

BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION
OFFICE OF ENERGY PROJECTS

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DRAFT ENVIRONMENTAL IMPACT :

STATEMENT for the	:	FERC Nos. 2130
RELICENSING of the	:	2005
STANISLAUS RIVER PROJECTS	:	2118
(SPRING GAP-STANISLAUS,	:	2067
BEARDSLEY/DONNELLS,	:	
DONNELLS-CURTIS and TULLOCH)	:	

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Best Western Sonora Oaks
Conference Center
19551 Hess Avenue
Sonora, California 95370

Tuesday, November 16, 2004

The above-entitled matter came on pursuant to notice
at 2:12 p.m.

From FERC:

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-- continued --

APPEARANCES (Continued):

ATTENDING:

Michael J. Gamerl, Poker Flat Property Owners Association

Karen Caldwell, District Ranger, Stanislaus National Forest

Steve Fisk

Steve Felte, Tri-Dam Project

Steve Peirano

Ross Jackson

Laura Conway, U.S. Forest Service

Dave Campodonico, U.S. Forest Service

Steve Boyack, Sonora County Administrator's Office

James Lynch, Devine Tarbell

Tom Studley

Laurie Cashman, Pinecrest Lake Resort

Gary Egger, Tuolumne Utilities District

Forrest Sullivan, PG&E

Russ Kanz, State Water Resource Control Board

John Buckley, CSERC

P R O C E E D I N G S

(2:12 p.m.)

MS. O'BRIEN: Let's get started. We're here today for a meeting on the Draft Environmental Impact Statement for the Stanislaus River Projects, the Spring Gap-Stanislaus, Beardsley/Donnells, Donnells-Curtis, and Tulloch Lake. And I'm Susan O'Brien with the Federal Energy Regulatory Commission. I'm the Project Coordinator for this relicensing proceeding.

And, Doug, do you want to introduce yourself?

MR. HJORTH: Sure. I'm Doug Hjorth. I work with the Louis Berger Group, who are the contractors to FERC on this particular assignment. And I coordinated the preparation of the Draft Environmental Impact Statement.

MR. WAGNER: And I'm Gordon Wagner. I'm with the Office of Energy Projects at FERC. I'm the attorney on the project.

MS. O'BRIEN: Okay. So our agenda today is fairly quick. We are leaving time for commentary, so this meeting is going to wrap up a lot sooner than expected.

We'll go through the purpose of why we're here and history of the licensing proceeding to date, just a summary of the basis for FERC's analysis and conclusions on EISes. Doug's going to go over some comments regarding our findings and recommendations for each of the projects. And we'll go over what happens, you know, what's left in the process, what's going

to happen next, and then open it up for comments.

So our purpose today is just to receive oral and written comments on the Draft Environmental Impact Statement for the Stanislaus River Projects from all interested parties, resource agencies, nongovernmental organizations, and interested individuals.

So all comments, oral and written, that are submitted today and that are submitted by the end of the comment period, which is December 7th, will be part of the public record. And all comments on the record will be responded to in the final EIS.

So how did we get here? Back in December of 2002 Tri-Dam filed the license applications for Beardsley/Donnells and Tulloch. And PG&E filed their license applications for Spring Gap-Stanislaus and the Donnells-Curtis Transmission Line.

Then in May 2003 we issued our Additional Information Request. And then following that in May, we issued our Scoping Document 1 that identified issues and alternatives and asked for comments.

In June we conducted, June of 2003 we conducted our scoping meetings and site visit on the project. Then in August of 2003 the applicants responded to our May AIR request.

If someone's not familiar with the next step let me know, but the applicants applied for their Water Quality Cert. back when they applied, sent in their license applications in

December 2002.

And there's a one-year time period on that, so they worked with the State Water Resource Control Board, withdrew their request for water quality certs., and refiled it. And that just starts the one-year clock over. So that one-year clock has started over and now expires the beginning of December this year.

At the end of December last year we issued a Scoping Document 2 that addressed all the comments we received during the scoping comment period from the summer. And beginning at this year, January, we issued our Notice Accepting the Application, soliciting comments, and terms and conditions. And it also requested interventions at that time and was also combined with our Ready for Environmental Analysis Notice.

Beginning in March the SPLAT agreements on the environmental measures for the Spring Gap-Stanislaus and Beardsley/Donnells Projects were filed. And September 30th we issued our Draft EIS for the Projects.

Shortly after we issued the Draft EIS we got out letters to the Fish and Wildlife Service pursuant to the Endangered Species Act. For Spring Gap-Stanislaus, Tulloch, and the Donnells-Curtis Transmission Line, we just asked in our letters if the Fish and Wildlife Service would concur with our findings of not likely to adversely affect the endangered species in the project area.

But for Beardsley/Donnells we initiated formal consultation due to the Bald Eagles that are located on the lake. So it's a pretty standard process.

And we're here today at the meetings. And we're going to go through what's left of the process at the end, just to let you know what's left.

And, in general, for all of the FERC projects undergoing relicensing, the National Environmental Policy Act, NEPA we call it, requires FERC to conduct independent analysis on environmental issues. And FERC's analysis considers the environmental and recreational, considers that environmental and recreational resources equally with the developmental and energy values of the project.

FERC also gives strong consideration to environmental measures that are developed in a collaborative or a settlement type approach, such as the SPLAT collaborative, and their resulting collaborative agreement that was filed.

And we also give strong consideration to the recommendations and terms and conditions that are filed from the resource agencies.

So our conclusions and recommendations in this Draft EIS are based on the public record for this project. We just want to make that clear.

The EIS has three alternatives, the first being a proposed action alternative which is relicensing the project, as

the applicants propose. The staff's alternative is the proposed action with some modifications or additional staff recommendations. And the no-action alternative, and that's just offering the project as-is, with no modifications or enhancement measures.

