BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: :

DeSABLA-CENTERVILLE : Project No.

HYDROELECTRIC PROJECT : 803-087

PACIFIC GAS AND ELECTRIC COMPANY :

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Hearing Room 62-26

Federal Energy Regulatory Commission

888 First Street, N.E.

Washington, D. C. 20426

Monday, June 29, 2009

The above-entitled matter came on for conference, pursuant to notice at 1:07 p.m., Kenneth J. Hogan (OEP), presiding.

APPEARANCES:

Kenneth J. Hogan, Fishery Biologist with FERC and Coordinator of the Project
Alan Mitchnick, FERC
Quentin Lawson, ESQ., FERC, Office of General Counsel
Tim Looney, FERC

By Phone:

William Foster, National Marine Fisheries Service
Tom Jereb, Pacific Gas & Electric
Curtis Steitz, Pacific Gas & Electric
Cathy Turner, Forest Service
Ryan Foote, Forest Service
Dennis Smith, Forest Service
Julie Tupper, Forest Service
Debbie Giglio, Fish and Wildlife Service
Mark Gard, Fish and Wildlife Service
Kerry O'Hara, Department of Interior, Solicitor's Office
Aaron Liberty, FERC
Brett Kanz, State Water Board
Allen Harthorn, Friends of Butte Creek
Chris Shutes, California Sport Fishing Protection Alliance

-- continued --

APPEARANCES (Continued):

Bob Baiocchi, California Salmon and Steelhead Association

Robert Hughes, California Department of Fish and Game

Beth Lawson

Mary Lisa Lynch, California Department of Fish and Game

Dave Steindorf, American Whitewater

Scott Wilcox, Stillwater Sciences

P R O C E E D I N G S

(1:07 p.m.)

MR. HOGAN: I think we have everybody we need to have on the phone. This meeting is being recorded by a Court Reporter, so as in the past, I'd like, before the folks on the phone, speak, to please give your name and to make sure we accurately record all of the comments.

And, with that, I'd like to go through the line and see who's here. And if you can give your name and affiliation, and spell your last name for the Court Reporter, it would be appreciated.

MR. FOSTER: William Foster, F-O-S-T-E-R; National Marine Fisheries Service.

MR. JEREB: Tom Jereb, spelled J-E-R-E-B; I'm with Pacific Gas and Electric.

MR. STEITZ: Curtis Steitz, with PG&E, S-T-E-I-T-Z.

MS. TURNER: Cathy Turner, Forest Service; T-U-R-N-E-R.

MR. FOOTE: Ryan Foote, F-O-O-T-E; Forest Service.

MR. SMITH: Dennis Smith, D-E-N-N-I-S, S-M-I-T-H; Forest Service.

JULIE TUPPER: Julie Tupper, T-U-P-P-E-R; like Tupperware, Forest Service.

MS. GIGLIO: Debbie Giglio, G-I-G-L-I-O; Fish and Wildlife Service.

MR. GARD: Mark Gard, G-A-R-D; Fish and Wildlife Service.

MS. O'HARA: Kerry O'Hara, K-E-R-R-Y; O, apostrophe, H-A-R-A; Department of Interior, Solicitor's Office.

MR. LIBERTY: Aaron Liberty, with FERC; L-I-B-E-R-T-Y.

MR. KANZ: Russ Kanz, with the State Water Board. The last name is K-A-N-Z.

MR. HARTHORN: Allen Harthorn, H-A-R-T-H-O-R-N; Friends of Butte Creek.

MR. SHUTES: Chris Shutes, California Sport Fishing Protection Alliance; S-H-U-T-E-S, as in Sam.

MR. BAIOCCHI: Bob Baiocchi, capital-B-A-I-O-C-C-H-I, with a lot of raviolis. I represent the California Salmon and Steelhead Association, and I'm hearing impaired, so I would appreciate it if people could speak up. Thank you.

MR. HUGHES: Then from the California Department of Fish and Game, this is Robert Hughes, H-U-G-H-E-S.

MS. LAWSON: Beth Lawson, L-A-W-S-O-N.

MS. LYNCH: Mary Lisa Lynch, L-Y-N-C-H.

MR. STEINDORF: Dave Steindorf with American

Whitewater, S-T-E-I-N-D-O-R-F.

MR. WILCOX: Scott Wilcox with Stillwater Sciences; W-I-L-C-O-X.

MR. LIEBIG: Russ Liebig with Stillwater Sciences; L-I-E-B-I-G.

MR. HOGAN: Okay, is that everybody on the phone?

(No response.)

MR. HOGAN: Hearing nothing, in the room with me, I have myself, Ken Hogan, Fishery Biologist with FERC, and I'm the Coordinator of the Project.

MR. MITCHNICK: Alan Mitchnick, M-I-T-C-H-N-I-C-K, with FERC.

MR. LAWSON: Quentin Lawson, FERC, Office of General Counsel.

MR. HOGAN: All right, now, with the introductions done, I'd just like to remind everybody who's not a 10(J) agency, this meeting is between Commission Staff and the 10(j) agencies and also the Forest Service, given the interest that the 4(e)s and the mandatory condition nature that they have and how they influence the process here.

So, if you can -- for those of you who are not 10(j) agencies or the Forest Service, could you hold your comments until solicited, or if we have questions specifically directed towards you.

I sent around the meeting agenda last week. Does anybody have anything they would like to add to the agenda?

(No response.)

MR. HOGAN: Okay, hearing nothing, I think we'll go ahead and start. We've received the agencies' counterproposals to our 10(j) proposal, and I wanted to say thank you to the agencies for taking the time to review the Staff 10(j) proposal, and putting some thought into the counters.

And with that, I'd like to start on the discussion with minimum instream flows, starting with Butte Creek.

In consideration of the counterproposals, we're prepared to accept the counter for the time period of March 1st to May 31st, for 30 cfs in normal years and 20 cfs in dry years.

For Lower Butte Creek, for September 15th to March 14th, we don't support the 100 cfs during normal years, and the 75 cfs during dry years.

For the -- I guess that's all for Butte Creek. Does anybody have any questions or would like to discuss that further?

MR. BAIOCCHI: Does that include the NGOs?

MR. HOGAN: It will, Bob. We're talking to --

MR. BAIOCCHI: I asked the question, that's all.

Thank you.

MR. HOGAN: That was Bob Baiocchi.

MR. GARD: This is Mark Gard. I guess I'd like to hear a little bit from FERC about their rationale for Lower Centerville flows, Lower Butte flows, and with regard to what we had submitted in support of higher flows there.

MR. HOGAN: Our biggest thought on the Lower Centerville or flows to Lower Butte Creek from that Lower Centerville Diversion, is that the added habitat that the flows would provide and the costs associated with that, is not warranted, from our perspective.

Aaron, do you want to add anything to that?

MR. LIBERTY: No, I think you've about captured it, Ken. I didn't bring home a lot of my notes that I meant to grab. Yeah, it basically came down to Part 5, and costs, I guess, associated with providing those flows downstream of the Lower Centerville Diversion.

MR. HOGAN: And the value of the additional habitat that would be gained.

MR. GARD: So when you considered the value of the habitat -- this is Mark Gard again -- did you take into account, that this is a listed species and the value of the fish that would be produced from that over a long time period, and the value of those fish for reestablishing, like, the San Joaquin population and Orville habitat

expansion agreement population?

MR. HOGAN: Yes, of course we did. And the -- as far as the reestablishment of the other -- the San Joaquin and those areas, that's new information that we're considering in the Final EA, but our other thoughts are contained within -- are viewable in the Draft EA.

MR. FOSTER: This is Bill Foster, U.S. Marine Fisheries Service.

MR. HOGAN: Yeah, Bill?

MR. FOSTER: Having more flows below the Lower Centerville Diversion Dam, would affect the critical habitat down there for those listed species, as well, which is why, over a long period of time, you need to give these fish as much benefit as you can possibly gain, and, because of that, I don't see how the cost of generation is going to, you know, offset that over the length of time.

We're trying to both recover these species and protect them at the same time, and that includes their critical habitat.

MR. HOGAN: And we recognize that, Bill, but we are improving conditions over current conditions, with our recommended flows for the benefit of the species and their critical habitat.

MR. FOSTER: But you could do better, and that's, you know -- even ten percent, you know, over 50 years, is a

tremendous boost, a tremendous amount of, you know, added refuge and potential, you know, dynamics, that, you know, may be lost, especially when you factor in things like climate change, where things are going to get more stressful as temperatures increase.

MR. HOGAN: Well, we have to take into consideration, that the value that the project is already providing to the listed species in that lower region.

You know, if we don't -- if we make it to the point where the project is just not worth operating, then we could be having a larger risk on the species.

MR. GARD: Mark Gard. So you've done an analysis that shows that the entire flow of 175 cfs, would make the project not worth operating?

MR. HOGAN: We have an analysis that shows that those flows are worth about $180,000 a year.

MR. FOSTER: Those flows -- this is Bill Foster, National Marine Fisheries Service. Those flows are occurring during the spawning season, which is not typically a period of high, you know, electrical demand, not to say that one couldn't generate during those time periods, but I think if you review Fish and Wildlife Service information about the fact that there would still be water to run those things during that time, even at those flows.

MR. HUGHES: This is Bob Hughes.

MR. HOGAN: Yeah, Bob?

MR. HUGHES: You mentioned that you've done an analysis that shows that these flows are worth $180,000 per year?

MR. HOGAN: That's an approximate, you know.

MR. HUGHES: Can you -- would FERC be willing to share that analysis?

MR. HOGAN: Well, it's approximately $87,000 per gigawatt hour, and PG&E provided us with cost estimates -- the generation impacts of the flow, versus their -- the Staff recommendation to DEA, and I don't have the exact gigawatt hours in front of me, but it equated to approximately $180,000.

MR. HUGHES: Okay, and, I'm sorry, what's that compared against?

MR. HOGAN: Our recommendation to the DEA, which is consistent with our 10(J) proposal.

MR. HUGHES: Okay, thank you, Ken.

MR. SMITH: This is Dennis Smith from the Forest Service. Can I ask Bill Foster a question?

On the biological opinion that's added water for spawning, what will the -- not that you can tell us accurately, but what will the BO say about this additional water for spawning?

MR. FOSTER: As far as I know -- and this is my

own professional opinion, because I don't have, you know, direct access to what the actual final BO is going to say, but I -- you know, I do feel that the final BO is going to be consistent with our 10(j) recommendations, because of the fact that, you know, we try and keep consistent with that, whenever possible.

And I'd also like to add that the flows from, what, 9/15 to 3/14, over that time period, I would suspect that the cost of generation, is going to be a little different there than it is from 3/14 on through the summer and into the fall.

And I'm just, you know, wondering if that's what's taken into account, because I think, like I said, some of the Fish and Wildlife Service 10(j) information, in supporting information, pointed to the fact that those powerhouses could still be operated, there would still be water available to run through them, if not both of them, maybe one of them or one turbine and not the other, but there is still some potential to generate power during that time, and I'm not certain that you've completely taken that into account.

I mean, I could see, you could take, you know, basic flow and cost of generation, and is that cost specific to that time of year, is that the most maximum cost you would spend, because it's summer? You know, some of these

questions remain unanswered, because of the black box that FERC has used to calculate these things. No offense intended; it's just that, you know, we're trying to do what we can to protect these species.

MR. HOGAN: Well, this number that you refer to as a "black box," is not being plugged through the black box, because it's strictly a generation number, and the value of the power is $87,00 per gigawatt hour.

So we just simply take the $87,000 and multiply it by the lost generation, and I'll go get the numbers. I've got them right across the hall here.

But you simply just take the gigawatt hours per year lost generation, and multiply it by $87,110, and that's how you get your number.

MR. GARD: This is Mark Gard. I have a question. That $87,000 per gigawatt hour, is that based on an annual average or for specifically for the season that we're talking about, September 15th through March 14th?

MR. HOGAN: I think it's an annual. Let me go get Tim Looney, to see if -- all right, or, no, I'll get Tim Looney.

MR. MITCHNICK: We're going off the record.

MR. HOGAN: We're off the record.

MR. LAWSON: We're going off the record now. We're sort of suspending the meeting for a couple of

minutes.

(Discussion off the record.)

MR. HOGAN: Okay, we're back on the record. With me now, is Tim Looney, who is going to explain where the $87,000 per gigawatt hour comes from.

MR. LOONEY: That number was developed using information from the PG&E website for their short-run avoided costs. I went online, you know, just basically downloaded information from their website.

MR. GARD: This is Mark Gard. This information from their website, was it an annual cost or a cost specifically for the season that we're talking about, September 15th through March 14th?

MR. LOONEY: Well, it's been awhile since I looked at it, but, as I remember, it was a monthly cost, and what I did, is, I took a year's worth.

MR. HOGAN: An average.

MR. LOONEY: Yeah.

MR. HOGAN: So it's an annual cost.

MR. LOONEY: Yeah, I guess I would call it an annual cost, yeah.

MR. GARD: This is Mark Gard again. I would suggest that FERC go back to the website and look at what the cost, dollars per gigawatt would actually be for that period, 9/15 to 3/14, and see if using that number, changes

their conclusions.

