

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

BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

- - - - -x
HOGANSBURG HYDROELECTRIC PROJECT : Docket Number
: P-7518-012
- - - - -x

Wolfclan 37 Hotel
1450 State Route 47
Hogansburg, NY 13655

Tuesday, December 14, 2010

The above-entitled matter came on for scoping
meeting, pursuant to notice, at 1:20 p.m., John Mudre,
moderator.

1 PROCEEDINGS

2 MR. MUDRE: Let's go ahead and get our meeting
3 started.

4 I want to welcome everybody to our scoping
5 meeting for the Hogansburg Hydroelectric Project, and for
6 taking time out to brave the elements and come here and
7 participate in the licensing process.

8 My name is John Mudre and I'm with the Federal
9 Energy Regulatory Commission. I'm the project coordinator
10 for this relicensing for the Commission.

11 With me here today we have three other members of
12 our team: Brandy Sangruet, who is doing terrestrial
13 resources. Allison Connor is going to be handling the
14 cultural resources and recreation. And Tyler Mansholt is
15 with the Office of General Counsel. He's on the tenth
16 floor; the rest of us are on the sixth floor.

17 We also have an engineer who's not here today
18 that will be looking at the engineering and developmental
19 resources sections of things.

20 So again, thanks for coming. And we'll get
21 started.

22 (Pause.)

23 MR. MUDRE: Okay. Just a little brief
24 introduction. Some of you probably know this, and to some
25 it's new.

1 The Federal Energy Regulatory Commission is an
2 independent regulatory agency within the Department of
3 Energy. It's a five-member Commission that's appointed by
4 the President and confirmed by the Senate. And the Chairman
5 is designated by the President.

6 In addition to hydropower, FERC also regulates
7 electric power, transmission rates, natural gas, oil
8 pipelines and, like I said, hydroelectric projects.

9 Our hydro power program is within the Office of
10 Energy Projects. And there's really three components to it.
11 There's the licensing component, which is us. And we do the
12 issuing the licenses and re-licenses. We also have a very
13 active dam safety division that makes sure that all the dams
14 are operated, you know, consistent with stringent public
15 safety regards.

16 And we also have an administration and compliance
17 division. And they're the people that make sure, once we
18 issue a license, that the licensees actually follow the
19 terms of the license and operate the project consistent with
20 the license.

21 We've had three licensing processes in about the
22 last 15 years. This is our newest one, the integrated
23 licensing process. We also have what is known as the
24 traditional process and the alternative licensing process.
25 We use them, all three, but this is now the default process.

1 And this is the process that Brookfield has chosen to use
2 with this particular re-licensing.

3 This was designed to sort of facilitate the
4 process or better organize things. We now issue -- we do
5 scoping up front now, whereas under the other two processes
6 we waited until their licensing application came in. The
7 idea was that it's better to identify these issues early and
8 have people agree on, you know, what studies need to be done
9 and how they should be done. And it also contains
10 established time frames for different parts of the
11 proceeding.

12 Okay. So today we are here to, one, to identify
13 the potential environmental effects, issues, concerns, and
14 opportunities associated with the re-licensing of this
15 project, and also alternatives to the proposed project. And
16 to identify information and study needs that will ultimately
17 be used to develop operational and environmental
18 recommendations.

19 So what are we going to talk about? We're going
20 to talk about the existing conditions at the project,
21 resource management objectives, get a good feel for what
22 existing information is out there, and especially stuff
23 that's out there that we don't know about.

24 Study needs, what people think the needs are for
25 studies. The process plan, which was contained in the

1 applicant's pre-application document -- or PAD. This sort
2 of lays out the schedule and everything for how this
3 proceeds. And also if there are any agencies that want to
4 be cooperators on our NEPA document. So we can talk about
5 that, too.

6 Okay. This is just an overview of the ILP. With
7 two stages pre-filing -- that's before they file their
8 actual license application -- and then post-filing, what
9 happens after they do. So the pre-filing is mostly the
10 licensee's concern, or Applicant's concern, and the post-
11 filing, a lot of that is us driving it, although there is
12 participation by the agency and public during that stage as
13 well.

14 So the Licensee files the notice of intent and
15 PAD. Scoping is conducted, which is what we're doing here
16 today. Study -- and then after this the Applicant develops
17 study plans. Following that, conducts the studies. And
18 after all that is done they put their application together,
19 file it with us. We look it over, make sure everything that
20 needs to be in there, you know, is in there.

21 We will issue this REA notice -- this Ready for
22 Environmental Analysis -- and then we start the preparation
23 of an EA or an EIS. And in this particular instance we
24 think it's going to be an environmental assessment -- or EA.
25 But if it looks like there are more effects than what we

1 know now we could also do an EIS.

2 And then after that the Commission, you know,
3 weighs all the things in the record and issues an order, the
4 license order.

5 So again, the Notice of Intent, PAD, identify and
6 contact potential stakeholders; the licensee gathers
7 available information about the project. They file their
8 notice of intent and the PAD, which again they've already
9 done.

10 Copies are available. I don't know if everyone
11 has a copy. If you don't and you want one, I've got
12 electronic copies. I'm sure if you want a paper, you know,
13 hard copy, we can arrange for that too.

14 Okay. I think we're done with that one.

15 So the purpose of the PAD: bring together all
16 existing relevant and recently available information. It
17 provides the basis for identifying the issues, data gaps,
18 and study needs. And it's sort of structured in the form of
19 a NEPA document because we use it to serve as a foundation
20 for future documents. So it's sort of the, you know, we'll
21 sort of work from that and, you know, when we're starting
22 the EA preparation.

