

# Federal Energy Regulatory Commission

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Phone: 202-347-3700  
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Carmen-Smith Hydroelectric Project  
September 13, 2007

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CARMEN-SMITH HYDROELECTRIC PROJECT

PROJECT NO. 2242-078

SCOPING MEETING

THURSDAY

SEPTEMBER 13, 2007

9:00 A.M.

MIDGLEY'S BUILDING MEETING ROOM

400 East 4th Avenue

Eugene, Oregon

1 PRESENTERS:

2

3 FEDERAL ENERGY REGULATORY COMMISSION:

4 MR. ROBERT EASTON / robert.easton@ferc.gov

5 202-502-6045

6 MR. STEVE HOCKING / steve.hocking@ferc.gov

7 202-502-8753

8 MS. PATTI LEPPERT / patricia.leppert@ferc.gov

9 202-502-6034

10 888 First Street, NE

11 Washington, D.C. 20426

12

13

14 EUGENE WATER & ELECTRIC BOARD:

15 MR. GALE BANRY / gale.banry@eweb.eugene.or.us

16 541-484-2411

17 MR. MIKE McCANN / mike.mccann@eweb.eugene.or.us

18 541-984-4727

19 MR. JAY L'ESTRANGE / jay.lestrange@eweb.eugene.or.us

20 541-434-5751

21 500 East 4th Avenue

22 Eugene, Oregon 97401

23

24

25

1 PRESENTERS:

2

3 MR. LANCE ROBERTSON / lance.robertson@eweb.or.us

4 541-984-4716

5 P.O. Box 10148

6 Eugene, Oregon 97204

7

8 MS. SUZANNE PEARCE /

9 suzanne.pearce@eweb.eugene.or.us

10 541-984-4719

11 P.O. Box 407

12 Eugene, Oregon 97401

13

14 EWEB CONSULTANTS

15 MR. DON HAAGENSEN / dhaagens@chbh.com

16 MR. JIM KINCAID / jkincaid@cablehuston.com

17 CABLE HUSTON BENEDICT HAAGENSEN & LLOYD, LLP

18 1001 SW 5th Avenue, Suite 2000

19 Portland, Oregon 97204

20 503-224-3092

21

22

23

24

(Continued)

25

1       ATTENDEES:

2

3       USDA FOREST SERVICE - MCKENZIE RANGER DISTRICT

4       MR. PHIL RAAB / praab@fs.fed.us

5       57600 McKenzie Highway

6       McKenzie Bridge, Oregon 97413

7       541-822-7206

8

9

10      OREGON DEPARTMENT OF FISH & WILDLIFE

11      MR. DAVID HARRIS / dave.a.harris@state.or.us

12      4192 N. Umpqua Highway

13      Roseburg, Oregon 97470

14      541-440-9388

15

16      OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

17      MR. CHRIS STINE / stine.chris@deq.state.or.us

18      1102 Lincoln Street

19      Eugene, Oregon 97401

20      541-686-7810

21

22

23

24

25

1 ATTENDEES:

2

3 MS. MARILYN FONSECA /

4 fonseca.marilyn@deq.state.or.us

5 811 SW 6th Avenue

6 Portland, Oregon 97204-1390

7 503-229-6804

8

9

10 OREGON PARKS AND RECREATION

11 MS. JAN HOUCK / jan.houck@state.or.us

12 725 Summer Street NE

13 Salem, Oregon 97301

14 503-986-0742

15

16

17 NATIONAL MARINE FISHERIES SERVICE

18 MS. MELISSA JUNDT / melissa.jundt@noaa.gov

19 1201 NE Lloyd Blvd, Suite 1100

20 Portland, Oregon 97232

21 503-231-2187

22

23

(Continued)

24

25

1 (Attendees continued)

2

3

4 GRAND RONDE TRIBE

5 MS. DENEEN AUHERTIN KELLER /

6 deneen.auhertin@grandronde.org

7 9615 Grand Ronde Road

8 Grand Ronde, Oregon 97347

9 503-879-2326

10

11

12 TROUT UNLIMITED

13 MS. KATE MILLER / kmiller@tu.org

14 213 SW Ash Street, Suite 205

15 Portland, Oregon 97204

16 503-827-5700

17

18

19

20

21

22

23

24

25

1       ATTENDEES:

2

3

4       CONFEDERATED TRIBES OF THE SILETZ INDIANS

5       MR. THOMAS DOWNEY / tom@ctsi.njn.us

6       P.O. Box 549

7       Siletz, Oregon 97380

8       541-444-8226

9

10

11       STILLWATER SCIENCES

12       MS. CHRISTINE CHAMPE / christine@stillwater.com

13       850 G Street, Suite K

14       Arcata, California 95521

15       707-822-9607 x 221

16

17

18

19

20

21

22

23

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1 THURSDAY September 13, 2007 9:00 A.M.

2 MR. EASTON: Good morning. My  
3 name's Bob Easton. I'm from the Federal Energy  
4 Regulatory Commission. I'd like to welcome you  
5 to the Commission's public scoping meeting for  
6 the Carmen-Smith Hydroelectric Project.

7 I'm going to be acting as the  
8 project coordinator for the Commission on this  
9 proceeding, and I'm also a fisheries biologist.

10 Before we get too far into this  
11 brief presentation we are going to run through,  
12 I would like for us to just quickly, in order to  
13 put names with the faces for ourselves and also  
14 for the court reporter, just run around the room  
15 and do a quick introduction here. Like I said.  
16 Bob Easton for FERC.

