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BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: : Docket Numbers

RIO HYDROELECTRIC PROJECT, MONAGAUP : P-9690-112

FALLS HYDROELECTRIC PROJECT, AND : P-10481-067 AND

SWINGING BRIDGE HYDROELECTRIC : P-10482-117

PROJECT :
- - - - - x

Monticello Firehouse
23 Richardson Avenue
Monticello, New York 12701

Thursday, June 22, 2017

The above-entitled matter came on for a scoping
meeting, Quinn Emmering, moderator.

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

2 (9:00 a.m.)

3 MR. EMMERING: Alright, welcome everybody. I
4 guess we'll get started now. My name is Quinn Emmering.
5 I'm the FERC Project Coordinator for the licensing of our
6 great project, the Swinging Bridge project among the Falls,
7 and the Hydroelectric Project.

8 So I am going to--if you haven't signed in
9 already, please feel free to do so. Ken is getting
10 everybody checked in there, and with lots of good
11 hand-outs, and whatnot. And I'm going to introduce our
12 other FERC staff that are here today.

13 MR. WINCHELL: Hi. I'm Frank Winchell. I'm an
14 archeologist by training, and I am going to be doing the
15 review for the cultural resources involved in this
16 relicensing for the project.

17 MR. OLCOTT: I am Kyle Olcott. My specialty is
18 recreation land use and esthetics. I'll be dealing with
19 recreation related to the project.

20 MR. EMMERING: And I forgot to mention, I am also
21 a wildlife biologist and I handle terrestrial issues with
22 animals, as well as threatened and endangered species.

23 And then Ken Hogan, who is currently up front.
24 He's our fisheries biologist, right there (indicating).
25 Most you met him when you were coming through the door.

1 So, and now just to let you guys introduce
2 yourself, from Eagle Creek.

3 MR. SCARZELLO: Sure. My name is Mike Scarzello,
4 Regulatory Director for the Eagle Creek, and I'll be
5 presenting some operating information regarding the project
6 this morning.

7 MR. GIBSON: And Jim Gibson of HDR. I work for a
8 consulting firm that's working with Eagle Creek in support
9 of the relicensing of the project.

10 MR. EMMERING: Yes. So if you didn't know
11 already, Eagle Creek is the Hydropower Company. Alright.
12 So to the purpose of our scoping meeting today:

13 We're here to--FERC is here to help, to listen to
14 what you have to say and to solicit your input and get
15 comments on our scoping document, which many of you all
16 received. We have copies up front over here, again, if you
17 need them.

18 We want for you all to identify any issues
19 associated with the proposed project, and discuss any
20 existing conditions and other potential information needs.

21 MR. NANNARONI: Do you have a microphone? It is
22 very difficult to hear. There's conversations going on
23 here, and--

24 MR. EMMERING: Yes. They should be wrapping up.
25 We don't have a microphone right now. I'm going to try and

1 speak as loudly as possible, but we will wait for them to
2 wrap up before I continue.

3 Do you want to come closer up, Nino?

4 MR. NANNARONI: That's fine.

5 MR. EMMERING: So we'll give it just a minute.

6 (Pause.)

7 Alright, so I've already mentioned sign-up
8 sheets. If you haven't done so already. A very important
9 man in the room over here is Bruce. He is our Court
10 Reporter, and he is going to be transcribing everything that
11 we say and do here today.

12 So when you have something to say, please state
13 your name clearly, first and last name, and your
14 affiliation, whether you're from Trout Unlimited, or an
15 agency, or a community member. Please state your name and
16 affiliation, and do so every time that you speak because
17 he's not going to remember all your names, necessarily.
18 Okay?

19 And he's an independent reporter. He doesn't
20 work for FERC. He doesn't work for Eagle Creek, and he's
21 independent of us and of everybody in the room.

22 So anyway, like I said we're here to help and
23 listen to you all and hear your concerns and any issues, for
24 various resource issues. And so everybody, please, no
25 kicking, biting, and screaming today, or hair pulling.

1 We've all got things to say, and just please be respectful
2 of everybody and respect that everybody has an opinion they
3 would like to share in the rooms today. And everybody will
4 have an opportunity to speak at some point. So just please
5 be patient with us and you will get your chance to speak.

6 And another thing, please don't interrupt
7 everybody. So, one, that's important just because you want
8 to be respectful and kind to everybody; but the second thing
9 is that Bruce needs to get everybody's statements down. And
10 if there's interruption and whatnot we won't be able to get
11 that done clearly.

12 UNIDENTIFIED SPEAKER: Is the format of the
13 meeting to go through presentations and then take questions?

14 MR. EMMERING: So I'm going to get to that here in
15 a second with the next slide, the agenda we're about to go
16 through.

17 Alright, and also if Bruce can't hear anybody at
18 times, I told him he can shout out and ask you all to repeat
19 yourself, or whatever, or repeat your name.

20 So what we're going to be doing today, I'll be
21 briefly discussing what FERC is and what do we regulate. I
22 will walk through the whole relicensing process, just more
23 or less the basics. I don't want to bore you all with all
24 the minutiae and details, but we'll go through the basics.

25 And then Eagle Creek will jump in and talk about

1 the project, the proposal, all that good stuff, and then
2 I'll come back and we'll start going through the scope of
3 the issues that are listed in the scoping document, resource
4 issues by resource issue. Okay? And we'll do that. And
5 then I'll wrap up with the next steps in the licensing
6 process, and how to just stay involved in the process.

7 You got a lot of information about that earlier
8 today, so we'll do that. We do have one special request.
9 Andy Boyer from Trout Unlimited has to get out of here early
10 for an urgent appointment, so I'm going to allow him to jump
11 in right after I get done with my spiel. Okay?

12 Alright, what is FERC? FERC is an independent
13 federal agency. We regulate interstate transmission of
14 natural gas, oil, electricity. FERC also regulates natural
15 gas and hydro power projects, which is why we're here today.

16 We have five FERC Commissioners that are
17 appointed by the President and confirmed by the Senate. We
18 are a relatively small agency, about 1,500 people, and in
19 the Office of Energy Projects, which is what we are in,
20 we're in the Division of Hydropower Licensing within the
21 Office of Energy Projects, there's about 300 employees.

22 And so the licensing process: We're broken down
23 into licensing, dam safety which aren't here today, and then
24 compliance. So License, Administration, and Compliance. So
25 those are our three main divisions within the Office of

1 Energy Projects.

2 And then we take input from all you guys,
3 licensees, resource agencies, NGOs, Tribes, local
4 stakeholders, community members, to inform our process.

5 So FERC's--very quickly, there are four criteria
6 for FERC's hydropower jurisdiction. That authority comes
7 from the Federal Power Act, and those are located on water,
8 on public lands affecting interstate commerce, et cetera.

9 So the important--Eagle Creek is using the
10 Integrated Licensing Process, which is our default licensing
11 process. We have other processes, too. Those are kind of
12 irrelevant for today because we're just known as the ILP,
13 and that's what I'll be saying for the rest of the meeting
14 today. So the Integrated Licensing Process. And to add a
15 note, if any of us use excessive jargon or acronyms, we're
16 with the Feds so we use all these crazy acronyms all the
17 time, please speak up and say "what is ILP?" We'll remind
18 you and try not to use too many acronyms and whatnot. Okay?

19 Alright, so really quick about the Integrated
20 Licensing Process. There's pre-filing and there's
21 post-filing. We are in the pre-filing stage. The pre-filing
22 stage is data collection, studies, input from agencies, and
23 you guys. And then there's the post-filing stage which
24 comes after the applicant, after Eagle Creek has submitted
25 their big application, which will be two to three years down

1 the road.

2 So we get a lot of up-front--it's front-loaded,
3 our ILP process, Integrated Licensing Process. So just a
4 quick rundown of the pre-filing, which is why we're here
5 today. Eagle Creek has submitted their PAD. What is the
6 PAD? PAD is the Pre-Application Document. It summarizes
7 all the existing, relevant, and reasonably available
8 information that they can accumulate into that document to
9 kind of set the stage. It sets the groundwork. It's the
10 foundation of everything that is to come. Okay? And this
11 provides our basis for identifying issues, data gaps, study
12 needs, et cetera. And it sets the schedule.

13 So within that PAD there is a process plan
14 schedule which lays out the schedule for the relicensing
15 process. So today is the scoping meeting and public
16 comments. That is where we're at today.

17 Scoping is the first step in the NEPA process,
18 NEPA being the National Environmental Policy Act. And that
19 is to solicit your input and comments on our scoping
20 document that we issued about a month ago. Did we get it
21 right? We want to know if all those issues we laid out, the
22 details we've got in that scoping document, are right. We
23 want your input on that. You guys are the local folks that
24 are working and living in the area, so we want to get your
25 input on that document and anything else, to identify any

1 issues with the proposed project, discuss any existing
2 conditions or potential effects on the project and the
3 resources involved, as well as identifying any cumulative
4 effects and the adequate geographic alternatives.

5 So then the next stage after today is the Study
6 Plan development. So our study requests provide a framework
7 for collecting information on the resources that are
8 potentially affected by the operation of the project. It
9 provides the information that we need to make an informed
10 decision about the project to come up with our
11 recommendations to know what the issues are. And for
12 input for our environmental analysis.

13 So the very important date for comments on the
14 PAD and study requests--and I'm going to bring this date up
15 time and time again today--is July 29, 2017. So all written
16 comments that you can submit to us in a variety of ways,
17 whether by mail, snail mail, or various other electronic
18 sources. Again, that information is over here (indicating),
19 and I will speak more on that later today.

20 So after the studies have been developed, it
21 takes about two to three years, depending on what studies
22 have been accepted, and so that process can go on for about
23 two years, two to three years depending on what are in the
24 studies.

25 So a quick--also, I forgot to mention, what I

1 would like to do today, the structure of our meeting is to
2 get input from our agencies, our NGOs, get those input up
3 front and then we are going to open it up to the rest of the
4 audience after they've given their input on various resource
5 issues.

6 Does that make sense? Cool. So, but first, like
7 I mentioned earlier, I am going to let Andy Boyer speak from
8 Trout Unlimited again, since he's got to get out of here,
9 and provide his input for us.

10 So if you want, you can stand up, or just speak
11 clearly and loudly.

12 **MR. BOYER:** Alright. Thank you for the courtesy
13 of allowing me to speak early. I have some remarks that I
14 can hand out.

15 The purpose of the scoping review--my name is
16 Andrew Boyer, B-O-Y-A-R, P.O. Box 1, Eldridge, New York
17 12732. I appear today as a citizen wearing one hat, and on
18 behalf of New York State TU, also.

19 The purpose of the scoping review is to identify
20 reasonable alternatives to the proposed actions, and to
21 furnish information regarding the resources. And I am here
22 to talk about one of those resources, which is the fisheries
23 issues. And specifically, it has been observed that the
24 brook trout is the canary in the mine. It survives only in
25 pure, clean waters. It's a very valuable fish. So valuable

1 that the State of New York has designated it as its state
2 fish since 1975.

3 This relates to the Environmental Assessment for
4 the projects under consideration because the area polled
5 some of the most remarkable brook trout waters in New York
6 State. I refer to two stretches in particular, the miles of
7 the Black Lake Brook from Toronto Reservoir, about a mile, a
8 mile-and-a-half down to Cliff Lake Reservoir, and for a mile
9 or a mile-and-a-half of the Black Lake Brook from Cliff Lake
10 Reservoir down to the Mongaup River just below the Swinging
11 Bridge Powerhouse.

12 These combined two miles constitute an amazing
13 but threatened brook trout fishery. And I turn to a map of
14 the areas I'm talking about. I hope you know what I'm
15 talking about.

16 So what's the threat? The threat is that those
17 two stretches don't have a natural flow of water, as they
18 did when God created them. They are, the water flow comes
19 out at the tail, out of those two reservoir systems, and
20 there's supposed to be a min flow, and min flow if there is
21 a min flow, it's inadequate at times because there have been
22 periods of extreme dewatering in both of those stretches.
23 Not natural, but if the bowel is not producing enough water,
24 then these fish, if they don't have water, they're subject
25 to predation by raccoons and other predators, and that

1 valuable fishery is threatened because of that.

2 So I think we need to do a better job of
3 providing min flows in those two because they are
4 artificially controlled. And in the past when it's been
5 questioned why is the river so dry? Why is there no min
6 flow? The answer is either the min flow is being released,
7 which if that's the case then the min flow has to be
8 adjusted, or it's not being released. In either case, that
9 should be remedied.

10 These projects must take into account all of the
11 resources of the project area--and I'm speaking on behalf of
12 the remarkable brook trout fishery in public waters. Those
13 should be accessible to the public, which is going to bring
14 me to another topic in just a second. And I think that that
15 brook trout population is at risk because of those drying
16 periods, and I would like that to be looked into and
17 studied.

18 And I also would like to comment on behalf of New
19 York State to you. I have been authorized to comment on
20 behalf of New York State to you by Ron Irvin, our State
21 Chair, and my brook trout comments also apply here. But I
22 want to comment on the fishery generally.

23 I've fished in these waters for in excess of 40
24 years and I know them pretty well from top to bottom. When
25 I started I was a billy goat and I could access all of the

1 pools, no matter how inaccessible. But today I'm an old
2 goat, and so I want to talk about the need for an advanced
3 access, and also handicap access is a real need for some of
4 the reservoir. That presents good opportunities, and that
5 should be looked into for those who have real access
6 problems.

7 But what I would like to see is more--I'll give
8 you an example of something that really works there and is
9 not that expensive a thing to do as far as capital
10 investment. And that is, as an example, on Ackerson Road,
11 which is below the Rio Dam, and there's a dead end, and at
12 the end there is, it's either a four- or a six-car limit.
13 When six cars are there and you're the seventh car, you go
14 on to a different location, a little pocket parking area.
15 And that's really a good thing because, number one, it
16 doesn't impact the neighbors very much and, number two, it
17 spreads out the fishery. It's good for the resource itself.

18 So this system, whether it's the brook trout
19 fishery or the brown trout fishery in the Mongaup system
20 itself, can be accessed by sportsmen, fishermen, with this
21 small investment of better access, and with enhanced min
22 flows. It's very vital. Fish really do need water, you
23 know? And when the min flow gets down to nothing, it
24 creates a threat. But with adequate min flow, these waters
25 which are so valuable will be preserved for generations to

1 come.

2 And I thank you for the courtesy.

3 MR. EMMERING: No problem. Alright, well at this
4 stage I'm going to turn everything over to Eagle Creek and
5 then I'm going to jump back in after they give their
6 presentation.

7 MR. SCARZELLO: Alright. Good morning, everybody.
8 Again, Mike Scarzello, Regulatory Director for Eagle Creek.
9 Quinn gave a nice introduction to talk about the licensing
10 process, so we're going to jump right into this.

11 First of all, let me just step back and briefly
12 describe who is Eagle Creek. So we're an
13 owner-operator-developer of hydro projects exclusively
14 across North America. Our present portfolio includes 62
15 operating projects. That represents approximately 200
16 megawatts of installed capacity with an annual production of
17 about 800 gigawatt hours in energy production.

18 The company was founded in 2010 to initially
19 acquire and operate actually this project, the Mongaup Hydro
20 Project. It was the company's first acquisition.

21 You can see by the map of our Nation, we are
22 focused in the Northeast United States, the Upper Midwest
23 where we acquired a predecessor company, and have recently
24 added a few more small hydros in the Upper Midwest, as well
25 as Virginia, Colorado, and California.

1 The primary goals of our presentation this
2 morning is to provide--I'm going to provide the brief
3 overview of our hydroelectric projects from an operating
4 perspective. Jim from HDR will take you through the two
5 other steps to summarize the project's existing license
6 articles, the pre-application document, and the preparation
7 process that we're going through.

8 So briefly, the Mongaup projects, three separate
9 FERC license projects, the Swinging Bridge Project, which
10 includes the Toronto Development, the Flake Development has
11 storage, and the Swinging Bridge Station itself. You have
12 the Mongaup Falls, a separate federally licensed project, as
13 well as the Rio Project.

14 The licenses were issued in 1992, 30-year
15 licenses, and they expire in 2022. Hence, this process.
16 And they are operated under three co-licensees collectively
17 under Eagle Creek Hydro by those names right there, Eagle
18 Creek Hydropower, Eagle Creek Water Resources, Eagle Creed
19 Land Resources.

20 A general location map describing the vicinity of
21 the projects. The green boundaries is the Mongaup River
22 Watershed Basin boundary.

23 Construction history: These projects were built
24 quite awhile ago by Boston Light & Power Company, the first
25 source of electric generation for the region. And these are

1 important assets in the region even today. Mongaup was
2 constructed in 1923. The fourth unit was not needed and not
3 installed until 1927. Rio was built in 1927 and at that
4 time for a 10-megawatt facility considered quite large.

5 The Swinging Bridge Unit 1 was constructed in
6 1930. It was retired in 2005. We'll talk a little bit
7 about that later. Unit 2 was added in 1939. The units were
8 built to meet demand for electricity as and when needed,
9 meaning they can provide peak power. The capability of the
10 units are large. They exceed the average water flow for
11 this type of river basin. They were built to ensure adequate
12 supply of electricity at times of peak demand, as opposed to
13 being designed to match production to river flow. They
14 provide significant storage to mitigate dependence on
15 precipitation.