23 Okay. Scoping meetings, like I mentioned before,
24 they're held early, within 90 days of the Notice of Intent
25 and PAD. Again, so we can get an early handle on what some

1 of the issues are and better focus the proceeding.

2 We can refine the process plan to integrate other
3 agency processes and milestones, like 401 certification, you
4 know, and that sort of thing. So, you know, if there are
5 opportunities to adjust things so that one schedule works
6 for both processes, that's something we would be interested
7 in doing.

8 Okay. So the purposes of scoping: to identify
9 significant issues for analysis; identify cumulatively
10 affected resources; identify reasonable alternatives for
11 analysis; and to identify issues and resources that maybe
12 don't require detailed analysis because maybe the project
13 has no possibility of impacting that particular resource.

14 So this is what we want to find out. We want to
15 know what we need to do and what we don't need to do,
16 basically, as time goes on.

17 Okay. So then after the scoping and we hear
18 comments and issues and things like that -- well, let me
19 mention one other thing that, you know, based on what we
20 hear today and comments and stuff we may or may not issue a
21 revised scoping documents afterwards to incorporate the
22 other issues that we have identified. So that's also part
23 of the process.

24 The Applicant prepares a proposed study plan to
25 address the study needs that have been identified. The

1 Applicant meets with other stakeholders, agencies, Tribes,
2 to discuss the studies and, you know, try to resolve some of
3 the issues.

4 Based on that, you know, the Applicant can --
5 will submit a revised study plan to accommodate whatever has
6 been identified or resolved. And then that study plan is
7 submitted to us for approval. And we can modify any of the
8 studies or anything like that if we don't think they meet
9 what is needed.

10 Okay. When the study plans come in we measure
11 them against study request criteria that we've developed.
12 All of the studies must -- and study requests must contain
13 the goals and objectives of the studies, relevant resource
14 management goals, public interest considerations,
15 information existing and the need for other information that
16 isn't existing, how this study relates to the project and
17 how the results would help inform a licensing decision. The
18 study methods and how the methods are consistent with
19 accepted practices. And then study effort, cost and need,
20 if it's an alternative study.

21 Okay. Then after that's approved -- and there is
22 a dispute resolution process that we have. We won't go into
23 that today, but there is one if, you know, there's some
24 stakeholder who thinks we haven't approved the right study
25 or, you know, whatever their concerns are, they can

1 readdress in a dispute resolution process.

2 Okay. So the Applicant conducts studies. They
3 file study reports after each study season for the
4 stakeholder review. And after all the studies are done they
5 prepare their preliminary licensing proposal or a draft
6 license application.

7 Okay. So then, you know, after that they file
8 the application, and the process that I mentioned earlier
9 starts. We would review it, issue an REA notice, do an
10 environmental assessment, and then that's followed by the
11 license order.

12 Again, when we issue the Ready for Environmental
13 Analysis, we ask for comments, recommended conditions from
14 the agencies and Tribes, what they think, you know, should
15 be in the license or what we need to consider in our NEPA
16 analysis. Agencies with mandatory conditioning authority
17 can, you know, file their recommendations and conditions.
18 Again, some of them are mandatory, so they have to be put in
19 the license even if, for whatever reason, FERC might not
20 think it's a good idea, just under the Federal Power Act.

21 For example, we can issue a license without a
22 water quality cert. And whatever's in that is mandatory; we
23 don't have any authority to change any of those conditions.

24 Next.

25 Okay. We do, like I said, we do REA and we make

1 our recommendations to the Commission for their
2 consideration of, you know, whether and under what
3 conditions to issue a new license for the project.

4 The Commission does review the project record and
5 will make a licensing decision based on that record.

6 Okay. So that was the process in general.
7 Specifically in this case by August 11th next year we issue
8 our study plan determination. The first and second year
9 studies, if there is a second year, 2011 and 2012, in that
10 time frame. Their preliminary license proposal or draft
11 application is due in May of 2013. And the license
12 application has to be filed no later than September 30th,
13 2013.

14 Most of these dates -- or all of these dates are
15 contained in the scoping documents. So, you know, don't
16 worry if you don't get everything written down, if you're
17 writing down, because it should all be in the document.

18 One of the things we've started doing recently is
19 requesting that the license application should contain
20 detailed plans for implementing any proposed environmental
21 or other measures. The idea here is to -- and, you know,
22 examples could be water quality monitoring, recreation
23 plans, historic property management plans.

24 And the idea is to ensure that these measures can
25 be implemented in a timely measure and is less work load

1 after the license is issued. So we like to have everything
2 tied up in a nice little package, so that the whole thing
3 can be approved and you don't have a couple of years of
4 developing plans and, you know, commenting back and forth and
5 that. So it's just for efficiency's sake.

6 Okay. So we've introduced FERC Staff. The
7 Applicant is going to next provide a brief description of
8 the project and maybe a status of the proceedings. And at
9 that point we'll just, you know, open it up for agency,
10 public comments, discuss any other issues we want to
11 discuss. And then after this we're going to go over and
12 have a cold site visit and take a look at the project.

13 Is there anything else?

14 (No response.)

15 MR. MUDRE: Okay. Yeah. In SD-1 we identify
16 what we think are the -- our preliminary view of what the
17 issues are. We've divided them into resource categories.
18 And under each category in the scoping document is, you
19 know, one or more issues. I didn't want to repeat them all
20 here, but you can see them in the scoping document.