17 MR. HOCKING: I'm Steve Hocking,  
18 and I'm with the FERC as well.

19 MS. LEPPERT: Good morning. My  
20 name is Patti Leppert, and I'm with FERC.

21 MR. BANRY: Gale Banry, Eugene  
22 Water and Electric Board.

23 MR. STEIN: Chris Stein, Oregon  
24 DEQ.

25 MR. McCANN: Mike McCann with

1 EWEB.

2 MS. JUNDT: Melissa Jundt with  
3 the National Marine Fisheries Service.

4 MS. HOUCK: Jan Houck, Oregon  
5 Parks and Recreation Department.

6 MS. FONSECA: Marilyn Fonseca,  
7 Oregon DEQ.

8 MR. RAAB: Phil Raab, Forest  
9 Service.

10 MR. HARRIS: David Harris, Oregon  
11 Department of Fish and Wildlife.

12 MS. CHAMPE: Christine Champe,  
13 Stillwater Sciences.

14 MS. AUHERTIN KELLER: Deneen  
15 Auhertin Keller, Confederated Tribes of Grand  
16 Ronde Tribe.

17 MR. DOWNEY: Tom Downey with the  
18 Siletz -- Confederated Tribes of Siletz Indians.

19 MR. ROBERTSON: Lance Robertson,  
20 EWEB Public Affairs.

21 MR. L'ESTRANGE: Jay L'Estrange,  
22 Generation Department, Eugene Water and Electric  
23 Board.

24 MR. KINCAID: Jim Kincaid,  
25 counsel for EWEB.

1                   MR. HAAGENSEN: Don Haagensen,  
2 counsel for EWEB.

3                   MS. MILLER: Kate Miller, Trout  
4 Unlimited.

5                   MR. EASTON: We have got a pretty  
6 brief presentation that I'm going to start off  
7 with, and then we'll open it up and just try to  
8 cover some of the scoping issues and allow you  
9 to give your comments to us.

10                   This is sort of just a brief  
11 overview of the presentation I'm going to cover  
12 here. Basically I'm going to give you some  
13 background, ground rule type information. Then  
14 we'll cover -- give a quick overview of the  
15 licensing process, discuss the purpose of  
16 scoping.

17                   EWEB will then give -- Gale, I  
18 should say, will give a brief project  
19 description. Then we'll kind of cover the  
20 issues in sort of a general -- just overview  
21 what's in the scoping documents, and then we'll  
22 cover the important dates that are coming after  
23 scoping and going forward through this  
24 proceeding. And then we'll open it up for  
25 comments.

1 I think everybody signed in.  
2 We've got sign-in sheets in the back. If you  
3 didn't get a chance to sign in, we would  
4 appreciate it if you would at some point during  
5 the meeting. Also, there's also copies of the  
6 scoping document in the back there if you didn't  
7 get one mailed to you or forgot to bring yours  
8 today.

9 As I said, there's a court  
10 reporter here today. When you do speak, we  
11 would appreciate it, especially initially, if  
12 you give your full name and your affiliation so  
13 that the court reporter can get your name into  
14 the record and attribute your comments to you.  
15 It will help us especially when we get back to  
16 D.C. and try to retrack through this meeting and  
17 figure out what input we got from you and  
18 incorporate that into future documents or  
19 analysis.

20 You don't have to feel compelled  
21 to speak at this meeting. If you are not  
22 comfortable with that, that's fine. You can go  
23 ahead and file written comments. Written  
24 comments will be due -- written scoping comments  
25 will be due October 12th, 2007. And

1 instructions for filing written comments are on  
2 page 21 of the scoping document. Refer to that  
3 and you can determine how to file written  
4 comments.

5                   If you didn't get a copy -- I'm  
6 assuming all of you are on our official mailing  
7 list. However, if you didn't get a copy of the  
8 scoping document, that probably means you aren't  
9 on the mailing list. So if you would like to  
10 get future mailings from the Commission you  
11 should get yourself added to the official  
12 mailing list, and instructions for that are on  
13 page 24 of the scoping document. I'm guessing  
14 most of you -- most of the faces in here look  
15 like people who are familiar with the process  
16 and are on the mailing list already.

17                   This is a very general overview  
18 of the traditional licensing process for this  
19 particular project. The application itself was  
20 filed by EWEB back in November 2006. Shortly  
21 after that we issued a tendering notice which  
22 basically says an application has been filed.  
23 And that notice itself solicits study requests.

24                   We received, by my count,  
25 approximately 18 study requests from five

1 different entities. And we have not responded  
2 or completed our analysis of those study  
3 requests -- responded to those study requests as  
4 of yet.

5 In March of this year, earlier  
6 this year, we issued the acceptance notice which  
7 basically indicates that the application as it  
8 was filed with the Commission met our  
9 regulations or filing requirements and it also  
10 solicited interventions at that time.

11 The scoping document that we  
12 prepared was issued last month. And scoping  
13 will continue from August through the middle of  
14 October, through October 12th. After scoping we  
15 will then take the information we've gathered  
16 from you here at this meeting and the meeting  
17 this evening, as well as the written material  
18 that will be filed, and we'll review all that  
19 and the information that already exists in the  
20 record and look at the study requests and try  
21 and determine what type of additional  
22 information we think we need for our  
23 environmental -- to conduct our environmental  
24 analysis.

25 If we determine we don't need --

1 well, it's probably better to characterize it  
2 this way. If we determine we do need additional  
3 information, we would send a letter to EWEB that  
4 says we need this information by this date. If  
5 it includes studies, it's likely we would give  
6 them more time to respond to that. So  
7 responding to an additional information request,  
8 it could range from anywhere like 15 days to --  
9 obviously, if it were very elaborate, extensive  
10 studies and a prolonged type of study, it could  
11 be a couple of years.

12           Like I said, at this point we  
13 don't really know where we are on that. We've  
14 kind of done a preliminary look at the  
15 information needs and study requests, but we  
16 haven't completed that so we don't know exactly  
17 how we are going to respond.

18           If we don't request additional  
19 information, the next step in the process will  
20 be the Ready for Environmental Analysis Notice.  
21 Basically that notice says we've got all the  
22 information we need to proceed with our  
23 environmental analysis. And that notice  
24 solicits terms and conditions and comments from  
25 all the stakeholder groups. So that's a point

1 at which things like Section 18 prescriptions  
2 would be filed and 4A conditions and things  
3 along those lines, as well as just general  
4 comments and recommendations from entities.

5           There is the 60-day turn-around  
6 on the REA notice, 60 days for filing comments,  
7 terms, and conditions, and then a 45-day period  
8 that is allowed for EWEB to respond to those  
9 filings.

