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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

- - - - -x
IN THE MATTER OF: : Project Number:
NIAGRA PROJECT RELICENSING : P-2216-066
- - - - -x

Niagra Falls High School
Amphitheater
4455 Porter Road
Niagra Falls, New York

Thursday, August 17, 2006

The above-entitled matter came on for scoping
meeting, pursuant to notice, at 2:00 p.m.

BEFORE:
STEVE KARTALIA, FERC

P R O C E E D I N G S

(2:00 p.m.)

1
2
3 MR. KARTALIA: Welcome to the public meeting for
4 the Niagara Project draft Environmental Impact Statement.
5 My name is Steve Kartalia. I'm the FERC coordinator for the
6 NEPA review of the Power Authority's application. I have
7 two other FERC staff here from the Commission.

8 MR. YEORICK: My name is Vince Yeorick. I'm in
9 the Office of Energy Projects, Division of Hydropower
10 Licensing also at FERC from Washington and we also have John
11 Costello who is on our staff here with us as well.

12 MR. KARTALIA: The reason for this reason is
13 twofold. Primarily, for the Commission staff to receive
14 comments on the draft Environmental Impact Statement that
15 was issued in the middle of July. And secondarily, if time
16 permitting, will be a Question & Answering period at the end
17 if you all have questions that you'd like us to answer or
18 things to clarify.

19 I'd just like to go over a few real brief meeting
20 ground rules. This meeting is being recorded by a court
21 reporter so that it can become an official part of the
22 record. It's important that we have the rules to make sure
23 we get an accurate record. The court reporter is right
24 here. There are microphones throughout the room. The only
25 way your comments will get into the record will be to use

1 the microphone, otherwise the court reporter can't hear you.

2 If you wish to speak -- I know some of you have
3 already indicated you want to on the registration forms and
4 we'll start with those folks -- if you want to speak after
5 those folks have spoken, just raise your hand and we'll get
6 you a microphone or you can walk to the aisle. When you
7 speak, please identify yourself and spell your name so that
8 the court reporter can put that in the record and try to
9 speak loudly and clearly. And if you are representing
10 someone and would like to identify that, that's the time to
11 do that.

12 Along the lines of why we're here, this is part
13 of our National Environmental Policy Act review of the Power
14 Authority's application, the NEPA application, the NEPA
15 process. Just to take you quickly through, starting in
16 December of '02 through the end of '03, there were several
17 licensing process meetings where stakeholders met and then
18 the Commission held scoping meeting almost exactly three
19 years ago in August of 2003.

20 In August of 2005, the Power Authority filed
21 their application accompanied by a settlement that was
22 actually several settlements. July 14th of last month of
23 this year we issued our Draft Environmental Impact
24 Statement. The comment deadline for the draft Environmental
25 Impact Statement is September 19th. You may make comments

1 any time up until then, either verbally here or written
2 comments or both. Our target for issuing the final
3 Environmental Impact Statement is the end of this year and
4 the final Environmental Impact Statement will include
5 responses to comments made on the draft. Then that will set
6 the stage for the Commission to make a decision on
7 licensing.

8 In our draft Environmental Impact Statement,
9 which was mailed both in CD form and hard copy paper form to
10 the mailing list, the document goes through several
11 sections. Our conclusions and recommendations are in
12 Section 5 of the document. If you did not receive a copy of
13 the DEIS and you'd like to leave here tonight with one, we
14 have some copies. If you'd like other copies or would like
15 to make sure you're on the mailing list for the FEIS, you
16 should fill out a registration form indicating that. The
17 environmental analysis was contained in Section 3 of the
18 DEIS.

19 In addition to getting copies of the draft or
20 final EIS, you should know that any issuances and filings
21 under this proceeding are available on our website if you go
22 to www.FERC.gov and you follow the link for E-library, you
23 can see the entire record of filings and issuances by the
24 Commission. So that's another way. If you don't want the
25 hard copy, you can go to the website and download the

1 portions of it that you want.

2 Since the purpose of the meeting is to receive
3 your input, I want to get right to that and I've already got
4 a stack of comments -- got a stack of registration forms
5 from people who indicated they want to speak. So I would
6 just like to start going through that list and then anyone
7 else who would like to speak can just follow after that.

8 Would Douglas Taylor like to speak now? You can
9 go to one of the mikes in the aisles or we can get you one
10 if you're in the middle somewhere.

11 (Pause.)

12 MR. KARTALIA: I'm sorry. Pastor Joseph Jones?

13 PASTOR JONES: Good afternoon. Thank you for an
14 opportunity to speak on an issue concerning the city and the
15 community of Niagara Falls. My name is Pastor Joseph H.
16 Jones. I live at 2714 10th Street in Niagara Falls. I'm
17 speaking on behalf of the members of the Niagara Improvement
18 Association African American Community. The name stands for
19 improving the lives and condition of the city. You have our
20 letter of intervention and we met with you in 2005. We
21 oppose the Niagara Power Authority's relicensing because we
22 believe that there has been an oversight in your
23 implementation of your 50-year funding policies for the low-
24 cost power and human concern, especially in the African
25 American community.

1 Did you know that you gave 55 municipalities as
2 far as Connecticut, Cleveland, Ohio, and Buffalo and the
3 surrounding counties and states funding and have overlooked
4 the poorest community of all less than one mile from the
5 main power plant with the highest rate of unemployment in
6 the state per capita? We don't want to go back to the water
7 that ran over the bridge, but move forward and try to plug
8 up the leaks. This is why we are working closely with Dr.
9 Henry Taylor of the State University of New York Buffalo
10 Urban studies and the City of Niagara Falls and surrounding
11 communities to bring back a once valuable community, the
12 Holland Avenue area, and lack of concern caused it to
13 deteriorate. But the implementation of a 50-year funding
14 plan will cause it to grow again. Thank you.

15 MR. KARTALIA: Thank you.

16 Wyndola McClain?

17 MS. McCLAIN: Good afternoon. My name is Wyndola
18 McClain. I live at 5160 Military Road in the town of
19 Lewistown. I resided there for exactly 20 years. I am
20 currently an employee of the Power Authority Niagara Project
21 with almost 28 years of service. I come before you today to
22 express my deepest concerns regarding the hiring, promotion
23 and firing of African Americans. Also, outraged at the
24 blatant and open discrimination practices there. I have
25 heard, observed and been a victim of these long-tolerated

1 Jim Crow tactics. For too long this has been accepted and
2 condoned at the Niagara Project.

3 They will tell you they don't discriminate, but
4 the facts and the figures speak for themselves. Management
5 has been known to lie to and discourage Blacks from entering
6 the workforce there, especially Black males. I think it is
7 a shame and a disgrace in this day and age to have to
8 confront and bring before the public this kind of conduct
9 that the Niagara Project and their history of
10 discrimination.

11 For those of you who might ask the question "Have
12 you gone to management with your concerns?" The answer is
13 yes on many occasions. We have attended many meetings to no
14 avail. Promises were made and never kept. At one
15 particular meeting a group of Black employees, including
16 myself, asked the resident manager about the lack of hiring
17 minorities at that time. His reply was "Do you want me to
18 lower the standards?" How brazen and insulting for a public
19 entity that is suppose to serve all people it is serving
20 only certain people. People of color have been and still
21 are left out of the loop. Before the Authority gets a
22 renewed license, they need to clean up their act and gain
23 some respect from all the communities they serve, including
24 minority ones. They say they are committed to saving and
25 maintaining jobs in our area. The plant is located a

1 stone's throw from one of the areas with the highest
2 unemployment rate in Western New York. Out of a reported
3 341 employees, only 19 are African Americans and 2 Native
4 American.

5 Taking into consideration the close proximity of
6 surrounding cities such as Niagara Falls, Buffalo, Lot Port,
7 et cetera, it is a very disheartening portrait painted that
8 portrays the project for what it is, racist. The Authority
9 must cease from shutting the door on certain individuals for
10 employment opportunities because of the color of their skin
11 or their last names. The discrimination and ill-treatment
12 of Blacks will no longer be tolerated. Under no
13 circumstances will we, as a people, stand by and see our
14 families and neighbors passed over and ignored for
15 employment. We expect the Authority to take the lead and be
16 an example for our children and the world to see. Only then
17 can we make this world a better place to live in.

18 My expressions and comments mirror the majority
19 of the few Blacks employed at the Niagara Project. Thank
20 you for this time and thank you for listening.

21 MR. KARTALIA: Thank you.

22 William Ross?

23 MR. ROSS: My name is William L. Ross, R-O-S-S,
24 chairman of the Niagara County Legislature, president of the
25 Niagara Power Coalition. Good afternoon representatives of

1 the Federal Energy Regulatory Committee [stet], the New York
2 Power Authority, state and local agencies, non-governmental
3 organizations and of course, elected officials and certainly
4 in this room many interested citizens.

5 As chairman of the Niagara County Legislature and
6 president of the Niagara Power Coalition, I'm here today to
7 express my support for NEPA relicensing proposal for the
8 Niagara Power Project and the associated settlement
9 agreements. The Niagara Power Project, which is the largest
10 single source of safe, clean, and reliable renewable power
11 in the Northeast, provides electricity to thousands of homes
12 and businesses throughout our region.

13 In addition, the comprehensive package of
14 settlement agreements represents NEPA's commitment to the
15 various interests represented throughout our relicensing
16 region. The settlement reached with the Niagara Power
17 Coalition will bring financial, economic and quality of life
18 benefits to Niagara County for the next 50 years.

19 First, the host community agreement will
20 compensate communities for the accommodation and resources
21 allocated to the project over the 50-year license. Money
22 from this settlement agreement will support recreation
23 projects, tourism enhancements and create opportunities for
24 economic development. Second, the Greenway Funds have been
25 allocated to implement the goals and objectives of the

1 Niagara River Greenway. As part of the Greenway settlement,
2 Niagara County will strive to create upland and inland
3 connections to the Niagara River. A Greenway plan is
4 currently being developed to identify how the region's
5 parks, trail systems and green spaces can be interconnected
6 as means of providing increased opportunities for
7 recreation, tourism interpretation.

8 Greenway projects will link people with these
9 resources and attractions and build upon under utilized
10 assets our communities have to offer. Complimentary to the
11 Greenway effort habitat improvement projects will be
12 implemented to mitigate the negative impacts of fluctuating
13 water levels have had on aquatic environment. These
14 projects will help to reduce shoreline erosion, rejuvenate
15 fish populations, improve water quality. When all is said
16 and done, the Greenway will create a healthier environment
17 and make our communities a better place to live and work.

18 Lastly, low-cost power is yet another benefit the
19 Niagara Power Project brings to Niagara County. As part of
20 the agreement with NEPA low-cost hydroelectric power would
21 be allocated to the county for economic development and
22 retention of businesses in our region. This power will save
23 not only taxpayer dollars, it will also save jobs from
24 leaving Niagara County.

25 FERC's staff should be commended for their in

1 depth, comprehensive analysis of the impact of NEPA's
2 relicensing proposal and coordination of studies that have
3 lead to the development of the draft Environmental Impact
4 Statement. This report represents thousands of hours of
5 research and analysis on issues from aquatic ecosystems to
6 aesthetic resources and adequately addresses the impacts of
7 the project relative to the requirements of the National
8 Environmental Policy Act.

9 And now at this critical juncture in the
10 relicensing of the Niagara Power Project I encourage FERC to
11 continue the support the NEPA's relicensing alternative.
12 This project and the associated settlement agreements
13 provide a host of social economic benefits to the Niagara
14 regions. Let's assure that future generations can take
15 advantage of these opportunities. Thank you.

16 MR. KARTALIA: Thank you.

17 Shirley Hamilton?

18 MS. HAMILTON: My name is Shirley Hamilton. I
19 live at 1155 Ontario Avenue, Niagara Falls, New York and I
20 am representing the Economic Development Group, EDG. The
21 Economic Development Group or EDG, Inc., was formed in 1999
22 to participate in high-value employment initiatives for New
23 York State Niagara Frontier, particularly, assisting
24 opportunities for the under represented in Western New York.
25 Our president, Kevin Donovan, along with several other

1 members of our organization have been involved from the
2 beginning with alternative relicensing process for the
3 Niagara Project.

4 After attending FERC outreach meetings under the
5 then hydro director, Tom Dewitt, we assisted in the creation
6 of the Western New York Relicensing Consensus Committee,
7 which was intended to assist FERC in obtaining community
8 input regarding the issues related to the operations of the
9 Niagara Project for the duration of the next license.

10 The EDG has taken careful note of the challenge
11 that FERC has to balance developmental and non-developmental
12 interests while approving a license that is in the best
13 public interest, both economically and environmentally. We
14 do not lay the socioeconomic factors exclusively at the
15 doorstep of NEPA's Niagara Project even though many of these
16 sites were former NEPA customers. There are over 40
17 contaminated sites comprising nearly 700 contaminated acres
18 in the 2.6 mile distance between NEPA's water intakes on the
19 Upper River and the Niagara Project in Lewistown. The EPA
20 Brownfield Showcase Coalition supports linking Brownfield's
21 restoration to the economic and social and ecological
22 restoration of the Niagara River, Buffalo River, 18-mile
23 creek watershed as well as Brownfield's Erie Canal.

24 The EPA regards the Niagara region as one of the
25 worst in the country by virtue of the density of

1 Brownfield's and high percentage of poverty within viewing
2 distance of the Niagara Project. None of the settlements
3 thus far have addressed correcting the socioeconomic
4 environmental injustice of this public interest of these
5 living in poverty virtually in the shadows of the Niagara
6 Project. The EDG is requesting that a settlement for
7 environmental justice be inclusive of the African American
8 community and the new license consider what is in the public
9 interest in accordance with the Federal Power Act cross-
10 referenced with the socioeconomic conditions in the
11 periphery of the Niagara Project. Thank you.

