

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

- - - - - x  
City of Spearfish, : Project No. 12775-001  
South Dakota :  
- - - - - x

PUBLIC SCOPING MEETING

City of Spearfish Council Center  
Council Chambers  
625 Fifth Street  
Spearfish, South Dakota 57783  
Wednesday, January 14, 2009

The public hearing, pursuant to notice, convened at  
10:13 a.m. before a Staff Panel:

STEVE HOCKING, Federal Energy Regulatory  
Commission

JENNIFER HARPER, FERC

RYAN HANSEN, FERC

	PUBLIC SPEAKERS	
1		
2	Jerry A. Krambeck, Mayor, City of Spearfish	5
3	Eric Gronlund, Water Rights Program, DENR	29
4	Jeanne Goodman, DENR	33
5	Mike Lees, President, Black Hills Fly Fishers	37
6	Jerry T. Boyer, Spearfish Canyon Society	40
7	Del Zambon, Whitewood, South Dakota	47
8	Craig Bobzien, Forest Supervisor.	
9	Black Hills National Forest	50
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

2 MR. HOCKING: My name is Steve Hocking, I'm with  
3 the Federal Energy Regulatory Commission, and I am the  
4 Licensing Coordinator for the Spearfish project. I want to  
5 welcome everybody to our daytime scoping meeting for the  
6 project, for Spearfish, which is Project No. 2012775 in the  
7 Commission's records.

8 Again, we have a relatively small crowd today, so  
9 we can be flexible in how we proceed with comments and talk  
10 about issues. So that's a good thing.

11 I'd like to start out with some introductions,  
12 similar to what we did last night. We'll do some  
13 introductions, talk about the court reporter, we'll talk  
14 about the purpose of the meeting, the purpose of scoping,  
15 why we're here. How to file comments with the Commission,  
16 we can go over our licensing schedule for this project. If  
17 folks need, we can have a brief overview of the project,  
18 it's facilities and operations. Then we'll get into your  
19 comments, the issues that Commission Staff should be looking  
20 at for this project when we do our environmental assessment.  
21 And then we've got a couple other things we want to just  
22 briefly talk about; and that's the outline of our  
23 environmental assessment, comprehensive plans that may apply  
24 to the project, and then the mailing list. We want to make  
25 sure that everybody on the mailing list who is interested in

1 the project.

2           Hopefully everybody has signed in on one of those  
3 blue sheets. If you haven't, if you could take a minute  
4 when you get a chance today to sign in. We do take those  
5 sheets and we do add them, everybody's name to the mailing  
6 list. I make the assumption that you are here, you are  
7 interested in the project, so we're going to put you on the  
8 mailing list. If you do not want to be on the mailing list,  
9 please let me know, and then I won't put you on the mailing  
10 list.

11           Everybody should have two handouts. This one  
12 here is Scoping Document 1, or SD1, that's what we're going  
13 to take a look at today. This other one is the schedule --  
14 this one is the licensing schedule, we're going to go over  
15 that as well. So if you don't have those, they're right up  
16 front, when you get a chance.

17           The meeting today is scheduled for 10 to 2, and  
18 we'll see if we need that much time; but we do have from 10  
19 to 2 today.

20           So let's go ahead and start with some  
21 introductions; we'll just go around the room. Ryan?

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

24           MS. HARPER: Hi, I'm Jenn Harper, I'm an engineer  
25 with FERC.

1                   MR. HOCKING:  And we do have the Mayor here,  
2                   somewhere.

3                   Okay, so I wanted to again give you the  
4                   opportunity to go first, and if there is anything you'd like  
5                   to say.

6                   MAYOR KRAMBECK:  I'd like to welcome you again  
7                   for probably the third time to Spearfish.  I asked them this  
8                   morning if they were going to get out of here -- usually  
9                   when we don't have planes out of Rapid City, could be two or  
10                  three days, so hopefully --

11                  (Laughter)

12                  I think the planes are flying.  But I do have  
13                  some comments later on about the process, and so forth, so  
14                  I'll wait.  Thank you.

15                  MR. HOCKING:  Okay.

16                  MS. JOHNSON:  I'm Cheryl Johnson, I'm the City  
17                  Administrator for the City of Spearfish.  I've been involved  
18                  with this project ever since the day the Mayor decided to  
19                  buy the hydroelectric plant.  My responsibilities are the  
20                  day-to-day operations of the plant, and also as the City's  
21                  contact for FERC.

22                  MS. WINTERS:  I'm Maureen Winters, I'm with  
23                  Devine-Tarbell & Associates, and I'm the City's consultant  
24                  for the licensing.

25                  MR. VELDER:  Tim Velder, Rapid City Journal

1 Newspaper.

2 MR. SUND: Greg Sund, Spearfish City  
3 Administrator.

4 MR. LILEHAUG: Gary Lilehaug, City of Spearfish.

5 MR. HANSON: Steve Hanson, I work at the hydro  
6 plant.

7 MS. KLUNDER: Bonnie Klunder, City of Spearfish.

8 MR. LEES: Mike Lees, I'm with the Black Hills  
9 Fly Fishers.

10 MR. HOYT: Everett Hoyt, I'm here by myself.

11 MR. COBURN: Bill Coburn with Spearfish Forest  
12 Products.

13 MS. O'BYRNE: Rhonda O'Byrne, District Ranger,  
14 Black Hills National Forest.

15 MR. BOBZIEN: Good morning, Craig Bobzien, I'm  
16 the Forest Supervisor, Black Hills National Forest.

17 MR. BOYER: Jerry Boyer, President, Spearfish  
18 Canyon Society.

19 MR. JENNINGS: Jim Jennings; I'm an irrigator of  
20 Spearfish Creek.

21 MS. GOODMAN: Jeanne Goodman with the Department  
22 of Environment and Natural Resources, and the Office of  
23 Administrative Board Meetings, Surface Water Quality  
24 Program.

25 MR. GRONLUND: Eric Gronlund, also with DENR.

1 I'm with the Water Rights Program.

2 MR. KOTH: Ron Koth, Fisheries Biologist with  
3 Game, Fish & Parks.

4 MR. HIRTZEL: Steve Hirtzel, Fisheries Biologist,  
5 Black Hills National Forest out of Custer.

6 MR. NELSON: I'm Jim Nelson, the President of the  
7 Spearfish Canyon Homeowners Association.

8 MR. DAVIS: Eric Davis, I'm a Councilmember of  
9 the City of Spearfish.

10 MR. MARTINEZ: Carlos Martinez, Fisheries  
11 Biologist with U.S. Fish & Wildlife.

12 MR. ANDERSON: Curt Anderson, Bureau of  
13 Reclamation, Rapid City; and we would be, just from our  
14 perspective as far as an organization, we would hold the  
15 water right, for the Belle Fourche Reservoir; and so our  
16 concern is just, is our water right and flows into the Belle  
17 Fourche Reservoir.

18 MS. PIPER: I'm Tara Piper, and I'm a Natural  
19 Resource Specialist in the Bureau of Reclamation.

20 MR. PAULSON: Harvey Paulson, President of the  
21 Redwater Irrigators Association.

22 MR. PITTS: Clint Pitts, Manager of the Belle  
23 Fourche Irrigation District.

24 MR. KLING: Kurt Kling, I'm a farmer and I'm on  
25 the board of Redwater Irrigation.

1                   MR. BENNETT: I'm Brandon Bennett with Black  
2 Hills Pioneer Newspaper.

3                   MR. MILLARD: Tom Millard, local resident.

4                   MR. HOCKING: Okay, thanks.

5                   Again, welcome to our meeting today.

6                   As you can see, this meeting is being recorded by  
7 a court reporter. So all the statements that you make, any  
8 oral/written statements that you make will be entered into  
9 the Commission's official record for this proceeding, for  
10 this project. If you want a copy of the transcripts from  
11 today's meeting, you can -- if you need to get them right  
12 away, you can get them directly from Ace-Federal Reporters.  
13 There is a charge for that. After ten days, they are  
14 released to me and the I will put them on the Commission's  
15 eLibrary system --we'll go over that shortly-- which  
16 everybody can take, you can take a look at the transcripts,  
17 view them or download them and print them out from FERC.

18                   So any questions about the court reporter, or  
19 transcripts?

20                   All right. Well, the reason we're here today is  
21 to get your comments on the issues that are involved in this  
22 project, and then in particular what Commission Staff should  
23 do, what we should look at in our environmental assessment  
24 for the project. We have in our Scoping Document 1, Section  
25 4.2, we've come up with a preliminary list of the issues

1 that we need to look at in the environmental assessment that  
2 we are putting together for the project. So what we need to  
3 know from you all is whether we got those lists of issues  
4 right or not.

5 So we want to look at the issues, see if they  
6 need to be made more specific, or broadened; if they need to  
7 reworded, or if there's something that we missed that's not  
8 on the list, that needs to be added to the list, or if  
9 there's anything that can be removed from the list that  
10 nobody thinks is important, needs to be analyzed in the  
11 environmental assessment for the project.

12 That's the major reason why we're here today. We  
13 will take this document, Scoping Document 1 or SD1, and then  
14 based on the comments from last night and comments from  
15 today, and any written comments that we get by February  
16 13th, and we'll go over the schedule shortly, we will put  
17 together a revised document, Scoping Document 2, and then  
18 we'll send that back out for everybody to take a look at.  
19 So that's the main reason why we're here today.

20 How do you file comments with the Commission? If  
21 everybody can turn to page 15 in your scoping document for  
22 just a second.

23 There are two ways to file comments with the  
24 Commission; we are asking that comments be filed by February  
25 13th for this project. You can file them by regular mail,

1 the old fashioned way, to send a copy or comments to this  
2 address right here on page 15: Kimberly D. Bose, FERC, 888  
3 First Street.

4 The second way is you can file them  
5 electronically with us. That second paragraph down there,  
6 the second sentence of that paragraph says: Scoping  
7 comments may be filed electronically via the Internet in  
8 lieu of paper.

9 If you want to file them electronically, the way  
10 you do that is you go to our website, which is [www.FERC.gov](http://www.FERC.gov),  
11 and there's a link on there that says 'eFiling' and you just  
12 follow the instructions on that eFiling link. Then you can  
13 file any document with the Commission electronically.  
14 Filing electronically, we encourage people to do so because  
15 we get them faster and there's usually less problems with  
16 the electronic filings.

17 If you need help filing electronically, you can  
18 go to our FERC Online Support. Again, the information is  
19 right here in the scoping document, how to do that. You can  
20 also give me a call. If you have any questions regarding  
21 this project, this proceeding at all, feel free to give me a  
22 call. My contact information, name, phone number and e-mail  
23 address is on page 2 of this document.

24 So if you have trouble with the filing or need to  
25 check on a date or something like that, or you have

1 questions about the process, feel free to give me a call.

