

1 FEDERAL ENERGY REGULATORY COMMISSION

2

3 Bucks Creek Hydroelectric Project

4 P-619-164

5 Thursday, August 1, 2019

6 7:00 p.m.

7

8 Holiday Inn Express Oroville

9 550 Oro Dam Blvd.

10 Oroville, CA 95865

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1 SPEAKER LIST

2 Alan Mitchnick, FERC Chair

3 Jim Hastreiter

4 Evan Williams

5 George Gilmour

6 Jeff Boyce

7 Robyn Rice

8 Jeannie Heltzel

9 Patricia Sussman

10 Amy Lind

11 Ian Kroll

12 Sean Hobler

13 Jeremy Pratt

14 Jennifer Hartman

15 Carol Efird

16 John Davidson

17 David Steindorf

18 Sara Lose

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

2 CHAIR MITCHNICK: Okay, I will simply go over
3 some of the schedule issues that I talked about this
4 morning. You know, it will just be a quick rundown and then
5 I'll have the City of Santa Clara sort of explain the CEQA
6 process a little bit and how that fits into the licensing
7 process and then we'll open it up for comments.

8 So, the Draft EIS was issued June 14th. Comments
9 are due August 13th, so another two weeks until the comments
10 are due. The modified terms and conditions are due October
11 14th, and the Final EIS is scheduled at the moment for
12 January of 2020, but hopefully we can move that back into
13 December.

14 You know, there's some other regulatory processes
15 that have to be completed before the license is issued. And
16 the first one is compliance with Section 106 of the National
17 Historic Preservation Act. And we do have a Historic
18 Properties Management Plan and we asked PG&E to correct some
19 of the editorial issues and that's due back in a couple
20 weeks, August 16th.

21 So, once we have the corrected version of the
22 Historic Properties Management Plan, then we will issue a
23 Draft Programmatic Agreement for the state preservation
24 office's signature and the Advisory Council, if they choose
25 to participate, but they usually don't choose to

1 participate.

2 You know, in terms of Endangered Species Act
3 consultation, it's also pending. We requested concurrence
4 with the service in June, they came back saying that we
5 should initiate formal consultation and we are in the
6 process of putting that information together and getting it
7 back to the service, so that we could initiate formal
8 consultation.

9 The third process is the water quality
10 certificate. The applicant was -- the application was filed
11 on August 14th of last year, so that one-year period is
12 coming to an end pretty soon, but the state will waive the
13 CEQA process before issuing its water quality certificate.
14 So --

15 MR. HASTREITER: You should mention what the
16 Water Board said this morning, so they understand.

17 CHAIR MITCHNICK: Why don't you go ahead.

18 MR. HASTREITER: Well, I don't remember the exact
19 words they used, but they're essentially going to deny it
20 without prejudice.

21 MR. STEINDORF: This is what they've been doing.

22 MR. HASTREITER: Right, so you won't have to
23 worry about that. And PG&E will be a good client.

24 MS. HARTMAN: Yes.

25 CHAIR MITCHNICK: Could you please give your name

1 before speaking, so that the court reporter knows who you
2 are.

3 MR. STEINDORF: Dave Steindorf for the American
4 White Water.

5 MS. HARTMAN: And Jennifer Hartman PG&E.

6 CHAIR MITCHNICK: Thank you.

7 MR. STEINDORF: Do you want to? Why don't you
8 try.

9 MS. HARTMAN: Sure, or Jeremy can. Yeah, I think
10 it's typical that the Water Board denies without prejudice
11 until the NEPA document is complete, so, hopefully not too
12 many years of that but yeah, and then we reapply, yeah --
13 the State Water Board, yeah.

14 CHAIR MITCHNICK: Your name?

15 MS. SUSSMAN: Oh, I'm sorry, I'm not, I'm sorry,
16 Patricia Sussman, I'm with the Interior Resource, we're a
17 consultant to the City of Santa Clara. And the City of
18 Santa Clara is to your right, and John Davidson and other
19 folks at this table are also.

