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BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF:	:	Project No.
UPPER BEAVER FALLS	:	P-2593-031
HYDROELECTRIC PROJECT	:	P-2823-020
LOWER BEAVER FALLS	:	
HYDROELECTRIC PROJECT	:	

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Croghan Volunteer Fire Department  
6860 Fire Hall Street  
Croghan, New York 13327

Tuesday, December 13, 2016

The above-entitled matter came on for Scoping  
Meeting, pursuant to notice, at 9:00 a.m.

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

2 MR. BERNICK: It's 9:05 and we are starting the  
3 scoping meeting for the upper and lower Beaver Falls  
4 Projects. Thanks for coming today and participating, we  
5 appreciate it. So the Agenda just some introductions.  
6 Since it is a smaller group maybe we can go around and  
7 introduce ourselves, talk a little bit about the purpose of  
8 the scoping process for FERC projects, a little bit about  
9 the licensing processes this one is under.

10 It is a traditional licensing process that's been  
11 going on since the licensing started with the underlying  
12 pattern in 2012 with the prior rendering I think that was  
13 Algonquin. Description of the project was posted at Eagle  
14 Creek -- and I thought it would be useful to talk about some  
15 of the existing and proposed environmental measures for both  
16 the projects and then go through some of the resource issues  
17 that we have identified thus far and get your comments on  
18 that -- what you think we should be covering.

19 Talk a little bit about the schedule from here on  
20 out and learn how to submit comments and stay informed about  
21 the project. So there's a sign-in over there if you don't  
22 mind signing in for the record at some point after we are  
23 done, sign. Respectful -- it seems like a very respectful  
24 group so I don't think I have to go through that.

25 And then for the court reporter I thought we

1 could go around, state our name for the record and if you  
2 don't mind spelling your last name if you have an unusual  
3 one and you can state your name before making any comments,  
4 at least for the beginning.

5           So I'm Andy Bernick, the Project Coordinator. I  
6 work at FERC, the Office of Energy Projects in the Division  
7 of Hydropower Licensing and I will be covering the geology  
8 and soils, terrestrial, sections of the environmental  
9 document -- of the environmental assessment. And it is  
10 Chris Millard who will be doing our resources portion of the  
11 analysis.

12           We have a couple of other people involved who  
13 weren't able to make it today. Allyson Conner will be doing  
14 land use and aesthetics. Tim Looney is the Project Engineer  
15 and also when we do the development analysis portion of the  
16 EA and from our Office of General Counsel Steven Barnett  
17 would be the attorney. And I can give you contact  
18 information for any of these folks if you need that.

19           So a little bit about FERC -- it's an independent  
20 regulatory body, one of the many responsibilities that we  
21 have including energy market regulation and enforcement.  
22 It's licensing the non-federal hydropower projects and those  
23 are represented by the red dots, there is quite a few in the  
24 northeast.

25           So for the purpose of scoping NEPA and some of

1 our regulations -- the Federal Power Act for instance and  
2 some other applicable laws require the evaluation of  
3 environmental effects of the licensing of hydropower  
4 projects. We issued Scoping Document 1 -- there's some  
5 copies back there if you need it, on November 9th, 2016 and  
6 that lays out the extent of our analysis as we have arrived  
7 at to this date.

8           So some of the objectives identified concerns of  
9 the Agency, citizens, other stakeholders, facilitate the EA  
10 process, define the issues and alternatives that will  
11 examine -- at the moment we have got the no-action  
12 alternative and the Applicant's proposal and staff's  
13 proposal as the alternatives that we are looking at.

14           And then to ensure the scoping document  
15 adequately addresses all of the relevant issues to all the  
16 parties. So we would like to get your input on resources  
17 that might be cumulatively affected -- and this is one area  
18 where we haven't identified the specific resource that might  
19 be cumulative but obviously with the number of hydropower  
20 projects on the Beaver River and the Black River that is  
21 certainly something we can talk about today.

22           Reasonable alternatives to the projects and the  
23 Applicant's proposed actions -- resources that may not  
24 require detailed analysis and then any applicable studies  
25 for information, any data that describe past and present

1 conditions, anything you would like to file to illuminate  
2 that for us.

