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BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

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FERC SCOPING MEETING	:	PROJECT NUMBERS
EAST FORK AND WEST FORK	:	2698-033
RELICENSING HYDROELECTRIC	:	2686-032,
PROJECT AND DILLSBORO	:	2602-007
SURRENDER PROJECT	:	

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THE FEDERAL ENERGY REGULATORY COMMISSION

SCOPING MEETING:

EAST FORK HYDROELECTRIC PROJECT

Jackson County Justice and Administration Building  
 Courtroom #2, Second Floor  
 401 Grindstaff Cove Road  
 Sylvania, N.C.

Wednesday, December 8, 2004

The above-entitled matter came on for scoping meeting, pursuant to notice, at 6:10 p.m.

BEFORE: Leslie Smythe, moderator; John Wishon, Department of Relicensing; Ed Abrams, chief of one of the Hydro East divisions of licensing; Carolyn Holsopple, coordinator of the NEPA activities for the Nantahala area projects.

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

2 (6:10 p.m.)

3 MS. SMYTHE: Okay, ladies and gentlemen, I think  
4 we should get started.

5 (Pause.)

6 Okay, I thank you. I appreciate all of you  
7 coming this evening. For those of you who may not have, we  
8 have sign-up sheets at the back.

9 We'd appreciate it if you would fill those in,  
10 because this is the mechanism by which we keep records for  
11 the public record, of all of those who have attended our  
12 meetings, and of those who have made contributions to this  
13 relicensing process.

14 First of all, just briefly, I'll describe, just  
15 briefly, for those of you who don't know who and what FERC  
16 is: The Federal Energy Regulatory Commission is a five-  
17 person Commission appointed by the President.

18 Their fundamental responsibilities are for the  
19 licensing or relicensing of gas pipelines and facilities,  
20 interstate oil pipelines, and for all non-federal  
21 hydroelectric projects in the country, wherever they might  
22 be. These ones happen to be here.

23 And what we are supposed to do is make an  
24 evaluation of license applications that are made to the  
25 Commission, based on a NEPA analysis, with

1 multidisciplinary. Our task is to try to balance the  
2 utilization of resources and to advise the Commission as to  
3 whether we think the project should be relicensed or not,  
4 and, if so, under what conditions.

5 Those of us that are here this evening  
6 representing the Federal Energy Regulatory Commission: To  
7 my right is Ed Abrams. There are four branches in the  
8 Hydrolicensing of FERC, and he is the Chief of one of those  
9 four.

10 Carolyn Holsopple, next to him, is the  
11 Coordinator from FERC's side for the relicensing of all the  
12 Nantahala Projects, all of the ones in the area.

13 My name is Leslie Smythe. I am Carolyn's  
14 counterpart in the Contractor Team, and we operate as an  
15 extension of FERC services, so we are like an extension of  
16 Staff. With me, I have two of our team members. I have  
17 Susie Boltz back here. She is going to be responsible  
18 during the NEPA analysis, for the terrestrial and aquatic  
19 resources analysis, and Frankie Green, who is a land use and  
20 recreation specialist.

21 And we're here, not because of our specialties,  
22 not because we want to educate, but because we want to be  
23 educated, so we want our resource people to hear what you  
24 have to say, so that we interpret it correctly.

25 Also, we have our Court Reporter here. This is

1       Gaynelle Catherine. He will be recording everything that's  
2       said, and when the time comes for you to come up and make  
3       your presentations, which we would hope you would do up  
4       here, we would ask that you give your name and your  
5       affiliation, clearly, so that it can be recorded for the  
6       record. We don't want to misreport anything that anybody  
7       says, so this is very good for us to have.

8

9               Tonight we are here to address two projects: The  
10       East Fork, Tuckasegee and the Dillsboro Surrender  
11       applications. We will also be dealing with the West Fork  
12       tomorrow, and we've already dealt with Nantahala yesterday,  
13       but tonight it's just going to be East Fork and the  
14       Dillsboro Surrender.

15              There is a history to this, this set or this  
16       suite, actually, of applications that goes back to July of  
17       2003 when Duke Power submitted four applications for  
18       relicense: For the Mission Project, the Bryson Project, the  
19       Dillsboro Project, and the Franklin Project.

20              At that time, FERC had anticipated that they  
21       would deal with those four projects in one environmental  
22       assessment process, and that we would produce one document  
23       dealing with those four projects.

24              We proceeded to go through the steps that we do  
25       in a NEPA analysis, and completed our scoping similar to

1       what we're doing now -- we did it for those four projects  
2       last February.

3               Then, subsequently, in January of 2004, Duke  
4       filed two more projects. That's the East Fork and West  
5       Fork, which we're dealing with at the moment, and in  
6       February, the Nantahala Project, and then, finally, in May,  
7       Dillsboro Surrender.

8               The Surrender is part of the stakeholder  
9       agreement, so it sort of stands out and needs to be dealt  
10      with specially, and in order for us to entertain it in the  
11      proceeding, we had to put the Dillsboro relicensing  
12      application in abeyance, so it will remain quiet and un-  
13      dealt with, until we finish doing what we need to do with  
14      the Dillsboro Surrender.

15              Then the settlement agreements were actually  
16      filed in June of 2004 of this year. At that point, we had  
17      received input from the public and we've been thinking  
18      ourselves that the packaging of the first four projects  
19      together, perhaps wasn't the best way to go; that we would  
20      be better served and so would you, if we packaged them by  
21      watershed.

22              So, in July, a notice was put out that we were  
23      going to deal with the Tuckasegee Projects as one unit.  
24      There are four of those; that would be East and West Fork  
25      and the Dillsboro Surrender, and Bryson, and we would deal

1 with the other three, the Nantahala, Mission, and Franklin,  
2 as a separate EA. So we still have two EAs, but they are  
3 composed differently from what we had originally foreseen,  
4 as has the schedule been changed to accommodate that.

5 Now, after we finish tonight's scoping, as what  
6 we're hoping to do is solicit from you, your concerns, the  
7 issues, the things you think we should be dealing with in  
8 the EA, we'll also give you opportunity to provide  
9 additional information you think we might not have, that  
10 will help us to do our analysis more completely.

11 And then when we're finished all of that, you  
12 will be given a response period, which will end in the 10th  
13 of January, to provide us with additional input that we  
14 don't receive orally tonight.

15 At the end of all of that, if we think we still  
16 need more information, we can put out additional information  
17 requests. And when we finally figure that we've got all the  
18 ideas and all the information we need to conduct the  
19 analysis, we will issue an REA -- there are lots of acronyms  
20 in all this process -- that's a Ready for Environmental  
21 Analysis.

22 And that is the flag that starts the clock  
23 ticking for the agencies to put together their terms and  
24 conditions, their recommendations and prescriptions that  
25 they feel should be included in any license that we issue.

1       Following the receipt of those, which takes 60 days, there's  
2       45 days for Duke to respond and to give us additional  
3       information, and then we start the preparation of the Draft  
4       EA in earnest. We hope to have the draft published late  
5       next Spring.

6               Now, the next thing we're going to do -- later  
7       on, we'll talk about how you can contribute this evening and  
8       later on, but right now, John Wishon of Duke Power,  
9       Nantahala Area, is going to give you a little presentation  
10      on what's involved in these projects and what environmental  
11      measures they are proposing to include.

12               (Slides.)

13              MR. WISHON: Good evening. It's good to see such  
14      a good turnout tonight. We appreciate your coming.

15              As Leslie said, I'm John Wishon. I work with  
16      Duke Power in the area of relicensing, and I have been asked  
17      by the Commission to develop a short presentation discussing  
18      the Projects, and as Leslie said, the settlement agreement.

19              For a start, if you would be so inclined, if you  
20      didn't get one, back on the back table is the East Fork  
21      Hydroelectric Project and all three developments, and it  
22      gives the Project history, the dates, the locations, and all  
23      pertinent information, so you can get that and read it at  
24      your leisure.

25              The East Fork Project consists of three

1 developments: It's got the Cedar Cliff Development, Bear  
2 Creek, and the Tennessee Creek Development.

3 The Tennessee Creek Development includes two dams  
4 and reservoirs, which is the Tennessee Creek Dam and the  
5 Wolf Creek Dam. Each development consists of a reservoir,  
6 dam, and, of course, too, the Tennessee Creek development,  
7 intake water conveyance system and a concrete powerhouse and  
8 a single generating unit and a small amount of adjoining  
9 land.

10 Here you see the project boundary for the  
11 Tennessee Creek Development. This is the Wolf Creek  
12 Reservoir, Tennessee Creek Reservoir. This is the tunnel  
13 that connects the intake tunnel, and it comes out of the  
14 ground somewhere along there into a pipeline that goes all  
15 the way down to the generating plant.

16 As you can see, here is Bonus Defeat bypass  
17 reach, and this is the Wolf Creek bypass reach, and the  
18 transmission line is also in the project boundary.

19 It's the same thing for the Bear Creek  
20 development. We've got the reservoir, we've got the  
21 transmission line coming on from the Tennessee Creek  
22 Development. Here is the dam, and it's the intake and the  
23 tunnel that takes it down to the Bear Creek generating  
24 plant.

25 The Cedar Cliff Project, likewise, that's the

1 project boundary, the reservoir, the dam, the intake and the  
2 tunnel, and then we've got some small amount of land around,  
3 and then the project transmission lines runs on over into  
4 the Thorpe Substation where it goes into the distribution  
5 out to the customers.

6 We had a lot of organizations that were involved  
7 in consultation for development of the Tuckasegee  
8 Cooperative Stakeholder Team Settlement Agreement, and the  
9 ones in read are the ones that signed the agreement.

10 This same team named the project issues or the  
11 hydro project-related issues, and as you can see, you can  
12 read them off. There's the direct facilities, viewing  
13 platforms. You know, you can read them as good as I can --  
14 fish passage, and I'll demonstrate how we use these.

15 Let's look up at the Wolf Creek and Tennessee  
16 Creek Reservoirs. The first thing we'll discuss is  
17 recreation facilities enhancement.

18 Presently, the Wolf Creek is an already existing  
19 access area. If you don't have a copy, you might want to  
20 pick one up.

21 We've already completed, in cooperation with the  
22 North Carolina Wildlife Resources Commission -- we have --  
23 this is the type restroom that we provided at all the  
24 facilities, and this is the dock that's already in place.  
25 There is bank stabilization around there, and the ramp has

1       been extended. There were some problems that we had with it  
2       before. That's already in place.

3               We'll also work with the North Carolina Wildlife  
4       Resources Commission for a trash collection program. We're  
5       going to install lighting, and it's to be designed to  
6       minimize the effect on fish and wildlife.

