

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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

Tribal Consultation Meeting
June 16, 2005
BLM Office
Alturas, California

The above entitled matter came on for hearing, pursuant to
notice, at 10:00 a.m.

REPORTED BY: DANIEL A. HUMPHREY, CSR 5480

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

1 APPEARANCES (CONTINUED):

2 Frank Winchell, FERC-Indian Tribe Liaison

3 Alan Mitchnick, Senior Technical Expert, FERC

4 Alex Miller, Biologist, FERC

5 Phil Rhinehart, BLM

6 Cheryl Foster, archeologist for BLM

7 Jayne Biggerstaff, U.S. Forest Service, Modoc

8 National Forest

9 Edie Azrow, District Ranger, Warner Mountains

10 Dan Meza, Tribal Relations Program Manager for

11 the Modoc National Forest

12 Nicholas Josten, applicant

13 Representatives from the Native American

14 community and members of the public

15

16

17

18

19

20

21

22

23

24

25

1 June 16, 2005, Alturas, California

2

3 MR. WINCHELL: We are really pleased to be out
4 here. My name is Frank Winchell. I work with the Federal
5 Energy Resources Commission. I do almost all the cultural
6 resource analysis for the hydroelectric project for the
7 United States. We are up here this week for scoping
8 meetings along with -- for tribal consultation meetings
9 involving the proposed West Valley Hydroelectric Project
10 that the applicant has sent us an application on exemption
11 to create a hydroelectric project along the South Fork of
12 the Pit River.

13 And today we are here to talk with the tribes to get an
14 understanding as well as any feelings, opinions, issues,
15 that they may have involving this proposed hydroelectric
16 project.

17 Before when get into all this, we will just kind of
18 start out with some ground rules. We have got a
19 stenographer here. We use a stenographer when we have a
20 proceeding before a Commission. This is considered a
21 proceeding before the Commission. It's almost like a court
22 case in the Commission's way of doing business. So of
23 course we have to have a transcript of this particular
24 meeting since we noticed it to the public as well as the
25 tribes and to the other folks that are involved.

1 Having said that, this is a meeting only between the
2 FERC staff along with the staff from the Forest Service and
3 the BLM who are cooperating with us to produce ultimately a
4 National Environmental Policy Act document. We call it NEPA
5 document. In this case it will probably be an Environmental
6 Assessment. So they will also be able to participate in
7 these discussions that we are going to have with the tribe.

8 The other folks who are attending this meeting are only
9 here as observers and will not have an opportunity to talk
10 because we heard all of their issues and concerns yesterday.

11 And then the only thing I'd like to add to that is that
12 when we do speak, let's try to keep it not too long. I
13 don't think -- we are here for the whole day, so we
14 certainly can hear everybody's concerns and issues, but we
15 should be always cognizant of our good man here who is doing
16 the note taking and not go too fast and not have two
17 conversations going at the same time.

18 I'm going to start off with some introductions. My
19 name is a Frank Winchell. I'm the cultural resource person
20 who will be involved in the analysis for the proposed
21 project. With me is the project coordinator, which is Susan
22 O'Brien, and she's basically going to be rounding all of us
23 up and coordinating this NEPA document. And along with
24 Susan I have Alan Mitchnick who is a senior, senior analyst
25 with FERC. He's a terrestrial biologist by training. I'm

1 going to stop talking and let them talk about themselves.

2 Essentially just say who you are, where you're from,
3 what your position is. I'll start with Susan.

4 MS. O'BRIEN: I'm Susan O'Brien with the Federal
5 Energy Regulatory Commission, FERC. And as Frank said, I'm
6 the project coordinator. I'm also a fisheries biologist.

7 MR. MITCHNICK: I'm Al Mitchnick. I'll be working
8 on the terrestrial issues associated with the project.

9 MR. ALEX MILLER: Alex Miller. I'm a summer
10 intern and have background in fishery science, Environmental
11 Policy and Planning. I'll be helping with the NEPA
12 document.

13 MR. WINCHELL: Others also state their names.

14 MR. WEISER: Dag Weiser, property owner on the
15 South Fork of the Pit River. Our property is on the
16 dewatered section and opposed project. We are opposed to
17 it.

18 MS. MURRAY: Leslie Murray. I'm Dag's wife, also
19 opposed to the project.

20 MR. BAKER: My name is Don Baker. I'm a property
21 owner on the Pit River just down river from the proposed
22 project. I am opposed to the project.

23 MR. JOSTEN: I'm Nick Josten. I'm the applicant
24 in this case. And I'm here on behalf of me and my wife and
25 my three boys.

1 MR. RHINEHART: Philip Rhinehart. I'm with the
2 Bureau of Land Management here in this office in Alturas.
3 I'm a realty specialist, and I will be working on the
4 project with the NEPA analysis and helping with the NEPA
5 documents.

6 MR. BROWN: My name is Irvin Brown. I'm the
7 Kosealekte counsel alternative person and cultural resource
8 person. Our band borders the Hammawi band.

9 MS. BIGGERSTAFF: Jayne Biggerstaff. I work with
10 the Modoc National Forest coordinating for the Forest with
11 FERC and with BLM on this particular project.

12 MR. MEZA: I'm Dan Meza. I'm the Tribal Relations
13 Program Manager for the Modoc National Forest. Currently in
14 a temporary assignment for the Forest Public Affairs Office
15 as well.

16 And I'd like to request that at some point in the
17 meeting before we get too started and to explain to folks
18 the roles of the different types of decisions that each
19 agency would make.

20 MS. O'BRIEN: Okay.

21 MS. BAKER: Della Baker. I'm alternate counsel
22 and also the rep.

23 MS. BARNES: Anna Barnes, Tribal Counsel for Dixie
24 Valley area.

25 MS. FOSTER: Cheryl Foster, archeologist for BLM.

1

2 MS. MONTGOMERY: Sheila Montgomery. I work with
3 the Atsugewi band.

4 MS. AZROW: Edie Azrow, the District Ranger,
5 Warner Mountain.

6 MS. GRIFFITH: Gail Griffith, property owner on
7 the river.

8 MS. JASSO: Mary Jasso, property owner on the
9 river. I am opposed to the project, and I'm in support of
10 the tribal counsel.

11 MR. YOUNG: Randy Young, and I live on the Pit
12 River during the three miles, and I'm opposed to the power
13 plant.

14 MS. BRUZZONE: Linda Bruzzone. I'm a property
15 owner on the river. I own 40 acres on the river which we
16 want to preserve in perpetuity for generations to come.
17 Forty acres on the other side of the river, and we are
18 opposed.

19 MR. TIFFEE: Bill Tiffie, property owner on the
20 Pit River. And I'm opposed to it.

21 MR. GONZALES: Chaz Gonzales, Hammawi band Land
22 Representative for the Pit River tribe.

23 MS. SHARON ELMORE: Sharon Elmore, Ajumawi counsel
24 alternate.

25 MR. JAMES: Before we get started. The reason

1 there's a stenographer here is this is called a consultation
2 meeting. One of many, right?

3 MR. WINCHELL: Yes.

4 MR. JAMES: Where's our liaison for the tribe?
5 The guy that we hired, the white roots. Because the first
6 protocol for this to be a legal consultation is we have one
7 of them guys that in place for our tribe. I know they
8 should be here.

9 MR. WINCHELL: All right, we have got time. Let's
10 go ahead and make sure we have got everybody here on the
11 record.

12 This is Frank Winchell speaking. If we may -- it's up
13 to the tribal counsel members if we may. We might like to
14 have them come up to the table. You don't have to if you
15 don't want to. That's quite all right. It's just a
16 suggestion. Nobody wants to, that's fine. We are good. I
17 think we can all communicate in this kind of a round table
18 around the room configuration.

19 MR. JAMES: Paul James.

20 MR. WINCHELL: And you're with whom?

21 MR. JAMES: Nobody.

22 MR. WINCHELL: Are you a tribal member?

23 MR. JAMES: No.

24 MS. BAKER: Dixie Baker, property owner downstream
25 of the proposed project. I'm opposed to the project.

1 MS. ALVAREZ: Susan Alvarez, culture
2 representative for the Hammawi band for this project.

3 MS. SHARON ELMORE: Sharon Elmore, the Ajumawi
4 counsel alternate and Cultural Information Officer for the
5 Pit River tribe.

6 MS. GEORGE: Betty George, secretary.

7 MR. WINCHELL: We are going to convene the
8 meeting. Folks need to be in, those who need to be out need
9 to stay out. We are almost there.

10 MS. O'BRIEN: Along with the Pit River secretary's
11 sign-in sheet, FERC has a sign-in sheet as well. If there
12 is not enough room on the FERC sign-in sheet, put it on the
13 back.

14 MR. WINCHELL: Susan O'Brien, project coordinator
15 for FERC, is going to go through the roles of the agencies
16 as per the request from Dan.

17 MS. O'BRIEN: Okay, the role of the FERC is that
18 we are charged with the -- application for an exemption was
19 filed with us. We are the ones that will grant or deny the
20 exemption for the hydropower project. And we need to
21 conduct NEPA analysis before we make a final decision.

22 And if I misspeak for the BLM and Forest Service let me
23 know. There is Forest Service and BLM lands involved in the
24 project, and the Forest Service needs to issue a special use
25 permit for the project and the BLM has to issue a right of

1 way for the project. Both of those also require NEPA
2 analysis.

3 So we got together, and we will be cooperators, and we
4 will do one NEPA document. We do this analysis together
5 rather than the other agencies having to repeat it.

6 And after the NEPA analysis is complete, FERC will make
7 the decision on whether or not to grant the exemption, and
8 if it is granted, then BLM and Forest Service will need to
9 issue their appropriate -- the special use permit and right
10 of way respectively.