10           Subsequent to receiving responses  
11 to the REA notice, we would start incorporating  
12 that material into our environmental analysis.  
13 And then we would issue -- our current schedule  
14 has us -- assuming there is no additional  
15 information or study requests, we would issue a  
16 draft environmental assessment no later than  
17 July '08 and a final EA no later than January  
18 '09.

19           After that a license decision  
20 would be made by the Commission. Obviously we  
21 would need to have all the different I's dotted  
22 and T's crossed, which would include any  
23 endangered species consultation would have to be  
24 completed, a 401 would need to be in hand, and  
25 we would issue an order with a licensing

1 decision at that point in time.

2           So it is really difficult to put  
3 an exact date on when the order would be issued,  
4 but it would happen sometime after the issuance  
5 of the final EA. That's the best I can do for  
6 characterizing when that would occur.

7           By the way -- I think most of you  
8 are familiar with the process, but if you do  
9 have questions about any of this, feel free to  
10 speak up while I'm talking. This doesn't need  
11 to be just me talking to you right now, although  
12 the sooner we get through this, the sooner we  
13 get into the real stuff you want to talk about.

14           Scoping. Scoping is a part of  
15 the process of preparing the environmental  
16 document. The main purpose of this meeting is  
17 for us to solicit comments and input from you  
18 about the issues that we need to consider or not  
19 consider in our EA.

20           Now, for this proceeding, we are  
21 planning on preparing an environmental  
22 assessment as opposed to an environmental impact  
23 statement.

24           The scoping document which was  
25 issued included a brief description of existing

1 project facilities and a preliminary list of  
2 resource issues that we identified based on the  
3 information in the application and the  
4 Commission's record. There's only so much that  
5 we are aware of that has been filed with us at  
6 this point. You guys have all been working  
7 together and, to some extent, interacting and  
8 talking about this project for a while, so there  
9 may be issues that aren't in the record that we  
10 don't know about. Part of the purpose of this  
11 meeting is to make us aware of those issues.

12           Another thing we always mention,  
13 but it never seems to occur, if there's issues  
14 we've identified that are in the scoping  
15 document that you really don't think need to be  
16 addressed, we welcome you to scratch those off  
17 for us so we don't have to work on those when we  
18 begin preparation of the environmental  
19 assessment. I'm assuming we won't see too many  
20 of those, but if there are any of those, that  
21 would be great if you could help us out and  
22 guide us towards what we've addressed that might  
23 not actually be an issue.

24           Sometimes what happens, I guess,  
25 is things get changed in the project, something

1 project-wise gets changed so it's already been  
2 implemented and there's no reason to address  
3 something. That's a possibility.

4           Then, of course, we also at this  
5 meeting, in addition to talking about the  
6 resource issues and potential impacts of the  
7 project, we can talk about information needs.  
8 If there are things you know about that are out  
9 there in terms of reports or studies that have  
10 been done that we probably don't have copies of  
11 either because they are not in the license  
12 application or they've just never been presented  
13 to FERC, that's the type of information we would  
14 like to be directed towards. You can help us by  
15 either filing it directly with the Commission or  
16 just pointing us in a direction where we can go  
17 and get it ourselves.

18           At this point I'm going to turn  
19 it over to Gale, and he's going to do a quick  
20 description of the project which may be boring  
21 for some of these people.

22           MR. BANRY: That's why I'll keep  
23 it short. We've all been up there. I think I  
24 see most of you more than I see my family  
25 members. We have been working on this a long

1 time.

2 I'll just talk briefly about the  
3 project itself. This is a rendition of an  
4 aerial photograph. Little bit deceiving. The  
5 reservoir, the Carmen-Smith Reservoir, Smith  
6 Reservoir, and the Trail Bridge Reservoir --  
7 size-wise Carmen is really about 30 acres, Trail  
8 Bridge (sic) is about 71 acres, about 178 acres  
9 in Trail Bridge. You can see this is by far the  
10 larger reservoir.

11 The way the project operates is  
12 the McKenzie River ran down this way originally  
13 and Smith River ran down through here, and they  
14 had a confluence down here at the bottom. The  
15 project was constructed and the Carmen Diversion  
16 was built. And essentially all of the water  
17 from the McKenzie flows down through an  
18 underground pipe to the Smith Reservoir. The  
19 only flows that really go beyond Carmen are  
20 those when we have more water than we can pass  
21 through the tunnel and there's a spill involved.

22 There is water in the McKenzie  
23 because of the Tamolitch Falls. The east side  
24 of the mountains are kind of a lava condition  
25 where there's a lot of stored water underground.

1 There is a ground source for the McKenzie from  
2 Tamolitch Falls down.

3 The water that comes into Trail  
4 Bridge is stored. We have limited amount of  
5 storage in the project. We do get some peaking  
6 out of it, but it's only about a 24-hour period  
7 for storage.

8 The water from Smith goes down  
9 the power tunnel to the penstocks to the Carmen  
10 power house. There's two 55-megawatt units  
11 there. There is also -- Bunch Grass Creek comes  
12 in here and provides water for the Smith River  
13 and comes down to the Trail Bridge Reservoir.

14 This is a re-regulation  
15 reservoir, and this will fluctuate upwards and  
16 downwards as much as 12 feet. It's typically  
17 maintained at 8 or 9 feet with fluctuation up  
18 and down so we maintain a relatively constant  
19 flow out into the McKenzie River below the  
20 project. There's another unit here, about 10  
21 megawatts, for power production.

22 Below Trail Bridge there's a  
23 spawning channel also that was constructed for  
24 mitigation for no-passage at Trail Bridge or  
25 Smith once the project was constructed.

1                   McKenzie Highway, 126, runs along  
2 here. I think that's about all I want to say  
3 right now unless there's some questions you  
4 might have.

5                   On housekeeping items as well, we  
6 have coffee in the back, water. Brochures and  
7 information in the back as well. Rest rooms are  
8 out this door and back to the left. If you need  
9 to utilize those, you can do so.

10                   Quick overview of the project.  
11 Any questions?

12                   MR. EASTON: Thanks, Gale. Like  
13 I said I'm going to do a pretty brief overview  
14 paraphrasing, basically, the issues that we  
15 outlined in the scoping document. If you refer  
16 to Section 4.2 of the scoping document, pages 11  
17 to 16, you'll see where we've outlined all the  
18 issues we identified for analysis in the  
19 environmental assessment.

