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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the matter of:)
) Project No.
WEST VALLEY A & B HYDRO PROJECT) P-12053-001
)
)
_____)

Scoping Hearing, Evening Session

June 15, 2005

Likely Fire Department

Likely, California

The above entitled matter came on for hearing,
pursuant to notice, at 6:30 p.m.

BEFORE: SUSAN O'BRIEN
Fisheries Biologist/Project Coordinator
Office of Energy Projects
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

REPORTED BY: DANIEL A. HUMPHREY, CSR 5480

1 APPEARANCES (CONTINUED):

2 Frank Winchell, FERC-Indian Tribe Liaison

3 Alan Mitchnick, Senior Technical Expert, FERC

4 Alex Miller, Biologist, FERC

5 Phil Rhinehart, BLM

6 Jayne Biggerstaff, U.S. Forest Service

7 Louis Haynes, U.S. Forest Service

8 Nicholas Josten, applicant

9 Patricia Cantrall, County Supervisor

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11 and members of the public

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1 FERC, 6:30 p.m., June 15, 2005, Likely, California

2 MS. O'BRIEN: I don't remember the reporter's
3 name. Can you identify yourself? Just let everybody know
4 what we are doing.

5 MR. LARSEN: Tony Larsen from the paper.

6 MS. O'BRIEN: He's going to record the meetings.

7 MR. LARSEN: If you have something you are going
8 to say, please stand there and make a comment if you even
9 want to appear in the newspaper. That's entirely up to you.

10 A VOICE: What newspaper are you from, sir?

11 MR. LARSEN: Modoc Record, Lassen times, Mountain
12 Echo, Herald News. You name it.

13 A SPECTATOR: Independent News?

14 MR. LARSEN: No, not yet.

15 A SPECTATOR: I named it.

16 MS. O'BRIEN: I would like to welcome everybody
17 here. My name is Susan O'Brien from Federal Energy
18 Resources Commission in Washington, D.C.

19 We are here tonight for the scoping of the West
20 Valley Hydro Power Project. We had a meeting here today at
21 10:00 o'clock. And so it's pretty much the same
22 presentations as earlier today. And then we will open it up
23 for comments.

24 So appreciate everyone coming. This is a public
25 process and your input is very important. We thank you for

1 participating and for your time.

2 So a couple of housekeeping items. Make sure
3 you've signed in. Even if you were here earlier today, we
4 would like to keep a record of who is here today and
5 tonight. You don't have to fill in the full address or
6 whatever if you did earlier today. There are some pamphlets
7 you're welcome to take up on the counter.

8 Some other housekeeping issues. The bathroom is
9 right here.

10 And I guess that's about it. So for tonight we
11 will go through the agenda. Go through why we are here and
12 our proposed processing schedule as we see it today. Then
13 I'll turn the meeting over to the applicant, Nick Josten, to
14 go through a project description. It's not on there, but
15 I'd like to just list out the resource issues that we have
16 identified. They were listed in the scoping document.
17 That's when we will also add in any comments that were
18 written from the other room in our open house part of the
19 meeting, then we will open it up for comments.

20 So while the purpose of scoping is to make sure
21 we have -- you've seen our list of issues we have
22 identified, and they were issued in the scoping document as
23 well. So we want to make sure that we identify all the
24 issues. And number one, are there additional issues we need
25 to make sure we consider. And also write any other comments

1 or information that you may have. There's a lot of local
2 information that we are not aware that you can provide us
3 very valuable information.

4 And what we are going to do is take all the
5 information and write an Environmental Assessment on the
6 proposed project. And then what will ultimately happen, the
7 Commission will make a determination to either accept this
8 project or deny it. Accept it, with what terms. And
9 conditions will be part of the exemption.

10 Now, this is an exemption from licensing rather
11 than a license for a hydropower project. There's some
12 details behind that. Because it's already an existing site.
13 There is some regulations that determine if you qualify to
14 be an exemption. So this project does qualify to be an
15 exemption. He will not have to go through this process
16 again. This is a one-time process when you're issued an
17 exemption.

18 The Fish and Wildlife agencies, U.S. Fish and
19 Wildlife Service and California Department of Fish and Game,
20 have the right to require mandatory conditions for the
21 benefit of Fish and Wildlife agencies.

22 Those are some things I wanted to mention. Just
23 for everybody concerned, if there are issues down the road
24 that we haven't addressed or something changes, there is the
25 ability to reopen this exemption from licensing, to relook

1 at some new issue or some issue that's going on. So it's
2 not a hundred percent all final. There's also the
3 possibility to reopen it if the issue arises 20 years down
4 the road or something.

5 So our processing schedule, we issued our scoping
6 document back in May. Today we are having our scoping
7 meetings. We had a site visit yesterday. Scoping comments
8 are due July 11th. The scoping document has a written
9 address where you can file it or e-mail it. Also print out
10 the written address later on, or you can hand in written
11 comments tonight, and you're welcome to provide oral
12 comments tonight as well.

13 Once we get all those scoping kind of things by
14 July 11th, we are going to assess what we have for
15 information on this project, the application and additional
16 filings he's provided to date, the scoping comments,
17 additional information that's been provided from these
18 meetings, and other information sources that we have.
19 Studies we have done for Fish and Wildlife, historical
20 records. We are going to be taking a look at everything we
21 have. We suspect we will still need additional information.
22 It's pretty clear, so we propose we will posting additional
23 information request to the applicant to get this information
24 on the project. That will probably be in August.

25 It's typical that we give 90 days. So if our

1 information request is suitable, that requires 90 days, then
2 he would have to file it by November. Some information
3 requests require longer times, especially if there is a
4 study. I know some require less time than 90. So it's just
5 giving us information that he already has.

6 Then again after he files additional information,
7 we take a look again at everything we have to see if there's
8 enough information to write our environmental document,
9 Environmental Assessment. If the answer is yes, we will
10 issue a Notice and Ready for Environmental Analysis. That
11 notice says we have everything we need to write our EA
12 document. And it also starts the comment period for another
13 comment period to provide comments on the project,
14 recommendations on the project. And agencies can file their
15 recommendations, and Fish and Wildlife can file their
16 mandatory terms and conditions at that time. They need to
17 file them at that time. And all those recommendations that
18 are filed -- let me step back. The applicant and others
19 have a chance to reply to those comments that were filed,
20 60-day comment period for the original comments and another
21 45 days for any reply comments.

22 Then our Environmental Assessment will take into
23 consideration all those recommendations and additional
24 comments that were filed and those will be discussed and
25 analyzed in our document. And we estimate that we could

1 assure Environmental Assessment by April of next year if
2 this all stays on schedule.

3 Then we should be ready to -- ready for the
4 Commission to issue its decision on this project, whether or
5 not it gets an exemption from licensing and what conditions
6 it would have by next summer. Of course things can change,
7 and it might get drawn out longer.

8 I'd like to turn it over to Nick. We do have
9 some of the same people here. I don't know if you want to
10 ask her. The length of, the amount of details Nick gives on
11 his project description. If you want to come up.

12 MR. JOSTEN: I think a lot of folks have seen
13 this a million times.

14 MS. O'BRIEN: There are some that haven't.

15 MR. JOSTEN: I'll go through it, then, at about a
16 ten-minute pace. If I'm going too fast at any point, stop
17 me and I'll give more detail.

18 MS. MURRAY: I don't think they will mind hearing
19 you again.

20 MS. O'BRIEN: Go ahead and do the full version,
21 then.

22 MR. JOSTEN: Okay. Project forms a little
23 triangle. This is kind of a flow diagram of the project
24 that shows land ownership and location of facilities.

25 This is the South Fork Pit River where it's

1 flowed forever. Still there. This is the West Valley
2 Reservoir. What currently exists in the project area is the
3 diversion on the South Fork which takes water out of the
4 South Fork, runs it through a canal and stores it in the
5 West Valley Reservoir. That's the South Fork Irrigation
6 District. They have operated that system since the '30's, I
7 think, to store water in West Valley Reservoir which they
8 then release in the summer for irrigating their crops. And
9 the project takes advantage of the existence of the
10 reservoir, the existence of the canal, the existence of the
11 diversion to make this feasible.

12 And as Susan said, that is part of the reason why
13 it's eligible for exemption from licensing.

14 A VOICE: Are you going to make any changes to
15 the canal, to the diversion?

16 MS. O'BRIEN: Then just another further ground
17 rule. If there's a comment, please raise your hand and
18 please keep your comments now on questions for the project
19 description for Nick.

20 MR. BAKER: My name is Don Baker. This is my
21 wife Dixie Baker. We live on the Pit River downstream from
22 the proposed project.

23 My question is, will there be any changes made to
24 the existing canal and/or to the diversion?

25 MR. JOSTEN: The answer, Don, is yes, there will

1 be changes. When we get to that part of the project I'll
2 give you the details on that.

3 MR. BAKER: Thank you.

4 MR. JOSTEN: Okay. Just an overview of the
5 facilities associated with the project. There is of course
6 the diversion. There will be a fish screen right near the
7 diversion that's new. There's the canal which will be
8 modified. At this point there will be a new canal. There
9 will be an intake structure and a pipeline leading down to
10 the reservoir, and there will be a powerhouse located on the
11 shore of the reservoir located right near the dam.

12 The dam exists, of course, and the outlet pipe
13 for the dam exists. None of that will be modified. But at
14 the end of that pipe, it's the outlet from the dam, there
15 will be a penstock connected, and the water will run in a
16 pressurized penstock down West Valley Creek, mostly on the
17 road to the confluence of West Valley Creek to the Pit
18 River, and at that point there will be a second powerhouse.

19

20 Water exits from the second powerhouse will be
21 put back in the Pit River and from the Pit River here down
22 there's no changes.

23 MS. GRIFFITH: My name is Gail Griffith. I'm
24 wondering when you put the water back in, how much warmer
25 will the water be than the temperature that's already there?

1 MR. JOSTEN: It will actually be cooler than it
2 would be if let to run own West Valley Creek.

3 MS. GRIFFITH: Do you know the difference between
4 the temperatures?

5 MR. JOSTEN: It depends on the amount of drop.
6 My estimate is probably less than a degree, but it will
7 probably be somewhere between a half and one degree cooler
8 than it would be if it was allowed to run free down West
9 Valley Creek. That's because the energy is extracted for
10 electricity rather than as friction, which is the way the
11 energy is extracted now.

12 That energy gets lost as it goes down the creek
13 currently. It gets lost as friction. And it heats the
14 water. We will extract it, make electricity from it and it
15 would be cooler than it would be otherwise.

16 So we will go around the whole thing and we will
17 look at each location, and I'll try to describe the best I
18 can the facilities there will be there and can how it will
19 be different with the project compared with how it is now.
20 Does the general layout make sense to everybody?

21 A VOICE: Is that the bridge where the second
22 powerhouse is?

23 MR. JOSTEN: There's a bridge right here.

24 A VOICE: Because everybody kept saying it will
25 be near own homes.

1 MR. JOSTEN: It's the bridge to the road that
2 enables the District to get up to the dam and release the
3 water.

4 Those are the elements that I just explained to
5 you. We will go through each one of them and get the
6 details on them.

7 The existing diversion. This is what it looks
8 like if you went out there right now. This is what you
9 would see. Built in the '30's. It's been a solid
10 structure. It's worked great. And there's every reason to
11 retain it exactly as it is. It's a hardened structure. And
12 it works. What we have to do is we have to make this
13 diversion structure here capable of diverting a maximum of
14 100 CFS. As of right now it's capable of diverting 50 but
15 it only diverts 38. And that can be done without replacing
16 any of the concrete structure itself. There won't be any
17 need to excavate within the river.

18 But the openings within the structure have to be
19 modified and new gates installed. The other thing that has
20 to happen, you can see the curl of water right here. That's
21 the check dam that enables the diversion to build the head
22 and drive the water out. That has to be raised
23 approximately eight inches. So the pool behind that, there
24 would probably very little noticeable difference at high
25 water like this, but at lower water the pool behind the

1 check dam will be slightly larger than it is now. It will
2 be slightly larger. It will not be so large that for
3 example it would inundate that little parking area that
4 everybody I'm sure is aware of. I think it's a camping area
5 too. It's not that big, but it will be slightly larger. So
6 the changes: Open up diversion structure, replace the
7 gates, resurface the concrete, and raise the check dam.
8 That's what changes right here.