7               Camping around Wolf Creek will be by access by  
8       boat only. The settlement agreement calls for us to commit  
9       around \$25,000 to the Forrest Service to use to develop  
10      primitive camping sites that will be, like I say, boat-  
11      accessible only.

12              Fishing trails from Wolf Creek Falls to Tennessee  
13      Creek powerhouse, the trail will go down around the Church  
14      in that area. It will be on Forest Service and Duke Power  
15      property. It will go from around the Falls, and there will  
16      be a fishing trail around the Falls, down to the powerhouse.

17              On the Tennessee Creek, there will be a tote-and-  
18      float access area, a day use area on Forrest Service  
19      property, which will include parking for about five cars, a  
20      picnic area, trails to disperse camping and fishing sites.

21              There is a wildlife viewing platform, there will  
22      be one on each lake, and that will be after consultation  
23      with the Forrest Service and Department of Wildlife  
24      Resources and Fish and Wildlife.

25              Another big issue is information. Just about all

1 the stakeholder groups wanted more information, so we're  
2 committed to providing lake and river access, recreational  
3 and wildlife information signs and kiosks.

4 This will have fishing regulations, boating  
5 regulations, homeowners will have an input into it, if they  
6 would like. There are aquatic habitat flows.

7 The settlement agreement calls for six CFS from  
8 the Wolf Creek Dam into the bypass reach for 365 days of the  
9 year -- every day, continual minimum flow.

10 Bear Creek: We've got the existing access area,  
11 the recreational enhancements facilities, and here is the  
12 ramp. We're committed to paving the access road and the  
13 parking lot, rebuilding and extending the boat ramp on  
14 farther down, but again, one of those pump-and-haul toilets,  
15 trash collection, and lighting, and also to -- I think we're  
16 going to put -- excuse me while I look at this -- a barrier-  
17 free dock, yes, that's correct.

18 We're also committed to \$25,000 for camping  
19 sites. The Forrest Service is going to install them and  
20 we'll reimburse them \$25,000 on Forrest Service Property.  
21 Wildlife viewing platform, and, again, information, that's  
22 the access area.

23 Cedar Cliff recreational facilities enhancement,  
24 at this spot here, we'll put up lighting and have trash  
25 collection and pickups. That's an issue of -- trash

1 collection is an issue for a lot of stakeholders at every  
2 one of the reservoirs.

3 Wildlife viewing platform, and, again, the  
4 information at the access area. Aquatic habitat flow, it  
5 will be from the same place, only we'll increase the aquatic  
6 habitat flow. Right now, it's ten CFS and it will be  
7 increased during non-generation hours, and it will be ten  
8 CFS from December the 1st to June the 30th, and then it will  
9 go to 35 CFS from July the 1st to November the 30th of each  
10 year from the Cedar Cliff powerhouse.

11 Main stem Tuckasegee River, recreational  
12 facilities enhancements, the first one is Cedar Cliff  
13 Powerhouse. It will be on the Chip Cove roadside, presently  
14 where the property is presently being used by a horse  
15 pasture, and an access area will be put in there for drift  
16 boats and canoes.

17 There will also be an companion takeout site,  
18 because a lot of boaters -- there's a play area or whatever  
19 they call it in that area that they spend a lot of time in.  
20 It's within about half a mile and there will be a companion  
21 takeout site so that they can recycle back up and do the  
22 same thing over again.

23 Tuckasegee powerhouse, next to the powerhouse is  
24 the tail race for the Tuckasegee plant. There will be an  
25 access area there and a parking lot.

1                   There's a public parking lot and boat launch at  
2 East Laport Park. We're working with Jackson County to make  
3 this enhancement.

4                   There will be the same thing at Western Carolina  
5 University, canoe and drift boat access at Cullowee Dam,  
6 with portage around the dam, and also you'll be able to  
7 launch drift boats. There will be public boat launch and  
8 parking areas in the catch-and-release section. There will  
9 be another one in the Barkers Creek section, and also we  
10 will be providing one in the Whittier section.

11                  There will be the same type of information that  
12 will go at every one of those access areas.

13                  Recreational flows, before I get into explaining  
14 that, I hope everyone got a sheet, and it would be easier,  
15 just to look at one of these sheets for a typical year.  
16 What happened was that the boaters and the anglers got  
17 together and they sat down on a stakeholder's front porch  
18 one evening, and I thought, gosh, we will never work that  
19 out and make everybody happy, but they worked it out in one  
20 evening.

21                  They defined the primary boating and primary  
22 angling periods, and alternating flows from East Fork and  
23 West Fork, so it will match up with their needs in the catch  
24 and release and in the boating.

25                  Wolf Creek, Tennessee Creek lake level ranges:

1 The bottom line is, of course, the normal, minimum  
2 elevation; the top line is the normal target -- normal  
3 maximum elevation.

4 The blue is what we're shooting for, what we call  
5 the target elevation, and the red line is how we're doing.  
6 We had done pretty good until two hurricanes came along.

7 This area right here shows our preparation for  
8 these storms. We tried to get ahead of them. In fact,  
9 Tennessee was drawn significantly down.

10 With Bear Creek, it was the same thing. You'll  
11 see when the hurricanes came, and the yearly run.

12 At Cedar Cliff, it may look like there's a lot of  
13 variance there, but actually that's roughly a foot either  
14 way, of our target elevation. Cultural resource management  
15 plan is that we're going to develop an historic properties  
16 management plan. It's going to be done in consultation with  
17 the North Carolina NCSHPO, and also with the Eastern Band of  
18 Cherokee Indians, and also where Forrest Service property  
19 with significant cultural finds are found, if it adjoins  
20 Forrest Service property, we'll also be consulting with  
21 them.

22 Protection of cultural resource site information,  
23 the Cherokees do not want a lot of this information out, and  
24 we're definitely not going to -- we're definitely going to  
25 do everything that we can to not let it be leaked out.

1           Also, the Cherokee have the opportunity in  
2 sensitive areas in which cultural resources or Native  
3 American resources are found, they have a chance to review  
4 if there's any ground disturbances that take place, they  
5 have a chance to review the site and make comments before  
6 the permit is issued.

7           Public information system: It's on the Duke  
8 website and by telephone. You can go onto the website and  
9 get the actual reservoir elevations, normal operating  
10 ranges, histories, a seven-day history and a 90-day history,  
11 reservoir level predictions, and special messages.

12           The flow release schedule, from what the plants  
13 are generating, and also you can -- we have points down the  
14 river that you can tell where the flow is actually at.

15           There is a hot link to the USGS gauges. We've  
16 reactivated two USGS gauges in the main stem. They are up  
17 on the website and operational. They've not got them rated  
18 yet, they've not got enough to where you can give an  
19 accurate streamflow, but it will give you an accurate stage  
20 level.

21           They say it won't be long until they have all the  
22 rating done. And, again, there are the information, access  
23 area, signs, and kiosks.

24           There is a shoreline management plan, which  
25 includes lake use restrictions and shoreline management

1 guidelines that meet Duke's regulatory requirements with the  
2 Commission. It provides public recreation benefits, it  
3 protects scenic and environmental values, permits use of the  
4 project properties, and it protects Duke's power generation  
5 interests.

6 We're committed to coordinate with local law  
7 enforcement agencies and we support litter cleanup events.

8 Compliance monitoring and operational protocol:  
9 The settlement agreement designates agencies, plus, it will  
10 go to the Commission, also. At the end of each year, we'll  
11 provide an annual report, showing lake elevations, minimum  
12 flow releases, recreational releases to see if we're in  
13 compliance, and variance explanations, if necessary, will be  
14 supplied, like we went out of the operating ranges for the  
15 hurricanes. That's a pretty easy explanation.

16 A lowland flow protocol was developed for  
17 periods during draught, and everybody knows we're going to  
18 have one, but it's based upon everybody shares the pain  
19 equally. It's shared between Duke Power, generation,  
20 homeowners, the lake goes a little lower, the boating  
21 industry, the rafting industry, angling and the fishermen  
22 will share a little of that.

23 The releases won't be made as often, and also a  
24 hydro maintenance and emergency protocol was developed. If  
25 you have a piece of machinery, it's probably going to tear

1 up, and a lot of times when it tears up, it's not a good  
2 time for somebody.

3 So, our maintenance and emergency protocol, if we  
4 weren't able to make releases from the Thorpe plant, we  
5 would go up to the Lake Granville Reservoir or the Cedar  
6 Cliff Reservoir and release some water down into that area,  
7 if it's like the 4th of July. It's spelled out on those  
8 releases on those protocols.

9 Fish passage: For 20 years following issuance of  
10 the new license for the Duke Power Nantahala Area Hydro  
11 Projects, no Section 18 mandatory conditioning beyond the  
12 standard reservation of prescriptive authority will be  
13 necessary or pursued. That's provided that the Dillsboro  
14 Dam is removed.

15 Resource enhancement funding: \$40,000 to  
16 Jackson, Clay, Cherokee, Macon, and Swain Counties for soil  
17 and water conservation enhancements; \$200,000 for the  
18 purpose of supporting riparian habitat enhancements; \$40,000  
19 to support U.S. Fish and Wildlife Service and the Wildlife  
20 Resources Commission to determine the range and distribution  
21 of the Sickle Fin Red Horse and the Little Tennessee,  
22 Hiwasee and Tuckasegee Rivers; \$40,000 to support a project  
23 by the U.S. Fish and Wildlife, Wildlife Resources  
24 Commission, and the United States Forest Service to restore  
25 native strain of Brook Trout to a selected stream in the

1 vicinity of the Tennessee Creek hydro station.

2 Resource Enhancement: This piece of property  
3 became available, a 150 acre tract, and Duke Power was able  
4 to purchase it, and after we receive the license, it will be  
5 conveyed -- as you can see, Forest Service is all around it,  
6 Blue Ridge Parkway, and this will be conveyed to the United  
7 States Forest Service.

8 I was also asked by the Commission to provide  
9 just a brief, more or less a handout that you can look at  
10 for the removal of the Dillsboro Dam. It's got a little  
11 schedule here.

12 Starting on May 26, 2004, that's when the  
13 surrender application was filed. Since then, we've had  
14 additional information requests, and the second star is  
15 where we're at today with the scoping meetings. If there  
16 are any additional information requests, I'm sure we'll get  
17 them from the Commission.

18 Around January, we'll file for the 401  
19 application for the surrender of the Dillsboro license. The  
20 next star is the anticipated FERC approval. It will be  
21 around September or October of 2005.

22 As you can see down through here, the most --  
23 there's a lot of monitoring going on, and that is the key  
24 thing going on, I think, in this project. It's pre-  
25 monitoring and monitoring while it's being removed, and

1 post-monitoring.