2 Okay?

3 Two other things I want to just point out, two  
4 other services that we have on our website -- again, that's  
5 www.FERC.gov -- is eLibrary, eSubscription. eLibrary is  
6 basically a repository for all the documents that are filed  
7 with the Commission or issued by the Commission on a  
8 particular project. you need to have the project number,  
9 which again, it's a new scoping document for this project  
10 it's P-12775. And using that number, you can pull up any  
11 document that has been filed or issued by the Commission,  
12 and take a look at it or print it out. So that's something  
13 to be aware of.

14 The other service is called eSubscription. If  
15 you go to our website and you go to the eSubscription link,  
16 you can register, you create a user name and a password; and  
17 then every time something is filed or issued by the  
18 Commission on the project, you'll get an e-mail with a link  
19 that will take you directly to that document in eLibrary.  
20 So it's a good way to stay up to date on the project,  
21 because you'll get an e-mail whenever there's something  
22 filed. So I encourage everybody to do that, to eSubscribe.

23 Let's take a minute and go over the licensing  
24 schedule; so if you all can pull this piece of paper out for  
25 a second. This is the schedule, it's informally written

1 here. The official published schedule is on the next page,  
2 page 16 of the scoping document, but we're going to go  
3 through this briefly.

4 If you can go down to where there's a break in  
5 the line, that's where we currently are with all these  
6 dates, the dates are to your left. And if you go down to  
7 the break there, it says 1/13 and 14/09, FERC holds scoping  
8 meetings and site visits. That's where we are currently at  
9 in the licensing process for this project.

10 So what I'd like to do is, we went over this last  
11 night but we'll go over it again because we have some new  
12 folks here. I just want to make sure that everybody's aware  
13 of the major milestones and dates that are coming up,  
14 because everybody has responsibilities in terms of filing;  
15 when you can file things with the Commission, and we want to  
16 make sure that everybody's aware and clear on when those  
17 dates are.

18 So again, if you take a look at 1/13 and 14/09,  
19 FERC holds scoping meetings and site visit -- that's what  
20 we're doing today. We had a meeting last night, the second  
21 meeting is today.

22 The next date, 2/2/09, FERC issues acceptance  
23 notice. Last week the City filed some additional  
24 information with us, we're going to take a look at that,  
25 assuming that that information meets our needs then this

1 notice that we intend to issue on 2/2/09 basically says that  
2 the City's license application was acceptable, it meets our  
3 regulations, and we can move forward with it. So that's  
4 2/2/09.

5 The next date, 2/13/09, all stakeholders comments  
6 on SD1 due. Again, we're asking, if you have any written  
7 comments in addition to anything you want to say today on  
8 the scoping document that you file them with us by 2/13/09.

9 The next two dates, 4/3/09. The first one says:  
10 All stakeholders: interventions and protests due. If you  
11 want to become a party to the proceeding, a legal term, you  
12 have to file an intervention with us. That gives you the  
13 right to seek rehearing of any Commission order that's  
14 issued on this project. If you're not an intervenor, you  
15 cannot seek rehearing.

16 Assuming that we go out with our acceptance  
17 notice on 2/2/09, we will be seeking protests and  
18 interventions by 4/3/09. And if anybody has any questions  
19 about interventions, feel free to ask. We'll go over that  
20 in a minute.

21 The next date is again 4/3/09: FERC issues ready  
22 for environmental analysis and Scoping Document 2. That's  
23 another notice that we issue that says basically we have all  
24 the information we need to do our environmental analysis,  
25 and we can go ahead and proceed with the NEPA aspect of what

1 we do in terms of looking at the project; and also we will  
2 be issuing at the same time our revision to this document,  
3 which will be Scoping Document 2.

4 The next date, 6/2/09, All stakeholders: terms  
5 and conditions are due. That's primarily for resource  
6 agencies who provide terms and conditions for the project.

7 Next date, 7/17/09, all stakeholders reply  
8 comments are due. We give an opportunity for the City to  
9 respond to whatever terms and conditions are actually filed  
10 for the project. If anybody else including the City wants  
11 to respond, they're welcome to do so.

12 Then I early August, 8/3/09, FERC issues single  
13 environmental assessment, no draft EA. What we're proposing  
14 to do for this project is issue an EA, an environmental  
15 assessment without a draft. So instead of having a draft  
16 and a final EA, we would issue just a single EA. And then  
17 the date after that, 9/2/09, would be the comment due date  
18 for the EA. So we issue an EA, we give everybody 30 days to  
19 take a look at it and get back to us with comments on the  
20 EA.

21 So then 9/11/09 is the one year deadline for the  
22 state to issue any water quality certificate for the  
23 project, should they choose to do so.

24 And 11/2/09, the last date, all stakeholders  
25 modified terms and conditions are due. That is again

1 primarily for resource agencies who issue terms and  
2 conditions for the license. It's a chance for them to  
3 revise their terms and conditions in light of what we,  
4 Commission Staff, say in our environmental assessment.

5 Again, that's a lot of information, a lot of  
6 dates. If you're not familiar with the FERC process, it  
7 could be fairly confusing. But I wanted to make sure that  
8 everybody has this in hand, and if you have a question about  
9 it, please let me know.

10 Does anybody have -- at this point we can go over  
11 this process quickly if you want to. Does anybody have any  
12 questions about these milestones, these dates at this time?

13 AUDIENCE: Is stakeholder a term of art?

14 MR. HOCKING: Yes.

15 AUDIENCE: And how would that be defined for FERC  
16 proceedings.

17 MR. HOCKING: Stakeholder is just anybody who is  
18 interested in the project.

19 AUDIENCE: Oh.

20 MR. HOCKING: It's just a very general term.  
21 Yes.

22 MR. BOYER: Question on intervention.

23 MR. HOCKING: Again, if you can identify  
24 yourself, that would be great.

25 MR. BOYER: Jerry Boyer, question on

1 intervention.

2 Is the City application cast in stone? And if a  
3 party disagrees on the aspects of their application, are  
4 they by default today an intervenor?

5 MR. HOCKING: No. We don't seek interventions  
6 until we issue our acceptance notice. So right now we're  
7 planning on issuing that notice February 2nd. And then  
8 there's a 60-day period of time for people to file  
9 interventions. And then once you file an intervention,  
10 assuming that nobody protests you filing an intervention,  
11 you become an intervenor.

12 MR. BOYER: A follow-up. The application then  
13 may be changed prior to intervention date, or is it cast in  
14 stone as we see it today?

15 MR. HOCKING: It's never really cast in stone.

16 MR. BOYER: Okay.

17 MR. HOCKING: I mean, Commission Staff, we can  
18 ask for additional information at any time.

19 MR. BOYER: All right.

20 MR. HOCKING: Another thing I should say is that  
21 these dates aren't cast in stone, either. This is what we  
22 are hoping to follow, but if we run up against something  
23 that we think we need additional information, we'll have to  
24 ask the City and then we'll have to give them time to get  
25 back. So these dates could change and be pushed back.

1           When we issue our acceptance notice, we're saying  
2           that the application has met the minimum standards in our  
3           regulations. Then when we issue that ready for  
4           environmental analysis notice, we're saying that we have the  
5           information we need in order to proceed with doing an EA.

6           The intervention is different in that it really  
7           gives you a legal status to challenge the Commission order  
8           later on.

9           MR. BOYER: All right.

10          MR. HOCKING: Yes?

11          MR. ANDERSON: Curt Anderson, Bureau of  
12          Reclamation.

13          When you issue that acceptance notice, does that,  
14          as I understand the acceptance notice, that's accepting what  
15          the application the City of Spearfish for this power  
16          generation through the plant and it also would entail the  
17          release of water from the diversion point into the crick, it  
18          includes that?

19          MR. HOCKING: No, it's not a decisionary notice,  
20          in that sense. The Commission is not making any decision on  
21          what terms and conditions should be in any license, or if  
22          any license should be granted at all. It's just saying that  
23          "Hey, we received an application and we've looked at it, and  
24          it has all the parts that are required in our regulations.  
25          And so we accept it as fulfilling our regulations."

1                   But it doesn't say or it doesn't mean that what  
2                   the City's proposed action is will be acceptable to the  
3                   Commission. The Commission cannot make a decision until  
4                   after we go through the NEPA process, and we take a look at  
5                   it, do an environmental assessment.

6                   Any other questions about dates, milestones?  
7                   Again, feel free; there's a lot here. Feel free to just  
8                   give me a call later on if you have questions or later on  
9                   today in the meeting; let me know.

10                  Does anybody here feel like they need to have a  
11                  brief overview of the project, its facilities and  
12                  operations? Seems like most folks are pretty familiar with  
13                  the project now; how it's operated, where it's located and  
14                  what's happening. It's been around for a long time. If we  
15                  don't need that, then we can go ahead and just skip that  
16                  part.

17                  Does anybody want an overview?

18                  Okay.

19                  MR. ANDERSON: Curt Anderson again. It wouldn't  
20                  be true, we're not in the process of change, or there isn't  
21                  any change here except the environmental assessment process  
22                  and possibly putting water down the crick from the diversion  
23                  point. Otherwise, a change in operation -- I wasn't here  
24                  yesterday, but a change in operation: things are staying  
25                  the same, isn't that correct?

1           MR. HOCKING: Yes, the City's proposed action is  
2 basically to operate the project as it was operated before  
3 with two, three changes. One is minimum flows, releasing  
4 some minimum flows into the bypassed reach, below Maurice.  
5 The other one is possibly installing closer set bars into  
6 the intake to prevent fish entrainment into the tunnel and  
7 the forebay area, although they may be changing that  
8 proposal today. They're also proposing to close a manhole  
9 and access area that's on -- allows you to get to the tunnel  
10 for maintenance purposes. That's on Forest Service land, so  
11 they're proposing to change that.

12           Other than that, their proposed action is going  
13 to be continue to operate the project as it has operated  
14 before. And the minimum flows issue seems to be one of the  
15 number one issues, so we'll be talking about that as well.

16           Anything else? Process, or -- just to let you  
17 know, the Commission does have three licensing processes.  
18 The City of Spearfish has requested permission to use what  
19 we call the Traditional Licensing Process, so that's what  
20 we're operating under today for this particular project.

21           Okay. Well, we can go ahead and get comments and  
22 issues and talk about what Commission Staff should be  
23 looking at in our environmental assessment. And like last  
24 night, we don't have a lot of people, so we can be pretty  
25 flexible. What I propose to do is, if anybody has a

1 prepared statement or you just want to stand up and give  
2 your comments for the record, what you think Commission  
3 Staff should do, why don't we go ahead and take those folks  
4 now. And then after that you all can decide how you want to  
5 proceed. We can either go through this document resource-  
6 by-resource, quickly; or we can talk about any other issues  
7 that you have for the project. Certainly we talked about  
8 minimum flows. But if there's anything else that we're not  
9 aware of that we should be aware of.

10 So at this point does anybody have a prepared  
11 statement, or does anybody want to just get up and have  
12 something that they want to say, kind of read into the  
13 record? Yes.

