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BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

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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 7:00 p.m.

BEFORE:

STEVE KARTALIA, FERC

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

(7:00 p.m.)

MR. KARTALIA: My name is Steve Kartalia and two other FERC staff here, Vince Yeorick and John Costello. We have registration forms up here. If you would please fill one out, that would help gauge how many people would like to speak and everyone gets a chance.

The reason for the meeting is to receive input of people who have read the DEIS and would like to comment. Secondly, if we have time and there are people who would like to ask questions, ask clarification, then we can have some Question & Answer at the end.

But primarily, to receive comments on the Draft EIS. Just a couple of quick ground rules so that an accurate court transcription of tonight's meeting. For the benefit of the court reporter, please speak loud enough that he can hear, spell your name please. If you're representing someone and want to make that known, the time to do that is right when you introduce yourself. There are microphones in either aisle and then there's one that's going to be floating around if you're in the middle and don't want to walk to the edge. Just raise your hand.

Quickly I just want to run through the process

1 that we've been going through for the past few years. In  
2 accordance with the National Environmental Policy Act, we  
3 the Commission staff are in the process of, first, NEPA was  
4 developing their application and this began in December 2002  
5 through the year 2003. Several meetings were held involving  
6 a lot of stakeholders and then we had meetings about exactly  
7 three years ago in the middle of August 2003.

8 In August 2005, the Power Authority filed their  
9 application and supplemented that with a settlement. On  
10 July 14, 2006, last month, we issued this document, the  
11 Draft Environmental Impact Statement. The comment deadline  
12 for comments on the DEIS is September 19th. If you don't  
13 make comments tonight verbally, you can submit written  
14 comments. Instructions on doing that are on our website and  
15 on these registration cards and in the front part of the  
16 DEIS.

17 The target date for issuing the Final  
18 Environmental Impact Statement is the end of this year. And  
19 the Final Environmental Impact Statement will include  
20 response to comments that we receive on the draft and then  
21 that will set the stage for the Commission's decision on  
22 licensing. Just briefly, the DEIS includes several  
23 sections, among them are Section 3, which includes our  
24 environmental analysis of all the different resource areas  
25 and Section 5 includes our conclusions and recommendations,

1       which are generally consistent with the relicensing  
2       settlement agreement with some minor modifications.

3               Just as a note, the Clean Water Act, Section 401,  
4       water quality certification would require some of the  
5       measures anyway. We got a couple of questions earlier. One  
6       example of a measure that we didn't necessarily recommend in  
7       our DEIS but that would be included under the 401, which  
8       would become mandatory through the license is the Habitat  
9       Enhancement and Restoration Fund. There was perhaps a  
10      little misunderstanding about that earlier today.

11              We mailed copies of the DEIS in compact disk and  
12      hard copy format to our mailing list. If you didn't receive  
13      one, it's because you're not on our mailing list. And if  
14      you want to solve that, please fill out a registration card  
15      and make sure you get on there. This DEIS is also available  
16      through our website. If you go to FERC.gov on the Internet,  
17      there's a link for E-library. If you use the docket number  
18      for this project, P-2216, you can find all of the filings  
19      and issuances related to this project.

20              Now we're ready to start the comment part of the  
21      meeting, the important part of the meeting. Actually, I  
22      believe you are the first speaker, Paul, if you'd like to go  
23      to the aisle and spell your name and we'll start the comment  
24      process.

25              MR. GROMOSIAK: Good evening, my name is Paul

1 Gromosiak. That's G-R-O-M-O-S-I-A-K. And I am a local  
2 historian and author of nine books about Niagara Falls.  
3 You know, I look around the room and I recognize a lot of  
4 faces. The past few years, going to all the meetings and  
5 it's been quite interesting. And as an historian, I just  
6 wonder, would be here tonight if 50 years ago the Schoelkopf  
7 Power Plant had not been destroyed by a rock slide.

8 It's how things do happen that change things.  
9 And I'm here on behalf of history and I think that it's very  
10 important that anything that's done the next 50 years, will  
11 be done with the idea that Niagara Falls and this wonderful  
12 river, the Niagara River, Niagek as the Seneca people said,  
13 the Neck.

14 This place is noted for its natural history and  
15 all of that should be the No. 1 priority in the future in  
16 any developments that take place between Buffalo and  
17 Youngstown, and that should always be the focal point -- the  
18 natural history of this region, not just the Falls, but the  
19 river itself, too, and all the flora and fauna native to  
20 this region should be celebrated as the Falls and so I'm  
21 hoping that this is what will happen in the future with the  
22 monies that are going to be allocated.

23 I notice a lot of communities want to do things  
24 other than natural here. Fine, perhaps we should have some.  
25 But remember that the world will be coming here for the next

1 50 years to see a natural wonder, not hotels, not  
2 skyscrapers, not ferris wheels, not flower gardens -- a  
3 natural wonder. One that is unique from any in the world  
4 and that is Niagara Falls and I would like very much to see  
5 that be the main focal point in the future. Thank you.

6 MR. KARTALIA: Thank you.

7 Mike Tucker?

8 MR. TUCKER: Good evening everyone. My name is  
9 Mike Tucker. I am the mayor of the City of Lockport, New  
10 York and I'm also the chairman of the Eastern Niagara Power  
11 Project Alliance also known as ENPPA. The ENPPA is made up  
12 of members representing the school districts of Lockport,  
13 Starpoint, North Tonawanda, Barker, Newfane, Royalton,  
14 Heartland and Wilson, the towns of Pendleton, Heartland,  
15 Newfane, Cambria, Lockport, Royalton and Somerset, the  
16 Villages of Middleport and Barker and of course, the City of  
17 Lockport.

18 We are represented by Congressman Tom Reynolds,  
19 Congresswoman Louise Slaughter, state Senator George  
20 Maziarz, Assemblyman Mike Cole and several Niagara County  
21 legislators.

22 I'm here tonight because I believe that the  
23 economic prosperity promised by NYPA within the 30-mile  
24 radius has not been achieved and I have some examples. The  
25 electric utility cost is 123.5 percent or 23.5 percent over

1 the national average. The unemployment rate in our county  
2 is 5.9 percent as opposed to the U.S. average of 5 percent.  
3 Recent job growth is .76 percent or nearly 50 percent lower  
4 than the national average. Sales tax is 8.25 percent with a  
5 national average at 6 percent and future job growth is less  
6 than 1 percent with a national average of over 9 percent.

7 Other examples in relation to population, the  
8 percent changed from April 1, 2000 to July 1, 2005 in  
9 Niagara County minus 1.3 percent and the rest of New York  
10 State 1.5 percent and the United States of America as a  
11 whole 5.3 percent. Median value of owner-occupied housing  
12 in Niagara County \$82,700 and the rest of New York State  
13 \$148,700 and the United States as a whole \$119,600. Median  
14 household income in Niagara County \$38,000. The rest of New  
15 York State \$44,139 and the United States \$43,318.

16 By December 19, 2005, request for intervention  
17 ENPPA and its members are formal parties to the proceeding.  
18 On April 10, 2006, ENPPA filed comments to the application.  
19 ENPPA filed comments include two maps showing that all of  
20 its members are located within the 30 miles of the project  
21 substations. Though the ENPPA will file written comments on  
22 or before the September 19, 2006 deadline to the entire  
23 DEIS, I will take the time now to raise just a few points.

24 The high cost of energy, in particular,  
25 electricity plays havoc with local budgets and taxes. These

1 costs are significant components of our operating costs and  
2 despite deregulation and the formation of the New York  
3 markets the results thereof have not lead to lower prices.  
4 For the most part we are not able to secure long-term  
5 sources of power for a significant amount of our energy  
6 needs and certainly have difficulty in controlling these  
7 costs which fluctuate with world events influencing the  
8 costs and delivery of oil.

