 staff about not only gas that will come to Southern  
14 California. I think in the past maybe half an hour the case  
15 is made very simple, it's coming to Southern California, the  
16 majority of the gas, and the gas companies only project in  
17 the next few years 800 million cubic feet per day will come  
18 to our basin. It's really fast. Next slide please.

19           Next one.

20           What we see right now is 1.2 billion cubic feet  
21 per day from the El Paso line coming here. Next slide,  
22 please.

23           Okay. We'd like to have more natural gas. I want  
24 to say great love for the agency, the South Coast Air  
25 Quality Management District, we believe natural gas is a

1 cleaner fuel compared to oil and other fossil alternatives.  
2 But they have to come in with good quality and they have to  
3 mitigate the local impacts. And we see in the next few  
4 years this quality can be held in place. The difference  
5 between the two arrows I showed, next slide, is really the  
6 gas quality we're getting worse now by importation of LNG  
7 which has higher BTU if not treated. There are ways to  
8 treat natural gas to really select a high quality source, to  
9 remove the hydrocarbons or to inject nitrogen. There are  
10 ways to do that. And we really appreciate this EIR process  
11 and we believe your Commission has the flexibility and  
12 authority to make a decision that will mitigate that impact.  
13 Next slide.

14 So I will summarize here. The CPUC third set of  
15 1385 for the index numbers, we are in litigation with them  
16 to try to lower that. And we see that really quickly 1.2  
17 bcf per day of hot gas can come to our basin, which is about  
18 50 percent of current use. I think, Lieutenant Governor,  
19 you pointed very clear that the CEC's projection of less  
20 than one percent increase in the state of California, it  
21 looks like ten years of increase. This efficient capacity,  
22 we already can handle 10, 15 years increase of growth there  
23 and we really want to suggest that we keep that 1360. Help  
24 us on that. Next slide.

25 We did some preliminary calculations about what is



1 the difference between a hot gas from the LNG side compared  
2 to what we have nowadays in terms of CO2 emissions. There  
3 are more hydrocarbons in the LNG. So compared to hydrogen,  
4 there are more carbon in LNG imported at this time. We use  
5 five sources of LNG, potential sources. We calculate based  
6 on BTU basis. We come out about two to three percent just  
7 because the gas is hotter and can cause that much increase  
8 in NOx. Two or three percent sounds small, but a huge  
9 problem in natural gas which represent almost half the  
10 energy consumption, mobile, stationary, add together.  
11 That's tremendous.

12 If you really want an increase, you really have a  
13 chance on AB-32. This should be considered. And people are  
14 might argue that if you take the higher hydrocarbon like the  
15 propane and butane out of it, it will be burned somewhere  
16 else to cause CO2. Not true. Propane can be used in a lot  
17 of applications in substantive for oil uses. And also  
18 butane is such a valuable commodity, a raw material. So we  
19 believe handling the hot gas issues is not only for nitrogen  
20 also, it help global warming. Next slide, please.

21 So with all these conditions please do not certify  
22 the EIR and please consider and ask the project we're  
23 referring to to add a mitigation measure to maintain the gas  
24 quality as we have for many years.

25 Thank you.

1           CHAIRPERSON GARAMENDI: Thank you very much for  
2 your testimony. A couple of questions, and then also I  
3 would like to have a response from the Sempra people on this  
4 question.

5           Are you suggesting that -- well, I can go back  
6 over and just make out some points. You spoke right at the  
7 end about ways of reducing the Wobbe Index and you had I  
8 believe three points, four ways to do it. Could you review  
9 those very quickly.

10          DR. LIU: You can inject inert gas, nitrogen. You  
11 can remove the higher hydrocarbons from LNG.

12          CHAIRPERSON GARAMENDI: That would be propane and  
13 butane?

14          DR. LIU: Propane, butane and highers. And the  
15 third one is that you can select a good source of natural  
16 gas which has a very methane content. And the fourth one is  
17 that you can blend to achieve sometimes.

18          CHAIRPERSON GARAMENDI: The technology for  
19 blending surely must be there, as well as the --

20          DR. LIU: Oh, yes, at this time.

21          CHAIRPERSON GARAMENDI: So let's assume those are  
22 given, they can be done.

23          The injection of nitrogen, is that done, is that  
24 common, is that feasible?

25          DR. LIU: Yes. Most of the LNG importation

1 projects on the east coast and the west coast, they all have  
2 some level of nitrogen injection.

3 CHAIRPERSON GARAMENDI: And the propane and  
4 butane, the stripping of that from the natural gas, is that  
5 done elsewhere, is that feasible?

6 DR. LIU: That's mostly done at the source, that's  
7 the easiest way, before you even transport. And as a matter  
8 of fact, the El Paso line gas that's coming here which has a  
9 very good quality, they already strip those out. That's why  
10 it's good quality. And it has to be done in other Asian  
11 sources also.

12 CHAIRPERSON GARAMENDI: Very good. Don't run  
13 away, stick around, I may have additional questions.

14 Now for Sempra, if I might. These will be a  
15 series of questions on this mitigation.

16 MR. KELLY-COCHRANE: Uh-huh.

17 CHAIRPERSON GARAMENDI: The sourcing of the  
18 natural gas, is it possible to source the LNG from a  
19 location that has higher quality or quality that would beat  
20 a 1360?

21 MR. KELLY-COCHRANE: I would like to introduce Les  
22 Bamburg who is our gas quality expert. And so I will let  
23 him answer that question and then if there is a policy  
24 questions I will take those.

25 MR. BAMBURG: First of all let's just be clear,

1 okay. If you take a strain that's a hundred percent methane  
2 which I think that you would acknowledge that's the best  
3 quality that you can have, a hundred percent methane. It  
4 does not meet a 1360 Wobbe.

5 DR. LIU: Yes, it does.

6 MR. BAMBURG: It doesn't. It's 1362, okay. The  
7 second thing is there is almost no current suppliers that  
8 exist that are that far.

9 DR. LIU: Yes, there is.

10 MR. BAMBURG: So I can have enough to answer?

11 CHAIRPERSON GARAMENDI: We'll hear from South  
12 Coast in a few moments.

13 MR. BAMBURG: The first thing is is that about the  
14 only quality like that that would be even close would  
15 Alaskan LNG and it's only got a couple years left on it and  
16 then also you can't bring that into the U.S. because of the  
17 Jones Act. So it's not available, but it won't last much  
18 longer. And it actually has a Wobbe Index that's right at  
19 1360, because it has a small amount of nitrogen in it.

20 CHAIRPERSON GARAMENDI: So we know, the sourcing  
21 issue is part of the matter?

22 MR. BAMBURG: My statement on it is you will never  
23 find a LNG that will probably meet 1360. Even one of the  
24 ones that South Coast counts on which is the BHP source, a  
25 lot of the numbers quoted on that was for loaded LNG and it

1 had some nitrogen in it. And what happens is that the  
2 nitrogen boils up in transit so what you end up with is  
3 typically, and our Tangoon supplier is the same way, it has  
4 some nitrogen in it that boils off. So typically what  
5 arrives is a slightly higher Wobbe.

6 CHAIRPERSON GARAMENDI: Anne, you had a question?

7 ACTING COMMISSIONER SHEEHAN: Yes.

8 So all of the numbers that we had up on this chart  
9 about some of the other ones, those were somehow treated?

10 MR. BAMBURG: Yes.

11 ACTING COMMISSIONER SHEEHAN: Even though as you  
12 say from the source in terms of a lower Wobbe Index. But by  
13 the time it gets here --

14 MR. BAMBURG: And again, there is no sources that  
15 currently exist that are available that are at 1360 or  
16 below.

17 ACTING COMMISSIONER SHEEHAN: Okay. All right.

18 CHAIRPERSON GARAMENDI: So that leaves us three  
19 other methods of achieving the lower Wobbe Index then?

20 MR. BAMBURG: Right. You treat it.

21 CHAIRPERSON GARAMENDI: Okay. So let's talk about  
22 those treating. One is insert nitrogen and that can be done  
23 at the loading of the tanker. Can it be done at the other,  
24 at Costa Azul?

25 MR. BAMBURG: Please excuse me. You can't do

1 nitrogen injection at the loading point because it will  
2 vapor off. But you can do it at the re-gas facility.  
3 Currently in the United States, the Cove Point facility in  
4 Maryland, that's their method of lowering the Wobbe Index or  
5 the heating value with nitrogen injection. That will  
6 probably be the preferred method in North America in areas  
7 outside of the Gulf Coast.