MR. FOSTER: This is Bill Foster, National Marine Fisheries Service. I would also suggest that you check some of the Fish and Wildlife Service supporting information that shows the amount of water you could still be running through the powerhouses, which would not be lost generation, and factor that in, as well.

MR. HOGAN: Well, Bill, we've done that. It's a lost generation of 4.4 gigawatt hours, regardless of what you're putting through the powerhouse. It's a reduction of 4.4 gigawatt hours.

MR. HUGHES: I'm sorry, Ken can you repeat that? It was a reduction of how much?

MR. HOGAN: Who's speaking?

MR. HUGHES: I'm sorry, this is Robert Hughes with Fish and Game.

MR. HOGAN: Robert Hughes. 4.4 gigawatt hours.

MS. LYNCH: This is Mary Lisa. And that's for the difference from September 15th to March 14th, the difference between 100 in normal years and 75 in dry years, and what FERC is proposing, which is 75 and 60?

MR. HOGAN: It's the difference over what we are proposing, correct.

MS. LYNCH: Okay, well, part of the problem that I see, is that if I'm reading Staff's revised 10(j)

correctly, you break up the time period, September 15th to March -- excuse me -- to January 31st. You have 75 in normal and 60 in dry, and then February 1st to April 30, you have 80 and 75, so that makes it difficult to make that comparison.

MR. HOGAN: Yeah. Tom, do you want to talk about your Table 2 of your May 15th document, where you provided us with the cost of generation for CF&G's 10(j) proposal, versus the licensee's proposal.

MR. JEREB: Sure, Ken. Tom Jereb here with Pacific Gas and Electric.

Yes, on May 15th, 2009, we filed with the Commission, this information. We did an operations model and did the power generation losses, different scenarios, and produced two tables.

You all received this, so look at the May 15th, 2009 letter to the Commission. It shows these tables with these various generation scenarios.

That's what Ken is talking about here, and that's where he's picking these numbers off of for the generation reductions and generation differences between the various alternatives, the 10(j) alternatives.

MR. HOGAN: So this 4.4 gigawatt hours that I'm using, Tom, is a lost generation, compared to your proposal and our recommendation to the DEA, is that correct?

MR. JEREB: Ken, I don't have that in front of me, and I'm on a remote site, so I can't answer that question for you.

MR. HOGAN: Okay.

MR. GARD: Mark Gard. Just as a point of clarification, multiply 4.4 times $87,000, and you get $382,000, versus you were saying $180,000.

MR. HOGAN: Let me double-check and make sure I'm looking at the right one.

(Pause.)

Sorry, it's two gigawatt hours difference, which is -- because the Staff proposal is 2.4 gigawatts, and the agency proposal is 4.4. My apologies.

So it's a two-gigawatt difference, not the 4.4, which is still approximately the $180,000 that I started with.

MR. GARD: This is Mark Gard. Maybe FERC could kind of clarify. So, it seems pretty clear that the dollar amount you're talking about for lost generation -- how did you come up with the equivalent dollar amount for the value of the fish habitat?

MR. HOGAN: We don't provide a dollar amount for the value of the fish habitat, but we do analyze the benefits of the resource, and how much added benefit is needed for that resource, and it's largely a judgment call.

MR. FOSTER: This is Bill Foster, National Marine Fisheries Service. We tend to make it a little bit more than a judgment call, since we have to protect these species.

That's why we came up with the flows that we did in our 10(j) recommendations. And I would not be surprised if they're not consistent with our eventual BO, but, again, I don't know what the BO will say, myself, because I'm just a Staff Biologist working on a FERC project.

MR. HOGAN: I understand, Bill, and that's something for us to be concerned about. You know, we're trying to work through a larger package of resource measures here, and, you know, a recommendation such as that, could result in our not being able to support any of the measures we're proposing.

MR. FOSTER: Again, this is Bill Foster, National Marine Fisheries Service.

You have to take into account, like we are doing on all of our projects, the potential for warming of the area over the next, you know, 50 years, and so we're trying to provide as much benefit as possible, and we don't really, you know, consider the cost of lost generation here as a significant cost, when we're comparing it against, you know, protecting these species over a long period of time, when the climate's only going to get harsher for them where they

are.

And so that is why we make recommendations like that. I realize, you know, you say you're trying to factor that in, but, you know, I only hope your EA comes out, your final EA comes out with something better.

MR. HOGAN: Okay, well, understood, but we also are recommending an adaptive management program, as well.

MS. LYNCH: This is Mary Lisa at Fish and Game. I have a question regarding this 4.4 gigawatt generation loss for the agency proposal.

MR. HOGAN: Yeah, I corrected that to be a two gigawatt, Mary Lisa.

MS. LYNCH: Right, two gigawatts for the FERC proposal.

MR. HOGAN: Yeah, and -- no, no, it's 2.4 for the FERC proposal, and it's an additional two for the agency proposal.

MS. LYNCH: Okay. So my question is, is that the agency -- I'm confused about whether or not that would include the counterproposal that we have, which has some different flows. Or is that the agency proposal from our 10(j)s?

MR. HOGAN: It's our agency proposal from your 10(j), which I was under the impression, was the same as your 10(j).

MS. LYNCH: Not for some of the flows on West Branch.

I guess my real question --

MR. HOGAN: No, I'm looking at --

MS. LYNCH: You're talking about $187,000 a year, but that's not specifically these flows from September 15th to March, for Lower Centerville.

MR. HOGAN: Yes, it is.

MS. LYNCH: I'm trying to separate out just that.

MR. HOGAN: That is just that.

MS. LYNCH: That doesn't make any sense to me, because the other question that I have, we kind of skipped over. You talked about the minimum instream flows on Butte Creek, and that FERC was going to accept the March 1st through May, at 30 cfs in a normal year and 20 cfs in a dry year, but we didn't talk about the other times of the year and what exactly FERC's proposal was.

Because those flows don't match up with what we are proposing and the other agencies are proposing, so, again, you've got a disconnect between -- are you talking about lost generation for the entire proposal and the entire project?

I believe Mark's question was, what's the lost generation for this 25 cfs for three months or four months, whatever it is.

MR. HOGAN: Okay, the lost generation for the Lower Centerville flows, is approximately $180,000, just for the additional -- from the 9/15 to 3/14.

(Pause.)

Okay? It's not including -- that cost does not include the flows for Upper Butte Creek, released from Butte Head Dam, which we said we could support. Does that answer your question, Mary Lisa?

MS. LYNCH: Well, part of the question was, you had just referred to the March 1st through May 31st, but we have different flows for the rest of the year. Are you saying that you're accepting the agency proposals for the rest of the year, as well?

MR. HOGAN: Are you referring to the 16 and ten from 6/1 to 2/28?

(Pause.)

Mary Lisa?

MS. LYNCH: I'm sorry, Ken, but can you repeat that, please?

MR. HOGAN: When you say you're -- the flows for the rest of the year, are you referring to 16 during normal years, 10 during dry years, from June 1st to February 28th?

MS. LYNCH: Correct.

MR. HOGAN: I think we can support that.

MS. LYNCH: Thank you.

MR. FOSTER: And I guess that's 3 cfs for nine months, huh? Bill Foster.

It's good. That's what we proposed, too, I think, if I remember.

MR. HOGAN: I think you're correct, Bill.

So, we've compromised on Upper Butte Creek. We're consistent for most of the flows for Lower Centerville Diversion, for all except for the September 15th to the March 14th date.

I don't know how much more we can say about that. We feel pretty strongly about that.

MR. GARD: This is Mark Gard. Have you estimated what the generation loss amount is for the difference between FERC's original recommendations and final recommendations on the Upper Butte flows?

MR. HOGAN: We've estimated the Upper Butte flows to be worth a value of approximately $9,000 a year, and different from the -- our proposal.

MR. FOSTER: Did you use the same averaging a month? This is Bill Foster, NOAA. Did you use the same monthly cost of electricity during that time period? That would be a hotter time period, I would presume, where electrical demand probably would be higher.

MR. LOONEY: Yes, we used that one-year average, yes.

MR. FOSTER: What I'm getting is, you know, when you average it over the year, you're going to have higher values at some points during the year, presumably during the summer period, because the core includes the summer period, as opposed to the Winter months, when those values might be lower.

And what I was trying to get at, was that the costs might be lower during particular periods, and higher during the particular periods of interest, and those would be a little bit more accurate in terms of values.

Obviously, they can be averaged over 12 months, but some of that -- you know, the cost of these things, is tried to be kept up on every month, every couple of weeks, as you try and get, you know, power generated or power, you know, covered.

MR. HOGAN: I'm just trying to see where you're going with that, Bill. We're supporting your proposal.

MR. FOSTER: Well, I understand that. I'm just trying to resist thinking that the lost generation amount that you came up with during the, you know, the September to March period, rather than averaging it over the whole year. It might actually be less, if you looked at those particular months. Anyways --

MR. HOGAN: Well, the -- on the 30 to 20 for Upper Butte Creek flows, we took a close look at the

hydrograph and found that, typically, during that period of time when the 30/20 would be being provided, the project is spilling, therefore, there was virtually no cost to providing those additional flows.

And on the -- so we were looking at the ten versus seven during dry years, and we came up with an average of $9,000 a year.

So we felt that we could support that recommendation for the benefit of the 10(j) process and the proposals.

MR. GARD: This is Mark Gard. So, kind of setting book ends, then, if I will, then, if it's $180,000, it's not worth it; if it's $9,000, it is? Do you know where is that cross point in the middle?

MR. HOGAN: It's not that magic, you know. It's really a judgment call. We're already recommending higher flows in Lower Centerville. That's not an area where we said on our 10(j) proposal, that we will go back to current conditions.

We said, no, it's more appropriate for us to provide that increased habitat for the listed species, than to try to squeeze more generation out of the project. And that's where we are on the flows for Butte Creek.

MS. O'HARA: Ken, this is Kerry O'Hara with the Department of Interior. I think we raised this in the first

meeting, but I'll ask it again.

Again, 10(j) is one where, you know, you're supposed to look at the recommendations and give deference to the expertise of the agencies with that expertise, which you're hearing from today. I guess what I'm hearing from you again, is this is a judgment call on behalf of FERC, and I'm wondering if you can explain how you gave deference to the agencies.

MR. HOGAN: I don't think -- does 10(j) say "give deference to"?

We're required to balance the 10(j) recommendations against the development of the power generation and provide what's adequate to protect the resource, and we feel that what we're providing, is adequate to protect the resource.

MR. GARD: This is Mark Gard. And so that's different than what the resource agencies feel is adequate to protect the resource, correct?

MR. HOGAN: Well, what I think it is, is, the resource agencies don't -- aren't require to take into consideration under 10(j), the developmental values of the project.

MS. GIGLIO: This is Debbie Giglio from the Fish and Wildlife Service. What I'm hearing is that the resource agencies are communicating that we believe this is critical

for listed species, and these flows are extremely important to us for now and in the future.

They could be in jeopardy in the future, and so this little bit of increase in flows, we believe, is extremely important. And so we just want to make sure that you fully understand that, you know, this decrease if flow, could end up, you know, not being worse than what you think it is for power in the future, because the species declines.

MR. HOGAN: Well, we've got keep in mind here, we are increasing flows to that reach. We're not reducing them.

MR. GARD: This is Mark Gard. We understand that. I guess the point that we're trying to make, is that you're not increasing to the point that the resource agencies consider what we consider to be adequate to protect the resources there.

MR. HOGAN: Understood, and, you know.

MR. LAWSON: Quentin Lawson here. That's correct, but we're charged with, of course, making a finding as to whether or not other parts of the Federal Power Act and other applicable law, require us to take other public interest considerations into account, including the value of the power.

MR. HOGAN: And we also recognize that this project already has a great benefit to these listed species.

The mere existence of the project, is why the fish are there.

MR. LAWSON: And, of course, doing so, being mindful that we are dealing with posted species. As Ken said, it ultimately is a judgment call; you can't do it with any mathematical precision.

MR. HOGAN: Is there anything anybody else wants to add? I mean, we're pretty firm on the position for the Lower Butte Creek flows.

MR. GARD: This is Mark Gard. I guess we could safely say then that there is not resolution of that measure.

MR. HOGAN: Okay. Now, regarding that as a 10(j), you know, we are -- we kind of understood that there probably wouldn't be resolution of that measure, but didn't want that to snowball into a loss of this whole process that we've been going through.

Recognizing that it's a 10(j), it is at our discretion, whether to adopt it or not adopt it. However, if it comes into the Biological Opinion, as such, that could result in our having to revert to going back to our recommendations, or either consistent with he DEA or whatever we find in the final EA.

So I just want to put that out there, and, you know, that decision would have to be made in the Order,

after we receive the Biological Opinion.

MR. GARD: This is Mark Gard again. You probably need to look at both the Biological Opinion and the Forest Service 4(e)s and how that might affect what the Commission comes up with.

MR. HOGAN: Correct.

MR. KANZ: This is Russ Kanz with the Water Board.

MR. HOGAN: Yeah, Russ.

MR. KANZ: There's this big gorilla sitting in the corner of the room, that doesn't seem to be taken into account for this analysis, and that's what happens if Centerville stops working.