12 MR. KARTALIA: Thank you.

13 James Hufnagel?

14 MR. HUFNAGEL: James Hufnagel, 225 Ontario
15 Street, Wilson, New York 14172. I oppose this package -- H-
16 U-F-N-A-G-E-L. We oppose this package -- I'm here
17 representing Niagara Heritage Partnership. We oppose this
18 package because it does not address the access road that
19 cuts Devil's Hole State Park in half. It does not address
20 the Robert Moses Parkway, remediation for that parkway
21 taking up 6 miles of valuable gorge real estate and it does
22 not compensate us for the mile of Niagara Gorge that was
23 destroyed for building the power project. There should be
24 more in this environmental package than simple water levels
25 and the impact of water levels. It's tremendous damage to

1 the area around the gorge.

2 But in the final analysis, Patackie raised \$7
3 million for George Bush's reelection. Does anyone doubt
4 that the federal government will approve this pathetic deal
5 that we're going to be stuck with for the next 50 years.
6 Thank you.

7 MR. KARTALIA: Peter McMahon.

8 MR. McMAHON: Good afternoon. My name is Peter
9 McMahon. That's spelled M-C-M-A-H-O-N. I'm the supervisor
10 for the Town of Grand Island. And for those of you who
11 don't know, the northwest corner of Grand Island is only
12 about a thousand, 1500 feet from the Niagara Power Project
13 intakes.

14 My comments today will be necessarily brief. We
15 engaged an internationally recognized consulting firm who
16 will submit detailed comments prior to the close of the
17 public comment period. However, I'd like to mention a
18 couple of issues just to make sure they become a part of the
19 formal record. There are at least two significant issues
20 which I don't believe have been adequately considered during
21 the licensing process. At the end of July, July 24th to be
22 specific, the newest update to the Lake Erie Management Plan
23 was released.

24 This plan is the result of a cooperative effort
25 between the United States Environmental Protection Agency,

1 Environment Canada, various state and local governments
2 around Lake Erie, the shipping industry, sports fishing
3 interests, academics and other environmental organizations.
4 The 2006 report predicts, among other things, a drop in
5 water levels of as much as 39 inches by the Year 2070. Dan
6 Reardon, who manages the US EPA's Great Lakes National
7 Program Office in Chicago said, and I quote, "The agency
8 recognizes the views of experts who predict the lake will
9 shrink. They've done the math and I would trust the math."

10 The other recent significant event is Ontario
11 Hydro's project to construct a larger intake. The world
12 largest hard-rock boring machine was recently brought to the
13 Canadian side of the river. Work is underway to drill a new
14 tunnel for Ontario Hydro. Now unless they're already taking
15 the maximum allowable flow out of the river -- and if they
16 are, why would they bore a larger tunnel -- now when that
17 project is complete, there will be additional environment
18 impacts on many of the stakeholders, including Grand Island.
19 And while this is not a NEPA project, it is certainly part
20 of the cumulative impact of the power project.

21 In their studies the NEPA studies attempted to
22 minimize the issues of erosion, siltation, and fluctuating
23 water levels. And yet, the facts are these New York State
24 recently spent a half million dollars to remediate erosion
25 and siltation on a few hundred feet of shoreline on the

1 southeast corner of Grand Island. More than \$1 million was
2 spent to control erosion on Strawberry Island in the Town of
3 Tonawanda and more than \$1 million was spent in the last
4 couple of years to reduce the impact of water level
5 fluctuations in Burntship Creek on Grand Island --
6 fluctuations that were destroying valuable habitat and
7 irreplaceable wetlands. If erosion and siltation and water
8 level fluctuations are not issues, why are we spending so
9 much money?

10 None of those projects has reduced or eliminated
11 impacts on Gun Creek or Spicer Creek or Big Six or Little
12 Six creeks or any of the other tributaries to the Niagara
13 River. None of those projects involve the reduction of
14 elimination of those impacts on the approximately 10 miles
15 of Grand Island shoreland, which is in private ownership.

16 The alternative licensing process is designed to
17 allow the applicant, in this case NEPA and the stakeholders,
18 to negotiate their differences in good faith. NEPA has met
19 with us but refuses to enter into substantive discussions
20 with us. We do not believe the ALP is working the way its
21 supposed to work. The DEIS mentions these issues in
22 connection with Grand Island. There's no mention of them in
23 connection with Erie County or the City of Buffalo. NEPA
24 has negotiated and settled with Erie County and Buffalo and
25 still refuses to negotiate with us. It defies logic that

1 there could be impacts requiring compensation in Niagara
2 County, which is north of us and in Buffalo, which is south
3 of us and yet there are none in the middle on Grand Island
4 or the other communities that are in the PPC. Thank you.

5 MR. KARTALIA: Thank you.

6 Kelly Brannen?

7 MR. BRANNEN: Hi, my name's Kelly Brannen -- and
8 for the reporter I can give you a copy of my notes. My name
9 is Kelly Brannen. I am managing director of NIAECT
10 Corporation and I am chairman of the Power for Economic
11 Prosperity or PEO Group. PEP is a coalition of 23
12 manufacturing companies which are located in Erie and
13 Niagara Counties. These companies purchase low-cost
14 hydropower that is generated at the Niagara Project. There
15 are approximately 105 businesses, including the PEP members,
16 that purchase this low-cost hydropower known as replacement
17 power and expansion power. PEP has been active in the
18 Niagara Project relicensing in order to ensure that the low-
19 cost hydropower that the member companies currently purchase
20 will continue to be available to them in the future.

21 I appreciate the opportunity to provide comments
22 to the Federal Energy Regulatory Commission staff on the
23 Niagara Project draft Environmental Impact Statement. PEP's
24 comments today are limited solely to the socioeconomic
25 section of the draft Environmental Impact Statement. The

1 socioeconomic section demonstrates the value of the Niagara
2 Project to the local economy and establishes the positive
3 economic impact for the replacement power and expansion
4 power customers. It recognizes that businesses that receive
5 replacement power and expansion power employ over 43,000
6 workers. The draft Environmental Impact Statement indicates
7 that replacement power and expansion power companies' jobs
8 along with their economic multiplier effect add up to
9 172,600 jobs in New York State. Ninety-four percent of
10 those jobs, 162,800 are in Western New York and most of
11 those jobs, over 150,000 of them are in Erie and Niagara
12 counties.

13 The draft statement shows that the replacement
14 power and expansion power customers have a total annual
15 payroll of approximately \$2.1 billion. Taken into account
16 the multiplier effect, the impact on the state of the
17 replacement power and expansion power companies is an
18 additional \$8.1 billion of personal income. Most of that
19 impact is in Western New York where the effect is \$7.6
20 billion in personal income.

21 The draft Environmental Impact Statement
22 accurately reflects the positive economic impact of the
23 replacement power and expansion power companies job on the
24 local economy. The draft Environmental Impact Statement
25 correctly states that the economic impact of replacement and

1 expansion power companies is due to their access to low-cost
2 power.

3 Speaking on behalf of the 23 PEP member
4 companies, it is essential to the local economy that the
5 industries currently located in Western New York that
6 purchase low-cost hydropower stay here. To protect the
7 regional economy it is necessary for those companies to
8 continue to receive Niagara Project hydropower and it is
9 crucial that that power remain low-cost. This will help the
10 manufacturing companies located in Niagara and Erie counties
11 to stay competitive in the global economy and maintain their
12 operations.

13 The draft Environmental Impact Statement
14 concludes that socioeconomic benefits of the project have
15 accrued to the local area and region during the past license
16 term. In order for those benefits to continue through the
17 term of the new license, the PEP member companies will work
18 with the Power Authority to ensure that replacement power
19 and expansion power will continue to be available to the
20 current customers located in the Buffalo and Niagara Falls
21 region. Thank you.

22 MR. KARTALIA: Thank you.

23 Kevin Brocks?

24 MR. BROCKS: Good afternoon. Good afternoon
25 everyone. My name is Kevin Brocks. I'm with the law firm

1 of --. I'm here with Carl Lutz, who is the superintendent
2 of public works at the Village of Springville and Carl is
3 the officer of the Municipal Electric Utilities Association
4 who has been responsible for our efforts in the relicensing
5 proceeding.

6 We are here on behalf of the Municipal Electric
7 Utilities Association of the New York, the MUA. The MUA is
8 comprised of 42 municipal electric utility systems in New
9 York most of whom are located upstate. The MUA has
10 participated in the Niagara relicensing progress or process
11 since Day One. We have participated in every meeting,
12 analyzed every study and we joined the settlement in this
13 case. The MUA systems are all community-based public power
14 systems owned by the people they serve.

15 In 2002, Carl Lutz, speaking to the first meeting
16 of the alternative licensing process participants said that
17 MUA would not only be there at the ALP and through the
18 issuance of a license, but for the term of the license. The
19 MUA members would be members with NEPA as their customers
20 long after this process is done. This process has real
21 long-term consequences for these communities. I want to
22 congratulate the parties who have worked so hard to arrive
23 at a settlement. I want to especially congratulate the FERC
24 staff for its professional and first-rate, really first-rate
25 DEIS. It is comprehensive and it is complete. We have gone

1 over this DEIS carefully and has concluded that it addresses
2 every single aspect of the environmental impact of the
3 project.

4 As the DEIS has noted repeatedly, a great deal of
5 the settlement dollars in this case are no-sense mitigation
6 of environmental impacts, but are community development
7 grants. NEPA is being a good neighbor and we support that.
8 The hundreds of millions of dollars which NEPA will devote
9 to environmental projects go well beyond -- we believe way
10 beyond anything reasonably called for by the impact of this
11 project.

12 Take, for example, the effect of water level
13 fluctuations. The study show that the project has less
14 effect than do wind and boats. It's on page 28 of the DEIS.
15 Yes, NEPA's devoting tens of millions of dollars to
16 environmental projects in that area. Now at this stage, all
17 the participants in the ALP have agreed that the settlement
18 is in the public interest and no further steps are
19 warranted. The record demonstrates that no further
20 expenditures are warranted. FERC staff in the DEIS has
21 correctly concluded that no further steps are warranted.
22 The DEIS is well-supported and we do not believe any
23 material changes are needed for the final DEIS.

24 In conclusion, the MUA strongly supports NEPA's
25 application for relicensing. The process has worked. The

1 years of meetings, studies, comments, negotiation has
2 afforded more than ample opportunity for all interested
3 parties to meaningfully participate. Now it is time to
4 bring the hard work to a conclusion, finalize the DEIS,
5 adopt the settlements and grant NEPA's application. Thank
6 you.

7 MR. KARTALIA: Thank you.

8 Ronald Moline?

9 MR. MOLINE: My name is Ronald H. Moline. I am
10 supervisor of the Town of Tonawanda. The Town of Tonawanda
11 is one of five municipalities that has joined the Public
12 Power Coalition. There will be a presentation made by
13 Amherst Supervisor Setish Mohan on behalf of the Public
14 Power Coalition, but we are also speaking individually on
15 the impacts of the Niagara Power Project on our communities.

16 We believe that the draft Environmental Impact
17 Statement has very significant shortcomings and ignores
18 important impacts on our municipalities. We believe that it
19 ignores environmental impacts. We believe that it ignores
20 financial impacts. We believe that it ignores economic
21 development impacts and we believe that it ignores
22 socioeconomic impacts on our communities, which comprises
23 about 260,000 people in both Niagara and Erie counties.

24 In addition to the comments and information that
25 will be provided in a presentation by Supervisor Mohan on

1 the impacts of the Niagara Power Project on the Public Power
2 Coalition communities, I would like to emphasize for a few
3 minutes some impacts on the Town of Tonawanda. Impacts of
4 the existing operations of the Niagara Power Project and
5 certainly impacts that will continue if this relicensing
6 procedure is approved as it presently stands.

7 On the subject of environmental impacts, the
8 western boundary of the Town of Tonawanda is the Niagara
9 River. With approximately 6 miles of shoreline, the Town of
10 Tonawanda is therefore a community on the Niagara River that
11 has experienced the same negative impacts as municipalities
12 that have been involved in settlement discussions to date
13 water level and flow fluctuations, excessive sedimentation
14 and turbidity, fluctuation in water temperature and
15 shoreline erosions. These factors have and will continue to
16 effect water-dependent activities and facilities in the Town
17 of Tonawanda. As a matter of fact, on Monday the Town Board
18 approved projects totaling \$375,000 involving shoreline
19 erosion on the Niagara River and fluctuating water levels,
20 specifically, we are making improvements to our small boat
21 harbor and to Aqua Lane Park. In the case of the small boat
22 harbor, sometimes water levels are so low at that point that
23 boats cannot be launched. And in the case of Aqua Lane
24 Park, there were serious erosion issues on the shores that
25 have to be addressed.

1 The financial impacts of the project are also
2 significant and not covered in the draft Environmental
3 Impact Statement that we are here to talk about today. The
4 town's tertiary waste water treatment plant was constructed
5 in 1978 at a cost of \$68 million. Obviously, a major
6 commitment to preserving the water quality of the Niagara
7 River to the benefit of downstream communities and the New
8 York Power Authority. Since then treatment costs have risen
9 dramatically where the costs have risen for the maintenance
10 and replacement of equipment and for chemicals needed in
11 treatment processes and of course, for the cost of electric
12 power. The total cost for environment protection of the
13 Niagara River for the Town Tonawanda in 2005 was \$6.3
14 million. The cost of electricity for the waste water
15 treatment plants and lip stations was \$1.7 million.
16 Taxpayers in the City of Tonawanda and the Village of
17 Kenmore also contribute to these O&M costs for the waste
18 water treatment plant.