11 MS. BIGGERSTAFF: To add to that, there will be
12 three decisions. FERC makes its decision on the exemption,
13 granting or denying. The Forest Service makes a decision on
14 the granting or denying of the special use. And BLM makes a
15 decision on granting or denying a right of way.

16 So there will be three decisions, one analysis. So
17 that's much more efficient, but three decisions. Right,
18 Phil?

19 MR. RHINEHART: That's correct.

20 MR. WINCHELL: Dan, say it again please.

21 MR. MEZA: I'm Dan Meza.

22 I'd like to clarify that from the U.S. Forest Service
23 perspective this does not fulfill our tribal consultation
24 with the tribe. We feel this is FERC's consultation on a
25 government-to-government level. The U.S. Forest Service

1 will be doing its own consultation with you folks as well on
2 the ground project effects as well for issuing the decision
3 on the special use permit.

4 A SPECTATOR: The Indians too. There's four.

5 MR. WINCHELL: We have got to have your name
6 because the stenographer.

7 A SPECTATOR: I'll shut up.

8 MR. WINCHELL: Remember, tribal members and the
9 BLM and FERC, Forest Service, they're the only ones who are
10 permitted to speak at this meeting today. That doesn't mean
11 just Hammawi, it means all Pit River tribal members have an
12 opportunity to speak today.

13 Frank Winchell here again. So we are starting the
14 meeting. So it's officially started. We are all here.

15 And what our goal is today, FERC's goal along with
16 input from the land managers that are involved, BLM, Forest
17 Service, is that we are here today to get information from
18 the tribe about their feelings about this proposed
19 hydropower project that we put on the South Fork of the Pit
20 River. So it's your opportunity today to tell us orally,
21 face to face anything that you think that we should be aware
22 of when the time comes around that we do our analysis. And
23 having said that, we also encourage every one of you today
24 who is participating to file comments with the Commission
25 pursuant to our scoping that we have been having for the

1 last two days. And the deadline is July 11th to get in
2 written comments on our scoping.

3 So please, please, please file written comments, follow
4 up what you're saying today with some written comments. Of
5 course you're going to do this through our secretary. This
6 is where we are going to put this on the record. It will be
7 part of the record for this particular proceeding involving
8 the decision of whether we are going to give the applicant a
9 license to create a hydro project or not. Okay.

10 And that person you're going to send comments to, her
11 name is Magalie R. Salas, secretary. And address is Federal
12 Energy Regulatory Commission, 888 1st Street, comma,
13 Northeast, Washington, DC, and the zip code is 20436.

14 Susan, she's got copies of the scoping document, and I
15 believe that we will go ahead and distribute those to
16 anybody who wants to have a copy. Now, we have a lot of
17 folks here today. And if someone can go ahead and get
18 those, we will go ahead and distribute them out. We will
19 start with the counsel folks and then the other tribal
20 members.

21 WOMAN: I have a question on the scoping period
22 vis-a-vis consultation that Dan suggested might be separate
23 since this is an analysis that's all one document. How will
24 our consultation fit with this July 11th date?

25 MR. MEZA: I think --

1 MR. WILSON: I'm a Hammawi person. To me I don't
2 see no agenda saying that this is a consultation meeting,
3 and I asked you for agenda last night, and you didn't give
4 me one. We are starting off on the wrong page, you know.
5 And I'd like to see the agenda, which agenda it is, with the
6 consultation written on it. Because I don't believe this is
7 like a consultation meeting because what is consultation to
8 you government to government?

9 MR. WINCHELL: I'm going to respond to that.
10 Frank Winchell from FERC.

11 It is our practice and other projects of this sort, we
12 don't come in with an agenda. And the whole point we don't
13 come in with an agenda is because we want to hear from the
14 tribe their concerns about a particular hydropower project
15 that we are in the process of approving or getting a new
16 license to or whatever. This is our practice.

17 We have done this many, many times, and this is indeed
18 consultation pursuant to the Commission's tribal policy --

19 MR. WILSON: No, not our policy.

20 MR. WINCHELL: -- as of 2002. So we are carrying
21 out the Commission's tribal policy. And that's all I can
22 say about that.

23 MR. WILSON: I hate to disappoint you, but I
24 believe as the representative from the Hammawis this ain't
25 at a consultation meeting because a consultation meeting is

1 that you got to have an agenda. On the agenda, it says
2 consultation. And we can't accept this as a consultation
3 meeting because it ain't formatted out right. And you need
4 to research your government-to-government consultation a
5 little more than you have, I think, you know.

6 MR. WINCHELL: Okay. Fair enough.

7 MS. ALVAREZ: Susan Alvarez. I'd just like to
8 refer to the Commission's policy statement on consultation
9 with Indian tribes and the Commission's proceedings.

10 The policy: The FERC acknowledges the government's
11 trust responsibility and its obligation to adhere to
12 fiduciary standards in its dealing with Indian tribes. Also
13 the tribe's demands are consistent with these requirements
14 -- and which are the band is opposing this project -- and
15 that the Commission therefore needs to adopt the tribe's
16 position because of these requirements.

17 FERC must in order to comply with their trust and
18 fiduciary obligations adopt the tribe's position that the
19 project would interfere with our practices, our cultural and
20 our traditional practices, and damage the locations.
21 Ethnographic studies specifically detailing the tribe's
22 current religious and cultural practice will need to be
23 done. So consultation policy requires the Commission to
24 work with tribes on a government-to-government basis and to
25 assure that tribal concerns and interests are considered

1 whenever the Commission's actions or decisions have the
2 potential to adversely affect Indian tribes or Indian trust
3 resources.

4 MR. WINCHELL: Okay. And I hear you, and we
5 definitely adhere to that statement.

6 MS. SHARON ELMORE: Sharon Elmore. I just wanted
7 to say what I said back then when Nicholas Josten brought
8 this to Modoc County at the time and we started going
9 through the scoping. I'm going to tell you again just the
10 way that the tribe feels about this. They do not approve of
11 this project.

12 The times that we went out there to look at all the
13 significant archeological sites, there's two sacred sites
14 out there in that area. And that's the reason why the tribe
15 opposes this project. Everywhere you step out there's
16 nothing but archeological artifacts everywhere. Not to
17 mention the sacred sites out there. There's two of them.

18 So in my mind desecrating those areas is going to be a
19 significant loss to the tribe. And I know that the tribe
20 still feels the same way that they did then when they had
21 the public hearings, that they did not agree with this
22 project at all.

23 MR. WINCHELL: Okay.

24 MR. WILSON: I'm Ivan Wilson again. The
25 presentation went through last night is that I was kind of

1 disappointed because I heard that the canal busted and
2 flooded out a residence or whatever. The Hammawi was never
3 notified to come and see where this was, and see if it was
4 at a site or anything like that. And nobody contacted us.
5 And we should have been contacted. That's all I have to
6 say.

7 MR. WINCHELL: Dan.

8 MR. MEZA: Dan Meza, U.S. Forest Service.

9 I would like to clarify, Ivan, that when there was the
10 breach in the canal, we did contact some of the Hammawis
11 about the breach. The U.S. Forest Service was responsible
12 for emergency repairs to prevent sedimentation to the
13 drainage. And we do have on record that we talked about it
14 at the quarterly meeting with the tribal counsel as well as
15 Hammawi contact that we had at the time.

16 MR. WINCHELL: Anybody else would -- again, we'd
17 like to hear --

18 MS. JIM: Yes, I'm Jessica Jim. I'm the tribal
19 chairperson for the Pit River tribe.

20 The way that I understand the process here is that we
21 are to go on record as to state whether we agree or disagree
22 with the hydro project. The Pit River tribe is organized
23 with the eleven autonomous bands. That is a hundred miles
24 square and borders four counties: Shasta, Modoc, Lassen,
25 and Siskiyou.

1 So in saying that, we have a huge responsibility to
2 protect our cultural resources. We depend highly upon every
3 band cultural person. And it's my understanding that every
4 step through this process the Pit River tribe has objected
5 to this on behalf of the Pit River Hammawi band. And the
6 hydro project is not something that the tribe wants to be
7 put into our areas.

8 So I'd like to make sure that it goes officially on the
9 record that the tribe opposes this project. And I was not
10 able to attend last night's meeting. However,
11 representatives of the tribe were there. And so as
12 indicated, our responsibility to cover a hundred miles
13 square, this is one of the things we do not like on any of
14 our ancestral territory. Thank you.

15 MR. WINCHELL: Any another tribal person wants to
16 make a comment? We surely would like to hear from as many
17 of you as possible.

18 MR. BROWN: Irvin Brown. I'm the cultural
19 representative for the Kosealekte band who borders the
20 Hammawi band, and our band is totally opposed to this too
21 because of what it will do to the ecosystem up there, and
22 deer herds, which our generations have hunted and fished in
23 this area for -- since we have been here, since before time.

24

25 And this is really going to, you know, with all the

1 dams that are going in now all over, you've seen what has
2 been happened to the fisheries and everything. Our band is
3 totally against it. We support what the Hammawis do.

4 A SPECTATOR: Don't forget about your grasshoppers
5 and clams.

6 MS. ALVAREZ: I'd like to make another statement.
7 Susan Alvarez.

8 And another matter. We have asserted that the tribe's
9 diet has been directly, as Irvin refers to, and adversely
10 impacted by the construction of the hydro project. If you
11 think this is possible in this instance -- erase that
12 statement that I just made if possible. It would affect the
13 fish that are in the area. I believe that last night that
14 some of the people that opposed the project also that live
15 along the river had stated the different species that would
16 be affected by the project and had made statements along
17 those lines which would also affect the tribe.

18 And continuing health surveys reveal that this decline
19 is a major contributor to the risk of contracting diabetes.
20 Like the deer, the different roots in the area, the fish in
21 the area, without those being in abundance as they are now,
22 it would greatly affect the diets of the people, and because
23 of those situations many members of the tribe have
24 contracted diabetes because of the available foods to the
25 tribal members.

