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BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

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BRYANT MOUNTAIN PUMPED STORAGE : Docket Number  
HYDROELECTRIC PROJECT : P-13680-001  
- - - - -x

Malin City Park Hall  
2432 Fourth Street  
Malin, Oregon 97632

Tuesday, May 8, 2012

The above-entitled matter came on for scoping meeting, pursuant to notice, at 6:00 p.m., moderators Ray Hansen and Diane Rodman.

## 1 P R O C E E D I N G S

2 MR. HANSEN: Folks, it's a few minutes after  
3 6:00. So to be timely we should go ahead and get started.  
4 We've got a few things to talk about.

5 I want to welcome everybody to the Federal Energy  
6 Regulatory Commission scoping meeting for the proposed  
7 Bryant Mountain Hydroelectric Pumped Storage Project. We  
8 had one earlier today at 9:00 a.m. that we saw a lot of  
9 these faces here.

10 And we're glad that you're back with us tonight.  
11 For the new folks, I'm glad that you came.

12 My name is Ryan Hansen. I'm the team leader for  
13 the licensing of this project, possible licensing of this  
14 project. I'm a fisheries biologist by trade.

15 This is one of our team members here. And I'll  
16 let her introduce herself.

17 MS. RODMAN: I'm Diane Rodman. I'm a terrestrial  
18 biologist. And like Ryan and our court reporter, I'm from  
19 Washington, D.C.

20 MR. HANSEN: And this is Gaynell. He's our court  
21 reporter. And I'll discuss a little bit about him in a  
22 second, why he's here and some of the accommodations we'll  
23 need to make so that all this becomes part of the public  
24 record.

25 So this is just a quick overview of what we're

1 going to do tonight.

2 We'll start with an introduction explaining just  
3 kind of what's going on overall.

4 I'll move on to a process overview where I'll  
5 discuss the licensing process and all the steps that are  
6 coming up just so you understand exactly where this project  
7 is in the process and where it may be going.

8 We'll move on to discuss the purpose of scoping,  
9 while we're here today and what kind of information we're  
10 asking you to provide us.

11 Then I'll turn the floor over to Bryant Mountain  
12 LLC, who is here. And they have a PowerPoint presentation.  
13 They will be describing their proposed project and the  
14 operations for everybody.

15 Following that we'll get into a discussion of the  
16 issues. And this is the majority of the meeting where we'll  
17 discuss all of the resources that could be affected by this  
18 project. And we'll take oral testimony on effects and on  
19 any comments that anybody has here this evening.

20 Then we'll wrap up. And we'll review some  
21 important dates that are upcoming in the future and, you  
22 know, finish off with anything else that we have left.

23 Okay. So basic housekeeping items. We have a  
24 sign-in sheet at the front and at some point if you wouldn't  
25 mind putting your name on that. It helps us to have a

1 record of who attended. It's very useful for us, especially  
2 if you don't speak, so that we know everyone who was here.

3 As I mentioned, this is our court reporter. He's  
4 the fellow with the hardest job in the room. He needs to  
5 get everything that we say tonight on the record.

6 So I'm going to ask everybody before you speak to  
7 state your name and if you have an affiliation, do that as  
8 well before you speak. And please do so every time before  
9 you speak, not just the first time. It gets kind of  
10 annoying, but we need to make certain that every comment is  
11 attributed to the correct person.

12 We're going to have to take a break somewhere in  
13 the middle of this so he can take a rest because that's a  
14 pretty difficult job that he's doing.

15 This morning I powered straight through for about  
16 two and a half hours and I totally forgot he was sitting  
17 there. And I think I almost killed the fellow. And I don't  
18 want to do that again. So we will take a break somewhere in  
19 the middle.

20 And the transcripts of this meeting, of  
21 everything I just said today, will be available on the FERC  
22 website in a couple weeks.

23 I want to mention, there's a couple ways to keep  
24 up with the happenings of this project. The first is  
25 there's an official mailing list for this project.

1           If anyone has received something in the mail from  
2 the Commission concerning this project, that doesn't mean  
3 you are on the mailing list.

4           One of the things that I did was, to make certain  
5 that all of the landowners knew about tonight's meeting, is  
6 I mailed a notice to every one of you personally just so --  
7 because as many of you know, we were here in March to do  
8 this meeting. And unfortunately, our notice never got out  
9 and so nobody came. And we thought no one was interested,  
10 which is not the case. And once we realized that that's not  
11 the case, we came back.

12           So if you received any mailings that doesn't mean  
13 you're currently on the mailing list.

14           If you would like to receive all of the documents  
15 that the Commission issues dealing with this project we can  
16 add you to the mailing list. And the directions on how to  
17 request that is found in the back of this scoping document,  
18 which I have copies for everyone on that table there. And  
19 it's Section 10.0. And it explains how you basically need  
20 to send in a request saying, 'I'd like to be on the mailing  
21 list for this project.' And we'll put you on there and then  
22 things will get mailed directly to your home address.

23           Probably the easiest way to keep up with the  
24 project that I would recommend is that everyone sign up on  
25 our e-Library system, which is found on our FERC [ferc.gov](http://ferc.gov)

1 website. If you go through e-Library you can go through a  
2 service called e-Subscription. And what that will do is  
3 allow you to create a quick free account and you can enter  
4 in this project number, which is P-13680, and subscribe.

5 What that means is anytime anything is filed  
6 concerning this project with the Commission or the  
7 Commission issues anything having to do with this project,  
8 you will get an email with a link telling you that that is  
9 there and you click on the link and review whatever was  
10 filed or issued.

11 If you do e-Subscribe you will definitely be up  
12 to date on what's going on with the project. You'll  
13 probably get way more emails than you really want, but you  
14 won't be left out of the loop at all.

15 So I highly recommend everyone do that. And if  
16 you have any questions, the website has a help desk number  
17 you can call to walk you through the process.

18 Okay. So, as you know, Bryant Mountain LLC is  
19 proposing to send in an application for a license for their  
20 pumped storage project here near town. And they will be  
21 using the Commission's integrated licensing process to do  
22 that. This process is pretty intensive in that there's a  
23 lot of different steps and there's a lot of very rigid time  
24 frames between the steps.

25 The process has a lot of benefits in that it

1 allows for all the stakeholders to get involved right at the  
2 very start, which is where we are now, and carry that  
3 stakeholder involvement throughout the end of the project.  
4 So that basically every step of the way people who are  
5 affected by the project are a part of what is happening.

6 So this is a pretty simplified structure of the  
7 ILP itself.

8 We call it the ILP: the Integrated Licensing  
9 Process.

10 But what starts this is when an applicant sends  
11 to the Commission a notice of intent and a pre-application  
12 document. This is a document that says, 'Here's what we  
13 plan to do and here is what we know about our plans at this  
14 point.' It's a description of everything that they plan on  
15 doing, studies that they would conduct, what the project  
16 would look like, how it would operate.

17 Bryant Mountain LLC sent this in and filed this  
18 with the Commission on December 21st of 2011. Hopefully a  
19 lot of you have seen this document. If you haven't, I can  
20 provide a link for you to find it. But it's a good idea for  
21 you to take a look at it to get an idea of what is being  
22 proposed here.

23 After that, immediately we scoped the project.  
24 And that's the next box. And that's why we're here today.

25 Coming from the scoping process where we discuss

1 the issues, there will be a study plan development phase  
2 where the applicant will devise studies that they will  
3 propose to be doing to provide -- to collect information to  
4 allow them to populate their application that they send to  
5 the Commission so the Commission can do an environmental  
6 analysis of the effects of the proposed project.

7 The studies normally take -- depending on the  
8 complexity of the issues and the availability of data -- one  
9 year to two years. Once all of those data are collected,  
10 they can be filed as an application. And this would be --  
11 and this project would likely be sometime around 2015 if it  
12 were to get that far.

13 And the application would basically be a document  
14 saying, 'Here is the exact proposal of what we want to do.'  
15 And it would include all of the environmental, economic,  
16 cultural -- any sort of data that we would need to review  
17 the effects of the project to decide if a license is  
18 warranted would have to be included in that document.

19 So the phase that the applicant is currently in  
20 is the phase where they are going to collect that  
21 information so that the Commission can do its job and decide  
22 if the project is in the public interest.

23 If that application is complete we will file a  
24 ready for environmental analysis notice. We will prepare an  
25 environmental impact statement for the project, which will

1 have staff's recommendations to the Commission.

2 And then sometime, you know, possibly around  
3 2017, depending on, you know, this proceeding, you know,  
4 there could be an order granting a license.

5 MS. RODMAN: Or denying a license.

6 MR. HANSEN: Or denying a license. It could go  
7 either way.

8 This is a really busy slide. And I apologize.  
9 The reason I want to show it to you is to see -- so you can  
10 see how I talked about how the ILP is a very process-driven  
11 process -- a process-driven process. That's eloquent, isn't  
12 it?

13 But there's a lot of steps. And you can see each  
14 of these boxes is a step. And between each box there's a  
15 number of days that things have to be completed in. And the  
16 reason it's been created this way is so everyone is involved  
17 and everybody knows what's coming next and when things are  
18 due.

19 So I will point out just a couple of dates on  
20 here.

21 The very first box there is the filing of the NOI  
22 and PAD, which I said they had done on December 21st of last  
23 year. The Commission then has sixty days to issue a notice  
24 saying that we've received the NOI and PAD and to issue the  
25 scoping document 1, which is this document here that's on

1 that table. We did that on February 16th.

2 Then you'll see that the Commission has thirty  
3 days to hold scoping meetings, which we are doing in May.  
4 So for those of you who are better at math than I am, this  
5 is much longer than thirty days.

6 What happened was we did have the meetings thirty  
7 days from the issuance of this document, but the notice that  
8 we put in the newspaper did not get run due to a clerical  
9 error on our part. And upon discovering that, we needed to  
10 reset the clock and come back and redo this.

11 So when we were here in March we had a meeting in  
12 Klamath Falls as well with probably eight or nine state and  
13 federal agencies who were e-Subscribed, so they were  
14 familiar with the -- that we were going to be there. So we  
15 did have a productive meeting in March. Unfortunately, we  
16 just didn't get to meet all of you all.

17 Thirty days after this meeting comments on the  
18 scoping document and on the applicant's PAD are due to the  
19 Commission. And that date is June 11th of this year. These  
20 are just comments on -- you've read our scoping document:  
21 we think you've mischaracterized this; we think you should  
22 add this to it; we don't think this analysis is important.

23 We'll kind of get into that here in a minute.

24 But those kind of comments are due June 11th.

25 After that the applicant will have 45 days to

1 file a proposed study plan with the Commission, which is a  
2 plan that says, 'These are the studies that we propose to  
3 conduct to collect the information to create an application  
4 for licensing.'

5 Ninety days after that comments on that are due.  
6 So that date -- I'm skipping a box there -- would be 10/24.  
7 So that's -- when is that? -- October 24th of this year. By  
8 that date comments on that plan are due.

9 And in between the day that that proposed study  
10 plan is filed and when comments are due, we're going to have  
11 a study plan meeting. And after speaking with everyone this  
12 morning, we're going to have it in Malin sometime in late  
13 August. And all of the state and federal agencies will be  
14 there and we certainly invite everyone to come and discuss  
15 these issues with the agencies and what kind of studies that  
16 we think are important and need to be done here.

17 After all of that, the applicant then will have  
18 to file a final study plan with the Commission by 11/23.  
19 And the Commission will determine what studies it needs to  
20 be done to collect all the information we need to do our  
21 job. And that will be done by December 24th -- merry  
22 Christmas to everybody.

23 There's a formal dispute process there, outlined  
24 in yellow, if need be. I can explain that to anyone who's  
25 interested. But if -- basically once the Commission issues

1 a study determination letter, if the applicant doesn't like  
2 it or if the agencies or if anyone doesn't like what the  
3 commission has decided, they can do a dispute. And that can  
4 be -- and that will trigger these boxes here in yellow.

5 And that's pretty complex stuff. I can explain  
6 it to you in further detail later if you would like to know  
7 more about it.

8 The first study season for the project would be  
9 2013. The second one, if it would be needed, would be in  
10 2014. And all of those data would be collected and an  
11 application presented sometime in 2015.

12 So that leads us back to the beginning here, the  
13 scoping process. The reason we are here is because we would  
14 need, if an application were to come before us, we would  
15 need to prepare an environmental impact statement. And in  
16 that we would analyze all the effects this project would  
17 have if it were to be built and operated.

18 So we need to get involved with you all as soon  
19 as possible, as soon as we can. And we need to discuss the  
20 issues. You know, no one is better suited to tell us what  
21 issues are important than the people who live here. So we  
22 get out here as soon as we can to, A, identify the issues  
23 and, B, discuss existing conditions and what information we  
24 know we're going to need before we could accept a license  
25 application.

1           Some of the types of information that we're  
2 talking about that we'd like to get from you all,  
3 information that would help define the geographic and  
4 temporal scope of any analysis we might do. We want to  
5 identify significant environmental analysis that we would --  
6 I'm sorry, significant environmental issues that we would  
7 need to discuss.

8           In the scoping document 1 we have a list of all  
9 of the environmental and social and recreational and  
10 cultural issues that we plan on analyzing in our document.  
11 And we'll go through those one-by-one later in the meeting.

12           So we'll put up every single bullet and we'll ask  
13 everyone from the crowd: Here's what we think is important.  
14 What have we got right; what have we got wrong? And we'll  
15 solicit all of your input on each one later in the meeting.  
16 So we'll get into that more in-depth.

17           We're asking for any data that would help  
18 describe the existing environment and the effects of the  
19 project on other developmental activities on both  
20 environmental and socioeconomic resources. We're asking for  
21 the identification of any federal, state or local resource  
22 plans, or if there are any future project proposals in this  
23 area that we might not be aware of that would have an  
24 effect, a cumulative effect with the effects of this  
25 project.

1           And we're also asking for you to show us any  
2 documentation of why some of the resources that we plan  
3 analyzing are not important, if you feel that's the case.

4           This type of information can either be given  
5 orally today, or if you -- some people like to prepare a  
6 written statement and hand it in to us, which then we can  
7 take that as well. That can be mailed in to the Commission.  
8 The address to mail in your comments is also in this SD-1,  
9 and I can point you to that.

10           But the easiest way would be to file them  
11 electronically. And this is also through that e-Library  
12 service on our website. Once you set up an account you can  
13 file things right there. They arrive at the Commission the  
14 exact same day you file them. And it's really the easiest  
15 way to do it. So we certainly would like you to do that if  
16 you are able.

17           So this document that we're going to discuss in  
18 detail today, and on that pre-application document that  
19 Bryant Mountain LLC filed with us, comments on that are  
20 going to be due June 11th. And that's thirty days from  
21 today. That ended up landing on like a Saturday or  
22 something so we had to push it forward a couple days.  
23 That's why it's not exactly thirty days there.

