



Meeting Summary

Huffman Potter Valley Project Ad Hoc Committee

Meeting held June 17, 2019

Summary prepared by the Consensus Building Institute

Key Outcomes

Three Ad Hoc Committee member organizations (CalTrout, Mendocino County Inland Water Power Commission [IWPC] and Sonoma Water), who plan to submit a multi-stakeholder Notice of Intent (NOI) and Pre-Application Document (PAD), presented the draft NOI as part of the Federal Energy Regulatory Commission (FERC) relicensing process. The Ad Hoc Committee expressed appreciation for the three NOI parties’ expedited effort to have a NOI ready to submit to FERC. Committee members shared concerns about “optional” volitional passage language in the NOI. The NOI and PAD are due July 1.

Committee members acknowledged that the NOI parties require initial funds to conduct the feasibility study, and they encouraged the NOI parties to consider how partners can provide non-monetary contributions.

All participants concur that the Ad Hoc Committee has a role after NOI/PAD submission to provide a discussion forum for parties who legally cannot become signatories (e.g., regulatory and permitting state and federal agencies) or lack the funds to sign on to the NOI. The Committee supports revisiting the charter and creating a work plan to reflect the Ad Hoc’s activities with the NOI parties.

Ad Hoc Committee members are encouraged to submit letters of support for the collaborative NOI/PAD to demonstrate it has broad stakeholder support. (See below.)

The Ad Hoc plans to meet in September after FERC issues its decision on the NOI/PAD (within 60 days of July 1 submission). CBI will work with the NOI parties to email updates.

Post-Meeting

- Humboldt County became a signatory to the Planning Agreement and NOI.
- Final Submitted NOI, July 1, 2019 [[Link](#)]
- Guidelines for submitting letters of support [[PDF Link](#); [Word Doc Link](#)]

Action Items

Assignee	Task
Ad Hoc Members	Encouraged to submit letters of support for the collaborative NOI/PAD to demonstrate it has broad stakeholder support
NOI parties	Consider revising language in the NOI related to “optional” volitional passage.

NOI parties	Evaluate whether/how the new FERC process may affect regulatory/permitting agencies ability to review and provide input.
Congressman Huffman's Office	Work with NOI parties to confirm Tribes on the NOI's distribution list
Congressman Huffman's Office/CBI	Review Ad Hoc Charter and consider revising/updating
Congressman Huffman's Office/CBI	Work with NOI parties (after FERC issues NOI decision) to develop updated Ad Hoc work plan and communication/outreach plan

Draft Notice of Intent (NOI)

[Post-meeting: [Submitted NOI](#) (July 1, 2019)]

Context

In January 2019, PG&E submitted its notice of withdrawal from the FERC relicensing process and terminated its efforts to sell the project. FERC is leading the process that will determine the future for the Potter Valley Project (PVP) facilities (i.e., new license issued or decommissioning). FERC distributed a notice soliciting interested parties to submit a NOI and PAD for a new license (due July 1, 2019).

Three Committee member organizations (CalTrout, Mendocino County IWPC, and Sonoma Water, "NOI parties") entered into a planning agreement in May to facilitate development and submittal of a local, multi-stakeholder collaborative NOI and PAD. The planning agreement outlined the NOI parties' intent to undertake a feasibility study for a potential PVP licensing proposal. The planning agreement was [updated](#) to include the Committee's [recommended revisions](#) at its May 20th meeting.

NOI Overview

Mike Swiger, Sonoma Water attorney, presented an overview of the draft NOI to the Committee. Mike explained that FERC established the July 1 deadline to provide an opportunity for interested parties to "step into" PG&E's role and submit a relicensing application by April 2020. The NOI parties met with FERC staff to explore the potential for a to-be-formed entity (i.e., the NOI parties as a joint powers authority) to submit the NOI/PAD and a proposed schedule for additional time to develop an application. The NOI parties propose that by April 2020, they will have completed the feasibility study; if a viable project exists, they would propose a revised study plan that would move forward through the standard Integrated Licensing Process (ILP) that PG&E had begun.

NOI parties explained that the NOI may not have as much content and detail as Committee members may prefer: the intent was to follow FERC's requirements stringently, uphold the spirit of the planning agreement aligned with the two-basin solution objectives, and meet the NOI/PAD deadline. More details will emerge during the feasibility study phase.

Discussion

Due to the rapidly approaching deadline for submittal, the NOI parties would not be able to incorporate substantial/red-line edits to the NOI. Congressman Huffman reiterated that the Committee will have an opportunity to provide input during the feasibility study phase.

Committee members indicated they understood the tight FERC deadline challenges, and shared their appreciation for how quickly the NOI parties and other Committee members mobilized to develop a multi-stakeholder planning agreement and collaborative NOI.

Several members expressed concern that the NOI language insinuated volitional fish passage would be optional. Members suggested using similar language from planning agreement and the Ad Hoc two-basin objectives (or to remove the clause, "...including the option of volitional fish passage into the Eel River Basin above Scott Dam." Page 3).