19 The town also owns and operates a water treatment
20 plant that has experienced significant increases in electric
21 power and chemical costs. The continuing cleanup of New
22 York State's waters comes with an enormous price tag in both
23 increased capital expenditures of rehabilitation of existing
24 facilities as well as providing funding to meet new
25 regulatory requirements promulgated by the federal and state

1 governments. The Town of Tonawanda should be compensated by
2 NEPA for maintaining an asset, the Niagara River, from which
3 NEPA derives such an immense financial benefit.

4 In the area of economic development, the cost of
5 electric power for residents and businesses in the Town of
6 Tonawanda are among the highest in the nation, even though
7 we are within 15 miles of the Niagara Power Project's
8 generating plant. Our residents are not getting replacement
9 or expansion power. They're paying the full price and that
10 price is among the highest rates in the country.

11 Although several industries in the Town of
12 Tonawanda do benefit from lower cost replacement and
13 expansion power, the availability of low-cost power should
14 give all of our businesses in this region a competitive
15 advantage in a global economy.

16 In response to high utility rates and other
17 costly mandates in the State of New York, many businesses
18 seek other incentives that often remove properties from tax
19 roles in our communities. We have also experienced the same
20 negative effects that the City of Niagara Falls has
21 experienced with, to a large degree, the loss of a world-
22 class tourist destination, Niagara Falls. Again, partly
23 because of the environmental impact of the project. Due to
24 negative effects of the project, the population of Erie
25 County, Niagara County have declined contrary to promises

1 and projections made 50 years ago when the project was
2 originally licensed.

3 We are greatly concerned about the loss of one-
4 third of the manufacturing jobs in Western New York over the
5 last 15 years while we generate such a significant amount of
6 electric power for commercial purposes. Without attaining
7 the economic growth that was envisioned 50 year ago, our
8 young people often have to leave in search of hope and
9 opportunity elsewhere. This pattern contributes to a
10 vicious cycle -- a loss of tourism, loss of jobs have
11 resulted in lower incomes for the community, which, in turn,
12 results in higher expenses and lower revenues for our local
13 governments, which, in turn, results in a further out
14 migrating of the younger and more affluent working families.
15 This cycle goes on and on.

16 While specifically there are considerations that
17 should be extended to the public power coalition
18 communities, NEPA should provide a fair share of its
19 generated power to PPC communities and residents to make up
20 for failed promises and to stimulate the economy, thus
21 reducing the pressures on higher property taxes. And NEPA
22 should include the PPC communities in settlements based on
23 our proximity to the Niagara River and the economic
24 environmental, socioeconomic and other impacts that are
25 being discussed. Thank you very much.

1 I might add -- I mentioned that this draft
2 ignores impacts to five large communities. I also want to
3 add a thought on this 50-year license business. NEPA has
4 asked for, but does not deserve a 50-year license. A 30-
5 year license are the norm for relicensing. Fifty-year
6 licenses are issued only in cases where a new project is
7 being constructed or where extensive mitigation is being
8 offered. In this case, NEPA is not proposing an action that
9 would justify more than a 30-year license. NEPA is not
10 proposing to change project operations or upgrade the
11 project, which means for the next 50 years communities are
12 going to be stuck with the same project, even if there are
13 opportunities for new technology to make changes that would
14 increase project output. And NEPA claims there are no
15 adverse impacts so it cannot argue that it is providing
16 extensive mitigation.

17 I might add that the value of all of the
18 settlement packages to date constitutes only a small portion
19 of NEPA's overall revenues. The Public Power Coalition is
20 opposed to the issuance of a 50-year license. Thank you.

21 MR. KARTALIA: Thank you.

22 Jim Jublonsky?

23 MR. JUBLONSKY: Thank you. My name is Jim
24 Jublonsky. I'm the executive director of the Public Power
25 Association of New Jersey. I've already handed in a copy of

1 my comments.

2 On behalf of the neighboring state customers of
3 Niagara Power Project, I'm here to comment in support of the
4 draft Environmental Impact Statement. By executive order of
5 the governor of the State of New Jersey, our association
6 serves as bargaining agent for New Jersey regarding the
7 allocation of Niagara Project power to the Garden State.
8 We've participated in the relicensing process since its
9 inception and we've attended just about all of the meetings
10 held. I have, in addition to being the executive director
11 of our state association, served as chair of the Neighboring
12 State Customers Group throughout the relicensing process,
13 and those states are Connecticut, Vermont, Pennsylvania,
14 Rhode Island, Massachusetts and of course, New Jersey.

15 Together, with the staff of the Authority, we've
16 negotiated a settlement agreement that's been made part of
17 the pending license application. That settlement agreement
18 will simply serve to administer the out-of-state allocations
19 that are required by federal law under the Niagara
20 Redevelopment Act and that Act, of course, includes what's
21 known as a preference clause which says that a certain
22 percentage of the power and energy produced at Niagara must
23 go to municipal and cooperative systems, including within
24 economic transmission distance.

25 As long-standing rate payers, we support the

1 DEIS. Upon final approval of the draft, the entire
2 settlement package and an issuance of a new license to the
3 Authority, our bill payments will help to support the
4 implementation of the EIS in this region. We respectfully
5 request that the Commission approve the EIS, resolve and act
6 on any other outstanding issues and that the relicensing
7 process continue on schedule so that a new license may be
8 issues on or about August 31, 2007.

9 The neighboring state customers look forward to
10 the completion of the process and a continuation of our
11 long-standing and valued relationship with the State of New
12 York. Thank you.

13 MR. KARTALIA: Thank you.

14 Lawrence Soos? I apologize if I got that wrong.

15 MR. SOOS: Hello. My name is Lawrence V. Soos,
16 S-O-O-S. I'm the mayor of the City of North Tonawanda, New
17 York. We are the 16th largest city in New York and the
18 second largest city in the County of Erie. I too am opposed
19 to a 50 year relicensing agreement with the New York Power
20 Authority. I think it's uncalled for. I think it's not
21 substantiated in any of their letters. Both my colleagues,
22 Mr. McMahon from Grand Island and Mr. Moline from the
23 Tonawanda just spoke on issues that I wanted to speak on and
24 Mr. Mohan from the Town of Amherst, Dr. Mohan is going to
25 make a Powerpoint presentation at the end of this program.

1 So I really won't dwell on the actual economic impacts or
2 the actual or the precise amounts.

3 What I would like to talk about is how politics
4 seem to play such a big, important part in this relicensing
5 and this is what disturbs me the most. We've had people
6 here from New Jersey saying they've got a great deal. They
7 want this thing to go through. I wonder what they're paying
8 for power compared to what we're paying in Western New York?
9 Okay. We have people here who are speaking about they're
10 happy with the settlement because they already settled. We
11 have five communities that represent 260,000 people and NEPA
12 came to the table with us once. And when they came to the
13 table they spoke of that we should go to the host
14 communities and ask them for money or they will get money
15 appropriated for us out of the Greenway package.

16 They said you're going to get turn nest, you're
17 going to get off free nest. You know, that's not going to
18 help our cities out. That's not going to help North
19 Tonawanda, which is right on the river. Our west side of
20 our city is all river, Niagara River, okay. We have
21 suffered a great economic impact and they're offering us
22 peanuts. They're telling us go to the Greenway Commission
23 and seek money. Okay, we're not one of the host
24 communities. Just my city alone, North Tonawanda is going
25 have to go and beg some place from the Greenway people for

1 the people of North Tonawanda to help us out. And if
2 politics plays true the way I know they probably will in the
3 State of New York, okay, it's going to trickle down and
4 eventually the people are going to be disbursing this money
5 will probably be the county legislature. Okay. And it
6 doesn't matter who's in control. If the democrats are in
7 control or the republicans -- right now the republicans are
8 in control, okay. But no matter who's in control, the mayor
9 of a city, if he's in the opposite party, he's going to have
10 to kiss their butt to get a dime. And this ain't the way it
11 should be. We should get our own money and spend it the way
12 we want to spend it. And NEPA has to come to the table.
13 The Greenway money, read today's Buffalo paper. Okay.
14 Greenway projects may need grants. Now if the current plan
15 goes through, I'm going to have to beg somebody for some
16 money and hopefully they'll give me some money. Now when I
17 get it, I'm going to have to show matching money. Where's
18 that money going to come from? The host communities are
19 going to do great with this. They're going to have matching
20 money. They're already getting settlements, okay. And our
21 community, if we don't get something, NEPA's going to suffer
22 because the other communities, especially Niagara County
23 because that's where our county is situated, are going to be
24 having funding to help out their school systems, with their
25 waste water plants, with their water treatment plants, okay.

1 They're cost are going to go down while our costs are going
2 to go up. Or their costs will stay stable and our costs
3 will go up. When our costs go up, our taxes go up. More
4 people will flee my city. Okay. I'm totally against this
5 agreement and I'll leave it at that. Thank you.

6 MR. KARTALIA: Thank you.

7 James Briggs?

8 MR. BRIGGS: My name is James Briggs and I've
9 been a resident of Niagara County and the Town of Lewistown
10 for most of my life. The last name is spelled B-R-I-G-G-S.

11 I've heard a lot of people come to the mike
12 tonight and talk about getting involved in the issues around
13 the New York State Power Authority when the relicensing
14 started. I've been involved since 1990 and the system has
15 failed up. And the sad part is it really hasn't failed Jim
16 Briggs. I'm not here for me. 1990 when I got involved, I
17 went to the Buffalo Convention Center and I believe Rapple
18 was the chairman of the Power Authority at the time, and I
19 picked up a pamphlet and it said, "New York State Power
20 Authority Staying Power Companies Bethlehem Steel -- anybody
21 remember them -- Union Carbide -- anybody remember them?
22 Oxy, a shadow of itself today with roughly 175 employees.

23 The last 50 years hasn't worked. Why would you
24 be considering a plan for the next 50 years that patterns
25 the last 50? It's not going to work. The truth is, in 1990

1 when the county manager, Bill Ross, was teaching school in
2 1990 at Niagara Field High School and telling the kids "hey,
3 work hard, get an education, go find a job." It was already
4 failing then. It was failing then. There's no audit system
5 in place. I preached the audit. I wrote to Mr. Lavaney I
6 said there's no system in place for good paying jobs -- the
7 Goodyears, the Duress. Goodyear Corporation pays \$20 an
8 hour on average, pays their entire employee's health care,
9 pays their health care when they retire. They can't get
10 low-cost power.

11 Duress, same thing -- \$20 an hour wages, pays
12 most of the employees' benefits. They can't get power. The
13 plant was on the verge of closing. I wrote a letter to Mr.
14 Lavaney and I said we need to address retention. I always
15 hear about this retention. I've been to many meetings with
16 Mike Costello. He does one heck of a job. He does
17 everything he can do and I want to give him credit. But the
18 real savings for high energy use companies is power. And if
19 they're not hiring or creating, they can't get it and
20 there's nothing built into this relicensing process to allow
21 that. And the other thing that there isn't is an audit
22 system. There's companies today -- I dealt with a company
23 in recent bargaining that for three years has wrote letters
24 to the Power Authority requesting a waiver on their minimum
25 staffing and gotten it. We're suppose to be creating jobs.

1 We hear about economic growth -- are we blind? If we're
2 going to approve this license and one recommendation I can
3 make to FERC is you should have the Power Authority buy
4 every baby born a set of luggage because they're going to
5 need it. Look at our population now. It's getting older.
6 The young people are leaving under this system and I oppose
7 the relicensing for the next generations. Thank you.

8 MR. KARTALIA: Thank you.

9 Paul Flach?

10 MR. FLACH: Good afternoon. My name is Paul
11 Flach, F-L-A-C-H. I'm the executive director of the Chamber
12 of Commerce of the Tonawandas. We are also in opposition to
13 the relicensing of this plant. In October of 2005, the
14 Chamber of Commerce of the Tonawandas filed its motion to
15 intervene in the relicensing of the Niagara Power Plant with
16 FERC. The core of that motion seeks to intervene on behalf
17 of all the businesses and residences located within a 30
18 mile radius of the Niagara Power Plant because they have not
19 been given low-cost power for the last 50 years as promised
20 in the original license agreement. Instead, New York State
21 has the second highest electric rates in the U.S. The
22 result has been a dramatic loss of business and population
23 over the last 50 years and continued increases in electric
24 rates, even though Western New York serves as host to the
25 power project.

1 The Chamber has found no evidence that any of the
2 negotiations or settlements to date will result in the
3 lowering of electric rates to the businesses and residents
4 within a 30-mile radius of the plant. Western New York
5 cannot afford to continue to pay exorbitant electric rates
6 and still host the power project for another 50 years. As a
7 result, the Chamber believes that the only way to honor the
8 original commitment to Western New York from the power plant
9 is to have the federal government or a regional
10 stakeholder's group operate the plant. Thank you.

11 MR. KARTALIA: Thank you.

12 Mary Cooke?

13 MS. COOKE: I'm Mary Cooke, councilmember from
14 the Town of Grand Island. Cooke is spelled C-O-O-K-E. The
15 Town of Grand Island lies directly between the east and west
16 channels of the Niagara River in Erie County, New York. The
17 population of our town in 2000 was 18,621. Several
18 tributaries located in the town are affected by water levels
19 and conditions in the Niagara River. These include Woods
20 Creek, Gun Creek, Spicer Creek and Big Six Mile Creek.
21 Erosion and sedimentation affect the Niagara River all
22 around Grand Island as well as the creeks that are tributary
23 to it. The two longest continuous reaches of erosion of the
24 Niagara River were identified at the north end of Grand
25 Island at Buckhorn Island and on the east side of Grand

1 Island opposite Tonawanda Island.

2 Private residences have also been affected as
3 homeowners must either dredge or move their docks in
4 response to the erosion and sedimentation that have
5 occurred. Both processes are extremely expensive. You've
6 already heard about the amounts of money spent on projects
7 to control and mediate erosion and sedimentation from our
8 town supervisor.

