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FEDERAL ENERGY REGULATORY COMMISSION

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Catawba Wateree Hydroelectric Project
Project No. 2232-522

SCOPING MEETING

Baxter Hood Center (York Technical Center)
452 South Anderson Road
Rock Hill, South Carolina 29730
April 22, 2009
9:00 a.m.

1 APPEARANCES:

2 For Federal Energy Regulatory Commission

3 Shawn Murphy

4 Kim Carter

5

6 Joyce Brooks - Lonview Associates

7 Suzie Boltz - EA Engineering

8 Paul Muessig - EA Engineering

9 Mary Koeneke - EA Engineering

10

11 SPEAKERS PAGE

12 Mark Oakley 3

13 Mark Cantrell 11

14 Dick Christe 15

15 Al James 25

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17 Maurice Blackburn 33

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19 Glinda Coleman 39

20 Jeff Lineberger 42

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

2 MR. MURPHY: This is the DEIS
3 discussion meeting for the Catawba-Wateree Project
4 -- and it's pretty much the agency meeting. If you
5 are with the public, you are allowed to speak, and
6 we ask you to wait till the end, because this is
7 mostly going to be with the agencies, and the
8 public meeting ties is basically more for the
9 public. And we're going to start Mark Oakley
10 getting, I guess the stakeholders introduced to you
11 of the DEIS, and then we'll -- I'll try to answer
12 some of the points quickly and then move into
13 everybody else starting with Mark Cantrell. Please
14 put yourself on vibrator.

15 MARK OAKLEY

16 MARK OAKLEY: Good morning. My name
17 is Mark Oakley, I work for Duke Energy, I'm the
18 Catawba-Wateree Relicensing Project Manager, but a
19 lot of you already know that.

20 Like last night, we're speaking to a
21 group of familiar faces. There are a few
22 exceptions, so I'll appreciate Sean and the
23 Commission giving me just a moment to greet you and
24 to welcome you this morning, and also just give a
25 brief view of our brief view of this stage of the

1 relicensing process.

2 I think the most notable thing about
3 the meeting today is that thank's to the FERC's
4 efforts in issuing this Draft Environmental Impact
5 Statement, they have taken a giant step in the
6 relicensing process. So the meeting means we're
7 making progress. This is a good thing to be doing
8 this and we're glad to participate and glad you're
9 here also.

10 A lot of the DEIS and a lot of the
11 comments today are gonna talk about the CRA. The
12 CRA is the Comprehensive Relicensing Agreement, and
13 that's something that Duke and 84 other parties in
14 the Catawba-Wateree basin started working on in
15 2003 and in 2006, finally signed this agreement and
16 filed it with the Federal Energy Regulatory
17 Commission. And it is sort of a pretty big
18 document in and of itself, and you probably seen
19 these pamphlets before, they're from the summary
20 document, what's in the DEIS, they're at the -- on
21 the tables in the back of the room near the door.
22 Please take one of those, it's a great, quick
23 reference for what's in there.

24 When we signed that Comprehensive
25 Relicensing Agreement and filed it it represented

1 the parties, locally developed and locally bid
2 solution for how to meet the basin needs and those
3 related to the project sustainability into, well
4 into the future. So it's important tht we sort of
5 acknowledge your efforts as stakeholders, your
6 efforts as participants and contributors in trying
7 to reach tht balance of, you know, water uses
8 public and private, environmental protection and
9 enhancement, recreation, cultural resources,
10 archaeological resources and power generating, all
11 the things that we work to sort of, you know, get
12 to a fair and balanced and sustainable solution
13 earlier.

14 The CRA has sort of now become a --
15 the part of something bigger. It's sort of the
16 center cog and sort of a complex machine. The CRA
17 contains our proposed licensed articles, and the
18 CRA and the licensed articles were sort of put
19 together to compliment each other and to create a
20 total package of benefits for the Catawba-Wateree
21 basin.

22 It serves as the basis for the 401
23 water quality certifications, applications that we
24 filed in North Carolina and South Carolina, and it
25 was also a big factor when we were working with

1 another utility, along with D&R and Fish and
2 Wildlife Service -- wildlife commission to come up
3 with a fish passage accord addressing the items
4 fish population for the waterway. So the CRA is
5 very pervasive. It has an element or at least an
6 influence in almost all of our work products so
7 far.

8 We're at the stage of the game, I
9 think safe relicensing process where that product,
10 where that agreement is now getting tested, and it
11 has -- we've completed a couple of the tests.
12 North Carolina issued its for the water quality
13 certification, actually incorporated the CRA by
14 reference. So a lot of the things that are in
15 there are the basis for the North Carolina
16 decision. And as I said earlier, the -- when the
17 Fish and Wildlife Service issued their fish passage
18 prescriptions in preliminary form, they were very
19 much consistent with the compatible with the terms
20 of the CRA.

21 We got a couple tests that are still
22 underway that -- One of those is underway in South
23 Carolina. South Carolina Deheck is currently
24 processing the 401 water quality certification
25 application there. When it's issued, we expect

1 that it will be contingent on some of the
2 provisions in the CRA.

3 And FERC by issuing this DEIS has
4 tested and evaluated the DEIS and has sort of given
5 us an opinion of how well they think that meets the
6 basin interest as has been presented to them.

7 Duke has reviewed the Draft
8 Environmental Impact State, and I think on a very
9 positive note, the DEIS does not find that we
10 missed anything and I think we've covered the
11 basis. That's an important finding.

12 Another important finding is that
13 essentially adopts the terms of the CRA, but it
14 also adds some additional recommended conditions to
15 that. Our concern is, you know, is this a case
16 where more is better.

17 If some of the additional
18 recommended items proposed in the DEIS made their
19 way into a new license, it will, to some degree,
20 they could unbalance the package of benefits and
21 responsibilities that we've negotiated.

22 So another way, if more resources
23 are sort of pulled into the license, that could
24 mean that there are fewer resources to accomplish
25 the other things that we'd like see happen in the

1 CRA. We would not want to see, you know, very well
2 intentioned additions to the CRA to inadvertently,
3 you know, cause a decrease or even a net decrease
4 in benefits the stakeholders and basin.

