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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: : Project Number:
HYRUM CITY HYDROELECTRIC PROJECT : P-946-007

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City of Hyrum Town Council
Meeting Hall
83 West Main Street
Hyrum, Utah

Monday, July 31, 2006

The above-entitled matter came on for scoping
meeting, pursuant to notice, at 1:30 p.m.

BEFORE:

THE FEDERAL ENERGY REGULATORY COMMISSION

P R O C E E D I N G S

(1:30 p.m.)

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3 MATT CUTLIFF: Does everybody here already have a copy of
4 the scoping document that was issued?

5 Good afternoon. I'm Matt Cutliff and this is David Turner
6 and we're both with the Federal Energy Regulatory
7 Commission. I think we met most folks this morning on the
8 site visit.

9 Why don't we run around the table so the court
10 reporter has all our names to begin with for the record and
11 affiliation. We'll start over here: Dan McBride - Hyrum
12 City Electrician; Brett Jensen - Hyrum City Administrator;
13 Dean Howard - Hyrum City Mayor; Ken Tuttle - Sunrise
14 Engineering; Mike Wilcox - Sunrise Engineering; Ron Mance -
15 U.S. Forest Service; Bob Fatheringham - Utah Water Rights;
16 Justin Hermanez - U.S. Forest Service; David Turner - FERC;
17 Matt Cutliff - FERC.

18 MATT CUTLIFF: We want to start off today talking
19 a little bit about the scoping process and the reason why
20 we're here. Then we'll get into a discussion of the
21 resource issues that we defined preliminarily in the scoping
22 document #1, which was issued on July 11th. This is going
23 to lead into a discussion of the information gaps as we see
24 them currently and any information that you might have for
25 us ... or the other folks might have that would help us to

1 kind of bring those gaps together so that we can do our
2 environmental analysis. And then, finally, we're going to
3 talk briefly about what's coming up in the licensing
4 schedule as far as dates and some of the key milestones.

5 So, a couple of the housekeeping items. It looks
6 like everybody's already going to sign in and, as the court
7 reporter discussed, please state your name and affiliation
8 prior to speaking.

9 If someone wishes to file comments on -- part of
10 the scoping processes, is that we have a comment period
11 where we receive comments and we ask that you file those
12 comments with the commission. You could also just talk
13 today. Since this is going to be recorded by a court
14 reporter this will actually get filed into the record for
15 the project. So we will be treating today's scoping meeting
16 as actual comments received on the scoping document and for
17 scoping the project. Just so you know, if you wish to file
18 comments, but not speak you do have the opportunity to file
19 comments with FERC. The mailing address is on page 10 of
20 the scoping document and you can also file comments
21 electronically. Instructions for that are also on page 10
22 of the scoping document. There's also an opportunity, if
23 you want to be added to FERC's mailing list for the project
24 you need to send a written request to us so that we can add
25 you if you're not currently on the mailing list.

1 Moving along, the scoping process, just so you
2 get up to speed if you're not sure what we're trying to
3 accomplish today. Under the Federal Power Act, FERC has the
4 responsibility to issue licenses for hydroelectric projects,
5 obviously. The National Environmental Policy Act requires
6 us to disclose the environmental effects of our licensing
7 action. In this case with the Hyrum project, we're
8 proposing to do that in an environmental assessment, which
9 will be prepared by FERC staff. The scoping document, which
10 we issued earlier this month, outlines a brief description
11 of the existing project facilities and then gives a list of
12 the issues that have come up related to operation of the
13 project. As I said earlier, our purpose here is to solicit
14 comments and input from, in this case, the agencies, about
15 the issues we need to be considering or not considering in
16 our EA.

17 Specifically we want to talk about the issues that
18 we have identified, refine those issues and if any of those
19 issues are no longer important, omit them as necessary as
20 well. And then, finally, we want to talk about what
21 information is out there -- some information gaps that may
22 still be out there that we might need to get that
23 information to be able to address the issues.

24 So, that said, I'll lead us into the discussion
25 of the issues. You can see in your list of slides we have a

1 slide on there that shows what the resource areas are. Of
2 course, the aquatic and fishery resources, terrestrial
3 resources, any threatened and endangered species, any
4 cultural or historical resources, and finally, developmental
5 resources, which are related to the economics of the project
6 and the power benefit of the project.

7 So, we'll get started with the fishery's and the
8 water resources issues.

9 DAVID TURNER: Unless anybody has any questions so far about
10 our purpose here.

11 MATT CUTLIFF: No questions? Ok.

12 So we've identified issues based on comments
13 received from the agencies and our independent review of the
14 license application. They are listed on that slide. The
15 first one is the effects of project fish passes facilities
16 on fish species within the Blacksmith Fork. The next one is
17 the effects of the project on fish mortality through
18 entrainment, through the penstock and in the turbine.
19 Effects of the project on whirling disease distribution
20 within the Blacksmith Fork drainage. Effects of the project
21 on Bonneville Cutthroat Trout habitat and populations within
22 the Blacksmith Fork. And specifically the effects of the
23 project on the bypass reach stream flows and aquatic
24 habitat, including Bonneville Cutthroat, that may occur
25 within the bypass reach. And finally, effects of the

1 project's loosing events and management of the reservoir
2 sediments on downstream aquatic species and habitat, was an
3 issue that was raised.

4 So I think from there we'll open up the table and
5 let folks speak to these issues. I know we covered some of
6 this today during the site visit but we want to make sure
7 and get it into the record. So does anyone want to begin?

8 MR. LAWRENCE: I'm Keith Lawrence with Ecosystems
9 Research, sorry I'm late.

10 MATT CUTLIFF: That's alright, sign in and join
11 us at the table so the court reporter can --

12 We were just starting to talk about the fishery
13 and water resource issues related to this licensing. So I
14 guess that's it. We'll start out, if anyone wants to talk
15 about the effects of the project passage facilities on fish
16 species. I know that these were comments primarily received
17 from Interior Fish and Wildlife Services. It doesn't look
18 like they're here today, so if no one else wants to discuss
19 that, or do you want to discuss the Forest Service's view on
20 fish passage?

21 MR. JUSTIN HERMANEZ: I can speak for the Forest
22 Service on passage. Under the Federal Power Act, the main
23 authority for fish passage would be the Fish and Wildlife
24 Service, and they've been the ones that have mainly
25 commented and had comments in regards to it, so they have

1 more of the jurisdiction in this area as well as the state
2 in regards to fish passage. They both participated in
3 meetings previously and commented on it and discussed it and
4 the Forest Service supports their position in that it would
5 be beneficial for the fisheries and the aquatic resources to
6 have fish passage present. However, the Forest Service does
7 not have any jurisdiction or any authority under the Federal
8 Power Act to require any type of a passage requirement,
9 which the Fish and Wildlife Service does have that
10 authority, as well as the state has 10J recommendations that
11 can provide in that regard as well. So we would pretty much
12 defer to the state and Fish and Wildlife Service on that
13 matter.

14 MATT CUTLIFF: Ok, and since they're not here to
15 talk about that, I know that they have filed comments
16 regarding some of their issues related to fish passage and
17 are you guys aware of those?

18 MIKE WILCOX: Yes.

19 MATT CUTLIFF: Understanding that they do have
20 the mandatory permission authority?

21 MR. WILCOX: I'm Mike Wilcox with Sunrise
22 Engineering. Historically, Fish and Wildlife was not as
23 interested in fish passage when they didn't have Whirling
24 disease on both sides of the dam. But now that they have
25 Whirling disease on both sides of the dam and it's not

1 causing a barrier to that, now they're interested. We had
2 discussions with them that -- of course, that's a -- the
3 fish passage facilities that are there now are, as we noted
4 this morning, are not adequate and they haven't been
5 adequate probably since the dam was built. But in years to
6 come when the dam safety folks from the state are requiring
7 them to upgrade the dam, then that could be the point at
8 which those needs are addressed.

9 MATT CUTLIFF: Ok. I think that was reflected
10 in the license application. At least there was a discussion
11 of that.

12 I guess that's related to the next issue, which
13 was the effects of the project on fish mortality and
14 entrainment. Unless anybody here wants to speak to that we
15 can probably just move on.

16 MR. TURNER: This is David Turner. I guess the
17 bottom line question is have we adequately identified the
18 issues, have we missed any, or have we identified any issues
19 that don't need to be there, before we start talking about
20 anything specifically on a bullet-by-bullet per item?

21 MR. HERMANEZ: This is Justin Hernandez with the
22 Forest Service. In my opinion the scoping document does a
23 really good job of identifying the environmental issues for
24 the project. However, I see it -- my question would be
25 where is the information going to come from to adequately

1 address those issues that are identified in the scoping
2 document? That's where I have a question or concern.

3 It doesn't seem like there's sufficient
4 information or there's a lot of information available at
5 least quantitatively to address those. But in regards to
6 the issues, I think that they've been adequately or very
7 well identified in the scoping document.

8 MR. TURNER: This is David Turner. As we talked
9 about this morning, we wanted to get a better feel for the
10 site and the terrain before we go out with any additional
11 information requests, to go over this. We'll have to go
12 back and look at the issues now that these -- if we've all
13 agreed based on the comments that come in and see what kind
14 of data gaps we still face, but we did want to talk about
15 that to a degree here today in terms of some of the
16 approaches, in particular the instream flow issues so we'll
17 talk about that a little bit more.

