

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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Yards Creek Pumped Storage : Project No.  
Project : 2309-017-New Jersey  
- - - - - X

PUBLIC SCOPING MEETING

Blairstown Municipal Building  
106 Route 94  
Blairstown, New Jersey 07825  
Wednesday, April 2, 2008

The public hearing, pursuant to notice, convened at 2  
p.m. before a Staff Panel:

STEPHEN KARTALIA, Office of Energy Projects  
MICHAEL WATTS, Federal Energy Regulatory  
Commission

KEN YU, Esq, Office of General Counsel, FERC  
JOHN COSTELLO, Federal Energy Regulatory  
Commission

TIMOTHY J. OAKES, Kleinschmidt Consultants

Yards Creek Pumped Storage Project  
April 2, 2008

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LIST OF PUBLIC SPEAKERS

Lingard Knutson. U. S. E. P. A	18
Syl via Kovacs Warren County Envi ronmental Commi ssi on	21
Ed Zi ndel , New Jersey State	
Federation of Sportsmen' s Clubs	25

Yards Creek Pumped Storage Project  
April 2, 2008

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

2 MR. KARTALIA: My name is Steve Kartalia, I'm  
3 with the Federal Energy Regulatory Commission. I'd like to  
4 welcome you here this afternoon to have the Yards Creek Pump  
5 Storage Project Public Scoping Meeting. We're going to have  
6 another meeting at 7 p.m. tonight. We had a site visit  
7 earlier; most of you were on that.

8 The reason we're here is to begin the information  
9 gathering stage, collecting information about the project,  
10 getting information into the record; because the Office of  
11 Energy Projects, where I work, will be conducting an  
12 environmental review to determine how and if to relicense  
13 the project, and what conditions ought to go into the new  
14 license.

15 There are several other FERC staff here; I'll let  
16 them introduce themselves.

17 MR. WATTS: I'm Mike Watts, and I'm the licensed  
18 engineer on this project.

19 MR. COSTELLO: I'm John Costello. I'll be  
20 working on the recreation and land use issues, cultural  
21 resources.

22 MR. YU: I'm Ken Yu, I'm the attorney on the  
23 project.

24 MR. KARTALIA: We also have a staff member who  
25 wasn't able to make it; Kristen Murphy. She's a terrestrial

Yards Creek Pumped Storage Project  
April 2, 2008

1 biologist; she'll be looking at those sorts of issues.

2 By training, I'm a fisheries biologist. I'm  
3 going to serve as the team leader at FERC, as we do our  
4 environmental review over the next few years. This is the  
5 beginning of an approximately five year process. The actual  
6 licensing decision is quite a ways down the road. The Yards  
7 Creek current license expires in 2013. By our regulations,  
8 two years before that, February 2011, they need to file an  
9 application with us for a new license.

10 The next few years is going to be spent  
11 developing the information to put into the application. So  
12 I'll give you an overview of that, and you can ask questions  
13 whenever you have questions; we're also going to try and get  
14 through the background information fairly quickly, and then  
15 there will be a question and answer period. You can ask  
16 questions along the way, or wait as you choose.

17 We do have a court reporter here today. There's  
18 going to be a full transcript of this meeting and the 7 p.m.  
19 meeting. You don't have to come to both meetings; they'll  
20 be identical content. So it's up to you, you're welcome to  
21 come to both, but you won't hear a different presentation  
22 tonight.

23 So if and when you speak, please spell your name  
24 for the court reporter's benefit, and speak clearly; and  
25 we'll also probably ask you to write your name down just so

Yards Creek Pumped Storage Project  
April 2, 2008

1 we make sure we get the spelling right. And state your  
2 affiliation if you're representing some one or entity.

3 This project has the FERC No. 2309. I mention  
4 that because one way you might want to track this proceeding  
5 along the way is to go to our website, which is FERC.gov,  
6 and if you look for a link called eLibrary, you can track  
7 all the filings and issuances based on the docket number,  
8 which is P-2309. And that way you can be informed by  
9 e-mails everytime something gets filed, and it's an easy to  
10 make sure you are aware of everything.

11 (Projected display on wall of room.)

12 This is what we're going to cover. I'm going  
13 through some introductory stuff now, and I'm going to give  
14 you a little bit of information about the licensing process.  
15 Then the Applicant's consultant is going to present a little  
16 video which most of you have seen, but not all of you; so it  
17 gives information about the project. Go through the project  
18 description and the facilities, what the project includes;  
19 and then we're going to be at the beginning of a very  
20 important part of the licensing, which is to identify issues  
21 and studies and information that needs to get into the  
22 record so we can all review what alternatives and options  
23 there are for the future license.

24 Then we'll go through important upcoming dates.  
25 I'll give you a list of these dates later; but one important

Yards Creek Pumped Storage Project  
April 2, 2008

1 date is May 12, which is in the scoping document. May 12 is  
2 the deadline for filing comments on the Applicant's NOI and  
3 PAD, which is their Pre Application Document -- has a lot of  
4 project-specific information.

5 May 12th is the date to file comments on this, or  
6 comments on things you hear at the scoping meeting, or to  
7 request the study. And there are also criteria for  
8 requesting a study, which I'll go over shortly.

9 Please sign in; I think everyone has. You can  
10 submit written comments and oral comments; they both are  
11 equally considered; you don't need to file written comments  
12 if you speak onto the record today; it's as good as filing a  
13 written comment. Or you can send duplicate in writing, it's  
14 up to you.

15 If you wish to be added to the mailing list,  
16 there's procedures in here, how to do that, who to contact  
17 at FERC to get on there. If you received either our scoping  
18 document or the letter from the Applicant, then you  
19 definitely are on the mailing list.

20 Briefly, the Applicant filed this Notice of  
21 Intent to relicense the project, and preliminary pre-  
22 application document in January. Right now we're beginning  
23 the scoping process where we receive public input, input  
24 from agencies on issues they would like to see evaluated and  
25 during the process. Then we're going to be going through a

Yards Creek Pumped Storage Project  
April 2, 2008

1 study plan development stage which starts with the  
2 Applicant's proposed studies, then we wait to hear what you  
3 all would like to see added to that list of studies, if you  
4 have additional suggestions; and then we'll go through a  
5 process of kind of making sure the studies are designed so  
6 that they get exactly the information we need to do the  
7 analysis. Then there will be one to two years of studies --  
8 not every study takes two years; some that require field  
9 work might take two seasons.