3           Okay so you can make comments orally today or  
4 submit either electronically or by mail any comments that  
5 you have by January 12th. And Scoping Document 1 has  
6 Section 5 on how to file it electronically. I'll go over a  
7 little bit of that at the end as well. And Section 9 has a  
8 way to add your name to the official mailing list for the  
9 projects which is becoming a little bit -- with something,  
10 the registration, the e-subscription, you can get all of the  
11 filings electronically and that may be a little bit easier  
12 for you.

13           Okay so for the process today Algonquin Power,  
14 the previous owner filed the NOI and PAD for both projects  
15 in November 2012. We approved the use of the TOP and also  
16 there was some change to the license terms to try to align  
17 the projects with the proceeding. There were joint  
18 meetings, some study requests and the applicant conducted  
19 studies and developed the Draft Application which we  
20 reviewed and they filed their Final License Application  
21 about a year ago on December 30th of last year.

22           So we have reviewed the Final License Application  
23 and identified some deficiencies in the application and some  
24 additional info requests and that was in April of this year.  
25 Scoping Document 1 was November 9th. Here we are at the

1 public meetings and we will issue Scoping Document 2 with  
2 any comments you might have any revisions to our analysis  
3 moving forward.

4           We haven't accepted the project yet, their  
5 license application yet because there is still one  
6 deficiency item supporting design report information for the  
7 lower project -- the Lower Beaver Falls Project, there are  
8 some items there. So once we get that and approve that,  
9 issue an acceptance letter once we deem it ready for  
10 environmental analysis we will send that out and that's the  
11 trigger point for us submitting final terms and conditions  
12 and issuing prescriptions and so forth and also that's when  
13 the RA notices go out.

14           That's when they submit the water quality  
15 certification application to DEC. After that -- actually we  
16 are planning on doing a single EA at this point but also  
17 know that we can discuss, based on the relative complexities  
18 of the issues involved and then there will be a licensing  
19 decision. There will be a schedule at the end that will  
20 describe what we are thinking as far as timetable.

21           So I think someone from the applicant is going to  
22 go through a little bit about this project. Have many of  
23 you been there before? Have all of you except for Chris?  
24 I'm happy to flip the slides if you want to just speak from  
25 there, okay.

1           MR. GATES:  Alright I guess we will start here.  
2  Bob Gates with Eagle Creek Renewable Energy, G-a-t-e-s as a  
3  matter of introduction -- here we have a plant that we  
4  purchased in 2013, June of 2013 from Algonquin Power, that  
5  was based out of Toronto, Canada and Ontario Province.

6           And we have operating the plant you know for the  
7  last few years and took over the licensing as was stated  
8  earlier when Algonquin Power had filed the PAD using Gomez  
9  and Sullivan I believe.  And so we agreed with the concept  
10 of bringing the two licenses together into one due to their  
11 close proximity and they are essentially one plant that has  
12 an intermediate impoundment -- and so which is the lower  
13 development's upper impoundment.

14           So we have two FERC Projects, FERC No. 2593 for  
15 the upper development and FERC No. 2823 for the lower  
16 development.  So this is a picture of our lower development  
17 -- Jeff do you want to explain about the machinery and the  
18 layout of the space in itself?

19           MR. KIRCH:  Jeff Kirch, K-i-r-c-h -- I am the  
20 Regional Operator for Eagle Creek of the northern New York  
21 region.  This is a photo of the lower plant, it is about 600  
22 feet downstream from the upper plant at the lower, very  
23 small reservoir between the two and this is the intake of  
24 the lower plant.  We have two identical GE generators with  
25 the local Francis Wheel turbines side by side, 500 feet.

1 And this is the intake structure here for the lower plant.

2 MR. GATES: I should note that it is a run of  
3 river facility. The dam extends across to the town of  
4 Croghan to the town up north, New Brandon and you know there  
5 aren't any control structures except there is a drain gate  
6 on the river right side of the impoundment that we will talk  
7 about a little later. And at current there are no fish  
8 facilities.

9 MR. GANGIER: How many feet ahead does that one  
10 have -- oh I'm sorry, Glen Gangier, G-a-n-g-i-e-r, Lewis  
11 County Development Corporation -- how many feet ahead at the  
12 lower dam?