9 The project's promise of economic prosperity has  
10 not been achieved. As seen recently with the failure of  
11 this region's ability to attract a significant new  
12 manufacturer and the difficulties of securing additional  
13 allocations of power to keep area jobs, the allocation  
14 process has become Machiavellian in nature. It should not  
15 take an act of the state senate or Congress to secure a  
16 reasonable allocation of power for this project. Like the  
17 cobbler's children that have no shoes. For the most part  
18 Western New York has not reliable supply of low-cost  
19 renewable power, despite have 27,055 megawatt plant in its  
20 backyard.

21 The DEIS correctly states that NYPA is exempt  
22 from paying real property taxes and sales. It should be  
23 noted that NYPA, however, is not prohibitive from making  
24 payments in lieu of taxes. If NYPA were assessed real  
25 property taxes on the full market value of the plant, some

1 studies indicate that the county's portion would be  
2 approximately \$20 million this year. Contrast that partial  
3 portion to the statement in the DEIS wherein FERC staff in  
4 commenting on the exempt tax status noted that since 1990  
5 NYPA in 2002 dollars has contributed \$11 million to economic  
6 development in the vicinity of the project and that between  
7 1990 and 2001 it contributed \$7.6 million to education in  
8 the local communities.

9 The DEIS notes the allocation of 1880 megawatts  
10 of firm power, yet it states that the project is capable of  
11 producing up 2755 megawatts depending upon flows and storage  
12 in the Lewistown reservoir. Clearly, a significant portion  
13 of the difference in maximum power production capability and  
14 firm power is available for sale into markets at market  
15 prices and/or for delivery on a non-firm basis to other  
16 entities that could benefit from receiving low-cost power,  
17 even on a non-firm basis.

18 ENPPA is concerned about the DEIS's failure to  
19 address directly the proposed 50-year term for a new  
20 license. FERC policy with regard to the issuance of 30- to  
21 50-year terms would favor only terms of 30 years, yet the  
22 issued water quality certificate as does the very  
23 settlements including the relicensing settlements, seeks to  
24 impose a term of 50 years without any access reopener  
25 therein.

1           Such agreements usurp the Commission exclusive  
2 authority under the Federal Power Act to set the durations  
3 of terms for licenses. ENPPA opposes the issuance of any  
4 term for more than 30 years.

5           The DEIS supports the conclusion that a longer  
6 term is not needed under the Commission's policy as the new  
7 license does not involve the addition of new or significant  
8 mitigation measures. Settlements should not dictate to the  
9 Commission the length of the license term. The 2004 FMY  
10 report, as does NYPA's own report on socioeconomic impacts,  
11 demonstrates the consequences of the project's socioeconomic  
12 impacts do not stop at the borders of the host communities.  
13 The impacts of the project extend throughout Niagara County  
14 and all its communities, including those that comprise  
15 ENPPA.

16           The DEIS needs to clearly identify and assess all  
17 the socioeconomic reports filed in this proceeding. It also  
18 needs to remove inferences that negative socioeconomic  
19 indicators are somehow acceptable because they mirror  
20 similar trends for Western New York. For example, on page  
21 130, Changes in Population, declining in age distribution,  
22 graying, are coupled with statements that Western New York  
23 has experienced similar trends and that most communities  
24 have experienced similar trends, yet there's no discussion  
25 of the causes of these trends. For example, lack of job

1 opportunities, high taxes, the high cost of electricity and  
2 so on. The 2004 FMY does address these causes and it should  
3 be addressed by the staff in the deliberations.

4 We've included two copies of the 2004 FMY report  
5 in our report that I'll submit. On page 146, staff  
6 recommends relicensing the project as proposed in accordance  
7 with the terms of the settlement's relicensing agreement  
8 with some minor staff modifications. On page 134, staff  
9 correctly notes "But with brief analysis thereof that its  
10 recommendations will trigger the implementation of what  
11 staff refers to as side agreements with the Power  
12 Authority."

13 On page 137, staff concludes that these side  
14 agreements would have cumulative socioeconomic benefits for  
15 the communities adjacent to and/or near the project. Staff  
16 also noted therein that the low-cost power to be received  
17 under these side agreements by the host communities and the  
18 Tuscarora Nation could decrease school and municipal taxes  
19 and benefit economic development infrastructure, education  
20 and other projects.

21 The DEIS utilizes the power value of 49.09  
22 megawatts per hour for the determined annual market value of  
23 the project's energy, capacity and ancillary services. This  
24 is a 2007 value for the provision of this energy capacity  
25 and so forth in the western zone for sales made through the

1 New York State independent system operators marketplace.  
2 Thus, it is interesting to note that today the forecasted  
3 value for energy alone in this same market is in excess of  
4 \$80 per megawatt hour. Thus, the DEIS grossly  
5 underestimates the value of the project's power and thereby  
6 fails to appreciate that there is significantly more  
7 capacity for this project to provide additional mitigation  
8 and enhancements to all the communities of Niagara County.

9 A recent look at the project's economics had made  
10 local news. The article was based upon a July 31, 2006  
11 letter from Congressman Brian Higgins to NYPA's chairman.  
12 As noted in the article in Congressman Higgins' letter the  
13 FDR and Niagara hydro plants earned the Power Authority an  
14 additional \$40 million in just the first quarter of 2006.  
15 Obviously, the benefits of the Project's power must be  
16 reassessed in light of the current market conditions. There  
17 is no justification for the use of this historical data for  
18 the Years 2001 to 2003 for NYISO's western zone. We've  
19 included a copy of Higgins' letter in our submission.

20 On behalf of all the communities I represent, the  
21 ENPPA communities, I'd like to take this opportunity to  
22 thank the FERC staff to raise these issues in this forum.  
23 Thank you very much.

24 MR. KARTALIA: Thank you.

25 Paul Nolan?

1                   MR. NOLAN? Good evening. My name is Paul Nolan,  
2 N-O-L-A-N. I represent the East Niagara Power Project  
3 Alliance. I am their special counsel retained. I see so  
4 few people here, though a few attorneys, so I will reserve  
5 my brethren any extra time for billable matters.

6                   Please note, unfortunately Paul left. I hope he  
7 wasn't inferring that we were hoping to do unnatural acts in  
8 the mitigation we're asking for. But I would note that I  
9 attended the afternoon session and it was somewhat  
10 distressing to see how this process had devolved down into a  
11 divisiveness and I think part of it comes from the way  
12 things have been analyzed and the way they've been done.  
13 But we've talked in the DEIS 1880 megawatts and we talked  
14 about it from replacement, expansion power, preference power  
15 and power made to the utilities.

16                   And that's all well and good, but there's about  
17 another 900 or 800 and some odd megawatts of power or  
18 capacity that can generate electrical power that we haven't  
19 really talked about what is done with it, how it's sold, how  
20 it could benefit the communities and it doesn't have to be a  
21 zero-sum-game between us and the replacement power,  
22 expansion power people.

23                   For instance, when we have New Jersey here  
24 telling us how wonderful the settlement is. I don't think  
25 anyone was surprised that everyone that has signed onto the

1 settlement supports the DEIS. But we do have a few issues  
2 and we'll bring up some more in our written comments.

3 I was go in a little bit because I've done the  
4 alternative licensing process and I've been involved in just  
5 about every process that comes down. It's like a ferris  
6 wheel, it goes around, we reinvent the wheel, now we're  
7 doing the integrated method. But it's obviously this  
8 afternoon there are some people who are very favored with it  
9 -- those who settled. And there are those who did not think  
10 the alternative licensing process served their needs and  
11 those were some who felt that they were either excluded or  
12 ignored. But we'll address that in our comments.

13 We did hear today from some of the Native  
14 Americans and I would advise that the -- I have reminded and  
15 I will remind FERC here and I think all of us bear, just as  
16 FERC does, as they said when they passed in 2003 their  
17 latest round of the ferris wheel regulations on licensing  
18 that, there is a trust responsibility to the Native  
19 Americans and I believe the DEIS skirted that issue. That  
20 was noted earlier. The settlement clearly with the  
21 Tuscarora does not necessarily address their issues.