9 The shoreline of Grand Island has between 450 and
10 620 parcels impacted to different degrees by the 100-year
11 flood plain. The regulation of waters for power production
12 have most likely been a contributing factor to the inclusion
13 of these lands into this hazard zone. Impacts on the
14 community cannot be ignored as rates for insurance coverage
15 under the National Flood Insurance Program can be
16 substantial and have been escalating in the past years.

17 The construction of transmission facilities from
18 the project has essentially cut the Town of Grand Island in
19 half. The facilities cut a 128.7 acre swath through the
20 town and lie within lands that would have sustained medium
21 to high density development as much of this land is within
22 sewer districts. The corridor has not only taken up
23 valuable land, but has also literally bisected properties
24 making them impossible to ever develop. The potential tax-
25 based loss cannot be dismissed nor can the negative effects

1 of this infrastructure be ignored as a handicap to
2 development because of the negative effects of being
3 adjacent to these facilities.

4 The DEIS mentions some of these issues in
5 connection with Grand Island. NEPA has met with us but
6 refuses to enter into negotiations with Grand Island. With
7 our entire town bordering the Niagara River, it is
8 impossible to imagine that Grand Island does not deserve
9 attention from NEPA regarding these and other impacts.
10 Thank you.

11 MR. KARTALIA: Thank you.

12 Crandall Johnson?

13 MR. JOHNSON: My name is Crandall Johnson. I'm a
14 member of the Tuscarora Indian Nation and a member of the
15 Deer Clan. In '54 it first started our negotiations with
16 the general counsel in the tribe. They delegated the --
17 Robert Moses sent this man to our house to negotiate with
18 original people landholders in the reservoir area and
19 somehow we've -- the authority to renegotiate this next
20 lease it was never -- we never had a chance to negotiate yet
21 with the Power Authority.

22 I'm standing here with a couple -- my deeds and
23 my father's deeds -- who's passed away -- Chief Tracey
24 Johnson -- we negotiated directly at our house on our land
25 with this man called George B. Shaw, land acquisition, for

1 the state power authority. To this day, I have met with no
2 one from the state power authority and I showed up at every
3 one of these meetings with my 100-year-old deeds. We've
4 never been compensated. The Power Authority took these
5 transmission lines, put it on 4 acres of our land, condemn
6 our house and they took 13 acres of Jill Creek from Garlow
7 Road to the end of the reservation line, which is under
8 water now.

9 In 1958, when they take this land from us, the
10 eels and the turtles and the fish could no longer come up to
11 Jill Creek to spawn to estuary that is our great swamp that
12 is the aquifer for everybody's well, shallow well on our
13 reservation. When they run the power lines through this
14 great swamp and they failed -- when they relocated the
15 creek, they changed elevation and installed three damns all
16 the way and it's never been rectified yet. The fish and the
17 eels came back to be the fingerling and feed of the estuary.
18 The birds, the whole flocks of migratory has changed with
19 the swath cut in the middle of our swamp.

20 When the negotiations took place, I was present
21 when the 250 state troopers invaded our land to start
22 surveying processes for this reservoir. We lost this
23 negotiating ability with the original landholders. Somehow
24 we've never had a chance to negotiate yet and I've never
25 been in a spot to negotiate with them for further contract

1 or lease as they put it. And right now we don't have any
2 kind of compensation or type of settlement agreement for our
3 land that was taken 50 years ago. If there was, there
4 should a receipt of some sort that compensation was taken
5 care of and that we've been justifiable done. We lost our
6 home through eminent domain and we've been relocated and
7 it's great. But we still don't have access to the flowing
8 water of Jill Creek that ran through our property and this
9 cycle through the environment has never been made whole
10 again since the Power Authority.

11 When the original negotiations took place we were
12 -- the Tuscarora Nation was still under the threat of
13 termination by New York State to terminate all six nation
14 tribes because they knew the Power Authority and this whole
15 project was coming through, even to the threat if we didn't
16 take what we got from our lawyer, Arthur J. Lazareth, in
17 1958 told us at the general council that under the threat of
18 national security they would even take our land. So our
19 chances of winning are nil. So I'm advising you to
20 negotiate with whatever offer they give you and we had to
21 take what we got. This time it came up and we haven't even
22 been given an opportunity to negotiate yet. And as far as
23 getting the Jill Creek to function as an estuary and a full
24 fish run, it's never been rectified yet. To this day we're
25 buying water. Our water table has been ruined. We've never

1 had no -- I've been buying water myself and my mother passed
2 away. She was buying water. And throughout all these
3 negotiations, we've been kept in a bind and we're the
4 original landholders and I'd like some of these questions by
5 FERC before you go any further to deal with original
6 landholders who sacrificed 14 or 15 acres for 15 years with
7 the creek running through it we could have made some kind of
8 living or economic plus. And this way here the situation
9 we're at I personally have been overlooked and been to every
10 one of these meeting when they address me as a landholder.
11 I have a history and pictures of when they first came to our
12 reservation and negotiated with the original landholders.
13 And I'd like these questions answered by FERC as to this
14 situation can be corrected. Thank you.

15 MR. KARTALIA: Thank you.

16 Douglas Anderson?

17 MR. ANDERSON: Yes, my name is Ambassador Douglas
18 S. Anderson. I'm the Tuscarora Land Road Commissioner and
19 I'm here and complaining. I have a complaint against the
20 Federal Energy Regulatory Commission and I talk about the
21 Tuscarora Nation Landholders Coalition. I'm charging
22 against the Power Authority of the State of New York Power
23 Authority, the Niagara Power Project, FERC Project No. 2216-
24 0066, Robert Moses Niagara Power Plant, Robert Moses
25 Parkway, the Seneca Nation of Indians, Tonawanda Seneca

1 Nation of Indians and the Tuscarora Nation, collectively,
2 nations.

3 The Supreme Court of the United States October
4 term 1958, No. 384, the Tuscarora Nation of Indians, also
5 known as the Tuscarora Indian Nation, what happened to the
6 Indians of the Tuscarora Nation -- the new settlement?

7 Now we talk about the Clean Water Act, under the
8 reservoir there's radioactive material. And there's no
9 where, no process that you can tell me, FERC can tell me
10 that there's not seepage from the water into our land. And
11 because there is water seepage, you also have environmental
12 damages to the nation. We're asking 12.5 percent gross
13 profit for that litigation.

14 The Department of Energy there is radioactive
15 material. You have electromagnetic fields. The people that
16 live next to Garlow Road have died. They're dying off and I
17 believe it's caused because of the chemicals that are from
18 the reservoir. Now the reservoir has meetings and those
19 meetings are closed-door meetings with a few people. Those
20 few people are known as the "federally recognized Indian
21 leaders" and if you ask those Indian leaders are you
22 federally recognized, they'll tell you yes. Well, the
23 problem with the federally recognized Indians is that -- and
24 in a Supreme Court decision 1913, U.S. v. Sandoval,
25 federally recognized Indians are inferior, simple and

1 uninformed people. I'm not a federally recognized person.
2 I'm a treaty person. And as a treaty person, we're saying
3 that the reservoir has contaminated our land and there's
4 other issues that talk about international treaties.

5 Canada and the United States stopped our
6 international trade and commerce and the power -- the
7 Federal Power Act of 1920 talks about trading intercourse
8 with foreign nations, states. They don't talk about the
9 Indians. But yet -- and the Constitution of the United
10 States they talk about - Article 3 talks about treaties and
11 it talks about commerce and trade dealing with foreign
12 nations, states and Indians. So you can see that in 1920
13 the Federal Power Act was discriminating and prejudice and
14 racist as they have always been.

15 Now I have a paper that I'll be serving on you,
16 not right now or not later, but in time I'll be serving
17 papers with you to implement environmental degradation and
18 human right violations. When you guys went in there and you
19 dug up the graves under the -- the graves out there on
20 sections of the Tuscarora Nation. That desecration of
21 graves. That's a human right violation. I just charged the
22 United States in 2005 I sent papers to the United Nations
23 that talks about desecration of graves and it was dealing in
24 Rochester, New York, a town there called Mount Morris, where
25 they dug up the graves there and they moved it to a place

1 called Tonanjaha, Victor. Where they want to put the ones
2 in there now today and I oppose that. I believe that when
3 someone is buried it should be for the rest of their live,
4 eternally.

5 And I have a lot of questions to ask and I'd like
6 a lot of questions answered by FERC.

7 MR. KARTALIA: Thank you.

8 Don Supon, Supon?

9 MR. SUPON: My name is Don Supon, spelled S-U-P-
10 O-N. I live at 2831 Lewistown Road, Niagara Falls, New York
11 and I'm hear to speak about what I've been reading in the
12 newspapers about the fish and habitat enhancement and
13 restoration fund being eliminated.

14 I belong to the Niagara River Anglers
15 Association. I'm director there and I am the chairman or
16 the coordinator of the Wallaye Rearing Pond. We have
17 acreage to use in the Town of Lewistown on Boomer Road and
18 for the past 22 years we have been receiving newly hatched
19 wildlife, fish eggs that are less than five days old. We
20 rear them for 58 days and then release them into the Niagara
21 River to improve the wildlife fishery there.

22 My opposition to your -- to FERC's lack of
23 funding the Fish and Habitat Enhancement Fund is simply --
24 well, it's in two phases. First of all, there are eight
25 recommended sites for funding and they're all in the upper

1 river. There is nothing for the lower river and we have
2 been providing a service there for 22 years as I've already
3 mentioned.

4 We are at the present time -- at this moment
5 there's a bulldozer running, cleaning out some of our ponds
6 to try and reconstitute them for next year. We are in dire
7 need of funding to at least maintain what we have and we
8 have an existing plan in writing, done twice. The last
9 issue was in 2002 to redesign these plans at a very
10 extensive monetary amount. If you eliminate that funding
11 for the Enhancement Act, then our possible source of funding
12 will be dried up. So I recommend that you reinstall that as
13 it was originally planned. Thank you.

14 MR. KARTALIA: Thank you.

15 Just as a point of clarification, this is one of
16 the things I actually have some expertise in. I'm a
17 fisheries biologist. But just to clarify, the Habitat
18 Enhancement and Restoration Fund is also a mandatory
19 requirement of the 404 water quality certificate. So if a
20 license is issued for the project, it would have to include
21 that fund.

22 Renee Kimball?

23 MS. KIMBALL: Thank you for holding public
24 comments on the draft Environmental Impact Statement for the
25 renewal of the license for the Niagara Project, No. 2216066

1 located on the Niagara River in Niagara County, New York.

2 I am Renee Kimball, Niagara County legislator
3 representing the Second Legislative District in the City of
4 Niagara Falls and I am also the vice president of the
5 Niagara Improvement Association, which filed an intervention
6 to protest the approval and granting of the Niagara
7 Project's application to the Federal Energy Regulatory
8 Commission to relicense the project.

9 On page 4 of the draft Environmental Impact
10 Statement, Section 1.3.2, Interventions, the Niagara
11 Improvement Association is listed as an intervenor.
12 However, we would like a correction as we are intervenors in
13 opposition to the license, which are supposed to be marked
14 with an asterisk. There is no asterisk after the Niagara
15 Improvement Association. Please make that correction on the
16 final Environmental Impact Statement.

17 I, as the elected representative of the Second
18 Legislative District in the County of Niagara, where the
19 Highland Avenue Community is located and the Niagara
20 Improvement Association are representing the interest of the
21 African American community of the Highland Avenue area in
22 this process. To quote Robert D. Bullard, Ph.D., Director
23 of the Environmental Justice Resource Center at Clark
24 University in Atlanta, Georgia, "All communities are not
25 created equal. If a community happens to be poor, Black or

1 of color, it receives less protection than does an affluent
2 White community."

3 The environmental justice framework defines
4 "environment" as where we live, work, play, worship and go
5 to school as to where the physical and natural world.
6 Environmental justice is built on the principle that all
7 Americans have a right to equal protection of our nation's
8 environment, health, housing, transportation, employment and
9 civil rights law and regulations. Environmental protection
10 is a basic human right.

11 Executive Order 12898, federal actions to address
12 environmental justice in minority populations and low-income
13 populations mandated federal government agencies to
14 incorporate environmental justice into all their works and
15 programs. In order to address these concerns, any policy,
16 practice or directive that differentiates, affects or
17 disadvantage, whether intended or unintended individuals,
18 groups or communities, based on color or race is considered
19 environmental racism. Environmental racism combines with
20 public policies and industry practice to provide benefits
21 for Whites while shifting costs to people of color.

22 There is a clear link among race, poverty, land
23 use, environment risk and unequal protection with the
24 Niagara application for relicensing with FERC. Poverty
25 impacts health because it determines how many resources poor

1 people have and defines the amount of environmental risks
2 they will be exposed to in their immediate environment.

3 Today I plan to tell the story of the African
4 American community that sits in the shadows of the Niagara
5 Power Authority. The Niagara Power Authority is continuing
6 to perpetrate a system of environmental racism,
7 discrimination in its hiring and promotion practices, a
8 system of political patronized and blatant arrogance with
9 its dismissive attitude of the concerns raised by the
10 African American community when it states in this draft
11 Environmental Impact Statement in the analysis of the
12 demands made by the Niagara Improvement Association when it
13 states, and I quote, "We do not believe there would be
14 disproportionately high and adverse health or environmental
15 effects on minority, low-income populations or Indian tribes
16 from continuing to operate the Niagara Project. The project
17 produces a large amount of clear, renewable and relatively
18 low-cost electricity that helps reduce the need for fossil
19 fuel generation. The project also directly employs over 300
20 people."