10 So that takes us three years down the road from  
11 now. On the bottom row, the application is filed with us,  
12 and that will have the study results and everything in it.  
13 That gets filed with us by February 28, 2011. And then that  
14 REA notice is what's called a notice where we tell the  
15 public we believe the application is ready for environmental  
16 analysis. That's basically our way of saying we've got all  
17 the information into the record to do our analysis, and  
18 we're going to begin now; and that's also a cue for the  
19 agencies to send in their preliminary terms and conditions.

20 Then we will prepare our environmental document,  
21 which will be either an Environmental Assessment or an  
22 Environmental Impact Statement. It will go out to public  
23 comment, and then depending on the nature of the comments,  
24 we might issue a supplemental or a final environmental  
25 document. Then, the staff that we have here are in Office

Yards Creek Pumped Storage Project  
April 2, 2008

1 of Energy Projects, and we're environmental staff that are  
2 advisory staff to the Commission. The Commission has five  
3 appointed members, like many federal commissions.

4 Our EA, in addition to other things, provides  
5 recommendations to the Commission for licensing. Then it is  
6 up to the Commission to issue a license order, and they take  
7 our recommendations into consideration. They're not  
8 necessarily bound by our recommendations; our  
9 recommendations are one of many things that they consider in  
10 their licensing decision. So that's called the order; when  
11 they issue the new license, that's called an order issuing  
12 license.

13 Our role at this point is just to facilitate the  
14 public discussion of issues and studies, and to get the  
15 public involved and get people's input about what it is that  
16 is of concern or you all would like to see addressed. So  
17 we're trying to get existing information.

18 If you know of a study that you think would very  
19 much inform the process, we'd really like to get that into  
20 the record; whether it has to do with bird migration or  
21 species lists of animals in the area, or recreational use  
22 surveys, all that sort of thing; we want to start with  
23 getting all the useful into the record, then we'll know  
24 what, if anything, we need to study to get new information.  
25 So keep that in mind, if you know of something you think we

Yards Creek Pumped Storage Project  
April 2, 2008

1 should know about.

2 I'd like to turn it over to Tim Oakes for the  
3 video.

4 MR. OAKES: I think we have a couple of slides.

5 I'm Tim Oakes from Kleinschmidt, a consultant to  
6 JCP&L and PSEG, we're the co-owner of the plant. I'm going  
7 to talk a little bit about the project.

8 I think most of you were on the site visit this  
9 morning, have pretty good sense of it; but a couple of  
10 people weren't and have asked that we show the video, which  
11 gives a much better description of the plant than I could  
12 possibly do.

13 So why don't we start with that. For those who  
14 have seen it, I appreciate your patience to sit through it  
15 one more time. It's only about six or seven minutes, I  
16 think.

17 (Video shown.)

18 MR. KARTALIA: All right. Again, thanks if  
19 you've already seen that; and if you hadn't guessed, that's  
20 the Visitors Center; that was produced to be put in the  
21 Visitors Center at Yards Creek.

22 (PowerPoint slides.)

23 MR. OAKES: So we show a few slides that give a  
24 few more facts about the project; I think you got most of it  
25 from the video.

Yards Creek Pumped Storage Project  
April 2, 2008

1           This is a map showing the project area. This is  
2 the Upper Reservoir they show on the video, here is the  
3 Lower Reservoir, this is the Auxiliary Reservoir that's used  
4 for make-up water during droughts. This is primarily used  
5 as a Boy Scout camp. And then this red line around  
6 everything, that is the FERC project boundary, and you can  
7 see the red line goes around the penstock that connects the  
8 reservoirs.

9           Just a few facts about the project. I think you  
10 heard that in the video, this is 400 megawatts of  
11 electricity is produced by the project. Where it was built,  
12 it was originally built on the Yards Creek, which is a  
13 tributary of the Paulins Kill, which then flows into the  
14 Delaware. It's half-owned by two utilities, JCP&L and PSEG.

15           Much of this information I think you saw on the  
16 video; I don't think there's anything there that you didn't  
17 already see in terms of the project features.

18           This is recreational features; the Boy Scout camp  
19 is within the project boundary, the land around the  
20 Auxiliary Reservoir was given to the Boy Scouts; it's about  
21 500 acres of land that is used by the Boy Scouts. They have  
22 a pretty big meeting hall there and lots of facilities. I  
23 think they have thousands of Boy Scouts there in the summer  
24 months.

25           The Upper Reservoir is within Worthington State

Yards Creek Pumped Storage Project  
April 2, 2008

1 Forest and Delaware Water Gap National Recreation Area, or  
2 is surrounded by those. The Visitor Center many of you were  
3 at today, it was right inside of the project fence. The  
4 Appalachian Trail runs along -- I should have pointed that  
5 out in the map -- along the Kittatinny Ridge by the Upper  
6 Reservoir.

7 Prior to September 11, 2001, the project access  
8 was granted through the project to the Appalachian Trail,  
9 but that sort of changed the security picture, and the  
10 project -- there is no longer access through there, which is  
11 an issue we'll talk about.

12 A few facts. The original license -- I think  
13 Steve covered much of this -- the original license was  
14 issued in 1963, it was a 50-year operating license; it  
15 expires February 28, 2013. So the application for a new  
16 license is due in 2011. And we're starting the process now  
17 to understand the issues, to put together an application by  
18 2011 that hopefully addresses the issues and plans for  
19 continued project operation.

20 The approach that PSEG and Jersey Central have  
21 been taking to the relicensing has been to identify and  
22 understand any potential issues that might be out there  
23 about the project, the project operation. We met with many  
24 of the key resource agencies involved in the project, mainly  
25 to identify some of the information to put into the

Yards Creek Pumped Storage Project  
April 2, 2008

1 preapplication document, the PAD as we call it; but also to  
2 identify any potential issues that people might have with  
3 the project.

4 Another thing we did was look at potential for  
5 project improvements; whether there were things that could  
6 be done to improve the operation, expand the operation; and  
7 there are some proposals that we're making here as part of  
8 the relicensing to do that.

9 Some of the preliminary issues that have been  
10 identified. We asked some of the resource agencies for  
11 lists of threatened endangered species that might be in the  
12 project area; we got quite a long list. There are several  
13 different species, they are listed in the preapplication  
14 document, that may be in the project area, so that is  
15 certainly something we want to look at; you know, is there  
16 anything the project is doing that might be impacting a  
17 threatened endangered species near it.