1 And I'd like to elaborate a little bit more on the
2 executive order 12898. Each federal agency must to the
3 greatest extent practicable and permitted by law make
4 achieving environmental justice part of its mission by
5 identifying and addressing as appropriate disproportionately
6 high and adverse human health and environmental effects of
7 its programs, policies, and activities on minority
8 populations and low-income populations. Hydroelectric
9 licensing activities are not exempt from this requirement.

10 Moreover, the executive order provides that each
11 federal agency, which would mean separately FERC, PG&E, and
12 BLM should conduct its programs, policies, and activities
13 that substantially affect human health or the environment in
14 a manner that ensures such programs, policies, and
15 activities do not have the effect of excluding persons from
16 participation in, denying persons the benefit of, or
17 subjecting persons to discrimination under such programs,
18 policies and activities because of their race, color, or
19 natural origin.

20 Because the tribe's culture, religion, and subsistence
21 is inextricably linked with the river systems that surround
22 it, it is essential that environmental justice requirements
23 stated in the executive order be recognized in these
24 proceedings.

25 MR. WINCHELL: I'd like to make a comment. Frank

1 Winchell from FERC.

2 Yes, we are aware of the Environmental Justice issues
3 and its most recent policy as of several months ago. Since
4 we know that this is becoming a bigger issue with hydropower
5 relicensing, yes, we will consider that in our NEPA
6 document.

7 MS. ALVAREZ: Susan Alvarez.

8 In order to be consistent with the executive order the
9 applicant must collect, maintain, and analyze information
10 assessing and comparing environmental and human health risk
11 from the project borne by populations identified by race,
12 national origin, or income. This requirement includes
13 Native American tribes.

14 This information should be used to determine whether
15 the relicensing will have a disproportionately high or
16 adverse human health or environmental effect on minority and
17 low-income populations.

18 Collect and maintain -- excuse me. And in order to
19 identify the need for this, ensuring protection of
20 populations of differential patterns of subsistence,
21 consumption of fish and wildlife, the applicant must collect
22 and analyze information on the consumption patterns of the
23 population, including Native American tribes who
24 particularly rely on fish and/or wildlife for subsistence.

25 The tribe's position that consultation is an on-going

1 process. That it's the tribe's position that the Commission
2 must provide the tribe an opportunity to provide continuing
3 input in this process on a regular basis, and the Commission
4 must respond in a meaningful way to the tribe's position as
5 the case develops.

6 Ending that whole statement, I think last night when we
7 were talking about the different timeframes that we are
8 going to happen when we are going to have different
9 information available to us, and I think one of those
10 timeframes was going to conflict with another agency. And
11 as Dan stated earlier, in the full timeframe, if we have a
12 separate consultation with the Forest Service, that will
13 conflict with the timeframes that you outlined to us last
14 night, as well as the tribes have a second consultation with
15 BLM in a separate meeting than this meeting together.
16 Because I believe that you stated earlier that you were
17 going to try to do the project and have all of the agencies
18 together and work together instead of them being separate.
19 And they all have the same trust and fiduciary
20 responsibility, the tribe, as the government.

21 So as a Hammawi cultural representative, I recommend
22 that we have separate consultations with the BLM and the
23 Forest Service as well, and any other federal agency that's
24 involved in this process.

25 MR. WINCHELL: To clarify that -- Frank Winchell

1 again. First off, may we have a copy of this? Or what is
2 this that you've been reading from?

3 MS. ALVAREZ: It's a document that was developed
4 for me.

5 MR. WINCHELL: Could we have a copy of this
6 because it's hard for us to say -- I mean, it's good, and
7 it's very interesting, but it would be good for us to know
8 what that is and probably have that put on the record --
9 since it's already on the record, filed with the Commission.

10 MS. ALVAREZ: Okay. First of all, this is the
11 tribe's position. And I'd have to consult with the tribal
12 counsel before I release this document.

13 MR. WINCHELL: That's fine.

14 MS. ALVAREZ: They're just comments that have been
15 developed on behalf of the Hammawi band of the Pit River
16 tribe. And on behalf of the tribe I have been in
17 consultation with different folks to try to draft something
18 that will be explicitly to and the best interests of the
19 tribe. And I do have a copy also of your consultation, the
20 Commission's policy statement --

21 MR. WINCHELL: Yes.

22 MS. ALVAREZ: -- on consultation with Indian
23 tribes and Commission's proceedings.

24 And I don't believe that I've ever seen this document.
25 And I don't know if this document was made available to the

1 tribe.

2 MR. WINCHELL: It should have been. This is the
3 Commission's Tribal Policy Statement. We would be more than
4 happy to provide additional copies of that to anybody who
5 would request it. Again, it's an official policy document
6 that has been issued from the Commission.

7 I want to add something that I feel it's important to
8 understand is that the Commission -- we are still going to
9 go through our licensing process. I think Susan at this
10 point can tell everyone what our process is, because we must
11 continue with our own licensing process. And it's up to the
12 individual federal agencies along with the involved tribes
13 to have their own individual consultation proceedings if
14 they want to go that way, but nonetheless the Commission is
15 still going to along with the licensing process. Having
16 said this, I think it's important for Susan to go ahead and
17 say what that process is for this particular proceeding.

18 MS. ALVAREZ: Can I comment one more time?

19 To again to reaffirm what I had stated earlier, the
20 Commission's policy statement on consultation with Indian
21 tribes is in the Commission's proceedings. FERC
22 acknowledges the government's trust responsibility and its
23 obligation to adhere to fiduciary standards in its dealing
24 with the Indian tribes. And in that, the tribe's demands
25 are consistent with these requirements, and the Commission

1 therefore needs to adopt the tribe's position because of
2 these requirements.

3 So that's the statement that comes from the Hammawi
4 band as part of the Pit River tribe.

5 MR. WINCHELL: Okay. We hear.

6 MS. O'BRIEN: Okay. So I'm Susan O'Brien. I'm
7 the project coordinator, so I'm the one in charge of all the
8 processing of the exemption application and keeping it on
9 track as well as taking the lead on Environmental Assessment
10 schedule and document.

11 If you go to Page 14 of the scoping document that we
12 have handed out, it's listed there. So we issued our
13 scoping document in May. And we had our site visit Tuesday,
14 scoping meetings yesterday. Scoping comments are due July
15 11th. We suspect that we were going to need additional
16 information from the applicant.

17 So once we get all the scoping comments in, we will
18 review all the information we have from the applicant, his
19 application, as well as the additional information he has
20 filed since then, and all the comments, and we have received
21 all the additional information, historic information like we
22 received yesterday. Look at all the information we have.
23 And see what more that we need.

24 So then we will ask the applicant to get some of this
25 information under additional information request. We

1 anticipate that would be issued in August.

2 It's estimated that he would have to respond by
3 November, giving him 90 days, which for an estimate, it's
4 typical for FERC to give an applicant 90 days. So that's
5 where that comes from.

6 Then when we receive his response, we again look over
7 everything we have. And if we feel we have enough
8 information to move forward and write our Environmental
9 Assessment document, we will issue a notice saying that the
10 applicant is ready for environmental analysis. And right
11 now we estimate that would be in November of this year.
12 That notice also kicks off another comment period and
13 recommendation period. So comments and recommendations from
14 any interested party are welcome, and they have 60 days.

15 Fish and Wildlife agencies, meanings U.S. Fish and
16 Wildlife Service as well as California Department of Fish
17 and Game for the protection of fish and wildlife have
18 mandatory conditioning authority for exemptions, so they
19 would have to file their mandatory conditions at that time
20 as well.

21 Then there is -- so there's a 60-day window to receive
22 the comments and recommendations.

23 And following that is another 45 days for any reply
24 comments that any interested parties, including the
25 applicant, can file. That would bring us to March of next

1 year.

2 And we should be able to issue our Environmental
3 Assessment before the end of April of next year. Assuming
4 this all stays on schedule.

5 There would then be a comment period after the
6 Environmental Assessment document. Usually 60 days. And
7 then we would be ready for the Commission to issue its
8 decision on the project.

9 Now, this schedule, and then Commission's decision
10 meaning whether or not this exemption is granted from FERC
11 and what the conditions of the exemption would be.

12 If this schedule changes at all, we would issue a
13 letter saying so, and everyone on the mailing list would get
14 that -- would get that information.

15 MS. SHARON ELMORE: Sharon Elmore again.

16 One of the things that I was -- at the time we went out
17 to the -- to look at this whole project, how many kilowatts
18 was this going to generate, and where was the power going to
19 be sold to, and what were the reasons for this energy? It's
20 almost the same questions.

21 MS. O'BRIEN: I believe the project as proposed is
22 to generate 2.4 megawatts. And the power will just be sold
23 to the grid, meaning it will go into the electrical grid.

24 MS. SHARON ELMORE: How much money is going to be
25 generated from this energy being sold?

1 MS. O'BRIEN: You can estimate that by the market
2 value of the energy multiplied by the 2.4 megawatts.

3 MS. SHARON ELMORE: Another thing that could
4 impact down river is the chemicals that you guys might use
5 in the process of keeping the hydros clean. We know this is
6 a fact down in Hat Creek. They use chemicals to try and
7 kill the weeds. And we see this in the newspaper like
8 quarterly where they are going to release some kind of
9 chemicals into the water to kill the aquatic plants so that
10 they won't grow into the hydro machinery or the grates and
11 things like that.

12 MS. O'BRIEN: I am familiar with that.

13 MS. SHARON ELMORE: And it's causing -- and then
14 last year, I know that everybody probably remembers, it
15 killed a lot of fish at the time, and it made big news in
16 our town. It was a catastrophe.

17 So in my mind I'm thinking that since this river goes
18 down, it goes into -- it's part of the Pit River, it goes
19 all the way down to Burney, down to McCloud, and then down
20 to Shasta dam. We are talking a lot of impact.