9 So after the water is diverted it starts into the
10 canal. And short ways down the canal at a suitable
11 location, probably within 200 feet it's a narrow area, we
12 just need to get out some place where there's enough room, a
13 fish screen will be installed. There is currently no screen
14 on this canal. Fish can freely enter the canal, and when
15 the canal is turned off, the fish are stranded in it and
16 they die.

17 Fish and Game said that one of their conditions
18 is that that diversion has got to be screened. And so part
19 of this project will be to install a fish screen down the
20 canal, as soon as there is room, that runs all the water
21 through a very fine screen that's capable are screening out
22 adult fish, fry. It's the highest level of NOAA fisheries
23 standard that there is. This is a very fine screen.

24 MR. WEISER: Dag Weiser, property owner on the
25 South Fork Pit River potentially dewatered section.

1 I'm curious as to why the existing diversion
2 isn't set up for fish screens and fish migration stuff. Why
3 that stuff is piggybacking on this project and why it's not
4 there right now.

5 MR. JOSTEN: I suspect it's not there because
6 when the diversion was set up, it wasn't a requirement. And
7 I suspect that it has been installed in the meantime because
8 these were expensive structures to build. That's my best
9 estimate.

10 I had a piece of screen. Did anybody see that?
11 Anyway, the openings are three-sixteenths of an inch. They
12 are very small openings so virtually nothing can get through
13 that screen.

14 MS. O'BRIEN: I'd like to make a comment about
15 Dag's comment about the fish screen. The current condition
16 of the canal and any environmental effect it has does not
17 have bearing on this FERC proceeding. We cannot, FERC
18 cannot require, Mr. Josten cannot do anything about making
19 changes to the canal and any enhancements to the area until
20 -- unless this becomes a FERC project. I'd rather continue
21 with the presentation unless it's an understanding question
22 of the project.

23 MS. MURRAY: I'm Leslie Murray.

24 My question is how the fish screen works. Is it
25 horizontal or vertical? This picture that you're showing

1 looks like it's in a building, and I'm not sure that you
2 mean that it will be in a building when on the canal.

3 MR. JOSTEN: I don't think it will be. Good
4 question.

5 The point to take here is that our current
6 concept is that these will be drum screens. In other words
7 there's a large drum. It will probably be bigger than these
8 drums. Actually there will be three of them. And the drum
9 will be completely encased in this fine mesh. And the water
10 will come up, you know, within six or eight inches of the
11 top of the drum so that all the water that passes through
12 those down into the canal has to go through the drums. The
13 reason that we build drums is that drums are rotated so that
14 they're constantly slowly turning, so that debris that gets
15 caught to the drums will clear itself by rotating over and
16 falling into the canal.

17 MS. MURRAY: This is Leslie Murray speaking
18 again. I wonder, is it horizontally across the canal ditch?

19 MR. JOSTEN: Yes, probably are canted so we can
20 make the structure not quite as wide.

21 MS. MURRAY: Something that keeps the water from
22 going anywhere but through a cylinder that is made of mesh?

23 MR. JOSTEN: Yes. Except there will be a bypass
24 so that water also can return, some small portion of water
25 can return to the river in case fish get in there and want

1 to return to the river. They can't get through the drum, so
2 their only way is to go back to the river. If they don't
3 swim back up and go through the diversion.

4 MS. BRUZZONE: I'm Linda Bruzzone, a property
5 owner in the South Fork of the Pit River.

6 My understanding of scoping process is to
7 determine historical things that have occurred from what I
8 read as well as the present condition and as well as look at
9 the future. And I do believe that the public trust and the
10 conditions of the public trusts of the State of California
11 to include healthy fish habitat are pertinent to this, so I
12 hope those comments will be addressed during this hearing.
13 An example, fish screens and other things and why there have
14 not been fish screens because compliance with laws and
15 compliance with the public trust, I think is very important
16 to determine the ability of individuals to comply with
17 future laws and future conditions.

18 MS. O'BRIEN: FERC, Federal Energy Regulatory
19 Commission -- it's a good point that we look at historical,
20 present, and future conditions, so we are aware.
21 Historically there is no environmental protection, if you
22 will, on the canal. And there's no enhancement mechanism
23 going on currently. We are aware of that.

24 We have no authority and do not get involved with
25 State issues. So that is an issue to take up with I believe

1 California Department of Fish and Game. We can talk after
2 the meeting and try to tell you who the contacts would be to
3 discuss the current issues going on. And I believe it's on
4 Forest Service and BLM lands. And they could also help you
5 out with current conditions of what's going on and why
6 nothing is being taken care of now.

7 MS. BRUZZONE: Just to take into consideration
8 state law and state requirements, do you go along with any
9 more stricter requirements than the federal requirements in
10 your assessments? As an example, you state that's that a
11 State issue; however, if the State issues a more
12 restrictive, state law is more restrictive than the federal
13 law, does the federal government look at the state law and
14 the state conditions as a condition of --

15 MS. O'BRIEN: To make sure this is worded
16 correctly, I want Alan to answer that.

17 MR. MITCHNICK: I'm Alan Mitchnick with FERC.
18 The Commission is not bound by state law,
19 although obviously it considers it very seriously. But it
20 is not bound by state law. So I mean, the Commission could
21 come up with a less stringent requirement than might be
22 required under the state if it believed it was in the public
23 interest.

24 For exemptions, California Fish and Game has
25 mandatory conditions and authority. If they recommend

1 something, even if the Commission disagrees with the merit
2 of that particular measure, it would still have to include
3 it as a condition of the exemption.

4 MS. O'BRIEN: Thank you, Alan. Let's get back to
5 the presentation. Unless there's questions only that are
6 related to how the project operates. Otherwise, let's hold
7 off until the comment section.

8 MR. JOSTEN: The only thing I can say, there's no
9 more restrictive fish screen than this. This is the best
10 fish screen money can buy. This is what they would use on
11 coho salmon. It's an enhancement of the fishery. And the
12 project will build it.

13 MS. GRIFFITH: Gail Griffith. I'm a property
14 owner across the river.

15 Who is going to pay for this retrofit, question
16 one. That is, who will pay for the retrofit of this
17 diversion?

18 MR. JOSTEN: The applicant, which is me.

19 MS. GRIFFITH: Who will be in charge of
20 maintenance?

21 MR. JOSTEN: The applicant, which is me.

22 MS. GRIFFITH: They will have an employee
23 on-site?

24 MR. JOSTEN: Yep.

25 MS. GRIFFITH: All the time?

1 MR. JOSTEN: Yes, ma'am.

2 MR. BRUZZONE: My name is Steve Bruzzone. I'm
3 also a landowner.

4 You said there's going to be an area for the fish
5 to go back into the river. How much water will be going
6 through there and how wide will that little canal be?

7 MR. JOSTEN: It's not known. This will be --
8 this will be a design that is subject to review by Fish and
9 Game. So it will be done in cooperation with Fish and Game
10 to get what it is that they're after. I don't have the
11 answer to that.

12 MR. BRUZZONE: It will be an amount above the
13 seven and a half that you're already -- or would it be a
14 combined total?

15 MR. JOSTEN: Not determined. It could be either
16 way. It probably depends on how far down from here from the
17 diversion that it reenters the river. I think it could go
18 either way. I don't think it's a lot of water. It's going
19 to be slow flowing water. It's not a lot of water. It
20 might be on top of the seven and a half. Good question.

21 This is the canal. This are a couple locations
22 on the canal. This is the canal nearer the diversion. This
23 is the canal further down toward the point where it
24 currently turns over and starts to flow down into the
25 reservoir.

1 This canal is capable of carrying 100 CFS in many
2 locations but not all. The canal has to be cleaned out and
3 modified as necessary for it to carry 100 CFS, which is 2.38
4 -- 2.5 times, right? Is that right? 2.5 times what it
5 currently carries. And that will be done by, where
6 necessary, taking material from the uphill side of the canal
7 and putting it on to the maintenance road. We are not going
8 to touch the berm, the dike. That's a hardened dike. And
9 these canals in general get better with time as they harden.
10 So we won't touch that part of the canal, of the dike. We
11 will take it from the uphill side and add to the dike.

12 So it ends up being widened at most two feet at
13 the bottom. As a result of taking the material the dike
14 will be raised slightly, and that will be adequate to carry
15 100 CFS at about two feet per second or less. The flow in
16 this canal is very slow.

17 MS. GRIFFITH: Gail Griffith.

18 Is that the canal that just broke about four
19 months ago? Flooded the plains and road?

20 MR. JOSTEN: Yes.

21 MS. GRIFFITH: How are you going stop that from
22 happening again?

23 MR. JOSTEN: I can't absolutely guarantee that it
24 won't happen again; nobody can do that. But I can say
25 there's a very strong incentive to not have it happen. And

1 so we want -- we do not want that to happen.

2 The things that we will do from the start is that
3 we will talk with the people who have operated this canal
4 forever. And are there places in this canal that you're
5 concerned about that you think may be problems, and we will
6 line the canal in those places from the very start.

7 The other thing is that we will have, and you'll
8 see this later when you look at the facilities, there will
9 be an automatic sensor system that will indicate anything
10 like a breach in the canal. And it will immediately notify
11 the operator. We are talking thirty seconds.

12 MR. WILSON: Can I ask a question? I'm a Pit
13 River, Hammawi.

14 And my question is, who is controlling it right
15 now?

16 MR. JOSTEN: Who is maintaining the canal? South
17 Fork Pit Irrigation District.

18 MR. WILSON: How come I wasn't informed when that
19 canal busted and washed out dirt?

20 MR. JOSTEN: Yeah. I don't know. That's a good
21 question. I think when we finish up with this, there's
22 going to be a chance to find the right person to answer
23 that. I probably can't.

24 MR. WEISER: I'd like to make a comment. I
25 thought this was a really good place, everybody here that

1 wasn't at the first meeting, that there's a whole lot of
2 concerns about the canal and everything, and that a lot of
3 us addressed at the first meeting. And we have been asked
4 not to go over our own personal new ground, but I want to
5 urge everybody to go back and read the transcripts of the
6 first meeting because we touched on a lot of these issues
7 and maybe a lot of issues that won't be touched on by the
8 new people. And I really urge everybody to check out the
9 transcripts because we talked for hours.

10 MR. WILSON: I'm Hammawi tribe. To me the
11 Hammawi like are disrespected on the river because you guys
12 didn't come and contact us, let us know what is going on.
13 Because we are a tribal government, and that before, you
14 know, mostly any presentation that deals with the river
15 should be done with us because I know you've got landowners,
16 but actually that is Hammawi's land, and we own it from the
17 date our race is going, whatever. That's the only reason
18 why I'm speaking now.

19 I don't know where you come from or whatever.
20 You guys got a couple presentations or whatever. We do have
21 a meeting with you guys tomorrow. And but we are here for
22 the public, you know, because this is our home where our
23 people lived too before. We felt that we should be here and
24 let you guys know that we were going to make the decision
25 ourselves how we feel about it. Homeowners that live here,

1 we owe that to us for us to be here, to see what everybody
2 else. Nobody contacted us. (applause)

3 MS. O'BRIEN: Let's get back to the presentation.
4 Let Nick get through it. Keep your questions to how the
5 project is going to operate, and any another comments
6 there's going to be time for that.

7 MR. JOSTEN: Okay. As far as the canal goes,
8 it's my opinion that the reliability performance of this
9 canal is going to be better than it is currently. Because
10 there's a huge incentive to do it, and there's a funding
11 source to take care of it. And this canal is going to
12 operate. But nobody can guarantee that a canal won't blow
13 out.

14 MS. GRIFFITH: Gail Griffith.

15 Who will be maintaining this canal? Will it be
16 South Fork Irrigation District or will it be your company?

17 MR. JOSTEN: It will be most likely a
18 combination. The canal is partially irrigation facility. I
19 mean it is an irrigation facility that the hydropower
20 project is taking advantage of.

21 MS. GRIFFITH: If it breaks again and floods the
22 plain and road and what have you, who will be responsible to
23 fix it and to fix the damage that it leaves?

24 MR. JOSTEN: It will be the Irrigation District
25 and the applicant. And it will get repaired as fast as it

1 can conceivably get repaired.

