

1 UNITED STATES OF AMERICA
2 BEFORE THE
3 FEDERAL ENERGY REGULATORY COMMISSION
4

5 In the Matter of:

6
7 YUBA RIVER HYDROELECTRIC PROJECT SCOPING MEETING

8
9 Project No. 2246-058

10
11 PROJECT SCOPING MEETING

12
13
14 YUBA COUNTY GOVERNMENT CENTER
15 CONFERENCE ROOMS 1 AND 2
16 915 8TH STREET
17 MARYSVILLE, CALIFORNIA

18
19
20 WEDNESDAY, FEBRUARY 2, 2011

21
22
23 The above-entitled matter came on for public
24 meeting, pursuant to notice, at 1:06 p.m.

25

1 APPEARANCES

2

3 FEDERAL ENERGY REGULATORY COMMISSION

4

5 Alan D. Mitchnick

6 Senior Technical Expert

7 Tyler Mansholt

8 Office of the General Counsel

9 Shana M. Murray

10 Outdoor Recreational Planner

11 Kenneth J. Hogan

12 Fishery Biologist

13

14 YUBA COUNTY WATER AGENCY

15 Curt Aikens

16 General Manager

17 Geoff Rabone

18 Projects Manager

19

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22

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1 APPEARANCES

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3 Alan B. Lilly, Attorney at Law

4 Representing Yuba County Water Agency

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6 Jim Lynch, Consultant

7 HDR/DTA

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1 ATTENDEES (in order of introduction)
2
3 Jeff Packs
4 State Water Resources Control Board
5
6 Ralph Cutter
7 South Yuba River Citizens League
8
9 Lisa Cutter
10 South Yuba River Citizens League
11
12 Chris Shutes
13 California Sportfishing Protection Alliance
14
15 Brian Johnson
16 Trout Unlimited
17
18 Gary Sprague
19 National Marine Fisheries Service
20
21 Richard Wantuck
22 National Marine Fisheries Service
23
24 Larry Thompson
25

1 ATTENDEES (continued)
2
3 National Marine Fisheries Service
4
5 Cheryl Mulder
6 United States Forest Service
7
8 Sharon Stohrer
9 California Department of Fish and Game
10
11 Julie Leimbach
12 Foothills Water Network
13
14 Bob Alvares
15 Gold Country Fly Fishing Club
16
17 John Felde
18 Gold Country Fly Fishing Club
19
20 Harry Williamson
21 National Parks Service
22
23 Steve Rothert
24 American Rivers
25

1 ATTENDEES (continued)
2
3 Frank Rimella
4 Northern California Federation of Fly Fishers
5
6 Tom Simms
7 Granite Bay Flycasters
8
9 Richard Dickard
10 Camptonville Community Services District
11
12 Cathy LeBlanc
13 Camptonville Community Partnership
14
15 Wendy Tinnel
16 Camptonville Community Services District
17 Camptonville Community Partnership
18
19 Tracy McReynolds
20 California Department of Fish and Game
21
22 Dennis Monax
23 Gold Country Fly Fishing Club
24 Bill Copren
25 Feather River Trout Unlimited

1 ATTENDEES (continued)
2
3 Gary Reedy
4 South Yuba River Citizens League
5
6 Roger Hicks
7 South Yuba River Citizens League
8
9 Kevin Mallen
10 Yuba County
11
12 Michael Horton
13 South Yuba River Citizens League
14
15 Ben Ransom
16 Placer County Water Agency
17
18 Tom Johnson
19 Placer County Water Agency
20
21 Ben van der Meer
22 Reporter, Appeal-Democrat
23
24 Steven Fordice
25 Reclamation District No. 784

	I N D E X	
		Page
1		
2		
3		
4		
5	Proceedings	9
6	Introductions	10
7	Presentation by FERC	13
8	Presentation by the Applicant	15
9	Scoping	29
10	Geology and Soils	31
11	Aquatic Resources	31
12	Terrestrial Resources	73
13	T&E	75
14	Recreation	75
15	Land Use and Aesthetics	81
16	Cultural Resources	82
17	Developmental Resources	85
18	Concluding Remarks	
19	National Marine Fisheries Service	100
20	Closing Remarks	103
21		
22	Adjournment	108
23		
24		
25		

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

2 1:06 p.m.

3 CHAIRPERSON MITCHNICK: I think we're ready to
4 begin. My name is Alan Mitchnick and I'm the Project
5 Coordinator for the Yuba River Project. I know I've seen
6 most of you before and I'm sure we will run into each other
7 many more times on this project.

8 I do want to thank Yuba County for providing the
9 site visit yesterday and the people who attended the site
10 visit, I appreciate their attention on that.

11 This is the Scoping Meeting for the Yuba River
12 Project. It won't be the first time I mix those projects
13 up, believe me. Yuba River Project. This is required by
14 the Commission's regulations and the National Environmental
15 Policy Acts.

16 Just go through a quick agenda of what we plan to
17 accomplish today. We'll start up with introductions. I'll
18 go through a brief discussion of the ILP process, although
19 I'm sure most of you know probably more than I do about that
20 process by now. We'll have the Applicant give a short
21 presentation on the project and how it's operated. We'll go
22 through the issues that we've identified in the Scoping
23 Document and then sort of open it up for discussion on those
24 issues. And then, if we have time at the end we'll have
25 some time for some questions.

1 So to get to the introductions. First I'll have
2 the FER staff introduce themselves. Tyler?

3 MR. MANSHOLT: My name is Tyler Mansholt. I work
4 in the Office of General Counsel at the FERC.

5 MS. MURRAY: Good afternoon. I'm Shana Murray.
6 I am the Recreation and Land Use Research Specialist on the
7 projects.

8 MR. HOGAN: Ken Hogan with FERC and I'm a Fishery
9 Biologist and bouncer.

10 (Laughter.)

11 CHAIRPERSON MITCHNICK: And just one procedural
12 matter, given how the court reporter is set up. Everybody
13 at this head table is pretty much okay but if you're in back
14 tables we will ask you to use a microphone so that the court
15 reporter would have a little bit easier time to pick up your
16 conversations. So I don't think it will be too big of a
17 deal but we'll have to deal with that.

18 So I'm just going to ask everybody to sort of
19 introduce themselves, starting with Jim and go around the
20 table.

21 MR. LYNCH: I'm Jim Lynch. I'm with HDR/DTA and
22 we're a consultant to YCWA on the relicensing.

23 MR. AIKENS: I'm Curt Aikens. I'm the General
24 Manager for Yuba County Water Agency.

25 MR. PARKS: I'm Jeff Parks. I'm the Project

1 Contact for the State Water Resources Control Board.

2 MR. CUTTER: I'm Ralph Cutter. I'm a volunteer
3 with the South Yuba River Citizens League.

4 MS. CUTTER: Lisa Cutter, also a volunteer for
5 SYRCL.

6 MR. SHUTES: Chris Shutes, Projects Director for
7 the California Sportfishing Protection Alliance.

8 MR. JOHNSON: Brian Johnson, Director of the
9 California Water Program for Trout Unlimited.

10 MR. SPRAGUE: Gary Sprague with the National
11 Marine Fishery Service.

12 MR. WANTUCK: Rick Wantuck, National Marine
13 Fishery Service.

14 MR. THOMPSON: Larry Thompson, National Marine
15 Fishery Service.

16 MS. MULDER: Cheryl Mulder, U.S. Forest Service.

17 MS. STOHRER: Sharon Stohrer, Department of Fish
18 and Game, Region 2 in North Central.

19 MS. LEIMBACH: Julie Leimbach with the Foothills
20 Water Network.

21 MR. ALVARES: Bob Alvares, Gold Country Fly
22 Fishing.

23 MR. FELDE: John Felde, Gold Country Fly Fishers
24 as well.

25 MR. WILLIAMSON: Harry Williamson representing

1 the National Parks Service.

2 MR. ROTHERT: Steve Rothert, California Director
3 for American Rivers.

4 MR. RABONE: Geoff Rabone, Projects Manager for
5 Yuba County Water Agency.

6 MR. RIMELLA: Frank Rimella, Northern California
7 Federation of Fly Fishers, Director.

8 MR. SIMMS: Tom Simms, Granite Bay Flycasters.

9 MR. DICKARD: Richard Dickard, Camptonville
10 Community Service District.

11 MS. LEBLANC: Cathy LeBlanc, Camptonville
12 Community Partnership.

13 MS. TINNEL: Wendy Tinnel, Camptonville Community
14 Partnership and Camptonville Community Services District,
15 Board Member.

16 MS. MCREYNOLDS: Tracy McReynolds, California
17 Department of Fish and Game, Region 2.

18 MR. MONAX: Dennis Monax, Gold Country Fly
19 Fishers.

20 MR. COPREN: Bill Copren, Feather River Chapter
21 of Trout Unlimited.

22 MR. REEDY: Hello, I'm Gary Reedy. I'm the River
23 Science Program Director of the South Yuba River Citizens
24 League.

25 And if there is still a chair up in front I'm

1 going to move up after I've had my lunch.

2 MR. HICKS: Hi, I'm Roger Hicks. I'm on the Board
3 of Directors of the South Yuba River Citizens League.

4 MR. MALLEN: Hi, I'm Kevin Mallen. I'm
5 representing Yuba County today.

6 MR. HORTON: I'm Michael Horton and I'm a SYRCL
7 member.

8 MR. RANSOM: Hi, Ben Ransom, Placer County Water
9 Agency.

10 MR. JOHNSON: Tom Johnson, Consultant for YCWA.

11 CHAIRPERSON MITCHNICK: Okay, a good turnout; and
12 again, I appreciate everybody for coming today.

13 I was going to talk a little bit more about the
14 Commission but with this group I don't think you really need
15 to know a whole lot more than you already do. The
16 Commission is a five member Commission appointed by the
17 President and confirmed by Congress and the Commission
18 regulates four primary regulatory areas, natural gas,
19 electrical power, oil pipelines and hydropower. We're in
20 the Division of Hydropower Licensing, which is one-third of
21 the responsibilities for the hydropower. We also have a Dam
22 Safety Division that does the inspections and also a License
23 Administration and Compliance section that ensures
24 compliance with license articles, and they do the
25 environmental and public safety inspections.

1 And we're all located, Shana, Ken, and I are
2 located in the West Branch and Tyler is located in the
3 Office of the General Counsel.

4 Next. Okay. I'll talk a little bit about the
5 ILP process. Is there anybody here who doesn't know
6 anything about the ILP process? Who knows a little bit
7 about the ILP process? Know way too much about the ILP
8 process? Okay.

9 Next slide. Okay. This is the shortened version
10 of ILP process. You have the flowchart which everybody is,
11 I'm sure you're familiar with. But I think I'm going to go
12 through the key steps of the process and sort of outline
13 some of the key dates. And those dates will, I'm sure, will
14 come up many, many times so it's going to be difficult to
15 forget those dates. But most of these dates are very
16 critical and the consequences of missing them are very
17 substantial so we don't want anybody to lose their
18 opportunity to participate so I'm going to go through -- It
19 looked a lot better on my computer but okay.

20 Here are the basic steps of the process and I'm
21 going to go through each box. It's not four boxes that Rick
22 wanted, but it's eight boxes. Next, please.

23 The first step is the filing of the Notice of
24 Intent in the PAD. The Licensee did that on November the
25 5th and that sort of starts this process. As part of this

1 process the Applicant developed the PAD, which is a
2 collection of the available information. The PAD also
3 included draft study plans and it's pretty much the purpose
4 of the PAD. Next please.

5 The scoping process started when the Commission
6 issued Scoping Document 1 on January 4th. A key part of the
7 scoping process is this meeting but you also have an
8 opportunity to provide comments to the Commission on
9 scoping, and that's the same time that we're asking for
10 comments on the PAD and your study requests for
11 consideration by the Applicant.

12 We will issue Scoping Document 2 as appropriate
13 but I suspect there will be a need to issue Scoping Document
14 2 which will revise the issues as outlined in the Scoping
15 Document.

16 We talked a little bit about study requests. I'm
17 sure you've been through this many, many times. The
18 Commission has seven criteria that all study requests might,
19 must meet. Some of the more critical ones are Nexus. There
20 has to be a Nexus to the project and impacts of the project;
21 has to generate information that's not already available and
22 make the case that there is not sufficient, that the
23 information is not sufficient to address the issues; cost,
24 level of efforts. Why do a Cadillac study when you can get
25 by with, you know, a Chevy study. There are still Cadillacs

1 out there I think.

2 MR. SPRAGUE: You're going to have to change your
3 metaphor there.

4 CHAIRPERSON MITCHNICK: I know, it's an old
5 metaphor.

6 Okay. The next important phase is the Study Plan
7 Development, you know. The Applicant has already prepared
8 at least some preliminary Study Plans, but in the next --
9 after the comments, after the comments are filed, the Study
10 Plans are filed, the Applicant then would develop proposed
11 Study Plans. Those Study Plans would be distributed for
12 comments. There would be a Study Plan meeting during that,
13 during that period. And we certainly would encourage the
14 Applicant to, you know, and the stakeholders to meet as
15 often as necessary to develop the revised Study Plan. And
16 there would comments on the Applicant's revised Study Plan
17 and then the Commission would issue its Study Plan
18 Determination.

19 There is opportunity for dispute resolution if
20 mandatory condition agencies disagree with the study
21 results, the Study Plan Determination. That would occur the
22 time period immediately after the Commission issues its
23 Study Plan Determination. So then the Applicant has to
24 conduct the Study Plans as approved by the Commission.

25 So that will take probably two years of studies,

1 two study years. Applicant -- and that will be next year
2 and the year after. There's opportunities or a requirement
3 to file initial Study Reports and updated Study Reports so
4 that any problems can be identified early on or the need to
5 modify these studies can be identified early on so they can
6 be done prior to the application being filed.

7 After the studies are completed then the
8 Applicant would prepare a Preliminary Licensing Proposal and
9 that is due no later than February 2013, which seems like a
10 long, long ways away but it will be here really quickly.

11 Applicant also has the option of preparing a
12 Draft License Application. The Draft License Application
13 will include a Draft Biological Assessment and also a Draft
14 Historic Properties Management Plan. And then there will
15 be a, they call it a comment period on the, either the
16 Preliminary Licensing Proposal or the Draft Application for
17 90 days.

18 Then the Applicant has to be -- application has
19 to be filed no later than April the 30th, 2014.

20 Next slide. Once it's filed with the Commission,
21 after the Commission determines that it's adequate, that we
22 have sufficient information, then we will issue a Notice
23 requesting interventions, recommendations, preliminary
24 conditions. Of course, some of the conditions will be
25 mandatory and there is an ability for the Applicant or other

1 stakeholders to request a trial-type hearing.

2 Next. Then that sort of leads to the NEPA
3 process. In this case the Commission will be doing an
4 Environmental Impact Statement. The draft is scheduled for
5 February 2015 and the final September 2015. And the
6 Environmental Impact Statement will include staff's
7 recommendations for license conditions.

8 And then the last step of the process is a
9 Commission decision on the application, and that will be
10 some time after September of 2015.

11 At this point I'm going to ask the -- Geoff to
12 give a description of the project.

13 MR. HOGAN: Before we do that if we can be joined
14 by a couple of other folks (audible).

15 COURT REPORTER: Speak up into the microphone a
16 little more. Thanks.

17 MR. HOGAN: We have been joined by a couple of
18 additional folks. I'd like to get their name and
19 affiliation.

20 MR. VAN DER MEER: Ben van der Meer, Appeal-
21 Democrat.

22 MR. FORDICE: Steve Fordice, General Manager of
23 Reclamation District 784.

24 MR. RABONE: Okay, my name is, my name's --
25 (Multiple speakers.)

1 MR. RABONE: Okay. My name is Geoff Rabone and
2 I'm with the Yuba County Water Agency.

3 This is a FERC-sponsored meeting today, part of
4 the FERC's process. But since they are, have traveled a
5 long way to do this meeting I'd just like to do some
6 logistics. The restrooms are outside and to the, to your
7 left as you exit this door. And there are refreshments in
8 the back of the room provided by YCWA. You're welcome to
9 help yourself back there; we don't want to carry them back
10 to the truck.

11 Okay. Yuba County Water Agency is the owner and
12 operator of the Yuba River Development Project. The Yuba
13 Water County (sic) Agency was established by a special act
14 of the California Congress with certain specific purposes.
15 And among those are water supply and flood control
16 primarily, but also power generation. Because of the
17 specific location of the Yuba River Development Project
18 ancillary services are very important in the power
19 generation picture of this project. And also environmental
20 enhancement and protection and recreation associated with a
21 hydropower project.

22 Next slide. The project is on the main stem of
23 the Yuba River, North Yuba River, Middle Yuba River
24 including Oregon Creek, in Yuba, Sierra, and Nevada
25 Counties. A portion of the FERC Project boundary is on

1 National Forest Service land within the Tahoe and Plumas
2 National Forests. There's one large storage reservoir as
3 part of this project: New Bullards Bar Reservoir. It holds
4 a maximum capacity of 966,103 acre feet, 966,103 acre feet
5 on the North Yuba River.

6 There are two smaller diversion facilities: Our
7 House Diversion, which is located on the Middle Yuba River,
8 and Log Cabin Diversion located on Oregon Creek. There's no
9 appreciable storage at these diversions. The Our House
10 Diversion diverts a portion of the water on the Middle Yuba
11 into the Lohman Ridge Diversion Tunnel, which empties into
12 Oregon Creek just above the Log Cabin Diversion. And just
13 above the Log Cabin Diversion there's an intake for a
14 Camptonville Diversion Tunnel, which conveys the water from,
15 that was diverted at Middle Yuba and Oregon Creek into New
16 Bullards Bar for storage and use from that point.

17 There are three powerhouses within the hydro
18 project: the New Colgate Powerhouse, which has a capacity of
19 approximately 340 megawatts; the New Bullards Bar minimum
20 flow with a capacity of 150 kilowatts; and the Narrows Two
21 Powerhouse with a capacity of 55 megawatts.

22 Some specifics of the water conduits: The Lohman
23 Ridge Tunnel that I talked about that goes from Powerhouse
24 to the Oregon Creek is about 3.3 miles in length and has a
25 capacity of 860 cubic feet per second. When it empties into

1 Oregon Creek it adds to the diversion at, from Log Cabin on
2 Oregon Creek into the Camptonville Tunnel, and that's a mile
3 long tunnel with a maximum capacity of 1100 cfs.

4 From New Bullards Bar the intake for the New
5 Colgate Powerhouse, the tunnel and penstock together are 4.7
6 miles long and their maximum capacity is 3,500 cubic feet
7 per second. The Narrows Two Power Tunnel, which has its
8 intake just above the Army Corps of Engineers Englebright
9 Dam and Reservoir is 1/10th of a mile in length and has a
10 capacity of 3,400 cubic feet per second. That leads to the
11 Narrows Two Powerhouse.

12 There are recreation facilities built by Yuba
13 County Water Agency at the New Bullards Bar. I'll talk
14 about some of those and show some pictures here, maybe, and
15 some facility access roads to hydropower project facilities
16 and areas that we need for operations and maintenance of the
17 project, including recreation. There are no transmission
18 lines associated with this project, no open canals or
19 flumes, no active spoil piles or borrow areas. The
20 transmission lines that you see in the vicinity of the
21 project are owned by Pacific Gas and Electric.

22 Next slide. Okay. The project operates using
23 the water available to us and it's -- the way we operate the
24 project is dependent on several different considerations.
25 We have to comply with all our FERC license conditions, we

1 have to meet safety considerations for the personnel and the
2 public.

3 The U.S. Army Corps of Engineers has 170,000 acre
4 feet of dedicated flood control space within New Bullards
5 Bar and we have to operate in consideration of that. We
6 have to operate in consideration of our water rights and
7 permits, and also a power purchase contract we have with
8 PG&E dated 1966.

9 Since 2008, well really since 2006 the project
10 has operated in compliance with the Lower Yuba River Accord
11 flows. Years 2006, 2007, and 2008 were done according to
12 the Accord flows as a pilot, as separate pilot programs and
13 in 2008, March 20, 2008, the State Water Resources Control
14 Board adopted the Yuba Accord flows as part of Yuba County
15 Water Agency's water rights.

16 In general, New Bullards Bar Reservoir reaches
17 its highest elevation or storage at the end of spring runoff
18 and gradually lowers, reaching its lowest elevation in mid-
19 winter of the following year, early the following year. The
20 Our House and Log Cabin Diversions are used for diversion
21 into the New Bullards Bar and the water passes through the
22 U.S. Army Corps of Engineers Englebright Reservoir before
23 going to the Lower Yuba River.

24 Next slide. New Colgate Powerhouse, the large
25 powerhouse on this project, is operated for peaking. In

1 other words, the highest generation at that powerhouse
2 occurs during the highest electrical demand times of the
3 day, morning and evening. It is also operated for ancillary
4 services because it can quickly respond to the needs of the
5 power grid in Northern California and it's integrated very
6 thoroughly into the power grid of Northern California. And
7 because it's flexible, it serves those needs for the ISO.
8 Rapid changes in generation are a feature of large hydro
9 generation and that's one of the things that makes this
10 project valuable.

11 So Narrows Two and New Bullards Bar minimum flow
12 powerhouses are operated for base loading. In other words,
13 they operate at a constant level.

14 Next slide. This is a map showing New Bullards
15 Bar at the center top of the slide. The dotted line
16 represents the FERC Project boundaries. And at the bottom
17 you can see a -- here, I have a pointer here if it works.
18 It appears as though my battery is dead. On the right-hand,
19 near the right-hand margin toward, just above the center is
20 Our House Diversion on the Middle Yuba and if you follow the
21 red line and the black dotted line up towards your upper
22 left, it leads to the Log Cabin Diversion and then into the
23 Camptonville Tunnel and into New Bullards Bar Reservoir.

24 The red line leading down to the lower left from
25 the -- thank you. The intake for the New Colgate Powerhouse

1 is in New Bullards Bar Reservoir. The New Colgate
2 Powerhouse is down here. Excuse me. It discharges water
3 into the north fork, North Yuba at this point. The water
4 continues down -- the Middle and North Yuba are combined
5 here to the Yuba River and the South Yuba joins the Yuba
6 River above Englebright Reservoir operated by the Army.

7 We talked about the -- oh, here it is. And the
8 Narrows, our Narrows Two project operates, it has an intake
9 above the Army's dam and our powerhouse is down below the
10 Army's dam. It never really touches any Army facilities but
11 it utilizes the water stored up above, Englebright
12 Reservoir.

13 PG&E also has a project in that immediate
14 vicinity, operated in the same general way, called Narrows
15 One and those two projects are operated in coordination.

16 Next slide. This is a picture of Our House
17 Diversion Dam. Many of you saw this. We appreciate your
18 participation in the site visit yesterday. The dam is 70
19 feet high. It has a crest length of 368 feet. The crest
20 elevation is 2,049 feet above mean sea level. It's a
21 concrete arched dam, has an uncontrolled spillway. It has a
22 release pipe, a 24-inch diameter pipe with a hand-operated
23 gate valve up here that takes care of our, in minimum in-
24 stream flow releases. It also has a lower level outlet,
25 which is a five-foot diameter pipe immediately below the

1 release pipe. Center line elevation on the low level outlet
2 is about 1,990 with a capacity of 800 cfs.

3 The spillway here is designed to take about
4 approximately 60,000 cfs and the drainage area above Our
5 House Diversion Dam is approximately 144.8 square miles.

6 Next slide. This is Log Cabin Diversion. It's
7 located on Oregon Creek, which is a tributary to the Middle
8 Yuba. It has an uncontrolled spillway designed at the top
9 to -- it has six bays with a maximum capacity of 12,000 cfs.
10 The drainage area above Log Cabin Diversion is approximately
11 29.1 square miles. I can't read the dam height but it's a
12 little bit smaller than Our House Diversion. 1,979 is the,
13 is the height of the crest elevation. Here, I can use my
14 cheat sheet here. Okay, thank you very much. Okay.

15 So what water is not diverted into the
16 Camptonville Tunnel at this point goes into the Oregon
17 Creek, which then joins the Middle Yuba and they are both
18 tributary to the North Yuba, which at that point becomes the
19 main stem Yuba. There is also a release pipe directly above
20 a low level outlet. This low level outlet is also five feet
21 in diameter and I think this release pipe is a little bit
22 smaller in diameter, approximately 18 inches in diameter,
23 also manually operated, and this is Oregon Creek down below.

24 Next slide. This is New Bullards Bar Dam. It's
25 a significantly high dam. It's, I believe, the second

1 highest dam in FERC jurisdiction in the United States and
2 second highest dam in California at 645 feet. Crest
3 elevation is 2,323 feet -- that's the length. The crest
4 elevation is 1,965 feet. It's a concrete arch dam. It
5 provides the head and water storage for New Colgate
6 Powerhouse. Down here you'll see the spillway. This is a
7 spillway controlled by three tainter (phonetic) gates. The
8 crest elevation of the spillway is 1,902 feet so there's
9 about a 63 foot difference between the crest elevation of
10 the dam and the elevation of the bottom of the spill gates.
11 The length of this spillway gate structure is 106 feet and
12 the capacity is approximately 160,000 cubic feet per second.
13 The drainage area of the North Yuba above this is
14 approximately 488.6 square miles.

15 There is a New Bullards minimum flow powerhouse
16 down here, which recovers the energy of the water released
17 for the minimum in-stream flow. The capacity of that
18 powerhouse is 150 kilowatts. And it's high head but it only
19 has 5 cfs flowing through it. It's a Pelton type turbine.
20 And the intake for New Colgate can be seen right here on the
21 slide. This is the North Yuba River.

22 You can also see Emerald Cove Marina is down here
23 and the Emerald Cove/Cottage Creek boat ramp is up here for
24 recreation.

25 Next slide. New Colgate Powerhouse is the third

1 powerhouse on this site and the current powerhouse on this
2 site. Much more generation than the previous two but it's
3 very important to the Northern California grid with a
4 capacity of 340 megawatts, quick response times. The rated
5 head is about 1,300 cfs, 1,360 feet, and the rated flow is
6 3,430 cfs. It's a Pelton Type, two Pelton wheels, the
7 largest of their type operating in the world, 18-1/2 feet in
8 diameter.

9 The switchyard is owned by PG&E. The project
10 offices are just down the road from the powerhouse. The
11 powerhouse can be operated automatically by remote control
12 by PG&E or it can be operated by staff of YCWA from the
13 powerhouse.

14 The penstock is steel above ground. It ranges
15 from 14.4 feet at the top down to 9 feet at the bottom and
16 it's 2,809 feet long, carrying 3,500 cfs.

17 Next slide. This is the U.S. Army Corps of
18 Engineers Englebright Dam. The power intake for our Narrows
19 Two Powerhouse is within the Englebright Reservoir, upstream
20 of the dam, and it tunnels through the hillside around the
21 dam and provides water to the Narrows Two Powerhouse owned
22 by YCWA. This is the Narrows One Powerhouse operated by
23 PG&E, owned and operated by PG&E. It's a 12 megawatt
24 powerhouse with a flow of, a maximum flow of 730 cubic feet
25 per second. The maximum flow through Narrows Two is 3,400,

1 a head of 236 feet with capacity of 55 megawatts. It's a
2 Francis reaction-type vertical access turbine.

3 The access road is on state and Yuba County Water
4 Agency lands and therefore the Yuba County Water Agency and
5 some of this land would be in the project boundary.

6 Next slide. So where are we today? The Yuba
7 County Water Agency published a Preliminary Information
8 package on September 28th, 2009. It was a voluntary effort
9 but it helped to gather available information so the public
10 interest in this process could understand what the project
11 was all about and what the, some of the statistics and
12 operating conditions were, potentially affected resources,
13 et cetera.

14 So far we've held over 30 meetings with
15 relicensing participants, primarily focusing on information
16 gaps and potential studies to fill information needs not
17 already easily available. We filed our Notice of Intent
18 that we intend to own and operate this project into the
19 future and the FERC acknowledged that on November 5th, 2010.

20

21 A Notice of Intent has to be filed at least five
22 to five and a half years prior to the existing license
23 expiration. So that was a little earlier than the six
24 months before they -- it was six months, approximately six
25 months before the five years before the expiration of our

1 existing license.

2 So with that we filed a PAD, or Pre-Application
3 Document. I have a copy of it here but it's also available
4 for view at the Marysville Public Library and at the YCWA
5 offices. We distributed copies of this to interested
6 parties participating in the relicensing meetings. It
7 included about 41 study proposals. And we continue to meet
8 with relicensing participants to discuss those studies and
9 potential other studies.

10 And that's the end of my presentation.

11 MR. HOGAN: Any questions?

12 MR. THOMPSON: Ken, a quick question. Are copies
13 of the present slides available?

14 MR. RABONE: We can make them available.

15 MR. THOMPSON: That would be great, thank you.

16 MR. RABONE: Sure.

17 CHAIRPERSON MITCHNICK: Any questions before we
18 move on to scoping, the actual issues? Anything about the
19 ILP process, anything about the Commission, anything about
20 the project?

21 Okay. You know, just real brief. The purposes
22 of scoping, you know, we want to identify the issues that we
23 address throughout the NEPA process.

24 The Scoping Document includes a preliminary list
25 but these lists change throughout the process. This is a

1 very early part of the process to try to come up with issues
2 that are going to be better defined through the study
3 process. The issues will change as better information is
4 developed throughout the process.