18 If there's something else in that regard it would
19 behoove us to talk about that today if you see something
20 else that needs to be done.

21 We do have Forest Service's recommendations for
22 studies and we also have Fish and Interiors, but those are
23 the only ones. We'd like to get a feel for where we all
24 stand.

25 MATT CUTLIFF: One of the things I'd like to ask

1 the applicant to clarify. Today, we talked about the
2 project's swooshing events, the frequency, duration to which
3 those occurred historically. And then what was reasonable
4 to expect in the future. But that, in my opinion, it wasn't
5 adequately addressed in the license application. So would
6 you just speak in the record on how those swooshing events
7 occur? Just so we can get it in there so that we don't have
8 to ask for it in additional information requests so we make
9 sure we have it in the record.

10 MR. McBRIDE: Dan McBride, Iron City. For the
11 last 10-15 years when we've had high water runoff we've had
12 a verbal with Fish and Game that we would open our bypass
13 gate and to the point where we'd get a vortex in the water
14 above and we'll leave that open until the stream flow goes
15 down naturally. That way we're swooshing that right from
16 the gates and that's .. it seemed to help a little bit.
17 Since we dredged the dam here 6-7 years ago, I don't see any
18 cattails progressing further going away. Eventually it will
19 happen, but it is helping a little bit being able to swoosh
20 in high water. We don't have high water. We haven't been
21 able to do it.

22 MR. CUTLIFF: Was that just an informal agreement
23 or is it a written agreement?

24 MR. McBRIDE: Just an informal agreement. They
25 figured that when the high water was there and that the

1 water was already partially brown that would be less impact
2 on the fish eating the fish and just to open that up a
3 little bit and be able to take some of that sediment right
4 from the grates and that would help so we wouldn't have to
5 dredge that again quite so quick.

6 MR. CUTLIFF: Is it reasonable to expect that
7 that might happen in the next license time? Is it
8 reasonable to expect dredging?

9 MR. MCBRIDE: I think so. Probably in another 20
10 year. When our high water all comes out and melts down the
11 streams and helps brings a balance. 1983 was a bad year for
12 us, we got a lot of sediment to let that dam quicken in
13 1983. So it just depends on the winter.

14 MR. CUTLIFF: Ok. I know that a lot of the
15 comments received were related to the management of the
16 Bonneville Cutthroat Trout, which is a Forest Service -- is
17 that a sensitive species with the Forest Service?

18 MR. HERMANEZ: Yes.

19 MR. CUTLIFF: Ok, would you guys like to speak to
20 how the forest is being managed for that species and how
21 you'd like to see it managed in the future within the
22 aquatic affected reaches.

23 MR. HERMANEZ: Yeah, I will. Justin Hernandez.
24 It's not only a Forest Service sensitive species, but
25 there's a Conservation Agreement with the State of Utah on

1 that species, which protects it and identifies certain
2 activities that are ways to manage for the species. One of
3 the goals of that Conservation Agreement is to keep it from
4 being listed as a threatened species. It's been petitioned
5 for listing as a threatened species. So one of the goals of
6 that is to try to avoid being listed. Because what happens
7 at that time is there's a lot more energy and time spent
8 trying to manage for the species and there are limits what
9 can be done in certain water sheds where they're present.
10 So that's one of the goals of it. We try to advocate
11 projects that will help them persist longer term.
12 Historically there were more fish - Bonneville Cutthroat in
13 the system. There's several reasons that may have an impact
14 on why their numbers have gone down and their distribution
15 has become more limited. Habitat quality may have gone
16 down. There's exotic species that are present. The
17 presence of the dam disconnects where they could migrate to
18 and from. There are populations above the dam and below the
19 dam in different tributaries and the species did used to be
20 present within the bypass reach as well. However, you'd
21 have to check with the state, but I'm not sure that their
22 latest survey showed many of them --

23 MR. WILCOX: I have that right here. Mike Wilcox
24 with Sunrise Engineering. This is the 3 points of survey
25 that were in the license agreement. The first point was

1 that the canyon mouth and if you go down to where it says
2 BCT for Bonneville Cutthroat Trout, it says there were total
3 caught: 2; population estimate: 2. And if you go to the
4 next page you've got the Blacksmith Fork at the Pioneer
5 Campground and the BCT there is 4 caught, with population
6 estimate: 4. Then you go to the Hyrum City Park, which is
7 within the bypass reach and the BCT goes up to 19 with
8 population estimate total of 29 in the bypass reach.

9 MR. CUTLIFF: Ok. Related to that information,
10 when I started to look over the fisheries - information
11 provided in Exhibit E - one of the things that I was trying
12 to determine was the usefulness of that data. While it's
13 certainly useful and there is some good data there on the
14 fish that are present in each of those reaches, it was a
15 little bit unclear as to how I might be able to rely on that
16 data in an environmental analysis.

17 One of the things that I was hoping to get is, if
18 I remember correctly, that information was not published
19 yet, but that it was provided by Utah DWR and they were
20 working on that report. Is it realistic that we might be
21 able to see a published version of that report in the
22 future? Because that's the kind of information, rather than
23 just some tables provided in an e-mail from the state, that
24 don't provide what the safety methodologies or any
25 assumptions that they used or how they even came up with

1 those estimates of population, size and fish per mile. None
2 of that was provided in those e-mails and that's the kind of
3 stuff that we probably need to be able to conduct a thorough
4 analysis and not be basing it solely on assumptions. And
5 so, just to let you know what we might be coming with in the
6 way of information requests.

7 MR. HOWARD: Dean Howard, Mayor of Hyrum. Do you
8 do that same thing for all of the analysis you receive? Do
9 you go into such depth?

10 MR. CUTLIFF: We have to make sure that the
11 information we are using is --

12 MR. HOWARD: I know, but my question is on all of
13 the data you get, do you go into that much detail to find
14 out how it was arrived at?

15 MR. CUTLIFF: Yeah. We have to know that we're
16 making our decisions on scientifically sound data. So yeah,
17 certainly, it's a normal procedure.

18 MR. TURNER: This is Dave Turner. We have to
19 conduct an independent assessment of the proposal relative
20 to the data and we need to understand just how it was
21 gathered and the assumptions behind it.

22 MR. CUTLIFF: Matt. And it's ok to use somebody
23 else's data, in this case, the state's, but typically we
24 have a more robust representation of data in the license
25 application where it shows your own analysis or at least how

1 that information was obtained and the methods used to obtain
2 it and then the assumptions that were made because right now
3 it's just data presented in tables, which would be difficult
4 to work with.

5 MIKE WILCOX: Well, we're going to be going back
6 up there this afternoon to get some personal data gathered
7 with a royal coachman flying. So if that will help you I
8 would be happy to -- (LAUGHTER)

9 MR. TUTTLE: Ken Tuttle with Sunrise Engineering.
10 We've pushed and pushed and pushed trying to get that report
11 out and was pretty disappointed when we couldn't get our
12 hands on it. It finally came through with what we got and
13 said that was pretty much a gift to us because we pushed and
14 pushed and pushed. We did get some verbal promises that
15 this report is going to get published and be ready, but
16 Mike, did they say when?

17 MR. WILCOX: They couldn't give me a date. It
18 was conducted nearly a year ago. So I don't know how
19 quickly those things move, but you'd expect that it wouldn't
20 be too long until it gets published.

21 KEN TUTTLE: I don't know if anybody else at the
22 table could help push that process along or help more than
23 we could.

24 MR. TURNER: This is Dave Turner. We might give
25 them a call, too, and see if we can get that data.

1 MR. CUTLIFF: Have you spoken with state at all
2 about that?

3 MR. TUTTLE: Um, not specifically about the
4 study, just about -- they did identify that there were some
5 concerns with the habitat. They also identified just
6 basically more project related concerns that they've talked
7 about - fish passage and those kinds of things. But not
8 specifically in regards to when they're going to publish a
9 report.

10 MR. CUTLIFF: Ok. I mean, even a draft report
11 that details some of the methodologies would be a step in
12 the right direction.

13 MR. WILCOX: We can get you the name of the
14 person. In fact it might be in this e-mail here. Yeah,
15 Paul Burnett, he's the person to talk to, with TWR ...

16 MR. TUTTLE: Or Craig Scalgard. Paul works for
17 Craig. They both are at the same number, I believe.

18 MR. CUTLIFF: Ok. I think we already discussed
19 the sloosing events. Does anybody want to talk about that
20 in any further detail? Any concerns or comments related to
21 the sloosing events and the potential for future sloosing.

22 Ok, so I guess we'll move on.

23 MR. TURNER: I do have one quick question. In my
24 mind is that the application suggests that -- and there's
25 some data or comments from the state that suggest it's a

1 Blue Ribbon Trout Fishery, but it was unclear in the
2 application just what reaches were considered to be Blue
3 Ribbon Trout Fishery and I noticed a sign at the park
4 yesterday and today that seems to proclaim it to be Blue
5 Ribbon Trout Fishery. Does anybody know where that trout
6 fishery designation is occurring from the state point of
7 view or what it means actually? Ok. I was thinking you
8 guys would know. We'll probably follow up with the state on
9 that one too.