8 CHAIRPERSON GARAMENDI: The other two, the  
9 stripping, where and how can that be done?

10 MR. BAMBURG: That is probably really only a  
11 feasible option I would say under two circumstances. On the  
12 gulf coast that would -- and again, I'm sorry, let me back  
13 up. It is correct that there can be some stripping done at  
14 the source. Typically that would only be propanes plus.  
15 That's the reason we see some LNG sources that only have  
16 ethane because they stripped out most of the propane before.

17 Ethane extraction at the source is not widely done  
18 because in most of the source countries there's no market  
19 for the ethane. We can't move ethane by ship. We can  
20 propane and butane. So you can do some level of stripping  
21 at the source, but, again, you won't meet 1360.

22 You can also look at doing it at the receiving  
23 terminal. On the gulf coast that would probably be a viable  
24 option of plenty of markets, there is infrastructure. So it  
25 would be pursued. There's actually the Lake Charles

1 facility. I'm trying to find the Lake Charles facility. EG  
2 is currently adding that capability to that terminal. So  
3 that's the only terminal in the U.S. now that is  
4 contemplating some sort of liquid extraction. Other  
5 terminals are considering it, Sempra has a project in  
6 Louisiana, it's a consideration that we may do. The issue  
7 is outside of that. Either in the east coast, there's no  
8 infrastructure, there's no market, and really Wobbe  
9 reduction with liquid extraction is only effective if you  
10 can remove ethane. If you only remove propane plus, you're  
11 really not going to get the Wobbe down very much. So you  
12 pretty much have to strip out any ethane also and again  
13 ethane can only be moved by pipeline, so you need a market  
14 and you need infrastructure.

15 CHAIRPERSON GARAMENDI: What purpose does the  
16 ethane play?

17 MR. BAMBURG: Typically ethane normally is used as  
18 a feedstock for plastics. And most of that is -- you know,  
19 the crackers, that kind of infrastructure and industry  
20 exists primarily in the U.S. on the gulf coast. There are  
21 some in the central part of the country, and up in the  
22 Alberta region of Canada that's done, that's the reason the  
23 gas that comes down from Canada tends to have a fairly low  
24 Wobbe. But on the west coast there is no infrastructure.  
25 The only place that I saw that contemplated was the Sempra

1 Energy Project because it's five miles from the refinery did  
2 the refinery was going to use it as a fuel.

3 CHAIRPERSON GARAMENDI: So that ethane can be used  
4 as a fuel?

5 MR. BAMBURG: It could be used as a fuel. Some  
6 people have hinted about using it at the re-gas facility,  
7 the trouble is the amount of ethane extracted far exceeds  
8 the load. And then also if you use it as a fuel, there  
9 could be potential environmental impacts of say using ethane  
10 as a fuel in lieu of natural gas.

11 CHAIRPERSON GARAMENDI: I suppose you strip it to  
12 remove the potential environmental impact and if you burn  
13 it, it will bring you back to where you were?

14 MR. BAMBURG: Yes, yes. I mean unless you have a  
15 way you can convert it into a plastic where you're not  
16 burning it, that way you can really get that impact.

17 CHAIRPERSON GARAMENDI: Now, bottom line, if you  
18 bring in LNG that has a 1380 Wobbe Index, could you at the  
19 facility, the regasification facility, reduce that to 1360?

20 MR. BAMBURG: Sure. You can do that within the  
21 confines of that because we can add three percent nitrogen.  
22 That allows us to reduce the Wobbe about 52 points. So you  
23 can do the math and say anything within that, you could --  
24 the question would be even if you could, the costs you're  
25 incurring that will ultimately impact your competitive



1 position, what are the benefits that you're deriving from  
2 it. If they are purely environmental, my statement would be  
3 there's much more efficient cost effective ways to address  
4 incremental NOx emissions than stripping out.

5 MR. KELLY-COCHRANE: I would also add how many  
6 supplies are really available even at 1380 in the first  
7 place? The majority of the supplies are over 1400, and so  
8 if they -- you know, to treat those and try to get to 1360,  
9 you could not do that because there's a limit on the amount  
10 of nitrogen that you're allowed to inject.

11 CHAIRPERSON GARAMENDI: Now, the issue raised by  
12 the south coast folks is that hot gas, if I might use that  
13 term, is going to create a significant environmental problem  
14 in the south coast air basin, one that must be mitigated.  
15 And their contention is that the EIR must be modified so as  
16 to do that or to cause that as a mitigation measure in the  
17 EIR itself. What would be the view of Sempra if this body  
18 decided we should do that?

19 MR. KELLY-COCHRANE: I guess I would say that we  
20 wouldn't think it was appropriate. I mean when these very  
21 issues were considered as far as the CPUC proceeding, they  
22 are the ones that are charged with setting the limits of the  
23 utilities and others have to operate by. And so I guess I  
24 would disagree with it. It's also my understanding that,  
25 and perhaps the utility can talk about that, you know, that

1 there is an opportunity to work together with SCAQMD and  
2 really reviewing whether there are impacts. Because you can  
3 assert that there's impacts, but nobody has proven that  
4 there is.

5 CHAIRPERSON GARAMENDI: Let's talk about that.

6 Does hot gas have an impact on increasing NOxs?

7 MR. BAMBURG: Well, I think there has been  
8 considerable testimony and there has been some evidence  
9 using different pieces of equipment I know one graph that  
10 showed there was an increase with one particular piece of  
11 equipment.

12 CHAIRPERSON GARAMENDI: What's that equipment?

13 MR. BAMBURG: It was a steam boiler I believe was  
14 the exact equipment that was shown on the graph. And  
15 there's a wide variety of equipment. I think what we're  
16 looking at is, one, we don't know the amount of LNG they're  
17 going to receive, the quality of the LNG over time. And  
18 what we're working with at south Coast is to look at a  
19 monitoring program as LNG starts coming into the area,  
20 testing equipment before we receive LNG and testing it as  
21 LNG is in the system to actually see what the increase is.  
22 And if we do see it as an increase, then you address the  
23 mitigation at that time, not set a standard today that we  
24 don't know whether we meet that particular standard.

25 CHAIRPERSON GARAMENDI: Let's explore that a

1 little further if we could. We need a baseline in order for  
2 that the happen; is that correct?

3 MR. BAMBURG: That's right.

4 CHAIRPERSON GARAMENDI: So what could we do to get  
5 a baseline?

6 MR. BAMBURG: Southern California Gas Company and  
7 San Diego Gas & Electric are currently putting together a  
8 plan to begin testing of equipment in 2008 prior to LNG  
9 being received on a representative sample of equipment  
10 throughout the San Diego Gas & Electric territory and the  
11 Southern California Gas territory to get an idea of the  
12 existing baseline for a wide variety of equipment in the  
13 field. There's been considerable testing done in test  
14 areas. But we're looking at actual equipment in the field.  
15 And then we're going to look at the secondary test when LNG  
16 or changing gas qualities arise.

17 CHAIRPERSON GARAMENDI: Dr. Liu, are you basically  
18 in agreement with that statement?

19 DR. LIU: We have working with gas companies in  
20 the past couple years and the most significant testing so  
21 far on the smog equipment eight of 13 equipment has  
22 significant increase in.

23 CHAIRPERSON GARAMENDI: But you can do a baseline,  
24 you can develop the baseline, you can do the testing, you  
25 can get a baseline?

1 DR. LIU: Right now the data is scarce, really to  
2 put a precise number on it.

3 CHAIRPERSON GARAMENDI: I'm looking at a baseline.  
4 Can we establish, can a baseline be established by South  
5 Coast and the gas company as to the current conditions by  
6 whatever their gas quality is coming in now?

7 DR. LIU: Operations for the South Coast District,  
8 we do have enforcement activity going on. We do routinely  
9 check on the combustion sources there and give us some  
10 pieces of equipment.

11 CHAIRPERSON GARAMENDI: So bottom line, we can get  
12 a baseline?

13 DR. LIU: Yes.

14 CHAIRPERSON GARAMENDI: Now, I think I heard the  
15 gas company say that if the baseline is exceeded by the gas  
16 coming in, that mitigation measures could then be --

17 MR. SCHWECKE: Yes. And I think what we're  
18 working with South Coast is to say that in the future if the  
19 gas quality changes in the South Coast District, and it may  
20 not be from LNG sources that changes the gas quality. We're  
21 seeing gas quality as high as 1360 coming from the Rocky  
22 Mountains which is about 20, 30 percent of our supplies  
23 coming here today. That is higher than 1360. But if  
24 overall in the South Coast area, if the Wobbe Index across  
25 the area is changing and we see through this monitoring and

1 testing that there is a concern that needs to be addressed  
2 by the South Coast by increased NOx emissions, then at that  
3 point we look at the mitigation measures, whatever it might  
4 be, and it may not be on the gas side, it may be on the use  
5 side, to mitigate the issue of the rise in --

6 CHAIRPERSON GARAMENDI: Could you give us an  
7 example of mitigation measures on the end use side? Let's  
8 just take power plants?