2 And there's another sheet that also goes with  
3 this handout that really writes out most of what I've said.  
4 And, with that, Leslie, I'll turn it back to you.

5 MS. SMYTHE: Thank you, John. Does anybody have  
6 any questions for John?

7 MR. NOLAN: I'm Paul Nolan. I represent Jackson  
8 County. I'm an attorney out of Arlington, Virginia, working  
9 on hydroelectric matters.

10 I think it would be helpful if you could explain  
11 --

12 PARTICIPANT: Could you come up here so that the  
13 Court Reporter can get this?

14 MR. NOLAN: I thought it would be helpful, John --  
15 or FERC -- to just explain what you mean by "reserve  
16 authority," and also explain -- when you were talking about  
17 fish passage, you were talking about -- whether you were  
18 talking about upstream or downstream, because I think  
19 there's also some -- at least in one of the documents, I saw  
20 something about downstream passage facilities would be  
21 coming in sooner than upstream passage, and if you could  
22 just clarify that, I think that would help.

23 When you throw out "we're not going to use or  
24 reserve authority for 20 years," and under Section 18 of the  
25 Federal Power Act -- I don't know if everyone has a copy of

1 the Power Act with them.

2 My name is Paul Nolan.

3 MR. WISHON: Is Mark Cantrell here? Do you want  
4 to answer that, or do you want to take a stab at it?

5 (Laughter.)

6 MR. WEINBERGER: I'm Jeff Weinberger with Duke  
7 Power. I think I understand Mr. Nolan's question, but it's  
8 dealing with the authority that the U.S. Fish and Wildlife  
9 Service has under the Federal Power Act to require fish  
10 passage.

11 The fish passage that's addressed in the  
12 settlement agreement is fish passage altogether, upstream  
13 and downstream. We certainly expect that the Service will  
14 reserve its authority.

15 They can't negotiate out of their statutory  
16 responsibilities. The settlement agreements both clearly  
17 state that.

18 What we expect they'll do is reserve their  
19 authority to require whatever is necessary to meet their  
20 statutory requirements. Now, we don't expect to have actual  
21 fish passage facilities to be required within the first 20  
22 years of the new licenses for these projects, provided that  
23 Dillsboro Dam is removed.

24 MS. SMYTHE: Does that answer your question?  
25 Before we get into all the questions, I just want to make a

1 couple of little points clear and we'll get to all of you, I  
2 hope, but that's part of the problem.

3 We have a dozen people who have officially signed  
4 up to make oral presentations, and the way we normally run  
5 these proceedings is that we let those people that have  
6 indicated they have presentations to make, to make them  
7 first, and then we open it up to general questions or  
8 comments amongst the audience.

9 So, looking at the time and the 12 people that we  
10 have registered to speak, what we normally do is, I call  
11 upon them in sequence, the way they've registered, and at  
12 this time we're giving five minutes for each presenter. I'd  
13 appreciate it if you would really stay within that, because  
14 we have an obligation to be out of this facility this  
15 evening by 9:00.

16 Our experience to date has been that if we finish  
17 the meeting a half hour before we have to be out, we might  
18 make it. People tend to want to hang around afterwards and  
19 chat, and we want you to do that, but we'd like to aim to  
20 have our official proceedings finished by 8:30, so that we  
21 can be all physically gone by 9:00.

22 So, for the first speaker that signed up is Jerry  
23 DeWeese and I'd like you to come up to the podium, please.

24 MR. DeWEESE: I'm Jerry DeWeese. I'm not with  
25 any organization or group. I'm not here to oppose anything

1 about the settlement agreement.

2 You're going to hear a lot tonight about  
3 greenways and dam removal, minimal close and scheduled  
4 releases. What I think has been overlooked in this  
5 settlement agreement, is maximum flows or flood control.

6 I don't see anything in there that says Duke is  
7 required to do all they can to protect the folks from  
8 flooding. I'm simply asking that Duke be mandated, not left  
9 to their own conscience, to provide flood control to the  
10 best of their abilities.

11 I think this would require a minimum outlay to  
12 Duke, and I think it would be very valuable to their  
13 downstream customers or neighbors.

14 They have proven at least three times in my  
15 memory, that if there's not been a flood event for a number  
16 of years, they tend to forget how to provide it to us. They  
17 proved during our first storm, Frances, that they didn't get  
18 the lake levels down like they needed to be.

19 When Ivan came through and dumped more water,  
20 they did a really good job. I don't think anybody can fault  
21 them for that.

22 During that event, I happened to take some  
23 readings from the U.S. Geological Survey gauge readings in  
24 Cullowee, and it showed that even though Ivan had much more  
25 rain, the actual water levels were lower, the peak levels

1        were lower. And from the handouts I got there, the storage  
2        reservoirs, such as Bear Lake, was not dropped as much  
3        during Frances, and that level was a little bit higher.

4                They've shown us what they can do when they do it  
5        right, and they've shown us what happens when they don't do  
6        it as well. Anything they do is better than not having  
7        anything at all, and we appreciate that.

8                I simply ask that FERC mandate a study to see how  
9        much capacity is needed, based on the anticipated rainfall  
10       that we're going to get, that's expected. For example --  
11       and I tend to oversimplify things -- the storage reservoirs  
12       such as Glenville and Bear, be dropped maybe a foot for each  
13       inch that's anticipated in this area, and if it sneaks up on  
14       us, drop it down as quickly as you can to a pre-flood stage;  
15       get it down as quickly as you can, and then cut it off, say,  
16       18 hours in advance, so that that river is as low as  
17       possible when that peak comes through, and then release your  
18       water afterwards.

19                When Frances came, you had to release water, Duke  
20       had to release water during the flood event. When Ivan  
21       came, they were able to release it afterwards.        Every  
22       body remembers the two peaks in Ivan, and the folks out in  
23       the middle of the night, warning that Duke was going to have  
24       to release during Frances, I think that that could be  
25       minimized or eliminated in the future.

1                   It's not going to be a lot of outlay on Duke's  
2 part, but I ask that FERC require these studies. That's all  
3 I have. Thank you.

4                   MS. SMYTHE: Thank you. Okay, our next speaker  
5 is Sam Fowlkes.

6                   (No response.)

7                   MS. SMYTHE: Dan Pitillo?

8                   (Slides. )

9                   MR. PITILLO: I didn't realize that we were going  
10 to be this far away, so I may have a little problem.

11                   I'm Dan Pitillo. I'm a Professor of Biology and  
12 I did a study for the Western North Carolina Alliance.

13                   I'm actually reporting on Lake Glenville, which  
14 is the West Fork, but the things I have to say have to do  
15 with what goes on on the East Fork, as well.

16                   Lake Glenville is surrounded by mixed mesophytic  
17 hardwood pine forests and interspersed rock outcrops,  
18 waterfalls, and occasional wetlands. Most of the lake area  
19 borders the mixed hardwood White Pine forest, which is  
20 dominated by oaks, birches, yellow and yellow poplar, red  
21 maple, magnolia, sourwood and some of the ever-present white  
22 pines.

23                   All the forest surrounding the lake has had some  
24 timber removal, most of it probably around the time that the  
25 lake was constructed. Beneath the tree canopy are heath

1 species, which include rhododendron, mountain laurel,  
2 buckberry, blueberry, and a number of other understoried  
3 shrubs.

4 The herb species tend to be those which tolerate  
5 the heath or occur in areas where the heath is absent, and  
6 they include New York Fern, scented ferns, trillium,  
7 wintergreen, Solomon's Seal, and so on.

8 Now, the objectives of the study that we did  
9 there was to compare sections. Now, the objectives of the  
10 study that we did there was to compare sections of the  
11 vegetation along the ten elevational foot shore buffer zone  
12 that varies from as little as two feet up to 100 feet,  
13 depending on where it is located.

14 Our studies then involved comparing this area,  
15 which is developed or cleared, with this area, which is not.  
16 We had to find sites that had those criteria.

17 The criteria involved a transect line that was 50  
18 meters, and that's 165 feet, so we had find sites that were  
19 suitable for that. We actually studies seven sites, three  
20 on each side of the Lake, and one other which is in Andrews  
21 Park.

22 The line intercept method that we used was, as I  
23 said, 50 meters long, which is about 165 feet, and it  
24 cleared or was established in the zone between the high lake  
25 zone, the high lake margin, and where the boundary is,

1       wherever that happens to be.

2                   This was somewhat restricted in the fact that we  
3       didn't have many places that suited the 50-meter length.

4                   In the area where the native vegetation occurred,  
5       the herb layer, which you can see here, was pretty dense.  
6       The herbs are -- the herb layer were those species which  
7       were below a half meter in height. That's about 18 or 19  
8       inches, and these were tallied separately from the shrub  
9       layer, which was from a half to those stems that had ten  
10      centimeters in diameter, in other words, the trunk diameter  
11      at breast height had to be ten centimeters before it was  
12      counted into the tree category, and then the tree category  
13      were those with a diameter greater than ten centimeters,  
14      which is about four inches.

15                  Here you can see the herbs. The shrubs are back  
16      in there a little bit, and then, of course, most of those  
17      are trees.

18                  All the woody species that crossed the line were  
19      tallied and measured. The total line length, in other  
20      words, how much was crossing that line, was tallied, as well  
21      as the diameter of the tree, in other words, ground diameter  
22      of those trees was taken.

23                  All herbaceous species that crossed the line were  
24      also tallied, but they were measured for coverage only.  
25      They did not involve the separate individual plants because,

1 if you can imagine, they are grass plants and they are  
2 intertwined and you can hardly tell one from the other.

3 The data on the slope and compass line, the GPS  
4 direction, the aspect and photographs were made for all  
5 sites. We then calculated what are called importance  
6 values, which is a sum of the coverage -- that's how much of  
7 the canopy covers the line -- the density -- how thick they  
8 are -- and the frequency -- how often they occur. This was  
9 obtained for all trees and shrubs.

10 Herb density values were estimated to use for  
11 importance values. The percentage of trees and shrubs were  
12 obtained from the numbers of all species in each of the  
13 categories.

14 In the results, we found that the controls had 97  
15 species, the experimentals had an additional 73 species, for  
16 a total of 170, in all of those plots, and then the relavees  
17 (ph.) which are those beyond the line, were tallied, just  
18 listed, and they added another third to the list to give us  
19 a total of 251 species of plants in the study.

20 The percentage of trees of the experimental or  
21 developed sites were 42 percent lower than the control sites  
22 or those natural vegetated sites; the percentage of shrubs  
23 of the developed sites were 82 percent lower than the  
24 natural sites, and we found significant herb layer abundance  
25 for buckberry, which is on the control sites, which you can

1 see here. These are mostly buckberry along in there.