2 MS. O'BRIEN: I'll jump in here and say that this
3 will be a project structure in the exemption within the
4 project boundary of the exemption so the exemptionee, Mr.
5 Josten, would be required -- FERC will be requiring Mr.
6 Josten, the exemptionee, to maintain it and be responsible
7 for all failures. And whether or not he has an agreement
8 worked out with the Irrigation District, that's fine. But
9 in FERC's eyes the exemptionee is responsible. And we also
10 have dam safety and inspection requirements and dam safety
11 offices that will be doing regular inspections and will get
12 involved to help prevent failures and also be the ones that
13 immediately respond if there is a failure.

14 MR. JOSTEN: I mean, you understand that if the
15 canal is not flowing, power is not being generated. If
16 power is not being generated, there's nothing to sell. If
17 there's nothing to sell, you still have to make your
18 payments. So there is a real incentive to keep everything
19 operating smoothly.

20 MS. GRIFFITH: Gail Griffith.

21 Now that you mention the cost, what are you going
22 to sell the utility at?

23 MR. JOSTEN: I don't have a power sales
24 agreement. I can't really negotiate a power sales agreement
25 until the power people that buy power in this country have

1 some sense for the project.

2 MS. GRIFFITH: As of today Surprise Valley
3 Electric sells their utility at 4.9 cents per kilowatt, and
4 I checked with the main office today, so keep that in mind.

5 MR. JOSTEN: Yeah. My view is that the
6 feasibility of this project is somewhere around five cents.

7 MS. MURRAY: Leslie Murray.

8 I had a question about what you were just saying
9 before about the canal improvement. And I forgot precisely
10 what you said. But could you talk a little bit more about
11 what will be improved and what exactly will be better about
12 it? I know that you're going to enlarge it. Maybe you can
13 speak for yourself on that. But could you elaborate?

14 MR. JOSTEN: Yeah. The improvements will be that
15 portions of it will be lined. And probably the most
16 important improvement is that the response time to any
17 problems in the canal will be immediate. You will know if
18 there's a problem in the canal immediately. You don't have
19 to wait for water to show up at the road. It will be
20 immediate. And the incentive of the project is to make
21 repairs if they're necessary as quickly as possible and as
22 permanently as possible so that it never happens again.

23 And I think that over time a good portion of this
24 canal may end up being lined as a simple way of just making
25 sure that problems don't occur. But from the start, because

1 lining a canal is expensive, we will start with the areas
2 that are known to be potential problems.

3 So I guess I rely a lot on my view that when
4 people are working in their own interests, they do a good
5 job. And it is in the interest of this project to keep that
6 canal operating smoothly. It is really in their interest.
7 And the instantaneous response is critical in this
8 indication.

9 Because I believe in that principle in action, I
10 think this canal will run better than it ever has.

11 MR. BRUZZONE: Steve Bruzzone.

12 Will you be carrying the liability insurance for
13 any potential damage, of property damage from a break in the
14 canal?

15 MR. JOSTEN: Whatever is necessary, you bet
16 because we have a big investment.

17 MR. WILSON: What's your position? With FERC?

18 MR. JOSTEN: I'm not with FERC.

19 MR. WILSON: You ain't?

20 MR. JOSTEN: No, I'm the guy who started all
21 this.

22 MR. WILSON: Okay.

23 MS. O'BRIEN: He's the applicant.

24 MR. JOSTEN: Yes. I'm not with FERC. I didn't
25 really start it; that's too big a claim for anybody. This

1 project was proposed when the dam was built. It was
2 intended to be built with hydropower, and then in the '80's
3 -- the whole thing was run through the end license. FERC
4 issued the license. The water right was issued. It just
5 was never built. So I'm the third person. And if it's not
6 me, somebody else will be looking at it later.

7 Okay. We were at the overflow. Existing canal
8 comes -- if any you have been out there, it holds the level,
9 holds the elevation of the water. That's what a canal is
10 for. Brings it all the way around and it comes to the
11 divide point between the Pit River drainage and the West
12 Valley Creek drainage. At that point the water spills over
13 and tumbles down. It's nothing more than a gully wash. It
14 gets released. There's no natural drainage there. It just
15 got released and it's dug itself a channel. As it gets down
16 toward the reservoir it braids out and goes into the
17 reservoir. That's how it currently works. And that water
18 is stored in the reservoir.

19 At that point, right at the top of that hill,
20 just before it starts down, we will construct a new canal
21 that will continue to carry the water without dropping
22 elevation all the way around, and you'll see in the next
23 picture it brings it around right up above the dam.

24 There will be a concrete overflow structure there
25 so that if the project was to go off-line and be incapable

1 of taking that water, the Irrigation District still has a
2 storage right, and we need to provided for that storage. So
3 what will happen in that case is the water will spill and go
4 down the way it currently goes. Under normal operations it
5 won't run here. But if the water gets shut down through the
6 project, it will spill there and will continue to be stored
7 for the District water rights and the power project's water
8 rights uninterrupted.

9 MS. GRIFFITH: Gail Griffith.

10 MR. JOSTEN: This is going to take a while, you
11 realize that. I'm okay with that.

12 MS. GRIFFITH: The water rights. Who is going to
13 have the most shot, will be South Fork Irrigation District?
14 So say we are too low and you could only provide for power
15 or irrigation, who would have the right to it?

16 MR. JOSTEN: There should be no question in
17 anybody's mind that the senior water right belongs to the
18 Irrigation District. After their right has been satisfied
19 and after any minimum flow requirements are satisfied, the
20 power project comes on.

21 MS. GRIFFITH: What is the minimum flow
22 requirement?

23 MR. JOSTEN: We will go into that, I promise you.

24 MS. MURRAY: Leslie Murray.

25 I have a question about the overflow. And I'm

1 trying to picture. The water is going down that upper blue
2 line in the picture there towards the new powerhouse. It
3 would be going up that main thing. And you shut it off or
4 down it towards the dam, sounds like the water is running
5 backwards to get to the old canal. That doesn't make sense
6 to me how the water can flow uphill.

7 MR. JOSTEN: There will be very little grading in
8 that canal at all. It will almost be like a long skinny
9 lake. So when it's no longer withdrawing flow from the far
10 end of it, it's level will start to raise. It will start to
11 want to rise up. As soon as it rises up this much, it will
12 come to the overflow structure and spill out.

13 So it will be engineered so that if flow stops,
14 the level rises small amounts, and then automatically spills
15 over. So it can't raise any further than that because it's
16 spilling. There's a gate, a weir.

17 MS. MURRAY: It's like you provided a lip, like a
18 pitcher, a place to direct?

19 MR. JOSTEN: Yep, that's a good way to think of
20 it. When things are flowing smoothly, the water is staying
21 below the level of that lip. As soon as it backs up, it
22 starts to rise, spills over, keeps the canal from filling
23 up.

24 MS. MURRAY: Thanks.

25 MR. JOSTEN: Okay. This is where the head level

1 sensor will be. If that water starts to rise, and the power
2 project can't accommodate it, you call the operator. If
3 that water level starts to drop, you call the operator.
4 This will be an automatic call-up system. The operator will
5 be called if anything out of ordinary occurs. And the
6 ordinary will be that it holds a constant head. Water level
7 never changes except by a tiny amount. If it goes down or
8 goes up, you call the operator. That means something needs
9 to be looked at. That's where that level sensor will be.

10 Okay. Here's the far end of the new canal. This
11 is the dam. This the far north end of the reservoir. The
12 canal comes around on the hilltop. It's in juniper forest
13 all the way around. And at this point you'll collect the
14 water with the concrete intake structure and put it into a
15 pipe.

16 And that pipe will then run down the hillside for
17 about 400 feet. And it will go to the powerhouse.

18 The penstock is 48 inches. It will be above
19 ground. About this tall. It won't rest on ground. It will
20 rest on saddles, and there will be space underneath it so
21 smaller animals can get under it. And but there will be
22 saddles and hold-down points as necessary to keep it in
23 place.

24 The powerhouse will be on the shore of the
25 reservoir. This is the far north end of the reservoir in

1 the photograph. The powerhouse will sit somewhere right in
2 here, down on the shore. And the powerhouse will be a metal
3 building approximately 20 feet by 50 feet. About twice the
4 size of this little building here. Like two of those
5 buildings end to end. It will be a metal building. And it
6 will contain two turbines and a generator.

7 This is also the point where the transmission
8 line begins. And transmission line will leave the
9 powerhouse. Probably be one pole on the east side of the
10 valley. Then the power line will span the valley, and the
11 remainder of the line will run down the existing road.

12 Examples of the pipeline, the different types of
13 structures to hold it, hold it down, be hold-down saddles in
14 places where it changes direction. Simple passive saddles
15 where it just needs to bear the weight.

16 One possibility is if there's soil, we can
17 partially bury the penstock. And we could also do that, for
18 example if it's felt necessary to provide passage for larger
19 animals that can't go under it.

20 Transmission line I talked about. We are now
21 looking upstream. The powerhouse is on the other side of
22 the dam over here. There will be one over here.

23 Now, it's going to come across, it's going to go
24 down this road and go down the rest of the way. There's no
25 power line there now. This will be new.

1 Okay. So that's kind of the end of the upper
2 part of the project. Now we are into the lower part of the
3 project which is based on releases out of the reservoir.

4 Currently there's a gate and there's eight
5 structures down in the water where they come up in a tin
6 house that I showed you in the last photo. And I don't know
7 what you do; you turn something and it opens the gate and
8 releases water out of the reservoir. You can close the
9 gate; it releases less water. This is where the Irrigation
10 District sets how much water they are delivering for
11 irrigation.

12 That structure will still be there in operating
13 condition, but it will be in a fully opened position. And
14 the amount of water that runs through the pipe will be
15 gauged at the powerhouse. In other words, you'll set the
16 delivery of water at the powerhouse instead of here.
17 Although this is still operable.

18 So it enters that gate and then the pipes go
19 through the dam and comes out there. Pipe comes out there.
20 At that point we attach a penstock and a valve. And the
21 penstock will run all the way down to the powerhouse. Now
22 the water is under pressure all the way to the powerhouse.
23 The purpose of the valve is so that you can also put water
24 into West Valley Creek in the event that either the
25 powerhouse goes off-line and we need to deliver that water

1 from irrigation, or if the irrigation call is greater than
2 the 130 CFS that the powerhouse can handle. Sometimes they
3 call for more water than that. In those cases this valve
4 will let some water down the creek and the rest of the water
5 will be in the pipeline.

6 Valve bypass. Same thing. 54-inch bypass valve,
7 butterfly valve. And it will be located close to the end of
8 that pipe that you saw in the last picture.

9 So bottom part of the upper project is all here,
10 and the top part of the lower project is all in this area
11 right around the dam.

12 Lower pipeline will look a lot like the upper
13 pipeline. It's going to start out down in the canyon, and
14 we will take it up along the left side of the canyon as
15 you're looking downstream and slowly bring it out of the
16 canyon and on to the road. But there will be a transition
17 where it's slowly coming up the side of the canyon. Does
18 that make sense what we are going to do there?

19 So it starts down at the bottom, but we will
20 bring it out right away.

21 MR. BAKER: Don Baker.

22 That will provide access to the water master to
23 control that valve at the dam?

24 MR. JOSTEN: We will provide access.

25 MR. BAKER: So you say you are putting the

1 pipeline on the road? How do they drive up there now?
2 Historically they drove from the confluence of Short Creek
3 and the Pit River. They have a pickup truck up to the dam?

4 MR. JOSTEN: Yes.

5 MS. O'BRIEN: You're proposing to put the
6 pipeline on that road? I'm asking how do they have access
7 to that valve in the advent of an emergency now.

8 MR. JOSTEN: They will drive on the roads the
9 same as they do now. Pipeline will be on the inside and
10 power line on the outside, and they will drive on it.

11 MR. BAKER: Thank you.

12 MR. JOSTEN: It wouldn't have gone anywhere if I
13 told them you guys didn't want it go to your dam.

14 MR. BAKER: You made no mention of who is doing
15 the road reconstruction?

16 MR. JOSTEN: I don't think it's necessary.

17 Penstock comes down along the road, and this is
18 to the confluence of West Valley Creek, Pit River.

19 Locate the second power house. Similar
20 structure, about 20 feet by 50 feet, metal building.
21 Somewhere near the confluence. You wanted me to say where
22 would it be. If it was just totally up to me, it would be
23 right at the confluence. But I can say that this location
24 is flexible, and I believe we can move it around to
25 accommodate other concerns. We can accommodate visual

1 concerns, noise concerns. There's some flexibility in where
2 it will actually have to be. But if you want to ask me
3 where to put it, where I would like to put it, I would like
4 to put it right at the confluence. As the water comes out
5 there's a short little tailrace canal, and the water goes
6 back into the Pit River at the confluence. And from that
7 point down there's no change.