16 They are also an important regional power source.
17 Again, they supply on-demand peaking power, meaning that
18 they can operate in very hot or cold periods when demand is
19 high, thereby offsetting the inefficient fossil peaking
20 plants.

21 It enables the integration of intermittent
22 renewable resources by responding to system operator
23 dispatch signals, and it has the ability to stabilize the
24 electric grid by acting as a stand-by resource. And in our
25 parlance that's called "attendant spinning reserve."

1 The graphic below is a very interesting graphic.
2 The blue line depicts the New York Region Zone G through J
3 demand load that actually was profiled on June 13th in 2017.
4 Down on the axis you can see a 24-hour time clock. Over on
5 the right axis is the down-state New York load, which is
6 this area (indicating) of the G through J area, and its
7 demand in gigawatts. And over on the left axis is the
8 Mongaup River system production in megawatts.

9 And you can see how we can coordinate our
10 operation to try and match when there's peak demands on the
11 system, how our units can be called upon to operate to help
12 offset some of that peak demand.

13 It is an important regional power resource, as I
14 just mentioned. It provides renewable power in a
15 transmission-constrained region of New York. We are in Zone
16 G through J. Let's see, did you have the--it might be worth
17 pointing out--

18 (Pause.)

19 Obviously, New York State. So we are in this
20 vicinity right here (indicating). So G, H, I, and J are
21 identified as a transmission-constrained region of New York.
22 Unlike solar, and run-of-river hydro, the Mongaup system is
23 considered a reliable resource at its full nameplate
24 capacity of nearly 22 megawatts. And it also reinforces the
25 local transmission system. It can be dispatched by Orange

1 and Rockland Utilities to support local system maintenance
2 as needed.

3 It's also an important recreational and
4 environmental resource. These projects provide recreational
5 boating at five reservoirs. There are scheduled whitewater
6 releases from Rio, April 15th through October 31st. It
7 provides regulation of minimum flows in support of trout
8 habitat and bypass reaches.

9 The fishery creates a recognized Bald Eagle
10 Habitat. Under its present operation of guaranteed flows
11 downstream ensures aquatic habitat during drought periods
12 when natural flows would be normally lower.

13 The dispatch capability of plants provides a tool
14 for the Delaware River Basin Commission to manage flows
15 during drought emergencies.

16 Alright, and I'm going to step you through
17 briefly a description of each of the projects and how they
18 operate. And we'll start upstream at the Toronto
19 Development.

20 Here you have some photos of the Toronto
21 Reservoir and the spillway. It's an 860-acre reservoir.
22 25,000 acre feet of storage at elevation 1,220 feet. And
23 it's with water rights and licensing for a 50-foot maximum
24 drawdown.

25 The Toronto Dam itself is 1,620 feet long,

1 50-foot wide concrete and rock slide channel spillway off to
2 the right in the lower picture. It's fitted with 5-foot
3 high flashboards on the spillway. There's a gate tower with
4 upper and lower gates to provide water release through the
5 system. And there is a 565-foot horse shoe-shaped outlet
6 works.

7 Cliff Lake Development. A 190-acre reservoir.
8 2800-acre feet of storage at elevation 1,071, with a 23-foot
9 maximum drawdown. It is connected to the Swinging Bridge
10 Reservoir at a 2,100-foot-long unlined tunnel. And for
11 those of you that were out on yesterday's site tours, I
12 think one of our operators did a very nice job of describing
13 how Cliff Lake and Swinging Bridge interact with each other.

14 The Cliff Lake Dam, a 100-foot-long overflow
15 spillway. It has 13-inch-high flashboards, a 150-foot-long
16 concrete non-overflow wall, and other civil works.

17 The Swinging Bridge Development. This is an
18 aerial view of the dam, the spillway section, and the
19 powerhouse. The development itself has the reservoir, a
20 1,000-acre reservoir. Quite a bit of storage, 17,000 feet
21 at elevation 1,070, with a 22-foot maximum drawdown. The
22 dam is 975 feet long, 250-wide concrete side channel
23 spillway. That's in the lower picture, and next is the head
24 of the spillway where you can see a portion of the
25 five-foot vertical lift gates, and to the left of that is

1 the five-foot high recently installed automatic pneumatic
2 flashboard system purchased by Obermeyer.

3 Swinging Bridge Development, in this photo on the
4 top is the defunct powerhouse number 1 on the left, and the
5 active powerhouse number 2 on the right. The conveyance
6 structures are the gate tower, which is out of service,
7 which used to feed water to powerhouse number 1. The
8 692-foot concrete penstock is filled in 2007, and it is
9 closed. The 780-foot long penstock concrete tunnel leads to
10 a 188-foot penstock with a surge tank and new flow pipe to
11 the number 1 powerhouse.

12 The authorized capacity of the Swinging Bridge
13 Powerhouse is 11.25 megawatts. However, a portion of that
14 capacity is out of service when powerhouse number 1 was
15 decommissioned a few years back as a result of dam
16 subsidence issues associated with this project.

17 Powerhouse number 2 is a 6.75 megawatt station,
18 and it has that capacity. It's a vertical Francis-type
19 waterwheel. It can discharge up to about 1,015 cfs. This
20 site develops 110 feet of head.

21 Swinging Bridge Project recreational aspects:
22 Something that we focused on quite a bit yesterday, visiting
23 various access points. And I think Jim will also be
24 touching on some of these later on.

25 At Toronto, there's the Moscow route road public

1 access, the east public access, the Black Lake Creek Trail
2 at Cliff Lake. There's the DEC public access and trail.
3 And at Swinging Bridge we have the north public access, the
4 reservoir trail, and the east access and picnic area.

5 The company is also, concurrently with the
6 licensing, filing with the FERC a proposed license amendment
7 of our existing license to add to the Swinging Bridge
8 Project a new minimum flow turbine that will be less than
9 one megawatt. We're getting our plans put together and
10 we'll be filing the amendment application this year.

11 We have a goal of installing and operating this
12 unit by July 2019 to meet our contract requirements with, is
13 it Nycertimat?

14 Down to the Mongaup Falls Project, an aerial shot
15 that shows the spillway and intake, the penstock, and the
16 powerhouse. The reservoir is 120 acres. It has 1,779 acre
17 feet of storage at elevation 935 feet. The dam is a little
18 smaller, 83 foot long, 125 foot long concrete retaining wall
19 section and other appurtenances; 4-foot-10-inch, almost
20 5-foot flashboards, et cetera.

21 The conveyance structures include a 20-foot long
22 intake house, a 2,650-long wooden penstock, a steel surge
23 tank, minimum-flow outlet structure. Adjacent to the
24 Mongaup Reservoir that flows towards the Mongaup project is
25 the Black Brook Dam, seen in the two photos on the right

1 that we also visited yesterday, 44-foot long, 15, about a
2 15-foot high existing dam structure. The penstock was
3 disconnected years ago. A predecessor company used to
4 operate it in conjunction with its operation at the Mongaup
5 station. It is presently out of service and existing
6 infrastructure.

7 The Mongaup Powerhouse has an authorized capacity
8 of 4 megawatts. There's four generating units in the
9 station, 1 megawatt each. There are four vertical frances
10 units. Total plant flow is 620 cfs. This project develops
11 120 feet of head, and it also includes a 100-foot long 2.3
12 kilovolt underground transmission line.

13 Recreation aspects include Black Brook and
14 Mongaup Public Access County Road 43 and Forestburg Road
15 boat launch, and Eagle viewing station operated by the DEC.

16 The Rio Project, again an aerial shot. The
17 reservoir is a 480-acre reservoir with 3,650 acre feet of
18 storage at elevation 815 feet with a 10-foot drawdown. The
19 dam, a lot of description to the dam there that you can read
20 (referring to slide), and it is fitted with 5-foot
21 flashboards.

22 The project itself has conveyance structures of a
23 22-foot intake structure, a 7,000-foot above-ground steel
24 penstock, a surge tank, and a portion that is 350-feet long
25 underground. The powerhouse includes two units. It's a

1 10.8 megawatt station with two units rated at 5 megawatts
2 each. Again, vertical frances units, and plant flow is
3 rated at 870 cfs. This project develops 170 feet of head,
4 and it also includes a 150-foot long 4 kv underground
5 transmission line.

6 The minimum flow powerhouse recently installed
7 includes a single generating unit of 800 kilowatts, .08
8 megawatts. It's a horizontal frances unit. It flows at 120
9 cfs, and it is rated at 98 feet of head. It includes a
10 6,200-foot long 2.3 kv above-ground transmission line.

11 Recreation at the Rio Project includes the boat
12 launch administered by the DEC. The Eagle Viewing Station.
13 A carry and boat launch and floor line fishing access, all
14 administered by DEC. Multiple downstream shoreline fishing
15 access points and boat launch, and whitewater boating
16 access.

17 The last slide here that I'm going to share with
18 you is a little busy. It's our current and proposed
19 operations. And the schematics hopefully are
20 self-explanatory. Power stations with the roofs on. Nice
21 touch, Sue.

22 The Mongaup River coming in on the left side of
23 the page. This says USGS Gauge flows through the Swinging
24 Bridge impoundment. Water could be distributed through the
25 powerhouse during operation; otherwise, we're maintaining a

1 minimum flow requirement out of the reservoir of 100 cfs
2 flow release; comes down to the Mongaup Falls impoundment, a
3 flow release of a minimum flow of 70 cfs. From there it
4 would flow through the Rio impoundment where we had a 100
5 cfs min flow release at USGS gauge station just below Rio,
6 back into the Mongaup river. And of course feeding Swinging
7 Bridge you have Toronto, a min flow release of 10 cfs into
8 Cliff Lake. The tunnel that shifts water over to Swinging
9 Bridge provides 10 cfs out and joins up with the Mongaup
10 below Swinging Bridge.

11 Parts of our proposed operation will be to
12 revisit the inflow condition into the system, and I think
13 the only other point on here is during lower flows like
14 drought flows that we experienced last year, Eagle Creek in
15 its present license has the ability to consult with DEC and
16 the USGS Delaware River master to alter these min flow
17 requirements to stabilize reservoir elevations, drop it to
18 60 or even below 60 cfs in severe drought conditions, and
19 I'm sure this will probably be an interesting topic during
20 relicensing.

21 Yes, Ken?

22 MR. HOGAN: A question for you. Where you say
23 going into the system, when you say "into the system," where
24 is that measured? At the top?

25 MR. SCARZELLO: It would be--you have the USGS

1 gauge here which can help flow rate flows as they land at
2 Swinging Bridge, as well as another gauge to monitor
3 outflows from the system.

4 MR. HOGAN: Okay, so would the 10 cfs coming out
5 of Toronto flow into Toronto?

6 MR. SCARZELLO: Toronto, as I understand, is in a
7 very small drainage area, in the vicinity of 20, 22 square
8 miles? Does that sound about right?

9 MR. HOGAN: Yes.

10 MR. SCARZELLO: Our 10 cfs is regulated manually
11 out of the dam, and so the OR inflow condition that I'm
12 referring to, Ken, is largely being looked at here on the
13 Mongaup River.

14 MR. HOGAN: So a final question. The 70 coming
15 out of Mongaup Falls, if you're releasing 100 at Swinging
16 Bridge, is it 100 min? Or is the 70 being triggered off
17 what's coming into Swinging Bridge?

18 MR. SCARZELLO: As long as we're maintaining our
19 100, you're providing--and your expectation is 90, is
20 essentially coming out of Mongaup to Rio, you're providing
21 an additional 10 cfs of freshening flows into the Mongaup
22 Impoundment.

23 MR. HOGAN: Say that again? I'm sorry.

24 MR. SCARZELLO: And Mark or Matt, if either of you
25 guys feel like clarifying--

1 MR. SHERISNOW: The 70 cfs that's released on the
2 Mongaup Falls and released at the Dam. There's an
3 additional 20 cfs that is released through the powerhouse
4 for a total of 90 at the confluence of the tailrace of
5 Mongaup and the Mongaup River, for a total of 90.
6 Additionally, you have Black Brook, which is typically
7 around 20 cfs that feeds immediately downstream to the
8 Mongaup Falls. So you in effect have 110 going into the
9 northern part of Rio. What's not shown here is Black Brook.

10 MR. HOGAN: So my question is that there is never
11 an inflow that would be less than 70, because you have all
12 those other inflows upstream.

13 MR. OCTENIA: Not so.

14 MR. HOGAN: You have 20, what'd you say, 20 cfs
15 inflow into Mongaup, but you have a minimum flow of 70
16 inflow, whichever (inaudible).

17 MR. OCTENIA: Except that it's 90, when you take
18 into account 70 and 20. So we can't have less than 90
19 coming in.

20 MR. EMMERING: Was there a question here?

21 MR. NASDOR: Bob Nasdor, back to Whitewater. In
22 your presentation you described the penstock, but you didn't
23 mention anything about any of the bypass reaches. Could you
24 clarify for me on each of these projects where is the bypass
25 reach and where (inaudible).

1 MR. SCARZELLO: Sure. And maybe Mark can help me
2 here. So you have a bypass reach stretch out of Swinging
3 Bridge--

4 MR. OCTENIA: Mike, downstream of Mongaup and
5 downstream of Rio.

6 MR. SCARZELLO: Are our bypass structures. So it
7 would be from here (indicating), into Rio, and a few feet
8 from the Rio Station to the Mongaup River.

9 MR. NASDOR: And will it (inaudible) to each of
10 those bypass reaches?

11 MR. SCARZELLO: I don't have that information in
12 front of me. It's in our preapplication document.

13 MR. SHERISNOW: The length of the reaches, so I
14 think the question relates to really the section of Black
15 Brook between Cliff Lake and Mongaup, the section of the
16 Mongaup and the Mongaup Dam to (coughing over words).

17 And from Toronto, the 10 cfs--this is Mark
18 Sherisnow--the 10 cfs outlet from Toronto is approximately
19 1.5 miles to the northern end of Cliff Lake. Okay? From
20 Cliff Lake, the 10 cfs outlet is approximately 1 to 1.5
21 miles outlet back into the Mongaup River just south of the
22 Swinging Bridge Reservoir. Those are both over land bypass
23 reach areas.

24 MR. SCARZELLO: And when you say "over land,"
25 Mark, you're referring to just in channel? In channel flow

1 releases?

2 MR. Sherisnow: In channel flow releases. From
3 Swinging Bridge, there is no bypass reach area. This is the
4 minimum flow that's released from the dam. From Swinging
5 Bridge Reservoir, that's 100 cfs that travels--which is the
6 Mongaup River--travels to the northernmost section of the
7 Mongaup River. That's approximately 2 miles.

8 MR. SCARZELLO: Just to clarify, that's from this
9 location to Mongaup Impoundment.

10 MR. SHERISNOW: Right.

11 MR. SCARZELLO: Got 'cha.

12 MR. SHERISNOW: From the Mongaup Falls bypass
13 reach, it's approximately--that's the 70 cfs--it's
14 approximately 3,000 feet, that bypass reach, to the
15 beginning of the Rio Reservoir. At that point, you also
16 have the confluence of the Black Brook, which typically is
17 20 cfs to the northern end of Rio.

18 I do not know the length of the Black Lake--the
19 Black Brook. Then from the Rio, the bypass reach section
20 out of Rio, 100 cfs, through the confluence of Mongaup River
21 and the Delaware River, that's approximately 4-1/2 miles.

22 MR. NASDOR: The bypass region--

23 MR. SHERISNOW: Just to the powerhouse is 1.3
24 miles. Then at the confluence of the Rio Powerhouse and the
25 Mongaup River, that's another 3.5 miles to the Delaware.

1 MR. NASDOR: So 1.3 miles at the Rio project
2 between the--

3 (Simultaneous speaking.)

4 MR. SCARZELLO: Yes?

5 MS. JUDY KNEE: I will be speaking a little bit
6 later--not too much later--but I want to know, are there any
7 homes, and that's why I'm here, are there any other homes
8 on--does anyone live on the Mongaup Falls?

9 COURT REPORTER: What is your name?

10 MS. JUDY KNEE: My name is Judy Knee, K-N-E-E, and
11 I live at 907 Starlight Road on Swinging Bridge Lake, north
12 end. And my question is: Other than what I came here to
13 speak about, are there any homes on the Mongaup Falls? And
14 are there any homes on the Rio? Are there any homes on
15 Cliff Lake? I do know there are homes now on Toronto, and
16 my question is: Are there any other homes where all the--and
17 that's why I'm here about that 100 cfs leaving Swinging
18 Bridge Lake where there are approximately, someone can back
19 me up here, how many homes around Swinging Bridge Lake?

20 UNIDENTIFIED SPEAKER: 200 more.

21 MS. JUDY KNEE: Okay, the homes for were developed
22 for (inaudible), and that was all fine, everybody got their
23 little piece of the world, and we paid our taxes for it, and
24 we are now suffering living there. And if I can speak now,
25 it will take me a minute, and I'm out of here.

1 I have pictures. I have proof. And I'm a very
2 unhappy camper living there. But one good thing about Eagle
3 Creek, I want to say something that you like, is that we
4 have communicating, which we never really did with any other
5 company that owned that area. So I'm really hoping that
6 they are humanistic people and listen to this, because
7 without other homes in the other areas, Swinging Bridge Lake
8 has to be corrected with that 100 cfs.