20                   As far as the topic areas, we  
21 identified aquatic resources, obviously;  
22 terrestrial resources, which I believe we broke  
23 into botanical and wildlife resources;  
24 threatened and endangered species; recreation  
25 and land use issues; archeological and historic

1 resources; socio-economics and developmental  
2 resources.

3                   Like I said, at this meeting -- a  
4 part of this meeting anyway -- is to hear from  
5 you on how we've characterized those. And if  
6 you feel we need to reshape some of the issues,  
7 we want to hear from you about that.

8                   For aquatics we are looking at  
9 addressing effects of the project and  
10 relicensing on water temperatures; total  
11 dissolved gases; trapping of sediments in the  
12 reservoir areas; upstream and downstream fish  
13 movements; habitat and bypass reach; fish  
14 entrainment; fish stranding; the effects of  
15 stocking that, I guess, is on-going, occurring  
16 in the reservoirs; effects on the spawning  
17 channel or potential modifications to the  
18 spawning channel; and effects on fish from  
19 termination spills at the Trail Bridge Dam.

20                   As I said, these are obviously  
21 very paraphrased forms of the issues. If you  
22 look at -- I believe the pages 11 to 13 have the  
23 more detailed description of these issues just  
24 so you don't think we -- there is actually a  
25 little bit more to it than what we are

1 characterizing on the slide, in other words.

2           For terrestrial resources, we are  
3 anticipating looking at the effects of road and  
4 transmission line maintenance on vegetation;  
5 effects of recreation on vegetation; project  
6 effects on amphibians, which would include  
7 Western toads; effects on raptors and other  
8 birds, elk and other wildlife species, and  
9 State-listed threatened and endangered species.

10           Of course, there are several  
11 federally listed threatened and endangered  
12 species at the project which we anticipate we'll  
13 have to address the project effects on:  
14 Northern spotted owls, bull trout, and upper  
15 Willamette River Chinook salmon.

16           For recreation, as is typical  
17 with most FERC proceedings, we look at  
18 recreation facilities and try to determine the  
19 adequacy of those facilities and adequacy of  
20 access points or access to project resources for  
21 recreational purposes. We also will look at  
22 recreational fisheries, special designated areas  
23 -- in this case we are referring to, in part,  
24 anyway, to the Wild and Scenic Rivers area.  
25 Flows at Tamolitch Falls and Blue Pool are an

1 issue we will address through these topics.

2                   And then we'll look at adverse  
3 effects of recreation, which include things like  
4 illegal dumping, invasive species, poaching,  
5 habitat destruction, and disturbance to cultural  
6 sites -- potential disturbance of cultural  
7 sites.

8                   We will also address historic and  
9 archeological and traditional cultural resources  
10 that are eligible for inclusion in the National  
11 Register of Historic Places. So we will do  
12 that.

13                   As well, there are a couple of  
14 topics I didn't prepare slides for.  
15 Socio-economics, we generally, when there's any  
16 sort of major construction being proposed, which  
17 we understand there's potential for something  
18 along the lines of the fish ladder and a few  
19 other measures that could result in significant  
20 construction -- when there is significant  
21 construction, we will usually do a  
22 socio-economics analysis as part of the EA which  
23 will look at what the effects on the  
24 socio-economics in the local area would be as a  
25 result of ramping up for a big construction

1 project.

2 We will also do what we call our  
3 developmental analysis, which is taking a look  
4 at the effects of all the various measures and  
5 alternatives on project economics, the bottom  
6 line for the project, essentially.

7 Important dates. You can tell  
8 I'm getting close to the end here. Important  
9 dates. Scoping comments are due October 12th,  
10 2007. Obviously you can make statements here  
11 today and avoid having to make any written  
12 filing or you can do both or you can skip oral  
13 comments and file only written. It's your  
14 choice. But written comments are due October  
15 12th.

16 After the scoping period, we will  
17 then proceed with an REA notice, which is what I  
18 mentioned earlier. Assuming we don't need  
19 additional information, we would anticipate  
20 issuing the REA notice, which solicits terms and  
21 conditions, in November. There would be a  
22 60-day period to respond to that after the  
23 issuance date.

24 And our current schedule has us  
25 issuing the draft EA no later than July of '08

1 and a final EA no later than January '09.

2 All right. Well, I'm done. And  
3 we can go ahead and open this up. One thing I  
4 want to mention, there's really no need for this  
5 to feel all stilted with me up here and you  
6 there. We can discuss this in a pretty informal  
7 manner. The only thing, like I said before, we  
8 need to make sure we mention who we are when we  
9 speak so the court reporter can attribute the  
10 comments to you.

11 With that I will open it up to  
12 you guys. If you've got questions either about  
13 the presentation, the process or proceeding, or  
14 obviously any comments you have about scoping in  
15 terms of recommendations on how we've  
16 characterized the issues or any input, we would  
17 like to hear that from you.

18 Anyone? How did we do? I mean,  
19 I'm sure you do understand that we are back in  
20 D.C. We are all from Washington, D.C. We get a  
21 big filing like the license application -- you  
22 know, we've seen plenty of large applications,  
23 but it's always the same game. We sit down and  
24 pick through it trying to make sure we are  
25 understanding things correctly. One of the

1 reasons for having this meeting is to make sure  
2 we are on track and we did interpret things  
3 correctly.

4 So if you don't have any  
5 comments, I'm going to feel great. I'm going to  
6 assume we actually did a good job.

7 MR. HAAGENSEN: Don Haagensen,  
8 counsel for EWEB. Really, not a comment, but  
9 rather a question. You know that we have been  
10 going through settlement negotiations. On  
11 August 31st on behalf of all the settlement  
12 parties we filed a request for extension of time  
13 to move the REA notice from November to May of  
14 2008. I'm just wondering whether you have any  
15 predictions or estimates about when we might  
16 receive a response to that request.

17 MR. EASTON: Guess what? I'm  
18 prepared to answer that. Maybe not give you the  
19 answer you want, maybe not the whole answer.