So the public record for this project can be found on FERC's website which is up here, www.ferc.gov. At the top of that webpage you'll see an eLibrary link. And you can click on "Documents and filings," "General search," and you can get to the projects. The important thing to remember when searching eLibrary is that you need to put the project number in where it says "Docket," and for hydroprojects you need to put the "P" dash and the project number.

We have an 800 number, and I can give that to you after the meeting, if you need it as well. And it's also up on the website, or you can take my business card and I can try walking you through if you're having problems finding stuff online. You can just call me directly, and I'll try and help out.

I'm going to turn the mic over to Doug Hjorth, who's going to go through a brief summary for each product.

MR. HJORTH: Thank you, Susan.

Okay, what do we find? Well, rather than going through all of our recommendations that we made in the DEIS for each of the projects, I'll just tell you right now that the

recommendations can be found on page, for Spring Gap-Stanislaus, can be found on pages 388 through 397. These include a number of proposed measures by the applicants as well as a number of additional measures proposed by FERC staff. Most of the additional measures are relatively minor tweaks to the recommendations made by the applicants.

Our recommendations were generally consistent with the Spring Gap-Stanislaus SPLAT agreement measures. We did not go along with a couple of measures that we wanted to highlight here. One of the SPLAT agreement measures called for notification of the Forest Service if it looked like major ground-disturbing activities required a NEPA review but were not covered in this Environmental Impact Statement.

And our view on this was that such a major undertaking would require the applicant or the licensee in that case to file a license amendment request with the Commission. And that's where an appropriate NEPA analysis would be occurring. So we could not necessarily agree that the need to cover something that wasn't covered in our Environmental Impact Statement was justified to be included as a license condition for any new license that might be issued for this project.

We also found that in the SPLAT agreement and the applicants' proposed measure had certain provisions associated with the relief operator's cabin. That relief operator's cabin is currently not within the current FERC boundary and,

therefore, the Commission does not consider that to be jurisdictional at the current time.

In order for it to become jurisdictional it would have -- the project boundary would need to encompass that. And we did not have enough evidence that we should modify the project boundary to include that. So our opinion was that the relief operator cabin is governed by a special use permit granted by the Forest Service and, therefore, the disposition of that cabin was between the Forest Service and PG&E.

And, finally, we recommended in our DEIS that the Huckleberry Trail to Relief Reservoir should be included in the project boundary. A major driving force of that is that at the beginning portion of this trail there is a parcel of PG&E-owned land. We could not guarantee what would happen to that land during a term of a new license.

That trail is currently not within the existing project boundary, but there the Commission is charged with ensuring public access to project lands and waters. And we consider the Relief Reservoir to be project lands and water, and the boundary around, project boundary around Relief Reservoir to be project land.

There's also a USDA gauge which requires access across that. We feel that that gauge is going to be important for ensuring and documenting compliance with the flow regime that is specified in a new license for this project. So there were a

couple of reasons that we felt it was important to include that in the project boundary.

Again for Beardsley/Donnells our recommendations are generally consistent with the recommendations, the terms and conditions proposed in the SPLAT agreement for Beardsley/Donnells.

The recommendations for this project are contained on pages 405 to 409 of the Draft EIS. If you want to see what all the recommendations are, have at it. But, again, some of the highlights here.

Again, there was a similar measure as specified in the Spring Gap-Stanislaus agreement that we did not feel was appropriate for the same reasons. And that was a notification of the Forest Service if proposed actions that would require an additional NEPA analysis or environmental review that was not covered in this EIS were proposed.

We also made a recommendation to include guidelines in a proposed road-management plan regarding when the gate to road, Forest Service Road 5N02, should be open to balance Bald Eagle and recreational needs. Now this is the road that provides access to the Beardsley powerhouse. It's normally gated. It varies a little bit depending upon the weather conditions, but it frequently is gated beginning in about November. And the gate is frequently open sometime in the spring, maybe April, again depending on weather conditions.

There was an interest in opening that gate more frequently to allow winter recreational users access to Beardsley Reservoir. And our concern there is that Bald Eagles begin their nesting activity and breeding about in February. And so if we have a lot of recreational use in that time of year, from February through fledgling which happens typically in August, there might be some conflicts with recreational users and Bald Eagle use.

So we aren't saying we're going to recommend excluding public access during the winter. What we want is a clear set of guidelines as to when that gate will be open. A number of things besides Bald Eagles need to be considered, not the least of which is public safety, as well as providing adequate access to project facilities that are accessed by that road.

And, finally, we recommended that the access road to the Beardsley day use area should be included in the project boundary. The SPLAT agreement proposed that the facilities associated with the Beardsley day use area should be included in the new project boundary. We agreed with that.

However, we also agree that if the -- we needed to make sure that access to that recreational facility, which is by only one road, also was in the project boundary. And so we recommended that that road be included in the project boundary.

Our recommendations for the Donnells-Curtis T-Line. Again, there was no official SPLAT agreement on this

transmission line, although some of the discussions that occurred did pertain to it. Our recommendations in the Draft EIS were generally consistent with the PG&E's proposed measures.

There was, again, a measure that we did not see the need for, and that was the notification of the Forest Service of the need for environmental assessments or if major ground-disturbing activities were proposed.

We also tweaked one of the applicant's recommendations, and that was to include a visual quality plan as a component of the vegetation management plan because, in our opinion, most of the aspects of a visual quality plan on a transmission right-of-way would pertain to vegetation management.

So we thought that it was appropriate to combine the two rather than having two very closely-related but separate plans. The recommendations that we made on this are on pages 413 to 416.

And, finally, for Tulloch the recommendations that we made are on pages 416 to 420 of the Draft Environmental Impact Statement. Our recommendations are generally consistent with Tri-Dam's proposed measures.

In addition to Tri-Dam's measures, though, we recommended a comprehensive vegetation management plan. We felt the need to wrap a lot of vegetative measures into one comprehensive plan was important. It pertains to noxious weeds,

both aquatic vegetation as well as terrestrial noxious weeds, fire-fuel management, and several other vegetative aspects.