21 So next slide.

22 These are all of them.

23 Jim, if we can have the next one.

24 Okay. Sign-in sheets are in the back. Most of
25 you I think have signed in. If you haven't, I would

1 appreciate it if you do.

2 You'll notice that we do have a Court Reporter
3 here today. He's recording all of the comments. And the
4 idea here is that we make sure we get everything that people
5 say into the record for the project. So there will be
6 transcripts produced that will, you know, identify who said
7 what and make sure we get it. And that's a good thing.

8 It's sometimes a little cumbersome because of,
9 you know, recording issues. You have to -- you know, we
10 want to know who said what so we have to state our names and
11 all that before we give our comments.

12 And it's even a little more challenging today
13 because one of the Court Reporter's two bags went to
14 Detroit, and so he doesn't have as many mikes as we normally
15 have. We've only got this mike. So what I guess I'm going
16 to request: We can either come up here and speak from where
17 I'm standing or Gaynell can go around the room and, you
18 know, with the mike. We'll see whatever works best.

19 Tonight's meeting will have all the equipment.
20 So we won't have that added hassle.

21 But again, the other good news is we have a
22 formal record of what went on here. If you need copies of
23 it in a hurry, talk to Gaynell. Eventually the transcripts
24 will be on the Commission's website in our e-Library, so you
25 can see them there as well.

1 Next. There's one more slide.

2 Okay. So I mentioned scoping document one.

3 There were copies -- I don't know if there still are -- but
4 there is the schedule for EA preparation in their more
5 detailed one that I went through. The proposed EA outline
6 is in there. We have a list of the comprehensive plans that
7 we think are applicable to this re-licensing.

8 We have the mailing list in there; you might want
9 to check to see if you're on it or if it needs to be changed
10 somehow. Let us know.

11 There's also a copy of the study plan criteria
12 that I went through. And the specific -- project-specific
13 process plan schedule, the one for this project. There was
14 one in the PAD. We made a couple of changes to it because I
15 think some of the dates didn't seem to be quite what we
16 thought they ought to be. So I think these are the ones we
17 want to go with. These conform to the time frames set up in
18 the process.

19 So there were just some minor changes -- dealing
20 with the dispute resolution I think was the main one --
21 changes that we made.

22 And it has instructions on how to comment, where
23 to send your comments. You can do it online; you can do it
24 hard copy.

25 The other thing I'll mention is we have -- I

1 don't know if you've been to our website. I think it's a
2 very useful website. We have the e-Library, which contains
3 all of the documents that have been filed or issued for this
4 proceeding. You go to www.ferc.gov and look for e-Library.

5 You can also do what's called e-Subscribe. You
6 tell them what projects you're interested in by the project
7 number. This one is 7518. You enter that and you
8 automatically get an email any time a document goes in or
9 out for that project so you don't have to, you know, every
10 couple days check and see if anything new comes in. You
11 know, you'll get a notification if something comes in. I
12 find it very handy. We use it ourselves.

13 And I think that's it.

14 If there are any questions I can take them now.
15 If not, we'll let Jim go ahead and give us a project --
16 description of the project, existing and proposed, and take
17 it from there.

18 Any questions?

19 (No response.)

20 MR. MUDRE: Okay. Thank you.

21 MR. GIBSON: Good afternoon. As John said, I'm
22 speaking on behalf of Brookfield Power.

23 We have a couple of other folks from Brookfield
24 here today, if they'd like to introduce themselves.

25 MR. ALEX: Dan Alex. It's good to meet you.

1 MR. GIBSON: Jim Gibson with HDR DTA. And then
2 the folks we have from Brookfield here today.

3 MR. MURPHY: Steve Murphy, the project manager
4 for Brookfield Power.

5 MR. ELMER: Jon Elmer, the General Manager for
6 Brookfield Power.

7 MR. GIBSON: As John said, I'm going to give a
8 brief description of the project. We have a couple of
9 slides that overlap. And in those cases just I'll go
10 through those quickly.

11 First slide please.

12 Here you see two overhead views of the project
13 area. The first slide -- or, excuse me, the first map on
14 the left there shows Hogansburg, the general vicinity, the
15 river, and then you see this little area here. That is
16 where the project is located.

17 This aerial shows the same. You see the Route 37
18 Bridge. You see the power house and then the spillway
19 across the river.

20 Next slide, please.

21 As an overview of the project, the Hogansburg
22 Hydroelectric Project generates 485 kilowatts and is owned
23 by Erie Boulevard Hydro Power, which is a subsidiary of
24 Brookfield Renewable Power. The project began operating in
25 1930. And, as John said, the license expires on September

1 30th, 2015.

2 The principle project facilities -- and we'll see
3 these during the site visit today -- first of all, the
4 spillway. That is the longer section that goes across the
5 river. It is 247 feet long, 11.5 feet high. It's a
6 concrete spillway with a crest elevation of 165.17 feet
7 above mean sea level.

8 You also see places in the document and in this
9 presentation where it's referred to as 165.2 feet. Some of
10 the original license requirements were based off 165.2. So
11 you see both numbers.

12 Adjacent to that spillway -- we talk about river
13 left and river right. So if you look downstream as the
14 river is flowing, we call everything river right on the
15 right side. The left side would be the far side.