9 MR. EMMERING: Judy, can I interrupt real quick?
10 How about we let him finish up. As soon as he finishes up
11 the presentation, you can give your presentation.

12 MS. JUDY KNEE: That will be fine. That's why I
13 said that. But I just wanted to interject to keep
14 everybody's mind open that people live on Swinging Bridge
15 Lake, approximately 139 lovely homes paying wonderful taxes
16 with nobody's complaining about because we have a choice to
17 do. However, we're being beaten up very badly. We follow
18 the rules, and I just think that something has to be done
19 with that 100 cfs. And I'll say more later. Thank you.

20 MR. NANNARONI: You know, I'd just second what
21 you're saying. We've been here an hour already, and there's
22 a lot of minutiae questions, but she's bringing up the real
23 question. And a lot of us want to be able to present
24 something with you, and stuff, so we'd like to get to it.

25 COURT REPORTER: What's your name? I'm sorry,

1 excuse me. What's your name?

2 MR. NANNARONI: My name is Nino Nannaroni and
3 I'm here for the Friends of Toronto. A lot of us, as this
4 woman said, want to testify. We want to say something, and
5 we're--

6 MR. HOGAN: We understand that. We are here
7 because we want to hear you. That's why we're here. We
8 also want to make sure that everybody understands the
9 project and get the information that they need to provide us
10 with that information. That's the reason for the
11 presentations.

12 The next step is, once the presentation is
13 complete, to switch to your inputs. Okay? So please--

14 MS. JUDY KNEE: Sorry for--

15 MR. HOGAN: And we understand you have a
16 graduation to go to. So we--

17 MR. BARRETT: I just want to say something,
18 because I've been here now for an hour. I've been here 15
19 years waiting for certain things to happen at the Toronto
20 Reservoir. I saw something on the scoping PowerPoint that
21 looked as if when you scoped you only went down Moscow Road,
22 from that PowerPoint, unless I was not seeing it. What was
23 the scoping going to show if you scoped down the other
24 entranceway going to the recreation area?

25 Because it might open your eyes, and it might

1 open your eyes to what you're seeing there. Now I've been
2 at this, and we've been at this for 15 years. And it's only
3 because of a sign that as posted at the beginning of Old
4 Town Road 62 which said, "By Order of FERC, This Area is
5 Closed Due To Terrorism in 2002."

6 Very interesting. We didn't know who the heck
7 FERC was until we had researched it and found out that they
8 never gave that developer in that particular project the
9 right to close the road. They said they got the permission
10 from the local town, and the local town went along with it
11 for another gate, closed off the road.

12 It gets tiresome after awhile, 15 years. I've
13 communicated with four different power companies. We've
14 communicated, I've with probably a dozen people at FERC in
15 Washington: Heather Candle, Robert Fletcher, Cal Mowatski, I
16 can tell you all the names and all the projects--

17 MR. EMMERING: Okay, sir. I hate to interrupt you
18 but--

19 COURT REPORTER: Can we get his name?

20 MR. BARRETT: --this, that and the other thing.
21 It is very tiresome, and it's not going to do us any kind of
22 insight as to what we saw before and what you're looking
23 for.

24 MR. EMMERING: Okay, we understand. But we have
25 to let them finish up, because there are other people--

1 MR. BARRETT: And I've been waiting 15 years--

2 MR. EMMERING: I understand.

3 MR. BARRETT: --and right now, and I've been there
4 12 years now suffering from a stroke, and I'm still here,
5 and they thought I was going away 12 years ago, but it
6 didn't happen.

7 MR. EMMERING: I think they're about to finish up,
8 and then we can--

9 MR. BARRETT: Please do. Please do. I'm tired of
10 looking at PowerPoint and information and minutiae. I know
11 all about the layers of pipe. I know all about the
12 waterfalls. I know all about what Andy Boyer said, and let
13 me tell you something--

14 MR. EMMERING: I understand--

15 MR. BARRETT: -- I was down there Tuesday, and
16 Tuesday of this week two fishermen came up from the creek,
17 Black Lake Creek--and by the way, Black Lake Creek runs
18 under the middle of the Toronto Reservoir. It starts at one
19 end and comes out the other end. So you don't get to
20 measure the Reservoir.

21 Now this fisherman said the rocks are there, the
22 fish are there, but there's no fishing because you have no
23 flow and no water. And that's exactly what he pointed out,
24 and that's exactly what the fishermen should be concerned
25 about, which they are. And I think you should--

1 MR. EMMERING: Would you state your name so we can
2 get it on the record again?

3 MR. BARRETT: Robert Barrett, B-A-R-R-E-T-T.

4 MR. EMMERING: Okay, so let's let them finish and
5 then you can, if you have some more to say--.

6 MR. HOGAN: And that's why we're here.

7 (Simultaneous speaking.)

8 MR. EMMERING: Okay.

9 MR. GIBSON: I am going to run through the
10 existing license articles, and then a little more
11 information about the preapplication document that we
12 distributed back in March.

13 Mike has touched upon some of these topics, but
14 we do need to touch upon it one more time, because as we go
15 into this relicensing--and when we talk about relicensing,
16 there are roughly 400 relicensings that are starting around
17 the country over the next couple of years. 63 of them are
18 in New York. So this is not specific to these projects.
19 There's a lot of relicensing going on in New York at this
20 time.

21 In the last relicensing--so that was the
22 relicensing that gave the projects their existing licenses--
23 they established these minimum flows which we've been
24 talking about. As we said earlier, at Mongaup Falls it's 70
25 cfs coming out of the dam, plus an additional 20 cfs at the

1 powerhouse.

2 And when we talk about whitewater releases, we're
3 talking about bypass flows and lengths, there are those
4 provisions for the whitewater releases downstream of Rio.

5 Additional requirements that came out of the last
6 license, in addition to those minimum flows, is that Eagle
7 Creek over the years continues to monitor dissolved oxygen
8 and temperature at select locations throughout the three
9 projects. So downstream on the Swinging Bridge Project, as
10 a result of Article 404 in its license, and both Articles
11 405 in the Mongaup Falls and Rio licenses, once again,
12 monitoring dissolved oxygen and temperature.

13 For those folks who had an opportunity to go on
14 the site visits yesterday, we're not going to go through all
15 the sites again, but it's worth nothing a couple of things
16 on the next three slides. And that is, a number of new
17 recreational facilities were established by the hydro owner
18 as a result of the last relicensing.

19 So once again, I keep referring to the last
20 relicensings, which were issued in 1993. The New York state
21 DEC, the Fish and Wildlife Service, a number of the parties
22 involved at that time got together and as a result you see a
23 number of recreational sites that were established by the
24 hydro owner.

25 You see the same on Mongaup Falls. And the

1 question came up about homeowners around Mongaup Falls. You
2 see this green hatch line. During the last relicensing, a
3 significant amount of land got transferred from Orange and
4 Rockland over to conservation lands which are managed by the
5 DEC, primarily for Bald Eagles. So you see, for example,
6 the Mongaup Falls Reservoir. You see this hatched area.
7 You don't see development there because that all got turned
8 into conservation easements back at the last relicensing.

9 And the same with the Rio Project. On the Rio
10 Project, once again you see the lands that were transferred,
11 and you also see this bypass reach down along this area
12 (indicating). If you have any questions about any of these
13 recreation sites, I'd be happy to answer them.

14 The last part I want to talk about, I've got four
15 slides here. There is what's called a preapplication
16 document, and that's essentially what we've been talking
17 about today, the preapplication document that was issued
18 back in March.

19 In order to develop that preapplication document
20 back in early December of 2016, we reached out to about 90
21 parties, give or take. And we tried to get information from
22 those parties in order to put into that document. So we
23 reached out to state DEC, Trout Unlimited, American
24 Whitewater, Fish and Wildlife Service, and others.

25 We also consulted with parties regarding

1 potential threatened and endangered species in the area. We
2 also coordinated with the Department of State, just to
3 confirm about the Coastal Zone requirements.

4 And then, last, just confirmed about federal
5 lands not being in the project boundary. All regulatory
6 requirements that we had to do at this time, hence the
7 reason we're talking about them now.

8 So that was the preparation of that document that
9 was distributed back on March 30th. If folks have questions
10 about this document, I'd be happy to answer them, but these
11 are the eight primary sections of that document.

12 In particular, if you take a look at Section 3,
13 that gives you the process plan schedule, which is going to
14 be very similar to the process plan schedule that's been
15 issued in Scoping Document One.

16 I mention that because the schedule that's in
17 Scoping Document One is the master schedule now. This was a
18 good schedule back in March, but it's been tweaked just a
19 little bit. Do refer to what's in the attachment to Scoping
20 Document One that FERC has distributed. I just don't want
21 any confusion between those two schedules.

22 The other thing I'll mention here is, if you're
23 looking for more information, some of the information that
24 Mike was presenting, Section 4 is where you'll find more
25 information about lengths of bypass reaches and distances

1 and things like that.

2 Two more slides here. I do want to take an
3 opportunity just to mention, like I said, a lot of
4 relicensing going on right now. A lot of relicensing in New
5 York. About 15 percent of all the relicensings throughout
6 the country are in New York over the next 10 to 15 years.

7 What is unique about the relicensings that we're
8 talking about today is they are one of the first of three
9 projects to be relicensed after the Electric Consumers
10 Protection Act was promulgated back in 1986. That is
11 significant. And the reason why that's significant is
12 before 1986 this used to be a rather streamlined process.

13 But what happened in 1986, the Federal Power Act
14 went through some amendments and the process became much
15 more robust. This relicensing--these projects went through
16 a robust relicensing back in 1988 through 1993 when the
17 licenses were issued.

18 So when we talk about land being transferred to
19 the DEC, when we talk about minimum flows being established,
20 dissolved oxygen and temperature requirements being
21 established, the downstream recreational flows downstream of
22 the Rio Powerhouse, that went through an exhaustive NEPA
23 analysis with a variety of parties and exhaustive studies.

24 So it is worth mentioning, because if these
25 projects had been licensed back in 1983, we wouldn't be

1 having that kind of conversation.

2 So I think this is the last slide here. One of
3 the requirements in the preapplication document is to talk
4 about what studies are being proposed. You're going to see
5 in the preapplication document, referenced again in Scoping
6 Document One, that at this point there are no studies being
7 proposed by Eagle Creek.

8 We anticipate consultation. We anticipate
9 requests for studies that I'm sure we'll be talking about.
10 But when you look at the studies that were referenced in the
11 preapplication document, particularly the in-stream flow
12 study, the studies on water quality, fish trending, and
13 stream bank scouring, and then additional fish surveys that
14 have been conducted, as well as entrainment studies, once
15 again those were the studies that were conducted back
16 leading up to the 1993 relicensing. And if you go to the
17 preapplication document, you will find more information.

18 So with that, I will wrap it up. And if there's
19 additional information, there's a number of folks from Eagle
20 Creek here, particular Bob Gates, and we'll get your contact
21 information with business cards.

22 MR. EMMERING: Alright. Thank you. Thank you.
23 Alright, so I'm going to do a quick change of plans. It
24 seems that you folks need to get out of here earlier rather
25 than late, and rather than bore you with more slides, I

1 think we're going to open it up to folks that need to get
2 out of here sooner so you can make your statements. And
3 then we'll jump into the resource agencies and NGOs and all
4 that. Is everybody good with that?

5 (Several voices answer "yes.")

6 MR. EMMERING: Let's do it.

7 MS. JUDY KNEE: I can't tell you how many years
8 ago. It's probably about 8 to 10 years ago we had a
9 beautiful five-piece--a piece of land on the side of our
10 house--it's not ours. It's nothing to do with "my land,"
11 except it was legal, overflow of lake. It belonged to, as
12 we know now, the person that owned the lake, which was back
13 then, I believe, Morand.

14 People came in. All of a sudden I see
15 bulldozers, and building machines coming in digging up that
16 piece of property, taking away beautiful aesthetic blueberry
17 bushes, which by the way I ate off of all summer. A lake
18 came into this, making it two acres of lake, and I went to
19 town and asked what's going on here? The man came in, built
20 a house, got a \$10,000 fine, but the land was his and
21 everybody ran into their little corners and went away. I
22 got nothing out of it, but he got this piece of property
23 that didn't belong to him, and that was legal overflow lake
24 property.

25 Pence comes. I'm sitting there for years waiting

1 for this water situation. And I'm here for me. I may be
2 here for others, too. I may be representing others, I do
3 not know. I am here for me.

4 My home, my piece of property, is beautiful. My
5 husband and I work very hard to keep it beautiful. You all
6 are invited to come down and see it. However, when I get
7 the picture played--said a thousand words last year, this is
8 my dock, and my water. Who the heck doesn't want something
9 like this? Who doesn't want something like this? And pay
10 for it, and we're fine with that, as I said before.

11 But the next day when I come down, I could cry.
12 I'm a woman. I'm emotional. Call me what you want. But
13 I'm not stupid. My home is this. This is what I find the
14 next day. Nobody wants this. And I can't go out and enjoy
15 when I--oh, I'm so sorry, guys. Here's what I live on.
16 It's beautiful. It's lovely. And the next day, I come down
17 and it's like this.

18 This (indicating) is what 100 cfs's are doing to
19 my home and where I am supposed to be living in peace in
20 this country, which thank God I am in. Give me one second.
21 Give me one second, I'd like to show it to the Reporter.
22 This is after (indicating). This (indicating) is before.
23 This is what I live with.

24 Now we're told that the five feet of flashboard
25 was put up? What happened was, you tell me, you tell me.

1 There were five-meter flashboards, Eagle Creek communicated
2 as they do, but the five feet of flashboards did me no good
3 last year because they drew the water, and then we had--
4 well, we had a major drought. So the water never came back
5 in. There was never any water because the Swinging Bridge
6 area and Mongaup area is in a different weather pattern and
7 we do not get the water we believe that should be raining
8 down. It doesn't happen anymore. It's changed.

9 So here I am living with this (indicating). Do I
10 blame Eagle Creek? I can't blame Eagle Creek because they
11 said we didn't know. Well, somebody's got to know. We have
12 a lot of scientists here, biologists, something I am not.
13 But somebody better know that for an emergency not only is
14 it twofold that we have happy people living on the lake,
15 you'd never hear from us, but you would have water in the
16 lake and there would be enough for emergency drought.

17 Where is the water for us? (Inaudible) the
18 drought. We don't have water. Why? Because it was drawn
19 down too quickly and it's gone, leaving with 100 cfs's a
20 minute.

21 I don't know if everybody knows how fast that is,
22 but you should go see it. It's beyond comprehension. And
23 this is what I live with days and weeks later. Nothing.
24 That's what I have for my beautiful summer season that I had
25 at my home.

1 My boats are stranded, and it's proof, anybody,
2 that Judy couldn't get your boat out? No, they didn't even
3 give me warning to get my boat out.

4 So for the winter, from September to when I came
5 home, one boat sunk because of the water. I never went to
6 Eagle Creek about it. I had a boat destroyed, because when
7 the water came from--the water dropped, it took my little
8 speedboat onto the dock. Somehow it got caught under the
9 dock, because it dropped. And then when the water came up,
10 it held the boat down, gone boat. A 119 Yamaha engine gone,
11 and the boat's gone. I think it's still sitting in Bill
12 Croysand's place there.

13 Just another moment, and I just want to make
14 sure. That is, by the way, 1059. There is no way in my
15 lake for me to have water at the north end. And if you
16 think I'm the only one at the north end suffering, my two
17 neighbors, Mr. Modovich and Mister--I forgot his name--
18 Moshensky, we have--we are suffering at that north end
19 because there's no warnings, and we have a mess.

20 And we've become useless up there. It's
21 absolutely useless. So thank you. So somebody said about
22 the fish here? And that's something that he reminded me of.
23 Red fish, blue fish, green fish, dead fish. Stink, stank,
24 mess. It's beyond comprehension what that whole area--
25 because it doesn't only go down to me. It's linear, I'm

1 assuming, and it's just pulling everything good, and there'd
2 be eggs, and there'd be growth, if done right.

3 Thank you for letting me present. I'm going to
4 my grandson's graduation.

5 MR. EMMERING: Judy, I think Kyle has a question.

6 MR. OLCOTT: This is connected to aesthetic lake
7 levels like this, I might have a clarifying question later
8 to try to understand. So this applies to everyone, but I'm
9 not interrupting you if I ask my question, it's just to
10 understand what your concerns are in a way we can help.

11 So my question is: Has this issue with the lake
12 level only become a problem last year with the drought? Or
13 had you had this experience more?

14 MS. JUDY KNEE: I'm living in the house 30 years,
15 and I have been having this problem. When my husband and I,
16 30 years ago, we were much younger. And what's so funny, I
17 went to a meeting like this. I didn't understand the depth
18 of that meeting, and it was licensing. It was about the
19 licensing. And never in my wildest dreams did I ever know
20 how serious it was. I thought, water? It's like the man
21 who sold me my property. He took me to--my husband's
22 laughing--I swear to you, the gentleman giving the key, I'm
23 not afraid to say his name, said to me, Gibby, this land is
24 gorgeous. How deep is the water here?

25 Oh, he said, 20 feet. He lied. So I was lied to

1 from day one. And then he says, you know the water does go
2 up and down. I said, I understand that. But does somebody
3 buying a piece of property understand how low the water
4 goes? I moved into the house and two weeks later there was
5 no water. At 1065 I had 5 feet of water. And at 1060 I got
6 6 inches. Now I know I'm at the north end, but I'm not the
7 only one.