A Committee member said that water reliability should meet the needs beyond consumptive uses, particularly for Eel River interests.

Committee members shared concerns that eliminating the draft license application request could lead to unintended consequences for triggering the agencies' involvement (e.g., Fish and Wildlife Service and Regional Water Quality Control Board) to review and provide input. Attorney Mike Swiger anticipates that the agencies' review will be part of the process.

A Committee member cautioned that FERC tends to rigidly adhere to its regulations and deadlines.

There was a request for a revised flow chart of the FERC process for interested parties to better understand when and how they can provide input. Another queried whether a similar case example exists where FERC did not follow a traditional ILP process.

Participants observed that one year does not afford much time to conduct a feasibility study. Mike Swiger commented that FERC does allow some studies to continue after filing an application (although the crucial information to determine a project's viability is needed by April 2020).

Participants pointed out inaccuracies in the distribution list (e.g., some Tribes missing). Congressman Huffman will work the NOI parties to update.

Progress on Bringing on New NOI Partners

NOI parties emphasized they welcome and need additional partners going forward. Congressman Huffman and other Committee members, including NOI Party members, underscored they desire for the NOI parties to include broad stakeholder interests and participation from both basins.

NOI parties acknowledged that the current requirement (contribute \$100,000) may deter potential partners, and they are open to exploring different involvement options for those who cannot contribute funding. However, NOI parties noted that they need initial funds to conduct the feasibility study.

Humboldt County adopted a resolution to commit to the collaborative effort, including contributing \$100,000 (allocation is part of the county's proposed budget for the next fiscal year).

Round Valley Indian Tribes (RVIT) still needs to discuss whether and how it can be involved. RVIT does not believe the funding contribution criterion is feasible and indicated they have already provided substantial contributions (via consultants) through the PVP working groups. Several Committee members echoed that the NOI parties should exercise flexibility for entities like RVIT to participate.

Other parties, including Pacific Coast Federation of Fisherman's Association and Russian Riverkeeper, indicated they also do not have the funding available to contribute to the NOI parties, but may be able to contribute funding for studies as an active member of the Ad Hoc Committee.

Agricultural interests in Sonoma County have expressed interest in joining the Ad Hoc Committee and contributing in some way. Sonoma County, an existing member of the Ad Hoc, represents agricultural interests so the interested parties will continue to discuss.

Collaborative members widely commended Congressman Huffman for convening and supporting the PVP Ad Hoc Committee process. A Committee member reflected on how much more collaborative, effective, and efficient the Ad Hoc Committee has been compared to a previous licensing process.

Role of Ad Hoc after NOI/PAD Submission

NOI parties underscored that they see Ad Hoc Committee involvement as essential as the parties conduct the feasibility study and potential licensed project.

Ad Hoc Committee Membership

Committee members observed that more stakeholders have become interested in the Ad Hoc requesting direct representation on the Committee. Committee members share support for all interests being represented in Committee discussions, and that adding new stakeholders could open possibilities for additional funding/resources support. However, Committee members also hold concerns that new parties could substantially slow down the group at a time when it has tight FERC deadlines to meet, and that new parties could disturb the balance of interests represented on the Committee. A few Committee members indicated they felt underrepresented interests include Lake County and other Tribes.

The group briefly discussed whether/how additional congressional offices may participate. Congressman Huffman will reach out to congressional colleagues to determine how they may want to be involved.

Other Points of Discussion

Congressman Huffman confirmed the California Natural Resources Agency approved funding support (\$100,000) for Ad Hoc Committee collaborative planning, facilitation, and policy materials development.

CBI will work the NOI parties and Congressman Huffman's Office to function as a "steering committee" to align the Committee's input with the feasibility study (e.g., ensure input is timely to pursue funding opportunities for studies).

PG&E indicated it needs FERC to issue a request for PG&E to further implement any studies.

FERC has 60 days to approve the NOI proposed schedule. The Committee decided it should meet again after FERC issues its decision.

The PVP website should clearly describe the purpose and function of the Ad Hoc. Outside parties may assume the Ad Hoc is their only input opportunity. The web site could include opportunities for providing input via the boards of the public agencies and other avenues.

Next Steps

Congressman Huffman's office will work with CBI to revisit the Ad Hoc Committee members.

CBI will draft a communication and engagement plan and update the website to outline opportunities to provide input (e.g., Eel Russian River Commission meetings and FERC process).

Next Steps for the Ad Hoc Committee

Congressman Huffman encouraged member organizations submit letters of support for the collaborative NOI/PAD to demonstrate it has broad stakeholder support.

CBI and Congressman Huffman's Office will work with the NOI parties to create a work plan for the Ad Hoc Committee.

The PVP Water Supply and Fish Passage working groups are developing policy-level reports that can inform the Feasibility Plan.

CBI will send periodic updates to the Ad Hoc Committee email list.

Expected next Ad Hoc Committee meeting - September 2019.