16 So on river right relative the spillway is a 34
17 foot long stop-log structure with four stop-log bays. And
18 we'll see a photograph of that in a moment.

19 The powerhouse itself is about 45 feet by 48
20 feet. It's along that right embankment adjacent to the
21 stop-log structure. It has a crane and it has one unit, one
22 hydroelectric unit inside the powerhouse.

23 That generating unit is a vertical propeller
24 unit. It has a maximum hydraulic capacity of 719 cubic feet
25 per second. So that's the maximum amount of water that the

1 unit can pass downriver. And under the current license the
2 project is authorized to generate 485 kilowatts, which is
3 equal to the gates to the unit being fully open at a head of
4 9.6 feet.

5 The reservoir itself -- so that's the area behind
6 the dam -- has a surface area of approximately 19 acres, a
7 maximum storage capacity -- so the entire capacity of the
8 impoundment -- is 112 acre feet. And then the usable
9 storage is 15.2 acre feet. And the 15.2 acre feet comes
10 from those 19 acres. And Erie is able to fluctuate the pond
11 eight tenths of a foot. So that's what comes up to the 15.2
12 acre feet.

13 Next slide, please.

14 Here you see some drawings of the facility. This
15 is the spillway area I was referring to. So that's the
16 longer area across the river. Here's the stop-log bay.
17 Here's where you've got four bays there that can be opened
18 up in order to pass water. And then this is the powerhouse
19 itself at the intake area.

20 Now you see some cross sections: Stop-log area,
21 the four stop-log gates, and some cross-sections of the dam
22 itself.

23 And then these are drawings of the powerhouse.
24 You see both plan view and cross-section view. So you see
25 the turbine inside, the water flowing in this way through

1 the intake. And then you see the turbine inside.

2 Next slide, please.

3 We have some photographs. Knowing that it was
4 going to be snowy here today, we thought this would be
5 beneficial, to show some photos. So we can go through these
6 rather quickly.

7 When we talk about the intake area -- so this is
8 that area right here where the water enters the powerhouse.
9 This is the powerhouse itself. This is standing on the --
10 near the stop-log structure looking back towards river
11 right.

12 Next slide, please.

13 And then we're going to do like a panoramic view
14 of the entire impoundment and tail-race area. So this is
15 moving downstream towards the bridge.

16 Next slide, please.

17 You start seeing the bridge come into play here.
18 You see the boat balls. This was during the summertime.

19 You see directly upstream of the facility. You
20 see the bridge.

21 Next slide, please.

22 And then you see the -- what's starting to become
23 the river left shoreline over here. And then here you see
24 the spillway with water flowing over it.

25 This is starting to look downstream now on the

1 river left side.

2 And this is almost immediately downstream from
3 that area where we're taking the photos. Of interest here
4 is this remnant of a wall. We'll talk about this in a
5 moment. But there is no true bypass reach at this facility
6 because this wall -- because of its deteriorated condition -
7 - allows water to flow directly from the spillway into what
8 would have been the bypass reach area or water flow from the
9 tail-race area into the channel.

10 I think there's one more.

11 Yeah. And this is just the edge of the
12 powerhouse here. Someone did a panoramic view there.

13 General operations. The way the license is
14 written right now is that at the beginning of the onset of
15 the spring runoff the project is operated to maintain a 160
16 cfs minimum flow for the project for fish and wildlife, and
17 in particular for walleye spawning. That minimum flow is
18 maintained until June first or until otherwise approved by
19 the New York State Department of Environmental Conservation
20 and also the USGS -- United States Geological Survey.

21 The minimum tail-race flow then after that point
22 is 20 cfs. And as I noted earlier, the maximum amount of
23 capacity of the unit is roughly 710 cfs. So any additional
24 flow flows over the spillway.

25 The reservoir itself -- once again this is that

1 19 acre area -- the license requires that Brookfield not
2 fluctuate more than eight-tenths of a foot from the crest of
3 the dam. And because of that the normal headwater elevation
4 during normal project operations is that 165.2 feet just
5 above mean sea level.

6 Just additional information here: As I noted,
7 the facility does not have a bypass reach. The facility is
8 equipped with year-round trash-racks with two inch clear
9 spacing. We may have a chance to see it today, but there's
10 a set of trash-racks in front of the intake area which
11 prevents logs and other things from going into the turbine.
12 The space between those bars is two inches.

13 There is a seven foot wide ice sluice that's
14 positioned immediately adjacent and perpendicular to the
15 facility's intake that has a sill elevation of 163.9. So
16 this is 1.3 feet below the spillway crest. So often we talk
17 about providing some means for fish to pass downstream of
18 the facility. This is directly adjacent to the intake area.

19 And one last piece of information: Based on
20 consultation to date there are no federally listed species
21 associated with the project area.

22 I think John's covered this pretty well. Once
23 again, by September 30th, 2013, Erie will be filing a new
24 license application for another 30 to 50 years of operation.
25 And these two slides, it just shows the process in general.

1 I know this is very difficult to read. But if anybody needs
2 a copy of this I'd be happy to provide a copy.

3 The first slide showed those activities that will
4 be happening in the first three years. These will be then
5 what happens after September 30th, 2013.

6 And as John mentioned, there is a process plan.
7 If anybody needs a copy of this, once again it was in the
8 PAD. Just these next three slides show the major steps.

9 Some of the things that have happened to date is
10 the PAD questionnaire was sent out. We received responses.
11 The PAD was sent out to everybody -- that's the Pre-
12 Application Document. And then today we've having the
13 scoping meeting and site visit.