22 I certainly have brought up some issues that have  
23 been commented upon by NYPA where they felt that we should  
24 not be getting into them, but we will make comments in our  
25 written comments about the importance of Gill Creek and Fish

1 Creek as a means of providing for habitat and passage around  
2 the Falls. I don't think a lot of people understand the  
3 historic nature of those two creeks and how they serve that  
4 purpose.

5 A lot of the plans, unfortunately, in the process  
6 that I've seen when we have settlement is they designate an  
7 amount of money and they say, well, we're going to do this  
8 for mitigation and that's all well and good. And you sign  
9 on but you say exactly what are we doing? What is the  
10 timeframe to be implemented to do it if we're putting in the  
11 nesting program, if we're doing road repaving or parking lot  
12 repaving or expanding parking lots. And I do feel that it's  
13 a fair criticism to say that we need more specifics. We  
14 need a more definite time line. And to the extent that some  
15 of those activities, as addressed in the DEIS, are really  
16 more addressing deferred maintenance. I don't think they  
17 should be counted in your economic analysis. I don't think  
18 they should be counted as benefits. I don't think that  
19 dollars should be included because that's just deferred  
20 maintenance and it should not be included.

21 I would say that also when you do your economic  
22 analysis you're talking about net present value would be  
23 much more useful if you could give us the parameters that  
24 you're using in calculating net present value. What is the  
25 discounted rate you're using? How many years are you using?

1 I know sometimes you're using numbers that came from NYPA.  
2 There's nothing wrong with that. They should be clearly  
3 identified that those are the NYPA calculations and we  
4 should know how they did those.

5 When staff does the net present value, I clearly  
6 want to know whether you're calculating it on 30 years or  
7 whether you're using 30 years, but you still are thinking of  
8 a 50-year license. One may lead to the other. You may only  
9 limit yourself to 30 years because a calculation out to 50  
10 years is probably impractical and makes no sense.

11 The FDR project has reopeners and reopeners is a  
12 very interesting issue because it's certainly one that will  
13 put most of the people here to sleep. But I would say that  
14 we would explore, to the extent that we are looking even to  
15 a 30-year license, there is a need for reopeners. I know  
16 that the recent past chairman of FERC had thought that  
17 everyone should get 50 year licenses and we could have  
18 reopeners to kind of fine tune things.

19 If we found out that the offsprings weren't  
20 coming in or there was a fishery issue that didn't work out  
21 or recreation wasn't working out. I don't view reopeners  
22 necessarily that way because I think they're in some  
23 licenses. And as we know it's very hard to find any time  
24 that a reopener has been successful, but I think reopeners  
25 could be explored -- the possibility of using them.

1           I've talked about Gill Creek and it kind of  
2 brings to mind -- there was a comment there that I thought  
3 was a little harsh about dam at Hyde Park. I've actually  
4 been to that dam. I've been to some of the other diversion  
5 structures and I've been through the Tuscarora. And I think  
6 calling balls and strikes as to what is a pre-NYPA type non-  
7 impact or a post-NYPA impact and gets us into this area  
8 where you talk about impacts that need to be mitigated  
9 because they're project related, but while this is not  
10 project related but this is kind of an enhancement and  
11 that'll be okay, therefore we're going to justify what we're  
12 doing it.

13           I think some of the issues that come to mind when  
14 we're going into the DEIS specifically you talk a little bit  
15 -- you don't talk about all the settlements and I think --  
16 and you kind of leave that it's going to be out there for  
17 when we see the license order possibly and I think that's  
18 going to be too late. I think that's going to lead to  
19 further litigation.

20           You know and you've admitted that when you issue  
21 your license that will be triggering other settlements to be  
22 implemented. I think they all need to be out there for the  
23 public to look at. They should have been in this Draft  
24 Environmental Impact Statement so everyone could have  
25 commented upon it. You know, at least interrupt and say

1 that even if you don't speak you can file comments. If you  
2 do speak, you still can file comments and that's clearly  
3 what we intend to do.

4 But I think you really needed to say here's  
5 everything we know that logically follows, that's likely to  
6 be a consequence of us approving this license with these  
7 settlements, because there are a lot of settlements out  
8 there. I know it's cute that a lot of the newer settlements  
9 have been filed for informational purposes only and that  
10 FERC has not issued a formal public comment period on it,  
11 which brings in the issue of Niagara University, which  
12 having gone to Georgetown. I can't really say too many  
13 negative things about.

14 When they talk about 3 megawatts of power and  
15 then you have the Tuscarora Nation talking about 1 megawatt  
16 power and you talk about the host community talking about 25  
17 megawatts of power, but all three are described as having  
18 some kind of firmness. And I think you have to really look  
19 into the agreements, look into the understandings and say  
20 what do they mean by the delivery of firm power?

21 There are public announcements out there by the  
22 former chair of NEPA talking about firm being 24/7. That is  
23 not my understanding of how that phrase is used. It's  
24 certainly not used that way in the host communities  
25 settlement. It may be used that way with regard to Niagara

1 because the settlement actually talks about some point in  
2 when they exceed 3 megawatts they'll at least get up to 3  
3 megawatts. It certainly suggest, if you will, a disparity  
4 of treatment, not intentional, nothing wrong, but let's just  
5 be really clear about the terms that we're looking at in  
6 these settlements and maybe that's why we do need to have at  
7 least one formal comment period for all the settlements  
8 before you issue a final EIS.

9 A minor point, when you were talking about the  
10 Tuscarora Nation, you said the allocation of power will help  
11 lower taxes. I'm not going to get into the tax issue with  
12 the Native Americans right now.

13 We did talk about and we will write more about,  
14 but I again feel that we -- you know, we talk a little bit  
15 about accountability. We talked about maybe an audit. We  
16 talked about the responsibility to those who do receive the  
17 low-cost power from NYPA that they are obligated to be  
18 maintaining their facilities, to improving their facilities,  
19 to use the benefits of that low-cost power here in Niagara.  
20 I don't know. Clearly, there's indication that they haven't  
21 been doing that. That the plants have been allowed to run  
22 down. That the cheap power maybe flow through the form of  
23 dividends or salaries.

24 But I think that there's something to be said  
25 that when you're allocating or approving a project that

1 allows people to get cheap power that they have an  
2 obligation to the community to return some of that back by  
3 improving their plans to keep them competitive, to keep the  
4 jobs here.

5           And with that, I'll say that again I think we've  
6 made it clear. We thought that the 50-year license there's  
7 certainly case law on that that's clear in the Draft EIS  
8 that the new capacity is coming online. It'll be completed  
9 here on November of 2006 as related to prior approvals that  
10 had nothing to do with the relicensing and that based upon  
11 no new capacity under the proposed license and comparing the  
12 settlements to date with what the FDR projects got and  
13 understanding or at least trying to understand the  
14 differences between those two projects, the relative sizes,  
15 peaking plant like ours versus theirs, FDR's or Massena for  
16 those who are not familiar with FDR, run of river.

17           I can say that I believe and I think that we can  
18 support it in our written comments that the mitigation and  
19 enhancements offered under these settlements and offered in  
20 the license do not justify a license of anything more than  
21 30 years, which is the minimum that you can give under law.

22           I guess if you have DEC here and we don't have a  
23 chance to answer questions, I do have a problem, which is  
24 not surprising for those who know me to have a problem, but  
25 I have a problem with the fact that using the water quality

1 certificate -- and this was addressed a little bit earlier  
2 where there are some recommendations that staff wasn't going  
3 to make, but they come in anyway because of the water  
4 quality certificate. And when you have a state agency  
5 putting in a water quality certificate that they -- that as  
6 a term of that certificate there's going to be a 50-year  
7 license I think we have a jurisdictional issue and I think  
8 we have a usurping of the FERC sole prerogative to determine  
9 how long those licenses should be and I don't think they  
10 should be included in any settlement. Thank you.