8 Now if you can keep that water up 5 feet, that's
9 all I'm asking. And keep your 100 going. But just keep 5
10 feet of more water in that. You would never hear from
11 Swinging Bridge Property Owners Association. There's got to
12 be a happy medium where you can get it to to keep people
13 happy. We're the ones living on the lake. That's why I
14 asked you, who is living in Mongaup Falls? Who is living on
15 the other lakes? You don't have anybody else living on the
16 other lakes.

17 People are not coming up to the lake. We don't
18 get boats anymore. So the kayakers come, and they get their
19 lots of water. They don't live on the lake. They don't pay
20 my taxes. They don't pay anyone's taxes on that lake. But
21 they get their water, whether there's water or no water,
22 they get their water. Men, something is wrong with this
23 system, very seriously. And it's a very upsetting thing,
24 and I'm just glad that the time has come that I can make
25 this presentation to you and hope to God that God gives you

1 the ability and the common sense to straighten this up.

2 I understand people are making money. I
3 understand business. I've been in business. We all want
4 you to do well. Every one of you. But you can't rip from
5 people what they've worked so hard for to make this money.
6 You just can't do it anymore.

7 MR. GIBSON: Judy, can I ask a clarifying
8 question. You say that kayakers get their water.

9 MS. JUDY KNEE: Yes.

10 MR. GIBSON: Are you talking about the kayakers on
11 the impoundment? Or are you talking about downstream on the
12 Delaware?

13 MS. JUDY KNEE: No, from what I'm told, downstream
14 they take water from Swinging Bridge. There are drops that
15 are planned, scheduled drops, to scheduled whitewater drops
16 that come from Swinging Bridge Lake. How much water do you
17 want to take from people for them to have the excitement of
18 a 10-minute drop, and I go through all summer with this? I
19 mean this is just not fair. It never was fair, but somehow
20 they had a lot of power and they got what they wanted.
21 Somebody knew somebody. That's the only way I can think of
22 things.

23 So I'm asking and begging you men to please study
24 this problem. It's a nightmare. I mean, we have a Swinging
25 Bridge Property Owners Association. Everybody is welcome to

1 join, folks. It's \$50 a year. Okay? We protect the rights
2 of the lake and the people around it. Please become a
3 member. It's really super. We're good people that work
4 hard for this area, and I don't want to waste your time
5 anymore. Thank you very much.

6 MR. HOGAN: Robert Barrett?

7 MR. EMMERING: Wait. Hold on, we'll let Robert go
8 first.

9 MR. BARRETT: I will go first.

10 MR. NANNARONI: Okay.

11 MR. BARRETT: I sympathize with what was said on
12 the water situation. And the water has pluses and minuses.
13 It depends on where you are and how you look at the water.

14 However, you know we have to go back somewhat to
15 the beginning. And there are legal issues. There are
16 things that were supposed to be followed legally, and the
17 Federal Power Act was created to put hydroelectric--and we
18 have to stop calling these "lakes." They are not "lakes."
19 They are reservoirs. And they are reservoirs which are
20 hydroelectric. They are not drinking. You'd be surprised
21 at the number of people who think that they are drinking
22 reservoirs, and therefore have jurisdiction in other
23 phases.

24 Now the fact is that this particular place,
25 reservoir, was under the Federal Power Act. And in 2000 a

1 developer--and we're not against developers. They do what
2 they want with the houses on the tax roles, that's fine.
3 But if we abuse the way for the public, which is guaranteed
4 by a license to have a second access to a reservoir, then
5 you're doing something that is wrong.

6 And when you know it, and you know it ahead of
7 time, and you don't reveal it, you're really committing
8 fraud when you're selling properties. And you're telling
9 people that they have a "lake," and they advertise it as
10 lakefront, and they have all kinds of things which are not
11 true.

12 Now what you have operators of the hydroelectric
13 system, which are individuals and companies that want to
14 make money. Why? They're in the business of making
15 electric. Electric is a utility, as far as I remember, and
16 as far as I know FERC had the preemptive right to override
17 state regulations on these particular items, and they cannot
18 let state regulators such as our local department of health
19 come in and say you can't use that area by putting up
20 signage and keeping the public out, which they did last
21 summer again and they tried it. Why? They want to keep the
22 people out. Why? Because the developer is still smarting
23 over the fact that he lost his right to eminent domain
24 through two legal court proceedings, one in the Supreme
25 Court which they had to get a judge outside of Sullivan

1 County to look at the case because they weren't sure inside
2 it was going to work out that way.

3 You alluded to something, but you may be more
4 accurate than you know. Now the judge ruled, and he was
5 appealed, and what do you know? The appellate division
6 ruled 3 to 0 that they were absolutely right.

7 He wanted \$30 million to the property. They
8 awarded him \$500,000, a nice amount for vacant land. Now
9 who is responsible for all of this is now, it gets dumped on
10 Eagle Creek. And I say "dumped," because after four
11 operators, three of which were using all kinds of
12 manipulations to not allow the public in. Put up berms
13 across the road. Dropped trees across the road. Making it
14 that it was so untenable that you wouldn't even go out
15 there.

16 And when I did go out there, I got arrested,
17 twice. Twice. I go to court and beat them three times. It
18 gets a little tiresome, and I see what the problem is with
19 Eagle Creek. They got the property because Alliance had to
20 sell it through bankruptcy, and then in order to do it they
21 had a chance for a license, without a license. It was
22 (inaudible) the public the right to get into that area.

23 Now it was done. The public gets in, and now you
24 have a department of health who goes down and declares it a
25 beach. You want to see a beach? Go to Ireland. Go to the

1 West Coast. Look down at the shore and see what you've got
2 down there. You've got a beach? You don't have a beach.
3 You have all the lots, and people swim, and they don't get
4 regulated.

5 They go in if they want to. They don't go in if
6 they don't want to. That water is public water. What do
7 they do? They bypass the boundary lines of Eagle Creek.
8 Eagle Creek is supposed to keep open a 50-foot boundary
9 around the entire property. They did not.

10 They hired a guard. The guard came down. He
11 chased the people. They called the police. The police came
12 down. They didn't know what to do. They were told this;
13 they were told that. Nobody knew anything. Nobody had any
14 jurisdiction over anything. It was like a wild west.

15 And then you said, look at this. People don't
16 take care of it. I went down there with my wife every day.
17 We keep a log. We check every day. We look at what's going
18 on. We see it. They don't want to see us there, because
19 the man across the street had his camera on us every day,
20 and he watches. I spend 15 minutes a day. I can spend more
21 days. That's up to me. It's not up to him. And that's
22 exactly what we've been doing. We go down. We try to
23 enjoy it.

24 The recreation? You talked about the recreation?
25 You've got recreation. The eagles fly over, and we can see

1 the deer, and you just don't have trout there. You have
2 great pike in there, too, the walleye, great walleye in
3 there.

4 So you have a viable area, plus the kayaking,
5 plus the hikers, plus the people who just want to go on
6 Sunday, just want to go down there, and they get hassled.
7 They're sunbathing in the parking lot. They come in. They
8 park their car. They take out their beach chair and they
9 sit next to their car in the parking lot. Is that what you
10 want? Is that what you call "recreation"? Or is that
11 called "concentration"?

12 You know, it's terrible to have to do this. It's
13 terrible to have to come in and like try to pit yourself
14 against some other entity, or some other interest. It's not
15 that at all. The interest was there. It was written. It
16 was done for a purpose. The purpose is being bastardized.
17 It was taken over. When you start putting gates over public
18 roads, and you get caught, and you don't give a damn because
19 you still try it, and you still keep it up, and then you get
20 dumped from one power company to another, until finally we
21 get Eagle Creek, as Judy said, and Eagle Creek is at least
22 somewhat responsive.

23 I say "somewhat," not totally because we were
24 supposed to have conferences on things, but we didn't get
25 all the conferences. We got some talking. If I go down

1 there and have to see somebody, that's the "conference."

2 That's not a conference. That's just a little conversation.

3 And I feel very much for the people. Not for me.

4 I don't do those things any longer. I was able to do all

5 kinds of things, too. I was a United States champion race

6 walker. I was the International Champion Race walker. I've

7 won all around the world. I've seen things.

8 Sullivan County, Bad Health Report. What did

9 they do? They try to keep people out of the water. I

10 always thought swimming was a great activity, a great

11 activity for people. They can't go in. Why? Oh, you can't

12 go across that boundary. It's got a yellow tape on it.

13 That's what the people have to put up with. And

14 that's not right. And I think that we're here today to

15 listen. We cooperate. We have people who come in, they do

16 the kayaking, and they're residents and they're the people

17 entitled to do it. They come in. They park their car.

18 They go in, and they come out, and we tell them. You take

19 in; you take out. And for the most part they do.

20 They were there yesterday. They report in. They

21 clean it up. They take care of their garbage. They're

22 doing that. They also have a camera that watches

23 everything. So I don't know where all the complaints are

24 about the variety of things that go on.

25 They have their own camera up there that's

1 supposed to be manned over at the plant row powerhouse to
2 see what's happening. And if that's what they do, that's
3 fine. We don't work. We don't do anything wrong. It's not
4 that we hate the cameras. I wave to them.

5 Now, you know, I may sound like a cranky old
6 character, but if that's what you have to be after awhile, I
7 will be cranky. I will continue, as much as I can, when I
8 can, and where I can. And I didn't want to be rude before,
9 but after awhile statistics will kill you. You can give me
10 all the numbers, you can give me all the things you want,
11 but you put the people to sleep. After awhile, they're not
12 listening. It just goes by. So we know that. We read the
13 document. We read the scoping document. I know what's in
14 there. But I was curious about that one question: Why do
15 you put a PowerPoint that did not show in town the road to
16 the recreation area at Toronto East?

17 You know, it's very interesting. I watch that,
18 too. Yesterday, or the day before, you guys were coming.
19 It was announced. They put down red shales, Sullivan Red
20 Shale on the holes, and the potholes. It's like when you're
21 having a visitor at your house. What do you do? You dress
22 it up.

23 They only got halfway. You stopped. You went
24 halfway down the road and stopped and didn't continue down
25 there where te creek is, where the Hing Narrow Creek is, and

1 it's a big puddle again.

2 And, you know, do it the right way or don't do it
3 at all. And if you don't do it at all, you're going to be
4 having problems.

5 If you want ti to be relicensed, look at Lake
6 (inaudible). Look what you see down at (inaudible). You
7 see a welcoming place, not a place that wants to throw you
8 out, and make it so bad that you don't want to come back
9 again.

10 Make the recreation area. Make it good for
11 everybody. Make the fishermen happy. Make the kayakers
12 happy. Make the boaters happy. And make the residents
13 happy. Thank you.

14 MR. NANNARONI: I want to follow that up, because,
15 you know, we've heard from about 1,500 people--

16 MR. HOGAN: Could you state your name, sir?

17 MR. NANNARONI: Pardon me?

18 MR. HOGAN: Introduce yourself.

19 MR. NANNARONI: My name is Nino Nannaroni. I'm
20 the Chairperson of Friends of Toronto. It's a group that
21 was formed about 15 years ago.

22 We're 15 years of fighting a private developer.
23 These are the newspaper clippings, okay, going back 15
24 years. This private developer bought the land around the
25 Toronto Reservoir and has since tried to keep people away

1 from using the Reservoir.

2 So it's not just the fact of people in Sullivan
3 County or New York State. This is a public reservoir that
4 anybody in the United States can use. Anybody can use,
5 okay? So this 15-year fight was won a couple of times
6 already. Alright?

7 In 2012, as Bob referenced, Chaffen Estates loses
8 battle. They tried to close off the public from using it.
9 Okay? So 2012 we won in court.; Great victory. Fine. Then
10 in 2014, FERC rejects swimming prohibition at Toronto
11 Reservoir. And guess who were the three people that were
12 trying to get this amendment to the FERC license? The
13 developer, Dubrowski, right? A homeowner, and Eagle Creek.

14 Alright, so Eagle Creek is not our friend,
15 alright, in some ways. I mean, and we have to keep them
16 accountable. But if you're going to do a relicensing, then
17 you have to hold them to the FERC license.

18 Then in 2016, what does the developer do? The
19 developer goes to the department of health for New York
20 State. So we just went through some hearings with the
21 department of health trying to declare that recreational
22 wilderness area--and if you--did you go out there? You did
23 a site thing? Did you see the Toronto thing? Did you see
24 that as a beach? It's like the wilderness area, alright?
25 It's not a beach. Are you kidding me? Okay, so they had

1 hearings, and guess who the judge was of the department of
2 health hearings? The judge was from the department of
3 health. Alright?

4 So in every way along this line there has been a
5 private developer. Okay, so he bought this. And the other
6 thing, here's the thing. This is in 2002 and 2003 in
7 advertising the Chappen Estates. Listen to what he says:

8 "It's gated, secluded, thousands of acres of
9 secluded woodlands surround you. Mountain lakes and streams
10 softly ripple. Bald eagles soar above the stately pine and
11 oak trees. Wildlife abounds. It is wilderness unrivaled
12 anywhere on the East Coast."

13 You notice it doesn't say "public reservoir." He
14 says "mountain lakes." This is not a private lake. It's a
15 public reservoir. The public has a right. Over the last 15
16 years, he has erected boulders. He's built fences. He
17 built a wall. Everything to keep the public out. And Bob
18 referenced the 50 feet around this whole Reservoir is
19 public. We can actually walk around this thing.

20 But a private developer is trying to take a
21 public resource away from the public. And if you're FERC,
22 that license, and Eagle Creek has to be held accountable,
23 that road is terrible. You can ride down it. People can't
24 ride down that road. What Bob was actually saying, the
25 creek that comes in there overflows and you have to kind of

1 stop, make sure you don't ruin your tires to go on.

2 So they have to be held accountable for that. So
3 we have enlisted the QD University System because we have 15
4 years of the public trying to deal with guaranteeing their
5 rights against a private developer. In some ways, that have
6 been in collusion with Eagle Creek. Okay? We had a meeting
7 with Eagle Creek who said--we had the homeowners there. We
8 had Dubrowski, who wanted to say, okay, can we amend this
9 that you will only open it from dawn to dusk? Okay? To
10 amend this license?

11 And, you know, we were saying, well, we're
12 usually there during the daytime, so we'll go along with
13 you. Right? Yeah, we don't want to go along with that any
14 more because what they did, they turned around and tried to
15 eliminate the swimming in Eagle Creek. Okay? So it's not
16 about them just trying to be like good guys when you're
17 renewing the license. They have to be held accountable for
18 that license.

19 The last thing is, in terms of our being here,
20 Friends of Toronto, is that we want to be able to say for
21 our children, our grandchildren, and future generations, if
22 we lose this fight then our children won't be able to use
23 it.

24 We've been using this since, when did Judy just
25 say, two thousand and--no, 1920, right, when they built the

1 dam, in the '20s. So for the last 100 years people have
2 been using the Toronto Reservoir. Alright? And now it's
3 like in jeopardy.

4 I mean, every year we have to fight one end to
5 the other, okay? So that's what we're fighting for. We're
6 fighting for our public resource for ourselves, our
7 children, and our grandchildren.

8 MS. JUDY KNEE: Can I just interject? The people
9 that--excuse me? Did you say, no? I said one interjection
10 and then I'm leaving.

11 MR. HOGAN: Okay, Judy.

12 MS. JUDY KNEE: I am very interested in the truth.
13 The people that bought on Toronto Lake bought a pig in a
14 poke. They did not do their due diligence when they spent
15 that money, because Mr. Dubrowski had a super wonderful
16 reputation of being an outstanding fancy builder, and that's
17 great. He did beautiful things. But he did do things that
18 were not correct to Sullivan County, and not Toronto Lake.
19 Toronto Lake in the license is a preserve--reservoir, I'm
20 sorry, to fill Swinging Bridge Lake when it was dammed, and
21 that's what it was built for. And when these people bought
22 around the lake and paid their millions of dollars and built
23 these homes, this man deceived them. He was deceptive.
24 And I can't imagine these smart people, they just didn't
25 study. They want the mountains and the lakes, and they did

1 not know what they were buying.

2 MR. HOGAN: Thank you, Judy. Did you want to go
3 next?

4 MR. CHENEY: Excuse me. My name is Ralph Cheney
5 and I'm President of the Swinging Bridge Property Owners
6 Association, and I just have a question for all of you. Is
7 there any structure here to this meeting? Or is this a
8 free-for-all where anything goes if anybody can speak at any
9 time?

10 MR. EMMERING: We have been trying to establish a
11 structure, but people are standing up and--

12 MR. HOGAN: I'm going through the names as they
13 checked in.

14 MR. CHENEY: Okay. Thank you very much.

15 MR. HOGAN: We started with the three folks who
16 spoke up earlier who said they had to leave because of their
17 grandchildren's graduation. We are going through every
18 checked name. And after we get through the checked names,
19 we're going to ask if anybody has--who didn't sign up to
20 speak. And then we'll turn to the resource agencies and ask
21 them if they have any concerns or issues that they would
22 like to address.