5 Now FERC has the authority and
6 responsibility and Duke certainly acknowledges that
7 to craft a license that meets the needs of the
8 basin. On the other hand, Duke -- this is our
9 opportunity, I mean Duke is gonna use this
10 opportunity to in terms test the DEIS. And the
11 test that we want to apply our objectives in doing
12 that is to first and foremost promote that the CRA
13 as we've signed it with little to no addition and
14 sort of no more-no less fashion is that local
15 solution that meets the needs of the basin, but at
16 the same time if there are any additional
17 requirements that are needed, make sure that they
18 pass a high hurdle of justification in terms of
19 being related to project operations and project
20 impacts; that they're efficient and effective and
21 practical, and that they make sense in the context
22 of the record that's already been provided. So
23 we're not in a position to share any detailed
24 comments today, but that's certainly the direction
25 that we would like to take in this next phase of

1 licensing process. We'll be filing our comments on
2 May 8th, and in trust that, trust that you will,
3 also.

4 Thank you again for being here. For
5 those of you who started this expedition with us in
6 2003, thank's for hanging in there, and look
7 forward to hearing from you.

8 MR. MURPHY: Look at the bottom of
9 the sign-in sheets that I put out, I actually gave
10 until May 11th for comments to come in. So if you
11 don't have them done on the 8th, we just got a few
12 more days over the weekend actually how to do that.

13 Some of the concerns that Mark
14 raised are pretty much, just a slight difference
15 between the CRA and what we can statutorily do at
16 FERC. And we have no desire to break the CRA for
17 you. What we do desire is to try to make sure that
18 the best use of the water way is what comes out of
19 the whole process.

20 One of the thins that you might
21 notice in the DEIS is that we analyzed the
22 economics for a 30 year period, and we included
23 things that were in the CRA, contingent on a 50
24 year period. We, at FERC, cannot put 50 year
25 analysis into our environmental documents. Those

1 are restricted to our license board. That's where
2 the term of license is determined by the
3 Commission. That's something that we're not
4 allowed to do ahead of time, but we are required to
5 analyze all of the options and such beforehand.

6 So when you see that in there, don't
7 think that we're putting it in there and requiring
8 a 30 year license and that's that. That's just how
9 we are forced to analyze things with our current
10 policy in place.

11 Some other things that we did were
12 to pull some recreation areas in, I think into the
13 project boundary which brought them into the
14 license, and you'll -- you might notice those as you
15 go along, we did those with -- by looking at them
16 hard to see if they did need to be included in --
17 meet project needs. So there are some things that
18 were in the CRA as stated to the outside project --
19 outside of the licensing agreement and we read --
20 Those shouldn't change the CRA, per se, just the
21 license.

22 And other things, I'm gonna have to
23 --I'll wait until the comments come in to see
24 exactly what it is that's new that we did, other
25 than, I think that was a question which will

1 probably come up today.

2 With that said, if Mark Cantrell is
3 ready to go, get started with -- Let's hear his
4 comments.

5 MARK CANTRELL

6 MR. CANTRELL: My name is Mark
7 Cantrell, I am a biologist with US Fish & Wildlife
8 Service and supplementing my comments I'm certain
9 at least I'm gonna make an appeal -- Fish &
10 Wildlife Service -- Charleston office.

11 First of all, we'd like to say thank
12 you to the Federal Energy Regulatory Commission and
13 the team who put together the Draft EIS. This was
14 a significant endeavor. I don't have to tell you all
15 with who were involved with it, that it was such,
16 and we appreciate your job that you've done. It's
17 generally well written and well organized as much
18 as 200 mile long 11 fill development project that
19 could be. And certainly it was a huge endeavor,
20 just organized with that document. And so we do
21 plain to provide written comments to follow these
22 with both general and specific with comments and
23 suggestions that brief, to improve the final DEIS.
24 But thank you, we appreciate the had work that's
25 gone into that document, and we've continue to

1 review it and to find new things under each rock
2 and stone that we turned over.

3 So, first of all, the US Fish &
4 Wildlife Service is a bureau department of interior
5 participated as fully as we could in the
6 relicensing process, the traditional process as
7 well as much of the enhanced and additional work
8 that Duke Energy involved stakeholders in the
9 basin. And so we're pleased that, because this is
10 a big basin and a lot of interest that -- that
11 there was a great deal of involvement of the
12 public, and we have tried to listen carefully to
13 all of that, as well as to voice ideas and
14 recommendations from our perspective who was in the
15 Department of Interior.

16 The -- And in saying that, we don't
17 put off the island, but the US Fish & Wildlife
18 Service and Department of Interior chose not to
19 sign the Comprehensive Relicensing Agreement with
20 Duke Energy and other parties.

21 There are many items in the CRA
22 that, that are contained there that we agree with.

23 Go over a couple of items in terms
24 of our statutory responsibilities, the Fish &
25 Wildlife Service has received the Commission's

1 request for endangered species consultation, and we
2 will be responding to that within the statutory
3 time frames.

4 We also will be doing some
5 additional information gathering and site visits as
6 we prepare those, that response.

7 As Mark mentioned earlier, Fish &
8 Wildlife Service have entered into agreement, not
9 the CRA, but another agreement with Duke Energy
10 Carolinas and some other agencies and public
11 utilities for that and the fish restoration in the
12 CNT basin. That's bigger than that the cog water
13 related project.

14 A copy of this, this agreement has
15 been filed for the Commission's information. I did
16 that last, last June, as a reference document.
17 Consistent with that CNT form that we signed and
18 consistent with the diagnosis fish restoration plan
19 for the CNT basin that was developed back in 2001.
20 Fish & Wildlife Service filed preliminary spread
21 sheets for fish ways under Section 18 of the
22 Federal Power Act.

23 We also plan to file final
24 prescriptions within the statutory time frames for
25 this license. Those final Fish ways prescriptions

1 will be in fact similar to if not identical to the
2 preliminary prescriptions that were filed different
3 cover sheet.

4 Those fishery prescriptions, both
5 preliminary and what you'll see is the final fish
6 way prescriptions are primarily designed for
7 passage and restoration of diagnus fishes, focus
8 primarily on American Eagles, American Blue black
9 and facilities and measures and fish way generally
10 to provide access to habitats.

11 And one diagnus fish discussed in
12 the accord in the CNT basin plan shortly sturgeon,
13 we do not plan to describe for that species at this
14 time.

15 At any rate, I guess I can pause
16 there and we would probably come back with some
17 ideas later if given an opportunity. And as I said
18 before, we'll be providing written comments, soon,
19 both in general and specific nature. Again, Thank
20 you.

21 MR. MURPHY: One other fish add on
22 Section 118 was Atlantic Sturgeon -- are you
23 welcoming them with a short notes?

24 MR. CANTRELL: We do not have plans
25 to prescribe for short notes for Sturgeon or

1 Atlantic Sturgeon at this time.

2 MR. MURPHY: Thank you, Mark. Who's
3 next on the list?

4 DICK CHRISTE

5 MR. CHRISTE: Good morning. My name
6 is Dick Christe and I'm with -- I work with South
7 Carolina Department of Natural Resources. And we
8 also participated in the process. I guess I've
9 been participants for, seems like the last 15 years
10 or so, but I don't think it's been quite that long,
11 but it's been quite a while.