2 And then on the experimental sites, mountain oat  
3 grass and purple bluetta, which are grasses and a little  
4 herb, were significantly different from the other sites.

5 There was a moderate significance for species as  
6 follows: Sweet Birch on control sites; Yellow Poplar for  
7 the experimental sites, in other words, the Yellow Poplars  
8 were sometimes left, so they turned out to be slightly  
9 significant.

10 Black Locusts, Black Pine, and Greenbriar were  
11 more common in the shrub layer of the control sites, and  
12 then when we looked at the developed sites, we found  
13 cultivated shrubs and herbs, and a lot of herbs were there  
14 because we have weedy things that come into those developed  
15 sites.

16 In conclusion, the loss of trees and shrubs is  
17 significant in the changes of the developed sites of this  
18 study. Grasses and herbs are more abundant in the developed  
19 sites, but they do not maintain a significant root system,  
20 and so, therefore, trees and shrubs were displaced here.

21 Is that time? Let me finish. I've got one more  
22 thing: The next slide will show an area where we did a  
23 study. This is an elevation of about ten feet or a little  
24 bit better.

25 Here is the same place, looking at it from the

1 same area, back toward the control site, and the line in the  
2 next one, turning around -- okay, this is the control site,  
3 and you can see it's rather dense.

4 The next one -- well, let it go. But, at any  
5 rate, the point is that you can tell the erosion is almost  
6 up to the line in that location.

7 My suggestion is that we have a narrowed  
8 vegetation zone and we would recommend the 50-foot width, if  
9 you want to be able to control some of that erosion. Thank  
10 you.

11 MS. SMYTHE: Thank you. Our next speaker is Bill  
12 Lyons.

13 PARTICIPANT: Can we make an announcement to turn  
14 all cell phones off for courtesy to the speakers?

15 MS. SMYTHE: Yes, please.

16 PARTICIPANT: Please turn off cell phones or at  
17 least put them on vibrate.

18 MR. LYONS: My name is Bill Lyons, and I'm with  
19 the Western North Carolina Alliance. I'm sort of the second  
20 half of what Dan had to say.

21 All of the East Fork lakes are in the Jackson  
22 County Watershed and this is partly why the riparian buffer  
23 is very important. You saw on some of the slides where  
24 there is some erosion.

25 The shrub layer, that part that's most damaged,

1 is the most important. It's what binds the soil together;  
2 it's what leaches the toxins and nutrients out of the water  
3 as it passes through.

4 The primary functions are reducing and  
5 eliminating turbidity, which is muddy water. It helps take  
6 the silt out of the water, filters out toxins and nutrients  
7 and acts as a carbon sink to stabilize soils.

8 The secondary function of a riparian buffer, in  
9 FERC's eyes and ours, is to provide habitat of food and  
10 cover for animals; public access and public recreation.

11 The width or proper width of a buffer zone is a  
12 real good question. The State of North Carolina has a  
13 statute that says, in the watershed, it should be 30 feet.

14 I have a sheet here in front of me that has what  
15 the U.S. Forrest says is 200 feet, except in the  
16 Northeastern United States, where they say it's 300 to 600  
17 feet, or in certain forest corridors in the Northeast, it's  
18 500 to 1320 feet.

19 Then they change and nationally they say it's 50  
20 to 150 feet. The Shoreline Management Act for the State of  
21 Washington, says a riparian buffer should be a minimum of  
22 200 feet.

23 Maine says 250 feet. New Hampshire says 250  
24 feet. From the State of Georgia to Maine, for the  
25 Appalachian Trail Corridor, says it should be 500 feet.

1 South Carolina says 300 feet.

2 It's important that we know that this loss of  
3 native vegetative cover or just vegetative cover, has been a  
4 direct result of DP&A's failure to enforce shoreline  
5 management guidelines.

6 Now, they aren't the only ones at blame, because  
7 they bought part of the situation, so some of it predated  
8 them. But was created by the adjoining property owners who,  
9 to improve their positions, removed the shrub layer.

10 But what I want you all to hear is this: In  
11 1997, DP&A filed a shoreline management plan with FERC for  
12 all of their lakes, and then last year on July 1st, a new  
13 shoreline management guideline was put in. And to the best  
14 of my knowledge, they haven't done much with either one of  
15 them.

16 But here's where we really want to hit you: In  
17 1958, Duke Power, the parent company of DP&A, bundled 11  
18 projects on the Catawba (ph.) River together, applied for a  
19 license and were granted one 50-year license. They have  
20 over 1500 miles of shoreline on the Catawba River -- on the  
21 lakes, not counting the River, just the lakes, and to the  
22 best of my knowledge, only one of those lakes has a riparian  
23 buffer, and that's Mountain Island Lake, where Charlotte's  
24 water supply comes from. Lake Wiley has no buffer zone;  
25 Gastonia's water comes from Lake Wiley.

1                   Now, a little bit about why that's important:  
2           Turbidity, that word I mentioned awhile ago, you wouldn't  
3           want to drink muddy water. Well, that's what turbidity is,  
4           is muddy water.

5                   The cost to remove that alone -- we're not  
6           talking about toxins; we're not talking about perchlorate or  
7           estrogens or any other nasties that you can get in your  
8           water and do get in your water today -- we're talking about  
9           silt.

10                   The cost to remove silt in the United States --  
11           and this is from drinking water, after it's settled out in a  
12           reservoir for awhile and is taken into the processing plant  
13           -- in 1985, it cost \$2.2 billion in the United States, just  
14           to clear the water up.

15                   The number in 1988, Tom Holmes (ph.), who is an  
16           economist with the Forest Service, did a study and he came  
17           up with a figure of \$113.50 per million gallons of water,  
18           just to clear up the water. Now, I don't really know how  
19           many gallons of water Charlotte uses a day, but it's pretty  
20           significant. I heard this afternoon that it was something  
21           like six or seven million gallons of water a day. I don't  
22           know.

23                   But here's where I'm going, folks: There is so  
24           little left on the half -- we need -- let me clear up what  
25           we mean by half of the lake. Part of Lake Glenville has a

1       ruined -- we're not talking about that. We're only talking  
2       about areas where development has occurred, primarily where  
3       people have built houses.

4                In that portion, according to the estimate of the  
5       Jackson County Building Inspections Office, represents about  
6       a half of the lake, half of the shoreline, and that's where  
7       Dan did his study.

8                Forget about the road, only where there's been  
9       development, that riparian buffer has been so affected and  
10      because of the steep terrain and the way it's defined, in  
11      places, it's too narrow and it can't fulfill any of the  
12      functions proscribed by law or by nature. It's not wide  
13      enough for public access or recreation in a lot of places,  
14      and it certainly doesn't do much of a job of filtration.

15               So, here's what we recommend: We're very unhappy  
16      with the situation that we see here, and on the Catawba.  
17      And what we would ask of FERC is that they order a change,  
18      increase the buffer strip to 50 feet of the edge of high  
19      water, as a minimum; that they do away with Duke's shoreline  
20      management guidelines and impose TVA's system instead.

21               TVA's collected over 9,400 public comments in two  
22      years before they began to write their guidelines. We feel  
23      that they have an excellent set of guidelines that allows  
24      access to the lake for landowners; it allows the public  
25      access and the riparian buffer, and it helps, with 50 feet,

1 to give a better protection to the waters.

2 We have a copy of the TVA plan that you can get  
3 if you wish, and we have copies of this report, which is not  
4 the full study, but is enough. I'm through.

5 MS. SMYTHE: Thank you, Bill. Our next speaker  
6 is Roger Turner.

7 Let me kindly ask that you try to keep your  
8 comments to five minutes, so that we can get through  
9 everybody. If there is time for more comments at the end,  
10 we'll gladly take them, but we want to make sure that  
11 everybody is heard. Please remember the meeting is to these  
12 four projects. Thank you.

13 MR. TURNER: My name is Roger Turner, and I'm  
14 speaking tonight on behalf of the Western North Carolina  
15 Alliance, and these comments are in support of the previous  
16 two speakers.

17 The Western North Carolina Alliance is the only  
18 regional environmental organization that has been involved  
19 in all the current federal relicensings of dams in Western  
20 North Carolina, including the Topoko (ph.) settlement with  
21 Alcoa and ongoing settlements with Duke Power in the  
22 Nantahala Area and the Catawba Water Area.

23 I'd like to share this with the FERC Commission.  
24 I don't know if I can leave this copy with you. This is a  
25 copy of our quarterly journal, the Western North Carolina

1 Alliance Accent.

2           Based on the experience we've had with these  
3 relicensings, we feel we can offer a unique perspective. I  
4 would like to -- in this issue, the Fall issue of 2004, with  
5 an article written by Charlotte Lankey (ph.), who  
6 participated in the Topoko settlement for over six years,  
7 she lists the benefits from that settlement.

8           And I'd like to note, in Benefits Nos. 4 and 5,  
9 in Graham County, North Carolina, conservation easements for  
10 40 years on 200 feet of streams feeding Yellow Creek, the  
11 major tributary of the (inaudible) River, conservation  
12 easements for 40 years on 200 feet of streams feeding into  
13 the bypass (inaudible) River, conservation easements for 40  
14 years on 200 feet of streams feeding in the Little Tennessee  
15 Reservoir below (inaudible) Dam.

16           In Item No. 5, in Tennessee/North Carolina,  
17 conservation easements of 200 feet around the Lake  
18 (inaudible), Lake Halderwood (ph.) and Lake (inaudible).

19           It is our experience -- we were involved in the  
20 Tuckasegee Cooperative Stakeholders Team meetings and  
21 discussions for over three and a half years. We argued for  
22 conservation easements throughout these hearings, these  
23 discussions, to no avail.

24           In light of Dr. Pitillo's study and Duke's  
25 history of noncompliance on lake riparian buffers, we would

1 ask FERC to assess the feasibility of either permanent or  
2 term conservation easements for all of DP&A projects, as  
3 part of your EA, your Environmental Assessment for  
4 Socioeconomic Resources in which you assess all the proposed  
5 protection, mitigation, and enhancement that DP&A has  
6 offered.

7 Furthermore, we ask FERC to clarify how the  
8 removal of the Dillsboro Dam can mitigate for impacts of  
9 projects in other watersheds, in Lake Emory on the Little  
10 Tennessee River, or in other water basin such as the Mission  
11 Project on the Hiwasee (ph.) River, yet DP&A has bundled all  
12 of these projects together into the Tuckasegee Stakeholders  
13 meetings, without stakeholder representation from other  
14 watersheds or other basins.