8 MR. BAKER: Don Baker again.

9 Not knowing exactly where the powerhouses are
10 going to be established, how can you do an EIS on the
11 project not knowing, not being able to put a flag in the
12 ground showing that, how can an EIS be done?

13 MR. JOSTEN: I think what we will have to do is
14 we will have to look at the whole area. That includes all
15 the possible locations. That's one way to do it. If that
16 becomes difficult, then we will have to settle it.

17 But what I'm trying to do at this point is leave
18 that flexible until I understand what some of the other
19 concerns might be so that we can try to accommodate those.

20 MR. BAKER: Dan Baker again.

21 That is a concern where you put that. That's a
22 concern to all the people that live on the Pit River. We
23 would like to know where you propose exactly to put this 20
24 by 50 -- those two 20 by 50 buildings. You've been quite
25 vague about it.

1 It's not only us wanting to know, but how can you
2 do an environmental study if you can't tell us where you're
3 putting the building?

4 MR. JOSTEN: That might have been a mistake on my
5 part. I tried to leave it flexible because I thought I
6 didn't understand all the concerns, but I'll say that it's
7 going to be located right at this confluence within five
8 feet of the shore of West Valley Creek and the Pit River.

9 MR. BAKER: That would be right on the highway?

10 MR. JOSTEN: If you didn't like that, we will
11 move it back here.

12 A SPECTATOR: You mention noise. What would be
13 the approximate decibel level of that building we are
14 talking about, and what would that be comparable to?

15 MR. JOSTEN: This comes up a lot. It's a very
16 valid question. What I tried to do to address it was to go
17 a similar small hydroelectric facility near where I live in
18 Idaho and make measurements of the noise level beginning
19 inside the powerhouse, then going to outside the powerhouse,
20 and then walking from the power house to 500 feet away. And
21 that information has been filed with FERC and is available.
22 And I can't quote the numbers to first or second decimal.
23 But the general view was that right outside the powerhouse
24 door it was at about 80 decibels. Background in the rural
25 area with the highway in the distance similar to here was

1 about 50 decibels. At a hundred feet from the powerhouse
2 you were at background. So I would have to wait until cars
3 passed before I could even measure the sound from the
4 powerhouse. That's at a hundred feet -- for a power house
5 with no sound insulation.

6 I don't think this should be a sticking point.
7 If there's noise, I understand nobody wants that. We will
8 insulate the powerhouse, and it won't make a peep. The
9 turbines themselves are not loud. The only thing that makes
10 noise inside the powerhouse is the generator which has a
11 kind of -- if you're inside, has a high-pitched whine.
12 Doesn't matter how much water is flowing through. It
13 depends on the RPM of the generator, which never changes.
14 Because they are turned to the power requirements of the
15 grid.

16 If there's a problem, it can be mitigated, it can
17 be eliminated, by sound insulation. Here again I would be
18 glad to move the powerhouse into an area that provides some
19 natural screening, topographic, vegetative screening of that
20 sound as well. But I don't think that should be a problem.

21

22 And there's a lot of information available about
23 the noise of powerhouses because you're not the only ones
24 who have ever asked this question.

25

MR. TRAVERTINNI: Dan Travertinni again.

1 Is there a federal regulation of how noisy it can
2 be?

3 MR. JOSTEN: I don't think there's a federal
4 regulation. Certainly this is nowhere near a danger level.
5 There's no danger to hear it. This is -- you can have a
6 conversation standing outside the powerhouse wall with
7 another person. So this is not going to damage anything.
8 But your concerns or some folks concerns is when they were
9 sitting out on their back porch in the evening on the still
10 summer night they don't want to hear the powerhouse. I
11 understand that. That won't be a problem.

12 MS. MURRAY: Leslie Murray.

13 There's two parts to this question. The first
14 part is when you said you made measurements at a similar
15 powerhouse near your offices in Idaho. Did you also make
16 measurements here in this area?

17 MR. JOSTEN: Of background noise level?

18 MS. MURRAY: I'll just say the whole thing and
19 you can comment on both parts.

20 Today when I was next to the river and noticed
21 how much white noise is generated by the river, it occurred
22 to me that maybe you all should consider that when the river
23 isn't there to the right of the powerhouse, that that's
24 going to change, there won't be that white noise from the
25 river blocking whatever potential noise is coming from the

1 powerhouse. I just wanted to say to consider that.

2 MR. JOSTEN: Okay. The noise level, the actual
3 noise level of the river will be lower if the flows are
4 lower. I understand that. And as far as being able to
5 obtain what the background noise levels will be at any
6 location that someone is interested in, we can do that.
7 Because the river will reach those low levels by itself
8 under natural conditions within the next few months. And we
9 can measure that. But the real point is that the powerhouse
10 can be made silent.

11 MS. MURRAY: Okay. So you haven't -- I'm not
12 trying to quibble with anyone, but you haven't actually
13 measured yet. This is something you'll do you in the
14 future?

15 MR. JOSTEN: If it's necessary, if people feel
16 it's necessary to make them feel more comfortable with what
17 I'm saying, yes, they can do that. But, no, I have made no
18 background noise measurements.

19 MS. MURRAY: I'm assuming that will be an
20 important thing that will happen as other studies are going
21 on?

22 MR. JOSTEN: Fair enough. Like I said, I'm here
23 to go to work.

24 MS. BRUZZONE: Linda Bruzzone, property owner.
25 The powerhouse is situated within a canyon,

1 coming down from the canyon and on to the road. And during
2 the visit we took, that we took to the proposed homesite,
3 approximately 1200 feet from your proposed powerhouse. And
4 we allowed you to be able to hear the sound of vehicles
5 driving through that canyon and see how wind carries the
6 sound through the canyon and how it echoes. Are you doing
7 wind studies of the noise coming from the west and the
8 amount of echo within the canyon as well as with the lowered
9 river rate of how it would affect our home?

10 MR. JOSTEN: No, I haven't done those.

11 MS. BRUZZONE: Are you intending to?

12 MR. JOSTEN: Might be easier again just to make
13 the powerhouse silent.

14 MS. CANTRALL: May I offer some help from the
15 County of Modoc. I did not really explain earlier when we
16 were talking about decibels. The County of Modoc does have
17 an ordinance in place when it comes to businesses like rock
18 crushers and what not, and the decibel range that it may not
19 exceed the Planning Commission, and Mr. Scott Kessler takes
20 care of this. And I would offer to ask the Planning
21 Commission and his experts to go around and do this. And
22 they have the proper machinery to try to come up at
23 different times as the water either lowers or raises and do
24 this study for you. Because it is a valid question. And
25 since we do have the ordinance in place, and we do have

1 County Road Department people on that road at all times of
2 the year, it certainly would not hurt the County of Modoc to
3 do that.

4 MR. JOSTEN: Okay. That would be great.

5 I don't think sound is a problem. I mean, I
6 understand that it's a problem that you want some assurance.
7 As an engineer familiar with power plants, that doesn't make
8 me uncomfortable because I think that can be done. It can
9 be accommodated, but we probably need to make sure that you
10 really accept that. I've got no problem with that. Makes
11 sense to me. We will do it.

12 Okay, from the lower power plant then there's no
13 change in the water system after that, but from that point
14 the power line has to run into a substation in Likely. The
15 preference is that it will be combined with the existing
16 power line that's already there so that there will be still
17 be a single set of poles with the transmission line on the
18 top, probably, and the service line on the bottom.

19 And if -- and Surprise Valley Electric has
20 indicated that they're willing to entertain that concept.
21 They would take control and ownership of that line. It
22 would be a benefit to them. They would have three-phase
23 power now four miles up the canyon. But there's no
24 agreement on that. So I'm not putting any words in Surprise
25 Valley Electric's mouth, just that they said they would

1 entertain that possibility.

2 If not, there would be a parallel line to the
3 existing line within the same right of way.

4 MS. BRUZZONE: You mentioned that the amount
5 would be approximately five cents for the cost of your
6 power. And is there a cost for transferring the power down
7 the line opposed to Surprise Valley Electric at 4.9 cents
8 and what -- how much do you think that will impact under
9 PURPA if Surprise Valley Electric is required to buy your
10 more expensive power, how would that be consumed? Would it
11 be consumed by the community?

12 MR. JOSTEN: No.

13 MS. BRUZZONE: So you will sell it for less than
14 4.9 cents even if it costs you more to --

15 MR. JOSTEN: The feasibility of the project needs
16 to clear about five cents. That's the best.

17 MS. BRUZZONE: Surprise Valley Electric pays 4.9
18 cents retail for their power.

19 MR. JOSTEN: They might not be the buyer.

20 MS. BRUZZONE: What if you don't have a buyer,
21 under PURPA aren't they required to purchase your power?

22 MR. JOSTEN: No, Surprise Valley Electric is not.

23 MS. BRUZZONE: Who is?

24 MR. JOSTEN: Maybe Bonneville Power.

25 MS. BRUZZONE: Which line is that? We will need

1 to know the line that's going to be responsible so we know
2 the impact to the public.

3 MR. JOSTEN: Let me just say this, Linda. If the
4 power can't be sold so that we can make the payments on the
5 project, we won't build it. That's a risk that I take.
6 After all this risk that I take, if I get a license or
7 exemption to build this project and the water right, the
8 next risk that I have to run, and I have to run these in
9 order, because if I called them now and ask them, okay, do
10 you want to buy some power? First question is: When are
11 you going to be on-line? Well, I say 2008. Do you have
12 your license? No. Well, here's some general wisdom that
13 I'll offer you. Call me when you have your license.

14 So that's a risk that I take that after all this
15 effort I can't sell the power. That's what the Irrigation
16 District did last time. They couldn't sell the power to
17 make the project feasible, and they didn't build it.

18 MS. BRUZZONE: This is a question for FERC.

19 On QF's, who is responsible for the local power?
20 And does the local power person have to be identified so the
21 public will know whether or not under PURPA that the local
22 power company has to purchase their power so the public will
23 know whether or not it will result in higher power cost?

24 MS. O'BRIEN: What's a QF?

25 MS. BRUZZONE: That would be the qualifying

1 facility. When he gets the exemption, does it not make him
2 a QF.

3 Then my understanding under PURPA the small
4 operator that have the green power, that the local agencies
5 are required to buy their power; is that correct?

6 MS. O'BRIEN: Alan? I'm a biologist. He's just
7 our senior staff person.

8 MR. MITCHNICK: We don't have an engineer here
9 who obviously would be the one to answer that type of a
10 question.

11 I mean, my understanding was that you have to
12 declare your interest in securing PURPA benefits before you
13 file an application. Now if that's for licenses I'm not
14 sure --

15 MS. O'BRIEN: He's done that here.

16 MR. MITCHNICK: He did?

17 MS. O'BRIEN: Yes.

18 MR. MITCHNICK: Okay. They're not going to buy
19 the power until it's a good deal.

20 MS. BRUZZONE: Under PURPA local power facility
21 is required to buy green power?

22 MR. JOSTEN: No.

23 MS. CANTRALL: That's incorrect.

24 MR. JOSTEN: They are, but you know the truth of
25 it is, Linda, that they have been through this. This is an

1 old game. If they don't want it, they will offer you --
2 there's a set price that's set for it. But what they tack
3 on to that is an interconnect cost. And they can tack on to
4 that studies that are required to show that their system can
5 handle the load. So if they're not interested in your
6 power, PURPA or no, they are not buying it.

7 MS. BRUZZONE: How about Alturas and PPL, where
8 they have higher power rates, would that be one of their
9 PURPA local companies that may have to purchase your power?

10 MR. JOSTEN: I'm gambling that somebody is going
11 to be interested in this power.

12 MS. BRUZZONE: So you don't know?

13 MR. JOSTEN: No, I don't. I wish I did.

14 MS. O'BRIEN: I'll go ahead and comment that this
15 is an issue that's been identified that we will address in
16 the assessment.

17 MS. CANTRALL: May I make one other comment?

18 MS. O'BRIEN: We just want to keep it to the
19 project description.

20 MS. CANTRALL: Yes. There is a third line in
21 this county, which is Los Angeles Power and Light. It was
22 my understanding from Surprise Valley that if they did not
23 buy power, power can be sold at great expense to the
24 operator to other and various lines, whether it be local
25 ones or perhaps even out of state. But there is a third

1 line in the county in case any of you don't know. It does
2 exist and has since about 1920, I believe.