18 There were questions about habitat; the area  
19 below the project area, creek below the project has brown  
20 trout in it, or we're sure there's brown trout in it; we're  
21 not sure if there's spawning going on in it. The dwarf  
22 wedge mussel is an endangered mussel species that is present  
23 in many parts of the Delaware; we're not sure if it might be  
24 in Yards Creek below the project.

25 There are some questions that the DEP had about

Yards Creek Pumped Storage Project  
April 2, 2008

1 whether or not there's fish in Upper Yards Creek, above the  
2 project reservoirs. So that was another thing that we asked  
3 about. Again, access to some of the recreation facilities  
4 that were closed after September 11th, including the  
5 Appalachian Trail. And then the proposal I referenced,  
6 things that we looked at to assess the project operation,  
7 how it can be improved.

8 One of those things was increasing the amount of  
9 water in the two reservoirs. Currently the Upper Reservoir  
10 operates without six feet of freeboard; when it's at the  
11 fullest level there's another six foot of wall around it.  
12 And what we looked at is if we raised that operating level  
13 by two feet, it still gave an acceptable amount of freeboard  
14 from a safety standpoint, but provided a little more water  
15 to generate with. So we're looking at whether or not that  
16 makes sense to do that; and by raising the Upper Reservoir  
17 two feet, we need a corresponding increase in the Lower  
18 Reservoir. The Lower Reservoir is about twice the area of  
19 the Upper Reservoir.

20 So we're looking at what the impact of those  
21 higher operating levels might be on the plant communities  
22 around the surrounding reservoir.

23 And because of some of these issues, these are  
24 some of the studies that we've been proposing, that we've  
25 proposed in the PAD, and there's detailed study plans in

Yards Creek Pumped Storage Project  
April 2, 2008

1 there, so we're not going to get into all the details of the  
2 study plans. Basically these studies are designed to  
3 address some of those issues, and survey for what threatened  
4 or endangered species might be present. Look in Yards Creek  
5 below the project for brown trout, for dwarf wedge mussel.  
6 A fisheries survey in Yards Creek within the projects;  
7 basically go through with a back pack electroshock and see  
8 what's there, and evaluate the impacts.

9 There was a kind of neat study done; a Ph.D.  
10 student study done in 1972 of the plant communities around  
11 the reservoir. And they had done transects in several  
12 points in the Upper and Lower Reservoirs just to look at  
13 what was happening with the plant communities. We are going  
14 to back and basically repeat the work that had been done  
15 there, and see what's there now and what the additional  
16 operating levels, what effect they might have on plant  
17 communities.

18 Those were the primary things that had been  
19 proposed at this point.

20 MR. KARTALIA: Okay. This is a list of resource  
21 categories. When we write an environmental assessment or an  
22 environmental impact statement, if you haven't seen one  
23 before, these are categories and issues that are included  
24 and evaluated in that type of document.

25 We listed, on pages 11 to 13 of our scoping

Yards Creek Pumped Storage Project  
April 2, 2008

1 document, there's a list of the issues that FERC staff has  
2 preliminarily identified. And they're stated fairly  
3 broadly; but basically the idea is to understand anything  
4 that might happen to any resource with a full increase or  
5 continued operation. And the whole purpose of the  
6 Environmental Assessment, our environmental document, is to  
7 put out in the public domain what we think the benefits or  
8 effects of continued operation and/or a full increase would  
9 be, and solicit public input on our assessment.

10 So I don't think we need to go through all the  
11 bullets; but if you have any you want to mention?

12 (No response.)

13 Okay. They're listed in there. Mainly we're  
14 here today to see if there are things you want to add to  
15 that list. That's one of the main reasons we're here. And  
16 importantly, at the bottom, developmental resources. That  
17 means that for whatever enhancements or proposals might be  
18 recommended, we will do an analysis; actually, Michael will  
19 do an analysis of what the cost of that particular measure  
20 would be in either dollars or lost generation or whatever;  
21 and that way there will be some way of knowing the pros and  
22 cons of each measure.

23 This is important, and it's also written in the  
24 scoping document. So if you intend to submit a study  
25 request, it's important that you follow these criteria.

Yards Creek Pumped Storage Project  
April 2, 2008

1 And they're pretty self-explanatory. But let's just see,  
2 read what they are.

3           Bullet 4, for example, if there already is  
4 existing information, then we probably want to use the time,  
5 effort and money to study something that hasn't been  
6 studied. That's one reason I mentioned, if you know of  
7 studies that we need to know about, we really want to get  
8 those into the record over the next few months or year.

9           As we go through the study request, we'll  
10 definitely want to see specific methodology that you've  
11 proposed with a study, and over the subsequent meetings, a  
12 lot of the meetings that will be held on the study plan,  
13 kind of work out the nuts and bolts of the methodology, how  
14 often to sample, when to sample, sample locations, the fine  
15 points of the study.

16           Here are some upcoming dates; these are also in  
17 here. Last page of the scoping document, Appendix B, has a  
18 very thorough list. These are just some of the key dates.

19           Comments on the PAD and study requests due by the  
20 12th of May; the Applicant will then submit and distribute a  
21 proposed study plan based on their initially-proposed  
22 things, and other comments people have made. The study  
23 plan meetings -- it should say 'meeting or meetings' -- if  
24 there's not much to discuss, sometimes one meeting is  
25 sufficient. Sometimes these will be teleconferences,

Yards Creek Pumped Storage Project  
April 2, 2008

1 sometimes they will be held on a specific location, most  
2 likely up here. But it won't necessarily be on July 24th.  
3 That date is in there to indicate that by July 24th we need  
4 to have had a study plan year. So don't mark that down in  
5 your calendar as the day of a meeting; it just needs to  
6 occur on or before that.

7 Then the Applicant will, based on comments on the  
8 proposed study plan and what transpires at the meetings,  
9 will submit a revised study plan. And then in November, the  
10 Commission will issue a study plan determination which  
11 basically spells out in detail what studies will happen and  
12 the schedule on which those studies will occur over the next  
13 year or two.

14 So it's a busy year. We're trying to identify  
15 the information needs, get stuff into the record, plan  
16 studies and give the Applicant time to hire consultants and  
17 get these studies underway.

18 Now thanks for bearing with the process  
19 explanation, but I think it's important that you understand  
20 where we are and get a feel for what stage we are in the  
21 process. Now is the time we'd like to entertain your  
22 questions or let you make comments into the record. Just a  
23 reminder to please state your name, and if you're  
24 representing someone, what your affiliation is; and then Ken  
25 will probably also get you to write your name to make sure

Yards Creek Pumped Storage Project  
April 2, 2008

1 we get it spelled correctly.