15 Furthermore, Duke has argued, DP&A has argued  
16 that term easements on the shoreline buffers with a third  
17 party, will overly complicate the lake use permitting  
18 processes that DP&A must manage in accordance with FERC  
19 license requirements. If so, we would like to understand  
20 why Alcoa can agree to conservation easements and Duke  
21 cannot.

22 Is there some fundamental difference between  
23 these settlements that we are not understanding?

24 Again, we would stress the public process that  
25 TVA used in redefining its shoreline management policy as

1 summarized in two documents that we will make available to  
2 FERC in Shorelinks 2, which is a summary of a larger study  
3 that they did. I will make copies of this available and on  
4 the table back there, and we draw your attention to pages 5  
5 and 6 that define vegetation management and the access view  
6 corridor that TVA allows for.

7 We feel that these are reasonable alternatives  
8 that Duke should consider, and that FERC should consider.  
9 We want to note that in the more fully defined shoreline  
10 management initiative and assessment of residential  
11 shoreline development impacts in the Tennessee Valley on  
12 nearly 11,000 miles of shoreline, this study is here also.

13 Again, based on 9400 public comments on shoreline  
14 management, we note that TVA's analysis of development  
15 impacts in assessing the percentage of shoreline that can  
16 tolerate development without negatively impacting natural  
17 resources, the final management policy, the chosen  
18 alternative allows for no more than 38 percent of shoreline  
19 to be developed. In these watersheds, we are vastly over  
20 that number.

21 Contrast this to the work of DP&A in designing  
22 its shoreline management guidelines. Largely throughout the  
23 three and a half years of the discussions in the Tuckasegee  
24 stakeholders meetings, these were termed as technical team  
25 discussions, largely between resource agencies and lake

1 property owners.

2 Tuckasegee stakeholders were advised that  
3 participation in these discussions, depended on one's  
4 technical expertise. To the best of our knowledge, no local  
5 municipal government, nor non-governmental organization was  
6 included in these discussions.

7 Cumulative impacts of the SMG, the shoreline  
8 management guidelines, were never defined or addressed. For  
9 this reason, we believe the state and federal resource  
10 representatives did not adequately represent the general  
11 public's interest.

12 Thus, we believe that the Tuckasegee Community  
13 Stakeholder Agreement finalized in November of 2003, does  
14 not have the support of the general public. Furthermore,  
15 Duke has stated, DP&A has stated publicly that 75 percent of  
16 stakeholders signed on to the Nantahala and Tuckasegee  
17 agreements, however, when you separate the Tuckasegee  
18 agreement from the Nantahala agreement, the percentage drops  
19 to 54 percent, where 19 out of 35 signed on.

20 This is hardly a ringing affirmation, and I would  
21 leave you with this thought: In the last few days, we had  
22 another late intervenor that has entered the process, and I  
23 want to quote from the Town of Franklin's Alderman Berlin  
24 Curtis, who said this week, "My concern is that the Town was  
25 not included as a stakeholder. We did not get a front seat

1 at the table for future mitigation." Thank you.

2 MS. SMYTHE: Okay, James Fouts.

3 MR. FOUTS: I'm a friend of the Western North  
4 Carolina Alliance. I retired out here about five years ago.  
5 We moved out here about five years ago.

6 I was the Scientific Director and the Chief  
7 Scientific Advisor to the Director of the National Institute  
8 of Environmental Health Sciences, a part of NIH.

9 What I see lacking here -- and I wish to support  
10 what has been documented in terms of effects on water  
11 quality, is that water quality makes a big difference to  
12 human health. Yes, we need pure water. We don't have it,  
13 I'm sorry, and you're not going to get it any better, if you  
14 allow the kinds of loss of shrubbery and trees and other  
15 things that go around the lake. The quality must  
16 deteriorate; that's the nature of how water in a lake comes  
17 to be.

18 So, I want to support what has been said about  
19 this is a dangerous trend and it needs to be reversed.  
20 Whoever has a role in choosing how that buffer is protected,  
21 needs to do a lot more.

22 We have a lot of issues coming up, one of which  
23 is not even talked about here, and that's global warming  
24 that will totally change the amount of water delivered to  
25 certain areas of the United States, and nobody is making any

1 allowance for that.

2 I was on the committees that covered this issue  
3 of water and global warming, and nobody has looked at it  
4 enough. The area that we're now in, with all of its dams  
5 and streams and lakes, is particularly vulnerable.

6 MS. SMYTHE: Thank you. Our next speaker is Bob  
7 Hathcock.

8 MR. HATHCOCK: Hi. I'm Bob Hathcock. I'm  
9 representing the Nantahala Outdoor Center, and also speaking  
10 for many of the commercial rafting outfitters who are in the  
11 area.

12 I'm not going to address the shoreline issue, but  
13 one thing I did want to say is that in having participated  
14 in the Topoko relicensing process, and hearing from  
15 Charlotte, that I have to say that viewing both corporations  
16 and the way they approached reaching some kind of a  
17 settlement agreement, that Duke Power has done a much better  
18 job of bringing all the interests in that they were able to  
19 bring in to these stakeholder teams.

20 I know it's hard to get everybody in, and I'm not  
21 surprised that a lot of people are coming in now to give you  
22 comments, but I know that from my experience, that Alcoa on  
23 the Topoko Project, did not do as good a job as Duke of  
24 taking everyone's interests into account.

25 They singled out people who they thought they

1       could simply not pay attention to. Duke brought in everyone  
2       and fully participated in give-and-take to reach this  
3       agreement, and I'm very proud of them, and I have to say  
4       they did a great job here, in my humble opinion. Thanks.

5               MS. SMYTHE: Thank you. The next speaker is Rady  
6       Large.

7               MR. LARGE: My name is Rady Large, and I am  
8       representing myself, and by a quick survey of the room, I am  
9       also representing my generation.

10              (Laughter.)

11              MR. LARGE: I have called Silva (ph.) in Jackson  
12       County my home for the entirety of my 23 years within this  
13       mortal coil, although I have dwelled in other places. I do  
14       not hold any advanced degrees, although I am a recent  
15       graduate of Elon University.

16              I'm here to just represent my own opinions on the  
17       issues that are being expressed here tonight. I recently  
18       moved out to Los Angeles. The thing about moving from Silva  
19       to Los Angeles, that's a pretty big transition.

20              I took a job with a film production company out  
21       there, where I had to work long hours, and it was a big  
22       commitment. And a day came when the Director of Human  
23       Resources called me into her office and she said, Rad, I  
24       don't know how to deal with North Carolina taxes. You're  
25       going to have to become a California resident.

1           And it was silence that dropped in the room. I  
2 had to sit there and weigh the pros and cons of my  
3 situation, you know, living in Los Angeles and pursuing a  
4 possible career path of coming back here to my native home  
5 and participating in defending its natural resources and  
6 habitats.

7           And this is what did it for me. This was the  
8 pro, because I looked at my drivers license, 757 Cain Creek  
9 Road, which, as you all know is a tributary to the  
10 Tuckasegee River, and, frankly, losing this license scared  
11 me. It scared me to lose my place in this democratic  
12 process that is taking place here tonight.

13           Anyway, I'd had enough of LA, had had enough of  
14 traffic, had had enough of the smog. I really didn't like  
15 the beaches, so I just decided to come back out here to  
16 participate in this ongoing debate about our clean air and  
17 our clean water.

18           As a child, I grew up with the Tuckasegee. I  
19 grew up loving her. I navigated her waters in both inner  
20 tubes and in open-boat canoes with my Boy Scout Troop 914,  
21 Cullowee Boy Scout Troop.

22           And every experience that I have of the Tuck, I  
23 look back in retrospective awe, except for the Dillsboro  
24 Dam. I will be truthful about this: I used to have  
25 nightmares about the Dillsboro Dam, because I used to have

1 nightmares because my mom one time -- when I was a small  
2 child, we were at the Dillsboro outlet and I went out  
3 swimming. I was on the swim team and she said, don't -- you  
4 know, she called me back in and said, don't get too far out,  
5 don't get too far out, you're going to get stuck in that  
6 hydraulic and drown; just stay down there.

7 And so ever since then, I kept having those  
8 nightmares about being in a canoe or an inner tube and all  
9 of a sudden falling over, not the Hoover Dam or any other  
10 big dam; it was the Dillsboro Dam.

11 (Laughter.)

12 MR. LARGE: And I kept getting caught in it. And  
13 I'd wake up and I'd be under my covers and I'd be trying to  
14 breathe, and I'd finally get out.

15 Well, my nightmares aside, there are lots of  
16 times when we went to the Dillsboro Dam as a Boy Scout troop  
17 or on individual canoeing trips, and different times when  
18 I'd be fishing or anything and the dam would be low, that  
19 kind of thing.

20 But when I came back here and I heard that this  
21 issue was under debate about the Dillsboro Dam and its  
22 surrender, I decided to weigh the pros and cons, much like I  
23 did with leaving Los Angeles.

24 And after reading many newspaper articles and  
25 just informing myself as a citizen, I decided that it would

1 be beneficial, not only to the local economy, via the  
2 recently quoted -- I believe they call exotic sports of  
3 fishing and boating -- to the local economy, it would also  
4 promote the freedom of the lady that I love, the Tuckasegee.  
5 Anything that I can do to free her from the grip of man, I  
6 shall do. Thank you very much for your time.

7 MS. SMYTHE: Thank you. Our next speaker is Tom  
8 Massie.

9 MR. MASSIE: I'm Tom Massie, Jackson Soil and  
10 Water Conservation District. Let me get my eyes on here.  
11 It's bad to get old.

12 Excuse me for reading tonight. I'm sure I'll  
13 forget something if I don't read it, so I want to go ahead  
14 and use the comments that I have down.

15 Mr. Abrams, welcome back to Jackson County.  
16 We're glad that you and the staff of the Commission has come  
17 back and taken the time, and we appreciate and hope you  
18 enjoy your stay for the couple of days that you're going to  
19 be here.

20 Thank you for the opportunity to address the  
21 concerns that the Jackson County Soil and Water Conservation  
22 District has regarding the issuance of these two new  
23 licenses and the potential surrendering of the existing  
24 license. The Jackson County Soil and Water Conservation  
25 District did participate in the process surrounding the

1 Tuckasegee Cooperative Stakeholder Team, but ultimately  
2 elected not to become a party to the final settlement  
3 agreement.

4 Our decision not to become a party to that  
5 agreement, revolved around our strong belief then, as now,  
6 that the final settlement agreement outlining protection,  
7 mitigation, and enhancement measures, was inadequate to meet  
8 the public's needs for the term of the new license for 30 or  
9 40 years.