20 We read the letter, and I've  
21 briefed management on it already. We aren't  
22 ready -- we won't be formally responding to it  
23 until we've completed the look at the additional  
24 study requests and the need for additional  
25 information because, until we are done with

1 that, we really don't know that we are going to  
2 be issuing the REA notice in November. Does  
3 that make sense?

4 So we can't really send you a  
5 letter -- until we are sure when we are going to  
6 issue the REA notice, we can't say we are going  
7 to hold it up until May. If it turns out we  
8 need a six-month study, you are going to get  
9 until May anyway because you're going to have  
10 that time to turn it around and sent it back.  
11 So the REA notice wouldn't go out until the  
12 additional information needs are finally  
13 assessed.

14 I can tell you the other side of  
15 the issue is our current policy in regard to  
16 extensions of time is we grant them but only in  
17 instances where it will not affect our ability  
18 to meet our ultimate turnaround time on license  
19 applications which, for traditional license  
20 applications -- that's the process used in this  
21 case -- we try and get an order out before the  
22 license expires. So that would be November '09.

23 MR. BANRY: '08.

24 MR. EASTON: Yeah, November '08.

25 Our current schedule, we are already under the

1 gun on this. We've already let it slip too far  
2 partly due to my own workload and other staff's  
3 workload. So things have already gotten behind  
4 where we want to be. We've already pigeon-holed  
5 ourselves timewise. So assuming we don't need  
6 additional information, I'm not sure the EOT  
7 will get granted. That would be based on just  
8 the existing policy.

9           Now, the other thing I did want  
10 to mention when this particular issue came up is  
11 that we saw in the letter that you mentioned  
12 that there were studies that had been done sort  
13 of as part of working towards the discussions  
14 that are ongoing. I'm afraid to characterize it  
15 as settlement discussions, but I guess that's  
16 what the letter calls it.

17           One thing that would be helpful  
18 to us is -- as we are looking at the information  
19 needs, it would be good if those studies that  
20 haven't -- if they aren't part of the existing  
21 record for the Commission, it would be good if  
22 those were put in front of us so we knew what  
23 was going on. It would help to some extent to  
24 show us progress that you guys are making.  
25 Obviously it would also help us just in knowing

1 where we are going in terms of environmental  
2 analysis. It also could eliminate a request for  
3 studies that we may think are needed or requests  
4 for information that we think are needed.

5           And then the other side of all  
6 that is that we also would like for the agencies  
7 at this meeting who did make additional study  
8 requests, to the extent they can speak to it, it  
9 would be nice to know if any of the studies  
10 requested back in response to the tendering  
11 notice, if the need for some of those studies  
12 has gone away as a result of work that was done  
13 during settlement discussions or if it just  
14 resolved the issue in a way where you don't  
15 think the study is any longer needed. Maybe the  
16 study wasn't done, but you have determined that  
17 you really don't need it any longer.

18           Those are things we would ask --  
19 to the extent people can help us out here, we  
20 would like to know about information that's  
21 already been gathered that may not be in the  
22 record and we'd also like to know if any of the  
23 study requests at this point either can be  
24 eliminated or addressed by what has been  
25 collected since the application was filed.

1                   So there's a long-winded answer  
2 to one question.

3                   MR. HAAGENSEN: Thank you.

4                   MS. JUNDT: Melissa Jundt from  
5 National Marine Fisheries Service. I just  
6 wanted to respond mostly to a question about  
7 whether some of the studies have been made moot  
8 by progress that we are making in settlement.  
9 My concern is -- I guess I'm not quite sure how  
10 to answer that question because if we don't  
11 reach a full settlement agreement, I'm not sure  
12 where that leaves us in terms of what we've  
13 agreed to and whether we would answer the same  
14 way.

15                   MR. EASTON: I understand. The  
16 only -- I mean, from your standpoint, I don't  
17 think you want to scratch any of the study  
18 requests off until you are adequately satisfied  
19 that what you think -- you either are adequately  
20 satisfied that you no longer need that  
21 information or that information has been  
22 gathered so it's no longer a valid request  
23 because it's already available.

24                   So that's the call you have to  
25 make. I'm just asking if any of you are in that

1 position at this time.

2                   The answer -- it can obviously be  
3 we are not ready to withdraw any of our requests  
4 for studies.

5                   MS. JUNDT: We prepared a  
6 statement on behalf of the settlement parties  
7 (reading):

8           The settlement parties are working toward  
9 a comprehensive settlement that is  
10 intended to resolve all of the additional  
11 study requests. And we believe that the  
12 additional time requested by our letter  
13 to the Commission on August 31st should  
14 allow that time to reach a comprehensive  
15 settlement.

16                   MR. EASTON: When I briefed  
17 management -- I mean, that was pretty clear from  
18 the letter. That was where the letter was kind  
19 of encouraging. We saw that. I briefed  
20 management and let them know that.

21                   You have all worked with FERC  
22 long enough to know how we are about stuff. We  
23 set policies and then we stick to them.  
24 Sometimes policies and other decisions conflict.

25                   And in this particular case, I

1 think there -- you know, your request is valid  
2 and makes a lot of sense to me, but if our  
3 policy is to get things done by a certain date  
4 and there's a lot of Congressional pressure on  
5 our agency in the past few years. We've been  
6 accused of taking too long on relicensing for  
7 years and years. So now we are doing everything  
8 we can to not take too long.

9           And one of the things that  
10 happens is now we've got a situation where  
11 people are asking for more time to resolve very  
12 complex issues, and I'm not sure the answer is  
13 going to be the answer you want based on our  
14 current policy of trying to get the license  
15 decided upon before the current license expires.

16           MR. HAAGENSEN: Don Haagensen  
17 again. It becomes a bit of a chicken and egg  
18 situation or circular or something. We have  
19 agreed -- it's in the letter -- to develop  
20 collaboratively, and we have, several studies on  
21 two of the bypass breaches. And we have agreed  
22 to perform those. And the performance of those  
23 will take us, as best I can predict it, towards  
24 the end of the year. So it would be past the  
25 time that you are scheduled now to issue the REA

1 notice in November. And it's information that  
2 we all agree needs to be obtained which would  
3 suggest, I guess, if FERC made that same  
4 decision that FERC would say go do it, but we  
5 already have agreed to go do it.