9 MR. SCHWECKE: That is quite outside my area of  
10 expertise. I'm sure --

11 CHAIRPERSON GARAMENDI: What about catalytic  
12 converters?

13 DR. LIU: Anything we can do, we are already  
14 pushing. It's really difficult to reduce nitrous oxide  
15 emissions. This district engages in a lot of technology and  
16 advancement to try to find new ways I want to reemphasize  
17 this measure is not helping us to improve. This measure is  
18 to help us not get any worse. So I want to draw that  
19 clearly.

20 CHAIRPERSON GARAMENDI: A very good point.

21 EXECUTIVE OFFICER THAYER: Mr. Chair.

22 CHAIRPERSON GARAMENDI: Yes.

23 EXECUTIVE OFFICER THAYER: A couple of points I'd  
24 like to pose. First, getting back to the treatment of the  
25 gas as it comes into Mexico. My understanding is that they

1 will routinely treat just about all gases coming in by  
2 introducing nitrogen because just about all the gas would be  
3 above 1385. So you're already doing that, right?

4 MR. SCHWECKE: Regularly.

5 MR. KELLY-COCHRANE: Well, first, no gas is  
6 currently coming in, but our supply of gas, the BP supply is  
7 below 1385. The Shell supply, I mean they have bought  
8 capacity in our terminal. They don't have a specified  
9 supply, it's not like, you know, we've said, okay, what  
10 supply are you bringing in. We have requirements that say,  
11 look, you've got to meet the downstream pipeline standards  
12 and if your gas doesn't do that coming in, then you need to  
13 pay for facilities that can get it to that level or we won't  
14 accept your gas when the ship comes.

15 CHAIRPERSON GARAMENDI: So in all likelihood they  
16 will be building a nitrogen plant?

17 MR. KELLY-COCHRANE: In all likelihood they will.

18 EXECUTIVE OFFICER THAYER: And the second point is  
19 that the South Coast District has recently issued an  
20 addendum to their modification of your management plan. And  
21 in there, there's a discussion about adopting the rules, or  
22 South Coast itself adopting the rules to require that the  
23 agency ask you and there is also discussion of the very  
24 sorts of studies that I know the Chair's interested in and  
25 discussed. And it might be worthwhile hearing more about

1 that. It was a discussion of whether or not you have the  
2 authority to do that or whether you seek legislation to  
3 control your own destiny.

4 CHAIRPERSON GARAMENDI: Please.

5 DR. LIU: I want to have an opportunity first to  
6 go back to the supply issue, if I may, briefly.

7 CHAIRPERSON GARAMENDI: Answer this question first  
8 and then take that one.

9 DR. LIU: South Coast, in our air quality  
10 management plans, our part of the state mitigation plan, we  
11 are putting these control measures there, like what I said  
12 before, not to reduce emissions but not to increase  
13 emissions. And our legal department with our outside legal  
14 consultant tell us we may not have all the force to do that  
15 and we need to seek additional authority to do that. So  
16 there's a question mark on that. Plus in the case here you  
17 have a way to help us on this one. We don't know. If the  
18 gas company or Sempra they say I guarantee you we're not  
19 going to change your legal authority. We'll be so happy,  
20 but the first thing we're going to start, I mean it's not a  
21 first thing.

22 CHAIRPERSON GARAMENDI: And I guess you took up  
23 both the first and the second questions.

24 DR. LIU: Can I address this issue?

25 CHAIRPERSON GARAMENDI: Yes.

1 DR. LIU: I think that Sempra made a case for the  
2 control measures if you do this and you don't do that. They  
3 are now isolated. If you had a good source of natural gas,  
4 you would only have to put so little nitrogen. If you have  
5 a very bad gas quality that you have to put a lot of  
6 nitrogen. So I just want to put a case here. They do treat  
7 nitrogen at this time. And the cost issue we want to get  
8 is that really how much will it cost you to do this, we keep  
9 on asking the information, information they never want to  
10 provide. And I have to say here we pushed CEC and PUC get  
11 the numbers, they're never able to get any numbers either.  
12 But we from the help of their partner actually, Shell will  
13 tell us, the east coast project is just silent, it costs  
14 five cents per million BTUs, today's gas is \$6.40. So still  
15 while they say the treatment's less than one percent. If  
16 you want to come and play, you want to really push the El  
17 Paso gas out, one percent, I don't think you can justify the  
18 project on a one percent basis. So I mean you come to play,  
19 please don't make our gas worse, that's what I'm making the  
20 plea here.

21 MR. BAMBURG:: Do I get an opportunity to respond  
22 here?

23 CHAIRPERSON GARAMENDI: Absolutely.

24 MR. BAMBURG: Because I wish Dr. Liu would take  
25 the time to read our filing we did with South Coast where we



1 put costs in. Obviously he hasn't taken the time to read  
2 that, I don't know, so I take a little exception with the  
3 fact that we've never told them. We've told them quite  
4 straight forward. The other thing was the point that --

5 CHAIRPERSON GARAMENDI: Excuse me. What did you  
6 tell him?

7 MR. BAMBURG: We told him that it would cost --  
8 sorry, I have to refer to my notes. I think we said 8.7  
9 cents.

10 CHAIRPERSON GARAMENDI: So it's one and a half  
11 percent.

12 MR. BAMBURG: The second point though which you --  
13 I'm sorry, to go from say 1415 to 1385, that's what 8 cents.  
14 But the second point that I want to make sure people  
15 understand is, yes, there may be one or two sources  
16 available, but you can improve down to that level, and, yes,  
17 it would be a matter of cost. The more critical thing  
18 though is the fact that by far the vast majority of sources  
19 available in the Pacific basin will not be able to be  
20 treated down to 1360 and those sources have no incentive to  
21 be anywhere because they primarily sell it to the Asian  
22 market and they want that flexibility, and the Asian market  
23 demands a very high BTU product. So when you look at the  
24 available information and I think we've listed maybe 11  
25 different sources, but only two of those would be treatable

1 down. So have the potential of only being able to access  
2 those two sources. I think most people would say they want  
3 to have access to a lot of ranges of sources because it  
4 keeps the competition up and more likely to be able to get  
5 access.

6 CHAIRPERSON GARAMENDI: And the cost of the  
7 competition is a higher Wobbe Index for gas coming into  
8 California.

9 MR. BAMBURG: The cost of the competition is being  
10 able to compete for this market and know there's no  
11 impediments and that it can be treated down to reach the  
12 specification if we still access the market at a reasonable  
13 cost.

14 CHAIRPERSON GARAMENDI: I'll put it this way, if  
15 the cost of the competition is gas coming into California,  
16 then I will be against it.

17 Now, South Coast asserts that if that's the case  
18 then the NOx will be worse and that is an assertion with  
19 some proof but the opportunity for a mechanism to determine  
20 if in fact South Coast is correct. That is we establish a  
21 baseline now and then when it comes in and it's worse, then  
22 mitigation of one sort or another which maybe you get two  
23 sources of gas, not nine, and that's that, you'll just have  
24 to deal with that. In other words, I, for one, am not  
25 interested in seeing a diminution in the air quality in

1 Southern California and I think there may be a way to deal  
2 with that.

3 Let's go on. And, gentlemen, that was a wonderful  
4 exchange in terms of eliciting information. Thank you so  
5 very much. Don't disappear, I may have another question.

6 MR. SCHWECKE: One issue that you addressed was  
7 the blending issue.

8 CHAIRPERSON GARAMENDI: Yes, please.

9 MR. SCHWECKE: And I just want to point out that  
10 the Southern California Gas Company and San Diego system,  
11 the points where supplies are coming in we would have from  
12 an operator's standpoint very limited capability if any at  
13 all to blend those sources of supply. We do have some  
14 blending that occurs up in the Santa Barbara area and the  
15 San Joaquin Valley where we bring some supplies in from  
16 California sources, but if you're bringing in a significant  
17 amount of gas come in through Otay Mesa or directly into our  
18 system at Blythe, we don't have the operational flexibility  
19 to blend gas at those points. The only way we could blend  
20 gas at Ehrenberg is someone is buying sufficient gas across  
21 the El Paso system and delivering it. But we're not again,  
22 as I mentioned before, we're only buying 40 percent of the  
23 demand in the area for our residential customers and we're  
24 not necessarily sourcing at one particular source but  
25 multiple sources. So we don't have the operation --

1 CHAIRPERSON GARAMENDI: Blending is problematic?

2 MR. SCHWECKE: Yes. Very problematic.

3 CHAIRPERSON GARAMENDI: For this particular  
4 project.

5 MR. SCHWECKE: Yes.

6 CHAIRPERSON GARAMENDI: Thank you. We have a  
7 couple other witnesses, so we're going to move this along.  
8 I said I would go to Imperial. Excuse me, we're so engaged  
9 here, so let's pick up Imperial.