12 We reviewed the DEIS plan to provide
13 you with some written comments, but wanted to touch
14 on some general things this morning. I'll just
15 kind of go through those sequentially. I'm
16 focused, at this point in time, mainly on Section
17 5, and I guess we had a few, some comments, some
18 questions, and a correction or two, maybe. I guess
19 one of our questions is clarification, but we
20 pointed out a few things for -- I'd like to point
21 out a few things that are in first -- three pages
22 or so, which are basically the environmental
23 measures that were proposed by Duke Energy and
24 recommended by the FERC. These were pretty well
25 all described in the CRA.

1 One, on Page 4, 144, the CRA
2 proposed three year intervals to conduct muscles,
3 rather than five years that were made --described
4 in the DEIS. And I don't -- At this point I'm not
5 commenting pro or con, just pointing out
6 inconsistency maybe in, at least what we -- between
7 the CRA and the DEIS.

8 Page 446, one -- there's a section
9 there that discusses implementing the recreation
10 flows. And we agreed with everything in there with
11 one exception of DEIS called for implementing the
12 direct flows at Great Falls within 60 days of the
13 issuing the license, and that might be, we think
14 that might be pretty difficult to accomplish,
15 'cause there's a question about how that order will
16 be delivered down there.

17 For the test that was delivered, one
18 -- test recreation runs, but that's probably not
19 the way it's gonna be delivered on a permanent
20 basis, so it may take a little more time there.
21 And that, again, I'm not really commenting pro or
22 con but our initial thinking is it probably gonna
23 to need some more time there.

24 Page 446 on the land use, let me
25 see, the DEIS is recommending that the project

1 boundary be extended, including land protected with
2 permanent conservation easements. And, of course
3 the purpose of the conservation easements are to
4 provide protection with necessarily requiring
5 purchase of the property. So, you know, the
6 conservation easement of probably a less costly
7 means of providing that protection, an they like
8 it, you know, it's something that should be
9 considered.

10 And in that same bullet, and this
11 could be a misunderstanding on our part, but I
12 think that even the DEIS says that there were 6.6
13 miles of shore line that are proposed for
14 protection, and we come up with 5.5 miles. If the
15 30 year license or anything less than 50 year
16 license is issued, but under the CRA an additional
17 5.5 miles was proposed if a 50 year license was
18 issued. So that would be 11 miles total, but, and,
19 you know, we we're willing to check those numbers,
20 too. All this can get confusing, but just trying
21 to make sure we're all on the same page.

22 Let's see, we have some additional
23 measures recommended by staff, which kind of
24 discussed on page 447 through 448. I had some
25 questions about the ramping for recreation flows.

1 Some -- It's addressed a number of
2 times in the DEIS and, and I have -- I don't know
3 if I have all these pages noted, but, I think on
4 page 458 it says evaluate and potentially implement
5 ramping for recreation flows. Again, and other
6 places in the DEIS it says evaluate and implement,
7 and I think in other places it might just say
8 "implement." So, you know, the question there is
9 the intent to evaluate these things with the idea
10 that they may be implemented or it's the intent be
11 implemented. And we appreciate some clarification
12 on that.

13 Let's see. The page 450, there's a
14 section there that address Terrestrial Resources
15 and the management of vegetation on private lands.
16 And we're not real clear on this. It sort of seems
17 like you're recommending in the DEIS that Duke take
18 on the role of -- in South Carolina at least, it
19 would be clinch an extension.

20 In terms of preparing brochures and
21 possibly making riverside recommendations to
22 address some of the vegetation that -- my
23 understanding is there's not even in the project
24 boundary. And, you know, I'm -- I guess just
25 thinking out loud, wondering if there would not be

1 another way to address that, in fact I've reviewed
2 the shoreline management plan, and we actually have
3 some website links that would send folks to other
4 sources of information, and that was one of the
5 things I was gonna suggest, changes not included.
6 I brought some information I'll give you that would
7 be a link to their web page -- potential edition to
8 that list maybe, but, you know, I guess the
9 philosophical question is, we're dealing with and
10 trying to answer is, should Duke be in the role of
11 developing informational brochures and potentially
12 making riverside recommendation on property that's
13 outside the project boundary. I mean that's the
14 fundamental question we're trying to address and
15 we're trying to figure out if that's actually what
16 you're asking, so.

17 Page 456, there's a concern that
18 there is only four formal wildlife union areas.
19 Now, I've -- I know from tramping around down in
20 that area that there's a lot of places in the
21 project, I think I can say in North Carolina as
22 well as South Carolina, but certainly in South
23 Carolina where people can go and observe wildlife.
24 Virtually any of the boat ramps, any of the state
25 parks, just numbers of places. I've done it many

1 times myself. I think there are only four areas
2 designated as wildlife union areas, but I'm
3 wondering if the concern in that bullet is if there
4 aren't enough places to go to observe wildlife or
5 are there places that are available to go not
6 actively marked. And so some clarification on that
7 would be helpful.

8 Page 458. Oh, that's back to the,
9 ah -- that's back to the ramping flows. There were
10 different presentation then maybe page 447. Let's
11 see. Page 461 in your discussion of the -- I think
12 lands for protection. Addressing lands that are
13 both within and outside the project boundary. The
14 DEIS says that not all of the riparian habitat
15 proposed for permanent conservation easement is
16 providing protection.

17 Now some of these lands lie outside
18 the existing project boundary. And I think that's
19 a true statement, but it's also true that Duke
20 Energy does not own all of the riparian lands that
21 are proposed for protection. A lot of those lands
22 are outside the project boundary. So again it goes
23 back to the comment I made earlier regarding the
24 consideration of using conservation easements to
25 protect those lands and whether or not that's

1 adequate protection measure. It certainly has some
2 benefits from pricing perspective and cost
3 perspective.

4 All right. On Page 476, bullet
5 Number 6. It says install and operate a bladder
6 dam is recommended in the revised CRA. We -- I
7 think we would be in full support of that.
8 However, on page 448 it states we recommend that
9 the bladder dam be implemented without regard to
10 the duration of license. Well, those -- you saw it
11 recommended in the revised CRA is a condition again
12 on a 50 year license. And you explain that, part
13 of that I think a minute ago with your economic
14 analyses, but it, you know, appeared to be a
15 conflict in potential, the term of the license when
16 that measure would be installed. So again -- I
17 think you clarified that though.