20 CHAIR MITCHNICK: While we're talking about that,
21 why don't we introduce everybody, that won't take very long.
22 I apologize for missing this. I get too anxious to leave.
23 But we'll start with FERC staff, Jim why don't you go ahead.

24 MR. HASTREITER: Jim Hastreiter, I'm the
25 ecologist out of Portland.

1 MR. WILLIAMS: Evan Williams, recreation planner
2 out of D.C.

3 MR. BOYCE: Jeff Boyce, forest ecologist, land
4 use planner with Meridian Environment contracted to FERC.

5 CHAIR MITCHNICK: And, I'm sure everybody knows
6 that I'm Alan Mitchnick and I should have said my name right
7 at the beginning. And I am the present coordinator for the
8 project and also working on the terrestrial and endangered
9 species issues.

10 MR. GILMOUR: And so, we're all looking directly
11 at you right now. We've already been through this, but I'm
12 George Gilmour, a fish biologist with Meridian Environmental
13 and we're a contractor with FERC.

14 MS. RICE: Robyn Rice, fish biologist with
15 Meridian.

16 MS. HELTZEL: I'm Jeannie Heltzel I worked on
17 the terrestrial resource sections of the EIS, Meridian,
18 contractor with FERC.

19 MR. PRATT: Jeremy Pratt, TRC, we're supporting
20 the City of Santa Clara CEQA.

21 MR. KROLL: I'm Ian Kroll, I'm also with TRC
22 supporting the City of Santa Clara.

23 MS. SUSSMAN: And again Patricia Sussman, EN2
24 Resources, a NEPA consultant to the City of Santa Clara.

25 MR. DAVIDSON: John Davidson, City of Santa Clara

1 Planning.

2 MR. STEINDORF: I'm David Steindorf from American
3 Whitewater.

4 MS. LOSE: Sarah Lose, Fish planner consultant
5 for PG&E in Santa Clara.

6 MS. HARTMAN: Jenn Hartman, PG&E, relicensing.

7 MS. LIND: Amy Lind, Forest Service, Tahoe and
8 Plumas National Forest Hydroelectric coordinator.

9 MR. HOBLER: Sean Hobler, the California
10 Department of Fish and Wildlife, fish biologist.

11 CHAIR MITCHNICK: Okay, any suggestions on to
12 proceed? I'll leave it open. I'm not going to repeat, you
13 know, my presentation of this morning and basically all I
14 did was go through the measures that we didn't adopt and why
15 we didn't adopt them and I've been sworn to avoid them
16 through monitoring, so that will be my one and only use of
17 that term in this meeting.

18 But there are numerous measures that we didn't go
19 along with, you know, but most of them will be included in
20 the license anyway through mandatory conditions. We did
21 modify a few other conditions to require some plans to be
22 filed where we need to maintain some oversight over what's
23 going on and to ensure that the measures are enforced and
24 we're able to -- or to make sure the measures are
25 implemented and that we are able to enforce those measures.

1 So, you know, are there any questions on
2 procedures or anything?

3 MS. HARTMAN: Jennifer Hartman, and I had a
4 question -- or we received a question from the tribe, if you
5 provided hard copy to the local libraries or anything around
6 the area?

7 CHAIR MITCHNICK: What's a hard copy?

8 MS. HARTMAN: Of the DEIS.

9 CHAIR MITCHNICK: We don't do hard copies.

10 MS. SUSSMAN: We can speak to that.

11 MR. KROLL: Ian Kroll, TRC. We did -- we
12 provided three hard copies of the DEIS to the Oroville
13 Public Library, the Chico Public Library in Plumas County.
14 Plumas County and Quincy, that's part of the CEQA.