5 One of the key purposes is to identify
6 alternatives. I believe the Scoping Document identifies the
7 proposed project. The Applicant's proposal is one option
8 and the no action alternative as another alternative, but we
9 certainly are looking for input on what reasonable
10 alternatives there might be in how this project is operated.

11 We also want to make sure that we have all of the
12 information that's available so we're asking you to let us
13 know if there's information out there that's not identified
14 in the PAD, in the Applicant's PAD, information that would
15 be helpful identifying issues or evaluating impacts. We
16 certainly want to know if that information exists out there.
17 And we also want to better define the Cumulative Impacts
18 Analysis that we need to do as part of the Environmental
19 Impact Statement.

20 Next slide, please. Talk about cumulative
21 effects. We've identified two issues in the Scoping
22 Document, water resources and aquatic resources. We did not
23 include a geographic scope. We thought that maybe you could
24 help us with that a bit.

25 So we certainly want to hear from you about what

1 you believe the cumulative resources are for this project,
2 for the Yuba River Basin, and, you know, what the scope of
3 analysis should be, you know. That's certainly something
4 that we can talk about today, but we certainly would want to
5 see that in your comments on the Scoping Document.

6 Okay. The Scoping Document lists the issues.
7 We're not going to go through each issue. I at least hope
8 that you've read the Scoping Document before. We'll sort of
9 maybe give a brief summary of the issues by resource area
10 and then we're going to open it, open it up for input from
11 you.

12 So we will start with Geology and Soils and go
13 through Developmental Resources. And I will turn Geology
14 and Soils to Ken.

15 MR. HOGAN: Well for Geology and Soils there's
16 quite a few overlaps with aquatic resources so I'm not going
17 to repeat what I say in Geology and Soils in Aquatic
18 Resources. We've identified preliminarily soil erosion and
19 compaction, gravel movement or accretion and other
20 geomorphic processes.

21 Slide. In aquatic resources we're looking at
22 stream flows. The project effect on stream flows, water
23 quality within the reservoir and stream reaches.

24 Slide. And project effects on fish populations,
25 fish passage, entrainment, stranding, and displacement.

1 Slide. And the project's effects on fish
2 habitats, amphibian habitat, reptile and benthic
3 macroinvertebrate habitat including the recruitment and
4 distribution of large, woody debris.

5 CHAIRPERSON MITCHNICK: Okay. I open it up to
6 the, to the group. This is your opportunity to let us know
7 if you think we've missed stuff or better characterize
8 effects. You know, this is your opportunity to let us know,
9 please.

10 MR. RABONE: Come on, I didn't nail it.

11 MS. MULDER: I just have a question. I'm not
12 understanding. You didn't talk about recreation resources
13 and land, the other resources. Do you want comments only on
14 the aquatics?

15 CHAIRPERSON MITCHNICK: Yes, for now just
16 aquatic.

17 MS. MULDER: That sort of thing of right now or
18 are you going to have them all, all the comments at one time
19 after you have given us --

20 CHAIRPERSON MITCHNICK: We would like to have
21 comments on each resource area as we get to it, so now
22 aquatics.

23 MS. LEIMBACH: Go ahead, Gary, if you want to go.

24 MR. SPRAGUE: Thanks. I'm Gary Sprague with the
25 National Marine Fishery Service, otherwise known as NMFS,

1 and I'm addressing some of our concerns regarding the
2 Federal Endangered Species Act and the consultation
3 associated with it.

4 In the Yuba River ESA species under NMFS
5 jurisdiction include spring run Chinook, Central Valley
6 Steelhead, and Green Sturgeon. The studies that conducted
7 for this relicensing need to provide information for us at
8 NMFS to adequately conduct a complete analysis of the
9 potential impacts on the ESA-listed species and their
10 habitats.

11 In case you're not aware, and this addresses your
12 question of geographic scope, in July of 2010 the Federal
13 District Court remanded NMFS biological opinion for the
14 Corps of Engineers' non-hydropower projects on the Yuba
15 River. In that decision the court identified that the
16 potential impacts of the Corps' project must be analyzed
17 downstream to San Francisco Bay. The court also identified
18 a long list of additional impacts that must be analyzed in
19 the next Biological Opinion.

20 This has bearing on the relicensing of the Yuba
21 River Hydroelectric Project in that the Corps' project is
22 located below and within where the Yuba River Hydroelectric
23 Project is situated. And while the Corps project does not
24 regulate flows at all, the Yuba River Hydroelectric Project
25 does.

1 The information provided for the ESA analysis
2 must also address how the project will affect and address
3 the recovery of ESA-listed species. Our draft ESA Recovery
4 Plan for the Central Valley has identified reintroduction
5 into the native habitats above dams from which fish have
6 been excluded as essential for their recovery. The Upper
7 Yuba River has been identified as such an area, as one of
8 the areas with the highest potential for success of
9 reintroduction.

10 In addition to the ESA consultations there are
11 requirements for consultation with NMFS regarding licensing
12 of this project under the Fish and Wildlife Coordination Act
13 and the Magnuson-Stevens Fishery Conservation and Management
14 Act. Areas of the Upper Yuba River as well as the Lower,
15 including above New Bullards Dam, are designated as
16 essential fish habitat under the Magnuson-Stevens Act.

17 CHAIRPERSON MITCHNICK: Do you know when the
18 Recovery Plan is, might be finalized?

19 MR. SPRAGUE: I hesitate to identify a date in
20 that it's taken longer than we thought. We have gone
21 through public comment with the current draft and are
22 incorporating a multitude of comments. I'm not sure if
23 we'll have a second public meeting-type process or public
24 comment-type process for that. So I can't say exactly what
25 that date is but we're trying to wrap it up relatively soon.

1 MR. THOMPSON: Larry Thompson, National Marine
2 Fishery Service.

3 To add to -- Gary had mentioned that geographic
4 scoping downstream to the Bay-Delta area in a downstream
5 direction, I'd like to just address a bit the upstream
6 scope. He mentioned essential fish habitat in the Upper
7 Yuba designated in the Middle, North, and South Yuba. For
8 those ESA, for the ESA consultation we will need to
9 understand how the projects and interrelated, interdependent
10 actions affect habitat in the Upper Yuba.

11 And that's really about as far as you can go in
12 those watersheds. The upstream migration extent, for
13 example, is roughly 35 miles each in the Middle Yuba and
14 South Yuba, determined roughly there, and about river mile
15 50 in the North Yuba.

16 In the Middle and South Yuba we have effects
17 upstream of those migration limits. They're related to dams
18 and releases from high elevation dams.

19 So what we're suggesting here is that the
20 upstream extent should be to river mile 50 in the North
21 Yuba, to the top of the watersheds in the Middle and South
22 Yuba, and to the Bay Delta in the downstream direction.

23 MR. HOGAN: Larry, can I just get a clarification
24 on that?

25 COURT REPORTER: Could you speak more directly

1 into the mic? Thank you.

2 MR. HOGAN: Sorry, Ken Hogan with FERC. Just for
3 us to help understand the nexus of it I'd like to know if
4 you can clarify, once you're above the project reservoirs,
5 extending that scope beyond that point further upstream.

6 MR. THOMPSON: Well, in the, during the license
7 proceeding and certainly through the term of a new license
8 if a new license were to be issued, project facilities could
9 impair the passage of anadromous fish into the -- for
10 example, into the Upper North Yuba. And therefore we would
11 want evaluations of the habitat quality existing and
12 possibly how that habitat could be improved in order to
13 inform any decisions we would have about reintroduction.

14 Of course we would add to that that there is a
15 relationship between any potential future prescription of
16 fish passage under Section 18 of the Federal Power Act and
17 those reintroductions.

18 MR. HOGAN: Thank you.

19 MR. WANTUCK: This is Rick Wantuck of National
20 Marine Fishery Service. I'd like to just add a little bit
21 on to this issue of what is the upstream scope of the
22 project.

23 We're asking the Commission to consider areas
24 upstream of project facilities because in the case of the
25 Yuba-Bear and Drum-Spaulding projects the constraints on

1 releases or the exports out of the basin that occur due to
2 that project affect the stream flows that come through this
3 project. And so we feel like the Commission should analyze
4 what is happening in the other parts of the watershed and
5 how they impact the opportunities for aquatic resource
6 restoration.

7 Now I also would like to address the issue of
8 downstream scope. Gary mentioned that the Federal District
9 Court judge recently decided that our Biological Opinion
10 with the Corps of Engineers was arbitrary and capricious and
11 we're in the process now of redoing that Biological Opinion
12 to comply with the court's decision.

13 In that decision the judge did mention that we
14 should be analyzing the scope of these projects down through
15 San Francisco Bay. That's a very large scope, but the point
16 here is that the Corps of Engineers exerts little control
17 over the management of the water resource of the Yuba River.
18 Largely it's controlled by Yuba County projects, releases
19 from Bullards Bar Dam. And then also, importantly, and
20 again this bears on scope, the large scale exports out of
21 the Basin and toward consumptive use that occur in the
22 Middle and South Yuba due to the Yuba-Bear and Drum-
23 Spaulding projects.

24 So all these interrelated project management
25 concerns need to be considered by the Federal Energy

1 Regulatory Commission when establishing the scope of this
2 project.

3 MR. JOHNSON: My name is -- is it on? Yes.
4 Brian Johnson. This is a good microphone, it doesn't make
5 it loud. And I'm with Trout Unlimited. And for those of
6 you who don't know us, we're a national cold water and
7 fisheries conservation group founded about 50 years by
8 anglers in Michigan and quickly adopted a motto of, if you
9 take care of the fish the fishing will take care of itself.
10 And so our focus is generally on river conservation in
11 places that have trout or salmon or steelhead, including the
12 Yuba River.

13 We are, we're also like a proud signatory of the
14 Yuba Accord for downstream flows in the Yuba River and I
15 think have a good relationship with the licensee and a lot
16 of agencies here and, you know, we're hoping for a good,
17 collaborative discussion on the project.

18 I have a few comments about study issues and
19 questions to be identified and answered in the studies. And
20 I think for our purposes, on aquatic resources at least, the
21 main questions we'll be looking at are stream flows,
22 quantity and timing, and rates of diversion at all of the
23 project tunnels and penstocks. Gravel and large woody
24 debris and also connectivity for the fish species.

25 And it's important to note that -- I think you'll

1 hear a lot today about salmon and steelhead, including from
2 me, but this is also an issue for resident rainbow trout and
3 other aquatic species.

4 And, you know, the question of upstream scope.
5 Even a resident rainbow trout left to its own devices would
6 probably move quite a bit under natural circumstances and
7 are currently either blocked or partially blocked by some of
8 the project facilities. And there's a question about the
9 health of those populations and whether downstream
10 connectivity and backup is worthwhile.

11 So we're focused on, you know, the reach above
12 and below Bullards Bar, above and below Log Cabin, above and
13 below Our House, through the bypass reach and the peaking
14 reach and downstream into the Lower Yuba River.

15 And on the connectivity question just to
16 illustrate a little bit. I think if you imagine a juvenile
17 fish coming out into the gravel in the, you know, call it
18 the Middle Yuba, it might naturally move downstream. It's
19 going to encounter either a screen or a tunnel and may or
20 may not die, but it's definitely a direct project, you know,
21 impacting question to be answered. It may make its way
22 eventually through the tunnels and into a penstock. For the
23 most part there is no way down the river and then through a
24 turbine. And some of them might survive but a lot of them
25 probably wouldn't. And that's a project impact. I think at

1 all the project powerhouses there's not a way for the fish
2 to get back upstream.

3 And so the downstream fish passage and
4 connectivity impact upstream, fish passage and connectivity
5 at all these facilities, I think needs to be understood. It
6 may or may not be a good idea but, you know, to evaluate the
7 effectiveness of it we need to understand what the
8 possibilities are. And that's true for whatever types of
9 salmonids we're talking about.

10 I do think that it's exceedingly likely that
11 during the term of the license there will be anadromous
12 fish, salmon and steelhead, up in these rivers. There's a
13 decent change it will happen before the license even gets
14 issued.

15 And there's also a question, which I think will
16 be contentious in the process, in the re-licensing, as to
17 whether that's just a foreseeable consequence that needs to
18 be understood or whether it's properly the subject of the
19 license. And so I'd like to talk about that for just a
20 second.

21 The argument against having it be considered in
22 the license is basically that, you know, as of now they're
23 downstream at the Narrows and the Corps owns Englebright Dam
24 and not the licensee, and that's the answer.

25 The contrary argument is a little bit more

1 complicated but I think it's not a lot more complicated.
2 Nobody's going to argue that the Corps should wait until the
3 licensee or that the license or any of the mandatory
4 conditions or prescriptions will direct the Corps to do
5 anything in particular. But the license and the mandatory
6 conditions do now and can in the future regulate the
7 licensee's rights and interests in the federal facility and
8 their use of the federal facility.

9 And at Englebright I think it's a particularly
10 interesting case because the project isn't actually operated
11 in any meaningful way by the Corps. The water doesn't move
12 through the dam at all. On days when it isn't spilling, so
13 most of the days and most of the years, the entire river is
14 routed through the penstocks and the turbines. And it's the
15 joint operations of YCWA and PG&E that regulate the lake
16 levels and control the flow of water through the reservoir.
17 The Corps has rules for flood storage but it's the licensees
18 who operate the flows. The Corps doesn't have water rights
19 there. And, you know, for all intents and purposes the
20 river is the penstock at that point.

21 It's interesting. One thing, and I'm about to
22 wrap up. But the state actually addressed this question of
23 responsibility at Englebright in the context of its --
24 YCWA's consumptive water rights. And the argument
25 essentially, as I understand it, was that the water agency

1 isn't responsible for any of the effects of the dam as
2 opposed to the project operations that it owns because of
3 the Corps.

4 And the State Water Board said no, this was and
5 is and always has been an integral part of your project.
6 It's a forebay for the Narrows, your intake would be up in
7 the air without it. It's an afterbay for New Colgate. You
8 wouldn't be able to operate New Colgate as a peaking reach
9 without it and therefore you're partially responsible. They
10 didn't say solely responsible but partially responsible for
11 what happens in Englebright.

12 And then I think that's the question that we have
13 here. And again, nobody's suggesting that the license or
14 the mandatory terms would direct the Corps to do anything in
15 particular, or would even direct the licensee to do
16 something and modify the Corps dam without the Corps'
17 permission.

18 But there are many cases where the license will
19 direct the licensee to use the facilities in a particular
20 way, or even go out and obtain other rights and interests
21 from the federal facilities or to improve the federal
22 facilities.

23 The current license actually does that. It
24 directed YCWA to secure a contract for water storage with
25 the Corps and easement from the Corps and so far couldn't

1 have said, we're directing the Corps to provide these
2 easements. But the license can say, if you are to operate
3 and accept the license you have to be able to do this.

4 And then this happens on conditions, too. People
5 will have a transmission line which gives rise to a whole
6 suite of responsibilities, flows, and things that aren't
7 affected by the transmission line for the benefit of the
8 federal facility.

9 And so I know this will be contested and will be
10 an issue in writing and may not be resolved for many, many
11 years but that's our view of it. And I think we're talking
12 about six different ways in which the fish passage at
13 Englebright could be part of a license, so --

14 MR. HOGAN: Just a follow-up question. You made
15 a statement that you thought that it's quite possible that
16 before the license was issued that fish may be reintroduced
17 to the upper reach. Are there any plans that are scheduled
18 to be implemented to do so?

19 MR. JOHNSON: You could ask the federal agencies.
20 I don't know that there's a schedule for an implementation
21 of that, but I know that there are conversations happening
22 right now, not all of them through, you know, regulatory
23 processes that could result in, you know, experimental or
24 test populations. We know in other watersheds that
25 biological opinions for projects like this have resulted in

1 mandatory terms for fish passage. So I don't think it's out
2 of the question at all.

3 MR. HOGAN: Rick, do you have any plans at this
4 time?

5 MR. SPRAGUE: this is Gary Sprague with the
6 National Marine Fishery Service. And at this time we're
7 working on the Biological Opinion for Englebright and
8 Daguerre Dams owned by the Corps of Engineers and it would
9 be pre-decisional to say anything along those lines. So we
10 really can't say where that's going at this point in time.

11 CHAIRPERSON MITCHNICK: Can you talk a little bit
12 about the schedule for the court case?

13 MR. SPRAGUE: February 22nd there will be a court
14 hearing. There are a number of issues being addressed there
15 including the time frame for the Biological Opinion. The
16 plaintiffs, if I recall correctly, have identified that they
17 would like the Biological Opinion to be issued April of
18 2010, and the National Marine Fishery Service has identified
19 June of 2012 as a time frame for that. The judge will be
20 making a decision regarding that issue.

21 MR. WANTUCK: Rick Wantuck, National Marine
22 Fishery Service.

23 While the Service has not pre-decided the
24 reintroduction of anadromous fish into the waters above
25 Englebright, the Commission should be aware that there are

1 many alternative forums happening and lots of communications
2 going on between agencies and stakeholders, also with Yuba
3 County Water Agency in particular.

4 In addition, PG&E and Nevada Irrigation District
5 are all participating in something that we call the Yuba
6 Salmon Forum, and this is designed to be a stakeholder forum
7 that can come together to address the issue of potential
8 reintroduction of anadromous fish into the upper watershed.

9 That forum began in January of 2010. The parties
10 have committed to an ongoing presence in that forum. We
11 have established a charter. We are working with other
12 stakeholders on establishing a work plan and a study plan
13 for the specific purpose of assessing the potential
14 reintroduction of anadromous fish.

15 In addition to that, National Marine Fishery
16 Service in order to help inform its regulatory decisions
17 that are coming in front of us, have contracted with
18 Stillwater Sciences, a Bay Area consulting firm, to do a
19 habitat assessment of the potential of reintroduction of
20 anadromous fish in waters above Englebright Dam. The
21 specific tool that Stillwater Sciences is using is called a
22 Ripple Model and this is a model that is nonproprietary. Its
23 intent is to identify habitat potential in the upper
24 watershed where if salmonids were reintroduced that they
25 could reproduce successfully and complete their life cycle.

1 So in summary, there are a lot of activities
2 going on already that have begun before this licensing
3 process that are tangible expressions of -- that
4 reintroduction of anadromous fish may occur in some parts of
5 this watershed. We're not here to say today that we know
6 exactly when and where that could occur, but the National
7 Marine Fishery Service is interested in the reintroduction
8 potential in all viable parts of the watershed because it is
9 consistent with our Central Valley Recovery Plan efforts.

10 MR. JOHNSON: I'm sorry, I had one other thing
11 that I was going to mention in response to your question
12 about the nexus upstream. I mentioned that there are fish
13 populations upstream that are blocked from downstream
14 passage by the project, but there's an assumption -- I don't
15 mean an assumption. There's a framework in the Public Power
16 Act for fish passage prescriptions, possibly to be put in
17 place for, you know, rainbow trout or anadromous fish.

18 I think everybody agrees that it would be legally
19 possible for there to be fish passage prescriptions for
20 resident fish that are there now above Our House or Log
21 Cabin or New Bullards Bar. Whether it's a good idea or not,
22 we don't know.

23 But one thing that happened in the permit
24 proceeding was that there was real resistance in the early
25 stages in the license to evaluate some of the upstream

1 habitat. And then there were prescriptions, and then there
2 was a trial-type hearing.

3 And a lot of the trial focused on, well how do
4 you know the habitat upstream is good enough to support the
5 fish? And I would suggest that we don't want to have --
6 that would be the problem here and that it is going to be
7 the problem here, and that's going to be the argument. We
8 all are going to be on record as having said that we asked
9 for it. Brian Johnson, Trout Unlimited.

10 MR. THOMPSON: Larry Thompson, National Marine
11 Fishery Service.

12 Ken, just to also add an answer to your question.
13 I'll refer everyone to Scoping Document 1, for Scoping
14 Document 1, Section 4.1.3, Temporal Scope, where you state
15 that: "Based on the potential term of a new license, the
16 temporal scope will look 30 to 50 years into the future." I
17 think that's at least a good partial answer to the question.
18 And you say you'll concentrate "on effects on resources from
19 reasonably foreseeable future actions."

20 I'll just refer you back to Gary Sprague's
21 comments earlier about conceptual recovery scenarios that
22 are in our draft Recovery Plan that have outlined actions to
23 reintroduce fish into the Upper Yuba.

24 MR. HOGAN: Thank you, Larry. My question was, a
25 gentleman made a statement that there may be an introduction

1 before the license is even issued so I was just trying to
2 get some clarification on that.

3 MR. ROTHERT: I'm Steve Rotherth with American
4 Rivers.

5 I would echo the comments that my colleague Brian
6 Johnson at Trout Unlimited has made previously about
7 geographic scope, and I would echo the comments that Larry
8 Thompson made about temporal scope.

9 I would like to suggest that the, that the
10 Scoping Document and the EIS in Section 4.2.2, Aquatic
11 Resources, that it needs to address the potential effects
12 of, or the effects of impediments to fish passage of
13 Englebright Dam.

14 Englebright Dam by definition is part of Yuba
15 County Water Agency's project. Section 3 of the Federal
16 Power Act defines, says that a license shall include all
17 works, rights, and interests necessary, use and useful for a
18 project, and Englebright clearly is. And there's no
19 specific carve out excluding federal projects from a license
20 in the Federal Power Act.

21 YCWA operates Englebright. The Corps does not
22 operate Englebright. YCWA has rights and interests in
23 Englebright and it has rights to store and divert water from
24 Englebright. It is clearly used and useful for the project
25 and should be included in the license for those reasons.

1 In addition, the State Water Resources Control
2 Board has identified the impact that Englebright has on
3 passage and has determined that YCWA is at least in part
4 responsible for that, and that effect remains unmitigated to
5 this day.

6 I appreciate Yuba County Water Agency's efforts
7 over the past many years to promote the health of the salmon
8 in the Lower Yuba through the Yuba water -- South Yuba or
9 the Lower Yuba Accord and other measures that they've taken.
10 But I have to, we have to clearly disagree with their
11 position that Englebright is not part of this project and
12 should not be addressed. We believe it does and we believe
13 as Brian said, there are a number of arguments to support
14 that in addition to case law. Thank you.

15 MR. SHUTES: Chris Shutes, California Sport
16 Fishing Protection Alliance. I'll try not to repeat what
17 others have said.

18 I'd like to start by noting that the PAD, Pre-
19 Application Document, doesn't recommend any studies of fish
20 passage, it recommends no studies of anadromous fish habitat
21 upstream of Englebright Dam and it doesn't recommend any
22 studies for migration for anadromous or other fish upstream
23 of Englebright Dam. We think all of these should be
24 addressed.

25 In the PAD and in other relicensing literature,

1 and even in the presentation this afternoon the licensee,
2 and this is something also done by its consultant,
3 invariably refer to Englebright Dam and Englebright
4 Reservoir as USACE Englebright Dam and USACE Englebright
5 Reservoir. This crude, verbal manipulation has a constant
6 message. This facility and the fish past it is someone
7 else's problem.

8 So we recommend that Commission change the
9 terminology in SD-2 and throughout the licensing process.
10 We recommend the Commission refer to Englebright Reservoir
11 according to its use and the operation of the Yuba River
12 Hydroelectric Project. And that therefore they refer to
13 this reservoir as Englebright Afterbay and Forebay. Because
14 that's what it is in the project, it's an afterbay to
15 Colgate Powerhouse and it's a forebay to Narrows number 2
16 powerhouse. As others have said, it's operated by the
17 licensee. Englebright should be listed as a project work in
18 SD-2. Its function in the operation of the project as
19 forebay and afterbay should also be described in SD-2.

20 As a project alternative, the Commission should
21 include fish passage, volitional or human-assisted, upstream
22 and downstream past Englebright Dam and Englebright
23 Reservoir. The alternative should evaluate passage into the
24 three forks of the Yuba and the potential for use of each of
25 the three forks and tributaries as appropriate for spawning,

1 incubation, rearing, and out-migration of anadromous fish.

2 The Commission should require a fish passage
3 study for passage past Englebright Dam and Reservoir, a
4 passage study for passage past Our House Dam, and a passage
5 study for passage past New Bullards Bar Dam and Reservoir.

6 The Commission should require a study of fish
7 migration from Englebright Dam to prospective anadromous
8 fish habitat in each of the three forks of the Yuba and also
9 including a study of the flow barriers and the physical
10 barriers. And it should also study going downstream as well
11 as upstream.

12 In terms of geographic scope, I agree with the
13 basic designations upstream on the Middle Yuba, specifically
14 at river mile 34.4, and at the South Yuba at river mile
15 35.4. I'm not familiar with the upstream fish barrier,
16 complete barrier is on the North Yuba above Bullards, but
17 whatever that is we would recommend that.

18 In terms of other studies, the Commission should
19 require a study of the outlet works at Our House, Log Cabin,
20 and Bullards, and also of the diversion works.

21 More generally, in comments filed Monday on the
22 Yuba-Bear and Drum-Spaulding Draft License Applications,
23 YCWA commented that licensees in those projects had not
24 evaluated the cumulative impacts on resources controlled by
25 the YCWA project.

1 Well, fair is fair and YCWA should have to study
2 the cumulative impacts of its own project on the projects
3 upstream and other resources in the reaches of the South
4 Yuba and Middle Yuba controlled by those other projects. We
5 know that everyone's in a big hurry to evaluate cumulative
6 impacts if it means someone else will need to mitigate them.

7 The licensee in this proceeding has tried to
8 divide up the watershed in order to look at fish passage
9 responsibilities. At least that's what done in the PAD.
10 This is a strategy that's been deployed throughout the
11 valley by the licensee's consultant. It's the opposite of
12 comprehensive planning and we think it's time for a new
13 paradigm.

14 It's time that the section 10(A) of the Federal
15 Power Act be changed and not simply relegated in EISes to
16 being the standard that's usually and routinely used to tell
17 Section 10(J) agencies that their proposed mitigations are
18 too expensive. It's time to put comprehensive and planning
19 back into comprehensive planning, and we think scoping here
20 is a great place to start. Ask what the facility does for
21 the project.

22 We're better off with all the interests on the
23 table and information gathering that addresses the
24 interests, than going through four years of jockeying to
25 shut out the interests that people don't want to get into.

1 Since the licensee has taken the position that it won't
2 address fish passage unless the Commission tells it to, the
3 Commission should step in and step up and put this
4 proceeding on a footing that in the end we'll all be proud
5 of. Thanks.

6 CHAIRPERSON MITCHNICK: Any other --

7 MR. FELDE: Can I speak into this?

8 MS. MURRAY: No, the one you're holding, that
9 one. Yeah, speak into that one.

10 MR. FELDE: Can you hear me all right? My name
11 is John Felde and I'm the Chairman of the Conservation
12 Committee of the Gold Country Fly Fishers. The club is
13 located in Nevada County and it consists of approximately
14 170 members and the Lower Yuba River is our home waters.

15 I want to thank you for this opportunity to
16 express our interests and concerns in this process. We have
17 a number of items which are important to bring to your
18 attention of the Commission and encourage you to consider in
19 future decisions.

20 Number one, the maintenance and improvement of
21 salmon spawning habitat for the various runs of the Chinook
22 salmon.

23 Number two, the maintenance and improvement of
24 steelhead spawning habitat.

25 Number three, the maintenance and enhancement of

1 the rainbow trout habitat.

2 Number four, sufficient water flows in the river
3 to ensure healthy conditions for all species throughout the
4 year.

5 And number five and perhaps most important,
6 ensure free public access to the river including walk and
7 wade access, launching of drift boats and other suitable
8 non-motorized watercraft.

9 Basically the club supports restoration and
10 rehabilitation efforts including barrier removals that will
11 result in furthering the above-mentioned concerns.

12 And I would like to submit these as written
13 comments as well.

14 MR. THOMPSON: Thank you. Ken, we sort of jumped
15 off here on your slide on aquatic resources and I believe
16 that was because Gary Sprague wanted to point out the ESA
17 and MSA resources that are aquatic resources that NMFS is
18 concerned with.

19 I notice in the organization of the Scoping
20 Document 1, a bit of confusion, and that's that threatened
21 or endangered species are handled separately. And I'm
22 confused a bit with the difference between threatened or
23 endangered species and special status species, which
24 sometimes when I think of special status species I think of
25 U.S. Forest Service designations of certain resources.

1 I guess my question is why can't we have a more
2 consolidated view of aquatic resources and have it include
3 aquatic threatened or endangered species and other
4 anadromous resources? I want to point out that NMFS-NOAA
5 sees a lot more connection here between all aquatic
6 resources and salmon. We refer to these, the value of
7 salmon to the function of aquatic ecosystems as their,
8 quote, ecosystems services, unquote.

9 We'll point out that the annual returns of
10 anadromous fishes to inland fresh waters provide a pulse of
11 food and nutrients that is lost when they are prevented from
12 returning to those waters or return in lower numbers. And
13 the loss of this food and nutrients has negative effects on
14 inland waters at the very base of the aquatic food chain or
15 web. So we don't see, we don't see the value in separating
16 out threatened or endangered species salmon from aquatic
17 resources.