2 MS. KNUTSON: My name is Lingard Knutson and I'm  
3 from the U.S. Environmental Protection Agency.

4 Tim, could you show us on the map how exactly the  
5 relationship -- if there is one -- between this storage,  
6 pump storage facility and Yards Creek is? I'm not sure I'm  
7 hitting the relationship of how these two are next to each  
8 other, or connected or not connected.

9 MR. OAKES: Okay, Jeff might help me a little  
10 bit, but it hopefully shows on that map.

11 Basically Yards Creek runs kind of into, past the  
12 Lower Reservoir. Yards Creek runs from here down the  
13 mountain -- you can see that. So this is Yards Creek.  
14 Right here is a diversion area where water can be diverted  
15 from Yards Creek into the Auxiliary Reservoir. And then  
16 basically, Jeff, it ends at the upper end of the Lower  
17 Reservoir?

18 MR. GEUTHER: Yes. If you move your pen back  
19 that way, you'll see where the stream flows right into the -  
20 -

21 MR. OAKES: Okay, this is it right here.

22 MR. GEUTHER: Yes.

23 MR. OAKES: Okay. So it's a little bit obscured  
24 by our letter there. But basically, it runs into the Lower  
25 Reservoir, and then it releases out of the reservoir into

Yards Creek Pumped Storage Project  
April 2, 2008

1 Yards Creek below the project.

2 MS. KNUTSON: So some of the water from Yards  
3 Creek possibly could flow through that Lower Reservoir and  
4 not be taken up to the Upper Reservoir; doesn't have to be,  
5 per se.

6 MR. OAKES: Right, it --

7 MS. KNUTSON: And most of it probably goes --  
8 most of it is probably cycled through?

9 MR. OAKES: I would say yes, that's the case. I  
10 don't know how long it took to initially fill the reservoir;  
11 a couple years or something?

12 MR. GEUTHER: My understanding, it was less than  
13 two years.

14 MR. OAKES: About two years. It's not a very  
15 large stream here. This is about five square mile drainage,  
16 stream. So there's just not a lot of water there in the  
17 summer months. I know I've come up here -- it's about dry.  
18 You know, we haven't looked everywhere in the summer months,  
19 but it was reported before construction it had gone dry  
20 during times of the year.

21 So it kind of depends on the year; you know,  
22 there's times when there's -- and that's why the Auxiliary  
23 Reservoir is needed in some dry years, because evaporation  
24 probably exceeds inflow, and you've always got a release  
25 that needs to be maintained at the bottom. So there's time

Yards Creek Pumped Storage Project  
April 2, 2008

1 when probably the reservoir is actually supplementing the  
2 water that's coming in, and there's times when it clearly is  
3 taking water out.

4 MS. KNUTSON: If I remember, as we were driving  
5 down, that's like an overflow, it's a spill overflow, it's  
6 not a run of the river, I guess you'd say; it's only an  
7 overflow when it gets too high?

8 MR. OAKES: Right, there's always a gate that's  
9 open that releases water.

10 MS. KNUTSON: Oh, there's always a small flow out  
11 to Yards Creek?

12 MR. OAKES: Right. And then that overflow gate  
13 is just during times of real heavy spring runoff, snow melt,  
14 whatever; that if there is more water than the reservoirs  
15 can handle, then it spills over there. Overflow.

16 MS. KNUTSON: Thank you.

17 MR. OAKES: Again, maybe a Jeff question. Does  
18 it overflow and spill there annually?

19 MR. GEUTHER: No. It would be a rare event.  
20 Those of you who were on the site tour perhaps noticed that  
21 the spillway is 100 feet wide, and in the middle there's a  
22 10 foot wide notch. Occasionally -- it has never flowed  
23 over the full width of the spillway. On a rare occasion it  
24 would go through the notch during heavy rain events. But  
25 it's extremely rare.

Yards Creek Pumped Storage Project  
April 2, 2008

1 MR. OAKES: Does that answer your question?

2 MS. KNUTSON: Yes. Thank you very much.

3 MR. KARTALIA: Anyone else like to make a  
4 comment? or direct a question.

5 MS. KOVACS: Sylvia Kovacs Warren County  
6 Environmental Commission. A couple of questions, if I  
7 might. I apologize, I couldn't make it to the site visit  
8 this morning.

9 Might I ask you to give me your definitional  
10 difference between an environmental assessment and  
11 environmental impact statement, and why you would choose one  
12 over another?

13 MR. KARTALIA: Sure. Actually, our environmental  
14 assessments are very, very similar; these days, they're  
15 almost identical to EISs. I think there's a slight  
16 formatting difference. There's a statement at the end of  
17 one: "Finding of no significant impacts is an important part  
18 of an EIS"; correct?

19 But I think we've even added that to the EA. So  
20 yes, it's a good question. Basically it's a real fine line  
21 now; the title page is about the main difference.

22 There would be a mandatory public meeting after  
23 the issuance of a draft, in the case of an EIS.

24 MS. KOVACS: Right.

25 MR. KARTALIA: Whereas in an EA, we don't from

Yards Creek Pumped Storage Project  
April 2, 2008

1 the start reject the possibility that there would be a  
2 meeting, but there's not automatically a meeting.

3 MS. KOVACS: A requirement.

4 And might I ask you --

5 MR. GEUTHER: EPA comments on the EISs.

6 MR. KARTALIA: Right. EPA comments on our --  
7 well, their Office of CEQ, right? Counsel on --

8 MS. KNUTSON: Any federal EIS including FERC's,  
9 the Environmental Protection Agency must comment on. We do  
10 not have to comment on EAs.

11 MR. KARTALIA: Right.

12 MS. KNUTSON: Lots of times we do, though.

13 MR. KARTALIA: Okay, thank you.

14 MS. KOVACS: Might I ask you to give me a  
15 guesstimation as to what the actual square footage or square  
16 acreage or square mileage or whatever your site actually  
17 encompasses?

18 MR. KARTALIA: I think in the PAD -- and Jeff --  
19 I think the whole project boundary including the Boy Scout  
20 camp and the reservoir acreage is about 1300 acres?

21 MR. GEUTHER: I want to say, the property that we  
22 own is in excess of the project boundary; so I've not  
23 thought about it in that way, but you're probably correct.  
24 Including the Boy Scout property, we are around 1700 acres,  
25 as I recall. And that's more than what's in the project

Yards Creek Pumped Storage Project  
April 2, 2008

1 boundary.