10 MR. WILCOX: Yeah, TWR would know.

11 You may be able to get it directly off the
12 internet as well.

13 MR. TURNER: Oh yeah, that's true too.

14 Some agencies do provide that degree of
15 specificity, but I'm not sure.

16 MR. CUTLIFF: I guess this might be a good time,
17 too, to talk about the key issue as I saw it that came up
18 today during the site visit, which was related to the bypass
19 instream flow and what your proposal was in the license
20 application, which my understanding was to basically
21 continue operating as you had during the previous license
22 term.

23 And the Forest Service has asked for a flow study
24 -- in their comments on the license application and we
25 acknowledge that that methodology has been applied in many

1 flow setting cases, specifically in the intermountain west.
2 It is a scientifically acceptable method for setting the
3 flow. It sounds like they're now going to move forward with
4 conducting their own version of that study to support their
5 recommendations and we just wanted to make sure and get into
6 the record today that you understand exactly what that
7 recommendation -- when they come up with their
8 recommendation, what exactly that might mean to this license
9 because that is a mandatory condition under section 40 of
10 the Federal Power Act.

11 And whether or not we agree with the flow that
12 they recommend, they do have the authority to condition that
13 in the license and even if our analysis indicated that the
14 instream flow that they are asking for year round, if we
15 determine that not to be economically feasible or in the
16 public interest, as striking a benefit between protection of
17 the aquatic resources and the developmental resources of the
18 project, that they can still condition that flow and we want
19 you to make sure that you are aware of what that might mean.

20 But there is another alternative. If they do
21 condition a flow under section 40 that the Energy Policy Act
22 of 2005 allows you to come up with an alternative to any of
23 their 40 conditions, but that you only have 30 days to file
24 that alternative after they've filed their preliminary terms
25 and conditions in response to the ready for environmental

1 analysis notice -- analysis notice which we, right now, if
2 we would be staying on schedule it looks like, it would come
3 out February of next year. And so we just want to make sure
4 you guys are aware of that.

5 MR. TUTTLE: Ken Tuttle with Sunrise. Justin,
6 would you summarize what that means to the project so we can
7 all understand what that.

8 MR. TURNER: This is David Turner. What do you
9 mean by summarize? What the 40 condition means or the
10 process of providing alternative conditions?

11 MR. TUTTLE: Not that. What it really means to
12 us, to the city, as far as operational effects. You know,
13 what your assessment of what -- if there would be any
14 changes in operational effects to the city.

15 MR. CUTLIFF: Well, that's hard for us to address
16 because we don't know what the operation really is, like
17 what flows have been quantitatively or in the bypass reach.
18 So that's what we've been trying to get at during this whole
19 process, is trying to determine what flows are actually
20 maintained in that bypass reach. The Forest Service under
21 the Forest Plan has some requirements to maintain fish
22 habitat for aquatic sensitive species such as the Bonneville
23 Cutthroat and also riparian vegetation and such and we
24 acknowledge that the city has been really great at
25 maintaining flows in there.

1 However, we need some kind of a guarantee and
2 what those flows are, what has been proposed in the license
3 and included in the license is a flow around 20CFS, and
4 that's what was identified as what's been provided as well.
5 We are looking at something right in that same time frame.

6 So if that's true how the project's operated, as
7 identified in the license application, it wouldn't
8 operationally have much of a change. However, we don't have
9 the data to know that or you guys don't have the information
10 to know exactly what's been provided in there.

11 MR. TUTTLE: Say we do start collecting data.
12 With what we have looked at today -- we came back to the
13 office -- guy pulled out the record for the past 10-12 or 15
14 years maybe -- it appears to us that the project has never
15 reached that point to where the river would actually be
16 lower than or approach the 40% mark. That being the case,
17 even with a study happening, how would we ever gain the
18 data?

19 Could we, instead of you guys using your 40
20 authority saying that 18-20 CFS is the mark, could we not
21 agree that during this next license period we gain the data
22 and work cooperatively in gaining that data and trying to
23 find out where that actually is. We've gone through our
24 minds trying to figure out how we could simulate gaining the
25 data where that mark would be to see if we ever bring water

1 down below, what you folks would have to have and where
2 would we disturb the biology and ecology of the stream.

3 I can't see where we never get to that point. So
4 we're just a little bit confused on how it's really going to
5 help to do it. We don't know how we could simulate it.
6 Therefore, maybe during this license period would you guys
7 consider agreeing to this being a monitoring period in
8 establishing baseline data?

9 MR. CUTLIFF: First of all, as we indicated when
10 we first got involved in this process, which has been
11 identified in letters and e-mail for quite some time, the
12 way to get at that is an incremental instream flow study.
13 And you can actually model the fish habitat that would be
14 provided at those flows through transects, and you have an
15 expert, I think here, who works in that realm and we
16 actually provided some information and even some people you
17 could contact to discuss that with. And that's normally how
18 this works in a FERC re-licensing, is one of these studies
19 is done to identify.

20 So if you guys chose to do this study or did it
21 beforehand you might even be able to go less than the amount
22 that we're talking right now, as long as the study showed
23 that. So that's all we've been trying to get at this whole
24 time, is just doing that study to model it and basically say
25 that this much fish habitat would be provided at these

1 flows. And so it can be done. And you don't actually,
2 operationally have to get to that level to do it.

3 It can be modeled and with the existing flows
4 that are in there and there's experts who that's their job
5 and what their focus is. So would you mind talking a little
6 bit -- that's what you work on, right -- or at least some --

7 MR. LAWRENCE: Keith Lawrence with Ecosystems
8 Research -- we do some work with instream flows. Of course,
9 obviously you need to know the species of fishes that you're
10 dealing with and the life stages and what you hope to gain
11 by having a minimum flow, whatever that is in the bypass
12 reach. What is it that the flow that is under current
13 conditions is providing or is not giving you for those
14 fishes? That's going to be a key aspect and so we're going
15 to have to do some habitat modeling at least at a couple of
16 different flows and relate that to habitat suitability
17 curves with the different species and life stages.

18 It will give you a little bit more of an idea of
19 how much you're sacrificing across a variety of different
20 flows, where the breaks are, where you're going to lose a
21 lot and don't, there's not much happening between what's
22 there and what your recommendation is. Maybe it's not a
23 huge issue, but those are the sort of data that you need to
24 collect, just multiple transects and habitat measurements at
25 least at a couple of different flows.

1 COURT REPORTER: Would you identify yourself
2 again?

3 MR. LAWRENCE: Sorry, I'm Keith Lawrence with
4 Ecosystems Research.

5 COURT REPORTER: Thank you, Keith.

6 MR. TURNER: This is David Turner. You did kind
7 of ask 2 questions and made 2 points that I want to talk
8 about.

9 First, is there a way you can monitor over the
10 next current license? Commission doesn't like to leave the
11 license too open ended in terms of what your minimum flow
12 requirements are. You're going to want to narrow that --
13 you're going to have to do an analysis to say whether or not
14 the system is providing existing habitat conditions and what
15 it needs to do. If there is an inflow we require a minimum
16 flow (coughing) in the bypass reach. The way we currently
17 operate is to adjust your generation to provide that inflow.
18 If we find, based on the analysis, that the approach that
19 the Forest Service is talking about, and given the data that
20 we have and as Matt talked about in an acceptable approach
21 to figure out what habitat conditions certain flows provide.
22 And if that were to conclude as something necessary to reach
23 that then that might be a reasonable and justifiable inflow.
24 And we'll weigh that against the generation benefits, but
25 that's basically a qualitative determination of the

1 generation versus the fisheries benefits and habitat
2 benefits.

3 But that's one approach and Justin was talking
4 about it, that sometimes it gets you down to something a
5 little lower like 6 or 8 or 10 CFS, but at this point you
6 don't have that kind of data and without getting that we're
7 going to have to make our decision based on what we have
8 before us.

9 And the Forest Service has collected some data
10 and is talking about collecting some more to support the use
11 of the Tennant Method. So that's kind of what Matt was
12 talking about. We want to make sure you understand this is
13 kind of where we're converging because you haven't collected
14 that other kind of data over the course of developing your
15 application.

16 MR. CUTLIFF: The incremental flow study will show
17 you the benefits to these species in these life stages at a
18 flow of say 5 CFS, 10 CFS, 20 CFS, and you can look at the
19 incremental increase and you can say whether or not is 5 CFS
20 almost as protective as 20 or is it almost as protective as
21 10. It gives you a lot more flexibility in setting the flow
22 and you can apply it to an increase in habitat for each
23 species and life history that you evaluate. So there are
24 some real advantages to doing it, if you have the same type
25 of flow study.

1 MR. TURNER: But there's also some cost
2 associated with it and we understood from the license
3 application. Developing that kind of information is a real
4 concern to the city in terms of expenditures versus the
5 data. Tennant is a method that can be done less
6 expensively, but it results in a more conservative type of
7 minimum flow.

8 SPEAKER: So both methods deal in theoretical
9 situations where my recommendation would be to gather the
10 data and get the hard baseline information during the next
11 period, which has never been recommended or asked for
12 before. We're certainly willing to do that and participate
13 in that. But from what I'm hearing that's not an acceptable
14 type of situation for the city.