14 MR. PITTS: Clint Pitts, Belle Fourche Irrigation  
15 District.

16 On that 4.2 Resource Issues, that's the list of  
17 things that you're going to need to have for an  
18 environmental assessment, correct?

19 MR. HOCKING: Those were the lists of issues that  
20 so far we've picked out of the City's application and the  
21 comments that we've seen to date that we think we need to  
22 address in the environmental assessment.

23 MR. PITTS: Okay. Where is irrigation addressed  
24 in that?

25 MR. HOCKING: We have --

1                   MR. HANSEN: Under 4.2.8, there's a resource area  
2 we call socioeconomics. That is the area where we decided  
3 to place any sort of discussion or analysis variation needs.

4                   MR. PITTS: Okay.

5                   MR. HOCKING: If you look at page 12, under  
6 Socioeconomics, it says: Effects of proposed new minimum  
7 flows lost to subsurface recharge in the project's bypassed  
8 reach on the availability of flows for downstream irrigation  
9 needs.

10                   Which is clearly an issue with this project.

11                   MR. PITTS: Followed by an asterisk, which  
12 indicates a footnote.

13                   MR. HOCKING: Actually the asterisk indicates  
14 that that's an issue that we're going to look at to see if  
15 there are any cumulative effects. Because it's a water  
16 quantity issue and because there is the city's water  
17 withdrawal in the middle of the bypassed reach. There are  
18 some cumulative effects there, so that that's what that  
19 asterisk means.

20                   MR. PITTS: Okay.

21                   MR. HOCKING: So if you want to take a look at  
22 that bullet and see if that captures what you think we  
23 should be looking at; if not, then let us know if we need to  
24 rewrite it or add something, or -- that's what we want to  
25 know.

1                   MR. PITTS: Well, basically what the irrigators  
2 are here about would be the minimum flows. 1 cfs of water,  
3 obviously over 365 days, accumulates to a lot of acre feet  
4 of water. There are several farmers up here that operate on  
5 a couple hundred acre-feet of water a year, and 365 days at  
6 1 cfs is 620, 630 acre-feet of water. So realistically,  
7 you're taking water away from three farmers by bypassing  
8 minimum flows. That's our obvious, big concern.

9                   The economic situation the way it is right now,  
10 fuel prices high, a guy needs to have a crop.

11                  MR. HOCKING: So are you saying there should be  
12 no minimum flows at all?

13                  MR. PITTS: Correct.

14                  MR. HOCKING: Okay.

15                  MR. PITTS: Economically speaking, I don't  
16 understand what a minimum flow is going to do economically  
17 for anybody.

18                  MR. HOCKING: Well, the purpose of the minimum  
19 flow is to enhance the fisheries, riparian habitat,  
20 aesthetics, recreation, angling opportunities in that first  
21 four miles or so of the bypassed reach below Maurice.

22                  MR. PITTS: Would the water make it any farther  
23 than three-quarters of a mile past that diversion point --

24                  MR. HOCKING: Yes.

25                  MR. PITTS: -- on these minimum flows?

1 MR. HOCKING: Yes.

2 Cheryl?

3 MS. JOHNSON: Yes, past the diversion point, we  
4 would.

5 MR. PITTS: The City diversion point.

6 MS. JOHNSON: Yes. I think the City's intent on  
7 the application was to look at that section between the  
8 diversion of Maurice and the City's intake, which is a 3.3  
9 mile area. We understand water doesn't carry below the  
10 City's intake, but it varies to the length of that --.

11 MR. PITTS: Does it go about three-quarters of a  
12 mile past the intake? What was the distance.

13 MS. JOHNSON: I don't know if it's --

14 AUDIENCE: It varies.

15 MS. JOHNSON: -- yes, it varies.

16 AUDIENCE: Depends on the flow.

17 MS. JOHNSON: Sometimes it doesn't make it the  
18 full way.

19 MR. HOCKING: I'm thinking of the 6 cfs proposal.

20 MS. JOHNSON: I think it's dependent upon  
21 conditions.

22 MR. HOCKING: Yes. There is some information in  
23 their application as far as, that talks about the distance  
24 that extends beyond their intake in the bypassed reach. But  
25 the primary purpose of it is fisheries enhancement and

1 riparian enhancement, aesthetics, those types of things.  
2 That's why they're proposing it.

3 MR. ANDERSON: Curt Anderson again, Bureau of  
4 Reclamation. And I assume, through this environmental  
5 assessment process, you're going to try to get a feel for  
6 say storage loss in Belle Fourche Reservoir, which Mr. Pitts  
7 was referring to, for their irrigation district. That will  
8 play into the environmental assessment; that's my first  
9 question.

10 And I guess the second is, so this opportunity of  
11 putting these flows down the crick of let's say 6 cfs in  
12 winter, is there a chance that people are going to come back  
13 and want 10 or 15 down there? And is there a process  
14 involved? I guess that would probably be a big concern from  
15 our perspective on water rights. And particularly the  
16 irrigation district on water use.

17 MR. HOCKING: How far downstream is the  
18 reservoir?

19 AUDIENCE: Oh, as the crow flies, approximately  
20 20 miles, I suppose. Stream miles; I would assume it's  
21 probably 45, 50 miles downstream.

22 MR. HOCKING: Past Redwater?

23 AUDIENCE: Redwater Irrigation District.

24 MR. HOCKING: Past there.

25 AUDIENCE: In the confluence of the Redwater,

1 Redwater and the Belle Fourche River were below that, yes.

2 MR. HOCKING: Okay.

3 MR. ANDERSON: The diversion point for the  
4 district would be where the confluence of the Redwater and  
5 the Belle Fourche River, and Redwater -- and this is off the  
6 top of my head -- probably that Redwater over the period of  
7 record, the Redwater drainage probably contributes 75  
8 percent of the water for storage in the Belle Fourche River.  
9 Big contributor.

10 MR. HOCKING: I don't know if -- currently our  
11 scope of analysis doesn't extend that far. Do you think it  
12 should extend that far?

13 AUDIENCE: Absolutely.

14 AUDIENCE: It would impact our water rights,  
15 which we hold for storage.

16 MR. HOCKING: The 4 to 6 cfs minimum flow?

17 AUDIENCE: Yes.

18 MR. HOCKING: All right, well, we'll have to look  
19 at that, then. I don't think we have our scope of analysis  
20 that far; we want to take a look at that.

21 Yes.

22 MR. PAULSON: Harvey Paulson, Redwater Ditch,  
23 Irrigation Association.

24 Our diversion is on Redwater Ditch above Falls.  
25 And that is our only source; we have no storage. Our

1 concern is, normally we can't even draw enough water out of  
2 Redwater that our water right permit actually allows us to  
3 do, because the flow is insufficient. What we're concerned  
4 about is any loss in flow is a direct hit on us, that we  
5 can't recoup; we can't store it, can't do anything. If it  
6 doesn't come down, our irrigators are just out of work.

7 And Spearfish and Lead depend highly on the flows  
8 from Spearfish crick, coming down.

9 MR. HOCKING: So as far as the minimum flows go,  
10 you were recommending --

11 MR. PAULSON: We feel just leave it as it was  
12 before. We still don't have enough water in the path; if we  
13 lose flow, it directly hits for our irrigating purposes.

14 MR. HOCKING: So you're recommending no minimum  
15 flows as well.

16 MR. PAULSON: If it can't be recouped, why have  
17 minimum flows? If it's going to be lost.

18 MS. WINTERS: It might help, for some folks who  
19 haven't been involved too much today, to explain how the  
20 City came up with its flow proposal.

21 The City undertook a flow study in the bypassed  
22 reach called the Delphi Flow Study. Essentially that's a  
23 group of biologists that evaluated different flows in the  
24 bypassed reach and determine which ones, or how each flow  
25 improves or detracts from habitat.

1                   In that flow study, I think we did a range of  
2 flows, the upper flows around 15 --

3                   MR. HANSON: 19, I believe.

4                   MS. WINTERS: 19. So we went higher than our  
5 current proposal. Certainly one intuitively can understand,  
6 given the species that you're managing for here, which are  
7 largely trout species, that higher flow is going to improve  
8 habitat.

9                   So the Delphi study looks solely at habitat. The  
10 City then took that information and said 'where's the  
11 balance point between additional flow in the bypassed reach  
12 to enhance the habitat for fish in that upper reach but not  
13 adversely affect downstream the powerhouse. The City is  
14 very cognizant of the fact that, and very concerned about  
15 the fact that any water that doesn't go through the aqueduct  
16 doesn't make it down below the powerhouse.

17                   So we have to balance, is there a little bit of  
18 flow that we can put in that upper bypassed reach to enhance  
19 the fishery and not adversely affect the amount of flow  
20 available downstream of the powerhouse? Because if it  
21 doesn't go through the aqueduct, it does get lost.

22                   And that's why the City came up with its 3 to 6  
23 cfs proposal. Feel that the hydrologic analysis that we've  
24 done shows that there will be still be an adequate amount of  
25 water to meet both fishery issues downstream -- and that is

1 a very important fishery resource downstream of the  
2 powerhouse as well; and we did not want to have a flow that  
3 created a situation where you would have fish kills because  
4 there wasn't enough water or oxygen downstream of the  
5 powerhouse of that reach. So we were concerned about  
6 balancing that in addition to the irrigation needs.

7 Now the irrigation needs in the City's proposal  
8 have to be weighed now both by FERC and by the State, and  
9 DENR most probably will comment on this today. Irrigation  
10 is a protected water use under the state water quality laws,  
11 as much as aquatic habitat and other things. So it's our  
12 understanding, and DENR can correct me if I'm wrong, that's  
13 a big issue that they will be balancing, whether they issue  
14 a 4011 quality certification and whether they approve the  
15 City bypassing these flows for that upper bypass reach.

16 But the City did certainly consider impacts to  
17 both the fishery and the amount of water available for  
18 irrigation downstream of the powerhouse. Will there be less  
19 by doing this? Yes. A big consideration, though, is where  
20 the state decides to tell us the cutoff point is in terms of  
21 a low flow.

22 As you all know, that river, that stream is very  
23 flashy; you can have a lot of flow one day and then a week  
24 later have nothing, we're down to 40, 50 cfs. It comes up  
25 and goes down very, very fast.

1                   So we need to find where's that point where we  
2 shouldn't be putting any water into the bypassed reach  
3 because it will create a situation downstream of the  
4 powerhouse where there simply isn't enough water for  
5 irrigation or for aquatic habitat. And that's a number that  
6 we've deferred to the state to tell us what cfs is that  
7 coming into the project, and then we need to work, DENR to  
8 understand how we would implement that.

9                   Certainly Cheryl and Gary can't be running out  
10 there every day and changing the flow based upon a minute-  
11 by-minute analysis of what's coming into the project, so we  
12 need to consider time frame of how long of a period below  
13 whatever number the state comes up with, then we start  
14 curtailing flows.