24           All filings about this project must clearly  
25 identify the project name on the first page so we know

1 exactly what you're referring to. And please always include  
2 this project number, P-13680. The -001 is nice if you put  
3 that on there; if you don't, we'll find it. But the  
4 important part is that you know the project number is P-  
5 13680 and you include it on any filing that you have about  
6 the project.

7 And to repeat, you can file these electronically  
8 or in a letter. And this is that address I spoke about if  
9 you want to send letters in to the Commission. I can point  
10 you out to where this address is in the scoping document so  
11 you don't have to write it down. Just come see me at the  
12 break or at the end.

13 Next, please.

14 Okay. In just a moment -- I'm going to ask  
15 Diane: Do you have anything that I might have glossed over  
16 that you want to add?

17 MS. RODMAN: There is one thing I'd like to  
18 mention -- and you didn't gloss anything over.

19 Please don't send comments to Ryan or me at our  
20 email address. We're not the -- we are working on the  
21 project, but it needs to be sent to the secretary or -- to  
22 be electronically filed through e-Filing. Because when your  
23 comments are put on the internet, Bryant Mountain LLC, all  
24 your neighbors, all the various officials in Oregon and in  
25 Washington will see them.

1                   It's just -- we can offer advice. We can explain  
2 procedures. But official comments should not be emailed to  
3 us -- okay? -- they should be e-Filed to the secretary.  
4 Okay?

5                   If you send them to us there is a little bit of a  
6 hazard that they might get lost. And we don't want that.  
7 Okay?

8                   MR. HANSEN: We are not good stewards of your  
9 comments.

10                  MS. RODMAN: We try, but things --

11                  MR. HANSEN: We read all of them and we consider  
12 them all. But when they come straight to us, it's never the  
13 best idea.

14                  MS. RODMAN: Yeah.

15                  MR. HANSEN: I'd like to turn the floor over to  
16 Bryant Mountain LLC. They have a presentation that they're  
17 going to show their project features and operations and let  
18 you all ask some questions that you might have. And since  
19 they know this project better than anyone, I'm going to turn  
20 the floor over to them now.

21                  Oh. One more thing I didn't mention about the  
22 court reporter is that in addition to saying your name when  
23 you speak, I'm going to ask you to speak into this  
24 microphone. Now as you can probably tell, this microphone  
25 does not amplify your voice. That's not the point. It's

1 just simply it goes straight to his ears so he can  
2 understand what you're saying.

3 So speak loud enough so that everyone in the room  
4 can hear you, and into the microphone so the court reporter  
5 can get what he needs.

6 MR. O'KEEFE: All right. Good morning -- good  
7 evening, ladies and gentlemen. I'm Bart O'Keefe, president  
8 of United Power Corporation. And I'd like to introduce  
9 myself and make a short apology for not being here this  
10 morning. We had a slight mix-up in our scheduling.

11 And also I would like to introduce three staff  
12 members for United Power that are here with me. First is  
13 Ron Adhya.

14 Will you stand up, Ron?

15 He's our chief engineer.

16 Thank you.

17 And then Jason Adams. He's in charge of  
18 environmental work.

19 And George Boxall, he's mapping and helping out  
20 this way.

21 And as you know, I've worked on this for quite  
22 some time. And I hope to be here a while longer. And I'm  
23 doing all I can to help out. And I will describe the  
24 project briefly and ask Ron and Jason to add a little bit.  
25 And then we'll field those questions that we're able to.

1           The first slide I have shows the general layout  
2 of the project. It shows the town of Malin. It shows where  
3 the lower reservoir of the project will be and where the  
4 upper reservoir of the project will be up on Bryant  
5 Mountain.

6           And there will be statistics further on in the  
7 slide show, so I won't go into those now.

8           George, would you show us the next slide?

9           This is the map of the upper reservoir where the  
10 tunnel comes through the mountain way underground from the  
11 lower reservoir and taps into the upper reservoir which  
12 stores water for generation when -- in times of need.

13          Next slide, George, please.

14          This is a map of the lower reservation -- lower  
15 reservoir. This is the one that is most important. And it  
16 shows the lands that will be involved in the lower reservoir  
17 and which impact you people most of all.

18          I should mention that I'm from this part of the  
19 country and I have utmost empathy, I call it. I'd like to  
20 help and do all I can for you and with you. And I feel that  
21 the project is in the best interests of the United States  
22 and the energy picture. So we will try and do everything we  
23 can to help the project along and to help you people cope  
24 with it.

25          So can I see the next slide, George?

1                   This is only a schematic of the -- what we call  
2 the profile of the project. It shows a powerhouse down at  
3 the foot of Bryant Mountain, tunnels under the mountain, and  
4 a breathing apparatus, a surge suppression, and the tap into  
5 the upper reservoir.

6                   To get this on the paper it's skewed a little  
7 bit. It's a little higher than it is normally, so the  
8 proportions are not exactly correct.

9                   Could I see the next slide, George? The next  
10 slide.

11                   And, Ron, would you help out and describe the  
12 statistics of the project for those people that -- can  
13 everybody read the slide adequately?

14                   (No response.)

15                   MR. O'KEEFE: Perhaps you can gloss along over it  
16 if the people don't have -- again, I'm not sure what these  
17 statistics have already been given to you. But hopefully  
18 you have them available to you now and we can go through  
19 them fairly rapidly.

20                   MR. ADHYA: Okay. I'm Ron Adhya. I'm taking  
21 care of the engineering side of United Power and the  
22 situation with Bryant Mountain LLC.

23                   We are talking about the upper reservoir, which  
24 is a large opening. So we are making it larger by using a  
25 dam. And the dam height would be 270 feet at the deepest

1       portion. So 270 feet is the maximum height.

2                   And then it is a rock-filled dam. So it's built  
3 of rocks, rock fills and the center part of the dam will be  
4 clay cord.

5                   The dam length would be 2700 feet. Then we can -  
6 - in the plan view we'll show you where the dam is.

7                   The capacity of the reservoir would be 30,000  
8 acre-feet. And the elevation of the reservoir is 5500 feet.  
9 And the surface area of the water would be 475 acres.

10                  Next.

11                  Then the -- we have two tunnels going into the  
12 system. One, this low pressure tunnel is from the lower dam  
13 to the shaft. And then that would be 2900 feet, and the  
14 diameter will be 32 feet.

15                  MR. HANSEN: Are you all going to plan on coming  
16 back to the lower reservoir slide?

17                  MR. ADHYA: Yes.

18                  MR. HANSEN: Okay. Just making sure.

19                  MR. ADHYA: And the capacity of that tunnel will  
20 be 15,000 cfs.

21                  So, George, can I view the drawing so we can see  
22 what the lower reservoir number is?

23                  Okay.

24                  Mr. O'KEEFE: Go back one more slide.

25                  MR. ADHYA: One more slide.

1                   So we just described -- yeah, I think this is the  
2 better one.

3                   Well, actually, where did you put the profile so  
4 I can show which one is upper and which is lower?

5                   So you can see that this has a high pressure  
6 because you are getting the pressure from this level all the  
7 way to that level. So we are talking about one is high  
8 pressure tunnel from here to there; a low pressure tunnel  
9 from here to there.

10                  So that's what we're talking about. So --

11                  MR. HANSEN: Sir, are you just going to back up  
12 to the slide power?

13                  MR. ADHYA: Okay.

14                  MR. HANSEN: The reason I ask is because there  
15 was a lot of discussion this morning about this particular  
16 dam. And I think folks would like to --

17                  MR. ADHYA: The upper dam?

18                  MR. HANSEN: No, sir. The dam on the lower  
19 reservoir.

20                  MR. ADHYA: Yeah. Okay.

21                  MR. HANSEN: No, no, no. The stats, the  
22 statistics. We had an upper reservoir statistics slide and  
23 then --

24                  MR. O'KEEFE: We accidentally skipped that.

25                  MR. HANSEN: Yeah. I just want to make certain

1 that we go back to it because there was a lot of discussion

2 --

3 MR. ADHYA: Yeah.

4 MR. HANSEN: -- about this one this morning.

5 Okay.

6 MR. ADHYA: Okay.

7 So the lower reservoir, we are talking about a  
8 maximum height of the dam would be 110 feet. The dam length  
9 would be 13,800 feet. And this is again the same kind of  
10 dam we're talking about, a rock filled dam to the central  
11 clay cord. The reservoir will be 30,000 acre-feet. The  
12 surface area of the reservoir is 590 acres. And the surface  
13 elevation is 4000 feet.

14 So basically you are talking, the upper reservoir  
15 is 5500-something; the lower reservoir would be 4,210 feet.

16 The next--

17 So the low pressure tunnel we just talked about  
18 would be 32 feet in diameter tunnel 2900 feet long. The  
19 capacity will be 15,000 cfs.

20 Next.

21 And the power tunnel, the power tunnel the same  
22 thing except the length would be 3800 feet.

23 Next.

24 The shaft is -- between the lower and high  
25 pressure tunnel you have a shaft, particle shaft for

1 ventilation purpose. And that shaft would be thirty feet in  
2 diameter and 50,000 cfs flow. So just to keep the pressure  
3 at equilibrium. That's what their trying to do.

4 The power shaft is another shaft just like  
5 extension of the surge shaft.

6 Next one.

7 Do you want to talk about that or --

8 MR. O'KEEFE: Yes.

9 I'd be glad to talk about it. As is obvious from  
10 the slide, there's five generators. We originally started  
11 with four. And then wind power came in; renewables came  
12 into the picture. And how to accommodate the renewables and  
13 the wind power. We've tried several things. And finally  
14 the best thing to do was to add another turbine generator to  
15 it.

16 And we have first the standard reversible three  
17 units, and then the variable speed two units. The variable  
18 speed is a new edition where the -- instead of the rotator  
19 turning while the electrical field turns -- it's the very  
20 latest thing. And the total capacity of the powerhouse is  
21 in 1250 -- 12,000 -- excuse me. Let me start again. 1250 -  
22 - 250 megawatts. Head, 1290 feet; length 325 feet with 100  
23 feet.

24 Next.

25 I think the power line, to connect onto it, is

1       500,000 volts. The length we called is four miles. We're  
2       still not certain yet where the alignments will be. An  
3       access road follows the existing road up to the upper  
4       reservoir, 4.7 miles.

5               Next slide.

6               Here, Ron, I hate to turn it back over to you.  
7       But these are -- Ron's the expert on these numbers. So I'd  
8       like him to talk about it a bit if you don't mind.

9               MR. ADHYA: Okay. Well, they're talking about as  
10       much as --

11               UNIDENTIFIED PARTICIPANT: Would you stand up,  
12       please?

13               MR. ADHYA: We have 1250 megawatts per hour of  
14       production. And in 24 hours you would produce 30,000  
15       megawatts. Then if we have a monthly production of six  
16       hours per day, then we are talking about 20-, 25,000  
17       megawatts.

18               So annual production at the rate of six hours per  
19       day comes to 2.7 million megawatts.

20               Basically all we are talking about, how much  
21       power you can produce using those five units.

22               MR. O'KEEFE: Ron, I might suggest that many  
23       people don't comprehend the megawatt. But megawatt will at  
24       least supply a million houses, is that correct?

25               MR. ADHYA: One megawatt is 1000 kilowatts.

1 MR. O'KEEFE: Yeah.

2 MR. ADHYA: So it can supply 1000 homes.

3 MR. O'KEEFE: Oh. Okay.

4 MR. ADHYA: Yes, buildings per hour.

5 MR. O'KEEFE: Okay.

6 UNIDENTIFIED PARTICIPANT: Not in Malin.

7 (Laughter)

8 MR. ADHYA: No. We are talking about --

9 UNIDENTIFIED PARTICIPANT: Southern California is  
10 what you're talking about. (laughter.)

11 MR. ADHYA: Well, wherever the line goes.

12 MR. O'KEEFE: Yeah. Yeah.

13 MR. ADHYA: It's a transmission thing.

14 UNIDENTIFIED PARTICIPANT: This is what it  
15 produces. But what does it take to produce this?

16 MR. HANSEN: Mr. Adhya, pass him the microphone  
17 and let him state the question into the mike, please.

18 MS. RODMAN: Yeah. And identify yourself,  
19 please.

20 COURT REPORTER: Thank you.

21 MR. STASTNY: My name is Ed Stastny. I'm a land-  
22 owner and president of the Malin Irrigation District.

23 My question is: This is what you produce when  
24 you drop the water down.

25 MR. O'KEEFE: Yeah.

1                   MR. STASTNY: How much power did it take to get  
2 the water up?

3                   MR. O'KEEFE: Yes, of course there's losses in  
4 the pumping and in the water turbulence and all this sort of  
5 thing. And so the difference we use is 28 percent. So it  
6 takes 28 percent more power to pump the water up than we get  
7 back out of it.

8                   The difference being that we use what's called  
9 low power, low priority, low price electrical power to do  
10 the pumping with. This occurs when there's excess wind,  
11 when there's nighttime, midnight to six o'clock in the  
12 morning when the electricity would not be used for other  
13 reasons, we use it for pumping.

14                   But quantity-wise, it takes more.

15                   MR. STASTNY: You know, that's what's offensive  
16 to me is that you talk about this as being reduced power.  
17 But in my mind it isn't. We're net power lower than we were  
18 when you came to your system.

19                   And so when you talk so strongly about energy  
20 being produced, that's what doesn't set well with me.

21                   MR. ADHYA: It comes down.

22                   MR. O'KEEFE: It is true. But we would hope and  
23 use pumping power as power that would not otherwise be  
24 utilized. I'm talking about excess wind; I'm talking about  
25 midnight until six o'clock in the morning and this sort of

1 thing.

2 I like to call it low quality power because  
3 there's really nothing else for it to do.

4 MR. CLARK: Richard Clark, landowner.

5 Okay. You're going to use it when the wind's  
6 blowing. What if the wind doesn't blow. Then you said you  
7 was going to use it on the off-hours.

8 MR. O'KEEFE: Yes, we would use it --

9 MR. CLARK: -- the off hours.

10 MR. O'KEEFE: We would use it when excess power  
11 is available off-hours. And wind and solar are just  
12 examples of this. I'm not.

13 MR. CLARK: So it's not guaranteed when you could  
14 pump.

15 MR. O'KEEFE: Not really, no. That's why we have  
16 a larger reservoir than most -- than many pumped storage  
17 units do.

18 MR. ADHYA: I think one thing I'd like to mention  
19 is pumped storage basically has the advantage of the pricing  
20 structure of the pump. So when you are pumping back up your  
21 price per megawatt is much less than when it comes down.  
22 You know, any pumped storage, that's the way it works.

23 MR. O'KEEFE: Can we have the next slide, George?

24 Okay. The next segment of our presentation will  
25 be from Jason Adams. He addresses environmental issues and

1 this sort of thing.

2 MR. ADAMS: Jason Adams. I'm with a company  
3 called Amnis Opus Institute, which is in Bend, Oregon.

4 And this is George Boxall, also from the Amnis  
5 Opus Institute. He's going to go over some of the slides  
6 that we have for you.