And so when you're analyzing the power value of Centerville, it's pretty speculative, because, I mean, right now, it's partially operating.

And so that's why I've always been critical of some of these simplistic economic analyses, because they don't take that into account, not in this case.

Also, there's, you know, there are other discussions going on about flows in Lower Butte Creek, that we're having, you know, and, originally, they didn't even address Centerville and the future of Centerville.

MR. HOGAN: Well, Russ, if PG&E is awarded a license, the project would consist of Centerville, Toe Town,

and DeSabla, and if any of those were to fail, because they have a license, the Commission would order them to restore amend their license, restore that facility, that development, to operation, or amend their license.

MR. KANZ: I understand that, but I'm not talking about that; I'm talking about it from a CEQA perspective. You have to analyze things that are reasonably foreseeable, and --

MR. HOGAN: But that, to me, is not reasonably foreseeable, because they're being ordered to operate that project.

MR. KANZ: But FERC doesn't order -- FERC is not going to order PG&E to rebuild Centerville powerhouse. That is going to be at the discretion of PG&E, what they decide to do with that.

MR. HOGAN: And if they choose not to rebuild it, in the event that there's a failure, they would have to ask for an amendment, which would be a separate proceeding under the Commission.

MR. KANZ: No, you're missing the point. CEQA, NEPA, require you to analyze reasonably foreseeable events that could occur.

MR. LAWSON: Quentin Lawson. And you're saying that our analysis doesn't do that.

MR. KANZ: No, it doesn't.

MR. HOGAN: Well, I don't think we see it as a reasonably foreseeable event.

MR. KANZ: Why? PG&E put in the record, that it's for the end of its service life. I mean, that's no secret.

MR. HOGAN: Again, if we issue them a license, they would be required to maintain and operate that project, that development.

MR. GARD: This is Mark Gard. I believe there was a number about how much it would cost to refurbish Lower Centerville. Do you know what that is?

MR. LOONEY: This is Tim Looney. No, I don't know it off the top of my head.

MR. SHUTES: This is Chris Shutes. It's $39.8 million.

MR. GARD: This is Mark Gard. Did FERC take that into account in comparing that to that lost generation of $180,000 per year? It seems like that's a lot more.

MR. HOGAN: We don't take into account, the refurbishment of Centerville.

MR. GARD: And why not?

MR. HOGAN: Because it's not a proposal by the Applicant, and that's general maintenance and construction, right? But it's not proposed --

MR. LOONEY: It's not proposed; that's the

important thing.

MR. GARD: Mark Gard. But it's part of, I would imagine, the public benefits and such that you're considering in balancing the lost generation, versus the habitat values?

MR. HOGAN: The cost of -- I'm not sure I understand the question.

MR. GARD: Well, I guess I would think of it this way: The cost of refurbishment would be basically on the negative side, versus the positive, whichever way you think of it, the other side versus the generation costs, if you look at the alternatives.

MR. HOGAN: I don't think we've calculated what the value of the power is over a 30-year term for just Lower Centerville, and whether or not it would pay for $38 million.

MR. LOONEY: This is Tim Looney. No, I haven't looked at that. Like I said earlier, that was not a proposal that we were looking at.

MR. HOGAN: The Applicant has not proposed it, and we don't --

MR. GARD: Mark Gard. I was just doing quick calculations. I mean, that's $1.3 million a year over a 30-year license, which -- that's almost an order of magnitude greater than the generation loss that you're talking about.

MR. SMITH: This is Dennis Smith from the Forest Service. I have a question for FERC.

Given the age of the project and the fact that those generators have been failing and they've been holding them together with baling wire and rubber bands, and the license term may be 30 to 50 years, how can FERC say it's not reasonably foreseeable that those projects will have to be rebuilt or decommissioned, in their NEPA analysis?

That just is not plausible to me, that you can look out 50 years and look at the condition of the equipment and the age of the facility, and say that we should not take a look at that.

MR. LAWSON: Quentin Lawson. You're talking about facilities beyond the Centerville Powerhouse, right? You're talking about other facilities, also?

MR. SMITH: Well, one is the canal, and the problems we've had with the canal and the age of the canal and the landslides, but the bigger issue is Centerville's facilities. Centerville's facilities probably have, you know, a three-percent, five-percent chance of surviving till the end of this next license.

So it's almost a foregone conclusion that you will either have to rebuild or decommission those facilities within the term of the license, and I don't understand how FERC can not have to analyze the impact of that, because

what you're saying is, the license didn't propose it.

Well, of course, they're not going to propose it. It's something that's going to happen, just based on the age of the facility.

So you can't make a reasonable determination that that facility will exist at the end of this license.

MR. GARD: This is Mark Gard. Maybe another way of looking at it, is that five-percent chance of it surviving, should be multiplied by that $180,000 a year, to really get what the true benefits are of the existing facility, which brings it down to $9,000 a year, which is the same as what you're saying the benefits are of Upper Butte.

MR. HOGAN: The cost to Upper Butte, is $9,000; it's not a benefit.

MR. GARD: The cost, yes. So, what I'm saying is that, yeah, so this brings down the -- if you take into account, that five-percent likelihood of survival, that brings down the cost of the lost generation, to $9,000 a year.

MR. STEINDORF: This is Dave Steindorf. I accidentally got off the phone, but I do have one question and comment I'd like to make.

MR. HOGAN: You're free to go ahead.

MR. STEINDORF: Well, it seems like what we're

talking about here, is your analysis shows that these additional flows could render the project uneconomic, but it seems like, based upon some of the basic calculations of rebuilding the powerhouse, that this portion of the project may be uneconomic, out of the gate.

So it's a little difficult to say that the additional flows put it in that situation, when this portion of the project may not make sense to actually be refurbished, once it fails. And I think that Dennis's estimate to one to three percent will make it to the next license term, is generous.

MR. HOGAN: Dave, right now, with our recommendations from the Draft EA and the mandatory conditions, we are estimating that the project will have a $2.2 million loss annually.

MR. STEINDORF: Can you say that again? There was a beep.

MR. HOGAN: I said, right now, with the Staff recommendation in the DEA and with the mandatory conditions, the Forest Service 4(e)s, we are estimating a loss of $2.2 million, annually, for the project.

MR. SMITH: This is Dennis Smith from Forest Service. The next question I would ask, is, if Centerville fails and is not rebuilt, what would that drop to?

MR. HOGAN: We would have to look at what the

generation values of Centerville are. Tom, do you have an answer for that?

MR. JEREB: I don't have an answer. Sorry, Ken.

MR. SMITH: Dennis Smith, the Forest Service. It's something we all know is going to happen, and it's like FERC is not even either willing to admit it or willing to say that they have to analyze those impacts.

MR. JEREB: Dennis, this is Tom Jereb. Is that a statement or is that a question, or?

MR. SMITH: That was a statement.

MR. HOGAN: Well, I don't know what to tell you, Dennis. It's not something the license is going to require. You know, we're not telling them to go out and refurbish Centerville tomorrow.

The fact is that they have to maintain it and keep it operational under the license, or they have to ask for a license amendment to decommission the facility.

MR. SMITH: Dennis Smith, Forest Service, again. So just know that CEQA will analyze that, and I think that makes you somewhat vulnerable under APA. And, you know, that's a decision your General Counsel needs to --

MR. LAWSON: What, because we've left out an alternative?

MR. SMITH: A viable alternative that everyone pretty much realizes will happen over the term of the

license.

MR. HOGAN: Decommissioning the project?

MR. SMITH: Either decommission the project or rebuilding the project. I mean, the project will fail.

MR. FOSTER: That part of the project.

MR. SMITH: That part of the project will fail?

MR. HOGAN: Who said "that part of the project"?

MR. FOSTER: This is Bill Foster, National Marine Fisheries Service. You want to remain focused on the fact that, you know, parts of the project are more at risk than other parts.

MR. HOGAN: And we sort of use the term, "development," the Centerville development. Tom, do you have anything you'd like to add about this conversation about the Centerville development?

MR. JEREB: Well, this is Tom Jereb here. Yes, the Centerville is nearing the end of its useful life, and we have looked at many options for refurbishment, and that's just the machinery refurbishment. We've looked at options for complete re-build, and have looked at options for decommission, so we've done those analyses for that and have that information.

I can't tell you anything otherwise. It all depends on the flows, also, and what the flows ultimately will be in the new license. We take a look at those and

once we receive a new license, we'll analyze those and, again, look at our power values.

We've got to be real careful. There's been lots of conversation here about the power values. This is in the renewable portfolio type of power value.

And so it has added value to all of us, so these power values may be low, in relation to the renewable portfolio type of cost for replacement generation.

So it's a complex matter, and we will look, PG&E will look at the new license, once it's issued, and determine -- from there, we will determine the fate of Centerville.

MR. LOONEY: Hey, Tom, this is Tim Looney. You're saying that you think those power values may be low?

MR. JEREB: They may be, yes.

MR. LOONEY: Do you have anything that you could file with us, as far as the value of the power?

MR. JEREB: I will talk to my power value folks and see what they say, and I can get back to you.

MR. LOONEY: Okay.

MS. LYNCH: This is Mary Lisa from Fish and Game. I didn't --

MR. HOGAN: Just one second, please. We've got some construction going next door and it's making some noise and it is real difficult right now, and we just asked them

to stop for a second.

All right.

Mary Lisa, our Court Reporter is asking you to repeat what you said.

MS. LYNCH: Oh, I was just asking. I caught the first name of Tim, but I didn't catch a last name, and I'm assuming you're with FERC?

MR. LOONEY: Oh, yes, excuse me. This is Tim Looney.

MS. LYNCH: Thank you.

MR. LOONEY: Okay.

MR. HOGAN: Tim's our engineer who provides all the economic analysis.

Okay, I think we're back to, you know, agree to disagree on the Lower Butte Creek flows for September 15th to March 14th. Again, you know, we'll stress the fact that, you know, we are able to support the agencies' counterproposed flows for Upper Butte Creek.

We do not support, moving on to West Branch Feather River, the Forest Service's minimum instream flows for the feeder creeks. We did support them for the dry years, as they have filed with the new information, but for normal years, we didn't see a justification for it.

MR. BAIOCCHI: Ken, Bob Baiocchi.

MR. HOGAN: Yes, Bob?

MR. BAIOCCHI: Are NGOs going to be allowed to comment on Butte Creek and the minimum instream flows.

MR. HOGAN: You know, Bob, I apologize. Yeah, let's go ahead and get comments on Butte Creek. I didn't mean to just jump right into West Branch Feather River.

MR. BAIOCCHI: Well, I have a couple of question. My name is Bob Baiocchi. Can I raise them now or later?

MR. HOGAN: Not is good. Are they Butte Creek-related?

MR. BAIOCCHI: Yes, sir.

MR. HOGAN: Okay.

MR. BAIOCCHI: Okay, first of all, I want to start off with, I want to thank the agencies, state and federal fish and wildlife agencies, for doing what they're doing and all the hard work in trying to improve, you know, fishery habitat in the project area.

The first question is, is to Bill Foster. Bill?

MR. FOSTER: Yes, I'm here.

MR. BAIOCCHI: What I need to know, is, what prevails, the Federal Endangered Species Act, or the economics of the project?

MR. FOSTER: Well, I would say, Bob, and to others -- and FERC is, of course, aware of it -- that the FERC license has to be -- they make a consistency determination between the license, what they say in the

license, and any Biological Opinion or 4(e), and as well as any terms that are in the 401 certification, as well.

Usually, the 401 certifications and the Biological Opinions, come towards the end, when there's an actual Order or action, and so they have to be -- the terms of the license, have to be consistent with the terms that are required in Biological Opinions, and, again, I don't know how ours is exactly going to go down.

MR. BAIOCCHI: Right, and, okay, that's -- we got that out of the way. I'm concerned about that one. I'll submit comments on the Final EIS, which hasn't been submitted yet.

Okay, secondly, I've got a question for Tom Jereb. Tom, are you there?

MR. JEREB: Yes, I am, Bill.

MR. BAIOCCHI: What PG&E normally does, after relicensing, when they need to do it, based on my experience, and I've been around a long while, is that what you folks will do, is, you'll find additional power generation from the project, after the project has been relicense. An example, the 3, 4, 5, the dams up there, so, there is the availability of PG&E improving the power generation at that project, and I'm sure that PG&E has in their files and has produced documents that shows additional power generation.

Now, the question is -- and I understand you may not want to answer it -- does PG&E propose additional power generation at this project?

MR. JEREB: This is Tom Jereb here with Pacific Gas and Electric. We have looked at the watershed for improvements there. An example, our powerhouse, if we were to completely rebuild it with a new powerhouse, it would probably get some efficiencies and be slightly larger, so, the answer is yes, Bob, we've looked at the watershed for improvements, generation improvements, and done analysis on that.

Does that answer your question, Bob?

MR. BAIOCCHI: It answers it. I just wanted to bring that out on the table, because, theoretically, PG&E could file an amendment to license later on, after the project's been relicensed, for additional power generation.

MR. JEREB: That's correct, Bob, and as you are aware, we built the DeSabla powerhouse, and it is a newer powerhouse that we built in the '60s, rebuilt in the '60s.