We also felt that the Valley Elderberry Longhorn Beetle protection plan is needed. This is a federally-listed species. We wanted to reach a finding of not likely to adversely affect this species. And we felt we needed a concrete measure as part of our recommendations to ensure the Fish and Wildlife Service concurred with our conclusion.

Basically this is a measure to protect elderberries. Elderberries are relatively common. There are a number of them currently located around Tulloch Reservoir. The elevation is such that it is possible that this federally-listed beetle could indeed occur. And so we felt it was important to consciously protect its habitat.

We also -- Tri-Dam had proposed a reservoir-management group that included representatives of the two counties that are involved with Tulloch, Tuolumne and Calaveras. We expanded the recommended list of stakeholders who we felt should participate in that reservoir-management group.

And, finally, we also proposed some revisions to the existing shoreline management plan that Tri-Dam has developed. We thought what they had developed, which basically pertained to encroachment permits, making sure certain environmental, environmentally-sound, best-management practices were being used was appropriate.

However, we also felt that, given the potential for rapid shoreline expansion around Tulloch Reservoir, especially on privately-held land, that there needed to be some measures in place to protect sensitive environmental resources around the reservoir, and so our recommendation focused on that.

Okay. Well, what's next? As Susan has already mentioned, the DEIS comments are due to the Commission on December 7th, 2004. We strongly encourage people to electronically file their comments with the Commission.

And, as I've emphasized in the past, the due date means they are due in the possession of FERC on December 7th. That doesn't mean postmarked. That doesn't mean mailed on December 7th. And that's why electronic filing really is a very good way to go, because you get instant notification whether it's been accepted.

We are hopeful that we will also have our final 4(e) conditions by December 7th. The Forest Service needs to evaluate whether our Draft Environmental Impact Statement will meet their -- what they feel is appropriate as a NEPA document, to support their final 4(e) conditions. If they reach that conclusion, then they feel they can -- they should be able to issue their final 4(e) conditions by December 7th.

I will not speak for the Forest Service, so we aren't sure if we're going to get them by then. We are hopeful that we will.

A biological opinion is due from the Fish and Wildlife Service regarding our formal consultation, which only pertains to Beardsley/Donnells by February 17th, 2005. We are hopeful that we will be able to issue our Final EIS sometime in March of 2005. Again, it depends on if we get a major filing from someone, perhaps the Fish and Wildlife Service, shortly before we're ready to issue it, it might delay the issuance date. But we are cautiously optimistic that we will be able to issue the Final EIS in March of 2005.

After that, more than likely, we will hopefully get a water quality certificate, or the applicant will, and we will be notified that they have. We, the Commission cannot issue a license order on this project unless it has a water quality certificate issued for the project or the certifying agency has waived its authority to issue a certification. That's always an option, but I won't comment any further on that.

And once we have that, then we will draft a license order. The license order will be issued or should be issued. I shouldn't -- there's always a possibility the license orders won't be issued or the license will be -- not denied, but more than likely that is what will happen.

Okay. This is just a summary, again, of what needs to be on your written comments. If you plan to file written comments with FERC you need to clearly indicate the project numbers. If your comments only pertain the one of the projects,

you only need to put that one project number on your correspondence. If it's meant to apply to all four of them, you need to put all four. If it only is two or three, then put those numbers on it.

These addresses and project numbers are all in the DEIS, so you don't need to be frantically writing down everything I've got on the slide now.

Okay. Now we get to the important part of the meeting, I always think it's the important part, and that's when we get comments from the people who have taken time out of their busy lives to be here. And, again, I'd like to thank you all for coming today.

Okay. The process we'll go through, we so far only have a very limited number of people who have signed up to speak, two individuals so far. We will allow those two people to speak. Then I will open the floor up for anybody else who hasn't spoken that has decided perhaps they would like to speak to say something. And then if the people who have already spoken would like to have any follow-up comments, we'll allow that opportunity.

Public speakers will need to come to the podium. I know it's such a small gathering, so it's going to seem a little bit awkward, but we want to make sure we get everything on the record. And we don't necessarily need the amplifying mic, but the other mic up there is tied into the court reporter's

equipment, so it's very important that we -- Susan Palmer. Yes, thank you. Our court reporter is Susan Palmer. I hate to call the person -- well, anyhow.

So it's very important that you first identify who you are, your name; if you represent anyone, tell us who you represent. Judging from the size of the audience and those who have expressed a willingness to speak, we won't necessarily have a time limit, but we'd like you to be respectful of everybody else's time. At any rate, I think that's pretty much it.

Are there any questions about how we proceed from here?

MS. CALDWELL: (Raises hand.)

MR. HJORTH: Yes. And, oh, here's the other thing. the temptation will be to want to speak from your chair. And that's probably -- you won't be on the record if we do that.

Now are both of those mics on the table --

MS. O'BRIEN: Do you just have a quick question, though? Okay.

She just has a question. You can repeat it.

MR. HJORTH: Okay, all right. We'll repeat the question then. Let's do it like that.

MS. CALDWELL: I just want to make sure that in the process it's okay if I -- I don't really have -- want to speak, but I have a couple of clarification questions for you. Is that appropriate later?

MS. O'BRIEN: Yes.

MS. CALDWELL: Thank you.

MR. HJORTH: Okay. The question is: Is it appropriate to raise clarification questions during this session, even though you may not necessarily want to have a prepared statement. So the answer is yes.

MS. O'BRIEN: And you're Karen Caldwell, right?

MS. CALDWELL: Yes.

MS. O'BRIEN: She needs it for the record.

MR. HJORTH: Okay. And we will do our best to answer the clarification. I would be reluctant to guarantee that we could answer them, but we'll do our best.

Okay. We have -- all right. Our first speaker will be Russ Kanz from the State Water Resource Control Board.

MR. KANZ: Which one of these works?

MR. HJORTH: They both should work.

MR. KANZ: Both work.

