

A P P E A R A N C E S

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REPRESENTING FERC:

Federal Energy Regulation Commission

888 First Street, NE

Washington, DC 20426

BY:

Steve Kortalia

Bob Easton

1 (The hearing commenced at 6:08 p.m.)

2

3 MR. KORTALIA: Hello. Welcome. Can I have your
4 attention, please? I know some people are going to
5 continue to arrive throughout the meeting probably, but
6 I would like to get started so that we make sure we have
7 enough time for everyone to say what they would like to
8 say this evening. So I think it as important that we
9 get started.

10 Thank you for coming to tonight to our technical
11 meeting for the Pomperaug Hydro Project, which is FERC
12 number 12798. I am Steve Kortalia, I'm a fisheries
13 biologist and a project coordinator for this project. I
14 work in the Division of Hydro Licensing.

15 MR. COOPER: Do you want to step up to the
16 microphone.

17 MR. KORTALIA: Well, I am going to have to deal
18 with my slides here. We came up short on extension
19 cords and thing, so we are trying to make the best of
20 the situation here, so I'll be moving around a lot.

21 As I said, my name is Steve Kartalia, I am the
22 project coordinator. I am in the Division of Hydro
23 Licensing, New England branch. With me tonight is Bob
24 Easton, who stole my name, and he's the chief of the New
25 England Branch. And I will be needing to operate my

1 slides from here.

2 Our objective tonight is to explain the exception
3 process and to discuss and clarify issues and comments
4 and to give you all an opportunity to speak tonight.
5 Because this meeting is being recorded by a court
6 reporter is it very important that we observe a few
7 procedures.

8 First of all, we all need to speak one at a time.
9 We asked for microphones, and we don't have them, so
10 it's even more important that we speak one at a time and
11 be recognized before we speak. When you begin speaking,
12 state your name, and if you are affiliated with a group,
13 please state that. I would also like to point out that
14 oral and written comments are equally considered by the
15 Commission. So, if you would just like to listen
16 tonight and not speak and then file a written comments,
17 you are free to do so. We issued a notice a few days
18 ago indicating that there will be a comment period going
19 until February 17th, so you can file written comments up
20 until then. Any other procedures --

21 MR. NOLAN: Can we speak orally and file written
22 comments?

23 MR. KORTALIA: Yes.

24 MR. EASTON: Identify yourself, please.

25 MR. NOLAN: Paul Nolan.

1 MR. KORTALIA: Yes, you can, you can file oral and
2 written comments, either identical copies of the same
3 comments different comments, so you are not limited to
4 just speaking or just writing.

5 AUDIENCE MEMBER: And where are we sending the
6 comments.

7 MR. KORTALIA: Those will be sent to the Federal
8 Energy Regulatory Commission. It was in our notice.

9 AUDIENCE MEMBER: Okay. All right.

10 MR. EASTON: This is Bob Easton, we can, if, after
11 the meeting, you need some information on how to file,
12 you can come talk to us. We can give you the address
13 and all that.

14 MR. KORTALIA: Okay. Before we discuss the
15 project, the exemption process, I would like to give Mr.
16 Peklo an opportunity to briefly describe his proposed
17 project. I do want to preserve the bulk of the time
18 this evening for questions and comments, statements,
19 information that you might want to submit to us. So Mr.
20 Peklo will first describe his project, then I am going
21 to summarize our understanding of the issues that have
22 been raised so far, tell you what we have in the record
23 and then open it up.

24 So Mr. Peklo, if you want to --

25 MR. PEKLO: Okay. Thanks for coming. It's a good

1 opportunity to give you a heads up as to what I have
2 been planning for a number of years. This is what I
3 call the Pomperaug Hydro Project, and I believe it's a
4 clean energy solution. Okay.

5 This is an old photo of the Curtis Mill's pre-1903,
6 showing, let's see, that's the building I live in which
7 is called the Mill at Pomperaug. This is the main
8 Curtis Mill, which burned down in 1903, both built by
9 Daniel Curtis as part of the Woolen Industry. One of
10 the main industrial centers of Woodbury. This is the
11 Mill at Pomperaug. This is the building that I live in
12 with my wife and son. It was built at the same time.
13 This is an early photo, probably, I would say, 1930's,
14 because of the chimney. The old bridge, which was
15 washed out in the flood.

16 This is another picture, this is probably,
17 actually, a little earlier because the chimney is not
18 there. So this shows you that the Mill at Pomperaug was
19 always an industrial, part of the industrial center of
20 Pomperaug. Historically, Daniel Curtis built it. He,
21 then it was Hemingway Silt, it was a machine shop. It
22 was a number of things. I bought it in 1980 looking
23 something like this. Pretty much abandoned. I bought
24 it from some people who had been running a natural foods
25 wholesaling business. Pretty decrepit condition, no

1 water, no sewer, ready to fall into the river. I bought
2 it for a number of reasons; one, love; second, it was a
3 commercial property, still exists as a commercial
4 property. It had the potential for hydro power, and it
5 needed a lot of work.

6 So, with that in mind, I have been, I bought this
7 in 1980. In 1983, circa, I made an attempt to develop
8 this into a hydro project. It was rejected, and just
9 due to circumstances and lack of momentum, I let that
10 fall by the wayside. Come 19, in the mid, say '08,
11 2008, okay. So I then filed preliminary permit to
12 develop this into a hydro site. I ran a public meeting,
13 hardly anybody came, but in the interim, spoke a number
14 of times to anybody who wanted to listen that I wanted
15 to build this hydro plant.

16 Okay. This is the mill in the main workshop area,
17 currently existing, shows that it is still a viable
18 commercial space. One of the aspects of my buying the
19 property was, I did not buy it and convert it to a
20 residential property to live in it. I bought it as a
21 industrial commercial property, with a ZBA approval to
22 live in it. Big difference. It is still on the
23 Woodbury land maps as a commercial property, and it's
24 taxed accordingly. It is the last vestige of the
25 history of Pomperaug's industrial past.

1 So, now I am going to exactly what I planned, have
2 proposed to do. Location map for the people that are
3 from out of town, this is obviously Connecticut, the
4 little -- that is Woodbury. This is the location map of
5 the part of Woodbury, that is Pomperaug. Areal photo,
6 this is the river, the mill is right there. Sorry
7 these, they didn't reproduce well, but that is basically
8 the project boundary. This shows that project area map.
9 This is Pomperaug Road, this is the river, this is the
10 existing mill, this little shaded area is what's called
11 the project area. I have included the fact that my wife
12 and I own this building lot across the street, and I
13 have suggested that this area, which is outlined here,
14 which exists out of the wetlands and above the
15 floodplain, as a potential area for staging, if needed,
16 meaning to park a truck there or something like that
17 during construction. It is not a long-term situation.

18 Site development plan, okay. Now, we zero it on
19 what is the project area, okay. Bounded by this area.
20 This is Pomperaug Road. This is the river, okay. What
21 we have here is a couple things. We have, you have the
22 dam, we have a gate which exists in bad shape. In the
23 middle of the dam there is another gate, or actually a
24 tunnel, short tunnel, that has a wooden gate on it,
25 which I have opened, which is, apparently it's a little

1 scary, and then there's an existing gate right here that
2 goes, leads to a tunnel under the mill. This shows that
3 there is, there will be a proposed transmission line out
4 of the mill to right here. And what, we can zoom in, I
5 just wanted to give you an overview, to a meter box,
6 from the meter box, the transmission line will go to the
7 pole and then according to CL&P, which it's their call,
8 there will be a transformer either located here, which
9 is where the existing transformer for my mills are. It
10 will be either on this, or it could be on this pole or
11 it could be on the pad somewhere in front of the mill
12 next to the road. It's their call. My responsibility
13 is the transmission line to the connection to the grid.