11 MR. KARTALIA: Thanks.

12 Terry Yonker? If anyone else has come in  
13 recently and has a card filled out and would like to speak,  
14 if you could get those to me that would help. Thanks.

15 MR. YONKER: Thank you. My name is Terry Yonker.  
16 I live at 139 Jackson Street in Youngstown, New York. I'm  
17 the past president of the Buffalo Archeological Society  
18 among other things and represented that organization on the  
19 Niagara Relicensing Environmental Coalition. I might add  
20 that the Buffalo Archeological Society chose not to sign on  
21 to the final agreement having problems with the 50-year  
22 agreement among other things.

23 But I have three comments I'd like to make this  
24 evening. I haven't had a chance to review the Draft  
25 Environmental Impact Statement in detail, but I have a

1       pretty good idea what's included in it. One of the issues  
2       that concerns me is the decision on the part of the New York  
3       Power Authority not to move forward with the upgrade of the  
4       pump storage generating plant.

5               That plant's currently 240 megawatts and could  
6       have been upgraded, I believe, and improved in efficiency  
7       drastically by the expenditure of about \$500 million. This  
8       is important in this region because we have a developing  
9       alternative energy industry, including wind and solar that  
10      could have benefitted strongly from the development of this  
11      or further improvements to the efficiency of what we call a  
12      battery. When there's no solar, no wind this system,  
13      including the Moses plant would be able to balance that  
14      system.

15             This brings me to another point and that is, if  
16      we're going to use the water of the Niagara River and we're  
17      going to create the impacts that we do to this system, that  
18      development of that or upgrade of that pump storage plant to  
19      use that water more efficiently is absolutely essential.  
20      That is an impact. It's really intolerable.

21             The other thing is that the International Joint  
22      Commission under the Boundary Waters Treaty and the minimum  
23      flow of 100,000 cfs during the day, 50 at night. I'm also -  
24      - I've also been a member of the Great Lakes Water Levels  
25      Reference Study that reported in 1994 and one of the things

1 in that study that was very, very important is that net  
2 basin supply under any minimum climate change scenario would  
3 be decreased over time.

4 The most recent information we have is that this  
5 will be a more drastic reduction in available water supply  
6 in the Great Lakes and especially in the Niagara River. A  
7 50-year license to me is a non-starter. I don't believe  
8 that the New York Power Authority can provide power in the  
9 levels that they have committed themselves to provide for 25  
10 years much less 50 years. And so I think a whole new look  
11 at net basin supply and water supply to this plant needs to  
12 be considered.

13 Leads me to a third comment and I'm sure you  
14 addressed this, but the article in the newspaper yesterday  
15 left a lot of questions unanswered. As I said, I was a  
16 member of the Niagara Relicensing Environmental Coalition  
17 and two of the things that we asked for in negotiations, one  
18 of which was a foundation based on the funds that would be  
19 coming through the settlement to provide funding for  
20 important projects in the Niagara River ecosystem and  
21 secondly, we asked for funding for an ecology center to  
22 provide the research and provide the interpretation of this  
23 river and its resources over the net 50 years.

24 We were told that it was impossible to fund the  
25 ecology center because it was a specific project and then we

1 hear that one of the problems that FERC has had with the  
2 settlement is the fact that the -- or the ecological fund --  
3 is that it didn't provide for specific projects.

4 I have with me a proposal for the ecological  
5 center, which we intend to pursue even if we do it on  
6 private money, but it would have been a lot easier and much  
7 more helpful had we been able to do it through the  
8 relicensing process. Thank you.

9 MR. KARTALIA: Thank you.

10 Dorothy Westhafer?

11 MS. WESTHAFER: My name is Dorothy Westhafer.  
12 I'm chairman of the Grand Island Conservation Commission.  
13 W-E-S-T-H-A-F-E-R.

14 Well, you all know about Grand Island, that we're  
15 totally surrounded by the Niagara River and projects taken  
16 up in the last six and eight years are indications of the  
17 effect of the fluctuation on Grand Island. There's one at  
18 either end.

19 Buckhorn was a project of DEC and you know that  
20 the lowering of the water at night allowed cattails to come  
21 in and the streams that flowed through there were gone and  
22 it became a monoculture. And so they had to -- actually,  
23 they've got a great machine from Florida that ground up the  
24 cattails and they made canals, and you probably can't all  
25 see they had to erect weirs to hold the water in at night.

1 And thus, the aquatic life which had disappeared is  
2 returning to Buckhorn Park. Now that, of course, was not a  
3 project of New York Power Authority, but the expense was  
4 borne by DEC and they had some grants.

5 Then at the other end of the island, Beaver  
6 Island State Park, it became eroded. Several acres of  
7 wetlands were eroded and they had the East River Enhancement  
8 Project in 2000. And again, you probably cannot see my  
9 illustration, but the little green bumps on there are  
10 hummocks to protect the shore and to restore, they hope, 12  
11 acres of wetlands.

12 So the Niagara River is at the top, the long  
13 lines and then the blue are the restored wetlands and the  
14 little bumps, the hummocks, are the ones to slow the water  
15 down so that everything will work. And that was a million  
16 dollar project and that was a project of the state parks.

17 Now we're very happy to say that there is a HIPS  
18 project, Power Authority project, that is also going to  
19 bring back another wetland in Beaver Island. So we have --  
20 a lot of money has been put into Grand Island and that's  
21 only like at either end. We have a lot of shoreline in  
22 between all of these projects and erosion is a definite  
23 problem and I hope that, as Paul expressed, the natural  
24 aspects, the things that will really help with water quality  
25 and also keep our island from washing away bit-by-bit -- I

1 don't think it'll all go, not all 18,000 acres, but a lot of  
2 it has gone.

3 Another speaker from the Conservation Commission  
4 tonight, Mark Lazeration will be talking about the effect on  
5 tributaries. But I just call to your attention that the  
6 water quality of the river is paramount and that attention  
7 to shoreline control of this is very important. So I hope  
8 NYPA will consider this. Thank you.

9 MR. KARTALIA: Thank you.

10 Mark Lazeration?

11 MR. LAZERATION: My name is Mark Lazeration.  
12 That's Mark with "K" and the last name is L-A-Z-E-R-A-T-I-O-  
13 N and I'm with the Conservation Commission on Grand Island,  
14 also.

15 As Dorothy already mentioned, Grand Island is a  
16 unique system since the borders of the town are defined by  
17 the Niagara River, which therefore defines the ecosystem's  
18 dynamics of the entire Grand Island coast. This ecosystem  
19 includes all the coastal wetlands, submerged beds, tributary  
20 reaches and the associated upland components and as a last  
21 stronghold of such diversity in the Niagara River corridor.  
22 Clearly, the fluctuations and water level brought about by  
23 water diversion for power generation have a profound effect  
24 on the function of this complex ecosystem.

25 Since Dorothy already covered some of the

1 projects and she talked a little bit about wetlands and  
2 offshore areas, I'm going to focus just upon the tributaries  
3 in my little talk here. The Grand Island tributaries have  
4 been recognized by the New York State Department of State,  
5 the Department of Environmental Conservation and other  
6 governmental agencies as being important spawning and  
7 nursery grounds for sport and forage fish species. And in  
8 addition, numerous migratory water fowl species utilize the  
9 fringes of the tributaries as feeding and nesting areas.

10 Water level fluctuations in the river have a  
11 marked affect upon these streams due to their extremely low  
12 gradient, which means they have a very low flow rate, very  
13 flat land. Grand Island is just a big pan out in the middle  
14 of the Niagara River, so there's not a lot of gradient and  
15 not a lot of flow. So as a result, these tributaries act a  
16 lot like small estuaries. The ebb and flow of the  
17 fluctuation of water level actually makes water flow in and  
18 out of the tributaries.