18 Page 477, Develop a comprehensive
19 plan -- These were Fish & Wildlife recommendations
20 that came under 10-A, and again not saying yea or
21 nea vote or con, just asking questions for
22 clarification.

23 Page 477, Develop a comprehensive
24 plan and preserve and protect lands and special
25 places in and around the project. There was a land

1 committee that spent a considerable amount of time
2 in this process identifying areas for protection.
3 In fact, there's been -- I think you probably know
4 a significant of money already spent to, to Duke
5 just that.

6 Now, I don't remember all the acres
7 figures, but there's three or four thousand acres
8 have been protected. I'm just wondering why --
9 with the measures that had been implemented or
10 proposed to be implemented in the CRA, why that's
11 not adequate protection for those lands and special
12 places.

13 Page 477. You're proposing to
14 require the project boundary, include a minimum of
15 50 foot vegetated riparian buffer. We need some
16 more clarification on that. Our understanding of
17 the project boundary, at least in South Carolina,
18 is that the vast majority of it is in reservoirs
19 where the project boundary is confined to the full
20 pool and to require a 50 foot buffer, based on our
21 understanding, would require the homeowners that
22 own that land to install that buffer or for Duke to
23 acquire that property and install that buffer or
24 something, but, you know, you drive around Lake
25 Wateree or Lake Wiley or Fish and Creek and you see

1 that the development goes right down to the full
2 pool levels. So I'm just wondering in those cases
3 how would a 50 foot buffer be imposed.

4 Now, if we're just talking about the
5 river area, maybe that's, maybe that's the
6 clarification that we need, but that's -- that
7 doesn't say that, so I just was wondering, this is,
8 well, this is more general than that. And let's
9 see.

10 On Page 478. This is -- And this is
11 fairly -- We think this is fairly important. You
12 -- recommending on page 478, you say you do not
13 recommend the implementation of the HIP, which is a
14 high in-flow of protocol.

15 On Page 476, bullet #8 says that you
16 recommend the implementation of the HIP as
17 described in CRA. Well we would agree with that
18 completely. We hope it gets implemented.

19 We think that on Page 478 that maybe
20 there's some confusion between a high in-flow
21 protocol and the wateree flow plain inundation
22 measures, because the high in-flow protocol would
23 primarily apply to Lake Wiley. And there's some
24 discussion on 478 that makes me think that maybe,
25 maybe the HIP is being confused. Well, anyway,

1 we'd --

2 The bottom line is, are you
3 recommending the HIP and not recommending the HIP,
4 and we hope you are, but we seek some clarification
5 on that.

6 One -- another comment, there was no
7 mention -- I saw no mention of the proposed
8 contributions to the Habitat Enhancement Program.
9 There Duke is proposing million dollars in --to
10 contribute to the habitat enhancement program and a
11 million dollars to contribute to a mitigation fund.
12 And one of those comes out of Section 4, water
13 quality and comes out of Section 14, but I didn't,
14 I didn't see either of those picked up as
15 recommendations and was just wondering why they're
16 both in the CRA.

17 And I have a few corrections, you
18 probably thought these already. Page 450, there's
19 a problem with the table numbers. Page 463 had a
20 problem and page 478. On page 450, I think Table
21 131 should be 133, and page 463 Table 130 should be
22 Table 132, on Page 478 Table 131 should be Table
23 133.

24 Pretty minor, this information is
25 there, you just have to go look for it, but any --

1 I think that's it. I appreciate the opportunity to
2 make the comments. Again, we'll follow up with
3 some written comments.

4 AL JAMES

5 AL JAMES: Okay. My name is Al
6 James, I'm with the South Carolina Department Park
7 Recreation and Tourism, working as a manager for
8 outside park. Did want to preempt this a little
9 bit with we just got our formally approved
10 statement on the computer -- Dick Christe was
11 talking. So we're gonna read the statement.

12 Glad you guys know that we do
13 appreciate the opportunity to come out here and
14 talk to you, bring up the issues that we have, and
15 we will be filing full comments before the
16 deadline.

17 If I mess this up it's gone be
18 because I can't read. South Carolina Department of
19 Parks Recreation and Tourism participated in the
20 development of a comprehensive relicensing
21 agreement and is a signatory to it. We can
22 continue to support it in its entirety. We ask
23 FERC to grant the license based on the CRA with no
24 significant changes.

25 FERC accurately encourages licensees

1 and stakeholders to develop -- agreements. The CRA
2 was developed in a comprehensive manner with a
3 tremendous amount of public and stakeholder
4 involvement.

5 In this lengthy process you have
6 review all the issues and developed a comprehensive
7 agreement that was acceptable to all. If FERC
8 insist on significant changes to the CRA that
9 created inconsistent act, all the parties will be
10 effected and the agreement will not stand.

11 There are a number of
12 inconsistencies in the DEIS, a few of which we will
13 point out just for comment. FERC noted that the
14 East waterree recreation areas should be developed
15 by Duke Energy. This recreation area is the
16 Kershaw County Park and -- purchased by the county
17 with the assistance and federal plan and water
18 conservation funds. Project #4501087 which will be
19 protected perpetuity by Section 6-F --
20 requirements. Duke cannot control the property
21 sufficiently for it to be brought into the project
22 boundary. However, the park will be protected by
23 the federal funding it has received. It does not
24 need to be and the project boundary to service
25 public recreation needs of the project.

1 Number 2, ramping for recreational
2 flows for the two storage levels by more than 50
3 percent extra just running the flows. Making it
4 difficult to provide recreational flows on the
5 proposed schedules through flow rates, flow
6 duration and number of days flows.

7 By depleting storage capacities,
8 scheduled flows may be short or curtail completely
9 due to insufficient water supplies. Furthermore,
10 the DEIS suggest ramping flows only on recreational
11 releases but not on any other operational flows.

12 Table 132 regarding recreation areas
13 to be included in the project boundary is unusual
14 in that basin recreation areas already are in the
15 project or proposed to be in the project by the
16 license.

17 FERC pointed out that the lake
18 management zone such as the one at Lake Wateree
19 state recreation area should be included in the
20 project boundary. These are already in the project
21 boundary and there was never any intention or
22 reference in the CRA that these would be taken out
23 of the project boundary.

24 FERC recommends providing the
25 bladder dam improvements regardless if a new

1 license is determined. We support these
2 improvements, but only if FERC grants a 50 year
3 license.

4 The list of consistent plans did not
5 include South Carolina state comprehensive outdoor
6 recreation plan, otherwise known as FERC. The CRA
7 is consistent with both the 2002 SE score and a
8 more recent 2008 SE score. The CRA will provide
9 significant additional recreational access to lake
10 and river areas and protect substantial natural
11 resources.