10 In general, we find the settlement agreement to  
11 be entirely too vague regarding the licensee's commitments.  
12 Most promises by Duke Power, Nantahala Area, are followed by  
13 qualifier statements like "if need proven," or, if a  
14 monetary settlement is involved, by qualifying phrases like  
15 "less than or equal to."

16 Additionally, the settlement agreement's  
17 environmental measures and mitigation packages, as cited in  
18 FERC's own scoping document, is predicated upon the  
19 successful license surrender of the Dillsboro Dam.

20 The public hasn't any idea, neither you nor I has  
21 any idea what the alternatives are, if the license surrender  
22 is unsuccessful. It all has to be renegotiated again.

23 It's easier always to gain public support for  
24 specific mitigation packages than for an unknown. FERC  
25 should and needs to know what those alternative mitigation

1 measures are going to be.

2 Obviously, this is a different view than taken by  
3 the signatories. It is our Board's sincere belief that the  
4 development of good public policy requires continuing  
5 dialogue between parties with differing views, working  
6 toward a goal of finding common ground.

7 Thus, we have continued to discuss our  
8 differences and commonalities with the interested parties,  
9 including Duke Power, Nantahala Area, over the last 12  
10 months, and we appreciate their willingness to do that.

11 While some areas of agreement have been reached,  
12 areas of significant differences remain. However, the  
13 District will continue to discuss and seek areas of common  
14 ground with the signatories of the agreement and the  
15 licensees, as opportunities are presented.

16 Tonight, we would like to request that FERC  
17 consider the following issues in the upcoming EA for these  
18 projects: Under Section 5.2.2 in the scoping document,  
19 Water Use and Quality for the East and West Forks, the Soil  
20 and Water Conservation District feels that closer scrutiny  
21 is needed on the issues of sediment prevention from non-  
22 point sources, and also ongoing sediment removal plans from  
23 existing impoundments, with particular attention being paid  
24 the small reservoirs on the East Fork and the one on the  
25 West Fork, principally the 40-acre Tennessee Lake and the

1 176-acre Wolf Creek Lake on the East Fork, and the 7.9-acre  
2 reservoir at Tuckasegee Dam on the West Fork.

3 Sediment removal from any and all impoundments  
4 covered by these hearings, currently is minimal or  
5 nonexistent, resulting ultimately in a decline in the  
6 reservoir capacity and the operating efficiency.

7 Tuckasegee Lake is significantly silted in at  
8 present, and the Commission and the state agencies will be  
9 able to see that tomorrow when they do the site visits.  
10 Removal that sediment by mechanical means is far more  
11 acceptable to the Soil and Water Conservation District, than  
12 the proposed natural flushing action currently being  
13 proposed for the Dillsboro case.

14 Also, under Section 5.26, Land Use and Aesthetic  
15 Resources for the East and West Forks, the District requests  
16 a comprehensive inventory of current land use conditions of  
17 project lands, with particular attention paid to lands  
18 around the reservoirs defined by the ten vertical feet from  
19 full pool on both East and West Fork Reservoirs.

20 The research that you've heard here tonight  
21 presented on the status of the project lands around the West  
22 Fork, Lake Granville, may be seriously compromised in its  
23 function as a sediment buffer, as a biological and wildlife  
24 habitat, and for public recreational uses.

25 Lake Granville is the oldest and the most

1 developed and impacted by human uses, with portions of the  
2 project land seriously degraded and excluding public uses.  
3 Duke Power, Nantahala Area shoreline management plans have  
4 only recently been implemented and measures to remediate  
5 existing damage within that project boundary and to prevent  
6 future encroachments, are lacking.

7           Conversely, East Fork Projects are just now  
8 coming under the intensive development pressures,  
9 particularly Bear Lake, and it is unknown what the current  
10 land use status is on these projects. The Environmental  
11 Assessment should explore measures which would effectively  
12 prevent or minimize damage within the project boundaries and  
13 the remediation of past damages within that inviolate  
14 project boundary.

15           Permanent or term conservation easements should  
16 be evaluated as an alternative and/or supplemental  
17 protection strategy for these project lands to be used by  
18 the licensee for the life of the license, and to ensure  
19 continued access to these lands by the public.

20           Additionally, under Section 5.22, Water Use and  
21 Land Quality of the Dillsboro License Surrender, Jackson  
22 County Soil and Water Conservation District was the first to  
23 raise the questions about the sediment removal plan to be  
24 implemented in conjunction with the license surrender, over  
25 a year ago.

1           We sincerely appreciate FERC's appreciation and  
2 support in specifically requesting that Duke Power,  
3 Nantahala Area, to address those concerns with the  
4 additional information request that was issued on August  
5 31st of this year. We've reviewed Duke's response and  
6 discussed their response with their representatives.

7           Unfortunately, the Soil and Water Conservation  
8 District continues to find the responses unacceptable. The  
9 responses remain vague and incomplete, by avoiding the  
10 issues of downstream sediment transport, and disposal of any  
11 removed sediment or where spoils would be placed if dredging  
12 activities occurred.

13           The licensee continues to discount the value of  
14 any sediment removal, except with immediate work areas prior  
15 to breaching the dam. The licensee claims that the cost of  
16 sediment removal would equate to approximately \$25 per cubic  
17 yard, or, given the fact that there's 100,000 cubic yards,  
18 roughly \$2.5 million.

19           The Soil and Water Conservation District contends  
20 that it is impractical to attempt or even request the  
21 removal of the entire 103,000 cubic yards, but flushing the  
22 equivalent amount of over one year's worth of sediment down  
23 the Tuckasegee River over three months or less, depending on  
24 natural events that may occur during that three-month  
25 timeframe, is less harmful to the environment and not good

1 for us, Fontana Lake, or Swain County.

2 We do not imply that Duke Power would  
3 intentionally harm the environment, but Duke Power of the  
4 Nantahala Area concedes that natural storm events could  
5 accelerate the release of the sediment more rapidly than  
6 they propose. Consequently, is it not responsible and  
7 prudent for the licensee to attempt to minimize any possible  
8 environmental damage by removing some of the accumulated  
9 sediment from the reservoir, prior to breaching the dam?

10 We believe that it is a reasonable expectation --  
11 not all, that's not reasonable, but 30 to 40 percent of the  
12 accumulated sediment is reasonable. Yes, it is expensive,  
13 but once a disaster happens, it's too late to say I'm sorry.

14 Some parties to the agreement have implied that  
15 the only reason that the District has refused to sign that  
16 document, was that we wanted more mitigation money than was  
17 promised, and were simply greedy. This is plainly not fair.

18 What is the value of good water quality and our  
19 natural resources? Doggone if I know, but I do know this:  
20 The District feels so strongly about the need to remove  
21 sediment from the Dillsboro Dam, from the pool behind the  
22 Dillsboro Dam, that the District will consider allowing Duke  
23 Power of the Nantahala Area, to use all of the promised  
24 money within the settlement agreement, all \$40,000 of it, to  
25 help offset and defray the cost of sediment removal on a

1 matching basis, if the license is surrendered and dam  
2 removal becomes a reality.

3 Thank you again for this chance to participate in  
4 these issues of vital interest to our community. Our  
5 comments have addressed only those issues that will have a  
6 direct impact upon our area of responsibility, soil and  
7 water conservation.

8 As the District, and individually, we support  
9 many of the other concerns being expressed by our elected  
10 representatives, County Government, and citizen  
11 organizations regarding recreation, resource rental rates,  
12 and public access. Thank you very much.

13 MS. SMYTHE: These will, of course, be  
14 incorporated into the record. Shane Williams?

15 MR. WILLIAMS: My name is Shane Williams, of  
16 Dillsboro, North Carolina. I'll try not to discount some  
17 of the other folks that have come onboard so far, but I'm  
18 not going to talk about a lot of grandstanding, and I'll  
19 actually try to focus it to the East Fork and the Dillsboro  
20 Dam.

21 Since I'm one of the exotic recreational  
22 providers of the County, I thought it was my duty to show up  
23 here tonight. My wife keeps giving me a hard time about  
24 that.

25 (Laughter.)

1                   MR. WILLIAMS: I'm about as exotic as you can  
2 get, I guess.

3                   But I worked with a lot of good folks that worked  
4 in good faith on this settlement agreement, and true to any  
5 settlement agreement's form, it didn't please all parties.  
6 It did please a lot of folks, and I think it's a good  
7 package, and I think it will be a good asset to the County  
8 and to the area, in general, and I'd just like to be on  
9 record that I support that agreement and I think it should  
10 be used. Thank you.

11                  MS. SMYTHE: Thank you. David Wheeler?

12                  MR. WHEELER: I'm David Wheeler. I'm with the  
13 Watershed Association of the Tuckasegee River. I'm a  
14 volunteer member.

15                  It's my understanding that a scoping meeting is  
16 to talk about what we're going to talk about during the  
17 process of the oncoming negotiations. And I have quite a  
18 laundry list of things that we feel need to be brought up,  
19 so I'm not going to be able to flesh them out very much.  
20 We'll do that in written comments and in the process of the  
21 ongoing proceedings.

22                  First of all, I want to say that we appreciate  
23 the benefits of hydropower in the Tuckasegee Watershed. We  
24 realize that there are tradeoffs if we're going to have a  
25 source of clean, fairly cheap, and locally-produced power,

1 but we would like to have these tradeoffs be accurately  
2 recognized and compensated for, so that the Tuckasegee River  
3 and the riparian corridor can also maintain its value as  
4 important habitat area and a community asset for all the  
5 residents of the watershed.

6 One of the first main points about that is the  
7 bypass areas, particularly the bypass areas in the Bonus  
8 Defeat Tuckasegee Gorge Area. I'll also say the bypass area  
9 below Granville Dam, tomorrow night, but I can't say that  
10 tonight.

11 But we would like to see sufficient releases from  
12 the dams in order to support adequate stream habitat in  
13 these bypass reaches. We feel this is a very serious  
14 ecological effect, and one that is going to take a lot of  
15 work on the part of the power company to rectify.

16 Another important issue is the fate of the  
17 Dillsboro Dam, and in our organization, we have members that  
18 are for taking the dam out; we have members that are against  
19 taking the dam out. I'm not going to speak about that  
20 tonight, however, I would like to support Tom Massie's  
21 comments about the way that the dam is demolished, should it  
22 be decided that the dam should be taken out.

23 We strongly feel that it would be a very negative  
24 kind of impact to release sediment from the dam and have it  
25 float downstream.