21 It goes on to say, and I quote, "While we would
22 agree that the availability of the low-cost power likely
23 attracted industry to the Niagara region, it isn't clear to
24 us how continuing to operate the project is connected to
25 those industries and their associated jobs leaving the

1 area."

2 Let me explain it and then show it to you. The
3 Power Authority has failed to be good stewards in Niagara
4 County. There has been a failure in accordance to the Power
5 Authority Act to require their customers to reinvest in
6 their facilities which has resulted in the devastation in
7 our community from brownfields, our marketable land and
8 abandoned plant structures. Some of the Power Authority
9 customers which receive low-cost power allocations use the
10 savings and profits made from receiving low-cost power to
11 reinvest in new facilities outside of Niagara County and
12 outside of New York State.

13 The exodus of these good living wage jobs created
14 massive permanent job losses, vacant and abandoned plant
15 structures and numerous brownfields in the Highland Avenue
16 community. The result of this unmarketable land in which no
17 new business entity will come to our community to create new
18 jobs due to the extraordinarily high cost of cleanup of the
19 land, the unmarketable brownfields.

20 A picture speaks a thousand words. Well, just
21 look at the pictures of the Highland Avenue area that has
22 been decimated by the job loss. Many are former Power
23 Authority customers. And we have over a hundred pictures
24 there. We will also provide this to you later in disk form
25 -- substantial evidence of project-related adverse impacts.

1 In accordance to the state of the region performance
2 indicators for the Buffalo-Niagara region in the 21st
3 Century prepared by the Institute for Local Governance and
4 Regional Growth, State University of New York at Buffalo,
5 and I quote, "Actual or perceived environmental damage at a
6 vacant site poses a significant barrier to its
7 redevelopment. Purchases of such sites, which are called
8 brownfields, maybe legally responsible for the cleanup of
9 any discovered contaminates. Consequently, investors may
10 choose to locate development projects in new green sites
11 often promoting urban sprawl. Thus, the purchase of
12 brownfields not only weakens a community's employment and
13 tax base, but also may contribute to further environmental
14 problems."

15 The City of Niagara Falls, New York designated
16 specific zones in 1988 to start up businesses by targeting
17 business growth in 1990s due to the fact that two business
18 giants, Union Carbide and Chishom Ryder moved off the
19 Highland Avenue in the late 1970s and the early 1980s.
20 Hundreds of jobs were lost. The economic development zone
21 which marketed providing business incentives designated to
22 reduce basic operating cost, reduce hydro cost, New York
23 State wage and tax credits, the New York investment tax
24 credits, 50 percent of business refundable wage and
25 investment tax provision, a New York State grant and the

1 City of Niagara Falls matching grant of \$53,000 each to fund
2 a zone brought in tenants like Coates Library Services,
3 medical biotech and Big Ness Racing. These companies no
4 longer exist.

5 It is apparent that companies located in Census
6 Track 202, the Highland Avenue area or the City of Niagara
7 Falls empire zone that had power allocations from the New
8 York Power Authority have had to close their doors costing
9 hundreds, even thousands of job losses since the late 1970s.
10 Examples are the following: Carbon Graphite, 4861 Packer
11 Road, not located in Census Track 202, but located in the
12 empire development zone lost 200 jobs; Globe Metallurgical,
13 3807 Highland Avenue, located in Census Track 202, located
14 in the empire development zone lost 80 jobs; SGO Carbon,
15 6200 Niagara Falls Boulevard, not located in Census Track
16 202, located in the empire state development zone lost 150
17 jobs; Stratcor, 137 47th Street, not located in Census Track
18 202, located in the empire state development zone lost 50
19 jobs; Ucar Carbon, 3625 Highland Avenue, located in Census
20 Track 202, located in the empire state development zone lost
21 30 jobs; Nabisco, 920 Rainbow Boulevard was not in the
22 empire zone at the time of its closing in December 2001.
23 That property is now within the boundaries of the city's
24 empire zone, 240 jobs were lost with the closing of Nabisco,
25 which had an allocation of New York Power Authority

1 hydropower. Counting Nabisco, 750 jobs have been lost.
2 Without counting Nabisco, 510 jobs were lost when the above
3 companies that were closed were either within Census Tract
4 202, the Highland Avenue area, which is in the heart of the
5 African American community in the City of Niagara Falls or
6 within the City of Niagara Falls empire development zone.
7 All of these companies had an allocation of New York Power
8 Authority hydropower.

9 Given the fact that the Highland Avenue community
10 is located less than 1 mile from the New York State Power
11 Authority's Niagara Power Project and given the fact that
12 the City of Niagara Falls is located only within miles of
13 the New York State Power Authority's Niagara Power Project
14 it is unconscionable that our residents and local businesses
15 are paying some of the highest electricity rates in the
16 country and this area has lost hundreds, no thousands of
17 jobs since the late 1970s.

18 According to Dr. Henry Lewis Taylor, Jr.,
19 professor of the Department of Urban and Regional Planning
20 and director of the Center for Urban Studies at the State
21 University of New York at Buffalo, he states that the
22 Highland Avenue area or the African American community of
23 the City of Niagara Falls deserves help from the Power
24 Authority for its revitalization. Excerpts taken from an
25 article entitled "Highland Avenue Deserves Help from Power

1 Authority" the Buffalo News, Friday, March 10, 2006 and I
2 quote, "The activities of the New York Power Authority hurt
3 the Niagara Falls Highland Avenue Black community more than
4 any other locality in this region. Located in the
5 Authority's shadow this community of 2784 historically was
6 one of the most heavily industrialized neighborhoods in
7 Niagara County. In 1957 federal law created the Power
8 Authority with the primary intent of supporting the economic
9 development of municipalities in Western New York. Many
10 factories in Niagara County, which benefitted from the
11 Authority's low-cost hydroelectric power were located in or
12 near the Highland Avenue community. The closing of these
13 factories left about 15 brownfield sites scattered
14 throughout the 560-acre region. Niagara Falls will have to
15 cleanup and redevelop these sites before it can regenerate
16 Highland Avenue. This is a poor community with serious
17 problems. Unemployment is high. Almost half of the
18 population lives below the poverty line. The median
19 household income is only \$14,000 annual and only 22 percent
20 of the homes are owner occupied. The difficulties facing
21 this neighborhood will worsen unless the city implements a
22 well-conceived and well-funded community development
23 strategy. Where will the money come from? Niagara Falls is
24 a struggling city that has made downtown revitalization,
25 tourism and the casino resort development its top

1 priorities. See the City of Niagara Falls strategic master
2 business plan. The plan can be viewed at [www.Niagara Falls](http://www.NiagaraFallsUSA.org/tocv7-htm)
3 [USA.org/tocv7-htm](http://www.NiagaraFallsUSA.org/tocv7-htm)." And you will notice that the plan does
4 not include the Highland Avenue community.

5 The draft Environmental Impact Statement
6 continues to state on page 139, and I quote, "As we describe
7 above, there are several measures proposed by the Power
8 Authority and side agreements which could benefit local
9 communities including the City of Niagara Falls where the
10 Highland Avenue community is located. It would be the City
11 of Niagara Falls' decision to use some of those funds to
12 address Niagara Improvement Association concerns. The City
13 of Niagara Falls has a strategic master plan that has made
14 downtown revitalization its top priority." The master plan
15 fails to include any discussion regarding the revitalization
16 of the Highland Avenue community.

17 If the Power Authority can enter into an
18 agreement to work out a settlement for \$279 million for the
19 Buffalo waterfront 20 miles away, it can certainly sit down
20 with the leadership of the NIA and work out a settlement for
21 the revitalization of the Highland Avenue community, which
22 is less than 1 mile away. Environmental justice demands
23 that there be partnerships with affected residents of the
24 community and not a pass-the-buck mentality that the Power
25 Authority continues to perpetuate with its dismissive

1 attitude of "It's not our problem. Talk to the city." No,
2 since NEPA is the major root cause to the predicament that
3 our community finds itself in we have decided to talk to you
4 today, FERC officials, in hopes that you can talk to NEPA
5 about their obligation to be good stewards in the entire
6 community, not just certain parts of the community.

7 African American people have a right to a clean,
8 healthy, sustainable environment. We have a right to have
9 our needs addressed by the New York State Power Authority
10 and by FERC. This problem has not been adequately addressed
11 by the City of Niagara Falls for the past 50 years. Why
12 would it be addressed by the City of Niagara Falls now when
13 our community is not even mentioned in the city's master
14 strategic plan?

15 As Dr. Henry Taylor stated in an article to the
16 Buffalo News on Friday, March 10, 2006 and I further quote,
17 "It is incumbent upon the Authority to do the right thing,
18 set aside funds for the regeneration of Highland Avenue.
19 The Power Authority generates significant revenue in this
20 region and it should pay for the environmental by-products
21 spawned by its activities." The Authority possesses the
22 resources to fund the revitalization of this struggling
23 community situated in its shadow, therefore, it should work
24 out a settlement with the Highland Avenue community that is
25 similar to the one received by the Buffalo waterfront.

1 In 2000 in a letter date January 20, 2000,
2 written by me to the Honorable Andrew Quomo, then Secretary
3 of the United States Department of Housing and Urban
4 Development, seeking assistance for the devastation of the
5 Highland Avenue area community -- portions of the letter
6 reads as follows, and I quote, "The faith-based and new
7 markets initiatives developed by HUD for the revitalization
8 of severely depressed inner-city areas are revolutionary,
9 insightful and ignite hope for impoverished communities
10 throughout the nation, but especially here in the City of
11 Niagara Falls where I represent the poorest district in the
12 entire county of Niagara. My district has an African
13 American infant mortality rate which is as high, if not
14 higher, than the infant mortality rate war-torn Bosnia.

15 'African American babies are dying at a rate of
16 29.6 per 1000 births. The national target for African
17 Americans in 1997 was 11 baby deaths per 1000 births. The
18 national average was 13.7 deaths. Niagara County's figure
19 in my district is almost twice the national average. In my
20 district I have the city's oldest housing stocks, streets so
21 ravished that one would think that they were visiting a war
22 zone area in the middle of the Middle East or in Chechnya.
23 A review of the 1990 Census shows that Track 202, the
24 Highland Avenue area, which is in the heart of the district,
25 is the most distressed area of Niagara County. The

1 statistics point to a median family income of \$9706 with
2 over 50 percent of all the people who live in the Highland
3 Avenue community below poverty level. This compares to a
4 county-wide family median income of \$33,900 and 10 percent
5 of all persons living in the county living below poverty
6 level.

7 'Mr. Secretary, all of these grime statistics
8 indicate that we have a city in crisis. Niagara Falls, New
9 York is known as the honeymoon capital throughout the entire
10 world. In the 1960s our city once had a population of over
11 100,000 people. Today the population has declined to less
12 than 58,000 people due to the loss of business and industry"
13 -- and I might add that it is now less than 50,000 in the
14 Year 2006.

15 Now there are even questions regarding whether or
16 not the New York State Power Authority's deal to the Niagara
17 Coalition was a low-ball offer. A report by FMY Associates
18 of Las Altos, California was issued in March 2004 and it
19 recommended that the Power Coalition take \$4.4 billion in
20 cash in power over 50 years. The Coalition accepted a deal
21 worth \$1.1 billion. Ex-director of the Niagara Power
22 Coalition was quoted in the Buffalo news article dated
23 Tuesday, April 4, 2006 entitled "Embattled Zito defenses the
24 Power Project relicensing deal." "Zito said the figure was
25 unrealistic and would have caused the Power Authority to

1 raise the price of its electricity so much that the local
2 industry would have suffered a body blow. That is because
3 the Power Authority agreed to sell some of the Power
4 Project's output at a market rate to raise the cash it
5 agreed to pay to the coalition members as well as the \$279
6 million it later agreed to pay for the Buffalo Waterfront
7 Redevelopment."

8 If I were to have asked the Power Authority for
9 \$5 billion, what would have happened to the price of
10 electricity? It would have gone way up," Zito said. If
11 they had to pay that, it would have driven away industry out
12 of Western New York period. Since relicensing expenses are
13 a part of the cost of the Niagara Project, those costs
14 eventually will be reflected by the rates, including those
15 paid by Western New York businesses and industry," Power
16 Authority spokesman Michael E. Saltzman said.

17 The Niagara Power Authority is a not-for-profit
18 entity. Its annual revenues far exceeds most profitable,
19 tax-paying businesses annual revenues per year. The Niagara
20 Power Authority does not pay taxes and during the first 50
21 years of the Niagara Power Authority's license they have not
22 reimbursed nor lowered any customers rates. This means that
23 the Niagara Power Authority made billions, if not trillions
24 of dollars in total annual revenues during the past 50
25 years. To use the argument that any increase in the Power

1 Authority settlements would raise the rates is a misnomer
2 due to the fact that the system is set up in such a way that
3 the New York Power Authority makes more money producing
4 power on the grid than raising the rates on its customers.

5 The Buffalo news article written Saturday, April
6 1, 2006 entitled "Power Deal Deception" New York Power
7 Authority spokesman, Michael E. Saltzman, stated, and I
8 quote, "We have a long tradition of giving to Western New
9 York communities as a part of our responsible stewardship of
10 the Niagara Power Project dating back to the project's
11 construction," Saltzman says. "This is part of being a good
12 neighbor, a role we take seriously."