Toe Town powerhouse is also a newer powerhouse, so those two facilities are in great shape, however, Centerville powerhouse is a very old powerhouse and there's alternatives to it that we've looked at.

We've looked at all the feeders, also, Bob, to look at their generation potential on those, and we haven't

found any.

MR. BAIOCCHI: Okay, thank you.

MR. FOSTER: This is Bill Foster at National Marine Fisheries Service. Question for Tom Jereb: Have you considered any either conduit exemptions or other types of small power increases that you might be able to do on your canals?

MR. JEREB: Bill, we've looked at that over the years, and, again, as I said, we did build Toe Town powerhouse. It had a sizeable drop in the canal, and enabled us to put a new powerhouse there, and so that's the only feasible potential that we see there, and we went ahead and built it, so, the answer is, there's not enough potential there, Bill.

MR. FOSTER: And obviously, anything you're going to consider about that, is going to be rather more proprietary on your part, so I understand that. That's all, thanks.

MR. HOGAN: So do we have any other comments or questions from the NGO community, on the Butte Creek side of things?

MR. SHUTES: This is Chris Shutes from CSPA. Some of the issues that Russ raised, are issues that we raised previously in our filings, and we're still looking at those.

It does sound to me like there's going to be some issues with the environmental documentation. Also, I have somewhat of a concern of the sequence that Bob just raised, of the Biological Opinion, if that comes out and there's sort of an implied scenario under which FERC might reconsider its balancing, if the Biological Opinion required PG&E to release the water that's being asked for by the agencies under the 10(j)s for Lower Butte Creek.

I fined that a little problematic, and I'm not sure how -- what the legal implications of that are, but the idea that the Biological Opinion would then sort of cause a backing up and undoing of other agreements. That seems to be, to me, a matter of concern.

MR. HOGAN: Chris, I agree with you, it's a matter of concern for us, too, but regardless, we have to take into consideration, Sections 4 and 10(a) of the Federal Power Act, and if there's something in the Biological Opinion that we're not recommending, that now we have to include, we have to take that into consideration in our balancing.

And we do this all the time on ever Order.

MR. BAIOCCHI: Bob Baiocchi, and I have a question related to what Mr. Shutes just indicated -- stated. May I ask a question?

MR. HOGAN: I'm sorry, Bob?

MR. BAIOCCHI: Can I ask?

MR. HOGAN: Yes, go ahead.

MR. BAIOCCHI: I don't want to interfere with Mr. Shutes, the way he's flowing. Is that all right if I ask the question now?

MR. HOGAN: Chris?

MR. BAIOCCHI: Okay, we're dealing with spring run salmon. Now, does FERC take into consideration -- this is a question for you, Mr. Hogan -- does FERC take into consideration, the cumulative -- cumulative, you know what that is -- effects to spring run Chinook salmon in the Sacramento, San Joaquin River System.

And the reason why I bring this up, is, because of actions by FERC and the U.S. Bureau of Reclamation, we've lost the entire spring run fishery of the San Joaquin River. And that's why I bring it up, because I'll be commenting that way when the EAA or the EIS comes out, because there's going to be a cumulative effect, if you don't buy into providing the protection of spring run salmon, even though you indicate that the flows are improvements.

Anyway, that's -- will FERC consider the cumulative effects to spring run Chinook salmon? That's the question.

MR. HOGAN: And the short answer is yes.

MR. BAIOCCHI: Okay.

MR. HOGAN: Does anybody else have any questions or concerns with the Butte Creek side of things?

(No response.)

MR. HOGAN: Okay, is it safe to move on to West Branch Feather River? As I was saying before, regarding flows for the feeder creeks that are 4(e) related, that's Little West Fork, Cunningham Ravine and Long Ravine, in response to the Forest Service's concerns that a 0.1 cfs flow to Little West Fork and Cunningham, was too low during dry years, we, in our 10(j) proposal, we adopted the Forest Service's 4(e) for a 0.2 cfs, approximately.

We did not have any new information from the Forest Service on the .75 cfs flow, which was half a cfs increase or triple the current conditions, and that's why we did not increase that flow there.

So, today, under review of the Fish and Wildlife Service -- I'm sorry, the Forest Service's 4(e) and the Fish and Wildlife Service and the Cal Fish and Game counterproposal, we're still not prepared to change our recommendation on that flow.

MR. SMITH: This is Dennis Smith, Forest Services.

MR. HOGAN: Yes?

MR. SMITH: Can I ask you and Aaron a question about that determination? Basically, my read of the

environmental document, was that there was no information in the environmental document, to make a decision on flows in those feeder creeks. There was some basic information, nothing quantitative.

Those recommendations are based on going out into the field, and professional judgment, based on what we saw on the ground, the size of the channels, the amount of water that was flowing, the amount of pools, the habitat we saw.

So I want to ask you on the record, how did you make that determination that you don't support one cfs, given there's no information in the document to make any decision, other than the photographs that we sent you, when you asked during the last meeting.

MR. HOGAN: Well, Dennis, when we look at our alternatives, we compare them against current conditions as our baseline.

And then we look at the existing information and see if there is justification to deviate from current conditions.

And as you've said, we don't have that justification.

MR. SMITH: So enhancement, FERC doesn't consider enhancement of resources, given basically that there has been very little flow over the last term of the license, and those streams are heavily impacted?

MR. HOGAN: It's what is necessary to adequately protect the resources, and we find that with the information that we have, that the current conditions are adequate to protect those resources.

MR. SMITH: Okay, so, Dennis Smith again, Forest Service.

You said, "the current conditions we have," and we find that those are sufficient to protect the resources, yet, in the environmental document, there was no information to make that determination.

MR. WILCOX: Dennis, this Scott Wilcox with Stillwater Sciences. The license application included a feeder tributary study that provided fish population information, and BMI studies above and below the diversion points.

Now, you're correct that it wasn't a PHAB study done on those, but there is information in the license application related to the tributaries.

MR. SMITH: Dennis Smith again, Forest Service. I guess what I would say, is, FERC is making a judgment call, and we get back to the issue of, you know, the 10(j) issue, which is not germane here, because we have mandatory 4(e) conditions.

But, given the information that was in that study and in the environmental documentation, it did not provide -

- I mean, it did say, yes, we're releasing one-tenth of a cfs and there are macroinvertebrates and some fish in those streams, but there was -- so, I guess, in the end, FERC does have a baseline, which is the current conditions, and you can make the -- FERC can make the determination that those flows support current conditions, but the Forest Service is not looking to just support current conditions; we're looking for enhancement.

And, you know, the question is, okay, is it two-tenths, is five-tenths, is seven-tenths, or one cfs? What's the right number? Well, I'm proposing to FERC that there is not enough information in the document to say that current releases support resources on Forest Service lands, adequately.

And as you see in the final 4(e)s, we decided that increasing the flows ten times over what are now currently in the license condition to be released, would enhance those feeder creeks, and it's not that it's ten times the amount of habitat, because it's not, but we felt that given what we saw on the ground there, especially in the low flow periods, that it was completely insufficient to support resource goals.

MR. JEREB: Dennis, this is Tom Jereb. Dennis, those photographs, we didn't receive copies of those. Where were the photos taken?

MR. SMITH: Brian walked, basically, the trips and there are some at the diversions, there are some downstream. They were filed. They're on the FERC website.

MR. JEREB: Okay. Why I comment on it, the Forest Service lands are more than a mile, almost two miles downstream of those diversion points. The diversion points are all located at BI lands. I just wanted to note that and make sure FERC knew that also.

MR. SMITH: Brian, you're on the line and you can explain better, exactly, you know, where you took those and whether it was or was not on the Forest Service land.

MR. FOOTE: Ryan Foote, Forest Service. I did visit each of the three diversions off of Forest Service land and took pictures of those, upstream and downstream.

And then I also did go on to Forest Service lands downstream. I believe that's on Long Ravine and took pictures of the conditions on our land, as well.

MR. JEREB: Long Ravine, as I understand it, is located all on private lands. That's all correct, because all those three tribs -- this is Tom Jereb speaking.

All those three tribs convene together before they get to Forest Service lands.

MR. FOOTE: Right.

MR. SMITH: Dennis Smith, Forest Service. Just to make clear, we did look at our land and we submitted

information. There was additional photo shoots of the actual diversions, that we took, because we were looking at how we would change the plumbing on those diversions, and that was also submitted.

So, if -- I don't know if there was an implication there, but, you know, we are looking at Forest Service resources on Forest Service lands.

MR. HOGAN: I understand, Dennis.

MR. BAIOCCHI: Bob Baiocchi. I have a question.

MR. HOGAN: Yes, Bob.

MR. BAIOCCHI: This question is for all of the State and Federal agencies. Why hasn't fish screens been recommended for those feeder streams on Butte Creek?

And the reason why I bring this up is, I spent a lot of years walking the flows, the project flows, many years, and I have seen a lot of dead trout that were diverted from those streams when they de-watered the flows.

Now the question I'm asking is: Why aren't fish screens being recommended for those tributaries? Because what's going to happen, any of those fish, those trout species, that are in those streams are going to be diverted into the flow and eventually into the turbines.

I can tell you that Inscup Creek has a wonderful population of--it did when I was doing all the field work, a wonderful population of trout. So the question is--and I'd like to hear it from all of the agencies--why you folks aren't recommending fish screens on those tributaries.

MR. HOGAN: Well, Bob, I think the agencies are on record as to what they are recommending and have provided their justification for it. If any agency wants to respond directly, that's fine, but I think it's counterproductive to what we're trying to accomplish today.

MR. BAIOCCHI: Well I think it's a reasonable

question. Thank you.

MR. HOGAN: Okay. So I'd like to put the feeder creeks aside. I recognize that the Forest Service is looking at the flows that they felt would be necessary to protect the resources on Forest Service property downstream, and I would like to go ahead and talk about what we are recommending for benefits to West Branch Feather River, including fish screen and a fish ladder at Hendricks Diversion Dam, and associated with that the minimum flows set forth there.

We are recommending 15 cfs and 7--15 in normal and 7 in dry years. The agencies came back with 15 and 15 for dry--sorry, 15 cfs in normal years and dry years, from March 1st to August 31st, and 15 and 7 from September 1st to February 28th.

Now my understanding--and folks on the phone can correct me if I'm wrong--is that the interest in the higher flow during the dry years, the 15 versus 7, compared to our proposal is to ensure that the fish ladder that we are recommending through our proposal is maintained as operational.

Is that correct?

MS. TURNER: Cathy Turner with the Forest Service. That is my understanding. Dennis, please correct me if that's wrong.

MR. SMITH: That was one of our concerns. That wasn't the concern in its entirety, the functionality of the fish screen at those lower flows. You know--sorry, this is Dennis Smith from the Forest Service.

There are a couple of different scenarios that I had thought about and talked to the other agencies about. One is, okay, a fish screen with a ladder--sorry, the ladder operational at lower flows. And then also, not only that but, given the amount of water that is going down, or proposed under the FERC proposal to go down via West Branch Feather River, we would need some kind of adaptive management program to determine, one, what the effects are, the tuning effects of the project are on Forest Service lands; and, two, if those impacts were still significant--i.e., 25 degrees or greater, 24 or greater down at that lower Reach, you know, that's a water quality issue under the Clean Water Act.

But without continuing monitoring we couldn't determine what effects the new license conditions had. And that's why we also put in: fish monitoring, benthic macroinvertebrates, BMI monitoring, those monitoring programs.

So that I think the 7 is worrisome both from functionality but also from habitat conditions.

MR. HUGHES: Ken, this is Robert Hughes with Fish

& Game.

MR. HOGAN: Yes, Robert.

MR. HUGHES: I think in addition to what Dennis said, I think we are also concerned about connectivity between the habitats downstream and up to the fish ladder entrance and through the fish ladder to upstream.

So just looking at some of the PHABSIM cross-sections in some of the riffle areas immediately downstream of the Hendricks Diversion facility, at 7 cfs it looks like there's a potential for fish passage issues and fish impediments in that area.

Although--I'm sorry, I need to point out though that the riffles that were looked at were not necessarily selected as being critical riffles. So things may be more of an impediment than what is shown by looking at the PHAPSIM information that we did review.

MR. HOGAN: More or less of an impediment?

MR. HUGHES: I'm sorry?

MR. HOGAN: Or less of an impediment?

MR. HUGHES: I suspect--and perhaps Scott can weigh in on this--but I don't think that the riffle sections that were selected for the PHABSIM study were actually selected in what would be the more shallow critical riffle areas.

MR. HOGAN: Okay. Aaron, did you get a chance to

look at that data?

MR. LIBERTY: I'm sorry, Ken, I didn't get a chance to look at that on Friday.

MR. HOGAN: Aaron Liberty.

MR. JEREB: Hey, Ken?

MR. HOGAN: Yes.

MR. JEREB: Tom Jereb here. Curtis Steitz looked at that. Curtis, could you tell the group what you found?

(Pause.)

MR. JEREB: Curtis, are you there?

MR. STEITZ: Yes, I had it on mute here, Tom.