7 The sort of impacts that we will address in our  
8 environmental assessment through the study plan are going to  
9 include cultural resources, Tribal resources, and  
10 socioeconomic resources.

11 Next slide.

12 We're also going to look at -- well, an  
13 engineering firm will address geotechnical resources and  
14 surface hydrology. We will handle botanical issues,  
15 wildlife habitat, water quality. I think cultural resources  
16 might have been on the last one, but we'll address that as  
17 well.

18 And then George has prepared a number of maps  
19 that give a broad generalization of some of these variables.  
20 And I'm going to let him explain those. And if there's any  
21 questions, feel free to hop on in and ask.

22 MR. BOXALL: George Boxall from Amnis Opus.

23 So these boundaries are not exact. They're kind  
24 of roughed in. At one point they were considering other  
25 sites for the upper reservoir, but that's no longer the

1 case. So this is basically the upper reservoir.

2 This is the air flow with some elevation  
3 underneath it. And this is the rough location for the lower  
4 reservoir.

5 This is D canal we'll take some of the water from  
6 to fill the reservoirs. And this is basically where the  
7 tunnel's going to go, underground tunnel.

8 This is Malin. And this is Malin substation.

9 And this is the current access road. And here  
10 you can sort of see the current size of the reservoir.

11 So this is basically a really coarse land use  
12 map. So in the yellow it's crop, agricultural, forest land.  
13 This is the town, the canal. The substations, these black  
14 lines are the power lines. This will be moved once the  
15 reservoir gets put in place, if it does.

16 So this is the upper reservoir location roughly,  
17 and this is the lower.

18 So here's again coarse geology. The purple is  
19 generally clay or mud. The green is some historic plan  
20 slide areas are in less stable areas. The rest is basically  
21 basalt. And there's some sandstone in this north part here.

22 It's a pretty coarse geology.

23 These are known fault lines in the area. So this  
24 is the previous kind of picture you saw before was this cut-  
25 out. This is a bigger image of the greater area. And these

1 red lines are known fault locations.

2 And this is all there from the USGS, for the most  
3 part.

4 So this shows the elevation, with the blue being  
5 lower elevation and the red being higher elevation. So you  
6 kind of see the drop between the upper and the lower  
7 reservoir. And it's relatively flat down here, as you guys  
8 all know.

9 And these are U.S. Fish & Wildlife identified  
10 wetland areas. So there's a variety of types. There's a  
11 shrub emergent pond lake and other types all together. So  
12 basically it would impact these wetlands around the current  
13 Pope Reservoir. They would be flooded so they would be  
14 lost. And a tiny bit of wetlands down below, below the  
15 reservoir.

16 And most of the impacts to wetlands would be in  
17 this one area. And these two are not currently being  
18 considered.

19 Do you have any questions about those maps?  
20 These should be -- I think they're part of the PAD document  
21 if you want to look at them. And these may be a little bit  
22 off, you know, but not much off. But fairly close.

23 MR. O'KEEFE: Okay. That concludes the Bryant  
24 Mountain LLC portion. And we will field other questions as  
25 Ryan dictates to us.

1 MR. HANSEN: Yeah.

2 I think right now would be a good time to field  
3 questions on project operations. If people don't understand  
4 how things are going to be laid out or how it's going to  
5 work, I think now would be the best time.

6 So if you have questions on how the project is  
7 going to be operated or the features that would be built,  
8 let's take those questions now.

9 Yes.

10 MR. GRAHAM: My name is Bill Graham, affected  
11 landowner.

12 I notice you have a -- your power line tying into  
13 it looks like the third AC line, the 500 kV line. Any idea  
14 just where you're going to have that located? It's got to  
15 be a transformer or whatever the tie-in is going to be.

16 MR. O'KEEFE: I don't quite follow what you're  
17 talking about.

18 But we are looking at a third alternative, if you  
19 will, separate and somewhat distinct, but part of the Bryant  
20 Mountain project. That's a long distance DC high voltage  
21 line from Bryant Mountain to Las Vegas. And that'll open an  
22 entirely new market for us in southwestern United States.

23 MR. HANSEN: Are you asking him about the  
24 relocation?

25 MR. GRAHAM: The location of the tie-in.

1                   MR. ADHYA: He's asking for where the lines, the  
2 transmission lines will be located.

3                   MR. O'KEEFE: I have to say that we will hire  
4 electrical engineers who will advise us because I can't --  
5 I'm not going to avoid the question. Maybe we can clarify  
6 it a little bit. But we're not really firm on this yet.

7                   Will you ask another question? I'm not avoiding  
8 it; I'm just -- I don't know where it's going to go yet.

9                   MR. GRAHAM: You mentioned in the future perhaps  
10 a DC line coming from this project to Las Vegas.

11                   MR. O'KEEFE: Yes.

12                   MR. GRAHAM: Is that going to be in addition to  
13 your tie-in into the AC system?

14                   MR. O'KEEFE: We will see which is most  
15 advantageous to all the stakeholders combined. If we're  
16 told that there should be a connector and a tie-in to the  
17 existing line, we'll do that. And we will go ahead and  
18 pursue the DC line if we want to do that.

19                   Again, I'm trying to be clear. But we'll do some  
20 studies on the DC line with experts on high voltage. And  
21 the next meeting we'll have a better answer for you.

22                   MR. GRAHAM: So there's a possibility of two more  
23 lines coming out of this project, an AC and a DC, or one or  
24 the other?

25                   MR. O'KEEFE: Yes. Yes, an AC and a DC.

1                   MR. GRAHAM: In addition to the Swan Lake line  
2 that's coming down through there. So that's three more --  
3 possibly three more power lines coming down through on this  
4 side of the existing lines.

5                   MR. O'KEEFE: I can't speak to Swan Lake because  
6 I'm not sure what their plans are. I'm not privy to that  
7 part of it.

8                   MR. GRAHAM: You should check it out.

9                   MR. O'KEEFE: Okay.

10                  MR. CLARK: Richard Clark, landowner.

11                  That pipe coming from the D Canal, is that going  
12 to be aboveground?

13                  MR. O'KEEFE: No. That answer -- We haven't  
14 addressed that too much. We will get required right-of-ways  
15 from the landowners. And traditionally it would be well  
16 below farming land, farming range, maybe four or five feet  
17 underground.

18                  MR. CLARK: And what size pump is going to the  
19 pump house at the canal.

20                  MR. O'KEEFE: You're taxing my memory maybe eight  
21 or ten years. But I think it was 250 horsepower.

22                  MR. CLARK: And so how often is that going to  
23 have to run?

24                  MR. O'KEEFE: It depends on our agreements with  
25 the water users.

1                   When I talked about this years back we reached  
2                   the conclusion that winter months, no water; summer peak  
3                   months, no water. We may be able to get some water what  
4                   they call the shoulder months, spring, March and April and  
5                   maybe September, October, when the water was available for  
6                   non-farming purposes.

7                   MR. MC KINLEY: Stan McKinley, affected  
8                   landowner.

9                   You're going to put a 110 foot berm half a mile  
10                  from my house. Right? That's what you just told me. Now  
11                  you're going to tell me that you're going to run a pump from  
12                  midnight to six o'clock in the morning. What's going to be  
13                  the ambient decibel increase in the area?

14                 MR. O'KEEFE: I don't know the answer to that.

15                 MR. MC KINLEY: Well, you haven't answered a  
16                  whole lot of things yet.

17                 MR. O'KEEFE: Well, we're just getting started on  
18                  it, sir.

19                 MR. MC KINLEY: That's going to be a lot of  
20                  noise. We're already -- they just put gas pipelines near  
21                  our house. We're not dumb hicks here.

22                 MR. O'KEEFE: Well, I'm not avoiding anything.  
23                  But there's a lot of studies yet to be done. And if you  
24                  would comment on this we would appreciate it and we will  
25                  refer it to the proper authorities and get you a decibel

1 number and this sort of thing.

2 I'm not avoiding it. I just don't know the  
3 answer. And as you commented on it, we will answer the  
4 question as the FERC directs.

5 So again -- don't get me wrong: I'm not trying  
6 to avoid anything, because all these questions have to be  
7 answered.

8 MR. HANSEN: Well, if that does it for  
9 operational kind of questions -- Oh. Yes, sir.

10 MR. BAGG: Lawrence Bagg.

11 Mr. O'Keefe.

12 MR. O'KEEFE: Yes.

13 MR. BAGG: This morning at the meeting that we  
14 had here we were told there is no water available. And what  
15 is your proposal if there is no water.

16 MR. O'KEEFE: If there's no water, there's no  
17 project. How's that? Because we can't run it without  
18 water.

19 MR. STURM: Mr. O'Keefe, Les Sturm. I am the  
20 biggest landowner in this project.

21 How are you going to do this with no land? If we  
22 aren't willing to sell the land, which we told you --

23 MR. O'KEEFE: Yes. We had a meeting last  
24 December -- a cordial meeting, I appreciated it.

25 And we're going to work over the next two or

1 three years and find a proper solution that's best for the  
2 landowners. And, well, hopefully best for the project also.

3 So I'm not going -- we talked about eminent  
4 domain. I'm not in favor of eminent domain. We're going to  
5 make a package -- call it that -- for each landowner. We're  
6 going to talk with them; negotiate with them. See what his  
7 hopes and problems are. And hopefully we can put together a  
8 package that will be satisfactory to them.

9 MR. STURM: You can't make a big enough package  
10 to satisfy me. I can tell you right now.

11 MR. O'KEEFE: Well, all right.

12 MR. STERM: I'll save you a lot of lot of money  
13 by just stopping because the property's not for sale.  
14 Without my property the project will not go anywhere.

15 MR. O'KEEFE: I appreciate your comments, yes.

16 MR. STURM: And I'm going to ask you point blank:  
17 Do you plan on using the eminent domain?

18 MR. O'KEEFE: My point blank answer is no.

19 MR. STURM: Okay. Then the property is never  
20 going to be available. So I can save you a ton of money  
21 right now if you just stop this because I don't intend to  
22 sell ever, ever, ever.

23 MR. O'KEEFE: Okay. I appreciate your comments -  
24 -

25 MR. STURM: I'm not changing my mind. I don't

1 care --

2 MR. O'KEEFE: Well, I appreciate that. I'm here  
3 to listen to you.

4 MR. STURM: I can save you a ton of money right  
5 now. Just drop this thing because I will not be agreeable  
6 to selling at any price, any time.

7 MR. O'KEEFE: Okay.

8 MR. STURM: That's final. Thank you.

9 MR. HARTMAN: Thank you. My name is Harold  
10 Hartman. I'm a landowner and a resource consultant in the  
11 basin here.

12 I've got a whole list of things that I would be  
13 happy to supply to you.

14 MR. HANSEN: Sure.

15 MR. HARTMAN: And I will.

16 MR. HANSEN: Yes, sir. Please do.

17 MR. HARTMAN: But I have a question for you. Are  
18 you taking comments now about operations? Do you want  
19 comments about the feasibility or not?

20 MR. HANSEN: During this meeting, yes, comments  
21 on all of that. Yes.

22 I thought that after we have seen this  
23 presentation we're going to discuss effects on the various  
24 resource issues, which kind of get at feasibility issues,  
25 water availability issues, things of that nature.

1                   MR. HARTMAN: So do you want to wait until you  
2 get to that part of your meeting?

3                   MR. HANSEN: Yeah. I think that's going to be  
4 about, you know, five to ten minutes from now.

5                   And I think, yeah, once we finish up on  
6 operational questions -- don't worry, all of those topics  
7 are going to be part of this meeting. So yes, sir.

8                   MR. HARTMAN: Okay. I'll wait until then.

9                   MR. HANSEN: Okay.

10                  MS. TERRY: I'm Penny Terry. And I live very  
11 close to where this project is going to go in. And I just  
12 would like to know why here. Why are you doing this here?

13                  MR. O'KEEFE: I have been in pumped storage all  
14 my life, 40 years, if you will. And I started looking for a  
15 project in the '80s. I looked at maybe 40 different sites.  
16 And each one of them has a check list. And each one of them  
17 loses ground.

18                  And four or five years ago, well, the Bryant  
19 Mountain project is the best one on the West Coast.

20                  MS. TERRY: Well, I'll say this to you here:  
21 That I may not be one of these poor people looking at  
22 possible devastation of their land. But I will be standing  
23 with them and doing everything possible to stop this  
24 project.

25                  It isn't a good -- I don't see how you're going

1 to get the water to do this, actually. I mean it's just not  
2 -- it's a ridiculous idea. You're not going to have enough  
3 water to do this. These people don't have enough water to  
4 have their farms.

5 So I'm just letting you know that more and more  
6 people are going to learn about this. We don't want this  
7 here. So you should know right now it's not going to be  
8 easy.

9 MR. BAILEY: My name's Jim Bailey. I'm a  
10 landowner right below this project.

11 I seen the map that you had there of the fault  
12 lines, the three red stripes that came right up below the  
13 reservoir. Is that a wise decision to build a giant  
14 reservoir on top of fault lines that one earthquake could  
15 blow completely out of whack?

16 MR. O'KEEFE: George, do you want to talk about  
17 this or do you want me to talk about it?

18 MR. BAILEY: I didn't think you knew the answer  
19 anyway.

20 (Laughter.)

21 MR. BOXALL: Once we do the geotechnical work we  
22 can tell if it's possible with that soil and ground. It's  
23 to be determined with future studies.

24 MR. KENYON: My name is Mike Kenyon.

25 One of the points that was brought out this

1 morning is that the dam that you're going to build on the  
2 lower reservoir is long and high. And the point was made  
3 that there was a -- now correct me if I'm wrong -- it was a  
4 90 year -- or how many years did you say?

5 UNIDENTIFIED PARTICIPANT: 100.

6 MR. KENYON: A 100 year, you know, be able to  
7 stand for 100 years. I think that's what they said.

8 But then the other point that was made is that  
9 this is loaded and unloaded daily. So that the really  
10 actual -- the life of this dam would be possibly 90 days.

11 Can you respond to that?

12 MR. O'KEEFE: Yes. Having spent a good time of  
13 my life in dam safety, I feel secure with it. And the other  
14 side of the coin is -- wait a minute. Let me finish.

15 MR. KENYON: You don't live on the bottom inside  
16 of this dam. And if -- I mean is that a point of concern,  
17 that the dam that's supposed to last 100 years, because of  
18 the continual loading and unloading of the water in there  
19 will have its life span shortened?

20 MR. O'KEEFE: I had never heard of that before.  
21 This is a new concept as far as I'm concerned, that loading  
22 and unloading a dam will shorten the life of it.

23 What I would ask you to do is put this in your  
24 comments and we will have experts who do this work respond  
25 to it.

1 MR. KENYON: And then I have one more concept.

2 Have you talked to the Bureau of Reclamation or  
3 the Fish & Wildlife or any of the other what they call  
4 stakeholders, or the people that are involved in the use of  
5 the water and if they would -- I mean is there -- because  
6 really, quite honestly, from the community that we live in,  
7 there is no more water.