15 MR. TURNER: We're going to have to have the data
16 in hand to make a requirement. We're not going to leave it
17 open ended in terms of a license to go forth and figure out
18 what your next license should look like. We're going to
19 need to have that data to make a license recommendation and
20 condition that license. We have to have it now rather than
21 developing it over the next 30-50 years to develop that.
22 Now, the alternative that we talked about using this morning
23 is to use that flow, gather and monitor the data and leave
24 some contingencies in there to deal with dry flow conditions
25 and dry year conditions.

1 And leave a contingency in there to readjust
2 those flows based on the monitoring data. We visit it when
3 those conditions arise. As we talked about this morning,
4 the data seems to suggest it fits into your current
5 operation. So you may not see much of a change, but that's
6 a year round minimum flow requirement - 20 CFS, based on
7 Tennant, as I understand it. Right, Justin?

8 MR. HERMANDEZ: Yes.

9 MR. TURNER: So, during the late summer, winter
10 and fall you would be required to make sure that flow still
11 continues to drop. Eventhough a lot of the inflows do
12 curtail due to snow releases, based on that Tennant method.
13 If that was to weigh the condition at 20 CFS flow -- So
14 that means that you would have to adjust your generation and
15 monitor it closely and make sure that number flow is being
16 provided in the bypass at the point that they would gauge
17 that. And we talked this morning about that being just
18 above the bridge that enters into the park because it has a
19 natural -- the system there fits gauging very well. So that
20 being said -- I lost my train of thought here --

21 If you're concerned about that approach and where
22 that data may lead you, you probably should talk about what
23 we need to in terms of additional information to support
24 something different at this point in time. Are you
25 comfortable with where that's going or do you think you

1 might want to try to gather some additional data using some
2 kind of habitat model?

3 MR. TUTTLE: It's hard to say.

4 MR. TURNER: The tradeoff is expending monies now
5 to do additional data to see if you can get down to
6 something that's closer to a range that you would want to
7 look at in terms of a minimum flow requirement, or
8 potentially going to something higher in terms of minimum
9 flow based on Tennant and monitoring it and then revisiting
10 it at some point in the future.

11 SPEAKER: I think maybe we ought to discuss what
12 exactly, according to your goals, Justin and the other
13 agencies, what would actually have to or need to be in or
14 required to be in a main stream flow study and the overall
15 picture of this stream flow. Maybe that would be the best
16 thing in the end, I don't know.

17 You guys have more experience on that than
18 anyone. Whether or not that would be more advantageous to
19 the city to do it that way -- sounds to me like it might be.
20 That the actual minimum stream flow would be smaller if we
21 went with an instream flow study. Is that what we're
22 hearing?

23 MR. MANCE: Ron Mance with the Forest Service. I
24 think we had somewhat of a discussion along those lines when
25 we talked about Tennant and that may overestimate and if you

1 wanted to maximize the power production you want to minimize
2 the instream flow, but we suggested that we have no data to
3 go on to be able to do that. Therefore, Tennant was the
4 best thing that we could stick with. Lack of other data or
5 ongoing studies we would have to stick with Tennant. That
6 may be a higher instream flow and may be a lower power
7 production for it's potential.

8 MR. TURNER: There are possibly other
9 alternatives.

10 MR. MANCE: Right.

11 MR. TURNER: But how do you guys feel, which way
12 do you feel would be the best way for this city to go?

13 SPEAKER: It is a decision that the city has to
14 weigh in terms of where they will expend the cost at this
15 point. As I suggested, the data seems to suggest it doesn't
16 differ dramatically from your current operation. Basically,
17 the back of an envelope look at the Tennant.

18 If you did that and through adaptive management
19 you monitor it you may be delaying some cost, you may not
20 have to do anymore other than putting in monitoring data.
21 To get to a refined data analysis, till you have some real
22 concrete data on the minimum instream flow requirements,
23 even if it means expending some funds up-front. And what
24 that range would cost I'm not sure, I'm not expert on that.
25 But it's a decision that the city would need to make.

1 I would recommend that you probably can't make
2 that decision today, but by the end of the scoping comment
3 period I would like to see somebody come in and let us know
4 what your approach might be because we need to decide based
5 on the commission, how to deal with the additional study
6 request that the Forest Service and the Interior have asked
7 for.

8 Right now my inclination, without any additional
9 comments from the city, would be to suggest that where we
10 might be going, and this is not a concrete because we need
11 to go back and look at what we're examining in the field and
12 talk about it in-house, but it seems that the Forest Service
13 is taking it upon themselves to gather a lot of that data.
14 So one approach might be to just wait and gather that or
15 wait for that information and use it in our analysis rather
16 than to have the city go back and duplicate it. But ask you
17 guys to work with them to correlate the generation versus --
18 when they're collecting that data.

19 MR. HERMANEZ: When we provided that study
20 request we were aware, through Mike and Ken, very aware that
21 you guys did not want to expend funds or minimize that on
22 studies. So we tried to come up with the least costly
23 proposal, even with us contributing a lot of the work and
24 that was the Tennant method.

25 That was the least amount of actual data

1 collection and we also have identified at meetings so that
2 it may be in your benefit long-term to do. We can't find a
3 study to do in incremental instream flow study, we don't
4 have the funding for that and it's not our responsibility
5 under this re-licensing. But it may be in your best
6 interest as identified, and we've talked with Mike and Ken
7 about that, to hire someone to do that study for you to show
8 -- which gives the data to both sides to show what kind of
9 fish habitat you get as David identified at 5 or as was
10 identified at 5 or 10 CFS or 15, but for us the easiest and
11 less costly approach was to use this Tennant methodology and
12 the interesting thing with that in looking at it and we
13 haven't done the full evaluation, but it comes out to be
14 pretty close to what was identified in the license
15 application, is how you guys operate and maintain bypass
16 flow.

17 So in there it was identified at 20 CFS and your
18 letter was included in the license application. The Tennant
19 method, from what I can see, came out to be about 18 CFS.
20 So we thought that that was a pretty good -- it provided
21 some kind of a logical or rational and something that was
22 scientifically supported justification for those flows.

23 MR. TURNER: But you would have to carry out the
24 full Tennant method study approach to determine what those
25 drought year contingencies what might look like in terms of

1 instream flow requirement, which we won't -- if you're not
2 going to do the Tennant method study, but allow the Forest
3 Service to provide that, we won't see that until pretty late
4 in the game when they file their preliminary terms and
5 conditions, is when I think you indicated you might file the
6 results of your analysis. So you're getting pretty late in
7 the game to try to modify that.

8 MR. HOWARD: I'm just a little country boy off
9 the Idaho potato farm, but looks to me like this plant has
10 been running for years and years. The fish are still in the
11 stream. We've generated power. We haven't done any damage
12 to the environment. I'm a little bit concerned, just a
13 little bit concerned. The costs are going to be prohibitive
14 and that sooner or later some people would rather burn more
15 coal to generate electricity than to let it be done by an
16 economical way and a clean way.

17 BRETT JANSEN: Is it the Forest Service long term
18 objective to shut down these small plants?

19 MR. MANCE: Absolutely not. Nope. Not at all.
20 It's our objective to meet our responsibilities under the
21 FERC re-licensing program and that's to be able -- and it
22 really means to quantify the impacts of the operations.

23 MR. HOWARD: How many years has this been going?
24 What kind of problems have we created? That's my
25 question.

1 MR. TURNER: I think from the qualitative looks
2 we've taken at things you haven't created problems. And the
3 water you propose to leave in the stream will probably be
4 sufficient, but we need to be able to say that with some
5 means other than driving out and saying, yes, it looks ok.
6 And I think what we've been searching for is the simplest
7 most cost effective means to do that and we've stepped
8 probably beyond our responsibility and actually started to
9 do some of the studies that aren't necessarily our
10 responsibility, but we're trying to help move the process
11 forward.

12 MR. HERMANEZ: We understand and support the
13 benefits of the generation of power on national forest
14 system lands. We wouldn't have -- there's a lot of power
15 generation that could -- although we do have a certain
16 responsibility to protect certain aquatic species and fish
17 and wildlife habitat as well. We have kind of dual mandates
18 in that area.

19 So that's the balance that we're trying to
20 approach and in our proposal we're not seeing or have any
21 data that's showing us that we are doing anything to impact
22 your operations. From what we proposed, we have not, other
23 than what you've told us and what's identified in your
24 license application, how you normally operate is what we'd
25 like to see and we'd like to see that continue. And what

1 we've been told is that 20 CFS has been the bypass flow and
2 we would like to see that guaranteed so that the fish and
3 wildlife habitat continues to persist.

4 I don't see us trying to do something above and
5 beyond or trying to shut the plant down. That is not our
6 goal or our objective whatsoever.

7 MR. TURNER: This is David Turner. Justin's
8 right. We do have an obligation to begin to quantify our
9 license conditions and support those -- we've looked at the
10 system and looked at the riparian vegetation as was pointed
11 out and I'm not seeing any difference above or below the
12 project that would suggest that current conditions are
13 having a significant effect on their riparian habitat in
14 particular.

15 But in terms of fish production we do have some
16 debaters suggest that the fish there they may not be at the
17 optimum at least for some species they may not be at
18 specific optimums. We have an obligation to enhance
19 conditions for those. For instance, we have to look at what
20 that means to generation versus enhancing things for the
21 resources.