12 I've got one more. In summary, Duke
13 Energy and the stakeholders and the relicense
14 process, the worked hard to develop the
15 comprehensive agreement. We looked a head for 50
16 years for everything possible and established
17 review and planning processes to figure out if we
18 ought to take -- priorities and programs. We ask
19 FERC to grant the license based on the CRA with no
20 significant changes. Thank you.

21 GERRII JOBSIS

22 GERRIT JOBSIS: Thank you. I'm
23 Gerrit Jobsis, I'm with American Rivers. We did
24 not sign the CRA, and are looking forward to
25 continue through the FERC relicensing process and

1 making improvement that the CRA is not cover.

2 One thing I do want to take off my
3 hat to those who were involved with the drafting of
4 the DEIS. I'm sure it was a major undertaking and
5 quite challenging, especially given all different
6 people that were involved in writing and putting it
7 together.

8 One thing I do want to point out is
9 that American River supports the inclusion of the
10 bladder dam requirement regardless of a license
11 term. We really think that's important for flood
12 protection and also water quality protection of the
13 lake waterree and can be used as a potential method
14 of releasing flows into the waterree bypass.

15 There are some confusion, at least
16 -- with several points that may have been not fully
17 understood by those reviewing it. I'd like to
18 point a few of those out. We're going to be
19 submitting written comments, also that would have
20 more detail.

21 One thing that I think is important,
22 is that Table 2 it lists those as the LIP flows.
23 That actually, those are actually the minimum flows
24 that are agreed to in the CRA, so the LIP flows are
25 a set of flows.

1 Another thing is that throughout the
2 document, there's several places where it
3 references no fisheries ready for environmental
4 analysis flows being consistent with the CRA. They
5 are not. The no fisheries REA flows
6 recommendations and -- recommendations have not
7 changed from their original filing, and they are
8 consistent with ones at American River in the --
9 conservation league I proposed.

10 Another thing on the endangered
11 species act -- federally endangered species, there
12 is some references in there as far as US Fish &
13 Wildlife Service prescribing fish passage, which
14 obviously they have the authority to do that, but
15 you want to make sure that FERC recognizes that.

16 NOAH Fisheries is the agency that
17 has the -- authority over that species, and that
18 the -- that agency may very well be making separate
19 recommendations for Fish & Wildlife Services as far
20 as the recommendations for --

21 There is also in the document a note
22 that stripe bass are not self-sustaining in the
23 waterree river. Stripe bass in the waterree river
24 are apart of the -- stripe bass population about 20
25 percent of stripe bass migrate up the waterree river

1 from the -- Cooper Lake, that's what the Department
2 of Natural Resources studies indicate, and there
3 are a number of stripe bass that are caught at the
4 Lake Wateree Dam recreational basis, and
5 unfortunately -- the abundance of these fish was
6 early 1990's fish killed were about 1300 stripe
7 bass were killed about below the wateree dam in the
8 wateree bypass. So the fishes were abundant than
9 the -- in the wateree river and the dam than the
10 DEIS indicates.

11 Another thing that I wanted to point
12 out is inconsistency in the DEIS as far as the
13 designation of the Linville and Cog River down
14 stream of the Bridgewater Dam. In some places
15 indicated that this is trout water which it is so
16 classified. In other places it indicates that this
17 is not a trout water, and we will give the specific
18 page reference in our written comments on that, but
19 this is designated as the best trout water.

20 Also in a recent letter by the USEPA
21 which is dated March 18th, 2009, clarifies that the
22 dissolved oxygen standard for the Linville Catawba
23 river's down stream of the Bridge Water Dam is at
24 minimum of 6.0 milligrams per liter of dissolved
25 oxygen and not the 4 milligram per liter and a 5

1 milligram per liter referenced in the DEIS. And I
2 have a copy of that letter that I will provide to
3 you today, and will also include it in the written
4 comments.

5 As far as ramping and recreation
6 flows, I'm a bit surprised. American Rivers did
7 make recommendations for ramping to minimize the
8 impacts on aquatic resources from the fluctuated
9 flow -- Our main concern was with the normal hydro
10 operations which are much, have much more frequent
11 and much magnitude of changes resulting from -- of
12 flow changes resulting from those operations, than
13 do the recreation flows which are less frequent and
14 are generally lower in magnitude.

15 We think the FERC should include
16 ramping for normal hydro operations in the final
17 DEIS as part of the operation requirements to
18 minimize the effects on aquatic resources from the
19 sudden changes in flows.

20 Another thing is that the DEIS
21 recognizes trading land for water, essentially
22 allowing land protected in lieu of putting
23 unnecessary flows in the stretches of the Catawba
24 and Wateree rivers. We do not support that, and
25 urge the FERC to look at that again to see if

1 trading upland and terrestrial values or aquatic
2 values is truly a legitimate deal.

3 And that's it, those are my main
4 points I wanted to point out here. Again, I do
5 recognize the tremendous effort that went into
6 putting this together, and obviously those who were
7 not equally involved in the relicensing don't
8 understand all the details -- details of these
9 things from just reviewing a number of documents.
10 We do look forward to providing written comments
11 that will help clarify exactly what, what our
12 understanding of the agreement is and what the new
13 license decision should be. Thank you.

14 MR. MURPHY: Gerrit was last on our
15 list for signing. Does anybody else wish to speak?

16 MR. BLACKBURN: I signed up to
17 speak, but I'm not an agency.

18 MAURICE BLACKBURN

19 MR. BLACKBURN: I'm Maurice
20 Blackburn. I'm with the Carolina Canoe Club. I've
21 been involved in relicensing for the last seven or
22 eight years. First of all -- here right from the
23 start.

24 Representing Carolina Canoe Club
25 Recreation is how -- although I was involved in

1 many other aspects of the relicensing. But my
2 comments relate to recreational flows. The --

3 UNIDENTIFIED PERSON: Ramping.

4 MR. BLACKBURN: Ramping is one of
5 'em, but that's the item on the list. If you look
6 at the tables, I have a list of recreational flows,
7 Table 3 on Page 28 through 31, and also later on
8 pages 274 to 276, they correspond very well to the
9 CRA with one exception. One of the things we
10 negotiated for, in Appendix A, page 7 -- By the
11 way, my comments are in writing and I'll hand them
12 over at the end of the meeting.

13 Appendix A, page 7, Section F, we
14 added an extra 10 hours of recreation to each
15 recreational releases to each section. If you look
16 at Table 3, it's that for all the sections, except
17 Bridgewater. It's missed from Bridgewater.