15 CHAIR MITCHNICK: Well, I'm glad to hear that. I
16 just had a discussion before we left, you know, we don't do
17 hard copies anymore. We don't print hard copies, we don't
18 prepare CD's anymore, so a question came up, well, you know,
19 how do we let local people know about it other than through
20 the FERC noticing process, and I've never got a real good
21 answer, but so I'm glad that you were able to do that,
22 that's very helpful.

23 MS. SUSSMAN: So folks know our union is aware
24 too, we also published legal notices and the CEQA in the
25 review, the four papers in Plumas County and in the Santa

1 Clara Weekly, and that was shortly after the DEIS was issued
2 by FERC and we issued a notice of intention and notice of
3 availability of the documents, and the notice of intent
4 basically stated that intentions rely on the DEIS for CEQA
5 knowledge purposes.

6 CHAIR MITCHNICK: Any other procedural questions
7 or any kind of questions? So, okay, so before we get into
8 some discussion, hopefully we'll get into some discussion,
9 I'll turn it over to the City of Santa Clara, and if you
10 have any sort of briefing on the CEQA process.

11 MS. SUSSMAN: Yeah so, folks from my presentation
12 this morning, but Dave -- no, we have -- so, to understand
13 the relationship between the CEQA and NEPA process you --
14 essentially the City of Santa Clara came here to provide
15 stakeholders with an understanding of the city's role as the
16 Agency and its intention to rely on the NEPA document for
17 the project in combination with the supplemental analysis
18 under CEQA to meet CEQA requirements.

19 As part of that we are -- we'll be tracking
20 comments received, oral and written, on the DEIS and making
21 sure that they're adequately responded to or addressed in
22 the final Environmental Impact Statement and if needed will
23 be supplementing responses in the CEQA supplement.

24 The CEQA supplement will also involve an analysis
25 of resource areas required to be under CEQA that are not,

1 that we found are not addressed in the NEPA document and are
2 not appropriately addressed in NEPA's processes generally,
3 so examples of those things -- air and greenhouse gas
4 emissions, may include mineral resources, noise,
5 agricultural and forestry resources and potentially utility
6 and service system.

7 And then also some other impacts like growth and
8 impacts of projects that are not typically evaluated under
9 NEPA and capturing any mitigation measures that we determine
10 are needed.

11 Oh, I'll pass it over to you, our materials, you
12 can look at them. But we developed a chart that shows some
13 -- the relationship between NEPA and CEQA and the 401
14 certification processes and where we are right now is we're
15 in the DEIS comment period. That will be followed by
16 issuance of the Final EIS and then we'll be issuing our
17 Draft CEQA supplement after that and it will be based on the
18 Draft and Final EIS as well as conditions from the State
19 Water Resources Control Board, their Draft conditions and
20 public input.

21 And that will -- the Draft CEQA supplement will
22 be circulated for public review much like an EIR for a
23 minimum 45-day review period. We will develop the Final
24 CEQA supplement that will move towards the City of Santa
25 Clara's City Council for certification which will enable the

1 responsible agencies in California, so we'll have the CPSW
2 and the Water Resources Control Board at a minimum to issue
3 the approvals and permits associated with the project for
4 the stream alteration agreement, if the alteration agreement
5 is needed or California Environmental -- complications
6 occurrence, and some new State Water Resources Control
7 Board, important 401 Water pollution certification as well
8 as other permits that National Pollutant Discharge
9 Elimination System permit.

10 And that will enable -- and the 401 Cert will
11 trigger FERC's issuance of the final license order, which
12 will then go back to the City Council and California Public
13 Utilities Commission on behalf of PG&E for adoption. Any
14 questions?

15 MR. STEINDORF: Sure, so based upon what you have
16 here, it looks like you expect to have the CEQA supplement
17 completed and approved by December 27th?

18 MS. SUSSMAN: Yes.

19 MR. STEINDORF: Okay. And that approval process
20 is just with the city, is that right?

21 MS. SUSSMAN: Again --

22 MR. STEINDORF: Not that you're going to consult
23 with PG&E but --

24 MS. SUSSMAN: Right, it's just the ultimate
25 approval, but the city has primary discretionary approval

1 over the CEQA document as the CEQA Agency, right.