14 And I think the rest of these next two slides we
15 can go through rather quickly based on what John has done.

16 Yes.

17 Just briefly, the Pre-Application Document, once
18 again that was distributed earlier this fall. And this next
19 slide shows the outline for that document. So if anybody
20 has any questions about this please don't hesitate to ask.

21 But as John mentioned, the process plan and the
22 schedules are in Section Three. Additional information
23 about the project is in Section four.

24 Section Five describes the existing environmental
25 resource impacts identified to date. So eventually a

1 license application will be prepared, which is Exhibit E --
2 which contains Exhibit E. And this Section Five is the
3 precursor to that.

4 After that we've listed preliminary issues,
5 project effects and potential study list. The comprehensive
6 plans, as John had mentioned earlier. And then after that
7 just contacts and consultation to date.

8 I think this is very consistent with what John
9 had shown as well. These are the study areas identified to
10 date where additional information may be needed.

11 And for future information, as we said, Steve
12 Murphy for Brookfield Renewable Power is the project manager
13 for the project and this is his contact information.

14 Thank you.

15 MR. MUDRE: Okay. Are there any questions at
16 this point?

17 (No response.)

18 MR. MUDRE: If not, I think what we'll do now is
19 it people want to come up and have any comments on the PAD,
20 on the project, on alternatives, anything identified before
21 as to what we're here to hear and get into the record.

22 I guess normally we have a sign up list for
23 speaking. We don't have that today.

24 Does anyone have any comments they want to share
25 with us at this point?

1 Steve, why don't you come up and let's hear what
2 you have to say.

3 MR. PATCH: My name is Steve Patch. I'm with the
4 U.S. Fish & Wildlife Service.

5 Just a couple of comments: In Section 4.11 of
6 the scoping document it talks about resources that could be
7 cumulatively affected. And there are none identified.

8 And we'd like to mention that fish are
9 cumulatively affected. There are more dams on this river,
10 plus right below this dam we flow into the St. Lawrence.
11 And you have dams both upstream and downstream. So we're
12 looking at species such as eel, sturgeon, walleye, a lot of
13 other species out there could be cumulatively impacted.

14 And the other point I wanted to make is in
15 Section 343, dam decommissioning is not being considered.
16 We think it should be looked at because from our discussions
17 with Brookfield this is a very small project with a limited
18 income and there could be some extensive mitigation measures
19 needed for fish passage. So we are not advocating
20 decommissioning at this point, but we think it should
21 certainly be one of the alternatives looked at. And it may
22 prove to be the best one.

23 And I also note in here that it says:

24 "No party has suggested decommissioning."

25 Well, this is the first opportunity we've had.

1 So we'd like that to at least be looked at as one of the
2 options to consider.

3 MR. MUDRE: Thank you, Steve.

4 Anyone else have some comments? Please come on
5 up.

6 While I'm at it, I'm going to thank the Tribe for
7 the nice showing today in participation. We look forward to
8 working with you in this process.

9 MR. JOCK: Thanks, John.

10 My name is Ken Jock. I'm Environment Division
11 Director for the St. Regis Mohawk Tribe.

12 And I don't actually see it specifically on the
13 scoping issues outlined, but there were a couple of things I
14 wanted to mention that we have concerns with.

15 One of them is maybe to look at ice control and
16 ice impacts from, you know, during the spring breakup. In
17 the past historically there has been some significant
18 buildup of ice, and to the extent where it's actually gone
19 onto the adjacent road, streets. And historically that's
20 happened, so it's worth looking at I think maybe.

21 And then the other thing, an issue that I haven't
22 seen yet is the issue of dam safety. We have had a fatality
23 that I know of at the dam. And recently there has also been
24 a fatality, not directly related but in that area of the
25 river upstream of the dam.

1 And so that's a concern because its right in the
2 middle of town and it's right in the middle of the
3 community. It's used extensively recreationally just
4 because it's a beautiful part of the territory. And so
5 there's some concerns I think we have with safety.

6 Thank you.

7 MR. MUDRE: Anyone else have some comments for
8 us, or concerns?

9 Come on up. Thanks.

10 MR. BLUE CLOUD: My name is Keith Blue Cloud.
11 And I just want to follow up.

12 Steve, after just seeing your name, I finally get
13 to put a face to the name.

14 I want to follow up with what you said and what
15 Ken said.

16 The re-licensing, you know, once it's licensed it
17 won't come up again for another 30 or 50 years. So this is
18 a good opportunity, a good time to consider fish passage or
19 fish ladders and stuff like that. I mean this -- the
20 forefathers of the people that are here were fishermen.
21 They depended on that fish.

22 You know, there's a -- we have to work with the
23 natural resources, you know. I mean that's clean energy;
24 that's good, even though it has a low output of electricity.
25 But cumulatively through the years, you know, that's a lot

1 of electricity that it produces.

2 I guess that's it for now. Thank you.

3 MR. MUDRE: Thank you very much.

4 Who wants to go next?

5 (No response.)

6 MR. MUDRE: Or would anyone like to go next? Let
7 me rephrase that.

8 MR. DAVID: Hi. My name is Tony David, program
9 manager of water resources with the St. Regis Mohawk Tribe
10 Environment Division.

11 I'd just like to start off by seconding what
12 Steve mentioned, that we think project decommissioning
13 should at least be considered. We're not -- we haven't made
14 a determination about that yet either. But I think with --
15 in regards to the cumulative impacts to fish, as Steve
16 mentioned, we owe it to our community members to at least
17 have that considered.

