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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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City of Spearfish, : Project No. 12775-001
South Dakota :
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PUBLIC SCOPING MEETING

City of Spearfish Council Center
Council Chambers
625 Fifth Street
Spearfish, South Dakota 57783
Tuesday, January 13, 2009

The public hearing, pursuant to notice, convened at 7:15
p.m. before a Staff Panel:

STEVE HOCKING, Federal Energy Regulatory
Commission

JENNIFER HARPER, FERC

RYAN HANSEN, FERC

1	PUBLIC SPEAKERS	
2	Jerry A. Krambeck, Mayor, City of Spearfish	5
3	Dick Fort, Action for the Environment	27
4	Jerry T. Boyer, citizen, Spearfish	33
5	Gary Heckenlaible, Action for the Environment	34
6	Jim Nelson, Spearfish Canyon Owners Association	36
7	John Roggenbuck, Evans-Tonn Ditch Company	42
8	Todd Duex, resident, Lawrence County	44
9	Guido Della-Vecchia, resident	46
10	Doug Hayes, Walton-Schuler Ditch	47
11		
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P R O C E E D I N G S

1
2 MR. HOCKING: I think we're almost ready to get
3 started. Again, if you haven't signed in, if you could
4 please do so using one of these green sheets, that would be
5 helpful; it helps us keep track of everybody who is here,
6 and if you present comments. And also we have two handouts;
7 one is our Scoping Document 1, this document here. And the
8 other one, the second handout, is our licensing schedule.

9 My name is Steve Hocking, I'm with the Federal
10 Energy Regulatory Commission, and I am the Licensing
11 Coordinator for the Spearfish Project. I want to welcome
12 everybody to FERC's scoping meeting this evening, first
13 scoping meeting for this project, which is Project No. P-
14 12775 in the Commission's records.

15 We have a decent sized crowd, a small crowd, so
16 we can be a little bit flexible about what the format of
17 tonight's meeting, which is a good thing. So what I'd like
18 to do is, I'd like to start off with some introductions;
19 we'll just go around the room quickly and have everybody
20 mention your name and who you represent. And I'd like to
21 talk briefly about the court reporter; and the purpose of
22 the meeting, the reason we're here, the purpose of scoping.
23 I'd like to talk about filing comments with the Commission
24 and how you can do that. I'd like to go over our licensing
25 schedule, the remaining milestones that we have for this

1 particular project.

2 If we need to, we can have a quick overview of
3 the project, just a general description of facilities and
4 operations if anybody feels that they need that. Then we'll
5 get into taking comments and talking about the issues, which
6 is the main reason that we're here. Toward the end of the
7 meeting we'll go over the Commission Staff's environmental
8 assessment outline, comprehensive plans that may apply to
9 this project, and then we'll check the mailing list and make
10 sure that everybody who is interested in the project is on
11 the FERC mailing list.

12 The meeting tonight is from 7 to 10, although we
13 may not need that much time. There's also a meeting
14 tomorrow; right here, same location, from 10 to 2. So if
15 you haven't gotten enough FERC information tonight, you're
16 welcome to come back tomorrow as well.

17 Okay, with that, let's go ahead and start with
18 some introductions. Again, my name is Steve Hocking, I'm
19 with FERC, I'm in D.C. I am Environmental Protection
20 Specialist, and I'm the Team Lead for this project.

21 MR. HANSEN: My name is Ryan Hansen, I'm also
22 with FERC, and I'm a Fisheries Biologist.

23 MS. HARPER: Hi, I'm Jenn Harper, I'm an engineer
24 in the D.C. office of FERC.

25 MR. HOCKING: Okay, if we can just kind of go

1 around the room; but I'd like to go ahead and give the Mayor
2 a chance to go first, if you have anything you'd like to
3 say.

4 MAYOR KRAMBECK: I guess I'd like to welcome you
5 to our community. This has been a long time coming. I'm a
6 much better story teller than I am a speaker, so I'm going
7 to tell you a little history of how Spearfish actually ended
8 up purchasing the power plant, and I'll try to be as brief
9 as I can.

10 Back in the year 2000, I believe, I was working
11 on the 1750 foot level of Homestake Gold Mine, I got a
12 telephone call, and it was from the people up in the main
13 office, and they said "Jerry, we'd like to have you come up
14 and meet with us this morning at 11 o'clock." And usually
15 when you get that call from the surface of the mine and
16 you're underground, when they're taking you to the surface,
17 it isn't good when they want you to come up and talk to you.

18 But anyhow, I had had a little bit of a heads-up
19 that morning that there were some issues that are going on,
20 and that was the day they announced the closure of the
21 Homestake Gold Mine. And I went to the surface, and some of
22 my other counterparts such as the Mayor of Lead and the
23 Mayor of Deadwood, and a lot of other people were up there;
24 I believe we had some representatives from other offices,
25 state representatives there, and they made the announcement.

1 That day I came back to Spearfish and said to
2 Beth Benning, I said "This is a sad day that they're closing
3 that mine. There are going to be a lot of issues that come
4 up after closing the mine, and I think we should contact
5 Homestake Mining Company and tell them that if there's any
6 property or anything that is continuous to the City of
7 Spearfish, that we're interested in purchasing it so that it
8 can be in the ownership of the public."

9 And one of the first things that actually came to
10 mind was the hydro plant. And as I've said many, many
11 times, in 2004 we purchased the hydro plant from Homestake
12 Mining Company for \$250,000. If we had to do it over again,
13 I would do it again; and as all news reports, anything that
14 the Mayor of Spearfish has ever said, the main reason for
15 the purchase of the hydroelectric plant was to preserve the
16 quantity and quality of waters in Spearfish Crick through
17 our water flow community.

18 And we tried another method of what I would call
19 'grandfather licensing'; I was not successful with it, and I
20 don't think FERC was really happy about the situation of the
21 way we tried to do that; we tried to get federal legislation
22 to exempt us because it was prior to -- I believe it was
23 1919 -- of the existence of the licensing, and we were
24 unsuccessful at that. So now we're in the full-blown FERC
25 process. We are very happy with the way things are going at

1 this point, we're very pleased with our folks that are doing
2 a lot of the work for us, and I think that we've kept our
3 word; that the power plant is a wonderful piece of history,
4 number one. Number two, it is necessary to ensure, in my
5 opinion, the water to be flowing through Spearfish Crick.
6 We have other people that have rights on this Crick such as
7 the Irrigators, and we've been accustomed to this for over a
8 hundred years, and we'd like to see it remain the same.

9 And as I said, our application is complete and
10 this is what we would like to do, we'd like to get licensed
11 and we'd like to go on with life as we've had it for the
12 last hundred years. And that's pretty much it. Thank you.

13 MR. HOCKING: Thank you.

14 Cheryl, do you want to start?

15 MS. JOHNSON: With a description of the
16 application?

17 MR. HOCKING: No, just your name. We're just
18 going to do some quick introductions in the room.

19 MS. JOHNSON: My name is Cheryl Johnson, I'm the
20 Public Works Administrator, and once the Mayor made the
21 decision to go forward with the purchase of the hydro plant,
22 it became my responsibility to number one, figure out how to
23 operate it and run it on a day-to-day basis; and our answer
24 to that was to hire the qualified operators that Homestake
25 had in their employment, and train some of our internal

1 people. So we fortunate enough to get that staff on board,
2 and we have that history and reliability there, and then the
3 next issue that came on, the focus of the licensing. So
4 that's my position with the City on this particular subject,
5 and I have been the contact principally on a day-to-day
6 basis for that.

7 MS. WINTERS: I'm Maureen Winters, I'm with
8 Devine-Tarbell & Associates out of Portland, Maine. I'm the
9 FERC licensing consultant for the City.

10 MR. DELLA-VECCHIA: I'm Guido Della-Vecchia, I
11 represent the Myer family, and we're also users of the water
12 rights on the property down, north of the Post Office. So
13 it's important to me to be here at this meeting, not only
14 for myself but for the other irrigators in this project.
15 They're put there for a reason. As the Mayor said, keeps
16 the water quality up. That's important. Thank you.

17 MR. AL HAJ: I'm Regional Director for Senator
18 John Thune, who has been involved in this since 2005.

19 MR. EDSTROM: I'm Ron Edstrom, I'm just
20 representing myself, but I do live in Mountain Claims II, up
21 the mountain behind the Park. The water runs under our
22 development, and we do have a fire hydrant that taps into it
23 for emergency water supply for fires. And I'm here just to
24 see what's going on.

25 MS. HANSON: I'm Learda Hansen, a resident of

1 Spearfish and supporter of the hydro plant; and that's why
2 I'm here this evening.

3 MR. HANSON: I'm Steve Hanson, I work at the
4 hydro plant.

5 MR. HUGGIN: Gerlin Huggin {ph}, work at the
6 hydro plant.

7 MR. NELSON: I'm Jim Nelson, President of the
8 Spearfish Canyon Owners Association. We have an interest in
9 the success of this project.

10 MR. DUEX: Todd Duex, just representing myself as
11 a water right user, downstream.

12 MR. HAWKE: My name is Jim Hawke, I am with Black
13 Hills Fly Fishers. Also representing Rapid Creek
14 Preservation Association, looking at Spearfish recreation,
15 and the Creek as well.

16 MR. HOYT: Everett Hoyt, I'm a sportsman, just
17 here because I'm interested in the proceeding.

18 MR. HAYES: I'm Doug Hayes, and I represent, I'm
19 President of the Walton-Schuler Irrigation Ditch, and I'm
20 representing our water interests.

21 MR. HECKENLAIBLE: Gary Heckenlaible with Action
22 for the Environment, and we're an environmental group that
23 feels that that water belongs to the people, and we're here
24 seeking some changes from what has been going on.