8 MR. O'KEEFE: Yes.

9 MR. KENYON: This water is already called for,  
10 taken.

11 You know, I read there one place that you said  
12 you could get groundwater out of, you know -- which is --  
13 it's kind of questionable considering the aquifers that we  
14 live in. And I just wondered if you have had any  
15 conversations with any of the Bureau of Reclamation or any  
16 of those as concerning the use of this water.

17 MR. O'KEEFE: The short answer is no. The longer  
18 answer is that we just initiated this study, oh, six months  
19 ago. And this is our first step. And the other step will  
20 be comments from other agencies, including the bureau --

21 MR. KENYON: Wouldn't it have been a -- I mean  
22 since this runs on water, wouldn't that have been the first  
23 question that you should ask it: rather than where it's  
24 going to be, but if there was going to be adequate water to  
25 use there?

1                   MR. O'KEEFE: Oh, we want to address that  
2 question by the experts as the study moves along. We had to  
3 address where it was going to be first.

4                   And we appreciate your comments. And we hope  
5 that you send them in and we will have --

6                   MR. KENYON: I've already got them registered.

7                   MR. O'KEEFE: Okay. That's fine. We'll address  
8 them as they come forward.

9                   MR. HANSEN: Okay. Let's move along and discuss  
10 the individual resource areas that the Commission has  
11 identified as things that could be affected by this proposed  
12 project.

13                   As we go along these various resource issues you  
14 will notice that some of these same things keep popping up  
15 and so we can get more in-depth into some of them. And I'll  
16 welcome more comments on them, as Mr. Hartman had asked  
17 about.

18                   Now the resource issues in our scoping document 1  
19 are in Section 4.2, pages 15 through 17. And I have them up  
20 here by resource type. And we'll just go through one by  
21 one.

22                   And what we'll be doing for each one is I'll be  
23 asking -- I'll be reading to you what the Commission has  
24 identified as issues that we think would be important to  
25 analyze in an environmental document. So if we were to

1 analyze the effects of this project, these are things that  
2 we think are important.

3 But since we don't live around here and we are  
4 not as familiar with all of this, we need you all to help  
5 us, to tell us what we've done right, what we've done wrong.

6 This morning we got a number of great suggestions  
7 of things that we had overlooked that we're going to be  
8 including in the revision to this document, which will be  
9 called scoping document 2, which will be coming out soon.  
10 And I expect fully to get more suggestions tonight that will  
11 lead to new bullets for our scoping document 2.

12 But we'll start with the first one, which is a  
13 discussion of resources -- the geology and soils resources.

14 Jason, if you don't mind.

15 You'll notice that these bullets are really  
16 vague. And they are intended to be catch-all because we  
17 don't -- we want to make certain that any possible effects  
18 that could be attributed to the project are discussed in the  
19 environmental document. So that's why if the bullets look  
20 vague to you, they are done so purposefully.

21 But we figured in our environmental impact  
22 statement we would need to address the effects of project  
23 construction, filling and operation on geology and soil  
24 resources both inside the project boundary which is that  
25 first bullet there, as well as the effects of all of these

1 things on soil erosion and sedimentation outside the project  
2 area -- outside the project boundary just in the general  
3 basin itself.

4 So these, like I said, are pretty vague, but what  
5 we think that we would need to look at. And then look at  
6 these things and analyze what this project would do to these  
7 resources.

8 Does anybody have any input on geological or soil  
9 resources that they want to let us know about? Or if you  
10 have questions about exactly what these bullets mean, you  
11 know, we can do that as well.

12 This is simply our very first attempt to identify  
13 what issues are important. So there's going to be a lot of  
14 issues to present that are more important than others, and  
15 some less.

16 But I want to ask if anyone has any input or  
17 questions on geology and soils issues in this area.

18 (No response.)

19 MR. HANSEN: Fair enough. That's never a very  
20 popular one.

21 (Laughter.)

22 MR. HANSEN: The next one, however, is a very  
23 popular one. So we're going to get right into that.

24 This is one of the big issues associated with  
25 this project, as we've already talked about a little bit.

1 And so we'll jump right in.

2 These are the water-related issues that the  
3 Commission staff thought would need to be analyzed before we  
4 could make any sort of decision on the project: The effects  
5 of the project construction and operation on water quality  
6 in both reservoirs of the project, and in Newells Creek.  
7 And that would include temperature, dissolved oxygen, pH,  
8 turbidity, and other state water quality standards.

9 The effects of project operation on the possible  
10 presence of toxic cyanobacteria in the reservoirs.

11 The effects of the initial fill of the project  
12 reservoirs on other surface water uses in the basin.

13 And this is the bullet that gets at the idea of  
14 water availability. And if 30,000 acre-feet of water were  
15 to be diverted from the D canal into these reservoirs, what  
16 effect would that have on other uses, be them agricultural,  
17 be them water supply, be them anything else that water  
18 around here would be used for.

19 UNIDENTIFIED PARTICIPANT: Which bullet point is  
20 that?

21 MR. HANSEN: That is the third one, sir, effects  
22 of initial fill of project reservoirs on other surface water  
23 uses in the basin.

24 So this is a small bullet with a lot of serious  
25 issues behind it. So I think you want to speak to that.

1 MR. HARTMAN: My name is Harold Hartman.

2 MR. HANSEN: Yes, sir.

3 MR. HARTMAN: And I just have a comment for you.

4 Instead of these bullet points of effects, I  
5 believe your first bullet point should be availability. And  
6 the answer is there is no water. There is no surface water.

7 You can't take it at the end of the season  
8 because that affects wildlife. Okay? And that's a very big  
9 aspect to the total use of the water. The 35,000 acre-feet  
10 that you're talking about is one-tenth of the total water  
11 the entire 200,000 acres of the project uses. It is not  
12 available.

13 Groundwater is not available in this area. It's  
14 been designated as a critical groundwater area. It cannot  
15 be devoted to this purpose. There's a process by which you  
16 can change the use of the water.

17 I believe that process will not grant water to be  
18 used for this purpose because the groundwater wells that are  
19 capable of doing any in-filling are agricultural wells. And  
20 this is not agriculture.

21 MR. HANSEN: Correct.

22 MR. HARTMAN: So it would seem to me that your  
23 first bullet point for water resources should be  
24 availability.

25 MR. HANSEN: Okay.

1                   MR. HARTMAN:  When the answer is no, don't waste  
2                   the effort analyzing all the rest of the thing.  It doesn't  
3                   make sense.

4                   MR. HANSEN:  Yes, sir.

5                   I will say a couple of things.  The order of the  
6                   bullets was never intended to list their importance.  I will  
7                   say that.

8                   The second thing is that the Commission can issue  
9                   a license to an applicant without them having obtained the  
10                  water rights to operate their project.  Then it would be up  
11                  to an applicant -- at that point in time it would be a  
12                  licensee -- to obtain that water through their dealings with  
13                  the current users.  And if they were not able to obtain  
14                  those waters they would have to surrender their license.

15                  So I understand.  And I've heard from a number of  
16                  resource agencies here in the state and from all of the  
17                  water users that have been present today that the water does  
18                  not seem to be at all available.  And that factors into the  
19                  Commission's decision.

20                  With that said, that doesn't bar the applicant  
21                  from attempting to work something out with people that do  
22                  have water.  So that's why we have to continue the process  
23                  at this point.

24                  MR. HARTMAN:  And the end result of this process  
25                  -- at Christmas perhaps -- is it possible that the

1 Commission will agree with everybody except for the  
2 proposers that it's not feasible and it's not going to  
3 happen.

4 The water issue is one that would seem to  
5 indicate an ending of the project. The availability of land  
6 is another one. It's not available.

7 MR. HANSEN: Understood.

8 MR. HARTMAN: How can the project go on.

9 MR. HANSEN: Understood.

10 MR. HARTMAN: So it would seem to me -- and I  
11 don't know if this is true; I've been to FERC a number of  
12 times, but I'm not sure. Can you say, 'Sorry, Mr. Proposer,  
13 this is not feasible. You cannot -- don't waste any more  
14 money,' -- you're not going to tell him not to waste money.

15 But it would seem that we wouldn't waste any more  
16 tax dollars analyzing this stuff when we already know it  
17 can't happen.

18 So is there a time that you would say, 'No, we're  
19 not going to issue this permit.'

20 MR. HANSEN: Yes, sir. And that would be when  
21 the Commission decides to grant or deny a license. And for  
22 the Commission to make that decision we have to go through  
23 this process.

24 MR. HARTMAN: And they have to go through all  
25 these studies.

1 MR. HANSEN: Yes, sir.

2 All of this information has to be provided so the  
3 Commission can say, you know, 'We've heard that water wasn't  
4 available, but we went ahead and we required them to collect  
5 all the information in the area on what water was available.  
6 We had them drill groundwater wells, you know, and we  
7 collected everything. And now that we have all the  
8 information in front of us -- not just what, you know, we  
9 think is the case -- we can clearly make the decision that  
10 we cannot issue this license.'

11 Now that's a Commission decision. And we  
12 recommend things to the Commission. That's what we do. So  
13 it would be at that point when the Commission would halt the  
14 project if it was unfeasible and therefore not in the public  
15 interest, which is the basis the Commission makes their  
16 decisions on.

17 MR. HARTMAN: Many of these studies -- and this  
18 gets outside just the bullet points for water resources a  
19 minute -- many of these studies will require onsite  
20 analysis.

21 MR. HANSEN: Yes, sir.

22 MR. HARTMAN: Is that correct?

23 MR. HANSEN: Every one of them.

24 MR. HARTMAN: So if they can't get on the land to  
25 do the onsite, how do they proceed?

1                   They can't answer that. We've asked them that  
2 many, many times. They won't answer.

3                   MR. HANSEN: Yes, sir. That came up this  
4 morning.

5                   The Commission will require the applicants to  
6 perform studies. A number of them could include onsite  
7 studies.

8                   If landowners are not willing to grant the  
9 applicant access to their land then the applicant cannot do  
10 those studies.

11                  MR. HARTMAN: Thank you.

12                  MR. BYRNE: My name is Mike Byrne.

13                  Just to put the water in another perspective,  
14 this year we have a full lake and we have over 100 percent  
15 snowpack. We've already filled out our land idling  
16 applications and are pumping our private wells to augment  
17 the project.

18                  Right now they've said we won't idle anything but  
19 the Klamath Water and Power Association has deferred to  
20 later months for our applications to idle our land. And  
21 that's with a full lake and over 100 percent snowpack.

22                  And the idea that there are shoulder months that  
23 we can have available water, that's our water that we fill  
24 the lake for the next year with. We're not going to give  
25 away the water that's going to take our future for the next

1 year.

2                   At the same time, we have all these biological  
3 opinions from the sucker and the salmon, which are  
4 competing, which say when the lake reaches a certain level  
5 it has to go down the river. It doesn't go to a commercial  
6 project.

7                   This has already been settled by the courts and  
8 it's settled in the law. And there's no way this can go  
9 ahead.

10                   MR. HANSEN: Thank you for that.

11                   I'm not trying to curtail the discussion on this  
12 bullet here. I think we still have some more comments on  
13 that.

14                   I did want to mention that also the last bullet  
15 here on our list that I know is important, that we would  
16 also be discussing the effects of using the groundwater as  
17 makeup water. Because the applicant has proposed that on an  
18 annual basis there will be a certain amount of water that  
19 will evaporate from these reservoirs that will need to be  
20 made up, and the current proposal is to use groundwater to  
21 do so.

22                   So we will be looking at the effects on the  
23 aquifers themselves on that sort of pumping, as well as  
24 seepage from these reservoirs into the aquifers and vice  
25 versa.

1 MR. STURM: I'm Les Sturm.

2 The Oregon Water Resources will not let you use  
3 groundwater wells that are dedicated for agriculture to pump  
4 into a Bryant Mountain pumped system that he wants to do.

5 MR. HANSEN: We actually have a representative  
6 with us tonight who can talk about that issue.

7 MR. STURM: Good.

8 MS. GRAINEY: Good evening. My name is Mary  
9 Grainey, and I'm with the Oregon Water Resources Department.  
10 And Jerry Grondon and I were here last March when FERC came  
11 for a meeting. And I made some comments to them at that  
12 time which I'll repeat just a little bit so that you guys  
13 know where we're coming from.

14 And basically kind of in cooperation with FERC,  
15 normally -- and in this case, too -- Water Resources is the  
16 one that decides on water availability. But we will be  
17 making formal comments to FERC so that they understand how  
18 stuck we are for this project.

19 So the last time I mentioned to them that  
20 normally Water Resources would look at this as a new use of  
21 water, and a junior use of water, and a use of water that  
22 requires a Bureau contract before we would issue a water  
23 right for it.

24 So all those things pose problems because the  
25 Bureau has already fully contracted for the water from upper

1 Klamath Lake and the biological opinions, you know, tell  
2 them how they're going to distribute that now, which is  
3 different than what it was, you know, before the year 2000.  
4 But now it's very constrained.

5 So that's a problem with trying to get a new use  
6 of water.

7 Some of you may know that for the Swan Lake  
8 project a farmer volunteered to forego use of water on his  
9 acres of ground for the initial years of filling of the  
10 reservoir, figuring that it would perhaps take two years to  
11 fill the reservoir.

12 In this case it was likely going to take three  
13 years to fill the reservoir. It's likely to take three wet  
14 years, which we have not seen in a row for a while.

15 And so it would likely take, you know, foregoing  
16 irrigation on more than 3000 acres of ground in order to  
17 fill the reservoir. That's another problem that we see.

18 When we were here last time Jerry Grondon from  
19 our Groundwater Section provided some information, graphs  
20 and data showing that wells in the area have declined from  
21 15 to 30 feet. And that's the reason that the groundwater  
22 section is denying new uses of groundwater in the Merrill-  
23 Malin area. And so that information is going to be provided  
24 to -- well, it has been provided to FERC.

25 MR. HANSEN: It's been filed, yes.

1 MS. GRAINEY: It's been filed.

2 And so that's part of the comments that we're  
3 making them aware of.

4 And finally, my last comment to FERC has been  
5 that Water Resources would have to look very closely at the  
6 concept of a 30,000 acre-foot reservoir because you might be  
7 able to get almost as much production out of a 15,000 acre-  
8 foot reservoir. And so I'm going to ask FERC to show us the  
9 economics on why we would have such a large reservoir.

10 Water Resources will look at that as is that a  
11 good use of water or -- we have to be sure it's not a  
12 wasteful use of water to put that water up there and not  
13 make good use of it. So that's another thing that we're  
14 concerned about.

15 Thank you.

16 MR. HANSEN: Thank you.

17 One thing I've neglected to mention was that  
18 anything that was said in this morning's meeting is already  
19 on the record. So you do not have to repeat any of that if  
20 you don't want to. But if you would like to repeat it for  
21 the benefit of those that weren't here, please do. So I  
22 just wanted to remind everyone that just because that  
23 meeting was this morning, we have not forgotten. That stuff  
24 is all currently part of the permanent record.

25 Do we have any more discussion about water

1 resources at this point? Any comments anyone wants to make  
2 about that?