22 It may very well be that we continue to recommend
23 operations as you have in the past, but as Justin suggests,
24 the data in there indicates that you put in an operations,
25 but there is no hard data to say that you're not drawing up

1 the stream or during low flow conditions that some portions
2 of the stream temperatures may be getting low at great
3 depth. Resource from Friday.

4 So given the short reach, again, it's going to be
5 a balance involved for the commission, but it makes it much
6 easier when you have hard data to be able to quantify that.
7 And quantify the benefits of those flows against the lost
8 generation and you don't have that in your application.

9 MR. FATHERINGHAM: The way that I hear the
10 question is that if they get the data it could injure them
11 as well as help them. Am I hearing that right. You're
12 saying you don't have hard data use one method to come up
13 with 18-20 second feed and we don't know if it's 18 or 20,
14 haven't made that decision yet, but they go out and do these
15 studies it doesn't mean it won't be 22. It doesn't
16 necessarily mean it will be 17.

17 I think what the city is saying is: how much do
18 we expend from your standpoint? What is the value of this
19 expenditure? I mean, are you going to see it go up to 30 or
20 down to 4? In all likelihood it's not going to vary that
21 much from the 20 is it?

22 MR. TURNER: This is Dave Turner. No, I don't
23 think so. Historically, and Matt probably can talk about
24 this better, is it generally does give you a much more
25 confined, accurate number. The Tennant method is much more

1 conservative in terms of -- because of the assumptions built
2 into it and how it works in annual average flow. PSM looks
3 at specific flows and for the most part it does give you
4 much less than the Tennant.

5 So depending on what kind of methodology applied
6 -- there is different approaches. There's the delphi
7 approach too and you could look at flows, but all of them
8 look at gathering data on available habitat and available
9 flows and then working out to try to figure out what the
10 optimum is for the fisheries benefits.

11 MR. FATHERINGHAM: It goes to an optimum for the
12 fish and stream --

13 MR. TURNER: -- but it's a minimum flow that needs
14 to be provided for the fisheries. Go ahead Matt.

15 MR. CUTLIFF: you could lower your minimum
16 instream flow. You could have a set approved instream flow
17 requirement if you determine that to be the best option for
18 power generation and providing aquatic habitat and you can
19 still provide more flow through operational capacities at
20 only 85) CFS.

21 Maybe 10 months out of the year you're running 20
22 CFS through the bypass reach eventhough you think 10 CFS is
23 adequately protective. But the PSM lets you quantify at
24 what flow you are providing a benefit to each species and
25 life history and you can come down off that, the 18-20 set

1 by the Tennant method, which is a standard setting based on
2 a bunch of different observations made by Tennant throughout
3 the intermountain west on various streams.

4 But the PSM definitely has usefulness and it
5 could definitely, very easily come down off that 20 CFS and
6 where we were at the commission we have to look at both the
7 power and the aquatic protection. The Forest Service is
8 going to be looking at what that flow will provide in the
9 way of aquatic habitat protection and maybe not necessarily
10 concerned with power generation as much.

11 So really, you could use the PSM to help to work
12 claritively with the Forest Service to come up with a
13 reasonable instream flow that you think that you could
14 actually condition in the license and say we can meet this
15 flow year round and it will provide a better flow when we
16 have the water, but at the very least we're not going to go
17 below this point and the Forest Service might be able to buy
18 into and say: ok, we agree that this is a protective enough
19 flow, you're going to provide it at all costs, but then when
20 you have extra water you can put more water into the bypass
21 reach.

22 That's the beauty of the PSM is it can provide
23 you with more alternatives than just that standard setting
24 of 18-20 CFS based on the tennet method.

25 MR. MANCE: Ron Mance with the Forest Service.

1 I'm not a fisheries biologist nor a hydrologist, but I think
2 in general, we were looking at the Tennant number and we
3 were assuming that if the city wanted to do additional
4 studies it would just lower that number because it would be
5 more specific, not trying to get higher.

6 No.

7 SPEAKER: I really don't know that until it's actually
8 corrected, but the assumption is, that would occur.

9 MR. MANCE: And it would give you more
10 alternatives.

11 SPEAKER: I think historically that's been the finding, is
12 that you find that those flows are generally more than what
13 Tennant is conservatively assuming, but it's all going to be
14 based on the species and the life stage and the objectives.

15 MR. FATHERINGHAM: But there's no real way to
16 discuss this without the study -- how much it may lower it.
17 You have no idea.

18 MR. TURNER: You've gotta do the study.

19 MR. FATHERINGHAM: You have to have the science to
20 do it.

21 MR. TUTTLE: Ken Tuttle with Sunrise. So in
22 trying to make this decision can you tell us the time frames
23 we've got, what deadlines do we have to meet?

24 MR. CUTLIFF: Well, we issued the scoping meeting
25 notice July 11th. Comments on this are due 60 days after

1 July 11th, so sometime early September -- (looking for the
2 date)

3 MR. TURNER: I would say that would be September
4 11th.

5 So I guess that's my -- we have to make a decision on what
6 additional information it is. The Tennant is a reasonable
7 approach to looking at that data. The data suggests that
8 you guys probably wouldn't have an effect on your current
9 operations given what you've put in your application and it
10 is a conceivable alternative to monitor to that and in
11 particularly low flow conditions or when you're getting back
12 that -- gather some additional data and revisit that flow
13 and amend the license application.

14 So one approach would be to use that data and see
15 what it comes out about, see if you guys can live with that
16 potential flow and factor in the work from the Forest
17 Service to come out with conditions on how to deal with
18 droughts and low flow years and then adaptively manage that
19 and if the data that's collected and monitored over that
20 period of time suggests that it's becoming too much of an
21 economic burden or you're not seeing any adverse effects on
22 the low flow condition, dropping that or ratcheting that flow
23 back.

24 But we're going to want to look at some flow or
25 some flow range and see what those environmental effects are

1 and the Tennant allows us to do that based on what we have
2 now. So that's one positive that you might be able to do it
3 with the least expense to the city at this point in time,
4 but it's likely to result in a very conservative minimum
5 flow.

6 If you'd like to do something different I'd like
7 you to respond to that in the scoping comments so that we
8 know what to do with the additional information requests
9 that come in.

10 SPEAKER: I understand. Any questions?

11 MR. WILCOX: Are you saying that whichever method
12 that the city elects to go with, they are going to have to
13 provide a guaranteed minimum flow?

14 MR. TURNER: In all likelihood, yes. I don't
15 think we could walk through the license and not have some
16 kind of minimum flow requirement in there at this point in
17 time. I'm not seeing it.

18 Basically, because you suggested there is some
19 sort of minimum flow in there anyway. It's atypical in this
20 day and age to have a license that has a bypass reach not to
21 provide some kind of minimum flow in the bypass reach for
22 environmental purposes, particularly on public lands like
23 the Forest Service land.

24 MR. JENSEN: Just an observation, and this is not
25 intended to anger anyone, but that site was developed for

1 the primary purpose of power generation, decades ago, and
2 parks and the other facilities, then, were secondary to that
3 purpose.

4 Now, it appears that the situation has reversed.
5 Power generation is secondary to these other facilities and
6 services. We have miles of stream below to maintain a good,
7 high quality fishery, and miles of stream above and I wonder
8 if we're not focusing on this few hundred or few thousand
9 feet of stream attempting to maintain something artificially
10 that perhaps never existed in the first place when the plant
11 was built. Just a thought.

12 MR. TURNER: We look at the license requirements
13 in the context of today and we have to look at what the --
14 we understand historically you got the license, you've
15 operated that in good faith and it was licensed based on the
16 public interests and needs at that time. We look at it
17 again and each time we renew the license and, like I said,
18 it is atypical of license conditions now, not to have some
19 sort of minimum flow to maintain environmental conditions.

20 MR. JENSEN: I understand that, but if the plant
21 gives way, then so do the parks.

22 MR. TURNER: The intent here is not to drive this
23 thing under.

24 MR. JENSEN: But if it isn't economically viable
25 to keep that plant operating, that's exactly what will

1 happen.

2 MR. TURNER: And we recognize that and you make a
3 good point and I agree right now it suggests that the
4 current operations would have a minimal effect and that's
5 why I'm saying that you want to have a minimum flow
6 requirement in there, but we can monitor it, see what it
7 does to your generation and what the effects are.

8 But to be able to justify those recommendations
9 that will hold up under scrutiny, we need hard data and we
10 don't have a lot of hard data at this point. What we have
11 is a qualitative view that says: things look good. And that
12 doesn't cut it in this day and age.

13 MR. CUTLIFF: If we don't disclose all the
14 impacts of the project as we're required we can get sued and
15 that happens all the time. So it's our responsibility and
16 our obligation --

17 SPEAKER: Where are all these requirements
18 confirmed?

19 MR. CUTLIFF: The National Environmental Policy
20 Act

21 MR. TURNER: And the Federal Power Act, in terms
22 of balancing those resources.

23 SPEAKER: It isn't sufficient for you guys to
24 just say it looks great now?

25 MR. TURNER: We have to be able to, with a

1 straight face, say it's good, and professional opinion is
2 worth a lot, but one person's professional opinion against
3 somebody else's is just that.