6           Anyhow, it butts up against, I  
7 guess, the policy of having a schedule that will  
8 get this done by the time that the license  
9 expires in November of 2008.

10           MR. EASTON: Right. It's just an  
11 unfortunate thing. I don't know what else I can  
12 say. The one thing I can do, to bail myself out  
13 as an individual, is I don't get to set policy.

14           The letter -- your letter was  
15 very encouraging, I thought, in the sense that  
16 it looked like given a decent amount of time a  
17 lot of issues could be worked through. And it's  
18 just a matter of whether the Commission is going  
19 to view it as if there is time to allow for  
20 that.

21           The out, like I mentioned before,  
22 is if we come back and start asking for some  
23 sort of additional information and give you --  
24 because we -- the whole policy about getting it  
25 done by a certain time, there are exceptions to

1 that, but they are all exceptions that are  
2 related to -- if the 401 takes four years to  
3 get, there's nothing we can do about that. We  
4 aren't going to be able to issue the license  
5 order before the current license expires if it  
6 takes four years to get the 401. Or if the ESA  
7 consultation takes a prolonged amount of time or  
8 some other step, legal requirement, takes --  
9 Section 106 consultation, whatever -- one of  
10 those steps in the process takes a long time,  
11 then we look at it and it's like, well, we  
12 aren't a failure. We didn't not hit our  
13 deadline because of our fault. We didn't hit it  
14 because of some outside influence.

15                   And the other factor that there  
16 is besides the legal aspect that can hold us up  
17 and still let us feel good about ourselves in  
18 terms of meeting deadlines is additional  
19 information. So if we go back and we're sitting  
20 in D.C. and we decide we need to give EWEB six  
21 months or eight months to turn some information  
22 around and get it back to us and that's going to  
23 cause us to fail to hit the deadline we want at  
24 the other end of this of beating the license  
25 expiration, you are going to get your time

1 through that means and we don't have to feel  
2 like we've granted you an extension of time.

3 MR. HAAGENSEN: That was my point  
4 about being circular. I'm not presuming what  
5 your decision will be about whether additional  
6 studies are needed or not, but we have  
7 collaboratively determined that there are two  
8 studies, three studies --

9 MR. EASTON: You are asking for  
10 additional time so you can do some of the  
11 information gathering. We are saying it's not  
12 likely we are going to give you the extension of  
13 time, but if we ask you for additional  
14 information, you basically get it by default.

15 So it's red tape? I don't know.  
16 It's government. Right? Government speak.

17 MS. CHAMPE: Christine Champe,  
18 Stillwater Sciences. So when the current  
19 license expires, is it your expectation that you  
20 would grant annual licenses? Is there a  
21 procedure for that?

22 MR. EASTON: To be honest, I  
23 don't do anything with annual licenses. I just  
24 know the process, the way it's happened  
25 historically, which is likely the way it will

1 happen here, is that it's essentially almost  
2 like a default, automatic issuance. It kicks  
3 over automatically to annual licenses until we  
4 are done processing the application and issue an  
5 order starting the new term.

6           There's no environmental review  
7 associated with the annual license. It's  
8 essentially a continuation on an annual basis of  
9 the existing license. Since EWEB is already  
10 operating -- I believe the logic is that since  
11 EWEB is already operating under the existing  
12 license, a continuation of that license is not  
13 considered a federal action.

14           I think legally our attorneys  
15 tell us it's an administrative action.

16           MR. HOCKING: It's in the  
17 Administrative Procedures Act. It happens  
18 automatically, and EWEB does not need to do  
19 anything. Usually it's a one-page letter or  
20 order that goes out.

21           MR. EASTON: Anybody have  
22 comments about the scoping issues? I guess the  
23 scoping issues were really dead-on. We did  
24 really good. Good enough. Or nobody read it  
25 because everybody was too busy.

1 MR. RAAB: Phil Raab with the  
2 Forest Service. In Section 3.1.2 -- maybe this  
3 is a question about how the scoping document is  
4 assembled. Those bullet statements are not  
5 necessarily, in the Forest Service's opinion,  
6 are not comprehensive.

7 MR. EASTON: What page number?

8 MR. RAAB: I'm sorry. Page 6.  
9 Starting on 6 it talks about description of  
10 existing project operations. The relationship  
11 of those bullet statements to Section 4 -- and  
12 this is an example of the question, and I don't  
13 know exactly how they -- the relationship of  
14 those two sections are and how comprehensive --  
15 do they have to be exactly parallel?

16 The bullet on page 8, for  
17 example, it talks about the reservoir operation  
18 and it gives some operational elevations and it  
19 talks about -- uses the term "will be at  
20 elevation." In the FLA they talk about what is  
21 described there, which is a dry-year scenario.  
22 And there's another section in B.10, 5.2.1, in  
23 the FLA that talks about the 15-foot level.

24 So you have a description that is  
25 -- how do we set the stage? Does this section

1 set the stage in any way that you need direct  
2 correspondence between the bullets in it?

3 MR. EASTON: 3.1.2 should be --  
4 And I didn't prepare these although I did review  
5 them. I can tell you that the way that section  
6 should be presented is that's the operations as  
7 they exist under the current license  
8 requirements.

9 MR. RAAB: Okay.

10 MR. EASTON: The 3.1.3 should be  
11 a characterization of what EWEB proposed in the  
12 license application going forward into the next  
13 license term. So those should -- So if there  
14 are differences, that would be okay. If there  
15 are not differences that should be there, then  
16 we've missed something.

17 MR. RAAB: From a clarity  
18 standpoint --

19 MR. EASTON: FERC language is to  
20 use -- "existing" and "proposed" are the two key  
21 words we throw around a lot. That's our jargon  
22 basically. So "existing" means ongoing actions  
23 and existing license term, license requirements.  
24 "Proposed" means going forward, next license  
25 term, and whatever -- "proposed" also is a

1 characterization generally of what the applicant  
2 has proposed. And other things that come in  
3 from agencies are treated as recommendations  
4 prescriptions, terms, whatever, in terms of FERC  
5 jargon, I guess.