21 MS. O'BRIEN: I am familiar with that being an
22 issue at other hydropower projects. I think it would be
23 wise if we asked the applicant if he plans on doing any sort
24 of --

25 MS. SHARON ELMORE: Application with any kind of

1 chemicals?

2 MS. O'BRIEN: Could you answer that for us?

3 MR. JOSTEN: The problem -- my name is Nick
4 Josten. I'm the applicant.

5 The only potential place that there would be a problem
6 with this project is in the canal. If weed growth in the
7 canal got to a point where it impeded the flow, it would
8 have to be culled back. And the way we could do that is
9 what amounts to a mower. They do sometimes use chemicals to
10 eliminate the weeds, but they only can do that in the cases
11 where the water is not released to any kind of a fishery,
12 and that's not the case here. So it would have to be
13 manually removed by a mowing process -- if it became a
14 problem.

15 There's a likelihood in many years the canal would be
16 dried for periods of time, and that would probably in most
17 cases be enough to control the growth. But it's a good
18 point.

19 If the weed growth in the canal gets to be too
20 extensive, something has got to be done, but it can be done
21 without chemicals.

22 MS. O'BRIEN: I would like to clarify that the
23 applicant has said he will not be using chemicals in the
24 canal and for maintenance of this project. And we will also
25 -- referring back to the scoping document, starting on Page

1 10, we list out the issues, and it really starts at the
2 bottom of Page 11. But the heading starts on Page 10 with
3 the cumulative effects analysis first. And when we can go
4 ahead and add to that the water quality and quantity
5 section, starting on the bottom of Page 11, that that is an
6 issue we need to look at and the effects of weed growth and
7 control of the weed growth in the canal and project
8 facilities.

9 MS. SHARON ELMORE: My other question would be who
10 on your staff, or Nicholas himself, is going to hire someone
11 to do water samples? Who is going to do the monitoring of
12 this whole --

13 MS. O'BRIEN: If the project went in?

14 MS. SHARON ELMORE: Yeah.

15 MS. O'BRIEN: Who would do water quality? That is
16 something that would possibly be required in the exemption
17 post-licensing, and very likely because it's a new project,
18 that we would -- require, I can't say what the final
19 Commission decisions would be, but if this proposed project
20 went through -- it's highly likely we are going to require
21 water quality monitoring. So if we require it, the
22 applicant would then go out and hire somebody to do it.
23 Then we will look at the results and approve the study -- we
24 have to first approve the study that's done, and FERC will
25 also receive the results and analyze the results.

1 MS. SHARON ELMORE: My last comment is the way I
2 felt about this, this is just another moneymaker for
3 someone's pocket at the tribe's expense. So it would hurt
4 the land up there more than anything. It's just I think
5 that the way that this is going, even when the tribe opposed
6 it at the very first beginning of this proposed project,
7 that I feel even at the time that we did submit a letter
8 that said that we imposed and at the public hearing, we felt
9 that that was it. But it's still going. And in my mind I
10 think that Nicholas is here just to make a dollar regardless
11 of how the tribe feels or the people out here in the public.

12 MR. WINCHELL: Jessica, did you --

13 MS. JIM: Yes, I did.

14 Actually there was a question she, being Susan,
15 indicated that if the water sample or water quality was to
16 be tested, then it would be up to the applicant. And that
17 kind of raised a concern in my opinion because if we leave
18 it up to the applicant, then where is the compliance issue
19 for the regulatory body of the Section 106? We need to
20 concentrate on the Section 106, but in all fairness to the
21 tribe on behalf of the Hammawi band, we believe that by
22 testing that water, there has to be some kind of data
23 research that's going to be conducted by whom? It needs to
24 be up front and on the table.

25 I also believe that once that information is produced,

1 it should be part of the record. And again, during the
2 consultation process when we are looking back on all of the
3 issues here and the process by which the scoping is
4 occurring, I believe that what we need to do is to go on the
5 record saying that everything that is federally mandated
6 must be met. And the tribe continually opposes this
7 project, then I think that consideration needs to be done
8 with air quality, everything, the environmental issues,
9 everything that we identified in our Pit River Constitution
10 as being the overseers to the air, to the water, to natural
11 environment, to the resources of our land. And we cannot
12 allow these types of activities to go on to our tribal land
13 without having consultations first and continuously.

14 And I believe that the only time that when you're
15 talking about allowing the applicant to go forward with
16 doing water quality issues or issues like that, that needs
17 to be consulted with this tribe.

18 MS. O'BRIEN: I'd like to respond to that. And
19 I'm sorry I didn't clarify that.

20 Yes, the applicant conducts the monitoring. When FERC
21 requires monitoring after a project, in this case, gets an
22 exemption, it's always in consultation with the agencies.
23 And I'm sorry I didn't qualify that.

24 So the way it would work is that he'd have to make up
25 the water quality plan and conduct the monitoring in

1 consultation. And we can make sure we include consultation
2 with the Pit River tribes as well as Forest Service, BLM,
3 U.S. Fish and Wildlife Service, Department of Fish and Game,
4 and the Water Quality Control Board. All those folks would
5 have an opportunity to be involved in that water quality,
6 and that would be required in the license that he would have
7 to contact and consult with them.

8 MS. JIM: So the issue remains that you indicated
9 that he would have that choice to make that decision as to
10 who would do the water quality. And that's the issue I want
11 to focus on because it seems to me that if we allowed the
12 applicant to move forward with people of his choice, how do
13 we know that it's in our best interests?

14 MS. O'BRIEN: So that can be rectified very easily
15 by making sure -- and this is on the record so we won't
16 forget about it -- that such a study is done not only in
17 consultation but its agreement of who is going to conduct
18 the study. And that could be very easily done.

19 And then also there's an added issue that FERC has to
20 approve all the plans before the study goes forward. So
21 it's another layer of assurance there. It's in the record.
22 I'll write it down, and we will make note that that is a
23 high concern that you want to be involved in the decision of
24 who is actually going to be conducting the studies in
25 addition to just developing and being involved. That's

1 certainly possible.

2 MS. JIM: Thank you.

3 MR. WINCHELL: Are you a tribal member? Only
4 tribal folks --

5 MS. BERDITSCHERSKY: I'm an Environmental
6 Coordinator.

7 MR. WINCHELL: Did the tribe acknowledge her?

8 MR. WILSON: Yes, I acknowledge her.

9 MS. BERDITSCHERSKY: Michelle Berditschersky,
10 Environmental Coordinator for the Pit River tribe.

11 I just have some procedural questions. Perhaps you
12 already explained this, but what does the exemption actually
13 exempt?

14 MR. WINCHELL: That's a very good question. I'm
15 going to refer that to Susan.

16 MS. O'BRIEN: Alan, if you want to add anything
17 after I'm done.

18 The exemption from a licensing -- let me backtrack. A
19 license with the FERC is needed for a hydropower project.
20 In this case because it's on federal lands, and a license
21 would be for a term of anywhere from 30 to 50 years, and
22 then at the end of that term, they can reapply for a new
23 license.

24 With an exemption there are certain requirements that
25 are listed in the regulations that allow an applicant to

1 pursue an exemption, rather than -- it's an exemption from
2 licensing. If it meets these criteria, and it includes
3 using project structures that are already in place, such as
4 the South Fork Irrigation District's existing canal and dam
5 structures.

6 So FERC has -- when the application was originally
7 filed in July 2003, we did assess it and make sure that it
8 fit the qualifications listed in the regulations for an
9 exemption. So it qualifies as an exemption.

10 MS. BERDITSCHERSKY: What is the code? What
11 federal regulation are you referring to that grants the
12 exemption?

13 MS. O'BRIEN: 18.

14 MR. WINCHELL: 18 CFR.

15 MR. MITCHNICK: 18, Section 4.107.

16 MS. O'BRIEN: 106, Section 4.106.

17 MS. BERDITSCHERSKY: That governs the exemption?

18 MS. O'BRIEN: Yes. And so when an exemption is
19 granted for any project, they do not have to come back in
20 the door for a license again. They have their exemption
21 granted, and that's it.

22 One of the main features that an exemption has that a
23 licensing process doesn't is the fish and wildlife agencies,
24 in this case U.S. Fish and Wildlife Service and Department
25 of Fish and Game, have the right to file mandatory

1 conditions, for the protection of fish and wildlife. And
2 for a license they wouldn't have that mandatory right. They
3 would just be filing recommendations. They're mandatory.

4 And those recommendations -- those mandatory
5 conditions would be filed in response to our Notice of Ready
6 for Environmental Analysis, which we propose will happen
7 later this fall. That's in the schedule of the scoping
8 document that I talked about earlier.

9 And we talked about this a little bit at the
10 scoping meeting. And anyone interested in the project is
11 assured that they can still, even though this is a one-time
12 exemption, if conditions change or an issue arises, we can
13 still reopen if there's information that some effect is
14 happening or a condition has changed, you can still reopen.
15 And FERC can assess and consider it and modify the exemption
16 if that became a question.

17 MS. BERDITSCHERSKY: You would modify it or
18 possibly even -- is an initial license needed or just no
19 renewal needed?

20 MS. O'BRIEN: This would be an exemption, so it's
21 exemption from licensing. So I don't believe we have any
22 exemptions that had to be reopened and then we told them to
23 become a license. I believe what would happen, if we had to
24 reopen it for some adverse affect that was going on or some
25 other condition, we would just change the terms of the

1 exemption, or the terms of the exemption would be modified.

2 MS. BERDITSCHERSKY: Was the tribe notified that
3 an exemption was granted?

4 MS. O'BRIEN: An exemption has not been granted
5 yet. We are in the process of seeing whether or not the
6 exemption will be granted.