2 MR. KARTALIA: Right.

3 MS. KOVACS: And can you tell me, do you do your  
4 analyses down to HUCK-11s, HUCK-14s or HUCK-17s?

5 MR. KARTALIA: You'll have to excuse me, I'm not-

6 -

7 MS. KOVACS: Sub-watersheds?

8 MR. KARTALIA: Oh.

9 MS. KOVACS: Were they all in one sub-watershed?

10 MR. KARTALIA: This is all one -- there's not  
11 more than one sub-watershed in this, within this project  
12 boundary that I'm aware of.

13 MR. GEUTHER: This is if the watershed is pretty  
14 small, I think I mentioned before, is about five square  
15 miles or so.

16 MS. KOVACS: Okay, so we don't know whether it's  
17 a HUCK-14 or a HUCK-17?

18 MR. GEUTHER: I'm not familiar with the term.

19 MR. KARTALIA: I'm not, either. Sorry about  
20 that; that's not a term I'm used to here.

21 MS. KOVACS: When you do your analyses with  
22 regard to the environmental impact assessment or statements,  
23 do you use information -- for example, I think our  
24 Department of Environmental Protection here in New Jersey  
25 has now come out with a Landscape 3 project as opposed to a

Yards Creek Pumped Storage Project  
April 2, 2008

1 Landscape 2 project, which actually gives you more  
2 information with regard to state threatened and endangered  
3 species, not just federal?

4 MR. KARTALIA: If we have information from the  
5 state on their inventories and surveys, we include it in our  
6 environmental --

7 MS. KOVACS: This is a relatively new thing.

8 MR. KARTALIA: Okay.

9 MS. KOVACS: Initially is being rolled out from  
10 DEP with regard to the Highlands legislation for the seven  
11 Highlands counties. This is outside the Highlands 860,000  
12 acres parameter, but it's still within a Highlands county.  
13 So I don't know whether or not that would be something that  
14 you would need to be looking at or you might want to look  
15 at. I'll put that into my public comments.

16 MR. KARTALIA: Sure. We would certainly  
17 encourage you to submit the information if it's available;  
18 then we can include it in our review.

19 MS. KOVACS: Super.

20 Sorry, just a couple of other questions.

21 MR. KARTALIA: That's okay, that's why we're  
22 here.

23 MS. KOVACS: I quickly ran through this.

24 When you're doing your study criteria, what  
25 appendix is that on?

Yards Creek Pumped Storage Project  
April 2, 2008

1 MR. KARTALIA: It's Appendix A, it's the next to  
2 last page.

3 MS. KOVACS: And you talk about methodology?

4 MR. KARTALIA: yes.

5 MS. KOVACS: When you guys evaluate water flows,  
6 what's the methodology that you guys use? Do you use a  
7 7Q10, or echo flow analysis?

8 MR. KARTALIA: Well, if a 7Q10 has been  
9 established for a drainage, we always make a point of  
10 including that in the EA or EIS; but also if we have  
11 empirical data showing the hydrograph over months and years,  
12 we definitely look at that data, and sometimes -- sometimes  
13 if the data is needed to look at different proposals, the  
14 effects of different proposals, then we'll require a study  
15 to collect some base line data if the data isn't already  
16 there. It just depends on how the information would be  
17 needed to address measures, proposed and going forward.

18 MS. KOVACS: Thanks for now.

19 MR. KARTALIA: Sure.

20 Other comments or questions?

21 MR. ZINDEL: I guess that leaves me. My comments  
22 are in regards to public access at this time, and what we  
23 envision. I represent three organizations today.

24 Mr. Stenographer, I have a copy of this.

25 MR. KARTALIA: And your name?

Yards Creek Pumped Storage Project  
April 2, 2008

1 MR. ZINDEL: Ed Zindel.

2 I have a letter here that was produced by the New  
3 Jersey State Federation of Sportsmen's Clubs. They asked me  
4 to present it here today. I talked about our opposition  
5 yesterday, and they asked me to let it fly.

6 The New Jersey State Federation of Sportsmen's  
7 Clubs and its membership of over 400 clubs and 25,000  
8 members in New Jersey appreciates the opportunity to comment  
9 on the Yards Creek relicensing project. The Federation has  
10 long been a supporter of public access to lands and waters  
11 owned by utilities in our state. On behalf of our members,  
12 we would like to thank both FERC and the Yards Creek  
13 partners; JCP&L, PSEG Fossil for granting 36 years of Yards  
14 Creek access prior to 9/11.

15 We are aware of the quality of life benefits for  
16 New Jersey residents that Yards Creek once provided, in  
17 particular the ability of citizens to engage in a variety of  
18 wildlife-dependent activities, including hunting and  
19 wildlife observation.

20 That being said, since 9/11, the Partners have  
21 demonstrated a total disregard for our membership as well as  
22 for all recreational interests. It is now our resolve to  
23 work with FERC to regain all the benefits we once enjoyed  
24 and to add a few more.

25 In 1963, FERC issued License P-2309 which granted

Yards Creek Pumped Storage Project  
April 2, 2008

1 the Partners a monopoly to use New Jersey public resources  
2 for the purpose of generating enormous profitability. FERC  
3 clearly understood the generous benefit they granted the  
4 utilities, and accordingly included the following public  
5 access requirements in their license: "The licensee shall  
6 allow the public free access, to a reasonable extent, to  
7 project waters and adjacent project lands owned by the  
8 licensee for purpose of full public utilization of such  
9 lands and waters for navigation, for recreational purposes,  
10 including fishing and hunting."

11 While we are all well aware of the essential  
12 service provided by the electric utilities, our request for  
13 recreational access to lands and waters in and around this  
14 FERC project is very little to ask. In fact, the recipients  
15 of this public benefit will most often be the Partners'  
16 customers and/or stockholders.

17 In a post 9/11 world, we are aware of the need to  
18 protect our infrastructure from the threat of terrorism.  
19 Fortunately, six years after 9/11, the knee-jerk "shut  
20 everything down" mentality has for the most part been  
21 replaced with an attempt to identify practical solutions for  
22 restoring public access near our sensitive infrastructure.

23 Additionally, security personnel now acknowledged  
24 the extraordinary importance of an observant, vigilant  
25 public in deterring acts of terrorism. In fact, the

Yards Creek Pumped Storage Project  
April 2, 2008

1 Heritage Society ranks public vigilance second out of the  
2 five major factors which prevent or deter acts of terror  
3 against our infrastructure.