15                   But all those things are still in discussion, and  
16 I just wanted folks to understand that the City has  
17 balanced, or feels that it has very well balanced the issues  
18 of creating a little bit better fishery in that upper  
19 bypassed reach while protecting the fishery and the  
20 irrigation rights downstream of the project.

21                   MR. HOCKING: This would be a good time for the  
22 State to weigh in.

23                   MR. GRONLUND: Taking the lead from Maureen.

24                   Again, my name is Eric Gronlund, an engineer with  
25 the Water Rights Program of DENR. First of all, thanks for

1 coming to South Dakota. I originally grew up in the Black  
2 Hills. If I had my preference, I'd be about ten miles  
3 Southwest of here up in the limestone plateau enjoying  
4 myself, but I guess I'm here today.

5 We did prepare a written statement to give today,  
6 not knowing how the hearing would go, how formal or informal  
7 it would be. After last night, we saw that you took public  
8 comment and then kind of went into a more informal role. So  
9 what I'd like to do here is first give our written statement  
10 that kind of hits on what Maureen just had, and then I  
11 assume you're going to go into the same informal mode that  
12 we did last night; and we might have additional comments at  
13 that time.

14 First of all, DENR supports the City's  
15 application for flow bypass release of 3 cfs during the  
16 irrigation season, and 6 cfs during the non-irrigation  
17 season. We see that as a reasoned approach to provide  
18 some additional flow in the channel below the Maurice Dam,  
19 the intake for the hydro, while minimizing the impacts to  
20 the downstream beneficial uses below the project outfall.

21 DENR's interest in this is twofold; first, we  
22 have the authority to manage the waters of the state to  
23 include the appropriations of water through water rights and  
24 long-standing water rights held by irrigators and other  
25 users. And secondly, the water quality certification

1       pursuant to Section 401 of the Clean Water Act for the  
2       permit issued by FERC.

3               We hazard to guess that this is probably a unique  
4       situation for FERC, and it may not be; but this is, as I  
5       said, a unique geological setting where the facilities  
6       aqueduct basically diverts water, some, which would  
7       otherwise be lost as it passes over the Madison, the  
8       limestone formations, this aqueduct's conveyance of this  
9       flow around this loss zone serves many beneficial uses,  
10      including most notably the fishery, recreational uses, the  
11      aesthetics just in Spearfish, the City itself; they have a  
12      beautiful city park here. Irrigation water supply with  
13      water rights held by long-standing irrigators below. A  
14      federal fish hatchery and then also drinking water for the  
15      City of Belle Fourche which has galleries along the  
16      Spearfish Creek that they use for the drinking water supply.

17             Throughout this process, DENR has remained  
18      steadfast when dealing with the City and the other agencies  
19      and the citizens that we'd look at how any proposed bypass  
20      affects those downstream assigned beneficial uses. The  
21      biological evaluation that was conducted failed to properly  
22      acknowledge the potential for those impacts to those  
23      downstream uses, so we believe an environmental assessment  
24      must include the impacts to Spearfish Creek and those  
25      downstream of the project.

1                   Finally, I think, and the number that everybody's  
2 looking at is, in the application DENR was tasked with  
3 coming up with a low flow condition for suspending the  
4 bypass flow. DENR maintains that the suspension of the  
5 bypass release must occur in order to not sacrifice the  
6 downstream beneficial uses to provide a flow in this reach.

7                   We have conducted an analysis of that. Our  
8 preliminary conclusion is that the bypass release shall  
9 occur when the flow at the USGS gauging station at Spearfish  
10 is 40 cfs. This equates very closely to the 80th percentile  
11 for the seven month summer season -- April through the end  
12 of October -- we do not believe that there needs to be a  
13 provision for suspension of the bypass release during the  
14 winter operation period.

15                   We intend to provide written comments by the  
16 February 13th deadline as set forth by FERC. Our report  
17 that actually takes a look and details that will be provided  
18 along with our comments.

19                   The final thing I want to emphasize is that this  
20 40 cfs -- I'm calling it a trigger number -- is intended to  
21 protect the downstream beneficial uses from the City down to  
22 the confluence of Redwater River from experiencing  
23 impairment to the beneficial uses, most notably the fishery.  
24 That's an area of the creek which is highly used and has had  
25 past fish kills in it. But don't mistake me, the trigger

1 does not mean there will never be a fish kill that occurs in  
2 that lower segment. There are other factors with climate  
3 that naturally occur; that those are going to occur.

4 What instead that trigger is intended to do is  
5 basically ensure that any type of impairment downstream is  
6 not directly attributable to the bypass release.

7 So with that, that concludes our comments. I  
8 think that hits on the number that Maureen spoke of, as far  
9 as -- again, that is preliminary. We will provide that  
10 report and further document that in our written comments on  
11 February 13th.

12 MR. HOCKING: Do you have a schedule for  
13 providing any water quality data?

14 MR. GRONLUND: That's where I'm going to I guess  
15 defer to Jeanne Goodman. She's the Administrator of the  
16 Surface Water Quality Program of DENR as far as scheduling  
17 on the water quality certification.

18 MS. GOODMAN: Jeanne Goodman with Department of  
19 Environment and Natural Resources to answer your question.

20 The scheduling on the water quality  
21 certification, as we have discussed as you know, or I've  
22 been instructed I guess by FERC, that we have a year to  
23 issue that certification under FERC's rules.

24 We have received the application from the City to  
25 consider for the 401 certification. We are in the process

1 of reviewing that application or reviewing all the  
2 documentation that goes along with that. Once we have a  
3 draft certification or a certification ready to go to the  
4 public, that will be public noticed in the local newspaper  
5 here. There is public notice that is at least, our  
6 regulations require at least a 15-day public notice.

7 From there, the public can make comments on that  
8 certification. If the certification is met with comments  
9 where someone would like a hearing on that, there's a  
10 petition process to follow where if a petition is filed for  
11 a contested case hearing that will be scheduled for a  
12 hearing in front of a citizen board in South Dakota --  
13 that's known as the Board of Water Management. In that  
14 case, if there is a petition received, there will be a  
15 contested case hearing held in front of the Board. From  
16 there, a final decision would be made on the final  
17 certification.

18 MR. HOCKING: Just out of curiosity, if there is  
19 a hearing, about how long does that typically take? Do you  
20 know. I don't know if you have many of these.

21 MS. GOODMAN: We have not issued a 401  
22 certification for a hydroelectric plant in South Dakota.

23 MR. HOCKING: Yes, I know that.

24 MS. GOODMAN: So we have not had a hearing on a  
25 401 certification -- in my history anyway.

1 MR. HOCKING: Okay.

2 MS. GOODMAN: The Board does meet about every two  
3 months; that hearing would be scheduled for one of their  
4 regularly-scheduled Board hearings.

5 MR. HOCKING: Okay.

6 MS. GOODMAN: But it's good to know your  
7 schedule, because we can look at that and determine what our  
8 schedule will be as well.

9 MR. HOCKING: Yes, as soon as you do know when  
10 you intend to issue the draft, for the public comment  
11 period, if you could let us know.

12 MS. GOODMAN: Right.

13 MR. HOCKING: So we can kind of coordinate  
14 things.

15 MS. GOODMAN: We will do that, and we would post  
16 any public notice as well as the certification itself on our  
17 website; but we would notify you of that when that was  
18 available.

19 So does that answer your question.

20 MR. HOCKING: Is everybody clear on what the  
21 actual proposed action for the minimum flow is? I'm not  
22 sure, I see sometimes it says no in the back.

23 Maureen, can you go over just one more time what  
24 the proposed action is, now that we know what the State is  
25 thinking?

1 MS. WINTERS: Sure. Based on what Eric just  
2 added, the proposal is to provide 3 cfs during the  
3 irrigation season and 6 cfs the rest of the year, for the  
4 winter, unless the flow at Spearfish, at the Spearfish USGS  
5 gauge is below 40, in which case we would cease the bypass  
6 flow during the irrigation season.

7 Is that correct, Eric, just during the irrigation  
8 season?

9 MR. GRONLUND: Just during the irrigation season.

10 MR. HOCKING: And that's defined as?

11 MS. WINTERS: May 1 to October 31.

12 MR. HOCKING: Okay.

13 MR. GRONLUND: Am I correct that I think the  
14 actual water rights held by some of those downstream  
15 irrigators is April through October. What my report will be  
16 -- not to give it out too quickly -- is that the April and  
17 the October months don't appear to be critical.

18 MR. HOCKING: Okay. Yes?

19 MR. ANDERSON: Just to make sure -- this is Curt  
20 Anderson -- to make sure I understand, so even in let's say  
21 the drought that we just went through, we would still, in  
22 the winter months from, outside of May through September,  
23 that 6 cfs would be allowed through.

24 MR. GRONLUND: Preliminarily we are not looking  
25 at any suspension of the bypass as recommended by the City

1 during those winter months.

2 MR. HOCKING: And the measurement point, again?

3 It's going to be right at Maurice?

4 MS. WINTERS: No.

5 MR. HOCKING: Am I missing that?

6 STAFF: It's by the powerhouse.

7 MR. HOCKING: Oh, okay.

8 MR. GRONLUND: There are two different gauging  
9 stations on Spearfish Creek. There's one that's basically  
10 in City Park, what I call City Park, in that area, and then  
11 there's also the one about a mile up from the Maurice  
12 intake. Our analysis looks at, we're looking at protecting  
13 those downstream beneficial uses; we feel it's necessary to  
14 look at the Spearfish gauge, which is defined at Spearfish.

15 MR. HOCKING: So your 40 cfs cutoff would be at  
16 that location?

17 MR. GRONLUND: Correct. Not what I call the  
18 Maurice, or above-Spearfish gauge. USGS designates them as  
19 at Spearfish and above Spearfish.

20 MR. HOCKING: Right.

21 As long as we're on new flows, because that's one  
22 of the main topics. Any other comments or questions?

23 MR. LEES: My name is Mike Lees, and I'm the  
24 President of the Black Hills Fly Fishers. We're an  
25 organization that's been around since about 1960. Our

1 primary goal has been to improve fishing in the Black Hills,  
2 and we do this through conservation and education programs  
3 that we sponsor or participate in.

4 We've received commendations from the U.S. Forest  
5 Service and from the Game, Fish & Parks several times; and  
6 recently we were honored with the U.S. Forest Service  
7 regional Water Partner of the Year award. We just received  
8 that in November of 2008.

9 We do have some suggestions or some  
10 recommendations. We're aware, as was brought up before,  
11 that the Delphi team came up and did a survey in the fall of  
12 2008 regarding flow and the impact on fish habitat.