7 The application was filed in July of 2003. The
8 applicant has filed additional information that we will
9 require. Then we became cooperators with BLM and Forest
10 Service because they also have to grant -- FERC will be
11 granting the exemption; Forest Service has to grant a
12 special use permit because some of it is on the Forest
13 Service property; and BLM has to grant a right of way
14 because it sits on BLM property. And they have to make
15 those separate decisions. If the Commission's decision is
16 to grant this project an exemption, then they would also
17 have to grant or deny. They have to decide on their
18 permits.

19 So we became cooperators to combine the environmental
20 analysis under the National Environmental Policy Act

21 MR. MITCHNICK: Just to follow up a little bit on
22 the difference between an exemption and a license. They're
23 really very similar. And the name isn't a very good name.
24 I mean it is because we do issue a document, we do issue
25 permission to build a project, but the Commission retains

1 authority through the life of the project, which means they
2 will inspect the project periodically, they will ensure
3 compliance with the terms of the exemption through the life
4 of the exemption.

5 So it's very similar to a license in that respect that
6 the Commission does have continuing responsibilities through
7 the life of the project.

8 But a license is 30 or 50 years, and an exemption is
9 issued in perpetuity.

10 MR. WINCHELL: I do have two other questions.

11 MS. BERDITSCHERSKY: Jessica mentioned that's the
12 Section 106 National Historic Act process. What kind of
13 process do you envision holding? I don't know, are
14 archeological surveys up to date? Or ethnological surveys?

15 MR. WINCHELL: Frank Winchell here again.

16 Of course that's part of my little area of the woods is
17 the Section 106 process. And of course we will ensure the
18 Section 106 process is fully carried out. And at this point
19 we were getting the applicant to come up with the requisite
20 studies that we have requested and basically is a full
21 archeological inventory, cultural resource inventory of the
22 project area, as well as we want to know anything about
23 traditional cultural properties that might exist in that
24 area as well.

25 In addition to whether we have got historic project

1 structures, which we do, the canal was built in 1930's -- it
2 was built in the 30's, so that's probably eligible. But
3 these are the things we want to see in this inventory report
4 that he is in the process of finishing up based upon our
5 request. So we are expecting to see all this stuff in this
6 report.

7 And again we want him to go ahead and consult with the
8 land managers along with members of the Indian tribe, you
9 here today so we make sure we get as full of a robust report
10 as possible.

11 In addition to that if we do find that, one, we have
12 got eligible properties, archeological sites, or anything
13 else that's considered eligible through the National
14 Historic Places, then they also need to assess the potential
15 adverse effects that the project could have on those
16 particular sites. So we have to have that stuff in the
17 report as well.

18 Then the final thing would be how are those adverse
19 effects going to be resolved. And that will have to be in
20 the report. This will all get tied in to what we call a
21 Historic Properties Management Plan. If, one, we identify
22 historic properties, then, two, if there are adverse effects
23 going to be caused to those historic properties vis a vis
24 construction, maintenance of the project, and that would be
25 all rolled up in what we call the Historic Properties

1 Management Plan.

2 Yes, the FERC will be expecting to receive those
3 documents from the applicant. Of course based upon our
4 review of these documents, then we may say, hey, well, you
5 have provided this information but you didn't provide us
6 with this other information. Therefore we may have to ask
7 for some additional information.

8 If that's the case, we will go back and say please file
9 this additional information. So that is the other thing
10 that FERC staff will be carefully looking at along with the
11 information that the applicant provides.

12 MS. BERDITSCHERSKY: So you said that the
13 applicant would be the one ferreting out the information,
14 because normally we have been involved in several other FERC
15 processes and because the information is very sensitive and
16 the tribe does -- there's confidentiality issues with
17 cultural sites and cultural information. Because the
18 information is very sensitive on cultural issues, it's
19 something that usually a professional, like an ethnographer,
20 would gather that information and that ethnographer would
21 have certain codes about confidentiality.

22 And so Jessica mentioned that the tribe wants to be
23 involved in who the consultants are.

24 MR. WINCHELL: Absolutely.

25 MS. BERDITSCHERSKY: It would be a concern.

1 MR. WINCHELL: Of course. And I'd like to --
2 because that gives me an opportunity to clarify this, as
3 well as the applicant, is that he's hired a professional who
4 is aware of the consequences of disclosing confidential
5 information. His contractor probably would lose his job.
6 And then maybe if it's on federal land, he would probably
7 get in some kind of criminal difficulty.

8 FERC is also required by law to keep all this
9 information confidential. And we have a way that that
10 information is filed with the Commission in what we call a
11 non-public file. And basically it comes to the person like
12 me, the cultural resource person directly, and then we note
13 on the Commission's record that that information has been
14 filed with X persons. Along with that will be -- that
15 document will also be filed in the record, but in the
16 non-public file. And there's a series of passwords and
17 codes that persons from the Commission only can have access
18 to that file.

19 Nonetheless, the bottom line is everything that is
20 considered confidential gets marked "confidential" "not for
21 public disclosure." It has been distributed through the
22 applicant or else we are not going to get that information.
23 So the applicant is going to have to have access to it, but
24 he will do that through his professional. Of course with
25 the tribes we expect that stuff will be reviewed by the

1 professionals. That's not to be disseminated to the public.

2 MS. BERDITSCHERSKY: Has that professional already
3 been hired? Because I heard Jessica say that the tribe
4 wants to have an agreement on who does the studies.

5 MR. WINCHELL: It's my understanding that, yes,
6 applicant has already hired his professional. He has a
7 right to do that. Now, we will recommend that the applicant
8 tries to make sure that the contractor is someone who is
9 amenable to other folks, such as the Forest Service, as well
10 as the tribe.

11 Now, in this particular case, again I think probably
12 the best thing to do is just talk with the applicant's
13 professional contractor directly and give him that kind of
14 information. I think that would be most direct and most
15 efficient.

16 MS. BERDITSCHERSKY: Sir, could I interrupt you
17 for a second. This is Nicholas Josten, the applicant?

18 MR. JOSTEN: Yes.

19 MR. WINCHELL: That's a really good point. By all
20 means speak to Nick and speak to his professional
21 contractor.

22 MS. BERDITSCHERSKY: I know with the PG&E
23 relicensing which we have been involved in for several
24 years, a number of the ethnographers were presented to the
25 tribe. And the tribe was able to say we worked with this

1 person before. And it didn't seem like that was totally
2 PG&E's discretion. Seemed like FERC helped with that.

3 MR. WINCHELL: By law FERC cannot demand that a
4 applicant use a particular contractor. In our capacity we
5 say it's to your advantage to use a contractor that is going
6 to be amenable to other folks. The Commission cannot tell
7 an applicant to use this contractor. We just cannot do
8 that.

9 But what I'm saying today is that you should probably
10 talk with Nick and his professional contractor and disclose
11 any information that you feel is relevant to this
12 proceeding, and this goes with everybody.

13 MS. JIM: I believe two things are happening.

14 A SPECTATOR: You guys are shooting questions back
15 and forth --

16 MR. WINCHELL: Sir, stop.

17 (Whereupon, Mr. Winchell indicated to the reporter to
18 go off the record because of multiple speakers.)

19 MR. JAMES: My name is Andy James.

20 I thought at the beginning of this meeting that the
21 tribe opposed this meeting. We should have got up and left
22 then. Now we sit there having your own consultation, you're
23 involving the tribe, you're involving EPA. We said no, we
24 are on record as that.

25 The people to talk to at that table is those people

1 right there, the Hammawis. They're the one when it comes to
2 cultural resources or laws, when you get around to looking
3 for that, not the EPA. These people here, you talk to them.
4 But these things should be ended in our best interest. You
5 need to conclude this conversation with everybody in this
6 room, or it will be considered a consultation even though we
7 oppose it. If we oppose it, what are we doing asking
8 questions?

9 MR. WILSON: As a Hammawi, we oppose it. Like I
10 said, this ain't a consultation meeting because we don't got
11 an agenda here, like I told you before. And we oppose
12 everything. And I have a hard time giving the Forest
13 Service my cultural resources, BLM. I ain't going to give
14 it to him or you or anybody else.

15 So you know, you guys might as well save your money
16 from here on out. Because, you know, the land is cultural
17 resource to me. And to me is that, hey, the races here
18 besides us Indians are destroying most of it, what we live
19 on. And we are here to preserve it as caretakers. Right
20 now, any hydro, any kind of doings that's going to dig up
21 Mother Earth, we are opposed to, and we don't want it.

22 Like he said, we are doing consultation here, and put
23 it on the record as Hammawi band leader that to me it ain't
24 consultation. Because, you know, we shouldn't have all
25 these other people, Forest Service, whatever, you know,

1 sitting here. It should be us and FERC because that's a
2 consultation. Just like the Forest Service said a while
3 ago, it's going to be the tribe and the Forest Service
4 consultation, BLM and Forest Service.

5 So this to me is like a public meeting like you guys
6 had yesterday. To put on record this ain't consultation.
7 So, you know, when it comes out that, you know, it ain't
8 consultation to me. Because we could sit here and talk all
9 day and you guys say it's consultation, you take it back to
10 whoever you -- your head people, whatever, and it's
11 classified consultation. And we met with them in
12 consultation so we can go ahead with the project. You know,
13 I seen it done. It's been happening to all Indian tribes
14 all over northern California.

15 And, you know, consultation is not, you know, it's a
16 heavy word that -- I don't know if you guys really know what
17 it means or not. But to me it means that we already met
18 with this tribe and consultation, so we can go ahead with
19 the project because we have already contacted them by
20 consultation.

21 So to me on record with whoever this guy is over here
22 doing the record over here, this ain't a consultation
23 meeting. You know, as the Hammawi band leader, I state
24 that.