23 MR. CHENEY: Just checking. It seemed like you'd
24 lost control of the meeting.

25 MR. NASDOR: Excuse me, Ken. Would it be helpful

1 for FERC to explain the study's process as it relates to
2 recreation studies--

3 MR. HOGAN: When we get to--

4 MR. NASDOR: --because it might help folks who
5 have concerns and how they might be addressed in the
6 process.

7 MR. HOGAN: Actually, when we get through those
8 who want to voice their concerns, we're going to talk about
9 the study process. Alright?

10 Alright, so Art Goodman?

11 MR. GOODMAN: My name is Art Goodman. I'm
12 Secretary of the Swinging Bridge Property Owners
13 Association. If you want an address, it's P.O. Box 1 in
14 beautiful Mongaup Valley 02762.

15 What we're saying here is critically important
16 because our next opportunity is going to fall around 2050.
17 And I'm not available at that time. So this license renewal
18 is critical to everybody here in what the terms will be.

19 You're going to like me because I'm going to be
20 brief and I will be very factual. People at FERC are very,
21 very smart. These are not brownie points. They knew 30
22 years ago something that we all know now, and I'm going to
23 read what they wrote in the current, existing license. This
24 is a quote. It's on my page 7 of the license. I think it's
25 on F-5 of the PAD:

1 "I conclude on balance that 30 cubic feet per
2 second minimum flow would be in the best public interest
3 because it would provide about 70 percent of the maximum
4 weighted useable area for adult brown trout, without
5 affecting the credible generating capacity of the Swinging
6 Bridge Project. A minimum flow greater than 30 cfs would
7 provide more habitat but the small increase in habitat and
8 anticipated angler use would not justify disproportionately
9 great loss of power benefits."

10 On page 68, I think it's F-63 on the PAD:

11 "Our studies of this additional minimum flow
12 option shows that there would be only a negligible habitat
13 benefit from increasing the minimum flow above 30 cubic feet
14 a second. And that it would reduce the project's power
15 benefits substantially."

16 So FERC saw this. How it ended up at 100, I was
17 not there and I can't answer that. Just some quick numbers.

18 If the outflow, mandatory outflow, is dropped
19 from 100 to 30, reduced by 70 percent, you only lose 15
20 percent of the trail habitat. This comes right out of the
21 license.

22 Let's go the other way. By going from 30 to 100,
23 333 percent increase, you only pick up 15 percent more trout
24 habitat. I think that's called the Bernie Madoff investment
25 program.

1 How much is this 15 percent? 16,000 square feet.
2 I looked at my lot, a third of an acre that runs about 210 x
3 80, it's 15,000 square feet. And I would think this
4 firehouse could very well be that size. That's a hell of a
5 lot of water going, with drought conditions becoming more
6 frequent, to develop some trout. But I think it would be a
7 fair tradeoff if levels at Swinging Bridge could be kept up,
8 and I think that might also mean less demand from Toronto to
9 refill Swinging Bridge.

10 So clearly this issue of the mandatory outflow,
11 particularly from Swinging Bridge, should be very, very high
12 on your list of things to renew.

13 Thank you, very much.

14 MR. HOGAN: Thank you. Lauren Cook?

15 MR. COOK: If it would be okay, we would prefer
16 to wait until the agency portion and let local folks speak.

17 MR. HOGAN: Okay. Andrew Boyer, you already
18 talked. Ed Shmenko?

19 MR. SHMENKO: Hi. I have a couple of questions.
20 One is, they say Toronto Reservoir has a 50-foot drawdown.
21 Just what does that mean if you draw down 50 feet? What's
22 left?

23 MR. HOGAN: Does someone from Eagle Creek want to
24 respond?

25 MR. SCARZELLO: Mark or Matt, you guys can talk

1 about our water rights and drawdown capabilities?

2 MR. GATES: Robert Gates, Eagle Creek, Morristown,
3 New Jersey. It just means that seasonally, you know, the
4 facilities that we have when they were rated were designed
5 for seasonal operation. Okay?

6 So you have Black Lake that feeds Toronto, and a
7 couple of very small tributaries. So you have very little
8 inflow that goes into that particular reservoir. And so our
9 normal operation at maximum operation level is at elevation
10 1220. So we are allowed to draw 50 feet down from that, or
11 to 1170, because it's a storage reservoir. And we do that
12 with a minimum flow of 10 cubic feet per second year-round
13 that comes out of our discharge pipe.

14 So that means at other times, to enhance
15 generation, or to maintain water levels downstream at
16 Swinging Bridge, we will pass water down to Cliff Lake
17 through Black Lake Creek. It will go through a tunnel and
18 feed Swinging Bridge.

19 MR. SHMENKO: I understand all that. But what I'm
20 asking you is, if somebody was to draw the lake down, a
21 50-foot drawdown, you'd have a mud hole. You wouldn't have
22 a lake.

23 MR. GATES: It's a reservoir.

24 MR. SHMENKO: Right, a reservoir. I understand
25 that.

1 MR. GATES: And a reservoir is made to be drawn
2 down.

3 MR. SHMENKO: But also this lake was formed almost
4 100 years ago, and theories 100 years ago are quite
5 different than today. A lot of environmental issues come
6 up. And one is that if the company is allowed to draw the
7 lake down--the reservoir down 50 feet, you would create an
8 ecological disaster because of not only the fish life that
9 you would lose in the lake, and all the animals that depend
10 on the water and the environment around the lake, but the
11 creatures that live in the mud, little bugs that nobody
12 sees, that fish feed on.

13 So what you would have is basically a hole with a
14 lot of dead fish in it. Now there should be some kind of
15 regulation that says you can only draw down so far so that
16 you can sustain life. Because if it was allowed to be drawn
17 down to 50 feet, it would take years and years to get back
18 to what it is today.

19 Right now, Toronto Reservoir is full as it has
20 ever been. Okay? Now I'm a member of the Iroquois Hunting
21 and Fishing Club. My name is Ed Shmenko, by the way, I'm
22 sorry. And I'm in there 38 years, and in 38 years I've seen
23 the lake fill four times, only four times. It fills up
24 somewhat, you know, in the summertime from the rain and
25 everything and the storms that we get, but it never gets

1 completely full where it's running over the dam. Right now
2 it's running over the dam. Okay? And it's beautiful. And
3 I wish it could stay that way, but I'm a realist. The
4 company, Eagle Creek, is in business to make money. They
5 need electricity. People need electricity to live. And we
6 know that we drain this water into the other reservoirs so
7 they can generate power. And everybody who lives on these
8 types of lakes have to understand that this is not going to-
9 -the lake is not going to be up all the time.

10 All I'm questioning is that there should be some
11 minimum drawdown so that you do not destroy the
12 environmental situation that we have right now. Because
13 it's not just taking water. It's not just "water." It's a
14 whole life system in here, and that's what I would like to
15 see happen. I would like to see some kind of regulations
16 where they can only draw down to a certain point where life
17 can still live in that lake.

18 Thank you.

19 MR. HOGAN: Ed, I have a couple of questions for
20 you. Ken Hogan with FERC.

21 Currently there is no drawdown. It's just a key.
22 So have you seen issues at that level of drawdown?

23 MR. SHMENKO: I've seen that lake go down to the
24 point where I couldn't see the water from our clubhouse.
25 There was still water there. It was maybe 20 feet of water

1 left. But when they drain that lake down 30 or 40 feet, you
2 won't have much water left. And everything gets
3 concentrated into a small pool.

4 Fortunately it happens in October or November
5 when the temperature is down, so it doesn't actually kill
6 the fish. But, you know, fish is only one thing I'm
7 concerned with. It's not only the fish. It would be like
8 an environmental disaster if you drain that lake down to
9 nothing.

10 But another question I have to ask, I understand
11 that Eagle Creek is going to replace the tower at the end of
12 the lake? Is this correct?

13 MR. HOGAN: I'll defer to others with Eagle Creek
14 for that.

15 MR. GATES: We aren't replacing the tower.

16 MR. SHMENKO: I heard that they were going to
17 replace the tower.

18 MR. GATES: We have to maintain the tower. We're
19 looking at various options of drawdown to maintain the
20 portions that are (inaudible), for the safety of the dam
21 itself. Because the tower is built into the dam.

22 MR. SHMENKO: I understand that. That's why I'
23 asking about the rumor I heard, that they were going to
24 drain the Toronto Reservoir to replace the tower--to rebuild
25 the tower.

1 MR. GATES: We're going to--we are going to take
2 whatever water that needs to come out to main the repair.
3 That doesn't mean we're going to drain the reservoir all the
4 way. I don't have that elevation. That's one of the things
5 we're working on. But it's not this year. It may be next
6 year for the repairs.

7 MR. SHMENKO: Is there a possibility that they
8 could use a boulder dam to fix that tower?

9 MR. GATES: No. No, because you can't put it into
10 the dam itself. This tower is built in the dam itself, an
11 earthen structure. So engineering wise, we are looking at
12 options of what to do, but it would not be recreation season
13 in the summer, but we would still do a drawdown to work on
14 that.

15 MR. SHMENKO: It seems to me like you're saying
16 they're going to be draining the lake to change the tower.

17 MR. GATES: We're draining some water out of the
18 lake. That doesn't mean we're draining the entire lake.

19 MR. HOGAN: Hal Teitelbaum?

20 MR. TEITELBAUM: Hi. If it's okay, I'll remain
21 seated if people can hear me. I'm recovering from a
22 fractured hip.

23 So my name is Hal Teitelbaum,
24 T-E-I-T-E-L-B-A-U-M. I am a year-round, that is, permanent
25 resident of the Town of Bethel, and I live on Toronto

1 Reservoir. And I'm speaking in my capacity as a resident of
2 the Town of Bethel and in the vicinity of Toronto Reservoir
3 in my role as president of HOOT, H-O-O-T, Home Owners On
4 Toronto, which was incorporated in New York State several
5 years ago as a civic association to protect the resources in
6 and around Toronto Reservoir.

7 We represent the majority of the homeowners with
8 property on Toronto Reservoir. We are not associated with
9 the developer. We do not speak for the developer in any
10 way.

11 And the first thing I wanted to mention just in
12 terms of--I should also mention that I'm also the CEO of a
13 company that is one of the largest, if not the largest,
14 employer, for-profit employer in Sullivan County. So I am
15 really concerned about economic issues in Sullivan County,
16 and the quality of life in Sullivan County, and how our
17 valuable water and other natural resources impact quality of
18 life and the economics of the county.

19 First I want to mention a couple of things.
20 Access, that issue brought up by Friends of Toronto and
21 others. Let me make it clear: As far as I am concerned, as
22 a homeowner as far as the state, purchased from that
23 developer who's been referenced several times, it is my
24 position and the position of the Home Owners On Toronto,
25 that we welcome access.

1 We think access for everybody is important. Now
2 there is a portion, a public portion on the Toronto River.
3 Toronto Reservoir Development is on the public portion.
4 There is a distinction between that part of the water on
5 Toronto that are owned and controlled by the Iroquois Hunt
6 Club. That's a private section that has nothing to do--I
7 don't control that. And there's a public section. The two
8 public access points are located on the public portion, and
9 again the position of Home Owners On Toronto is, we welcome
10 people from the Sullivan County community, from New York
11 State and beyond, using that resource. And we in no way
12 want to obstruct that or in any way want to privatize or
13 contribute to the privatizing of that portion.

14 However, access without water is useless. And
15 over the time that I've lived on Toronto, which has been 12
16 years, and owned property, which is 14 years approximately,
17 there have been times that access has been possible, and it
18 is because of levels that have been inadequate for
19 recreation, and where the aesthetics might be very similar
20 to what was represented earlier on Swinging Bridge. We had
21 those same issues on Toronto over that period of time.

22 Again, I am absolutely--I think that Eagle Creek
23 has made a real effort to communicate and has been
24 interested in my view and what can be done to improve
25 conditions on the Reservoirs. But I think as we go through

1 the license renewal process, this is an opportunity for us
2 to make changes.

3 There was a question from Ed about the issue of
4 what happens if the water draws down 50 feet. It is mud.
5 It is rotted vegetation. It is thick. It is dead fish. It
6 is mud. I have seen that. It did happen a number of years
7 ago shortly before Eagle Creek took ownership. It was drawn
8 down 50 feet. It was a mess.

9 But it's a mess when it's drawn down further. So
10 that's when it's drawn down 25 feet. And the truth of the
11 matter is, that below 1210, below 1210, the underwater
12 aquifers are such that it becomes dangerous for boating.

13 Much below that, it becomes dangerous for boating
14 and the aesthetics are horrible. There are fish hatcheries.
15 There are fish nets around the water that are uncovered. So
16 again we have nesting Bald Eagles on Toronto. So, again,
17 the emphasis that I really want to make is that in the 30
18 years since the original license, and presumably over the
19 next 30 to 50 years, many changes will occur in the region.

20 Many changes have occurred in Toronto. Thirty
21 years ago there were probably no homes on Toronto. Today
22 there is a significant community of homeowners who live on
23 Toronto, and that number is growing every year.

24 And in addition, there are more people who are
25 coming to Sullivan County, who hopefully will continue to

1 come to Sullivan County, particularly with the opening of
2 the casino, with other resorts that are opening. Sullivan
3 County is one of the poorest counties in the State of New
4 York. It does have some of the worst health outcomes in the
5 State of New York. It is not for lack of health resources.
6 I am a physician and the head of one of the largest health
7 care companies in the state.

8 The major issues with health in Sullivan County
9 relate to the socio economics of the county. And we are
10 going to make that better. In fact, one of the major
11 resources we have are our natural resources, our water
12 resources, and they contribute to the value of Sullivan
13 County as a tourist destination. With the casino, with
14 Defffen Woods, with other entities that are opening, we have
15 the ability to have the critical mass of recreational
16 resources to improve life for everyone in Sullivan County.
17 But that means we have to preserve those water resources.

18 The aesthetics and the recreational use of
19 Toronto Reservoir, if the water drops excessively,
20 deteriorates dramatically.

21 So really, again, since 1992 a lot of things have
22 changed. Obviously back then Toronto was viewed as a
23 storage reservoir. It's still a storage reservoir. We
24 understand that. But at the same time, that does not mean
25 the mover should not change. 50 feet is ridiculous. You

1 know, we need to have something that is much more
2 reasonable.

3 We need to maintain water levels for recreation.
4 We need to maintain water levels for increased power
5 generation. You know, I am sure the top five feet of that
6 reservoir there's a whole lot more water than there is in
7 the bottom five feet. So the higher it can be kept, the
8 more power can be generated while still maintaining adequate
9 recreational levels and adequate aesthetics.

10 It's already been mentioned the Bald Eagles and
11 the fish hatcheries. On the reservoir, while we are
12 considering downstream use for recreation for whitewater
13 releases and protecting the trout, let's not forget about
14 all the people who use the reservoir in Toronto all the time
15 for boating and kayaking and fishing. There are lots of
16 sportsmen out there all the time who are fishing, and that
17 can only happen if you have access.

18 Below 1210, the Moscow Road Access, there were
19 some petitions some years ago to close the east access, the
20 gate. I'm not in favor of closing the east access. But
21 there were petitions to do that by a variety of people,
22 including the developers, as I understand it, and it was
23 said that below 1210 the Moscow Road Access becomes almost
24 unuseable to launch a boat. Again, we need to keep water
25 levels up.

1

2 And I think, you know, importantly, you know, I'm
3 not here to create battles between different groups. From
4 my point of view, we need to work together.

5 I do agree absolutely with the Swinging Bridge
6 Homeowners Association. I do think the min flow should be,
7 from the system should be decreased. At worst, the
8 discharge rate should never be greater than the inflow. It
9 was said by Mr. Boyer earlier that we've created this
10 artificial situation, but that works both ways. We've
11 created an artificial situation where we're creating a min
12 flow that is oftentimes greater than the system inflow. And
13 that makes no sense.

14 So from my perspective, I agree that 30 cubic
15 feet per second would be ideal for the system as an inflow,
16 but I think in any case the min flow requirements should
17 never be greater than the system inflow or the min flow from
18 any of the entities from any of the bodies of water should
19 never be greater than the inflow to those bodies of water.

20 And, again, my perspective is things have changed
21 a lot. They are going to change more. And in this license
22 renewal process we all have to work together, including
23 Eagle Creek and all of us, but again I look for working
24 together with Friends of Toronto, with the Swinging Bridge
25 Homeowners Association, and others, the Iroquois, to

1 maintain these valuable water resources while still
2 allowing Eagle Creek, obviously, to perform its functions.

3 MR. HOGAN: Thank you. Marie Fraoli?

4 MS. FRAOLI: Hi. My name is Marie Fraoli. I'm a
5 Small Hood resident. I'm also part of the Friends of the
6 Toronto Reservoir. And I just want to say this:

7 My husband and I have been out here for 24 years.
8 Okay? I now am a full-time resident. I had a total of 10
9 children, all of which have used Toronto Reservoir as they
10 have aged. Today, I now have grandchildren and great
11 grandchildren. I want them to have the same opportunity
12 that I had and my children had to be able to go down to
13 Toronto Reservoir to fish. If they want to get in the
14 water, let them get in the water. I don't want to have,
15 "Ma, could you come bail me out of jail?" I don't want to
16 have to have that.

17 I mean, I've gone down last year, we had a
18 problem that they said all of a sudden now we can't swim,
19 department of health. Are you crazy? Totally insane.
20 There should be no reason why at any point in time that I
21 can't take a walk around that lake--the reservoir, excuse
22 me, not a lake. The beauty of Sullivan County, the beauty
23 of Toronto Reservoir, is unreal. I don't want anybody to
24 tell me that I don't have that right anymore. Okay? "Public
25 access." It's a public reservoir. Allow me, allow my

1 children, my future grandchildren, or great grandchildren to
2 have that same opportunity.