13 Our recommendation would be that based on the 6  
14 cfs, the full point during most of the year, and  
15 particularly during the summertime when the fish are  
16 basically needing more water because of the temperatures  
17 rising. We think the City has done an outstanding job of  
18 trying to balance issues from a number of different  
19 stakeholders, and we strongly support their position of  
20 releasing flows over there. We think that when there is  
21 sufficient water, and I guess we're talking above 40 cfs,  
22 that the fish should share in that water. Well, we think  
23 that there should be some kind of a floor set on there, so  
24 that when the minimum flow were down -- and I'm not sure  
25 what that number would be; 40 seems like a reasonable number

1 -- that the flows should be cut off.

2           If the flows are cut off, then we would strongly  
3 recommend that there be an additional consideration of  
4 having some kind of fish ladder below Maurice intake so that  
5 the fish that are in that stream actually have a chance to  
6 swim upstream and survive for the remainder of the season.  
7 I think that's one consideration that has not been  
8 recommended at this point in time.

9           So we normally kind of fall on the side of  
10 science; we feel that the Delphi team is the one scientific  
11 group that has come up, and we feel we should support their  
12 recommendations of 6 cfs until -- and that's 3 cfs below  
13 whatever minimum that is, 39-40 cfs in the stream itself.

14           MR. HOCKING: So are you saying 6 cfs year round?

15           MR. LEES: No, we're actually saying that we  
16 should see 6 cfs when the flows are above 40, or whatever  
17 that cutoff is. We should see 3 cfs below that. There  
18 should be some real floor; I don't know, 30 cfs, that they  
19 should shut off completely.

20           MR. HOCKING: Okay.

21           MR. LEES: We'd like to see at least a three  
22 tiered process.

23           MR. HOCKING: It would be helpful if you could,  
24 just to make sure we're really clear on it, if you could  
25 provide -- you know, write it up so it's a written comment

1 as well.

2 MR. LEES: We'd be happy to do that, but I've got  
3 to tell you, my personal experience with the FERC website is  
4 not very --. I hate to say it.

5 MR. HOCKING: You mean electronically filing it?  
6 You had trouble with that?

7 MR. LEES: It took me three hours just to find  
8 the -- and I even had the docket number, finding the  
9 documents that were on the FERC website.

10 MR. HOCKING: That shouldn't happen.

11 Feel free to give me a call, once you hit Hour  
12 One, call me.

13 (Laughter)

14 MR. HOCKING: Spending that long on the website.

15 But if you can clarify, that would be helpful.

16 Yes?

17 MR. BOYER: Good morning. Jerry Boyer, Spearfish  
18 Canyon Society. The Society is pleased with the progress  
19 that has been made in balancing ecology with economic  
20 interests in the FERC process of the Spearfish hydro system.

21 We particularly appreciate the Delphi study in  
22 the daunting task of the Delphi team to reach consensus.  
23 All interested parties were represented on the Delphi team.  
24 In that consensus, Delphi recommended bypass flows of 4 to 6  
25 cfs under a wet/dry year scenario.

1           It appears nobody likes the Delphi  
2       recommendations, so the recommendations must be right.

3           The City, in its hydro license, has deviated from  
4       the Delphi consensus. The Society takes issues with the  
5       City's deviation. First, the City proposes 3 cfs in lieu of  
6       Delphi's 4 cfs, and a new regime of bypass flows called  
7       'irrigation season' on page E117.

8           Yet it appears they agree to 4 cfs when they say,  
9       quote: "Under normal operating conditions, it is expected  
10      that flows will be overshoot by at least one-half to .8 cfs,  
11      if not more." It would seem the solution would be  
12      construction of a release gate that would accurately measure  
13      the release.

14          The public deserves, has a right to know what  
15      actual flows are being released. Trust but Verify is a  
16      fairness doctrine of sharing the stream flow.

17          Second, the City proposes the intervention of  
18      DENR under special irrigation circumstances to reduce bypass  
19      flows to zero. This is totally counterproductive to the  
20      bypass establishment of 4.5 miles of new fisheries, habitat  
21      and scenic values under Delphi's recommendations of a shared  
22      stream flow.

23          We propose there is no legal linkage between  
24      hydro flows and irrigator water rights. But allow me to  
25      speak on the fairness doctrine.

1           I apologize there are no visual aids, but I can  
2 put this map on the wall for the audience.

3           Looking back in history, nearly all irrigator  
4 water rights were granted in 1876. For nearly 40 years,  
5 natural channel stream flow of their water rights was  
6 subject to the 21 cfs surface loss, for 40 years. 11 cfs  
7 of the 21 quickly reappeared in various springs at DC Booth  
8 fish hatchery, and emptied back into Spearfish Creek. The  
9 springs were the very reason the hatchery was established  
10 there in the 1800s. The remaining 10 cfs went to the  
11 groundwater, to the people of South Dakota. Remember that  
12 10 cfs number.

13           The map I handed you is a late 1800s map by the  
14 U.S. Fish Commission when they were exploring springs in the  
15 area, and shows South Dakota over many other states  
16 representing about 11 cfs activity.

17           The reason for the State's apparent over-  
18 appropriation of irrigators' combined 100 cfs water rights  
19 to a stream that typically provides 58 cfs is that water  
20 rights are predicated on water availability. If it's there,  
21 use it; if it's not, can't use it.

22           Except for a temporary man-made structure called  
23 hydro system, irrigators never benefited from the 10 cfs  
24 that went to groundwater, that 10 again.

25           Third, the Society would suggest that if 1 cfs,

1 or 4 cfs, or 6 cfs are so important to the City and  
2 irrigators, that they first look within themselves and their  
3 own water system. It is estimated that the diversion tunnel  
4 loses between 2.5 and 5 cfs from lakes. More cfs than that  
5 is lost through ground transmission and evaporation in  
6 irrigators' open and earthen irrigation ditches.

7 If the City and irrigators would address these  
8 wasteful losses, Delphi's bypass recommendations would have  
9 negligible effect on them. The Society strongly disagrees  
10 with the City's regime of bypass flows, predicated on  
11 irrigation season. This is the very same season that fish  
12 develop and people enjoy the benefits of the new four and  
13 one-half mile fishery.

14 The Society urges FERC to adopt Delphi's flow and  
15 wet/dry year regime recommendations for the benefit of the  
16 greater good and public.

17 Fourth and final: The Delphi study revealed that  
18 9 cfs was 25 percent more beneficial to adult trout in the  
19 R2SR2 reach than the 6 cfs. Since the City has chosen to  
20 deviate from Delphi's recommendations, the Society  
21 encourages FERC's consideration of the 9 cfs bypass flow in  
22 normal and wet years in lieu of the consensus-driven 6 cfs  
23 is more beneficial to the public.

24 Our proposed 9 cfs is that 10 cfs number I have  
25 been referring to and asked you to remember earlier. Thank

1       you.

2                   MR. HOCKING: Thank you.

3                   Anybody else? Yes.

4                   MR. PITTS: A couple things. Clint Pitts, Belle  
5 Fourche Irrigation District.

6                   How much water is released right now for the  
7 fishery below Maurice intake?

8                   MS. WINTERS: There's none.

9                   MR. PITTS: So wouldn't we, with this 3 to 6 cfs  
10 be creating fish habitat, not enhancing?

11                   MS. WINTERS: There is existing flow in that  
12 reach, the groundwater seeps that come in in springs, and  
13 overland runoff.

14                   MR. PITTS: So it wouldn't be creating new fish  
15 habitat?

16                   MS. JOHNSON: I think Game, Fish & Parks is  
17 probably the most appropriate agency to answer that  
18 question.

19                   MR. KOTH: Ron Koth with Game, Fish & Parks.

20                   Clint, there is a gaining nature of that stream  
21 for about three and a half miles from the Maurice intake  
22 down to where the City has a small diversion.

23                   The range of flows -- you know, it starts out  
24 basically almost dry right immediately below Maurice, but in  
25 very short order, within 100 yards or so, it begins to be

1 water. So there's a range basically from zero all the  
2 way up to a maximum of somewhere around 5 cfs that accrues  
3 to the stream in the vicinity of where, right where the  
4 falls is. Then it begins to ebb as it goes toward the City  
5 intake, and goes down to that maybe 2 or 3 cfs range.

6 But within that reach, there is an established,  
7 permanent, naturally reproduced trout fishery that is  
8 present. And so the proposal, either by the Delphi instream  
9 flow recommendation or by the City's proposal, would add to  
10 that base flow an increment of water that would in fact  
11 enhance an existing, permanent fishery.

12 MR. PITTS: And then secondly, just kind of in  
13 comment to what was just presented, the loss is great in  
14 open ditches, and in any kind of gravity irrigation there is  
15 a lot of loss. And he was asking, has anybody checked into  
16 that.

17 At the Belle Fourche Irrigation District, we've  
18 got about 450 miles of open ditch. We've just spent, in the  
19 last two years, approximately half a million dollars lining  
20 one mile of that 400 and some odd. Yeah, we saved some  
21 water by lining that one mile, but the economics aren't  
22 there for us to save all the seeping in one year; you can't  
23 do it.

24 Technically, what we just lined is saving as much  
25 water as what would be taken away from us by 6 cfs running

1 down the Spearfish crick. That's why it's such a big issue  
2 to us; it's a half a million dollar issue to us.

3 Every ounce of water we get down below is very  
4 imperative. We're the last guy on the line, and we are  
5 doing everything we possibly can to keep getting our water  
6 back; we just do it all in a year.

7 MS. HARPER: Quick clarification question.  
8 Jennifer Harper, FERC.

9 So the lining one mile of ditch cost  
10 approximately \$500,000?

11 MR. PITTS: It's going to be close to a million  
12 dollars a mile. Out of our pockets, about one mile is going  
13 to be about \$500,000.

14 MS. HARPER: Oh, thank you.

15 MR. PITTS: That's actual farmer money; 500  
16 farmers contributed to that.

17 MS. HARPER: Thank you.

18 MR. ANDERSON: Curt Anderson, Bureau of  
19 Reclamation. A comment to what Clint is saying. To  
20 understand, when you ask that question, the cost per mile,  
21 that's an extreme variable. This is a big ditch, so there's  
22 all kinds of sizes of ditches -- and I don't know if this is  
23 helping, but just to say it costs \$500,000 a mile to line a  
24 ditch, it obviously depends upon the ditch and all that.

25 MR. PITTS: The size of the ditch.

1 MR. ANDERSON: So anyway, just a clarification.

2 MS. HARPER: Sure.

3 MR. ANDERSON: But yes, the farmers on the  
4 irrigation ditch, and everybody understands the needs and  
5 the shared needs, and I think everybody, moreso every year  
6 as we go down the road here, everybody works hard to  
7 cooperatively work together and try to conserve water, but  
8 there's a definite -- if you go to these larger flows in  
9 this stream -- you know, storage in the Belle Fourche  
10 Reservoir with those impacts.

11 MS. HARPER: Second question: How many miles of  
12 ditch, approximately, are in your irrigation district?

13 MR. PITTS: Overall, 450. That's everything from  
14 a small 2 cfs ditch up to the inlet canal that I'm referring  
15 to with the lining, and that's a 1350 cfs ditch.