13 MR. KIRCH: It's about 24 feet on that. This is  
14 looking from the upper intake down, this is the upper  
15 powerhouse inside there we have an S Morgan Smith Kaplan  
16 Turbine and it's 1.5 megawatt.

17 MR. GATES: This is also a run of river facility.  
18 And again there are no spilling gates of any type, any flood  
19 control type gates on this dam. And as you can see  
20 historical perspective there is an abutment in the tail race  
21 area you know which was associated with the prior mill that  
22 sent some sort of process -- hyper process across the mill  
23 where it was accepted by the mill on the river right side.

24 Not much for recreation features here -- on the  
25 river right side there is a beach that has been allowed to



1 be operated there for the past 30 years to anecdotally 30  
2 years -- and is used you know by both residents of both  
3 towns that are adjacent to the river and there is limited  
4 kayaking that occurs in the area and fishing upstream, some  
5 bank fishing upstream.

6 Now this is a plan view of the project boundary  
7 before both projects and it extends about a half a mile  
8 upstream from the upstream dam. It's not heavily developed  
9 though close to the dam there are some residents that line  
10 the shore and not much downstream actually as well.

11 There are paper mills on the river right side,  
12 downstream of the lower Beaver Falls dam.

13 MR. BERNICK: Andy Bernick, just a question -- so  
14 do they draw processed water from those facilities?

15 MR. GATES: Yes, yes they do. I have an estimate  
16 of what they take.

17 MR. KIRCH: I do.

18 MR. BERNICK: You may have mentioned it in the  
19 scoping document.

20 MR. GATES: Yes.

21 MR. BERNICK: So those are still operating?

22 MR. GATES: Yes.

23 MR. KIRCH: And this here just shows what I  
24 previously addressed. The upper development has got one  
25 unit that's Morgan Smith 1500 KW and the lower plant has got

1 the two identical Francis Wheels 500 KW units, side by side.

2 MR. BERNICK: And then Jeff what's that operating  
3 at for the upper?

4 MR. KIRCH: 26

5 MR. GAGNIER: Just a list of dates. I don't know  
6 that we have to read them into the record.

7 MR. BERNICK: No I don't think so, they are  
8 listed in the Scoping Document.

9 MR. GAGNIER: Alright they were stated so I think  
10 that's it.

11 MR. BERNICK: Does anyone have any questions  
12 about the project?

13 MR. GAGNIER: What kind of turbine do you have at  
14 the upper facility?

15 MR. KIRCH: S Morgan Smith.

16 MR. BERNICK: I just wanted to briefly go through  
17 the existing proposed measures that the project more so to  
18 check the accuracy -- and I understand that there are things  
19 said in discussions going on for that in past years so you  
20 don't have to get into details of the extent.

21 It says proposed existing environmental measures  
22 for geology and soils, terrestrial, TD, artillery sources,  
23 aesthetics and socio-economics, there are no existing or  
24 proposed measures that the existing licenses do have some  
25 standard articles or erosion, sediment control, for any

1 dredging, not typically that would be involved with the  
2 original dredging associated with the projects when they  
3 were licensed and maybe haven't been used since. And then  
4 for cultural resources a 10 year discover -- there's a  
5 standard article on protection of resources. But we will  
6 review this through the licensing this evening the need for  
7 any additional measures.

8           And for aquatic resources the Final License  
9 Application lays out the -- well the existing license for  
10 water quality resources to the upper project has a  
11 requirement to operate the project in expansion and then  
12 there aren't any proposed measures at the Final License  
13 Application.

14           For fisheries resources there aren't any existing  
15 proposed measures although the settlement may include some  
16 along those adjustments to the -- sizes, downstream passage  
17 paths -- so is that pretty much the same?

18           MR. GATES: Yes.

19           AND BERNICK: And the lower project has more  
20 specific measures regarding the water quality, operating and  
21 the 88 CFS range and no proposed measures and the same goes  
22 for the lower project as far as fish passage possibly  
23 through the sediment.

24           In terms of recreation for the upper project as  
25 Mr. Gates mentioned, the existing license required for

1 public access to the waters and project lands for outdoor  
2 rec and anything so is the property leased by this  
3 organization that operates the beach or is it more of an  
4 informal type of agreement?