18 And many of the issues that have been identified
19 under aquatic resources affect salmon such as water
20 temperature, sediment regimes, flow patterns, large wood
21 supply and transport, and many others, so fish entrainment,
22 fish passage. So to the extent that we could consolidate
23 this so that we could, at this issue identification stage,
24 more easily identify the issues, I think that would be
25 helpful.

1 And to look forward in the ESA consultation what
2 we're going to be looking for down the line is a Biological
3 Assessment. And that assessment has to assess the effects
4 of the action, which is the licensing, and assess the
5 effects of all interrelated and interdependent actions,
6 which go quite beyond the licensing action. And we're going
7 to look for that and we're going to look for a consolidated,
8 cohesive analysis, and then determination of effect. And
9 when we start here identifying issues in a very incoherent,
10 separated way, we don't see it coming together later.

11 MR. SPRAGUE: Larry, say who you are.

12 MR. THOMPSON: I didn't? Larry Thompson,
13 National Marine Fishery Service. Sorry.

14 MR. HOGAN: Larry, thank you. We certainly
15 intend to try to provide a cohesive analysis for our
16 Biological Assessment that will support a Biological Opinion
17 so your comments are greatly appreciated.

18 MS. MULDER: Cheryl Mulder, U.S. Forest Service.
19 We want thank you all for making the trip all the way out
20 here and having patience with us on this trip. I'm going to
21 make a statement one time and it's going to apply to all of
22 the resources basically that you are addressing today.

23 The project, as Beth pointed out, and thank you,
24 Geoff for letting me know I attended 30 meetings in the last
25 year. This project does straddle two national forests, both

1 the Plumas National Forest and the Tahoe National Forest.
2 Chiefly forest boundaries are actually fairly limited on
3 this project. The forest boundary ends at the New Bullards
4 Bar Dam and then also encompasses Oregon Creek and part of
5 the Middle fork.

6 Of course, all forest resources need -- are
7 potentially affected -- that are within this area are
8 potentially affected by the project. The scope depends on
9 the species or the resource that we're looking at and what
10 they're habits are and what their needs are. Connectivity,
11 migration.

12 We will be presenting all of our concerns and
13 issues in writing in a response and also review of the PAD
14 and additional study requests. As far as the aquatic
15 resources I would jut mention that we are interested in the
16 diversity of the aquatic resources, all fish species
17 including, of course, those sensitive species and forest
18 sensitive species, red-tailed yellow-legged frog, in
19 addition to fish, aquatic invertebrate, mollusks, et cetera.

20 So we will be commenting on those studies in
21 writing and filing that in a timely fashion.

22 MR. HICKS: Thank you. Roger Hicks from -- I'm
23 on the Board of Directors of SYRCL.

24 And as far as the aquatic resources and the
25 negative impact that this project has on these resources.

1 The most high profile thing is the anadromous fish.

2 I would urge the Commission to consider the
3 concurrent Drum-Spaulding re-licensing and to somehow have a
4 coordinated licensing process. Because as has been
5 mentioned, diversion upstream through the Drum-Spaulding
6 project has a major impact on the inflow into this project
7 and to the habitat downstream. And it is, after all, the
8 same watersheds, the Yuba watershed.

9 Now I'm not a professional resource manager and I
10 don't work for an environmental group, I'm a doctor. But I
11 know that it would be like working on someone's kidneys to
12 save them and then they die of heart failure because, you
13 know, you weren't paying attention to that part. So it's
14 probably unprecedented but I think there should be a
15 coordinated relicensing project between this one and Drum-
16 Spaulding. Thank you.

17 MR. HOGAN: Okay, I think we'll probably take one
18 more comment and then we'll have to move on. If we get time
19 we'll come back to it.

20 MS. LEIMBACH: My name's Julie Leimbach; I'm with
21 the Foothills Water Network. And the Network includes a
22 number of conservation and recreation and geos including
23 California Sportfishing Protection Alliance, Trout
24 Unlimited, American Whitewater, South Yuba River Citizens
25 League, Northern California Federation of Fly Fishermen,

1 Sierra Club, Save American Salmon and Steelhead, Dry Creek
2 Conservancy, and Save Sierra Salmon.

3 We've commented and are participating in -- and
4 American Rivers; I always miss one.

5 We are commenting and participating in the Yuba-
6 Bear, Drum-Spaulding re-licensing and will obviously be
7 participating here.

8 I just wanted to add a few things. Some of my
9 members aren't here and I wanted to cover some issues that
10 they would normally include. In particular, the study
11 should include a Hydrologic Alteration Study which should
12 address project impacts that negatively affect spring
13 snowmelt flows. The project creates precipitous declines in
14 flows during the spring snowmelt period when under
15 unimpaired conditions there would normally be a long
16 descending limb reflecting the snow melting. And according
17 to Sarah Yarnell's recent papers, this slowly descending
18 limb of the snowmelt hydrograph is very important for many
19 aquatic biota including trout spawning and foothill yellow
20 legged frogs.

21 In relation to this Hydrologic Alteration Study
22 the project should also study the existing outlet works and
23 options for modifications of them that would enable the
24 project to meet new in-stream flows or recreate that
25 snowmelt recession limb that I just spoke of. Some of the

1 outlet works may not be able to release that refined or the
2 desired timing of flows that we would be looking for.

3 One example question that could be addressed in
4 this study is why the Lohman Tunnel slide gate cannot
5 regulate flow and options for improving it so that it can.
6 The study should also consider options such as the solution
7 -- options such as the full head gate on wheels or on
8 rollers. Those are very specific but I wanted to cite some
9 examples of the kinds of answers we'll be looking for to
10 inform license conditions.

11 In addition, studies should address YCWA's
12 hydropower project's relationships to water supply. Water
13 supply in some cases drives how YCWA is operating its
14 project and FERC in the past, I think, has said that water
15 supply is not under its jurisdiction. However, if these
16 water supply demands and contracts are actually dominating
17 and deriving how the hydropower project is being operated,
18 then they should be understood so that we can understand --
19 so that they can inform license conditions in the future.

20 We're in the position now in Yuba-Bear/Drum-
21 Spaulding re-licensing in which we have not studied the
22 relationship between those water supply demands and the
23 hydropower project. And there is a huge information gap
24 there and it is at the center of the debate and discussions
25 on the Yuba-Bear/Drum-Spaulding project and we lack the

1 study for it.

2 So I'd rather not be in that position on this
3 project. It's my understanding that the hydrologic model
4 for this project in part was chosen because of those water
5 supply contracts driving the hydropower operations. And so
6 I think that we should take that into consideration,
7 understand that as the dominant that water supply plays in
8 these hydropower operations.

9 The other study element we should consider is the
10 large exports from the Upper Yuba River watershed. Other
11 people have touched on it but obviously the Yuba-Bear and
12 Drum-Spaulding projects export a significant amount of water
13 from the Yuba watersheds. Together it is a combined 400,000
14 acre-feet per year on average from the Middle and South Yuba
15 watersheds.

16 NID's Yuba-Bear project alone diverts an average
17 of 60,000 acre foot per year from the Middle Yuba. And the
18 reason why this is particularly important is because YCWA
19 can only manage the water that they receive, right? And the
20 management of flows in the Lower Yuba River is based on
21 actual, not unimpaired inflow to Yuba County Water Agency's
22 New Bullards Bar Reservoir.

23 By reducing that inflow by an average of over
24 60,000 acre feet per year, the NID Yuba-Bear Project at a
25 minimum directly affects the amount of water that is

1 available to YCWA to meet its in-stream flow releases below
2 Englebright Reservoir for anadromous fish.

3 And let's see, there's one more piece. The
4 studies above Englebright that relate to the reintroduction
5 of salmon anadromous fish should include Chinook salmon and
6 steelhead as target species, and that includes in-stream
7 flow, geomorphology and riparian studies. It could include
8 more based on NMFS' comments. Thank you.

9 CHAIRPERSON MITCHNICK: Okay. We're going to --
10 no, well, okay. I thought people might need a break. But
11 if you want to --

12 (Several people speaking at once.)

13 SPEAKER: Will there be time for more comments
14 after the break?

15 CHAIRPERSON MITCHNICK: Oh yes, yeah. Let's, I
16 just want to say a few things. All your comments dealing
17 with Section 7, Consultation, are very important. We don't
18 want a train wreck at the end of this process. But a lot of
19 the things that you brought up I'm sure are going to make
20 people at the Commission very nervous in terms of going all
21 the way down to the, to the Bay in terms of the scope, the
22 definition of interdependent, interrelated effects and all
23 those types of things. So I guess I just ask in your
24 comments to provide, you know, real clear, you know,
25 justification for why you believe those types of things need

1 to be part of this consultation.

2 And I know there's been some discussions about
3 sort of having, you know, some improved communications
4 between National Marine Fisheries and FERC to try to work
5 out some of these issues early in the process, and I
6 certainly would encourage that with the participation of the
7 licensee. See if we could work out some of these issues,
8 you know. They're going to be difficult but, you know, the
9 more we talk about these things perhaps the better we can
10 get through these issues.

11 You've been sitting for an hour 45 minutes.
12 Let's take a 10 minute break, not a 15 minute break or a 20
13 minute break. A 10 minute break. And we'll continue with a
14 few more comments on aquatic but then we've got to move on
15 to the other resource issues.

16 (Off the record at 2:43 p.m.)

17 (On the record at 2:57 p.m.)

18 CHAIRPERSON MITCHNICK: First of all I'm glad
19 this is going to be one of those easy relicenses I keep
20 dreaming about.

21 (Laughter.)

22 We'll wrap up the aquatic. There's a few people
23 who had comments. Maybe if you raise your hand on who --
24 one, two, three, four, five. Okay, we're going to move on.
25 I'll give everybody two minutes and then we'll move on to

1 the next resource so please be brief.

2 MR. REEDY: Yes, hello. My name is Gary Reedy.
3 I'm the River Science Director at the South Yuba River
4 Citizens League. I'm also a Fisheries Biologist and I've
5 been working on the salmon steelhead population for the last
6 20 years.

7 Let me mention that the mission of the
8 organization, SYRCL, as it's referred to, is to protect and
9 restore the Yuba River and the greater Yuba watershed. And
10 we have lots of members and I think there will be more here
11 tonight because we're a large organization and we're the
12 only organization that's looking at the entire Yuba
13 watershed.

14 The point that we need a more comprehensive
15 approach in the Yuba watershed is one that's very important
16 to us and it's been made with regard to the Yuba-Bear/Drum-
17 Spaulding project and the substantial diversion. You know,
18 more than 60 percent of all the water from down the south
19 Yuba at any one time is not available to the Lower Yuba
20 River or the Yuba reservoir. So that comprehensive nature
21 of the watershed is very clear to us.

22 But not just here to me as a Fisheries Biologist
23 working on salmon and steelhead, but to our whole
24 organization because of the importance of the salmon and
25 steelhead to aquatic environments and watersheds in general.

1

2 I just wanted to take a moment to say how much I
3 appreciate the fishery scientists from the National Marine
4 Fisheries Service's comments here today as well as many of
5 the comments made by my conservation colleagues. We support
6 all of those comments as our organization and I think it's -
7 - well, I am grateful to find myself in this watershed that
8 seems to have a national significance with regard to salmon
9 and steelhead restoration. That's my interpretation of the
10 comments that the National Marine Fishery Service is making
11 that, if I understood what you had to say, are very
12 challenging for the Federal Energy Regulatory Commission
13 with regard to the relicensing of this particular project.

14 So we see that Englebright Dam is certainly
15 useful and a critical part of the project undergoing
16 relicensing and also request that a fish passage study is
17 included in this project evaluation.

18 And I wanted to make comments with regard to the
19 reasonable and foreseeable aspects of salmon and steelhead
20 into the upper watershed above Englebright Dam. That was
21 spoken about before but there are several points that were
22 not made so this will just take a minute, bear with me.

23 It is reasonable and foreseeable to see salmon
24 and steelhead above Englebright Dam very soon. Let me just
25 chronologically go through some rationale, some things that

1 are happening or have happened.

2 By the way, SYRCL is participating in the Yuba
3 Salmon forum as are many, many other organizations involved
4 in this watershed or with the salmon and steelhead in
5 California.

6 The Upper Yuba Studies Program was funded by the
7 CalFed Program back in 1999 to the tune of \$9 million. So
8 somebody thought it was reasonable to invest largely in the
9 examination of the salmon and steelhead and the
10 reintroduction possibilities in the Upper Yuba watershed
11 back in 1999. And one of the -- at that time critical
12 habitat was being designated for the recently listed spring
13 run Chinook Salmon population of the Central Valley. And
14 the critical habitat designation the National Marine Fishery
15 Service provided referred to the Upper Yuba Studies Program
16 and said, pending the results of those studies, we'll list
17 the Upper Yuba watershed as critical habitat in addition to
18 the Lower Yuba. Well the studies found data supporting the
19 existing habitat of the Middle Yuba River would support what
20 would be right now the third or fourth largest existing
21 spring run Chinook salmon population in the Central Valley.

22 And that's exactly what -- why it's so reasonable
23 and foreseeable, what the recovery team scientists for
24 National Marine Fishery Service were coming out in their
25 suggestions that it's absolutely necessary to restore salmon

1 and steelhead above existing dams into restored habitats to
2 reduce their risk of extinction.

3 So those recovery planning documents came out
4 subsequent to the Upper Yuba River Studies Program and the
5 Linle, et al. document that really pointed to the need for
6 reintroducing to restore habitats and even use Englebright
7 Dam as the single reference for example. And then, of
8 course, there's the draft Recovery Plan the National Marine
9 Fishery Service produced last year that shows the scenarios
10 of reintroduction of the Yuba as part of a recovery plan.

11 And lastly National Marine Fishery Service's
12 Biological Opinion for the Central Valley project includes
13 other fish passage on large dams as possibilities. And then
14 there's the Biological Opinion for Englebright Dam and,
15 according to the judge's ruling, to include fish passage.

16 So those are the list of reasons, real quickly,
17 that it's entirely reasonable and foreseeable that salmon
18 and steelhead will be -- Or some very detailed plans for how
19 they could be will be available around the same time frame
20 as this license.

21 I wanted to make one more point. It hasn't been
22 made yet today. It's on the scale of issues, something you
23 might want to be aware of. SYRCL is a signatory to the Yuba
24 Accord II as is Trout Unlimited. And we have the privilege
25 of working closely with the county water agency and others

1 on a variety of studies that you'll see the results of as we
2 evaluate the conditions of the Lower Yuba River for this
3 project's license.

4 And I don't have any comments about that because
5 it's a good process and I really enjoy working with Yuba
6 County Water Agency on studying the Lower Yuba. But there
7 is a very unique situation on the Lower Yuba River in that
8 this river was so drastically altered by gold mining
9 activities beginning in the 1850s. Hydraulic mining debris
10 on a scale of hundreds and hundreds of millions of cubic
11 yards, and then dredging mining activity that not only
12 basically diked the river off between these training walls
13 for most of its length but changed the whole substrate
14 that's available to the river, resulting in Daguerre Point
15 Dam.

16 The point is that to evaluate projects effects,
17 hydrologic effects mostly, in the Lower Yuba River is, has
18 some unique challenges given the alteration of that
19 environment. This is a comment, it's just about
20 geomorphology. So I'm simply calling out the issue that
21 it's very difficult to assess or evaluate project effects if
22 we're not allowed to look at other effects too and to sort
23 out multiple effects on a physical environment, such as the
24 riparian condition on the Lower Yuba River.

25 So I think you'll see this playing out in terms

1 of some of the study plans for the Lower Yuba River and I
2 just wanted you to be aware of that really difficult
3 situation and isolate hydrologic effects or particular
4 project effects. But hopefully, the good collaboration has
5 already started and we'll be able to do that in the time
6 frame. Those were all my comments, thank you.

7 CHAIRPERSON MITCHNICK: Thanks.

8 MR. COPREN: My name is Bill Copren and I'm a
9 member of the Feather River chapter of Trout Unlimited and
10 I'll be much shorter. The Feather River chapter of Trout
11 Unlimited, the southern boundary is San Juan Ridge and so
12 the Middle fork and the North fork are both included in our
13 area of concern. The Middle fork and the North fork of the
14 Yuba River, all forks of the Feather River are our concern
15 also.

16 I was born and raised in Sierra County and have
17 always -- so I know something about the Middle fork and the
18 North fork of the Yuba River. And our principal concern
19 was, of course, fish passage. So I'm really pleased to see
20 that everybody else is concerned about fish passage because
21 we would really like to see salmon in Salmon Creek. We
22 would really like to see that.

23 And as to barriers -- and I'm not sure where the
24 -- the National Marine Fisheries -- on the North Yuba River
25 there are no barriers, fish barriers, period, above New

1 Bullards. You can get to the top of the Yuba Pass. You can
2 almost get into the Great Basin on the Yuba River. There
3 are no barriers. Once you get past New Bullards that whole
4 area is open. They talked about the mile post, mile 50. I
5 don't know what that means.

6 MR. THOMPSON: It's above Salmon Creek.

7 MR. COPREN: Well you can get up above Salmon
8 Creek, there's no barriers there.

9 The other thing is, is one item that I didn't
10 know that -- I'm sure you all know about it but
11 unfortunately Fish and Game planted trout in the Middle fork
12 of the Feather River's watershed. They now exist as a
13 managed specie in Mackrin (phonetic) Creek and Austin
14 Meadows, in the tributaries to the Middle fork of the Yuba
15 River. And Trout Unlimited's conservation, LCT Conservation
16 Program, considers that population an important conservation
17 population. It's outside of its natural -- most of it is
18 outside of where they're supposed be -- but that one's
19 outside of its Great Basin location and its home waters but
20 they are still concerned that that fish be watched because
21 it is a population, a self-sustaining population in the
22 Middle fork of the Yuba River. And I didn't know if you
23 guys know that but I suppose you do.

24 MR. WANTUCK: Well, in response -- this is Ray
25 Wantuck of the National Marine Fisheries Service.

1 With respect to National Marine Fisheries
2 Service's interest in the Upper North Yuba, we are actively
3 assessing that habitat for a potential reintroduction of
4 spring run Chinook and steelhead. Some of the parties in
5 this room are also talking with us about such a
6 reintroduction.

7 I think that while we have the microphone here
8 we'd like to address the aquatic resources list and suggest
9 to the Commission adding fall and late fall Chinook salmon
10 as an aquatic resource not listed as a rare or threatened,
11 endangered species. Although this species is not listed it
12 has been petitioned for listing in the past, it remains a
13 species of concern.

14 Chinook salmon in the Central Valley make up a
15 \$400 million per year commercial fishing industry. And I
16 don't know the exact amount for the sport fishing industry,
17 but I think it would be on that order. And currently we are
18 at historic low abundances of Chinook salmon in the Central
19 Valley, so these species must be addressed.

20 Secondly, when we get to threatened and
21 endangered threatened species I'd like to add and include
22 green sturgeon to that list. Also the Commission should be
23 aware that when a species is listed as threatened it means,
24 in the federal parlance, that it is likely to become an
25 endangered species in the foreseeable future unless actions

1 are taken to reverse that trend. So this is a serious
2 status of these species.

3 And then finally, with respect to the Magnuson-
4 Stevens Fisheries Conservation Management Act. The Act
5 passed in 1997 authorized the identification of essential
6 fish habitat, a term that is used under that Act. This is a
7 special designation that is applied through the commercial
8 species, Chinook salmon in this case. Unlike many of the
9 other hydropower licensing projects that we see in the
10 valley, essential fish habitat is designated above
11 Englebright Dam. And so all these things need to be
12 accounted for in terms of how you classify and examine the
13 impacts of a project on aquatic resources.

14 Anything else?

15 (Several people speaking at once.)

16 MR. PARKS: Jeff Parks with the State Water
17 Board.

18 I just want to bring up another one of those
19 subjects that makes FERC itchy. We wear many different hats
20 in this process. Besides our Clean Water Act authority we
21 also, you know, uphold our basin plan and deal with water
22 rights. And the issue of water rights is something that I
23 think is not always well captured in the scoping and in the
24 NEPA process. And I know it's partly out of necessity as
25 the water rights, the California water rights process is

1 parallel but separate from the FERC process. Yet it often
2 comes to a point where it's just as the consumable water,
3 you know, the municipal water aspects and agricultural water
4 aspects of these projects, even though they are outside the
5 FERC process they are unfortunately tied to this water
6 system.

7 So I just kind of wanted to state that, you know,
8 I think that's something that's usually missing from the
9 scoping and the NEPA. But also offer if FERC needs help or
10 wants some discussion on the best way to address that or
11 phrase it or include that in the overall aquatics analysis
12 that the Water Board is willing to talk about that and help.
13 And I think that would help characterize the whole water
14 system as a whole, better.

15 CHAIRPERSON MITCHNICK: Okay. We'll move on to
16 the other resources and if there's time at the end we can
17 get back to the resources that perhaps you missed the first
18 time around.

19 So we will move to my favorite resource area,
20 hopefully yours, terrestrial resources. The impacts that
21 we've identified so far basically deal with the effects of
22 operation and maintenance of a project on special status
23 wildlife species. And here are some of them, some of the
24 ones that have been identified so far in terms of wildlife
25 species, also a special status and state list of plant

1 species.

2 And just to clarify Larry's question, special
3 status is sort of just a term we use for species that
4 certainly aren't federally listed but sometimes we separate
5 out state listed species from special status species, but we
6 don't use it consistently. But in this case special status
7 primarily would be Forest Service sensitive species.

8 Identify the issue of effect of the project on
9 migratory deer habitat, winter habitat and migratory
10 corridors; the effect of project operation and maintenance
11 on the spread of noxious weed species; and the effect of
12 project operation, reservoir fluctuation, in-stream flows on
13 wetland habitat and meadow habitat and riparian habitat.

14 So are there any questions on terrestrial
15 resources or additional issues?

16 MR. COPREN: Again my name is Bill Copren and
17 this time I'm wearing the hat of Sierra County Historical
18 Society.

19 We are presently managing a population of
20 Townsend's big-eared bats, which are a species of concern on
21 the North Yuba River and are important to the very -- their
22 principal food is a moth that attacks the black oak. They
23 happen to live in our park in the Kentucky Mine mill, stamp
24 mill, and so we've now manage them but they're right on the
25 North Yuba so they may be a concern of yours.

1 CHAIRPERSON MITCHNICK: Any other comments,
2 resources? Then we'll move on to T&E. And we're not going
3 to get another chance here to talk about Chinook and
4 steelhead but we will talk about, we'll talk about, talk
5 about the terrestrial species that have been identified so
6 far. And they're the relatively standard species that we
7 see on most hydro projects in the Central Valley.

8 The effect of the project, maintenance activities
9 on the Valley Elderberry Longhorn Beetle, effect of
10 operation on the California Red-Legged Frog. Potential
11 effects of probably operation and maintenance on plant
12 species. Four have been identified as potentially occurring
13 within the project area, also some vernal pool species.

14 And as with the National Marine Fisheries, we
15 will have to consult with the U.S. Fish and Wildlife Service
16 on these species. And nobody from Fish and Wildlife Service
17 is here today but we would also like to have communications
18 with them to try to make sure that the Biological Assessment
19 that we ultimately provide to them would meet their
20 requirements.

21 So are there any comments on endangered plants
22 and wildlife species?

23 Okay. So let's move on to recreation.

24 MS. MURRAY: In the Scoping Documents some of the
25 issues we identified were public access to project waters

1 and existing rec opportunities and future rec opportunities
2 within the project area. We also identified water levels at
3 project reservoirs and how they affect recreation; for
4 example, angling or boating, of course flow-dependent
5 recreation opportunities and then the adequacy of the
6 existing facilities at the project in terms of recreation.

7 So do we have any comments?

8 MR. DICKARD: I'm Richard Dickard with the
9 Camptonville Community Service District. We are the local
10 government agency whose sphere of influence includes
11 approximately half of New Bullards Bar Dam in the east side.

12 The effect of this project on the Camptonville
13 Community Service District raises two main issues that are
14 of concern to us, and this is in reference to this section.

15 First we would like to request that both local
16 and visitor surveys, plus local town hall meetings, be held
17 on the effects of this project's facilities and operations
18 on recreation and, though it's not included yet, local
19 socioeconomic issues.

20 Second one is the visitors to this project create
21 increased fire hazards, medical emergencies, hazardous
22 materials incidents, increased traffic and trash, all of
23 which negatively impact the Camptonville Community Service
24 District and which need to be mitigated. And I will add
25 that these issues may be mitigated outside of this FERC ILP.

1 That's our comment. Wendy.

2 MS. TINNEL: My name is Wendy Tinnel. I sit on
3 the Camptonville Community Service District Board and I also
4 work for Camptonville Community Partnership.

5 And I just wanted to make, you know -- I agree
6 with everything Dick said. And I just wanted to make one
7 other comment about some concerns of public access to the
8 project and the surrounding areas. In that there -- I'm not
9 really sure where it fits in but the town hall meetings
10 would be very nice to have so we can get some of the public
11 input which that is kind of lacking, I guess.

12 MS. LEBLANC: Hi, my name is Cathy LeBlanc with
13 Camptonville Community Partnership.

14 You know, I've followed these meetings or tried
15 to follow these meetings since, gosh -- How long has this
16 been going on? Quite a while. Trying to find the spot
17 where the community voice can really be heard is a little
18 bit difficult. At the beginning of this process we were
19 told that they were going to have town hall meetings and the
20 community can have their input.

21 I write for the local newspaper, the Camptonville
22 Courier. I let folks know that this was happening but we
23 haven't really heard about it. So I think it's very
24 important that the community has an opportunity to be
25 involved, on the issues of access and recreation especially.

1 There was a community member who addressed the access issues
2 of the disabled. There's, you know, some concern around
3 that.

4 There's also access issues -- the lake is a
5 primary recreation resource for the people that live there.
6 We go there, let's see, sometimes more than once a day. We
7 use the facilities on the off hours because it's used
8 frequently, you know, on the weekends by tourists and, you
9 know, we try to stay out of that general time. But, you
10 know, when we want to use the lake even in the off seasons,
11 you know, the boat ramps are pulled up or the, or the
12 facilities have gates across them and they're closed. So
13 our access is really being deterred, you know, from using
14 our backyard. You know, Bullards really is our backyard.

15 So, like I said, it's a little bit difficult to
16 find the spot to have our voices heard. I'm not sure if
17 this is even, you know, the correct place, you know, that it
18 goes. One of the things that -- one of the other things
19 that we asked for when we put in our straw man study
20 proposals in our PAD was a socioeconomic study of the area.
21 Because when Bullards was first put in in 1967 the community
22 in Camptonville did a History of Camptonville. I'll submit
23 this for you. Folks really expected a boom, you know, in
24 the area. They expected an economic boom, they expected to
25 be able to connect to the lake. Currently there's one

1 concessionaire on the lake and they have the sole
2 proprietorship to the lake. You know, not that we
3 necessarily want proprietorship but we really do want access
4 to the people who come to the lake as far as a socioeconomic
5 standpoint.

6 So, like I said, the community wants to be heard.
7 If we can have a town hall or we can have our voice heard in
8 other ways that would be great. Thank you.

9 CHAIRPERSON MITCHNICK: All right. Would the
10 Applicant want to address the issue of a town hall meeting
11 with the local community?

12 MR. LYNCH: Yes, we would be -- this is Jim
13 Lynch. We'd be happy to have a town hall meeting up there
14 as part of this process. Not as part of a study proposal;
15 that still is in development. So if we can work out a time
16 to come up there and meet with people we'd be happy to.

17 MS. LEBLANC: Thank you, thank you very much.

18 MR. LYNCH: Sure. We'll talk directly with you.

19 MR. RIMELLA: Frank Rimella, NorCal Federation of
20 Fly Fishers.

21 Our user group, the fly fishermen and the
22 boaters, are probably the largest user group for the Lower
23 Yuba River. We are on that river almost 365 days a year and
24 our concerns is flows and flow metering.

25 Currently we have one meter just below

1 Englebright and it gives us a -- what's coming out of
2 Englebright. What it doesn't show is the other flow meter
3 at Deer Creek. Deer Creek can sometimes run a thousand to
4 five thousand in the winter, cfs. And what we need, what
5 we'd like to see is a flow meter that was below the Narrows
6 between that and Arch Bar Bridge, in the recreational area
7 of the river that would give us a combination of both of the
8 flows. So someone could go down there, knowing before they
9 get into the water what the actual flow is.

10 Right now most people are unaware that there are
11 two flow meters that it takes to get the flow in the
12 recreational area. You may pull up a flow meter that says
13 what's coming out of Englebright, which may say it's 3,000
14 cfs, but what you don't know is overnight Deer Creek went up
15 to 5,000. So you go down to the river and all of a sudden
16 in the area that has the public access it's 8,000 cfs, which
17 is extremely dangerous. It's a Class IV.

18 The river can go from a Class I to a Class III or
19 IV in the wintertime. And it's just something, it's a tool
20 for us as the users of the river that we would really
21 appreciate having.

22 Thank you.

23 MR. SHUTES: Chris Shutes, CSPA.

24 Just to expand on what Frank said a little bit.
25 Flow information is really important and I'm not sure it's

1 captured in the resources that are mentioned. And this goes
2 to gauging as well as real time availability of the
3 information and some kind of public access to operations
4 that are planned or foreseen over the next whatever a
5 reasonable time period is, weeks or even months.