16 MS. HARPER: Thank you.

17 MR. HOCKING: Anybody else on stream flows? Yes.

18 MR. ZAMBON: Is this on the particular subject?  
19 You said streamflows.

20 MR. HOCKING: It could be anything, but right  
21 now.

22 MR. ZAMBON: I'd like to make a few comments, if  
23 I may. I think I'm too late.

24 MR. HOCKING: And your name.

25 MR. ZAMBON: My name is Del Zambon. I'm in

1       Whitewood, South Dakota. I don't represent anybody but  
2       myself. And it sounds like to me I'm too late, as I stated.  
3       But the Spearfish hydroelectric project, in your table of  
4       contents item 1.1, it says the need for power.

5               I can hardly believe that. That power plant  
6       generates but a few megawatts of power. That plant was put  
7       in there for the Homestake Mining Company when we didn't  
8       have the grid system, the distribution, uni-lectric, all the  
9       power companies that are available today to operate an  
10      underground mining system. Which is long gone; there are no  
11      more underground mines in the hills.

12             So the need for power, to me, is a nonexistent  
13      issue. Going down the items here, I believe this is not a  
14      City of Spearfish issue. I think this is a regional issue,  
15      and you have not broadened out to include the scope of  
16      people that are impacted by this.

17             By that I mean, there is without a doubt a  
18      scarcity of water in the Northern Hills. There's maybe a  
19      handful of streams. And it's not called Spearfish River,  
20      it's Spearfish Creek. There is a shortage of water.

21             So the Northern Hills relies on the water and the  
22      free flow of that water to attract tourists, mainly; that  
23      brings more money into this region than any other industry.  
24      And here we have Spearfish Canyon which greets our visitors  
25      with a dry stream bed. And that just seems to me -- with a

1       minimum flow.

2                   I wonder why we are continuing with bypassing the  
3 water at all? I think it should be left to nature.

4                   The fisheries downstream, I don't know if any of  
5 you have ever tried to fish that downstream; I have. That  
6 is private property, and you are not wanted on that  
7 property, really. Everybody will say "Oh, yeah. Yeah,  
8 yeah, come on down." I'll tell you, there's no place to  
9 park, there's bob wire all over the place, and every farm  
10 has a dog. And it's just so hard, so difficult that it's  
11 really not a fishing resource in my book. Now, Spearfish  
12 Canyon is.

13                   So I think the fishing issue downstream is not  
14 real, either, because it doesn't work. It's on private  
15 property.

16                   I heard the mention that the water let loose from  
17 Maurice with just disappearing to the Madison district.  
18 That's hard for me to believe. Certainly it will for maybe  
19 a year or two years, but forever? All the water? I don't  
20 believe that's ever been established or proved.

21                   So I think that this plant should not be  
22 licensed, and I think you need to look at the -- meet the  
23 water availability and how it's used; it's certainly not for  
24 hydroelectric, we don't have enough. The City park is a  
25 beautiful park, but it caters to thousands, where the Canyon

1       caters to hundreds of thousands. And that is our primary  
2       source of income, is the tourist industry. Thank you.

3               MR. HOCKING: Thank you.

4               MR. BOBZIEN: I'm Craig Bobzien, I'm the Forest  
5       Supervisor of the Black Hills National Forest. I've got  
6       five comments, and we will follow up with written comments  
7       before your February 13th deadline.

8               The first one is, I'd request that the City's  
9       proposal to abandon the access road and manhole on the  
10      National Forest System's land be documented in the project  
11      description and described in the applicant's proposed  
12      action.

13              My second point is that I'd request that the City  
14      define the extreme low flow condition in its proposal so we  
15      can evaluate the effects.

16              Third, I'd ask for you all to consider the Delphi  
17      team's range of alternatives, as you develop your range of  
18      alternatives; and specifically I'd ask that the Delphi study  
19      flow recommendation be included as an alternative.

20              Fourth, I would ask that you analyze the  
21      cumulative and site-specific effects of the recreation and  
22      scenic resources, as this project is located in designated  
23      Spearfish Canyon Scenic Byway.

24              And last, I would request that you evaluate the  
25      issue of upstream fish passage at the Maurice Dam. Okay.

1 Thank you.

2 MR. HOCKING: Thank you.

3 It's probably time for a break. Does anybody  
4 want to say anything before we maybe take a ten minute  
5 break?

6 All right. Why don't we do that, then; how about  
7 20 of 12, folks can come on back.

8 (Recess.)

9 MR. HOCKING: Why don't we go ahead and get  
10 started.

11 At this point I'm assuming that we're just going  
12 to continue to work through the lunch hour; I'm not sure how  
13 much longer we need.

14 Why don't we go ahead and go back to Aquatics.  
15 Does anybody have any other comments, any other issues that  
16 we're missing that we need to be aware of in terms of  
17 aquatics, the minimum flows specifically? And pick up where  
18 we left off.

19 Anything else?

20 MR. LEES: I'm Mike Lees, from the Black Hills  
21 Fly Fishers. After our discussion over the break, I just  
22 wanted to clarify the Fly Fishers are not trying to specify  
23 any particular kind of flow. Our general attitude toward it  
24 is that the City needs to balance that out, and we'd like to  
25 have -- there's a lot of flows, we'd like to see the stream

1 have more water, for some period when in a drought situation  
2 we can see that the flows should be reduced, and at some  
3 point in time that they should be eliminated completely. We  
4 don't have the expertise to say what that cfs number is.  
5 And the 30 cfs that I spoke before is just a suggestion or a  
6 recommendation of someplace that seems like it might be a  
7 reasonable place, but we're really not specifying any  
8 particular number other than just that general attitude  
9 toward sharing water.

10 MR. HOCKING: All right. Thanks for that.

11 Yes.

12 MR. COBURN: Hi, I'm Bill Coburn with Spearfish  
13 Forest Products. I just want to make sure I understand the  
14 process. All you guys are doing is okaying or talking about  
15 the, allowing the power plant to go ahead, right? The flows  
16 of the State, and how much water goes down through the  
17 Canyon is Department of Environment and Natural Resources,  
18 right? They're the ones that are the administration body of  
19 that flow.

20 MR. HOCKING: Well, they are, but we have to look  
21 at it as well. I mean overall, what we have to do is, we  
22 are Commission Staff, we have to make the recommendation to  
23 the Commission of what should be done with this license  
24 application that we have in front of us.

25 Should we issue a license or not? And if we do,

1        what conditions should be in that license. Now part of that  
2        would be a review of the City's proposed action, which is to  
3        release minimum flows of a certain quantity during certain  
4        time, and any other conditions that, any other agency  
5        recommendations I could get, including from the State.

6                So we will be looking in our environmental  
7        document, the EA, at the different proposals, people's  
8        recommendations and different flow regimes. And then we'll  
9        make a recommendation as to what we think makes the most  
10       sense for the project.

11               The State also, through their 401 water quality  
12       certification of authority under the Clean Water Act will  
13       be, sounds like will be issuing a 401 Water Quality  
14       Certificate, which will have conditions in it that, for FERC  
15       licenses, are mandatory. We cannot change them.

16               So what they put in their water quality  
17       certificate we'll also have to look at. If it comes before  
18       the EA is done, we will look at it in the EA, and that's the  
19       best situation; if they could get it to us and get it issued  
20       before we do our environmental analysis. If it comes out  
21       after we've done our environmental analysis, then we'll have  
22       to take a look and see to what extent there were any  
23       differences between Commission Staff and the State on what  
24       flow regime would make the most sense. And then we have to  
25       figure out what to do at that point; whether we would -- the

1 options would be whether to discuss those differences in any  
2 order, issue a license, or to actually issue a revised EA or  
3 some sort of supplement to the EA. Depends on the timing of  
4 when your water quality certificate actually comes out.

5 So we'll be looking at it and the State will be  
6 looking at it as well.

7 MR. COBURN: And I have a question on the  
8 process. You said you guys won't be giving out a draft  
9 environmental assessment. So you won't have any  
10 alternatives other than the alternative that you guys are  
11 going to choose?

12 MR. HOCKING: Well, we have, in the scoping  
13 document we're saying that we're going to have four  
14 alternatives in the EA: that's our proposal currently. If  
15 you think there should be other alternatives, you know, let  
16 us know.

17 MR. COBURN: Or how the public will be evaluating  
18 those four alternatives if they don't have the chance to  
19 look at it as a draft?

20 MR. HOCKING: When we issue it, we do ask for  
21 comments. We're going to give a 30-day comment period, and  
22 anybody who has comments will provide them. And then what  
23 we do is we evaluate those comments in the order, in  
24 whatever order of issues. That's what we typically do.

25 Now the alternatives that we're looking at are

1 spelled out here in this SD1. If you think that there are  
2 other alternatives we need to look at, let us know, because  
3 we haven't gotten to writing the EA yet. And we'll take a  
4 look at that and we'll reflect that in SD2, the second  
5 scoping document.

6 So it's still relatively early. So if you think  
7 we should be looking at different alternatives, let us know  
8 and we'll respond to that in SD2.

9 Yes.

10 MR. KOTH: Ron Koth. I think we mentioned this  
11 last night, but Mr. Pitts' comments brought it up to mind  
12 again.

13 On page 11 of SD1, under 4.2.2, where you guys  
14 used the new minimum flows a couple of different times in  
15 there. It seems like it would help people to understand the  
16 proposal, talk about the proposed bypass flows as they add  
17 to an existing flow. So that a new reader or somebody who  
18 will understand that there is a base flow that these flows  
19 will be added to in a bypass fashion.

20 So maybe it's just semantics, but I think it  
21 might help people understand who are not, you know, as well  
22 versed in what's going on there as maybe we do.

23 MR. HOCKING: I'll see if I can add that to that,  
24 at least to one of the goals in there. In the EA we will be  
25 talking about, we do have information from the City on what

1 the flows are. Are they quantified? I know there's  
2 information in there; maybe they're qualitative.

3 MS. JOHNSON: They are quantified based upon some  
4 USGS data.

5 MR. HOCKING: So we have that, and we'll put that  
6 in the EA. That will be in the EA. But it sounds like what  
7 you want is you want it right here in the scoping document.

8 MR. COBURN: We'll probably make those comments,  
9 respond in writing. But I think it will just help people  
10 understand that they don't go through the appendices and  
11 documentation in the City's application, you know, don't  
12 really understand that.

13 MR. KOTH: If I can attempt to clarify just to  
14 make certain that we've understand your comment. We're  
15 simply suggesting that we clarify our terminology; that it's  
16 not a new minimum flow, it's a new addition to the flow  
17 that's already there.