14 This zooms in a little bit further, gives you a
15 better idea of what is going on here. This is, again,
16 this is the mill. This is the dam, the three existing
17 gates, dotted line indicates the tunnel that goes under,
18 the existing tunnel that goes under the mill into what
19 is an existing turbine pit, which many people were
20 present today at the site visit to see. This little
21 drawing here, shows an elevation of this mill, or this
22 dam. Showing how that, there's a gate, the rock ledge
23 comes down, there is another gate there, there's another
24 gate under the building, shows that the dam is about
25 15 feet high from there, below the water, to the top.

1 The head is calculated about 12 1/2 feet. Numbers are a
2 little flexible, because as the water goes over the, it
3 raises coming down the river, it also raises in the tail
4 race, so that's a very flexible number, and it is
5 important in terms of developing this hydro capacity.

6 Again, so, we see this again on a bigger scale.
7 That this is the transmission line that goes to the
8 meter panel, from there it goes to an existing pole and
9 then it's pretty much CL&P's job to deal with it. This
10 is again, a little bit closer.

11 This is a little more, again, a little bit closer.
12 This is a little more of the guts of the hydro project.
13 Here is, this is the end of the dam, the dotted line
14 here indicates the building, the mill building. This is
15 the tail race, which is the pond that the waterfall
16 falls into. There is an existing concrete gate here,
17 concrete and steel, that needs to be reworked and
18 converted into an acceptable trash rack and entrance
19 with a valve and everything that will lead into a
20 sluiceway, an existing stone tunnel, that will either be
21 upgraded or sleeved with a, most likely, some kind of
22 metal or plastic sleeve to conduct the water from here,
23 down into the turbine pit, which will be constructed out
24 of concrete. It will rise above the existing level of
25 the floor that's above here. The turbine will be placed

1 there, and what's called a draft tube, the water will
2 come in through the turbine and down the draft tube,
3 which will exit out into the tail race.

4 Okay. Now, because of this location, one of the
5 conditions, one of the many conditions and agreements I
6 have agreed to abide by, is that I construct a fish
7 ladder, two fish ladders. Actually, a fish ladder and
8 an eel ladder. The eel ladder is a very simple matter
9 that can be worked out. The fish ladder is a little
10 more labor intensive. It involves trying to get the
11 fish to come up what's a, usually an aluminum, two feet
12 by three feet channel with baffles, and when it is on an
13 incline, you run water down it, it creates turbulence,
14 the fish are attracted to here where the water goes out,
15 which is very similar to where the water comes out of
16 the turbine. And one of the things that I have agreed
17 to do is, as part of this and maintain, in getting the
18 fish ladder to work, is that, there's a certain amount
19 of water that has to be diverted from going through the
20 turbine to the fish ladder. So any water that I divert
21 through the fish ladder is what I would call, lost
22 revenue.

23 Okay. That's what I consider good payback,
24 environmentally sound, and I think the agency's comments
25 would support that. Okay. So, basically the fish come

1 in here, they go up, like an incline, they turn, they go
2 up again to the upper level, which is sort of similar.
3 You can see the turbine pit below, they now have to come
4 up this level, and now they pretty much level out in
5 another little channel that comes along here, and they
6 exit near the trash rack.

7 Now, the trash rack, the intake for the trash rack
8 that goes to the turbine, is very specifically designed
9 and pretty much dictated by Fish and Wildlife, in that,
10 the maximum spacing between, I am sure you have all seen
11 them, you maybe just don't remember, it's like a, it's a
12 big space with lots of bars in it, okay. So the maximum
13 space is three quarters of an inch, and it is big enough
14 that the amount of water, the maximum amount of water
15 that is going to go down and supply the turbines,
16 produces an entrance or a velocity near this, of, I
17 believe it's one and a half cubic feet per second.
18 Okay. So that is low enough, and that is dictated by
19 Fish and Wildlife, to minimize and prevent any fish that
20 would come up here. They are strong enough to come up
21 the ladder and be in this vicinity, or any of the fish
22 in -- it's to minimize them being sucked into the
23 turbine, okay. So that's, I am not the fish ladder
24 expert, this has all been worked in out in the number of
25 years I have consulted with Fish and Wildlife. It is

1 their proposal, and from what I heard today, it is
2 actually a little more stringent than normal for
3 whatever reason, but I have accepted their terms and am
4 willing to cooperate. This is a section which is a cut
5 through of the project showing what the trash rack might
6 look like. It's much bigger than the amount of water
7 that goes through here, because they try to reduce the
8 velocities. It is under water. There is only a little
9 bit of concrete that shows off the top, similar to, a
10 little bit bigger than what is there now. You have a
11 little platform to clean the trash racks, and monitor
12 the gate here. The water goes through here, through the
13 turbine, down and out. On a previous slide, you saw the
14 outside of the mill, this end, this part of the, after
15 the turbine, it's called a draft tube. Yeah, a draft
16 tube, it is under water, the water that comes through
17 here, goes out under the, if you have been at the site,
18 you see there's a big space in the foundation that is
19 not there. That will be closed in to provide the room
20 for the turbine. Okay. So this is underneath the
21 water. The only thing you will actually see is, maybe,
22 a little turbulence in the tail race, which is the water
23 below the dam.

24 Now, you have to understand that the water comes in
25 here, and it goes through a turbine. It's, when it

1 comes out the other end, it is not like a firehose,
2 because it's, the energy is taken out by the turbine.
3 So it's not like, you know, there is obviously
4 turbulence, but you have to envision, say if this pipe
5 the three feet in diameter, you are not looking at three
6 feet of water gushing out. It's, the energy is taken
7 out.

8 This might be a little easier to read for those
9 people, for people, this is just a little sketch I did
10 showing the existing mill. This area here is what I was
11 referring to as the space that is not there now. It
12 leads to the turbine pit that will be closed off. Right
13 there is under water, is where the water comes out. It
14 goes in this trash rack, goes through the, through a
15 pipe into the, inside the mill and out the turbine.
16 Now, if the turbine and the draft tube under water, this
17 is what I might visualize the, as the fish passage
18 structure. This is where the water that is diverted
19 through the fish ladder, down here to create the
20 turbulence and the flow that the fish are attracted to,
21 that, and it's near the turbulence here. So the fish
22 will according to the experts, will find their way here,
23 up the ladder and out this way. Right there. Okay.

24 So that -- let's see. More recently, which has
25 been part of the application, but I find encouraging,

1 and actually another little give back here, I have been
2 in negotiations with Trout Unlimited, and they have
3 approached me to, as a potential place to raise trout
4 fingerlings, which is, I guess are little fish, and the
5 ideal place would be here, somewhere where we could
6 divert a little bit of water through a, some kind of big
7 container, where you put the fingerlings, you feed them,
8 and a number of months later they grow up and you put
9 them back in the river, and helps the ecology of the
10 river. So, that's, I figure that that's an ideal place
11 right there, on top of this fish ladder.

12 Okay. These are just basic statistics, which I
13 standby. As far as I can tell, the dam was constructed
14 about 1835, 15 high, it is 90 feet long, it is granite
15 blocks, it is in really good shape. It is a reverse
16 curve dam. Spillway is pretty much the entire length.
17 The head, which is the distance between the impoundment
18 level and the tail race, is calculated at 12'6", but as
19 I said, that varies a lot because of the flow of the
20 river. Depending if the, if the impoundment goes up a
21 foot, I've kind of calculated, or I have kind of kept
22 notes that it seems that the tail race goes, probably
23 goes up two feet, because the, where the water goes down
24 the stream, is somewhat restrictive. So it's not a, it
25 varies up and down. Pen stock, we have got an existing

1 40 foot, the existing tunnel is about 42 by 50, and
2 whether we upgrade that and use it as it is or sleeve it
3 with a metal or plastic type, that is an engineering
4 question to be determined.