25 MR. FORT: Dick Fort. I am also with Action for

1 the Environment.

2 MR. BOYER: Jerry Boyer, President, Spearfish
3 Canyon Society, tonight representing myself.

4 MR. AVERY: Gerry Avery, just an interested
5 citizen, to see how this all works out.

6 MS. GOODMAN: I'm Jeanne Goodman, I'm with the
7 Department of Environment and Natural Resources; I'm the
8 Office Administrator for the Surface Water Quality program.

9 MR. GRONLUND: I'm Eric Gronlund, also with the
10 Department of Environment and Natural Resources with the
11 Water Rights Program.

12 MR. BURR: I'm Edgar Burr, I'm representing Mann
13 Ditch.

14 MR. KOTH: I'm Ron Koth with South Dakota Game,
15 Fish and Parks. I'm the fishery biologist and the lead for
16 our agency from a technical perspective.

17 MR. YOUNG: Greg Young, and I'm with the
18 Spearfish Canyon Society, and I was on the Delphi team that
19 did some preliminary work for the project.

20 MR. KRAUTSCHUZ: Bart Krautschuz, Two Tone Cattle
21 Company, also a member of Cook Ditch Company, and the
22 irrigator north of Spearfish.

23 MS. STAHL: Nicole Stahl, Beck's Nursery.

24 MR. MCGUIGER: Mike McGuiger, Cook Ditch.

25 MR. WARD: Frank Ward, an irrigator. Member of

1 Cook Ditch and Evans-Tonn Ditch.

2 MR. KALLEMEYER: Larry Kallemeyer, just an
3 interested citizen.

4 MR. WICKSTROM: I'm Dave Wickstrom with the
5 Evans-Tonn Ditch Company.

6 MR. WILLARD: Tom Millard, Spearfish resident;
7 interested in the Canyon. Former land manager of the area
8 involved.

9 MR. CRAIGEL: Alan Craigel, {ph} Spearfish
10 resident.

11 MS. PYLE: Barbara Pyle, Spearfish resident.

12 MR. HOCKING: All right. Well, again, thanks for
13 coming to our evening scoping meeting.

14 Okay, as you can see, this meeting is being
15 recorded by a court reporter, and everything you say, all
16 statements both oral and written, will be entered into the
17 Commission's official record for this proceeding.

18 If anybody wants a copy of the transcript; if you
19 want a copy right away you can get a copy directly from Ace-
20 Federal Reporters. There is a charge for that. After about
21 ten days -- ten days I think is the contract, the
22 transcripts will be released to me and then I will put them
23 on the Commission's eLibrary system, which we'll talk about
24 in a moment; and you can go ahead and pull them up using the
25 Internet, and take a look at them and print them out.

1 So does anybody have any questions about the
2 court reporter?

3 Okay. The reason we're here today, the purpose
4 of the meeting is to get your comments and your thoughts on
5 the issues that we have identified in our Scoping Document
6 1. Again, this document right here that you all have,
7 Commission Staff -- that's us -- we have taken a look at the
8 license application and we've taken a look at the comments
9 that we've received so far, and we've put together a list of
10 issues that we think need to be analyzed and looked at in
11 the environmental assessment that we'll prepare for the
12 project.

13 So what we want to do, our primary purpose
14 tonight and tomorrow is to check in with you all to make
15 sure that we have gotten the issues correct, whether we need
16 to refine the issues, whether we need to make them more
17 specific, or broader, or whether we've missed something
18 entirely that needs to be added, or whether there are issues
19 that nobody really care about and we can remove from our
20 scoping document, that we don't need to include in the
21 environmental assessment for this project.

22 What we will do is we will take this SD1, and
23 based on comments tonight and tomorrow, and any written
24 comments that we get, and we'll revise this document and
25 issue a second document, SD2, that will contain those

1 revisions for everybody to take a look at. So that's the
2 purpose of tonight's meeting.

3 Filing comments with the Commission, with FERC.
4 If everybody can turn to page 15 for a moment.

5 The top paragraph says that we're looking for
6 comments no later than February 13th. And again, that's
7 comments on this document, SD1. And you can file comments
8 with us two ways: you can send comments in the old
9 fashioned way, through the mail; and you can use this
10 address, Kimberly D. Bose, Secretary, FERC, 888 First
11 Street, that address. So if you have any written comments
12 that you want to provide, please send them by February 13th
13 to that address.

14 The second way you can file them with us is
15 electronically. If you look at the next paragraph down, the
16 one that starts with: "All filings sent to the Secretary"
17 the second sentence in that paragraph says: "Scoping
18 comments may be filed electronically via the Internet in
19 lieu of paper." And the it gives our website, which is:
20 www.FERC.gov. And on that website there is a link called
21 eFiling, and if you go to that link and you have written
22 comments that you want to file, follow the instructions on
23 that link and you can file them with us.

24 So there are two ways, in addition to providing
25 oral testimony and comments today or tonight, you can also

1 provide written comments, either through the mail or
2 electronically with FERC.

3 If you have any questions about eFiling, there's
4 a number to call FERC online support, they can walk you
5 through it. Or you can feel free to call me if you have any
6 questions about eFiling or call me about any questions at
7 all about this project in general. My contact information
8 is on page 2 of this document, as my name, my phone number,
9 and my e-mail address. So keep that in mind.

10 Two other things I'd like to mention quickly, two
11 other services that we have are eLibrary and eSubscription
12 service. eLibrary is on our website, there's a link.
13 Again, www.FERC.gov, go to eLibrary. And on that database,
14 it's basically a repository for all documents that have been
15 filed or issued with the Commission, and you can pull up the
16 documents or view them or print them out; so it's a really
17 good resource to kind of keep up with everything that's
18 happening on the project.

19 The second service is called eSubscription; and
20 again, that's on our website with a link called
21 eSubscription. And what you do on that is you register,
22 create a user name and a password; and then every time the
23 Commission issues a document or somebody files a document
24 relative to this project, then you will get an e-mail with a
25 link in the e-mail that will take you directly to the

1 document on eLibrary. So that's another way to make sure
2 that you get all the information as quickly as possible,
3 because you'll get notice of the documents that are filed
4 and issued right away.

5 So I strongly recommend, if you're interested in
6 the project, that you eSubscribe to the project. So those
7 are two resources that everybody should be aware of that we
8 have on our website.

9 The schedule. I'd like to go over the schedule
10 briefly. I want to make sure that everybody is aware of the
11 different comment days, different major milestones that are
12 coming up so that you don't miss anything. Because there
13 are the fine points at which the Commission is soliciting
14 comments or interventions that you need to be aware of.

15 So if you can take a look at this other handout
16 that I have. This is the schedule, informal schedule. The
17 formal schedule, the published schedule is on page 16 of the
18 SD2, the next page. But if you can take a look at this
19 schedule, what I'd like to do is just take a minute and go
20 through the remaining milestones that we still have to cover
21 for the licensing of the Spearfish project.

22 If you take a look, the dates are on your left
23 hand side, and there's a break right here; there's a gap.
24 That's where we are now. So if you kind of scan down to
25 this gap right here. And the first date there is 1/13 and

1 14/09, FERC holds scoping meetings and site visit, and
2 that's where we are right now in the process. We have our
3 meeting right now and our meeting tomorrow. The next date,
4 the next milestone that we have is 2/2/09, and that's: FERC
5 issues acceptance notice.

6 Last week the City filed some additional
7 information that we requested, and we need to take a look at
8 that, and assuming that it meets the Commission's
9 regulations, then what we will do is we'll issue a notice
10 that basically says that the license application for this
11 project that the City has filed meets all of our regulations
12 and is accepted by the Commission; and that triggers certain
13 things. So we're expecting to do that on 2/2/09.

14 The next date is 2/13/09. All stakeholders
15 comments on SD1 due. Again, that's this document, we're
16 seeking comments by 2/13/09 on this document.

17 The next two dates are 4/3/09. The first one is,
18 All stakeholders: interventions and protests are due.
19 Assuming that we go out with our acceptance notice on time,
20 if you want to be a "party to the proceeding"; if you want
21 to have the right to file for rehearing of the Commission
22 order on this license, you need to file an intervention with
23 us, which is a legal document. And those will be due
24 4/3/09, and we can talk about that a little bit later if
25 people have questions about that.

1 The second 4/3/09 date is: FERC issues ready for
2 environmental analysis notice and SD2. That's the second
3 notice that we will go out with that basically says we have
4 all the information that we need in order to begin our
5 environmental analysis in order to start writing our EA for
6 this project. And then we will be issuing Scoping Document
7 2, as I mentioned before will be a revision of what we're --
8 should reflect what we're talking about tonight, and any
9 written comments that we get.

10 The next date is 6/2/09, all stakeholders terms
11 and conditions are due. That's particularly important for
12 the resource agencies like the Forest Service who have
13 mandatory conditioning authority over the project. They can
14 submit terms and conditions at that date.

15 The next one is 7/17/09, all stakeholders' reply
16 comments are due. That's an opportunity particularly for
17 the City to respond to any terms and conditions that are
18 actually filed for the project.

19 The next date, 8/3/09, FERC issues single
20 environmental assessment for EA, no draft EA. Right now at
21 this point we are proposing, FERC staff, we're proposing to
22 issue a single EA, not a draft and a final EA but just one
23 EA for this project, which we are looking at to do in early
24 August. We will be soliciting comments on that EA, we'll
25 have a 30-day comment period, which is the next date, which

1 says 9/2/09, all stakeholders' EA comments are due.

2 9/11/09 is the one year due date for the state
3 water quality certificate; they have to file a water quality
4 certificate by that date, should they decide to do so, and
5 then the last date is 11/2/09, All stakeholders: modified
6 terms and conditions due. And again, that's primarily for
7 resource agencies, like the Forest Service wanted an
8 opportunity to revise the terms and conditions that they
9 submit for the project.