3 MR. MC KINLEY: Steve McKinley, landowner, again.

4 This is a basin. You get down towards Tulelake,  
5 water's like 2600 feet down or something like that. It's  
6 not one aquifer; it's several.

7 When they were putting through the Ruby Mountain  
8 pipeline they're digging a ditch out there, you go down  
9 eight or ten feet and there's a hard pan. You go down -- I  
10 don't know, it's like another 150 feet, there's another one.  
11 The household wells are the area between them. You keep  
12 going down, there's another one underneath that.

13 It's a series of aquifers, like a layer -- it's  
14 like a clay-limestone area between them. So it's not a  
15 single aquifer. It is a series on top of each other in  
16 places going down a couple thousand feet.

17 So if you pull out water from the deep ones,  
18 which is where most of the ag wells are, that may not  
19 recharge for another 10,000 or 20,000 years. That's deep  
20 old water.

21 MR. HANSEN: Right.

22 MR. MC KINLEY: And it's capped now. You suck it  
23 out; it ain't going back. It's like the Ogallala, that  
24 they've done in the Midwest. The water is not going back.

25 MR. HANSEN: Right.

1 MR. MC KINLEY: Thank you.

2 MR. GRAHAM: Bill Graham, landowner.

3 If my memory's correct, I believe they were  
4 estimating approximately 5000 acre-feet perhaps per year  
5 lost to evaporation and seepage in some of the earlier  
6 reports. And if you are going to use groundwater to replace  
7 that, in dry years especially, that's like 1500 gallons a  
8 minute pumping 24/7 for most of the year just to replace  
9 that.

10 I have lived at the base -- along the base of  
11 Bryant Mountain for over 40 years. And there's been many  
12 years Bryant Mountain had very little water. So to rely on  
13 water off of Bryant Mountain to help recover may not happen  
14 in some years.

15 And in those years if you did get permission to  
16 do the groundwater pumping, you would be pumping most of the  
17 year at 1500 gallons a minute just to replace the  
18 evaporation and seepage.

19 MR. HANSEN: Do you care to respond?

20 MR. O'KEEFE: No, I didn't hear a question. But  
21 I have to defer an answer to it.

22 MR. HANSEN: I just thought maybe you had  
23 something -- he had the microphone up and I thought perhaps  
24 you wanted to respond.

25 Anything else on water? Shall we move along?

1 (No response.)

2 MR. HANSEN: All right. Very good.

3 Let's go do one more and then we'll take a break.  
4 And this one is easy.

5 The next one is fishery resources, which in this  
6 case this would be -- there's not very many of them --  
7 simply because the proposed intake of water would be from a  
8 canal that barely has fish and the fish that are there the  
9 state really doesn't manage for.

10 But we thought we would need to look at the  
11 effects of project construction on the potential for  
12 resident fish entrainment and mortality during the initial  
13 reservoir filling. And as I explained this morning,  
14 entrainment is just our ten dollar word for getting sucked  
15 up the pipe.

16 So that was the only possible thing I could think  
17 of where the project could affect fish in this area.

18 Does anyone else have any effects on fish that  
19 they would want to bring forward that we might have missed?

20 (No response.)

21 MR. HANSEN: Very good.

22 Well, we do have something about the short-nosed  
23 and the lost river suckers coming up in the T&E, threatened  
24 and endangered species. So we'll bring that up again.

25 I want to go ahead and take a quick break. And I

1 know this sounds short, but can we just do five minutes?  
2 That will give our court reporter enough time to gather his  
3 wits. But let us get back busy on this because I know  
4 everyone has a lot to say still.

5 So let's just take five minutes. And I'm going  
6 to crowd everyone back. And we're going to jump into  
7 terrestrial resources, please.

8 (Recess.)

9 MR. HANSEN: Thank you for your cooperation in  
10 being timely and getting back.

11 We're going to continue our discussion of the  
12 affected resource areas and discuss terrestrial resources.  
13 I'm going to let Diane Rodman discuss this since this is her  
14 expertise and she will be much better at this part than I  
15 am.

16 MS. RODMAN: Okay.

17 The first one is effects of project construction  
18 and operation on vegetation. And that would include things  
19 like simply flooding vegetation out because of the  
20 reservoirs, as well as changes in vegetation along the new  
21 transmission line rights-of-way.

22 We don't want tall trees under power lines, as  
23 you know, even big power lines like these. So there would  
24 probably be -- for transmission lines typically there's some  
25 sort of a management program with cutting, possibly

1 herbicides that keeps that vegetation low.

2 Then the next one is kind of similar, but that  
3 one is focusing in on the spread of invasive species,  
4 including the consequences of the spread of noxious weeds on  
5 vegetative species composition and wildlife habitat values.

6 The ground disturbance alone, of course, is going  
7 to enhance the possible -- the growth of noxious weeds.  
8 Construction equipment can play weed and seeds or little  
9 bits of the plants on their wheels and into wheelwells and  
10 things like that. So that's something we're going to be  
11 looking at.

12 Then we move down to a very similar item, which  
13 is talking about special status species. And here, this is  
14 going to include BLM-sensitive species and the state listed  
15 species.

16 The following 4.2.5 we're going to discuss the  
17 federal ones because that involves species that are  
18 protected under the Endangered Species Act, and that's  
19 legally a whole different ball of wax. So we're kind of  
20 looking at everything else in this third bullet on special  
21 status species.

22 Then the fourth bullet is effects of upland  
23 riparian and wetland habitat loss on wildlife.

24 Then the following bullet is effects of project  
25 construction noise and human activity in disturbing

1 wildlife, including nesting raptors.

2 Then we move down to the transmission line and  
3 the potential for electrocution and collision with those  
4 transmission lines on flying animals, which would include  
5 both raptor birds and bats.

6 And the last one is the effects of loss of the  
7 existing Pope Reservoir and Mills Creek as water sources for  
8 wildlife.

9 So this is a combination of what they had in pre-  
10 application document and my experience with other pumped  
11 storage projects.

12 Is there anything I've missed? I kept it kind of  
13 general, you know, like 'wildlife' as opposed to deer and  
14 prong horn and things like that, hawks, reptiles, anything  
15 like that.

16 (No response.)

17 MS. RODMAN: Nothing? That is very encouraging.  
18 No second thoughts?

19 (No response.)

20 MS. RODMAN: Okay.

21 MR. HANSEN: And if you have second thoughts you  
22 can bring them up at any time. Just because we've moved  
23 along doesn't mean we can't backtrack.

24 MS. RODMAN: Sure.

25 MR. HANSEN: Which reminds me, someone asked me a

1 question during the break that I meant to start off with.

2 One of the questions that I wanted to pose to  
3 Bryant Mountain LLC that I've heard -- and I've forgotten --  
4 the reservoirs, do you plan on lining them to prevent  
5 seepage from the reservoirs?

6 MR. O'KEEFE: The answer is no.

7 This is Bart O'Keefe.

8 At the present time we do not plan on lining the  
9 reservoirs.

10 MR. HANSEN: Okay.

11 MR. O'KEEFE: It would contribute to the  
12 groundwater. And we think there's enough clay and things in  
13 the area to avoid lining.

14 MR. STURM: A question for Bart O'Keefe. This is  
15 Les Sturm.

16 How do you know there is clay in that area if you  
17 haven't been on the property and did any soil tests?

18 MR. O'KEEFE: I'm just going by the existing  
19 water, existing conduits, and existing ditches, existing  
20 upper Pope Reservoir on leakage of these things. Of course,  
21 this would also be subject to our geological soils testing.  
22 So I might be wrong on that. But I think that lining it is  
23 out of the question.

24 MR. STURM: You know, I'm talking about the  
25 proposed bottom reservoir. You know, if you haven't been

1           there to do any soil test how would you know there's any  
2           kind of clay soil there.

3                     MR. O'KEEFE: I don't know that there's no clay  
4           soil in there.

5                     MR. STURM: Okay. But you just made the remark  
6           that there's enough clay around there that you --

7                     MR. O'KEEFE: Well, what I'm referring to is the  
8           canal lining system. They don't seem to leak so much. I  
9           think there's enough fines in the area to have in the  
10          reservoir to prevent excessive leakage.

11                    MR. STURM: Well, you're wrong there because I  
12          have some small reservoirs on the place and there's huge  
13          leakage, huge leakage in that soil. So you would either  
14          have to line it or scrap the project, which the project  
15          probably won't happen because the land's not for sale. But  
16          there is huge leakage there.

17                    MR. O'KEEFE: I'll take your word for it.

18                    MR. STURM: Thank you.

19                    MR. HANSEN: Next slide, please.

20                    We'll move along to threatened and endangered  
21          species. And the two that this project could affect would  
22          be lost river suckers and short nose suckers that could  
23          possibly be entrained into the D canal and then further  
24          entrained into the project upon initial filling.

25                    So we would plan on doing an analysis of the

1 effects of losses to either of these species, in  
2 consultation with the Fish & Wildlife Service, who are the  
3 folks who enforce the Endangered Species Act.

4 So does anyone else have any other endangered  
5 species issues or comments they would like to make?

6 We have a couple. One up front and one in back.  
7 First Mr. McKinley and then Ms. Bagg.

8 MR. MC KINLEY: I believe if you check about the  
9 western red pine frog and also western pond turtle, they're  
10 both endangered.

11 MR. HANSEN: Okay. The western --

12 MS. RODMAN: North wood buckle?

13 MR. MC KINLEY: That's not the exact name.  
14 There's a -- I think it's called red pond frog or lake frog  
15 in this area. There's also the pond turtle in this area.

16 MS. RODMAN: Right. The northwestern pond turtle  
17 and probably the red leg frog is what you're thinking of.

18 MR. MC KINLEY: Yes.

19 MS. RODMAN: Okay.

20 MR. HANSEN: And I will let you know that as this  
21 proceeding progresses we would request an official list from  
22 Fish & Wildlife Service of what endangered species are in  
23 the area. We have looked on their website where they keep  
24 the list and we found these two suckers as definitely being  
25 local.

1                   And if there are any others we will be asking  
2                   them to let us know as the process proceeds. So we won't  
3                   overlook any that the Fish & Wildlife Service are aware of.

4                   MS. RODMAN: Ma'am.

5                   MS. BAGG: Sarah Bagg, an affected landowner.

6                   Is the white footed kangaroo rat, isn't that an  
7                   endangered species? I know it used to be in California.

8                   MS. RODMAN: I don't know.

9                   MS. BAGG: Oh. Okay.

10                  MS. RODMAN: Sorry.

11                  MS. BAGG: It was in -- but we do have them  
12                  because I see them in our driveway.

13                  MS. RODMAN: White footed kangaroo rat. Okay. I  
14                  will look it up.

15                  MS. BAGG: It's called white footed kangaroo rat.

16                  MS. RODMAN: Okay. All right.

17                  MS. BAGG: And I know we have them. So if  
18                  they're endangered--

19                  MR. HANSEN: And then to repeat what I was saying  
20                  to Mr. McKinley, that we will be obtaining the full list of  
21                  endangered species as kept by Fish & Wildlife Service  
22                  because they're the ones that list and delist species. And  
23                  we'll make certain that everything that needs to be  
24                  considered will be when the time comes.

25                  But like I said, at this point all we have is

1 lost river suckers and short nose suckers that we know for  
2 sure. And we want to work on the analysis on those two.

3 Anything else on threatened and endangered  
4 species that anyone would like to add?

5 (No response.)

6 MR. HANSEN: Okay. Thank you for that.

7 We'll move on to recreation and land use. The  
8 first one is the effects of project construction and  
9 operation on recreational resources and recreational use in  
10 the vicinity of the project. This is any type of  
11 recreation. This could be hunting.

12 We talked about trapping of bobcats this morning,  
13 and that's important to many folks. Hiking. Anything --  
14 outdoor activity that can be affected by this project.

15 And then the second bullet, effects of project  
16 construction, operation and maintenance on other land use  
17 activities in the vicinity of the project.

18 And this is the bullet where we would be  
19 discussing the effects of inundating certain numbers of  
20 acres of land that are currently agricultural lands or lands  
21 used for other purposes and converting them to a reservoir,  
22 because that is a definite change in land use.

23 So I want to open the floor to any comments on  
24 land use changes that this project would create and let  
25 people speak to that.

1 MR. BAILEY: My name is Jim Bailey, again.

2 On the access road there is a -- it's on -- part  
3 of it is on Bureau of Land Management properties. And in  
4 the wintertime the road is closed to the general public for  
5 any access because of winter habitat for deer.

6 MR. HANSEN: Okay.

7 MR. BAILEY: So would that give them the right,  
8 if they build this project, to go through that at any time  
9 they wanted when the general public is not allowed?

10 MS. RODMAN: Fast answer for that: And that is I  
11 doubt it.

12 Should we get to the point of actually having a  
13 project I imagine that BLM would be placing restrictions on  
14 the use of that road. And I'm not sure how that would  
15 accommodate project operation and maintenance. But that's  
16 pretty far down the road. That's something they'd have to  
17 worry about.

18 MR. BAILEY: Okay. Thank you. It's just a major  
19 concern because we've been locked out of there for lots of  
20 winters now and I'd hate to see them be able to go through  
21 there when I can't.

22 Thank you.

23 MR. HANSEN: Anyone else like to speak to land  
24 use or recreation issues?

25 Mr. Sturm.

1 MR. STURM: My name's Les Sturm.

2 Not so much recreation, but it would take out  
3 approximately 900 acres. It would take out 100 percent of  
4 my operation completely, everything. I wouldn't have  
5 anything left at all.

6 There is quite a bit of deer hunting, trapping,  
7 all kinds of activities that go on there as far as  
8 recreation. And as far as farm production, it would take me  
9 out completely.

10 MR. HANSEN: Anyone else on this topic?

11 (No response.)

12 MR. HANSEN: Okay. Thank you for that.

13 The next bullet -- or the next section of  
14 bullets, which is only one bullet, discusses cultural  
15 resources. And our environmental analysis document would  
16 analyze the effects of construction and operation of this  
17 proposed project on historic, archeological, and traditional  
18 resources, and things that may be eligible for inclusion in  
19 the National Register of Historic Places.

20 So this bullet is meant to encapsulate historic  
21 properties, anything that would be uncovered during project  
22 construction that would be considered an archeological  
23 resource, as well as traditional resources, particularly  
24 those of the Klamath Tribe who have been involved in our  
25 resource meetings with agencies.

1           So we are aware that all three of those things  
2 would need to be taken into account in our document.

3           The State Historic Preservation Office is also  
4 included in this process as we go in. So they will be  
5 working hand-in-hand on the historic side.

6           Does anyone have any cultural, historic or  
7 archeological resources that they would like to bring up in  
8 particular?

9           Mr. Hartman.

10          MR. HARTMAN: Harold Hartman.

11          I would just add one thing that you probably need  
12 to have on the list there, and that's the Applegate Trail.