18 Akwesasne has been a fishing community since the
19 beginning. And if this is an opportunity to have measurable
20 improvements for the fishery then, you know, that's
21 something that we should certainly consider.

22 The Tribe collects a lot of water quality data as
23 part of its authority under the Clean Water Act. And we've
24 been -- part of our ten-year water monitoring strategy is to
25 evaluate the feasibility of installing permanently

1 constructed water monitoring stations, similar to how the
2 USGS operates with their water quality monitoring. And it
3 seems that the dam could be a place where this sort of
4 device could be installed, and you'd have easy access and
5 security.

6 And so we would like to have a discussion about
7 whether or not we could deploy some sort of real time water
8 quality monitoring device.

9 Part of the permits describes the need to
10 maintain fish access. And I think I would like to have some
11 clarification as to what fish access means, fishing access
12 means. And also we certainly see the need for improvements
13 with respect to fishing access.

14 The Tribe also has a cultural development
15 strategy. And this is put out by Tribal Council itself.
16 And it lists the area around the project as the destination
17 for an art park, or at least some sort of multi-use park.
18 And looking at the land holdings of the project, it seems
19 that this could be feasible; so one type of site improvement
20 would be to create this park.

21 And also we would certainly like to see the
22 consideration in the construction of a fish ladder. And the
23 Tribe has been actively involved with USGS in rehabilitating
24 sturgeon habitat. And we're certainly concerned about eel
25 habitat. And we would like to have at least a consideration

1 of how a fish ladder could improve the situation for these
2 species, and also the sport fishes that we readily enjoy.

3 And that's all I have.

4 MR. MUDRE: Anyone else? Comments, questions,
5 recommendations?

6 (No response.)

7 MR. MUDRE: If not, I've got a couple of
8 questions. And this is probably as good an opportunity to
9 talk about them or ask about them.

10 I know from what I've been reading that the Tribe
11 has, you know, an environmental department and does a lot of
12 water quality sampling. And I was wondering, is there any
13 fisheries management component to that as well? Or -- I
14 mean like stocking, or do you work with the DEC to do
15 things? Or -- I don't know. Maybe you could come back up
16 here and just give a little more detail into the activities
17 of your Tribe.

18 My understanding is that you have authority for
19 401 conditioning and things like that. And maybe just a
20 brief overview of your Tribe. And maybe everyone else knows
21 this, but I don't. So if you don't mind -- I don't want to
22 put you on the spot, but I'm sure you could handle it.

23 MR. DAVID: Tony David again.

24 Well, I can provide a little bit of a brief
25 history of the environment division. We've been around

1 since roughly 1980 in one form or another. And within the
2 environment division there are several programs, including
3 air quality, my program, water resources, solid waste,
4 natural resource damage assessment, forestry resources, and
5 Superfund oversight, hazardous waste oversight, and stuff
6 like that.

7 So within the Water Resources Program we do water
8 quality monitoring. And we take that authority on from the
9 Clean Water Act. We received treatment in a similar manner
10 as a state to administer the Clean Water Act in 2003.

11 And since then we've had federally enforceable
12 water quality standards and the authority to issue 401 water
13 quality certifications. And we've been doing everything
14 from environmental assessments to writing certifications for
15 NPDES permits, general construction permits.

16 We also do wetlands permitting for 404. And so
17 basically pretty much every aspect of the Clean Water Act
18 that we could take the authority for, we have.

19 Within the Water Resources there's also our
20 fisheries program. And that program is run mostly through
21 competitive grants. And so we seek funds out. We usually
22 partner with any of our agencies like Fish and Wildlife
23 Service or the U.S. Geological Survey, or DEC. And so those
24 projects that we do are not necessarily recurring from year
25 to year to year, but as funding is available.

1 And we've done projects with Atlantic salmon
2 reintroduction into some of the tributaries, which includes
3 the Salmon River, which is just to the east of here, and the
4 St. Regis River. We've done a number of sturgeon habitat,
5 or sturgeon population projects.

6 And just recently through funds -- through the
7 re-licensing of the Robert Moses Saunders Dam -- we have a
8 project to evaluate the presence of threatened and
9 endangered species of fish in the St. Lawrence. And so that
10 project actually was a two-year project. We're doing those
11 population assessments from the Salmon River all the way up
12 to Ogdensburg. So --you know, we have trained staff to
13 handle just about anything, you know, within the water. And
14 we also have a wetlands protection program, also funded
15 through competitive grants.

16 And we have -- the one person who is our wetlands
17 technician, he's working on bio-assessments, oversight of
18 wetlands delineation, and other amphibian projects that pop
19 up here and there concerning like Blandings turtle, snapping
20 turtles and stuff like that.

21 MR. MUDRE: Thank you very much. It sounds like
22 you've done a lot of work, and you probably have a lot of
23 good information. And we want to be sure that, you know, we
24 use it in this proceeding, you know, as appropriate.

25 Anybody else? Questions? Comments? Requests?

1 Yes.

2 MR. GIBSON: Just had a question. We've had
3 three different individuals come up and talk about
4 decommissioning. Can any more information be given as to
5 what decommissioning is envisioned in this case and if
6 there's any initial thoughts about decommissioning studies.