I just had a couple items for you that you're aware of that we're still working on with the Spring Gap Project. One of those is -- and I believe we pointed this out in our previous letters -- is SPLAT came up with recommendations for flow and for the balance between Pinecrest Lake elevations, TUD demand, and streamflows on the South Fork.

There's a new model that's been developed. It's sort of a supersize CHEOPS model, and we actually met this morning.

We all have copies of that model now. One of the Water Board's interest on that is to provide more surety for lake levels and for instreamflows.

You know the SPLAT agreement provided for yearly consultation, and we believe it's really hard to analyze the impacts of yearly consultation. And so we want to see if we can find more surety around that issue, so we're still working on that. And that's probably one of the things that's slowing our CEQA process down at this point.

The other issue is we met last week with PG&E to get some more information about the construction process for the fish screen, because we want to make sure we have enough information in our CEQA document that we can cover all of the impacts of the construction and the operation of the fish screen. And I think we're pretty close to getting the information we need around that.

But those are just some issues I wanted you to be aware of. And it could be that, when we issue 401s, they might not all come out at the same time for all the projects. They might be staggered and come out at different times.

MS. O'BRIEN: Thank you.

MR. HJORTH: Thank you, Russ.

I think the way we had approached it, and it may not -- well, in terms of the fish screen, I think our recommendation was that in the development of the plans for that, that they

incorporate erosion, sedimentation-control measures, site-specific erosion and sedimentation-control measures within the plan itself.

So we knew they had not yet gotten very formal with the plans for that fish screening system, so we felt that it was -- it protected the water quality sufficient as long as those measures were in there and the appropriate parties were consulted during the development of those plans.

MR. KANZ: Yeah. It's just a different approach to it. We just feel like we need more information for our CEQA process to make sure we won't be challenged later on that and we don't have to go back and do addendums and do whatever is required to get the approvals on that.

And then the one other issue, too, is the spill channels. I think you've kind of addressed those pretty well in the EIS, but there's some additional information coming in about the impacts of the spill channels, and we're going to be looking at that some more.

Thanks.

MS. O'BRIEN: Thank you.

MR. HJORTH: Okay. And the next speaker will be John Buckley.

MR. BUCKLEY: Good afternoon. I represent the Central Sierra Environmental Resource Center. And, as I think you know, I was one of the participants in the SPLAT process.

And just a preliminary comment related to the measures that are in here is that our Center believes that the measures that came out of that process were the result of a tremendous amount of balancing of many complex issues and pressures, and that the licensees have made an admirable effort to respond to the concerns that have been raised by the environmental community and by all the other interests.

And we provide our Center's support for the resource measures that are listed, as well as in most cases for all of the suggestions that staff has included for clarifying many of those measures or additional points.

I'm just going to focus very quickly on some relatively minor points, not knowing whether or not that they're below your level of interest. And if at any point they are, if you could let me know, then I'll limit those to just more detail in writing. But just a few key points.

One is on pages 17 and on page 20 of the EIS there is a requirement for the licensees to provide bat houses relative to mitigation for bats for Spring Gap-Stanislaus and only requires bat houses, for Beardsley/Donnells it provides for bat houses or bat sheds.

And all I would ask is clarification in the final wording that makes it clear that the purpose is to provide something that actually works in terms of a structure that meets the needs of bats. And that if small bat houses are put up and

are not adequate because they don't provide the thermal needs of the bats that right now have been using sheds and bathrooms and other larger structures, that the licensees have an obligation to do some additional effort to find an effective means of providing what the bats will actually use.

And if that's a bat shed, define it. If it's something that's more intermediate between a bat house or bat shed, but also that there be equity so that if one licensee only has to put up bat houses, that at least there will be balance between the two.

On page 22 of the document it refers to, for the Tulloch Project, coordination with appropriate agencies that have authority to identify and prohibit motorized boating. And even in the back of the document it's not clear what "coordination" really requires to be done. It seems like it's a good intent, but it doesn't provide a measurable result. And so if there is some way for, in this case, Tri-Dam Project to be given clearer direction rather than just "coordinate" or to invite participation, that would provide greater clarity.

On page 23, again in the summary of the proposed environmental measures, one is to prepare a reservoir-recreation plan for up to 15 picnic sites, a beach area, and a natural area. And that's also later in the document where there's more specificity.

Our Center respectfully asks that there be clarity

that the purpose of that resource measure is to provide for public access, not just that once someday there's a site, that there be picnic sites, a beach area, and a natural area, but that the key intent of that measure is to provide public access, working in coordination with other entities to ensure that there is public access. I don't believe that's captured in here at this point, although I'm certain you understood it, but if that could be specified and clarified. And also timelines, if possible, for that to happen.

There is also a measure that provides for the management of Tulloch Reservoir, including establishing a reservoir-management group, reviewing and providing comments and environmental documents, a number of other very positive things that our Center strongly supports and believes are consistent with the SPLAT resource measures. But at this point, and I believe it was page 409, or something -- yeah, it says in the back "consult with" -- no, that's a different one. I'm sorry. But it does in the back in your measures talk about coordinate and consult or coordinate and work with Tuolumne and Calaveras Counties because they have actual authority to set up the nonmotorized boating, or whatever might be involved.

Respectfully, since it is impossible to predict what a county board of supervisor will do or if three votes will ever materialize to lead to any action on that, I ask FERC to work with the licensee to find wording that is comfortable for them

and for you that specifies what happens if there is no effort made by the counties to resolve that matter; so that hopefully there is a way that FERC can look for alternative ways to provide protection for the wildlife resources that now are affected by boating, by motorized boating. And, again, it may be that that's not possible, that there is no simple way to word it, but if there is I ask for that.

On page 25, to support the guidelines that the FERC staff is suggesting to determine when Forest Service Road 5N02 would be open during the winter, our Center strongly supports that. I have personal experience with the black ice on that road that is one of the most extreme black ice areas in the county at some parts of the winter and also because of our concern over the Bald Eagle we strongly support that and agree to it as a reasonable modification.