4 MAYOR HOWARD: This is getting to the point where
5 the process is becoming so expensive that it's almost worth
6 letting the park and all the buildings just go to nothing
7 and forget it. And that would be a tragedy because there's
8 some beautiful facilities up there and the only way they can
9 be maintained is if we have that power station and can
10 justify people there to run it and to take care of them.

11 SPEAKER: It would be far easier for us to just
12 buy a few more kilowatt hours from generating plants than to
13 keep that facility open. That would be the simplest thing
14 for us to do.

15 MAYOR HOWARD: It's getting to look like that
16 might be the way we'll have to go because we can't afford
17 all of these regulations. We just can't afford it.

18 MR. CUTLIFF: Well, again, that is not our intent
19 and you will need to look at what the license says and
20 whether or not you can accept that.

21 MAYOR HOWARD: I know nobody here has the intent
22 of driving that plant out, but the results of what we have
23 to go through is almost the same.

24 Now, if we were a big plant, yeah, big deal, we'd
25 go through all these, it would be economically feasible, but

1 we'll continue to try on this licensing. I'm going to
2 recommend that the engineering put down that for low years
3 or dry years we go down to maybe 6 or 8 feet.

4 SPEAKER: Second feet.

5 MAYOR HOWARD: Second feet, yeah. And we have
6 never ever let the fisheries suffer, even in dry years
7 because we live here.

8 Some of you people don't. You do your job here
9 and you leave, but we live here. We have friends and that
10 that enjoy that. And believe me, it wouldn't be easy to
11 say: we can't afford it.

12 We're just about to the point now where we're
13 just even with that, what we generate, we just about break
14 even overall, when we hire people to run it and things like
15 that. But it's been such a boon to the community and --

16 SPEAKER: Well, it's part of our heritage. Five
17 generations. It's part of our community's heritage, but
18 that may have to change at some point in the future. It's
19 nice to have it there, but if it's no longer economically
20 feasible and is a burden on the community from an economic
21 standpoint, somebody's going to have to make that decision.

22 MAYOR HOWARD: We want to continue this process
23 with the re-licensing and we hope that our engineers will
24 come up with a reasonable answer to low flow. We don't have
25 a problem. You don't know us and you can't trust our word,

1 but we live here.

2 We know, as a community, we would keep that thing
3 with enough water to maintain, but you don't know that. And
4 you can't convince your bosses. So we understand, but we
5 are at -- we're getting at the edge. We just would like to
6 save just a little bit of that coal. Very little, we
7 understand.

8 But every little bit that can be generated by
9 hydro, or wind, or whatever like that, saves some of the
10 other. But we'll try to work with you, but if it gets to
11 the point where so many studies are going to just push us
12 under we won't have a choice.

13 MR. HERMANEZ: We've really tried and we hear
14 where you're coming from and on a project like this the
15 Forest Service would normally request a lot of studies in
16 regards to this and we've said: we're going to narrow it
17 down to one, one that we think is really important and we're
18 even going to volunteer on that study and conduct the
19 majority of that study, but if you want to go to into
20 something less than what you've proposed in setting your
21 license how you've operated we need some additional
22 information to go there because -- and that's where we're at
23 and we have made a true effort to understand the situation
24 and we know you've been a good neighbor, you've maintained
25 the park and the community.

1 I went to college at Utah State. I spent a lot
2 of time here. I grew up, you know, coming up in this area
3 and I still do and I want to continue to. So I think that
4 we all are trying to work together on this.

5 MAYOR HOWARD: If we can do it with a reasonable
6 amount of money I'm going to direct our engineers to
7 continue working and try to get this license, but if it's
8 going to cost too much we'll just have to let it go.

9 MR. WILCOX: Is there anybody that can give any
10 kind of a broad estimate of the cost of the type of study
11 we're talking about here?

12 MR. TURNER: Which study?

13 MR. WILCOX: Either the one that Justin is
14 conducting or one of the more definitive type that we're
15 talking about.

16 MR. TURNER: In terms of what the instream flow
17 should be. It's what I'm hearing you say.

18 MAYOR HOWARD: Yeah, stream flow mainly. PSM

19 SPEAKER: Well, Matt talked to PSM, but in terms
20 of the Tennant method, it looks like the Forest Service has
21 agreed to take on that burden to gather some of that stuff
22 so there is no cost to the city in that regard.

23 MR. CUTLIFF: Is that correct, Justin?

24 MR. HERMANEZ: The Tennant method is pretty much,
25 yeah, we're going to use that at this point since we don't

1 have any additional data. We will use that. According to
2 this schedule there's an RDA notice of February of 2007. So
3 what that means is we have to submit what our preliminary
4 conditions are going to be, and so what our idea is that
5 instream flow is going to be. Hence, we're going to use
6 that information and that analysis to support what we've
7 discussed with you.

8 And when we originally put that out there we were
9 hoping there would be some interesting collaborating with us
10 in collecting that information and evaluating it and
11 discussing it. And that's where we are with it.

12 MR. CUTLIFF: You guys can go look up the Tennant
13 method on the internet and what it'll do is it will pull up
14 a table and it will say based on your yearly or monthly
15 average flow, you assign a value. In this case it sounds
16 like you're going with a good value rating.

17 And then it's just a calculation that shows what
18 the flow would need to be to be protective of that good
19 rating. It's a very basic standard method and you can
20 easily do it. It's a matter of a few minutes.

21 And then you could look at what those contingency
22 flows would look like as well, like what it provides for in
23 the way of a drought contingency flow and what would be
24 protected under those scenarios. I mean, you could do that
25 and if you don't like the results of that, if you don't like

1 where that's going, which it seems to me this is where the
2 Forest Service is headed in that direction in using that
3 recommendation, then you can evaluate what it would cost to
4 do a PSM type study based on where the Tennant method is
5 leading you in the way of an instream flow requirement.

6 MAYOR HOWARD: Can you people get with Justin and
7 his people and see if you can come up with a reasonable
8 solution on the minimum flow and then we would be willing,
9 if the cost isn't prohibitive, to do some studies.

10 We're just a little old country town and we just
11 don't have the resources to spend lots of money that isn't
12 going to be recouped. We want to keep it, it's a benefit to
13 the community through the little bit of power it produces,
14 but also the facilities and we want to keep it.

15 But we want to be good neighbors both ways. We
16 want to meet the requirements, but we're going to be limited
17 in resources. So if we can get together and provide some
18 information that would be acceptable and some hard numbers
19 as to stream flow, then I have no problem.

20 But they've got to be realistic number, you know,
21 from both sides.

22 MR. MANCE: We've run our basic numbers on
23 Tennant, so right now it's largely a matter of some more
24 field data collection.

25 MR. TURNER: Our plan is that we knew we were

1 going to use the Tennant method, just given the limited
2 amount of information we had. So we were just going to look
3 at and once we got to the 18 CFS, we measured, we wanted to
4 know what the flows - we're looking and taking pictures and
5 seeing what the different flows look like and once we got to
6 that Tennant from the analysis side it came out right around
7 18 CFS.

8 So what we wanted to do was do some fish habitat
9 inventory, just actually gather some measurements at that
10 flow and see what the habitat was like, visually look at it
11 and inspect that just so that we also knew what we were
12 asking for was realistic and was representative.

13 Professionally we've looked at it and had a good
14 feel for it. Because we're still not using a lot of hard
15 data to support this and we wanted to have a good feel.
16 It's pretty much going to be completed. If you are
17 interested and you're not comfortable with the minimum flow
18 of 18 CFS, then that's where an additional study needs to
19 come into play, more of a detailed study that we wouldn't
20 do.

21 I don't have the expertise to do it. We would
22 want you to hire someone independently.

23 MAYOR HOWARD: And that's our problem. That's a
24 lot of money.

25 SPEAKER: Did I hear this Tennant method has a

1 lesser amount of flow requirement when there is a low flow
2 year?

3 MR. CUTLIFF: It has what's called a -- we talked
4 about that 30% provides good habitat. It identifies in the
5 Tennant method you can go down to a 10% if it's a short
6 term. So basically, and I need to do some more research on
7 exactly what is short term, what is that duration, but --

8 MAYOR HOWARD: That is what I'm interested in
9 because I wouldn't have any problem with 18 as long as that
10 short term would cover us over a period of a time of a
11 drought summer.

12 SPEAKER: But he's got to develop the data to
13 show that his decision is reasonable, not only to FERC, but
14 to everybody questioning it. So it might not hurt to have
15 your engineers work with him so that you can defend your
16 side of it.

17 MAYOR HOWARD: I agree. We've got to come up
18 with some hard figures and I understand that and if it gets
19 to the point where we can't live with it and you can't live
20 with what we can live with then we'll just have to part
21 ways.

22 MR. McBRIDE: Justin, how much of this habitat
23 range would you take a fish study on, how much does that
24 take into consideration of the impact of the fishermen --
25 increased fishing over the years?

1 MR. HERMANEZ: It doesn't, it's just habitat.

2 MR. McBRIDE: So we're talking about the water
3 flow, but we haven't talked anything about the increased
4 fishing -- I mean, because I remember, the reason I quit
5 stream fishing up there was because I couldn't go up there
6 without somebody walking 20 feet in front of me and start
7 fishing again.