5 The existing dam gates, there are three of them,
6 there's an east gate, there's a center gate, and a west
7 gate, all could use a little work. The impoundment is
8 the area of the pond that is on the, what I would call,
9 the south side of the bridge. It is about 2700 square
10 feet. This is all based on 62.5 square meters, I'll
11 show you a flow duration curve. And that just, in
12 general it describes what is going on around
13 well-drained soils.

14 Okay. The proposal is to use between 10 cubic feet
15 per second and 100 cubic feet per second of the water
16 that comes down the river. I don't think it could be
17 stressed enough that this is what is called a
18 run-of-the-river installation. I do not propose to
19 store and release. The water that comes down the river
20 is, either goes over the waterfall or is diverted
21 through the turbine or the fish ladder, and/or depending
22 on the flow.

23 So there is no change in the impoundment. The
24 impoundment will stay the same. There is no proposal to
25 raise the dam, there is no proposal to put what are

1 called, flashboard's, to raise the, the temporary boards
2 that you put across the dam to raise the head. There
3 is, none of that is in the application. And there is no
4 intent in doing that. The output with this kind, with
5 these kind of numbers, the general output I would
6 propose to generate, eight kilowatts to 76 kilowatts.
7 That kind of number translates into about 300,000
8 kilowatts per year, which by average standards, can
9 provide energy for approximately 30 to 35 normal homes.
10 As I said, 300 kilowatts -- okay.

11 So these just go through here again. I guess I
12 should have gone to this slide next, but this is, says
13 exactly what I said. The average head is 12 1/2 feet,
14 divide that 11.6, meaning there are, there are
15 inefficiencies in going through the pipe and stuff like
16 that.

17 I have done an estimate, I figure there is \$365,000
18 to do this project. It could be more, could be, I doubt
19 it would be less. After engineering and further
20 investigation, that number obviously needs to be firmed
21 up. The possibility that it becomes too expensive is
22 always there, but this is a, what I consider a
23 reasonable estimate to start. Obviously you to
24 construction of the application, obviously the
25 construction schedule is off the wall until we, out of

1 the picture, until this is resolved.

2 This shows the flow duration curve, showing
3 percentage of time. One of the issues is that my
4 proposal, given, this is how much water comes down the
5 river, this is how much time there is, I would, the
6 proposal estimates that I would, could produce energy 95
7 percent of the time, from 100 percent down to maybe
8 10 percent efficiency, or in terms of the amount I am
9 producing. And I, the proposal is to basically use the
10 water that comes down the river is a run-of-the-river,
11 fluctuates, probably 50 percent of the time I would use
12 all the water, either through the turbine or through the
13 fish passage and/or. So, that is basically it.

14 MR. KORTALIA: I know people are eager to speak,
15 and I am going to be quick about my explanation of where
16 we are in the process and summarizing what issues have
17 been identified so far so we can use the rest of the
18 time to receive comments.

19 Andy describes how he developed this proposal.
20 This is a brief overview of the application preparation
21 and review process. The top half of this flow chart has
22 mostly been completed. As Andy pointed out, back in
23 2008, he notified the Commission of his intent to
24 develop an application. He developed a draft
25 application, submitted it, or circulated it among

1 tribes, agencies, held a public meeting in March of 2008
2 and continued to consult over the next couple of years
3 with agencies, conducted studies, gathered information,
4 assembled it and filed an application with us in
5 February of 2011.

6 When we got the application, we noticed it and we
7 solicited additional study requests. We got a couple of
8 study requests from the State of Connecticut DEP and
9 Fish and Wildlife service. We then asked Mr. Peklo for
10 additional information, and to construct an additional
11 study on water quality this past summer. When he filed
12 that, the responses to that additional information
13 request and the water quality data, we issued what's
14 called an REA notice, which stands for Ready for
15 Environmental Analysis, that was November 3rd of 2011.
16 And in response to that, we got about 11 comment letters
17 and quite a few motions to intervene. At that point, we
18 decided we needed to come up here, conduct a site visit
19 and hold this type of a meeting. So we are here in the
20 process.

21 Following this meeting, as I mentioned earlier,
22 there is a comment period until February 17th to file
23 comments, we will review all of the oral and written
24 comments, including any additional information that gets
25 filed with us, and then determine the adequacy of all

1 that to make sure we have what we need to do a thorough
2 environmental assessment. We will then prepare that
3 environmental assessment, issue it and there will be
4 another public comment at this point. And then it will
5 be ready for the Commission decision. And that decision
6 could be to grant Mr. Peklo or deny Mr. Peklo his
7 application for exception.

8 All right. Now, our environmental assessments
9 typically consider these categories of resources. So
10 geology and soil, things like erosion and land
11 disturbance, aquatic resources, water quality flows,
12 impact to fish, terrestrial resources, plants, birds,
13 trees, otters, anything in the terrestrial realm,
14 threatened and endangered species, and we always consult
15 with the Fish and Wildlife Service to make sure we are
16 addressing all the species in the area, recreation, land
17 use, esthetics, cultural and historic resources. Now,
18 in addition to these resources, we always try to
19 identify project-specific issues.

20 And in this case, as I just mentioned our REA
21 notice was issued in November 3rd, November 3rd of last
22 year. We got 11 comment letters and several motions to
23 intervene. We have reviewed those issues, and we've
24 summarized the information that we have, know is
25 available in the record now. And I am now going to,

1 very quickly, go through what we understand to be the
2 issues and the information that we know is available in
3 the record. And after that, and I'll do that as quickly
4 as possible, and then we will open it up to comments and
5 questions from the group here.

6 All right. The first issued raised is, will the
7 project affect river flow or impoundment elevations? As
8 Andy pointed out in his application the proposed mode of
9 operation is run-of-the-river, meaning no store and
10 release, inflow equals outflow, impoundment is at a set
11 level and river flows wouldn't change. Andy is granted
12 an exemption, it will include something called 30C
13 conditions, which are mandatory conditions attached to
14 an exemption, and they can come from the State or the
15 State Fish and Wildlife agency, in this case, the DEP
16 would be the issuing agency, or they could come from
17 Interior, Fish and Wildlife Service. Both DEP and
18 Interior have said they would, they will require
19 run-of-river operation, as well as a monitoring plan to
20 insure that he stays in compliance with run-of-river
21 operation.

22 The next issue category that was raised, issues
23 about the height of the dam, would it be modified either
24 seasonally or permanently. And I'll reiterate that the
25 proposal before us is, to, does not include any

1 modifications to the dam, seasonally with flashboard's
2 or permanently. Under the category of fish and water
3 and fisheries resources.

4 Will the project affect water quality flows or
5 fisheries resources? The information we have available
6 is the baseline pre-operation water quality study that
7 Mr. Peklo did last summer, a 2001 watershed report and
8 multiple fisheries studies from Connecticut DEP that
9 were conducted between 1991 and 2006. Now, the 30C that
10 I mentioned just a minute ago, most of those apply to
11 this category of resources. So, for example, in
12 addition to the run-of-river monitoring plan that would
13 be a mandatory condition of an exemption, Mr. Peklo
14 would also have mandatory 30C conditions requiring him
15 to do a postoperation water quality study, develop a
16 plan to monitor his run-of-river operation and he would
17 be required to build upstream and downstream fish ways
18 in consultation with the State and the Fish and Wildlife
19 Service and an upstream fish way for eels. He would
20 also be required to install, as he mentioned, trash
21 racks with three quarter inch spacing and approach
22 velocities of less than one and a half feet per second,
23 and those measures are designed to keep fish from being
24 impinged or entrained on the track rack, going through
25 the turbines.

1 Some issues were raised, and comments made about,
2 will the project affect wetlands, birds and wildlife,
3 including otters? The sources of information that we
4 have in the record now, are a 2006 plant inventory of
5 the area, a 2007 bird study, the Connecticut DEP natural
6 diversity database, the DEP river otter fact sheet and
7 comments from the River Otter Alliance, filed in
8 response to the REA notice.