18 MR. COBURN: It's a proposed bypass to an  
19 existing flow.

20 MR. KOTH: So it's just basically a change in  
21 terminology.

22 MR. COBURN: Right, but I think it clarifies the  
23 term.

24 MR. HOCKING: Okay. Thank you.

25 MR. NELSON: Jim Nelson, Spearfish Canyon Owners.

1           I want to back Ron's comments here. That's the  
2 same comment I made last night, where you talk about 3 cfs  
3 minimum flow. It's 3 cfs minimum flow augmentation. It's an  
4 add to what is there; that's a gaining reach, and that reach  
5 supports, as Ron said earlier, supports trout now, in pools,  
6 so the add will make it a stream that's comparable to some  
7 other small streams we have in the Hills.

8           So it's important that people understand it isn't  
9 just 3, and the question whether that will support fish or  
10 not. It will give you a range of 5 to 15 cfs in there,  
11 other than during the spring flows.

12           I'd like to make one other comment. When I did  
13 my description of our Spearfish Canyon Owners and our  
14 support for this project, we in our MOA had proposed a  
15 minimum flow in Spearfish of 40 cfs. Now that the State has  
16 said they believe that's the right number or a number to  
17 start with, I'd like to make two points.

18           If you go back and look at the USGS data and some  
19 plots that I've provided to you before, and if you look at  
20 those that you have in the document, eight months out of the  
21 year in 60 years of data, the typical flows for eight months  
22 out of the year are between 40 and 50 cfs in Spearfish. The  
23 reason to pick 40 as a minimum at our point in time was to  
24 assure that the downstream irrigators did not see a major  
25 impact on their operations when we were proposing to release

1 5.

2 So if you're talking about the range of 3 to 6,  
3 and a cutoff at 40, you're talking about flows that go on  
4 down into the valley that are typical of flows for the major  
5 portion of the time over the eight month period, other than  
6 the high stream flows. I think it's important to realize  
7 that.

8 MR. HOCKING: All right.

9 MR. LEES: Mike Lees from Black Hills Fly  
10 Fishers.

11 I've got one general question. Once the permit  
12 is granted, and assuming that will happen, what's the  
13 duration of that permit? Are we looking at 20 years, 40  
14 years?

15 MR. HOCKING: Well, the Commission, typically  
16 it's a 30 to 50 year license. Our policy is for original  
17 licenses with new construction, 50 years. A moderate amount  
18 of construction, 40, and a re-license, 30. I don't know --  
19 I have to find out what a typical, what we've typically done  
20 for -- obviously this is an existing unlicensed project, so  
21 I don't know where we would fall out on that. I'll have to  
22 do some research and find out.

23 But that decision won't be made until the order  
24 is actually issued. What we use for our analysis is we  
25 usually use a period of 30 years for the economics, right?

1 MS. HARPER: Yes.

2 MR. HOCKING: But the actual decision as to what  
3 to do in terms of the term of the license won't be made  
4 until the order is actually issued.

5 MR. LEES: Is it fair to say, then, that whatever  
6 bypass flows are established as part of this licensing  
7 project would be in effect for that same period of time?

8 MR. HOCKING: Unless changed, yes. Things can  
9 change; an applicant could file for an amendment to the  
10 license, to change the terms and conditions, or the  
11 Commission can reopen the license if something happens that  
12 we feel we need to go in and reopen the license.

13 MS. JOHNSON: Steve, I just want to add that as  
14 was recommended by the Delphi team and several commenters on  
15 the draft, the City has proposed to reevaluate or at least  
16 convene a meeting and evaluate the success of the bypassed  
17 flows after the license is issued, and would act accordingly  
18 if the flow situation didn't look like it was working as  
19 everyone expected in terms of the results.

20 So it's not -- we're not proposing a sort of  
21 adaptive management approach here regarding a flow, but with  
22 a limited evaluation after a year or two experience with it,  
23 just to be sure that, that we feel that it's doing what it  
24 was intended to do. And if it wasn't, then we would propose  
25 an alternative in consultation with the various agencies.

1 MR. HOCKING: Anything else on aquatics?

2 MS. WINTERS: One more thing I wanted to point  
3 out; I meant to mention this last night. Under 4.2.2, the  
4 first effect was on fishery resources when the project's  
5 bypass reached.

6 I think it's important to also include in that  
7 analysis effects on the fishery discounting the powerhouse.  
8 The reason for that is that several folks have mentioned  
9 that they want to consider alternative flows or higher  
10 flows. If you analyze those, you have to realize that for  
11 every incremental gain you get in that upper three and a  
12 half mile reach, there is also an incremental loss  
13 downstream of the powerhouse in habitat.

14 Now what that increment is and how significant  
15 that is is what you have to analyze, but there is an  
16 incremental loss of habit suitability downstream of the  
17 powerhouse.

18 MR. HOCKING: Yes, that's what we're trying to  
19 get in the second bullet. We tried to address that in the  
20 second bullet; availability of flows for fishery resources  
21 downstream of the powerhouse.

22 All right. How about comments on other  
23 resources? We can either walk through, starting on page 11  
24 we have the other resources. We can either walk through  
25 them one-by-one, if you want to do that. Kind of group them

1 together? Or if nobody has any other comments at all.

2 For instance, Geologic and Soil Resources,  
3 there's a typo. It's supposed to say "No issues  
4 identified." We didn't identify any issues for that  
5 resource area. So if anybody thinks that there is something  
6 that we need to look at, and take a look at it -- now would  
7 be the time to let us know, or in your comments due February  
8 13th.

9 Aquatic Resources, we have four bullets there.

10 Terrestrial Resources, do you all want to kind of  
11 walk through them one-by-one?

12 MR. ANDERSON: I just have a quick question. It's  
13 deviating a little bit, but.

14 I would assume there isn't any possibility that  
15 there would be a denial of this process -- let's say this  
16 application was denied. What happens then?

17 MR. HOCKING: Well, that's one of the  
18 alternatives. The four alternatives that we will be looking  
19 at are -- well, issuing a license with the applicant's  
20 proposed action, the City's proposed action; issuing a  
21 license with their proposed action with any Staff-  
22 recommended changes is the second one; then their proposed  
23 action with our recommendations and any additional mandatory  
24 conditions that say the State or the Forest Service might  
25 put on the project, that's the third alternative. And then

1 the fourth alternative is license denial.

2 MR. ANDERSON: Because from that perspective, you  
3 would almost have a, in my opinion, even a NEPA process  
4 involved in that one, you'd have something in place for a  
5 hundred years, and the impact changes. We run into that on  
6 various facilities that we have within our Bureau of  
7 Reclamation, where -- and there would be some significant  
8 impact to some of those, our discussion here on flows in the  
9 crick. That would be something that, from a water rights  
10 perspective, we would not want to happen.

11 MR. HOCKING: License denial for us would not  
12 entail like dam removal. Basically what we would require is  
13 that the City disable the power generation, so they would no  
14 longer generate power. And then what they did with the  
15 project and the water and all that beyond that would be no  
16 longer FERC's jurisdiction or concern.

17 So we wouldn't be looking at removing project  
18 structures and things like that.

19 Yes.

20 MR. COBURN: Bill Coburn, Spearfish Sports  
21 Products.

22 Any evaluation of the DC Booth Fish Hatchery?  
23 Where would that fall in under this?

24 MR. HOCKING: Well, in terms of any loss, any  
25 minimum flows that --

1                   MR. COBURN: I mean, is it a cultural or -- I  
2 mean, the fisheries, are you going to be evaluating both?

3                   MR. HOCKING: Well, we'll be looking at the  
4 availability of water to the fish hatchery downstream. We  
5 wouldn't be looking at the cultural effects, per se; it's  
6 not in the project boundary. I mean, unless you think --  
7 unless you can draw --

8                   MR. COBURN: Isn't it on the Register of National  
9 Historic Places?

10                  MR. HOCKING: Yes, that is. There has to be a  
11 nexus between the facility and the project. I'm not aware  
12 of any nexus. Other than the flows. If a lot of minimum  
13 flows were released into the bypassed reach and they were  
14 lost to subsurface recharge, and that affected flows at the  
15 hatchery, obviously there's a direct connection there.

16                  Other than that, we will talk about the hatchery  
17 being there, recreation in the area, but I'm not aware of  
18 any effects that the project could have on the hatchery, in  
19 terms of its eligibility for remaining on the Register or  
20 something like that.

21                  If you can think of anything, or there is  
22 something like that, let us know. But right now we're not  
23 seeing any connection, other than the flows.

24                  Okay, so Geologic and Soil Resources, we didn't  
25 identify anything. Aquatic Resources, we talked about the

1 proposed new minimum flow, augmented flows. Terrestrial  
2 Resources, we'll take a look at the effects of proposed new  
3 minimum flows on riparian habit in the bypass reach.

4 Threatened and Endangered Species. Effects of  
5 continued project operation on federally-listed species that  
6 may be found in the area. And currently we don't have any  
7 information that there are any that are currently being  
8 affected or would be affected by the proposed project. But  
9 we do have to check and consult with the Fish & Wildlife  
10 Service to make sure that that's actually true. So we will  
11 be checking with the Fish & Wildlife Service on that.

12 Recreation and Land Use. Effects of proposed new  
13 minimum flow in the bypassed reach on angling opportunities  
14 in the bypassed reach.

15 AUDIENCE: Steve, should that include the  
16 downstream reach as well, because of the recreational  
17 opportunities and the land use down below the project  
18 outfall?

19 MR. HOCKING: In terms of like reduced flows  
20 downstream?

21 AUDIENCE: Reduced flows to angling  
22 opportunities.

23 MR. HOCKING: Probably. I don't think we have  
24 that I there. I see what you're saying. Yes?

25 MR. HIRTZEL: Steve Hirtzel, Forest Service.

1                   Eric brings up a good point, because I guess I  
2 hadn't been reading between the lines, or hadn't really  
3 heard the bypassed reach so clearly defined as being from  
4 Maurice Dam down through the City intake. To me, the  
5 bypassed reach was always Spearfish Creek down through  
6 Maurice Dam as far as the water had an effect.

7                   MR. HOCKING: Well, the bypassed reach, for our  
8 purposes, is all the way down to the powerhouse. The total  
9 area of bypass by the flow line of the project.

10                   So we're not defining it as just down to the  
11 City's water intake. But we'll probably have to add another  
12 bullet there to talk about the downstream fisheries.

13                   MR. HIRTZEL: And I guess my same comment would  
14 go to when you get down to 4.2.7 on Aesthetics. But I  
15 believe that is important, going through the City, a highly  
16 used area.

17                   MR. HOCKING: Okay.

18                   All right, anything else. Aesthetics we have  
19 down, effects of proposed new minimum flow on aesthetic  
20 resources in the project's bypassed reach, and then also  
21 downstream, would in connection be in change in flows.

22                   Cultural resources, we kind of touched on this.  
23 Effects of continued project operational and cultural  
24 resources that are eligible for inclusion in the Register.  
25 Just so you know, we are working with a SHPO and with the

1 Forest Service to come up with proposed dates for, the City  
2 submitted a draft, and it's called an HPMP, a Historic  
3 Properties Management Plan; and we're looking at that. We've  
4 got comments already from the SHPO.