2 MR. STEINDORF: I think the only thing I'd offer
3 that you said that the one year is -- or the reason is on
4 the 13th of this month -- in a world where that has to be
5 done within a one year, this would have had to been
6 completed, you know, at least a year ago. So, that's not
7 the case here, but that's a very different world and then
8 the CEQA, not only the CEQA, but the CEQA and the 401 have
9 to be completed in the year, the REA, that's a whole bunch
10 of different timelines.

11 So, I think that's just something you would
12 consider on other projects that are out there, there are
13 some licensing with the current timeline offering up, simply
14 doesn't work, that's the extent of my offer.

15 CHAIR MITCHNICK: Thanks Dave. Okay, I will open
16 it up for comment, any questions? Anything people want to
17 talk about?

18 MR. STEINDORF: Is that me? No pressure. No,
19 Dave Steindorf from American White Water. I'm not going to
20 go through and read this, but there are some points that I
21 think I want to make about the project. You heard me about
22 how project economics worked out with in the EIS. In the
23 final license application, the City of Santa Clara and PG&E
24 describe the project like this -- it says the project is
25 operated on a peaking basis and is one of the best

1 resources in Northern California for meeting the California
2 Independent System Operators for flexible generation
3 resources.

4 Additionally, the Bucks Creek powerhouse is
5 equipped with automatic generation control capabilities so
6 the Cali ISO can control generation on a real time basis,
7 electric supply with demand contained to state electric
8 system reliability. We agree this is a very important
9 hydropower project, which is why we were surprised in the
10 DEIS it states that this project actually operates and it
11 causes significantly higher than other replacement power
12 that's out there, so there seems to be a very significant
13 disconnect between the economic reality of this project and
14 what's actually stated in the DEIS.

15 There's a couple of different reasons for that.
16 One, the DEIS which is common with most DEIS that FERC puts
17 out doesn't value typically ancillary services quite often,
18 so being able to provide break-up, breakdowns, spinning
19 reserves, or provide automatic grid control.

20 In some cases, the licensee provides that in
21 there. The other issue is that on this project in
22 particular. There was just a value of \$31.93 per megawatt
23 hour that is applied across all of the economic analysis.
24 If this were a run of the river project, and it was just
25 operating, you know, 24-hours a day, 7 days a week, you

1 know, using the average price would make sense.

2 But if you're peaking it, I would hope that PG&E
3 is going to be operating it to take advantage of peak power
4 prices. So, that on its face really isn't realistic.

5 We did a pretty simple analysis -- actually
6 pulling off actual market data information from where PG&E
7 would likely be selling this power in a particular node, and
8 we found a range of negative \$17.00 a megawatt hour to
9 \$888.00 a megawatt hour. So, in that kind of a universe an
10 average really doesn't make a lot of sense.

11 And we think that there can be a more
12 certificated approach. We used a very simple one -- just
13 lining up the amount of generation you have and what those
14 power prices make an assumption that PG&E is going to
15 generate when prices are higher, and we came up with a
16 number of \$46.00 a megawatt hour which ends up being about 4
17 million dollars more in terms of project revenue than
18 what's stated in the DEIS.

19 So, you know, all that is to say that we just
20 think there needs to be a better job and more attention
21 placed on that in these documents. It's a weird place for a
22 conservation group to come in here and say that we think the
23 type of our project is more valuable than you're stating it
24 is.

25 We aren't in that situation. But even just

1 within the EIS's that have been put out in the last two
2 years, there's been a range from on an average pricing of
3 \$88.00 a megawatt hour in the last Lodge project, to 31
4 dollars, you know, and 93 cents on this project. So, that's
5 a huge range for just average pricing that you all used in
6 just the last two years.

7 So, I think that that needs to be improved and
8 tightened up and I understand that really isn't a directive
9 for staff, that's something that management can pick up.
10 And even that in and of itself isn't enough. You know, we
11 really need a more sophisticated approach.