10 Now I know that that's a lot of information, a
11 lot of dates. If you're not familiar with the FERC process,
12 it's a lot to absorb at one time.

13 If anybody has any questions at this time on
14 those dates or those milestones, I'd be happy to answer them
15 and we can go over it again later on in the meeting. Again,
16 you can call me if you have particular questions about what
17 your responsibilities are during these different time
18 frames. The FERC process is a long one, and it's
19 relatively complex.

20 So, sure. And if you can say your name before
21 you state the question.

22 MR. BOYER: Yes, Jerry Boyer. April 3rd
23 interventions at Cook due. You said that was a legal
24 document. Will that require an attorney?

25 MR. HOCKING: No. They're relatively simple

1 documents. I mean, if you pull one up for other FERC
2 proceedings, you can see that they're not complicated. You
3 basically have to state what your interest is in the project
4 and how no other entity can serve your interests. And there
5 are one or two other items that you have to address.

6 Most people do use an attorney to file that, but
7 I don't think everybody does.

8 Yes?

9 MR. FORT: Dick Fort. I filed for the Action for
10 the Environment some comments with you folks at FERC. But I
11 notice, in looking through here, do I have to -- I sent it
12 to FERC and I sent it to Devine-Tarbell and to a few other
13 people, but I didn't send it to everybody on the mailing
14 list. Am I under obligation to send that to everybody else
15 on the list?

16 MR. HOCKING: When you become an intervenor you
17 are under obligation to do that.

18 MR. FORT: I see. Well, this was before we will
19 have intervened.

20 MR. HOCKING: Yes. Nobody has intervened yet.
21 But once you become an intervenor, you --

22 MR. FORT: After that we have to --

23 MR. HOCKING: Yes. Technically, you need to be
24 sending it to everybody who is on the project's service
25 list.

1 MR. FORT: I see. Okay, thank you.

2 MR. HOCKING: There are actually two lists that
3 we maintain for each project. There's a mailing list and a
4 service list. Once we accept a license application and we
5 ask for interventions and we receive interventions, we have
6 what's called the service list, and folks who intervene and
7 are accepted by the Commission as an intervenor go on the
8 service list. And then those people all have a joint
9 responsibility to make sure that everybody is served with
10 the same documents at the same time. So yes, you will be
11 responsible for that once you get on that list.

12 MR. FORT: Okay, thank you.

13 MR. HOCKING: Yes, in the back.

14 MR. MILLARD: Tom Millard. Your last date of
15 November 2nd, modified terms and conditions due. When is
16 the decision notice from FERC? Isn't there another date
17 there, when you come out with your decision?

18 MR. HOCKING: Right. The very last thing that we
19 will do is issue an order, either granting or denying the
20 license. I don't have a date on there yet. We would
21 probably be doing so maybe within a few months of that
22 11/2/09 date. Typically it's two, three, four months,
23 something like that.

24 Unless we're waiting for something, like a water
25 quality certificate if it were to be withdrawn or refiled,

1 then we would -- it's usually a couple months after that
2 date.

3 Yes?

4 MR. GROULUND: Steve, Eric Groulund. When do we
5 make corrections that you might have in your mailing list on
6 page 20.

7 MR. HOCKING: Right now. We'll go over it, you
8 know, a little bit later, and we'll go ahead and start
9 making corrections tonight.

10 Just let me know, and I'll make the corrections
11 right here on my sheet, and then we'll update it; when I get
12 back to the office, I'll update it.

13 MR. GROULUND: And what I wanted to tell you is,
14 I wouldn't know the address of the Attorney General's
15 office, but it has changed. So I could e-mail that to you.

16 MR. HOCKING: That would be fine.

17 Yes, we can go over the mailing list now if you
18 want to; I was going to do it a little bit later. But if
19 your name is wrong, spelled wrong or address is wrong, if
20 you're not on the mailing list, you want to be on it, you
21 know somebody else who should be on it, then you can go
22 ahead and send me an e-mail. You can just speak it into the
23 mic tonight and we'll get it that way; or you can send a
24 letter in, however you want to let me know and I'll go ahead
25 and add them to the mailing list or correct it.

1 MS. WINTERS: Maureen Winters with Devine-
2 Tarbell.

3 As a follow up to Dick Fort's question about
4 copying folks on the service list, I just wanted to point to
5 Dick that the list in the back here, Dick, is not what the
6 official service list will be; it will be only those who
7 intervene.

8 MR. FORT: Beg pardon?

9 MS. WINTERS: The list that's in this document is
10 more comprehensive than what the official service list will
11 be once you intervene, and you have that obligation to copy
12 people. It will only be those people who have intervened.
13 And you'll be able to get that list -- it's a shorter list -
14 - from the FERC website.

15 Steve, I believe you include your service list on
16 the website?

17 MR. HOCKING: Yes.

18 MS. WINTERS: There's a place to get those off
19 your website?

20 MR. HOCKING: Yes.

21 MR. FORT: We will need to do that after we --?

22 MS. WINTERS: Yes.

23 MR. FORT: Okay.

24 MR. HOCKING: I can clarify a little bit. There
25 are two mailing lists, two lists per project, the mailing

1 list and the service list. The mailing list is a much
2 larger list. Anybody who is interested on the project is
3 put on the mailing list. Service list is usually a subset
4 of that group, those who have officially intervened in the
5 project.

6 So the responsibility really is among the
7 intervenors to the project to serve each other with
8 documents. So it won't be the full list; it should be a
9 smaller number.

10 MR. FORT: Okay.

11 MR. HOCKING: Yes?

12 MR. AL HAJ: Qusi Al Haj. Just a point of
13 clarification: I think you've alluded to that before. Just
14 because an intervention is filed doesn't mean that it's
15 accepted; it's subject to acceptance, correct? An
16 evaluation of what --

17 MR. HOCKING: In general, the way FERC procedures
18 work is, interventions are accepted automatically. Unless
19 somebody files within, it's a short time frame, it's like 15
20 days -- somebody filed an objection with us within that 15
21 day period.

22 Otherwise the intervention automatically
23 accepted. But you do have to -- I'd have to get the
24 attorney to explain it to you. There are a few things that
25 you have to address in the intervention itself, including

1 your interest and why you can't be represented by any other
2 entity. And there are a couple things that need to be
3 addressed.

4 But assuming that you address those and you're
5 timely, you filed it within the intervention comment, the
6 due date, which right now with the schedule is 4/3/09, the
7 it's pretty much accepted automatically unless somebody
8 files a protest to that.

9 And I should have said that again, this schedule
10 is subject to change. If for some reason we need more
11 information from the City, we might have to put things on
12 hold, and then these dates would be stretched out. So this
13 is the current schedule, but it's not unchanging; it could
14 change. And we'll try and stick with it for everybody's
15 sanity, to make sure that we're all working off the same
16 page, the same dates. But it may change in the future; it
17 depends.

18 Any other general process questions about the
19 licensing process? The City is working under the, it's
20 called the 'traditional licensing process'; the Commission
21 has three different licensing processes now, and we're
22 working under what's called the TLP or 'traditional
23 licensing process'.

24 Basically, the process is just what I went
25 through, those are major milestones that we have. Any other

1 process-related questions at this time?

2 Yes.

3 MR. MILLARD: Just wondering if the application
4 that's now in the review room back here is complete, or is
5 that being modified?

6 MR. HOCKING: Since they filed it, we went out
7 with a deficiency letter because we found a few things that
8 were missing, and if you back up on the milestones a little
9 bit on the previous dates, it says 9/10/08, applicant files
10 final license application, and then if you look 10/9/08, we
11 went out with a deficiency letter. There are just a few
12 things that were missing; and then they came in with that,
13 1/6/09.

14 So they have provided additional information
15 since they filed the application on 9/10/08. So you do need
16 to take a look at that information. And that is on our
17 eLibrary.

18 So what we will need to do is, over the next two
19 weeks -- and there's not a lot there; we pretty much looked
20 at it, but we need to look at the safety and design report;
21 but in the next two weeks we'll take a look at it. If it
22 meets our regs, then we can go out with that 2/2/09
23 acceptance notice.

24 Any other process questions or schedule
25 questions, milestone questions?

1 If you think of any later on, just let me know.
2 Or feel free to give me a call.

3 Does anybody here need to have a general
4 description, kind of like an overview of the project?
5 General description of facilities and operation? Typically
6 we do that at our scoping meetings, but it seems like most
7 people are pretty well familiar with the project, and if we
8 don't need to do that, then we just won't do that.

9 Does anybody want that at this time?

10 No? What we can do a little later, maybe, is
11 have the City talk about their proposed action. In general,
12 they're proposing to operate the project as it was operated
13 before, with a few what we call PM&E measures, Protection,
14 Mitigation and Enhancement Measures. So there are a few
15 operational changes that they are proposing; so we could go
16 over those, but they will probably come up in the course of
17 our discussions tonight.

18 Okay. Well, let's go ahead and start. We can
19 get started with comments and issues. If you want to turn
20 to page 11 of the Scoping Document.

21 Now we may have some folks who have a prepared
22 statement, we may want to get up and read a prepared
23 statement or may want to get up and just basically read
24 their comments into the record; or we can go resource-by-
25 resource and just talk about the issues that we've

1 identified that we need to take a look at in our
2 environmental assessment for the project; we could do both.

3 Anybody here have a prepared statement?

4 Okay, we've got one. Why don't we do that first?
5 Why don't we go ahead with anybody who wants to just get up
6 and basically tell us what your comments are. And then
7 after that we can go through each resource area. And if
8 folks have comments relative to what we've said in this
9 document in terms of the issues, then we can talk about them
10 there.