10 MS. QUINN: Good afternoon, Mr. Chairman and  
11 Commissioners. My name is Megan Quinn and I'm an attorney  
12 at Remy, Thomas, Moose, and Manley. We represent Imperial  
13 County.

14 They retained our law firm to represent the  
15 communities environmental interests with respect to the  
16 proposed projects. We've sent in two comment letters, one  
17 on the draft EIS/EIR and one on the Final. And I just want  
18 to highlight two points today.

19 We've advised the county that the final EIS/EIR  
20 did not cure some of the major deficiencies in the Draft  
21 EIS/EIR and the Commission's failure to revise in particular  
22 significant portions of the Draft EIS/EIR constitutes a  
23 violation of the law.

24 The county believes that CEQA requires the  
25 Commission to revise and recirculate at a minimum the air

1 quality impacts, the cumulative impacts, alternatives, and  
2 growth producing impacts prior to certification of the  
3 document.

4 I just want to highlight two general comments and  
5 then I will go into specific comments.

6 The Final EIS/EIR fails to remedy the failure of  
7 the Draft to include a legally acceptable level of detail,  
8 particularly with respect to air quality and the cumulative  
9 impacts. Without sufficient detail, public agencies and the  
10 public are deprived of the opportunity to understand and  
11 comment on the project's potential significant adverse  
12 impact, therefore, the joint EIS/EIR defeats the fundamental  
13 purpose of CEQA. An EIR is intended to provide agencies and  
14 the public with detailed information about the environmental  
15 effects of the proposed project to highlight ways in which  
16 significant effects might be minimized. The EIS/EIR fails  
17 to address both on site and off site environmental impacts  
18 including but not limited to air quality, health risks, and  
19 growth inducing impacts, such as the pipeline and resulting  
20 projects that follow.

21 The EIS/EIR also fails to properly identify and  
22 analyze and mitigate the indirect effects of the project,  
23 specifically its growth inducing effects. Here the project  
24 dramatically increases the capacity to transport natural gas  
25 through the pipeline network. It is reasonably foreseeable

1 that the increased availability of natural gas will be to  
2 grow many industries and activities that run on natural gas.  
3 Potential adverse secondary environmental impacts of a  
4 standing pipeline network include, but are not limited to,  
5 population and housing growth, traffic impacts, and air  
6 quality impacts. These are reasonably the foreseeable  
7 consequences of the project, therefore, the Commission is  
8 legally obligated to provide a more detailed and accurate  
9 analysis of all secondary effects of the project before  
10 certifying it.

11           And now the specific comments. Under Section 3,  
12 Alternatives, the Final EIS/EIR's discussion of alternatives  
13 fails to cure the Draft's failure to absolutely explain how  
14 the project's impacts can be less by adopting alternatives  
15 to the project. Nor did the final document compare each  
16 proposed alternative to the goals and objectives of the  
17 project. Despite our request, the alternative section of  
18 the Draft was not revised or recirculated. Therefore, the  
19 Final still lacked in a full analysis of the relative  
20 impacts these alternatives.

21           Also the EIS/EIR failed to comply with a detailed  
22 level of alternative analysis required by CEQA. The  
23 alternative section has long been considered the heart of  
24 the EIS. The evaluation of alternatives is covered by the  
25 rule of reason, but the Draft EIS fails to consider a range

1 of alternatives to accomplish those actions purpose. The  
2 Draft EIS lacks to present the environmental impacts of the  
3 proposed action and alternatives in comparative form,  
4 sharply defining the issue and providing a clear basis for  
5 choice by decisionmakers and the public.

6 Under air quality, the Final EIS/EIR failed to  
7 adequately consider whether the project would make  
8 cumulative considerable incremental contribution to the  
9 significant cumulative impact of global climate change.  
10 Neither the Draft or Final EIS/EIR inform other agencies or  
11 the public about the project's contribution to the impact  
12 associated with global climate change, thus violating one of  
13 CEQA's main purposes. Not only is the significance of the  
14 project's contribution to the global climate change problem  
15 unknown, it's absolutely failed to disclose other additional  
16 measures required. Under CEQA, public agencies should not  
17 approve projects as proposed if there are feasible  
18 alternatives or feasible mitigation measures available which  
19 would substantially lessen the environmental impact of the  
20 proposed project. I note here that Exhibit C to the  
21 calendar does not make clear or whether the factors for the  
22 circulation under CEQA guideline section 15088.5 are met.

23 The Final EIS/EIR fails to remedy the past  
24 failures to adequately disclose the direct and indirect air  
25 quality impacts of the project. The document fails to

1 adequately inform the public of the indirect, yet  
2 significant, adverse impacts to the air quality of the  
3 region. The County believes that the project should not be  
4 approved before the public is informed of the emissions from  
5 two compression stations located in Mexico and the adverse  
6 impacts of these facilities are quantified and presented in  
7 the document for public review and comment.

8 As stated in our previous draft comment letter,  
9 Mexicali and Imperial County share the air. We need healthy  
10 air quality standards that satisfy both the US and Mexico.  
11 Mexico does not have the same regulatory authority as the  
12 southwest US that require readily available, cost effective  
13 air pollution control technologies be used on power plants  
14 sited in the region. Some of the plants that the project  
15 would serve have significantly higher air pollution  
16 emissions than would be allowed in the United States. The  
17 EIS/EIR fails to adequately address the impacts associated  
18 with all power plants served by the project.

19 And that pretty much highlights what our comment  
20 letter lists. I will leave for reference the rest of our  
21 comment letter.

22 CHAIRPERSON GARAMENDI: Thank you very much, I  
23 appreciate that.

24 We have two other. Mr. Rory Cox, is he here?

25 MR. COX: Honorable Commissioners, my name is Rory



1 Cox, I'm the coordinator for the Coalition of Ratepayers for  
2 Affordable Clean Energy or the RACE Coalition. On behalf of  
3 the RACE Coalition, I previously submitted a letter that was  
4 signed by 19 different community and environmental justice  
5 organizations. We are asking for the Commission to reject  
6 the EIR and the lease agreement for this pipeline. Signers  
7 include the Sierra Club of California, Communities for a  
8 Better Environment and many others.

9 Our objections are that the expansion will enable  
10 the further pollution of the south coast air basin which I  
11 think we've gone over in detail now. Something that could  
12 be mitigated at the LNG terminal if Sempra chose to do so.

13 In addition, this further influx of natural gas  
14 will increase the city's greenhouse gas emissions and the  
15 need for the project and the project expansion is unproven.  
16 Now, I want to sort of address some of the confusion around  
17 that. The CEC says our need will increase in California .8  
18 percent per year in the future. I was recently at a natural  
19 gas workshop where a representative from SDG&E said that  
20 their need would actually decrease to a total of about .5  
21 percent in the next ten years. His name is Herbert and his  
22 Powerpoint is probably on the SDG&E website.

23 Now, that's consistent with what the natural gas  
24 utilities have said about the flat demand for the next ten  
25 years or so. Our modeling shows that if we implement the

1 laws that are on the books regarding both the renewable  
2 portfolio standard and the and the RPS as well as efficiency  
3 measures that are already in progress, we can actually  
4 decrease our natural gas usage. That's what our modeling  
5 shows. And I think our modeling is actually more consistent  
6 with what's happening, in the last nine years or so where  
7 natural gas demand has actually dropped 13 percent per  
8 capita since about the year 2000, the last seven years.  
9 We've actually dropped our natural gas consumption  
10 considerably. So when I hear other people in the room say  
11 that there's no question that our natural gas demand is  
12 increasing, I would say that is a question. And that's  
13 something that concerns us about this whole --

14 CHAIRPERSON GARAMENDI: First a question. Whether  
15 if you're correct that it's decreasing then this project is  
16 built and only used to replace gas coming in from the El  
17 Paso or other markets?

18 MR. COX: Yeah. And that's another question is  
19 whether those supplies are robust enough to maintain our  
20 decreasing supply.

21 CHAIRPERSON GARAMENDI: And if they are robust and  
22 the price is right then this pipeline won't be used then.

23 MR. COX: I would say to that it will be used  
24 because what is going on is the domestic contracts will not  
25 divvy up once the LNG comes on line.

1           CHAIRPERSON GARAMENDI: Ultimately the gas becomes  
2 important.

3           MR. COX: Absolutely.

4           CHAIRPERSON GARAMENDI: But if you're estimate is  
5 wrong and there is an increase then this is an additional  
6 source of gas?