5 I know we need comments from the Forest Service  
6 and we need to work out dates to provide comments, and we  
7 also -- FERC Staff, we have to issue what's called a  
8 programmatic agreement. So that's kind of running on a  
9 separate track; it's a part of licensing, it's another task  
10 we have to accomplish in order to comply with the National  
11 Historic Preservation Act, so we are working on that. And  
12 we do need to talk to the Forest Service about some items on  
13 the draft HPMP.

14 Anything else on cultural? Is anybody aware of  
15 any cultural sites that may be in the proposed project  
16 boundary?

17 Yes.

18 MR. BOYER: Steve, correct me if I'm wrong, but I  
19 think it's the SHPO plan. Has that been withheld from  
20 public view but will come out eventually so we have -- it  
21 seems to me I recall that.

22 MR. HOCKING: Yes. Typically, if they have  
23 locational information in them, like they show exactly where  
24 sites are located, that information is made nonpublic, just  
25 to protect the sites. But if it's not, if there's no

1 locational information, then we'll make it public so  
2 everybody can see it.

3 Then Aesthetic Resources, again, effects of  
4 proposed new minimum flow on aesthetics in the bypassed  
5 reach, and in the downstream as well.

6 I'm sorry?

7 MR. ANDERSON: Before we go away from that, just  
8 talking -- this is Curt Anderson again, and on the  
9 Recreation and Land Use, you probably should consider, too,  
10 I was just crunching a few numbers, but that 6 cfs through  
11 the winter, you've got roughly 2500 acre-feet of storage.  
12 So you should probably look in 4.2.5; the recreation  
13 benefits particular to the Belle Fourche Reservoir and the  
14 use on that reservoir, because you have a storage component  
15 there. That's not a lot of water to the whole body of water  
16 at the Belle Fourche Reservoir, but it is, at times can be  
17 very significant when the reservoir is drawn down and during  
18 drought periods.

19 So you have a recreation facility there that is a  
20 high use area that you do have impacts when you decrease  
21 storage in that reservoir; not only from an irrigation  
22 perspective, but from the recreation site also.

23 MR. HOCKING: Okay. All right, we'll take a look  
24 at that, because you had that previous comment. We'll have  
25 to take a look at that.

1                   Anything else? Recreation, Cultural, or  
2                   Aesthetics?

3                   Socioeconomic effects: The effects of proposed  
4                   new minimum flows lost to subsurface recharge in the  
5                   bypassed reach on the availability of flows for downstream  
6                   irrigation needs.

7                   MR. ANDERSON: And there was also a second one  
8                   proposed last night about the added socioeconomic benefit of  
9                   a possible four additional miles of stream for tourism and  
10                  angling opportunities.

11                  MR. HOCKING: All right. Well, if there's  
12                  anything else, then we will bring it to a close shortly. Is  
13                  there anything else that folks want to tell us, or maybe you  
14                  know, now's your opportunity to do so.

15                  MR. HIRTZEL: Steve Hirtzel, Forest Service. Not  
16                  so much something to tell you, but maybe something you can  
17                  tell me or the group. When it comes to FERC's mission  
18                  staff alternative, do you guys have a pretty good feel what  
19                  that alternative is already? Or does it take you more time  
20                  to come up with your alternative as well.

21                  MR. HOCKING: We're going to have to come up with  
22                  it. We're going to have to go back through all the  
23                  documentation and comments; and we'll really get started on  
24                  it after we see this -- we've pretty much reviewed what they  
25                  submitted last week. And then once we get the comments from

1 everybody here, then we'll really get started. Looking at  
2 the whole picture and coming up with what we think makes  
3 more sense. So I couldn't tell you now.

4 MR. HIRTZEL: Does that alternative get defined  
5 the first time the public sees it in the EA? Or does it  
6 show up in Scoping Document 2?

7 MR. HOCKING: Well, Scoping Document 2, no, not  
8 at that level, definitions. Scoping Document 2 will be  
9 saying 'here are the additional issues that people say we  
10 should take a look at.' But the alternative of what  
11 conditions should be in the license will not be in Scoping  
12 Document 2. You won't see that until the EA.

13 MS. JOHNSON: I think the City would like to  
14 propose an alternative on one issue of trying to install a  
15 screen, a two inch spaced screen at the intake. We've been  
16 having some discussions with some of the other agencies and  
17 stakeholders involved in the project.

18 We would like to propose an alternative to look  
19 at some type of an annual or regular-based relocation  
20 project in lieu of a physical type barrier there. The City  
21 would propose to cooperate or help, be a partner in some  
22 type of a regularly scheduled event with Game, Fish & Parks  
23 to relocate, basically capture those fish and relocate them  
24 to wherever they would be needed.

25 So we would like to put that in as an alternative

1 proposal in our application.

2 MR. HOCKING: Okay. The question is a matter of  
3 details; and whether we can come up with the details now or  
4 later.

5 MS. JOHNSON: I would guess we would probably  
6 want to do it later. I think in some discussions with Game,  
7 Fish & Parks it was noted that that type of action would  
8 need to occur when we've got a lower elevation in the  
9 forebay area, and so we would want to coordinate that with  
10 some of our own maintenance needs and inspection of the  
11 tunnel.

12 Right now, that period we've talked about is a  
13 modified five year period, and so I think we would want to  
14 have some more discussions with Game, Fish & Parks as far  
15 as, if those two time frames are compatible.

16 MR. HOCKING: Okay.

17 MS. JOHNSON: Ron has some thoughts on that right  
18 away.

19 MR. KOTH: The only thing I would have, you know,  
20 to throw out in consideration there is that, if we would  
21 establish a five year interval, I guess, to correspond with  
22 your maintenance, is we have large flow events in the  
23 interim there that could generate some thought for us,  
24 whether we wanted to go in there and move fish because they  
25 would have been essentially pushed into that forebay area

1 under a high flow circumstance. That's really the only  
2 other thing I would think of. And that might mean we want to  
3 go look at the aqueduct for integrity at the same time, I  
4 don't know.

5 MS. JOHNSON: Sure.

6 MR. HOCKING: So do you think you can just file a  
7 supplement with those details fairly soon?

8 MS. JOHNSON: I think, yes.

9 MR. HOCKING: All right, we'll just keep an eye  
10 out for that then. And that way we don't have it when we  
11 get started on the EA.

12 MR. HANSEN: I'll say to help us analyze that  
13 proposal, a minimum amount of detail would be very helpful  
14 as perhaps number of salvage efforts per time period, and  
15 the method you actually will use to salvage fish, be it a  
16 two man crew with a backpack shocker -- and we don't need a  
17 super detailed plan, just a minimal amount of detail will  
18 really help us in our analysis of that.

19 MS. JOHNSON: And there's a certain amount of  
20 cost data as well.

21 MR. HOCKING: Yes.

22 MR. HIRTZEL: Steve Hirtzel, Forest Service.

23 Kind of along the same line as the City modifying  
24 their proposal, I guess that I would suggest that the City  
25 and the Forest Service just have a little bit more

1 discussion as far as some of the details related to  
2 abandoning the manhole in the access road. So if there's  
3 any mitigation that needs to happen there, that could be  
4 rolled into the proposal at this time as well.

5 MR. HOCKING: Yes, it sounds like you all need to  
6 have some more details. And if you can get that in our EA,  
7 then that would satisfy your needs. So maybe in the same  
8 supplement, if you have those details ready you can put that  
9 in, and we can make sure it's reflected in the environmental  
10 assessment.

11 MR. HIRTZEL: The reason I bring that up is, I  
12 guess the status of the manhole and access road has always  
13 kind of been unknown, are we going to keep it or is the City  
14 going to keep it. It wasn't until the final license  
15 application where we saw the City's proposal to abandon it.  
16 I've never seen it. When we were out yesterday obviously it  
17 was covered in snow.

18 Just one of the initial concerns or thoughts for  
19 the City: Is there any erosion on the access route that  
20 should be fixed believe before that structure access is  
21 abandoned or taken care of, as well as the disposition of  
22 the manhole itself. Is it going to be buried with six  
23 inches of dirt, ten feet of dirt, not buried at all? And  
24 the consequences thereof.

25 MR. HOCKING: Hopefully you guys can work out the

1 details of that. Hopefully you don't have to wait until  
2 spring; but maybe you do, I don't know.

3 Well, not to actually fix it, but to come up with  
4 the details, because we'd like to -- right now we'd like to  
5 go out with that notice in February, 2/2/09 in terms of  
6 accepting the application.

7 So maybe in the same supplement, that would be  
8 great.

9 Well, also in this document is our proposed  
10 outline for our environmental assessment; it starts on page  
11 17. So when you get a chance, you can look at that. That  
12 outlines what the format of the EA would be; and if you have  
13 any comments on that, feel free to provide those.

14 After that, on page 19, we've identified two  
15 comprehensive plans, the Black Hills National Forest Land  
16 and Resource Management Plan; and then the State SCORP, the  
17 Statewide Comprehensive Outdoor Recreation Plan, as being  
18 applicable to the project.

19 If anybody is aware of any other comprehensive  
20 plans of other resource agencies that we need to be aware  
21 of, that may apply to the project or that we should look at  
22 in terms of when we're looking at the project, please let us  
23 know, we'll have to get a copy of that. But if you see  
24 anything else, give me a call or send in your written  
25 comments to that effect.

1                   So that would be helpful, comprehensive plans.  
2                   And then the last item we have is the mailing list. If you  
3                   can check the mailing list and make sure that you're on it;  
4                   if you're not, we're going to add anybody who has signed in  
5                   on those blue sheets. If you're on it and your address is  
6                   incorrect, let me know and I'll get it corrected, or if  
7                   there's somebody else that you think needs to be on it, let  
8                   me know. Because we want to get that mailing list cleaned  
9                   up as well for the project.

10                   Yes.

11                   MR. HIRTZEL: Steve, in relation to the mailing  
12                   list, that gets cleaned up almost immediately after the  
13                   scoping meeting?

14                   MR. HOCKING: Yes, right. When we get back, I'll  
15                   go through all the -- you know, everybody who checked it,  
16                   and I'll compare who's on the list now and who wants to be  
17                   on the list, get that all straightened out.

18                   All right. Well, anything else?

19                   Okay. Again, I want to thank you for coming.  
20                   Remember that February 13th due date, that's the next due  
21                   date, that's coming up in the FERC licensing process.

22                   Again, my contact information is on page 2 of the  
23                   scoping document. If you have any questions, feel free to  
24                   give me a call or send me an e-mail, and thank you very  
25                   much.

1                   MR. HANSEN: One more thing just to avoid  
2                   confusion. Some people expressed this to me in the break;  
3                   it's very minor. But page 2 of the introductory letter of  
4                   the scoping document is where Steve Hocking's information  
5                   is, not page 2 of the actual Scoping Document. So there are  
6                   two page 2s, basically.

7                   (Whereupon, at 12:32 p.m., the scoping meeting  
8                   concluded.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25