Also on page 25 on the Donnells-Curtis Project, which we've worked very positively with Forest on, it has developed an avian protection plan. And to be fair to the licensee, it was my understanding, after our review of the project, that those powerlines did not have poles that created risk for raptors.

And if there is going to be the potential for developing an avian protection plan, is it possible, just asking FERC to consider, is it possible that due to the cumulative impacts of this project going across 88 acres of Forest Service lands, affecting viewsheds, affecting various resources, that

there be potential for an avian protection plan to be created for offsite PG&E facilities and transmission lines.

If they're honestly is not -- I see a head shaking no -- but at least consider if that's something that the licensee would look at because, based on our analysis, there honestly is no need for it within the boundary of the Donnell-Curtis Project.

On page 52 and 53 I believe, and certainly TUD staff could respond to this later and outside of this meeting, but I believe the water-demand projections for years 2002 to 2005 are no longer accurate, that there was a revision of the demand that our Center and others participated in earlier in the year. They have been greatly reduced in terms of projected growth demand and, therefore, more accurate information is not only appropriate for the demand but also how that affects water available in the South Fork since TUD demand is a driver in that process.

On page 68 --

MR. HJORTH: John, could I back up there?

MR. BUCKLEY: Yes.

MR. HJORTH: Are you planning on filing that updated information as part of this proceeding or part of your comments, or will TUD be following that -- or filing that? Again, this is one of those comments that we base our analysis on what is on the record for this proceeding.

So it's very -- and we recognize that projections of demand are ongoing and changing continually. And, therefore, it's important for us, if we can reflect it in our FEIS, we'd like to do that. But in order to do that it needs to be on the record.

MR. BUCKLEY: I would respectfully defer to Gary, who just nodded his head and said he would take care of it. But they have that information, and we probably have copies of it in our files. But they have the most update. Thank you.

On page 68 of the document, an issue that is one that has been on the periphery of discussions and actually never rose to a high level, but if you see under "Copper" on table 320, it shows that the bottom detection in the year 2000 showed 0.018, whereas the EPA standard is 0.13, just slightly exceeding that.

And all it brings to light is that on the north side of Tulloch Reservoir Copperopolis is the site of past copper mining. Our Center already has worked with the State Water Board related to where we saw copper tailings with the very clear effluent oozing out of those into tributaries that eventually flow downstream toward Tulloch.

So all that our Center is asking that there perhaps be some wording that clarifies that within whatever time period the licensee and FERC can agree to, that there be at least further sampling simply at the confluence of the tributary streams and Tulloch Reservoir, further sampling for copper only. And that

if further excessive results are shown, that a plan be done with the licensee to look for ways to consider action related to the exceeding, excessive amounts of copper, if that does show up.

On that same page the MTBE that was documented to be at a level slightly higher than desirable at Pinecrest Lake, I did not see anywhere in our measures or in the document where the licensee in this case was going to do any further sampling for MTBE at Pinecrest.

And, again, similar to the copper at Tulloch, we simply ask that PG&E be required to do two or three years of further sampling for MTBEs. And, if the results continue to be excessive, be directed to work to develop a plan for action that might reduce that pollution.

The only other things that I had, on page 110 of the document, I'm unclear as to whether or not this is accurate information and simply ask that FERC work with the licensee or the Fish and Game to determine whether it's accurate that there is no longer trout being stocked in Donnell's Reach at Hell's Half Acre.

My understanding is it still is taking place. The document says that there's no longer trout being stocked in that reach, and simply asking for clarification since that may affect the fish surveys that are going to be done at the lower end of the reach.

On page 283 there's --

MR. HJORTH: Can I interject again, John?

MR. BUCKLEY: Yes.

MR. HJORTH: Because some of your comments are interesting and intriguing. I think the source of that information, if I'm not mistaken, is the application. I would probably need to go back and confirm that. But, if that is the case, then what we are doing is carrying forward what was in the application. So if written comments by appropriate parties could address that, that would be helpful.

We would like to have the most accurate information regarding the existing environment, what's being stocked, what isn't being stocked. And so that would be important for us to know.

MR. BUCKLEY: On page 283 and at another place in the document it points out and the Forest Service has what the Spotted Owl home range quarter is for not only Spotted Owl but also there is habitat related to Goshawk. And in the document, if I can find it right off here, in the document early on there is an additional measure on page 24 that suggests that additional protective measures for Goshawk and California Spotted Owl should be included in Tri-Dam's proposed Peregrine and Bald Eagle management plan. I defer to the Forest Service as to whether or not this is essential.

However, based on all of our years of discussions within SPLAT, we did not see that the project was clearly

affecting Goshawk or California Spotted Owl in the Beardsley/Donnells Project, even though Forests adjacent to the area, and to be fair to the licensee, our Center does not see that that is an essential addition or additional necessary cost to the licensee, unless the Forest Service may have some additional written information that they provide that shows that they believe there is that essential need to add.

The last is on page -- or, yeah -- page -- next to last on page 353, 365, and 379, where the document looks at the financials related to the generation values and the total cost to come up with the net annual benefit. This is a question, not a comment, but the question is: Is whether or not the cost estimate for each project reasonably considers the escalating value of generation that will assuredly increase, or if it's totally only in present costs and dollars.

And the reason I ask that is if there is a comparison that's being done, the mitigation costs, even those that may be out eight or ten, fifteen years in terms of campground facilities and things like that, are nearterm costs. Whereas, 30 to 50 years out there are no longer any costs related to the resource-mitigation measures. And yet there's a significant increase.

So if ever that's a critical factor in balancing a mitigation, I'm just asking how that's arrived at, whether or not it's right or wrong, just how it's arrived at. You look

like you can answer, so I should let you answer.

MR. HJORTH: Well, I'll at least try to direct you.

On page 351 the Commission's policy on evaluating the developmental resources is directed by the Mead decision. And that indicates or at least our -- we do not consider inflation, escalation, or deflation beyond the license-issuing date. And that would apply to energy costs as well as other costs.