7           MR. COX: That's true, it is an additional source  
8 of gas. Maybe what I'm looking at, my reduction of 13  
9 percent per capita that I mentioned comes from the Energy  
10 Commission's website, it's accessible to anybody. Thanks a  
11 lot.

12          CHAIRPERSON GARAMENDI: Thank you.

13          You had several other points in your letter, did  
14 you want to pick up any of those other points that you  
15 wanted to mention.

16          MR. COX: Sure, I could.

17          CHAIRPERSON GARAMENDI: But don't belabor the  
18 point.

19          (Laughter.)

20          MR. COX: Okay. I won't. I'm used to three  
21 minutes.

22          CHAIRPERSON GARAMENDI: Well, then that would be  
23 three minutes. Thank you so very much, I appreciate it.

24          (Laughter.)

25          CHAIRPERSON GARAMENDI: I giveth and taketh.

1           MR. COX: The letter also, you know, discusses the  
2 health costs of this increased emission of nitrogen oxide.  
3 You know, that there is really no urgency around this  
4 project given the decline in demand and that there is  
5 already infrastructure to import a billion cubic feet per  
6 day and that will be done soon.

7           There is also a big concern that we have, and I'm  
8 sure Sempra has as well, with the supply of LNG, how  
9 reliable that is. We read the industry press, we read the  
10 Indonesian press, and what they're saying is that Indonesian  
11 LNG may not be coming here, it may be going to Japan. And,  
12 you know, in that sense when we say that it might be a white  
13 elephant, that's what we're referring to.

14           And then, you know, all these sorts of issues are  
15 things that we hope will be addressed in SB-412 ultimately  
16 if it passes this year and that's the reason why that law is  
17 gaining so much traction in the legislature because there's  
18 a lot of confusion over this issue and there's no hurry to  
19 make this decision.

20           CHAIRPERSON GARAMENDI: Thank you very much for  
21 your testimony.

22           MR. COX: Thanks a lot.

23           CHAIRPERSON GARAMENDI: Next, Aaron. Aaron, I  
24 cannot use the last name, but you've got your first name  
25 down here.

1 MR. QUINTANAR: Aaron Quintanar.

2 CHAIRPERSON GARAMENDI: Aaron Quintanar.

3 MR. QUINTANAR: Commissioners, my name is Aaron  
4 Quintanar, I'm with the Border Power Plant Working Group.  
5 And I'm here before you to urge you to reject the Final  
6 Environmental Impact Statement and associated lease.

7 It's very clear through the testimony that's been  
8 here today that the project would lead to an increase in  
9 pollution in Southern California. Natural gas moved through  
10 the pipeline would come from fields from throughout the  
11 world with different chemical compositions and right now  
12 this hotter gas according to our estimates will lead to  
13 additional NOx pollutants in the air in the 900 tons per  
14 year range.

15 Second, Sempra, as discussed today, clearly  
16 refuses to mitigate this hot gas issue. And any impact of  
17 hot gas can easily be avoided simply if Sempra installs  
18 processing equipment at the LNG terminal in Costa Azul. An  
19 interesting thing here is that another proposed project that  
20 was here proposed for California in Long Beach, SES  
21 Mitsubishi LNG project included this technology. It's  
22 there, it's available, and it's clear the economic costs  
23 don't overwhelm the project and is there to address these  
24 issues.

25 Next, there's no urgency. This highly

1 controversial project deserves more scrutiny. The current  
2 capabilities of the pipeline as has been discussed includes  
3 one billion cubic feet per day. With this project, it would  
4 be double that capacity, which would affect approximately  
5 one-third of California's natural gas supply.

6 And, finally, Sempra has no near-term plans to do  
7 the expansion at Costal Azul. This has all been discussion  
8 and there's nothing on the ground to indicate it. Of  
9 course, they admitted to the Mexican government formally  
10 that indicates  
11 this description in the near term.

12 Another issue associated with this is the  
13 financials. It's one of the big difficulties of this  
14 project. Is that LNG is currently trading, has been  
15 currently trading at two dollars or above, and that's one of  
16 the big problems with this project.

17 So one of the things that we're asking, the Border  
18 Power Plant Working Group, is a rejection of this EIR and  
19 the lease.

20 Thank you very much.

21 CHAIRPERSON GARAMENDI: All right. The next  
22 person that requested to testify is Susan Doering.

23 MS. DOERING: Hello, Chairman and Commissioners.  
24 My name is Susan Doering with Pacific Environment, and I'm  
25 speaking on behalf of Loretta Lynch, a Pacific Environment

1 board member, and she's also the former president of the  
2 California Public Utilities Commission, and unfortunately  
3 could not be here today because she has jury duty. So I am  
4 going to read her letter for her.

5 "I respectfully urge this Commission to reject the  
6 EIR and the lease amendment necessary to the  
7 TransCanada/North Baja natural gas pipeline project. The  
8 EIR does not adequately address the question of whether this  
9 additional volume of natural gas is needed in California.  
10 That question has not yet been answered in a credible  
11 fashion by any of the state agencies cited in the EIR.

12 In addition, the question of how this project will  
13 impact Southern California's air quality has yet to be  
14 resolved and I urge a total rejection of the EIR."

15 Thank you for your time.

16 CHAIRPERSON GARAMENDI: Thank you very much.

17 I've got a couple of questions for the Attorney  
18 General's office as to the nature of the issue before us and  
19 the relationship of the EIR, the lease, the timing of the  
20 EIR, the lease, and the potential action by FERC.

21 I understand that from the contract that the  
22 pipeline company wants to begin construction right away; is  
23 that correct?

24 MR. MORSE: We need to have the modifications  
25 associated with Phase 1, which are changes in the

1 compressors and changes in the meter stations, and the two  
2 miles of new pipeline that connects with SoCal, and in  
3 service by the end of the year to accommodate testing of the  
4 terminal which should be completed with the construction in  
5 that timeframe for testing on January 1st.

6 CHAIRPERSON GARAMENDI: Let me get right down to  
7 the days. When do you propose to begin construction?

8 MR. MORSE: We would like to start construction  
9 the month of September.

10 CHAIRPERSON GARAMENDI: Okay.

11 FERC has this on their calendar, do they not, for  
12 action?

13 MR. MORSE: We are told that FERC will act on it  
14 this month.

15 CHAIRPERSON GARAMENDI: Now, to the AG or to our  
16 staff. Does FERC have the ability to override a negative  
17 decision on both the EIR and the lease?

18 EXECUTIVE OFFICER THAYER: I think so. But I  
19 think the attorneys can give you a more comprehensive  
20 answer.

21 DEPUTY ATTORNEY GENERAL SPROUL: Commissioner  
22 Garamendi, I would respond to that by saying that FERC has  
23 to ability to authorize the project and issue the permits  
24 needed for it. Once they have done so, there is no  
25 requirement for further approvals except that there is a



1 requirement for a lease, but North Baja would again be in a  
2 position to commence an eminent domain action to secure the  
3 property that it needs for the project that FERC has  
4 approved. And we would be not in a good position to oppose  
5 such an action.

6 CHAIRPERSON GARAMENDI: Well, we could oppose, but  
7 we would be in a poor position to win?

8 DEPUTY ATTORNEY GENERAL SPROUL: Yes.

9 (Laughter.)

10 DEPUTY ATTORNEY GENERAL SPROUL: You understand my  
11 point.

12 CHAIRPERSON GARAMENDI: We have a joint EIS/EIR  
13 and FERC acted without an approved EIS/EIR.

14 DEPUTY ATTORNEY GENERAL SPROUL: FERC would take  
15 its own action to approve the Final EIS, it could take that  
16 action independent of what other agencies might do to  
17 satisfy their own position.

18 CHAIRPERSON GARAMENDI: So if we choose to  
19 disallow or to delay the EIR/EIS that's before us, FERC  
20 could take it up, approve it, authorize the project, and  
21 tell California nice working with you, but goodbye?

22 DEPUTY ATTORNEY GENERAL SPROUL: Or good luck.  
23 There might then be further discussions have they not acted  
24 on the EIR that's presented today, I would think it would be  
25 an opportunity for further discussions with North Baja

1 Pipeline and TransCanada to determine whether California  
2 would take an action like this one and obviate the need for  
3 some other legal proceeding.

4 CHAIRPERSON GARAMENDI: Now, the environmental  
5 document before us has several mitigation measures that are  
6 in them from tortoises to a vetch and a few other things.  
7 Would those mitigation measures be lost if we did not  
8 approve the EIR today, the EIR/EIS today and FERC went  
9 ahead? Would those mitigation measures that speak to  
10 California actions be lost?