9 There were quite a few comments about how the look
10 and sound of the falls at the dam might change. At this
11 time, the information that we have in the record,
12 includes photographs, flow data, some of which we can
13 match up with date stamps on photographs, and
14 observations during today's site visit. We also took
15 some photographs of the dam today. Again, these are
16 summarizing what is in the record now.

17 There were comments and issues raised about, would
18 the project create noise? What we know is that the
19 generator would be sound insulated within the mill. The
20 transformer, which is also another potential source of
21 noise, would be on an existing pole along Pomperaug
22 Road. There are two poles there, and also a pad site
23 that Mr. Peklo mentioned CL&P has suggested as three
24 possible sites for the transformers. They would be
25 sized to accommodate the proposed 76 kilowatt generator.

1 So they wouldn't be any bigger than they would need to
2 be to accommodate that.

3 Another issue is will the project affect fishing,
4 canoeing, kayaking or other recreation access at the
5 site? What we know from the proposal is that Mr. Peklo
6 would allow access to all areas, except the vicinity of
7 the trash rack and gates, for public safety. So he is
8 not proposing to limit access from other areas.

9 Comments were raised about whether the project
10 would affect resources important to the Mashantucket
11 Pequot Tribe. We have consulted with the tribe, we have
12 consulted with the State Historic preservation officer,
13 and we are aware of some of the historic uses of the
14 area. At this point, that is what is in the record, and
15 we may receive additional consultation along the way.

16 The issue has been raised about concern that the
17 project may affect local property values. At this time
18 the only information that we have in the record
19 regarding that issue are the comments in the letters
20 that have been filed recently.

21 Likewise, comments have been raised, the issue of
22 would the project comply with local zoning laws? And
23 again, at this time, what we have available is what is
24 in the comment letters.

25 So, was a brief summary of issues that have been

1 raised, and what we have in the record. And now, the
2 remainder of this evening, which is, thankfully, over
3 two hours, I would like to devote to receiving input
4 before we open it up for comments, I want to just remind
5 everyone of the procedures from earlier. Since we don't
6 have a microphone, it is very important that we speak
7 one at a time.

8 MR. COOPER: People can stand up at the podium, and
9 make their comments.

10 MR. KORTALIA: Okay. That's fine. Also, if people
11 aren't comfortable coming to the front of the room, I am
12 okay with people speaking from where they are standing
13 as long as they speak loudly and everyone else lets them
14 speak. Depending on the number of people speaking, we
15 may have to limit the time, we are going to have to play
16 that by ear. It is important that, you know, I
17 recognize you took the time to come out here tonight, I
18 want to give people a chance to say what they want to
19 say. And I'll remind people that, if you are not
20 comfortable speaking, you can file written comments and
21 both oral and written comments would be equally
22 considered. So, yes, sir. And remember, please state
23 your name and any affiliation before you speak.

24 MR. BERKOWITZ: Jeff Berkowitz, from Woodbury. Can
25 you describe specifically the exemption being requested?

1 MR. KORTALIA: Yes.

2 MR. EASTON: Well, I guess I can answer that. If
3 you, I am not sure exactly what you mean. The exemption
4 is basically, it is a legal or regulatory term. One
5 thing I am not sure if we explained this clearly enough.
6 We work for the Federal Energy Regulatory Commission.
7 The agency regulates various parts of the energy
8 industry. Hydropower the one of those parts. There's
9 existing hydropower projects that are already out there
10 that we regulate, and there is others that are
11 originals, being proposed right now, that are
12 unconstructed. Those come to us in the form of an
13 application. We review them. When Steve refers to, the
14 record, the record is really, it's, we function in a lot
15 of ways like a court, and so the record supports the
16 decision. So everything that you file, that is part of
17 the record. Everything Mr. Peklo has filed is part of
18 the record, and anything we prepare and issue becomes
19 part of the record.

20 In regard to an exemption, an exemption is a type
21 of application that you apply for. Typically, the
22 majority of projects that we deal with are licenses, is
23 what it's called. An exemption from licensing is sort
24 of a regulatory misnomer. It implies that there's no
25 regulatory oversight because you are exempted, that is

1 not what it means. What it means is, you don't need to
2 seek a license. There is some lesser requirements, in
3 terms of what you need to put together in your
4 application, but it's still fairly comprehensive. We
5 still are required to do a full environmental review of
6 it and it still requires a Commission decision at the
7 end of whether the person, the entity is approved to go
8 forward, and if they are approved to go forward and they
9 develop, fully develop the project and become
10 operational, there is continued regulatory oversight
11 from that point forward as long as the project exists.
12 And, in fact, if the project becomes uneconomical for
13 some reason after it's been authorized, there is another
14 process called a surrender, where the project is
15 basically decommissioned, or essentially disassembled
16 and removed, to the extent that that's appropriate.

17 Yes.

18 MR. NOLAN: Paul Nolan. I just wanted to respond,
19 to maybe give a little more background. In 1980 under
20 the Carter Administration, we all had that high gas
21 prices and gas lines, and what they came up with an
22 expedite, for a short term, small hydro's, five
23 megawatts or less. Andy's project is not five megawatts
24 it's 76 kilowatts. They said, if you own all the
25 property, you own the water rights, or you have the

1 easement or lease to do the same, we can try to
2 expedite. This was, again, under the Carter
3 Administration. Bear with me.

4 Environmentally, pretty much all the same issue,
5 the water quality issues, everything is else addressed
6 pretty much the same. When the Federal Energy
7 Regulation Commission talked about section 30C, that
8 comes under these provisions for the exemption from
9 licensing. A lot of people, I have had people say, I am
10 exempt from licensing, I don't need to talk to FERC. I
11 said, no, you need to talk to FERC. You need to get
12 this done straight. But you have, under section 30C,
13 its important for you all to read the terms and
14 conditions from the US Fish and Wildlife and from
15 Connecticut DEP, to read the terms and conditions,
16 because those are mandatory. Andy must do them. It is
17 a little bit difference than licenses. What the Carter
18 Administration says, if you are willing to devote your
19 property, and you own the property, put it into hydro,
20 and you agree to do what is mandatory, you can't even
21 negotiate that. That is it. You have to do the water
22 quality, got to do the min flow, which, in this case
23 it's is not min flow, do the fish passage, do the trash
24 racks, three quarter inch, one and a half feet per
25 second or less is more stringent. Typically it is one

1 inch, two feet per second, those things he must do.
2 Plus it is important for you to read those terms and
3 conditions and understand the term and conditions,
4 understand the terms, understand what run of the river
5 means, so you understand that he also has to do
6 environmental planning, has to file that plan, that plan
7 has to be developed with you, Brian, and with the US
8 Fish and wildlife and has to be approved by the
9 Commission before it is implemented. So you have the
10 Commission doing the oversight.

11 So exemption from --

12 MR. EASTON: Well, let me point I mean, your
13 premise is after it has been authorized.

14 MR. NOLAN: But I am trying to --

15 MR. EASTON: Known of those things are required if
16 the project is not approved.

17 MR. NOLAN: By doing an exemption from licensing,
18 you are not getting a free ride. That is all I wanted
19 to let you know.

20 MR. EASTON: What is that? Yes, thank you. Yes,
21 sir.

22 MR. COOPER: Mr. Chairman, my name is Peter Cooper.
23 I represent two interveners to this proceeding, who are
24 abutting landowners directly downstream. These are
25 Rosemary Giuliano and Anne Delo. I would like to

1 summarize some written comments that we have made, and
2 we have also attached some exhibits to these, and the
3 summary of these comments goes as follows:

4 That an exemption of a small hydroelectric power
5 project from, for licensing is exactly what it says it
6 is. It is an exemption from a licensing analysis which
7 would provide the careful balancing of the energy and
8 environmental impacts associated with the use of a
9 public natural resource, in this case Pomperaug river.