As Tom said, he had asked me to look at the two flow grade riffles in the Retson Reach. This would be two riffles that wouldn't see much accretion flows from tributaries. So that was primarily the agency concerned.

The two riffles, one was obviously a much deeper channel than the other. So for transects at 12 and 13, Bob, those were the transects that you were looking at? Is that correct?

MR. HUGHES: I believe so. I'd have to open up my notes here, but, yes, I believe those were the ones.

MR. STEITZ: Okay, I went back and looked at the calibration data and I estimated what the depth would be along the various cells with the transects. I kind of used 4 inches as a depth, 4/10th of a foot as a depth that would

pass fish. And I found that about 17 feet of wedded width would be 4/10ths of a foot or greater, that would be about 5 inches. And the maximum depth was 0.9 feet. And there was about 5 feet of width that was about 7/10th of a foot or greater.

So at least at these transects I didn't see any passage issues at 7 cfs release.

MR. HOGAN: Well we were going to make a proposal here where any requirement for the ladder would be that it be operational at all times regardless of what flow it needs, and maintain a minimum flow of 7 during dry years and 15, as we had proposed, but that the ladder needed to be operational regardless--except under conditions where the operations team deemed that it would be more appropriate to divert flows.

If the ladder needed 12 to operate and provide connectivity downstream, if the operations team felt that it would be better off--that extra 5 cfs suited over in Butte Creek, they could deviate that water and make the ladder nonoperational.

So to sum that up, my proposal is that we keep the 15 and 7 and require the ladder be operational at all times unless under specific guidance from the operations team, providing connectivity through transects 12 and 13.

MR. SMITH: Dennis Smith, Forest Service. You

have a specific proposal on how you make that determination?

MR. HOGAN: They would have to come in with a plan for fish passage, and they would have to calculate exactly how many cfs is needed. Or, there's other options. If 12 and 13 are issue transects or stream segments, they could in fish habitat structures that would allow for deeper pooling through those transects. There are more ways to skin the cat than just water; that's why I'm saying it this way.

MR. HUGHES: Ken, this is Bob Hughes with Fish & Game. What about if there are other areas that basically provide flow-related impediments downstream of the Hendricks Diversion?

MR. HOGAN: Those would get looked at through the Fish Passage Plan.

MR. HUGHES: Thank you.

MR. HOGAN: Is that something that sounds amenable to folks?

MS. LYNCH: This is Mary Lisa at Fish & Game. That sounds like a reasonable proposal to us.

MR. BAIOCCHI: This is Bob Baiocchi. I have a question.

MR. HOGAN: Yes, Bob.

MR. BAIOCCHI: This is for Bill Foster. Mr. Foster, are you still there?

MR. FOSTER: Yes, I am, Bob.

MR. BAIOCCHI: Does the NOAA Fisheries still propose to introduce steelhead into the West Branch Feather River?

MR. FOSTER: I haven't heard of that proposal myself, Bob.

MR. BAIOCCHI: Yeah, well, Eric Fees was working on that from the staff, NOAA staff.

MR. FOSTER: I do realize--and not to change watersheds with anybody--but I do realize that FERC's proposal did not include a fish screen at Lower Centerville Diversion Dam, and so I'm not happy about that, but it's a 10(j), so that's where that sits.

MR. BAIOCCHI: Okay, I was talking about the West Branch.

MR. FOSTER: Yes, well I understand that, and like I said, we didn't file any terms for the West Branch.

MR. BAIOCCHI: Okay, but there's a consideration that NOAA would reintroduce steelhead into the West Branch. I remember talking to Eric about it. Anyway, thank you.

MR. HOGAN: Forest Service, do you have a response to our counter counter-proposal for the fish ladder at Hendricks inflows?

MR. SMITH: This is Dennis Smith from Forest Service. It sounds reasonable. You know, the details--you

know, the proof is in the pudding. The details will be critical in determining how we determine whether it's effective at passage or not.

And the other part of that is what Robert Hughes discussed, is making sure that there is passage in those sections below the Diversion Dam. And so we would probably have to go out and validate what Curtis found. And if that sounds all right to FERC, I think we could live with it.

MR. HOGAN: How far downstream are we talking about?

MR. SMITH: Well, rainbow trout studies we've seen up in the Truckie River can, you know, migrate up to five miles in a single season. So I would probably use that paper as justification for the area we looked at.

You know, given 30 years and that those populations do move, it really does affect everything until you get down to Mycine, and at Mycine everything gets sucked in the canal anyway.

MR. HOGAN: Does PG&E have a response to it?

MR. JEREB: We could live with it. We won't oppose it.

MR. STEITZ: This is Curtis Steits. I just wanted to make one comment. You know, my experience in walking around the West Branch below Hendricks, I'd say we probably wouldn't have a fish passage problem as it relates

to flow. But what I think we will find as people go back out and look at that stream again is that there are numerous low-flow barriers throughout that whole reach. And that is where you have, you know, jumps of three or four feet. And it doesn't really matter what flow we have, whether it's 7 or it's 15, those same barriers will still be there during the low-flow summer months and you're not going to get fish passage by those.

So I just wanted to make that comment.

MR. SMITH: Dennis Smith, Forest Service. I agree.

MR. HOGAN: Dennis, hold on a second. Who was that just speaking before Dennis.

MR. STEITZ: Curtis Steitz, sorry, with PG&E.

MR. HOGAN: Go ahead, Dennis.

MR. SMITH: Dennis Smith, Forest Service. Curtis, I agree with you. I think that passage is probably going to happen at those higher flows, at those hydraulic jumps. And the season that we're concerned about is not going to be that low-flow season. Because when those fish are moving, you usually have higher flows, and higher flows are what triggers that movement.

MR. FOSTER: This is Bill Foster of NOAA. I know you guys looked at what existing PHABSIM transects you have, but normally I think when you go out and pick those you are

not necessarily looking for the shallow riffle areas all the time.

Like you said, you may have to go back out there and specifically target shallow riffle areas where--you know, that may not have been, you know, you don't have a transect for.

MR. HOGAN: What we are counterproposing here is that a plan would be developed in consultation with the agencies with appropriate benchmarks for what level of passage you're looking at.

Now I think if you've--this is just my two cents--if you've got a barrier that's a half-mile downstream that's a barrier at 15, then you would cut it off there for the 7 also. But it's really up to the agencies and PG&E to work on it in consultation through this proposal to come up with something that allows operation down to 7 cfs, and for fish passage.

And again, the reason--one of our bigger reasons for not wanting to require more than 7 is we want to make sure that during dry years when it is most critical, if the operations group says that that water should be diverted over to Lower butte Creek to protect the salmon, that that can be done without a Commission approval.

MR. SHUTES: I just--

MR. BAIOCCHI: This is Bob Baiocchi. I have a

question for you, Mr. Hogan.

MR. HOGAN: Hold on, Bob. There was somebody else who was going to speak up just before you there.

MR. SHUTES: This is Chris Shutes. I have a question and a comment.

The comment is that the temperature modeling showed that at these low flows an increase of 7 or 8 cfs in the amount diverted through the Hendricks Canal resulted in a net temperature benefit of about a tenth of a degree Celsius.

Therefore, I would question the value of the rationale for wanting to do this. It's more of a feel-good measure, in my opinion, than one that has a noticeable or important impact.

The second thing I wanted to clarify--and this is a point of clarification--is that the Commission proposal that the fish ladder at least through August be operational, or I guess what is the proposal relating to the operation, or the operability of the fish ladder for the Hendricks Diversion?

Are we saying that it won't be operable unless--or what is the requirement?

MR. HOGAN: Our counterproposal is that it is operational year around unless whatever additional water over 7 cfs that makes it operational is deemed needed to be

put into Lower Butte Creek.

MS. TUPPER: This is Julie Tupper of the Forest Service.

MR. HOGAN: Yes, Julie.

MS. TUPPER: Does "operational" mean if you discover when designing this fish ladder and making it operational that you need 10 cfs to make it, that then that number is 10? Is that going to be how the plan is worded? I'm just concerned that--

MR. HOGAN: That is our intent.

MS. TUPPER: --we are hanging up on 7 right now, but the real answer is we will design a fish ladder that will operate at the lowest flow at 7 or above, and we don't know what that number is above 7 right now. We're hoping it is 7.

MR. HOGAN: That is correct, Julie.

MS. TUPPER: Okay.

MR. HOGAN: What we heard at the last meeting was that PG&E was fairly certain they could develop a ladder that would operate at 15, and thought they could do one that would operate at a lower flow but that weren't certain, and I think we're trying to give them the flexibility to come in with something lower, if possible, to operate down to the 7.

MS. TUPPER: Okay.

MR. JEREB: This is Tom Jereb, Ken, too.

Everybody has got to realize, too, that 7 really means about 9, 8 to 9, because we over-release in the in-stream flow requirement, also. So we would over-release to make sure we meet that minimum in-stream. So you would actually have probably 8 or 9 cfs there, in reality.

MR. FOSTER: This is Bill at NOAA. You guys, obviously your plan is to develop the ladder and the screen. Are you going to need one flow to satisfy both? Or what? I mean, I don't know that part yet, and you may not know it yet, either, but that I assume is being factored in whether those things are going in as a system or two slightly separate objects; that both will require a certain amount of flow to work?

MR. JEREB: That's true. This is Tom Jereb again. That's true, Bill, and we aren't far enough in any design on that to determine that.

MR. FOSTER: But you may have flow coming out of the ladder, and then flow that comes in out of the screen, too.

MR. JEREB: That's correct.

MR. FOSTER: But again, we would like that to happen at the same spot, I suppose. That's all I have to say

MS. TUPPER: This is Julie Tupper, Tom. I want to remind you that the way we write the 4(e)s is that you

shouldn't have to over-release because we now allow you to basically drop to 80 to 90 percent under there. And we've found in other licenses that that's been helpful for you guys. So no longer is it a target of whatever, 15 is the minimum, you actually see, since it's greater than 10 you actually can drop it down to about 13-1/2 for some time and still meet the flows as long as it's 10 overall, or 15 overall.

So, anyhow, we don't expect that you will have as much over-release. We're finding that in a couple of other licenses, that you don't since we've put that caveat in.

MR. SHUTES: Could I ask if FERC has the same--

MR. HOGAN: Who's asking the question?

MR. SHUTES: This is Chris Shutes. Does FERC have the same opinion about that?

MR. HOGAN: If it comes in as a mandatory condition in the 4(e), that's how we would enforce it.

MR. SHUTES: I see. Thank you.

MR. BAIOCCHI: This is Bob Baiocchi. I asked to--I wanted to raise an issue, and you put me off and I'm still waiting.

MR. HOGAN: Okay, Bob. Go ahead.

MR. BAIOCCHI: Okay. With respect to the flows through the fish ladder, my concern would be the habitat requirements of below the Hendricks Head Dam downstream to

Big Gip Shoe Creek. And when I'm talking about the habitat requirements, we're talking about resting water, spawning habitat, burning habitat, and food-producing habitat.

Food-producing habitat would be the microinvertebrates, okay? So it's not just the matter of the fish ladder; it's the matter of the environment, the stream environment between the Hendricks Head Dam and Big Gip Shoe Creek. I just want to make that point.

Secondly, with respect to the flow requirements, you know the mandatory requirements being met, I disagree with the Forest Service. There are license requirements, and I've been filing complaints on that just to let you know. Okay, that's it. Deviations.

MR. HOGAN: Okay--

MR. SHUTES: Ken, this is Bob Shutes.

MR. HOGAN: Yes, Bob.

MR. SHUTES: Just for Ken and Tom and the group, I just wanted to let you know that we look forward to working with PG&E and other interested parties on coming up with designs for these--I'm sorry, for fish ladder and screen that meet the criteria.

MR. HOGAN: Okay. Thank you, Bob.

So it sounded like we could pretty much agree to our counter-proposal, to the agencies' counter-proposal, for the fish ladder and flows at Hendricks. We will analyze it

that way in our FEA and, provided you guys will support a 15 and 7 during normal and dry years year-round.

Does anybody want to take a break?

(No response.)

UNIDENTIFIED SPEAKER: How about lunch?

MR. JEREB: Tom Jereb here. I'd like to push on, if we can.

MR. FOSTER: This is Bill Foster. I don't care either way, whether we go on or have lunch, but what I wanted to mention is your proposal was to have a set minimum flow but that would have to be ultimately based on how the ladder functions, and if there's any passage issues--in other words, low riffles downstream that might need a little higher flow to make them work as well. Does that come into your plan to evaluate that, to double check that to see if that's actually an occurrence? Or is there some sort of restoration activity that could occur to improve it?

MR. HOGAN: Two issues. The first requirement for flow would be 15 and 7. A second requirement would be the development of a ladder that's operational at all years, dry and normal years, for the entire year. And that connectivity throughout--through West Branch Feather River to a designated point--and we would like to see how you designate that point downstream of the dam--is provided.

And like I said, that could be provided through

habitat enhancements. It could be provided through flow. So you're going to have, as far as the fish passage plan, if the chosen route is to go with flow and that's 10 cfs, well they're going to have to release, to make sure they're in compliance with the license, 10 cfs.

At 10 they're meeting the 7. At 7 they're not meeting the 10. So the compliance point would be the 10.