19 The processes such as siltation in the  
20 tributaries and flushing of the tributaries are strongly  
21 affected by this ebb and flow. Temperature profiles are  
22 affected and the other major effect that we see -- anybody  
23 that lives on Grand Island -- is that times of low water  
24 levels there is a great exposure of the substrate, the  
25 underlying mud flaps and sandy bottom or whatever that

1 happens to be near the mouth of the tributary. So they  
2 become extremely -- what's the word that I'm looking for  
3 here -- there's an extreme amount of exposure at low water  
4 levels which greatly affects the ecosystem dynamics of the  
5 area.

6 Not only are the natural processes and overall  
7 ecosystem dynamics affected, but the other component that I  
8 like to look at are the economic affects, because as  
9 everybody in the Western New York area knows this is a  
10 really big hotbed of fishing and boating activities and it's  
11 long been recognized that the Grand Island tributaries are a  
12 good spawning nursery ground for many important species of  
13 sport fish such as northern pike, bass and other species.  
14 Also, in recent years there's been a renewed interest in so-  
15 called ecotourism. Grand Island has become a very prominent  
16 site for bird-watchers and other such organizations of  
17 people that come there to observe nature at its best.

18 So looking at this, it's not only a question of  
19 preserving a natural environment, but it also has a very  
20 strong economic component. It's apparent then that the  
21 overall impact of power generation water diversion is  
22 especially striking on Grand Island.

23 And in conclusion, I'd like to see every possible  
24 step taken to protect, enhance and restore the rich and  
25 diverse ecosystem that is Grand Island. Thank you.

1 MR. KARTALIA: Thank you.

2 Adam Campbell? Thomas Frank? Actually, I'm  
3 sorry. Thomas, do you mind waiting. I meant to put you  
4 back since you spoke earlier, but you'll still get a chance  
5 to speak. I'm sure there will be time, but thanks for  
6 understanding.

7 Amy Sarkees, I think. I'm trying to read the  
8 handwriting. I'm sorry.

9 MR. SARKEES: Angelo Sarkees, S-A-R-K-E-E-S.  
10 First, I looked on the website today and this meeting wasn't  
11 even on that website. And I suggest the next time you have  
12 a meeting that you put it on the homepage, the power  
13 authority like in big letters so it's there for a couple of  
14 weeks. I really didn't find it.

15 MR. KARTALIA: It's on our website. It's not a  
16 NYPA meetings, so it's on the FERC's website.

17 MR. SARKEES: I would suggest to NYPA to have it  
18 on. This group is which group?

19 MR. KARTALIA: We're the Federal Energy  
20 Regulatory Commission who wrote this document and the  
21 Commission will also be making a decision on the license.

22 MR. SARKEES: What was that again?

23 MR. KARTALIA: The Commission is the agency that  
24 will make a decision on the license as well.

25 MR. SARKEES: So will you be involved in the

1 settlements or will the settlements be related to your  
2 decision. And by that I mean the coalition settlements.  
3 I'm not really -- I haven't really kept up with the process  
4 so far.

5 MR. VINCE YEORICK: Just to clarify a little bit,  
6 when the license application was filed there were four  
7 settlement agreements that were filed in conjunction with  
8 it. One settlement agreement was called the Relicensing  
9 Agreement. That agreement was meant to become part of the  
10 license. The other agreements that were filed with or in  
11 conjunction with the license application were a Tuscarora  
12 Agreement, Power Allocation Agreement, Host Communities  
13 Agreement -- did I miss one? Those are the four. They were  
14 not filed with the intention of being included with the  
15 license application -- in the new license.

16 Subsequent to the filing of the application, two  
17 other agreements -- just two I think -- were submitted for  
18 information. Also, not intended to become part of the  
19 license. That's the Niagara University Agreement and the  
20 Erie/Buffalo Agreement. All those agreements are noted in  
21 the DEIS. However, they're not all intended to become part  
22 of the license and the DEIS does not recommend that they all  
23 become a part of the license.

24 MR. SARKEES: But are they necessary, though, for  
25 the license to be granted?

1 MR. YEORICK: No.

2 MR. SARKEES: I'm just wondering what the  
3 public's kind of like -- the public or the grassroots  
4 citizens like handle is on this, I guess, over and above the  
5 Greenway Commission and maybe I'll touch on that as I make  
6 some of these comments.

7 But the first one was that the Power Authority is  
8 here, maybe a meeting like this or any public informational  
9 meeting should be on your website whether it's being done by  
10 FERC or by yourself or whoever. I mean I wouldn't think to  
11 go on your website to look for information on this and I  
12 mean it was in the paper and you know, I'm just saying the  
13 website is where people look at these days, I guess. But  
14 that's a minor issue.

15 I had a note here about the settlement agreements  
16 and what I was trying to get at is how these agreements  
17 involve the grassroots citizens in this process and how does  
18 this relicensing agreement kind of tie in with the  
19 grassroots citizens approval or his involvement. And I'm  
20 thinking that maybe the agreements with the elected  
21 officials like in the Host Agreement that through those  
22 elected officials the citizens have their say.

23 I'm going to assume that maybe that's how it's  
24 done. But now that you're saying that those agreements are  
25 not necessarily for the relicensing, I guess, it just brings

1 up the question of how -- to what extent are those  
2 agreements going to affect the relicensing in the final  
3 analysis? I mean, you know, if the agreements go through,  
4 fine. And if they don't, will the license be granted anyway  
5 or will the nature of those agreement affect that license in  
6 any way, you know, other than -- maybe not directly but  
7 indirectly. And I guess I'm just trying to  
8 find out what the process -- the whole scope of the process  
9 is. I mean, obviously, the relicensing agreement is  
10 important to the Power Authority and it's important to the  
11 citizens like in a related way, but those agreements are  
12 probably more important to the grassroots everyday citizens  
13 in their electric rates and what benefits are going to come  
14 out of those agreements.

15 The relicensing agreement, I'm sure, is very  
16 important to the region. But I think that the other  
17 agreements are maybe even more important to the residents of  
18 the region in some other ways. So with that being said, I  
19 just I want to just see if there's any discussion on that  
20 somewhere along the line. I mean, actually, I though this  
21 was going to be a presentation meeting. When I called NYPA  
22 they told me it was going to be a presentation and then  
23 there was going to be discussion periods, but I guess it was  
24 just a public comment meetings.

25 But to get into some specifics of that agreement,

1 the settlement agreement actually has a cash settlement in  
2 it from read or at least the Host Agreement has a cash  
3 settlement in it and a power allocation. I guess I wonder -  
4 - you know, I understand what the cash settlement is about -  
5 - you know, the host communities will get money to offset  
6 their expenses, to offset whatever to make up for some of  
7 the tax base that they've lost, though I'm not sure -- I  
8 guess that negotiation process was not very well publicized  
9 but it did happen that way and I'm not sure that the amount  
10 of money that's being offered does offset the in lieu of  
11 taxes for 50 years, maybe it does.

12 The other thing is the power allocation and I  
13 think this is one issue because Mr. Palrato referred to -- I  
14 mean touched on it in his letter to the editor -- I thought  
15 about it for a long time -- was for years we've lived in  
16 this area and we've always bemoaned the fact that we had  
17 very high power rates.

18 Of course, the reason was because we got our  
19 power from Niagara Mohawk, now National Grid and we didn't  
20 get the low-cost power from the Power Authority. I mean  
21 industries did and that proved to be a benefit to the  
22 region. I don't know what percentage of the low-cost power  
23 went to the local industries. I'm sure a good portion of it  
24 did.

25 But you always wondered why some of the low-cost

1 power didn't go directly to the benefit of the residents  
2 whereas you heard stories that it did go down state. I  
3 don't know if it was to residents or if was just to  
4 industrial users or what. I mean I don't know where the  
5 low-cost power went over the years. But now that we have a  
6 new relicensing agreement and we had a chance to look at how  
7 the power rates are in this area maybe it wasn't in the  
8 right context, but I kind of wondered over the last couple  
9 of years are low-cost power I look at my electric bill, of  
10 course, and I have a supply charge and a delivery charge.