6 Recognizing that, of course, it is not always
7 possible to know what's going to happen and how much it's
8 going to rain, how much runoff there's going to be. But in
9 many parts and times of the year regulation via the project
10 is determining what the flows are if you were downstream of
11 the project.

12 Having both gauge -- gauging information and some
13 kind of forecasting that was available on the web would be
14 extremely helpful to a very large group of users.

15 Thank you.

16 MR. HOGAN: Anybody else?

17 CHAIRPERSON MITCHNICK: Okay, we'll move on to
18 land use and aesthetics.

19 MS. MURRAY: Some of the issues we identified
20 where conditions of current roads within the project area,
21 wildfire risk which -- that's something Richard mentioned.
22 And then, of course, aesthetic resources at the project.

23 Do we have any comments?

24 MS. TINNEL: I just wanted to point out that on
25 the slide it only states roads and not trails. And so one

1 of our concerns is trails as well as the roads around the
2 project area.

3 MS. MURRAY: Okay.

4 CHAIRPERSON MITCHNICK: Any other comments?

5 MR. JOHNSON: Could we talk about salmon some
6 more?

7 (Laughter.)

8 CHAIRPERSON MITCHNICK: I did not hear what you
9 said and maybe --

10 (Laughter.)

11 MR. JOHNSON: I just asked if we could talk about
12 salmon some more.

13 MS. MURRAY: We put the salmon in a time out.

14 CHAIRPERSON MITCHNICK: We'll have time.

15 Moving on to cultural resources. You know, as
16 part of our Section 106 responsibility we'll be looking at
17 the historic archeological and traditional, cultural
18 properties that may be eligible for listing in the National
19 Register and evaluating potential effects of continuing
20 operation of the project on those resources.

21 And we will be consulting with the tribes. I
22 don't think there are any tribes here today. And we will be
23 consulting on a one-on-one basis with the tribes, the tribes
24 that have requested meetings with us, so that's sort of
25 something that we will be doing over the next few months.

1 Any comments?

2 MS. LEBLANC: I did want to say one other thing.
3 The community, when New Bullards was formed there were I
4 believe four towns that were flooded. As a result
5 Camptonville has an historical society that will be putting
6 forward a statement about the relevance of these towns and
7 the historical points, you know, therein. There is one of
8 them that a road access leading to so there may be
9 information brought forth in the near future from him. My
10 name is Cathy LeBlanc.

11 MS. LEIMBACH: Julie Leimbach with the Foothills
12 Water Network. A member of the network, the Save Sierra
13 Salmon group, in working towards restoration of Chinook
14 salmon and steelhead and those species are culturally
15 significant to a number of tribes in this area.

16 I'm not going say that I'm speaking for those
17 specific tribes, but Save Sierra Salmon is a for-profit
18 organization that -- I'm sorry, nonprofit organization
19 that's a member of the network. And they would like to
20 restore Chinook salmon and steelhead as part of culturally
21 significant waters.

22 MR. COPREN: My name again is Bill Copren and
23 this is because of the slide, representation of the Sierra
24 County Historical Society.

25 I've read that sentence there about ten times and

1 there's an awful lot of wiggle room in that, qualifiers in
2 that sentence. What exactly does that sentence mean? That
3 you're going to look at cultural resources that may be
4 eligible for inclusion. What does that mean?

5 CHAIRPERSON MITCHNICK: Well, not being a
6 cultural specialist, you know, you're going to have to bear
7 with me a little bit.

8 We have an obligation under Section 106 to
9 consult with the appropriate parties, the State Preservation
10 Officer, and advisory council if they request to be a party.
11 And that consultation only involves resources that either
12 are listed on the National Register or are potentially
13 eligible for the National Register. So those are the
14 resources that we have to consider under the Section 106
15 process.

16 Now that's not all we're going to do as part of
17 this process. We are going to evaluate and maybe we should
18 in the Scoping Document 2 be a little more specific. But we
19 will be looking at the effects of continued operation and
20 maintenance activities on culturally significant resources,
21 which would include historic sites, archeological sites,
22 sites of importance to Indian tribes.

23 So it's going to be a lot broader than this but
24 this focuses more on our Section 106 responsibilities.

25 Okay. We'll go to the last resource of the day,

1 developmental resources. As part of one of the Impact
2 Statement we'll be looking at the economics of the project
3 in comparison -- and economics of any other alternatives in
4 combination, in comparison with the alternative energy
5 sources. And we will look at the effects of any recommended
6 or proposed environmental measures on the, on the economics
7 of the project. And this is a pretty straightforward
8 analysis that we include in all our NEPA documents.

9 Go ahead.

10 MR. MALLEEN: Yes. My name is Kevin Mallen. I'm
11 with Yuba County. I've got a brief memo to turn in but just
12 to kind of go to the highlights at the same time here.

13 So Yuba County, a small, rural county in
14 California; about 73,000 people. It's a county, though,
15 it's been plagued with flooding over the years. And this
16 actually predates the county being formed. The settlers of
17 Marysville here, you know, formed one of the first levee
18 districts in the state.

19 The hydraulic mining occurred upstream from us,
20 it left millions of tons of debris in the Yuba River,
21 exacerbated the problem, and so there's quite a few levee
22 districts within Yuba County.

23 In the 1950s the residents of Yuba County formed
24 the Yuba County Water Agency, voting overwhelmingly, you
25 know, to form this water agency to create this project. And

1 put up, at the time, basically \$185 -million to get the
2 project going in bonds that were secured by this project.
3 And at the time that was two and a half times the assessed
4 value of all of the properties within Yuba County. So it's
5 a significant project for the county at the time.

6 Since the project's been constructed,
7 unfortunately we still have been devastated by floods in
8 1986, 1997, and we have the loss of four lives in those two
9 floods and hundreds of millions of dollars in property
10 damage.

11 And actually even today, for all of you that
12 drive past Highway 70 out here, we have a mall that was the
13 center of retail activity for the Yuba-Sutter area. After
14 it was flooded in '86 -- and it's a half-million square feet
15 of retail -- it's essentially vacant still today. And so
16 it's a -- flooding is significant issue in Yuba County.

17 And so the water agency is a significant resource
18 for us to combat that flooding. Not only the project itself
19 and the flood control features of the project but also the
20 financial backing enabling us to do levee improvements to
21 try and protect our residents. And so it's just, I think,
22 something that needs to be addressed in the scoping of the
23 analysis.

24 Thank you.

25 CHAIRPERSON MITCHNICK: Okay, thank you.

1 MR. FORDICE: My name is Steve Fordice, I'm the
2 General Manager of Reclamation District 784. We're a small,
3 local maintenance agency that provides service for over
4 25,000 people in South Yuba County. We're bounded on the
5 north by the Yuba River and to the south by the Bear. To
6 the east is the Western Pacific interceptor canal and the
7 west is the Feather River.

8 We were formed in 1908; we have been around since
9 then. We function under the auspices of the California
10 Department of Water Resources and the Central Valley Flood
11 Protection Board.

12 The YCWA has helped RD 784 and the residents of
13 that district through the floods in '86. In '86 and '97
14 there was over a half-million dollars' worth of damages.
15 Currently we have \$1.1 billion worth of infrastructure that
16 we protect. We protect it, in large part, because of the
17 assistance that YCWA has provided both in terms of
18 leadership, technological assistance and because of funding.

19 RD 784 did not have the manpower or the technical
20 expertise nor the financial resources during several of
21 these floods and YCWA has been the driving force to help us
22 become the urban protector that we are. We have
23 transitioned from a rural, farmer-led and protecting the
24 farms kind of organization to one that is more urban and
25 more -- certainly more technologically advanced.

1 YCWA initiated and funded the local share for
2 flood protection studies starting in 1988. In 1990 they
3 funded the local share for levee fixes to the tune of about
4 \$3 million.

5 YCWA was instrumental in obtaining approximately
6 \$90 million in flood protection funds from the state
7 government that was used by RD 784 to improve the levees and
8 protect that population and the infrastructure.

9 YCWA has also supported the formation of the
10 Three Rivers Levee Improvement Authority and that has
11 leveraged approximately \$400 million in levee improvements
12 in this area.

13 They have also been instrumental in creating
14 about 2100 acres of setback levee area, an area that
15 previously was in -- higher levees are now back into the
16 flood plain.

17 And is instrumental in creating restoration
18 projects that have provided basically resource mitigation
19 for the Valley Elderberry Beetle. One single project alone
20 they provided \$1.4 million in elderberry mitigation, \$1
21 million in Giant Garter Snake mitigation. Other raptors in
22 addition are the Swainson's Hawk, the Golden Hawk, Golden
23 and Bald Eagles, construction of swales and other structures
24 to prevent fish entrapment and to enhance the -- basically
25 the environment for both aquatic and not aquatic animals.

1 And the restoration of riparian habitat to the
2 tune of about 1200 acres in addition to wetlands that were
3 created by the Bear and Feather River setback areas. And
4 also not to mention at least three Native American burial
5 grounds with prehistoric remains. That again were protected
6 based in part because of the funding that has been provided
7 by YCWA and the economic impact.

8 When we talk about \$400 million in this very
9 close area you're also talking about a number of jobs. So
10 YCWA has been able to leverage the funding within this area
11 to help these communities.

12 In addition to all of that the YCWA funds have
13 provided a variety of projects and grants to help several
14 disadvantaged communities within this general area within my
15 district.

16 Now, YCWA funding has done all of the good things
17 I talked about in RD 784. But understand there are four
18 other reclamation districts that are also within this area
19 that also need the same kind of help; and the populations
20 behind those levees that need the same kind of protection.

21 In addition I also need to mention the fact YCWA
22 led the way in not only funding but also in leadership in
23 creating an \$11 million coordinated flood control program
24 that minimizes peak flows and stops the wholesale release of
25 water and coordinates that through a wide variety of other

1 dams so that we are not fighting peak flows when we don't
2 have the wherewithal based on the design capability of the
3 levees, both in my area and downstream.

4 So YCWA has provided also the funds to help my
5 district to achieve a 200-year level of protection and again
6 providing support to protect communities, not just their
7 livelihood but their homes and the sense of community.

8 YCWA has provided through this project funding,
9 leadership, technical experience and a wide variety of
10 programs. I would urge you to consider not only the people
11 that we mentioned and the jobs and the communities and the
12 sense of community and the livelihoods of tens of thousands
13 of people but also the kind of assistance in providing
14 funding or mitigation for wetlands for aquatic and
15 terrestrial animals. They are very important to this
16 community in so many ways and again I haven't touched on all
17 of them. Thank you for your time.

18 MR. RIMELLA: Frank Rimella, Federation of Fly
19 Fishers and also the Gold Country Fly Fishers, which is the
20 local fly fishing group in the area.

21 I need to go on the record to say thank you to
22 the agency because we have worked together on a lot of small
23 projects under the radar for the last six to eight years.
24 The agency has come up and showed us leadership and funding
25 for DFG signs on the river, access on the river, support to

1 get -- I got caught on that one. I want to say access but
2 it's not really access. It's support to get the fishermen
3 out on the river. I lost my train of thought, excuse me.

4 Curt, help me out. What have you helped us out
5 on here? Numerous things here.

6 What I really was going to get to was the boating
7 problem on the river. Some years ago we had motorboats on
8 the river. And Curt behind the scenes helped us pass a
9 county ordinance in Yuba County to get the motorboats off
10 and save the river for float and recreational use only.

11 And a lot of other little things that come
12 through with some of these other people, not the agency.
13 Just the moral support for the fishermen. We do the Yuba
14 River Cleanup, you know, and Curt is there behind the
15 scenes. The agency has been behind the scenes for many
16 years helping us out and I just wanted to say, thank you.

17 MR. JOHNSON: Brian Johnson, Trout Unlimited
18 again. Just two, I think, pretty quick things.

19 The first is a point that kind of came up
20 indirectly a couple of times earlier about the
21 interconnected nature of the project and it's water supply
22 features and the hydropower features and people talk about
23 flood also.

24 In order to do a decent job quantifying the
25 economics of various alternatives we're going to have to

1 have a pretty good understanding of the connection to the
2 water supply piece. And there was actually a study proposed
3 in Yuba-Bear/Drum-Spaulding that had kind of an awkward name
4 but it was Water Use and Efficiency or something. And it
5 wasn't done, probably because folks felt that it was beyond
6 the scope of what the license would require. But since then
7 a lot of us have regretted not having that information. And
8 we haven't even gotten to the part of quantifying the
9 economics of alternatives yet.

10 The second one. The Fish and Wildlife Service
11 isn't here but you reminded me of something that they said
12 at one of the earlier meetings, which was a request for
13 information about the economics of salmon and also on
14 downstream recreation and commercial fishing but also the
15 positive economic benefits of reintroduction, the tourism
16 and recreation that that would bring.

17 And I think the larger point is, you know, folks
18 won't want to see economic studies that are only in terms of
19 costs but not also including information about costs to
20 recreation or benefits to recreation.

21 And on the geographic scope I think the Klamath
22 River NEPA document as it went toward economic impacts
23 actually went well beyond the mouth of the river and out
24 into the ocean for commercial fishing. And so if the
25 Commission likes going downstream to the Delta they'll love

1 going out to the ocean for commercial fishing. But I think
2 it actually was done there and so it's not like it's a new
3 idea. Most of the other docs ended at the mouth of the
4 river.

5 CHAIRPERSON MITCHNICK: Okay, I think we have --
6 no, sorry.

7 MR. ROTHERT: Just thinking about this issue of
8 trying to understand the economic effects of potential
9 environmental measures. In the no action alternative, which
10 is often considered sort of the baseline, right, for that
11 comparison. I'm wondering how the Commission will treat the
12 economic baseline of the project and the power value.

13 I mean, as we know, YCWA has a contract with
14 PG&E, which is very favorable to PG&E. I'm wondering
15 whether the Commission would use power value and revenues
16 under that contract or would it speculate on what YCWA would
17 get in the future?

18 I mean, I know the Commission is averse to
19 speculation so I'm wondering what you think the approach
20 will be on that.

21 CHAIRPERSON MITCHNICK: I even hate to speculate
22 more than the Commission does. I can't answer that
23 question, I'm sorry. But I will bring it back to our
24 economist-engineer and you can certainly include it in your
25 comments. It's something that I'm sure we already have the

1 answer but I just don't know.

2 MR. LYNCH: This is Jim Lynch with HDR for what
3 it's worth. In my experience the Commission uses the
4 current cost method. It came out of the Mead Decision.
5 They bring everything to current cost, they don't escalate
6 into the future, including power costs. That's been my
7 experience for quite a while.

8 MR. SPRAGUE: Gary Sprague with the National
9 Marine Fisheries Service. Just a procedural question. Will
10 the transcript for this proceeding be on your e-library?

11 CHAIRPERSON MITCHNICK: Yes, eventually. Roughly
12 ten days after we receive it. Two, three weeks from now.

13 MR. THOMPSON: Larry Thompson, National Marine
14 Fisheries Service. I have a question for the Commission
15 staff regarding the alternatives considered but eliminated
16 from detailed study, Section 3.4. I don't want to read
17 through the whole thing. What I'm wondering is, has the
18 Commission determined now that a license should be issued
19 for the project but the issue at hand is the conditions for
20 a new license?

21 CHAIRPERSON MITCHNICK: Certainly the Commission
22 has not made any decision about anything. From a process
23 standpoint, you know, when defining alternatives to look at
24 in a NEPA document, you know, it's based on, you know,
25 certain criteria. And if there is a lot of comments, you

1 know, concerned about continued operation of the project or
2 the continued existence of the project then we might elevate
3 it to a full-blown alternative in the NEPA document.

4 But absent that we don't -- there may be a little
5 sort of inconsistency in that logic but, you know, the
6 Commission will make its own decision. We'll present them
7 with the information and they'll make their own decision
8 about whether the project should be re-licensed or not.

9 But, you know, the alternatives, the fact that we
10 are not looking at a decommissioning alternative, at least
11 at this point of the process, doesn't foreclose any option
12 the Commission will have later on.

13 MR. THOMPSON: So in other words, that decision
14 will be informed later by information study results, et
15 cetera, about the effects of the project. We need to go
16 there first.

17 CHAIRPERSON MITCHNICK: Right. It's certainly
18 something that could come out of our NEPA review. That hey,
19 you know, maybe this project shouldn't be re-licensed. But,
20 you know, there is nothing in the record now, at least as
21 brought to our attention up to this point that sort of leads
22 us down that path. But that doesn't mean that the evidence
23 that's developed through this process won't, you know, make
24 that a more viable alternative to be considered.

25 MR. THOMPSON: Alan, I think what concerned me

1 was the last sentence on page 16 of Scoping Document 1.

2 CHAIRPERSON MITCHNICK: I'm sorry, the last
3 sentence or the first sentence?

4 MR. THOMPSON: The last sentence of page 16.
5 "Thus we do not consider project decommissioning a
6 reasonable alternative to re-licensing the project with
7 appropriate environmental measures." I thought that was a
8 conclusion and I couldn't -- at this stage in a licensing
9 proceeding where we're scoping potential issues this seemed
10 to strong and I just didn't -- I don't understand that so I
11 was attempting to gain clarification.

12 CHAIRPERSON MITCHNICK: Well, I guess I would add
13 "at this time" to that sentence.

14 You know we, as part of the engineering task
15 force about ten years ago, this was one of the issues that
16 was brought up on sort of -- the criteria that the
17 Commission would use to determine whether or not the
18 decommissioning alternative would be evaluated as part of
19 the NEPA process. And so there's a whole bunch of criteria
20 and one of them certainly is whether a party has recommended
21 decommissioning as an option.

22 And there's a lot of others that, you know,
23 benefiting or eliminating significant impacts occur absent
24 decommissioning of a project. Those types of criteria that
25 a Commission would look at. And based on those criteria, at

1 this point in the process we don't see that as an option
2 that's been, you know, adequately supported.

3 Now that can change through time, you know.
4 We're in the very early stages of this process. We haven't
5 even done the studies yet so we don't even know what the
6 agency recommendations are going to be. And sometimes
7 agency recommendations can lead to decommissioning if
8 they're expensive.

9 We're early in the process and this is sort of a,
10 sort of a standard approach at this point in the process,
11 you know. You find that in just about every NEPA document,
12 it will have this same discussion. And until information is
13 developed in the record to change it, you know, we will --
14 we will proceed down that path.

15 MR. THOMPSON: That helps, thank you.

16 MR. WANTUCK: This is Rick Wantuck of the
17 National Marine Fisheries Service. I have a question and
18 then, time permitting, a couple of concluding remarks for
19 our agency. The question is about the scoping process and
20 study plan development.

21 I'm looking at copies of your slides that were
22 presented earlier this morning about scoping and it shows
23 four boxes and starting out with NOI PAD issue and it's
24 Scoping/Process Plan. Then it moves into Study Plan
25 Development and Studies. Slide 9 I'm referring to.

1 And then I'm a little confused because on page 23
2 of Scoping Document 1, Table 1 presents YCWA's initial study
3 proposals. How does the Commission view this table at this
4 stage of the game of study plan development? I'm confused
5 why this was put forth at this time, being only the view of
6 the Applicant and not the other participants in the
7 licensing?

8 CHAIRPERSON MITCHNICK: I mean, the Applicant has
9 developed these study proposals earlier than the process
10 calls for. They got a year head start to be able to, you
11 know, make better use of the short time frames. You know,
12 somebody has to start off. Applicant started off with their
13 proposal.

14 And this will be modified through the study
15 process and, you know, this is sort of their preliminary or
16 informal proposal. They'll have an opportunity to file
17 their revised study plan as part of the process based on
18 comments from everybody. It's sort of an extra step to the
19 process. Ken, why don't you help me out here.

20 MR. HOGAN: The other part of that Rick is the
21 Integrated Licensing Process requires them to put together a
22 proposed list of studies in their PAD.

23 The next step here is for the Commission to hear
24 from the agencies the study comments and the study requests.
25 So that's why the list in the scoping document right now is

1 what is being proposed by the applicant. By the time we
2 issue Scoping Document 2 we may be able to adjust that.

3 Actually I'm not sure if we do -- we will adjust
4 those studies through our study plan determination. It's
5 what's before us now and it will be modified but it's based
6 on our regulations.

7 MR. WANTUCK: Okay, understood. I guess the
8 response to that is that these meetings that have taken
9 place outside of the formal ILP process and have yielded
10 this study plan proposal were not informed by any scoping
11 decision of the Commission. And so how do you assemble a
12 list when you don't know what the scope of the work is?

13 CHAIRPERSON MITCHNICK: There certainly are risks
14 involved but, you know, I wasn't involved in any of those
15 meetings so I'm not sure how the plan, the study proposals
16 came up with. But certainly there are a lot of standard
17 studies that are developed for these projects. And a lot of
18 these studies are those types of standard studies that I
19 assume that the Applicant thought that were needed to be
20 done no matter what, you know, the alternate list of issues
21 is. Or potentially could be done. I mean, some of them may
22 go away based on the final list of studies. I mean, it's
23 somewhat of a gamble that it won't be needed but, you know,
24 it's a decision the Applicant makes.

25 MR. WANTUCK: And this is understandable. I

1 guess our petition to the Commission is that this doesn't
2 represent a rubber stamp of studies going forward. That we
3 truly do have an opportunity for study plan development from
4 this point forward through Scoping Document 2.

5 CHAIRPERSON MITCHNICK: That's well understood.
6 I know where we are in the process. We've still got a lot
7 of work to do.

8 MR. WANTUCK: Okay. And now if I could just must
9 a couple of concluding remarks.

10 Going back to the evaluation of benefits to
11 aquatic resources. I want to point out to the Commission
12 that there is an abundance now of scientific literature that
13 deals with the considerable benefits of marine-derived
14 nutrients from the migration of salmonids into upper
15 mountain watersheds.

16 Every one of these species that you have listed
17 along with many dozens more will benefit from the process,
18 the bio-geo-chemical processes of salmonids bringing marine-
19 derived nutrients into the watershed. I think we believe
20 that's a significant benefit and should not be overlooked.

21 And then the second point is earlier you
22 mentioned that the Commission may have difficulty with a
23 scope that extends down to San Francisco Bay. We cited the
24 recent federal district court judge ruling that with respect
25 to our Biological Opinion instructed us to look that far

1 down as a result of operations in the Yuba River.

2 But I want to point out two other things, and
3 this will also be in our written submissions. It is our
4 understanding that the NEPA/CEQA document was done for the
5 Lower Yuba Accord, Lower Yuba River Accord, pardon me. Also
6 looked at a scope down into the Delta. And this is the
7 primary management framework that is now in place to protect
8 resources in the Yuba River.

9 And finally, FERC's own study conducted in the
10 late '90s by Oak Ridge National Laboratories identified the
11 Yuba River project as one of six Central Valley projects
12 that can have -- one of nine, excuse me, projects that can
13 have effects down into the San Francisco Bay Delta area.

14 So we actually have three important pieces of
15 evidence. One that although it was not published was
16 actually commissioned by FERC in the '90s and that was the
17 conclusion. So when the Commission reviews the petition to
18 look at that expanded scope we would hope that they would
19 keep these things in mind.

20 And finally the third thing is that while
21 National Marine Fishery Service is certainly interested in
22 effective protection, mitigation and enhancement measures
23 for our trust resources through this process. We do want to
24 acknowledge the considerable work that the applicant has put
25 forward in the Lower Yuba Accord and the leadership in terms

1 of trying to best manage the resources in the Lower Yuba
2 River. We think that's commendable and we want that noted
3 for the record.

4 CHAIRPERSON MITCHNICK: Thanks, Rick.

5 Okay, it's 4:05. We've been at it for three
6 hours although it seems a lot longer than that.

7 (Laughter.)

8 CHAIRPERSON MITCHNICK: I don't know how you sit
9 through these meetings. No, I jest.

10 I have three or four more slides that will take
11 about five minutes tops.

12 You know, I don't know if people have more to say
13 but I'd been willing to sit around for a little bit if
14 people do have more questions or comments concerning
15 scoping. I'm not going anywhere. I've got a meeting at
16 7:00. So does anybody have remaining comments?

17 Okay, seeing none.

18 (Laughter.)

19 CHAIRPERSON MITCHNICK: You had your chance. I'm
20 just going to quickly sort of go through some administrative
21 stuff.

22 We have a list of comprehensive plans in the
23 scoping document which was pretty up to date, although we
24 just issued a revised list last week, I believe, or in
25 January.

1 If you have comprehensive plans that you want the
2 Commission to consider as part of this re-licensing you need
3 to file it. And this applies to state and federal agencies
4 who have the ability to file comprehensive plans. So that's
5 what we're looking for. This is as good of a time as any to
6 file them and instructions for filing them are on our web
7 site or you can give me a call.

8 The mailing list for this project is very, very
9 short. We sent out scoping documents to about 200 people
10 based on the licensee's mailing list. The Commission's
11 mailing list only has about 10 or 20 names on it. We did
12 just add a lot of the local counties and irrigation
13 districts, those entities that were included in the PAD.

14 But most of you in this room are not on the
15 Commission's list for this project. So if you want to
16 continue to receive notices and documents issued by the
17 Commission then you need to update the mailing list. I'm
18 not sure if the handout in the back tells you how to do it
19 or not but certainly on the Commission's web site. You can
20 email me your name and I can add it or you can mail it to
21 the Commission's whatever, e-service or something.

22 MS. MULDER: So there's a thing in here for the
23 e-subscription. Is that what you're talking about,
24 subscribing there?

25 CHAIRPERSON MITCHNICK: No, that's --

1 MS. MULDER: You need his personal.

2 CHAIRPERSON MITCHNICK: Yeah, that's different.

3 And I'll go through -- I'll go through all four, all the
4 different Commission aids to being informed of what's going
5 on.

6 (Looking through slide presentation.)

7 CHAIRPERSON MITCHNICK: There's the brochure that
8 deals with all these four parts of the Commission's on-line
9 system. And e-filing, people are aware of that. You can
10 file -- instead of filing an original and seven copies you
11 can just use the Commission's electronic filing system and
12 you can avoid making all those copies. Plus you won't have
13 to prepare it days ahead of time in order for the Commission
14 to receive it by the due date so that's very effective.

15 E-comments for comments less than 600 characters
16 without graphics or attachments. You can use e-comments.
17 You don't have to register. You have to register for e-
18 filing. You don't have to register for e-comments. You
19 just file your comments but you do have to give your name
20 and address, I believe.

21 E-subscription. If you want to know every time
22 something is filed with the Commission or issued by the
23 Commission you can subscribe to this particular docket, P-
24 2246, and you'll get an e-mail every time the Commission
25 issues something or something is filed. And then you can

1 just link -- click on the link and access the particular
2 document. So it's a very, very nice feature that the
3 Commission has set up.

4 And of course everything that's filed with the
5 Commission or issued is on e-library going back to the mid-
6 90s for every project. The Commission has done an
7 exceptional job making all this information readily
8 available on its web site, probably better than any other
9 agency out there.

10 To remind you, March 7, 2011 is when we're
11 looking for comments on the PAD, comments on the scoping
12 document, and probably most importantly, your study
13 requests.

14 MR. WANTUCK: Your clock needs to be re-
15 calibrated, it's moving too fast.

16 (Laughter.)

17 CHAIRPERSON MITCHNICK: If you wait long enough
18 it will go backwards a little bit.

19 Something I didn't, I didn't bring up during this
20 meeting yet but something that's in the Notice. We are
21 requesting Cooperating Agency status. This is the time to
22 do it. Not necessarily I'm sure this is the only request
23 but certainly the first request, opportunity to request it.
24 And if you are a cooperating agency then you give up your
25 opportunity to intervene in the Commission's proceedings.

1 So we certainly want to hear from you in terms of that.

2 MR. WANTUCK: Can you repeat that, please. And
3 give up opportunity to what?

4 CHAIRPERSON MITCHNICK: To intervene.

5 MR. WANTUCK: To intervene, okay.

6 CHAIRPERSON MITCHNICK: Because of the close
7 working relationship that we develop with the cooperating
8 agency.

9 Okay again, March 7th is the -- okay. And I
10 mentioned how to file. The magic number is P-2246. The e-
11 library doesn't like 2246 but it likes P-2246 so make sure
12 you have the --

13 MR. WANTUCK: Just another technical question
14 here. These extension numbers. I know they're on the web
15 site, 058, for instance. Is that absolutely needed?

16 CHAIRPERSON MITCHNICK: No, no. 0-5-8 brings you
17 to the pre-filing process for this project. So 0-5-8 refers
18 to the pre-filing process. Once the application is filed it
19 will be the next sub-docket number.

20 MS. MURRAY: If you're looking things up on e-
21 library it's better not to include the 0-5-8, just stick
22 with the 2246.

23 CHAIRPERSON MITCHNICK: Right. Because it won't
24 pick up that zero -- things filed without sub-dockets may
25 not pick up things filed without sub-dockets.

1 Okay, electronically is the preferred way but
2 hard copies, original and seven copies filed with the
3 secretary. I think that's it. No more questions.

4 (Laughter.)

5 CHAIRPERSON MITCHNICK: I just want to remind --
6 okay. I just want to remind people about the 7:00 o'clock
7 public meeting right here. A little bit different setup.
8 We won't go through the issues. We probably will go through
9 the little quick presentation in the beginning but we'll
10 open it up to the audience for comments. So basically
11 that's how this evening's meeting will be conducted. I
12 think Curt has something to say before I wrap it up.