MR. FOSTER: Okay, but my point I was getting at was the other connectivity that--most likely we want the fish to use the ladder when they're moving for spawning and that sort of thing, which is usually during a higher flow period; but at the same time, there has to a period in time at which, if there is a low riffle but yet the ladder is technically functional, fish might not be able to get to the ladder even though once they get there it's useful. And that's the type of evaluation I'm wondering if you're going to put forward in your plan to double check that.

MR. HOGAN: That's what I'm saying, that that would have to be addressed through the Fish Passage Plan.

MR. FOSTER: Okay.

MR. HOGAN: Does everybody understand that?

The one concern that I do have is how far downstream do we draw the line. And that's something we would look closely at at any Fish Passage Plan that came in.

MR. BAIOCCHI: This is Bob Baiocchi. Will the

public have availability of commenting on the plan?

MR. HOGAN: Bob, you can comment on anything that is filed here at the Commission.

MR. BAIOCCHI: Okay, thank you.

MR. HOGAN: Okay, so it sounded like folks wanted to push on?

MR. JEREB: Yes, please.

MR. HOGAN: Okay. I see that I jumped out of order on the agenda. We've already addressed Feeder Creeks. I still want to get back to that. But regarding the monitoring, we do not recommend any difference in the monitoring than what we proposed in our draft EA.

I wasn't certain--I got the impression that the agencies continued to propose their 10(j) recommendations for monitoring.

MR. FOSTER: This is Bill Foster at NOAA.

MR. HOGAN: Yes.

MR. FOSTER: While your proposal did say that you would continue nonanadromous resident fish monitoring in Butte Creek, as well as benthic macroinvertebrate monitoring--sorry.

Bill Foster, NOAA Fisheries. Your proposal had mentioned that you would continue nonlisted fish monitoring in Butte Creek. And part of that proposal was the fact that your EA recommended, you know, normal salmonic monitoring

that you--much of what we had already proposed. So what I was talking about was in your proposal you had talked about nonlisted fish monitoring in Butte Creek would continue, and benthic macroinvertebrate monitoring would continue in Butte Creek. You didn't propose that on the West Branch side.

MR. HOGAN: You are correct, Bill.

MR. FOSTER: But what I wanted to point out in my comments, for instance, was that the frequency of that monitoring in Butte Creek wasn't adequate, in our opinion, to protect those--to give us the information that we need to monitor the fish and the BMI populations. And that was the point we had made.

That's why our original 10(j) had a frequency over the term of the license. And that gets back to the same kind of agree-to-disagree problem that we had in your particular FERC view of how long do you monitor, and yours was very little compared to what we're used to recommending. And actually getting in other licenses.

So I wanted to bring that point up.

MR. HOGAN: I recognize that we agree to disagree on the staff-recommended monitoring frequency and duration. We are drafting a response to that in our final EA.

But we are deviating from the 10(j) proposal that we had sent out previously, and we are now also recommending the monitoring on West Branch Feather River as we

recommended in the draft EA.

MS. TURNER: This is Cathy Turner. Could you clarify? Because what I heard you say, Ken, is that you didn't believe the agencies had changed from our 10(j)s. In the case of the Forest Service, we have changed from our preliminary, or our final 4(e)s.

MR. HOGAN: Cathy, I do recognize that.

MS. TURNER: Okay. Frequency and number of sites.

MR. HOGAN: Yes, I do recognize the Forest Service has modified their monitoring quite a bit.

MS. TURNER: Okay, now I would like to get some clarification from you, Ken. You started off with saying you didn't propose anything different. And then just before I spoke I thought you said we have modified--

MR. HOGAN: Yes, I--

MS. TURNER: --so I'm confused.

MR. HOGAN: Well it's because Bill reminded me that we originally didn't propose monitoring on the West Branch Feather River in the 10(j) proposal, and I meant to tell you that we are now, based on the Forest Service and the counter-proposals, we would like to counter with we would support monitoring that we recommended in the Draft EA.

MR. SHUTES: Could you state what that is,

please?

MR. HOGAN: Chris Shutes.

That was monitoring--for BMIs, it was monitoring years 1 through 4, and then during the first year of any fish population monitoring that we do.

Our fish population monitoring was to occur five years after a change in project operations that would influence the target species. It could be temperature related or flow related, and it was two consecutive years. So years 5 and 6. And if any change were to result, any change in operations were to result through the adaptive management program, the cycle would be repeated.

MR. FOSTER: This is Bill Foster, NOAA Fisheries. So that the basic premise is that after years 5 and 6, you don't look to find any change. How are you going to know that there's something to be changed that has to be monitored?

It's kind of a--it's a little self-defeating in that sense. I mean, certainly if you actually changed a project operation you would want to know that effect. But if you're not looking to see what the project is potentially doing, how are you going to know that there's an effect? Do you know what I mean?

I mean, a consistency of things operating a certain way, there could be things that happen that that

certain way a project is operating is affecting over time, and you won't know that because you haven't looked to see if it's happening. Even as little as five or six years later, there's nothing theoretically that would happen after that one potential project operation change. It's all hunky dorey for the next 50 years, until, you know--

MR. HOGAN: Bill, our next monitoring cycle is five to six years after.

MS. TURNER: After what?

MR. HOGAN: After the change. It's not the first two years after a change, it's five to six years following the change in project operations.

MR. FOSTER: But that's the point I'm getting at. If the project doesn't change after that time, there could still be effects due to the project's operation that you would not be able to detect because there was no theoretical change to the project's operation, so no one would have any reason to look, which is an inherent problem in that, I think.

MR. HOGAN: I don't understand what issue you're getting at.

MR. FOSTER: If the project is operating a certain way--

MR. HOGAN: Yes.

MR. FOSTER: --you did your change, okay? Five

years later you take your monitoring, okay? Fine. The project continues to operate okay in its particular mode.

As it's operating, it could be affecting changes to the population but you wouldn't know it because after that five-year point where you did your monitoring for the purposes of that change, then time is moving onward and nobody is monitoring anything because they assume because the project is still operating a certain way there are no changes.

There's no way to know, if you don't look at all.

MR. HOGAN: Well you are going to have your baseline data that currently exists, and that's what you're comparing your change to.

MR. FOSTER: But your baseline data at some point becomes five years, six years, seven years, eight years, nine years older, fifty years older because you'd never looked again.

MR. HOGAN: But we're looking to monitor a target species' response. So you use your baseline data. Then you go in and you collect new data and you do a comparison.

MR. FOSTER: That's what I was getting at. After you do your little five and six-year monitoring, when do you go back again to look and see if there's any difference if you've decided not to monitor for the rest of the 50 years? Because the operation hasn't theoretically changed. That's

the problem I have with that.

MR. HOGAN: And I don't understand why you'd want to go back, or why you would need to go back and look at it again.

MR. FOSTER: Because it could change. Things could go wrong. You wouldn't know it if you don't look for it. That's the point I'm getting at.

You could have a situation where, yes, the project has been operating for 100 years and we have seen some sort of population drop over that time, we don't know if it's all attributed to the project or not because, you know, people weren't really looking, I don't suppose. But you won't know anything is happening if you don't look for it periodically. That's the purpose of periodically monitoring and then adapting to it, if needed.

MR. SMITH: This is Dennis Smith from the Forest Service. I'm going to chime in on what Bill is saying. From the Forest Service's perspective, we need to look throughout the life of the license. And it's not that the project becomes static because the conditions are all implemented in the first 10 years.

It's a combination of the effects of the project and effects of the environment. We're expecting to have worsening water temperature conditions from global warming, climate change. If, hypothetically, temperatures

skyrocketed and water temperatures went off the chart, we're faced with two issues.

One, on the West Branch you eliminate basically the trout species unless you divert more water. But if you divert more water then you're going to have a large impact on the Listed Species.

So I don't know that it's going to give you an answer, but the bottom line here is that we need continuing monitoring on the projects to determine project effects based on what the climatic conditions are.

MR. HOGAN: I'm not sure I see where it's the responsibility of the applicant to monitor as a result of natural condition changes.

MR. SMITH: Well that goes against the face of 20 years of FERC relicensing.

MR. SHUTES: Yes. This is Chris Shutes. It also addresses the--since FERC has refused to look at climate change in the relicensing process and--

(The telephone signal is erratic here.)

THE REPORTER: Excuse me.

MR. HOGAN: Hold on. Chris, you're breaking up pretty badly.

MR. SHUTES: Sorry?

MR. HOGAN: You're breaking up a lot.

MR. SHUTES: Okay, hold on.

(Pause.)

MR. SHUTES: Hello. Is this better?

MR. HOGAN: Yes.

MR. SHUTES: Sorry about that. What I was saying was that FERC said it would not do a study of climate change, and what it stated was that the backup and that the way that would be addressed, or the only specified way it would be addressed, would be through monitoring over the period of a license.

And now you're proposing that you won't do the monitoring. So it seems to me you've kind of boxed yourself into a corner. And simply from a NEPA point of view, I don't see how you can not address this through a monitoring program. The Forest Service and I believe the other agencies have offered to reduce the frequency of monitoring and the number of sites in an effort to, in the interest of the licensees, to reduce costs.

It seems to me to be a reasonable proposal, and I wanted to ask if it would be okay to ask PG&E whether they could live with the Forest Service's proposal as it has been revised.

MR. HOGAN: Tom, did you want to respond?

MR. JEREB: Sure. Tom Jereb here. We did look at the Forest Service proposal for the reduced monitoring. It represents about 60 percent of the original costs of the

earlier monitoring requirement, and our say is we will do what FERC tells us to do in monitoring in our license.

MR. FOSTER: This is Bill at NOAA. I was just curious if the Forest Service 4(e) condition has resident trout and benthic macroinvertebrate monitoring at whatever frequency you pick, I can see no logical reason why that same type of frequency couldn't be applied to the Butte Creek side for a sense of consistency in terms of when you're doing your sampling and stuff like that.

Like I said, the Forest Service 4(e) condition will be mandatory. It would make things easier to coordinate. I would hope that FERC would be able to be willing to live with a frequency that's similar on the Butte Creek side.

MS. TUPPER: This is Julie Tupper with the Forest Service.

MR. HOGAN: Yes, Julie.

MS. TUPPER: I want to respond to something that FERC mentioned. I think if you go to our June 9th letter, and if you look at the second paragraph under benthic macroinvertebrate monitoring, we try to briefly explain the Forest Service's rationale.

The Forest Service, you need to understand our baseline condition is the historic condition. We agreed basically because under multiple use that the DeSabla-

Centerville Project was an okay use of National Forest System lands, but that was a decision that the Forest Service made, and we revised flows.

As we state in this sentence, we know we have an impact, or a potential impact on national public resources, in this case the benthic macroinvertebrates. We have a commitment to the public that we need to know whether our decision to do that is an okay decision and that we are adequately protecting to some degree the resources.

Benthic macroinvertebrates are now the Sierra Nevada Management Indicator Species. We need to make sure through periodic monitoring that those resources are still maintained at some adequate level.

There actually are definitions of what the adequate level are. You'd have to go to Ryan and our BMI people.

But the reason we would expect the licensee to do that is that it is the licensee's operation of that project that has changed the flow in that stream. Therefore, we would expect whoever it is--and in this case it is the licensee--to be the one responsible for that monitoring.

Since we took this tack, you can see that we thought long and hard and talked with some of our researchers and they said that they thought that episodic monitoring, about every five years, to wait maybe three

years to let things settle down after the flow changes. In this case it's not really changing. But with fish ladders and things.

And then episodically monitor approximately every five years. If somebody wanted to do it every six years, we could think about that.

But we do need to do it over the period of the license because we need to know the interaction of things like climate change, which is the biggest factor we can see, will affect basically benthic macroinvertebrates, which is our species of concern, and the thing that goes along with that are the trout.

So, anyhow, that is our explanation of why we believe the episodic monitoring is required, and why it is our 4(e).

MR. SMITH: Dennis Smith, Forest Service. It also supports another condition for reopener.

There is no way to determine whether we need to adjust the project if we don't know what consequences and cumulative impacts are of the project and the environment.

MR. HOGAN: Understood. Now Fish & Game and Fish & Wildlife Service and National Marine Fisheries Service, my understanding was that you did not modify as the Forest Service did your frequency or duration for sampling?

MR. FOSTER: This is Bill Foster at NOAA. Our

10(j)s were currently standing the way they are because there really isn't a modification process for the 10(j)s like there is modified mandatory conditions.

MR. HOGAN: We laid out the process with our letter, but, okay.

MR. FOSTER: But I have suggested that we do need some, at least from NOAA's point of view on the Butte Creek side, monitoring at least as frequent as what the Forest Service has proposed in their 4(e)s. You need something that happens on a regular basis over time, perhaps at a certain number of sites. I don't know what those sites are yet, but the point is for that same logic you need those sites, that type of monitoring for the resident fish and the benthic macroinvertebrates.

MR. HOGAN: Okay, so--

MR. FOSTER: And I was thinking in terms of utility, and again this is my own personal opinion--I don't know what anybody above me would say about this--but for utility purposes and ease of doing things, the same frequency as the Forest might work on Butte Creek for resident trout and for benthic macroinvertebrates.