10 While the introduction of the small hydro project,
11 which helps diversify sources of clean energy as an
12 alternative to fossil fuel is to be applauded, it is to
13 be allowed only if it avoids environmental degradation.

14 The FERC exemption process must not undermine the
15 burden of proof on the applicant, and on the reviewing
16 agencies to be sure that the full scope of the
17 environmental impact issues are fully understood, fully
18 protected, and protected on a permanent basis. And with
19 respect the status of the information which has been
20 prepared and presented so far, is insufficient to meet
21 this burden of proof. It is insufficient consistent
22 with public interest in the safe energy supply, and the
23 protection and improvement of environmental quality.

24 The exemption process, and I think others will talk
25 to this, should be used only when it is clear there are

1 essentially no serious adverse impacts to arise.
2 Otherwise, you should go by the licensing procedure.

3 In the presentation that we have submitted with our
4 exhibits, we try to identify what we see as gaps in the
5 necessary information in order to understand the range
6 of the impacts and what we see also as an incompleteness
7 and uncertainty of the claimed results of the outcomes
8 if this were to go forward. Basically, though, we
9 believe that the FERC exemption process is one which
10 does not adequately monitor and correct any deficiencies
11 which might arise during the course of the operational
12 activity, particularly given the mechanism by the
13 exemption process that it goes on a permanent basis. If
14 unpredictable but seriously degrading results were to
15 occur, due to the powers of the FERC, do they have the
16 ability to correct problems after the fact.

17 MR. EASTON: Well, I would actually like to speak
18 to that. Bob Easton. Part of what you are getting at
19 is, I think, a concern --

20 AUDIENCE MEMBER: Part of what you are getting at
21 is a concern, based on what, sort of what we were
22 getting at with the first question which was, exemption
23 does not mean there is no FERC oversight. If the
24 project were approved, we have an entire division,
25 division of hydropower administration and compliance,

1 that oversees all projects, whether they have an
2 exemption or a license. And they are required to comply
3 with the, what we do when we authorize a project is we
4 issue what we call an order. The order has, within it,
5 a list of requirements, in the case of an exemption, the
6 30C conditions that we have talked about, would all be
7 part of that. They have all been written up by the
8 State Fish, and Federal Fish and Wildlife agencies.
9 Those would all become requirements of the order, as
10 well as any other conditions that we would add in that
11 we think are appropriate based on our own analysis and
12 decisions.

13 Those requirements, if Mr. Peklo develops a project
14 and proceeds forward, he would be required to comply
15 with all of those, and there would be FERC oversight,
16 including, we have a division of dam safety and
17 inspections. We also have the Hydropower Administration
18 Compliance Division. Both of those provide oversight
19 during a term of an exemption, which while it does not
20 have a limited term, like a license which is a 30 to
21 50-year term, and exemption goes on in perpetuity until
22 the project is surrendered, there would be oversight by
23 the Commission that entire time, and if there were
24 violations, whether they were environmental concerns,
25 public safety concerns, other issues raised, any

1 environmental impacts identified by the Fish and
2 Wildlife agencies, to the extent that that is brought to
3 the FERC agency, and we are made aware of it, those
4 divisions would get involved and potentially make
5 modifications or requirements to his order. It is not
6 as if, once you are authorized to develop an exemption,
7 FERC walks away and forgets about the project. That
8 regulatory oversight is there in perpetuity. It is no
9 different than it is with a license.

10 MR. COOPER: The point I think I am trying to make
11 is that if the initial analysis is a truly broad
12 analysis, such as would be the case with the licensing
13 procedure, then you have the probability of better
14 protection of potential difficulties should they arise.
15 So that if, if there were to be difficulties, then the
16 environmental impact would have a better chance for
17 being protected. I understand what you just said in
18 terms of the review process, does it, however, really
19 apply equally, whether you have an exemption process or
20 a licensing process. I would submit, better to have
21 better process at the outset, which is the licensing
22 process.

23 MR. EASTON: Well, I think we are going to need to
24 agree to disagree on this. I will say, the
25 environmental assessment that we will do for this, will

1 address the environmental issues that are raised through
2 either written or oral comments filed in the record,
3 that essentially would occur in no different mandatory
4 licensing proceeding than it would through an exemption
5 proceeding. So, if there are environmental issues and
6 concerns that you have about the project, I encourage
7 you to file written comments or oral comments here at
8 the meeting. Or, after we issue our environmental
9 assessment make, file comments in response to that.

10 I apologize, I don't mean to interrupt, but I just
11 felt like that, I wanted to clarify that point, because
12 I think it should be clear that FERC does not walk away.
13 If a project is authorized for an exemption, we do not
14 walk away. There is regulatory oversight on that
15 project.

16 MR. NOLAN: I don't want to interrupt --

17 MR. EASTON: Paul --

18 MR. NOLAN: -- because I read your resume too, and
19 I know your background. But you have to say, the terms,
20 the conditions of the environmental agency have, what we
21 call, reopener clauses.

22 AUDIENCE MEMBER: I believe he is on the podium.

23 MR. EASTON: Paul --

24 MR. NOLAN: Okay. If you are going to talk about
25 terms and conditions, then to be honest, there are

1 reopener's, and reopener's allow the agency to come and
2 do everything that you want. And the EPA is no
3 different. But look at the terms and conditions there
4 is a reopener for the agency to come back.

5 MR. EASTON: Stop, please, Mr. Nolan, please. Let,
6 this is a public meeting. We are hosting this meeting.
7 The point of this meeting is to allow everyone to have
8 an opportunity to speak.

9 MR. KORTALIA: I appreciate if you could proceed
10 and provide enough time left so that we can get to
11 everyone else, because we obviously have a lot of people
12 here with interest in saying something.

13 MR. EASTON: And if you file your written comments,
14 like I said, they are in the record.

15 MR. KORTALIA: Yes. Comments are in the record.

16 MR. COOPER: Obviously this is an issue that does
17 need, I think, more further clarification on the part of
18 all of the people who are here, to see whether they feel
19 comforted by the exemption process as distinct from a
20 licensing process, and whether those do, after the fact,
21 give the same degree of comfort.

22 One of the things that we have done in our
23 presentation is to review two of the previous comments
24 and submissions. These are comments by the Rivers
25 Alliance and the Pomperaug Watershed Coalition, which in

1 their comments, I believe in early December, listed a
2 number of issues that they felt needed further
3 explanation and clarification. As an addendum to the
4 written comments I submitted, I have those points
5 listed, and there are about 12 of them, and they will
6 show you, I believe, fairly vividly that there are
7 significant numbers of issues that they believe need
8 further analysis and explanation. So, I don't think
9 that at this stage one can say that the, there's a pass
10 at all on the lack of environmental impact by those two
11 groups. They are saying there's a huge amount of, in
12 fact, cumulative amount of unknown before they can be
13 satisfied. This is a proposal that would pass
14 environmental muster. I urge that the governmental
15 reviewing agencies proceed in the same way, double
16 checking to be sure that they too, have covered the same
17 issues. That they know whether or not the information
18 is there to resolve it.

19 In my written comments, I go through a number of
20 issues which we feel are the most unknown, the most
21 potentially serious in terms of impact on water quality,
22 particularly even given the so-called compliance with
23 the run-of-the-river proposal, does this, because it
24 involves a considerable change, does this proposal have
25 an impact on the water quality of the pond that is

1 directly south of the dam, directly north of where the
2 interveners I represent are.

3 Particularly, as is shown by the applicant tonight,
4 that the water, which will be not coming over the
5 spillway 50 percent, and other figures that have been
6 given as to increases over that amount, 50 percent of
7 the time, will not come over that spillway. And as he
8 describes the water coming out of the, into the tail
9 race, will be at a volume which is much less than the
10 amount of water that is coming into that pond, will that
11 pond change materially, and what affect would that have
12 upon the water quality of that of that particular area.