13 MR. AIKENS: Yeah. The bouncer gave me the mic
14 so I figure I'm safe for at least two steps.

15 Anyway, I just want to say thanks for everybody
16 coming. This is a really important project and process for
17 us at YCWA. You've heard a lot about the contributions we
18 have made on a local community basis to the fishery habitat
19 and other items. It's good to hear everybody's concerns and
20 we're going to work diligently with all the parties and FERC
21 to get our way through this and I want the clock, that
22 little thing for my next PowerPoint.

23 But once again, thanks everybody for coming,
24 sharing their thoughts and we appreciate it.

25 CHAIRPERSON MITCHNICK: And again, thanks

1 everybody for coming and look forward to working with you in
2 the future. Thanks.

3 (Whereupon, at 4:16 p.m., the Conference
4 was adjourned.)

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of:

YUBA RIVER HYDROELECTRIC PROJECT SCOPING MEETING

Project No. 2246-058

PROJECT SCOPING MEETING

YUBA COUNTY GOVERNMENT CENTER
CONFERENCE ROOMS 1 AND 2
915 8TH STREET
MARYSVILLE, CALIFORNIA

WEDNESDAY, FEBRUARY 2, 2011

The above-entitled matter came on for public meeting, pursuant to notice, at 1:06 p.m.

1 APPEARANCES

2

3 FEDERAL ENERGY REGULATORY COMMISSION

4

5 Alan D. Mitchnick

6 Senior Technical Expert

7 Tyler Mansholt

8 Office of the General Counsel

9 Shana M. Murray

10 Outdoor Recreational Planner

11 Kenneth J. Hogan

12 Fishery Biologist

13

14 YUBA COUNTY WATER AGENCY

15 Curt Aikens

16 General Manager

17 Geoff Rabone

18 Projects Manager

19

20

21

22

23

24

25

1 APPEARANCES

2

3 Alan B. Lilly, Attorney at Law

4 Representing Yuba County Water Agency

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6 Jim Lynch, Consultant

7 HDR/DTA

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1 ATTENDEES (in order of introduction)
2
3 Jeff Packs
4 State Water Resources Control Board
5
6 Ralph Cutter
7 South Yuba River Citizens League
8
9 Lisa Cutter
10 South Yuba River Citizens League
11
12 Chris Shutes
13 California Sportfishing Protection Alliance
14
15 Brian Johnson
16 Trout Unlimited
17
18 Gary Sprague
19 National Marine Fisheries Service
20
21 Richard Wantuck
22 National Marine Fisheries Service
23
24 Larry Thompson
25

1 ATTENDEES (continued)
2
3 National Marine Fisheries Service
4
5 Cheryl Mulder
6 United States Forest Service
7
8 Sharon Stohrer
9 California Department of Fish and Game
10
11 Julie Leimbach
12 Foothills Water Network
13
14 Bob Alvares
15 Gold Country Fly Fishing Club
16
17 John Felde
18 Gold Country Fly Fishing Club
19
20 Harry Williamson
21 National Parks Service
22
23 Steve Rothert
24 American Rivers
25

1 ATTENDEES (continued)
2
3 Frank Rimella
4 Northern California Federation of Fly Fishers
5
6 Tom Simms
7 Granite Bay Flycasters
8
9 Richard Dickard
10 Camptonville Community Services District
11
12 Cathy LeBlanc
13 Camptonville Community Partnership
14
15 Wendy Tinnel
16 Camptonville Community Services District
17 Camptonville Community Partnership
18
19 Tracy McReynolds
20 California Department of Fish and Game
21
22 Dennis Monax
23 Gold Country Fly Fishing Club
24 Bill Copren
25 Feather River Trout Unlimited

1 ATTENDEES (continued)
2
3 Gary Reedy
4 South Yuba River Citizens League
5
6 Roger Hicks
7 South Yuba River Citizens League
8
9 Kevin Mallen
10 Yuba County
11
12 Michael Horton
13 South Yuba River Citizens League
14
15 Ben Ransom
16 Placer County Water Agency
17
18 Tom Johnson
19 Placer County Water Agency
20
21 Ben van der Meer
22 Reporter, Appeal-Democrat
23
24 Steven Fordice
25 Reclamation District No. 784

	I N D E X	
		Page
1		
2		
3		
4		
5	Proceedings	9
6	Introductions	10
7	Presentation by FERC	13
8	Presentation by the Applicant	15
9	Scoping	29
10	Geology and Soils	31
11	Aquatic Resources	31
12	Terrestrial Resources	73
13	T&E	75
14	Recreation	75
15	Land Use and Aesthetics	81
16	Cultural Resources	82
17	Developmental Resources	85
18	Concluding Remarks	
19	National Marine Fisheries Service	100
20	Closing Remarks	103
21		
22	Adjournment	108
23		
24		
25		

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

2 1:06 p.m.

3 CHAIRPERSON MITCHNICK: I think we're ready to
4 begin. My name is Alan Mitchnick and I'm the Project
5 Coordinator for the Yuba River Project. I know I've seen
6 most of you before and I'm sure we will run into each other
7 many more times on this project.

8 I do want to thank Yuba County for providing the
9 site visit yesterday and the people who attended the site
10 visit, I appreciate their attention on that.

11 This is the Scoping Meeting for the Yuba River
12 Project. It won't be the first time I mix those projects
13 up, believe me. Yuba River Project. This is required by
14 the Commission's regulations and the National Environmental
15 Policy Acts.

16 Just go through a quick agenda of what we plan to
17 accomplish today. We'll start up with introductions. I'll
18 go through a brief discussion of the ILP process, although
19 I'm sure most of you know probably more than I do about that
20 process by now. We'll have the Applicant give a short
21 presentation on the project and how it's operated. We'll go
22 through the issues that we've identified in the Scoping
23 Document and then sort of open it up for discussion on those
24 issues. And then, if we have time at the end we'll have
25 some time for some questions.

1 So to get to the introductions. First I'll have
2 the FER staff introduce themselves. Tyler?

3 MR. MANSHOLT: My name is Tyler Mansholt. I work
4 in the Office of General Counsel at the FERC.

5 MS. MURRAY: Good afternoon. I'm Shana Murray.
6 I am the Recreation and Land Use Research Specialist on the
7 projects.

8 MR. HOGAN: Ken Hogan with FERC and I'm a Fishery
9 Biologist and bouncer.

10 (Laughter.)

11 CHAIRPERSON MITCHNICK: And just one procedural
12 matter, given how the court reporter is set up. Everybody
13 at this head table is pretty much okay but if you're in back
14 tables we will ask you to use a microphone so that the court
15 reporter would have a little bit easier time to pick up your
16 conversations. So I don't think it will be too big of a
17 deal but we'll have to deal with that.

18 So I'm just going to ask everybody to sort of
19 introduce themselves, starting with Jim and go around the
20 table.

21 MR. LYNCH: I'm Jim Lynch. I'm with HDR/DTA and
22 we're a consultant to YCWA on the relicensing.

23 MR. AIKENS: I'm Curt Aikens. I'm the General
24 Manager for Yuba County Water Agency.

25 MR. PARKS: I'm Jeff Parks. I'm the Project

1 Contact for the State Water Resources Control Board.

2 MR. CUTTER: I'm Ralph Cutter. I'm a volunteer
3 with the South Yuba River Citizens League.

4 MS. CUTTER: Lisa Cutter, also a volunteer for
5 SYRCL.

6 MR. SHUTES: Chris Shutes, Projects Director for
7 the California Sportfishing Protection Alliance.

8 MR. JOHNSON: Brian Johnson, Director of the
9 California Water Program for Trout Unlimited.

10 MR. SPRAGUE: Gary Sprague with the National
11 Marine Fishery Service.

12 MR. WANTUCK: Rick Wantuck, National Marine
13 Fishery Service.

14 MR. THOMPSON: Larry Thompson, National Marine
15 Fishery Service.

16 MS. MULDER: Cheryl Mulder, U.S. Forest Service.

17 MS. STOHRER: Sharon Stohrer, Department of Fish
18 and Game, Region 2 in North Central.

19 MS. LEIMBACH: Julie Leimbach with the Foothills
20 Water Network.

21 MR. ALVARES: Bob Alvares, Gold Country Fly
22 Fishing.

23 MR. FELDE: John Felde, Gold Country Fly Fishers
24 as well.

25 MR. WILLIAMSON: Harry Williamson representing

1 the National Parks Service.

2 MR. ROTHERT: Steve Rothert, California Director
3 for American Rivers.

4 MR. RABONE: Geoff Rabone, Projects Manager for
5 Yuba County Water Agency.

6 MR. RIMELLA: Frank Rimella, Northern California
7 Federation of Fly Fishers, Director.

8 MR. SIMMS: Tom Simms, Granite Bay Flycasters.

9 MR. DICKARD: Richard Dickard, Camptonville
10 Community Service District.

11 MS. LEBLANC: Cathy LeBlanc, Camptonville
12 Community Partnership.

13 MS. TINNEL: Wendy Tinnel, Camptonville Community
14 Partnership and Camptonville Community Services District,
15 Board Member.

16 MS. MCREYNOLDS: Tracy McReynolds, California
17 Department of Fish and Game, Region 2.

18 MR. MONAX: Dennis Monax, Gold Country Fly
19 Fishers.

20 MR. COPREN: Bill Copren, Feather River Chapter
21 of Trout Unlimited.

22 MR. REEDY: Hello, I'm Gary Reedy. I'm the River
23 Science Program Director of the South Yuba River Citizens
24 League.

25 And if there is still a chair up in front I'm

1 going to move up after I've had my lunch.

2 MR. HICKS: Hi, I'm Roger Hicks. I'm on the Board
3 of Directors of the South Yuba River Citizens League.

4 MR. MALLEEN: Hi, I'm Kevin Mallen. I'm
5 representing Yuba County today.

6 MR. HORTON: I'm Michael Horton and I'm a SYRCL
7 member.

8 MR. RANSOM: Hi, Ben Ransom, Placer County Water
9 Agency.

10 MR. JOHNSON: Tom Johnson, Consultant for YCWA.

11 CHAIRPERSON MITCHNICK: Okay, a good turnout; and
12 again, I appreciate everybody for coming today.

13 I was going to talk a little bit more about the
14 Commission but with this group I don't think you really need
15 to know a whole lot more than you already do. The
16 Commission is a five member Commission appointed by the
17 President and confirmed by Congress and the Commission
18 regulates four primary regulatory areas, natural gas,
19 electrical power, oil pipelines and hydropower. We're in
20 the Division of Hydropower Licensing, which is one-third of
21 the responsibilities for the hydropower. We also have a Dam
22 Safety Division that does the inspections and also a License
23 Administration and Compliance section that ensures
24 compliance with license articles, and they do the
25 environmental and public safety inspections.

1 And we're all located, Shana, Ken, and I are
2 located in the West Branch and Tyler is located in the
3 Office of the General Counsel.

4 Next. Okay. I'll talk a little bit about the
5 ILP process. Is there anybody here who doesn't know
6 anything about the ILP process? Who knows a little bit
7 about the ILP process? Know way too much about the ILP
8 process? Okay.

9 Next slide. Okay. This is the shortened version
10 of ILP process. You have the flowchart which everybody is,
11 I'm sure you're familiar with. But I think I'm going to go
12 through the key steps of the process and sort of outline
13 some of the key dates. And those dates will, I'm sure, will
14 come up many, many times so it's going to be difficult to
15 forget those dates. But most of these dates are very
16 critical and the consequences of missing them are very
17 substantial so we don't want anybody to lose their
18 opportunity to participate so I'm going to go through -- It
19 looked a lot better on my computer but okay.

20 Here are the basic steps of the process and I'm
21 going to go through each box. It's not four boxes that Rick
22 wanted, but it's eight boxes. Next, please.

23 The first step is the filing of the Notice of
24 Intent in the PAD. The Licensee did that on November the
25 5th and that sort of starts this process. As part of this

1 process the Applicant developed the PAD, which is a
2 collection of the available information. The PAD also
3 included draft study plans and it's pretty much the purpose
4 of the PAD. Next please.

5 The scoping process started when the Commission
6 issued Scoping Document 1 on January 4th. A key part of the
7 scoping process is this meeting but you also have an
8 opportunity to provide comments to the Commission on
9 scoping, and that's the same time that we're asking for
10 comments on the PAD and your study requests for
11 consideration by the Applicant.

12 We will issue Scoping Document 2 as appropriate
13 but I suspect there will be a need to issue Scoping Document
14 2 which will revise the issues as outlined in the Scoping
15 Document.

16 We talked a little bit about study requests. I'm
17 sure you've been through this many, many times. The
18 Commission has seven criteria that all study requests might,
19 must meet. Some of the more critical ones are Nexus. There
20 has to be a Nexus to the project and impacts of the project;
21 has to generate information that's not already available and
22 make the case that there is not sufficient, that the
23 information is not sufficient to address the issues; cost,
24 level of efforts. Why do a Cadillac study when you can get
25 by with, you know, a Chevy study. There are still Cadillacs

1 out there I think.

2 MR. SPRAGUE: You're going to have to change your
3 metaphor there.

4 CHAIRPERSON MITCHNICK: I know, it's an old
5 metaphor.

6 Okay. The next important phase is the Study Plan
7 Development, you know. The Applicant has already prepared
8 at least some preliminary Study Plans, but in the next --
9 after the comments, after the comments are filed, the Study
10 Plans are filed, the Applicant then would develop proposed
11 Study Plans. Those Study Plans would be distributed for
12 comments. There would be a Study Plan meeting during that,
13 during that period. And we certainly would encourage the
14 Applicant to, you know, and the stakeholders to meet as
15 often as necessary to develop the revised Study Plan. And
16 there would comments on the Applicant's revised Study Plan
17 and then the Commission would issue its Study Plan
18 Determination.

19 There is opportunity for dispute resolution if
20 mandatory condition agencies disagree with the study
21 results, the Study Plan Determination. That would occur the
22 time period immediately after the Commission issues its
23 Study Plan Determination. So then the Applicant has to
24 conduct the Study Plans as approved by the Commission.

25 So that will take probably two years of studies,

1 two study years. Applicant -- and that will be next year
2 and the year after. There's opportunities or a requirement
3 to file initial Study Reports and updated Study Reports so
4 that any problems can be identified early on or the need to
5 modify these studies can be identified early on so they can
6 be done prior to the application being filed.

7 After the studies are completed then the
8 Applicant would prepare a Preliminary Licensing Proposal and
9 that is due no later than February 2013, which seems like a
10 long, long ways away but it will be here really quickly.

11 Applicant also has the option of preparing a
12 Draft License Application. The Draft License Application
13 will include a Draft Biological Assessment and also a Draft
14 Historic Properties Management Plan. And then there will
15 be a, they call it a comment period on the, either the
16 Preliminary Licensing Proposal or the Draft Application for
17 90 days.

18 Then the Applicant has to be -- application has
19 to be filed no later than April the 30th, 2014.

20 Next slide. Once it's filed with the Commission,
21 after the Commission determines that it's adequate, that we
22 have sufficient information, then we will issue a Notice
23 requesting interventions, recommendations, preliminary
24 conditions. Of course, some of the conditions will be
25 mandatory and there is an ability for the Applicant or other

1 stakeholders to request a trial-type hearing.

2 Next. Then that sort of leads to the NEPA
3 process. In this case the Commission will be doing an
4 Environmental Impact Statement. The draft is scheduled for
5 February 2015 and the final September 2015. And the
6 Environmental Impact Statement will include staff's
7 recommendations for license conditions.

8 And then the last step of the process is a
9 Commission decision on the application, and that will be
10 some time after September of 2015.

11 At this point I'm going to ask the -- Geoff to
12 give a description of the project.

13 MR. HOGAN: Before we do that if we can be joined
14 by a couple of other folks (audible).

15 COURT REPORTER: Speak up into the microphone a
16 little more. Thanks.

17 MR. HOGAN: We have been joined by a couple of
18 additional folks. I'd like to get their name and
19 affiliation.

20 MR. VAN DER MEER: Ben van der Meer, Appeal-
21 Democrat.

22 MR. FORDICE: Steve Fordice, General Manager of
23 Reclamation District 784.

24 MR. RABONE: Okay, my name is, my name's --
25 (Multiple speakers.)

1 MR. RABONE: Okay. My name is Geoff Rabone and
2 I'm with the Yuba County Water Agency.

3 This is a FERC-sponsored meeting today, part of
4 the FERC's process. But since they are, have traveled a
5 long way to do this meeting I'd just like to do some
6 logistics. The restrooms are outside and to the, to your
7 left as you exit this door. And there are refreshments in
8 the back of the room provided by YCWA. You're welcome to
9 help yourself back there; we don't want to carry them back
10 to the truck.

11 Okay. Yuba County Water Agency is the owner and
12 operator of the Yuba River Development Project. The Yuba
13 Water County (sic) Agency was established by a special act
14 of the California Congress with certain specific purposes.
15 And among those are water supply and flood control
16 primarily, but also power generation. Because of the
17 specific location of the Yuba River Development Project
18 ancillary services are very important in the power
19 generation picture of this project. And also environmental
20 enhancement and protection and recreation associated with a
21 hydropower project.

22 Next slide. The project is on the main stem of
23 the Yuba River, North Yuba River, Middle Yuba River
24 including Oregon Creek, in Yuba, Sierra, and Nevada
25 Counties. A portion of the FERC Project boundary is on

1 National Forest Service land within the Tahoe and Plumas
2 National Forests. There's one large storage reservoir as
3 part of this project: New Bullards Bar Reservoir. It holds
4 a maximum capacity of 966,103 acre feet, 966,103 acre feet
5 on the North Yuba River.

6 There are two smaller diversion facilities: Our
7 House Diversion, which is located on the Middle Yuba River,
8 and Log Cabin Diversion located on Oregon Creek. There's no
9 appreciable storage at these diversions. The Our House
10 Diversion diverts a portion of the water on the Middle Yuba
11 into the Lohman Ridge Diversion Tunnel, which empties into
12 Oregon Creek just above the Log Cabin Diversion. And just
13 above the Log Cabin Diversion there's an intake for a
14 Camptonville Diversion Tunnel, which conveys the water from,
15 that was diverted at Middle Yuba and Oregon Creek into New
16 Bullards Bar for storage and use from that point.

17 There are three powerhouses within the hydro
18 project: the New Colgate Powerhouse, which has a capacity of
19 approximately 340 megawatts; the New Bullards Bar minimum
20 flow with a capacity of 150 kilowatts; and the Narrows Two
21 Powerhouse with a capacity of 55 megawatts.

22 Some specifics of the water conduits: The Lohman
23 Ridge Tunnel that I talked about that goes from Powerhouse
24 to the Oregon Creek is about 3.3 miles in length and has a
25 capacity of 860 cubic feet per second. When it empties into

1 Oregon Creek it adds to the diversion at, from Log Cabin on
2 Oregon Creek into the Camptonville Tunnel, and that's a mile
3 long tunnel with a maximum capacity of 1100 cfs.

4 From New Bullards Bar the intake for the New
5 Colgate Powerhouse, the tunnel and penstock together are 4.7
6 miles long and their maximum capacity is 3,500 cubic feet
7 per second. The Narrows Two Power Tunnel, which has its
8 intake just above the Army Corps of Engineers Englebright
9 Dam and Reservoir is 1/10th of a mile in length and has a
10 capacity of 3,400 cubic feet per second. That leads to the
11 Narrows Two Powerhouse.

12 There are recreation facilities built by Yuba
13 County Water Agency at the New Bullards Bar. I'll talk
14 about some of those and show some pictures here, maybe, and
15 some facility access roads to hydropower project facilities
16 and areas that we need for operations and maintenance of the
17 project, including recreation. There are no transmission
18 lines associated with this project, no open canals or
19 flumes, no active spoil piles or borrow areas. The
20 transmission lines that you see in the vicinity of the
21 project are owned by Pacific Gas and Electric.

22 Next slide. Okay. The project operates using
23 the water available to us and it's -- the way we operate the
24 project is dependent on several different considerations.
25 We have to comply with all our FERC license conditions, we

1 have to meet safety considerations for the personnel and the
2 public.

3 The U.S. Army Corps of Engineers has 170,000 acre
4 feet of dedicated flood control space within New Bullards
5 Bar and we have to operate in consideration of that. We
6 have to operate in consideration of our water rights and
7 permits, and also a power purchase contract we have with
8 PG&E dated 1966.

9 Since 2008, well really since 2006 the project
10 has operated in compliance with the Lower Yuba River Accord
11 flows. Years 2006, 2007, and 2008 were done according to
12 the Accord flows as a pilot, as separate pilot programs and
13 in 2008, March 20, 2008, the State Water Resources Control
14 Board adopted the Yuba Accord flows as part of Yuba County
15 Water Agency's water rights.

16 In general, New Bullards Bar Reservoir reaches
17 its highest elevation or storage at the end of spring runoff
18 and gradually lowers, reaching its lowest elevation in mid-
19 winter of the following year, early the following year. The
20 Our House and Log Cabin Diversions are used for diversion
21 into the New Bullards Bar and the water passes through the
22 U.S. Army Corps of Engineers Englebright Reservoir before
23 going to the Lower Yuba River.

24 Next slide. New Colgate Powerhouse, the large
25 powerhouse on this project, is operated for peaking. In

1 other words, the highest generation at that powerhouse
2 occurs during the highest electrical demand times of the
3 day, morning and evening. It is also operated for ancillary
4 services because it can quickly respond to the needs of the
5 power grid in Northern California and it's integrated very
6 thoroughly into the power grid of Northern California. And
7 because it's flexible, it serves those needs for the ISO.
8 Rapid changes in generation are a feature of large hydro
9 generation and that's one of the things that makes this
10 project valuable.

11 So Narrows Two and New Bullards Bar minimum flow
12 powerhouses are operated for base loading. In other words,
13 they operate at a constant level.

14 Next slide. This is a map showing New Bullards
15 Bar at the center top of the slide. The dotted line
16 represents the FERC Project boundaries. And at the bottom
17 you can see a -- here, I have a pointer here if it works.
18 It appears as though my battery is dead. On the right-hand,
19 near the right-hand margin toward, just above the center is
20 Our House Diversion on the Middle Yuba and if you follow the
21 red line and the black dotted line up towards your upper
22 left, it leads to the Log Cabin Diversion and then into the
23 Camptonville Tunnel and into New Bullards Bar Reservoir.

24 The red line leading down to the lower left from
25 the -- thank you. The intake for the New Colgate Powerhouse

1 is in New Bullards Bar Reservoir. The New Colgate
2 Powerhouse is down here. Excuse me. It discharges water
3 into the north fork, North Yuba at this point. The water
4 continues down -- the Middle and North Yuba are combined
5 here to the Yuba River and the South Yuba joins the Yuba
6 River above Englebright Reservoir operated by the Army.

7 We talked about the -- oh, here it is. And the
8 Narrows, our Narrows Two project operates, it has an intake
9 above the Army's dam and our powerhouse is down below the
10 Army's dam. It never really touches any Army facilities but
11 it utilizes the water stored up above, Englebright
12 Reservoir.

13 PG&E also has a project in that immediate
14 vicinity, operated in the same general way, called Narrows
15 One and those two projects are operated in coordination.

16 Next slide. This is a picture of Our House
17 Diversion Dam. Many of you saw this. We appreciate your
18 participation in the site visit yesterday. The dam is 70
19 feet high. It has a crest length of 368 feet. The crest
20 elevation is 2,049 feet above mean sea level. It's a
21 concrete arched dam, has an uncontrolled spillway. It has a
22 release pipe, a 24-inch diameter pipe with a hand-operated
23 gate valve up here that takes care of our, in minimum in-
24 stream flow releases. It also has a lower level outlet,
25 which is a five-foot diameter pipe immediately below the

1 release pipe. Center line elevation on the low level outlet
2 is about 1,990 with a capacity of 800 cfs.

3 The spillway here is designed to take about
4 approximately 60,000 cfs and the drainage area above Our
5 House Diversion Dam is approximately 144.8 square miles.

6 Next slide. This is Log Cabin Diversion. It's
7 located on Oregon Creek, which is a tributary to the Middle
8 Yuba. It has an uncontrolled spillway designed at the top
9 to -- it has six bays with a maximum capacity of 12,000 cfs.
10 The drainage area above Log Cabin Diversion is approximately
11 29.1 square miles. I can't read the dam height but it's a
12 little bit smaller than Our House Diversion. 1,979 is the,
13 is the height of the crest elevation. Here, I can use my
14 cheat sheet here. Okay, thank you very much. Okay.

15 So what water is not diverted into the
16 Camptonville Tunnel at this point goes into the Oregon
17 Creek, which then joins the Middle Yuba and they are both
18 tributary to the North Yuba, which at that point becomes the
19 main stem Yuba. There is also a release pipe directly above
20 a low level outlet. This low level outlet is also five feet
21 in diameter and I think this release pipe is a little bit
22 smaller in diameter, approximately 18 inches in diameter,
23 also manually operated, and this is Oregon Creek down below.

24 Next slide. This is New Bullards Bar Dam. It's
25 a significantly high dam. It's, I believe, the second

1 highest dam in FERC jurisdiction in the United States and
2 second highest dam in California at 645 feet. Crest
3 elevation is 2,323 feet -- that's the length. The crest
4 elevation is 1,965 feet. It's a concrete arch dam. It
5 provides the head and water storage for New Colgate
6 Powerhouse. Down here you'll see the spillway. This is a
7 spillway controlled by three tainter (phonetic) gates. The
8 crest elevation of the spillway is 1,902 feet so there's
9 about a 63 foot difference between the crest elevation of
10 the dam and the elevation of the bottom of the spill gates.
11 The length of this spillway gate structure is 106 feet and
12 the capacity is approximately 160,000 cubic feet per second.
13 The drainage area of the North Yuba above this is
14 approximately 488.6 square miles.

15 There is a New Bullards minimum flow powerhouse
16 down here, which recovers the energy of the water released
17 for the minimum in-stream flow. The capacity of that
18 powerhouse is 150 kilowatts. And it's high head but it only
19 has 5 cfs flowing through it. It's a Pelton type turbine.
20 And the intake for New Colgate can be seen right here on the
21 slide. This is the North Yuba River.

22 You can also see Emerald Cove Marina is down here
23 and the Emerald Cove/Cottage Creek boat ramp is up here for
24 recreation.

25 Next slide. New Colgate Powerhouse is the third

1 powerhouse on this site and the current powerhouse on this
2 site. Much more generation than the previous two but it's
3 very important to the Northern California grid with a
4 capacity of 340 megawatts, quick response times. The rated
5 head is about 1,300 cfs, 1,360 feet, and the rated flow is
6 3,430 cfs. It's a Pelton Type, two Pelton wheels, the
7 largest of their type operating in the world, 18-1/2 feet in
8 diameter.

9 The switchyard is owned by PG&E. The project
10 offices are just down the road from the powerhouse. The
11 powerhouse can be operated automatically by remote control
12 by PG&E or it can be operated by staff of YCWA from the
13 powerhouse.

14 The penstock is steel above ground. It ranges
15 from 14.4 feet at the top down to 9 feet at the bottom and
16 it's 2,809 feet long, carrying 3,500 cfs.

17 Next slide. This is the U.S. Army Corps of
18 Engineers Englebright Dam. The power intake for our Narrows
19 Two Powerhouse is within the Englebright Reservoir, upstream
20 of the dam, and it tunnels through the hillside around the
21 dam and provides water to the Narrows Two Powerhouse owned
22 by YCWA. This is the Narrows One Powerhouse operated by
23 PG&E, owned and operated by PG&E. It's a 12 megawatt
24 powerhouse with a flow of, a maximum flow of 730 cubic feet
25 per second. The maximum flow through Narrows Two is 3,400,

1 a head of 236 feet with capacity of 55 megawatts. It's a
2 Francis reaction-type vertical access turbine.

3 The access road is on state and Yuba County Water
4 Agency lands and therefore the Yuba County Water Agency and
5 some of this land would be in the project boundary.

6 Next slide. So where are we today? The Yuba
7 County Water Agency published a Preliminary Information
8 package on September 28th, 2009. It was a voluntary effort
9 but it helped to gather available information so the public
10 interest in this process could understand what the project
11 was all about and what the, some of the statistics and
12 operating conditions were, potentially affected resources,
13 et cetera.

14 So far we've held over 30 meetings with
15 relicensing participants, primarily focusing on information
16 gaps and potential studies to fill information needs not
17 already easily available. We filed our Notice of Intent
18 that we intend to own and operate this project into the
19 future and the FERC acknowledged that on November 5th, 2010.

20

21 A Notice of Intent has to be filed at least five
22 to five and a half years prior to the existing license
23 expiration. So that was a little earlier than the six
24 months before they -- it was six months, approximately six
25 months before the five years before the expiration of our

1 existing license.

2 So with that we filed a PAD, or Pre-Application
3 Document. I have a copy of it here but it's also available
4 for view at the Marysville Public Library and at the YCWA
5 offices. We distributed copies of this to interested
6 parties participating in the relicensing meetings. It
7 included about 41 study proposals. And we continue to meet
8 with relicensing participants to discuss those studies and
9 potential other studies.