3 MR. JOSTEN: There's also Sierra Pacific line.

4 MS. CANTRALL: Sierra Pacific is the newest one,
5 correct.

6 MS. O'BRIEN: Are you done with your
7 presentation?

8 MR. JOSTEN: Yes.

9 MS. GRIFFITH: I had a question for Nick. Are
10 these going to be overhead power transmission lines that are
11 going to go from the dam to Likely?

12 MR. JOSTEN: You know where that service line is
13 right now? It will look just like that.

14 MS. GRIFFITH: How many watts are you going to
15 add to that?

16 MR. JOSTEN: The maximum capacity of the project
17 is 2.4 megawatts. It will be a 12 kilovolt line. I think
18 the line from Alturas to Likely is a 12 kilovolt line. So
19 that's what it will look like. It's the smallest
20 transmission line that's built.

21 MS. GRIFFITH: You double the wattage,
22 practically, that's on there now?

23 MR. JOSTEN: There will be a lot more power going
24 along the lines, the voltage will be higher.

25 MS. GRIFFITH: Have you done an environmental

1 impact report on how that will affect the cows, the people
2 that walk under these transmission lines?

3 MR. JOSTEN: You mean the electromagnetic
4 radiation?

5 MS. GRIFFITH: Right.

6 MR. JOSTEN: No, I don't think there's an impact.
7 I live under a transmission line like this with three kids.
8 No, I haven't specifically addressed that, but I didn't
9 think that was an issue, but we can probably provide
10 information to support that.

11 MS. GRIFFITH: I think it would be good if FERC
12 would require an impact study. People get sick from the
13 electromagnetic. You may put your children under the risk,
14 but it's dangerous.

15 MR. JOSTEN: Okay.

16 MS. O'BRIEN: That's an issue that's now been
17 identified. It will be considered, and we will consider in
18 the Environmental Assessment document.

19 I failed to introduce our FERC team and failed to
20 mention Forest Service and Bureau of Land Management are
21 cooperators with the FERC for the NEPA, National
22 Environmental Policy Act, which means everything leading up
23 to, including publishing our Environmental Assessment
24 documents. They will be co-authors with us on that, working
25 together with them on the Environmental Assessment.

1 And tonight Phil Rhinehart from the Bureau of
2 Land Management here is present. And Louis --

3 MR. HAYNES: Louis Haynes from the Forest Service
4 here in Alturas.

5 A VOICE: Any representation from Fish and Game?

6 MS. O'BRIEN: There's no representative from the
7 Fish and Game here tonight.

8 A VOICE: Is there a representative from Fish and
9 Wildlife here tonight?

10 MS. O'BRIEN: Not that I know of.

11 A VOICE: Is there any reason why?

12 MS. O'BRIEN: They could make it. They knew
13 about our meetings, and I can't answer for them. They will
14 have access to the transcripts like everyone else on the
15 record. They will read the transcript and provide their
16 comments by July 11th. Can't force them.

17 MS. CANTRALL: May I ask -- Patricia Cantrall --
18 that somebody does do a study on the electromagnetic fields
19 only because the County of Modoc and several government
20 agencies are being sued at this moment in time because of
21 magnetic fields, electromagnetism and what not in this
22 county. So perhaps it would be good to have that study.

23 MS. O'BRIEN: Okay. That comment is in the
24 record. That's something we will consider when we are
25 putting our additional requests together as it relates to

1 this project. We will decide if that's necessary and the
2 extent that that's evaluated in our Environmental Assessment
3 document.

4 So to get on with the resources. These are the
5 issues FERC, Forest Service, BLM have identified as issues
6 we will analyze in our Environmental Assessment Document.
7 And that's in the scoping document that was out on the
8 table.

9 So in geology and soils: Potential for over
10 topping of canals or canal failures. And the effects of
11 project construction and operation on erosion of soil in
12 project-affected water.

13 For water quality and quantity. The adequacy of
14 existing and proposed gages to monitor the hydrologic
15 characteristics and compliance with required minimum stream
16 flow releases.

17 The effects of construction of the new project
18 facilities and modification of existing facilities on the
19 water quality. And the effects of project operations on
20 water temperature and the other water quality parameters in
21 the project-affected waters.

22 The effects of the project canal maintenance on
23 water quality.

24 Effects of sedimentation and turbidity on water
25 quality caused by project operations.

1 Effects of year around water diversions from the
2 South Fork Pit River required for project operations on
3 water quantify in the bypassed reach.

4 Effects of project construction, associated
5 land-disturbing activity. Potential temporary turbidity
6 increase on the fishing resources in project-affected
7 waters.

8 The effects of project operation on fisheries
9 resources in project-affected water.

10 Effect of the year-round water diversion from the
11 South Fork Pit River for project operations on fisheries.

12 MS. CANTRALL: Will you also consider the effect
13 of those persons who pump water out of the South Fork of the
14 Pit River to irrigate private land and what not, especially
15 during low flow times as to what this damage might do to the
16 aquatic creatures?

17 MS. O'BRIEN: Our Environmental Assessment
18 considers, contains a cumulative impact assessment,
19 cumulative impact meaning all the effects of the river, all
20 the impacts from all sources on the river, like water
21 diversions, and other uses of the river, all cumulatively,
22 meaning in combining effect on the river. So the document
23 will be --

24 MS. CANTRALL: Thank you.

25 MS. O'BRIEN: For terrestrial resources. That

1 means the land, wildlife and botanical.

2 The effects of the loss of up to 35 acres of
3 vegetation on the local wildlife populations resulting from
4 project construction.

5 Effects of construction-related noise, traffic,
6 and human disturbance on local wildlife populations.

7 The potential for the spread of noxious weeds and
8 exotic species from construction activities.

9 And effects of project construction and operation
10 on sensitive plant and animal species.

11 The effect of reduced flows in the South Fork of
12 the Pit River and West Valley Creek on the existing riparian
13 communities.

14 Potential for mortality of wildlife species,
15 including deer, that might be entrapped in project canals
16 during high-flow conditions.

17 Effects of construction on deer migration and
18 wintering habitat.

19 Potential for project transmission line to pose
20 collision and electrocution hazard to birds.

21 Effects on threatened endangered species.

22 Effects of the project construction and operation
23 on the federally threatened bald eagle.

24 MR. TRAVERTINNI: Dan Travertinni.

25 How are these effects measured? Who is measuring

1 them?

2 MS. O'BRIEN: What we are doing, these are the
3 issues we have identified. We are going to go, we are
4 accumulating all the information that the applicant has
5 provided us that other agencies have done studies on and
6 consider if the applicant needs to conduct more studies to
7 address these issues.

8 MR. TRAVERTINNI: So some of these effects are
9 based on past studies, and what is not answered you're
10 saying then justifies further studies?

11 MS. O'BRIEN: These are the issues we have
12 identified we need to look at to see if there are effects.

13 MR. TRAVERTINNI: What is determining that?

14 MS. O'BRIEN: FERC, along with Forest Service and
15 BLM will be doing independent analysis of these issues in
16 our Environmental Assessment document.

17 MR. TRAVERTINNI: Thank you.

18 MR. WEISER: How about the red band trout? Is it
19 included in the endangered species?

20 MS. CANTRALL: No, it's not.

21 MS. O'BRIEN: It is not a federally listed --

22 MR. WEISER: Is it a species of concern?

23 MS. O'BRIEN: May be a species of concern. I
24 have to check on it. If the red band trout is being
25 considered in this project, it is a fisheries -- it's a fish

1 species. We would be looking at the possible impacts to the
2 red band trout. But it's not on the list of species, so
3 it's not included in this section of the document.

4 MS. GRIFFITH: That's a threatened species, if
5 it's a red band trout. It's listed under the Threatened
6 Species Act.

7 MS. O'BRIEN: I will double check, okay, and make
8 sure. If it is a federally listed threatened species, it
9 would be considered in this section of the document.

10 Recreation and lands use. The adequacies of
11 existing public access and recreational facilities in the
12 project area to meet current and future recreational demand.

13
14 Effects of the proposed action and alternatives
15 on recreational opportunities, including off-highway vehicle
16 use, fishing, boating, and camping within the project area.

17
18 And the effects of the proposed project
19 construction, operation, and maintenance on land use within
20 the project area.

21 For scenic and esthetic resources.

22 Effects of the proposed project construction,
23 operation and maintenance on esthetic resources within the
24 project area, including noise and visual impacts.

25 Effects of shoreline erosion resulting from the

1 proposed action on the esthetic resources within the project
2 area.

3 Cultural resources effects.

4 The effects of project construction and operation
5 on cultural resources that are listed or considered eligible
6 for inclusion in the National Register of Historic Places.

7 Developmental resources and socio-economics.

8 The effect of proposed protection, mitigation,
9 and enhancement measures on the project economics.

10 So that's all the issues we have identified. You
11 can turn in written comments to me personally today or if
12 you want to file them electronically at the FERC web site or
13 mail them directly, the address is on the screen and it's
14 written down in the scoping documents.

15 I can explain anything to you after the meeting
16 if you have any questions about how to file documents. They
17 need to be submitted by July 11th. We will also take your
18 comments, which is what we will go into now.

19 We would like to hear information that you have.
20 So we'd like to keep it friendly.

21 MR. BAKER: Is there a representative from the
22 Water Quality Control Board here tonight?

23 MS. O'BRIEN: No, there's not.

24 MR. BAKER: Thank you.

25 MR. WILSON: The Hammawis. We represent the

1 water.

2 MS. O'BRIEN: That meant the water board that
3 will be issuing the water right for the project.

4 And an additional issue that was written down:
5 What is the effect along the Pit River?

6 And I can't answer that right now. That's
7 something that we have on the record now and will be
8 addressed.

9 MS. BRUZZONE: One more concern that was
10 addressed in the Pit 1, 2, and 3 by the SFAD is the effect
11 on the income of individuals. We were planning to put in
12 fishing cabins on the other side of the property. Future
13 income and the ability to do business.

14 MS. O'BRIEN: Okay.

15 MS. BRUZZONE: That's another concern.

16 MS. O'BRIEN: Okay. Thank you.

17 So that's all the issues I have to discuss.
18 Comments need to be submitted by July 11th. We will be
19 taking more comments in a minute. You can also submit
20 written comments tonight. You can file them by mail to the
21 secretary of the Commission. Address is up there. The
22 instructions are also in the scoping document. You can also
23 file them electronically. We will also have pamphlets out
24 on the table about using FERC's web site and electronic
25 filing and looking at e library, look at all the things that

1 have been filed on this project.

2 I'm going to open it up to comments. I'd like to
3 say a couple of ground rules.

4 MS. CANTRALL: Before you get started, may I ask
5 a question on your last statement for clarification?

6 You said the Pit River. You did not name a
7 specific stretch, or are you considering how it would affect
8 like through the South Fork Irrigation District almost all
9 the way to Alturas, or do you mean to where the headwaters
10 end where they enter the Sacramento?

11 MS. O'BRIEN: Do you mean the comments I read
12 into the record?

13 MS. CANTRALL: Yes. You said the Pit River.

14 MS. O'BRIEN: On here it said -- the only time
15 Pit River was mentioned was: What is your estimate of
16 public use of South Fork of the Pit River.

17 MS. CANTRALL: The next thing you said, it didn't
18 mention South Fork. You mentioned just the Pit River.
19 That's why I wanted to know, is it the South Fork or is it
20 entire stretch of the Pit River?

21 MS. O'BRIEN: Well, I'm not sure exactly what
22 you're referring to, but I'll go ahead and clarify. The
23 effect of this project we are going to look at is from where
24 the diversion is. We will state this in the scoping
25 document. It's from where the diversion is to downstream of

1 the confluence with the second power plant. That is the
2 range of the effect of this project. And we can modify that
3 as we gather more information if we need to modify that.

4 MR. TRAVERTINNI: Dan Travertinni again.

5 When do you estimate that the final report will
6 be made public of these kinds of questions that you just
7 listed and the findings all documented and put together? Is
8 that going to be made public to us so we can read some of
9 these findings from different agencies? When do you
10 estimate that to be?