I mean, you're going to be monitoring the salmonic population over there on an annual basis quite a bit, and you'll be monitoring temperature concerns on an annual basis, I'm sure, continuously, if not continuously,

so you're going to have a lot of information that will be useful.

MR. HOGAN: So, Bill, you're not speaking for National Marine Fisheries Service when you say that the Forest Service's frequency and duration would work?

MR. FOSTER: I'm not allowed to make that decision. It's my personal professional opinion that we--you know, frequency over time is better than no frequency over time. I don't make that final decision.

MR. HOGAN: Okay.

MR. BAIOCCHI: This is Bob Baiocchi, Mr. Hogan.

MR. HOGAN: Hold on, Bob. I'm still looking for a response from Cal Fish & Game and Fish & Wildlife Service.

MS. LYNCH: Ken, this is Mary Lisa from Fish & Game and you may or may not recall that actually in our 10(j)s we didn't put in a specific timeline for monitoring of either resident trout or benthic macroinvertebrates because we proposed that the licensees and the agencies work together to develop a monitoring plan.

But I believe in our proposal, in our response to your proposal, we agreed with the timeline that the Forest Service had put together.

MR. HOGAN: Thank you, Mary Lisa. Fish & Wildlife Service?

MS. GIGLIO: We agree with the proposal that the

Forest Service put together on their frequency of monitoring in West Branch, and for the--and I think we were trying to make it consistent, but it looks like what we originally put in our last filing was annually for the first four, then one every four beginning years 8, 12, 16, and thereafter through the term of the license.

So I think that's what we're looking at.

MR. FOSTER: This is Bill at NOAA. I think you are correct, Deb.

MS. GIGLIO: Okay.

MR. FOSTER: I think that's a similar frequency for benthic macroinvertebrates is what we proposed. And for the resident fish, we had proposed two out-years out of every five. I forget when it started, but it was that type of frequency for fish.

And then one reason I would suggest perhaps a slightly higher frequency for the non-listed fish is that some of those non-listed fish could very well be related to steelhead, although the steelhead monitoring may be covered under the actual salmonic, listed salmonic monitoring plan.

So, you know, salmonics may be covered by their own plan already, actually.

MR. HOGAN: Okay. So I kind of got a little confused there. Is Fish & Wildlife Service sticking with their original 10(j)s, or are they comfortable with the

Forest Service's monitoring frequency and duration?

MS. GIGLIO: What is the Forest Service's? Do you have it in front of you?

MS. TUPPER: Yes, this is Julie Tupper. It's-- I'm reading it here off of what we recommended.

Monitoring should begin three years after license acceptance, and every five years thereafter. And we have three sites on the West Branch of the Feather.

MS. GIGLIO: And that would be through the term of the license?

MS. TUPPER: Through the term of the license.

MS. GIGLIO: Okay, so we can agree to the Forest Service for the West Branch of the Feather, and then our other 10(j) I guess would be for the Butte Creek site.

MR. HOGAN: Yes. My question is--

MS. GIGLIO: Are you looking for us to agree to a similar frequency for Butte Creek?

MR. HOGAN: I'm asking if you do support that for Butte Creek.

MS. GIGLIO: For both streams?

MR. HOGAN: Yes.

MS. GIGLIO: Does National Marine Fisheries Service support it for Butte Creek, then?

MR. FOSTER: I would have to check with the people above me. I would think the Forest Service frequency

is obviously less than what we had proposed. So I certainly wouldn't go lower than that. But at the same time, the nonresident--the nonlisted fish that are being monitored are going to be, you know, they could potentially interfere with or compete with the listed salmonics. And that the benthic macroinvertebrate information is going to be extremely invaluable from the salmonic monitoring point of view. And so I would expect, because the Listed Species in that Watershed are going to be dependent somewhat, or certainly the BMI populations will certainly be important to them, that it may be a slightly higher frequency over there that might be warranted because of the listed species in that Watershed.

But again, the ideas and potential frequencies of whether we actually want to modify our 10(j)s haven't been decided like this because, again, other than this 10(j) process there's no formal, you know, remodification of the 10(j)s that's done other than through this process.

MS. GIGLIO: This is Debbie Giglio again. Because there's an issue of listed anadromous fish on Butte Creek, we would have to wait to see what National Marine Fisheries Service, you know if they determine they want to change their 10(j) or not on monitoring.

MR. FOSTER: My first impulse--this is Bill at NOAA--would be that because of the listed species in Butte

Creek, I would want a slightly higher frequency than what the Forest Service had proposed, which is again why we came up with the original frequency that we did. Certainly for BMI, because BMI resources directly impact all fish aquatic species in that stream system, and then the other nonlisted fish are going to be competing with the listed species.

MR. HOGAN: Well--

MR. FOSTER: Again, I have to check with people and ask them. You know, do we want to change our 10(j)s, or do we not? I can't make that call myself.

MR. HOGAN: All right. Well I would like to take a short break, a restroom break if folks want, or do you folks want a lunch break? Because I do want to talk about this a little bit more, but wrap it up shortly after that.

MR. BAIOCCHI: Can I comment? Bob Baiocchi.

MR. HOGAN: Go ahead, Bob.

MR. BAIOCCHI: Okay, I was around, hanging around when the project was relicensed going back historically, and I worked with Jerry Metz at the Department of Fish & Game who has retired, and Richard Flint who has also retired. He was a Fisheries Biologist.

Everyone is talking about a 50-year license for this project. If I was the man making the decisions, it would not be a long-term 50-year license; it would be another short-term license.

MR. HOGAN: Thank you, Bob.

MR. BAIOCCHI: That's because we have a anadromous--we have a spring run salmon fishery, something might happen. And we've got the monitoring, all the monitoring considerations. I'd go short-term. That's what I believe should happen. Thank you.

MR. HOGAN: Bob, the Commission will make a decision on the term of the license based on its existing policies and practices.

MR. BAIOCCHI: Pursuant to comments, I'm presuming.

MS. GIGLIO: This is Debbie Giglio from Fish & Wildlife Service. Do we plan to go on past one o'clock? Is this something we can complete in the next half an hour, the rest of the issues? It seems like we are pretty much at the end of the agenda.

MR. HOGAN: It's pretty close. What I want to do is I want to caucus with my supervisor while you folks use the bathroom, if you need to.

MS. GIGLIO: So you're talking about like a five-minute break?

MR. HOGAN: I was talking five to ten.

MS. GIGLIO: Okay, and then maybe we'll wrap it up by one?

MR. HOGAN: I'll try.

MS. GIGLIO: Okay.
MR. HOGAN: Will that work?
UNIDENTIFIED SPEAKER: Should we just hang on?
MR. HOGAN: Yes, if you want. So we will be back here in, I guess I'll try to be back at half past the hour.
UNIDENTIFIED SPEAKERS: Okay.
(Whereupon, a brief recess was taken.)
MR. SMITH: Before you get started, could you kind of go around and--Dennis Smith, Forest Service.
MS. TURNER: Cathy Turner, Forest Service.
MS. TUPPER: Julie Tupper, Forest Service.
MS. GIGLIO: Debbie Giglio, Fish & Wildlife Service.
MR. LIBERTY: Aaron Liberty with FERC.
MR. JEREB: Tom Jereb, Pacific Gas & Electric.
MR. STEITZ: Curtis Steitz, Pacific Gas & Electric.
MR. HUGHES: At Fish & Game we have Bob Hughes, Mary Lisa Lynch, and Beth Lawson.
MR. LIEBIG: At Stillwater it's Russ Liebig and Scott Wilcox.
MR. SHUTES: Chris Shutes from CSFPA.
MR. FOSTER: Hello? Anybody there?
MR. HOGAN: Yep.
MR. FOSTER: This is Bill with NOAA. Just

thought I'd check in.

MR. HOGAN: We're back, Bill.

MR. FOSTER: Okay, good.

MR. HOGAN: We're just doing a roll call. That was perfect timing.

MR. FOSTER: Hey, good. Not a lot of people are here at lunch time, though.

MR. HOGAN: Is Bob Baiocchi still on the phone?

(No response.)

MR. HOGAN: Okay. I think that's everybody. Am I missing anybody?

(No response.)

MR. HOGAN: Okay, just before we took a break we were discussing the resident fish and benthic macroinvertebrate monitoring. I think we are prepared to go along with the Forest Service's monitoring duration and frequency for both Butte Creek and West Branch Feather River.

MR. FOSTER: Okay, well this is Bill at NOAA.

MR. HOGAN: Yes.

MR. FOSTER: I want to say what my personal professional opinion is and what I can suggest to my other people above me: I would be inclined to agree with that.

My logic is such that the resident fish in this case on Butte Creek is actually more refined down to the

nonlisted resident fish because the resident salmonics will be monitored already at what seems to be an adequate frequency and degree.

And because of that, and because of the way the BO may be written, I think the listed salmonics I'm fairly confident will be covered and monitored and hopefully protected by that means.

And so the amount of BMI that's going to be done can really be at a level such as what the Forest Service suggests for Butte Creek because we're going to be having quite a lot of monitoring information on the listed salmonics over there. And the remaining fish, for the same reason, that may be adequate.

But, again, I have to ask people above me what they think of that. Our BO will be directed at what's to be done to, you, now, preserve and enhance and protect the listed species. So our final mandatory condition won't necessarily address BMI or nonlisted fish, although I don't know that yet.

MR. HOGAN: Well thank you, Bill. We appreciate your support to your supervisors.

MR. FOSTER: And again, I have to find enough people to ask them about this and see what they think.

MR. HOGAN: I understand.

MR. FOSTER: Like I said, I think our BO and our

existing terms that so far have been analyzed are going to help the salmonics in the Butte Creek side. And again, we agree to disagree on the actual flows yet on some of those.

MR. HOGAN: I understand, Bill.

MR. FOSTER: And certainly on the fish screen.

MR. HOGAN: So with that said, I've been saying now for about an hour that I want to get back to the feeder creek flows being required by the Forest Service.

The Forest Service, I assume you're not going to bend off of these flows?

MS. TUPPER: Well--this is Julie Tupper--I mean we did a new proposal, which I feel like you keep ignoring, that says you put a pipe in the Hendricks Canal of a certain size and, depending on how much water is in there, we'll accept that much, instead of going back and trying to play around with the diversion.

MR. HOGAN: No, we recognize that. I believe at our last meeting Dennis Smith said that we estimate that a pipe, a four-inch pipe six inches off the bottom of the Canal would produce, in a full canal, about three-quarters of a cfs, and during dry years it would be about point-2 cfs. So I mean we recognize that.

But we also recognize that it's a cost of about $45,000 a year.

MR. JEREB: This is Tom Jereb. Ken, I have a

question on the force. Who calculated those flows? Because I did some calculations myself with a six foot of head on a 4-inch pipe, I get 1.4 cfs. With 2 feet of head on a 4-inch pipe you get about .79 cfs. And 1 foot of head on a 4-inch pipe is .5 cfs.

So I'm asking the question, who calculated the 4-inch diameter pipe flows?

MR. HUGHES: Tom, this is Bob Hughes.

MR. JEREB: Yes.

MR. HUGHES: Actually, I did that assessment. I don't think I looked at 6 feet of hydraulic head. I think I stopped at about 4 feet.

MR. JEREB: Okay.

MR. HOGAN: So I assume, Tom, that in at least some of diversions it's at 6 foot--

MR. JEREB: At full flow, yes, it would be 6 foot of canal head on full flow.

MR. SMITH: Dennis Smith. What's the period of time there's full flow? And I assume full flow is 125, 120?

MR. JEREB: Yeah, the canal only runs that probably in the spring time.

MR. SMITH: So for much of the other part of the year, there's lower head?Y

MR. HUGHES: Yes, that's correct.

MR. JEREB: I have a question, too, for the

Forest Service. This is Tom Jereb again. On the Long Ravine, the configuration of the project is that we release water out of the Hendricks tunnel and it goes into Long Ravine for about a little less than three-quarters of a mile, a half mile, and then all the water is then diverted there into the head of the canal through a diversion structure there. That diversion structure has a very good flow, entering flow metering device to make an in-stream flow there.

And so I was curious. From the Forest Service's perspective, why you ask for a 4-inch pipe at Long Ravine? The other two diversions, Hendricks--excuse me--Cunningham and West Fork, both, Little West Fork, both of those, the canal crosses those ravines, and you could make a release right into the ravine from this 4-inch pipe concept.

But back to Long Ravine, I was wondering from the Forest Service's perspective why you're asking for that when you have a perfectly good entering flow device there at a diversion dam which is a perfectly good facility?

MR. SMITH: Dennis Smith from the Forest Service. Ryan and I have talked about that, and it was our judgment that if we put an automatic release into the canal structure, then you would not have to monitor.

I mean, we were trying to get away from any kind of monitoring for these diversions. And so we looked at a

way, and Julie and I had discussions about that, but a way of making sure that we didn't have any variables that would alter that flow. So, i.e., a flashboard not being taken out, or whatever, and that we didn't have to put any V-notch weirs or any kind of monitoring for flow below those.

MR. JEREB: Okay. Okay, I understand now.

MR. SMITH: That's why we went that way.