And I'll just leave that as it is, but that's the way that we look at project economics.

MR. BUCKLEY: Okay. And, again, just the comment on that is I understand and I did see that it used current costs, but because the contract that Tri-Dam had with PG&E is coming to closure and there's a new basic set of financial conditions that will be in place perhaps before, well, -- perhaps before this license is granted. I'm not sure on that. It may be that that's additional information that may provide some insight on terms of costs and benefits.

And then the last point that I had is on page 412, and it's a relatively minor point. And it's just basically a question. It's including that Tri-Dam implement the planning provisions, including visitor education, the funding to support Forest Service efforts, the dispersed campsite near Donnells Reservoir.

And throughout both the CEQA document and this document it was not clear to me that the spur road that comes

off the main road at the intersection west of the dam that goes up and over to the dispersed recreation site is clearly going to be graded at least one time or made into a condition that improves it over the incredibly bad condition that it's now in.

I know the FERC -- I mean the SPLAT process, that was an agreement, but I'm not sure that it was ever fully captured and spelled out. And I didn't see it spelled out in here, partly because I'm not clear what that spur's actual number is. I couldn't find it on maps. And so I'm simply asking that since the Forest Service intended for it to be managed and, I believe, Tri-Dam Project agreed at one point to grade it one time and do something to improve it, that that be captured in whatever condition is there.

Thank you.

MR. HJORTH: Thank you, John.

In many cases where -- we adopted the SPLAT measurement pretty much as it was presented to us, we tried to refer in our recommendations to the specifics of agreement number. And that's one of the reasons why we appended the two SPLAT agreements to our document, so that the reader could refer to that for some of the details of what we also are recommending.

So it may be the some of the finer details -- I'm fairly certain that there is a Forest Service road designation for that. It's kind of hard to look through some of those

Exhibit G drawings and make out the details. But I'm fairly sure that that was addressed in the SPLAT agreement, and we are adopting that measure in as what we are recommending that the Commission include in a license for this project.

The other remainder I would give folks is that John was referring to the summary of recommendations at the beginning of the DEIS. And those are abbreviated versions, and the way we approached this is we had a little bit more detail in the Comprehensive Development section of the document, which is in the back of the document. That's an abbreviated -- in the front it's very abbreviated.

So if you're looking for more detail as to what we are recommending, the better place to be looking would be in the back of the document in the Comprehensive Development section. And I gave you the page numbers as I went through our recommended measures.

Now I'd like to open the floor up to any -- oh, wait, we have Karen Caldwell --

MS. O'BRIEN: Did you want to come up?

MR. HJORTH: -- who also had some clarifications or requests for clarifications.

MS. CALDWELL: Thank you. My name is Karen Caldwell and I'm the Summit District Ranger on the Stanislaus National Forest, and I've been representing the Forest Supervisor on this project.

I just have a couple questions, and maybe I kind of need help for you. First of all, this is my first hydropower project and it's been an incredible learning experience. And when I went to forestry school I never dreamed I'd be doing dams and hydropower, but here I am. Got to be versatile.

I wanted to make sure I'm clear. These are kind of notes off your earlier slides. Oh, let me answer one question for you. We are on track to file the 4(e) conditions for the 7th of December, if not a day or two earlier, but we're on track.

The measure that you folks didn't think was necessary about -- you wrote it as "need to notify Forest Service if proposed actions not addressed in the EIS has not been established." I just want to make sure I'm tracking how this works.

Our intent was where NEPA might trigger for some activity on the ground that hadn't been foreseen right now, I mean we could be talking 20, 30 years from now, that we would still be responsible to be in compliance with NEPA. Even if it's a categorical exclusion under NEPA, it still might require a resource specialist like a botanist to look at the plants or a short BE, those kinds of things, at least under our NEPA regulations.

So our assumption was that if there was a ground-disturbing activity that had not been discussed or

covered in this analysis, that it would trigger the need for whatever level of NEPA is appropriate under the regulations.

We were trying to address that, that we would be involved in that. We assumed that if it's in the project area, the licensee would be responsible for covering the costs or performing that work, or you. So I hadn't envisioned that quite as being a reopener, so maybe you can help me with this a little bit.

MR. HJORTH: I guess maybe I could return a question, and that is: If you could give us examples of what types of fairly substantial ground-disturbing activities that the applicant might or the licensee at that point would propose that would require a NEPA environmental analysis that is unforeseen at this time. If we had some idea of what that might be that would require a reopener, then there might be a reason for it. We couldn't envision any, to be honest.

So if there were some examples that you could either in written comments or --

(Machinery noise from outdoors.)

MS. CALDWELL: Here they come.

MR. HJORTH: -- or today, that would give us a little something to work with. The elements that are specified that should be included are: "A description of the proposed action; A description of the environmental setting in which the proposed action would occur; A map and description of known sensitive

resources in the area affected by the proposed action, including applicable standards and guidelines related to" --

(Amplification microphone noise.)

MS. CALDWELL: Sorry.

MR. HJORTH: I don't know if that -- that wasn't me.

-- and "A description of environmental measures related to the ground-disturbing activities or the potentially affected sensitive resources, if any, considered by" in this case "PG&E," because it's -- I'm reading from the Spring Gap-Stanislaus, page 309, if anybody's following along.

That sounds to us like a fairly substantial ground-disturbing activity that seems to us would require a license amendment. So if you've got some examples, fire away, and we'll be able to respond to it.

MS. CALDWELL: It may be a matter of scale in terms of my understanding, you know, when we want to reopen the license. I was thinking more in terms of smaller things. And it may be also -- maybe our regs may be interpreted a little different.

But, for example, let's say we're in -- I'm making this up, Steve, so don't get excited -- say, for example, we're in the Beardsley day use area. And 20, 25 years have gone along, and we had put in a well over here to provide water for the recreation. And something went belly up and we need to go drill a new well somewhere else. For us that requires compliance under NEPA, a certain level of analysis.