6 Does that clarify what you were  
7 getting at?

8 MR. RAAB: Yeah.

9 MR. EASTON: Does that explain  
10 why it looks the way it does?

11 MR. RAAB: That helps.

12 MR. EASTON: Good. Anything  
13 else? We've got three hours so -- I mean, we  
14 could actually go all day because I don't have  
15 anything to do until seven tonight when we do  
16 another one.

17 MR. HOCKING: Why don't we take a  
18 break and then we can come back. People can  
19 think for a minute.

20 MR. EASTON: We can either take a  
21 break or just call it here. I'm not trying to  
22 cut the meeting off at all. Like I said, we  
23 have all day. But if there's nothing else to be  
24 said --

25 MR. RAAB: There's some content

1 questions we have, the Forest Service has. And  
2 we can take a break. I'm not saying we don't  
3 need a break now. Whatever the desire is -- or  
4 we can continue.

5 In addition, we will submit --  
6 the Forest Service will submit written comments  
7 in addition to today's questions.

8 I have a question on the analysis  
9 in the No Action Alternative, 3.3, page 8. When  
10 -- at what level are you going to analyze the no  
11 action alternative?

12 We've heard a discussion that --  
13 or comments from Steve that in an annual license  
14 situation there's not a need to relook at the  
15 next year's operation sort of going forward.  
16 The question comes up, does that -- using an  
17 example, that -- in the no action alternative,  
18 do you analyze effects ongoing? The example  
19 would be that there is -- there's a question  
20 around the no action alternative around the  
21 long-term sustainability of the bull trout  
22 population that's isolated above Trail Bridge  
23 Reservoir.

24 Does the operational biop satisfy  
25 that requirement and you will not do further

1 analysis, or is it mentioned in the no action  
2 alternative analysis?

3 MR. EASTON: It's almost like a  
4 two-part question. The no action analysis in a  
5 FERC EA generally is pretty brief. We don't go  
6 back and -- basically, when we put together our  
7 affected environment description, which is the  
8 description of the existing environment, that's  
9 almost a description of what the effects will be  
10 going forward if there is no action. Things  
11 will look like this. So the ongoing effects  
12 should be described in the affected environment  
13 section.

14 The actual no action alternative  
15 evaluation is usually a paragraph and it says  
16 all the things that are described in that  
17 affected environment section will continue. And  
18 we may list them, like blockage of fish passage  
19 at this location and entrainment or water  
20 quality effect or habitat effect on wildlife or  
21 something like that will be characterized in  
22 that no action description. But it's usually  
23 pretty brief in terms of the actual analysis.

24 The second part of the question  
25 was something about the biop.

1                   MR. RAAB: That would be -- I  
2 think you answered that in your affected  
3 environment discussion. That would be  
4 recognized in that document.

5                   MR. EASTON: It should be. We  
6 may miss things, obviously, but we don't intend  
7 to do that. What we should be characterizing in  
8 that affected environment description is all the  
9 things that are laid out in the application that  
10 are related to the issues laid out in the  
11 scoping. So you are setting the background, the  
12 baseline up for each one of the issues that has  
13 been laid out in scoping.

14                   So any information we have  
15 related to whatever particular issue we are  
16 talking about on the existing conditions should  
17 be laid out there.

18                   And one thing that happens with a  
19 lot of FERC documents is the affected  
20 environment section actually can be pretty  
21 elaborate and the analysis section of proposed  
22 actions going forward can be very brief. That  
23 especially occurs in a lot of older projects  
24 that have already gone through relicensing and a  
25 lot of things have already been updated or a

1 project -- like some of the Columbia River  
2 projects, there's so much action going on during  
3 the license term, and all that stuff should be  
4 laid out in the affected environment section, so  
5 when you get to what's being proposed going  
6 forward, there's not a lot of new stuff to talk  
7 about. So the environmental analysis section  
8 can be brief, whereas the affected environment  
9 can be substantial because you are laying out  
10 all the stuff that's happened during the  
11 existing license term, the base line.

12 MR. RAAB: Part of my question  
13 leads into, having not been through a full NEPA  
14 process with FERC, is that it seems that the no  
15 -- when the alternatives considered that we take  
16 forward in the NEPA document, to compare the  
17 merits of those alternatives, you know, the  
18 proposed -- when you look at that, I guess  
19 settlement will answer a lot of these questions,  
20 but how do you compare then -- do you compare  
21 the alternatives and the set of responses and  
22 changes from affected condition or the affected  
23 environment section to go forward so that the --  
24 when you look at the document you know the  
25 merits -- you can display clearly the merits of

1 those alternatives to follow the decision path  
2 that the Commission makes in the final --

3 MR. EASTON: I'm having a hard  
4 time following what you are getting at. Can you  
5 help with that?

6 MR. HOCKING: It sounds to me you  
7 are asking what do we compare the alternatives  
8 with. We compare them with the environment as  
9 it exists today. So there will be no action and  
10 proposed action. And typically we will have a  
11 proposed action with staff modifications where  
12 we consolidate all the changes that we think are  
13 appropriate and changes that others have  
14 proposed, like the resource agencies, into one  
15 alternative.

16 And we compare that with the  
17 existing environment as it is today, which is  
18 the current license.

19 MR. RAAB: So the affected  
20 environment section becomes very crucial, then,  
21 to that comparison.

22 MR. HOCKING: It needs to  
23 characterize what is going on today, the habitat  
24 that exists today, the impacts that are -- that  
25 exist today, the ongoing continuing impacts that

1 exist today so that the proposed measures, the  
2 general enhancement measures, or the terms and  
3 conditions that the agencies are recommending  
4 are weighed against what is happening today.

5 MR. EASTON: You are kind of  
6 getting at that baseline issue which comes up in  
7 a lot of our proceedings. And our policy is  
8 that the baseline is the existing condition. So  
9 no action is going to be a continuation of the  
10 existing condition. And any of the alternatives  
11 will be evaluated against the existing  
12 condition.