13 How can the Power Authority justify being a good
14 neighbor when it has ignored the needs and concerns of the
15 Highland Avenue community, the community which as been most
16 directly affected by job loss, brownfields, lack of minority
17 hiring, lack of economic development, and a lack of cultural
18 initiatives? The Power Authority's proposed cultural
19 initiatives, page 4-88 of the Niagara Power Project, FERC
20 No. 266 preliminary draft environmental assessment proposes
21 several cultural initiatives for the Native Americans.
22 However nothing is mentioned regarding the cultural
23 initiatives for the African American community, which has a
24 rich cultural heritage with the Underground Railroad, the
25 starting of the Niagara movement which lead to the formation

1 of the NAACP, the nation's oldest civil rights organization,
2 which has been in existence for over 100 years, historic
3 homes which house secret compartments which would house run-
4 away slaves seeking to escape slavery all located in the
5 Highland Avenue area. This rich history is a foundation for
6 cultural tourism initiatives in the African American
7 community.

8 Section 4.1.72, Environmental impacts discusses
9 how in the comprehensive relicensing settlement agreement
10 the Power Authority proposes to establish a community
11 enhancement fund and a TN fund for the benefit of host
12 communities. \$89,828,000 community enhancement fund for the
13 benefit of host communities and a \$21,824,000 TN fund. The
14 HC fund would be funded in the amount of \$5 million annually
15 for the term of the new license after initial payment of \$8
16 million. The TN fund would be funded in the amount of \$1
17 million annually from the term of the new license after
18 initial payment of \$5 million. There is no mention of the
19 Highland Avenue community, which as been directly affected
20 by employment, lack of minority hiring at the Authority,
21 brownfields as well as a lack of socioeconomic resources
22 which has been discussed already.

23 As previously stated, African Americans have the
24 highest unemployment rates, the highest poverty levels, the
25 greatest concentration of brownfields, loss of industries

1 which were located in the Highland Avenue area, but the
2 study fails to mention the effects of the Power Authority as
3 it relates to the socioeconomic impact to the African
4 American community.

5 In the Buffalo news article on Sunday, March 26,
6 2006 entitled "Upstate and Appalachia - A Study in Hard
7 Times" State Attorney General Elliot Spitzer who wants to be
8 governor stated, and I quote, "If you drive from Schenectady
9 to Niagara Falls, you'll see an economy that is devastated.
10 It looks like Appalachia. This is not the New York we
11 dream of." We could not agree more. Appalachia
12 unemployment was 5.8 percent in 2003. It's poverty rates
13 are 32.5 percent and Kentucky's Harland County and 37.7
14 percent in West Virginia's McDowell County. The figures were
15 taken from the Buffalo news article referenced above.

16 According to the 2000 Census for Tract 202, the
17 Highland Avenue area, which, of course, is less than 1 mile
18 from the New York Power Authority, the poverty level is
19 50.11 percent and unemployment is 15.10 percent. Both of
20 these rates exceeding Appalachia with an unemployment rate
21 almost triple of that of Appalachia. The U.S. poverty rate
22 is 12.5 percent. This is not the Highland Avenue African
23 American community that we dream up, but it is the hardcore
24 reality. It is an area which has been redlined by banks,
25 mortgages are hard to come by for those who want to build a

1 home in the area, especially when you look at someone's
2 backyard and see brownfields, dumping grounds, land covered
3 with weeds several feet high and abandoned factories as the
4 skyline.

5 For the NEPA to ignore these grave environmental
6 concerns reek of benign neglect. The Highland Avenue
7 community respectfully request FERC to award the African
8 American community with the followings: funding for
9 brownfield remediation; \$175 million a year for the length
10 of the license until there is remediation and revitalization
11 of the Highland Avenue area, whichever comes first; a
12 preliminary draft plan or concept for the revitalization of
13 the Highland Avenue area have been devised by Professor
14 Henry L. Taylor of the State University of New York at
15 Buffalo. The draft concept has been shared with officials
16 at NEPA who have ignored our requests. Go and get the money
17 from the city.

18 It is the desire of this community that since it
19 is obvious that the Power Authority takes its role as a good
20 neighbor and steward in words only and not in deeds. The
21 facts speak for themselves. Can the Power Authority be
22 allowed to ignore its closest neighbor for another 50 years?
23 No, and we hope not. For these reasons we again are
24 stakeholders within this procedure and respectfully request
25 all the rights and privileges thereof. We reiterate our

1 request to intervene. We also reiterate our fervently
2 strong opposition to NEPA receipt of its license for another
3 50 years. That is why we are making our request to you.
4 Funding for the African American Cultural Initiatives and
5 Affirmative Action policy for the Niagara Project, job
6 commitment of at least 341 employers at the Niagara plant,
7 job commitment at the Niagara Project to the African
8 American community, which includes a mentorship program and
9 a job training facility which leads to actual employment,
10 job commitment at the Niagara Plant to the people who reside
11 within the City of Niagara Falls.

12 In conclusion, wherefore the Niagara Improvement
13 Association, NIA, respectfully request that as a member of
14 the Niagara County legislature, I respectfully request that
15 FERC considers the African American community in its review
16 of the Niagara Project's application for a new license and
17 specifically address how the Power Authority's proposal
18 affects minorities. The Niagara Improvement Association
19 also requests that FERC grants this community both
20 environmental and economic justice and reject NEPA's request
21 for the license renewal and grant our request to intervene.
22 Thank you.

23 MR. KARTALIA: Thank you.

24 Larry Boyer?

25 MR. BOYER: Thank you. My name is Barry Boyer.

1 That's B-O-Y-E-R. I'm appearing today on behalf of Buffalo
2 Niagara River Keeper, which has been an active participant
3 in the alternative licensing proceedings from the beginning.
4 Our organization is committed to promoting public access to
5 water resources and to restoring and protecting our two
6 major rivers in Western New York.

7 I'll make a brief oral statement today and we
8 expect to file more detailed written comments before the
9 deadline. In these licensing proceedings, we have been the
10 negotiating partner on behalf of the Niagara Relicensing
11 Environmental Coalition, which is some 30 organizations that
12 are interested in environmental protection and conservation.
13 And on behalf of our constituents in River Keep, we would
14 like to strongly urge that the draft Environmental Impact
15 Statement and the relicensing settlement move forward to the
16 grant of a new license as quickly as possible.

17 Instead of nitpicking any little details of the
18 DEIS, we have taken the position throughout this, including
19 with respect to some potentially costly and difficult
20 studies like fish entrainment and impingement that we get
21 the information that we need to move forward with
22 rehabilitating this river and that we not worry about things
23 beyond that. So although in some respects we might have
24 done the DEIS differently if we were doing it and our
25 constituents have made a variety of points about it, it is a

1 solid document that gives us the basis to go forward and I
2 think we should.

3 In the spirit in which I've just described, I'd
4 like to call attention to one thing in the DEIS that's
5 potentially troublesome and that the suggestion on page 152
6 that the Commission might want to revisit the issue of
7 project boundaries and for compliance purposes include all
8 of the hip areas. Now the project boundary issue has been
9 complex. It's been on the table throughout the now two plus
10 years of proceedings that have been through here, having
11 hooked back into the regulations as my day job is being a
12 law professor, so the Code of Federal Regulations is not
13 strange to me. The guidance is not very good and figuring
14 out what should be in the license in the project boundaries
15 is difficult. So as a general proposition, it would be good
16 for future alternative licensing proceedings and for that
17 matter for all licensing proceedings to have better guidance
18 on what the project boundaries should be. But I don't think
19 this is the proceedings in which this should be done for
20 several reasons. One of them being that this is a
21 geologically, geographically unique facility. In a very
22 real sense, all of the upper four Great Lakes are the
23 reservoir for this project. So in a theoretical sense, the
24 project boundaries could move back toward Duluth fairly
25 rapidly and I don't think any of us wants to get into that

1 kind of a game.

2 More over, I think the size and complexity of the
3 facility and the settlement negotiations that have gotten to
4 this stage argue against doing anything that would de-
5 stabilize this settlement. As we heard just recently from
6 the Niagara River Anglers Association and we have heard a
7 lot more from our constituents when things seemingly
8 randomly or arbitrarily move in and out of the license it
9 creates a perception that the process is not fair and open
10 and that the settlement is likely to come unglued. So this
11 is somewhat fragile to have gotten -- it's a remarkable
12 accomplishment to have this many diffused stakeholders on
13 this kind of a settlement get as far as we have in
14 generating a consensus. If it ain't broke, don't fix it.

15 If the Commission feels the need, and I would
16 encourage them to do it, to give better guidance for the
17 future, then that ought to be done as the Administrative
18 Procedure Act contemplates through either a general
19 rulemaking or a general policy statement where national
20 constituencies can also weigh in on this. So I would hope
21 the Commission would avoid doing much with that project
22 boundary issue here.

23 That being said, I think we have -- when we
24 signed we're committed and we firmly believe that this
25 settlement should go forward as rapidly as possible because

1 it's going to provide resources and expertise and ideas to
2 really improve the river habitat to make it more publicly
3 accessible, to address some fishery issues that need to be
4 addressed and other wildlife and environmental concerns.
5 And it also I think will help build strong partnerships for
6 community, stewardship of the river as we get working on the
7 implementation of these various settlement agreements.

8 So moving it ahead. Don't tweak it too much.
9 It's a good settlement. Let's go with it.

10 MR. KARTALIA: Thank you.

11 Linus Amsby?

12 MR. AMSBY: Thank you for the opportunity to
13 speak here today. I'm Linus Amsby, Director of
14 Communications and Public Relations at Niagara University
15 and I'm here to speak on its behalf.

16 Niagara University, the Power Project's closest
17 neighbor, has been an active participant and stakeholder
18 throughout the relicensing process. In May we jointly
19 announced with the Power Authority that we have reached a
20 favorable agreement on relicensing the project and we are
21 aware of the other agreements that had been reached. The
22 University has reviewed the draft Environmental Impact
23 Statement. At this point it is our view that the agreements
24 that have been reached provide an important and lasting
25 benefit to the community and that the relicensing should

1 move forward to approval.

2 We hope this will happen in a timely manner so
3 that the agreed upon benefits can begin to flow to the
4 community as soon as possible. Thank you.

5 MR. KARTALIA: Thank you.

6 Russ Bis?

7 MR. BIS: Thank you. I'm Russ Bis from the New
8 York State Department of Environmental Conservation and
9 Natural Resource Supervisor here in Region 9. Our main
10 office in this region is located at 270 Michigan Avenue,
11 Buffalo.

12 The purpose of my comments are to express DEC's
13 support for the Commission's draft Environmental Impact
14 Statement, the Power Authority's licensing proposal for the
15 Niagara project and the supporting settlement agreements as
16 they pertain to DEC's natural resource permit condition as
17 they relate to water quality certification and the
18 enhancement and restoration of aquatic habitats.

19 The required ecological measures as noted in the
20 draft EIS will help ensure the continued propagation and
21 survival of aquatic and repairing of an upland species
22 affected by project operations and related project
23 facilities. We were an active participant in the
24 alternative licensing process, study process and settlement
25 negotiations and feel that the measures in the water quality

1 certification, which include eight habitat improvement
2 projects, a fish and wildlife enhancement and restoration
3 fund, a land acquisition fund and three public access
4 improvements will go far in satisfying the ecological and
5 recreational needs associated with this relicensing.

6 The eight habitat improvement projects are
7 included in both the settlement and the water quality
8 certification. Some of the benefits include increased
9 shoreline protection measures for Strawberry and Motor
10 Islands, enhancement of existing shoreline and repairing
11 habitat to benefit aquatic and terrestrial species and
12 restoration of lost island habitats.

13 Future habitat improvement projects, potential
14 land acquisition habitat research and species restoration
15 efforts and stewardship of the natural resources of the
16 Upper Niagara River will be reviewed by the Ecological
17 Standing Committee and those that meet pre-established
18 criteria can be approved or considered for approval. The
19 Ecological Standing Committee features cooperation between
20 state and federal agencies, local environmental groups and
21 the Indian nations. Together these representatives will
22 strive to provide additional enhancement and restoration of
23 the aquatic resources of the Upper Niagara River.

24 We urge the Commission to proceed with the
25 issuance of a new license consist to its staff analysis in

1 the draft Environmental Impact Statement, DEC's 404 water
2 quality certificate and the Authority's license proposal and
3 the supporting agreements. Thank you.

4 MR. KARTALIA: Thank you.

5 Lawrence Reuben?

6 MR. REUBEN: Good afternoon. My name is Lawrence
7 Reuben. I'm the county attorney for the County of Erie and
8 I'm here to speak in favor of the acceptance of the DEIS and
9 of accepting the settlement agreement as proposed. We
10 believe that a 50-year settlement as is proposed allows
11 sufficient resources to be provided to the County of Erie
12 and the local communities to help us restore our water
13 front. We believe that many of the issues that have been
14 raised by speakers today have legitimacy, but that they
15 should be resolved on a state level rather than on the
16 federal venue and forum that the DEIS and settlement
17 agreement is presently at.

18 The settlement agreement that we've reached for
19 the County of Erie, which also involves the City of Buffalo
20 and the Conservancy was a long and difficult process, but we
21 believe that while not all issues were perhaps provided to
22 us that we would have liked it represents a fair and
23 equitable compromise at the end of the day and that we would
24 like to see it be able to be implemented as quickly as
25 possible and recommend that you accept the DEIS and approve

1 the settlement agreement and approve the relicensing of the
2 Niagara Power Project. Thank you.