1           During the last license period, Duke has done  
2 little or no maintenance on the Dillsboro Dam or its pond.  
3 A huge backlog of sediment has built up behind the dam,  
4 that's coming to within eight feet of the top of the dam  
5 now, and the dam itself is approaching 100 years of age.

6           If it were to continue in place, the dam is going  
7 to require a lot of expensive maintenance work, a lot of  
8 catchup maintenance work, and it's probably going to require  
9 major repair costs, as old as it is.

10           At present, the dam is producing a negligible  
11 amount of electric power to offset any of those costs, so,  
12 therefore, when you put the expenses of dam removal next to  
13 the potential operating costs for the next 30 years, we  
14 believe that they would come close to balancing each other  
15 out.

16           Therefore, Duke would be actually putting little  
17 or no new money into the removal of Dillsboro Dam, because  
18 it's my belief that the Company would want to get rid of the  
19 dam, strictly as an economic measure, even if it was not  
20 incorporated into the settlement agreement.

21           So, therefore, we feel, first of all, that  
22 Dillsboro Dam should count very little towards mitigation  
23 credits for offsetting other environmental impacts, because  
24 of this -- the fact that it is going to be an economic  
25 liability if it stays in place.

1           As I said, we feel like it ought to be done with  
2           minimum impacts downstream, particularly releasing sediment  
3           to the lower Tuckasegee, that's already suffering from  
4           sediment accumulation down in the area below Dillsboro Dam,  
5           and we do not want to add to that.

6           If the demolition is done in this way, it's  
7           simply going to be taking this huge problem, backlog of  
8           maintenance work, and dumping it on the lower reaches of the  
9           Tuckasegee and the TVA Lake down at Fontana and letting them  
10          take the responsibility for it.

11          We think it should be done in place. We'd like  
12          to see the sediment dredged, enough sediment to make a good  
13          channel, be dredged out before the dam is demolished.

14          The removal of Dillsboro Dam also represents a  
15          severe economic and cultural loss to the Town of Dillsboro.  
16          Presently, there's very little compensation for Dillsboro  
17          being projected in the settlement agreement.

18          We would like to see Dillsboro be very generously  
19          compensated for the removal of the Dillsboro Dam, again, if  
20          that should prove to be the case.

21          We would also like to make sure -- we definitely  
22          would oppose demolition of the dam, until we are sure that  
23          the large colony of Appalachian Mussels, which is directly  
24          below the dam site -- this is a federally endangered  
25          species. We want to be sure that they are going to be

1       protected from any adverse effects, should the dam be  
2       breached.

3               Since we don't feel like Dillsboro Dam is going  
4       to be significant in terms of mitigation, we would suggest  
5       that in lieu of that, that there be a donation, a cash  
6       donation or help by the Duke Power Company for money towards  
7       purchase of property or conservation easements for greenway,  
8       habitat areas, or river access areas along the length of the  
9       Tuckasegee and its tributaries, and also we would like to  
10      see as part of the settlement package, improvement of the  
11      Andrews Recreational Park on Lake Glenville.

12              Another point is that no provision in this  
13      settlement has been made to mitigate the impacts of  
14      fluctuating water levels on habitat conditions. When the  
15      water is being retained behind the dams, particularly in the  
16      summertime, the flows get very low downstream, and in areas  
17      designated by the North Carolina Wildlife Resources  
18      Commission as trout waters, their water temperatures are  
19      going above state limits for conditions for maintaining  
20      trout, and we would like to have enough release to make sure  
21      that that doesn't occur.

22              The overall amount of the settlement, as it's  
23      laid out now, is way too small, we feel like, and also the  
24      length of the period, we would like to see it -- we've asked  
25      FERC to restrict the length of the licensing period to 30

1 years.

2 Much of the negotiations that went on in the  
3 Tuckasegee Stakeholders meetings were done on the basis of a  
4 30-year time period, although that was never -- although we  
5 couldn't get Duke to commit to that in those meetings, and  
6 also 30 years is a long time to go without regulatory  
7 oversight, so we would ask for a 30-year limit on the  
8 licensing period.

9 And --

10 MS. SMYTHE: You can supplement in writing.

11 MR. WHEELER: I think that's it, and we will  
12 submit a statement in writing, and we thank you very much  
13 for allowing us to come and talk tonight.

14 MS. SMYTHE: Thank you. Time goes fast, doesn't  
15 it?

16 MR. WHEELER: We had a lot of points.

17 MS. SMYTHE: You had a lot to say. Okay, thank  
18 you very much. John Beckman.

19 MR. BECKMAN: I'm John Beckman from Silva. Good  
20 evening. First, thank you to the Commission and to all  
21 those present, for being a part of what I feel is a very  
22 important process.

23 My name is John Beckman, and I'm a Jackson County  
24 resident. I'm neither a powerful politician with  
25 connections in high places, nor a scholarly scientist with a

1 full understanding of the thousands of specifics related to  
2 these watersheds, nor a legal expert in the area of  
3 hydropower generation mitigation contract settlement.

4 I am but one small voice like thousands of others  
5 who live, work, and raise our families in the areas impacted  
6 by Duke's use of our common waterways.

7 I was raised like many others to believe that  
8 when you use something that belongs to your neighbors, you  
9 always do your best to return in better condition than when  
10 you borrowed it. By doing so, you ensure that those people  
11 feel thanked and respected for their courtesy, and that you,  
12 too, would strive to be a good neighbor.

13 I may be naive to think that this kind of logic  
14 should apply to large corporations and thousands of acres of  
15 land, but feel that the same thanks and respect are due,  
16 regardless of what is borrowed or who it is borrowed by.

17 I cannot begin to address the many particulars  
18 that the proposed mitigation package has presented, in the  
19 time allowed, but I can say with full confidence that the  
20 overriding question in this issue is one of justice.

21 Does this document provide justice for all  
22 concerned, including those who are to inherit this place and  
23 these waters in the future when everyone in this room is  
24 gone?

25 It is our responsibility to ensure that the

1 generations coming after us, bless rather than curse us for  
2 our decisions and our actions here, and that they see that  
3 justice for all was, indeed, served, to the best of our  
4 combined efforts.

5 This ability to ensure that equal justice is  
6 done, is truly the key to any mutual acceptance of terms and  
7 conditions for the continued use of the entire region's  
8 common property.

9 I don't believe that there is anyone on any side  
10 of this discussion that hopes to see the other side harmed  
11 or swindled out of what is right and just compensation.

12 I ask that the members of this FERC panel and  
13 those involved in this discussion, reexamine each aspect  
14 with an emphasis on justice for all being served, not  
15 circumvented.

16 With rights, come responsibilities, and like any  
17 borrower, a power generating agency should be held  
18 accountable for its impacts on the waterways it uses. There  
19 is a responsibility to provide minimum water flows to  
20 support fish and wildlife habitat in all areas under its  
21 control, including the Bonus Defeat area on the East Fork of  
22 the Tuckasegee River.

23 There is a responsibility to perform mandatory  
24 inspections and maintenance on all areas that are impacted  
25 by their use, including regular dredging at dam

1       impoundments, and to adhere to minimum requirements as  
2       designated by FERC and other regulatory bodies.

3               There is a responsibility to protect the quality  
4       of the water, profitably used by Duke Power in its  
5       operations. These would include: Erosion, recreation, storm  
6       water control, water temperature and turbidity changes,  
7       habitat impairments, and streamside restoration, among  
8       others.

9               It would appear from this document as though  
10       efforts are being made by the user to shrug these  
11       responsibilities. This document refers repeatedly to  
12       pledges by the user for services to be provided, if proven  
13       needed or otherwise at the discretion and design of Duke  
14       Power -- not County Government nor its citizens, nor by  
15       other governmental or scientific agencies.

16               The language contained in this document would  
17       allow for some of the stated obligations by the user to  
18       become options, rather than mandates, to be implemented or  
19       not at Duke Power's discretion.

20               There is something terribly wrong when agreed-  
21       upon obligations are made no longer binding. They fail to  
22       remain as obligations or compensation at all.

23               I would recommend that language within this  
24       document be changed to state that any and all agreed-upon  
25       compensation be made by the user in full to the receiver,

1 according to a specific timetable.

2 I have reviewed only a portion of the document  
3 regarding a one-time payment by the user, which specifically  
4 lists, with restrictions, \$200,000 for riparian habitat  
5 restoration, \$200,000 for soil and water conservation  
6 efforts, \$350,000 for recreation development in Jackson  
7 County, \$40,000 for native trout restoration, and \$40,00 for  
8 sickle-fin Red Horse research.

9 While these funds would make a significant  
10 contribution to the ongoing efforts that will be required  
11 for monitoring and maintenance of the impacted water race,  
12 they fail to ensure that such work will be able to continue  
13 during the full 40 years of this agreement.

14 I would recommend that the language in the  
15 document be changed to state that these figures be used as  
16 annual payment amounts by the user during the life of the  
17 contract, rather than a one-time payment without regulation  
18 or control -- excuse me -- rather than one-time payment as  
19 payment amounts by the user during the life of the contract  
20 and how such monies are spent on river-related projects,  
21 being determined by the County, without regulation or  
22 control by the user.

23 Such an amount would provide for the cost of  
24 annual basic services to those within the watershed, to  
25 maintain and improve the river basin and its tributaries for

1 residents and visitors during the entire contract period.

2 Should these figures seem unreasonable to the  
3 user, I would recommend that the licensing period be reduced  
4 from 40 years to 20 years, allowing for evaluation and  
5 renegotiation of payment amounts by the user at that time,  
6 based on 20 years collected actual cost data.

7 The residents of this region do not have another  
8 watershed or river to retreat to, should this system be  
9 impaired by the water's use for power generation, and  
10 neither do we have another opportunity in this generation to  
11 ensure that this common natural resource can remain healthy  
12 and useful to all in the coming decades.

13 It is imperative that this Committee act in the  
14 best interest of the citizens in the mountain region at  
15 large and those downstream from us, who receive what we send  
16 out, and to require in their decision that justice, indeed,  
17 be served for all. Thank you.

18 MS. SMYTHE: And our last speaker who is  
19 registered to speak is Jeff Darnell, and after that, we'll  
20 open the floor.

21 MR. DARNELL: Well, I'm the only one that thought  
22 enough of the Tuckasegee River -- now, everybody loves it;  
23 we're from the mountains, but I wore some of it here  
24 tonight.

25 (Laughter.)

1                   MR. DARNELL: I come from Darnell Farms and I've  
2                   been cleaning up some of that good flood we had from the  
3                   great Tuckasegee that flooded from the two great storms  
4                   we've had, and I wanted to commend Duke Power. They done a  
5                   great job controlling that flood.