We're going to disturb the ground. We have to look to are there any sensitive plants we need to mitigate. Is there any impact to wildlife or those kinds of things. It could be a very short NEPA, but is that the level of thing you would -- we would reopen the license for -- or we need to build a new fence and we're going to be digging postholes. I'd still have to have a cultural resource clearance. And we hadn't foreseen these things, but who knows what might be coming. So I'm just, I think, trying to get to the same thing. I'm just not sure how.

MS. O'BRIEN: I think you're talking -- excuse me -- number one, I'm not sure if your examples would be part of the project within the project boundary for the relicensing.

MS. CALDWELL: That would be inside the boundary.

MS. O'BRIEN: It would be within. I wanted to have two comments. First, minor, maybe things like the fence, I'm not sure about the well, but at least the fence would probably come under our standard land use article, which allows a licensee to go ahead and do things like that without getting FERC involved. But since it's on Forest Service land, they would have to comply with Forest Service in order to do that.

MS. CALDWELL: So --

MS. O'BRIEN: But FERC doesn't need to get involved, so you can --

MS. CALDWELL: Right.

MS. O'BRIEN: -- go ahead and do your NEPA and FERC

wouldn't get involved.

MS. CALDWELL: So my need is to make sure that the licensee is working with the Forest Service on those things and that they're covering the costs of that planning if it's inside the project boundary.

MS. O'BRIEN: Right.

MS. CALDWELL: So some -- so let me work on this.

MS. O'BRIEN: Okay. And that sounds like --

MS. CALDWELL: Let me relook at this item and see how, maybe we need to clarify a little bit.

MS. O'BRIEN: Okay. And I was going to say if it's something that's major, we would require a license amendment that would open up --

MS. CALDWELL: Yeah.

MS. O'BRIEN: -- and FERC would be involved with --

MS. CALDWELL: Right.

MS. O'BRIEN: -- doing NEPA.

MS. CALDWELL: Right. I was kind of getting with more the day-to-day stuff that trickles along.

MS. O'BRIEN: Okay. And maybe Doug wants to clarify more, but what I was going to say is maybe if your wording specified that you wanted to make sure that the licensee worked with Forest Service, if it's something that can just be handled under the standard land use article, that FERC normally wouldn't get involved.

MS. CALDWELL: Okay.

MS. O'BRIEN: So right now I understand your concern now.

MS. CALDWELL: Okay. I think we'll figure this out. That helped, helped me, though.

MS. O'BRIEN: Okay. Great. Do we have anything additional?

MS. CALDWELL: Okay.

MR. HJORTH: I guess the only -- again, the applicant or licensee will have the Forest Service-issued standard use permit for occupancy of Forest Service lands, not necessarily? Okay.

MS. CALDWELL: No, no, no. When they -- if they'll have the license, we won't be issuing an independent, special use permit.

MR. HJORTH: Okay. I guess I don't have anything to add then. But, yeah, you certainly -- the Forest Service manages the land, and it needs to be consistent with your land and resource management plan.

MS. CALDWELL: Okay.

MR. HJORTH: And whatever it takes to do that.

MS. CALDWELL: Okay.

MR. HJORTH: You know there's an overlapping jurisdiction here.

MS. CALDWELL: And that's what makes it complicated.

MR. HJORTH: Yeah, it does.

MS. CALDWELL: Okay. I think I get the gist of it.

MS. O'BRIEN: Great.

MS. CALDWELL: I think we can clarify this.

Okay. The other one I wanted at least to discuss a little bit, the Huckleberry Trail was proposed to be placed into it as a project feature. A little complication. This makes it a little complicated.

And when you say the Huckleberry Trail, there is the trail that comes from Kennedy Meadows, the private -- the private land, PG&E in holding, and goes, climbs up the ridge on the old road that built the reservoir and gets up on the top of the ridge.

And then Huckleberry Trail keeps going off through the wilderness. But then there's other trails the go off of Huckleberry then that go down over the side to the reservoir. You're saying Huckleberry Trail would be a project trail, but that leaves the trails that go from Huckleberry to the reservoir outside of the project.

Was it the intent to have an access corridor all the way to the reservoir for the public?

And the reason I'm asking this is partially because, as you know, we're also working on a separate settlement agreement with PG&E and the Forest Service to address some recreation enhancements outside the project area.

We had been addressing the trails from the lake itself going up the ridge where it joins Huckleberry in the settlement agreement. And our approach has been, and we're in agreement, we're just finalizing the writing on this, but currently we have a maze of what I call "spaghetti-user created systems."

And the idea is to inventory the spaghetti to determine and redesign the best access routes and formally add them to our trail system and then maintain them and decommission the unwanted trails. That hasn't occurred yet, but that was all being addressed in the settlement agreement.

So how these things are playing together is a little fuzzy right now. And I don't know if we need to talk further on that later, now, or...

MR. HJORTH: Yeah. I guess the Huckleberry Trail that goes in and accesses the Emigrant Wilderness is we didn't plan to have that --

MS. CALDWELL: Not the whole trail.

MR. HJORTH: -- higher trail. The language we used was "from the northern edge of the PG&E-owned land at Kennedy Meadows to the proximity of Relief Reservoir."

Our intent there is to allow a little bit of flexibility because of such issues as spaghetti trails. It's probably most appropriate to have a single trail so that you don't have people wandering all over.

Our intent, though, was to provide -- to ensure public

access to Relief Reservoir and the buffer zone surrounding Relief Reservoir. So that was our intent. We recognize that there were some outside settlement negotiations going on that pertained to that.

We felt nervous about the PG&E-owned land and the -- the preliminary Forest Service condition asking us to require an easement across that put us into an awkward situation in that if it's not jurisdictional, we have no power to do that or the Commission has no power to do that.

And so we needed to -- and we felt there was a sufficient nexus to project purposes to include Huckleberry Trail within the project boundary. We did not plan for the area within the project boundary to stop where the trail goes into the Wilderness, but we expected it to continue to the proximity of Relief Reservoir. So if it's not called Huckleberry Trail at that point, we weren't -- we didn't realize --

MS. CALDWELL: Okay.