3 MR. KARTALIA: Thank you.

4 Mark Zito?

5 MR. ZITO: Good afternoon. My name is Mark Zito
6 and I originally lead the negotiations for the host
7 communities in the immediate area surrounding the Niagara
8 Power Project. Initially starting in early 1992, I brought
9 this issue into our community and eventually over the years
10 it lead us to Mucenia, in which I learned what federal
11 process was about. And along with what Mr. Reuben just
12 spoke about a lot of things being state issues, I'd like to
13 exemplify and really give a lot of praise to both FERC and
14 the New York State Power Authority for following a process
15 that fit the community's needs for those that decided to
16 participate in the process as it was designed.

17 We agreed to an alternate licensing process.
18 Several people supported that and mailed in letters in
19 support and I'm sure that's part of the record. Along those
20 lines, we also agreed to environmental assessments and more
21 importantly, we held scoping meetings for about six or seven
22 months with about six meetings a month. In those meetings
23 everybody was allowed to participate and to bring forward
24 their issues. There wasn't an issue that was not allowed to
25 be addressed. If you brought an issue to the table and it

1 wasn't addressed, it was put on the side and NEPA would
2 eventually get to settling the issue that was unaddressed.

3 So I wouldn't want you to leave this room today
4 feeling as though the FERC staff that were overseeing the
5 process and the NEPA staff that were directly involved with
6 it as well as the stakeholders who were working along with
7 NEPA were in any way left to -- you know, in the blind.
8 Everybody knew what was going on that was in that room. The
9 problem is that that you had to be in that room and to that
10 effect NEPA went out of their way to both make public
11 announcements and to even mail out public notices to people.
12 So looking at the settlement and how it affects the host
13 communities, the part that I had to do with, I think it is a
14 very fair deal in that I don't believe it affects the annual
15 operating cost of the plant that much. Something staff
16 would be interested -- I just recently brought out the staff
17 recommendations of the Baker River Project in Washington
18 State and you know, I've seen where staff is very interested
19 in what the actual costs were of -- you know, before and
20 after mitigations had been taken care of. Those were very
21 important.

22 The other things that were important to us as we
23 went along in the process and made deals was to make sure
24 that the people in the room that we were working with, the
25 Munis, the environmental caucus is that we kind of stayed

1 together and to make sure that everybody kind of made sure
2 that they weren't been pigs and created a pinta effect as
3 one of your FERC commissioners has noted and created this
4 word that, you know, the licensee is there to be beat up and
5 to be taken -- you know, taken to task and be drained of
6 money.

7 We came out of this scoping process with deals
8 with people that decided to participate. And I don't know
9 what more the host communities, the local government
10 officials, and NEPA themselves could have done to let people
11 know that these scoping processes were going on. So in
12 effect, I think that FERC did a great job in overseeing the
13 process. NEPA did a great job in allowing our community to
14 be part of the process and in fact, we will start to --
15 hopefully, you will support this document so we can start to
16 address some of the things you've heard today that are
17 addressable. So thank you very much.

18 MR. KARTALIA: Thank you.

19 Ronald Pelosi representing the mayor of the City
20 of Tonawanda. Is that speaker still here? I'm sorry.

21 MR. PELOSI: Good afternoon. My name is Ron
22 Pelosi. I am the mayor of the City of Tonawanda and I'm
23 part of the five-member Public Power Coalition that
24 represents approximately 260,000 people within the
25 municipalities of North Tonawanda, City of Tonawanda,

1 Tonatonawanda, Amherst and Grand Island.

2 The City of Tonawanda with a population of in the
3 Year 2000 of 16,136 sits directly on the east channel of the
4 Niagara River in Erie County approximately 8 miles from the
5 intakes for the Niagara Power Project. The city is
6 approximately 3.5 square miles in size with 7.5 miles of
7 shoreline, including the Niagara River, Tonawanda Creek, Two
8 Mile Creek. So you can see that three out of four of our
9 boundaries are made up of water all coming from the Niagara
10 River, including the Niagara River.

11 There are 643 residential properties and 68
12 commercial properties in close proximity to the shoreline of
13 the Niagara River, Tonawanda Creek, Elliot Creek and Two
14 Mile Creek. The City of Tonawanda was home to a sizable
15 industrial or manufacturing employers which located in the
16 city to take advantage of reasonably priced electricity.
17 Now many of those businesses have departed, including
18 Spaulding Fiber, Remington Rand, Columbus McKinnon,
19 Continental Can, Colorforms, American Allsafe, APV, Crepaco,
20 Chemical Lehman, Consolidated Trade. And this has resulted
21 in the creation of brownfields, the loss of thousands of
22 jobs and reduced property valuations all of which have
23 adversely affected the city's ability to raise revenue and
24 provide necessary services.

25 The city has also bourn the cost of mitigating

1 projects impacts within the city. The city has spent
2 roughly \$8.3 million over the past decade for costs such as
3 water improvement, water treatment facilities, canal
4 redevelopment and breakwall and docking improvement projects
5 that address problems such as sedimentation, erosion and
6 poor water quality caused by the operation of the project.

7 \$8.3 million might not sound like a lot of money
8 for the past decade, but I just submitted a budget recently
9 to our Common Council of \$17 million. So in effect, what we
10 spent in the last decade is approximately half our year's
11 budget. And of course, the taxpayers of my city have to
12 bear that expense.

13 I delineated some of the different costs. I
14 picked up on nine of them and there's probably more. But
15 electric costs for the water treatment operations -- and
16 this is from 1997 to 2004, so it's not the whole decade;
17 costs of chemicals, about \$41,000; capital cost for the New
18 York State Canal Harbor Project almost \$2 million; death
19 service of water plant improvement that we had to make,
20 \$750,000, so on and so forth. But it adds up to \$8.3
21 million. Again, a sizable amount of money for a small
22 community.

23 In addition, Erie County also provides many
24 services not enjoyed or available to the City of Tonawanda
25 residents because we are a city. The City of Tonawanda has

1 to maintain infrastructure such as fire, police, garbage and
2 water that are not reflected in the benefit included to Erie
3 County.

4 In response to these impacts, our five counties
5 are seeking monetary compensation for past and anticipated
6 future damages. And just as an aside, I called a friend of
7 mine last night that I went through high school and college
8 with to ask him what his cost of power is per kilowatt hour
9 in Arizona, in the desert area. It was approximately 3 cent
10 per kilowatt hour. Our residents pay somewhere between 14
11 to 15 cents per kilowatt hour. So that's the impact and
12 hopefully we can come to some resolution between FERC, NEPA
13 and our five-member coalition. Thank you very much.

14 MR. KARTALIA: Thank you.

15 Thomas Frank?

16 MR. FRANK: Thank you. Good afternoon, my name
17 is Thomas Frank --

18 MR. KARTALIA: Mr. Frank, why don't you wait a
19 second. If anyone is leaving now, could you please leave as
20 quietly as possible so we can still get an accurate
21 recording. Thanks.

22 MR. FRANK: My name is Thomas Frank. That's
23 spelled F-R-A-N-K. I'm honored and privileged to have this
24 opportunity to speak here today. I've attended all of the
25 ARP meetings, the Alternative Relicensing Process, and

1 there's a number of things that I'd like to clarify. I'm a
2 resident of the Town of Amherst. I am a bicycle advocate.
3 We're a part of the environmental coalition of the Friends
4 of the Buffalo Niagara River, so I represent that group that
5 interested in what was called the terrestrial and aquatic
6 viewscape, okay, as far as the pedestrian and bicycle access
7 to the navigable waterways.

8 Now it was my understanding that as far as the
9 ARP process, the Alternative Relicensing Process, that the
10 reason why the ARP process was entered into was for the
11 purpose of avoiding some of the complications that they got
12 into with the Saint Lawrence relicensing process. Okay.
13 And that these processes were going on simultaneously, okay,
14 as far as the five-year, \$20 million mandate that the
15 recreational boating interest managed to secure half and
16 half, 50/50 with the Canadian as far as -- it was more than
17 \$20 million. It was like \$22 million that the final report,
18 okay, was just issued coincidentally that this is for the
19 Lake Ontario/Saint Lawrence River, okay, as far as the final
20 report and there are certain recommendations that are in
21 there regarding the interrelationships between the St.
22 Lawrence Power Project and the Niagara Power Project. Okay.
23 They came out with some very significant recommendations and
24 I was -- as far as my participation, okay, in this -- it
25 wasn't exactly -- and I would recommend that as far the

1 relicensing settlement that it include and that it emulate,
2 that it expand and extend that process which was called the
3 "Shared Vision" model, okay.

4 The purpose for the Greenway -- it was my
5 understanding that the purpose for the Greenway was to
6 mitigate the cumulative negative impact resulting from the
7 regulation of the water level, not just -- as far as Barry
8 Boyer I guess he left. He made some comments previously as
9 far as the state legislation that created the Niagara River
10 Greenway and as far as the issues of the specific boundaries
11 that narrow, linear strip along the Niagara River. It's not
12 only a river. It's a trait, okay, and that the
13 recommendations, the final recommendations, okay, that were
14 made as far as the relicense I would like to read it and
15 that's that "There's a significant opportunity that exist to
16 move forward on long-term resolution of a few vexing" --
17 vexing -- that's spelled V-E-X-I-N-G -- issues related to
18 regulating -- relating to fluctuating water levels. For
19 example, shoreline flood and erosion problems. Okay, now as
20 far as this specific boundaries, the Town of Amherst has an
21 issue having to do with shoreline flood and erosion
22 problems. Okay, during international joint commission
23 consultations with governments the Commission should act as
24 a catalyst to promote and advance mitigation of persistent
25 shoreline flood and erosion problems. For example, in light

1 of the findings of the this study responsible state,
2 provincial and municipal authorities could undertake a
3 review of shoreline management practices and policies.

4 Now from my participation in the Niagara River
5 Greenway Commission meetings -- okay, those being the --
6 they're called the Citizens Advisory Committee. That's not
7 a public interest advisory committee that is actively
8 participating in any decision-making process as far as any
9 shared vision. It's being controlled by a bunch of
10 appointed individuals, okay, and I'd like to recommend a
11 book that was called the "Hudson of History" and there's
12 some interesting comments on the incestuous relationship
13 between the New York Power Authority and the FERC, okay.
14 And this is an opportunity to clear up some problems as far
15 -- that have been created over the past 50 years.

16 As far as a review of shoreline management
17 practices and policies. Shoreline management strategies and
18 permitting process -- okay, in the Town of Amherst we had to
19 replace the town supervisor. I think we actually have some
20 written communications between the town supervisor, Susan
21 Galick, who was not interested in the relicensing process
22 even though the Army Corps of Engineers was doing a survey
23 of approximately 1100 properties with sinking foundations.
24 This is a form of erosion, okay, and they excluded us. So
25 we had to replace her.

1 Now what is really curious is the fact that the
2 chairman of the board for the New York Power Authority was
3 Lewis P. Siminelli, okay, one of the largest developers in
4 the Town of Amherst and these issues -- and I'm not trying
5 to be negative. These issues need to be dealt with and as
6 far as the host communities, the legal language, there's a
7 need for some clarification as far as the wetlands, okay,
8 the watershed and the flood plains because they're all
9 affected and they admitted it and they actually showed it
10 that the -- that they have a very, very sensitive model,
11 okay, for regulating -- you know, it's nice to be able to
12 get 12 times the amount that you would normally get for the
13 generation of power if you generate during the month of July
14 and August during certain periods. And they admitted that
15 they had been experimenting with the regulation of the water
16 level over the past 50 years and that it's very complicated.
17 That there are many interest that are involved.

18 The bottom line, the point that I'm trying to
19 make is that there's an opportunity here to come up with
20 some regionally consistent guidelines for the Greenway
21 development, okay. And it's not just for the developers.
22 There's such a thing as the public interest and they're
23 multifaceted and some of these 501(c)(3) should have an
24 opportunity to participate in the decision-making process
25 for the Niagara River Greenway as far as the Commission.

1 Thank you very much.

2 MR. KARTALIA: Thank you.

3 Satish Mohan? While Mr. Mohan is setting up, is
4 there anyone else who would like to speak after him? Neil?
5 Okay. You'll get a chance after Mr. Mohan.

6 Actually, is there time to take one or two more
7 comments while you're still setting up?

8 Neil, would you like to go?

9 MR. PATTERSON: My name is Neil Patterson, Jr.
10 from the Tuscarora Nation. P-A-T-T-E-R-S-O-N. I just have
11 two quick comments. One is that we think it was a bit of a
12 stretch within the environment justice section of the draft
13 Environmental Impact Statement to say that the Tuscarora
14 Nation had no environmental justice concerns. We would
15 encourage FERC and others to revisit some of the information
16 that was submitted back in 2004 from the Tuscarora Nation,
17 specifically the list of issues that was generated within
18 our community concerning the Power Project impact on
19 Tuscarora Nation.

20 And the second comment I have is that we're
21 taking a very unique and totally different approach to
22 talking about the impact of the power project on the
23 Tuscarora Nation. There are very few people in this room,
24 much less in the community, that have experience with the
25 project before its construction, during the construction,

1 after the construction and then again 50 years later
2 throughout the issuance of a new license. We can say for
3 sure that most of those people who do have that experience
4 live, work and play at the Tuscarora Nation. And for that
5 reason, we're not going to sit and debate and talk about
6 numbers or statistics or anything else. What we're going to
7 submit is about 40 to 60 hours of audio interviews with
8 about 40 of our elders in our community who experienced the
9 project construction. Life before the project and life
10 after the project. And instead of submitting our own
11 reports and comments on the environmental impact of this
12 project, we're just going to let the audio speak for itself.
13 So you look forward to coming from the Tuscarora Nation to
14 hear more stories like you heard some other Eckahawa people
15 talk about hear today about how they specifically
16 experienced the project in their lives and how it affected
17 them. So that's all I have to say.