8 So I thought: oh, heck with that. So I know it's
9 hit a lot harder than it was 10-15 years ago. So to me
10 that's an important part about the habitat is the impact of
11 the fishermen on the habitat to increase it rather than just
12 solely the water flow there.

13 MR. CUTLIFF: That brings up the point that
14 there's other agencies involved here. The state's been
15 participating and they're not present here, but they've
16 commented on the instream flow as has the Fish and Wildlife
17 Service.

18 In regards to the fishing pressure that's
19 something that would be state management and working with
20 them on that and also they would have some input, I would
21 expect, in regards to the instream flow and the fishery as
22 well.

23 So, for example, if we wanted to look at the
24 lower flows, the drought year flows, say the 10%, and
25 collect some information, I would expect the state to

1 participate in that and to discuss some of the other issues
2 and problems associated foreseeing an impact to the fishery
3 through regulations and such.

4 MR. TURNER: I think, is your point Guy that
5 there is a lot of recreation going on there, suggesting that
6 there is no problem.

7 MR. McBRIDE: Well I'm saying, if you're looking
8 at totaling up the number of fish in a stream compared to
9 20-30 years ago, there's a change there because a lot more
10 people are fishing on it.

11 It's heavy especially in that campground area.
12 There are a lot of people that go up in the morning so it's
13 quite heavily used up there.

14 MAYOR HOWARD: But the fish are getting smarter.

15 MR. McBRIDE: Yeah, you have to go to smaller
16 flies. But there's an impact from when I was a young kid
17 growing up. A lot of people are fishing in that area.

18 If you're looking strictly at the number of fish
19 and, you know, I'm concerned about the Cutthroat, because I
20 know they used to be there and stuff like that, but whether
21 they reproduce as well as the other fish here, I don't know.
22 That's just my question and put it in there.

23 MR. CUTLIFF: You want the state to address it
24 the Forest Service focuses on land management agency habitat
25 as fish habitat and that's the state agency's responsibility

1 to manage the actual populations.

2 MR. McBRIDE: Well I know your crill limit has
3 been limited over the years. It has changed from 8 to 4 now
4 or something like that.

5 MR. TURNER: Justin's right. We're trying to do
6 things that are tied to the project and its operations and
7 it is a direct effect of the operation on what flows are in
8 the bypass. But the project and the licensee has no control
9 over -- nor does the commission having jurisdiction to limit
10 fishery usage --

11 MR. McBRIDE: I understand, but when you're just
12 talking about the amount of fish that's in the stream I
13 think that's controlled by the fishermen too.

14 MAYOR HOWARD: We're just concerned here about
15 habitat.

16 MR. McBRIDE: I'm just saying there's other
17 reasons why the habitat could be down. I know the amount of
18 fish that they used to plant up there when I was a kid was a
19 lot more than it is today. There are certain areas that
20 they don't even plant anymore. I know that's changed, so.

21 MR. CUTLIFF: I think it's time to move on to
22 some other resource areas.

23 The next one which was related to water resources
24 was the water quality and quantity issues. The first bullet
25 item is the effects of project operation on water quality in

1 the Blacksmith Fork. We issued an AAR asking for some water
2 quality data during the critical low flow period of the year
3 as we see it, which would be basically from August to
4 October.

5 Really what we need is in the license application
6 you stated that water quality in the Blacksmith Fork is
7 excellent and that the Utah DEQ had issued a water quality
8 certificate for the project. We recognize that, but there
9 was very little data or analysis to support that claim.

10 We have to be able to identify the effect of the
11 environment of the project to ensure ourselves that the
12 project is not detrimentally effecting water quality, or if
13 it is we need to be able to assess those impacts. So that's
14 why we issued that AAR.

15 MR. TURNER: And it's well within the bypass
16 reach and generally low flow conditions, as we talked about
17 today on the field, is temperature maybe effecting fishery
18 habitat conditions because those low flows are getting down
19 so low.

20 So during the August-September time frame when
21 there's hot ambient air temperatures and low flow conditions
22 you'll give us an indication and hard data to support that
23 the minimum flows are not adversely affecting the fisheries.
24 The 401 water line quality certification looks at state
25 water quality conditions and they very well may have looked

1 at water quality standards, but we have an obligation to
2 also look at the environmental values closer to that.

3 So it's one reason that we asked for that data.

4 MR. CUTLIFF: And that makes the baseline very
5 easily attainable and relatively affordable data collection
6 as well. So if you want to talk about that in more detail
7 we can do it at another time, but just to let you know, I
8 think that unless -- does anybody else here have any
9 comments on water quality monitoring that we requested?

10 Because we did ask that you consult with the
11 agencies in collecting that data or at least let them look
12 over your study proposal.

13 MR. TUTTLE: We plan to do that.

14 SPEAKER: I do have one other question for you
15 that our project coordinator Gaylord asked that we
16 reiterate. We had the 401 water quality certification in
17 the application, but we'd like to know when you applied for
18 that. We need to know the date.

19 SPEAKER: I talked to him about that. I told him
20 I'd get that for him.

21 MR. CUTLIFF: Good. And the second bullet there
22 was an issue that was raised. Does anybody have any
23 comments on that one? The effects of the project bypass
24 reach flows on channel deadlow movement and flood plain
25 immidation.

1 SPEAKER: Where did that come from?

2 MR. CUTLIFF: That was in somebody's comments.

3 SPEAKER: I think it was Fish and Wildlife.

4 MR. CUTLIFF: It very well could have been
5 Interior if it wasn't Forest Service.

6 MR. HERMANEZ: It wasn't Forest Service.

7 MR. CUTLIFF: Ok, well if they're not here to
8 talk about it, then the best we can do is hope that they'll
9 file comments related to it.

10 MR. TURNER: Anything else? These issues we have
11 identified are predominately associated with project
12 operation again on minimum flows. My view of that bypass
13 reach, as I said earlier, looks like, from the riparian
14 conditions seems to be functioning.

15 I don't see a lot of difference in the bypass
16 reach compared to above and below, but it would be -- so I
17 think the main concern of the instream flow conditions is
18 associated with the fisheries issues more so than
19 maintaining riparian vegetation.

20 Would you guys agree?

21 MR. HERMANEZ: From the Forest standpoint, I
22 would say yes. I don't have any data to support that, but
23 qualitatively our emphasis is more going to be on the fish
24 habitat and on the fact that we have a sensitive species in
25 there.

1 I think most of these comments in regards to
2 repairing vegetation came from Fish and Wildlife Service.

3 MR. TURNER: I think it was from the Forest
4 Service, too, in terms of global means of providing for
5 instream flows. But just generally speaking I think we're
6 talking about mostly the habitat conditions for pools,
7 ripples and that kind of stuff.

8 I didn't see a lot of narrowing of the channel
9 relative to anything above or below or encroachment of
10 vegetation or a change in species composition above or
11 below. So I view this more as an issue of fisheries
12 habitats than vegetation associated with wildlife and
13 wildlife uses.

14 you guys at least were in agreement with that and
15 since Fish and Wildlife Services says that, then you can't
16 respond, but --

17 MR. CUTLIFF: The second bullet was, and the
18 additional information request that we sent out was really
19 more towards getting a good feel for the city's operation of
20 the project. Is there any actions that have an effect on
21 land disturbance and in particular the spread of noxious
22 weeds.

23 I used an example in there of your dredging
24 operations, recognizing that that is an infrequent type of
25 action, but and that's one reason we ask about how often can

1 we expect that in the future and -- those things do have
2 over the course of the normal operation and maintenance of
3 the facility are things that we need to consider in our
4 analysis, so that we can say that these are likely to
5 continue in the future and we need any kind of conditions in
6 there, that we might want to ensure that during an
7 operation, maintenance isn't having an effect on the spread
8 of noxious weeds, for instance.

9 So that's why we ask for additional information.
10 Give us a handle on what your current operation maintenance
11 requirements are. Do you maintain a pin stop right-of-way
12 through any kind of land -- vegetation clearing or anything
13 like that.

14 From your application I didn't pick up on any of
15 this concluding data, for instance.

16 MR. MCBRIDE: You could follow where it was put
17 in just by the contour of the land. You can see the manhole
18 periodically. But stuff on the hillside it's going to roll
19 around the drain -- like I say once a year we go up and
20 check the search tank area and make sure that's clean and
21 disbursing water out rather than just letting it go straight
22 down the hill --

23 MR. CUTLIFF: So there's really no right or wrong
24 management that goes on. There's no typical -- or
25 vegetation management that you have to do at this point of

1 your operations, other than the dredging, which ultimately
2 had some spoil disposal and that kind of stuff associated
3 with it, that's the only disturbance actions that could be
4 considered at least periodic if not routine.

5 MR. MCBRIDE: Yes, I think so.

6 MR. CUTLIFF: Ok. There is that question here of
7 actions on a number of Forest Service sensitive species and
8 raptors and that was also tied to the vegetation management
9 practices and I'm not seeing a lot in that regard that would
10 suggest we were having adverse effect on those species.

11 But that's basically going to be a qualitative
12 type of analysis in the EA too. And I'm not seeing your
13 suggestion, but I don't think we need any additional
14 information to deal with that.

15 Threatened and endangered species - these are the
16 species that we see listed by the Fish and Wildlife Services
17 as potentially occurring in the area. Again, I'm not seeing
18 any particular change that we have to deal with just because
19 we have an endangered species obligation to talk on
20 analysis, so I don't see a need for additional information
21 there.