13 The applicant's pendency number 36 describes a, the
14 so-called water quality study that was requested. It
15 does show that water that goes over the spill way as a
16 considerable effect, in terms of elevating the levels of
17 dissolved oxygen, particularly that is important in the
18 summer months, and these figures show that that's
19 considerable increase in elevation. Obviously, there is
20 a question, I don't think it's been sufficiently
21 addressed today, is whether there might be a way of
22 insuring required minimum flows over the spillway that
23 would still permit a degree of hydropower. Is there,
24 and is there a number, is there an amount that would
25 come up with that type of solution. That's compromised

1 proposal, it doesn't, does it bear analysis, would that
2 be possible.

3 As far as the natural diversity database studies,
4 those are fairly old studies. Our statements and the
5 information that we have submitted here shows that there
6 are a fair number of more up-to-date, more comprehensive
7 pieces of information that should be looked to in order
8 to get a better feel as to the environmental diversity
9 of this particular area. And I am submitting both the
10 full Connecticut Department of Energy and Environmental
11 Study, the LIP, priority habitat study, together with
12 just one particular part, referring to the bird study,
13 shows an amount of potential diversity here that we
14 believe the Department should be looking at.

15 MR. EASTON: You are going to be filing these in
16 the record with --

17 MR. COOPER: Yes, those are yours. I should have
18 also filed the A2 study of our clients property directly
19 abutting and south of the applicants property.

20 MR. EASTON: Yeah, I just want to clarify, this is
21 Bob Easton again. I just want to clarify I think the
22 point of the meeting, I mean, I realize there is a lot
23 of issues in the neighborhood, the point of the meeting
24 is really to address issues related directly to the
25 project, and I am not, is this, how is this related to

1 the project.

2 MR. COOPER: I think that will go to the question
3 of a number of things. One, it would go to a question
4 of immediacy of impact by water quality changes directly
5 north of the ownership there. And also with information
6 that is going to be reviewed as to ownership, of
7 continued ownership of riparian rights that we will then
8 be submitting to your department. I think the, it is
9 important that the applicant show that he has full
10 riparian rights. We believe that is a question that
11 needs further review, and I didn't think --

12 MR. EASTON: Okay. I got you.

13 MR. COOPER: -- has dealt with that.

14 Finally, because I know others do want to speak, we
15 have attached the criteria that we think would do a far
16 better job at trying to balance the environmental and
17 energy compromises that are necessary here. This is in
18 the low impact Hydro Institutes criteria, we submit
19 those. We urge that they be adopted as part of the
20 review and analysis of this proceeding. Thank you very
21 much.

22 MR. EASTON: Okay. Thank you. Sir? Could you
23 please state your name. We have got a court reporter.

24 MR. ERICKSON: I need a little bit of help. My
25 name is Charles Erickson, I live in Woodbury. Can

1 somebody confirm for me, from my understanding of what
2 the characterization of this project as run-of-the-river
3 means, in practical terms. For instance, does it impose
4 specific restraints on the way and the character of the
5 flow of the river, just help me out with that. What
6 does it really say. It says that we don't interfere in
7 any way with the way the river flows.

8 MR. KORTALIA: It means no water is stored in the
9 impoundment to be released later. That all the water
10 coming down the river either goes over the spillway or
11 through the fish way or through the turbine, but there
12 is no net change in flow equals out flow.

13 MR. ERICKSON: I just needed that clarification.
14 So it refers to the issue of impoundment, and there's a
15 prohibition on that.

16 MR. KORTALIA: Well, it is basically in contrast to
17 store and release or peaking.

18 MR. ERICKSON: All right.

19 MR. KORTALIA: If you have heard those terms.

20 MR. ERICKSON: Yes, I did.

21 MR. KORTALIA: So this is not that. This is
22 whatever comes down, isn't stored, it is used or
23 spilled.

24 MR. ERICKSON: Fine. Then I have a several
25 semi-technical questions about it. Mr. Peklo has

1 identified that there's a range of anticipated operation
2 of the, in terms of output of the generator. How does
3 the control system work on that particular generator.
4 It, who controls it and how is that control imposed, is
5 it a matter of flow, or is it a matter of electronic
6 control, how is that done.

7 MR. PEKLO: Well, it's a, it would be determined
8 by, probably a sensor in the pond that monitors the
9 level of the impoundment, and that would control the
10 electronically, most likely, the flow that is directed,
11 that it would be allowed to be directed to the turbine.
12 As if, in fact, the sensor were to detect the
13 impoundment was going down, it would send a message to,
14 what is normally called wicker gates, to close down and
15 lessen the, lessen the amount of water that is being
16 diverted through the turbine, and vice versa.

17 If we got a rainstorm and the impoundment level
18 went up, the sensor would signal that the wicker gates
19 could open up a bit and maintain a level of the,
20 maintain the level of the impoundment where it's
21 supposed to be.

22 MR. ERICKSON: Is the wicker gate another name for
23 a flow control valve.

24 MR. PEKLO: I don't think so. It's a part of the
25 turbine.

1 MR. ERICKSON: Part of the turbine. Okay. So
2 that's where the flow of the water is contained then, at
3 the turbine.

4 MR. PEKLO: I think --

5 MR. ERICKSON: There is no upstream flow control
6 valve in the sluiceway.

7 MR. PEKLO: Well, there might be a gate at the
8 beginning, that is an engineering question, but the
9 bottom line is, the end result is that if there is a
10 gate there, the combination of the two, if there are
11 two, would monitor, would control the level of the
12 impoundment.

13 MR. ERICKSON: Yes. Okay. So what I understand
14 you to have said is, the rate of output of the generator
15 is a function of the head pressure, is that correct?

16 MR. PEKLO: It's a function of the head pressure
17 and flow. If the, if you have, at any given time, the
18 head will most likely be pretty static for any short
19 period of time, but the, if the flow increases, the wick
20 wicker gate would open up, you would have more water
21 going through the turbine, it would produce a little
22 more energy and exit through the draft tube. And
23 conversely, if the flow rate of the river, meaning the
24 elevation of the impoundment went down, then the wicker
25 gate, or the control valve, would, whatever term you

1 use, the control mechanism would close down and there
2 would be less water diverted through the turbine, less
3 energy produced.

4 MR. ERICKSON: Understood. And I presume there is
5 some sort of flow control travel on the discharge side
6 at the turbine, so that, so that water doesn't flow back
7 in?

8 MR. PEKLO: I have never seen one like that. Why
9 would the water flow back uphill?

10 MR. ERICKSON: It wouldn't flow uphill. If there
11 was no back pressure, if there was no pressure from the
12 turbine, the water would come in through the discharge
13 channel.

14 MR. PEKLO: And just sit there?

15 MR. ERICKSON: It would come back as far as gravity
16 would allow it to.

17 MR. PEKLO: Right.

18 MR. ERICKSON: Yes. Okay. So you don't think that
19 there's going to be a control travel there that would
20 prevent any water from flowing back in, when the turbine
21 is not running, say.

22 MR. PEKLO: I wouldn't say there would be.

23 MR. ERICKSON: Okay. All right. Thank you.

24 MR. KORTALIA: Yes, ma'am.

25 MS. TAYLOR: I have two questions. Sorry. Adele

1 Taylor. I am a resident of Woodbury for about 61 years.
2 My question is, why wouldn't it make more sense for Mr.
3 Peklo to get a license, which has a finite period of
4 time when he would be permitted to do his thing? Why is
5 a license not required and enforcement, or, whatever he
6 is applying for --

7 MR. EASTON: He has applied --

8 MS. TAYLOR: He has applied for an exemption,
9 which, as I understand it, runs in perpetuity, that
10 doesn't make any sense to me. I would rather see Mr.
11 Peklo meet the licensing requirements for a finite
12 period of time, rather than be issued an exemption in
13 perpetuity. And I would like to know what the, why that
14 isn't required in this case.