5 MR. GATES: It's a year-to-year arrangement that  
6 has been occurring. We are looking to either make the beach  
7 a longer term commitment hopefully within the municipality  
8 if possible. And if not you know I think we need to look at  
9 what use could be there in lieu of it such as either a boat  
10 ramp or something of that nature.

11 MR. BERNICK: Okay and the lower project I don't  
12 believe there's any -- I did see the -- so as far as the  
13 resource issues we have listed in the scoping document these  
14 are the areas that we were evaluating in our environmental  
15 analysis. Some of these areas though we haven't identified  
16 any particular issues and we will be looking forward to any  
17 comments you might have on those so we can start with  
18 geology and soils. We haven't identified any resource  
19 issues because there is no proposed construction. Does  
20 anyone have any comments or concerns on that? We will  
21 consider it through the scoping process if there are any  
22 comments received either today or in writing.

23 Aquatic resources -- there has been identified  
24 effect of continuing project operation maintenance on water  
25 quality and quantity, effects of continued project operation

1 and maintenance on fisheries resources and effects of  
2 entrainment and impingement on resident migratory fish  
3 populations.

4 Does anyone have -- they are pretty generic does  
5 anyone have any specific issues of the projects that they  
6 would like to see addressed or any particular cumulative --  
7 the potential for this to be an cumulatively affected  
8 resource?

9 MR. PLANTE: The only thing it is going to need  
10 is we are looking at either an area or reduced size area.

11 COURT REPORTER: Can you spell your name?

12 MR. PLANTE: I'm sorry, Tom Plante, P-l-a-n-t-e.  
13 I'm a Consultant with Eagle Creek Renewable Energy on the  
14 licensing.

15 MR. BERNICK: For terrestrial resources effects  
16 of project operation, maintenance on mechanical resources,  
17 wetlands, wildlife, they listed the species identified by  
18 New York State DEC. Any additions there -- no.

19 For fairly threatened and endangered species I  
20 don't believe any have been identified for the area that  
21 would be affected by the project on operation and  
22 maintenance. I believe the northern long-eared bat may be  
23 listed for the vicinity but we will evaluate this -- are  
24 there any other teeny species that are of concern?

25 MR. PLANTE: Will someone from your office --

1           MR. BERNICK: John are you working on the teeny  
2 portion of it or will you be --

3           MR. WILEY: I will be.

4           MR. BERNICK: For recreation and land use effects  
5 of continued project operation on recreational use in the  
6 project area including the capacity and adequacy of existing  
7 rec access -- any additions there?

8                   For cultural resources we are looking at the  
9 effects of continued operation, maintenance of the projects  
10 on the historic archeological and additional resources that  
11 may be eligible for inclusion in the National Register.

12           MR. PLANTE: Tom Plante, we just got the final  
13 report from the archeologist and it's under review  
14 internally by Eagle Creek. Once that is completed we will  
15 be filing that with the New York State Historic Preservation  
16 Office.

17           MR. BERNICK: Okay so that was a consultant  
18 report on historic resources.

19           MR. PLANTE: Right.

20           MR. BERNICK: Any other additions or concerns on  
21 that? We haven't identified any aesthetic resources that  
22 are an issue at this time and the same for socio-economic  
23 resources -- we haven't identified any particular issues  
24 that anyone has -- comments on either of those?

25                   And then developmental resources -- effects of

1 those projects protection, mitigation and enhancement  
2 measures on project economics that is usually the end part  
3 of our environmental assessment document. We look at the  
4 relative cost of the protectionism.

5           So were there any other topics that you wanted to  
6 cover? Any comments on this project -- on these projects,  
7 it seems like a pretty straight-forward --

8           Okay so for the next steps having scoping  
9 meetings and comments on Scoping Document 1 and 2 January,  
10 2017 we will issue Scoping Document 2 if we need to in  
11 March. Also hopefully by March we will be issuing the  
12 acceptance and perhaps the Environmental Analysis Notice so  
13 that kicks in the deadline of filing comments,  
14 recommendations, terms and conditions. So it is March -- we  
15 are targeting March for the REA Notice and Acceptance Notice  
16 and May for the comments deadline.