11 MS. O'BRIEN: We went through the processing
12 schedule in the beginning. As of right now we estimate that
13 we will issue our Environmental Assessment Document in April
14 of next year. That may move to a later date if we take
15 longer to gather our information. It will all depend and
16 spin off of when we issue our notice that we were ready for
17 environmental analysis, that we have gathered all the
18 information we need. But as of right now that's our
19 estimate.

20 MR. TRAVERTINNI: How is that made public? Is
21 that put in the Modoc Record?

22 MS. O'BRIEN: It will actually be a rather thick
23 document. It will be mailed to everyone on the mailing
24 list, FERC mailing list, and everyone who has signed up and
25 given their address will receive a copy in the mail. It

1 will also be on our web site. They can download a copy from
2 our web site.

3 MR. MITCHNICK: There will be a notice of
4 availability of the document in the local newspaper.

5 MS. O'BRIEN: Thank you, Alan.

6 MS. MURRAY: Leslie Murray.

7 You might have already said it, but once you have
8 organized all this, when you have the scoping document, you
9 have a certain number of things you already know, you have
10 to look at, and you take our comments tonight and figure out
11 the new stuff to add to that, is there a point that we then
12 see that in its organized state and could comment again? I
13 realize we have to add to what we are doing now by July
14 11th. What's the next step that we would have an
15 opportunity to comment?

16 MS. O'BRIEN: When we issue our Notice for Ready
17 for Environmental Analysis. After we feel we have all the
18 information we need, and we will issue our notice we are
19 ready for environmental analysis, and there's a 60-day
20 comment period so everybody can provide comments or
21 recommendations for how the project will operate.

22 MS. MURRAY: So at that point if we thought you
23 had left something out or whatever, that would be our
24 opportunity to comment?

25 MS. O'BRIEN: Then you'll have another

1 opportunity to comment officially after the Environmental
2 Assessment document is issued. Another 60-day comment
3 period after that.

4 MS. GRIFFITH: Gail Griffith, property owner.

5 I'm concerned about the money issues here. One
6 is, is there any government grants being provided to build
7 this electric hydroplant? Is there any government money
8 involved through grants, through process?

9 MS. O'BRIEN: Is Nick here? I believe -- Nick
10 Josten is the applicant of the project. He's the project
11 proponent. And the funding -- he's funding this project.
12 Where he's getting his money from, I'm not aware of.

13 MS. GRIFFITH: Then I have a second financial
14 question. How will it benefit the tax roll here? Will
15 there be taxes on the upgrades, all the buildings and the
16 land, the property, the canal? Will it have a property tax
17 base?

18 MS. CANTRALL: That is what I wanted to speak to
19 Mrs. Griffith.

20 MS. O'BRIEN: Are you going to talk about that in
21 a little while?

22 MS. CANTRALL: Yeah. We will hold that until
23 then.

24 MS. O'BRIEN: Nick, the question came up how -- I
25 guess it's up to you if you want to answer it -- where the

1 money is coming from. If there's a grant provided that
2 you're going to use to build this project.

3 MR. JOSTEN: No. This money will be privately
4 raised.

5 MS. O'BRIEN: Thanks.

6 So now we're going to open it up for comment. We
7 have a list of people that we will go through first. If
8 anybody else wants to speak after that, it's possible.

9 Couple of ground rules. Earlier today, it got
10 rather emotional. We don't want any personal attacks on
11 anybody or please don't make any accusations of other folks.
12 We want to keep this -- to please keep your comments to the
13 issues or your information that you have or for your
14 concerns about this hydropower project, how it relates to
15 the hydropower project.

16 FERC has nothing to do with the South Fork
17 Irrigation District current irrigation. And we know the
18 canal failure is a recent occurrence. We are aware that has
19 happened. We are not involved in that at all. We have no
20 control over it. We were not notified of it. Because we
21 have no say in how it's currently -- what's currently going
22 on, neither does the applicant, Nick Josten, it's completely
23 within South Fork Irrigation District and state laws, if we
24 want to go that way.

25 So although that information is very relevant to

1 this project, as far as we can see, the effects of what has
2 happened in the recent canal failure and can use that
3 information now that we have that information when we
4 assess, you know, project canal failures that happen on the
5 project. You know, potential failures that will happen, we
6 now have some evidence. What could potentially happen
7 because we have seen what has happened recently. So I
8 wanted to throw that out there.

9 And we would like each speaker to come up to the
10 front here to talk, and we are going to ask that there's no
11 cross talk amongst people. We ask that you state your
12 comments. If anybody else has comments, they need to wait
13 their turn and make their comments.

14 Because we have a long list of people, we ask
15 that you keep your comments to five minutes if possible. In
16 the interest of everybody here, and we don't want to be here
17 until midnight. And you also have the opportunity to file
18 written comments.

19 So Don Baker is first on the list. I just want
20 to preface, I know part of what you're going to talk about
21 is on the site visit. We visited his property and saw some
22 of the -- what is believed to be effects of the canal
23 failure. So this is basically background information. Your
24 testimony of information on how you observed that, I figure
25 you're going to tell us all about, but please keep it to how

1 it relates to this project.

2 MR. BAKER: Thank you.

3 My name is Don Baker. And I live just downstream
4 from this proposed project. And as was mentioned, what I'm
5 mentioning here is to fortify our concern of the management
6 of the diversion canal. The management of the diversion
7 canal in the past, and inasmuch as it's going to be managed
8 by the same basic people, we do have a concern of the
9 management in the future.

10 As has been mentioned, we experienced a breach in
11 the canal just recently which let water flow from the canal
12 down the side of the mountain, washing the soil from the
13 mountain down back into the Pit River, and the flow of the
14 river of course dispersed the sediment along the river.

15 I have documentation taken from the USGS gauging
16 station which depicts the flow rate showing when the break
17 occurred, with the increase of flow, when the repairs were
18 made, and so on.

19 And it's also here another concern of ours of
20 course the three agencies that need to be here, Fish and
21 Game, Fish and Wildlife, and Water Quality Control aren't
22 here.

23 Back in August the 7th of '04 one of the
24 management problems of the irrigation canal depicted by this
25 graph taken from the USGS shows that whoever is in control

1 of managing the water apparently arbitrarily shut the valve
2 off instead of increasing the flow. And this graph depicts
3 that. Shows the water going from 150 CFS down to roughly 10
4 all at once. What happened there of course is the fish were
5 left stranded. My wife and I were picking them up, putting
6 them in the deep pools. This was corrected within a matter
7 of hours. But my point being in that this can happen. And
8 this can happen with 37 and a half or 38 cubic feet a
9 second, it would be much more devastating when it's a
10 hundred cubic feet a second.

11 I have a sample here. Of course Water Control is
12 not here. This is a sample of the water that I took from
13 the river at the time of the breach. I think we can all see
14 through the water here. The sediment that had the impact on
15 the aquatic life, the mollusks and crayfish, you can see
16 what settled out of this water in just one quart. This
17 might give you an idea what the river looked like during the
18 breach. This will give you some indication what can happen
19 at 37 cubic feet a second. Please imagine what will happen
20 at a hundred when the same thing happens, and it will. It
21 has happened in the past historically. There's evidence
22 along the canal showing of other breaches, erosion down the
23 mountain side. So it's happened in the past. It just
24 happened -- it will happen again. Much higher levels. And
25 that's among some of the other esthetic concerns. Our

1 primary concerns here. Thank you.

2 MR. WEISER: Do you want to talk about the
3 mollusk?

4 MR. BAKER: I did mention this high level of
5 turbidity, what it did to the aquatic habitat. It killed
6 all the mollusks and crayfish in the river. For all intents
7 and purposes it pretty much sterilized the river. The high
8 flow that we just experienced has washed this sediment away,
9 uncovering the dead mollusks and crayfish and so on. It's
10 very eloquent.

11 All you have to do is walk along the river, look
12 at any sand bank and you'll see the evidence.

13 MS. O'BRIEN: Thank you.

14 MR. BAKER: Do I have to answer questions?

15 MR. WEISER: I would like to amend what Don has
16 said.

17 MS. O'BRIEN: You need to come up and talk.
18 Thank you, Don. You need to come up here and make your
19 comment, then.

20 MR. WEISER: Very short statement. My name is
21 Dag Weiser.

22 I wanted to remind Susan that during the site
23 visit I took everybody to Don's property to show what I saw
24 was evidence of a mollusk and crayfish kill-off. At that
25 time a question was raise by Jay Younger and Evie and a

1 couple other people whether that had actually been affected
2 by the breach. And there was concern by Don that that was
3 indeed the case, that that was covered over by the sediment,
4 the breach, and when that disappeared, that was what was
5 left.

6 MS. O'BRIEN: Thank you.

7 MS. CANTRALL: Patricia Cantrall.

8 I need to ask a question of Mr. Baker for
9 clarification.

10 You just stated that all the mollusks and the
11 crayfish are dead, did you not?

12 MR. BAKER: At the time of the breach it covered
13 all the crayfish.

14 MS. CANTRALL: You said all the crayfish and all
15 the mollusks in the river.

16 MR. BAKER: I'm not saying they don't come back
17 down the stream.

18 MS. CANTRALL: Okay. That's what we need to
19 clarify.

20 MR. BAKER: Maybe you ought to get in that
21 clarification.

22 MS. O'BRIEN: We did see live muscles, but there
23 was significant amounts of dead muscles. But there are some
24 remaining live ones we were able to see.

25 Next is John Flournoy. Now, I just want to make

1 a statement that we don't want to repeat any comments that
2 were made earlier today.

3 A VOICE: John wasn't here. His brother was
4 here.

5 MS. O'BRIEN: I'm sorry.

6 MR. JOHN FLOURNOY: I'm the good looking one.

7 I'm John Flournoy, and for thirty years we have
8 farmed here in the South Fork Valley. I'm a user in the
9 irrigation district. And we have raised cattle and hay and
10 kids during that period of time.

11 We as farmers harvest natural resources, and in
12 this area it's very harsh. We have about a hundred days of
13 frost-free growing season. And we were somewhat excited
14 when we learned that there was another natural resource that
15 we could possibly harvest that might yield some income off
16 of farms for possibly 200 days of the year instead of just
17 one hundred days. So we have some excitement about that.

18 That facility up there was already built. So we
19 don't have to build a dam. And now we just have to
20 restructure the existing structure to make this hydro thing
21 work. It could create some revenue. It might not, but it
22 could.

23 If it were to create revenue in time, after it
24 was paid for, it might reduce the cost to our irrigation
25 district. And our facility up there is 70 years old. So

1 the dam, and the head works, all the concrete is beginning
2 to need some repairs. This project could possibly pay for
3 those repairs in time.

4 We feel that the project is good for our growing
5 community, and it's good for the outlying community, the
6 county, and the state.

7 It would also reduce the dependency on foreign
8 oil, something we have been trying to do in the state for
9 about 30 years.

10 I'd like to say something about the magic of the
11 word "and." I'd like to -- I'd like to think that the
12 project could be built and the landowners in the area of
13 reduced flow could be mitigated or have that fishery
14 improved or brought back to where it could be used by the
15 sportsmen.

16 I feel if we can't, if we can't build this small
17 hydroelectric plant, the likelihood of any plants ever being
18 built is pretty nill. And so the problems that I've
19 mentioned before, reconstruction of our dam, and dependency
20 on foreign oil, high energy costs, those things will
21 continue to rise and become more out of hand.

22 Thank you.

23 MS. O'BRIEN: You need to come up to the front.
24 We need to stick to our ground rules.

25 MS. BRUZZONE: John, I have a question for you.

1 Doesn't South Fork Irrigation District already have another
2 application in for another hydroelectric plant at Moon Lake
3 in the Hot Springs Irrigation District?

4 MS. O'BRIEN: That's not relevant to this
5 project.

6 MS. BRUZZONE: Well, yes, it is. We were
7 discussing that earlier. It has the power lines that come
8 down the canyon.

9 MS. O'BRIEN: Right, but that's still in the
10 preliminary permit stage. It's just being looked at and
11 considered as a possible project. No application has been
12 filed with FERC.

13 MS. BRUZZONE: Yes, there has.

14 MS. O'BRIEN: Preliminary permit application.

15 MS. BRUZZONE: It's been accepted and there's
16 been announced they're in the application process, P 12575.

17 MS. O'BRIEN: I can clarify that. That is a
18 preliminarily permit that has been filed with FERC and
19 noticed in the recent paper here. Preliminary permit means
20 that the applicants have asked for that site to be reserved,
21 that they have the right and that nobody else has the right
22 and preserves the right to them to file an application in
23 the future. The notice that was issued just says the
24 application was filed. FERC has not accepted the
25 preliminary permit application yet. There's a comment

1 period right now.