MR. HJORTH: -- that it was called something else.

I'm not sure what it is called. But our intent was to allow public access to what we consider that project land and waters.

MS. CALDWELL: So the way it's written now isn't clear about that, because when you only refer to Huckleberry Trail basically, you know, the closest you're going to get to the reservoir is the top of the ridge up there, because then it takes off.

So you probably -- if that's your intent, then it needs to be clear that at such time as we establish the formal trail, the final trail that's going to go down, it's to that junction, and then whatever the trail down will be is what I think you're after. Is that correct?

MR. HJORTH: That is, that's what we're after.

MS. CALDWELL: Okay.

MS. O'BRIEN: Yes.

MR. HJORTH: And so any help you can provide would be most welcome.

MS. CALDWELL: Okay.

MR. HJORTH: And we could --

MS. CALDWELL: I needed to understand what you were after.

MR. HJORTH: And that's what we're after. And if -- I'm not sure how those outside settlement discussions are coming. It would be nice if those were wrapped up nice and neat and tidy before we needed to finalize our FEIS, so that we could make sure it's captured appropriately so any license order that is issued appropriately reflects what your interests are as well as our interests.

MS. CALDWELL: Great. And that was one of my questions for you. Unfortunately, the settlement agreements are really close, but they're not finalized yet. Spring Gap is in for attorney review, but it won't get signed by the 7th to come

in with our 4(e)s. I'm not sure how -- what your timeframe will be but, you know, probably the fastest we could probably get those all signed and in place is probably another three to four weeks, something like that. But that's -- that's the push, if we -- where are we at timewise?

MS. O'BRIEN: Well, FERC's been pretty, pretty hard on their -- moving our schedules for settlements such as this in this case. But I will say that if your settlement comes in before our final EIS goes out, we'll consider it. So before our final EIS goes to the print shop in mid-March.

MS. CALDWELL: Oh, we'll be in before that.

MS. O'BRIEN: So that's great.

MS. CALDWELL: Way before that. Okay.

MS. O'BRIEN: So officially I can't move the schedule, but if you're --

MS. CALDWELL: Okay. That helps.

MS. O'BRIEN: -- if the settlement comes in before we go to the print shop, --

MS. CALDWELL: Okay.

MS. O'BRIEN: -- we'll put our brakes on and incorporate it into our final EIS.

MS. CALDWELL: All right. And I would like -- I would like to discuss PG&E a little more on the Relief Trail and how to best clarify all of that and get it tied together with the settlement. So we'll have a little work on that.

MR. HJORTH: The reason we try to push for the December 7th deadline is because we consider that the point at which we can start preparing our FEIS.

MS. CALDWELL: Okay.

MR. HJORTH: So if the meat of what comments we have are not going to substantively change, it's just a matter of approvals, then we can proceed with our analysis or any responding to comments that we need to do in our FEIS. And if there's a minor tweak or something that comes in later before the FDEIS is issued, then that's fine, it's not going to mess up our schedule too much. But it allows our resource people to start plowing ahead with the work that they need to do.

MS. CALDWELL: Okay.

MS. O'BRIEN: Doug is hinting that if you can file a draft --

MS. CALDWELL: We will.

MS. O'BRIEN: -- that would be wonderful.

MS. CALDWELL: I was just going to say we'll -- well, what we'll do -- because basically the scope of work and stuff is pretty well settled. A lot of this is just legal clauses that we're dealing with, so we'll put in a draft so you can see where it's at.

MS. O'BRIEN: That'd be great.

MS. CALDWELL: Okay. One other question I want to ask that Laura sent up here with me is for, in this case it's on the

t-lines, there is a requirement to feather the t-lines visually, do some feathering, vegetation feathering.

I want to assume that, I want to assume that the FERC EIS will be sufficient to cover that from a NEPA standpoint even if the visual feathering might extend -- might require us to bump a little out, in or out of the actual project boundary.

MS. O'BRIEN: I don't envision we'd need more than our EIS.

MS. CALDWELL: Okay. Then that makes me happy.

MR. HJORTH: Yeah. I guess it becomes Forest Service jurisdiction beyond, solely beyond the project.

MS. CALDWELL: No, no, no. That's not what -- no, I'm sorry. I liked your first answer better.

MR. HJORTH: Okay. I'm just a contractor, so if I'm shaking my head it's not necessarily FERC policy shaking its head; --

MS. CALDWELL: Oh, oh, okay.

MR. HJORTH: -- it's just personal opinion.

MS. CALDWELL: Okay. I think that's all. You answered my questions. Thank you.

MS. O'BRIEN: Great. Thank you.

Did anyone else want to come up and make some comments or have any questions?

(No audible response.)

MS. O'BRIEN: Well, great. You can hand in comments

to me or to Susan, the court reporter, if you have comments you want to hand in today. Otherwise you can file them electronically or regular mail to the Secretary at the address on our screen.

And I'd like to thank everyone for coming.

And we have extra EISes if you need them. And thank everyone for coming.

(The hearing was adjourned at 3:26 o'clock p.m.)

CERTIFICATE OF OFFICIAL REPORTER

This is to certify that the attached proceedings before the
FEDERAL ENERGY REGULATORY COMMISSION in the Matter of:

Name of Proceeding: DRAFT ENVIRONMENTAL IMPACT STATEMENT
PUBLIC MEETING for the STANISLAUS RIVER
PROJECTS

Docket No.: PROJECT NUMBERS 2130, 2005, 2118, and 2067

Place: SONORA, CALIFORNIA

Date: TUESDAY, NOVEMBER 16, 2004

Time: 2:00 o'clock p.m.

were held as herein appears, and that this is the original
transcript thereof for the file of the Federal Energy Regulatory
Commission, and is a full correct transcription of the
proceedings.

Susan Palmer, CERT 00124

Official Reporter