15 MR. EASTON: Well, as a person that works at a
16 regulatory agency, but doesn't write the federal laws
17 that govern the regulatory agency, I can only say that
18 there are various options for applying for hydropower
19 authorization that have been developed by Congress and
20 signed into law. And one of those is a license, and
21 another option is an exemption from licensing. An
22 exemption has specific standards associated with it, and
23 those, we could go over those. We didn't bring the
24 regulations to go through that with you, but basically
25 it is an existing dam where you are adding capacity, and

1 you need to have the right to develop the project and
2 has to be less than five megawatts. If you qualify for
3 that, you can apply for an exemption. We, as an agency,
4 don't go out and tell people what they can apply for.
5 We tell developers, I say people, but really I mean,
6 sometimes we are dealing with individuals, sometimes we
7 are dealing with corporations. They bring their
8 application, their proposal, they put it together, it's
9 a public process that they do on their own. They bring
10 it to us, we review it as an agency, as a Federal
11 Regulatory Agency, make a determination on that. The
12 Commission makes a determination. Exemptions can be
13 approved or denied, licenses can be approved or denied,
14 the fact that an exemption is issued in perpetuity is
15 just a part of the federal law that exists, that allows
16 those types of authorizations to occur.

17 Is that a clear answer? It's just, it is one of
18 the options this is allowed by federal law.

19 MR. KORTALIA: Way in the back. Start with your
20 name, please.

21 MR. STROMSKI: Gerald Stromski, first selectman of
22 the Town of Woodbury. Just a, first of all, thank you
23 for hosting this, I think it's a good thing that you are
24 doing here.

25 I have a question, I am assuming that Mr. Peklo's

1 proposal is not going to be consuming all this energy,
2 and this will eventually be put back on the grid,
3 rhetorical question, the question being, is there any
4 proposed infrastructure that is going to be needed to
5 put it back? Are we looking at additional telephone
6 lines, are we looking at higher wire or transformers, as
7 far as infrastructure that is coming across the town's
8 right of way. Is there a proposal, or is it necessary
9 to upgrade the infrastructure that comes down that road.

10 MR. EASTON: Well, I can explain that what is in
11 the application, the way it is described in the
12 application that is before us, it says he will consume
13 some of the energy on site, the remaining portion that
14 is produced would be put back into the grid, and the
15 only infrastructure that he's discussed, that is really
16 discussed at all in the record that would be needed in
17 order to make that power, incorporate that power into
18 the grid, would be some potential transformers that
19 would either, there is, I guess three different options
20 that are being considered by the local power company on
21 how they would rig the transformers in order to
22 incorporate that power into the grid. One of them is to
23 install one, a new transformer on a pole right outside
24 his house, and then another one is to put them on a pad,
25 a little bit down the road, and another one is to put up

1 a transformer on another pole across the street and down
2 the road a little bit.

3 MR. STROMSKI: I guess the question, where I am
4 going with this is, if we have a single-phase line
5 currently feeding that neighborhood, are we now looking
6 at high tension wires leaving there, because based on --
7 go ahead.

8 MR. PEKLO: Currently I have a three-phase 208
9 service, and that's the energy I would be producing. So
10 there is no change in infrastructure, and if anybody is
11 interested in seeing, right now, there are three, three
12 transformers on the pole that exist, each one of those
13 is 15 kilowatts. That, so that's 45, okay. Now, they
14 would be upgraded to either 25's or 30's. Now, if you
15 walk around and you look at transformers, a lot of them
16 have numbers, and you will see that a 30-watt, 30
17 kilowatt transformer is not a whole lot bigger than a
18 15. In fact, I, the neighbor down around the corner has
19 a couple 75's, and they are not much bigger either.

20 MR. STROMSKI: Yeah, I understand the transformer
21 thing. I guess my question is, and --

22 MR. PEKLO: As far as the Town --

23 MR. STROMSKI: No, my question is, are we looking
24 to upgrade the wires to carry it out, or is it
25 sufficient --

1 MR. PEKLO: No -- 75 kilowatts isn't, I could be, I
2 could consume 75 kilowatts with my existing service.

3 MR. STROMSKI: So I guess the answer to my question
4 is, there is no necessity to upgrade the facilities
5 coming in and going out with your proposal.

6 MR. PEKLO: No.

7 MR. STROMSKI: Okay. Thank you.

8 MR. KORTALIA: Yes, at the camera?

9 MR. BRENNAN: I have a basic engineering question
10 that maybe an electrical engineer could answer, if
11 there's one here. My name is Tom Brennan. I live on
12 Pomperaug Road. I have an engineering question, if
13 there is any electrical engineers in the audience.

14 Several years ago, before I moved to town, I
15 purchased a standby generator with an automatic transfer
16 switch from the Kohler Generator Company. And they
17 sized my home, which was only about 1800 square feet,
18 with not a lot of bells and whistles, pretty modest
19 house. I have a size of 12 kilowatts, and the
20 recommended 15 kilowatts, for a single home. So I am
21 wondering how we get power to 30, 35 homes out of a 76
22 kilowatt generator. Is there anybody who can enlighten
23 me on that, because maybe I am doing the math wrong, but
24 it just doesn't add up to the power of 30 to 35 homes.

25 And when you weigh that against the cost of losing

1 the focal point on one of the towns scenic roads, you
2 really have to ask yourself, is it worth it? That is
3 all.

4 MS. HUGHES: My name is Karen Ruddington Hughes. I
5 am a Woodbury resident and business owner. My question,
6 I guess, has to do with Pomperaug Road has been
7 designated as a scenic road by the Town of Woodbury, and
8 the biggest draw to the scenic road is the waterfall
9 that we are speaking of. Residents, tourists, go to see
10 the waterfall. It is majestic. It is wonderful. It is
11 a beautiful place to photograph, to listen to the sounds
12 of the water. And as I understand it, if the
13 hydroelectric dam is put in, it may cause the waterfall,
14 as we see it, to disappear up to 50 percent of the time.
15 It is hard to imagine that on any given day a view of
16 the falls could be dramatically altered. And this once
17 magnificent site would disappear during that time frame.
18 A tourist, or a visitor seeking to see the falls will be
19 sorely disappointed and confused, at the least.

20 I can only equate that with sending a tourist to
21 see Kent Falls, only for them to see the falls were
22 diverted and that they would have to come back another
23 day and hope that their timing was right.

24 When the Town designated this as a scenic road, it
25 was clearly as a result of the waterfall that exists.

1 Once a road has been designated as scenic by the Town,
2 one would think that the Town would go out of its way to
3 protect the very sight that was instrumental in the
4 designation of the road as, quote, scenic, to begin
5 with.

6 MR. ELWELL: My name is Sean Elwell. I am an
7 immediately adjoining neighbor to this property. I am
8 opposing the project, both on the basis of the process
9 and the, and the proposal itself.

10 My name has been in the paper a couple of times.
11 There has been extensive coverage of this, you probably
12 have heard my name in the paper if you are following it.
13 It may surprise you to know that I am actually not
14 against hydro categorically, I am not even against hydro
15 at this site categorically. I am, I have to concede, at
16 this point, I am not, I am oppositional to Mr. Peklo
17 operating a facility, as a hydro facility at this
18 location, and the proposal that has been made.

19 In his opening proposal, he showed, you know, he
20 referred back to a particular time that was convenient
21 to the argument he is making, which is 1903, you know,
22 that's, sort of, the peak of the industrial revolution.
23 And this town has a great history that goes back much
24 further than that on the, in the western record, and for
25 that much longer before that, we don't even know how far

1 back. It goes back, the record of Woodbury was, is,
2 goes back 350 years plus, and there's the Indian record
3 before that.