2 MS. BRUZZONE: Mr. Flourney did make the comment
3 that there probably would be no other hydroelectric project.
4 That opened up the discussion between the two, since it
5 affects the same project area, and it affects all of our
6 projects. Since our properties are listed as being in their
7 project area for both of the projects.

8 MS. O'BRIEN: Right.

9 MS. BRUZZONE: And the projects do involve the
10 same individuals.

11 MS. O'BRIEN: Okay. Well, your comment is noted.
12 Your comment is noted and it's in the record.

13 MS. BRUZZONE: Can I ask him?

14 MS. O'BRIEN: Ask him what? Your comment is in
15 the record. I don't know --

16 MS. BRUZZONE: I asked him a question. You told
17 me it was irrelevant.

18 MS. O'BRIEN: You asked him if he filed it. We
19 know it's been filed. I don't want to happen what happened
20 today. We don't want to put anybody on the spot here.

21 MS. BRUZZONE: I do believe the property owners
22 are entitled to know who the principals are in this project.
23 We do know that the South Fork Irrigation owns the diversion
24 canal and operates the diversion canal. We do know they own
25 the dam. We do know that they have another project and that

1 has been into the process.

2 We do have a right to know the individuals who
3 are financing this project and the individuals who are
4 principals in this project because that leads into revenue.
5 And what is happening we are having scoping hearings based
6 on information that none of us has been given. And we do --
7 I do believe we have a right to know this information. And
8 even though FERC may not agree that we need to know this
9 information, we do.

10 MS. O'BRIEN: No, this information is important
11 and right now the West Valley Project 12053, the applicant
12 is Nicholas Josten, and it's located fully on -- it's
13 proposed to be located fully on Forest Service and BLM
14 lands. And he would need to acquire the easement or
15 necessary permission to use those project features already
16 in existence.

17 Let's do one question at a time.

18 MS. BRUZZONE: However, we have your testimony
19 this morning here Mr. McGarva that they were a partner with
20 Mr. Josten in this project when it was filed.

21 MS. O'BRIEN: They are not a partner in the eyes
22 of FERC as of right now. Only Mr. Josten is an applicant.

23 MS. BRUZZONE: So anybody can sign with FERC as
24 an applicant and have blind partners?

25 MS. O'BRIEN: No. If there's going to be

1 partners, you need to file with FERC. I don't know if I can
2 -- if you want to go any further with that.

3 MR. JOSTEN: I thought I answered it. I don't
4 have any partners.

5 MS. BRUZZONE: But Mr. McGarva said back in 2003
6 when you filed the application there was a \$20,000 agreement
7 as a partner.

8 MR. JOSTEN: I don't think that's right.

9 A SPECTATOR: After that time the District backed
10 out.

11 MS. BRUZZONE: When did the District back out?

12 A SPECTATOR: I don't know the date.

13 MS. O'BRIEN: Apparently reapplication --

14 A SPECTATOR: We are rehashing this. We are not
15 following the rules. Let's get this on track and let's go
16 on.

17 MS. MURRAY: May I have ask a question?

18 MS. O'BRIEN: You need to come up here and speak
19 your comments, then. Thank you.

20 MS. MURRAY: I'm Leslie Murray.

21 I just wanted to ask you if you -- you alluded to
22 that there would be the appropriate time that the financial
23 partnership relationship, whatever word you want to put on
24 that, would be disclosed. So I think that might help people
25 to understand if you talk a little bit more about that.

1 Because obviously Nick has talked about, you know, private
2 funding, that he would raise the money and all that. So I
3 guess what I'm hearing about, maybe you can tell me if this
4 is exceeding the bounds of the scoping meeting, but there
5 might be a time when you have to disclose this legally.
6 Ever, never?

7 MS. O'BRIEN: That's your question? The question
8 is --

9 MS. MURRAY: What's the process? How public is
10 it?

11 MS. O'BRIEN: If Nick Josten acquires partners
12 while this application is being filed or after the exemption
13 is granted, if it's granted, FERC is going to notice it and
14 let people know this is going on. If it's during this
15 process to get an exemption, he would have to let us know
16 that he acquired a partner. And it will be noticed.

17 I imagine we could put a comment period on it if
18 there needs to be. If it happens after the exemption is
19 granted, if it's granted, there would have to be
20 transfer-of- ownership type of appropriate measures made and
21 that is a FERC process involved where there would be
22 comments.

23 MS. MURRAY: Just to clarify. This is Leslie
24 Murray again.

25 Is there -- I don't know how to word this. Is

1 there a way that he could receive financing for this project
2 and not be required to disclose it?

3 MS. O'BRIEN: From my point of view he's the sole
4 applicant, and where he gets his money --

5 MS. MURRAY: Where he gets his money is not a
6 FERC issue?

7 MS. O'BRIEN: It's not part of the FERC issue, I
8 don't believe.

9 MR. MITCHNICK: The only time it would be a FERC
10 issue is if that party was to become a co-applicant,
11 co-exemptee for the project. At that point they would have
12 to go through the FERC process to change the exemptee for
13 the project. But how he finances his project is nothing
14 that FERC is going to take a real close look at.

15 MS. MURRAY: Okay. Thank you.

16 MS. O'BRIEN: I believe Gail is next on the list.

17 MS. GRIFFITH: My name is Gail Griffith. I live
18 out at Timber Acres. I own my place my uncles and
19 grandfather used to own, the bait shop.

20 I have been coming to the Pit River to swim in it
21 every since I was a little child 50 years ago. When I was
22 four or five or so, the river there by the bridge where the
23 Old Blue Lake Road is, it used to come to my belly button.
24 Now, I know I've grown since then.

25 When I came when I was twenty it used to hit over

1 my knees. I can tell you the five years I've lived here,
2 July August, September and into the rain in October, the
3 water there is only ankle deep. If you've done your
4 studies, perhaps you better redo your figures. There is not
5 enough water to pump out a hundred cubic feet. There simply
6 is not. If you look at it in July and August, my ankle is
7 maybe four inches, and that's what's in the water during
8 that time.

9 I have great concerns. One, it will probably dry
10 the river up. And then that three miles of beauty will no
11 longer be there. What do we tell our grandchildren? And
12 the future generations? We offered three miles of river for
13 electricity?

14 The second point is there is a habitat here for
15 all kinds of critters. At least four, possibly five, are
16 endangered species: Crayfish, Shasta crayfish, bald eagle.
17 I know it flies overhead all the time. I have California
18 wolverines on my porch. They are out there, they are
19 endangered, and they need our help.

20 Number 3, I'm a property owner. I'm sitting
21 right there 300 foot from the river, and I do worry about
22 the valley. I do not want to plan to sell the home for 20
23 or 30 years, but my children will probably inherit it. Do I
24 tell them: I am sorry, kids, I sold you out for
25 electricity. I don't think so. This is a bad idea and it

1 needs more study. Thank you.

2 MS. O'BRIEN: Thank you. Steve. Pat?

3 MS. CANTRALL: Patricia Cantrall again.

4 Because there were some questions about who would
5 make money, whether it be the County of Modoc or whomever,
6 from the tax dollars, this is from Mrs. Josie Johnson, the
7 County Assessor. If this stays in private ownership, taxes
8 will be on the whole project, whether it be the power line,
9 the equipment, the use of the equipment to widen the canal
10 or whatever. If the project is owned in the entirety by
11 South Fork Irrigation District, no moneys recur to the
12 County of Modoc. No taxes are levied upon public entities.

13

14 Except with one thing. If the power line is
15 built, taxes on the power line and on the power generated
16 would occur and go back to the County of Modoc.

17 As it stands right now, the figures given earlier
18 were correct. Between one and a half and two and a half
19 million, thereabouts.

20 So if it remains in private ownership, is
21 privately sponsored, then tax dollars do accrue. And as the
22 work progresses, in case the power plant should not be built
23 in one whole year, an assessment is done just as I think
24 some of you would know when you are remodeling or building a
25 home, the Assessor's Department comes around every January

1 1st and reassesses on the work that you have done that year.
2 So to clarify that issue.

3 The gentleman from one area of the Pit River
4 Tribe who mentioned that sediment occurs, and stays in the
5 river, and sometimes is flushed out by great flows, the
6 County of Modoc would like you to know, this is a Public
7 Works Department and the Road Department, that also during
8 high flow it will deposit dirt where it should not be. It
9 filled up a quarter of a mile of Parker Creek to the bank
10 which caused flooding to back up all over.

11 Anyway, as to the Department of Fish and Game, I
12 don't know why Water Resources isn't here. I will tell you
13 that I called all morning to the State agency; did not get a
14 reply. And I called my senator Dave Cox who was absolutely
15 furious not knowing why the Department of Fish and Game is
16 not here. He is furious that nobody bothered to tell us
17 that they would not be coming or that somebody isn't here.
18 And I assure you that question will be answered.

19 As to the Pit River Tribe not being notified, the
20 Pit River Tribe was notified by the County of Modoc and by
21 me personally. All the areas that live in Modoc County were
22 notified, including those at Fort Bidwell, which some of
23 these people are not members. They were a different tribe.
24 But anyway notification was given.

25 And I met you at the Pit River Tribe meeting in

1 Burney. I'm sorry something slipped through the cracks, but
2 notice was sent. The Indian community, the Native American
3 community, is watching because the lithic standard is so
4 great if anything crops up, believe you me, your people will
5 be notified to come look and see. Be it a burial ground,
6 whatever. Just to let you know that you will be apprised of
7 everything.

8 I think that's it. I think you've answered
9 everything else.

10 Also one other thing. By county law, no matter
11 which side wins -- and I will tell you this because I keep
12 nothing hidden from the public. You can talk about United
13 States government rulings and its laws, but the County of
14 Modoc does have final. Should somebody not be particularly
15 happy, as in anything else that goes on in this county, if
16 FERC rules against you, against them tomorrow, whatever, the
17 agency or its people that we represent have the right to
18 appeal to the County Board of Supervisors, and we in fact do
19 have the final say. Thank you.

20 MR. WILSON: Can I comment on that?

21 MS. O'BRIEN: Would you like to come up?

22 MR. WILSON: Ivan Wilson from the Pit River
23 Tribe. Representative from the band, the Hammawi.

24 The Hammawi band has got the final say. I know
25 where you're coming from, but you got to look at my

1 situation. We are just here to listen to you guys' comment.
2 They want to go to consultation with us tomorrow, a meeting.
3 I don't think you're prepared for it because they don't know
4 what consultation is, I don't think yet. And because they
5 never come to us and they already got this dam made up or
6 whatever, you know.

7 To me it is that the land deal -- the land deal,
8 whatever, that we were bringing back up here, maybe not
9 right today but in five years or whatever. The government
10 says that, you know, we sold out. Never, you know. To me
11 I'm just like a caretaker. It ain't my land. We probably
12 won't die for it right now. We are kind of a little upset
13 because we should have been the first ones to be notified
14 and consultation, whatever this is right here, that you guys
15 are going to present to us tomorrow. Because I'm going to
16 tear you apart, and other counsel people are going tear you
17 guys apart tomorrow. And I don't see how you guys, you say
18 you want a consultation with us, because we are government.
19 I mean. And we never did our taxes for years, but now we
20 are. Because some of us did go to school and learn it, you
21 know what I mean?

22 But, you know, is this your presentation you're
23 going to show us tomorrow? It's sad. You know, because we
24 want what all these people want. And I don't know if FERC
25 or whoever we are going to meet with tomorrow wanted just

1 the counsel and you guys, you know, the community could come
2 too if they wanted to listen too because we are going to ask
3 you the same question some of these people asked. We want
4 them answered. If you don't, you know, we were opposed to
5 it right now.

6 And so that's all I got to say right now because
7 tomorrow I'll say more, how we really feel about it, but it
8 ain't looking too bright.

9 A VOICE: Where is this meeting tomorrow?

10 MS. O'BRIEN: There's a federal government
11 consultation, government-government consultation, it's
12 called, with the tribe that BLM, Forest Service, and FERC
13 will be having with the tribe. We noticed it in public
14 notice. It went into the papers. And anyone is welcome to
15 attend. Transcripts will be made, but no one from the
16 public besides the government will be able to be at the
17 table and talk. Everyone else can only be observers to the
18 process.