18 If you look at the listings on Page
19 274 to 276 it was missed completely. However, if
20 you look at page 279 where it talks about the
21 activities of the Annual Flow Meetings, it says, it
22 states then one of the purposes of the meeting is
23 to schedule these 10 hour releases for each of the
24 locations. I don't honestly believe that FERC
25 intended to change it. I think it was something

1 that was accidentally missed, and we requested FERC
2 to look at that and add it into the appropriate
3 places. I'm sure it was no intention to single our
4 Bridgewater, but I -- We'd appreciate it if you
5 would take a look at that and correct it.

6 The subject of "ramping" has already
7 been discussed, and it's referred to many times in
8 the document, and of course the CRA doesn't call
9 for ramping. The effect, as Al mentioned before,
10 it would deplete the water source. We spent a long
11 time working out what these recreational releases
12 should be, and we felt that we came up with a good
13 balance.

14 We considered this recommendation to
15 be rather peculiar. The recreational flows -- are
16 created by releasing water through the turbines.
17 The same way as power is generated through the
18 turbines, and we can't understand what's so magical
19 about recreational releases; that they're going to
20 cause more damage, more potential damage than the
21 power releases.

22 Duke has already done studies to
23 show that there are no serious problems associated
24 with that power releases, so we can't understand
25 why recreation should have been singled out.

1 Even the DEIS in one section says,
2 "However the proposed recreational flows are well
3 within the historic range of operational releases
4 and storm flows and are unlikely to further affect
5 a system which has adapted to river levels
6 fluctuations over the past 70 years."

7 Another page, page 169 suggests that
8 the recreational flow might rise or fall faster
9 than power releases by some mysterious means which
10 is not explained in the document. So we can't
11 understand why that was in there, and we see no
12 justification for the, for the inclusion of the
13 ramping, for recreational releases.

14 One additional point that I don't
15 have in my notes, something that Dick brought up.
16 We fully recognize that the -- that the flow, the
17 recreational flows schedule for the Great Falls
18 area can't possible begin in 60 days after the
19 signing of the license, because of the mechanical
20 changes that have to be made.

21 And on that subject, Duke Power has
22 already begun a partial recreational release. In
23 fact, I got an email from George Callahan this
24 morning saying now that we're in the LIP-1 we would
25 be starting some recreational releases at the end

1 of April and the beginning of May. Thank you.

2 MR. MURPHY: Thank you.

3 H.C. STANNES (MAYOR)

4 MAYOR STANNES: I just have a brief
5 statement that I'd like to read from the town of
6 Great Falls. I am the Mayor of Great Falls. I
7 have been involved with this process since the
8 inception in 2003, and so we -- the Town of Great
9 Falls -- Duke Energy, realizing that the inception
10 of 2003. Am I too close to this? Soon to be seven
11 years and situated on the Catawba River within a
12 couple miles of Lake Wateree we felt we needed a
13 voice and an agreement that would come out of the
14 stakeholder's meetings, a three year old process as
15 you know.

16 Great Falls again is a town because
17 of the power industry and has been apart of that
18 history for the past 100 years.

19 The Town of Great Falls has been
20 working with the Great Falls Home Town Association
21 and other agencies for a number of years, and now
22 to start a hope and jump start the economy of our
23 formal very successful textile town with a nature
24 base tourism initiative.

25 As you know the town is in the

1 tourism, is the Number 1 industry in South Carolina
2 and our location and unique beauty -- of our area
3 leads us to believe that we can draw people to our
4 town and enjoy it.

5 The Comprehensive Relicensing
6 Agreement has given us an opportunity to improve on
7 our plans and reach our goals to put the echo
8 tourism initiative in effect.

9 There are many recreation of tourism
10 based items in the Comprehensive Relicensing
11 Agreement that will possibly affect Great Falls,
12 and we would like to be sure that they will be
13 accomplished.

14 The Draft Environmental Statement
15 has outlined a number of items that will require a
16 substantial amount of funding on the part of Duke
17 Energy. As you know we have a budget and things
18 get added and the money has to come from somewhere.
19 Our concern is that the funding will have to come
20 from the other items in the Comprehensive
21 Relicensing Agreement.

22 We have recently developed a master
23 plan of Great Falls that includes many items in the
24 CRA. And should these items not come to fruition,
25 they will definitely have an economic impact on

1 Great Falls.

2 We are here today to voice this
3 concern and to let you know the negative impact it
4 will have on our town. We ask that you reconsider
5 the additional requirements in the Draft
6 Environmental Impact Statement and consider it from
7 the point of view from Great Falls.

8 One final statement. I have a place
9 on Lake Wateree, I've been there since 1957. We
10 have had two major floods in that area, Hugo and
11 one immediately too long afterwards. My cabin was
12 built 3 foot from the ground. Today we would have
13 to put it 12 foot to meet the requirements of the
14 ordinances.

15 None of these floods did my house
16 get flooded. I realize that the parts have been
17 invited down at the dam, but I just wanted to point
18 out that I have not been flooded yet. Thank you.

19 GLINDA PRICE COLEMAN

20 MS. COLEMAN: Thank you for allowing
21 me to speak today. My name is Glinda Coleman, I'm
22 the Executive Director of The Great Falls Home Town
23 Association.

24 The Great Falls Home Town
25 Association is a non-profit organization (501c3)

1 which has the mission of revitalizing all aspects
2 of Great Falls, South Carolina. We are affiliated
3 with Main Street South Carolina and the National
4 Main Street Program. We have participated as a
5 stakeholder in the Duke Energy relicensing process
6 of the Catawba-Wateree system since it began some
7 six years ago.

8 On behalf of the Board of Directors,
9 I am speaking to you today out of concern about
10 items in the Draft Environmental Impact Statement.
11 Although we are not pointing to any one item in the
12 DEIS, we do have some overall concerns and how it
13 will affect Great Falls.

14 Duke Energy, known early in the 20th
15 Century as Southern Power Company, built one of its
16 first dams and power plants in Great Falls. In
17 fact, the town began because of the work
18 surrounding the building of the dams and power
19 plants. Although there is a rich history in the
20 area that goes back thousands of years to Native
21 American populations, early settlers to the up
22 country of South Carolina, the American Revolution,
23 and many more recent event, the town itself owes
24 its beginnings to the power industry.

25 Textiles became a major industry in

1 the town, and for 80 years it flourished and grew.
2 However, in the mid-1980s, the textile industry
3 closed, and like so many other towns that depended
4 on textiles, Great Falls began to wither.

5 But the people of Great Falls would
6 not let it totally wither and die -- they helped
7 the town survive, and now we are on the threshold
8 of flourishing once again.