11 Does that work? We've got a small crowd, so
12 we're pretty flexible with what we can do tonight.

13 If you want to go ahead.

14 MR. FORT: Just to reintroduce myself, I'm Dick
15 Fort, and I represent Action for the Environment. Action
16 for the Environment is a statewide group, and we like to
17 think there's a lot of people in South Dakota that aren't
18 necessarily in Spearfish who are concerned about Spearfish
19 Canyon and enhancing of the very valuable resource there.
20 We like to think we are speaking for a wider section of the
21 public than just the locals.

22 I want to thank Mr. Hocking and you other folks
23 for being here and giving us this opportunity for public
24 comment. South Dakota law stipulate that the water in South
25 Dakota belongs to the people of the State, and yet it's

1 remarkable that in this process at the State and at the
2 County and the local level, how little public input there
3 has been, the public have been asked for their opinion on
4 how their water is being allocated. So we're grateful
5 for this opportunity which FERC presents with this process
6 for us to finally be able to make our comments publicly.

7 The problem we see here is that circumstances
8 have dramatically changed since the first licensing took
9 place, and that hasn't been taken into account. For
10 example, the Forest Service owns now land that used to
11 belong to Homestake; it's affected by the withdrawal of
12 water. Were they consulted on this whole thing? No way.

13 Private landowners have cabinets that they now
14 own which they didn't own earlier. And were they ever
15 consulted about the effect on their land? No, that never
16 happened. Has the City ever convened a meeting or have they
17 asked citizens of the City whether it's a good idea for
18 Spearfish City to be in the power business? The whole
19 business has been done, we think, illegally and properly,
20 and we're in a legal action about this with the State. The
21 transfer of water rights in spite of the current change of
22 purpose was never -- there was never a convening of the
23 Water Management Board, which is the public agency that's
24 supposed to speak for the people. There was never an
25 opportunity for public comment before then.

1 And so this really is about the first time we're
2 getting the proper opportunity to comment on this matter,
3 which affects not just Spearfish but affects the people of
4 the State. Spearfish Canyon is a tremendous and valuable
5 tourism, recreational and scenic resource, and it's a
6 concern for many people in the State. And we should be
7 involved in questions about its water.

8 ACT's position, as you know, is very simple: We
9 think the power plant should not be licensed and that the
10 water should be given back to the people. Our view is that
11 there's no legitimate reason for the continued existence of
12 the power plant. There's no scarcity of power in the area.
13 Local utilities have abundant power that's available. As a
14 matter of fact, those utilities were not interested when
15 they were given the offer to buy this plant.

16 There is no need for that service. It doesn't
17 lower anybody's electricity bill in Spearfish. What's it's
18 purpose? So a little bit of money may come into the City of
19 Spearfish, less than a trickle. Before, its purpose was to
20 run the works in Lead -- now, that was important. That was
21 Homestake mine, it was a bulwark of the South Dakota
22 economy. Nobody could argue but what that was in the public
23 interest.

24 Now the public interest is not being served. We
25 are depriving this wonderful resource of the Spearfish River

1 that should be flowing there, and which was there
2 historically, and which would be a wonderful improvement to
3 our beautiful Spearfish Canyon.

4 There are some other factors that I think are
5 really not in the general awareness. I've done some
6 research into USGS flow studies, I've sent the result of
7 this to you folks, but I'll have to say I haven't informed
8 the irrigators and some of the others; but the fact of the
9 matter is that that water line is wasting our water, and a
10 very significant amount of our water.

11 The figures that I have -- and I've presented
12 those to the Federal Energy Regulatory Commission, these
13 figures show that over an extended period of time, around 15
14 or 16 years, the amount of water being lost in the water
15 line itself, mind you, is an average of 9 cfs. Now how much
16 water is that? 9 cfs is six times the amount of water
17 needed to service the cities of Lead, Deadwood and Central
18 City, according to Mayor Joe Scarna. It's undoubtedly
19 enough to run the City of Spearfish.

20 What happens to it? Nobody knows. The Madison
21 Aquifer probably is a recipient, but that's a last resource.
22 We don't know where that water all goes; might be coming out
23 over in Wyoming. It certainly is not going back to
24 Spearfish Creek. You irrigators have been deprived, over
25 the years, of a substantial amount of water that could have

1 been flowing by you.

2 Now if the water were allowed to flow, probably
3 some would disappear, but it would replenish the aquifer
4 that serves Spearfish, Spearfish city wells, other wells.
5 As a matter of fact, USGS has shown that water that is
6 absorbed in the aquifer at the bottom of the Canyon
7 reappears, from dye tests, in wells in Spearfish. So
8 there's a connection there.

9 Whatever water would be lost is not lost in the
10 Canyon. It is lost in the water lake; we don't know where
11 it goes.

12 Now those figures, I probably should have given
13 that to everybody, but I didn't; but I think those figures
14 are all we have to study this; I think they are reliable
15 figures, and we need to take them seriously. And wasting
16 water like that is a violation of South Dakota law.

17 There's another point I would like to make: You
18 know, there is the worry about the water disappearing into
19 the aquifers at the mouth of the canyon. Well, we lack some
20 significant data there, this is certainly true. But it's
21 certainly not fair to make a comparison between Spearfish
22 watershed in this creek and let's say False Bottom Creek or
23 Beaver Creek to the west, or Bear Butte Creek -- those are
24 very small streams. They are losing their water, yes.

25 What we should do is go to a watershed that's

1 more near comparable, and has a larger stream, and that one
2 is Rapid Creek. And we have figures from the USGS on Rapid
3 Creek.

4 Rapid Creek, as a matter of fact, below Pactola
5 Dam is not that big a stream, typically. Typically early in
6 the summer. And you know the reason, of course; they're
7 filling up the reservoir. So you have a stream that, well,
8 probably about 17, which wouldn't be anywhere near where
9 Spearfish Creek would be.

10 Well, what happens to that water? Rapid Creek
11 goes all the way down, it crosses the same aquifers as
12 Spearfish Creek does, is it all absorbed? No way. No way.
13 It flows all the way down; there is -- there is some loss,
14 but it's modest; and then what happened in Rapid City,
15 there's Cleghorn Springs which gets its water from the
16 Madison. There are city springs that gets its water from
17 the Madison. And so if you measure, and of course the USGS
18 does this, if you measure the stream that goes by the civic
19 center in Rapid City, that stream is considerably larger
20 than the one that goes by Johnson Siding, which is the same
21 as what comes out of the Pactola Dam. Larger.

22 There used to be springs like the ones at the DC
23 Booth Fishery Hatchery that have dried out after the power
24 plant was put in. There are other springs. There are
25 springs that still flow but which have a lower flow. We're

1 convinced, absolutely convinced that if the full stream were
2 allowed to flow, those aquifers would get filled up and
3 springs would be restored, and you irrigators would have the
4 water you deserve and you were given the right to earlier.
5 And it would be a larger stream than now flows there from
6 the City and down to Redwater.

7 In short, I can sum this up very quickly; our
8 position, and we think it's a sound one, is "Shut the damn
9 power plant down and give us back our water!" Thank you.

10 MR. HOCKING: Thank you.

11 Anybody else? Next?

12 MR. BOYER: That's difficult to follow.

13 First of all, good evening and welcome Jenn,
14 Randy, Steve. Thank you very much for this public
15 opportunity, it's greatly appreciated. I'm speaking tonight
16 as a proud citizen of Spearfish; tomorrow as the Spearfish
17 Canyon Society.

18 My home, and home is downstream, were flooded
19 Christmas week. The flow in the creek was 41 cfs, according
20 to the USGS gauge. The weather was subzero for 14 days.
21 Spearfish Creek freezes from the bottom up, and in unusual
22 circumstances can spill over the bank, which it did December
23 22nd.

24 Calls to the City to break the ice and ice jams
25 were ignored. Calls requesting City redirect 20 cfs hydro

1 diversion flow into the channel were ignored. Channelizing
2 20 cfs of the diversion flow through the channel's 21 cfs
3 surface-loss-zone would have reduced the flow in the city by
4 50 percent, thereby slowing the ice buildup process and
5 narrowing the floodplain impact area.

6 Folks who choose to live in the floodplain accept
7 the perils of natural stream flows. Folks do not accept the
8 perils of an altered stream flow caused by artificial
9 man-made structures like the hydropower system.

10 The FERC licensing process views the city hydro
11 as a new hydro, and therefore must evaluate the system under
12 all current standards and conditions of health and safety.
13 I trust FERC has floodplain and flood management
14 requirements of a man-made structure that alters natural
15 flows of Spearfish Creek. We expect flood management will
16 be a requirement in the city license for their hydro
17 operation. Thank you.

18 MR. HOCKING: Anybody else?

19 You don't have to come up to the front if you
20 don't want to; just stand up where you are. I don't mean to
21 force everybody up to the front.

22 Anybody else have any comment? Sure.

23 MR. HECKENLAIBLE: Gary Heckenlaible. I am the
24 organizer with Action for the Environment. And Dick Fort
25 did such a good job of explaining our position that I will

1 be brief in what I am going to say.

2 But I just want to highlight a few things that
3 will give you a feeling of what's happening here in South
4 Dakota, why you are so anxious to have FERC in here. When
5 this whole thing started, as Dick said, the water usage
6 changed completely from Homestake Mine to the present; and
7 that, you would think, actually would instigate the state of
8 holdings hearings and so on, but nothing happened,
9 absolutely nothing happened.

10 And that's why our attorney, Mike Hickey, is
11 going to be over in Pierre in the next couple of weeks with
12 a landowner whose property is not worth what it is supposed
13 to be because he's deprived of that water. So we're going
14 to have that intervention coming about very shortly.