25 MR. WINCHELL: Yes.

1 MS. JIM: Two things.

2 I think Ivan kind of summed it up. However, the tribal
3 history has repeatedly been damaged by people that have been
4 hired to go and do the studies, the cultural studies, and
5 you indicated the applicant would be responsible. We should
6 consult with the applicant. And then that's our concern.
7 There are, and in our opinion, and we have information that
8 certain people, although they are licensed and certified as
9 project archeologists, for that reason they are not in the
10 best interests of our tribe. We have names that we do not
11 accept in our tribe as for that purpose.

12 And so the discretion of the applicant to hire whomever
13 he feels comfortable with may or may not be in our best
14 interests. So when we are talking about -- that would be
15 like me coming along saying, hey, I believe that you're
16 qualified and have a license. I want you to do this. That
17 concerns me. Because the knowledge of the land, the
18 knowledge of the history, and what's in it and what is not,
19 and the types and purposes and uses of those traditional
20 properties can only be done with the tribe.

21 And in saying that the other issue that I want to bring
22 up is that in our traditional practices the way the Pit
23 River tribe handles it with all bands is that we have input
24 into those types of things, not as requested by FERC, but
25 they also, the applicant also has -- should make a

1 good-faith effort in meeting with this tribe. It's not just
2 us having to meet with them; it's a two-way street. You
3 talk about proper consultation, then you talk about coming
4 to a medium. And I need you to say that.

5 And the second thing I'm going to say is that while
6 this is sensitive information, confidential information, as
7 a FERC employee, yes, we know what your right is, what your
8 agency documents as confidential. But the responsibilities
9 and damage to this tribe of those applicants and their
10 information confidentiality, they're like any other citizens
11 of the United States. They're not held to the confidential
12 level that you are held to or the contractors are held to.
13 So we also have had extreme information being released by
14 those people that aren't held to that level.

15 I wanted to make it real clear that when the tribe, we
16 talked about ethnography, we talked about meeting with the
17 band, proper band representative, we were talking about
18 people that know the history of this land. We also want the
19 applicant held responsible for protecting our cultural
20 sensitivity.

21 Again the tribe does not want this to proceed, but yet
22 here we sit when we provide information as to why we do not.
23 It's pretty clear what our position is, and it's real clear
24 now that the applicant, even though he's part responsible to
25 provide and comply, it's the issue here is that maybe the

1 applicant needs to start working with the Pit River tribe,
2 not just only FERC. And that's a good faith effort.

3 MR. WINCHELL: I certainly concur with that. This
4 is Frank Winchell again.

5 I cannot say it any more emphatically. Of course, the
6 applicant needs to work with the tribe. This is an
7 important part of the consultation process that is really in
8 his purview to do. On top of that, is that the Commission
9 also has a responsibility to make sure that the information
10 that is given from the applicant to us, is full. We have
11 the option to say, well you gave us some stuff, but we need
12 some additional things.

13 Having said this, it's in the best interest to the
14 applicant to consult as much as he or she can with the
15 tribe. Because the tribe truly is the keeper of that kind
16 of information. It's also the tribe's prerogative to say we
17 don't want to disclose this information at all. And that is
18 certainly within the right of the tribe. But of course,
19 from an analyst's perspective, and I'm talking about myself
20 as an analyst for cultural resource sites, I would like to
21 know as much as possible about what is there so that I can
22 make a reasoned decision about that aspect of the analysis
23 that's going to go into our Environmental Assessment. So
24 the more information we get, the better.

25 Now, the tribe always has the option of sending the

1 FERC stuff. But if they do that, we can't use it unless we
2 share it with the applicant, and that goes back to this
3 fairness issue. If we are going to make a decision on
4 something, then we have to disclose that to the applicant
5 because it's not fair to him to make a decision that he
6 doesn't have an opportunity to respond to or to make some
7 adjustments to that project.

8 MS. JIM: Is there not information already on
9 record by BLM and Forest Service as to what is there and
10 what is not there?

11 MR. WINCHELL: Yes, we do have some, but we don't
12 have all of it. And that's what we have requested the
13 applicant to go back in the field and make a more
14 comprehensive survey so that we have more of that
15 information.

16 MR. WILSON: Ivan Wilson, band leader for
17 Hammawis.

18 Did the Forest Service and BLM give you any kind of
19 documents saying that there is any cultural resources places
20 out there? Because they didn't consult with me before they
21 gave that to you. Right there is confidentiality that they
22 are giving up they should not give up. To me, I don't care
23 for the consequences when they that. It's only a \$10,000
24 fine, whatever. I ain't going to give my cultural resource
25 up for \$10,000. I ain't going to give up my territory for a

1 hydro or anything for any amount of money either. You know,
2 we will never probably reach agreement on our natural
3 sources, our cultural, because we cannot give that up
4 anymore.

5 And I know that in good faith to whatever, that's the
6 only reason why we are meeting here with you guys here
7 today. Because it's good faith, you know, on our behalf and
8 you guy's behalf. I figured that, you know, we should at
9 least meet with you guys and hear you out or whatever in a
10 good-faith manner.

11 MS. SHARON ELMORE: Can I say some things? Daniel
12 Cardenas (phonetic) -- Sharon Elmore -- Daniel Cardenas did
13 meet with (unintelligible) and that was for the history.

14 The other one is this: I'm surprised that they already
15 -- seemed to me that FERC is kind of leaning towards
16 Nicholas Josten here today.

17 MR. WINCHELL: No, we are not. You got to
18 remember at this point we have not made a decision yet, we
19 are not in any way part of any one position.

20 MS. SHARON ELMORE: Well, I just wanted to state
21 that because I've heard how he's going to be able to pick
22 and choose who his ethnographer is going to be.

23 One thing that kind of makes me uncomfortable with all
24 these kinds of projects is that if you don't give them what
25 they want, it doesn't go in your favor. And just like with

1 the Pit River relicensing that we are going through right
2 now, they're are going to bypass the tribe just because they
3 would not give any ethnographic information or any kind --
4 any more information about the sacred sites in some of these
5 places or the villages. That's what we had to do and
6 negotiate with them to do.

7 And so what they did is that made us go out and redo a
8 study of archeological and ethnographic information. That
9 was the only thing that got our foot into the door to stop
10 them from railroading that relicensing through.

11 MR. WINCHELL: I have to say again we are -- I
12 have got just one point.

13 We cannot talk about other tribes that are before the
14 Commission because they are contested proceedings.

15 MS. SHARON ELMORE: I'm talking about our own
16 tribe.

17 MS. JIM: I need to speak up. We need attorneys
18 present here for the tribe to do a consultation as far as
19 I'm concerned. That's my point of view. That's probably
20 the best point of view which I could give.

21 MR. WILSON: Like I said, from Hammawi band, this
22 ain't a consultation.

23 MS. JIM: On behalf of the tribe we need to state
24 our names and we need to provide the comments so we can put
25 it in writing. Please refrain from speaking out of turn.

1 State your name and then state your comments. We also have
2 a procedure internally that when you raise the hand, then
3 the person is acknowledged to speak. And during that time
4 to raise the arm they are given that respect and let them
5 finish speaking.

6 MS. SHARON ELMORE: I just wanted to finish. In
7 having to go through this year to year with maybe fifty
8 projects that we handle at the EPA, one thing that I do see
9 is that what Jessica was saying about the confidentiality,
10 that information going to you guys or to him, that's kind of
11 disturbing because in a way a lot of the bands feel like
12 they don't want to give that information up. I know for --
13 Wally Preston who is over there would back me up when I say
14 this -- is that they don't like to release information of
15 the archeological sites and sacred sites up in that area and
16 most of time they refuse to give that information. But the
17 thing is that usually works against us in some ways with
18 FERC, PG&E and Forest Service, BLM, because then they will
19 take that and they will run with that and say they don't
20 want to consult with us. And let's write them off and let's
21 go with the exemption. That's what usually happened. Then
22 we lose at the table because of that.

23 But I hate the way that the law works for that reason.
24 Because what happens to the tribe when they develop this
25 information of sacred sites and archeological sites, usually

1 it does become public information. And you know, it's just
2 that saying goes: Darned if you do and darned if you don't
3 kind of a thing.

4 And I'm seeing this whole project in my eyes, if it had
5 come this far at the table today, it's probably going to go
6 further, and if the tribe does not decide to put their foot
7 in it right now, and tell Nicholas that he needs to consult
8 with the tribe, he's going to go on with this hydro. And
9 this hydro is going to be a detriment to the archeological
10 sites and the two sacred sites that are up there.

11 MR. MATT ELMORE: Matt Elmore. Madesi counsel,
12 Pit River Tribe.

13 The problem I have with this meeting, we are saying we
14 are going by guy's consultation process, yet the Pit River
15 tribe is the same level as the federal government. The
16 United States Constitution reserves power for three
17 entities: Federal government, state government, and tribal
18 government. And yet we are forced to go by you, which
19 you're under the federal, you're not even at the same level
20 as us. You're an employee of the federal government. Yet
21 we have to go by your rulings when we are a sovereign
22 entity. We should be going by what our consultation
23 guidelines are. Consult one on one, just like we do with
24 the Forest Service. It shouldn't be a public meeting like
25 it is here today. Should be a tribal meeting with FERC,

1 tribal meeting with the BLM, whoever is involved in this
2 project.

3 And the way I see it going is the project is going
4 through, going by your guidelines, and instead of like going
5 by our guidelines and having an open discussion, we have to
6 hold back on certain things. We went through things with
7 other projects in my area down there at the lower end of the
8 Pit River. We dealt with PG&E. And how PG&E operates,
9 there's no accountability after they get their license.
10 They will bend over backwards to get their license. Say,
11 yes, we will do this and this and this. Yet ten, twenty
12 years when the license expires, did you follow through with
13 your obligations? No. Well, we will just issue another
14 license. You know? It's always that way.