11 DEPUTY ATTORNEY GENERAL SPROUL: I would expect  
12 that FERC's approval, anticipating that that occurs in this  
13 month, would retain most, if not all, of the mitigation  
14 measures that have been presented to you jointly.

15 CHAIRPERSON GARAMENDI: So they would take the  
16 document that's before us, approve it, and move forward and  
17 those mitigation measures would continue?

18 DEPUTY ATTORNEY GENERAL SPROUL: That would be my  
19 expectation. I think it's possible were there some enhanced  
20 discussions and/or there are objections on the part of the  
21 company to some California specific measures that there  
22 might be further discussions on those. I wouldn't like to  
23 assume necessarily that they would adopt everything that  
24 California has recommended for the company. And I don't  
25 know of anything like that.

1 EXECUTIVE OFFICER THAYER: And one thing that I  
2 would add is that and the attorneys could expand on this is  
3 that there are a number of responsible agencies that would  
4 utilize a certified EIR in order to enable them to act.  
5 They are prohibited from taking discretionary action, any  
6 state agency, any local agency that wants to work on this  
7 project. The EIR, for example, says that the air pollution  
8 control districts will be issuing dust control plans. And  
9 the Department of Fish & Game will be issuing stream bed  
10 alterations and endangered species determinations from it.  
11 There's a strong argument to be made that they would be  
12 foreclosed from acting if CEQA hadn't been complied with.  
13 So those mitigation efforts are not part of the EIR, but  
14 they end up providing benefits for California's environment,  
15 particularly the Department of Fish and Game is looking as  
16 part of their permitting to require some mitigation with a  
17 payment of up to a million dollars to obtain additional  
18 habitat for the desert tortoise, and without an EIR in place  
19 there is some doubt as to whether or not they will be able  
20 to do that.

21 CHAIRPERSON GARAMENDI: Okay. So it's been argued  
22 here that the EIR is insufficient and that it does not deal  
23 with the air quality issue. Two of them, one is in the  
24 Imperial Valley from cross border contamination from power  
25 plants owned by, at least partly owned, by the organization

1 that is hosting us today. How interesting.

2 (Laughter.)

3 MR. BAMBURG: To make it clear, we don't own any  
4 of those stocks.

5 CHAIRPERSON GARAMENDI: We understand. I'm  
6 referring to STRS. My two colleagues can deal with that  
7 issue if they care.

8 And of course the whole south coast basin issue  
9 that was raised with regard to hot gas, which I think also  
10 applies in the Imperial Valley. So that issue, it has been  
11 argued that the EIR/EIS is inadequate in that it does not  
12 adequately deal with that.

13 If we chose to deal with that, how could we do  
14 that? We would seek a modification or an augmentation of  
15 the EIR?

16 EXECUTIVE OFFICER THAYER: I'll answer, then  
17 Christine can give the truth --

18 (Laughter)

19 ACTING COMMISSIONER SHEEHAN: Hopefully they are  
20 related.

21 (Laughter)

22 EXECUTIVE OFFICER THAYER: My understanding is  
23 that in order to establish a CEQA basis for imposing the  
24 conditions to deal with the hot gas, the EIR would have to  
25 be modified to include information which again our analysis

1 shows can't with certainty be developed. It would be  
2 speculative. But, nonetheless, if the Commission wanted to  
3 go forward with that approach and add language, it would  
4 have to amend the EIR and probably recirculate it which  
5 would take several months. And then it could be added that  
6 way.

7           It's also possible potentially for the Commission  
8 as exercising its authority as a land owner and under its  
9 management authority to potentially add some conditions to  
10 the lease. However, we've talked about some of the  
11 restrictions that the Commission is under on that. You  
12 know, the first thing is we're imposing a condition on a  
13 lease that is for a thousand feet of right of way which has  
14 to do with impacts in the air basin and there are some  
15 limitations in terms of whether we can regulate correctly  
16 air quality. And there's also some restrictions from  
17 previous court cases as to how much we can do on the  
18 throughput. Nonetheless, there's in fact a legal argument  
19 to be made that the Commission could impose conditions on  
20 the lease even without the CEQA authorization to do some of  
21 these things.

22           CHAIRPERSON GARAMENDI: Christine, if you might  
23 augment the comments.

24           DEPUTY ATTORNEY GENERAL SPROUL: Let me start by  
25 saying that the environmental documents as presented to you

1 today we think adequately satisfies the CEQA's requirements.  
2 There are always arguments that can be made suggesting that  
3 the analysis should go further and that the project should  
4 be defined differently, so that the position needs to be  
5 discussed. And were further information to be desired, then  
6 the object would be to develop that information, add it as a  
7 supplement or as an addendum to the EIR and determine if  
8 recirculation would be required had that piece that has been  
9 added. Anything more than a minor technical amendment would  
10 require recirculation for a period of time, 30, 45 days, and  
11 then comments would be received on that and responses to  
12 those comments would be developed and the entire package  
13 would come back to the Commission.

14 CHAIRPERSON GARAMENDI: And that would be a matter  
15 of three, four, maybe six months?

16 DEPUTY ATTORNEY GENERAL SPROUL: I would say that  
17 would be a reasonable estimate.

18 CHAIRPERSON GARAMENDI: That's optimistic?

19 DEPUTY ATTORNEY GENERAL SPROUL: Probably. Given  
20 the level of speculation involved and the technical issues  
21 that you heard discussed today about how to measure the  
22 baseline and how to measure the impact of gas within certain  
23 parts of the basin, developing that information I think  
24 would be time consuming.

25 CHAIRPERSON GARAMENDI: Well, it appears to be

1 that as one Commission we find ourselves in a bit of a  
2 dilemma. If we do not certify the document then state  
3 agencies that are expected to act on behalf of protecting  
4 the environment or the public, the environment and the  
5 public, may not be able to act. Is that correct?

6 DEPUTY ATTORNEY GENERAL SPROUL: That is correct.

7 CHAIRPERSON GARAMENDI: Did I hear you say that is  
8 correct?

9 DEPUTY ATTORNEY GENERAL SPROUL: That is correct.

10 DEPUTY ATTORNEY GENERAL RODRIQUEZ: They would  
11 have to have CEQA documentation themselves before they could  
12 act. Since you haven't acted, they wouldn't have anything,  
13 so it would be passing your responsibility on to them and  
14 there's a serious question I think about whether they've got  
15 the time in order to go through and apply CEQA themselves.

16 CHAIRPERSON GARAMENDI: And the other part is is  
17 that we are in a position where California's interests can  
18 be overridden by the federal government and we are just kind  
19 of left in the dust with PM 2.5 all around us.

20 Okay. I want to explore this business of the  
21 lease itself.

22 Paul, your comments didn't just come out of the  
23 blue, we've had discussion, you and I that is, not with my  
24 colleagues here unfortunately since I'm precluded from doing  
25 that, but we've had discussion about the lease itself and to

1 add to the lease some sort of requirement that the  
2 transporter of the gas shares the responsibility for the  
3 quality of the gas that's transported through it and the  
4 effect that that gas might have in its ultimate destination.

5           It's clear from the testimony provided earlier  
6 that we can establish a baseline in the south coast area as  
7 to what the current gas is, the Wobbe Index of the current  
8 gas, and its effect can be established, and we can know what  
9 the average Wobbe Index is and the resultant NOx produced.  
10 And it seems to me that any change, negative change, that is  
11 a higher index and a higher NOx could then be monitored and  
12 understood, and then the appropriate mitigation measures  
13 applied.

14           Given that, I think it's appropriate to add to the  
15 lease requirements along that line and to bring that and to  
16 give to the Commission continuing authority to see to it  
17 that the gas is transmitted through the pipeline as a result  
18 of the lease, albeit for a few thousand feet or less than a  
19 few thousand feet, meets quality standards that does not  
20 degradate the air quality in the basin, the Southern  
21 California basin. Understand there is nothing we can do  
22 about Mexico at that point, but when it arrives in  
23 California, I think we do have the potential of providing  
24 some protection.

25           To that end, I would like to circulate to my



1 colleagues the draft proposal that I think accomplishes  
2 that. This was done in conjunction with the staff. If it  
3 were not for the Brown Act, I would have brought this to you  
4 earlier, but the Brown Act being what it is, and that means  
5 the Public Act.

6 I'm going to go through this in some detail since  
7 nobody else out there has had it. And I'm going to put this  
8 in the record.