15 We have been involved in this thing the whole
16 time, and I've been involved over the years, across the
17 country, in lots of different situations and negotiations.
18 I have never quite been involved, as I have with the Mayor
19 and City of Spearfish whose basic pronouncement from Day One
20 was "It's my way or the highway." And that has been the
21 proceeding thing that has been going on, as FERC has
22 experienced when the City used tremendous effort to try to
23 get around having you guys look at this project.

24 And so I am very thankful, during the meetings in
25 Washington, that you stood up and said we should be

1 involved, and that the Congress agreed with that, that we
2 don't have to do an end run here, that we do this the right
3 way.

4 So we are pleased and our lawyer in Washington,
5 D.C. will be in contact with you shortly throughout this
6 process; we are pleased that you are here and that we have
7 finally got some objective eyes to look at this thing, and
8 that as Dick Fort said, this is the people's water and it
9 isn't something ordained by Homestake or the State and given
10 to somebody; that it is the people's water and we do need
11 objectivity here.

12 So thank you for being here and we look forward
13 to looking with you in the future.

14 MR. HOCKING: Anybody else?

15 MR. NELSON: Good evening, I'm Jim Nelson with
16 the Spearfish Canyon Owners Association. And I appreciate
17 your being here and giving us this opportunity, also.

18 As others have said in the participation in this
19 project, the Spearfish Canyon Owners Association -- when
20 Homestake shut down, it transferred some of the lands, they
21 allowed those that had leased lots from them, to buy those
22 lots. And they asked the Forest Service to take transfer of
23 these lands, or actually directed that a homeowners
24 association be formed, and they helped draft the covenants,
25 and they helped draft the articles and the state bonds, so

1 on and so forth; which in the end laid on us a requirement
2 to try to preserve the Canyon as much as possible, the way
3 they had for a hundred years. They didn't give us any
4 money, but they tasked us to do that.

5 The first task in the articles is to protect the
6 water quantity and quality of Spearfish Creek, and we've
7 taken that very seriously and worked as much as we can to
8 interface with the Forest Service on several projects, in an
9 attempt to maintain the timber in the canyon, not nearly as
10 successfully as we'd like to. We think that has a
11 significant effect on the water quantity and quality.

12 We also have worked and supported, in writing,
13 the Game Fish and Parks and the transfer of some of their
14 lands in Spearfish Falls -- not Spearfish Falls, I shouldn't
15 say; rough water falls over the Spearfish Falls -- but also
16 we supported the City in their first request to continue the
17 power plant without a FERC license; because at the time we
18 didn't feel that there was a great deal of value to be
19 added.

20 And let me say, at the time, as soon as we heard
21 we had been trying to get the USGS to do more extensive
22 studies of the water losses in the canyon below Maurice for
23 some time, and had written to our senator's offices; had
24 written to the Homestake and asked them to support those
25 studies, the City of Spearfish had done that study, had done

1 some -- with USGS, some of the studies. But when we heard
2 that the transfer of the water rights to Spearfish and the
3 purchase of the power plant was taking place, within a week
4 we were able to schedule, and met with the Mayor and the
5 staff -- I was vice-president at that time -- and we asked
6 that they think about and look at if we could put together
7 an approach to release some small quantities of water beyond
8 Maurice into that three miles that we're now talking about
9 releasing water today in this plan.

10 We wound up putting that plan together, met with
11 the City Council, met with all the stakeholders that were
12 interested at the time to tell them what we were trying to
13 do, and received support from everybody including the City.
14 We put together a plan that was, resulted in an MOA with the
15 City, that would have started in 2004 to release 5 cfs from
16 Maurice as long as a minimum of 40, was what.

17 That was designed to assure that, as best we
18 could tell from the USGS data, to protect the quality and
19 quantity of the stream in its lower reach from Spearfish to
20 Redwater, that 40 would maintain a healthy stream.

21 If there were higher flows in the Maurice, 50 or
22 more, we were talking about possibly releasing 10. But with
23 the flows that were in that gaining reach, that projected to
24 give us like 5 to 15 cfs, in that reach, which would make it
25 a reasonable stream similar to East Spearfish Creek or

1 better known as Hannah Creek does.

2 We were successful in stretching that MOA, which
3 would have been for three years, and then we planned to
4 renew it based upon what we learn. And the City signed it,
5 we signed it, we were ready to progress; but in there it was
6 allowed that if there was any reason, legal or otherwise to
7 hold it up, the City had the right to do that. And that's
8 what's happened; there were some suits filed and that was
9 held up, and then FERC required that the City file for the
10 license.

11 So we've been supportive of the City's license
12 and their approach, and we were happy to see that part of
13 the approach required the Delphi study, because that would
14 finally be a structured approach to what really should be
15 put into that stream. We strongly recommended that they use
16 the USGS data, some 60 years of data in the Spearfish, and
17 some 14, 15 years of data at Maurice to assure that they
18 were in a range that would protect, would provide that flow
19 into the upper reach there, the three miles, and also
20 continue to protect the flow from the City to Redwater.

21 And we think the Delphi study did a great job of
22 that. It turns out that the results of that study said that
23 the flow ranges we were talking about, for much better
24 reasons, were about right; they were talking 4 to 6, the
25 City 3 to 6. We actually proposed that maybe as difficult

1 as it is to measure the max flows that the City just remain
2 at 5 cfs, that the annual seasonal flow would provide the
3 amount that is healthy for the stream. But wherever it
4 comes out, we believe that's the right range and we're fully
5 supportive of that.

6 And the fundamental reason we're supportive, and
7 still deal with protecting the water quality and quantity
8 is, as opposed to Dick, we don't believe that the aquifer
9 would fill up; we believe in today's world with forest the
10 way it is, that the cities the way they are, and with 60
11 years of data, and the USGS's formal statement, that they go
12 back, no matter what flows are in the spring, and in time
13 that they're comfortable that you're going to lose 20 to 25
14 cfs in those aquifers; and you're also going to lose
15 probably some more, according to their last study, from the
16 aquifers in to the City.

17 So as the study duly noted, the danger to the
18 reach from the City to Redwater in dry years, 20 to 30
19 percent of the time you could have very low to zero flows
20 through the City. We believe that data, and I think these
21 last couple of years have shown to be true -- this last year
22 is an example: We've had now three years of good flow after
23 not having any flow to speak of past the aquifers since '98.

24 This spring, and in 2007 we had good flows. This
25 spring we had flows that actually flow 40 cfs or greater

1 past that -- four or five weeks. And within three days,
2 actually less than a week, about three days after that flow
3 dropped below 40 again, the aquifer obviously wasn't faulty.

4 So we think this is an approach to protect the
5 water in the City and in Spearfish Creek, that stream from
6 Spearfish to Redwater; the high quality stream, and also to
7 gain three plus miles of additional high quality stream in
8 the Canyon.

9 The item that's left out as to this point that
10 we're concerned about, City properly asked DENR to, since
11 they're the owner of the water rights, to set what the
12 minimum flow should be for a period of dry years. And we
13 understand that DENR has taken that charge, and will
14 determine what that number ought to be; whether it's 40 or
15 30 or 35, someplace in that range we would expect it to be,
16 but it's certainly their responsibility to do that.

17 We think that this process ought to proceed as
18 soon as possible. Since 2004 we've put in for data that
19 would have been very useful. What you're going to get now,
20 once the license is approved; and the balance of that is
21 Spearfish Canyon Owners Association has no dog in the fight
22 whether the City chooses to generate power or not. But in
23 protecting the stream, we feel that the aqueduct was
24 necessary in today's world; and some one entity like the
25 City or some other needs to have responsibility for that and

1 needs to have the means to maintain it. So the dam, the
2 aqueduct, et cetera need to be maintained; and we feel that
3 this operation the City chooses is the best, and SCOA has
4 been in support of this process from the beginning. Thank
5 you.

6 MR. HOCKING: Thank you.

7 Anybody else?

8 Why don't we take a quick break, maybe ten
9 minutes. So it's 8:20. How about 8:30, everybody can make
10 sure they're back, and then we'll continue on. We can
11 either go resource by resource, or if anybody else wants to
12 get up and give us comments, and that will be great. Okay?

13 (Recess.)

14 MR. HOCKING: Okay, we're going to get started in
15 just a minute.

16 Okay, why don't we go ahead and continue, if
17 anybody has any comments they want to present now is the
18 time to do so. Again, either tonight or tomorrow or in
19 writing by February 13th.

20 Does anybody else have anything else that they
21 would like to say, present to the Commission?

22 MR. ROGGENBUCK: I'd like to apologize for
23 getting here late, so I missed some at the very beginning.
24 I'm John Roggenbuck, I'm the Chairman of the Board of
25 Irrigators for the Evans-Tonn Ditch Company. We irrigate in

1 the lower valley, all of the lower valley, and across from
2 the north side of the interstate. So that's our
3 responsibility, to make sure the water flows.

4 I heard a little bit, something about peoples'
5 water. Actually, if you want to get technical about it, the
6 irrigator gets first choice, because we have water rights.
7 And our water rights, 1876, precedes anything the City of
8 Spearfish had, any utility companies had, or Homestake.
9 This is the very first one. And we have to have our water.
10 I'm not trying to be greedy, but it is our water rights, and
11 we have to protect those.

12 It would be nice if water could be guaranteed for
13 everyone if we let the water run down the crick, that would
14 be great. So can anyone here guarantee that if the water is
15 going to be let loose in the crick, will there be enough for
16 the irrigators, will there be enough for the crick, going
17 through town for recreation and for fishing as it's now
18 used, and will there be enough for the fish hatchery? These
19 are things that are very important to the town.

20 If that could be guaranteed, that would be really
21 nice, but I don't think that's possible because I don't
22 think we have enough data and actual concrete evidence to
23 know what is going to happen. Also, we have a great
24 fluctuation in our water supply by Mother Nature; we don't
25 know what we're going to get in the spring. Last year was

1 good, we had good water. The whole State stayed green for
2 longer than normal, including the Black Hills. Under those
3 kind of circumstances, there's room for adjustments. The
4 irrigators had enough water, as did everybody else.