4 While the Partners have failed to recognize the  
5 value of a watchful public, the FERC Dam Security personnel  
6 are well acquainted with this asset. Additionally, they  
7 informed us with names of many facilities which have  
8 reopened for fishing, hunting and hiking in spite of their  
9 high hazard dam classifications.

10 If ranked according to physical size and/or power  
11 generating capacity, the Yards Creek's project pales in  
12 comparison to nearly every operation which has reopened to  
13 the public since 9/11.

14 The Federation's opinion is, the Partners have  
15 overstated both Yards Creek's value as a terrorist target  
16 and its importance to the power grid. Since 9/11 these  
17 overstated concerns have been used as an excuse to close the  
18 project to public access. The following are examples:

19 1. Well after the mandatory 9/11 closures, FERC  
20 recognized the failure of many licensees to reopen their  
21 facilities to the public as required by the recreation and  
22 use plans. This concern prompted compliance inspections to  
23 verify that each operator was, in fact, fulfilling their  
24 contractual obligations. On March 23, 2004, Inspector John  
25 Mark visited Yards Creek and began what would be a three day

Yards Creek Pumped Storage Project  
April 2, 2008

1 inspection. On April 22, 2004, his report was issued  
2 electronically as Document P-2309-000.

3 In his report, Mr. Mark stated the following:

4 The licensee allows free public access to project  
5 lands designated for public use (Photo No. 10).

6 Photo No. 10 is a sign out on Route 94 that demonstrates  
7 that there are hiking trails, picnic areas, so forth.

8 All visitors must register at the guard house  
9 located at the entrance to the project (Photo  
10 11). The licensee provides scenic overlooks with  
11 picnic and restroom facilities, parking area,  
12 nature areas and hiking trails throughout the  
13 project boundaries (Photos 12 through 18).

14 The project facilities appear to be in good  
15 condition in preparation for the upcoming  
16 recreation season. The licensee appears to be in  
17 compliance with its requirements with regard to  
18 recreation resources.

19 In reality, Mr. Mark had been misled. Both the Sunfish  
20 Pond Trail (Photo No. 18) and the Raccoon Ridge Trail  
21 remained off limits to the public. The upper lookout  
22 remained closed, hunting access remained closed, public  
23 access was shortened from year round to a May 1 to September  
24 30 season; visitors who had previously enjoyed all day  
25 visits were now asked to leave by 3 p.m.; and soon after Mr.

Yards Creek Pumped Storage Project  
April 2, 2008

1 Marks inspection, picnic tables -- it turns out there were  
2 only three -- were moved from a wooded grove to an open  
3 location in the Lower Reservoir. Perhaps this is why Mr.  
4 Mark included the words, appears to be in compliance in his  
5 report.

6 2. The Partners maintain that the fluctuating  
7 nature of the Upper and Lower Reservoirs presents logistic  
8 and safety concerns for swimming and boating.

9 The Federation challenges this assumption by  
10 referencing two similar pumped storage hydroelectric  
11 facilities. One in the Catskills named Blenheim Gilboa,  
12 which experiences 40 foot fluctuations each day, and a  
13 second operation in Virginia named Smith Mountain Reservoir,  
14 which experiences 27 foot daily cycles. In spite of 27 to  
15 40 foot fluctuations, these operations support excellent  
16 fisheries, and the public has enjoyed safe fishing and  
17 boating on these reservoirs for many years. We believe the  
18 Partners' reference to safety concerns on the Lower  
19 Reservoir that experiences 10 to 14 foot fluctuations is not  
20 valid.

21 3. New Jersey DEP 'I' maps indicate much of both  
22 the Sunfish Pond Trail and the Raccoon Ridge Trail are on  
23 state-owned land. I looked at a separate map on that; it  
24 appears -- I'm not sure that part of that Raccoon Ridge  
25 Trail, if not quite a bit of it, is on state-owned land.

Yards Creek Pumped Storage Project  
April 2, 2008

1           It is the Federation's position that requesting a  
2 right of way across Yards Creek lands to access publicly-  
3 owned lands is an extremely reasonable request. In fact,  
4 most licensees are required to provide access to privately-  
5 owned lands within project boundaries.

6           4. Closing the picnic area at 3 p.m. during the  
7 summer season appears to be an attempt to discourage public  
8 visitation. Please explain how sending people home in mid  
9 afternoon on a hot summer day minimizes the risk of terror.  
10 This policy demonstrates a disregard for public interest and  
11 should be changed immediately.

12           5. A statement uttered by a Yards Creek manager  
13 on 3/24/08: "There will be no more hunting at Yards Creek  
14 because firearms will never be allowed near here again" is  
15 both illogical and untrue. Much of the land surrounding  
16 Yards Creek is in fact state-owned, and because hunting is  
17 permitted on these state lands, firearms will always be  
18 allowed near the operation.

19           I would also like to explain that, for 36 years,  
20 hunters merely used the project entrance as a conduit to  
21 state-owned lands which surround the Yards Creek project.

22           In summation, it seems the Yards Creek Partners  
23 are noncompliant regarding the FERC license. The Federation  
24 requests, on behalf of our membership and all public  
25 interests, that the FERC Division of Compliance and/or

Yards Creek Pumped Storage Project  
April 2, 2008

1 Office of Enforcement address this issue without further  
2 delay.

3 Request for public access. The New Jersey State  
4 Federation of Sportsmen's Clubs' formal vision for a new  
5 Yards Creek Project recreational use plan is as follows:

6 Find solutions which will allow the restoration  
7 of all recreational uses enjoyed at Yards Creek prior to  
8 9/11, including but not limited to, hunting, hiking,  
9 picnicking and wildlife observation.

10 Restore year-round, all-day access to project  
11 facilities as enjoyed by the public before the 9/11 closure.

12 Grant hunting and/or fishing access to  
13 utility-owned lands which surround the project, including  
14 but not limited to, parcels surrounding the upper and lower  
15 reservoirs and lands at the end of Geisler Road.

16 Establish boat and shoreline-accessible fisheries  
17 in the lower reservoir.

18 The Federation believes that each of our requests  
19 is reasonable and consistent with current FERC license  
20 requirements.

21 New Jersey has the dubious distinction of being  
22 the most populous state in the U.S. For this reason, our  
23 residents cannot afford to lose access to Yards Creek lands,  
24 which provide the most convenient and least stressful access  
25 to Sunfish Pond, Raccoon Ridge, and the state-owned lands on

Yards Creek Pumped Storage Project  
April 2, 2008

1 the southeast side of the Kittatinny.