3 So I'm here today to say I have a voice. It's
4 not only my voice, it will be my children, and I will bring
5 my grandchildren if I have to. Enough. Enough. That's
6 all.

7 MR. HOGAN: Thank you, Marie. Jim Caputo?

8 MR. CAPUTO: My question was answered. Thank you.

9 MR. HOGAN: Dan Hogue?

10 MR. HOGUE: I'm Dan Hogue. I'm a supervisor for
11 the Town of Forestburgh. I've lived in Forestburgh my whole
12 life. I've been in these areas we're talking about for 40
13 years or better. Even when I wasn't supposed to be, I was
14 out there.

15 (Laughter.)

16 MR. HOGUE: The economic impacts to Sullivan
17 County, not just Forestburgh, is very substantial to levels
18 of these lakes. The lakes are extremely busy during the
19 summer. The public accesses are packed with parking.

20 However, when the levels do drop, there's no
21 access and people go away to other areas, which severely
22 impacts the economics of Sullivan County: the ice cream
23 stands, the gas stations, the delis. It has a very
24 substantial impact.

25 I don't know the numbers. I could guess it's

1 probably close to \$100,000 in revenue locally throughout
2 this recreational season, which is May through September I
3 would say. But there's been several significant events over
4 the last 30 years, FEMA events, where we've had storms, or
5 stormwater runoff into these lakes.

6 I've seen the last inflow study that was around
7 1988 is that correct? On the lakes? Possibly we should
8 look at a new inflow study, being we've had these
9 significant events. The courses of water could have
10 changed, diverting inflow, maybe even adding inflow, I don't
11 know, if there's no study to review it.

12 And with these effects also came severe amounts
13 of sediment. I was the Highway Superintendent for 20 years
14 before I took over as Supervisor. The washouts and sediment
15 all end somewhere, and all that stuff goes to the bottom of
16 the lakes when the reservoirs go into the Delaware. So
17 eventually it comes from the hills, down to the basin
18 reservoirs, down to the Delaware, out into the ocean.

19 So possibly subsurface elevation for topography
20 studies should be done of the lakes. You know, you draw
21 down Toronto to 1050, or 1250, whatever that was, but
22 possibly the sediment could have built up 25 feet in those
23 last 30 years, which would make those numbers irrelevant
24 anymore.

25 You know, the same thing with Swinging Bridge.

1 Mongaup and Rio--Mongaup and Rio doesn't seem to have the
2 same impact as Swinging Bridge and Toronto. There is a lot
3 of homeowners on both those other lakes. Rio and Mongaup
4 Falls are basically state-owned property around them.
5 However, this is development planned along Rio off of
6 Pinebill and Forestburgh.

7 So I guess from the Town of Forestburgh, when I
8 spoke to the Town Board Members, we would like FERC to
9 consider the elevation levels and keeping the lakes at
10 sustainable levels to encourage recreation and access to
11 these properties.

12 And that's about all I have to say. I'll keep it
13 short and to the point.

14 MR. HOGAN: Thank you, Dan. So we had a couple of
15 not-sures to speak, Karen Bushell?

16 MS. BUSHELL: No, thank you.

17 MR. HOGAN: And Robert Preincipe?

18 MR. PREINCIPE: I'm good.

19 MR. CHENEY: I should of listened to you. I
20 should have checked my name. So if nobody else wants to
21 speak, I would like to say just a couple of things.

22 MR. HOGAN: Ralph Cheney?

23 MR. CHENEY: Thank you very much, everybody.
24 Thank you for the opportunity to speak in front of you and
25 express our concerns.

1 My name is Ralph Cheney. I'm the president of
2 the Swinging Bridge Property Owners Association, which
3 consists of approximately 120 homeowners on the reservoir
4 and around the reservoir. And Swinging Bridge, as most
5 every know here, is the largest recreational lake in the
6 area. And like was said, when things are not good, we're
7 not good, the water levels are not good, and just basically
8 our main concern and our ask is that the 100 cfs outflow be
9 decreased to a more reasonable, a more reasonable--Art
10 stole my thunder and mentioned the numbers, but to 30 cfs,
11 which FERC referred back at the last relicensing and
12 recommended, as a matter of fact.

13 It does take away from the economics of Sullivan
14 County when these lakes are not up to snuff. We also
15 realize that the watershed is a very complicated procedure
16 also to run it efficiently and make everybody happy.

17 Fortunately we have developed a relationship with
18 Eagle Creek. We know Mr. Sherisnow and Bob Gates very well,
19 and we find that working with them in a spirit of
20 cooperation and not competition or brow-beating seems to
21 work best with us.

22 So with that, again I would like to say that the
23 100 cfs output, as Art talked about the numbers, is our main
24 concern. We know that the meter at the Mongaup coming in
25 measures the inflow, and I agree with Mr. Teitelbaum that

1 the inflow and the outflow are definitely not equitable in
2 the facts. So in the drought situation, which we've had in
3 the last several years, it seems like if you're a believer
4 or we think this is kind of the ways things are going, and I
5 also know if the meter is not at 1.6 where--tell me--it
6 measures the inflow, and we know what the outflow is. But
7 it seems like lately, like I said, it's not equitable. And
8 in times of drought and dry weather, the water levels just
9 bottoms out, which happens over at Toronto and a lot of
10 things are affected.

11 And we just want to make sure that that point has
12 been made. And again, I appreciate the opportunity to speak
13 in front of you and express our main concern, which is the
14 outflow of the lake. Thanks a lot--I mean the "reservoir."
15 Thank you.

16 MR. BENSON: Thank you. I want to thank everybody
17 for their patience. I know this is--I'll get to that--I
18 just want to thank everybody for their patience, first.

19 My name is Gene Benson. I'm a Sullivan County
20 Legislative Representative for the New York State Fish and
21 Wildlife Board for Region 3, and I'm the Region 3
22 representative on the State Board. I am also a retired
23 Water and Raceboard operator, so I know a little bit about
24 the dynamics of water.

25 Andy Boyer addressed most of our concerns, as I'm

1 speaking officially for the New York State Fish and Wildlife
2 Board, but I think we have to work together as a community.
3 And you have to take all of these different situations into
4 account when you relicense.

5 There are some aesthetic values. There's quality
6 of life issues. And there's also the Fish and Wildlife
7 issues. If we can all work together, I think we can come to
8 some kind of equitable agreement. Thank you.

9 MR. HOGAN: Is there anybody else who would like
10 to speak? Yes, sir?

11 MR. CONROY: My name is Peter Conroy. I live in
12 Smallwood. I'm a member of Friends of Toronto and Vice
13 President of Smallwood Civic Association, which encompasses
14 400 families in our community.

15 The first time I saw Toronto Reservoir was in
16 1965, absolutely gorgeous. I went there for years and
17 years. Brought my wife there, my children. And then we
18 were gated out in 2002. Looking to bring my grandchildren
19 there.

20 And from that point on, we have dealt with
21 nothing but intimidation on the east access points. First
22 it started on the Moscow Road access point where they dumped
23 a pile of dirt so you couldn't get to put your canoe or your
24 rowboat in the water.

25 I went to the town. They didn't know anything

1 about it. But that was a farce. We could not get no help
2 from the town politicians, the county politicians, even the
3 State politicians. No help. Then they came up with closing
4 the road completely because of some terrorist could come and
5 blow up the dam, which was also a farce.

6 Now they take away our magical road, Road 62,
7 where you could walk up. And we walked to Toronto. That's a
8 four-mile walk. And they took Route 62 away from us, and
9 that's a brand-new road, but it was just to sell property
10 around the reservoir over there.

11 Now they built a stone wall. Now we're locked
12 out. We're locked out for 10 years. Now finally we win in
13 court. They've got to take down the wall. We've got to get
14 back in. Now they hire local guys who used to work for the
15 DEC, guys that worked for the town. If you know the history
16 of what was going on there, you drive up. Oh? You can't be
17 up here. You have to leave.

18 Out comes the pencil and paper. They write down
19 your license plate number. They tell you you're not allowed
20 in, even after they built that new parking lot. You're not
21 allowed in here.

22 Now in May, last year in May, it's my grandson's
23 birthday. I have five boys come over. They spend the
24 night. In the morning we go to Toronto. A gentleman lives
25 up over the parking lot, and I didn't know who he was, all

1 of a sudden he's sitting behind me when the guys are down on
2 the water's edge, and wants to know what we're doing here.
3 You're not allowed to be here.

4 Some of the kids were multi-racial. Are you from
5 a camp? And my response was I was from Camp Conroy down in
6 Smallwood. I turn around and he was gone and I see him
7 walking up his driveway. So now I know he's from the house
8 overlooking the parking lot.

9 And then the Department of Health shows up and
10 tapes off a 50, maybe 70-foot section where there's sand.
11 You're not allowed to go here. You can't be here. Well we
12 have access to go around that reservoir, walk around that
13 reservoir. They would not let us. It was only this one
14 spot that had some sand and not as many rocks. They pushed
15 the people over to where all the rocks are. No handicap
16 access. Everybody, you've got to go over there. They
17 stopped me from going in the water? No, they stopped me
18 from sitting on the ground.

19 The Department of Health takes it off. They have
20 a hearing. No one's allowed to speak. The judge is from
21 the Department of Health. And their cases is, oh, we saw
22 five people sitting on the beach. It looked like they had
23 swimming attire on. You're operating a beach.

24 Oh, on this date there was three people in the
25 water. You know, this was their reasoning for closing. Did

1 they go down to Skinner's Falls and close Skinner's Falls?
2 No. They advertised it. Go to Skinner's Falls. Much, much
3 more dangerous than Toronto could ever be, and they're
4 saying it's a safety hazard to let people swim there, or go
5 there. So they push us over to the rocks.

6 And the intimidation just goes on, and it goes
7 on. What are we going to find this summer? We don't know.
8 We're waiting for a hearing, an answer from the Department
9 of Health.

10 And if you guys are here for the benefit of the
11 license, this is what has to stop, this intimidation. You
12 have a sign on the road that says "Private property. No
13 entrance", as you turn to go up to Toronto, because it's on
14 the development's property where he has that sign.

15 So if you're not aware, you turn around and go.
16 Oh, I'm not going to break the law. I'm not allowed to go
17 here. I'm not allowed to go here. And it just has to stop.
18 It's all for greed. That's all it is is greed. So he can
19 have a gated community and lock the public out when we have
20 the right to be there. We have the right to be there.

21 And I just hope that this time around you'll put
22 a stop to this and let the people enjoy what we have here to
23 enjoy. Thank you.

24 MR. HOGAN: A question for you, Peter. You made
25 comments about somebody paid somebody security to kick

1 people out. Do you know who paid?

2 MR. CONROY: In the beginning it was local guys
3 from the town. Some I knew. Some I didn't know. The last
4 time around, there was no identification of who they were
5 working with or working for. They had a young guy there,
6 and he was very pleasant.

7 We had FOIA requests into the complaints that
8 brought the Department of Health up there, from street
9 rumbles, to outlandish parties, but when they were watching
10 it all the time there was no documentation that there was
11 ever any trouble up there. Whether it was from the police
12 department or anybody else.

13 But they would call the constable if you went
14 past that yellow tape. You had to be taken out of there.
15 They were breaking the license. The Department of Health
16 was breaking the license by taping off that little section,
17 because now you couldn't go completely around the reservoir.
18 And they pushed you over into a dangerous spot, and we're
19 waiting to see. Are they going to do that again this summer
20 to us?

21 This time around, the local politicians are in
22 our corner. But in the beginning they weren't. None of
23 them were. We couldn't get help from nobody. So we hope
24 this time around--

25 MR. OLCOTT: Do you know about when that hearing

1 was?

2 MR. BARRETT: Can I answer that question you
3 asked? You just asked a question of Peter, who was it?

4 MR. HOGAN: If you have an answer, that would be
5 great.

6 MR. BARRETT: First it was Apollo Security that
7 was down in the area, and they were very congenial. They
8 were too congenial, I guess, so they were let go. And they
9 were then replaced by Rangers, so to speak, which were
10 employees of Eagle Creek. A couple of young fellows who
11 came down and kind of were not that enthusiastic about
12 making sure that the folks would not go in across the line,
13 whatever. And then they were replaced by a man who lived 75
14 miles away from Bethel. He came up every day from
15 Catskill, New York, employed by somebody, no identification.
16 When he was asked who he was, he said, "None of your
17 business."

18 The next time he came back, they gave him an
19 Eagle Creek hat, somewhere. It had Eagle Creek on his hat.
20 So that was the only identification. We don't know if he
21 was paid. We don't know he was. We don't know what his
22 background was, just the fact that he was there to make sure
23 that the people would not go past that yellow tape. And if
24 they did, they would then call the police. And they would
25 respond or not. After awhile, they stopped responding

1 because there was no reason for them to get involved,
2 because there was no law being broken. They were not
3 trespassing. They were doing what they were supposed to do.

4 But that was the scenario of the security and how
5 it escalated from one group, to another, to this third group
6 which was the last group. And we don't know what to expect
7 this summer, if it continues again.

8 MR. HOGAN: So I think my question has been
9 answered. The security was employed to enforce the Health
10 Department's rules?

11 MR. BARRETT: No, no. They were employed by Eagle
12 Creek, because Eagle Creek was put into a bind that they
13 were going to be fined by the Health Department, or FERC, if
14 they didn't comply with FERC's regulation to allow the
15 people to access the 50-foot entranceway. It wasn't
16 swimming, it was the other smokescreen that was put out
17 there.

18 MR. HOGAN: Thank you. I understand.

19 MR. CONROY: And there's another little part to
20 this puzzle. There's a speaker set up out there. Whether
21 it comes from the guy on top of the hill overlooking the
22 parking lot, with barking dogs to scare people. You know,
23 it's really sad that this goes on. And like I said, this is
24 all for greed. That's all it's for, is greed.

25 MR. OLCOTT: I just had a question, Mr. Conroy,

1 that you might know. Does anyone have any information on
2 the hearing, the Department of Health hearing, where we can
3 look up the documentation on it?

4 MR. BARRETT: We get a reply sometime in June.

5 MR. CONROY: Toward the end of June.

6 MR. BARRETT: At the end of June.

7 MR. OLCOTT: Okay.

8 MS. FRAOLI: No, but the gentleman asked when that
9 happened so he can look it up.

10 MR. BARRETT: We had a hearing in February, and
11 that was not completed. So we had to go back again in May.
12 And then we had a second follow-up with testimony that was
13 taken for five days, we had to give testimony, and the
14 attorney presented the case, which said that the FERC has
15 the preemptive right over New York State Department of
16 Health to enforce its regulations.

17 So you now have a federal-state battle in terms
18 of who has the jurisdiction. And FERC supposedly had it
19 under the Federal Power Act that it controls utilities.
20 Hydropower is a utility. And therefore it comes under their
21 jurisdiction. But they allowed the security guy to chase
22 the people away from the right to enter that 50-foot
23 section. They had no business doing that. They were hired
24 by Eagle Creek, that guy who came down to do this, or so he
25 claimed. But since he's not here, I can't speak for him. I

1 don't know who he is. I still don't know who he is.

2 MS. FRAOLI: Nino, do you have the dates that that
3 actually--

4 MR. NANNARONI: The dates on the hearings? One
5 was in February and the other one was in April.

6 MR. OLCOTT: And that was with the local--

7 MR. NANNARONI: That was with the Department of
8 Health, Robert McNamara, the lawyer for Eagle Creek was
9 brought in. The Department of Health was bringing in Eagle
10 Creek for this hearing. We did not testify. It was like a
11 court hearing.

12 UNIDENTIFIED SPEAKER: It was called a tribunal.

13 MR. NANNARONI: A tribunal.

14 MR. OLCOTT: Does anybody have a name of a
15 representative at the Department of Health?

16 MR. NANNARONI: We have lots of names.

17 MR. CONROY: We can get you the names.

18 MR. OLCOTT: Any information you want to file for
19 the record regarding that would be very helpful. Thank you.

20 MR. NANNARONI: Do you want it in written form?
21 Is that what you're saying? Or what?

22 MR. CONROY: But I'll tell you, the Department of
23 Health, to come out of the way because it's not like you
24 pull off the side of the road and you're at the access
25 point, you have to take a slow drive on the road, which I

1 don't mind the slow drive, and I don't mind the bumps. But
2 then to be told that you can't go in there, and we have
3 complaints. We had three complaints, you know?

4 MR. NANNARONI: And it should be said, I
5 appreciate Hal Teitelbaum saying that the homeowners in
6 Chappen Estates are supporting public access. It's two
7 people. Two people. Debrowski, the private developer who
8 doesn't have any relationship with either, and that
9 homeowner that sits on top of the hill. They've been
10 constantly, through their lawyers, bombarding the
11 Department of Health, right? And the Department of Health,
12 we had five FOIA reports, one for Friends of Toronto, one to
13 the Bethel Board, you know, to try to get information on who
14 it was who was filing the report. And McNamara, the Eagle
15 Creek lawyer, tore them apart--I mean, tore the local
16 department of health, because why are they there? They're
17 there because of two people trying to take this away from
18 the public.