22 But this is, again, important when we talk about,
23 there's really no O&M that would have an adverse effect on
24 these particular species.

25 MR. TURNER: That's why, again, it's important to at least

1 in response to that AIR, talk about the typical operation
2 and maintenance and emphasize whatever it is might be --
3 (interupted) --

4 MAYOR HOWARD: And the people understand that,
5 know there's no problem, but we're going to have to address
6 it. Right?

7 MR. CUTLIFF: Again, it's not that there's a
8 problem, but for instance, we don't know if you have any
9 luxury management practices. So you have to kind of spell
10 it out for us.

11 The cultural historic resources, we also have an
12 obligation under the Historic Preservation Act to look at
13 those resources. I don't see a need for any additional
14 information there, but we will be looking and talking about
15 the effects of the project on those -- (soft talking,
16 discussing)

17 SPEAKER: When was the project built?...

18 SPEAKER: In '29 and finished in '31.

19 MR. CUTLIFF: It's probably going to be eligible
20 for a historic preservation site so we'll have to take a
21 look at that and see if there's any kind of analysis that
22 needs to be done for eligibility.

23 MR. McBRIDE: We had somebody from the State
24 Historical Society that was wanting to be involved in
25 certain things and stuff like that. So we can contact them.

1 SPEAKER: There's a response to that, I think, in
2 the license.

3 MR. MCBRIDE: You know, I can't remember. This
4 is not my area of expertise, unfortunately. So I'll have to
5 go back and look and we'll talk to -- i think Gaylord might
6 actually be in now.

7 MR. TURNER: Ok.

8 MR. CUTLIFF: Finally, there is developmental
9 resources, which is where we did address the effects of the
10 proposed measures -- mitigation measures on the projects
11 economics. It's difficult to detail out specifically what
12 those proposed measures were in the license application.

13 But I don't I think at this time we have
14 additional informational requests other than what was
15 already issued related to the cost of license application.
16 Some of the other stuff that was already in the AIR.

17 MR. MCBRIDE: Do you want to emphasize the
18 importance of completing those engineering questions because
19 that does feed in directly to how we've looked at the
20 project economics and how we will ultimately end up
21 balancing those measures that come at us relative to
22 economics of the project.

23 MR. TUTTLE: Is there a contact person who would
24 deal specifically with those engineering -- would that be
25 you two folks, or --

1 MR. CUTLIFF: No, I think the project engineer
2 for this is Timothy Lee. He should be able to answer any
3 questions if you have any questions about the AIR that we
4 issued.

5 MR. MCBRIDE: Do you have a number for him?

6 MR. CUTLIFF: Not with me, but I can get it for
7 you.

8 (Discussion)

9 MAYOR HOWARD: Ask for directory assistance.

10 (Laughing)

11 MR. TURNER: Again, we will be looking at overall
12 balance of providing those resources, those flows relative
13 to benefitting those resources in our balancing decision.

14 But you need to recognize that we may not be in
15 the driver's seat where there's minimum flows and I say we -
16 the commission. Ok?

17 Ultimately, in this case, the Forest Service will
18 have full reconditioning authority. You will have to
19 include minimum flows that the Forest Service sets up.

20 MR. CUTLIFF: We could recommend something that
21 might be a little bit -- that we determine to be more in the
22 public interest of providing the economic or developmental
23 benefit, power generation benefit. And that might be a
24 lower flow than what the Forest Service recommends. But
25 ultimately, the Forest Service can -- their recommended

1 instream flows could be the one that becomes the main chart
2 condition.

3 SPEAKER: Will they work with State Wildlife
4 people to come up with that recommendation? If it was
5 different than just the standard method off the internet.

6 MR. TURNER: They could. They can do it however
7 they wish.

8 MR. CUTLIFF: We've been in consultation with the
9 Fish and Wildlife Service and with the state and with
10 Sunrise on how we can adjust this issue for some time trying
11 to come up with something that works.

12 SPEAKER: So, do you want to sell that property
13 up there and that stretch in the river -- (LAUGHTER)

14 MR. TURNER: That would be wonderful, but we'd
15 have to sell everything that the river goes through to not
16 be at the table probably. Let's not go there.

17 (LAUGHTER)

18 MR. CUTLIFF: The last slide is the licensing
19 schedule, as you can see. It just gives you an idea of what
20 we're looking at in terms of -- the big dates on there are
21 any additional hours if we have any. Those will be coming
22 out by November and then based on the scoping comments we
23 received we will be issuing the scoping document to you,
24 which will update scoping document number 1 in terms of
25 resource areas, issues and that sort of thing.

1 And then when we have all the information that we
2 need we will issue our REA notice, the written form of our
3 analysis. At that time we will receive the preliminary
4 terms and conditions from the Forest Service and the
5 Department of Interior and Fish and Wildlife Services and
6 also any Tennant recommendations from the state, or Tennant
7 recommendations from other agencies. Then we will do our
8 own analysis and we'll issue the EA and then ultimately
9 analyze the decision. That's a pretty expedited schedule,
10 but --

11 SPEAKER: Yeah, I was just noticing. I wasn't
12 aware that date of the EA notice. I think Gaylord advanced
13 that a little bit because, if you issue the REA notice in
14 February that will give folks 60 days to provide terms and
15 conditions and we probably won't issue our EA before we have
16 those in hand.

17 So that's a wrong date, I didn't catch that.
18 That's going to be out a ways.

19 MR. CUTLIFF: Those last 2 items would likely be
20 out considerably -- could be considered longer than what
21 that schedule reflects.

22 That's a big one. The REA notice is when we're
23 receiving the preliminary terms and conditions and that's a
24 time when if you don't like the preliminary terms and
25 conditions that's the time when you would file any

1 alternatives for the EPA Act.

2 MR. TURNER: You'll have 30 days to file
3 alternative recommendations and that is not following
4 necessarily the with the commission, you would want to copy
5 the commission, but that's filing it with the services --
6 the Department of Agriculture, under the EPA.

7 EPA Act allows you to provide alternative
8 conditions to the Forest Service's conditions. In this
9 case, or in the case of Fish and Wildlife Services they come
10 in with fishway prescriptions under section 18 and you don't
11 necessarily like those and you have other measures that are
12 equally protective that you want to put forth, you can
13 appeal those decisions.

14 You can appeal those decisions and you can file
15 alternative recommendations, but you do that directly with
16 the U.S. Department of Agriculture, the Forest Service or
17 U.S. Department of Interior for Fish and Wildlife Services
18 under section 18 prescriptions.

19 So you have alternatives to addressing those
20 mandatory conditions that you may not be able to deal with.

21 So again, forget about these last 2 dates and the
22 other ones are our expectations about how things are going
23 to move forward here. If we didn't have any additional
24 information requests based on that, I think the schedule
25 could move up a bit, but I think I will advocate to our

1 management that we stick closely to this to give you more
2 time to collect data for that low flow period.

3 And before having to file your recommendations,
4 terms and conditions?

5 MR. CUTLIFF: Ok. With that, are there any
6 additional questions or concerns or comments? Now is the
7 time to address those in the record.

8 SPEAKER: I have one follow-up comment that the
9 dam and the operations are under special use permit and so
10 we need to apply to renew that license on the dam as well.

11 And what we hope is that through the FERC process
12 and the environment assessment, that answers all the
13 questions that we will have to answer to reissue the special
14 use permit for the facilities.

15 SPEAKER: Is that for the same time or a
16 different time?

17 MR. CUTLIFF: I will have to look. You could
18 probably get the request in to us at any time. We would
19 have to look at our environmental assessment needs.
20 Typically, those are fulfilled under the analysis that FERC
21 would do so it would probably come out after the license.

22 SPEAKER: And they have an existing special use
23 permit from --

24 MR. CUTLIFF: I'm not sure if it has ...

25 SPEAKER: We were surprised because they've been

1 in operation for so long.

2 SPEAKER: The transmission lines don't, but
3 there's a 1983 special use permit issued for the dam in
4 Penstock for the city. Not the transmission lines though,
5 because we investigated that earlier and so we can't and
6 won't require a special use authorization for that.

7 But there is one for the dam in Penstock where
8 it's on national forest system lands.

9 MR. TURNER: What I would recommend that I think
10 would benefit us and the city would be to -- the
11 application's pretty straightforward to fill out, submit the
12 application as soon as possible so that when the REA notice
13 comes out the Forest Service could have the special use
14 permit drafted at that time, submit that to FERC with our
15 preliminary 4a conditions and adopt FERC's NEPA for covering
16 that.

17 So that when that license is issued we can refer
18 to the NEPA that's been done -- that FERC did and
19 automatically issue that permit. That's what I think would
20 be most efficient.

21 MR. CUTLIFF: Ok. Any other comments? Ok. This
22 concludes the meeting. We will get the transcripts to the
23 meeting, into the ERA system hopefully within 10 days or so.

24 So you can be looking forward to those. If you
25 don't know how to get the e-library you can get it through

1 the FERC.gov web page and you can get those transcripts as
2 soon as they come up. Thank You.

3 Ok, with that we will adjourn.

4 (Whereupon, the meeting adjourned.)

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