15 We live in two different worlds. Our world, we want to
16 protect stuff. The other world, money talks. Money is what
17 they protect. That's what it is. Like we stated before,
18 there's not enough money for us to sell out our ancestry.
19 Because you know what? Money will come and go, but our
20 ancestry, it does not come back. One archeological sites
21 are destroyed, that's it.

22 A heard PG&E employees flat out say: Yeah, we will go
23 through this, but once it's gone, it's gone. Then it's not
24 going to be a issue anymore. We can take that site off our
25 protection. I've seen PG&E distribute maps with our

1 archeological sites on them, without a confidentiality
2 statement in them. Then they slap their employee's hands,
3 but that's it. Once it's out there, it's vulnerable, it's
4 destroyed, there is to need to protect it, there is need to
5 consult with us.

6 That's the way it's always been. They wipe out our
7 people. They have this holocaust. Wipe them out. Hey,
8 they are not there, we don't have to consult with them
9 anymore. And that's the way it has always been, and that's
10 the way it will continue to be until our rights are exerted.
11 When we exert our rights, does it mean anything? No, we
12 will just go on about it, give them a license anyways.

13 MR. WINCHELL: May I say something? Frank
14 Winchell again.

15 Again, we normally when we have consultation meetings,
16 we do not invite the public, but we had to because of our
17 regulations since we are in a contested proceeding.

18 Now, if you want to talk about confidential sites right
19 now, we can go ahead and excuse the public and just get down
20 to that. That's if that's what you want.

21 MR. WILSON: No.

22 MR. WINCHELL: That's fine. Let me close in
23 saying this. We want as much information as possible to
24 make -- to help us with our analysis on this proposed
25 project. You all, the tribe has to decide among yourselves

1 how much information you're willing to go ahead and
2 disclose. And, again, if there's any way that we can kind
3 of get an idea about what's there, sort of the information
4 that you don't want to release, then that certainly is
5 acceptable. But again for us, more information is better
6 than less information.

7 And at the same time we will certainly keep that in the
8 strictest confidence. I just have to say for myself that by
9 law I have to. I'm sure that Nick understands the laws too.
10 By law he has to keep this stuff confidential short of some
11 kind of litigation. Of course this goes with the BLM and
12 the Forest Service. Any kind of information that's
13 considered confidential needs to be kept confidential. And
14 that's all that we can do.

15 I want Dan to speak. I know he had his hand up.

16 MR. MEZA: I would just like to add, I took Alan
17 out of the room just a minute ago. I tried to explain to
18 him that there there's a lot of tribal members here are
19 raising their hands. They are kind of getting frustrated
20 and putting their hands back down. I think you need to be
21 able -- what I suggested to Alan was that maybe you should
22 stand up, Frank, so that you can see the folks that are
23 interested in saying something. And that way all of those
24 folks would be able to hear -- would be able to speak.
25 That's just a suggestion.

1 MR. WINCHELL: Okay. Let's start with people we
2 haven't heard before. Is there anybody in the room that we
3 haven't heard from that wanted to speak?

4 MS. ALVAREZ: You've already heard from me. I'd
5 like to say something again. Susan Alvarez again.

6 I'd like to remind FERC of their policy that they
7 adopted on July the 23rd, '03 consultation with Indian
8 tribes.

9 The tribe's demands are consistent with the
10 requirements that you have, the government's trust
11 responsibility and its obligation to adhere to fiduciary
12 standards in dealings with Indian tribes. And the
13 Commission therefore needs to adopt the tribe's position
14 because of these requirements.

15 And earlier when you were speaking you were talking
16 about how the tribe would need to consult, you know, with --
17 we need to start communicating with Josten and how he could
18 hire someone and the tribe not to have -- you know, because
19 it's his project that he's going to hire an ethnographic
20 person and archeologist. This here says that your policy
21 states that the tribe's position -- that the Commission
22 therefore needs to adopt the tribe's position because of
23 these requirements within your policy of the FERC policy
24 statement on how they do consultations with the Indian
25 tribes.

1 And furthermore one of the statements that was made
2 last night by Susan was the scoping comments are due on July
3 the 11th, and stated that the copies of the scoping meetings
4 will not be available prior to that deadline. I think that
5 that deadline needs to be extended at some point past when
6 we can have the comments. Because the tribe wasn't
7 available to hear the comments from the community, the
8 people that live along the river that made comments
9 yesterday morning at the meeting and then last evening. The
10 only two people that heard their comments was myself and
11 Ivan, the Hammawi counsel representative.

12 I think that some of their comments are very good and
13 that I think that the tribe would be able to make additional
14 comments in the scoping comments periods if we had access to
15 all of those documents. But as it is stated now that we
16 won't be able to have access to the comments made yesterday
17 in the two sessions until after the July 11th date.

18 So my suggestion, if this is going to be the situation,
19 that the tribe actually needs to have these comments before
20 the closing of the comment period so that we can look at
21 what their comments were because they're also opposing the
22 project, the people in the room that are not tribal people,
23 and they adamant oppose the project and have done a lot of
24 work towards opposing the project on different levels.
25 Maybe not on our level, but their interests are the same as

1 ours at this time.

2 I'd like to read this and I'll give you a copy of this.

3 MR. WINCHELL: Can she first respond please?

4 MS. O'BRIEN: I need to get back to my office and
5 ask management above me, but I will certainly do that Monday
6 morning. And I think a lot of folks feel that way, and the
7 public and the other agencies, especially the agencies that
8 weren't able to attend. They are also in the same
9 situation. So since the majority of all interested parties
10 want to see an extended scoping date, I need to get
11 approved. I can't state here right now and say yes, but I
12 can say it's very likely we will extend the comment period
13 to provide sufficient time after the transcripts make it in
14 the record.

15 MS. ALVAREZ: Okay, I'd like to read this document
16 and then I'll enter it. I'll give it to you.

17 Hammawi band's position June 15th, 2005, the West
18 Valley Hydroelectric Project. General statement of
19 opposition to the project.

20 The Hammawi band of the Pit River tribe strongly
21 opposes the West Valley Hydroelectric Project. The entire
22 project area lies within the Hammawi band ancestral land and
23 the Pit River tribe's ancestral territory as defined by the
24 Indian Claims Commission Docket No 347. This area is of
25 great significance to the Hammawi bands, containing numerous

1 cultural sites and natural resources, values that are of
2 importance to the band's traditional way of life.

3 Specific impacts on the Hammawi band.

4 Hammawi band would be extremely affected in its
5 traditional custom and uses of the South Fork as a
6 consequence of proposed project operation. The South Fork
7 of the Pit River is a defining feature of the bands'
8 ancestral territory. The entire river has been dammed again
9 and again for hydroelectric power, and the South Fork of the
10 Pit River deserves to run wild and free in this location so
11 close to its source. The band supports protection of the
12 cultural areas within this wild and natural setting,
13 including conservation of water, the natural vegetation and
14 the wildlife which exists within and around the river.

15 Water diversion as a result of the project will
16 strongly impact these ancestral lands. The Hammawi band
17 believes that the proposed project would produce radical
18 changes in the natural environment and have negative effects
19 that would be ongoing.

20 Cultural resources include water, air, land, wildlife
21 fish, and plants. Impacts from the project would endanger
22 fish habitat, be detrimental to water quality, harmful to
23 wildlife, alter the natural flow of the streambed, create
24 mosquito infestation, and generally be damaging to the
25 environment.

1 Saving and preservation of natural qualities are
2 important to traditional uses. Purity and the natural quiet
3 of the area would be affected by the noise from the Power B
4 site, would echo through the canyon, imposing an annoying
5 nuisance is the presently peaceful character and setting of
6 numerous cultural sites. The project would be detrimental
7 to the natural scenic quality of the area. Cultural and
8 archeological surveys and reports are missing or inadequate.
9 An archeological study has not been conducted to determine
10 the effects on cultural sites as a result of this project.
11 There are numerous sites that would be affected by the
12 project that are vital to the ongoing cultural identity and
13 traditional uses of the Hammawi band of the Pit River tribe
14 whose ancestors once populated and resided on the lands
15 within the project area.

16 Traditional uses merit an ethnographic study and
17 consideration for listing on the National Register of
18 Historic Places. Many of the project impacts affect the
19 land, air, water, wildlife, plants, natural settings and
20 quiet atmosphere which are all components of the band's
21 traditional values. An ethnographic study should include
22 interviews with elders and traditional people.

23 The project is subject to the Section 106 process of
24 the National Historic Preservation Act. The tribe requests
25 a full Section 106 process under the National Historic

1 Preservation Act, including consultation with elders and
2 traditional people by a qualified ethnographer. The tribe
3 requests full compliance with the confidentiality of the
4 requirements of Section 304 of the National Historic
5 Preservation Act.

6 The band requests development of a cultural management
7 plan to assure preservation of the important cultural values
8 of the area.

9 Conclusion. A complete record needs to be developed to
10 adequately assess the effects of the project on the Hammawi
11 band's traditional cultural values and sites. The band has
12 a longstanding interest in preservation of the South Fork
13 and its ecosystems for present and future generations in
14 honor of all who ever lived here in the past.

15 Those are just general comments, but as we have stated
16 earlier, the Hammawi band is in opposition of the project
17 moving forward.

18 MR. WINCHELL: Okay. Thank you. Jessica?

19 MS. JIM: Actually I think that we are almost
20 coming to a conclusion here. But I need to say two
21 comments.

22 We were contacted by FERC, and this is to no disrespect
23 to anybody that's not tribal, but when FERC consulted or
24 contacted the Pit River tribal office, we were told that on
25 the first day that FERC would be meeting with the public for

1 comments which was held last night in Likely.

2 The next thing were told is that on the second day,
3 which is today, that FERC was only going to meet with the
4 Pit River tribe and only tribal people. And the only other
5 person that was going to be present that could go on record
6 was the person that had the application. So I must state
7 that very clearly because that again is when I walked into
8 the room, I was like overwhelmed because when we were
9 contacted, that's what we were told.