13          MR. HANSEN: I'm sorry, would you say that again?

14          MR. HARTMAN: The Applegate Trail.

15          MR. HANSEN: The Applegate Trail.

16          MR. HARTMAN: I believe it came directly through  
17 the very center of the lower canal -- or the lower  
18 reservoir.

19          MR. HANSEN: Okay.

20          MR. HARTMAN: And I possibly could be convinced  
21 to show you a wheel from one of the wagons.

22          MR. HANSEN: Okay.

23          MR. HARTMAN: But I think there's a definite  
24 historical significance.

25          MR. HANSEN: Okay. That's something -- I'm glad

1 that -- We were not aware of the Applegate Trail. So I  
2 appreciate you bringing that up. And we'll have to add that  
3 to the list for certain if that's a possible historic trail.  
4 You know, that's another thing that certainly the State  
5 Historic Preservation Office is going to take a very close  
6 look at, and we will as well in our document.

7 Yes, sir.

8 MR. MC KINLEY: Yes. Dave McKinley.

9 Yeah, my house, like I said, is not too far from  
10 that. Digging post holes, I've dug up tea cups, cast iron  
11 kettles and all kinds of stuff that was left there. I'm  
12 three miles east of town.

13 And you might look at some of the old maps, on  
14 some of the old lake maps. Malin was lakeshore property not  
15 long ago. There's records of the lake coming through town  
16 two and three foot deep on wet springs.

17 So the Applegate Trail -- and somewhere up near  
18 Harold's place was the original town that was in this area.

19 MR. HANSEN: Okay. Thank you. That's -- Okay.  
20 Very good.

21 MR. HARTMAN: Harold Hartman. I'm back. I have  
22 one other thing that follows up on Mr. McKinley's thing.

23 We have a number of sites that are Indian  
24 related. And as he mentioned, if you'll look at one of the  
25 older maps, the lake used to come to the corner of our

1 property. And the original Malin post office was just below  
2 these people's house here.

3 I believe the Indians stayed down low on the  
4 conjunction of Evans Road and North Malin Loop Road. And in  
5 the summer -- in the wintertime they camped there; in the  
6 summertime they went up to higher ground to get away from  
7 the bugs. And there are -- I'm aware there are those two  
8 sites. And I'm sure there's many other ones.

9 MR. HANSEN: Yeah. Yeah.

10 The Tribe has been, like I said, at our meetings  
11 and they've spoken with me extensively already. And there's  
12 a number of very culturally-sensitive areas to them that  
13 they have a vested interest in.

14 Thank you.

15 MS. HALOUSEK: I'm just an interested party and  
16 I'm going to speak about archeology.

17 MR. HANSEN: Yes, ma'am. And your name?

18 MS. HALOUSEK: We dug the original -- I'm Colleen  
19 Halousek.

20 MR. HANSEN: Halousek. Could you spell that,  
21 please?

22 MS. HALOUSEK: H-a-l-o-u-s-e-k.

23 MR. HANSEN: Thank you.

24 MS. HALOUSEK: During the digging of the original  
25 canals things like mastodon tusks were dug up. So this has

1           been a place of lots of life for a long time.

2                       MR. HANSEN: Thank you.

3                       Does anyone else have anything to add at this  
4 time about any sort of archeological, cultural or historic  
5 properties that we may not be aware of?

6                       (No response.)

7                       MR. HANSEN: Very good. Thank you.

8                       The next one -- Jason, slide, please.

9                       Aesthetic resources. We mentioned this quite a  
10 bit this morning, a little bit already tonight. But we  
11 contemplate analyzing the effects of project construction  
12 and operation on aesthetic resources, including the views in  
13 the area in the vicinity of the project -- you know, what  
14 the project will look like to people who have to look at it  
15 every day -- as well as the effects of noise from the  
16 construction and the continued operation of the project.

17                      And it says here on recreational use, but we'll  
18 probably back that out to a wider just a standard of living  
19 sort of idea. Because it's not just recreationalists who  
20 will be bothered by the noise, it's people that live here.  
21 So we'll probably broaden that based on this morning's  
22 conversation to reflect just simply the effects of noise of  
23 project construction and operation on the vicinity. So  
24 please note that.

25                      But does anyone have anything they'd like to talk

1       about or add about either aesthetics or noise or just  
2       general quality of life issues?

3                 Yes, sir.

4                 MR. HARTMAN:  Yeah, Harold Hartman.

5                 The noise thing just struck me earlier when I was  
6       reading the size of the column that's going to be drilled,  
7       the 30 foot diameter.  I'm not quite sure how that  
8       technologically would be done; possibly the machine that dug  
9       the channel between England and France.

10                (Laughter.)

11                MR. HARTMAN:  But let me suggest this:

12                We have a well in the vicinity that we have a  
13       well log and it's an 81 year old well.  And we are drilling  
14       right next to that at this point in time to replace it for  
15       some cave-ins and stuff.  And we're going to hit solid rock  
16       at ten feet or less.  So that, too -- and we're going to go  
17       300 feet deep because the current well is 310 feet.

18                So that column that's 270 foot deep is going to  
19       be through solid rock.  And then you're going to have to  
20       turn 90 degrees and dig through solid rock for the remainder  
21       of the -- whatever it was -- 800 feet.

22                Now maybe once you get 100 to 150 feet deep the  
23       noise might be mitigated.  But prior to that I can assure  
24       you the noise is going to be heard probably as far away as  
25       Klamath Falls.

1                   MR. HANSEN: I certainly think an analysis of  
2 noise in this project is certainly something we're going to  
3 be doing.

4                   Yes, ma'am.

5                   MS. TERRY: I'm Penny Terry. And I'd like to ask  
6 Mr. O'Keefe:

7                   I have lived near the metering station on Linwood  
8 Road. It's the gas line metering station. And it used to  
9 be that they had very bright lights they left on at night.  
10 And I finally had enough and had a little discussion about  
11 that, and now it's much nicer up there. They don't have the  
12 big bright security lights on.

13                   My question to you is: If you should build this  
14 facility what are the lighting -- what would the lighting  
15 be, maybe not only during construction but when it's a  
16 finished--

17                   MR. O'KEEFE: Obviously, we haven't gotten to  
18 lighting of the facility yet. But generally speaking, I'm  
19 with you on this. I think that it has to be neighborhood-  
20 friendly. There's no doubt about that. How this will be  
21 accomplished I couldn't address at this time.

22                   Did I answer your question?

23                   MS. TERRY: Well, yes. I guess I'll ask the  
24 Commission: Is that part of the application? Do they have  
25 to declare, I mean, as part of their development -- is that

1 included in their application, how they propose to -- or  
2 what they're going to do with lighting so that everyone  
3 knows the final impact on this?

4 MR. HANSEN: It will be now, yes. That's why we  
5 scope.

6 You brought it up this morning, and you brought  
7 it up again. I'm glad you did. But lighting was an issue  
8 we hadn't thought of at the time. Now that you've brought  
9 it up it will be included in our scoping document 2 as  
10 something that we will be analyzing in the effects of the  
11 project in any document that we put out.

12 MS. TERRY: Great, because it's in quite a large  
13 area and there isn't any kind of security light.

14 MR. HANSEN: No, it's certainly a concern. It's  
15 certainly a concern. And it's an analysis that we feel is,  
16 you know, justified and needs to be added to the  
17 environmental document.

18 MS. TERRY: Thank you.

19 MR. HANSEN: Anything else on aesthetics issues  
20 that we'd like to discuss right now?

21 (No response.)

22 MR. HANSEN: Okay. Very good. Can we go to the  
23 next, thank you sir.

24 Socioeconomics. In the document we would have to  
25 discuss the effects of the project on the local economy of

1 Klamath County because that is something the Commission  
2 takes into consideration in their licensing decision. So  
3 that is both the loss of income due to the loss of farmland,  
4 the loss of income due to the loss of water, as well as the  
5 positive benefits of, you know, job creation for  
6 construction as well as perhaps lower energy rates. All of  
7 that kind of gets factored in here.

8 We had a number of statements about this this  
9 morning. And I'd like to ask if anyone here would like to  
10 speak to this.

11 We have quite a bit on the record already about  
12 socioeconomic impacts. So if you don't want to reiterate  
13 you don't have to, but if you would like to reiterate from  
14 this morning, please do. And if you weren't here this  
15 morning and you have something to add, let's discuss the  
16 socioeconomic issues here because I know that they, for  
17 certain members of this audience, are fairly great.

18 MR. HARTMAN: Harold Hartman.

19 I think this is the appropriate place to put in  
20 these comments. I don't know. But I've been involved in  
21 this project since its inception back in about -- about 15  
22 years ago. And at that time the dam was -- or the berm was  
23 in a little different location. It was oriented  
24 differently.

25 And Bart and I stood on the top of the -- well,

1 on the bottom of what was going to be the top of the center  
2 of the berm. And when we looked southwest we saw two  
3 things. We saw the town of Malin and we saw the town of  
4 Tulelake.

5 And you may have heard this morning from my  
6 daughter-in-law, who actually lives off the project ground  
7 and is a landowner participant with some of the project now.

8 One thing that I don't believe has been  
9 considered -- maybe it was this morning, I don't know; you  
10 can relate to that -- and that has to do with an analysis of  
11 a catastrophic loss to the dams.

12 We have experience in our lifetime of  
13 catastrophic earthen filled dams failing, both in Colorado  
14 and in other parts of the world, in Europe and Asia. So we  
15 know what it can do. You can go and look at movies of it.  
16 And it's pretty devastating.

17 But I don't believe that you've included a  
18 catastrophic failure analysis of what would happen.

19 When we stood on that spot I mentioned to Bart  
20 about the two towns. And the response was, 'Not a problem.  
21 We'll buy them out.' That's not going to happen.

22 These towns are historic towns. And there's all  
23 kinds of history here. There's the Japanese internment  
24 camps. Which would be the remaining part, which is a  
25 National Heritage Site, would be destroyed if there was a

1 catastrophic failure.

2 The town of Malin and Tulelake would be totally  
3 gone. All of the other homesteads -- probably somewhere in  
4 the neighborhood of 500 -- would be gone.

5 And I think that kind of analysis has to be done.

6 MR. HANSEN: Yes, sir. Yes.

7 And I will say that project safety issues are  
8 certainly considered when the Commission makes the licensing  
9 decision very seriously. It's not normally analyzed in the  
10 environmental effects part of a NEPA document, which would  
11 be our environmental impact statement.

12 But in another part of that document dam safety  
13 issues are discussed and analyzed as part of the pros and  
14 cons on both sides, you know, if this thing were to fail  
15 what exactly kind of harm could that cause. So that is  
16 definitely something that is worked into the overall  
17 decision-making process.

18 MR. HARTMAN: One other comment I'd make about  
19 that, if anybody needs to think about the dramatic effect of  
20 that consideration -- and we didn't do the whole engineering  
21 study -- and I'm sure the engineer can help us out here a  
22 little bit.

23 But based on our quick calculations if there was  
24 a catastrophic failure when you were bringing water from the  
25 upper dam to the lower one, and the lower dam was breached

1 for some reason -- for example, an earthquake or something -  
2 - and you had 15,000 cfs coming down about 1300 feet of  
3 drop, somewhere in the neighborhood of 520-plus psi. Think  
4 about that for just a second because your faucet in your  
5 house is 40 psi.

6 I believe that it would shoot all the way to  
7 Tulelake before it hit the ground. So it's a pretty  
8 dramatic thing to consider.

9 MR. HANSEN: Right.

10 And I will say that the Commission is not in the  
11 business of licensing unsafe projects. We maintain a dam  
12 safety division that oversees all the construction as well  
13 as inspections of the facility as it operates.

14 It is not in the Commission's best interests to  
15 license a project that's unsafe. And so that is something  
16 they take very seriously.

17 MR. KENYON: Mike Kenyon. Just one comment.

18 And that is the fact that the landowners in this  
19 area have already suffered twice in ten years from lack of  
20 water. And that's devalued their ground. And that I can't  
21 imagine how this would increase the value of the ground that  
22 is close to it based on the fact that, you know, the ground  
23 might not be there if something were to happen.

24 And I just can't imagine how this would increase  
25 the value of the whole Malin Irrigation District based on

1 its closeness to this project. It doesn't to me make sense.  
2 I mean it's going to decrease it again.

3 MR. HANSEN: And so we'll definitely -- we will  
4 certainly include an analysis of property values as part of  
5 the socioeconomic analysis. Yes, sir.

6 Does anyone have anything else they'd like to add  
7 on socioeconomics at this point?

8 MR. THRONE: My name is Lee Throne and I live  
9 right behind Les. I'm a landowner. And our place would be  
10 completely covered with water if the lower reservoir went  
11 in.

12 Anyway, I'd like to back-up. I'd like to address  
13 several areas.

14 I'd like to back-up to the aesthetics, which may  
15 not seem that important after Harold talked about people  
16 dying if the dam were to break. But if you're talking about  
17 aesthetics, I mean that 110 foot berm is going to just  
18 obliterate the view of Bryant Mountain. And it's going to  
19 change the whole area so much.

20 And all the people who live out in this area, and  
21 especially the people who live close to it, of course their  
22 places are going to plummet in value. And just anybody  
23 living in this area, Bryant Mountain is a very scenic place  
24 and that's going to totally change all of the aesthetics.

25 Then on historical, our place used to be the old

1 Malin dairy. And so it has some historical value to it as  
2 well.

3 And then I just wanted to say that my husband has  
4 farmed in the area for, oh, 40-plus years. And this year  
5 there wasn't enough water and they couldn't guarantee water  
6 to finish out his potato crop. And it's this living on the  
7 edge of is there going to be enough water to put a crop in  
8 or not.

9 And so with already three major stakeholders in  
10 the water from Klamath Lake, I can't see how it would be  
11 ethical or just for somebody else to come in when people's  
12 livelihoods, they don't even know if they're going to have  
13 enough water to continue on the next year.

14 So I just wanted to put that on the record.  
15 Thank you.

16 MR. HANSEN: Thank you.

17 MR. STURM: Les Sturm.

18 Anybody in the area that has had property for  
19 sale, and a buyer comes along and looks at their property,  
20 and then they hear about this reservoir maybe going in, the  
21 poor people that had the place for sale have lost a sale.  
22 And the damage is already being done just by the talk about  
23 this thing maybe going in.

24 So land values have already been affected  
25 seriously. Thank you.

1 MR. HANSEN: Thank you.

2 Does anyone have any other comments on  
3 socioeconomics for the record right now?

4 (No response.)

5 MR. HANSEN: Okay.

6 Next slide. Thank you.

7 This bullet is one that is applied to any large  
8 construction project. And that would be the effects of  
9 project construction and operation on the air quality of the  
10 region.

11 You know, this is a high level construction that  
12 would be required and there would be certain air quality  
13 issues associated with that. So we'd want to look at the  
14 effects of that.

15 There may be continuing issues with air quality  
16 as the project operates. We really need more information  
17 before we could do any analysis of that.

18 But those are the things that we were planning on  
19 looking at.

20 Any thoughts? Anything to add on air quality  
21 that anyone can think about, want to talk about?

22 (No response.)