10 And that's the end of my presentation.

11 MR. HOGAN: Any questions?

12 MR. THOMPSON: Ken, a quick question. Are copies
13 of the present slides available?

14 MR. RABONE: We can make them available.

15 MR. THOMPSON: That would be great, thank you.

16 MR. RABONE: Sure.

17 CHAIRPERSON MITCHNICK: Any questions before we
18 move on to scoping, the actual issues? Anything about the
19 ILP process, anything about the Commission, anything about
20 the project?

21 Okay. You know, just real brief. The purposes
22 of scoping, you know, we want to identify the issues that we
23 address throughout the NEPA process.

24 The Scoping Document includes a preliminary list
25 but these lists change throughout the process. This is a

1 very early part of the process to try to come up with issues
2 that are going to be better defined through the study
3 process. The issues will change as better information is
4 developed throughout the process.

5 One of the key purposes is to identify
6 alternatives. I believe the Scoping Document identifies the
7 proposed project. The Applicant's proposal is one option
8 and the no action alternative as another alternative, but we
9 certainly are looking for input on what reasonable
10 alternatives there might be in how this project is operated.

11 We also want to make sure that we have all of the
12 information that's available so we're asking you to let us
13 know if there's information out there that's not identified
14 in the PAD, in the Applicant's PAD, information that would
15 be helpful identifying issues or evaluating impacts. We
16 certainly want to know if that information exists out there.
17 And we also want to better define the Cumulative Impacts
18 Analysis that we need to do as part of the Environmental
19 Impact Statement.

20 Next slide, please. Talk about cumulative
21 effects. We've identified two issues in the Scoping
22 Document, water resources and aquatic resources. We did not
23 include a geographic scope. We thought that maybe you could
24 help us with that a bit.

25 So we certainly want to hear from you about what

1 you believe the cumulative resources are for this project,
2 for the Yuba River Basin, and, you know, what the scope of
3 analysis should be, you know. That's certainly something
4 that we can talk about today, but we certainly would want to
5 see that in your comments on the Scoping Document.

6 Okay. The Scoping Document lists the issues.
7 We're not going to go through each issue. I at least hope
8 that you've read the Scoping Document before. We'll sort of
9 maybe give a brief summary of the issues by resource area
10 and then we're going to open it, open it up for input from
11 you.

12 So we will start with Geology and Soils and go
13 through Developmental Resources. And I will turn Geology
14 and Soils to Ken.

15 MR. HOGAN: Well for Geology and Soils there's
16 quite a few overlaps with aquatic resources so I'm not going
17 to repeat what I say in Geology and Soils in Aquatic
18 Resources. We've identified preliminarily soil erosion and
19 compaction, gravel movement or accretion and other
20 geomorphic processes.

21 Slide. In aquatic resources we're looking at
22 stream flows. The project effect on stream flows, water
23 quality within the reservoir and stream reaches.

24 Slide. And project effects on fish populations,
25 fish passage, entrainment, stranding, and displacement.

1 Slide. And the project's effects on fish
2 habitats, amphibian habitat, reptile and benthic
3 macroinvertebrate habitat including the recruitment and
4 distribution of large, woody debris.

5 CHAIRPERSON MITCHNICK: Okay. I open it up to
6 the, to the group. This is your opportunity to let us know
7 if you think we've missed stuff or better characterize
8 effects. You know, this is your opportunity to let us know,
9 please.

10 MR. RABONE: Come on, I didn't nail it.

11 MS. MULDER: I just have a question. I'm not
12 understanding. You didn't talk about recreation resources
13 and land, the other resources. Do you want comments only on
14 the aquatics?

15 CHAIRPERSON MITCHNICK: Yes, for now just
16 aquatic.

17 MS. MULDER: That sort of thing of right now or
18 are you going to have them all, all the comments at one time
19 after you have given us --

20 CHAIRPERSON MITCHNICK: We would like to have
21 comments on each resource area as we get to it, so now
22 aquatics.

23 MS. LEIMBACH: Go ahead, Gary, if you want to go.

24 MR. SPRAGUE: Thanks. I'm Gary Sprague with the
25 National Marine Fishery Service, otherwise known as NMFS,

1 and I'm addressing some of our concerns regarding the
2 Federal Endangered Species Act and the consultation
3 associated with it.

4 In the Yuba River ESA species under NMFS
5 jurisdiction include spring run Chinook, Central Valley
6 Steelhead, and Green Sturgeon. The studies that conducted
7 for this relicensing need to provide information for us at
8 NMFS to adequately conduct a complete analysis of the
9 potential impacts on the ESA-listed species and their
10 habitats.

11 In case you're not aware, and this addresses your
12 question of geographic scope, in July of 2010 the Federal
13 District Court remanded NMFS biological opinion for the
14 Corps of Engineers' non-hydropower projects on the Yuba
15 River. In that decision the court identified that the
16 potential impacts of the Corps' project must be analyzed
17 downstream to San Francisco Bay. The court also identified
18 a long list of additional impacts that must be analyzed in
19 the next Biological Opinion.

20 This has bearing on the relicensing of the Yuba
21 River Hydroelectric Project in that the Corps' project is
22 located below and within where the Yuba River Hydroelectric
23 Project is situated. And while the Corps project does not
24 regulate flows at all, the Yuba River Hydroelectric Project
25 does.

1 The information provided for the ESA analysis
2 must also address how the project will affect and address
3 the recovery of ESA-listed species. Our draft ESA Recovery
4 Plan for the Central Valley has identified reintroduction
5 into the native habitats above dams from which fish have
6 been excluded as essential for their recovery. The Upper
7 Yuba River has been identified as such an area, as one of
8 the areas with the highest potential for success of
9 reintroduction.

10 In addition to the ESA consultations there are
11 requirements for consultation with NMFS regarding licensing
12 of this project under the Fish and Wildlife Coordination Act
13 and the Magnuson-Stevens Fishery Conservation and Management
14 Act. Areas of the Upper Yuba River as well as the Lower,
15 including above New Bullards Dam, are designated as
16 essential fish habitat under the Magnuson-Stevens Act.

17 CHAIRPERSON MITCHNICK: Do you know when the
18 Recovery Plan is, might be finalized?

19 MR. SPRAGUE: I hesitate to identify a date in
20 that it's taken longer than we thought. We have gone
21 through public comment with the current draft and are
22 incorporating a multitude of comments. I'm not sure if
23 we'll have a second public meeting-type process or public
24 comment-type process for that. So I can't say exactly what
25 that date is but we're trying to wrap it up relatively soon.

1 MR. THOMPSON: Larry Thompson, National Marine
2 Fishery Service.

3 To add to -- Gary had mentioned that geographic
4 scoping downstream to the Bay-Delta area in a downstream
5 direction, I'd like to just address a bit the upstream
6 scope. He mentioned essential fish habitat in the Upper
7 Yuba designated in the Middle, North, and South Yuba. For
8 those ESA, for the ESA consultation we will need to
9 understand how the projects and interrelated, interdependent
10 actions affect habitat in the Upper Yuba.

11 And that's really about as far as you can go in
12 those watersheds. The upstream migration extent, for
13 example, is roughly 35 miles each in the Middle Yuba and
14 South Yuba, determined roughly there, and about river mile
15 50 in the North Yuba.

16 In the Middle and South Yuba we have effects
17 upstream of those migration limits. They're related to dams
18 and releases from high elevation dams.

19 So what we're suggesting here is that the
20 upstream extent should be to river mile 50 in the North
21 Yuba, to the top of the watersheds in the Middle and South
22 Yuba, and to the Bay Delta in the downstream direction.

23 MR. HOGAN: Larry, can I just get a clarification
24 on that?

25 COURT REPORTER: Could you speak more directly

1 into the mic? Thank you.

2 MR. HOGAN: Sorry, Ken Hogan with FERC. Just for
3 us to help understand the nexus of it I'd like to know if
4 you can clarify, once you're above the project reservoirs,
5 extending that scope beyond that point further upstream.

6 MR. THOMPSON: Well, in the, during the license
7 proceeding and certainly through the term of a new license
8 if a new license were to be issued, project facilities could
9 impair the passage of anadromous fish into the -- for
10 example, into the Upper North Yuba. And therefore we would
11 want evaluations of the habitat quality existing and
12 possibly how that habitat could be improved in order to
13 inform any decisions we would have about reintroduction.

14 Of course we would add to that that there is a
15 relationship between any potential future prescription of
16 fish passage under Section 18 of the Federal Power Act and
17 those reintroductions.

18 MR. HOGAN: Thank you.

19 MR. WANTUCK: This is Rick Wantuck of National
20 Marine Fishery Service. I'd like to just add a little bit
21 on to this issue of what is the upstream scope of the
22 project.

23 We're asking the Commission to consider areas
24 upstream of project facilities because in the case of the
25 Yuba-Bear and Drum-Spaulding projects the constraints on

1 releases or the exports out of the basin that occur due to
2 that project affect the stream flows that come through this
3 project. And so we feel like the Commission should analyze
4 what is happening in the other parts of the watershed and
5 how they impact the opportunities for aquatic resource
6 restoration.

7 Now I also would like to address the issue of
8 downstream scope. Gary mentioned that the Federal District
9 Court judge recently decided that our Biological Opinion
10 with the Corps of Engineers was arbitrary and capricious and
11 we're in the process now of redoing that Biological Opinion
12 to comply with the court's decision.

13 In that decision the judge did mention that we
14 should be analyzing the scope of these projects down through
15 San Francisco Bay. That's a very large scope, but the point
16 here is that the Corps of Engineers exerts little control
17 over the management of the water resource of the Yuba River.
18 Largely it's controlled by Yuba County projects, releases
19 from Bullards Bar Dam. And then also, importantly, and
20 again this bears on scope, the large scale exports out of
21 the Basin and toward consumptive use that occur in the
22 Middle and South Yuba due to the Yuba-Bear and Drum-
23 Spaulding projects.

24 So all these interrelated project management
25 concerns need to be considered by the Federal Energy

1 Regulatory Commission when establishing the scope of this
2 project.

3 MR. JOHNSON: My name is -- is it on? Yes.
4 Brian Johnson. This is a good microphone, it doesn't make
5 it loud. And I'm with Trout Unlimited. And for those of
6 you who don't know us, we're a national cold water and
7 fisheries conservation group founded about 50 years by
8 anglers in Michigan and quickly adopted a motto of, if you
9 take care of the fish the fishing will take care of itself.
10 And so our focus is generally on river conservation in
11 places that have trout or salmon or steelhead, including the
12 Yuba River.

13 We are, we're also like a proud signatory of the
14 Yuba Accord for downstream flows in the Yuba River and I
15 think have a good relationship with the licensee and a lot
16 of agencies here and, you know, we're hoping for a good,
17 collaborative discussion on the project.

18 I have a few comments about study issues and
19 questions to be identified and answered in the studies. And
20 I think for our purposes, on aquatic resources at least, the
21 main questions we'll be looking at are stream flows,
22 quantity and timing, and rates of diversion at all of the
23 project tunnels and penstocks. Gravel and large woody
24 debris and also connectivity for the fish species.

25 And it's important to note that -- I think you'll

1 hear a lot today about salmon and steelhead, including from
2 me, but this is also an issue for resident rainbow trout and
3 other aquatic species.

4 And, you know, the question of upstream scope.
5 Even a resident rainbow trout left to its own devices would
6 probably move quite a bit under natural circumstances and
7 are currently either blocked or partially blocked by some of
8 the project facilities. And there's a question about the
9 health of those populations and whether downstream
10 connectivity and backup is worthwhile.

11 So we're focused on, you know, the reach above
12 and below Bullards Bar, above and below Log Cabin, above and
13 below Our House, through the bypass reach and the peaking
14 reach and downstream into the Lower Yuba River.

15 And on the connectivity question just to
16 illustrate a little bit. I think if you imagine a juvenile
17 fish coming out into the gravel in the, you know, call it
18 the Middle Yuba, it might naturally move downstream. It's
19 going to encounter either a screen or a tunnel and may or
20 may not die, but it's definitely a direct project, you know,
21 impacting question to be answered. It may make its way
22 eventually through the tunnels and into a penstock. For the
23 most part there is no way down the river and then through a
24 turbine. And some of them might survive but a lot of them
25 probably wouldn't. And that's a project impact. I think at

1 all the project powerhouses there's not a way for the fish
2 to get back upstream.

3 And so the downstream fish passage and
4 connectivity impact upstream, fish passage and connectivity
5 at all these facilities, I think needs to be understood. It
6 may or may not be a good idea but, you know, to evaluate the
7 effectiveness of it we need to understand what the
8 possibilities are. And that's true for whatever types of
9 salmonids we're talking about.

10 I do think that it's exceedingly likely that
11 during the term of the license there will be anadromous
12 fish, salmon and steelhead, up in these rivers. There's a
13 decent change it will happen before the license even gets
14 issued.

15 And there's also a question, which I think will
16 be contentious in the process, in the re-licensing, as to
17 whether that's just a foreseeable consequence that needs to
18 be understood or whether it's properly the subject of the
19 license. And so I'd like to talk about that for just a
20 second.

21 The argument against having it be considered in
22 the license is basically that, you know, as of now they're
23 downstream at the Narrows and the Corps owns Englebright Dam
24 and not the licensee, and that's the answer.

25 The contrary argument is a little bit more

1 complicated but I think it's not a lot more complicated.
2 Nobody's going to argue that the Corps should wait until the
3 licensee or that the license or any of the mandatory
4 conditions or prescriptions will direct the Corps to do
5 anything in particular. But the license and the mandatory
6 conditions do now and can in the future regulate the
7 licensee's rights and interests in the federal facility and
8 their use of the federal facility.

9 And at Englebright I think it's a particularly
10 interesting case because the project isn't actually operated
11 in any meaningful way by the Corps. The water doesn't move
12 through the dam at all. On days when it isn't spilling, so
13 most of the days and most of the years, the entire river is
14 routed through the penstocks and the turbines. And it's the
15 joint operations of YCWA and PG&E that regulate the lake
16 levels and control the flow of water through the reservoir.
17 The Corps has rules for flood storage but it's the licensees
18 who operate the flows. The Corps doesn't have water rights
19 there. And, you know, for all intents and purposes the
20 river is the penstock at that point.

21 It's interesting. One thing, and I'm about to
22 wrap up. But the state actually addressed this question of
23 responsibility at Englebright in the context of its --
24 YCWA's consumptive water rights. And the argument
25 essentially, as I understand it, was that the water agency

1 isn't responsible for any of the effects of the dam as
2 opposed to the project operations that it owns because of
3 the Corps.

4 And the State Water Board said no, this was and
5 is and always has been an integral part of your project.
6 It's a forebay for the Narrows, your intake would be up in
7 the air without it. It's an afterbay for New Colgate. You
8 wouldn't be able to operate New Colgate as a peaking reach
9 without it and therefore you're partially responsible. They
10 didn't say solely responsible but partially responsible for
11 what happens in Englebright.

12 And then I think that's the question that we have
13 here. And again, nobody's suggesting that the license or
14 the mandatory terms would direct the Corps to do anything in
15 particular, or would even direct the licensee to do
16 something and modify the Corps dam without the Corps'
17 permission.

18 But there are many cases where the license will
19 direct the licensee to use the facilities in a particular
20 way, or even go out and obtain other rights and interests
21 from the federal facilities or to improve the federal
22 facilities.

23 The current license actually does that. It
24 directed YCWA to secure a contract for water storage with
25 the Corps and easement from the Corps and so far couldn't

1 have said, we're directing the Corps to provide these
2 easements. But the license can say, if you are to operate
3 and accept the license you have to be able to do this.

4 And then this happens on conditions, too. People
5 will have a transmission line which gives rise to a whole
6 suite of responsibilities, flows, and things that aren't
7 affected by the transmission line for the benefit of the
8 federal facility.

9 And so I know this will be contested and will be
10 an issue in writing and may not be resolved for many, many
11 years but that's our view of it. And I think we're talking
12 about six different ways in which the fish passage at
13 Englebright could be part of a license, so --

14 MR. HOGAN: Just a follow-up question. You made
15 a statement that you thought that it's quite possible that
16 before the license was issued that fish may be reintroduced
17 to the upper reach. Are there any plans that are scheduled
18 to be implemented to do so?

19 MR. JOHNSON: You could ask the federal agencies.
20 I don't know that there's a schedule for an implementation
21 of that, but I know that there are conversations happening
22 right now, not all of them through, you know, regulatory
23 processes that could result in, you know, experimental or
24 test populations. We know in other watersheds that
25 biological opinions for projects like this have resulted in

1 mandatory terms for fish passage. So I don't think it's out
2 of the question at all.

3 MR. HOGAN: Rick, do you have any plans at this
4 time?

5 MR. SPRAGUE: this is Gary Sprague with the
6 National Marine Fishery Service. And at this time we're
7 working on the Biological Opinion for Englebright and
8 Daguerre Dams owned by the Corps of Engineers and it would
9 be pre-decisional to say anything along those lines. So we
10 really can't say where that's going at this point in time.

11 CHAIRPERSON MITCHNICK: Can you talk a little bit
12 about the schedule for the court case?

13 MR. SPRAGUE: February 22nd there will be a court
14 hearing. There are a number of issues being addressed there
15 including the time frame for the Biological Opinion. The
16 plaintiffs, if I recall correctly, have identified that they
17 would like the Biological Opinion to be issued April of
18 2010, and the National Marine Fishery Service has identified
19 June of 2012 as a time frame for that. The judge will be
20 making a decision regarding that issue.

21 MR. WANTUCK: Rick Wantuck, National Marine
22 Fishery Service.

23 While the Service has not pre-decided the
24 reintroduction of anadromous fish into the waters above
25 Englebright, the Commission should be aware that there are

1 many alternative forums happening and lots of communications
2 going on between agencies and stakeholders, also with Yuba
3 County Water Agency in particular.

4 In addition, PG&E and Nevada Irrigation District
5 are all participating in something that we call the Yuba
6 Salmon Forum, and this is designed to be a stakeholder forum
7 that can come together to address the issue of potential
8 reintroduction of anadromous fish into the upper watershed.

9 That forum began in January of 2010. The parties
10 have committed to an ongoing presence in that forum. We
11 have established a charter. We are working with other
12 stakeholders on establishing a work plan and a study plan
13 for the specific purpose of assessing the potential
14 reintroduction of anadromous fish.

15 In addition to that, National Marine Fishery
16 Service in order to help inform its regulatory decisions
17 that are coming in front of us, have contracted with
18 Stillwater Sciences, a Bay Area consulting firm, to do a
19 habitat assessment of the potential of reintroduction of
20 anadromous fish in waters above Englebright Dam. The
21 specific tool that Stillwater Sciences is using is called a
22 Ripple Model and this is a model that is nonproprietary. Its
23 intent is to identify habitat potential in the upper
24 watershed where if salmonids were reintroduced that they
25 could reproduce successfully and complete their life cycle.

1 So in summary, there are a lot of activities
2 going on already that have begun before this licensing
3 process that are tangible expressions of -- that
4 reintroduction of anadromous fish may occur in some parts of
5 this watershed. We're not here to say today that we know
6 exactly when and where that could occur, but the National
7 Marine Fishery Service is interested in the reintroduction
8 potential in all viable parts of the watershed because it is
9 consistent with our Central Valley Recovery Plan efforts.

10 MR. JOHNSON: I'm sorry, I had one other thing
11 that I was going to mention in response to your question
12 about the nexus upstream. I mentioned that there are fish
13 populations upstream that are blocked from downstream
14 passage by the project, but there's an assumption -- I don't
15 mean an assumption. There's a framework in the Public Power
16 Act for fish passage prescriptions, possibly to be put in
17 place for, you know, rainbow trout or anadromous fish.

18 I think everybody agrees that it would be legally
19 possible for there to be fish passage prescriptions for
20 resident fish that are there now above Our House or Log
21 Cabin or New Bullards Bar. Whether it's a good idea or not,
22 we don't know.

23 But one thing that happened in the permit
24 proceeding was that there was real resistance in the early
25 stages in the license to evaluate some of the upstream

1 habitat. And then there were prescriptions, and then there
2 was a trial-type hearing.

3 And a lot of the trial focused on, well how do
4 you know the habitat upstream is good enough to support the
5 fish? And I would suggest that we don't want to have --
6 that would be the problem here and that it is going to be
7 the problem here, and that's going to be the argument. We
8 all are going to be on record as having said that we asked
9 for it. Brian Johnson, Trout Unlimited.

10 MR. THOMPSON: Larry Thompson, National Marine
11 Fishery Service.

12 Ken, just to also add an answer to your question.
13 I'll refer everyone to Scoping Document 1, for Scoping
14 Document 1, Section 4.1.3, Temporal Scope, where you state
15 that: "Based on the potential term of a new license, the
16 temporal scope will look 30 to 50 years into the future." I
17 think that's at least a good partial answer to the question.
18 And you say you'll concentrate "on effects on resources from
19 reasonably foreseeable future actions."

20 I'll just refer you back to Gary Sprague's
21 comments earlier about conceptual recovery scenarios that
22 are in our draft Recovery Plan that have outlined actions to
23 reintroduce fish into the Upper Yuba.

24 MR. HOGAN: Thank you, Larry. My question was, a
25 gentleman made a statement that there may be an introduction

1 before the license is even issued so I was just trying to
2 get some clarification on that.

3 MR. ROTHERT: I'm Steve Rothert with American
4 Rivers.

5 I would echo the comments that my colleague Brian
6 Johnson at Trout Unlimited has made previously about
7 geographic scope, and I would echo the comments that Larry
8 Thompson made about temporal scope.

9 I would like to suggest that the, that the
10 Scoping Document and the EIS in Section 4.2.2, Aquatic
11 Resources, that it needs to address the potential effects
12 of, or the effects of impediments to fish passage of
13 Englebright Dam.

14 Englebright Dam by definition is part of Yuba
15 County Water Agency's project. Section 3 of the Federal
16 Power Act defines, says that a license shall include all
17 works, rights, and interests necessary, use and useful for a
18 project, and Englebright clearly is. And there's no
19 specific carve out excluding federal projects from a license
20 in the Federal Power Act.

21 YCWA operates Englebright. The Corps does not
22 operate Englebright. YCWA has rights and interests in
23 Englebright and it has rights to store and divert water from
24 Englebright. It is clearly used and useful for the project
25 and should be included in the license for those reasons.

1 In addition, the State Water Resources Control
2 Board has identified the impact that Englebright has on
3 passage and has determined that YCWA is at least in part
4 responsible for that, and that effect remains unmitigated to
5 this day.

6 I appreciate Yuba County Water Agency's efforts
7 over the past many years to promote the health of the salmon
8 in the Lower Yuba through the Yuba water -- South Yuba or
9 the Lower Yuba Accord and other measures that they've taken.
10 But I have to, we have to clearly disagree with their
11 position that Englebright is not part of this project and
12 should not be addressed. We believe it does and we believe
13 as Brian said, there are a number of arguments to support
14 that in addition to case law. Thank you.

15 MR. SHUTES: Chris Shutes, California Sport
16 Fishing Protection Alliance. I'll try not to repeat what
17 others have said.

18 I'd like to start by noting that the PAD, Pre-
19 Application Document, doesn't recommend any studies of fish
20 passage, it recommends no studies of anadromous fish habitat
21 upstream of Englebright Dam and it doesn't recommend any
22 studies for migration for anadromous or other fish upstream
23 of Englebright Dam. We think all of these should be
24 addressed.

25 In the PAD and in other relicensing literature,

1 and even in the presentation this afternoon the licensee,
2 and this is something also done by its consultant,
3 invariably refer to Englebright Dam and Englebright
4 Reservoir as USACE Englebright Dam and USACE Englebright
5 Reservoir. This crude, verbal manipulation has a constant
6 message. This facility and the fish past it is someone
7 else's problem.

8 So we recommend that Commission change the
9 terminology in SD-2 and throughout the licensing process.
10 We recommend the Commission refer to Englebright Reservoir
11 according to its use and the operation of the Yuba River
12 Hydroelectric Project. And that therefore they refer to
13 this reservoir as Englebright Afterbay and Forebay. Because
14 that's what it is in the project, it's an afterbay to
15 Colgate Powerhouse and it's a forebay to Narrows number 2
16 powerhouse. As others have said, it's operated by the
17 licensee. Englebright should be listed as a project work in
18 SD-2. Its function in the operation of the project as
19 forebay and afterbay should also be described in SD-2.

20 As a project alternative, the Commission should
21 include fish passage, volitional or human-assisted, upstream
22 and downstream past Englebright Dam and Englebright
23 Reservoir. The alternative should evaluate passage into the
24 three forks of the Yuba and the potential for use of each of
25 the three forks and tributaries as appropriate for spawning,

1 incubation, rearing, and out-migration of anadromous fish.

2 The Commission should require a fish passage
3 study for passage past Englebright Dam and Reservoir, a
4 passage study for passage past Our House Dam, and a passage
5 study for passage past New Bullards Bar Dam and Reservoir.

6 The Commission should require a study of fish
7 migration from Englebright Dam to prospective anadromous
8 fish habitat in each of the three forks of the Yuba and also
9 including a study of the flow barriers and the physical
10 barriers. And it should also study going downstream as well
11 as upstream.

12 In terms of geographic scope, I agree with the
13 basic designations upstream on the Middle Yuba, specifically
14 at river mile 34.4, and at the South Yuba at river mile
15 35.4. I'm not familiar with the upstream fish barrier,
16 complete barrier is on the North Yuba above Bullards, but
17 whatever that is we would recommend that.

18 In terms of other studies, the Commission should
19 require a study of the outlet works at Our House, Log Cabin,
20 and Bullards, and also of the diversion works.

21 More generally, in comments filed Monday on the
22 Yuba-Bear and Drum-Spaulding Draft License Applications,
23 YCWA commented that licensees in those projects had not
24 evaluated the cumulative impacts on resources controlled by
25 the YCWA project.

1 Well, fair is fair and YCWA should have to study
2 the cumulative impacts of its own project on the projects
3 upstream and other resources in the reaches of the South
4 Yuba and Middle Yuba controlled by those other projects. We
5 know that everyone's in a big hurry to evaluate cumulative
6 impacts if it means someone else will need to mitigate them.

7 The licensee in this proceeding has tried to
8 divide up the watershed in order to look at fish passage
9 responsibilities. At least that's what done in the PAD.
10 This is a strategy that's been deployed throughout the
11 valley by the licensee's consultant. It's the opposite of
12 comprehensive planning and we think it's time for a new
13 paradigm.

14 It's time that the section 10(A) of the Federal
15 Power Act be changed and not simply relegated in EISEs to
16 being the standard that's usually and routinely used to tell
17 Section 10(J) agencies that their proposed mitigations are
18 too expensive. It's time to put comprehensive and planning
19 back into comprehensive planning, and we think scoping here
20 is a great place to start. Ask what the facility does for
21 the project.

22 We're better off with all the interests on the
23 table and information gathering that addresses the
24 interests, than going through four years of jockeying to
25 shut out the interests that people don't want to get into.

1 Since the licensee has taken the position that it won't
2 address fish passage unless the Commission tells it to, the
3 Commission should step in and step up and put this
4 proceeding on a footing that in the end we'll all be proud
5 of. Thanks.

6 CHAIRPERSON MITCHNICK: Any other --

7 MR. FELDE: Can I speak into this?

8 MS. MURRAY: No, the one you're holding, that
9 one. Yeah, speak into that one.

10 MR. FELDE: Can you hear me all right? My name
11 is John Felde and I'm the Chairman of the Conservation
12 Committee of the Gold Country Fly Fishers. The club is
13 located in Nevada County and it consists of approximately
14 170 members and the Lower Yuba River is our home waters.

15 I want to thank you for this opportunity to
16 express our interests and concerns in this process. We have
17 a number of items which are important to bring to your
18 attention of the Commission and encourage you to consider in
19 future decisions.

20 Number one, the maintenance and improvement of
21 salmon spawning habitat for the various runs of the Chinook
22 salmon.

23 Number two, the maintenance and improvement of
24 steelhead spawning habitat.

25 Number three, the maintenance and enhancement of

1 the rainbow trout habitat.

2 Number four, sufficient water flows in the river
3 to ensure healthy conditions for all species throughout the
4 year.

5 And number five and perhaps most important,
6 ensure free public access to the river including walk and
7 wade access, launching of drift boats and other suitable
8 non-motorized watercraft.

9 Basically the club supports restoration and
10 rehabilitation efforts including barrier removals that will
11 result in furthering the above-mentioned concerns.

12 And I would like to submit these as written
13 comments as well.

14 MR. THOMPSON: Thank you. Ken, we sort of jumped
15 off here on your slide on aquatic resources and I believe
16 that was because Gary Sprague wanted to point out the ESA
17 and MSA resources that are aquatic resources that NMFS is
18 concerned with.

19 I notice in the organization of the Scoping
20 Document 1, a bit of confusion, and that's that threatened
21 or endangered species are handled separately. And I'm
22 confused a bit with the difference between threatened or
23 endangered species and special status species, which
24 sometimes when I think of special status species I think of
25 U.S. Forest Service designations of certain resources.

1 I guess my question is why can't we have a more
2 consolidated view of aquatic resources and have it include
3 aquatic threatened or endangered species and other
4 anadromous resources? I want to point out that NMFS-NOAA
5 sees a lot more connection here between all aquatic
6 resources and salmon. We refer to these, the value of
7 salmon to the function of aquatic ecosystems as their,
8 quote, ecosystems services, unquote.