11 Of course, I imagine low-cost power from the  
12 Power Authority if it was actually given to the residents  
13 directly, you know, over and above these -- I understand  
14 they're talking about creating these municipal -- I forget  
15 what they're called, but these municipal power distributors,  
16 the MDAs or something, and my problem is I don't understand  
17 what that -- what's involved in that? I mean how do those  
18 municipal MDAs -- I don't know if I'm using the right term --  
19 - how are they going to -- how is this low-cost power going  
20 to actually affect the residents' rates -- you know, the  
21 bottom line. What is going to happen to residential rate  
22 electricity, commercial or municipal rate of electricity  
23 after -- you know, with the creation of these MDAs?

24 I'm going to assume that the delivery charges are  
25 going to stay the same. I'm going to assume that. I may

1 not be right, but -- and that obviously is the biggest part  
2 of your bill, your delivery charge. No, I'm sorry. Your  
3 delivery charge is not your biggest part, is about maybe a  
4 third of your bill roughly.

5 The supply charge is like two-thirds of your  
6 bill, maybe 50 percent, at least 50 percent, maybe 75  
7 percent of your bill and I'm wondering if this low-cost  
8 power agreement -- this low-cost power through this  
9 agreement is the way that's going to benefit the ratepayers,  
10 you know the residents and the -- the residents rather and  
11 the commercial and municipal entities that have been getting  
12 -- paying for these high power rates for the last 50 years,  
13 and I kind of wonder why, if I'm paying 8 to 10 cents a  
14 kilowatt hour, why -- I'm wondering wouldn't it have been  
15 better to reduce my kilowatt hour cost to 4 cents an hour  
16 kilowatt hour maybe or whatever instead of giving out 25  
17 megawatts of power to be distributed in a way that nobody --  
18 you really don't know how that's going to be distributed  
19 and you don't know the formula.

20 You don't know the affects of it, but it's going  
21 to go in a certain way and some places are going to get more  
22 if there's leftover. You hear all -- read all these stories  
23 that if there's leftover it's going to go here and it's  
24 really not very well spelled out. So why if my electric  
25 supply rate is like so high compared to maybe -- I mean I

1        didn't do a lot of research of other parts of the country or  
2        other parts of the state.  If I'm paying 8 to 10 cents a  
3        kilowatt hour, why not forget about that 25 megawatts and  
4        reduce the rates by 2 or 3 cents a kilowatt hour.

5                I mean that's a permanent, long-term forever  
6        savings for every rate user -- I mean electrical user in the  
7        region.

8                I mean I'm just bringing that up as that's going  
9        to be a part of the discussion.  I know the agreement has  
10       already been kind of signed off on.  Like I said, I don't  
11       know how written in stone it is, but I just wonder if maybe  
12       the Federal Energy Regulatory Commission is not responsible  
13       for explaining that agreement.

14                Maybe the Power Authority is or the Niagara Power  
15       Coalition is responsible for that.  But it just seems to me  
16       that the information just isn't out there.  I mean you have  
17       some very important and very significant issues there that  
18       are really not being very well explained and the basic thing  
19       of providing low-cost power seems to me to be the issue that  
20       really everybody -- what this area had to go at.  That was  
21       the most prominent issue in the whole process and it seems  
22       to me that it's in a kind of roundabout or a backdoor way  
23       been addressed or been considered.

24                But there is really not much information on that  
25       and it's just a simple thing.  You look at your electric

1 bill. The delivery charges are probably going to stay the  
2 same, but your supply charge is up there. Like I say, it's  
3 probably two-thirds of your bill generally and if you're  
4 going to save on -- provide low-cost power that would be, to  
5 me, the way to go.

6 I mean that would be the easiest way to go and I  
7 guess I would be interested in knowing -- and maybe I should  
8 look into it myself -- but what rates are in other parts of  
9 the country or other parts of the state and maybe find out  
10 where the low-cost power is going right now. So thank you.

11 MR. KARTALIA: Thank you.

12 Daniel Rivera?

13 MR. RIVERA: Good evening everyone. I'm sure  
14 that several people representing many stakeholders in the  
15 relicensing process have addressed you all today. I,  
16 myself, have some involvement with at least two other groups  
17 that have an interest in a fair and equitable relicensing  
18 process. These groups being the City of North Tonawanda  
19 where I reside and the Chamber of Commerce of Tonawanda's of  
20 whom I am a member.

21 However, as proud as I am of both of these  
22 entities, it is my privilege and honor to speak on behalf of  
23 another group, the NIA, or the Niagara Improvement  
24 Association.

25 The NIA like the two aforementioned entities

1 submitted a motion to intervene in the relicensing process  
2 some time ago. This intervention is based on the belief  
3 that the Highland Avenue Community, which is approximately 1  
4 mile from the Power Authority was directly and negatively  
5 impacted by NYPA's passed policies. However, I believe that  
6 the pleas for economic equity and justice on the part of  
7 NYPA with regards to the Highland Avenue Community have  
8 largely been ignored because the area has an overwhelming  
9 African American makeup.

10 Please do not think that I'm alleging that some  
11 subtle racist tendency on the part of NYPA is taking place.  
12 That is not the case. Though I do believe that race has  
13 entered into the equation, I believe that NYPA's failures  
14 with regards to this area are based on poverty, not race.  
15 Let's face it, when the poor are adversely affected by the  
16 policies of big business or government, few people listen  
17 and even fewer care. Well, I care and that's why I'm here  
18 today.

19 Several companies have benefitted from NYPA's  
20 generosity in the past, but have closed their doors and left  
21 a wake of desperation and despair. The names Global  
22 Metallurgy, Ucar Carbon, Union Carbide, Chisholm Ryder were  
23 once found on Highland Avenue. This is no longer the case.  
24 Highland Avenue or Census Tract 202, as its known to by the  
25 Census Bureau, has been transformed from one of the most

1 heavily industrialized neighborhoods in Niagara County to  
2 an oversized brownfield with high unemployment and even  
3 higher poverty levels. The median household income is  
4 \$14,000 and only 22 percent of the homes are owner-occupied.

5 Why is this NYPA's concern? Do you recall the  
6 age-old phrase "Am I my brother's keeper?" I believe the  
7 answer is "yes." Therefore I believe that the Power  
8 Authority has an ethical responsibility to request that any  
9 businesses which benefit from cheap power for a profit  
10 should be contractually bound to do the following: preserve  
11 jobs in the area for a substantial period of time; reinvest  
12 in the infrastructure of their facilities, not only to be  
13 economically competitive, but also environmentally sound.  
14 In the past 50 years NYPA has failed to adequately to do the  
15 aforementioned which is evidenced by the brownfields of  
16 which I speak.

17 Going forward, I would like to see the Power  
18 Authority protect the local environment by making sure that  
19 those who benefit from its gifts of cheap power are  
20 considerate of the real stakeholders, the residents of the  
21 area.

22 As for NYPA's past negligence on these matters, I  
23 believe it should greatly consider partnering with the NIA  
24 to help revitalize the Highland Avenue area and that  
25 community. This could be accomplished by funding brownfield

1 remediation in the area, funding cultural initiatives in the  
2 area and sponsoring a job training facility in the Highland  
3 Avenue community.

4 The list of things that NEPA could do to help  
5 this area are endless. I would ask that before NEPA's  
6 relicensing is permitted that the pleas of the Highland  
7 Avenue community and of all the stakeholders in the greater  
8 Niagara region be taken into account because we cannot wait  
9 another 50 years to correct the wrongs of the past. Thank  
10 you.