9 The Great Falls Home Town
10 Association began nearly eight years ago, working
11 with the Town of Great Falls to develop a Nature
12 Based Tourism Initiative that will pump life back
13 into the economy of the community. Situated
14 directly on the river with many natural and
15 unspoiled areas, eco-tourism is a perfect fit to
16 stimulate our economy.

17 The relicensing process with Duke
18 Energy became an opportunity to meet some of the
19 goals that we have and we have worked tirelessly to
20 bring about an agreement that would benefit our
21 community and many communities up and down the
22 system. For example, recreational releases in the
23 Great Falls Bypassed Beaches are the basis of some
24 of our tourism plans. In the Comprehensive
25 Relicensing Agreement, CRA, there are funds set

1 aside for additional amenities to establish a state
2 park on the islands in the Cedar Creek Reservoir.
3 There are canoe and kayak landings and fishing area
4 that will help us in our quest for a stable
5 economic future for the area.

6 Our concern is that meeting the
7 requirement recommended in the DEIS that are in
8 addition to the CRA will take resources from other
9 parts of the CRA and some of the items that we area
10 relying on to help our nature-based tourism
11 initiative succeed will not come to fruition.

12 We look at it this way: The funding
13 to met the additional requirements recommended in
14 the DEIS has to come from somewhere, and the more
15 that is required, the more threatened our portion
16 of the CRA will be. All parties that signed the
17 CRA are in this situation. We ask that you look
18 again at these proposed requirements from the point
19 of view that it will have an economic impact on
20 towns like Great Falls. We do not feel that a New
21 License that inadvertently reduces benefits to
22 stakeholders is in the best overall interest of the
23 Catawba-Wateree Basin. Thank you.

24 JEFF LINEBERGER

25 JEFF LINEBERGER: Jeff Berger,

1 Director of Hydro Licensing for Duke Energy. Just
2 wanted to thank the parties to the relicensing
3 agreement. Thank everybody for coming here,
4 particularly the parties to the CRA for being here
5 and sending up that agreement that we worked so
6 hard to put together and that Duke is all try to
7 implement right now.

8 I'm not going to -- Duke has a
9 number of comments on the DEIS and I'm not going to
10 go through all of those. I'm also not going to
11 touch on comments that other folks have already
12 spoken to. There are two though that I would like
13 to bring up. One is the requirement that's
14 proposed in the DEIS to require Duke to average the
15 normal target elevations on an annual basis. Those
16 normal target elevation were put in the relicensing
17 agreement as a goal. That is something that Duke
18 will be endeavored in good faith to get back to all
19 the time. The problem is with putting it in as an
20 annual average, as a license requirement, then Duke
21 will do what it does with all other license
22 requirements. We absolutely did everything we can
23 to meet that requirement.

24 Whether the requirement causes
25 negative impacts to the comprehensive use of the

1 waterway or not is immaterial. Once it becomes a
2 license compliance requirement on us, we will do
3 what the license requires us to do.

4 And I'm not sure that in the
5 analysis of what was provided that full
6 understanding of how this integrated project works.
7 This project is a reservoir -- all of 'em are
8 multi-user reservoirs that are trying to provide a
9 lot of benefits for the public. Duke does that
10 through its prudent management of the water that's
11 available at the time.

12 If we also have to meet a average,
13 annual average on normal target lake elevations,
14 it'll require us to do some things that don't make
15 sense. Such as the way we operate now, if we're
16 going into a dry period, and we know dry periods
17 when we see 'em, we've been operating the same for
18 a 100 years. If we start seeing the stream flows
19 falling away, what we do is we start cutting back
20 on our hydro generation. That makes sense, for the
21 reason we do that. When we cut back on our hydro
22 generation, that tends to allow more water to stay
23 in the reservoirs, which makes the reservoir levels
24 get a little bit higher. We may do that when we
25 see a drought coming to try to avoid going into the

1 loading protocol for as long as we can, because
2 once we get in that, there are real specific
3 impacts on lots of interest to this project.
4 Recreational interest, they get impacted at Stage
5 1, they get completely cut out the recreational
6 flows to the Stage 2.

7 There are folks that go around the
8 reservoirs that like to recreate on the lake, like
9 to see the lake as normal target elevation, but if
10 we have to deviate from that, it has impacts on
11 their interest.

12 So let's say we were going into a
13 four month long dry period. We're not quite to the
14 stage that we would need to go into the LIP, but
15 Duke's practice would be to cut backs on hydro
16 generation and allow the lake levels to be a little
17 bit higher than target during that period. Keep
18 some extra storage. That's the same way you would
19 do your bank account at your house, if you saw
20 harder times coming. Well, we can be doing that
21 for four month and the dry period will be
22 continuing, but as we got closer to the end of the
23 year, we would have to say, no, we have this
24 license requirement that says we have to average
25 normal target elevation. So guess what we would

1 do. In a short period of time we would kick up our
2 generation, draw the lakes down to a foot below
3 normal target elevation, so by the end of the year
4 we would meet our license requirement. That would
5 not make sense for the region to do that.

6 The requirement, the average normal
7 target seems very arbitrary to us, and it does have
8 real impacts on the interest of the project, if we
9 actually do it. So we definitely request FERC
10 reconsider those impacts.

11 The other issue that really hasn't
12 been spoken to is the economic analysis. And I'm
13 not gonna get into detail on that because I'm still
14 reviewing the details myself. I'm sure you all
15 however reviewed every number, between now and when
16 the comments are due, but the one question I have
17 for FERC is with, with Duke's proposal, basically
18 the CRA, you come up with an annual cost number,
19 and then with the staff's proposal, you take pretty
20 much the CRA and add things to it, but somehow in
21 the process of doing that you figure out a way to
22 save Duke Energy three million dollars a year. So
23 we really need to understand how the economics
24 could be right if you're adding responsibilities
25 but save a substantial amount of money for the

1 license. Thank you.

2 MR. MURPHY: Anyone else want to
3 speak up? I'll give a quick shot to answering a
4 couple of questions. There is a difference between
5 a project boundary and a property line. If you're
6 pulling something into the project boundary, it's
7 because we see a future need for the licensee to be
8 able to be responsible for that area, not
9 necessarily on it. So it's, it's not the same
10 thing, but we're not trying to take peoples'
11 property or it's just -- it's just we're project
12 impacts where project responsibilities lie.

13 With the one that Ms. -- just
14 brought up, we were trying to make something that
15 would be enforceable for our compliance people. If
16 we can work together to figure out a way to come up
17 with something that says something other than
18 goals. We can't enforce a goal, but I'm sure
19 there's a way to do it, and we're just standing
20 apart on those two words. We'll have to pull it
21 together some place.