2 Now I would like to speak on behalf of two  
3 organizations which the State Federation supports, and in  
4 fact works with. One is the Wounded Warriors Project. This  
5 organization helps severely wounded veterans participate in  
6 a variety of unique programs.

7 One is the outdoor program, which deals  
8 specifically with hunting, fishing, hiking and camping.  
9 Second is the Wheeling Sportsmen Program, which is an  
10 outreach program of the National Wild Turkey Federation.  
11 The National Wild Turkey Federation is an organization which  
12 has a membership of 550,000. The Wheeling Sportsmen Program  
13 is 20,000 disabled members, including two chapters in New  
14 Jersey.

15 Like the Wounded Warriors, they arrange outings  
16 for hunting, fishing and hiking. Both organizations believe  
17 the Sunfish Pond Trail offers a unique opportunity for the  
18 handicapped to reach the Appalachian Trail with motorized  
19 conveyances, and requests the opportunity to share this  
20 trail with the general public.

21 Thank you.

22 MR. KARTALIA: Thank you for your comments.

23 MR. ZINDEL: Tim, I have a copy for you as well,  
24 if you'd like.

25 MR. OAKES: Sure. Thank you.

Yards Creek Pumped Storage Project  
April 2, 2008

1 MR. ZINDEL: I saw you copiously taking notes.

2 MR. OAKES: Just trying to make sure I get all  
3 the points.

4 MR. ZINDEL: Right.

5 Just a sidebar: Comment on firearms around the  
6 penstock. I talked to Jeff earlier. The penstock is one to  
7 two inches thick, it's plate steel pipe. New Jersey is  
8 limited to shotgun and muzzle loaders only. We have no 50  
9 caliber BMGs and no full metal jackets, no armor-piercing  
10 ammunition.

11 A one inch pipe, I think if a stray projectile  
12 got away, I think it would create a scratch in the paint.  
13 And that's another question I have for you. You talked in  
14 this film about making this thing blend into the background.  
15 I used to have a tarp on my boat that looked blue like that.  
16 My neighbors went crazy on me. When I put a green tarp on,  
17 they all shut up.

18 MR. KARTALIA: Well, aesthetic resources is one  
19 of the categories of issues that we include in our EA.

20 MR. ZINDEL: Thank you.

21 MR. KARTALIA: Thank you.

22 Anyone else like to make a comment or ask a  
23 question?

24 (No response.)

25 I'll remind you, if you didn't get a copy of the

Yards Creek Pumped Storage Project  
April 2, 2008

1 scoping document, I have one, I have some extras here.  
2 Keep an eye on that list of upcoming dates, and  
3 opportunities to participate in the process.

4 I suggest if you are interested in the process  
5 that you do that eSubscription, checking eLibrary so that  
6 you're informed of filings and issuances on this docket, P-  
7 2309.

8 And I'll just ask again if there are any more  
9 questions or comments?

10 MR. GEUTHER: I'll just make a comment in  
11 response to Ed's comments on hunting. Hunting has never  
12 been allowed in the Lower Reservoir area of the project.

13 MR. ZINDEL: I understand. I'm asking you to  
14 take a look at that possibility.

15 MR. GEUTHER: Your statement, I don't think, was  
16 entirely true. We can do a conversation. But I'll have to  
17 read it.

18 MR. ZINDEL: Okay. I understand that the hunters  
19 were parking in the upper overlook and they were walking to  
20 state land above. What I'm asking for is to take a look at  
21 the potential for some kind of hunting around the lower  
22 reservoir. I think there's land there, especially I see  
23 around the end of Geisler road; I haven't have a full chance  
24 to evaluate it, but there's also a very large parcel that's  
25 utility-owned that surrounds the Upper Reservoir, looks like

Yards Creek Pumped Storage Project  
April 2, 2008

1 beautiful habitat to me. Now we can discuss what's up  
2 there, but it looks like an opportunity there as well to  
3 perhaps expand hunting opportunities.

4 On the question as to compliance, will that be  
5 taken care of from here? Or must I send a letter to --

6 MR. KARTALIA: If you have a specific compliance  
7 question, you should direct that inquiry, and make your  
8 statement known -- either you can call our Compliance  
9 division or you can send them your comments. And they will  
10 respond.

11 MR. ZINDEL: I would love to see that area opened  
12 up by this fall, or sooner if possible.

13 MR. KARTALIA: Your issues will be evaluated in  
14 our recreational section of our EA, and during the study  
15 development stage as well. If you want more immediate  
16 action, a question about compliance with the existing  
17 license, then you should contact our Compliance Division.

18 MR. ZINDEL: Now, my request for fishing in the  
19 Lower Reservoir, does that require a request for a study?

20 MR. KARTALIA: Well, that would be in the  
21 category of recreational use study; and recreational use  
22 assessment.

23 MR. COSTELLO: John Costello. That was planned  
24 on looking at anyway.

25 MR. ZINDEL: Anyway, okay. Wonderful.

Yards Creek Pumped Storage Project  
April 2, 2008

1 MR. COSTELLO: If you would like to give your  
2 thoughts on it, too, that's very helpful for all of us.

3 MR. ZINDEL: Certainly.

4 MR. OAKES: And just for clarification, and I  
5 need to see your letter, but since this is being recorded,  
6 we have reviewed the project record, and there are no --  
7 noncompliance that we can find in the record. So we'll have  
8 to look at what you're talking about, sir. We don't see --  
9 it seems that FERC agrees with the current policy.

10 MR. COSTELLO: One thing I wanted to mention, if  
11 anybody needs copies of the Pre Application Document, please  
12 let us know.

13 MR. KARTALIA: Yes?

14 MS. KOVACS: Sorry, one other question. Sylvia  
15 Kovacs again.

16 With regard to overflows, or as we're going to  
17 start addressing other climate change issues, I think in  
18 November, of the Proceedings of the National Academy of  
19 Sciences basically said that here up in the Northeast we're  
20 going to be dealing with more drought and deluge.

21 I know that flooding on the Delaware, and a  
22 number of communities in Warren County have severe flooding  
23 issues now. We've already gone from the one hundred year  
24 flood, having every one hundred years to I think six or  
25 three happening in the last ten years -- can you talk to the

Yards Creek Pumped Storage Project  
April 2, 2008

1 issue of how you guys actually deal with the aspect of your  
2 operations impacting flooding on the Delaware?

3 MR. KARTALIA: Well, in this case, because the  
4 net outflow -- this is almost a closed system, given the  
5 flow that's in Yards Creek. I think it's what, half a cubic  
6 foot per second is the approximate mean angle of flow?