9 In addition to the terms of the lease drafted by  
10 the staff of the State Lands Commission, which is the  
11 document before us, the lease shall require the following:  
12 One, the Applicant, in consultation with any California air  
13 quality district within whose jurisdiction gas from the  
14 North Baja Pipeline will be used shall conduct a study to  
15 determine the impacts if any of using gas with a higher  
16 Wobbe Index than is presently used in the district. This  
17 study shall, A, establish a mutually-agreed upon estimated  
18 baseline for measuring and recording the current average  
19 Wobbe Index for all natural gas from all sources being  
20 consumed in the district as of the date of initial delivery  
21 of any gas north of the Mexican border through the North  
22 Baja Pipeline. B, measure on a regular basis the NOx  
23 emissions directly attributable to any incremental increases  
24 in the Wobbe Index of gas used in the district resulting  
25 from the operation of the North Baja Pipeline. This

1 measurement shall consider the Wobbe Index of gas supplies  
2 that are supplanted by gas from the pipeline. And, C,  
3 determine appropriate mitigation measures in cooperation  
4 with the relevant local air district and relevant utilities  
5 responsible for gas distribution that will be offset or  
6 eliminated or eliminate any increases of NOx emissions in  
7 the districts that are attributable to higher Wobbe Index  
8 gas from the pipeline.

9           Two, a plan for the study which will include the  
10 calculation of the baseline required in A shall be submitted  
11 by October 1st, 2007, for the review and approval of the  
12 State Lands Commission.

13           Three, within one year after the first delivery in  
14 a district of gas from the pipeline and annually thereafter  
15 the Applicant will submit the results of the study to the  
16 Commission for its review and approval.

17           And, four, as approved by the Commission, the  
18 Applicant shall carry out the mitigation measures.

19           I would propose that we amend the lease in a  
20 manner that has the greatest possibility for us in our  
21 authority to protect the air quality of the south coast  
22 region. My analysis is that this is the best way to do so.  
23 In conjunction with this, we would approve with some  
24 trepidation, but without reservation, the EIS/EIR as  
25 presented today so that other state agencies that should be

1 involved in the construction of the pipeline have an  
2 opportunity to act to protect the flora and fauna and  
3 environment as best they can consistent with the EIR as  
4 before us.

5 I'm not particularly pleased with this solution,  
6 but I don't think we have any other options. I also  
7 recognize this puts a new burden on the pipeline company,  
8 but from all the testimony that I've heard here today it is  
9 a burden that can be achieved and carried out. And I will  
10 make that argument now.

11 We heard from the gas company, as well as the  
12 operators of the LNG facility that the LNG can be treated in  
13 one of several ways to reduce its Wobbe Index, and we also  
14 heard that a baseline can be established in testimony today.  
15 And we've also heard the testimony today that the NOx  
16 emissions resulting from an increase in the Wobbe Index can  
17 also be determined.

18 So I think it is an achievable situation. And  
19 frankly I think the pipeline company has an obligation to  
20 deliver the very best quality gas. And if I'm not mistaken,  
21 that's in your contract already.

22 So anyway, that's my proposal and I would  
23 recommend therefore that we act accordingly.

24 Paul.

25 EXECUTIVE OFFICER THAYER: I just wanted to make

1 one clarifying question really. The Chair has indicated  
2 that he asked us to help work on this. We worked with his  
3 staff this morning to develop it. But the Chair had  
4 indicated that one result of this mitigation would be to  
5 cause the Wobbe Index to be changed potentially. Staff  
6 wasn't sure, staff believes that the Chair wanted to leave  
7 open the possibility that there might be more than one way  
8 to mitigate the impact. So for example the company argued  
9 that reducing the Wobbe Index could be expensive. So it may  
10 in fact be cheaper for the company to buy offsets and do  
11 other things that would reduce, in essence offset and that  
12 this language allows the company to go out and try to  
13 determine the best way, and that includes it could be  
14 through an economic feasibility and come back to the  
15 Commission, but that ultimately the Commission decides  
16 whether or not the proposal would meet the requirements for  
17 the Chair and the region. So it's written in a way that  
18 would allow the issue to be addressed both by changing the  
19 Wobbe Index of what's coming through the pipeline or by  
20 finding other ways to offset the adverse impacts that are  
21 measured.

22 CHAIRPERSON GARAMENDI: That is correct.

23 EXECUTIVE OFFICER THAYER: I want to make sure  
24 that complies with your --

25 CHAIRPERSON GARAMENDI: I believe that's what the

1 language allows in section 1C where the Applicant is to  
2 determine the appropriate mitigation measures in cooperation  
3 with the local relevant districts and utilities responsible  
4 and offset, eliminate or increase, whatever works in quotes.  
5 We don't want things to get worse as a result of this  
6 situation. But, yes, these and potential importation of the  
7 -- the likely importation of the LNG gas.

8 Anne.

9 ACTING COMMISSIONER SHEEHAN: Could I hear from  
10 the Applicant and possibly Sempra on this language. Have  
11 you seen it?

12 CHAIRPERSON GARAMENDI: No, they have not seen it.

13 MR. MORSE: Based on my notes from what you've  
14 read, my initial concern, and while I certainly appreciate  
15 what the Lieutenant Governor has done in terms of trying to  
16 craft a compromise here, as I heard it, the entire financial  
17 burden of mitigation falls on us.

18 CHAIRPERSON GARAMENDI: No, that's not the intent.  
19 The intent is the entire responsibility for seeing that the  
20 mitigation does occur does fall on you, but not necessarily  
21 the financial burden. Obviously that won't work.

22 MR. MORSE: And I'm not certain how I can transfer  
23 that financial burden to the parties that ship on my  
24 pipeline.

25 CHAIRPERSON GARAMENDI: Well, as I understood your

1 contracts, you can't ship what isn't allowed.

2 MR. MORSE: That is correct.

3 CHAIRPERSON GARAMENDI: So if somebody wants to  
4 ship gas on your pipeline, it has to meet the requirements,  
5 and therefore the burden it seems to me falls on them to  
6 provide gas or other mitigation. As you said, you're a  
7 common carrier.

8 MR. MORSE: We are. But as a common carrier, the  
9 expectation is that that limitation in gas quality comes  
10 from an agency that has the authority to do that. And as I  
11 very quickly read this, the State Lands Commission seems to  
12 be supplanting the California PUC as the body setting that  
13 gas quality standard.

14 CHAIRPERSON GARAMENDI: We think not. We think  
15 not. We are leaving that up to the relevant agencies.  
16 That's the PUC, CPUC or the air quality districts or  
17 something. The CPUC standard is a maximum/minimum I guess,  
18 a certain way you want to go at it, in a relevant range. An  
19 allowable range.

20 MR. MORSE: It's an allowable range. But if their  
21 gas is within that range, we're authorized to ship it.

22 CHAIRPERSON GARAMENDI: Well, that may change or  
23 it may change for a variety of reasons. Yes, no doubt about  
24 it, this is a burden. It's meant to be.

25 EXECUTIVE OFFICER THAYER: Let me interject one

1 other point. One other consequence of wording it in the way  
2 that it is, the Commission's concerns could be addressed  
3 either by changing the Wobbe Index or mitigating for it, is  
4 that the Commission is in fact not specifying the Wobbe  
5 Index. It can be dealt with in a mitigation manner in terms  
6 of buying offsets or some combination of that. So we're not  
7 trying to stand in the stead of the PUC, the Commission has  
8 come up with mechanisms to allow several ways to go.

9 CHAIRPERSON GARAMENDI: Our interest here is that  
10 it be mitigated in whatever way is appropriate or most  
11 feasible.

12 COMMISSIONER CHIANG: I'm sorry, Mr. Chairman, for  
13 my edification, be mitigated to what standard? The standard  
14 that I was reading was that you would have a mutually agreed  
15 upon estimated base of range, an average Wobbe Index. And  
16 so is it the baseline of Wobbe Index that is identified from  
17 that study, or will the Wobbe Index be 1385 set out by the  
18 PUC or the 1360 put out by the air quality?

19 CHAIRPERSON GARAMENDI: It's neither.

20 EXECUTIVE OFFICER THAYER: I think the intent here  
21 is to look at the option of impact of the substitution. So,  
22 for example, if the 1330 gas is coming in from El Paso to  
23 gas that is supplanted by this new 1385 gas, then the NOx --  
24 you can have additional NOx if you base on the difference if  
25 it occurs from changing from 1330 to 1385, the average

1 formula updated in May of 2007 before the south coast  
2 average. Currently in this district the Wobbe Index is at  
3 currently 1341. But again I think what the intent of the  
4 study would be to look at the actual real impact of what gas  
5 is taken out and what gas is put in.

6 COMMISSIONER CHIANG: Paul, establishing a  
7 mutually agreed upon estimated baseline for measuring, that  
8 the Applicant mutually agrees upon. Is that with us?