12 I mentioned earlier, talking to you all in
13 testimony before Energy and Commerce early this year,
14 Commissioner LaFleur actually made the statement. She said
15 until recently it was accepted without question that
16 electric power was priced on volume since a major component
17 of the cost of that commodity was fuel that burned the
18 generator.

19 So, to disconnect the other relationships between
20 volume and power is significant, right? And for us what
21 that means is volume or revenue and how much water are you
22 going to use? So, in a world where you can actually
23 generate the same amount of revenue or more using less
24 water, that's something that we're very interested in.

25 It's like she went on to describe the fact that

1 why this is actually taking place and she said that
2 persistently low natural gas prices, zero marginal cost
3 renewable resources -- wind and solar, and distributed
4 energy resources changing the shape of load curves,
5 traditional costs up to the supported resources may no
6 longer provide appropriate compensation.

7 So, within that you can see why other hydro
8 projects that can't provide flexible capacity, some are more
9 flexible than others, are not -- they're no longer
10 economically pliable.

11 Then went on to say we see this tradition mostly
12 in California where solar reserves generate so much energy
13 in the middle of the day that sometimes exports power during
14 historic peak hours, and large hydro-electric facilities in
15 the west spill water, rather than generating at a loss.

16 So, we -- the bottom line here is I think we
17 really need to get caught up with the times about what
18 market realities are out there and this isn't just about
19 whether a project should be relicensed or not, but this is
20 foundational for all of the balancing that you do.

21 It's a balancing for anything that has foregone
22 power generation -- has a dollar sign associated with it.
23 You need to have accurate numbers in order to do that
24 balance. And all I'm saying here is that it's not really
25 based in significant reality, and so getting that analysis,

1 you know, up to speed with what's going on with energy
2 markets, is something that's really important and it's worth
3 spending some time on.

4 And again, I recognize that's not the staff that
5 is going to make that decision, but if you can put that in
6 the suggestion box for the managers, I'd appreciate it.
7 Thank you.

8 CHAIR MITCHNICK: So, I assume you will provide
9 this in your written comments?

10 MR. STEINDORF: Yeah, yeah, we'll put it in the
11 written --

12 CHAIR MITCHNICK: Any questions for Dave?

13 MR. STEINDORF: And apparently you don't have any
14 engineers here? They typically don't, but maybe they
15 should. We can maybe have a discussion.

16 And this is a question for you all. I mean my
17 sense is that there's a pretty big separation between the
18 side of the house that actually does economic analysis and
19 what you all do. Would that be fair or?

20 CHAIR MITCHNICK: Are you talking about the
21 economic analysis on individual hydro projects, or are you
22 talking more --

23 MR. STEINDORF: Yeah, I mean again, going back to
24 why this is important for us. You do balancing, quite often
25 that balancing once again you have to do it to work on power

1 generation or based on dollars. I assume you're just kind
2 of given that number and then you work out the balancing
3 from there to determine whether you think a particular flow
4 measure is worth it or not.

5 But is there -- I guess I'm asking how much
6 engagement is there to ask them the questions that I asked
7 -- well, did you look at the other you know, the values of
8 this project. I understand this one, I'm stating you're
9 undervaluing it, which is kind of a weird place to be.

10 CHAIR MITCHNICK: Yeah, I mean the economists or
11 the engineers who worked on it are part of the team that
12 develops the EIS, so you know, we typically do have a lot of
13 interaction in working together. So, it's not something
14 that comes from some other part of the Commission. I mean
15 it's all handled within the team.

16 So, any information, you know, you provide in
17 your written comments, will be reviewed as part of the team
18 that reviews the whole range of comments. I mean, you know,
19 the review was done by the contractors, their sub-contractor
20 and overseen by the FERC engineer, so this opportunity, you
21 know, to have those discussions that need to be had.