7 MR. GEUTHER: .872. 7/8ths of a CFS.

8 MR. KARTALIA: 7/8ths.

9 MR. GEUTHER: It's to -- the minimum downstream  
10 release.

11 MR. KARTALIA: Essentially this is kind of an  
12 unusual hydro project in that, given the total drainage is  
13 somewhere in the five square mile range, there's not really  
14 a flood that doesn't affect flows on the Paulins Kill or the  
15 Delaware, really; but that is, I'll admit, a rare situation  
16 for a hydro project.

17 MS. KOVACS: In this application, if it's  
18 approved in 2013, is going to give what, another fifty year  
19 lifespan?

20 MR. KARTALIA: The Commission issues licenses for  
21 a minimum of 30 and a maximum of 50 years. So it could be  
22 anywhere in that range.

23 MS. KOVACS: And if we find something, say ten  
24 years down the road that is impacting for example drought  
25 issues.

Yards Creek Pumped Storage Project  
April 2, 2008

1 MR. KARTALIA: Every single license, the  
2 Commission has the ability to reopen it if issues are  
3 raised. It's not locked up --

4 MS. KOVACS: Exactly.

5 MR. KARTALIA: Correct. That's right.

6 MS. KOVACS: Thank you.

7 MR. KARTALIA: Yes? Ed.

8 MR. ZINDEL: One more. I have tried, an admitted  
9 failed effort to get my hands on the original recreational  
10 use plan; coming up dry. Just to give you an idea, I went  
11 to the Office of Compliance; they did not have a document.  
12 I went to the Office of Enforcement, they didn't have a  
13 document.

14 I filed with Public Information; they brought out  
15 a file, I gave them, indicated the dates that the document  
16 was presented, the date was approved; '67 and '68. He  
17 brought out the files, both documents are missing. I asked  
18 him to please look through the file to see if he could find  
19 any other material in there, referenced in a public use  
20 plan; and he found one other file that referenced two maps  
21 that were added as an addendum at some time later.

22 He asked me if I'd like to see the maps and I  
23 said "Sure, see if you can fax them to me." When he opened  
24 the file, the maps were gone.

25 Jeff, I don't know if you have a copy of that

Yards Creek Pumped Storage Project  
April 2, 2008

1 original public use document? I don't know where else to  
2 go. Waretown said they had it, town hall burned.

3 MR. GEUTHER: We have one, obviously, at the  
4 plant; and we also have the as-builts for the recreation  
5 area that FERC had been inspecting.

6 MR. KARTALIA: So that's something we can  
7 probably get into the record as we go through the next few  
8 months.

9 MR. COSTELLO: John Costello, the FERC. You had  
10 the same luck I had. What we'll probably do at this stage,  
11 when we send out our comments on the scoping document, as to  
12 study plans. There's also an opportunity for us to ask for  
13 additional information, and it might be something we might  
14 ask for at that time, to get those plans back in the files.

15 MR. ZINDEL: Yes, if we're going to review  
16 compliance, then we obviously need to see what the document  
17 had on it.

18 I spoke with the inspector that did this  
19 inspection; he was floored. He said, "I believed that  
20 everything was open as it had been before 2001; that was my  
21 purpose in going there."

22 So if we're going to determine what compliance is  
23 -- he also spoke to me about an issue which was an issue of  
24 precedent. He said it may say in the document that the  
25 Partners need to be open the summer season or during the

Yards Creek Pumped Storage Project  
April 2, 2008

1 recreational season. And that recreational season may be  
2 Memorial Day to Labor Day. Once they begin to open it year  
3 round, open at different hours, then that now becomes a  
4 precedent.

5           According to his opinion, if they want to change  
6 that, you have to modify the document, the public use plan.  
7 So we have an operation that used to be open dawn to dark,  
8 was open year round, the public had free access -- which is  
9 what this gentleman thought was going on; he stated that  
10 "there's free access to this park." Now it's shut up as  
11 tight as Fort Knox.

12           There's another point that I wanted to make, and  
13 this is why I tried so damn hard to get a map of this:  
14 We're asking to go through the Boy Scout and/or state land.  
15 Another option we have here is, put a parking lot on state  
16 land, just give us the right of way to state land, then  
17 we'll make our way up the trail or whatever. Take a look at  
18 the Upper Reservoir road, it's on state land, there's a  
19 right-of-way that's granted to the utilities. The first  
20 quarter mile up there is just, on the map there's a line,  
21 straight up like that, which gives you folks control, 33  
22 feet wide.

23           Guys, we just want to get to the AT. This is a  
24 much more convenient approach to the AT than humping up and  
25 up from Old Mine Road. As well as being a hunter, I started

Yards Creek Pumped Storage Project  
April 2, 2008

1 going up to the Ridge probably in the late Sixties. And  
2 there are people of all weights, all sizes and all ages that  
3 used to go up and enjoy that hawk watch. That's been open  
4 since 1930. These folks can't make it, get up that hill,  
5 from Old Mine Road. And also that Raccoon Ridge Trail, that  
6 trail to Sun Fish Pond, it's the easiest access by far, up  
7 that road and across. You try to do it from the Gap, it's  
8 3.8 miles, it's a wicked climb. A lot of people can't make  
9 it.

10 So this is an important access to these trails,  
11 and personally it's really hurt the public. When I look at  
12 other facilities around the country and I look at Blenheim  
13 Gilboa, their reservoirs are 450 acres top and bottom, they  
14 have 26, 27 foot penstock; it's 1200 feet of head; hunters  
15 are allowed to hunt around the penstock, fisherman are all  
16 over this area, wander around both reservoirs.

17 And they closed down the same way as this  
18 operation, the terrorist concerns, they got past it. And  
19 again, this watchful public concept is a good concept. We  
20 can't protect a lot of our infrastructure, it's damn near  
21 impossible. Whereas this place is as porous as a screen.  
22 They've got this thing from 360 degrees. You can't protect  
23 the buffer with aircraft, you can't protect it against a  
24 shoulder-fired missile; there are a whole of reasons you  
25 can't protect it.

Yards Creek Pumped Storage Project  
April 2, 2008

But who in the heck is going to go there? Who in the heck is going to go there? Why are we going to let a minor blip on the screen, on the grid, to terrorize people that caused a brownout in Reading, Pennsylvania? Thank you, again.

MR. KARTALIA: Other comments or questions?

(No response.)

Okay, thank you very much for attending, and we're adjourned.

(Thereupon, at 3:10 p.m. the meeting adjourned.)