19 MR. HOGAN: Is there anybody else who wants to
20 speak that hasn't yet?

21 MR. BENSON: Just a clarification for you. There
22 is no local department of health. The Department of Health
23 Monticello is a state office. There is no county office.

24 (Simultaneous speakers.)

25 MR. BENSON: That is--there's a State Department

1 of Health. There is no county department of health.

2 MR. EMMERING: Alright, guys. If there's no
3 further input from local community members, I think what
4 we're going to do is, since it's already 11:30, we're going
5 to take an early lunch and then come back in an hour. We'll
6 come back in an hour and get input from our resource
7 agencies and NGOs.

8 MR. WILFY: If it's just going to be the agencies,
9 I think we're okay with like a five-minute break, and we can
10 come back in and finish up. I don't think our part will be
11 terribly long.

12 MR. EMMERING: Okay, a five-minute break. Let's
13 make it a 15-minute break. There's only so much bathroom
14 space, and everybody can use them.

15 (Whereupon, a recess is taken.)

16 MR. EMMERING: Alright, guys, let's get back to
17 it.

18 (Pause.)

19 Alright, I thought I should remind you all of
20 what the agenda is for the rest of the meeting today. We
21 are going to go through the resources. I did have slides of
22 resource by resource category, but I think we will just
23 leave this slide up and go over it one by one, so agencies
24 can give their input, and NGOs can give their input, and
25 anybody else that wants to give their input. And then I'm

1 going to discuss what's required, our criteria, and how you
2 can stay involved in the process with distribution lists and
3 whatnot.

4 Does anybody have any questions before we start?

5 (No response.)

6 MR. EMMERING: Alright, let's start going by
7 category by category. Water quality.

8 MR. HOGAN: Are there any questions or concerns
9 regarding water quality--or should I say water quantity?
10 There's been a lot said about water quantity.

11 MR. HAMILTON: Don Hamilton, National Park
12 Service. The USGS gauges that are above and below the
13 system, how long have those been in place? What's the
14 period of reference there?

15 MR. GIBSON: We had that in the PAD, the
16 application document. Let me take a look. We can move on.

17 MR. GATES: Are any of those doing water quality,
18 also?

19 MR. GIBSON: Downstream, yes,

20 MR. GATES: I'll answer. Robert Gates. The
21 upstream gauge for Route 126 here (inaudible), that's been
22 there since 2002. It's only (inaudible). And then there's
23 the downstream at Rio. We put that in a few years ago as
24 per the license amendment on the Rio Project. And it's a
25 pipe parameter gauge, and it will give us flow as well as

1 water temperature, (inaudible), and conductivity and
2 (inaudible).

3 MR. GIBSON: And if I can add to that, the
4 downstream gauge, we have a period of record from 1939 to
5 1995, and then we have an additional period from 2013 to
6 2017.

7 MR. HAMILTON: Okay, thank you.

8 MR. EMMERING: Anybody else for water quality?
9 Water?

10 (No response.)

11 MR. EMMERING: Alright, so fisheries is next.

12 MR. HOGAN: The fisheries resources that you need
13 within the reservoirs, we're working to bypass the reaches
14 and downstream reaches. Any concerns?

15 MR. HAMILTON: Is there any fisheries assessment
16 that's been done above the reservoirs, also?

17 MR. HOGAN: Not that we're aware of. Does the New
18 York--have there been any fisheries assessments upstream?

19 MR. FLAHERTY: There hasn't been any full
20 assessments. There may have been some spot checks here and
21 there for some rare fishes or something like that, but
22 nothing recent.

23 MR. EMMERING: Could you state your name, too,
24 please?

25 MR. FLAHERTY: Mike Flaherty from New York State

1 DUC.

2 MR. EMMERING: Thanks, Mike. Okay? And soils and
3 geology?

4 (No response.)

5 MR. EMMERING: Cliff erosion and sedimentation?

6 (No response.)

7 MR. EMMERING: Alright, wildlife and vegetation,
8 terrestrial issues?

9 (No response.)

10 MR. EMMERING: Cultural issues?

11 MR. MENCK: Kevin Menck, National Park Service.
12 Just as a general note that the National Park Service, Fish
13 and Wildlife Service, Bureau of Indian Affairs, will be
14 providing comments for the July 29 deadline. It will cover
15 a number of these issues, but we don't have prepared
16 comments today.

17 MR. EMMERING: Sure. Cultural, that includes
18 Tribal. So recreation and land use.

19 MR. NANNARONI: Yes. It's been brought up here
20 that it's been very unwelcoming to the public. Okay? So
21 therefore I think FERC should be proactive about this; that
22 they should have Eagle Creek put up a sign right at the end
23 of Pine Grove Road saying this is a public reservoir, okay?
24 Instead of having this sign that says "private, nobody can
25 go", and it's on his land, alright, but there should be

1 something on the road, or maybe before the road itself--
2 because it ends at his gate. There's a gate here, and Pine
3 Grove Road. You probably saw it, right? So when you make a
4 right-hand turn onto Pine Grove Road, you have to travel a
5 couple of miles down to get to the east access point.

6 But there should be a sign stating that this is
7 open. Okay? And welcoming. The stuff that you see right
8 now, the signage that you see from Eagle Creek and from the
9 developer make it almost like it's "don't do this." Don't
10 do that. Private. Don't go over here. You know, it's not
11 welcoming.

12 So something, a sign right at the beginning where
13 the access is off of Pine Grove Road.

14 Secondly, if you have this private developer,
15 Steve Debrowski, and this homeowner, Mark Broshell, are the
16 two people that are constantly after, with their lawyers and
17 everybody else, why should two people be, you know, trying
18 to control this whole area? You've heard it from HOOT, the
19 Home Owners Association, which represents most of the
20 homeowners that have nothing to do with Debrowski.
21 Debrowski sold them a bill of goods saying there would be a
22 lake to maintain, you know?

23 So can FERC reprimand or somehow deal with
24 Debrowski and this Mark Broshell, and say "cease and
25 desist"? Or Eagle Creek say "cease and desist." You know,

1 how long do we have to always go 15 years in this fight
2 already and still now they're dragging out the state
3 department of health.

4 So I'm looking at FERC then requiring Eagle Creek
5 to say that Debrowski should cease and desist.

6 MR. NASDOR: Bob Nasdor, stewardship director for
7 American Whitewater. We've been deeply involved with
8 hydropower relicensing for a long time, starting back in the
9 1980s, very active throughout the Northeast, clear at the
10 beginning with the Deerfield River, and have been involved
11 with many New York rivers, the Moose, the Black,
12 (inaudible), so this is all bigger issues that we're well
13 acquainted with and the FERC process.

14 I've been told, prior to my time, maybe five
15 years ago, we were very involved in the development of the
16 ILC process, the structure that followed the old way of the
17 TLP of doing things.

18 We plan on being deeply involved with the
19 relicensing of this project. The Mongaup River is an
20 extremely important river to whitewater boaters. When
21 there's a one-tube or a two-tube release, these rapids are
22 in the range of clef 2 and clef 3 below the project, are
23 critical,.

24 We have affiliate clubs. Lauren Cook is here
25 from KCC, Canoe Kayak Club of New York. We have also

1 another affiliate club, the Appalachian Mountain Club of
2 Connecticut, who frequently run trips down the Mongaup.

3 So it's a unique resource because it has a
4 continuous flow of to and through water that's just not
5 found on other rivers in the area, and its proximity to New
6 York City, that's not a lot of whitewater between the two.

7 So we do have a great interest in this. We will
8 be very involved. Some of the issues that particularly
9 interest me, I don't know if there was a whitewater boating
10 study done in the prior relicensing process in the 1980s.
11 I'd like to find out more about that.

12 We're going to be submitting comments and study
13 requests. We will be requesting a whitewater boating study
14 as part of this, using the standard methodology that's used
15 for evaluating that resource. I am particularly interested
16 in the bypass reaches in the various parts of the river.
17 Are those recreational resources that are not being
18 utilized?

19 Every weekend, whitewater releases that we have
20 below the Rio Project begin at the tailrace. So I'm hearing
21 here today that there is a over mile-long bypass reach
22 between the Rio Dam and the powerhouse. This is a
23 recreational resource that's not being utilized, with
24 minimum flows of 100 cfs I presume are not boating minimum
25 flows. The releases, as I understand it, are around 900 or

1 1,000 for those boating releases.

2 So we're going to be requesting whitewater
3 boating studies throughout that bypass reach to try to look
4 at some of the others. I guess, as I glance at it, it looks
5 like there's an elevation drop of about probably 50 feet per
6 mile in that bypass reach. So that's potential for
7 whitewater boating in that section.

8 I want to understand a little better the various
9 reservoirs above the Rio Project. I'm not sure if the
10 upstream end of those reservoirs, whether they sort of run
11 into one another, or whether there's some other recreational
12 resource that exists and hasn't been utilized.

13 So those are issues that we plan to address in
14 our comments and our study requests. We will be very
15 involved for the next five-and-a-half years in the process
16 here.

17 MR. COOK: My name is Lauren Cook.

18 L-A-U-R-E-N C-O-O-K. I am with the Kayak and Canoe Club of
19 New York, which our abbreviation is KCCNY. We're a 501-C-3
20 educational organization founded in 1964.

21 We have about 200 members in the region, but our
22 reach winds up going far beyond that because we communicate
23 to the recreational boating community when releases are
24 occurring, when rivers are running at any given time, and we
25 also train people in safety and in general boating skills.

1 And we have been involved with the Mongaup River
2 since the original relicensing. We were a party--the
3 original licensing, I'm sorry. We were a party to that, and
4 we will be a party going forward.

5 Our members have boated on the Mongaup at Rio and
6 elsewhere since before there was a license. For us, the two
7 turbine releases on the Mongaup are extremely important in
8 training people who are moving up through the different
9 classes of boating. It's extremely important in training
10 them on Class 3 rapids, because it has a Class 3 flow, which
11 we refer to as Class-3-minus because if someone messes up
12 there are no consequences. Where--let's just say there's
13 very little potential for consequences because the rocks
14 that would be a problem to them are well below the surface
15 at that flow, at that level.

16 And it is the only resource of its kind that
17 we're aware of in the region, and it's one of very few Class
18 3 resources in the region as well. So it's extremely
19 important to us as a resource.

20 We have communicated and cooperated with a
21 variety of stakeholders on the project over the last several
22 decades, and we'll continue to do so. And that includes
23 four utilities, other agencies, and also local property
24 owners.

25 That's it. Thank you.

1 MR. EMMERING: Thank you.

2 MR. BARRETT: Bob Barrett from Friends of Toronto
3 and the civic association. On the recreation part, one of
4 the factors that was raised I think much earlier on the fact
5 of the handicap position. And if you go down, you would see
6 it is not very inviting for handicapped people to try to
7 walk down if they try to get near the water's edge because
8 of the shale rocks and whatever, and there are no handrails,
9 and no facilities basically which takes the interest of
10 handicapped people.

11 Secondly, on a recreation part, I don't
12 understand, or do not see, and when you look at, I mentioned
13 before, about Lake Wantegh, and it's still underneath the
14 Federal Energy Regulatory control, and yet when you go to
15 Wantegh on the berm going towards that dam, there are some
16 benches that kind of sit up there where people can sit and
17 they can enjoy the look, but they can't walk around too many
18 places.

19 So something like that is an amenity which could
20 be put in. And I know there are--listen, and I know when I
21 say something, somebody else is going to say something else.
22 We hear that every day. Turn on your television. You'll
23 find that every day about every item.

24 So in this particular thing, what would they do?
25 Encourage people to sit down. But what might encourage more

1 people to come and sit? Fine. It's at least a spot that
2 says "you're welcome." You can sit here. You don't have to
3 go sit on a pile of rocks, or find a spot where all rubble
4 has been left after you've cut down where the trees are.

5 And thirdly, on the fishing part, the trout area
6 was part of an amendment. In 1993, the original license had
7 a statement of five parking spots down at the trout where
8 the Black Brook Creek came out and flowed on down to Cliff
9 Lake. So they decided, again then wisely I thought, that
10 the five-car parking lot would be accessible to drive their
11 cars down that three-quarter-of-a-mile hill and then get out
12 of there. So they moved the five-car parking lot up to the
13 10. They made it 15. Well that was an amendment that went
14 through the process and was acceptable. And it was for
15 many years run through without difficulty.

16 Now the folks, as I mentioned earlier, two young
17 people went down, I happened to be sitting there. They came
18 back up from their fishing. I said: How'ya doing? How's
19 the fishing today?

20 They said, what fishing? There's nothing there.
21 Ad I don't want to debate the fishing people and the
22 anti-fishing people. That's not the point. The point is
23 there are certain people levels that can be maintained, that
24 the fish can be preserved and given their due, as well as
25 the recreationists. So you've got to find a middle, which I

1 think a lot of people want to do that, except that you have
2 an individual agenda which says nobody is welcome here, and
3 we will put up every barrier, which you have done for the
4 last 15 years, to keep you out because we don't want the
5 riffraff in here. You really like the terminology.

6 So FERC has the responsibility to manage the
7 stuff. They've danced through, and I think by this time
8 have ways to communicate and is probably retired from FERC,
9 I don't even know, but there are other people who have taken
10 over since and they've gone through the same thing.

11 We've gone through Southern Energy. We've gone
12 through Morand. We've gone through Alliance. And now we're
13 with--and it's a fortunate thing that when Eagle Creek
14 wanted to purchase in the bankruptcy sale, they found that
15 they couldn't do it until they got the actual license to
16 operate the facility. And then Alliance was pushed into the
17 fact that they had to go and file an eminent domain
18 proceeding, and they won. They got the extension for the
19 license, but then you should carry over with your
20 responsibilities which go with that license and work with,
21 in some cases, yes, we have worked and tried to improve it.
22 We have most of the people in Chappen say, a great portion,
23 have no objection, have not objected to anything.

24 We just continually have this one--it's like a
25 bee, it won't stop stinging. So please, FERC, take your

1 responsibility. Do what you're supposed to do. You really
2 have the authority, and get Eagle Creek on the relicense. I
3 know it's five years away but, you know, think about it now.
4 We all want--summer comes, you don't know what the weather's
5 going to be. It might get hot. People want to come there.
6 Don't go in the water!

7 Thank you.

8 MR. NASDOR: Ken, a question for you. This
9 relicensing, as you said, is a five-and-a-half-year-long
10 process. The local community has raised a lot of concerns
11 about recreational access.

12 Is there the ability to address those concerns
13 prior to the conclusion of this process and the reissuance
14 of the new license?

15 It would seem to me that local community members
16 could file an intervention with FERC, raising this issue of
17 license compliance under the current license, which would
18 raise issues of--

19 MR. HOGAN: This is an ongoing issue at the
20 Commission. I'll let Kyle speak to this.

21 MR. OLCOTT: There is an extensive record in our
22 Division of Hydropower Administration and Compliance issuing
23 various responses. A lot of politicians have been writing
24 letters and have gotten responses from our former chairman.

25 So this is an issue that is on their radar

1 screen, and we--there is a separation in terms of licensing
2 and compliance, but we are in contact with them and I think
3 it's safe to say when we return to D.C. we might be having
4 some conversations about what we heard here and what can be
5 done immediately. But that would be something that is a
6 matter for our compliance folks.

7 MR. NANNARONI: So the answer is "yes"?

8 MR. OLCOTT: I can't tell you what's going to
9 happen, but there are separate issues, obviously, issues
10 right now, and then there are issues that will be in the new
11 license that will be issued.

12 So I think that what's happening right now on the
13 immediate concerns, there is--you know, this is something
14 that Mary Kowalski has spoken with you, and they are still
15 handling it as it unfolds, because it sounds like, from what
16 we've heard, that the health department issue is very much
17 an ongoing thing that's happening right now.

18 So I think that as these situations have come up,
19 we've been reacting to them.

20 MR. NANNARONI: Just to follow up, there's been
21 about four or five things brought up here that are kind of
22 noncompliance, from the road, to the signage, to, okay, that
23 can be dealt with right this moment. Yes?

24 MR. OLCOTT: Whether or not they're noncompliant
25 has not been determined, as far as I know. So that would be

1 a request for that.

2 MR. NANNARONI: How do we formally do it? Can we
3 do it right here? Just say that to you?

4 MR. HOGAN: I would suggest a letter.

5 MR. NANNARONI: To who?

6 MR. HOGAN: To the Secretary of the Commission.

7 MR. BARRETT: To Kimberly Bose.

8 MR. HOGAN: Right.

9 MR. BARRETT: We send one regularly.

10 MR. HOGAN: What we're saying is that we are aware
11 of the ongoing issue, and we are aware--and we are watching
12 it, and we are here. We are here, and we're also
13 responding, but these issues with the health department will
14 be pending the outcome there. And (words masked by a cough)
15 hydropower administration, so we can't be real informed
16 about what they're doing. But we do know that they're
17 watching it.

18 We've all talked to--

19 MR. NASDOR: It was my understanding that to raise
20 a new issue with FERC a motion for intervention needed to be
21 filed, and raising the issue of noncompliance would compel
22 them.