5 So what is the solution? Is there one that we
6 can really manufacture and make work so that everybody is
7 happy? Probably not. If we had a larger amount of
8 rainfall, especially in our spring, maybe this could happen.
9 Thank you.

10 MR. HOCKING: Okay. Anybody else?

11 MR. DUEX: I would like to make just a few
12 comments. My name is Todd Duex, and I'm a resident of
13 Lawrence County just north of Spearfish here. And I've been
14 in the Black Hills for a little over 25 years, and I'm very
15 familiar with the geology and hydrology of the entire area,
16 done a lot of environmental studies.

17 I'm here primarily, as I would really like to go
18 on record as supporting this project. I think there are a
19 number of things that the Commission needs to consider, and
20 coming to this conclusion. First, energy production.
21 Energy production is very important in this country. As you
22 know, renewable energy, especially from hydroelectric
23 plants, is going to be one of the cheapest things in the
24 long term. And even though this hydroelectric plant is a
25 fairly small plant, it still generates a renewable resource

1 of energy.

2 If you look at the data on what's produced here,
3 you're probably saving the equivalent of between 15,000 and
4 20,000 tons of carbon dioxide emissions a year. And I think
5 everybody agrees that that is an important aspect of power
6 generation, if you can remove that from the atmosphere.

7 Secondly, the quantity of water. A lot of
8 irrigators here, including myself -- and I do use the water
9 in my residence for various uses -- use that water. And I
10 think it's pretty well understood that if this water is
11 turned back into the stream, it's going to have some effect
12 on the quantity of water. Nobody really knows what effect
13 it has, but it's going to have some effect, especially
14 during the drier months of the year.

15 If, in the case of myself, I run out of creek
16 water to water my lawn or my garden with, I'm going to use
17 ground water. And so whatever it is, I'm going to use the
18 water from somewhere, and I think this creek water, being
19 energy-free, gravity-fed to my house, is much more
20 environmentally sensitive than using well water.

21 Thirdly, water quality. And I think some of the
22 things that need to be considered in looking at water
23 quality is primarily temperature; by diverting that creek,
24 even if you add only significant amounts of water going back
25 into the creek, traveling an extra seven miles through an

1 open stream bed is going to have an effect on temperature.
2 And right now, I think one of the bigger problems with trout
3 fisheries in this state is temperature. Temperature of the
4 water is very critical to the trout fisheries, and if the
5 temperature warmed up 4 or 5 degrees Fahrenheit in the
6 creek, I think it could have a significant impact in the
7 fisheries and in Spearfish itself.

8 And then lastly, social economic conditions are
9 very important. Yes, maybe it doesn't generate a lot of
10 money for the City of Spearfish, but it generates some
11 income. It also employs a number of people, and that's not
12 bad in this type of an economic environment.

13 So I think you really need to consider the whole
14 picture and not just little pieces of this picture before
15 you make up your mind. Thank you.

16 MR. HOCKING: Anybody else?

17 MR. DELLA-VECCHIA: I'd like to make a comment.
18 My name is Guido Della-Vecchia. I'm also a recipient of the
19 water on the crick to out fields. There's always been an
20 ample supply, even in the worst of times, drought times.
21 Water's always gone through, I have a well that's close --
22 not too close to the crick, no matter what, there's always
23 water. I have never seen water wasted.

24 I don't know how you waste water. If water is
25 wasted, that kind of means that it's dissipated, it's gone,

1 you don't see it any longer. Well, folks, if that does
2 happen, none of us are here right now, we'd be dead. Water
3 is always renewable. If it goes up into the atmosphere, it
4 comes down elsewhere.

5 So this thing of saying that water is wasted to
6 me is, it just isn't so. It ain't so, folks, it ain't so.
7 And I understand the emotions that run sometimes if people
8 have a crusade, but as that gentlemen said, 1876 the water
9 rights were given to the irrigators, to the farmers and the
10 ranchers; there was a reason for it: Because they didn't
11 waste the water, they used it, properly. They didn't put it
12 on their grass, their lawns, it was used for food, and
13 that's a big difference.

14 I come from a big city, Brooklyn, New York. We
15 didn't have lawns, we had concrete. But out here we have a
16 lot of good resources, we have a lot of fresh air. And I
17 for one am for keeping the project going. It's cost the
18 taxpayer -- the City of Spearfish over \$700,000 to fight --
19 not to fight, but to answer the questions from some of the
20 people who just never give up. Thank you.

21 MR. HOCKING: Yes.

22 MR. HAYES: My name is Doug Hayes, I'm with the
23 Walton-Schuler Ditch. And I'd just like to say that yes,
24 our water rights do predate statehood. The irrigators have
25 the water rights here. I can see both sides of the

1 equation. It would be very nice if we could have 40 cfm
2 going down the crick. We're running the hydroelectric plant
3 and coming through town and not getting warm and affecting
4 the fisheries. But I believe in the drought years that it's
5 going to have a substantial effect on the quantity and
6 quality of flow through town.

7 I support the City's measure. I think it's kind
8 of a good compromise, where we're going to have some water
9 flowing past Maurice down, and in wetter years, hopefully we
10 can put more down the crick. But I think it's imperative
11 that we protect the water rights of the irrigators, and the
12 fish hatchery here in town, and the quality of the fishery
13 in Spearfish, on to the Redwater, plus the irrigators'
14 rights, original rights.

15 MR. HOCKING: Okay, thank you.

16 Anybody else?

17 Does anybody want to go resource-by-resource
18 through Scoping Document 1? We can do that.

19 AUDIENCE: Quickly?

20 (Laughter)

21 MR. HOCKING: Yes, we can do it quickly.

22 All right, why don't we do that.

23 If you can turn to page 11, Section 4.2. Again,
24 these are the issues that we picked up from what we've seen
25 so far. And the question is, have we characterized these

1 properly? Do they need to be redefined, rewritten,
2 broadened, narrowed? Or are there issues in here that we
3 just completely missed.

4 We didn't find anything for Geologic and Soil
5 Resources. I apologize for the typo; it's supposed to say
6 'No issues identified.' So we didn't identify anything for
7 Geologic and Soil Resources.

8 The next resource area is aquatics, and - Effects
9 of proposed new minimum flows on the fishery resources in
10 the project's bypassed reach.

11 Effects of new minimum flows lost to subsurface
12 recharge in the project's bypassed reach from the
13 availability of flows for fisheries resources downstream of
14 the powerhouse.

15 Effects of continued project operation on water
16 quality in Spearfish Creek; and

17 Effects of continued project operation on fish
18 entrainment into the project's power tunnel and the forebay.

19 Are the ones that we've come up with as far as
20 Aquatic Resources.

21 Any changes that we need to make to those?
22 Additions or --? Yes.

23 AUDIENCE: The term 'new minimum flows'; the
24 proposed minimum flows. Is that what comes out in our
25 Delphi Team recommendation? Is that what minimum flows --?

1 MR. HOCKING: We're referring to the City's
2 proposed action here. So what the City is proposing in
3 terms of minimum flows.

4 AUDIENCE: Now they may be minimum in another
5 sense, for instance from the fisheries standpoint. Would
6 you also look at an effect on the maximum -- not maximum,
7 but the optimum flow for a fishery? You know, 3 to 5 is
8 probably not optimum for a fishery. Maybe 9, 10 -- I'm not
9 recommending anything here. So all the way through here you
10 mention measurement effects on the minimum, but is there not
11 a need to also look at something other than the minimum but
12 toward the optimum to make that judgment on?

13 MR. HOCKING: Yes, we can, and we should. I
14 mean, we have the Delphi study and we'll be looking at that
15 and analyzing that in the NEPA document. I used minimum
16 flows here in terms of their proposed action, and ultimately
17 the license will have to say something like 'you must
18 release X number cfs under these circumstances for this time
19 period.' But we don't know what that is yet; we've got a
20 proposed action from the City, and then we have to look at
21 that proposed action, look at the Delphi study -- Commission
22 Staff, we have to come up with our own recommendation.

23 So we will be looking at all the information that
24 we have, not just -- which would include, you know, what the
25 optimum is.

1 AUDIENCE: Oh, okay.

2 MR. HOCKING: But eventually, we'll come up with
3 our own recommendation for minimum flows.

4 Yes?

5 AUDIENCE: How do we address the subject of the
6 water rights under law versus the environmental question
7 that you are going through here this evening? You can talk
8 about, and go around in circles forever under the
9 environmental thing; but under law, the irrigators have
10 certain rights and those rights have to be protected
11 somehow.

12 MR. HOCKING: Well, what we do as Commission
13 Staff is we make note of everything that we see. So we will
14 take a look at the proposed action in terms of minimum flows
15 in the Delphi study, and then we'll also make note of what
16 water rights are. But as Commission Staff, we won't be
17 making any legal pronouncements in this document; we don't
18 do that. The Commission does that; we make recommendations
19 to the Commission, the Commission looks at our
20 recommendations, and then they look at the laws, and then
21 they make the final decision.

22 So we would not be saying legally one thing is
23 required or not, not in this document, not at this stage.
24 But we will make note that there are, you know, we have on
25 record from the City their water rights of a certain amount,

1 different ditch companies have different water rights of a
2 certain amount, and we'll make note of that. But we won't
3 be saying because of those rights we're going to do
4 something, or not. We will be making an environmental
5 recommendation.

6 If there was to be a conflict between that and
7 the water rights, we wouldn't make that decision; the
8 Commission would make that decision.

9 Does that answer your question?

10 AUDIENCE: Yes -- one's a matter of law, one's a
11 matter of environmental law process, and --

12 MR. HOCKING: The environmental assessment is
13 really, we don't get into legal decisions in there, we
14 can't, because that's Commission Staff's document, and we
15 don't make those decisions in that document.