22 We're not here to break the CRA.
23 We're not here to ruin the waterway, divert flows
24 where they don't need to be, but we do have to come
25 up with a license that means something other than

1 we're projecting a spot to be and we hope we get
2 there.

3 One other point, funds. We can't
4 put a fund in the license, because we can't force
5 you to accept it, we don't have that authority.
6 Yeah, it sounds funny, we wouldn't take money, but
7 we can't say that you would.

8 The state park or the state lease of
9 the lands for historical area, we can't make the
10 state sign the lease, so we can't tell Duke to
11 lease or we can say that looks like a good idea.
12 That's where the stuff ends up in the comprehensive
13 -- cumulative impact section as a benefit pretty
14 much the waterway, but it can't be apart of the
15 license. We don't have authority over you to tell
16 you to take land or what to do with the land if you
17 didn't take it. So that might -- Do you want to
18 talk about the three million?

19 MS. CARTER: Yeah, the \$3,000,000.00
20 difference or discrepancy that appears to be in the
21 economics is because we did not consider funding.
22 What you do with other entity's and the money you
23 give to them, we can't account for that in our
24 economics, so that's why it looks like a
25 \$3,000,000.00 discrepancy.

1 MR. MURPHY: Really we're trying to
2 push your old thing into our square hole and put
3 things in one spot and put things on another which
4 is what's happening, so the economics, you go
5 through the economics, please, give us everything
6 and help us out to come back to a better resolution
7 with that.

8 This is a draft, we do expect
9 comment. We don't expect it to be perfect,
10 especially when we're still on 60 volumes and
11 they're 500 pages.

12 I have never seen a license
13 application with this much information available
14 for the analysis and the decision making. I've
15 seen other licenses with much smaller projects and
16 up with a 700, 800, 2000 page DEIS. If anyone
17 deserved it, it might be this one, but with the
18 amount of work that you all put in, it wasn't
19 necessary. We could pull it down to this size. We
20 almost expect the size to double it if the comments
21 is standard. I hope it doesn't, but we'll see
22 where it goes.

23 Does anybody have any other
24 questions, have I raised anything for anyone that?
25 Mark, you look?

1 MR. CANTRELL: I was just going to
2 ask if you could speak to -- I know you gave us a
3 couple, three extra days to get comments in and you
4 mentioned that you didn't want to scoop and breath
5 of those comments if it might extend the length of
6 the document in filing the DEIS. Could you speak
7 in more detail terms than the schedule laid out in
8 the Draft DEIS about your expectations or getting
9 out a final DEIS and a license.

10 MR. MURPHY: Those schedule is
11 pretty much the schedule at this point. We don't
12 have any wiggle room in there. I took a lot of the
13 blame start the whole process for the fish license,
14 and where we are is we need everybody's comments as
15 fast as possible, and as soon as stuff is -- work
16 on it, we can't delay anything.

17 MR. CANTRELL: But that report.

18 MR. MURPHY: Yeah, I'm not
19 complaining that you guys finish the report, don't
20 get me wrong, but then again we can't issue a
21 license until we have a 401 -- South Carolina. I
22 hope that that gets worked out. I don't know how
23 they could not have enough information. We're
24 waiting. We're waiting for everybody's stuff to
25 come in, the sooner the better you get it to us. I

1 can understand, that's why it's three more days on
2 the end -- other things that you might find, but
3 this is a two way meeting here, and I do have time
4 for questions. This is better than last night.
5 Are there any other agencies that came today? I
6 have the room till 4:00.

7 JEFF LINEBERGER: Just a question
8 again. Question again about the requirement normal
9 target elevations didn't show up in the license.
10 There are other projects that don't have 'em.
11 There are others that are proposing new licenses at
12 the same time as us that aren't proposing. My
13 question is: Why is it mandatory for this project.
14 It seems to have a measurable, normal target
15 elevation requirement in its license. That's
16 something that is perplexing to me, and it is gonna
17 cost us some significant problems operating this
18 project, one of which I explained the opposite of
19 that scenario I talked about where you have more
20 water coming in than normal -- would work the same
21 way. We -- to manage the flood risk, we may for a
22 period of time need to operate the lake levels
23 below the normal target elevation.

24 Yeah like 2003 where we had
25 basically one and a half times the normal years

1 worth of rain fall is a good example of that. But
2 you may get to a point in a year because you've
3 been below normal target elevations. You have to
4 say, well, I got to average out at the end of the
5 year, so I'm gonna go above it.

6 So I'm just questioning why the need
7 for a normal target elevation as a license
8 requirement, particularly considering our company's
9 history of doing a good faith effort for are we
10 talking rule curves, but we did that on our own
11 without a license requirement, and that certainly
12 has served this region very well for the period of
13 the original license.

14 MARK OAKLEY: I would just -- This
15 is Mark Oakley. I would just add to what Jeff
16 said, that the requirement as it's expressed in the
17 CRA for reservoir monitoring maintaining reservoir
18 elevations is kind of -- that in every good faith
19 requirement is sort of nested in the language with
20 other requirements is, we'll operate between the
21 normal maximum and normal level that we proposed in
22 the interest of the Commission to find a tangible
23 measurable compliance standard for us which
24 certainly makes sense.

25 The part of that I think that

1 applies to us and meets Jeff's needs to have the
2 operating flexibility that we have historically
3 proven to be is the tangible requirement to stay
4 within the maximum normal, minimum normal as being
5 the compliance requirement.

6 The endeavor in good faith is
7 something that we will do as part of our, you know,
8 intent to practice, but I think there is a way
9 within the language that we submitted to find a
10 good compliance requirement.

11 MR. MURPHY: That's all I'm asking
12 for is just room to making this work so that you
13 don't have to disrupt the flow to ruin someone's
14 cabin unnecessarily.

15 All right. Anybody else has
16 anything else to say? Very good. We had to say
17 it's out there. We're waiting for the return of
18 service, the comments so we can start working on
19 repairing our relationships.

20 And I guess we'll see anybody who's
21 coming to the meeting tonight at 7:00. And ya'll
22 get to have a nice long lunch. Thank's for coming.

23

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(At 10:30 a.m. the meeting adjourned)

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C E R T I F I C A T E

I, Terence M. Holmes, a duly
qualified and commissioned notary public within and
for the State of Ohio, do hereby certify that at
the time and place stated herein, and in the
presence of the persons named, I recorded in
stenotypy and tape recorded the proceedings of the
within-captioned matter, and that the foregoing
pages constitute a true, correct and complete
transcript of the said proceedings.

My Commission Expires: _____
Terence M. Holmes
July 28, 2012 Notary Public - State of Ohio