19 It's going to be held tomorrow morning at 10:00
20 a.m. in the Bureau of Land Management office.

21 I had asked when we published our notice we
22 needed to know who was going to attend. So if you do plan
23 on attending and you haven't previously told anyone, please
24 let me know before you leave tonight.

25 I wanted to make one comment that Pat mentioned

1 about the other resource agencies. I want to comment that
2 Andy Monge from Department of Fish and Game did send us an
3 e-mail saying that no one would be able to attend, I believe
4 a week ago. And U.S. Fish and Wildlife Service out of
5 Sacramento did plan to send a representative. He was all
6 set to come to the site visit and the meetings, and
7 something happened at the last minute that he had to cancel
8 his plans. We didn't find out until we got to the hotel.
9 He left a message at the hotel. Apparently that's an issue
10 that came up.

11 We did have someone from Fish and Wildlife
12 Service from the Klamath office attend the site visit. And
13 I'm not sure what happened to the Water Board.

14 MR. WILSON: The consultation -- that we don't
15 consultation with no middle man at all. It has to be the
16 man from up top in consultation with us. We don't go
17 nowhere until you do get these people that are a head of
18 these difficult races come and meet all at one time at the
19 table. If not, we can't agree to have consultation with
20 anybody tomorrow. I know that right now. And do you have
21 an agenda for tomorrow? Can I get it?

22 MS. O'BRIEN: Yes, we have. Let's talk about
23 that after this meeting. We have our Tribal Resource
24 Specialist with us tonight. He does all the work with Randy
25 Davis (phonetic).

1 MR. WILSON: See, right there, Randy Davis, this
2 is my culture person. We have a culture resource office
3 down there. We should be going through them. Randy Davis,
4 he's like the manager of our office. He takes care of all
5 the office. He's kind of like the middle man, whatever.
6 But your letters should be going through our Cultural
7 Resource Department, the Hammawi band person, because we all
8 got our mail box at the office.

9 MS. O'BRIEN: I was unaware of that, and I'm
10 coordinator. And I'll take care of that tomorrow so it
11 doesn't happen again, and straighten that out. I was under
12 the impression as long as it went through June, that was
13 sufficient. Since it's not, we will clear that up.

14 Since this is irrelevant to the scope meeting,
15 can we talk about this after the meeting? Can you stay for
16 a little bit?

17 MR. WILSON: Probably.

18 MS. O'BRIEN: If Frank can talk actually outside
19 the room on it. I don't want to cut you off either.

20 MR. WILSON: Be all right.

21 MS. O'BRIEN: Next on the list.

22 MS. ALVAREZ: Susan Alvarez. I'm cultural
23 representative for this project for the Hammawi band.

24 My mother was born and raised here in Likely.
25 Her name was Geraldine Brown. Married my dad, Merl Wilson

1 in Hat Creek. So growing up in this area was a major part
2 of our upbringing.

3 My mother being raised here, I was the first born
4 child in Likely -- I have four or five. I have 11 children
5 in my family. My older sisters and brothers were born here
6 in Likely. And we have property here in Likely, trust
7 property. My family does right up here across from the
8 cemetery.

9 And we have family that -- Kate Bailey (phonetic)
10 that lived here in Likely too. She also had her property
11 here. I remember coming here as a young person, and the
12 store here, Harry Cronoy (phonetic) he used to talk Indian
13 to the people that couldn't talk Indian.

14 So basically we are here to oppose the project.
15 And our opposition is for the future of our tribe, the young
16 people that are not going to be able to enjoy the quiet of
17 the valley, and the quiet of the area that will be affected
18 by the noise and the different situations.

19 Tomorrow we will be actually presenting something
20 to the tribal consultation. But I just want to read a
21 couple things that I have here.

22 Cultural and archeological surveys reports are
23 missing or inadequate and archeological studies have not
24 been conducted to determine the effects on cultural sites as
25 a result of this project. There are numerous sites that

1 would be affected by the project that are valuable to the
2 on-going cultural identity and the traditional use of the
3 Hammawi band of the Pit River, whose ancestors once
4 populated and resided on the lands within the project area.

5
6 Traditional uses, American ethnographical
7 studies, and consideration for listing on the National
8 Register of Historical Places. Many of the project impacts
9 affect the land, air, water, wildlife, plants, natural
10 settings, and quiet atmosphere, which are all components of
11 the band's traditional values.

12 Ethnographic studies should include interviews
13 with elders and traditional people. Also the project is
14 subject to Section 106 Process National Historic
15 Preservation Act. The tribe requests a full Section 106
16 process under National Historic Preservation Act, including
17 consultation with elders and traditional people by qualified
18 ethnographers. The tribe requests full compliance with the
19 confidentiality requirements of Section 304 of the National
20 Historic Preservation Act. And the band requests
21 development of a cultural management plan to ensure
22 preservation of the important cultural values of the area.

23 And I'd like to invite anyone to our consultation
24 tomorrow. You know that you're not going to be able to
25 speak, but you can come, whoever opposes the project in

1 support of the tribe also in the process.

2 So I just want to thank you for the presentation.
3 I had made a presentation also earlier in 2003. I came here
4 and read a letter to the group when it was first proposed.
5 I believe it was 2003. And we had the basic same concept.
6 We opposed the project because of the effect that it will
7 have on the cultural and traditional areas of our band here
8 in Likely as well as the tribe, because anything that
9 affects our band will also affect the tribe because that's
10 the way that our government is set up.

11 So again I just like to reiterate that the
12 Hammawi band of the Pit River tribe opposes the project.
13 Thank you.

14 MS. O'BRIEN: Thank you.

15 George Wingate.

16 MR. WINGATE: I'm George Wingate, W-I-N-G-A-T-E.

17 And I didn't really come here tonight with the
18 intention of speaking. But some of the comments, I jotted
19 down some notes and a couple of items I think should be
20 entered in the record, and a couple issues that need to be
21 addressed in the documents.

22 I want to first say I'm representing only myself.
23 I have no financial or any other -- other than a
24 conversational relationship with the applicant or the
25 landowners, both of which I have had the pleasure of

1 conversation.

2 I have no relationship with FERC. And I'm not
3 representing any federal, state, or local agency.

4 I've been a hydrologist for over thirty years,
5 wildland hydrologist and Registered Professional Forester in
6 California.

7 I'd like to address my comments directly to the
8 FERC representatives to help you with your scoping for your
9 document for the EIS. Limiting my comments to just a couple
10 of issues that I believe are important.

11 The one is the stream conditions, habitat. And
12 the second is the cultural custom. Do you have a culture
13 custom section in your document?

14 MS. O'BRIEN: Cultural resource section?

15 MR. WINGATE: No, culture and custom. Might be
16 under social?

17 MS. O'BRIEN: Socio-economic?

18 MR. WINGATE: Could be, yeah. Could be social
19 aspect of that.

20 Anyway, I'm going to be using the term custom and
21 culture.

22 MS. O'BRIEN: Okay.

23 MR. WINGATE: I have had the opportunity to
24 participate with the Central Valley Water Control Board
25 staff and the local SAE's on restoration projects along the

1 Pit River. And my interest in the South Fork Pit River was
2 stimulated by those various tours and work I did with those
3 folks.

4 The portion above the Pit River -- I'm sorry, the
5 portion of the South Fork of the Pit River above the highway
6 here, what I've seen of it, is an area that has just a
7 tremendous amount of potential for aquatic habitat and
8 riparian habitat, but currently is in a pretty degraded
9 condition with -- it lacks a hydrology facility and SAE's
10 and the habitat for aquatic --

11 MS. O'BRIEN: Maybe you could just talk slower
12 and louder.

13 MR. WINGATE: Thank you. I can do that.

14 Specifically to the proposed project, I have
15 reviewed the report regarding fish barriers and minimum
16 flows for fish passage that was prepared by Ecosystems
17 Sciences where we used the Hec 2 model to route stream flows
18 through the diversion reach.

19 They found that at five CFS minimum flow that
20 there were certain barriers to fish passage. At
21 seven-and-a-half CFS that those barriers were no longer
22 impeding fish movement.

23 At seven and a half CFS even the stream and fish
24 passage would be enhanced by some very reasonable type of
25 in-stream projects.

1 The stream and the diversion reach could be
2 greatly enhanced through an ecosystem-based restoration type
3 of efforts to the point that based on my review of the
4 stream course along the private sections that I viewed of
5 the diversion reach, the private land owners were kind
6 enough to take me on a tour of the properties, that
7 reasonable restoration work would provide a robust,
8 self-sustaining trout habitat system at seven-and-a-half CFS
9 minimum flow, or essentially I think the conditions the
10 proponent is looking at.

11 Currently that -- those reaches are definitely
12 not robust, self-sustaining trout fishery habitat. More
13 important, the project could stimulate a potential for
14 watershed based partnership to enhance the South Fork Pit
15 River. I think that's an opportunity I would like to see
16 addressed. Maybe you can find a way to do that.

17 Regarding the custom and culture aspect of the
18 EIS. I live in the local area, by that I mean northeast
19 California, since 1979 and a couple years back in the '60's.
20 My wife is third generation in Lassen County and we have
21 been living in Susanville. She grew up there.

22 I have a real interest in maintaining what I'll
23 call the eastside culture, the culture of the people,
24 communities, and the history of the east side of the Sierra
25 Cascade Mountains. Having moved back to Susanville in 1979

1 because we liked what it was, we found that over the years
2 that as the agricultural community, the timber industry,
3 ranching, farming, started dwindling, we started getting
4 Burger King's and Jack-in-the-Boxes, which our kids like,
5 and Wal-Mart which our local merchants did not like, and
6 three prisons; that custom and cultural often in our
7 community has really changed dramatically. I think that in
8 the human impact section that there needs to be analysis of
9 the project's effect; that is, its ability to help maintain
10 the custom and culture in the local area should be
11 addressed.

12 Thank you for allowing me to speak.

13 MS. O'BRIEN: Thank you.

14 We want you to come up front.

15 MR. WEISER: Dag Weiser.

16 One sentence about what George said. I just like
17 to say that streambed restoration is not dependent on this
18 project. We could do our own streambeds restoration on our
19 own private properties. And Edie, the ranger, pointed out
20 yesterday Fish and Game has done substantial streambed
21 restoration in the BLM and Forest Service sections of the
22 river. It's amazing what they have been able to accomplish.

23

24 As it becomes clear to me by comments that George
25 made that the private property reaches are not quite up to

1 snuff. I believe I can take care of that. I don't need the
2 hydroelectric project to do that for me. Thank you.

3 MS. O'BRIEN: Any other comments for tonight?

4 I want to thank everybody for coming, and your
5 input is important. All comments are considered equally.
6 And all issues are considered equally when assessing this
7 project.

8 The transcripts may take a little longer than I
9 said earlier because of the volume of what's been said
10 today. We have another meeting tomorrow, so our court
11 reporter let me know after the first meeting that it may
12 take a little longer to get the transcripts to us. There's
13 a waiting period we have before we can release them on the
14 record.

15 And if you want them in that time period, you can
16 pay for them from the Ace Reporter company. I can give you
17 that information if you need it.

18 So it may be that these transcripts are not
19 available until after the scoping comment ends. If that is
20 the fact, we can -- you can still make comments on the
21 transcripts if you need to correct something. Just file
22 them in the record. They will be in the record.

23 I don't think I had any other comments tonight.
24 Except that please make sure you've signed in. If you plan
25 to come tomorrow to the tribal meeting, please let me know.

1 We need to know how many people are going to come.

2 And I think that's it. If you have any other
3 questions, we will be around for a few minutes. Thank
4 everybody for their time.

5 (Whereupon, proceedings terminated.)

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1 STATE OF CALIFORNIA)
 2) SS.
 3 COUNTY OF SISKIYOU)
 4

5 I, DANIEL A. HUMPHREY, CSR, an official court
 6 reporter pro tempore of the County of Siskiyou, certify that
 7 I took down verbatim in stenographic writing all the
 8 proceedings as herein set forth fully, truly, and correctly.

9 That I have caused my stenographic writing,
 10 except as provided by the rules on appeal, to be transcribed
 11 by computer-assisted transcription, and that the foregoing
 12 79 pages constitute my full, true, and correct verbatim
 13 transcription of all such stenographic writing.

14 Dated: June 22, 2005, at Yreka, California.
 15
 16

17 _____
 18 Daniel A. Humphrey, CSR 5480
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