11 MR. KARTALIA: Thank you.

12 Thomas Frank?

13 MR. FRANK: Thank you. Good evening. My name is  
14 Thomas Frank, spelled F-R-A-N-K. And I'd just like to  
15 clarify some of the points that I brought up this afternoon.  
16 I was glad to see that our new supervisor, Dr. Satish Mohan,  
17 was here expressing the interest as far as how he's been  
18 collaborating with Supervisor Moline regarding a coalition  
19 of some five municipalities so that we're not excluded from  
20 the specific boundary and really as far as the process that  
21 I've been participating in, the ALP process, the Alternative  
22 Licensing Process, that was managed by -- the contractor was  
23 Gomez and Sullivan.

24 Those are professional organizational  
25 psychologists and I thought, you know, this is good. This

1 is worthwhile. We have some issues and I brought it to the  
2 attention because what got me started on this thing, believe  
3 it or not, is I almost busted my head open, okay, riding my  
4 bicycle along the Onondaga Escarpment. It's called Main  
5 Street in front of Amherst High School there's a drainage  
6 ditch and there was a hole -- I mean I've ridden this route  
7 hundreds of times, okay, and all of a sudden there's a hole  
8 there and down I go. I almost busted my head open. So you  
9 know, it just seemed obvious to me that, you know, hey, this  
10 is erosion. Okay. And the Town of Amherst is 54 square  
11 miles, okay, that has an inclination from the Onondaga  
12 Escarpment to the Niagara Escarpment.

13 Now we've been impacted for the past 50 years  
14 cumulatively and it was my understanding -- and as far as  
15 the ALP process that simultaneous to the process that we  
16 were participating in as stakeholders, okay, and I was the  
17 representative of the Niagara Frontier Bicycle Club because  
18 I mean these people have a real feel -- I mean of every  
19 mile, every inch, okay, of roadway.

20 They see it. What I've experience and what has  
21 become more and more aware and obviously in the Town of  
22 Amherst it has become the Supervisor Satish as of a mandate  
23 -- a political mandate to do something about the fact that  
24 we have infrastructure -- I mean the whole built environment  
25 is predicated on an infrastructure of a fire hydrants.

1       Okay, you can't get a mortgage if you don't have pressure in  
2       your fire hydrant as far as these rural areas. I guess they  
3       call it suburban sprawl.

4                But it's not only the fire hydrants. It's the  
5       water lines, the sewer lines, and it's the highway storm  
6       sewers throughout the Town of Amherst are eroding. Okay.  
7       This should have been a very logical process and it was my  
8       understanding that, okay, the governor comes in and he says  
9       we're going to make the American side look like the Canadian  
10      side, okay, as far as this Greenway concept.       Now the  
11      Greenway concept was suppose to have been overarching  
12      concept having to do with ameliorating some of the problems  
13      that they ran into with the relicensing of the St. Lawrence  
14      Power Project.

15               Now the New York Power Authority spent \$10  
16      million all the while this was going on. They were  
17      developing -- and I would like to read again and finish so  
18      that you fully understand that which -- it's interesting to  
19      hear -- I'm not an attorney and I'm not a Ph.D., okay. As  
20      far as the relationship, as far as the side agreements for  
21      this Greenway, okay, as far as Senator Maziarz -- how they  
22      got some legislation passed and you know, they moved it  
23      along. Okay. And I met with Senator Mary Lou Russ -- and  
24      I'm glad Adam Campbell is here. It's good to see you, Adam  
25      -- regarding the need for some amendments.

1           As far as what you call the side agreements and  
2 what I'm proposing, okay, is a future study, a five-year \$20  
3 million mandate similar to what they did with the Lake  
4 Ontario Project. They blamed it on the recreation boaters.  
5 I'm a recreation bike rider and I'm putting together a  
6 partnership with the recreation boaters for the -- what do  
7 they call it -- the terrestrial and aquatic viewscape. I  
8 like that one as far as pedestrian and bicycle access to the  
9 navigable waterways and not just for the narrow, linear  
10 Niagara River Greenway because we have here a situation and  
11 I have to read this study board recommendation.

12           They came out and said "A significant opportunity  
13 exist to move forward on long-term resolution of a few  
14 vexing -- that's spelled V-E-X-I-N-G -- issues relating to  
15 fluctuating water levels. For example, shoreline flood and  
16 erosion problems. During International Joint Commission  
17 consultations with governments the Commission should act as  
18 a catalyst to promote and advance mitigation of persistent  
19 shoreline flood and erosions problems. For example, in  
20 light of the findings of this study -- now this study was  
21 going all the while we were meeting, okay, and this  
22 information, as far as their -- it was called the Shared  
23 Vision model and I assumed that I was participating in a  
24 Shared Vision model as far as a public interest  
25 participation in that which was going to be presented to the

1 FERC.

2 Now it's been since -- well, as far as the  
3 creation of the Niagara Greenway it's been a contentious  
4 fight, okay, as far as substantive issues that are related  
5 to the regulation of the water level in the Town of Amherst  
6 has been systematically and methodically ignored. Okay.  
7 And so it goes on to say that there's something positive  
8 here. This is the catalyst, okay, as far as the future 50  
9 years, in 2057, okay, for the Erie and Niagara County  
10 region.

11 For example, "In light of the findings of this  
12 study, responsible state, provincial and municipal  
13 authorities could undertake a review of shoreline management  
14 practices and policies. Now this is very important. It's  
15 really something to see the developers come and actually  
16 threaten the elected officials in the Town of Amherst as far  
17 as the zoning and permitting, okay, as far as the  
18 infrastructure.

19 As far as the shoreline management strategies and  
20 permitting processes could be revisited and renewed for  
21 critical reaches of the shoreline utilizing new data and  
22 information gathered during the study. Now this new data  
23 and information is called -- they call it the inter-database  
24 access, but all 63 municipalities in Erie and Niagara County  
25 -- this should be a result of the settlement should have

1 access to this information as far as some regionally  
2 consistent guidelines.

3 And what's very interesting as far as the legal  
4 obscurity that is created by the legislature as far as how  
5 the local municipal planning and zoning and permitting  
6 issues are not affected by either the legislation and/or the  
7 means by which they came up with this definition of a  
8 Greenway, the LWRP, the Local Waterfront Revitalization  
9 Plans. Now one hour before the first meeting when  
10 Bernadette Castro was going to attend the first meeting of  
11 the Greenway Commission she gave Susan Gralick a check for  
12 about \$46,000. Okay. But that was for Tonawanda Creek also  
13 known as the Erie Canal, but it excluded Elliott Creek.

14 Okay, and that goes right through the center of  
15 the University of Buffalo, the New York State University of  
16 Buffalo in the Town of Amherst, okay.

17 So as far as what the municipalities are going to  
18 come out of this because they cannot, as far as their local  
19 jurisdiction, they cannot buy the hardware or the software  
20 and/or hire the kid and then they've got to pay them. But  
21 this should be a part of the relicensing settlement and  
22 that's my proposal, okay.

23 And it is actually recommended in here, okay,  
24 that they as far as a future study that would build on,  
25 extend and expand that which was developed by the Corps of

1 Engineers. They went on further. And then it says "People  
2 living and working along the Lake Ontario and St. Lawrence  
3 River" -- and what you have to realize is that these two  
4 power projects are interrelated and they admit, as far as  
5 the regulation, as far as the treaty, okay, what the  
6 Canadians are doing as far as their capital expansion  
7 capacity and all the rest of that that these projects are  
8 interrelated and it's not just a narrow, linear area that's  
9 affected.

10 It's tributaries. It's the flood plains. And  
11 here I'll show you. It's in the Amherst Bee. We've got a  
12 little flood and last week there's a photograph of the  
13 erosion on Main Street. It collapsed into Elliott Creek and  
14 we're excluded, okay.

15 These are the influences. I just want to finish  
16 that they said there needs to be an educated and informed --  
17 we need to be as citizens, public interest parties informed  
18 with respect to the basic hydrology of the Great Lakes/St.  
19 Lawrence system.