7 MR. MUDRE: Yeah. That's a good point.

8 And again, its part of why we're here is to at
9 least start, you know, the process of figuring out what we
10 need. This could be developed into, you know, an
11 alternative, a decommissioning alternative or a fish passage
12 alternative or something that we can consider, you know,
13 beyond just either re-licensing or not re-licensing.

14 So this is the type of information we have. And
15 if people don't have, you know, it formulated well enough
16 right now to tell us about it, you know, let's talk about it
17 somewhere down the road so we don't overlook it.

18 The other thing I want to mention is that, you
19 know, we're taking comments today, obviously. But the
20 written comment period is still open.

21 And if you think of more comments that you have
22 that you want to submit or if you know someone you think
23 might want to submit some comments, you know, make sure that
24 they know about it or be sure to file any scoping comments
25 by the end of the scoping period. I think that's January

1 28th, I think -- Yeah. The date's in the scoping document.

2 Yes.

3 MR. PATCH: Steve Patch again.

4 Just to respond to Jim, I guess by
5 decommissioning, we're looking at the whole gamut of options
6 out there. It could be as simple as breaching the dam
7 somewhere to let fish through it all the way to complete dam
8 removal. We don't have any specific studies formulated yet.
9 We don't have any specific options available. But it's just
10 something that needs to be on the table.

11 MR. MUDRE: Yeah. Thank you, Steve.

12 You know, I guess, you know, part of that would
13 be, you know, some of the studies, you might have to look at
14 sediment upstream and what would happen to that if, you
15 know, the dam was breached, and, of course, you know, all
16 that type of stuff. So it's-- We encourage you to work
17 together to come up with some alternatives in the needed
18 studies, that sort of thing.

19 Did I see another hand a minute ago?

20 MR. JOCK: I guess it's a question and a request.

21 In looking at the schedule, the second item says
22 initial Tribal consultation meeting. And I don't know that
23 we've had one with FERC. Is that a meeting with FERC on
24 this?

25 MR. MUDRE: Yes, that would be a meeting with

1 FERC.

2 What we did with respect to initiating Tribal
3 consultation, we sent letters out to each of the seven
4 Tribes in New York and followed up those letters with phone
5 calls. And I did this myself.

6 The bottom line was that the other six Tribes I
7 guess respect that this is your territory. And at this time
8 they're not really interested in participating.

9 I've got my notes back there. I don't remember
10 who I talked to with the St. Regis. But -- it might have
11 been Arnold.

12 But anyway, obviously you are interested. You
13 know, we asked if you wanted to set up a meeting and, you
14 know, at that time the answer was no. But if you guys
15 decide that you do want to have a meeting, you know, we're
16 here to -- you know, we'll meet with you. So, you know,
17 figure out -- if you want to do it, we'll do it.

18 MR. JOCK: I would like to request that.

19 MR. MUDRE: Okay. We can talk about that.

20 MR. JOCK: We can do it in writing.

21 MR. MUDRE: Off-line or whatever.

22 MR. JOCK: Yeah.

23 MR. MUDRE: We can talk about it later. But
24 however you think it's best to do it --

25 MR. JOCK: Sure.

1 MR. MUDRE: -- we can do it.

2 MR. JOCK: Okay.

3 MR. MUDRE: All right?

4 MR. JOCK: All right. Thanks.

5 MR. MUDRE: Thank you.

6 Yes.

7 MS. RICHARDSON: This is Alice Richardson, the
8 New York State DEC.

9 I had a question about the project boundary. In
10 the PAD and in the presentation you show the project area,
11 but the boundary is not delineated. Could anybody clarify
12 that at this meeting and, if not, I think it should be
13 addressed fairly early in this process.

14 MR. MUDRE: All right. I'll answer. Jim or
15 someone with Brookfield can correct me if I'm wrong.

16 Yeah, I had a question about that. The existing
17 project boundary, as I understand it, just pretty much
18 follows the outline -- it's very small and it just
19 encompasses the existing structures. And there's not a lot
20 of other lands. That can be changed under a new license.
21 We like to have everything -- ever part of the project
22 that's needed -- that is part of the project needs to be
23 within the project boundary. So if we change the project
24 some it's likely that the boundary would change, too. And
25 we want to make sure that everything necessary for the

1 operation of the project is within the boundary.

2 But right now my understanding is all that's in
3 the boundary is the powerhouse, the dam, and it's pretty --
4 I don't know how many feet below the dam the project goes
5 or, you know, you have the powerhouse. It's not entirely
6 clear, but it doesn't look like there's much land other than
7 what the buildings are sitting on and the dam is sitting on.

8 Is the impoundment included in the boundary up to
9 the 168.2, or -- Jim, do we know that?

10 I think we do know that and it just --

11 (Pause.)

12 MR. MUDRE: The impoundment there or reservoir.

13 Are there Exhibit G type drawings in the ad?

14 They should show the project boundary.

15 MR. GIBSON: Yes. In response to Alice's
16 question, but the current project boundary, like John was
17 describing, hugs very tightly to just the project. That is
18 something that's got to be further looked at during the re-
19 licensing process in terms of the impoundment itself.

20 MR. MUDRE: All right. So if it's appropriate
21 that the project boundary include the reservoir, that's
22 something that can be incorporated into a new license.

23 MR. PATCH: Does the reservoir extend off the
24 reservation territory or not?

25 MR. MUDRE: I guess another way of asking that

1 is: Is any of the project on the reservation. Is that what
2 you're asking?