23 MR. HANSEN: Okay.

24 Then we have developmental resources. And in our  
25 document we would do an analysis of the effects of the

1 proposed project, as well as any alternatives to the  
2 project, on any protection, mitigation or enhancement  
3 measures that may be required on the economics of the  
4 project.

5 So if the project were to be built there might be  
6 a number of things that would be required for that to  
7 happen. The economics of that would be taken into account  
8 hand-in-hand with the economics of the project itself. And  
9 that would help the Commission decide whether to license the  
10 project or not.

11 Does anyone have any comments or questions about  
12 that one?

13 MR. GRAHAM: I have a question.

14 MR. HANSEN: Yes, sir.

15 MR. GRAHAM: Bill Graham.

16 (Pause.)

17 MR. GRAHAM: I'll hold my comment for the moment.

18 MR. HANSEN: Okay.

19 Anything else on this bullet? Yes, ma'am.

20 MS. TERRY: I just --

21 MR. HANSEN: Can you wait for a moment? Thank  
22 you.

23 MS. TERRY: Penny Terry.

24 I'm assuming that people will be forced to have  
25 flood insurance due to this? Who's going to pay for that?

1 Forcing them into this situation and things are already  
2 pretty strapped out in this area. I think that should be  
3 considered. And are you giving away free energy for folks  
4 to run their pumps out here?

5 MR. GRAHAM: Bill Graham again.

6 Will this reservoir be able to be used -- either  
7 upper or lower -- for any kind of recreational activities  
8 whatsoever, or is it just going to be there?

9 MR. O'KEEFE: Bart O'Keefe.

10 The question was does the project reservoirs  
11 contribute to recreation. And the answer is because of the  
12 fluctuations in the lake levels and lack of fish in the  
13 lakes, we don't feel there's a tremendous demand for  
14 recreation in the reservoirs.

15 MR. GRAHAM: Will there be -- will this -- will  
16 the reservoirs be fenced off to protect animals and critters  
17 from getting in there due to the fluctuation of levels?

18 MR. O'KEEFE: Oh, we've talked to the  
19 environmental people about that and they're going to do a  
20 research on the subject and see what other experts came up  
21 with on the subject. And we'll go accordingly to what's  
22 recommended.

23 MR. BAILEY: Jim Bailey.

24 Mr. O'Keefe, is there going to be any advantage  
25 to the local people in Malin and surrounding area from this

1 project?

2 MR. O'KEEFE: There is going to be tax  
3 availability, we're going to pay taxes. And we'll discuss  
4 our rates, electrical rates, which -- this is still way off  
5 in the future someplace.

6 MR. BAILEY: So there is a chance that there will  
7 be lower power rates for the local people?

8 MR. O'KEEFE: It's open for negotiation. The  
9 answer is yes. It's someplace where we can help the local  
10 community is with the power rates and other activities like  
11 that. So I can't --

12 MR. BAILEY: So the power would go through your  
13 AC line to Las Vegas and in the future --

14 MR. O'KEEFE: Well, it will make other power  
15 available.

16 Again, it's so far in the future I have a very  
17 difficult time saying, you know, what we can contribute.  
18 But as I sit here and search what can we do for the  
19 community, well power rates obviously can. Because I did a  
20 study for AID 15 or 20 years ago on power rates. So I'm  
21 sensitive to this.

22 MR. BAILEY: And our power rates have increased  
23 dramatically.

24 MR. O'KEEFE: I know that.

25 MR. BAILEY: Thank you, sir.

1 MR. O'KEEFE: I know that.

2 MR. BAILEY: You could help the community by  
3 packing up and heading on out.

4 MR. O'KEEFE: Well, I certainly hope to help.  
5 But I can't, you know, obviously, make promises that we can  
6 cut rates. But it's the place where it's open for  
7 discussion.

8 MR. HANSEN: Jason, next slide, please.

9 I want to remind people of these dates. And then  
10 we're going to have a final wrap-up comment thing here in a  
11 second.

12 Just a reminder: Comments on this document that  
13 we picked up tonight that you have not given orally this  
14 evening that you would like to make further, please have  
15 them into the Commission by June 11th. And then what we're  
16 going to do is issue a second one of these that will be  
17 revised to include all the information that we received both  
18 back in March as well as the two meetings we had today.

19 The next thing you will see filed from Bryant  
20 Mountain LLC would be a proposed study plan that they will  
21 have to have filed by July 26th. And this will be their  
22 proposal of all the studies they will conduct, detailing  
23 exactly what they're going to do, where, and why.

24 We're going to discuss that sometime in late  
25 August. The 27th is the day in August it would have to be

1 done by. It's not set in stone that will be the date. We  
2 will do that in Malin. All of the state and federal  
3 agencies will come and we'll discuss studies, which will  
4 result in a revised study plan due to the Commission on  
5 11/23.

6 And then again the Commission will decide which  
7 studies it deems are appropriate and necessary for this  
8 project to continue. And it will include those in a  
9 determination letter by the 24th of December.

10 So those are the next steps in this process.  
11 After that it would be study seasons where the applicants  
12 would be out in the field collecting data and trying to  
13 figure out exactly what effects, how large these effects  
14 are, and what they are.

15 So that's how this continues.

16 And then -- you can just go to the next slide.

17 And that's pretty much what we have. So I want  
18 to open the floor to anything that's not been said that  
19 people would like to say. We've got time for that. So  
20 let's go ahead. And any last comments or questions, let's  
21 get that going now, please.

22 MR. KENYON: This is Mike Kenyon. This is more  
23 in the way of a comment.

24 MR. HANSEN: Yes, sir.

25 MR. KENYON: I went home today and I googled

1 United Power Corporation. What I found is a site. And so  
2 you would go to the sub-pages on this site and every one of  
3 them is under construction. And that was from 2006.

4 I also found an article in there about -- and  
5 this just has to do with the operation of the company, I  
6 think -- about a project they did in Hawaii, in Maui. And I  
7 don't know if I should read the comment or not. But I think  
8 I will.

9 It says:

10 It's the single worst idea we've seen in a long  
11 time, said this Maui County Energy Commissioner.

12 And that was on Thursday, May the 19th, 2011.  
13 There's more to it here, but I won't read it.

14 I would refer everybody to an article or to a  
15 letter that was presented to you guys in response from WAPA.  
16 It highlights several -- many areas of concern that they had  
17 in relationship to the project. One of the biggest was that  
18 they forgot to talk to the people in the area that was going  
19 to be directly affected, which is Malin. But this is dated  
20 September the 27th, 2011. It was sent to Ms. Kimberly D. --

21

22 MS. RODMAN: Bose.

23 MR. KENYON: Yeah.

24 MR. HANSEN: Yes, sir.

25 MR. KENYON: Secretary.

1                   So this is on file.

2                   MR. HANSEN: Yes, sir, it is.

3                   MR. KENYON: But I just think these are a couple  
4 of issues that at least should be brought out because they  
5 in some respect talk about the operational structure of the  
6 company itself.

7                   And if you can find any information about it in a  
8 brochure or anything else, I couldn't find one thing. I  
9 mean I found the website, but then there wasn't any  
10 information there at all from 2006.

11                  MR. STASTNY: Ed Stastny.

12                  Just a comment further on this benefits to the  
13 local community of electrical power thing. You discussed  
14 power rates. But this entire project's feasibility depends  
15 upon a differential in power rates. It depends upon the  
16 project buying power low, pump up, selling the power high  
17 when it comes back down.

18                  And so it seems to me the project has to sell  
19 high. So I can't see any power advantage to the local  
20 community.

21                  MR. HANSEN: You may respond or not. It's up to  
22 you.

23                  MR. O'KEEFE: I don't have a direct comment on  
24 that. My answer is that we know the community has a power  
25 rates project and we're working to see what we can do to

1 help.

2 I can address the Maui project. The project was  
3 recommended to us to help augment a water supply problem in  
4 the area. And so we filed an application to do the project.  
5 And there was so much public opposition to development in  
6 this area that we wrote a letter to the FERC withdrawing  
7 from the project.

8 And as far as our webpage goes, well, keep your  
9 eyes open. We're working on it.

10 MR. KENYON: From 2006.

11 MR. O'KEEFE: From 2006.

12 MR. HANSEN: Any other further comments before we  
13 adjourn?

14 Do you have something -- Ms. Bagg and then Mr.  
15 Hartman.

16 MS. BAGG: The thing that still -- Sarah Bagg,  
17 affected landowner.

18 The thing that still has bothered me about this  
19 whole project since we were first notified of it in  
20 September of last year is that everybody knew about it, all  
21 the government agencies, the Tribes, everything --everybody  
22 except those of us who own the land that this project is  
23 going to be on.

24 And it's as if we don't matter. We just don't  
25 matter anymore. They can just come in and squash us and

1 shoo us away and take our places and turn it into this  
2 project. Nobody ever came to our house or called us on the  
3 phone, or even wrote us a letter when this whole thing was  
4 coming about. We just suddenly got this DVD in the mail  
5 about this project.

6 And the day that I got it and put it in the  
7 computer I was totally shocked. Nobody has advised us that  
8 this was in the works. And are we that unimportant as the  
9 landowners here? Especially us that don't want to sell. I  
10 just think that that was wrong.

11 MR. HARTMAN: Harold Hartman.

12 I've got about eight things written down that I'm  
13 not going to go over again all of them have floated up  
14 somewhere in the process tonight. But they'll be in the  
15 comments, the written comments to you.

16 MR. HANSEN: Okay. Great.

17 MR. HARTMAN: But there is one area that I'd like  
18 to readdress just for a minute. And that has to do -- and  
19 you guys understand this, I'm quite certain.

20 But a lot of the people in this room may not  
21 fully understand how the condemnation process works. And so  
22 I think it's important for them to know.

23 And in regards to Mrs. Bagg: You are important.  
24 And everybody in this room is important.

25 That process -- I give Bart credit for admitting

1       again tonight, as he did in our meeting in Klamath Falls and  
2       as he has assured me over the last 15 years. And I'm  
3       confident in his proposal and in his comment that he would  
4       not utilize that process.

5               But let me explain just for a second for  
6       everybody why I appreciate him saying that. He could not  
7       use that process without a government partner. And there  
8       are, as far as I know, no government partners that are going  
9       to come forward from the county or the state government.

10              And I'm hoping that FERC doesn't do those kinds  
11      of partnerships. I believe that they do not. Maybe on some  
12      transmission lines.

13              So he does not have a partner to do that. So he  
14      hasn't committed to it. If he was to get a license, that's  
15      an asset. And that's a very valuable asset and could be  
16      sold to anybody in the world.

17              So I think it's important that on the record his  
18      indication is very clear so that potential investors know  
19      that there is no possibility that this project can ever be  
20      built.

21              And if in fact it takes affidavits from the  
22      landowners -- and in our particular case it will be dealing  
23      with three generations. And I assure you my five year old  
24      grandson is much more difficult to deal with than I am.

25              (Laughter.)

1 MR. HARTMAN: And he will not sign.

2 (Laughter.)

3 MR. HANSEN: Okay.

4 I do want to say something -- and we discussed it  
5 this morning -- to make certain that it is clear.

6 When the Commission grants a license it looks at  
7 all the pros and cons and decides if that license is in the  
8 best public interest.

9 Now the Commission has the authority to do this  
10 under the Federal Power Act of 1920. A Commission license  
11 does carry with it the power of eminent domain to an  
12 applicant. So if a license were to be issued for this  
13 project an applicant -- at that point would be a licensee --  
14 could then use -- attempt to use the power of eminent  
15 domain or condemnation, as you've called it, to try to claim  
16 that property.

17 So that is something that does come with the FERC  
18 license, the possibility of that.

19 But also understand that the Commission makes it  
20 decision on whether this project is a good idea in the  
21 public interest with those considerations in mind.

22 MS. BAGG: Sarah Bagg again.

23 So would that mean that should Mr. O'Keefe sell  
24 this project after he gets a license or whatever, or become  
25 incapacitated and can't continue, so the people that take

1 over they could, even if he says he's not going to use  
2 eminent domain, the next owners of this project could use  
3 the eminent domain.

4 MS. RODMAN: You mean before the project is  
5 built?

6 MS. BAGG: Yeah. If this doesn't, you know, get  
7 all that far and somebody buys -- you know, after he gets  
8 his license to build the project and has to sell it for some  
9 reason, can that next owner say, 'Well, I don't care what he  
10 said. He might be a nice guy but I'm going to take this  
11 property.'

12 MR. HANSEN: The question of whether -- Licenses  
13 are sometimes sold from one entity to another. Diane has a  
14 bit more institutional knowledge than I about how common  
15 that is.

16 As to whether a license that would be granted and  
17 then sold, if that would then grant a new licensee immediate  
18 powers of eminent domain, I can't answer that right now.  
19 And I would like to give you that answer. But I need to  
20 talk to some lawyers because that is really a big legal  
21 issue.

22 MS. BAGG: Because that's serious for me.

23 MR. HANSEN: Understood.

24 MS. BAGG: And for the Sturms.

25 MR. HANSEN: Yes.

1                   MS. BAGG: And for the Grahams. And Linda, who's  
2 not here.

3                   MR. HANSEN: Of course.

4                   MS. BAGG: Because we're the little people that  
5 own the property up there that they want. And we don't want  
6 to sell it. And I'd like to know that somebody else isn't  
7 going to come in and take over his project and say, 'Well,  
8 I'm not as nice a guy as this; I'm just going to take your  
9 property.'

10                  MR. HANSEN: Well, to be honest with you, I need  
11 to get some legal advice, one, on the legality of license  
12 sale to different entities. And when a license is sold,  
13 what then is transferred and what parts of that license  
14 perhaps maybe are re-opened. Because it's not something I  
15 have dealt with in my experience thus far.

16                  I don't know if Diane, who has been with the FERC  
17 for quite a long time, have you dealt with this sort of  
18 thing? You know, maybe you have some insight on this, or  
19 not.

20                  MS. RODMAN: Not this specific question.  
21 Transfers of license are quite possible.

22                  What I have heard is that definitely all the  
23 obligations that the license imposes goes with -- goes to  
24 the new owner. And they'd be darn sure that they understand  
25 what they're getting into. So that would seem to mean that

1 the powers would go, too. But I don't know.

2 MS. BAGG: And that's what I thought.

3 MS. RODMAN: Yeah.

4 MS. BAGG: The problem is a little bit scary.

5 MS. RODMAN: Yeah. That is something that we --

6 MR. BAGG: It kind of leaves us out there  
7 hanging, not knowing what's going to happen.

8 MS. RODMAN: Well, that assumes, of course, that  
9 the Commission issues a license for the project.

10 MS. BAGG: Right. Right.

11 MS. RODMAN: And we're still talking five years  
12 in the future.

13 MS. BAGG: Yeah.

14 MS. RODMAN: But it's something that we can -- we  
15 have an attorney assigned to this now, don't we?

16 Yeah. We have an attorney assigned to this  
17 project and we can ask him/her.

18 MR. HANSEN: Her.

19 MS. RODMAN: Her. Yes. What this is, what the  
20 deal is.

21 MS. BAGG: Yeah. That would be really good,  
22 because it would affect like Les's next generation.

23 MR. HANSEN: Right.

24 MS. BAGG: And, you know, we just don't -- we  
25 don't know.

1 MS. RODMAN: Yeah. That's an important -- That's  
2 an important -- You may have decisions to make and you'd  
3 need to understand all the possible consequences.