20 Now the Great Lakes/St. Lawrence system extends  
21 all the way to Buffalo and it's in here. Now as far as that  
22 hydrological and topographical model that this should be one  
23 of the benefits that all the municipalities in Erie and  
24 Niagara Counties share, okay. And it should be  
25 headquartered at the University of Buffalo. That is my

1 proposal. That's my recommendation to the FERC.

2 You talk about habitat restoration, look, we need  
3 to talk about the human habitat restoration as far as the --  
4 and what they did with the St. Lawrence study is that they  
5 developed a 50-year indemnification model because they  
6 admitted that the regulation of a water level -- they lost  
7 all the beaches on Lake Ontario.

8 So this study is going to continue forward, but  
9 it has to be in collaboration with all these 501(c)(3)  
10 corporations and it is very, very difficult as far as when  
11 there are federal funds other sources of funding that have  
12 to be matched through a complicated process between  
13 partnerships with government and private 501(c)(3)s. It's  
14 just such an incredibly difficult process.

15 What they developed was called an indemnification  
16 model and I would say -- it's interesting that you can't but  
17 they're trying to develop the information as far as Dr.  
18 Satish, as far as the maintenance of the infrastructure, as  
19 far as the -- I would say, my estimate is that it's probably  
20 between 10, 15 or 20 percent of the cost of maintenance of  
21 the infrastructure that I mentioned is directly connected to  
22 the regulation of the water level as far as the power that's  
23 generated, and all the municipalities are affected and what  
24 needs to happen is there needs to be some regionally-  
25 consistent guidelines. Okay.

1           If there were regionally-consistent guidelines,  
2 international capital would come here. The thing is they  
3 can't deal with -- I've been dealing with seven different  
4 levels of political jurisdiction, okay, as far as the  
5 Village of Williamsville.

6           We've got a resolution that they're going to pass  
7 on Monday, okay, dealing with the Village of Williamsville,  
8 the Town of Amherst, the Erie County, the State of New York,  
9 the federal government and IJC -- that's the State  
10 Department. This is a treaty with the Canadians and that  
11 there needs to be cooperation and that this Greenway, as far  
12 as -- it could be the catalyst for econometric  
13 revitalization and you have many sectors that are affected  
14 in the pedestrian and bicycle access is a worthwhile cause.  
15 Thank you very much for letting me run my mouth.

16           MR. KARTALIA: We've gone through all the sign-in  
17 sheets of people who indicated ahead of time they wanted to  
18 speak. Is there anyone else who would like to speak?

19           MR. YEORICK: We ran out of time this morning for  
20 questions. So we have a little bit of time here at the end.  
21 I would just ask that you limit questions to procedural  
22 issues or clarifications that we might be able to offer on  
23 our recommendations. We're not going to be able to do  
24 additional analysis here at the table tonight of things that  
25 we might put in the file EIS.

1           We'll take some questions as we have time.  
2           Please do still identify yourself, spell your last name for  
3           the court reporter. We're still on the record. And you  
4           have to go to the microphone, please, so they can hear you.

5           SPEAKER: What's the e-mail address?

6           MR. YEORICK: If you have the EIS, it'll tell you  
7           how to file comments. In order to electronically file  
8           comments, you have to go through a few steps to get -- well,  
9           www.FERC.gov is the website and it will direct you to E-  
10          filing.

11          SPEAKER: What is the procedure?

12          MR. YEORICK: We can hand it to you on paper  
13          here.

14          SPEAKER: The e-mail address again.

15          MR. YEORICK: www.FERC.gov. It's not an e-mail  
16          address per say. It's the website and you have to establish  
17          a log-in account through the website to electronically file  
18          documents.

19          Any other questions about where we go from here  
20          procedurally or clarifications of what we might have  
21          recommended or not in the EIS?

22          MR. SARKEES: What will take place between now  
23          and when -- 2007?

24          MR. YEORICK: The next step -- the comment period  
25          on the Draft EIS is open right now. It closes September

1 19th and we will prepare a Final Environmental Impact  
2 Statement based on the comments that are filed and issue  
3 that, we hope, by the end of the year, by the end of  
4 December. And then, after that, we have to wait a minimum  
5 of at least 30 days before the Commission can act on the  
6 license. But the next step after finishing the EIS would be  
7 a Commission decision -- and this will be a Commission  
8 order. This will go before the five -- it's currently a  
9 five-member Commission and they will issue a decision  
10 document, an order, a license or not for the next license  
11 term.

12 MR. SARKEES: If they don't issue a license, what  
13 happens? I mean what would cause that to happen and would  
14 be the consequence.

15 MR. YEORICK: It's very rare and the consequence  
16 in the unlikely situation that that would happen, the site  
17 would be open for someone else. But that opportunity came  
18 and went several years ago when the Power Authority filed  
19 their notice of intent to relicense. Then was the  
20 opportunity for people to let us know that they intended to  
21 compete for the license. A federal takeover would be one  
22 option, but that requires an act of Congress.

23 MR. SARKEES: So you're saying that it's unlike  
24 that license won't be granted. What might cause a license  
25 not to be granted?

1                   MR. YEORICK: Well, if a licensee decides they  
2 don't want to operate a project anymore that would be one  
3 thing.

4                   MR. SARKEES: What would be the other side?

5                   MR. YEORICK: If Congress stepped in for some  
6 reason and decided they wanted to take over the project.

7                   MR. SARKEES: What would FERC base their refusal  
8 on or recommend a refusal on?

9                   MR. YEORICK: We're not recommending that at this  
10 point with this Draft EIS.

11                   MR. SARKEES: I know, but what would  
12 hypothetically cause that?

13                   MR. YEORICK: I can't think of a situation right  
14 now. Well, if we don't issue the license by the time the  
15 current license expires, the license will automatically go  
16 on annual licenses. But our goal is to issue this license  
17 before the current license expires. But it will not be in  
18 effect until the current license expires.

19                   MR. SARKEES: Okay, just one more question, how  
20 do all these agreements affect that license? I guess I'm  
21 trying to get back to what I talked about before. You say  
22 these agreements don't necessarily affect the license, but  
23 there has to be some relationship there.

24                   MR. YEORICK: Well, there are certain things that  
25 we -- there's at least one thing in one of the side

1       agreements that we thought should be in the license and that  
2       is the exhibit at the Power Vista because the Power Vista is  
3       an existing project recreational facility. So we thought  
4       that even though it was in the Tuscarora agreement that we  
5       felt that it should reasonably be part of the license.

6                There is one fairly large item in the relicensing  
7       agreement that we didn't think was appropriate to be  
8       included in the license, that the HERF fund because it  
9       wasn't for specific projects. It was too general. We  
10      couldn't tie it to a project effect.

11              One other thing I would mention there was a  
12      comment about reopeners, almost all licenses that are  
13      currently in effect have reopeners in them, both the fish  
14      and wildlife reopener and a recreation reopener. And also  
15      most state water quality certifications also have reopener  
16      provisions in them. So even though you might have a 30-,  
17      40-, 50-year license terms, there are provisions in licenses  
18      to reopen that for certain situations.

19              SPEAKER: (Off mic.)

20              MR. YEORICK: That's correct. There haven't been  
21      many reopeners. One thing we should remind folks if you  
22      weren't here at the earlier meeting that transcripts of this  
23      meeting are available through the court reporter. You can  
24      check with him after the meeting and then in a little while  
25      after this the transcripts will be available on our website,

1           too, which is what?

2                        Could you state your name for the record?  You  
3           want to know the website again, [www.FERC.gov](http://www.FERC.gov).

4                        Any other questions?

5                        (No response.)

6                        MR. YEORICK:  With that, I guess we are  
7           adjourned.

8                        (Whereupon, at 8:25 p.m., the above-entitled  
9           matter was concluded.)

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