16 AUDIENCE: But I do trust that that will be in
17 the document, talking about the irrigators and their rights.

18 MR. HOCKING: Yes. We have that information. We
19 need to say what is the current status quo. The status quo
20 is there are rights, the irrigators have these rights, and
21 this is what they have. And we have that information from
22 the City; they provided that in their license application.

23 Yes?

24 MR. FORT: I presume, from your remarks, that
25 FERC accepts that the State is the agency that gives out the

1 water rights, and that is a particularly difficult problem.

2 MR. HOCKING: Yes. And the State has a water
3 quality certificate that they can issue for this project,
4 which is a document, and any terms and conditions that they
5 have in that document are mandatory; that we would have to
6 include in the license.

7 Anything else on Aquatics? Other questions.

8 For Terrestrial Resources: Effects of proposed
9 new minimum flows on riparian habitat in the project's
10 bypassed reach.

11 Yes.

12 MR. FORT: I have a question there. Does this
13 mean that your only concern will be to evaluate the City's
14 proposal for a minimum flow? The Delphi study actually
15 protected several different releases other than the City's,
16 and will that be a part of your study, too?

17 MR. HOCKING: Yes, we'll be looking at that.

18 MR. FORT: Thank you.

19 MR. HOCKING: So the next one is Terrestrial
20 Resources: Effects of proposed new minimum flows on
21 riparian habitat in the project's bypassed reach. The
22 additional three miles down the stream.

23 Yes, Mr. Fort?

24 MR. FORT: I am not being objectionable, but I'm
25 wondering if the Federal Energy Regulatory Commission is

1 aware that there's some - a move is afoot to make official
2 the designation of the American Dipper as an endangered
3 species? I know it hasn't been done yet, but I think there
4 is a distinct prospect, and we think it's a very important
5 aspect of this situation, because eight miles of its habitat
6 has been taken away from it.

7 MR. HOCKING: Is it actually a proposed species,
8 yet?

9 MR. FORT: I think it's in a proposal form at
10 this point. I don't think officially it is so designated,
11 but there are local bird people who are convinced it is a
12 separate species because they have been isolated for so
13 long.

14 MR. HOCKING: I'll check the Fish & Wildlife
15 Service's website on that. We were hoping that Fish &
16 Wildlife Service will show up tomorrow; it sounds like they
17 won't be. Because we do have to check in with them in terms
18 of endangered species. If they don't show up tomorrow, then
19 I'll have to give them a call and see where they are.

20 That's the next one, which is Threatened and
21 Endangered Species: Effects of continued project operation
22 on federally-listed species that may be found in the project
23 area. And currently, we have no information that indicates
24 that the proposed project is affecting any federally-listed
25 species.

1 So we will check with the Fish & Wildlife Service
2 to see if there are any in the area. Is anybody aware of
3 any species? We'll check on the American Dipper. Anybody
4 aware of any other species that we need to look into?

5 MR. FORT: I think there is a rare moss in the
6 Elmar area, but I'm not an expert.

7 MR. HOCKING: Okay. Yes?

8 AUDIENCE: I think like the Dipper situation, if
9 it isn't in the process yet, it's very close. I think
10 there'll be lots of stuff happening on that in the coming
11 period.

12 MR. HOCKING: I'll check the status. If it's a
13 proposed species and it would be affected, then we have to
14 do what's called a converse with the Fish & Wildlife
15 Service. I don't know if -- it sounds like it's not quote,
16 "been proposed yet" but we can check on that.

17 AUDIENCE: How about state-listed species?

18 MR. HOCKING: State-listed species, we can
19 discuss them in the EA as well, as well as Forest Service
20 sensitive species. There are a number of those which are
21 listed in the City's application. We have some information
22 on those. So the Forest Service, particularly tomorrow if
23 they're going to be showing up tomorrow, if they want us to
24 do an analysis or do a writeup of one species in particular
25 that they're more concerned with, or all of them, they'll

1 let us know. But we do have a list, a pretty comprehensive
2 list in the City's application of management indicator
3 species and other sensitive species.

4 After that, Recreation: Effects of proposed new
5 minimum flows in the project's bypassed reach on angling
6 opportunities in the bypassed reach.

7 And any need for new recreation facilities or
8 public access within the project boundary to meet current or
9 future recreation demand, and including any barrier-free
10 access.

11 If anybody is aware or has any recommendations
12 for new rec facilities or access that are tied to the
13 project, that would be located within the project boundary,
14 we're soliciting that at this time as well.

15 AUDIENCE: At this time?

16 MR. HOCKING: Yes.

17 MR. BOYER: Jerry Boyer. Department of
18 Transportation has a safety issue at Bridal Vail Falls. An
19 observation, pull-out area. Right now rumble strips are the
20 only safety device. So north and south traffic coming
21 around corners, and there are hundreds of people crossing
22 the street.

23 The Forest Service, I believe, would be your
24 primary agency to speak to that -- and DOT. But there is
25 discussion of future plans to change parking to the Falls

1 side, move the road to where the pull-off is, and build an
2 observation deck that will accommodate the public in a
3 safety system.

4 So you might want to look at Bridal Veil
5 observation.

6 MR. HOCKING: Okay, and talk to the Forest
7 Service about that?

8 MR. BOYER: Yes. And DOT, Department of
9 Transportation.

10 MR. HOCKING: Yes?

11 MR. NELSON: Jim Nelson. There is a corridor
12 management plan that exists at this time that was put
13 together back in the late 1990s that recommends against
14 additional facilities in the Canyon because of the traffic
15 and load that's already on the Canyon. Also of importance,
16 the public access is pretty much guaranteed by the fact that
17 all the way through the Canyon with the Homestake Forest
18 Service Exchange, there's a 20 to 25 foot easement on either
19 side of the stream to guarantee public access to the stream.

20 MR. HOCKING: And that management plan?

21 MR. NELSON: Order management plan.

22 MR. HOCKING: Who is the author?

23 MR. NELSON: It was put together by the Forest
24 Service. It's signed by the Mayor of Spearfish, Lawrence
25 County Commission, they had a representative; all the

1 stakeholders that you have listed had representatives; it
2 was also signed by the Deputy DOT of the State. And I
3 believe that document has already been submitted to you.

4 MR. HOCKING: Oh, really? I don't remember it.
5 Okay, I'll look for that.

6 Do you remember the date?

7 MR. NELSON: I believe it was 1999, it was
8 signed.

9 MR. HOCKING: You've seen it, okay. Late
10 Nineties.

11 Okay, I'll check on that.

12 MR. BOYER: Gary Boyer. Subsequent to that, the
13 Forest Service did a landscape assessment analysis from the
14 Corridor Management Plan; more detailed, better prioritized,
15 providing recommendations for priority of projects. You
16 might want to look at that as well; I think that was a 2002
17 landscape assessment.

18 AUDIENCE: It's also been submitted.

19 MR. HOCKING: Okay. And these are not part of
20 the Black Hills National Forest Land and Management Plan, or
21 are they?

22 MR. BOYER: No, they're not. They're guides to a
23 plan, but they never are incorporated to a plan.

24 MR. HOCKING: Okay. Anything else on Recreation?

25 Cultural Resources: Effects of continued project

1 operation on the cultural resources that are listed or
2 considered eligible for inclusion on the National Register.

3 We've been working with the SHPO; I think we just
4 received comments from the SHPO, which is the South Dakota
5 state historic preservation officer. And we are waiting
6 for comments from the Forest Service on the draft Historic
7 Properties Management Plan that the City submitted. And
8 once we get comments from those two entities, then we have a
9 proposed timeline for putting together a final -- it's
10 called an HPMP, Historic Properties Management Plan, and a
11 programmatic agreement, which is a document that the
12 Commission issues and that the SHPO signs, with the
13 applicant as a concurring party.

14 So we do have that in the works and we are trying
15 to get that done in parallel along with everything else that
16 needs to be done. So we are going to have cultural
17 resources addressed through not just the EA but the Historic
18 Properties Management Plan and then a separate programmatic
19 agreement, which is another track and activities that are
20 going on in the licensing process.

21 Does anybody have any recommendations for
22 cultural resources? There are no tribes here. Anything
23 that we should be aware of?

24 We'll continue to work with the SHPO and with the
25 Forest Service with regard to the cultural aspects of the

1 project.

2 Aesthetic Resources: Effects of the proposed new
3 minimum flows on aesthetics downstream of Maurice.

4 Socioeconomics: Effects of proposed new minimum
5 flows lost to subsurface recharge in the project's bypass
6 reach on the availability of flows for downstream irrigation
7 needs.

8 MR. BOYER: That's worded very strangely, if I
9 may. Could that not be a two-part sentence, or two
10 sentences? There are proposed new socioeconomic impacts
11 with four and a half miles of new fisheries, new water along
12 the scenic byway, et cetera, so forth, adding to the
13 delight, pleasure, and economy of people traveling in the
14 area, and doing sporting there.

15 And then a second part would be the loss to the
16 downstream irrigators.

17 MR. HOCKING: Okay, sure. So when you're saying
18 socioeconomic benefits, you're talking about like increased
19 tourism, angling --

20 MR. BOYER: More activity.

21 MR. HOCKING: -- doing more fishing, in that
22 downstream three mile reach?

23 MR. BOYER: Actually, it's 4.3. I wish we'd stop
24 saying 3.3. 3.3, as Cheryl nicely pointed out, was from
25 Maurice in to --

1 MR. HOCKING: Down to the intake.

2 MR. BOYER: -- the City intake, yet the Delphi
3 shows 6 cfs going another mile further. So it's -- on their
4 report I have 4.2. Okay.