6                   There are a lot of issues here tonight. I see  
7                   people coming from a lot of issues, and I'm just an old  
8                   mountain boy that likes to farm that river. I love that  
9                   river, I love that soil. I can taste it. I see that sign  
10                  just over there, and I can taste that silt loam that's  
11                  coming out of that Dillsboro Dam right now.

12                  It's good, arable land. We need it in the right  
13                  place. So, dig it out; don't let it go down the river so we  
14                  have to try to filter it to irrigate, and let's use that  
15                  stuff. That's capital.

16                  The thing I wanted to tell you is, we've got to  
17                  get along. People in these mountains love these mountains.  
18                  Whether you move in to here, whether you're a scientist,  
19                  somebody that's with the Clean Water Trust Fund, or if  
20                  you're an old mountain man that lives on the back of a hill,  
21                  you love these mountains.

22                  A lot of times, he can't come in here and  
23                  articulate that, but we want you to -- you folks that come  
24                  in from Washington, to get the idea that we love this land.  
25                  Different people have different ways of showing it or

1 talking about it, maybe, but if you can, I want you -- the  
2 flood control -- and I started with that -- we had a bad  
3 flood.

4 And there's people on both sides of these  
5 counties that got killed, did they not? I mean, Macon  
6 County had people that died; Haywood County had people die;  
7 Canton got washed away, and I don't know how many acre lake  
8 is Glenville -- how many acre lake is Glenville? Has  
9 anybody got it on top of their head?

10 PARTICIPANT: Fifteen hundred.

11 MR. DARNELL: Fifteen hundred acres. How many  
12 feet of water did they catch on one or two of those storms?  
13 Does anybody know? Duke, do you know it right there, the  
14 Duke Power? The cut 11 feet, I heard.

15 If you had taken that 11 feet of water, there's  
16 not 1500 acres of bottom land in Swain Count, flat, arable  
17 land, and 11 feet of water would have washed it away.

18 The five or ten or 20 million that Thorp and them  
19 built back 100 years ago, I mean 50 years ago when they  
20 built those dams, that would have -- you would have been a  
21 half a billion dollars rebuilding this area. So you've got  
22 to take care of that flood control. That saves people's  
23 lives.

24 I know that just it. If you don't believe it, go  
25 to both counties. People died, and people die in floods in

1       these mountains, because you're coming off of 6,000 feet  
2       down to 1,000 feet, but we all know there's no displacement  
3       in the Dillsboro Dam, is there?

4                   I mean, that ain't flood control, but --  
5       (Laughter.)

6                   MR. DARNELL: But, you know, move it, gosh, help  
7       us move it. I mean, I'm for all of that, and as far as --  
8       don't let the silt go down the river, though, because you're  
9       just going to transfer it to Fontana Lake and it's probably  
10      going to be going and I'm going to be pumping out there this  
11      summer, trying to grow a tomato crop, and if I'm going  
12      through that river, I'll get chocolate, and I'm going to try  
13      to filter the silt out of that.

14                   I'm an environmentalist, but I farm, so that  
15      makes me a polluter, okay?

16                   (Laughter.)

17                   MR. DARNELL: I'm sorry. I love the land, but I  
18      use fertilizers, and we know where they're going to end up.  
19      I'm here to be part of helping, but we all live with a  
20      certain business hypocrisy. We all want to save the land,  
21      but we want to drive a new car; we don't want to cut trees,  
22      but we want to live in a \$300,000 house.

23                   (Laughter.)

24                   MR. DARNELL: I live in a \$300,000 -- well, I  
25      live in a \$50 --

1 (Laughter.)

2 MR. DARNELL: Courtrooms make me nervous anyway.

3 (Laughter.)

4 MR. DARNELL: But the silt -- we love the land,  
5 whether -- by the way, that Tuckasegee River was -- when  
6 William Barker came through here in 1700, that was I-40 to  
7 the Cherokee Nation. They had canoes on down this river  
8 that would hold 50 people, so the people who want to restore  
9 that river and make it pretty and have a walkway, god love  
10 you, because you'll get a lot of reverence out of that  
11 river.

12 So, Duke, help them do it. I mean, Duke done a  
13 great job saving the Tuckasegee on this side, because  
14 without those dams, we would have gotten washed away.

15 I only have one problem with what they did, and  
16 I'm picking on my friend back here because he's got a Duke  
17 shirt on, and I know he works for them -- the information  
18 age. Every time when it floods in the past, I'd call up  
19 524-21412; is that it, Duke Power's office in Franklin? I  
20 think it is.

21 PARTICIPANTS: Keep calling it.

22 (Laughter.)

23 MR. DARNELL: It transferred to Thorpe  
24 powerhouse, right? And I get me a guy over there, and I'd  
25 say, hey, how many cubic feet of water are you having to let

1 go tonight? Oh, Jeff, it's all right, ma, we just had to  
2 open up a foot and you're getting so many cubic feet, so I'm  
3 all right.

4 I'd know where I was at. I'd move a pump, I  
5 wouldn't move a pump, I'd take some tractors and go -- you  
6 know, you've got different levels and you move your stuff.  
7 You've got to remember, we're in the flood plain.

8 Bryson City is in the flood plain. Cullowee is  
9 in the flood plain. I mean, you're either in a flood plain  
10 in these mountains, or you're on the side of a mountain  
11 going to get in a slide.

12 (Laughter.)

13 MR. DARNELL: But that's a risk. We're either in  
14 a 100-year flood plain or a 50-year flood plain. Of course,  
15 when we farm it, we like to take those rich alluvium soils,  
16 but when it comes a flash flood, of course, I couldn't go to  
17 that now; they changed around. You had to go the website.

18 Well, okay, I can crank a computer up a little  
19 bit. Guess what? The website was down.

20 That was the only criticism I had. I didn't know  
21 how much water was coming at me. Of course, I'd have  
22 somebody run through, saying, there's a tidal wave a'coming.

23 You know, if you start believing everything you  
24 hear, you don't want -- please let us know what is coming  
25 down that river. That's all I ask you. Make it where we --

1

2

I used to be able to just go -- that's the only criticism and I can't handle it because if you go over there, on both sides of us, they got washed away.

3

4

5

The information age, that's the only thing. Sometimes the information age ain't got a lot of information in it, sometimes.

6

7

(Laughter.)

8

9

MR. DARNELL: I was a little bit annoyed at 2:00 in the morning, wondering if I was going to get up and get washed away.

10

11

12

The only thing is, like I say, whether you're an old mountain man or an old farm boy or whether you're a great botanist -- I seen this gentleman over here that was a great -- he told me his field of study, and I just marveled at that.

13

14

15

We're all here because we love the mountains, and if you could help us take care of them, whoever the parties are in charge, and Duke and the federal people, if you can help us, we'd really appreciate it. Thank you very much.

16

17

(Applause.)

18

MS. SMYTHE: Would you state your name, please.

19

MR. DARNELL: Jeff Darnell, Darnell Farms.

20

MS. SMYTHE: Thank you very much, Jeff. Okay,

21

now we have some time and we can open the floor up to the

22

1 general populous here, as hand are raised. You have to come  
2 up here, please.

3 AUDIENCE QUESTION: I only have a very short  
4 question, which is -- is there some way that we can get a  
5 complete document of the study that you did? Is it  
6 available for us to have tonight or before tomorrow?

7 MR. PITILLO: The document is not written. I'd  
8 have to give you the outline.

9 MS. ADAMS: Okay, how would I get that?

10 MR. PITILLO: Do you want the outline?

11 MS. ADAMS: Whatever you have.

12 MR. PITILLO: Give us your e-mail address.

13 MS. ADAMS: I'd sort of like to have it before  
14 9:00 tomorrow.

15 And I do have a couple of questions that you  
16 probably can answer off the top of your head. How many  
17 sites did you test on Lake Glenville?

18 MR. PITILLO: Okay, we looked at seven sites.

19 MS. ADAMS: And do you know how many miles that  
20 entailed?

21 MR. PITILLO: It's not miles.

22 MS. ADAMS: Well, there's 26 miles of shoreline.

23 MR. PITILLO: Okay, it's not miles. I did seven  
24 sites. There's two sets or two 50-meter lengths, so it's 50  
25 meters for each of those seven sites.

1                   MS. ADAMS: Fifty meters, okay. And do you have  
2 any idea of when that land was cleared? Did you have any  
3 records of any of that.

4                   MR. PITILLO: No, I do not.

5                   MS. ADAMS: I think the only other question I had  
6 was, there was some information mentioned about water  
7 quality. Do you have records of the water quality of Lake  
8 Glenville?

9                   MR. PITILLO: I do not.

10                  MS. ADAMS: Okay.

11                  MR. PITILLO: I did vegetation studies.

12                  MS. ADAMS: Okay, thank you.

13                  MS. SMYTHE: Anybody else? Okay.

14                  MR. LYONS: I'm Still Bill Lyons. This time, I'm  
15 a little different. We've got a lot of recreation people.  
16 We've got a lot of recreation, we've got a lot of Duke  
17 Power's dollars in water flows and things.

18                   I'd like to side with the little guy every once  
19 in awhile. Folks on the East Fork, they want to use the  
20 river for recreation, and they don't get flows during the  
21 day. They all go to Dillsboro.

22                   I don't really think that's necessarily fair. I  
23 don't even think it's right. I don't know what can be done  
24 about it, but I think somebody ought to take a look at it.

25                   There is at least one outfitter that works the

1 East Fork, and a whole lot of little independent folks,  
2 mostly students from Western Carolina that go up there and  
3 try to use that part of the river.

4 And they deserve a little water, too. And that's  
5 really all I came up there. But, Carol, if you want any  
6 more information, I'll try to give you what I can.

7 MS. SMYTHE: Thank you. Anybody else?

8 (No response.)

9 MS. SMYTHE: Well, if we have no more questions,  
10 I'll just remind you that -- you're likely to go home and  
11 read some of these materials and come up with something that  
12 you want to comment upon, and you can certainly do that.

13 And as I mentioned earlier, if you pick up one of  
14 the scoping documents, in Section 3, we give you the  
15 address, if you want to mail something, and we give you the  
16 e-mail addresses and we give you the websites, if you want  
17 to make an e-filing.

18 So you can communicate your concerns, your  
19 suggestions, or any information that you have that you think  
20 we don't. If you're finished your report and you think we  
21 can use it, please file it. Everything will be on the  
22 public record, and is accessible at the website, which is  
23 described in the scoping document.

24 We appreciate very much, all of your time and  
25 effort to come out, and if you're interested in commenting

1 on the West Fork, that's tomorrow.

2 (Whereupon, at 8:00 p.m., the scoping meeting was  
3 concluded.)

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