9 We'll point out that the annual returns of
10 anadromous fishes to inland fresh waters provide a pulse of
11 food and nutrients that is lost when they are prevented from
12 returning to those waters or return in lower numbers. And
13 the loss of this food and nutrients has negative effects on
14 inland waters at the very base of the aquatic food chain or
15 web. So we don't see, we don't see the value in separating
16 out threatened or endangered species salmon from aquatic
17 resources.

18 And many of the issues that have been identified
19 under aquatic resources affect salmon such as water
20 temperature, sediment regimes, flow patterns, large wood
21 supply and transport, and many others, so fish entrainment,
22 fish passage. So to the extent that we could consolidate
23 this so that we could, at this issue identification stage,
24 more easily identify the issues, I think that would be
25 helpful.

1 And to look forward in the ESA consultation what
2 we're going to be looking for down the line is a Biological
3 Assessment. And that assessment has to assess the effects
4 of the action, which is the licensing, and assess the
5 effects of all interrelated and interdependent actions,
6 which go quite beyond the licensing action. And we're going
7 to look for that and we're going to look for a consolidated,
8 cohesive analysis, and then determination of effect. And
9 when we start here identifying issues in a very incoherent,
10 separated way, we don't see it coming together later.

11 MR. SPRAGUE: Larry, say who you are.

12 MR. THOMPSON: I didn't? Larry Thompson,
13 National Marine Fishery Service. Sorry.

14 MR. HOGAN: Larry, thank you. We certainly
15 intend to try to provide a cohesive analysis for our
16 Biological Assessment that will support a Biological Opinion
17 so your comments are greatly appreciated.

18 MS. MULDER: Cheryl Mulder, U.S. Forest Service.
19 We want thank you all for making the trip all the way out
20 here and having patience with us on this trip. I'm going to
21 make a statement one time and it's going to apply to all of
22 the resources basically that you are addressing today.

23 The project, as Beth pointed out, and thank you,
24 Geoff for letting me know I attended 30 meetings in the last
25 year. This project does straddle two national forests, both

1 the Plumas National Forest and the Tahoe National Forest.
2 Chiefly forest boundaries are actually fairly limited on
3 this project. The forest boundary ends at the New Bullards
4 Bar Dam and then also encompasses Oregon Creek and part of
5 the Middle fork.

6 Of course, all forest resources need -- are
7 potentially affected -- that are within this area are
8 potentially affected by the project. The scope depends on
9 the species or the resource that we're looking at and what
10 they're habits are and what their needs are. Connectivity,
11 migration.

12 We will be presenting all of our concerns and
13 issues in writing in a response and also review of the PAD
14 and additional study requests. As far as the aquatic
15 resources I would just mention that we are interested in the
16 diversity of the aquatic resources, all fish species
17 including, of course, those sensitive species and forest
18 sensitive species, red-tailed yellow-legged frog, in
19 addition to fish, aquatic invertebrate, mollusks, et cetera.

20 So we will be commenting on those studies in
21 writing and filing that in a timely fashion.

22 MR. HICKS: Thank you. Roger Hicks from -- I'm
23 on the Board of Directors of SYRCL.

24 And as far as the aquatic resources and the
25 negative impact that this project has on these resources.

1 The most high profile thing is the anadromous fish.

2 I would urge the Commission to consider the
3 concurrent Drum-Spaulding re-licensing and to somehow have a
4 coordinated licensing process. Because as has been
5 mentioned, diversion upstream through the Drum-Spaulding
6 project has a major impact on the inflow into this project
7 and to the habitat downstream. And it is, after all, the
8 same watersheds, the Yuba watershed.

9 Now I'm not a professional resource manager and I
10 don't work for an environmental group, I'm a doctor. But I
11 know that it would be like working on someone's kidneys to
12 save them and then they die of heart failure because, you
13 know, you weren't paying attention to that part. So it's
14 probably unprecedented but I think there should be a
15 coordinated relicensing project between this one and Drum-
16 Spaulding. Thank you.

17 MR. HOGAN: Okay, I think we'll probably take one
18 more comment and then we'll have to move on. If we get time
19 we'll come back to it.

20 MS. LEIMBACH: My name's Julie Leimbach; I'm with
21 the Foothills Water Network. And the Network includes a
22 number of conservation and recreation and geos including
23 California Sportfishing Protection Alliance, Trout
24 Unlimited, American Whitewater, South Yuba River Citizens
25 League, Northern California Federation of Fly Fishermen,

1 Sierra Club, Save American Salmon and Steelhead, Dry Creek
2 Conservancy, and Save Sierra Salmon.

3 We've commented and are participating in -- and
4 American Rivers; I always miss one.

5 We are commenting and participating in the Yuba-
6 Bear, Drum-Spaulding re-licensing and will obviously be
7 participating here.

8 I just wanted to add a few things. Some of my
9 members aren't here and I wanted to cover some issues that
10 they would normally include. In particular, the study
11 should include a Hydrologic Alteration Study which should
12 address project impacts that negatively affect spring
13 snowmelt flows. The project creates precipitous declines in
14 flows during the spring snowmelt period when under
15 unimpaired conditions there would normally be a long
16 descending limb reflecting the snow melting. And according
17 to Sarah Yarnell's recent papers, this slowly descending
18 limb of the snowmelt hydrograph is very important for many
19 aquatic biota including trout spawning and foothill yellow
20 legged frogs.

21 In relation to this Hydrologic Alteration Study
22 the project should also study the existing outlet works and
23 options for modifications of them that would enable the
24 project to meet new in-stream flows or recreate that
25 snowmelt recession limb that I just spoke of. Some of the

1 outlet works may not be able to release that refined or the
2 desired timing of flows that we would be looking for.

3 One example question that could be addressed in
4 this study is why the Lohman Tunnel slide gate cannot
5 regulate flow and options for improving it so that it can.
6 The study should also consider options such as the solution
7 -- options such as the full head gate on wheels or on
8 rollers. Those are very specific but I wanted to cite some
9 examples of the kinds of answers we'll be looking for to
10 inform license conditions.

11 In addition, studies should address YCWA's
12 hydropower project's relationships to water supply. Water
13 supply in some cases drives how YCWA is operating its
14 project and FERC in the past, I think, has said that water
15 supply is not under its jurisdiction. However, if these
16 water supply demands and contracts are actually dominating
17 and deriving how the hydropower project is being operated,
18 then they should be understood so that we can understand --
19 so that they can inform license conditions in the future.

20 We're in the position now in Yuba-Bear/Drum-
21 Spaulding re-licensing in which we have not studied the
22 relationship between those water supply demands and the
23 hydropower project. And there is a huge information gap
24 there and it is at the center of the debate and discussions
25 on the Yuba-Bear/Drum-Spaulding project and we lack the

1 study for it.

2 So I'd rather not be in that position on this
3 project. It's my understanding that the hydrologic model
4 for this project in part was chosen because of those water
5 supply contracts driving the hydropower operations. And so
6 I think that we should take that into consideration,
7 understand that as the dominant that water supply plays in
8 these hydropower operations.

9 The other study element we should consider is the
10 large exports from the Upper Yuba River watershed. Other
11 people have touched on it but obviously the Yuba-Bear and
12 Drum-Spaulding projects export a significant amount of water
13 from the Yuba watersheds. Together it is a combined 400,000
14 acre-feet per year on average from the Middle and South Yuba
15 watersheds.

16 NID's Yuba-Bear project alone diverts an average
17 of 60,000 acre foot per year from the Middle Yuba. And the
18 reason why this is particularly important is because YCWA
19 can only manage the water that they receive, right? And the
20 management of flows in the Lower Yuba River is based on
21 actual, not unimpaired inflow to Yuba County Water Agency's
22 New Bullards Bar Reservoir.

23 By reducing that inflow by an average of over
24 60,000 acre feet per year, the NID Yuba-Bear Project at a
25 minimum directly affects the amount of water that is

1 available to YCWA to meet its in-stream flow releases below
2 Englebright Reservoir for anadromous fish.

3 And let's see, there's one more piece. The
4 studies above Englebright that relate to the reintroduction
5 of salmon anadromous fish should include Chinook salmon and
6 steelhead as target species, and that includes in-stream
7 flow, geomorphology and riparian studies. It could include
8 more based on NMFS' comments. Thank you.

9 CHAIRPERSON MITCHNICK: Okay. We're going to --
10 no, well, okay. I thought people might need a break. But
11 if you want to --

12 (Several people speaking at once.)

13 SPEAKER: Will there be time for more comments
14 after the break?

15 CHAIRPERSON MITCHNICK: Oh yes, yeah. Let's, I
16 just want to say a few things. All your comments dealing
17 with Section 7, Consultation, are very important. We don't
18 want a train wreck at the end of this process. But a lot of
19 the things that you brought up I'm sure are going to make
20 people at the Commission very nervous in terms of going all
21 the way down to the, to the Bay in terms of the scope, the
22 definition of interdependent, interrelated effects and all
23 those types of things. So I guess I just ask in your
24 comments to provide, you know, real clear, you know,
25 justification for why you believe those types of things need

1 to be part of this consultation.

2 And I know there's been some discussions about
3 sort of having, you know, some improved communications
4 between National Marine Fisheries and FERC to try to work
5 out some of these issues early in the process, and I
6 certainly would encourage that with the participation of the
7 licensee. See if we could work out some of these issues,
8 you know. They're going to be difficult but, you know, the
9 more we talk about these things perhaps the better we can
10 get through these issues.

11 You've been sitting for an hour 45 minutes.
12 Let's take a 10 minute break, not a 15 minute break or a 20
13 minute break. A 10 minute break. And we'll continue with a
14 few more comments on aquatic but then we've got to move on
15 to the other resource issues.

16 (Off the record at 2:43 p.m.)

17 (On the record at 2:57 p.m.)

18 CHAIRPERSON MITCHNICK: First of all I'm glad
19 this is going to be one of those easy relicenses I keep
20 dreaming about.

21 (Laughter.)

22 We'll wrap up the aquatic. There's a few people
23 who had comments. Maybe if you raise your hand on who --
24 one, two, three, four, five. Okay, we're going to move on.
25 I'll give everybody two minutes and then we'll move on to

1 the next resource so please be brief.

2 MR. REEDY: Yes, hello. My name is Gary Reedy.
3 I'm the River Science Director at the South Yuba River
4 Citizens League. I'm also a Fisheries Biologist and I've
5 been working on the salmon steelhead population for the last
6 20 years.

7 Let me mention that the mission of the
8 organization, SYRCL, as it's referred to, is to protect and
9 restore the Yuba River and the greater Yuba watershed. And
10 we have lots of members and I think there will be more here
11 tonight because we're a large organization and we're the
12 only organization that's looking at the entire Yuba
13 watershed.

14 The point that we need a more comprehensive
15 approach in the Yuba watershed is one that's very important
16 to us and it's been made with regard to the Yuba-Bear/Drum-
17 Spaulding project and the substantial diversion. You know,
18 more than 60 percent of all the water from down the south
19 Yuba at any one time is not available to the Lower Yuba
20 River or the Yuba reservoir. So that comprehensive nature
21 of the watershed is very clear to us.

22 But not just here to me as a Fisheries Biologist
23 working on salmon and steelhead, but to our whole
24 organization because of the importance of the salmon and
25 steelhead to aquatic environments and watersheds in general.

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I just wanted to take a moment to say how much I appreciate the fishery scientists from the National Marine Fisheries Service's comments here today as well as many of the comments made by my conservation colleagues. We support all of those comments as our organization and I think it's - - well, I am grateful to find myself in this watershed that seems to have a national significance with regard to salmon and steelhead restoration. That's my interpretation of the comments that the National Marine Fishery Service is making that, if I understood what you had to say, are very challenging for the Federal Energy Regulatory Commission with regard to the relicensing of this particular project.

So we see that Englebright Dam is certainly useful and a critical part of the project undergoing relicensing and also request that a fish passage study is included in this project evaluation.

And I wanted to make comments with regard to the reasonable and foreseeable aspects of salmon and steelhead into the upper watershed above Englebright Dam. That was spoken about before but there are several points that were not made so this will just take a minute, bear with me.

It is reasonable and foreseeable to see salmon and steelhead above Englebright Dam very soon. Let me just chronologically go through some rationale, some things that

1 are happening or have happened.

2 By the way, SYRCL is participating in the Yuba
3 Salmon forum as are many, many other organizations involved
4 in this watershed or with the salmon and steelhead in
5 California.

6 The Upper Yuba Studies Program was funded by the
7 CalFed Program back in 1999 to the tune of \$9 million. So
8 somebody thought it was reasonable to invest largely in the
9 examination of the salmon and steelhead and the
10 reintroduction possibilities in the Upper Yuba watershed
11 back in 1999. And one of the -- at that time critical
12 habitat was being designated for the recently listed spring
13 run Chinook Salmon population of the Central Valley. And
14 the critical habitat designation the National Marine Fishery
15 Service provided referred to the Upper Yuba Studies Program
16 and said, pending the results of those studies, we'll list
17 the Upper Yuba watershed as critical habitat in addition to
18 the Lower Yuba. Well the studies found data supporting the
19 existing habitat of the Middle Yuba River would support what
20 would be right now the third or fourth largest existing
21 spring run Chinook salmon population in the Central Valley.

22 And that's exactly what -- why it's so reasonable
23 and foreseeable, what the recovery team scientists for
24 National Marine Fishery Service were coming out in their
25 suggestions that it's absolutely necessary to restore salmon

1 and steelhead above existing dams into restored habitats to
2 reduce their risk of extinction.

3 So those recovery planning documents came out
4 subsequent to the Upper Yuba River Studies Program and the
5 Linle, et al. document that really pointed to the need for
6 reintroducing to restore habitats and even use Englebright
7 Dam as the single reference for example. And then, of
8 course, there's the draft Recovery Plan the National Marine
9 Fishery Service produced last year that shows the scenarios
10 of reintroduction of the Yuba as part of a recovery plan.

11 And lastly National Marine Fishery Service's
12 Biological Opinion for the Central Valley project includes
13 other fish passage on large dams as possibilities. And then
14 there's the Biological Opinion for Englebright Dam and,
15 according to the judge's ruling, to include fish passage.

16 So those are the list of reasons, real quickly,
17 that it's entirely reasonable and foreseeable that salmon
18 and steelhead will be -- Or some very detailed plans for how
19 they could be will be available around the same time frame
20 as this license.

21 I wanted to make one more point. It hasn't been
22 made yet today. It's on the scale of issues, something you
23 might want to be aware of. SYRCL is a signatory to the Yuba
24 Accord II as is Trout Unlimited. And we have the privilege
25 of working closely with the county water agency and others

1 on a variety of studies that you'll see the results of as we
2 evaluate the conditions of the Lower Yuba River for this
3 project's license.

4 And I don't have any comments about that because
5 it's a good process and I really enjoy working with Yuba
6 County Water Agency on studying the Lower Yuba. But there
7 is a very unique situation on the Lower Yuba River in that
8 this river was so drastically altered by gold mining
9 activities beginning in the 1850s. Hydraulic mining debris
10 on a scale of hundreds and hundreds of millions of cubic
11 yards, and then dredging mining activity that not only
12 basically diked the river off between these training walls
13 for most of its length but changed the whole substrate
14 that's available to the river, resulting in Daguerre Point
15 Dam.

16 The point is that to evaluate projects effects,
17 hydrologic effects mostly, in the Lower Yuba River is, has
18 some unique challenges given the alteration of that
19 environment. This is a comment, it's just about
20 geomorphology. So I'm simply calling out the issue that
21 it's very difficult to assess or evaluate project effects if
22 we're not allowed to look at other effects too and to sort
23 out multiple effects on a physical environment, such as the
24 riparian condition on the Lower Yuba River.

25 So I think you'll see this playing out in terms

1 of some of the study plans for the Lower Yuba River and I
2 just wanted you to be aware of that really difficult
3 situation and isolate hydrologic effects or particular
4 project effects. But hopefully, the good collaboration has
5 already started and we'll be able to do that in the time
6 frame. Those were all my comments, thank you.

7 CHAIRPERSON MITCHNICK: Thanks.

8 MR. COPREN: My name is Bill Copren and I'm a
9 member of the Feather River chapter of Trout Unlimited and
10 I'll be much shorter. The Feather River chapter of Trout
11 Unlimited, the southern boundary is San Juan Ridge and so
12 the Middle fork and the North fork are both included in our
13 area of concern. The Middle fork and the North fork of the
14 Yuba River, all forks of the Feather River are our concern
15 also.

16 I was born and raised in Sierra County and have
17 always -- so I know something about the Middle fork and the
18 North fork of the Yuba River. And our principal concern
19 was, of course, fish passage. So I'm really pleased to see
20 that everybody else is concerned about fish passage because
21 we would really like to see salmon in Salmon Creek. We
22 would really like to see that.

23 And as to barriers -- and I'm not sure where the
24 -- the National Marine Fisheries -- on the North Yuba River
25 there are no barriers, fish barriers, period, above New

1 Bullards. You can get to the top of the Yuba Pass. You can
2 almost get into the Great Basin on the Yuba River. There
3 are no barriers. Once you get past New Bullards that whole
4 area is open. They talked about the mile post, mile 50. I
5 don't know what that means.

6 MR. THOMPSON: It's above Salmon Creek.

7 MR. COPREN: Well you can get up above Salmon
8 Creek, there's no barriers there.

9 The other thing is, is one item that I didn't
10 know that -- I'm sure you all know about it but
11 unfortunately Fish and Game planted trout in the Middle fork
12 of the Feather River's watershed. They now exist as a
13 managed specie in Mackrin (phonetic) Creek and Austin
14 Meadows, in the tributaries to the Middle fork of the Yuba
15 River. And Trout Unlimited's conservation, LCT Conservation
16 Program, considers that population an important conservation
17 population. It's outside of its natural -- most of it is
18 outside of where they're supposed be -- but that one's
19 outside of its Great Basin location and its home waters but
20 they are still concerned that that fish be watched because
21 it is a population, a self-sustaining population in the
22 Middle fork of the Yuba River. And I didn't know if you
23 guys know that but I suppose you do.

24 MR. WANTUCK: Well, in response -- this is Ray
25 Wantuck of the National Marine Fisheries Service.

1 With respect to National Marine Fisheries
2 Service's interest in the Upper North Yuba, we are actively
3 assessing that habitat for a potential reintroduction of
4 spring run Chinook and steelhead. Some of the parties in
5 this room are also talking with us about such a
6 reintroduction.

7 I think that while we have the microphone here
8 we'd like to address the aquatic resources list and suggest
9 to the Commission adding fall and late fall Chinook salmon
10 as an aquatic resource not listed as a rare or threatened,
11 endangered species. Although this species is not listed it
12 has been petitioned for listing in the past, it remains a
13 species of concern.

14 Chinook salmon in the Central Valley make up a
15 \$400 million per year commercial fishing industry. And I
16 don't know the exact amount for the sport fishing industry,
17 but I think it would be on that order. And currently we are
18 at historic low abundances of Chinook salmon in the Central
19 Valley, so these species must be addressed.

20 Secondly, when we get to threatened and
21 endangered threatened species I'd like to add and include
22 green sturgeon to that list. Also the Commission should be
23 aware that when a species is listed as threatened it means,
24 in the federal parlance, that it is likely to become an
25 endangered species in the foreseeable future unless actions

1 are taken to reverse that trend. So this is a serious
2 status of these species.

3 And then finally, with respect to the Magnuson-
4 Stevens Fisheries Conservation Management Act. The Act
5 passed in 1997 authorized the identification of essential
6 fish habitat, a term that is used under that Act. This is a
7 special designation that is applied through the commercial
8 species, Chinook salmon in this case. Unlike many of the
9 other hydropower licensing projects that we see in the
10 valley, essential fish habitat is designated above
11 Englebright Dam. And so all these things need to be
12 accounted for in terms of how you classify and examine the
13 impacts of a project on aquatic resources.

14 Anything else?

15 (Several people speaking at once.)

16 MR. PARKS: Jeff Parks with the State Water
17 Board.

18 I just want to bring up another one of those
19 subjects that makes FERC itchy. We wear many different hats
20 in this process. Besides our Clean Water Act authority we
21 also, you know, uphold our basin plan and deal with water
22 rights. And the issue of water rights is something that I
23 think is not always well captured in the scoping and in the
24 NEPA process. And I know it's partly out of necessity as
25 the water rights, the California water rights process is

1 parallel but separate from the FERC process. Yet it often
2 comes to a point where it's just as the consumable water,
3 you know, the municipal water aspects and agricultural water
4 aspects of these projects, even though they are outside the
5 FERC process they are unfortunately tied to this water
6 system.

7 So I just kind of wanted to state that, you know,
8 I think that's something that's usually missing from the
9 scoping and the NEPA. But also offer if FERC needs help or
10 wants some discussion on the best way to address that or
11 phrase it or include that in the overall aquatics analysis
12 that the Water Board is willing to talk about that and help.
13 And I think that would help characterize the whole water
14 system as a whole, better.

15 CHAIRPERSON MITCHNICK: Okay. We'll move on to
16 the other resources and if there's time at the end we can
17 get back to the resources that perhaps you missed the first
18 time around.

19 So we will move to my favorite resource area,
20 hopefully yours, terrestrial resources. The impacts that
21 we've identified so far basically deal with the effects of
22 operation and maintenance of a project on special status
23 wildlife species. And here are some of them, some of the
24 ones that have been identified so far in terms of wildlife
25 species, also a special status and state list of plant

1 species.

2 And just to clarify Larry's question, special
3 status is sort of just a term we use for species that
4 certainly aren't federally listed but sometimes we separate
5 out state listed species from special status species, but we
6 don't use it consistently. But in this case special status
7 primarily would be Forest Service sensitive species.

8 Identify the issue of effect of the project on
9 migratory deer habitat, winter habitat and migratory
10 corridors; the effect of project operation and maintenance
11 on the spread of noxious weed species; and the effect of
12 project operation, reservoir fluctuation, in-stream flows on
13 wetland habitat and meadow habitat and riparian habitat.

14 So are there any questions on terrestrial
15 resources or additional issues?

16 MR. COPREN: Again my name is Bill Copren and
17 this time I'm wearing the hat of Sierra County Historical
18 Society.

19 We are presently managing a population of
20 Townsend's big-eared bats, which are a species of concern on
21 the North Yuba River and are important to the very -- their
22 principal food is a moth that attacks the black oak. They
23 happen to live in our park in the Kentucky Mine mill, stamp
24 mill, and so we've now manage them but they're right on the
25 North Yuba so they may be a concern of yours.

1 CHAIRPERSON MITCHNICK: Any other comments,
2 resources? Then we'll move on to T&E. And we're not going
3 to get another chance here to talk about Chinook and
4 steelhead but we will talk about, we'll talk about, talk
5 about the terrestrial species that have been identified so
6 far. And they're the relatively standard species that we
7 see on most hydro projects in the Central Valley.

8 The effect of the project, maintenance activities
9 on the Valley Elderberry Longhorn Beetle, effect of
10 operation on the California Red-Legged Frog. Potential
11 effects of probably operation and maintenance on plant
12 species. Four have been identified as potentially occurring
13 within the project area, also some vernal pool species.

14 And as with the National Marine Fisheries, we
15 will have to consult with the U.S. Fish and Wildlife Service
16 on these species. And nobody from Fish and Wildlife Service
17 is here today but we would also like to have communications
18 with them to try to make sure that the Biological Assessment
19 that we ultimately provide to them would meet their
20 requirements.

21 So are there any comments on endangered plants
22 and wildlife species?

23 Okay. So let's move on to recreation.

24 MS. MURRAY: In the Scoping Documents some of the
25 issues we identified were public access to project waters

1 and existing rec opportunities and future rec opportunities
2 within the project area. We also identified water levels at
3 project reservoirs and how they affect recreation; for
4 example, angling or boating, of course flow-dependent
5 recreation opportunities and then the adequacy of the
6 existing facilities at the project in terms of recreation.

7 So do we have any comments?

8 MR. DICKARD: I'm Richard Dickard with the
9 Camptonville Community Service District. We are the local
10 government agency whose sphere of influence includes
11 approximately half of New Bullards Bar Dam in the east side.

12 The effect of this project on the Camptonville
13 Community Service District raises two main issues that are
14 of concern to us, and this is in reference to this section.

15 First we would like to request that both local
16 and visitor surveys, plus local town hall meetings, be held
17 on the effects of this project's facilities and operations
18 on recreation and, though it's not included yet, local
19 socioeconomic issues.

20 Second one is the visitors to this project create
21 increased fire hazards, medical emergencies, hazardous
22 materials incidents, increased traffic and trash, all of
23 which negatively impact the Camptonville Community Service
24 District and which need to be mitigated. And I will add
25 that these issues may be mitigated outside of this FERC ILP.

1 That's our comment. Wendy.

2 MS. TINNEL: My name is Wendy Tinnel. I sit on
3 the Camptonville Community Service District Board and I also
4 work for Camptonville Community Partnership.

5 And I just wanted to make, you know -- I agree
6 with everything Dick said. And I just wanted to make one
7 other comment about some concerns of public access to the
8 project and the surrounding areas. In that there -- I'm not
9 really sure where it fits in but the town hall meetings
10 would be very nice to have so we can get some of the public
11 input which that is kind of lacking, I guess.

12 MS. LEBLANC: Hi, my name is Cathy LeBlanc with
13 Camptonville Community Partnership.

14 You know, I've followed these meetings or tried
15 to follow these meetings since, gosh -- How long has this
16 been going on? Quite a while. Trying to find the spot
17 where the community voice can really be heard is a little
18 bit difficult. At the beginning of this process we were
19 told that they were going to have town hall meetings and the
20 community can have their input.

21 I write for the local newspaper, the Camptonville
22 Courier. I let folks know that this was happening but we
23 haven't really heard about it. So I think it's very
24 important that the community has an opportunity to be
25 involved, on the issues of access and recreation especially.

1 There was a community member who addressed the access issues
2 of the disabled. There's, you know, some concern around
3 that.

4 There's also access issues -- the lake is a
5 primary recreation resource for the people that live there.
6 We go there, let's see, sometimes more than once a day. We
7 use the facilities on the off hours because it's used
8 frequently, you know, on the weekends by tourists and, you
9 know, we try to stay out of that general time. But, you
10 know, when we want to use the lake even in the off seasons,
11 you know, the boat ramps are pulled up or the, or the
12 facilities have gates across them and they're closed. So
13 our access is really being deterred, you know, from using
14 our backyard. You know, Bullards really is our backyard.

15 So, like I said, it's a little bit difficult to
16 find the spot to have our voices heard. I'm not sure if
17 this is even, you know, the correct place, you know, that it
18 goes. One of the things that -- one of the other things
19 that we asked for when we put in our straw man study
20 proposals in our PAD was a socioeconomic study of the area.
21 Because when Bullards was first put in in 1967 the community
22 in Camptonville did a History of Camptonville. I'll submit
23 this for you. Folks really expected a boom, you know, in
24 the area. They expected an economic boom, they expected to
25 be able to connect to the lake. Currently there's one

1 concessionaire on the lake and they have the sole
2 proprietorship to the lake. You know, not that we
3 necessarily want proprietorship but we really do want access
4 to the people who come to the lake as far as a socioeconomic
5 standpoint.

6 So, like I said, the community wants to be heard.
7 If we can have a town hall or we can have our voice heard in
8 other ways that would be great. Thank you.

9 CHAIRPERSON MITCHNICK: All right. Would the
10 Applicant want to address the issue of a town hall meeting
11 with the local community?

12 MR. LYNCH: Yes, we would be -- this is Jim
13 Lynch. We'd be happy to have a town hall meeting up there
14 as part of this process. Not as part of a study proposal;
15 that still is in development. So if we can work out a time
16 to come up there and meet with people we'd be happy to.

17 MS. LEBLANC: Thank you, thank you very much.

18 MR. LYNCH: Sure. We'll talk directly with you.

19 MR. RIMELLA: Frank Rimella, NorCal Federation of
20 Fly Fishers.

21 Our user group, the fly fishermen and the
22 boaters, are probably the largest user group for the Lower
23 Yuba River. We are on that river almost 365 days a year and
24 our concerns is flows and flow metering.

25 Currently we have one meter just below

1 Englebright and it gives us a -- what's coming out of
2 Englebright. What it doesn't show is the other flow meter
3 at Deer Creek. Deer Creek can sometimes run a thousand to
4 five thousand in the winter, cfs. And what we need, what
5 we'd like to see is a flow meter that was below the Narrows
6 between that and Arch Bar Bridge, in the recreational area
7 of the river that would give us a combination of both of the
8 flows. So someone could go down there, knowing before they
9 get into the water what the actual flow is.

10 Right now most people are unaware that there are
11 two flow meters that it takes to get the flow in the
12 recreational area. You may pull up a flow meter that says
13 what's coming out of Englebright, which may say it's 3,000
14 cfs, but what you don't know is overnight Deer Creek went up
15 to 5,000. So you go down to the river and all of a sudden
16 in the area that has the public access it's 8,000 cfs, which
17 is extremely dangerous. It's a Class IV.

18 The river can go from a Class I to a Class III or
19 IV in the wintertime. And it's just something, it's a tool
20 for us as the users of the river that we would really
21 appreciate having.