18 MR. KARTALIA: Thank you.

19 MR. MOHAN: Thank you. My name is Setish Mohan.
20 I'm the Supervisor for the Town of Amherst and I'll be
21 talking on behalf of the Public Power Coalition communities.

22 Next slide, please.

23 (Slide.)

24 MR. MOHAN: This is where we are. All the red
25 lines include all the five towns that I'm talking on behalf

1 of and that are in the Power Coalition. The red dot in the
2 middle of the circle is the power plant, Niagara Power
3 Plant, and the circle shows a 15-mile radius. So all these
4 five communities are within the 15-mile radius of the plant.
5 The early write-up of the NEPA says that the target impact
6 area will be within 30 miles of their plant.

7 (Slide).

8 MR. MOHAN: The other five communities -- North
9 Tonawanda, City of Tonawanda, Town of Amherst, Town of Grand
10 Island and Town of Tonawanda. So two mayors and two
11 supervisors have already spoken. I'll just give a brief
12 overview of their areas and then talk about Amherst.

13 These five towns in the Coalition represent about
14 260,000 population.

15 (Slide.)

16 MR. MOHAN: This is from your DEIS. You say that
17 the Niagara River has about 1.5 feet of water fluctuation
18 per day and that affects the tributaries and the most that
19 it would affect us most is the Tonawanda Creek that
20 fluctuates by about .5 foot per day. Next.

21 (Slide.)

22 MR. MOHAN: These are the documented, very well-
23 documented and proven adverse impacts of the water level
24 fluctuations, erosion and we are having enough of it,
25 sedimentation -- all of our tributaries, channel in the

1 creek, which is also called Erie Canal and a very small
2 tributary that are sedimenting and we have to clean them at
3 a huge cost. And they are as a result of the water level
4 fluctuations. Water temperature and quality. I'll talk
5 about the IGC quality levels, which is affecting us cost-
6 wise and we have an adverse impact on our aquatic habitats
7 and flooding.

8 As the whole area that I showed to you with
9 260,000 population is very flat and the fluctuations are of
10 the type that have been documented very significantly affect
11 the water levels and the floods in our areas.

12 Next.

13 (Slide.)

14 MR. MOHAN: These are the impacts of mitigation.
15 We have to do shoreline protection. We have to do waste
16 water in water treatment plants. We are really quite
17 discharge water into the tributaries of a specified quality.
18 We call it tertiary treatment costs. And those tertiary
19 treatment cost us enormous amounts of money. We are
20 recently planning to change our filters to meet the tertiary
21 requirements at the cost of about \$8 million. We spend
22 about \$500,000 per year to maintain our filter plant. If
23 that requirement of water quality was not there, we wouldn't
24 be spending that money.

25 Next please.

1 (Slide.)

2 MR. MOHAN: This is the City of North Tonawanda.
3 You see on the one side it is bordering the Niagara River
4 and on the left side it is Tonawanda Creek.

5 Next.

6 (Slide.)

7 MR. MOHAN: These slides you've already seen
8 these details from the City of North Tonawanda.

9 Next.

10 (Slide.)

11 MR. MOHAN: This city is one of the towns that
12 dispense a lot of money for waste water treatment plant and
13 that is -- you can see the construction was \$10 million and
14 they're spending every year about \$2 million for the last
15 many years.

16 Next.

17 (Slide.)

18 MR. MOHAN: This is City of Tonawanda that all
19 you've heard from them, too. And it falls within the 15-
20 mile radius and borders on the Niagara River.

21 Next.

22 (Slide.)

23 MR. MOHAN: This is the City of Tonawanda. It
24 has 16,000 population and you've seen all these points. The
25 mayor has already spelled them out.

1 Next.

2 MR. MOHAN: He read all those points, the mayor.

3 Next.

4 (Slide.)

5 MR. MOHAN: Town of Amherst, which I'm supervisor
6 of is also within 15 miles. The whole water movement --
7 movement of strong water in our town -- in our town, the top
8 two-thirds is already flat and the whole movement of water
9 is governed by the fluctuations in the Tonawanda Creek,
10 which runs through the northern boundary of our town. When
11 we get fluctuations, we get flooded and damaged.

12 Next.

13 (Slide.)

14 MR. MOHAN: We have a population of 117,000. We
15 are bordering Tonawanda Creek and the major tributaries
16 Elloit Creek. As I said, the Tonawanda water levels
17 significantly affect our hydrology and we have to do a lot
18 of shoreline maintenance. There's a lot of strong water
19 programs and also we have to maintain the water quality.

20 Next.

21 (Slide.)

22 MR. MOHAN: This is just one small cost estimate
23 that we are presenting that what it will cost if we really
24 do the sedimentation cleaning in our area. These are the
25 cost just for 500 feet. This is a strong water protection

1 programs will cost us about 300, \$340,000 and 125. And
2 Ransom Creek flood control is estimated to cost us \$19
3 million.

4 Next.

5 (Slide.)

6 MR. MOHAN: These are the IJC. The IJCs have not
7 been touched in the DIS of Niagara environmental statement.
8 These regulations require that we discharge the waste water
9 of a particular quality. We call it tertiary treatment and
10 that is costing us too much money. We invested about \$20
11 million to set up our filtration plant. And we spent about
12 half a million dollars a year to filter the water before we
13 can discharge into the river. Again, if these requirements
14 were not there, which are plant-related, we wouldn't be
15 making all these expenses.

16 Next.

17 (Slide.)

18 MR. MOHAN: This is our cost of the water
19 pollution control facility.

20 Next.

21 (Slide.0

22 MR. MOHAN: This is the Town of Grand Island.
23 The supervisor of Grand Island spoke about this. You can
24 see Grand Island is flanked by the Niagara River, east you
25 are in the West River and they're really in the middle of

1 it.

2 Next.

3 (Slide.)

4 MR. MOHAN: These are all the details that you
5 had it.

6 (Slide.)

7 MR. MOHAN: The Town of Tonawanda, you heard
8 about that also. They're also in the middle of the
9 Tonawanda Creek and Niagara River within 15-mile zone.

10 Next.

11 (Slide.)

12 MR. MOHAN: You've heard all these details, too.

13 Next.

14 (Slide.)

15 MR. MOHAN: Friends from FERC, I want to appeal
16 to you we are stakeholders. We -- five communities -- are
17 the stakeholders in the Niagara Power Project outcomes,
18 losses or benefits. It is our resource and we request and
19 demand that all benefits derived from the Niagara Power
20 Project be used here within the target area of the project.

21 We in Western New York have very scarce
22 resources. What is our greatest resource? The little that
23 we have left is not benefitting us. The five towns in the
24 coalition are not able to use their natural resource for the
25 upliftment of their residents. As I know, not a penny has

1 ever trickled to our region from any projects outside our
2 areas. There's no sane reason for the Niagara Power Project
3 profits to be expended outside this region. We have read
4 that Niagara Power Project has a net revenue of \$500 million
5 per year. Only about \$100 million stays in the region.
6 \$400 million goes outside our region. Not fair.

7 Several industries have left our towns due to
8 high rate of electric power. The population of the Town of
9 Tonawanda is gradually decreased. We very much resent it.
10 We are protesting against it and will keep protesting
11 against it until a fair compensation is awarded to us.
12 Thank you.

13 MR. KARTALIA: Thank you.

14 Is there anyone else who'd like to make verbal
15 comments?

16 (Pause.)

17 MS. SCHVETZ: I'm Councilmember Shelly Schvetz
18 from the Town of Amherst and I concur with what Supervisor
19 Mohan just said.

20 I would also like though that I've been following
21 this myself now for the last two and a half years. The
22 process -- I can't agree with what one of the gentlemen said
23 that everybody was notified and everybody was invited to
24 participate. I feel that NEPA dropped the ball for one
25 reason as far as the Town of Amherst goes. They apparently

1 communicated with the previous supervisor via e-mails that
2 were sent back by the secretary for the supervisor saying do
3 not send us any more information on this relicensing issue.
4 I think a company the size of NEPA should have taken it one
5 step further.

6 I know this for a fact because the Amherst
7 Chamber of Commerce gave me a copy of the e-mail. And a
8 company that size or whatever power authority that's
9 government that supposed to be to protect the people I think
10 they dropped the ball, No. 1.

11 No. 2, I think that when you look at all of these
12 areas and counties of Erie and Niagara Counties, I find it
13 interesting that New Jersey is here saying that they support
14 it. I don't argue that they support it, but they're in a
15 far better position than Erie County and Niagara County are
16 and I personally would like to first know exactly what New
17 Jersey is paying for their electric compared to the people
18 up here. I think that's important because it is in our
19 backyard.

20 The other thing is that I met with Mr. Brian
21 Matimo. He came to the Town of Amherst upon request after
22 request after request after request. I think maybe three or
23 four request when he and I -- it was a meeting with our
24 engineers, Supervisor Mohan. I was advised to ask the state
25 to appoint a representative from the Town of Amherst to the

1 Greenway Commission. We were denied that. I don't find
2 that good relations. And I was also told after asking many
3 questions, making many phone calls to Mr. Chase -- not many,
4 two or three, talking to John Shuffer, going through all
5 these things trying to get my facts together, who I happen
6 to hear my facts from Mr. Frank, who just happens to be a
7 resident in the town who kept coming to the town and I put
8 it all together. NEPA did not contact any other board
9 members. They just went on the supervisor.

10 I find the whole thing kind of interesting. When
11 you look at your assessment book and it says consider
12 history. Anybody consider the Erie Canal? That's history.
13 Our tributaries connect to Lockport, the Canal. It's
14 history. Consider state parks. New York State put a \$5
15 million part in Amherst. That's \$5 million of taxpayer
16 dollars. So I just think that when you look at this, you
17 really need to reevaluate what they're asking for, No. 1.

18 I agree with Ron Moline. Thirty years is plenty.
19 I would say 15. It is a cost of doing business which I also
20 am a small business owners. There are probably many other
21 people in this room and we put the burden on our backs in
22 New York State to stay in business. We don't have the
23 luxury to make these kind of big decisions. But politics
24 play the major role here. I personally was told to be very
25 careful and so I'm leaving that with you, and I'm an elected

1 official. I represent the people and I think that this
2 needs to be reevaluated why the Town of Amherst was left out
3 of any form of conversation period. Thank you.

4 MR. KARTALIA: Thank you.

5 Sir?

6 MR. BEAHAN: My name is Larry Beahan. That's B-
7 E- A-H-A-N. I'm a member of the board of the Adirondock
8 Mountain Club and a member of the board of the local Sierra
9 Club. I have represented those organizations at the
10 relicensing meetings over the last couple of years and I
11 would like to say that both of those organizations support
12 this document and would like to see the power plant
13 relicensed as quickly as possible. We are, however,
14 somewhat concerned about some of FERC comments, particularly
15 with regard to questioning the need for a fish and wildlife
16 habitat enhancement restoration fund and the need for an
17 ecological standing committee.

18 It almost seems as if we're treating the Niagara
19 River like a piece of plumbing, a funnel of water going down
20 a plastic tube. The Niagara River, in fact, is a living
21 organism. It's full of muscles, fish, bacteria, plants.
22 It's lined by trees and bushes and herbs. It's a living
23 geological formation millions and millions of years old.
24 The Niagara Power Project has dramatically changed the
25 ecology and the environment of the that living body of

1 water. It has lined it with -- its shores with concrete
2 road and concrete reinforcements. The wetland that ordinary
3 -- that would bound it if it wasn't for the power project is
4 gone. The wall of the ravine itself is replaced by a huge
5 chunk of concrete dam.

6 I think that it's really tremendously important
7 to pay some attention to the ecology of the river and to the
8 future possible changes of the ecology of the river that
9 will come with global warming, with the predicted lowering
10 of the levels of the lakes with Canada's proposal to take
11 more water from the lake. So I would recommend very
12 strongly that you allow those elements of the agreement
13 persist. Thank you.

14 MR. KARTALIA: Thank you.

15 Mr. Anderson?

16 MR. ANDERSON: I would like to thank you for
17 coming back again and I read this thing. This was made on
18 July 2006 and it was made by everybody that was suppose to
19 be a part of it and then here on page 139 it speaks that the
20 Tuscarora Nation has not raised environmental justice
21 concerns and we assume by signing their agreement with the
22 Power Authority their concerns about the project have been
23 addressed. So I don't see why after we spoke about the
24 environmental injustice of the reservoir why they're going
25 to show you papers now and dockets and this papers and films

1 and that and say there are questions about the people. They
2 talked about that at the reservoir. That's dead and gone.
3 What are they picking up late here. How much check do they
4 got? What do they got? How much checks do they got?

5 Do you understand what I'm saying? Does
6 everybody understand what I'm saying? In other words, it
7 should have been a done deal because we came in and exposed
8 it because somebody allowed us to have a meeting. We came
9 in unexpected that it was suppose to be a done deal. We
10 broke the appeal. We never heard about no reports. We've
11 been coming in all the time. I've been coming here for the
12 last 12 years I've been writing letters to you. I have not
13 been invited lately. I don't know why. But anyway, you
14 continue to make deals with those people and now you're
15 making deals again.

16 MR. KARTALIA: Thank you.

17 Does anyone else want to make a verbal comment.
18 Just a reminder that September 19th is the deadline date for
19 filing comments. The address is on our website. The
20 procedures are on our website. If you want a transcript of
21 this meeting, you can fill out a form with the court
22 reporter to get one. This transcript will become a
23 permanent part of the formal proceeding.

24 If there is no one else who wants to comment,
25 thank you for attending. We adjourned.

1 (Whereupon, at 4:35 p.m., the above-entitled
2 matter was concluded.)
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