4 MS. BAGG: Right. Exactly.

5 MS. RODMAN: Right. Sure.

6 MS. BAGG: If they can come off the top of your  
7 head without a moment's notice. This whole thing came out  
8 of the top of our head without a moment's notice.

9 MR. HANSEN: The Commission understands the --  
10 what's the word I'm looking for -- the weight of its  
11 decision when eminent domain could be invoked, and therefore  
12 is considered highly in the licensing process. And that's  
13 something -- that's something I can say, you know.

14 It's not something the Commission throws around  
15 lightly and thinks, 'Oh, we're the FERC; we'll do what we  
16 want.' That's really not how the Commission operates.

17 MS. BAGG: Yeah.

18 MR. HANSEN: The Commission operates in the -- if  
19 you don't know about it, it's a five-member panel of people  
20 from the United States who are appointed by presidents. And  
21 they're energy experts basically. And they look at projects  
22 and say, 'Is this in the public interest.' And that's how  
23 they make their decision.

24 And property rights and issues of eminent domain  
25 are part of the balancing act of the pros and cons on

1           whether a project is in the public interest.

2                       MS. BAGG:   Okay.

3                       I have two friends -- one in Utah and one down in  
4           California -- that lost their property to eminent domain.  
5           And it was a horrible thing.  I mean they lost their  
6           livelihoods; they lost everything.

7                       One was involving enlarging an airport in Cedar  
8           City, Utah.  And the other one was on a dike -- new dikes  
9           going in in the Sacramento area.  And they just -- these  
10          friends of mine had several attorneys working on it and  
11          everything.  They had a farm and tried to save it, and they  
12          couldn't.  It was really horrible.

13                      And I don't want to have to go through that.

14                      MR. HANSEN:  I understand.

15                      MR. BAILEY:  Jim Bailey.

16                      Along with Sarah's question, and with Diane's  
17          answers on this, I may be mistaken, but this morning's  
18          meeting I thought I heard that the license could not be  
19          issued without the acquisition of the land.

20                      MS. RODMAN:  Not exactly.

21                      The license has standard conditions, one of which  
22          is that you have to -- well, you have to get land and water  
23          rights.  And the kicker is that you have to start  
24          construction under the Federal Power Act within two years.  
25          And the Act provides a two-year -- one two-year extension.

1           If -- and I think I said at the meeting that  
2           there are ways that a licensee with political connections  
3           can get Congress to do a little piece of legislation and  
4           extend that. But if a licensee cannot start construction  
5           within four years, absent some sort of Congressional  
6           changes, then they have to surrender the license.

7           The idea was originally that if you have a good  
8           site for power development, why should somebody sit on it  
9           and say, 'Oh, we're going to get financing, just next year  
10          or next year.' It's not good for the nation. Either put up  
11          or shut up. You know, either build the project or go away  
12          and leave it free so that somebody else could possibly do it  
13          -- which is probably not something you'd like to think  
14          about.

15                    But that -- Does that answer your question?

16                    MR. BAILEY: Well, it's the same answer that I  
17                    heard this morning.

18                    MS. RODMAN: Yep.

19                    MR. BAILEY: But you said again that they have to  
20                    have water rights and land rights to acquire the license.

21                    MS. RODMAN: Not to acquire the license; to build  
22                    the project.

23                    MR. HANSEN: To construct the project.

24                    MS. RODMAN: Right.

25                    MR. BAILEY: So they can start the project. They

1 can start moving dirt without a license?

2 MS. RODMAN: No. No.

3 We can give them a license before they've  
4 completed any negotiations necessary to get land and water  
5 rights. They have a fixed amount of time in which to do  
6 that. Then they have to actually start construction.

7 No, you can't move dirt on somebody else's land.  
8 That's illegal. You have to get the rights to do that. And  
9 if you don't get it within the two or four years then you're  
10 going to need to -- the licensee needs to surrender the  
11 license.

12 MS. GRAINEY: Diane.

13 MS. RODMAN: Mary.

14 MS. GRAINEY: This is Mary Graineey from Water  
15 Resources.

16 Diane, actually there are several things that the  
17 license requires, including the review of the dam safety  
18 design and all of that kind of stuff --

19 MS. RODMAN: Oh, yeah.

20 MS. GRAINEY: -- before -- they have to wait for  
21 FERC to give the okay to start construction.

22 MR. HANSEN: Yeah.

23 MS. GRAINEY: A lot of these other conditions,  
24 having the right -- the land access will be required before  
25 you get the go to start construction.

1 MS. RODMAN: Sure. Yeah.

2 Did I say that right? Am I clear?

3 MR. BAILEY: Okay. So does that mean the fact,  
4 say on the upper reservoir if they had permission to work on  
5 the upper reservoir and not permission on the lower  
6 reservoir, and they started construction on High Mountain,  
7 is that --

8 MS. RODMAN: Wow. I don't know.

9 MR. BAILEY: Is that going to affect on their --  
10 on the dates that they have to start construction?

11 MR. HANSEN: I'm pretty certain that rights must  
12 be obtained to all lands that would be required to construct  
13 and operate the entire project before anything can begin.  
14 It's not a piecemeal thing where we could say, 'Well, this  
15 landowner maybe decided to sell, so we'll start building  
16 this now. And then a few years down the road if this one  
17 gives in, maybe we'll do that portion.'

18 Rights must be acquired for its entirety before  
19 construction can begin.

20 MR. BAILEY: Thank you.

21 MR. STURM: Les Sturm.

22 To comment on what Jimmy was saying as far as  
23 working on the upper reservoir before they work on the lower  
24 reservoir, I own both so they cannot work on either one  
25 without selling the property.

1                   And I can -- I want to get this on the record.  
2                   I'll speak for all the landowners involved in this. This  
3                   property is not for sale, Bart. And it will not be for sale  
4                   ever.

5                   I mean I think you're wasting a whole bunch of  
6                   money and a whole bunch of time for something that's never  
7                   going to happy. And if you're not lying to us and tell us  
8                   you're not going to use the eminent domain, I think you  
9                   should stop where you're at right now.

10                  If you want to comment on that, please do.

11                  MR. O'KEEFE: I really don't have a comment on  
12                  it.

13                  I've talked to Mr. Sturm about this before and I  
14                  take his words seriously. And I appreciate it. And I  
15                  forget what else I said.

16                  But I like this country. I was raised here. And  
17                  your people are close to my heart. And I'm going to work  
18                  with you all I can.

19                  But I also believe that the project is best for  
20                  the country and for the electrical system as a whole in the  
21                  western United States. So I've donated 20-some years to it  
22                  so far. And I'll just have to keep working away at it.

23                  And I appreciate it. And I listened to you. And  
24                  I can't say any more.

25                  MR. KENYON: Unless I'm confused, did you not say

1 earlier today that they have studies that have to be done on  
2 the ground? Is that not correct?

3 MR. HANSEN: We do not know which studies will be  
4 required yet.

5 MR. KENYON: No. But somewhere in this process  
6 before it can be vetted they have to have studies that have  
7 to be done on the ground about the ground and all the other  
8 things. Isn't that correct?

9 MR. HANSEN: That is very -- yeah, that's fairly  
10 certain, yes.

11 MR. KENYON: Well, then if they can't get on the  
12 ground then they can't do those studies.

13 MR. HANSEN: Correct.

14 MR. KENYON: Is that not correct?

15 MR. HANSEN: That's correct.

16 MR. KENYON: They cannot apply suppositions to  
17 what they think are there. They have to get on the ground  
18 and do actual studies with that. Right?

19 MR. HANSEN: The Commission will be asking for  
20 certain information. If that information cannot be provided  
21 then the Commission can't do its job and analyze the effects  
22 of the project. So therefore an application could not be  
23 filed.

24 MR. KENYON: So they've got to be there.

25 MR. HANSEN: That information that the Commission

1 asks for --

2 MR. KENYON: They cannot go to somebody's public  
3 records and pick it out of those. They have to physically  
4 do that themselves.

5 MR. HANSEN: Well, depending on the study,  
6 sometimes there are data sources that are available publicly  
7 that could be utilized to answer some questions.

8 MS. RODMAN: Like aerial photographs, for  
9 instance, to a certain extent can give you somewhat of an  
10 idea of plants. Whether it's good enough is a whole other  
11 question.

12 MR. KENYON: It's kind of going around in a  
13 circle, though.

14 MS. RODMAN: Yeah.

15 MR. KENYON: It's kind of going around in a  
16 circle. I mean one gentleman says 'ain't no way,' and the  
17 other one says, 'I can appreciate what you're saying but I'm  
18 going forward.' That's not quite -- doesn't quite seem to  
19 fit, the two conversations.

20 And I mean I'm just asking if Mr. Sturm's  
21 conversation is a little bit more important than Mr.  
22 O'Keefe's, I guess.

23 MR. HANSEN: Well, Mr. O'Keefe and his company  
24 have started this process. If they can continue to provide  
25 the things the Commission needs to do an analysis and to

1 provide recommendations to the Commission, then we will have  
2 to go forward with it as long as he wishes to pursue it.

3 MS. RODMAN: As long as he can meet our  
4 information needs. If he can't give us the information we  
5 need to make a decision, then there is a definite problem.

6 MR. KENYON: Somewhere in there he's going to  
7 have to -- If he wants to go forward with this he has to  
8 admit that somewhere in that process eminent domain is going  
9 to be a factor.

10 He can say whatever he wants. But if he's  
11 conducting this process then that's one of the things that  
12 he has to admit to. Can't do one without the other.

13 MR. STURM: Les Sturm.

14 To comment, Mike, on what you just said was, you  
15 know, if Mr. O'Keefe's word is good -- which I hope it is --  
16 he put on public record that he was not going to use the  
17 eminent domain. I hope his word is good. But we'll find  
18 out.

19 MR. O'KEEFE: This is Bart O'Keefe.

20 His word is good.

21 MR. GRAHAM: Bill Graham.

22 Okay. To finalize this: If you grant a license,  
23 the possibility of eminent domain comes with that license.

24 MS. RODMAN: Yes, sir.

25 MR. GRAHAM: Bart says he's not going to use it.



1 something that we -- without the input from the public we  
2 can't do our job. So this is essential to us. So I  
3 appreciate your thanks, but we can't do what we need to do  
4 without talking to you all.

5 MS. BAGG: You know, we've all been sending in  
6 our comments to FERC, which you guys have all published.  
7 But we don't know if we're sending this to a computer or a  
8 robot, or are there real people there that are actually  
9 reading the stuff we send.

10 MR. HANSEN: As I mentioned earlier this morning,  
11 there are a number of real people that read every single  
12 thing.

13 MS. BAGG: Yeah, and we really appreciate that  
14 because we try to make all this stuff understandable from  
15 our point of view. And we always check to make sure you put  
16 our comments on the website.

17 But we still -- until now -- didn't actually know  
18 there was a real person there. And I'm glad to meet you  
19 guys.

20 MR. HANSEN: It's nice to be with everyone here.

21 MS. BAGG: Since this morning I think we've  
22 accomplished quite a bit.

23 MR. HANSEN: I agree.

24 MS. RODMAN: Actually, I'd like to say that we do  
25 have other -- we have several other specialists on the team.

1

2 MR. HANSEN: Yeah.

3 MS. RODMAN: We have a civil engineer. We have a  
4 recreation specialist. We have a Ph.D. in anthropology.  
5 Maybe a few other people.

6 MR. HANSEN: Also legal staff.

7 MS. RODMAN: Yeah, legal staff also.

8 MR. HANSEN: The team that works on this project  
9 on a daily basis is, you know, it's a handful of folks.

10 MS. BAGG: But they're real people.

11 MS. RODMAN: Real people.

12 MS. BAGG: That really care about us real people.

13 MR. HANSEN: Believe it or not.

14 MS. RODMAN: And everyone is e-Subscribed to P-  
15 13680, to remind you one more time.16 MS. BAGG: Now when I type it in on my computer,  
17 when I call up the FERC website I do 'P-dash' and the whole  
18 number comes.

19 MS. RODMAN: Right.

20 MS. BAGG: That's what happens when you subscribe  
21 to it.22 MS. RODMAN: When we get -- when the e-Subscribe  
23 information appears on our computer, you know, everybody  
24 opens up the file and reads the comments, like, okay, you  
25 know, the cultural resource guys is like, 'Okay, nothing for

1 me.' But, you know, the recreation guy is going, 'Oh,  
2 yeah.' And the civil engineer is looking at all of it.

3 And Ryan, of course, has to read everything. So,  
4 yes.

5 MS. BAGG: Well, we appreciate that because this  
6 is -- I mean we're taking this whole thing very seriously.  
7 It's a matter of life and death, really.

8 And it's scary when you're working with an entity  
9 that's way off 3000 miles away across country and you wonder  
10 do they know we're 'Maylin' or whatever. And do they care.  
11 And now I know they do.

12 But it's really been good. These two meetings  
13 have really been good. And we appreciate it. And I'm sure  
14 you can get hold of any of us landowners any time you need  
15 to if you have any questions or whatever. I think you have  
16 all of our information from our letters.

17 MS. RODMAN: Okay.

18 MR. HANSEN: Mr. Sturm.

19 MR. STURM: Les Sturm.

20 I have one more -- a couple more questions for  
21 Bart.

22 Are you the president and owner of United Power  
23 Company?

24 MR. O'KEEFE: Yes.

25 MR. STURM: You are sole owner or --

1                   MR. O'KEEFE: I am sole owner. Today I own  
2 United Power Company.

3                   MR. STURM: Okay.

4                   You just commented a minute ago that sometimes  
5 things get out of your hands, but you wouldn't use the  
6 eminent domain but somebody else could.

7                   MR. O'KEEFE: I was referring to being in the  
8 mental hospital.

9                   (Laughter.)

10                  MR. STURM: So there's somebody else in your  
11 organization that could do that?

12                  MR. O'KEEFE: Yes. But to be precise, I am  
13 president of United Power Corporation but a family trust  
14 owns the stock. And I have a son and a step-daughter who  
15 are trustees.

16                  MR. STURM: So he could do the eminent domain  
17 over and above you.

18                  MR. O'KEEFE: After I'm dead.

19                  MR. STURM: After you're dead. Okay.

20                  MR. HANSEN: All right.

21                  Well, thank you all very much for spending  
22 tonight with us. It's been very helpful.

23                  I will adjourn the meeting now. Thank you very  
24 much.

25                  (Whereupon, at 8:40 p.m., the scoping meeting in

1 the above-entitled matter was adjourned.)

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