3 MR. PATCH: Well, we know the main project itself
4 is on the reservation. But does it extend off the
5 reservation. It's an issue of following jurisdiction. We
6 know the Tribe has jurisdiction, but does the State also
7 have jurisdiction or not. It's a complex issue here.

8 MR. MUDRE: Yes. Thank you. And that's one
9 thing that we'll work through as this process goes along.

10 Anyone else?

11 (No response.)

12 MR. MUDRE: Anything that FERC Staff wants to
13 say?

14 (No response.)

15 MR. MUDRE: Any questions? You want to get out
16 in the cold as soon as possible, is that it?

17 (No response.)

18 MR. MUDRE: Anything Brookfield obviously wants
19 to say, too, we'd be interested in hearing.

20 MR. ELMER: Jon Elmer with Brookfield Power.

21 To address Steve Patch's comment with the U.S.
22 Fish & Wildlife, does the project boundary go off the
23 reservation -- does the reservoir go off the reservation,
24 was that your question, Steve?

25 MR. PATCH: Just the impoundment.

1 MR. ELMER: The impoundment?

2 My understanding right now is that the Hogansburg
3 project isn't on Tribal property.

4 And somebody from the Tribe can obviously follow
5 up with that because I know there's a difference of opinion,
6 perhaps, on that topic that's been brought up.

7 So if that addresses your question, Steve, the
8 reservoir I don't believe part of the reservoir, at least as
9 I know it today, does not exist on Tribal property or within
10 the sovereign boundaries of the St. Regis Mohawk Tribe.

11 MR. MUDRE: Thank you.

12 Does anyone want to talk about the boundaries
13 anymore? The Tribe or anyone?

14 MR. DAVID: Well one part of the decision
15 document that was issued to us in 2003 from the Regional
16 Administrator of EPA included a map of the Tribe's Clean
17 Water Act authority and a verbal description, narrative
18 description of the boundaries. And while it does exclude
19 the Hogansburg triangle, it also does include the thread --
20 quote, unquote -- the thread of the St. Regis River, so
21 depending on the area of impacts of the reservoir that may
22 or may not include Tribal jurisdiction. And I happen to
23 think that it probably does include our jurisdiction. And
24 so I think there's going to be a lot of more in-depth
25 analysis into this. So we'll probably be sharing some of

1 these documents.

2 MR. MUDRE: Okay. Thanks. Yeah, I'm sure there
3 will. And I think -- but was Steve's question -- You were
4 wondering whether DEC also had 401 authority for this re-
5 licensing. I guess that was the question that was asked
6 earlier.

7 Right. So that's something to be figured out.

8 UNIDENTIFIED PARTICIPANT (off mike): What was
9 the answer to that question?

10 MR. MUDRE: Well, what I said was -- I mean what
11 she was asking is if DEC also has 401 certification
12 authority for this re-licensing, so you would need two
13 certificates instead of one. And I don't think we have the
14 answer as to whether there are two or one; it's something
15 that's going to need to be figured out as we move forward.

16 Anything else from anyone?

17 (No response.)

18 MR. MUDRE: Okay.

19 Like I said, we do take written comments. Visit
20 our website; there's a lot of good information on there.
21 You can see all the documents in the project record using
22 our e-Library feature. There is the e-Subscription feature
23 I mentioned. If anyone needs any help on how to do that
24 give me a call. My number is on the notices or scoping
25 documents, and I can walk you through that.

1 What else?

2 We are scheduled for a site visit after this
3 meeting. We said three o'clock. On our notice we said meet
4 here at three o'clock to go there. What time do we have?
5 2:20. We can either leave from here to go down there,
6 whoever wants, or if we want to take a little break and
7 reconvene here at three and go down at that time. Either
8 way is fine with me. You want to take a little break and
9 meet back at three, or just head on down there?

10 One vote for just go.

11 UNIDENTIFIED PARTICIPANT: Just go.

12 MR. MUDRE: It sounds like "just go" wins.

13 UNIDENTIFIED PARTICIPANT: Do you think other
14 people are coming?

15 MR. MUDRE: Well, that's what I was -- that's the
16 only concern I had is if someone was just going to show up
17 for the site visit. I don't know. I would guess not. But
18 we do want to respect their opportunity to be able to meet
19 here at the agreed-upon time if they're coming down here
20 from somewhere else to not miss it.

21 UNIDENTIFIED PARTICIPANT: Perhaps if you have
22 one of your staff stay behind and wait.

23 MR. MUDRE: Yeah. That's a possibility.

24 Gaynell?

25 (Laughter.)

1 MR. MUDRE: Do you want to stay, Gaynell, or do
2 you want to go to see it?

3 COURT REPORTER: You mean stay until three, you
4 mean?

5 MR. MUDRE: Yeah.

6 COURT REPORTER: Sure.

7 MR. MUDRE: Okay. And if anyone shows up just
8 tell them to go down the road.

9 COURT REPORTER: Okay.

10 MR. MUDRE: Unless you want to see the dam in
11 nice weather.

12 COURT REPORTER: That's okay. I'll see it
13 summertime.

14 (Laughter.)

15 MR. MUDRE: Okay.

16 Well, then, let's go it that way.

17 COURT REPORTER: I'll see it in the summertime.

18 MR. MUDRE: We'll go now. But if anyone else
19 shows up Gaynell will be here to direct them to the project.

20 And let me again thank everyone for coming. We
21 appreciate your input and look forward to working with you
22 as the proceeding advances.

23 (Whereupon, the scoping meeting in the above-
24 entitled matter was adjourned.)

25