5 MR. HOCKING: Yes, Mr. Fort.

6 MR. FORT: I don't know whether this something
7 that would be useful to you, but quite a few years ago the
8 Black Hills Badlands and Lakes Association put together an
9 economic study in which they estimated the value to our
10 economy of Spearfish Canyon. I think it's somewhere around
11 ten to twelve million dollars a year. I'm wondering if
12 something like that might be useful for you to consult. I
13 know it's probably out of date, but it is a socioeconomic
14 study.

15 MR. HOCKING: It may be. It may have information
16 in there that we could use.

17 Do you have a copy?

18 MR. FORT: No, I don't.

19 MR. HOCKING: What's the name?

20 MR. FORT: Black Hills Badlands and Lakes
21 Association. I don't know whether they're active anymore.

22 AUDIENCE: Oh, yes. They're in Rapid City.

23 AUDIENCE: What's the head guy's name?

24 AUDIENCE: Orakant. {ph}

25 MR. HOCKING: Okay, I'll see if we can find it.

1 And you don't have a published date?

2 MR. FORT: A publish date?

3 No, I don't. It was quite a while ago.

4 MR. HOCKING: Okay. The last thing we can talk
5 about, if you all want to, is the couple things that the
6 City is proposing to. We have been talking about them; the
7 proposed minimum flows in particular.

8 Oh, I'm sorry, go ahead.

9 MR. KALLEMEYER: Larry Kallemeyer. You've got
10 one more here on Developmental Resources. I was wondering
11 if 3A would address alternative minimums.

12 MR. HOCKING: In what sense?

13 MR. KALLEMEYER: The possibility that rather than
14 redo or license the project, they look at alternative energy
15 sources.

16 MR. HOCKING: We do an economic analysis in the
17 EA which compares the costs of generation from the next
18 least cost source, which would probably be coal-burning,
19 probably in this area. So we do get information on whatever
20 the next least cost source of generation would be, and then
21 we take a look at that and compare it to the project.

22 But it sounds like you would like to have a
23 comparison --

24 MR. KALLEMEYER: I was just curious if you would
25 be doing that kind of analysis.

1 MR. HOCKING: Yes, we do; we routinely put that
2 in the assessments that we put together. Do you think, does
3 that meet the intent?

4 MR. KALLEMEYER: Just asking the question.

5 MR. HOCKING: Okay.

6 MR. BOYER: EWI, I believe, has identified
7 international mapping, part of this area as the top level of
8 wind power opportunity. And we're talking maybe one or two
9 wind turbines for electrical power than the hydro.

10 So I would provide that as another example of a
11 least cost alternative.

12 MR. HOCKING: We can look at that; I'm not sure
13 we've done that, not on any other projects I have, but wind
14 power is certainly new, relatively new.

15 Yes.

16 MR. FORT: I have a comment on the proposed
17 minimum flow in the City, which I think is ridiculous. The
18 idea that fish don't need water the year around, which is
19 implied here; and I don't think that they've gotten any
20 expert opinion on what kind of flow constitutes a decent
21 trout stream. If you're going to add some water to a
22 stream, it ought to be for the purpose of establishing a
23 decent trout stream. 3 is not going to give that section of
24 Spearfish Creek a decent trout stream.

25 MR. HOCKING: If everybody wants to turn the page

1 to page 13. There are a couple proposed measures that the
2 City intends to do. Again we were talking primarily about
3 the minimum flows.

4 So Mr. Fort, you're addressing that first item
5 there, which is the proposed minimum flows.

6 Does anybody -- there is that measure that the
7 City proposes; then the next one is: evaluate the
8 possibility of installing additional racks at the dam's
9 intake structure to minimize fish entrainment, because fish
10 are being -- fish can swim into the tunnel down to the
11 forebay, where they really can't go any further. So
12 they're thinking about taking a look at a way to keep fish
13 out of there altogether as one possible option.

14 Those were the two primary PM&E measures, we call
15 them, that the City is looking at. They are also going to
16 seal off an access portal to the tunnel -- we didn't put
17 that on this list, we need to put that on this list. So
18 that would be a third item that they intend to do.

19 So if anybody has any additional comments about
20 those three items. Yes?

21 MR. NELSON: Jim Nelson. On the 3 cfs minimum
22 flow, that really should be characterized as minimum flow
23 augmentation. That's flowing into a gaining reach, which
24 carries from 2 to 7 or maybe more cfs now. So you're
25 actually talking about a range of 5 up to 17 depending upon

1 what's in the stream, and the 5 to 12. That's fairly
2 typical of the range of Hanna Creek, or East Spearfish Creek
3 above Cheyenne Crossing.

4 MR. HOCKING: We'll make it clear in the EA that
5 it is a gaming region; we've got information to that effect,
6 in numbers in the document.

7 MR. NELSON: But it should be clear, this says
8 provides a 3 cfm minimum flow. It actually provides 5 or
9 more minimum flow.

10 MR. HOCKING: You mean because of the other creek
11 flows?

12 MR. NELSON: Because there is on the order of, a
13 minimum of two there.

14 MR. HOCKING: Yes. I can modify it to make it
15 clear that it is a, in addition that there is already other
16 flow in that, sure.

17 Anything else? Yes.

18 MR. BOYER: The new category, if you're beyond
19 4.4, Project Safety.

20 MR. HOCKING: Okay, we can talk about that.

21 MR. BOYER: Jerry Boyer. In my earlier
22 testimony, I had asked that maybe you look at an issue of
23 flood management in some way, but I don't know where that
24 fits. So I just draw that to your attention.

25 MR. HOCKING: Yes. No, we have that. That is

1 new. I haven't seen anything in the record on that.

2 MR. BOYER: Thanks.

3 MR. HOCKING: But we do have that.

4 All right, does anybody have any other questions
5 in general, again about the FERC process? About the
6 licensing schedule, milestones, what your responsibilities
7 are in terms of filing comments, intervening with the
8 Commission; anything like that?

9 When you get a chance you can take a look at,
10 page 17 is our proposed outline for the environmental
11 assessment, that we are intending to put together to follow
12 for our EA. When you get a chance, if you want to take a
13 look at that. If you have any comments you can feel free to
14 let us know. Any changes or additions or subtractions to
15 that outline.

16 Then on page 19, we've identified two
17 comprehensive plans that are relevant to the project. The
18 first one is the Black Hills National Forest Land and
19 Resource Management Plan. And then the second one is the
20 Statewide SCORP, the Comprehensive Outdoor Recreation Plan.

21 If anybody is aware of any other plans, we've got
22 down two more that we're going to look at. They may not be
23 quote, 'comprehensive statewide plans' but we can still see
24 if we can get our hands on them. But if anybody is aware
25 of any other comprehensive plans that may have a bearing on

1 the project, that we should take a look at in our EA, that
2 we should consider, please let me know. They would have to
3 be filed with the Commission. And then we will add them to
4 our statewide list and take a look at them for this project.
5 And particularly that goes for the resource agencies,
6 because they are the ones who usually are providing us those
7 formulas. So that's something else to keep in mind.

8 And then if you can take a look at the mailing
9 list, which is the very last thing attached; and if you have
10 any changes or additions or subtractions just let me know.
11 You can let me know right now or you can send me an e-mail.
12 Again, my contact information is on page 2. Or send us a
13 letter. And we can add you or remove you or do whatever you
14 would like to do.

15 Yes?

16 MR. HECKENLAIBLE: Gary Heckenlaible. As we had
17 talked earlier, you said that on the Commission there would
18 possibly be a change as of January the 20th. Would it be
19 possible for you to inform us who the new chairman was and
20 who are the commissioners and that kind of thing?

21 MR. HOCKING: Sure. I mean, it will be on our
22 website. As soon as you know. If you know before me, let
23 me know.

24 AUDIENCE: Is a notation on our sign-in form
25 tonight sufficient to be added to the mailing list?

1 MR. HOCKING: Yes. Yes. I'll be taking, if you
2 don't want to be added to the mailing list -- I'm going to
3 take all those sign-in sheets, and I make the assumption
4 that you want to be on the mailing list, that you're
5 interested in the project. If you don't want to be, let me
6 know and I won't add you. But otherwise I'll add everybody
7 who signed in.

8 Yes.

9 MR. EDSTROM: Ron Edstrom. I've just got a
10 question.

11 Let's say the license to generate power is turned
12 down. Does that then mean that all water that would flow
13 down the creek, or would still enter the system through the
14 aqueduct and come out by the power plant?

15 MR. HOCKING: The alternatives in our -- we have
16 four alternatives that we're going to be looking at in the
17 NEPA document, in the EA. The first is the City's proposed
18 action, and then the second would be the City's proposed
19 action with any recommended changes that we have, Commission
20 Staff has. The third would be the City's proposed action
21 with any changes that we recommend, as well as any mandatory
22 conditions that we have no control over. Like from the 411
23 water quality cert, or the Forest Service can issue
24 mandatory conditions on their section 4E of the Federal
25 Power Act.

1 And then the fourth alternative would be the no-
2 action, the no-action alternative would be licensed denial.
3 Under that scenario, we would require the City to disable
4 the power generation equipment so that they could no longer
5 generate power. Beyond that, I don't know if we would be
6 requiring anything else, like dam removal or certain
7 manipulation with the water or not. I think that our
8 options are limited to issuing a license; or if we don't
9 issue a license, we would require the City to permanently
10 disable the power generation equipment.

11 And then what the City did with the project and
12 its water would be up to the City. If you take a look at
13 the alternatives, that's spelled out.

14 Okay? Anything else in final, before we go ahead
15 and adjourn?

16 Thanks again for coming, and again, we have
17 another meeting tomorrow if you want to come back.

18 (Whereupon, at 9:20 p.m., the scoping meeting
19 concluded.)

20

21

22

23

24