10 So last night no tribal counsel representatives were
11 present. The individual band representatives were present.
12 So, yes, we would like to have that extension because I want
13 to see what the comments are. And it appears to me that we
14 all have the general census that we did not support the
15 movement of this project going forward. Not only the tribe,
16 but the community at large.

17 And so when we are informed by agency, a federal
18 agency, and we are a federally recognized tribe, we are a
19 nation equal to that of being federally recognized.

20 So again when we were contacted, we were told this is
21 the process. That's the process I expect to be met. So I
22 think we are real clear on where the Hammawi band stands as
23 part of the Pit River tribe. We are clear on where the
24 tribe stands. And we will have legal clarification and
25 involvement because that's how we always practice. That's

1 what our tradition is.

2 In saying that, I believe that again real firmly we
3 oppose it. However, we know that this is a mandatory
4 requirement for FERC to do this consultation process; we
5 recognize that as tribal leaders. We know the process that
6 has to be heard and has to be met.

7 That's why we are here. In staying that, I would like
8 to ask any other tribal members and/or counsel
9 representatives if they have any final comments. At this
10 point does anybody have any final comments that are tribal?

11 MS. O'BRIEN: I have a final comment. I just
12 wanted to respond to you and apologize. Apparently we
13 weren't clear. And I know we were talking through someone
14 else and I did not talk directly. But at least I thought I
15 had made it clear, as Frank mentioned, because of our
16 regulations that this is already a contested proceeding that
17 we needed to have transcripts made.

18 MS. JIM: I'm aware of that.

19 MS. O'BRIEN: And notice of the meeting to the
20 public. What we did do was leave the location and the time
21 of the meeting out of the notice, and anyone interested in
22 attending had to call me directly to get that information.

23 And three people responded. They're homeowners along
24 the bypass reach section of the river. And it was brought
25 up at the meeting last night

1 MR. WILSON: I apologize because I asked them to
2 come if they wanted to. I forgot to tell you that. I'm
3 sorry.

4 MS. O'BRIEN: In support of the tribe.

5 MR. WILSON: Because I didn't believe it was going
6 to be a consultation meeting. Because in my general mind,
7 you know what I mean? Because -- Ivan Wilson.

8 I believe it wasn't a consultation, whatever. And my
9 general head, you know. Because usually when we have a
10 consultation meeting, usually we have an agenda that says
11 "consultation" on it, that way it's notified. You know what
12 I mean? On our behalf, you know what I mean? And I asked
13 them to come. Because they can't speak anyway, you know,
14 because these guy's rules or whatever.

15 And then when we was at the public meeting actually the
16 other night, I see a little bit of rudeness, whatever,
17 because the people, the homeowners, they could only speak on
18 the issue, whatever, and keep it to that limit. Those
19 rules, you know, were unqualified. You know what I mean?
20 Because, you know, I speak -- they are homeowners. They
21 should be able to speak their peace, and whatever their
22 opinion is, it shouldn't be questioned like it was last
23 night. And in my view, I got that feeling. They were only
24 subject to certain things they could talk about. And that
25 was rude on behalf of, you know, you guys. Him over there,

1 whoever made those rules or whatever, you know. That's all
2 I got state about it.

3 MR. GONZALES: I'd like to state -- for the record
4 I'm the Hammawi band Land Representative also strongly
5 opposed to the project. Chaz Gonzales.

6 MS. FOSTER: Cheryl Foster, BLM archeologist. Two
7 points actually.

8 In terms of confidentiality I know that the Forest
9 Service as well as the BLM requires any contractors who
10 consult with us on historic properties to sign a
11 confidentiality agreement with us. So any records that I
12 would turn over, they would have to find -- go on the record
13 on a signed piece of paper saying they will not disclose
14 information to anyone nor will it be made public in any
15 document form.

16 Secondly, obviously given the nature of tribal
17 comments, it's apparent that we need to consult with the
18 office of historic preservation, and that consultation
19 process needs to be initiated immediately in my opinion.

20 MR. WINCHELL: Those are very important comments.
21 Of course. Of course. And we have contacted the State
22 Historic Preservation Office, and that has also been written
23 in our response to the applicant that they must consult with
24 the State Historic Preservation Office before it gets to us.
25 But, yes, that is part of the consultation process, of

1 course. We have already given him authorization to consult
2 on our behalf.

3 But of course we are the folks that will be receiving
4 this information, of course.

5 I can't re-emphasize this any more strongly that, yes,
6 the applicant needs to consult with the Indian tribe
7 concerned with this project.

8 Anybody else?

9 MS. BARNES: I heard on the agenda first when, you
10 know, this -- we just got started and, you know, whoever
11 called the meeting makes the agenda, I guess. In my mind
12 that's what would happen.

13 But also I'm hearing two things here. I thought we was
14 here to also maybe listen to what has gone on here
15 concerning this project that's going to come through here.
16 We do have -- I set here and listened to these people that
17 we have here that are homeowners, here close to this, the
18 Pit River, I guess it is. And I think they're interested
19 here in listening -- what is going to happen because it's
20 their area where they live.

21 And I feel like this. I also heard monitors. That
22 tells me two things. We are here to stop it, but yet we are
23 here to get paid for some monitor job or whatever. That
24 tells me two things. I hear it at the table. And but
25 anyway I don't feel too good about these people here coming

1 here and listening to this and thinking that it's going to
2 be stopped when it's not going to be stopped. You know,
3 they're here to listen. To support whoever it is here on
4 this -- the bands, three bands I guess it is.

5 And I also wanted to say that, you know -- I feel that
6 I'm going to say it. Our tribal counsel should be here on
7 time just like this person here mentioned a while ago. If
8 you're going to go in and out, stay out or either come in.
9 We have to try to be controlled some way. And if we He
10 cannot be controlled, I guess we just as well stay home or
11 whatever.

12 But counsel need to be on time. When you call a
13 meeting with people here at the table, or they call you, be
14 on time. Don't let these people come in here. We sat here
15 from 9:30 this morning waiting, and it don't look good for
16 our part.

17 But that's the only thing that I want to say. And I
18 will say I'll bring this up to our tribal counsel again.
19 Even if they don't like it.

20 MR. WINCHELL: Thank you.

21 MR. ELMORE: Matt Elmore, Madesi counsel, Pit
22 River tribe.

23 You know, some of us were late because Caltrans was
24 working on the roads today. You're always at the meeting
25 early, because you like getting there early. I don't know

1 what the reason is, but whatever.

2 You're making allegations that Hammawi band is just
3 wanting money. I didn't hear one word from Susie or Ivan or
4 any other Hammawi representative. All I've heard is they
5 want to protect the archeological sites. They want to
6 protect their ancestry. I heard the comment that there's
7 not enough money to buy ancestry.

8 To make allegations against your fellow tribal members
9 and brothers and sisters is wrong. I'm shocked and appalled
10 that you made those kind of comments. This is not the forum
11 to take out your personal grudges against the others. We
12 should be here today united as Pit River people, all
13 opposing this project, not to cause deceit and hard feelings
14 amongst each other. That's wrong. We have got enough
15 people here against us to go fighting amongst ourselves. We
16 should be all here united, stand behind this. The tribe is
17 officially opposed to it. Why do we want to keep discussing
18 it and dragging it out? We stated our opinion; that should
19 be it. We should exert our sovereign authority. The
20 federal government recognized us to be a federal government
21 if we make a statement we are opposed to it, why consult
22 about it anymore? You're not going to change our minds.
23 There's not enough money to sell out our ancestry.

24 MS. BARNES: Good speech.

25 MS. JIM: I believe that some of the frustration

1 you hear today at the table is internal. On behalf of the
2 tribe we apologize because we know we are on record.

3 The second thing is that I believe that we need to come
4 to a closure here. I think everybody has commented to the
5 best of their ability. They have made good-faith efforts in
6 trying to express what they feel, and how we feel as a
7 tribe. And then in support of the Hammawi band.

8 When we move things forward to the counsel table for
9 consultation purposes, we do have consultants that we
10 communicate, and we get legal review and comments for it.

11 So I believe that if we could come to conclusion here
12 today, if anybody has any final comments from the tribe, I
13 would like to hear it. Michelle had her hand up. We would
14 like to see the final comment and then conclude.

15 MR. WINCHELL: Concur.

16 MS. BERDITSCHERSKY: Just have a final question.
17 Michelle Berditschersky, Environmental Coordinator.

18 I just want to clarify that I'm here at the request of
19 the Hammawi band; that they have asked our office for -- to
20 work on this.

21 I was wondering just as a final question --

22 MR. JAMES: You made your point. Let the Indians
23 talk.

24 MR. WINCHELL: Make it short please.

25 MS. BERDITSCHERSKY: The tribe is an intervenor in

1 this process. What role does that play? What difference
2 does that make?

3 MR. WINCHELL: Well, they have a right to rehear
4 the decision from the Commission as an intervenor.

5 MS. BERDITSCHERSKY: We can appeal?

6 MR. WINCHELL: Sure, absolutely.

7 All right, I think I'm going --

8 MS. O'BRIEN: Housekeeping item.

9 Please make sure you've signed in. I know that Pit
10 River had a log to sign, and I think FERC had one as well.
11 So do please take the time. We also have scoping documents.
12 If you need more copies, please let me know. We have on the
13 back table copies of my business cards. I think Frank has
14 them available as well, if you want his card.

15 We also have documents from the applicant that describe
16 the project in sort of an updated summary of the project.
17 There's two filings there. They're both on record, but we
18 have hard copies here. And wanted to thank everyone for
19 coming and for their time.

20 MR. WINCHELL: With that note, I think we are
21 going to go with Jessica's request, and we were going to
22 close the meeting, and I want to thank everybody for their
23 say.

24 Meeting adjourned.

25 (Whereupon, proceedings terminated.)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