23 MR. HOGAN: It's not a motion of intervention.
24 It's a complaint.

25 MR. NASDOR: A complaint?

1 MR. HOGAN: Yes.

2 MR. OLCOTT: And DHAC takes complaints constantly,
3 and that's their job to address those.

4 MR. HOGAN: And it sounds like that's been done.
5 So--

6 MR. EMMERING: Nino, I'm going to get you the
7 information for filing a complaint.

8 MR. NANNARONI: So Eagle Creek, if they do not--if
9 they put up the tape, from the FERC license they are
10 assessed \$11,000 a day fine?

11 MR. HOGAN: That would be up to the Commission to
12 determine if that was appropriate or not.

13 MR. NANNARONI: Because Eagle Creek is playing
14 this thing like a fiddle. Well, we've got public health
15 here. And the department of health is fining \$200, where
16 FERC is fining them like thousands. So if I was Eagle
17 Creek, I would want to go with FERC and make sure that FERC
18 gets what they want, and therefore we would have access to
19 it.

20 MR. HOGAN: So let's just say we're aware of this
21 as an unraveling situation live right now, okay? And we
22 know that the Commission's Division of Hydropower
23 Administration is looking at it and trying to deal with it.
24 There is the issue with the State Department of Health and
25 we'll see how that plays out.

1 The reason we're here is we want to know how we
2 need to make it play out in the new license. Okay? So
3 whatever happens in the live situation with the Division of
4 Hydropower Administration compliance, when the new license
5 is written it can be turned on there. So that's why we're
6 here.

7 So we're looking forward. What needs to be done
8 for the next term of the license? We also recognize that
9 this is a real situation that's ongoing now. You guys want
10 answers now. We get that. But we need to be looking long
11 term, too.

12 So let's concentrate on the fact that there is
13 ongoing proceedings before the Commission that are being
14 considered. I don't know what the status of those are, or
15 when they'll be acted upon. But we are highly aware that
16 there's a concern.

17 MR. NANNARONI: Okay, so we'll send Kimberly Bose
18 a letter, but with copies to you guys.

19 MR. HOGAN: That's fine. When you send them to
20 Kimberly, we're all going to get it anyway. So the other
21 thing, moving forward, we want to know what your interests
22 are. We've heard you loud and clear, respect and welcoming.
23 We've got it.

24 We have heard that there's a concern that it's
25 not that way right now. That is something we will be

1 looking at. And there is no question that the Commission's
2 reservoirs are considered public authorities.

3 So to the extent that it's safe to be used,
4 meaning some areas are closed for terrorism and that's a
5 legitimate concern, but in general that is in the Federal
6 Power Act that these facilities should be made available to
7 the public. So we take that seriously.

8 MR. OLCOTT: And I think the things that have come
9 out of our Compliance Department have been pretty consistent
10 and clear, but it has been, as you noted, there've been
11 different things that have occurred and new potential issues
12 that have come up related to access. So that's why it's
13 been--you know, not all issues have been solved because new
14 problems have come up.

15 But I do know that, in looking through the record
16 that we have, that it has been something that they've taken
17 quite seriously and they did deny the transfer until they
18 resolved it through eminent domain proceeding. That's a
19 pretty significant step that was taken.

20 So I think people are aware of it. And I can
21 facilitate conversations with those folks. I'd be happy to
22 give you my card and we can talk about it as we go forward.

23 MR. NANNARONI: Okay. Because they also rejected-
24 -FERC rejected, you know, back in May of 2014, FERC
25 deliberated this amendment requested by Eagle Creek and

1 sought by Woodstone to prohibit swimming. A property owner
2 adjacent to the recreational area. FERC Order means that
3 swimming will not be encouraged, but also not prohibited
4 except at the boat launch.

5 Also, "no swimming" signs must be removed by June
6 7. This is 2014.

7 MR. OLCOTT: And that, as far as I've seen, every
8 correspondence that's come out since then has used that
9 language. The Chairman of the Commission wrote a response,
10 I think, to Senator Schumer, a variety of Congresspersons.
11 A variety of folks have written in and they've used that
12 exact language that says--you know, from that Order. So
13 that's been our consistent position I think at the
14 Commission as it stands right now.

15 And as we go forward toward a new license, what
16 we'll be doing is analyzing what's going on now and seeing
17 what needs to be included in the new license in five-plus
18 years when that gets achieved.

19 MR. NASDOR: I don't know what sort of study
20 requests you'll be receiving, perhaps from the National Park
21 Service representatives who are here, they may submit one
22 for recreation use.

23 MR. HOGAN: That's not what we hear.

24 (Laughter.)

25 MR. NASDOR: Thank you, sir. I know that FERC

1 also submits its own study requests. I would hope that you
2 would take all of these comments into consideration in the
3 formulation of your study requests around recreation.

4 MR. OLCOTT: That's why we're here. And we'll
5 have plenty of work to do when we return, yes.

6 MR. HAMILTON: Don Hamilton from the National Park
7 Service. The minimum cfs flow requirements that were
8 established for different parts of the system you talked
9 about earlier, but there are minimum flow for Black Brook
10 that's been established.

11 MR. GIBSON: Jim Gibson. No, because there's no
12 barrier, or no conduit. It's just a free flow into Rio.

13 MR. HAMILTON: Okay.

14 MR. HOGAN: So there is a diversion, right?

15 MR. GIBSON: It didn't exist during the last
16 relicensing. So if that penstock still existed, one would
17 expect some sort of a minimum flow. But it's just a natural
18 flow through there. There are no barriers, nothing
19 preventing natural flow as it exists today, or as it existed
20 prior to any construction.

21 MR. HAMILTON: And the second question. How do
22 hydrologic conditions in the basin influence the minimum
23 flow requirements? Are they there in a drought warning?

24 MR. GATES: Robert Gates, Eagle Creek. Yes,
25 during times of drought there's a method to scale back the

1 minimum flows. But the license is clear that 60 cfs is the
2 lowest that we're allowed to go as far as discharge.

3 UNIDENTIFIED SPEAKER: And which part of the
4 system?

5 MR. GATES: The whole system, except for Toronto
6 is 10 cfs at all times. But for Swinging Bridge, Mongaup
7 and Rio, it's listed at 60 cfs. So in times of drought, we
8 can do that. It's not for inflow. So what occurs is that
9 the reservoirs are providing additional water during those
10 times of drought below 60 cfs.

11 MR. COOK: And how does (inaudible).

12 MR. GATES: Yes. We have the option to scale
13 back. (Inaudible off-mike, covered by background noise and
14 coughing).

15 UNIDENTIFIED SPEAKER: In the past there have been
16 releases that were cancelled, and (inaudible) has no problem
17 with that.

18 MR. EMMERING: John?

19 MR. WILFY: Point of clarification. John Wilfy,
20 Fish and Wildlife Service. The original license does
21 include a 20 cfs minimum flow from the Black River
22 diversion.

23 MR. GIBSON: When it's not being used.

24 MR. WILFY: You don't use, the original license
25 says half.

1 MR. GIBSON: So I think if you were to establish
2 the penstock and reconnect the system, it would be at 20 cfs
3 minimum flow requirement.

4 MR. BARRETT: Just another little comment. You
5 are one of the recipients of the conversation that's been
6 going on today. Eagle Creek is really the deliverer of the
7 process. And probably one of the big questions that I have,
8 after attending the tribunal, the so-called tribunal's
9 format, and listening to the testimony which was given by
10 various people that were called to speak to one side of the
11 case or the other, I find it very difficult to understand
12 how you are allowing, or how it is allowed that before a
13 final decision is made a process takes place which bars the
14 people from accessing what is their right?

15 How do you allow, or how is it allowed that that
16 goes on prior to the completed adjudication, whatever the
17 matter was? That doesn't--supposed to work that way. But
18 this is what happened last year where you had a quick look,
19 a tacking up of placards, and a chasing of the people.

20 Now Eagle Creek certainly wasn't scared that it
21 was going to worry about what was going on, but the reaction
22 was the fine I guess spurred them to do that as the lesser
23 of the two evils. But that should not have been what you
24 use for your resolution of the matter.

25 So I find it very hard to understand how FERC--

1 and FERC knew this. They knew this was going on because
2 they were communicated with as per the days it was
3 happening. So I find that to be something that should be
4 brought back. And we talked to Mary Kowalski on the phone,
5 and mail, Kimberly Bose. We sent in all the E-Library
6 stuff. All that stuff was done on a regular basis.

7 So then I say, how does this happen? How do we
8 do it backwards? You make adjudication, and then the people
9 be damned. So you can have all the signs you want up there
10 about all the things that go on, but you can't get at that
11 particular point to be able to utilize it. All the releases
12 and all the other stuff, that's very technical. We're not
13 concerned that much about that now. The water is so high,
14 it's very hard to find any spot to even go into the water
15 except from a rock.

16 And it's a rock all around the place. In case
17 anybody didn't know, there were houses there before. There
18 were houses before that development. There was a town
19 called Moscow that was flooded to build that reservoir.

20 So it was a community many, many years ago which
21 then had a road that went right through that lake and came
22 out the other way, Town Road 62, which the connecting road
23 and then connected to Pine Grove, which went to Forestburg
24 one way, and went down to Swinging Bridge the other way.

25 So a little history is good to know. A little

1 history is good to put into perspective. But that action
2 befuddles me in terms of what they were allowed to get away
3 with and make the place miserable.

4 Thank you for listening.

5 MR. OLCOTT: I think that these things clearly are
6 taking time to unfold. But from what I hear, we are trying
7 to figure it out now and understand what's happening, and
8 it's good to be here to do that and hear from you. So we
9 appreciate that.

10 MR. EMMERING: Any more statements on rec and land
11 use?

12 (No response.)

13 MR. EMMERING: Aesthetics?

14 (No response.)

15 MR. EMMERING: And last but not least, the socio
16 economics.

17 (No response.)

18 MR. EMMERING: Alright, so if there are no more
19 statements, what I'm going to do next is walk through just
20 briefly the study plan development. Again, comments on the
21 PAD and study requests, the magic date is July 29, 2017. So
22 all comments and study requests need to be in by that date.
23 And so for the next steps, we've got PAD comments and study
24 requests submitted. Forty-five days after the applicant
25 files the proposed study plan, or PAD comments are due 45

1 days after that.

2 And then the next stage is, they'll submit the
3 proposed study plan after you guys have submitted all your
4 study requests. And then 90 days later study plan comments
5 are due. And then there will be a--what? 30 days?

6 MR. NASDOR: I think it's 30 days from the
7 meeting, and then 60 days for comments.

8 MR. EMMERING: Sorry, okay. So 30 days, if I can
9 just--and then after the revised study plan is submitted,
10 OEP will come to their study plan determination.

11 So there's a lot of vetting out of the study
12 plan. And just as a reference, in this booklet that we have
13 here off to the side, "Ideas for Implementing and
14 Participating in The Licensing Process," on page 9 there is
15 a lovely flow chart that you can refer to for the entire
16 licensing process.

17 It's a little cumbersome. It's also available on
18 our website. And then for the study plan development, it's
19 basically a request for information or studies that will
20 help us determine how a project may affect our environmental
21 and socio economic resources, determining geographic scope,
22 temporal scope, understanding the environment. We've
23 discussed these things at length already.

24 And what resources shouldn't--that should be
25 excluded from further study. What should we not spend time

1 on that we don't need to?

2 So this is probably the most important thing.

3 And again we have the whole pamphlet that I highly encourage
4 you guys to pick up, if you haven't already. It's a guide
5 to understanding the ILP study criteria, and there's seven
6 criteria you need to meet. Some of them are a little bit
7 more easy to understand to describe your goals and
8 objectives of the proposed study. That's pretty
9 straightforward.

10 Explain the relevant resource management goals.

11 And that could be whatever goals that ultimately want to be
12 met for that particular resource. And explain relevant
13 public interest considerations.

14 So if you--it's best to be as specific as
15 possible for these goals and considerations. How is that
16 going to affect your resource for the recreation issue
17 specifically. Alright?

18 And you need to lay out and describe existing
19 information and the need for more information of why doesn't
20 the existing information already meet the needs? So what
21 are the gaps in that existing information? And how can the
22 study request for information you're asking for fill those
23 gaps?

24 And then number five, explain the nexus to
25 project operations and effects and how this study results in

1 informing the license requirements.

2 So I think that's probably one of the more tricky
3 ones. How does it relate to the project? What is the nexus
4 with the project? And then the second part of that is how
5 could it eventually and ultimately inform our license
6 requirements and recommendations?

7 Also we need to know study methodology. If you
8 want a survey, or a study done, you know, how are they
9 supposed to do it? So lay it out. Tell us that
10 methodology.

11 And then describe the consideration of level of
12 effort, the cost of the study. Provide us with estimates.
13 What's the level of effort? How much time is it going to
14 take? Lay that all out. And once again, July 29th.
15 Please get that to us.

16 MR. NASDOR: A question?

17 MR. EMMERING: Yep.

18 MR. NASDOR: Is there a project relicensing
19 website where all this will be posted?

20 MR. GIBSON: It's in the PAD. Do you have a copy
21 of the PAD?

22 MR. NASDOR: Yes, I do. Are the details on the
23 website and how to obtain them?

24 MR. GIBSON: Yes.

25 MR. NASDOR: And is there a mailing list that we

1 can get on?

2 MR. EMMERING: Of course there's a mailing list.
3 Also, this guide is also really helpful. There's a whole
4 "Frequently Asked Questions" section as well. So I highly
5 encourage all to read the IOP study criteria.

6 And last but not least, we have a variety of web
7 resources in which you are free to follow our licensing
8 process. We have our website that provides tons of
9 overwhelming number of amount of information on our process
10 and various guidebooks.

11 E-Library. This is basically the public record.
12 This is where you go and find every document that is related
13 to the project, whether we file it, Eagle Creek files it,
14 U.S. Fish and Wildlife files it, whether Nino files it. You
15 can see that on our public record. And the transcript today
16 will be on that public record, as well. That's our record.

17 E-subscription. I highly encourage you guys to
18 E-subscribe. That way you can just get a quick email that
19 says, hey, this was filed today. This was issued today.
20 You don't--it might be better than being on the mailing list
21 where you're going to receive tons of stuff in the mail all
22 the time. E-subscribing really is helpful in getting all
23 that information.

24 MR. NANNARONI: Can I ask a question on
25 E-subscribing?

1 MR. EMMERING: Yes.

2 MR. NANNARONI: Do you just say what particular
3 project, with the number like 10482?

4 MR. EMMERING: Right.

5 MR. NANNARONI: And they'll send you anything that
6 comes in?

7 MR. EMMERING: Right. 10482.

8 MR. NANNARONI: By email? Is that what they'll
9 do?

10 MR. EMMERING: Yes. You'll get an email. You can
11 E-subscribe on our website there. And then it also provides
12 links to the documents. So you can just directly download
13 them onto your computer in a couple of different formats, as
14 well.

15 MR. OLCOTT: It's the same way we get the
16 documents.

17 MR. EMMERING: Yes. We E-subscribe to our
18 projects, so the exact same way.

19 And then E-filing is the way that you can
20 directly email something, or E-file with the Commission, any
21 comments, issues, documents, et cetera. There's also a
22 mailing list, as I mentioned earlier, that you can get on
23 where you will receive everything that we issue. Just be
24 forewarned, you will receive everything that we issue. And
25 that can get a little overwhelming, from a giant document to

1 whatever. So
2 E-subscribing might be the better option, or the mailing
3 list.

4 And then questions. If you can't figure any of
5 that out, if you have any more questions about the process
6 and where we're at, by all means contact me. There's my
7 name and number. Give me a call. If you want a card, I've
8 got cards.

9 So other than that, does anybody have any last
10 questions?

11 MR. OLCOTT: Do you think it's worth mentioning to
12 people that FERC takes its deadlines really seriously?

13 MR. EMMERING: Yes.

14 MR. OLCOTT: And, you know, if your study requests
15 are due July 29th, don't send them in July 30th. It doesn't
16 go well. Particularly late in the process interventions,
17 you really don't want to violate the request to do things at
18 the deadline. Rarely does FERC grant extensions.

19 MR. EMMERING: And the ILC process does have a lot
20 of deadlines that are fairly strict. And that schedule
21 again is in the scoping document for upcoming deadlines that
22 we didn't discuss today and the ones that we did. So all
23 that is in there.

24 Oh, so Section 10 of the scoping document are all
25 of those folks that are on our mailing list. And if you do

1 not want to receive stuff from us, please request that you
2 be removed from that mailing list.

3 Guys, you got anything? Oh, so lastly, that's a
4 good point, so tonight will be a similar format. Basically
5 the same. We'll give the same presentation. If you've
6 already provided comments, you don't need to come to restate
7 those comments again. We've already got them on the record.
8 But you're still more than welcome to attend tonight.

9 And that will be back here at 7:00 p.m. Thank
10 you.

11 Thank you, everybody. Thank you for your patience.

12 (Whereupon, the scoping meeting in the
13 above-entitled matter was adjourned.)

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1 CERTIFICATE OF OFFICIAL REPORTER

2

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: Rio Hydroelectric Project,
7 Mongaup Falls Hydroelectric Project, and Swinging Bridge
8 Hydroelectric Project

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16 Docket No.: P-9690-112; P-10481-067; P-10482-117

17 Place: Monticello, NY

18 Date: Thursday, June 22, 2017

19 were held as herein appears, and that this is the original
20 transcript thereof for the file of the Federal Energy
21 Regulatory Commission, and is a full correct transcription
22 of the proceedings.

23

24

Bruce Morgan

25

Official Reporter