13 MR. RAAB: Thanks.

14 MR. EASTON: You did touch on one  
15 thing I could mention. If it turns out that a  
16 settlement does occur, if there's a settlement  
17 and it gets filed by EWEB, we will -- under most  
18 scenarios, we notice the settlement so there's  
19 an opportunity for parties who maybe didn't sign  
20 the settlement to comment on it and also parties  
21 who did sign it to comment additionally on it.

22 At that point what basically  
23 happens is the settlement -- it's almost like a  
24 modification of your application. You've  
25 basically said, "This is our proposal now, and

1 what was in the application we don't want  
2 anymore," which is your intent, obviously.

3 But from a procedural standpoint  
4 what it means is we may not even talk about the  
5 original proposal or the original license  
6 application when we get to the NEPA document at  
7 that point because there's nobody currently  
8 recommending it.

9 But then again, you can have a  
10 party that comes in that's outside the  
11 settlement that says, "We prefer they do what  
12 they proposed in the license application." Then  
13 you've got that alternative going as a separate  
14 alternative from another entity. So it can get  
15 complicated.

16 But the reality is what should  
17 happen, and what typically happens with a  
18 settlement, is we notice it and then it becomes  
19 your proposal and supplants the existing  
20 proposal that is in the existing license  
21 application.

22 Any other questions or comments?  
23 Keep going.

24 MR. RAAB: I mentioned this  
25 yesterday to Patti on the field trip. On the

1 Section 4.1.2, just need to revise the  
2 description of both the federally-designated  
3 Wild and Scenic segment and the State Scenic  
4 Waterway designation. It doesn't reflect  
5 actually what's there.

6 I understand the wording was  
7 taken from the FLA, and the wording in the FLA  
8 in fact was probably incorrect.

9 MR. EASTON: That's something you  
10 are okay with now, Patti?

11 MS. LEPPERT: Yes.

12 MR. EASTON: So you know what you  
13 need to do to correct that.

14 MR. RAAB: Yeah. And that is a  
15 document we will file, that hasn't been filed  
16 with the Commission, will be that plan. So that  
17 will come with October stuff.

18 MR. EASTON: Thank you. Part of  
19 this meeting is bound to be stuff we screwed up.

20 MR. RAAB: The services list, you  
21 might want to check the service list. I checked  
22 it the day before yesterday, and I don't believe  
23 it reflects information -- for example, when we,  
24 when the Forest Service filed an intervention,  
25 we listed who the services list on the

1 intervention was, and it's not reflected on the  
2 website.

3 MR. EASTON: Really? Okay. That  
4 happens separate from our group, but I can  
5 definitely check on that. What you are saying  
6 is the addresses and names provided in the  
7 interventions, at least for the Forest Service,  
8 didn't show up on the service list.

9 MR. RAAB: Is not reflected. So  
10 when you look at -- because we intervened, we  
11 now have other responsibilities when we file,  
12 you know, the future comments and so forth,  
13 information we furnish, we want to ensure that  
14 those additional copies get to the right people.  
15 I know that's a procedural hoop that we need to  
16 know is tight.

17 MR. EASTON: That shouldn't  
18 occur. We will definitely check on that -- or I  
19 will check on that. Let you guys off the hook.

20 The service list, the one thing  
21 you will notice about it is there may be names  
22 and addresses on there that you are like, oh,  
23 that person retired years ago. One thing about  
24 service lists, they get carried forward. And  
25 the only way they can get removed from there is

1 if the agency actually files something saying,  
2 "Please remove this person from the list." We  
3 don't remove anyone automatically.

4 MR. RAAB: I think at the start  
5 of the process we sanitized the list, which was  
6 okay in that interim period. Then we will see  
7 that we get the others removed between this  
8 interim period and where we are -- with the  
9 addresses on the intervention letters.

10 MR. EASTON: We will definitely  
11 check on that. I'll look at the other  
12 intervention letters, too, and cross-check  
13 those. That happens in a separate group, but  
14 they should be doing that automatically. It may  
15 be a delay thing, but at this point we are  
16 talking way back in the spring. That should  
17 have already happened.

18 Are you going to have more for  
19 us, Phil?

20 MR. RAAB: No. I'm sorry.

21 MR. EASTON: Are you done?

22 MS. PEARCE: Suzanne Pearce with  
23 EWEB. I think my suggestion would be that we  
24 could probably adjourn this meeting. And then  
25 whoever is coming back tonight, we can make

1 comments this evening.

2 MR. EASTON: Is that where  
3 everybody is, ready to go and call it? Like I  
4 said, we've got three hours. We can sit here  
5 and answer questions about the scoping  
6 documents, about the process, proceeding.

7 MS. PEARCE: Is the evening  
8 meeting pretty much going to be a replica of  
9 this one?

10 MR. EASTON: Yeah. The intent in  
11 holding two meetings is a day meeting for people  
12 who do this for a living, evening meeting for  
13 people who want to show up, don't do this for a  
14 living but want to be involved.

15 If that's it, if nobody has any  
16 other comments, I guess we'll adjourn. I guess  
17 we're done. Thank you very much for coming.  
18 And hopefully -- this is a little bit helpful  
19 for us, and hopefully our scoping document was  
20 as good as reflected by your comments -- or lack  
21 thereof.

22 (The scoping meeting was  
23 concluded at 10:05 a.m.)

24

25

1 State of Oregon )  
2 ) ss.  
3 County of Lane )  
4

5 I, Eleanor G. Knapp, CSR-RPR, a Certified  
6 Shorthand Reporter for the State of Oregon,  
7 certify that I reported in stenotype all  
8 testimony and other oral proceedings had in the  
9 foregoing matter and that the foregoing  
10 transcript consisting of 48 pages contains a  
11 full, true and correct transcript of said  
12 proceedings held on September 13, 2007, and so  
13 reported by me to the best of my ability on said  
14 date.

15

16 IN WITNESS WHEREOF, I have set my hand and  
17 CSR seal this 18th day of September 2007, in the  
18 City of Eugene, County of Lane, State of Oregon.

19

20

21

22

23 Eleanor G. Knapp, CSR-RPR

24 CSR No. 93-0262

25