22 Thank you.

23 MR. SHUTES: Chris Shutes, CSPA.

24 Just to expand on what Frank said a little bit.
25 Flow information is really important and I'm not sure it's

1 captured in the resources that are mentioned. And this goes
2 to gauging as well as real time availability of the
3 information and some kind of public access to operations
4 that are planned or foreseen over the next whatever a
5 reasonable time period is, weeks or even months.

6 Recognizing that, of course, it is not always
7 possible to know what's going to happen and how much it's
8 going to rain, how much runoff there's going to be. But in
9 many parts and times of the year regulation via the project
10 is determining what the flows are if you were downstream of
11 the project.

12 Having both gauge -- gauging information and some
13 kind of forecasting that was available on the web would be
14 extremely helpful to a very large group of users.

15 Thank you.

16 MR. HOGAN: Anybody else?

17 CHAIRPERSON MITCHNICK: Okay, we'll move on to
18 land use and aesthetics.

19 MS. MURRAY: Some of the issues we identified
20 where conditions of current roads within the project area,
21 wildfire risk which -- that's something Richard mentioned.
22 And then, of course, aesthetic resources at the project.

23 Do we have any comments?

24 MS. TINNEL: I just wanted to point out that on
25 the slide it only states roads and not trails. And so one

1 of our concerns is trails as well as the roads around the
2 project area.

3 MS. MURRAY: Okay.

4 CHAIRPERSON MITCHNICK: Any other comments?

5 MR. JOHNSON: Could we talk about salmon some
6 more?

7 (Laughter.)

8 CHAIRPERSON MITCHNICK: I did not hear what you
9 said and maybe --

10 (Laughter.)

11 MR. JOHNSON: I just asked if we could talk about
12 salmon some more.

13 MS. MURRAY: We put the salmon in a time out.

14 CHAIRPERSON MITCHNICK: We'll have time.

15 Moving on to cultural resources. You know, as
16 part of our Section 106 responsibility we'll be looking at
17 the historic archeological and traditional, cultural
18 properties that may be eligible for listing in the National
19 Register and evaluating potential effects of continuing
20 operation of the project on those resources.

21 And we will be consulting with the tribes. I
22 don't think there are any tribes here today. And we will be
23 consulting on a one-on-one basis with the tribes, the tribes
24 that have requested meetings with us, so that's sort of
25 something that we will be doing over the next few months.

1 Any comments?

2 MS. LEBLANC: I did want to say one other thing.
3 The community, when New Bullards was formed there were I
4 believe four towns that were flooded. As a result
5 Camptonville has an historical society that will be putting
6 forward a statement about the relevance of these towns and
7 the historical points, you know, therein. There is one of
8 them that a road access leading to so there may be
9 information brought forth in the near future from him. My
10 name is Cathy LeBlanc.

11 MS. LEIMBACH: Julie Leimbach with the Foothills
12 Water Network. A member of the network, the Save Sierra
13 Salmon group, in working towards restoration of Chinook
14 salmon and steelhead and those species are culturally
15 significant to a number of tribes in this area.

16 I'm not going say that I'm speaking for those
17 specific tribes, but Save Sierra Salmon is a for-profit
18 organization that -- I'm sorry, nonprofit organization
19 that's a member of the network. And they would like to
20 restore Chinook salmon and steelhead as part of culturally
21 significant waters.

22 MR. COPREN: My name again is Bill Copren and
23 this is because of the slide, representation of the Sierra
24 County Historical Society.

25 I've read that sentence there about ten times and

1 there's an awful lot of wiggle room in that, qualifiers in
2 that sentence. What exactly does that sentence mean? That
3 you're going to look at cultural resources that may be
4 eligible for inclusion. What does that mean?

5 CHAIRPERSON MITCHNICK: Well, not being a
6 cultural specialist, you know, you're going to have to bear
7 with me a little bit.

8 We have an obligation under Section 106 to
9 consult with the appropriate parties, the State Preservation
10 Officer, and advisory council if they request to be a party.
11 And that consultation only involves resources that either
12 are listed on the National Register or are potentially
13 eligible for the National Register. So those are the
14 resources that we have to consider under the Section 106
15 process.

16 Now that's not all we're going to do as part of
17 this process. We are going to evaluate and maybe we should
18 in the Scoping Document 2 be a little more specific. But we
19 will be looking at the effects of continued operation and
20 maintenance activities on culturally significant resources,
21 which would include historic sites, archeological sites,
22 sites of importance to Indian tribes.

23 So it's going to be a lot broader than this but
24 this focuses more on our Section 106 responsibilities.

25 Okay. We'll go to the last resource of the day,

1 developmental resources. As part of one of the Impact
2 Statement we'll be looking at the economics of the project
3 in comparison -- and economics of any other alternatives in
4 combination, in comparison with the alternative energy
5 sources. And we will look at the effects of any recommended
6 or proposed environmental measures on the, on the economics
7 of the project. And this is a pretty straightforward
8 analysis that we include in all our NEPA documents.

9 Go ahead.

10 MR. MALLEEN: Yes. My name is Kevin Mallen. I'm
11 with Yuba County. I've got a brief memo to turn in but just
12 to kind of go to the highlights at the same time here.

13 So Yuba County, a small, rural county in
14 California; about 73,000 people. It's a county, though,
15 it's been plagued with flooding over the years. And this
16 actually predates the county being formed. The settlers of
17 Marysville here, you know, formed one of the first levee
18 districts in the state.

19 The hydraulic mining occurred upstream from us,
20 it left millions of tons of debris in the Yuba River,
21 exacerbated the problem, and so there's quite a few levee
22 districts within Yuba County.

23 In the 1950s the residents of Yuba County formed
24 the Yuba County Water Agency, voting overwhelmingly, you
25 know, to form this water agency to create this project. And

1 put up, at the time, basically \$185 -million to get the
2 project going in bonds that were secured by this project.
3 And at the time that was two and a half times the assessed
4 value of all of the properties within Yuba County. So it's
5 a significant project for the county at the time.

6 Since the project's been constructed,
7 unfortunately we still have been devastated by floods in
8 1986, 1997, and we have the loss of four lives in those two
9 floods and hundreds of millions of dollars in property
10 damage.

11 And actually even today, for all of you that
12 drive past Highway 70 out here, we have a mall that was the
13 center of retail activity for the Yuba-Sutter area. After
14 it was flooded in '86 -- and it's a half-million square feet
15 of retail -- it's essentially vacant still today. And so
16 it's a -- flooding is significant issue in Yuba County.

17 And so the water agency is a significant resource
18 for us to combat that flooding. Not only the project itself
19 and the flood control features of the project but also the
20 financial backing enabling us to do levee improvements to
21 try and protect our residents. And so it's just, I think,
22 something that needs to be addressed in the scoping of the
23 analysis.

24 Thank you.

25 CHAIRPERSON MITCHNICK: Okay, thank you.

1 MR. FORDICE: My name is Steve Fordice, I'm the
2 General Manager of Reclamation District 784. We're a small,
3 local maintenance agency that provides service for over
4 25,000 people in South Yuba County. We're bounded on the
5 north by the Yuba River and to the south by the Bear. To
6 the east is the Western Pacific interceptor canal and the
7 west is the Feather River.

8 We were formed in 1908; we have been around since
9 then. We function under the auspices of the California
10 Department of Water Resources and the Central Valley Flood
11 Protection Board.

12 The YCWA has helped RD 784 and the residents of
13 that district through the floods in '86. In '86 and '97
14 there was over a half-million dollars' worth of damages.
15 Currently we have \$1.1 billion worth of infrastructure that
16 we protect. We protect it, in large part, because of the
17 assistance that YCWA has provided both in terms of
18 leadership, technological assistance and because of funding.

19 RD 784 did not have the manpower or the technical
20 expertise nor the financial resources during several of
21 these floods and YCWA has been the driving force to help us
22 become the urban protector that we are. We have
23 transitioned from a rural, farmer-led and protecting the
24 farms kind of organization to one that is more urban and
25 more -- certainly more technologically advanced.

1 YCWA initiated and funded the local share for
2 flood protection studies starting in 1988. In 1990 they
3 funded the local share for levee fixes to the tune of about
4 \$3 million.

5 YCWA was instrumental in obtaining approximately
6 \$90 million in flood protection funds from the state
7 government that was used by RD 784 to improve the levees and
8 protect that population and the infrastructure.

9 YCWA has also supported the formation of the
10 Three Rivers Levee Improvement Authority and that has
11 leveraged approximately \$400 million in levee improvements
12 in this area.

13 They have also been instrumental in creating
14 about 2100 acres of setback levee area, an area that
15 previously was in -- higher levees are now back into the
16 flood plain.

17 And is instrumental in creating restoration
18 projects that have provided basically resource mitigation
19 for the Valley Elderberry Beetle. One single project alone
20 they provided \$1.4 million in elderberry mitigation, \$1
21 million in Giant Garter Snake mitigation. Other raptors in
22 addition are the Swainson's Hawk, the Golden Hawk, Golden
23 and Bald Eagles, construction of swales and other structures
24 to prevent fish entrapment and to enhance the -- basically
25 the environment for both aquatic and not aquatic animals.

1 And the restoration of riparian habitat to the
2 tune of about 1200 acres in addition to wetlands that were
3 created by the Bear and Feather River setback areas. And
4 also not to mention at least three Native American burial
5 grounds with prehistoric remains. That again were protected
6 based in part because of the funding that has been provided
7 by YCWA and the economic impact.

8 When we talk about \$400 million in this very
9 close area you're also talking about a number of jobs. So
10 YCWA has been able to leverage the funding within this area
11 to help these communities.

12 In addition to all of that the YCWA funds have
13 provided a variety of projects and grants to help several
14 disadvantaged communities within this general area within my
15 district.

16 Now, YCWA funding has done all of the good things
17 I talked about in RD 784. But understand there are four
18 other reclamation districts that are also within this area
19 that also need the same kind of help; and the populations
20 behind those levees that need the same kind of protection.

21 In addition I also need to mention the fact YCWA
22 led the way in not only funding but also in leadership in
23 creating an \$11 million coordinated flood control program
24 that minimizes peak flows and stops the wholesale release of
25 water and coordinates that through a wide variety of other

1 dams so that we are not fighting peak flows when we don't
2 have the wherewithal based on the design capability of the
3 levees, both in my area and downstream.

4 So YCWA has provided also the funds to help my
5 district to achieve a 200-year level of protection and again
6 providing support to protect communities, not just their
7 livelihood but their homes and the sense of community.

8 YCWA has provided through this project funding,
9 leadership, technical experience and a wide variety of
10 programs. I would urge you to consider not only the people
11 that we mentioned and the jobs and the communities and the
12 sense of community and the livelihoods of tens of thousands
13 of people but also the kind of assistance in providing
14 funding or mitigation for wetlands for aquatic and
15 terrestrial animals. They are very important to this
16 community in so many ways and again I haven't touched on all
17 of them. Thank you for your time.

18 MR. RIMELLA: Frank Rimella, Federation of Fly
19 Fishers and also the Gold Country Fly Fishers, which is the
20 local fly fishing group in the area.

21 I need to go on the record to say thank you to
22 the agency because we have worked together on a lot of small
23 projects under the radar for the last six to eight years.
24 The agency has come up and showed us leadership and funding
25 for DFG signs on the river, access on the river, support to

1 get -- I got caught on that one. I want to say access but
2 it's not really access. It's support to get the fishermen
3 out on the river. I lost my train of thought, excuse me.

4 Curt, help me out. What have you helped us out
5 on here? Numerous things here.

6 What I really was going to get to was the boating
7 problem on the river. Some years ago we had motorboats on
8 the river. And Curt behind the scenes helped us pass a
9 county ordinance in Yuba County to get the motorboats off
10 and save the river for float and recreational use only.

11 And a lot of other little things that come
12 through with some of these other people, not the agency.
13 Just the moral support for the fishermen. We do the Yuba
14 River Cleanup, you know, and Curt is there behind the
15 scenes. The agency has been behind the scenes for many
16 years helping us out and I just wanted to say, thank you.

17 MR. JOHNSON: Brian Johnson, Trout Unlimited
18 again. Just two, I think, pretty quick things.

19 The first is a point that kind of came up
20 indirectly a couple of times earlier about the
21 interconnected nature of the project and it's water supply
22 features and the hydropower features and people talk about
23 flood also.

24 In order to do a decent job quantifying the
25 economics of various alternatives we're going to have to

1 have a pretty good understanding of the connection to the
2 water supply piece. And there was actually a study proposed
3 in Yuba-Bear/Drum-Spaulding that had kind of an awkward name
4 but it was Water Use and Efficiency or something. And it
5 wasn't done, probably because folks felt that it was beyond
6 the scope of what the license would require. But since then
7 a lot of us have regretted not having that information. And
8 we haven't even gotten to the part of quantifying the
9 economics of alternatives yet.

10 The second one. The Fish and Wildlife Service
11 isn't here but you reminded me of something that they said
12 at one of the earlier meetings, which was a request for
13 information about the economics of salmon and also on
14 downstream recreation and commercial fishing but also the
15 positive economic benefits of reintroduction, the tourism
16 and recreation that that would bring.

17 And I think the larger point is, you know, folks
18 won't want to see economic studies that are only in terms of
19 costs but not also including information about costs to
20 recreation or benefits to recreation.

21 And on the geographic scope I think the Klamath
22 River NEPA document as it went toward economic impacts
23 actually went well beyond the mouth of the river and out
24 into the ocean for commercial fishing. And so if the
25 Commission likes going downstream to the Delta they'll love

1 going out to the ocean for commercial fishing. But I think
2 it actually was done there and so it's not like it's a new
3 idea. Most of the other docs ended at the mouth of the
4 river.

5 CHAIRPERSON MITCHNICK: Okay, I think we have --
6 no, sorry.

7 MR. ROTHERT: Just thinking about this issue of
8 trying to understand the economic effects of potential
9 environmental measures. In the no action alternative, which
10 is often considered sort of the baseline, right, for that
11 comparison. I'm wondering how the Commission will treat the
12 economic baseline of the project and the power value.

13 I mean, as we know, YCWA has a contract with
14 PG&E, which is very favorable to PG&E. I'm wondering
15 whether the Commission would use power value and revenues
16 under that contract or would it speculate on what YCWA would
17 get in the future?

18 I mean, I know the Commission is averse to
19 speculation so I'm wondering what you think the approach
20 will be on that.

21 CHAIRPERSON MITCHNICK: I even hate to speculate
22 more than the Commission does. I can't answer that
23 question, I'm sorry. But I will bring it back to our
24 economist-engineer and you can certainly include it in your
25 comments. It's something that I'm sure we already have the

1 answer but I just don't know.

2 MR. LYNCH: This is Jim Lynch with HDR for what
3 it's worth. In my experience the Commission uses the
4 current cost method. It came out of the Mead Decision.
5 They bring everything to current cost, they don't escalate
6 into the future, including power costs. That's been my
7 experience for quite a while.

8 MR. SPRAGUE: Gary Sprague with the National
9 Marine Fisheries Service. Just a procedural question. Will
10 the transcript for this proceeding be on your e-library?

11 CHAIRPERSON MITCHNICK: Yes, eventually. Roughly
12 ten days after we receive it. Two, three weeks from now.

13 MR. THOMPSON: Larry Thompson, National Marine
14 Fisheries Service. I have a question for the Commission
15 staff regarding the alternatives considered but eliminated
16 from detailed study, Section 3.4. I don't want to read
17 through the whole thing. What I'm wondering is, has the
18 Commission determined now that a license should be issued
19 for the project but the issue at hand is the conditions for
20 a new license?

21 CHAIRPERSON MITCHNICK: Certainly the Commission
22 has not made any decision about anything. From a process
23 standpoint, you know, when defining alternatives to look at
24 in a NEPA document, you know, it's based on, you know,
25 certain criteria. And if there is a lot of comments, you

1 know, concerned about continued operation of the project or
2 the continued existence of the project then we might elevate
3 it to a full-blown alternative in the NEPA document.

4 But absent that we don't -- there may be a little
5 sort of inconsistency in that logic but, you know, the
6 Commission will make its own decision. We'll present them
7 with the information and they'll make their own decision
8 about whether the project should be re-licensed or not.

9 But, you know, the alternatives, the fact that we
10 are not looking at a decommissioning alternative, at least
11 at this point of the process, doesn't foreclose any option
12 the Commission will have later on.

13 MR. THOMPSON: So in other words, that decision
14 will be informed later by information study results, et
15 cetera, about the effects of the project. We need to go
16 there first.

17 CHAIRPERSON MITCHNICK: Right. It's certainly
18 something that could come out of our NEPA review. That hey,
19 you know, maybe this project shouldn't be re-licensed. But,
20 you know, there is nothing in the record now, at least as
21 brought to our attention up to this point that sort of leads
22 us down that path. But that doesn't mean that the evidence
23 that's developed through this process won't, you know, make
24 that a more viable alternative to be considered.

25 MR. THOMPSON: Alan, I think what concerned me

1 was the last sentence on page 16 of Scoping Document 1.

2 CHAIRPERSON MITCHNICK: I'm sorry, the last
3 sentence or the first sentence?

4 MR. THOMPSON: The last sentence of page 16.
5 "Thus we do not consider project decommissioning a
6 reasonable alternative to re-licensing the project with
7 appropriate environmental measures." I thought that was a
8 conclusion and I couldn't -- at this stage in a licensing
9 proceeding where we're scoping potential issues this seemed
10 to strong and I just didn't -- I don't understand that so I
11 was attempting to gain clarification.

12 CHAIRPERSON MITCHNICK: Well, I guess I would add
13 "at this time" to that sentence.

14 You know we, as part of the engineering task
15 force about ten years ago, this was one of the issues that
16 was brought up on sort of -- the criteria that the
17 Commission would use to determine whether or not the
18 decommissioning alternative would be evaluated as part of
19 the NEPA process. And so there's a whole bunch of criteria
20 and one of them certainly is whether a party has recommended
21 decommissioning as an option.

22 And there's a lot of others that, you know,
23 benefiting or eliminating significant impacts occur absent
24 decommissioning of a project. Those types of criteria that
25 a Commission would look at. And based on those criteria, at

1 this point in the process we don't see that as an option
2 that's been, you know, adequately supported.

3 Now that can change through time, you know.
4 We're in the very early stages of this process. We haven't
5 even done the studies yet so we don't even know what the
6 agency recommendations are going to be. And sometimes
7 agency recommendations can lead to decommissioning if
8 they're expensive.

9 We're early in the process and this is sort of a,
10 sort of a standard approach at this point in the process,
11 you know. You find that in just about every NEPA document,
12 it will have this same discussion. And until information is
13 developed in the record to change it, you know, we will --
14 we will proceed down that path.

15 MR. THOMPSON: That helps, thank you.

16 MR. WANTUCK: This is Rick Wantuck of the
17 National Marine Fisheries Service. I have a question and
18 then, time permitting, a couple of concluding remarks for
19 our agency. The question is about the scoping process and
20 study plan development.

21 I'm looking at copies of your slides that were
22 presented earlier this morning about scoping and it shows
23 four boxes and starting out with NOI PAD issue and it's
24 Scoping/Process Plan. Then it moves into Study Plan
25 Development and Studies. Slide 9 I'm referring to.

1 And then I'm a little confused because on page 23
2 of Scoping Document 1, Table 1 presents YCWA's initial study
3 proposals. How does the Commission view this table at this
4 stage of the game of study plan development? I'm confused
5 why this was put forth at this time, being only the view of
6 the Applicant and not the other participants in the
7 licensing?

8 CHAIRPERSON MITCHNICK: I mean, the Applicant has
9 developed these study proposals earlier than the process
10 calls for. They got a year head start to be able to, you
11 know, make better use of the short time frames. You know,
12 somebody has to start off. Applicant started off with their
13 proposal.

14 And this will be modified through the study
15 process and, you know, this is sort of their preliminary or
16 informal proposal. They'll have an opportunity to file
17 their revised study plan as part of the process based on
18 comments from everybody. It's sort of an extra step to the
19 process. Ken, why don't you help me out here.

20 MR. HOGAN: The other part of that Rick is the
21 Integrated Licensing Process requires them to put together a
22 proposed list of studies in their PAD.

23 The next step here is for the Commission to hear
24 from the agencies the study comments and the study requests.
25 So that's why the list in the scoping document right now is

1 what is being proposed by the applicant. By the time we
2 issue Scoping Document 2 we may be able to adjust that.

3 Actually I'm not sure if we do -- we will adjust
4 those studies through our study plan determination. It's
5 what's before us now and it will be modified but it's based
6 on our regulations.

7 MR. WANTUCK: Okay, understood. I guess the
8 response to that is that these meetings that have taken
9 place outside of the formal ILP process and have yielded
10 this study plan proposal were not informed by any scoping
11 decision of the Commission. And so how do you assemble a
12 list when you don't know what the scope of the work is?

13 CHAIRPERSON MITCHNICK: There certainly are risks
14 involved but, you know, I wasn't involved in any of those
15 meetings so I'm not sure how the plan, the study proposals
16 came up with. But certainly there are a lot of standard
17 studies that are developed for these projects. And a lot of
18 these studies are those types of standard studies that I
19 assume that the Applicant thought that were needed to be
20 done no matter what, you know, the alternate list of issues
21 is. Or potentially could be done. I mean, some of them may
22 go away based on the final list of studies. I mean, it's
23 somewhat of a gamble that it won't be needed but, you know,
24 it's a decision the Applicant makes.

25 MR. WANTUCK: And this is understandable. I

1 guess our petition to the Commission is that this doesn't
2 represent a rubber stamp of studies going forward. That we
3 truly do have an opportunity for study plan development from
4 this point forward through Scoping Document 2.

5 CHAIRPERSON MITCHNICK: That's well understood.
6 I know where we are in the process. We've still got a lot
7 of work to do.

8 MR. WANTUCK: Okay. And now if I could just must
9 a couple of concluding remarks.

10 Going back to the evaluation of benefits to
11 aquatic resources. I want to point out to the Commission
12 that there is an abundance now of scientific literature that
13 deals with the considerable benefits of marine-derived
14 nutrients from the migration of salmonids into upper
15 mountain watersheds.

16 Every one of these species that you have listed
17 along with many dozens more will benefit from the process,
18 the bio-geo-chemical processes of salmonids bringing marine-
19 derived nutrients into the watershed. I think we believe
20 that's a significant benefit and should not be overlooked.

21 And then the second point is earlier you
22 mentioned that the Commission may have difficulty with a
23 scope that extends down to San Francisco Bay. We cited the
24 recent federal district court judge ruling that with respect
25 to our Biological Opinion instructed us to look that far

1 down as a result of operations in the Yuba River.

2 But I want to point out two other things, and
3 this will also be in our written submissions. It is our
4 understanding that the NEPA/CEQA document was done for the
5 Lower Yuba Accord, Lower Yuba River Accord, pardon me. Also
6 looked at a scope down into the Delta. And this is the
7 primary management framework that is now in place to protect
8 resources in the Yuba River.

9 And finally, FERC's own study conducted in the
10 late '90s by Oak Ridge National Laboratories identified the
11 Yuba River project as one of six Central Valley projects
12 that can have -- one of nine, excuse me, projects that can
13 have effects down into the San Francisco Bay Delta area.

14 So we actually have three important pieces of
15 evidence. One that although it was not published was
16 actually commissioned by FERC in the '90s and that was the
17 conclusion. So when the Commission reviews the petition to
18 look at that expanded scope we would hope that they would
19 keep these things in mind.

20 And finally the third thing is that while
21 National Marine Fishery Service is certainly interested in
22 effective protection, mitigation and enhancement measures
23 for our trust resources through this process. We do want to
24 acknowledge the considerable work that the applicant has put
25 forward in the Lower Yuba Accord and the leadership in terms

1 of trying to best manage the resources in the Lower Yuba
2 River. We think that's commendable and we want that noted
3 for the record.

4 CHAIRPERSON MITCHNICK: Thanks, Rick.

5 Okay, it's 4:05. We've been at it for three
6 hours although it seems a lot longer than that.

7 (Laughter.)

8 CHAIRPERSON MITCHNICK: I don't know how you sit
9 through these meetings. No, I jest.

10 I have three or four more slides that will take
11 about five minutes tops.

12 You know, I don't know if people have more to say
13 but I'd been willing to sit around for a little bit if
14 people do have more questions or comments concerning
15 scoping. I'm not going anywhere. I've got a meeting at
16 7:00. So does anybody have remaining comments?

17 Okay, seeing none.

18 (Laughter.)

19 CHAIRPERSON MITCHNICK: You had your chance. I'm
20 just going to quickly sort of go through some administrative
21 stuff.

22 We have a list of comprehensive plans in the
23 scoping document which was pretty up to date, although we
24 just issued a revised list last week, I believe, or in
25 January.

1 If you have comprehensive plans that you want the
2 Commission to consider as part of this re-licensing you need
3 to file it. And this applies to state and federal agencies
4 who have the ability to file comprehensive plans. So that's
5 what we're looking for. This is as good of a time as any to
6 file them and instructions for filing them are on our web
7 site or you can give me a call.

8 The mailing list for this project is very, very
9 short. We sent out scoping documents to about 200 people
10 based on the licensee's mailing list. The Commission's
11 mailing list only has about 10 or 20 names on it. We did
12 just add a lot of the local counties and irrigation
13 districts, those entities that were included in the PAD.

14 But most of you in this room are not on the
15 Commission's list for this project. So if you want to
16 continue to receive notices and documents issued by the
17 Commission then you need to update the mailing list. I'm
18 not sure if the handout in the back tells you how to do it
19 or not but certainly on the Commission's web site. You can
20 email me your name and I can add it or you can mail it to
21 the Commission's whatever, e-service or something.

22 MS. MULDER: So there's a thing in here for the
23 e-subscription. Is that what you're talking about,
24 subscribing there?

25 CHAIRPERSON MITCHNICK: No, that's --

1 MS. MULDER: You need his personal.

2 CHAIRPERSON MITCHNICK: Yeah, that's different.
3 And I'll go through -- I'll go through all four, all the
4 different Commission aids to being informed of what's going
5 on.

6 (Looking through slide presentation.)

7 CHAIRPERSON MITCHNICK: There's the brochure that
8 deals with all these four parts of the Commission's on-line
9 system. And e-filing, people are aware of that. You can
10 file -- instead of filing an original and seven copies you
11 can just use the Commission's electronic filing system and
12 you can avoid making all those copies. Plus you won't have
13 to prepare it days ahead of time in order for the Commission
14 to receive it by the due date so that's very effective.

15 E-comments for comments less than 600 characters
16 without graphics or attachments. You can use e-comments.
17 You don't have to register. You have to register for e-
18 filing. You don't have to register for e-comments. You
19 just file your comments but you do have to give your name
20 and address, I believe.

21 E-subscription. If you want to know every time
22 something is filed with the Commission or issued by the
23 Commission you can subscribe to this particular docket, P-
24 2246, and you'll get an e-mail every time the Commission
25 issues something or something is filed. And then you can

1 just link -- click on the link and access the particular
2 document. So it's a very, very nice feature that the
3 Commission has set up.

4 And of course everything that's filed with the
5 Commission or issued is on e-library going back to the mid-
6 90s for every project. The Commission has done an
7 exceptional job making all this information readily
8 available on its web site, probably better than any other
9 agency out there.

10 To remind you, March 7, 2011 is when we're
11 looking for comments on the PAD, comments on the scoping
12 document, and probably most importantly, your study
13 requests.

14 MR. WANTUCK: Your clock needs to be re-
15 calibrated, it's moving too fast.

16 (Laughter.)

17 CHAIRPERSON MITCHNICK: If you wait long enough
18 it will go backwards a little bit.

19 Something I didn't, I didn't bring up during this
20 meeting yet but something that's in the Notice. We are
21 requesting Cooperating Agency status. This is the time to
22 do it. Not necessarily I'm sure this is the only request
23 but certainly the first request, opportunity to request it.
24 And if you are a cooperating agency then you give up your
25 opportunity to intervene in the Commission's proceedings.

1 So we certainly want to hear from you in terms of that.

2 MR. WANTUCK: Can you repeat that, please. And
3 give up opportunity to what?

4 CHAIRPERSON MITCHNICK: To intervene.

5 MR. WANTUCK: To intervene, okay.

6 CHAIRPERSON MITCHNICK: Because of the close
7 working relationship that we develop with the cooperating
8 agency.

9 Okay again, March 7th is the -- okay. And I
10 mentioned how to file. The magic number is P-2246. The e-
11 library doesn't like 2246 but it likes P-2246 so make sure
12 you have the --

13 MR. WANTUCK: Just another technical question
14 here. These extension numbers. I know they're on the web
15 site, 058, for instance. Is that absolutely needed?

16 CHAIRPERSON MITCHNICK: No, no. 0-5-8 brings you
17 to the pre-filing process for this project. So 0-5-8 refers
18 to the pre-filing process. Once the application is filed it
19 will be the next sub-docket number.

20 MS. MURRAY: If you're looking things up on e-
21 library it's better not to include the 0-5-8, just stick
22 with the 2246.

23 CHAIRPERSON MITCHNICK: Right. Because it won't
24 pick up that zero -- things filed without sub-dockets may
25 not pick up things filed without sub-dockets.

1 everybody for coming and look forward to working with you in
2 the future. Thanks.

3 (Whereupon, at 4:16 p.m., the Conference
4 was adjourned.)

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