MS. TUPPER: This is Julie Tupper. Ryan actually mentioned that Long Ravine when he went up and looked at everything, exactly what you said, Tom, but it still begs the point of you have to go downstream and monitor and make sure that vales are turned. And we are trying to find a more simplistic means to release water into those streams. And I will say it may be simplistic, but we thought in the long run it might be the best answer. And I'm not sure that we're totally hung up that it has to be a 4-inch pipe.

We were going on our best estimate with what information we had of trying to come up with something in the range of three-quarters to one when it's full, but that would still provide us point two when it was running at lower levels.

MR. FOSTER: This is Bill Foster at NOAA. Your concept of the pipe sounds really good, because it gives you that variability when there's more water on the canal you gain a little more water out; when there's less, you're

getting less. So you get a little bit of feeling of the seasonality of the canal flow.

And again, in trying to keep it as simple as possible, all you'd have to do is just inspect them when you regularly do to make sure debris doesn't get in the way. But I mean I like the utility of it. It's just a matter of, you know, people understanding that it's designed to be more simple than complex.

MR. HOGAN: Our concern still is that it's reducing generation by about $45,000 a year.

MR. DENNIS SMITH: Dennis Smith, Forest Service. I don't see us going backwards on this one.

MR. HOGAN: Okay.

Well with that said, because we don't want to kind of destroy all the hard work we've all done, we would be okay with--just to summarize:

Providing a minimum instream flow at Hendricks Diversion as we specified in our 10(j) proposal, and specifying that the fish ladder needs to be operated annually, or not annually, every day of the year. It needs to be operational, with the inclusion of a fish passage plan.

We can support the Upper Butte Creek minimum instream flows provided by the Fish & Wildlife Service and Cal Fish & Game for dry and normal years.

We do not support the Lower Centerville Diversion flows provided for between September 15th and March 15th.

And we would not--although we would not support the Forest Service's 4(e) for the feeder creeks, we recognize that they are mandatory conditions and we would not blow off this proposal if the Forest Service chose not to change them.

For monitoring, we could support monitoring both Butte Creek and West Branch Feather River as provided for in their 4(e)s, along the same schedule or duration or frequency.

And we would recommend providing a fish screen and ladder at Hendricks Head Dam.

Any questions?

MR. SHUTES: I have one question. This is Chris Shutes.

MR. HOGAN: Yes, Chris.

MR. SHUTES: Regarding the monitoring, will you then propose a plan to specify the sites?

MR. HOGAN: Well we would have to get that on Butte Creek. Forest Service has it for the West Branch Feather River.

MR. SHUTES: Okay. Thank you.

MS. LYNCH: Ken, this is Mary Lisa at Fish & Game. I just want to say for the record that I really do

appreciate the time and effort that FERC staff has put into really listening to our concerns and really trying to reach a resolution on our 10(j) inconsistency. I appreciate it.

MR. HOGAN: Thank you, Mary Lisa. We recognize all the hard work that's been going on on the other side, too, so we appreciate that, as well.

Now one thing that we would need, if the agencies can support us on these things, is we can agree to disagree on the Lower Centerville Diversion Flows, but we would like to see the ones that we agree on kind of get memorialized a little bit.

Meaning, when we got the counter-proposal everybody had their entire packages laid out, and we're comfortable now resolving specific 10(j)s to the best of our ability and leaving others unresolved.

So if I could have the agencies just kind of document it, that would be appreciative. We can do it on the phone here, and that would be fine with me. We would have it in the record. Or we can do it in writing, if you want to do it later and just kind of, if you think that you're comfortable letting me take that approach.

MS. TURNER: Julie, does ours need to be in writing?

MS. TUPPER: I'm trying to--

MR. HOGAN: Who is that?

MS. TURNER: Cathy Turner, Forest Service. I was asking Julie Tupper if we needed to put something in writing.

MR. HOGAN: Cathy, I think we've got yours.

MS. TURNER: Okay. You're not looking for anything else from us then because of our June 9th letter addresses it?

MR. HOGAN: I think your June 9th letter fully addresses it. It says that you--if we support it, you will modify your 4(e)s.

MS. TURNER: Okay.

MR. HOGAN: The only thing we would be looking for is a revised modified 4(e)s, and I would be happy if you did that after we issued an FEA.

MS. TURNER: Okay.

MS. TUPPER: We have to file final 4(e)s after your--this is Julie Tupper--anyhow, or at least I think OGC will probably have us file a package with all the right things in it so there's no question about what the correct 4(e) is. So we will do that.

MR. HOGAN: Okay. Again, the outlier for us is the Lower Centerville diversion flows, and I'll tell you right now that could be something that would make us flip flop our decisions on some of these other 10(j) issues when we do our balancing.

But other than that, right now we are prepared to go forward with how I just outlined it.

MR. FOSTER: This is Bill Foster at NOAA. Any of our actual final decisions are made in writing. So I think what we would do is just--I don't know if you could send out what you've just summarized as your, I don't know, new proposal in an e-mail or something simple, but we would respond to that in writing, then.

MR. HOGAN: How about if you see it in the transcript?

MR. FOSTER: Well I don't have the authority to make that decision.

MR. HOGAN: No, no--Bill, just respond to the transcripts. Is that okay?

MR. FOSTER: Like I said, I can't make a final decision. All I can say is my recommendations that I might make off the top, but I'd have no guarantee that they'll be carried through.

MR. HOGAN: I understand that, Bill. What I'm asking you is, does National Marine Fisheries Service feel comfortable responding to the transcripts once they're posted on the Commission's system?

MR. FOSTER: Yes, I guess that would work because the transcripts would capture what you're proposing, huh?

MR. HOGAN: Yes.

MR. FOSTER: Yes, that would work.

MR. HOGAN: Okay. And like I said, we're comfortable going forward with some of the 10(j)s being unresolved but my concern is there that if that flow ends up as being a requirement of the Biological Opinion then we're looking at a cost that really needs to be addressed, and we have to evaluate pretty strongly whether or not we go forward with the other 10(j) measures.

So Cal Fish & Game? Are you fairly comfortable except for the outlying 10(j) on the Lower Centerville flow?

MS. LYNCH: I'm sorry, we were just amongst ourselves discussing whether or not we would ask FERC to submit their final proposal in writing.

So what was your question, Ken?

MR. HOGAN: My question was, is Cal Fish & Game comfortable with the proposal now that we have where, except for the Lower Centerville Diversion flows?

MS. LYNCH: Yes, as we understand what you just laid out as far as Hendricks, the ladder being operational year-round and in all years, and a fish passage plan being developed, the Butte Creek flows for below normal and normal years being what we submitted in our 10(j)s, and the monitoring for the BMIs and the fish population being what we submitted in our counter-proposal, as we understand it that's what your proposal is.

And if that is what the transcripts reflect, we can certainly respond to the transcript. Honestly, Ken, it might be easier if you did put a quick letter together, just summarizing that, but we can deal with it either way.

MR. HOGAN: Okay, I'll kick that around with my boss. My schedule is pretty busy right now trying to get out the FEA.

MS. LYNCH: I understand that.

And then I guess the other question is: Would you want us to submit modified 10(j)s?

MR. HOGAN: That would be ideal, and I would be comfortable if you included some type of language that they're modified, provided the Commission approves these other measures.

I recognize the agencies are probably going to want to have some protection that you're not surrendering your 10(j)s. You want to be able to go back to your current position if the Commission were to change its mind.

MR. FOSTER: I think from NOAA's point of view we're commenting on your proposal.

MR. HOGAN: Okay.

MR. FOSTER: And it would be handier if it was written out a little bit more than trying to hunt it all down in the transcript.

I might also point out that on your agenda we

kind of know you're talking about the fish ladder and fish screen, but you've only actually spelled out the words "fish ladder" operations.

MR. HOGAN: Oh, yeah. Okay.

MR. FOSTER: So I just want to be sure that somewhere in the transcript and in your summary when you talk about fish ladder, you're talking fish ladder and screen, and you of course haven't determined whether it's two separate entities, or whether they're all one big functioning system.

MR. HOGAN: Okay, let me clarify.

MR. FOSTER: No, I didn't file anything on that side regarding that.

MR. HOGAN: Right. We are proposing, under the 10(j) proposal, fish ladder and fish screen be constructed at Hendricks Head Dam. For clarification.

So Fish & Wildlife Service, other than the Lower Centerville flows, and the monitoring, recognizing that you are defaulting to--or deferring to National Marine Fisheries Service, do you have any issues with the proposal?

MS. GIGLIO: I really do need to get something in writing that discusses what we've summarized here as being the proposal that we would--if we were going to agree and alter our 10(j)s, too.

It seems like that we could make it work for us,

but it would be good if I got like an e-mail or something in writing that just lists every single thing that we've summarized here at the end as to what the changes would be. It's just getting really confusing.

So if I get something in writing that I would be able to respond to, for now it seems like we might be able to live with it. But I'd like to have something concrete besides the transcript that I can respond to.

MR. HOGAN: Okay. How about this? I'll work late tonight and I'll put something together in an e-mail. I will file the e-mail into the record. And I need a response by COB tomorrow. Because I'm trying to write a Final Environmental Assessment and issue it by the end of July, and I need to know what direction I'm taking.

So can I get a response from everybody by tomorrow evening at COB?

MS. TURNER: And by "everybody," you do not mean the Forest Service, correct?

MR. HOGAN: That's correct.

MS. TURNER: Okay.

MR. HOGAN: And also I've got an idea from Cal Fish & Game that they are pretty comfortable with it. But if they want to respond, that's fine.

MS. TURNER: Okay.

MR. HOGAN: Again, I'm up against a pretty tight

schedule here.

And the understanding is that we do not support the feeder creek flows, but we recognize their mandatory conditioning authority and we will not back down from the proposal as a result of those mandatory conditions being maintained.

Does everybody understand that?

MS. TURNER: Yes.

MR. HOGAN: Who was the 'yes'?

MS. TURNER: Cathy Turner, Forest Service. Sorry.

MR. HOGAN: Okay. I didn't want folks to, you know, if you see the FEA and say, wait, you didn't keep up your end of the bargain, well we don't recommend the flows.

MS. GIGLIO: This is Debbie Giglio from Fish & Wildlife Service. When you send that e-mail, can you kind of put the details in it as best you can as to what we're agreeing to? For example, if there's monitoring, what the frequency is, and the years, and all that stuff? That would help a lot.

Also, I don't know that I could get you a formal letter in writing by tomorrow close of business, but I might be able to get you some kind of tentative response.

MR. HOGAN: Okay.

MR. FOSTER: This is Bill at NOAA. The actual

physical ability to get a letter out is not necessarily quite that fast, although sometimes we manage. But we will do our best to, you know, get the process started and get it through it. I don't have nearly as many people to go through right now, so it could be possible.

MR. HOGAN: Okay. All right.

MR. SHUTES: Could I ask, Ken--this is Chris Shutes--that you send a copy of that document with a service list as well to the respective agencies?

MR. HOGAN: I'm going to post it into E-Library.

MR. SHUTES: Great. Thank you.

MR. HOGAN: Okay. So what I would like, folks, since it sounds like getting a letter out tomorrow is pretty tough, I would love some type of confirmation e-mail about what your intent for that letter to say would be. You know, do you agree or don't you agree, and what are you working on. Is that doable?

MS. GIGLIO: That sounds good.

MR. HUGHES: I'm sorry, Ken, could you repeat that, please?

MR. HOGAN: Who was asking the question?

MR. HUGHES: This is Robert Hughes.

MR. HOGAN: Just looking--and I think this doesn't apply to Cal Fish & Game since we got it on the transcript, but what I'd be looking for is an e-mail. If

you can't produce the letter by tomorrow night, an e-mail confirming to us what your intent is regarding the 10(j) proposal that I prepare in an e-mail tonight, and whether or not your agency's intent is to support it or not, in writing, or how you would modify your 10(j)s accordingly.

MR. HUGHES: Okay, thank you, Ken.

MR. HOGAN: I had another thought here. Oh, Tom, do you have any questions?

MR. JEREB: No.

MR. HOGAN: Any concerns you'd like to spell out?

MR. JEREB: No. I do have a follow-up here that I will get those power values, cost of power to you when I get back to the office, which will be next week.

MR. HOGAN: What day next week, Tom?

MR. JEREB: I will be back on Monday.

MR. HOGAN: That's the 6th?

MR. JEREB: Yes.

MR. HOGAN: So we'll have them on the 6th?

MR. JEREB: I'll try to, yes.

MR. HOGAN: That would be appreciative. We're going to management review on the FEA on the 10th. So that's why I'm pushing for the schedules here.

MR. JEREB: Okay.

MR. HOGAN: Okay, I think we made a lot of progress. I think there's potentially a good product here

for all, and I hope it's not jeopardized in the end, but I appreciate everybody's hard work in trying to really work out the important issues and protect the resources.

Anybody have anything they'd like to add or question before we conclude?

(No response.)

MR. HOGAN: Okay, hearing none, thank you everybody.

(Many participants say "Thank you, Ken.")

(Whereupon, at 4:01 p.m., Monday, June 29, 2009, the teleconference meeting in the above-entitled matter was adjourned.)