9 EXECUTIVE OFFICER THAYER: I think with the  
10 districts. But ultimately whatever is decided on has to  
11 come back for the Commission's review in two places. The  
12 study is to be brought back at the October 30th meeting is  
13 the deadline. So this should be a plan where you can look  
14 at this and you can decide you're on the right track, and  
15 eventually the study comes back, and including specifically  
16 the baseline issue has to be resolved in that plan.

17 COMMISSIONER CHIANG: Okay. So it's the Applicant  
18 and --

19 EXECUTIVE OFFICER THAYER: And the air quality  
20 districts. And of course there can be more than one because  
21 some of these impacts could occur in Imperial County.

22 COMMISSIONER CHIANG: What if they can't come to  
23 an agreement? I don't want to say somebody acts in bad  
24 faith, but under this item, a difference ends in eventual  
25 litigation. So I mean what action do we take in the event



1 we can't get an agreement of parties?

2 EXECUTIVE OFFICER THAYER: I think ultimately that  
3 study or the plan has to come back to us. I don't have an  
4 easy answer to that. If they don't reach agreement, I think  
5 it's going to be up the Commission to eventually direct what  
6 will happen, what is recommended.

7 CHAIRPERSON GARAMENDI: Anne.

8 ACTING COMMISSIONER SHEEHAN: So this we are  
9 appending to our lease?

10 EXECUTIVE OFFICER THAYER: Yes.

11 ACTING COMMISSIONER SHEEHAN: Okay. And I will  
12 just assume for discussion's sake that we certify the  
13 EIR/EIS, the feds can then take their action, that process  
14 goes along, and then we have our sort of lease process over  
15 here, correct? Now, going back to what we had talked about  
16 before. If we were not to certify the EIR/EIS, FERC could  
17 go ahead, and then they could also take it with an eminent  
18 domain if we were not to act. If this all fell apart, they  
19 could still proceed with that?

20 EXECUTIVE OFFICER THAYER: Yes, they could.

21 ACTING COMMISSIONER SHEEHAN: Okay. And  
22 potentially if FERC adopted our EIR/EIS on that advice, sort  
23 of go down the path, correct?

24 EXECUTIVE OFFICER THAYER: We think that at any  
25 stage of this entire process FERC could step in.

1           ACTING COMMISSIONER SHEEHAN: Okay. So they will  
2 be trying to come up with an understanding that some of the  
3 concerns we're trying to deal with. I don't want to say one  
4 arm tied behind us, but we're at a bit of a disadvantage. I  
5 guess that goes with what the Lieutenant Governor is trying  
6 to address in this. But I just want to make sure I  
7 understand in terms of just going down the various paths of  
8 what we do. I guess the one thing that I would say, you  
9 know, is to encourage, I realize it's the Applicant, but  
10 also the end users to help participate in this process to  
11 see what can be done to address some of these. I recognize  
12 we may not have any -- you're not before us -- I mean you're  
13 before us to answer questions, but you're not before us in  
14 any legal capacity as an Applicant before the Commission but  
15 to at least have some discussions to address some of the  
16 issues.

17           CHAIRPERSON GARAMENDI: There's no doubt about it.  
18 Also, it seems to me that our position is substantially  
19 improved in a condemnation case in that we are not stopping  
20 the project.

21           ACTING COMMISSIONER SHEEHAN: Correct.

22           CHAIRPERSON GARAMENDI: We are doing what we have  
23 with what leather we have available to us to deal with what  
24 is said to be, regulatory agency, the South Coast Air  
25 Management District, a serious health problem that could

1 result from this project, and therefore to deal with that  
2 we've taken this additional step. I recognize it's a burden  
3 for the pipeline company and it's going to be an additional  
4 cost and that will lead to either clean up or mitigate, but  
5 not nearly the cost of 5,400 lives a year from the  
6 additional NOx and resultant air quality issues.

7 So, anyway, I think it works and I'm prepared to  
8 act in a positive way on the EIS/EIR for reasons I have  
9 already stated, that is, I don't want to jeopardize the  
10 other state agencies from acting as best they can to protect  
11 the environment and public. And, secondly, I think this is  
12 the only really leather we have available given FERC's  
13 position.

14 COMMISSIONER CHIANG: Paul, you used the word in  
15 essence FERC could override. Is their authority the  
16 equivalent to preempt any action we take?

17 EXECUTIVE OFFICER THAYER: Yes.

18 COMMISSIONER CHIANG: So we can take this action  
19 and FERC can do whatever they want?

20 EXECUTIVE OFFICER THAYER: That's correct. And  
21 that's true really of any of the state mitigation, including  
22 cumulative impacts and all of that. We're all kind of at  
23 the sufferings of FERC. The pipeline company has actually  
24 been very forward in trying to be helpful on some of the  
25 mitigation measures and in that spirit of cooperation a lot

1 of stuff has gotten done, but at any point FERC can step in.

2 CHAIRPERSON GARAMENDI: Once again, I think that  
3 we've positioned ourselves as best as possible given that  
4 reality. With the EIS in place, and, secondly, we approve  
5 the lease, it does have an additional condition, and I think  
6 both in terms of if there's a legal action, I think we're as  
7 well positioned as we can be. And, secondly, frankly, I  
8 think we're very well positioned politically and publicly.  
9 If FERC wants to come in and cause the air quality to be  
10 worse in the south coast, then I would be happy to debate  
11 that issue with them in public, and I think a whole lot of  
12 folks would. So if the federal government wants to come in  
13 here and further diminish the air quality or take action  
14 that would further diminish the air quality in the south  
15 coast basin, then let's have a discussion about that in  
16 public in Southern California. I didn't just say that by  
17 happenstance, I'm laying down the gauntlet to FERC. Work  
18 with us or we'll have a discussion about the political  
19 impact that you have, as well as the health impact that you  
20 have.

21 That's all I can offer. I wish we had more power  
22 in this situation, but I don't think we do.

23 So my proposal is on the table. Anne, John,  
24 whatever questions you may have, let's go forward.

25 ACTING COMMISSIONER SHEEHAN: No, I was going to

1 make a motion.

2 CHAIRPERSON GARAMENDI: Or you can do that.

3 ACTING COMMISSIONER SHEEHAN: Can we act on both  
4 the CEQA and the authorization together or is it just as  
5 best we do it separately?

6 CHAIRPERSON GARAMENDI: I think we have to have a  
7 statement of overriding concern.

8 ACTING COMMISSIONER SHEEHAN: That would be on the  
9 CEQA finding, yes.

10 EXECUTIVE OFFICER THAYER: There are five  
11 different actions that are stated, actually six, and they  
12 can all be done with one motion.

13 ACTING COMMISSIONER SHEEHAN: All right. And it's  
14 to certify the EIR, adopt the mitigation monitoring program,  
15 and adopt the findings made in conformance with Attachment E  
16 and then to adopt the statement of overriding consideration  
17 made in conformance with Title 14 of Exhibit F.

18 Now, do you want me to read, is it better for the  
19 record to read it all into the record?

20 EXECUTIVE OFFICER THAYER: I think you can just  
21 say as sketched out --

22 ACTING COMMISSIONER SHEEHAN: Okay. As  
23 recommended by staff, and then further to authorize the  
24 amendment effective July 13th of Lease PRC-8378.2 as  
25 modified by the Lieutenant Governor's modifications.

1 EXECUTIVE OFFICER THAYER: And then the final  
2 would be to authorize staff to monitor.

3 ACTING COMMISSIONER SHEEHAN: Yes. Authorize  
4 staff to monitor compliance with all the terms and  
5 conditions of the lease.

6 CHAIRPERSON GARAMENDI: I have a motion before us.  
7 John.

8 COMMISSIONER CHIANG: Second.

9 CHAIRPERSON GARAMENDI: The motion is before us.  
10 All Commissioners in favor of it.

11 (Ayes)

12 CHAIRPERSON GARAMENDI: Three ayes.

13 I believe that completes our agenda for today.

14 And thank you very much, this meeting is adjourned.

15 (Thereupon the meeting of the State  
16 Lands Commission was concluded at  
17 6:35 p.m. on July 13, 2007)

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## 1 CERTIFICATE OF SHORTHAND REPORTER

2 I, MICHAEL J. MAC IVER, a Shorthand Reporter, do  
3 hereby certify that I am a disinterested person herein; that  
4 I reported the foregoing State Lands Commission proceedings  
5 in shorthand writing; that I thereafter caused my shorthand  
6 writing to be transcribed into typewriting.

7 I further certify that I am not of counsel or  
8 attorney for any of the parties to said State Lands  
9 Commission proceedings, or in any way interested in the  
10 outcome of said State Lands Commission proceedings.

11 IN WITNESS WHEREOF, I have hereunto set my hand  
12 this 31st day of July 2007.

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Michael J. Mac Iver

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Shorthand Reporter

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