17           Issuing the EA I think we are considering a  
18 single EA at this point in November, 2017 and comments would  
19 be due thirty days after that. As far as submitting  
20 comments I think pretty many of you are familiar with the  
21 process. There are the oral comments today and written  
22 there are a few different methods -- there's an e-comment  
23 feature where you just type in your name and address and  
24 text comments. You don't have to do any further  
25 registration on the FERC website.

1           There's the e-register. You file for longer  
2 documents. You can send it by mail and if you do you have  
3 to address it to Lily Rose the Secretary of the Commission  
4 at this address in the Scoping Document. If you send it  
5 email directly to me or mail me a letter addressed to me it  
6 doesn't get into the record, they don't like that.

7           Just put in the project name and project numbers.  
8 We have some brochures about the online resources with FERC.  
9 E-library is essentially the record of the proceedings,  
10 public and non-public. E-subscription that's a way you can  
11 sign up to get alerts for whenever there is any filings so  
12 that can be pretty useful.

13           And there is the official mailing list which now  
14 -- the ones we have in there now are pretty outdated I think  
15 so if you see any information that needs to be updated you  
16 can send a letter -- page 24 tells you how to update that  
17 for the official mailing list. And that all gets hard  
18 copies of issuances only so you are not getting all of the  
19 filings -- and the website just at the opening page you go  
20 to documents and filings and that's where all that  
21 information is kept.

22           So that's all that we have for the meeting today.  
23 If anyone has anything further we can discuss it now or we  
24 can adjourn. And the site visit today is at 1 p.m.

25           MR. GATES: I wanted to ask you -- Bob Gates,



1 Eagle Creek -- we are working on a Settlement Agreement and  
2 how does that play into your schedule if you were to get  
3 that relatively soon? I mean what does that do to you,  
4 anything? Do you endorse -- just something for you to  
5 consider?

6 MR. BERNICK: Something you consider but also  
7 provide some level of agreement on what the environmental  
8 measures might be.

9 MS. HART: Can you put the timeline back up?

10 MR. BERNICK: Sure.

11 MS. HART: Thank you.

12 MR. BERNICK: I think everyone -- Tom discussed  
13 maybe sometime the end of December or early January.

14 MR. PLANTE: Still shooting for that. We have a  
15 meeting sometime today if we have a chance we will sit down  
16 and do a little more crunch work and then tomorrow morning  
17 and maybe hopefully, that might wrap it up. You are  
18 confident right Jessica?

19 MS. HART: Absolutely.

20 MR. BERNICK: Well so that will certainly be  
21 something we could dive into Scoping Document 2 because it  
22 is a more formal proposal with the environmental measures  
23 that are proposed. There is still the outstanding  
24 information from the application, one of the deficiency  
25 items on the supporting design report information for the

1 lower project.

2           We have reviewed the rest of the deficiency and  
3 additional information in response and I think we mostly  
4 found it to be accurate -- still waiting to hear from the  
5 rec and cultural person with their comments on some of that  
6 information.

7           But it could -- if the Settlement Agreement came  
8 -- that information came it could push everything up by a  
9 month or so, it's possible.

10           MR. PLANTE: I don't think there's -- I'm sorry  
11 Tom Plante -- but I don't think there's a lot of new ground  
12 being broken in the Settlement Agreement. It's  
13 clarification basically, on the finer points.

14           MR. BERNICK: Yes so and what I'm getting at  
15 today is that there is not a great deal of concern about  
16 these two projects in terms of -- so usually these cases  
17 they can bond typically, there's just a matter of more fluid  
18 with other projects on our branch.

19           Does that answer your --

20           MR. PLANTE: Yes.

21           MR. BERNICK: Okay. So I guess if there is  
22 nothing else it's 9:38 and we will conclude the morning  
23 meeting, thank you.

24           (Whereupon at 9:38 a.m., the meeting was  
25 adjourned.)

## 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:

7 UPPER BEAVER FALLS HYDROELECTRIC PROJECT

8 LOWER BEAVER FALLS HYDROELECTRIC PROJECT

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14 Docket No.: P-2593-031

15 P-2823-020

16 Place: Croghan, New York

17 Date: December 13, 2016

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

22

23

24

Larry Flowers

25

Official Reporter