22 MR. STEINDORF: And I should say that actually
23 staff has been responsive on this, going from comments that
24 we provided earlier on -- that seems way too high, staff
25 actually did come back and revise it. This number is in

1 line with the average number that you used here. I think
2 it's accurate for an average price for pound. The problem
3 is this project, you know, I think it's operated at the
4 average, somebody is in big trouble at PG&E, so it's just
5 lining up the reality of project operations with those
6 values, so.

7 But again, staff has looked at this stuff, in
8 some cases it actually made revisions in a Final EIS and we
9 haven't gone in there.

10 CHAIR MITCHNICK: Okay, we certainly will take
11 closer look at your comments.

12 MR. HASTREITER: You know it might be helpful
13 Dave, just to indicate how you came up with the range, the
14 negative. And that will all be in there.

15 MR. STEINDORF: And we welcome you know, the
16 questions about the methodology that you know, we don't
17 think this is right. You should take X, Y, Z into
18 consideration. What isn't helpful if you get those back, it
19 says well here's the number we believe -- because if I did
20 that, you'd just like throw it out, right, so we actually
21 have to back it up, so it's the same there.

22 So, but we -- we think that there's a lot of work
23 to be done and this is complicated, but to try to figure it
24 out and I do think that there's a place for FERC and the
25 other agencies to work together to come up with a better

1 methodology here.

2 CHAIR MITCHNICK: Okay, you know, we certainly
3 will consider this, you know, yeah -- not being an economist
4 and not understanding half the things you said. I won't
5 expand on that, but you know, we yeah, we will. It's not
6 the first time you brought it up and we need to get it right
7 certainly, and you know, things are changing, we understand
8 that, and you know, our way of doing things, you know, dates
9 back 20 years or whatever, in 20 years, so you know, the
10 more you remind us that we're not doing things right, you
11 know, the more likely. We've been encouraging you to bring
12 up these comments.

13 MR. WILLIAMS: Just like "M" word, right?

14 CHAIR MITCHNICK: I didn't say it. But I
15 appreciate your comments.

16 MR. WILLIAMS: We finally showed
17 up, okay.

18 CHAIR MITCHNICK: Yeah, we were
19 saying we're going to cancel this meeting, but no, Dave may
20 show up. Sure enough.

21 MR. HASTREITER: We just didn't realize Dave the
22 economist would show up. Whitewater is going to show up.

23 CHAIR MITCHNICK: There's coffee in the other
24 room. Okay, I don't have anything to add, the City's been
25 clear. Is there anything that you know, as I said before,

1 you know, everybody deserves a lot of credit for resolving
2 all the issues that have been resolved.

3 And to get to a point where you know, everything
4 is -- other than the Commission to get involved, everything
5 is you know, largely resolved and you know, I think could
6 pick other projects that are a lot farther along than this
7 one, and I know it took a lot of hard work, a lot of
8 meetings to get to that point, so certainly the effort is
9 appreciated. And I'm glad he's here, when things come
10 unresolved, you don't want us resolving your issues, so we
11 certainly appreciate that, and a lot of good stuff came out
12 of your work on Bucks Creek. Assuming there are no other
13 unanswered questions, everybody will have a chance to get
14 home early.

15 I thank everybody for coming and this meeting is
16 adjourned.

17 (Whereupon the meeting adjourned at 7:33 p.m.)

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1 CERTIFICATE OF OFFICIAL REPORTER

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3 This is to certify that the attached proceeding

4 before the FEDERAL ENERGY REGULATORY COMMISSION in the

5 Matter of:

6 Name of Proceeding:

7 Bucks Creek Hydroelectric Project

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15 Docket No.: P-619-164

16 Place: Oroville, CA

17 Date: Tuesday, August 1, 2019

18 were held as herein appears, and that this is the original

19 transcript thereof for the file of the Federal Energy

20 Regulatory Commission, and is a full correct transcription

21 of the proceedings.

22

23

24 Larry Flowers

25 Official Reporter