4 There has always been a waterfall at that site.
5 Waterfall or rapids. And so he has chosen go back to
6 that particular time. There has been many dams
7 constructed by people over time, and then before that
8 there was just a natural waterfall. So, I don't think
9 there is anything sacred about the year that he chose
10 there. And I think we also have to remember, even
11 though that, you know, the industrial past is part of
12 the great American history, but there was also a lot of
13 bad things that happened. We made a big mess of New
14 England during those years as well. Virtually every
15 spring, medium, small and large, were polluted and
16 messed up, and our environment was really damaged badly.
17 We lost our Bald Eagles, we lost our otters, we lost a
18 hole lot of creatures during that period of time, and I
19 don't think that there is any sacred right to go back to
20 that period of time. I think we did a lot of great
21 things in that period of time, we also learned a lot of
22 lessens. And I just worry about this, this presumption,
23 we must be allowed to go back to that period of time.

24 I would like to just go through a couple of things
25 here. There has been huge confusion in Mr. Peklo's

1 proposal itself about the specifics. And I do know that
2 the terms I am speaking about. One is the dam height.
3 In the proposal that he made, on page 11, right up
4 front, he describes the dam height, not the head height,
5 the dam height as 15 feet. US Fish and Wildlife Kurt
6 Orvis, who is a hydro engineer, came to the site on
7 August 27th, or '07, and actually measured the dam
8 height, not the head height, the dam height. And
9 measured the dam height at 12 1/2 feet. At Mr. Peklo's
10 public meeting in 2008, he describes the dam height, not
11 the head height, as 12 feet. So we have got the
12 measurements of 11 feet, 12, feet and 12 1/2 feet and 15
13 feet. Mr. Peklo prefers the number 15, although I don't
14 know any documented source for that number. The only
15 really good record of the number for the height of the
16 dam is the Kurt Orvis US Fish and Wildlife number, which
17 is 12 1/2 feet. I don't know why he likes that higher
18 number, well I can imagine why he might like the higher
19 number, but it's, I think that is something that needs
20 to be clarified. Exactly what is there and how high it
21 is needs to be considered. Clearly there is confusion
22 within Mr. Peklo's proposal on that subject.

23 And also, it should be known to everybody, that in
24 just about 90 days ago, Mr. Peklo submitted a document
25 to FERC, you know, item 1A on the document was his

1 statement of his deeded right, he believes his deeded
2 right, I actually contest that strongly, but he believe
3 that it is his deeded right to elevate the dam an
4 additional four feet. And he is very clear to get that
5 in the record. He will tell you, when you ask him,
6 that, oh, that could never happen. But I have watched
7 Mr. Peklo, he is a hard-working guy. I don't, I think
8 he values his time, if he truly believed he had no use
9 for that, for the time he put into the, writing and
10 submitting that letter, why did he do it? I question
11 that, in the future, he will want to raise the height of
12 the dam. I think he was trying to add some height up
13 front, and I think he may be trying to add another four
14 feet down the line. And this could be the beginning
15 game, not the end game. I am worried, not necessarily
16 about getting this thing approved as stated but, you
17 know what, might it be ten years from now. I think
18 that's, I worry about the letter he submitted 90 days
19 ago. He clearly would like to know that that right is
20 on record.

21 The proposal, I think, has a disregard for
22 inland/wetlands requirements, particularly the proximity
23 to wetlands and aquifers in the flood plain areas. He
24 has talked about involving two lots, one with the
25 historic, with a known historic commercial use, the one

1 that he lives on. And a second lot, which is
2 immediately across from my home, by the way, that has no
3 known history of commercial use. I have searched the
4 deed all the way back there is no record of
5 commercial use. This is one in 1917 that says landowner
6 did cut ice, but that is not a commercial use, per se.
7 There is no record that there was a business for cutting
8 ice. Any way, so he is trying to involve that lot,
9 which is also the wetlands lot. And in his proposal he
10 also says he would like to excavate the impoundment.
11 The only way that Mr. Peklo could excavate the
12 impoundment is through that lot. He can't do it from
13 where he lives, he is cornered in between the road and
14 the bridge and the dam. It would have to be through
15 that, what he calls, the staging area. And to do that,
16 he would have to take the equipment off of that, little
17 triangle he drew in his drawing, down through the
18 wetlands into the wetlands to extract material from the
19 wetlands to excavate the impoundment, as he describes in
20 his proposal. So, clearly it seems pretty clear that
21 there is going to be a violation of wetlands. I don't
22 know how that would ever fly, but it is in the proposal,
23 and I am concerned about it.

24 I am assuming that the folks at FERC who, by the
25 way, thank you again for coming down here, all the way

1 from Washington and Hartford.

2 Our revenue and cost benefit on this, so I did run
3 a cost benefit, so I created some costs, and I created
4 some benefits, and I have a tough time seeing how this
5 results in a good idea. On the cost side, we have Mr.
6 Peklo was asked to make his property and the revenue
7 generated to be tax exempt. So we are talking about a
8 loss of tax revenue to Woodbury. The rest of Woodbury
9 is going to have to make up the difference. It is going
10 to cost us all, in our property taxes, to give Mr. Peklo
11 his requested tax exemption on the two properties and
12 the revenue generated therefrom, so that is going to
13 cost everybody.

14 There is going to be a cost to US taxpayers, they
15 are talking about doing this with Federal Grant money,
16 so all Americans will be paying for this. And so that
17 costs us all. I am not sure that is a great use of tax
18 dollars, in my opinion. There is, this is a
19 residentially zones neighborhood. Zoning started, as we
20 probably all know, in 1969, this entire area, including
21 Mr. Peklo's lots, both of them, are in a residential
22 area. That building has, he is very eager to submit his
23 rights, and that is his right to do that. But when we
24 bought our home, we bought a residence, in a residential
25 area. That is also what we did. And we are talking

1 about turning the property immediately across from us
2 into a supported piece of property for a commercial
3 endeavor. His property is going to go from being a
4 warehouse, which it was when he bought it, he did not
5 buy a hydro plant. He bought a warehouse in a
6 residential zone. He wants to turn that into a
7 full-time commercial thing, and not just a wood shop
8 where he makes furniture. So, I think that is a change
9 of use to the property. And I think that's, that's on
10 the cost side for me. I think that it's a dangerous
11 trend for planning and zoning, there is a lot of history
12 in this town. Every one of our parcels has a deep
13 history to it. If we start arcing back to different
14 periods and just ignoring modern zoning, I think that
15 opens up a huge can of worms from planning and zoning
16 going forward.

17 There clearly would be a destruction of the
18 environment. We have an endanger species in here, the
19 bald eagle is finally back after many years of being
20 away, and also the river otter had made it back, which
21 is a wonderful thing to watch. So, just the
22 construction of this is going to disrupt the environment
23 tremendously. And also once this thing becomes
24 operational, I think there is potential for destruction
25 going forward. The dam will always silt up, there will

1 be an ongoing excavation of the impoundment, as stated
2 in the proposal. So there is going to be an ongoing
3 destruction of the environment. That is clearly on the
4 cost side too.

5 There is also the issue of the loss of visual and
6 auditory beauty. In our house, we open the windows at
7 night and we can hear the waterfalls at night, as do all
8 the neighbors down there. Everybody who has visited
9 from Town the Woodbury or beyond understands the beauty
10 of that area. And one of the reasons I know we moved
11 there, and everybody else in the area just about as
12 well, moved there, was for the beauty. And in the 2008
13 meeting, and Mr. Peklo says that this is out of context,
14 but it's not. When Mr. Hinkley asked him what
15 percentage of the time the dam would be not, the
16 waterfall would be not present, his answer was, 40 to 55
17 percent of the time is my best estimate, but up to 90
18 percent of the time. Mr. Hinkley said, up to 90 percent
19 of the time. Mr. Peklo said, yes. So we are talking
20 about losing a, for all practical purposes, losing the
21 waterfall except for very high water periods. If he
22 would like to correct that now, when it's his turn, I
23 think he should. But that is on the record from the
24 2008 meeting. Up to 90 percent of the time.

25 Okay. So those are the costs. And on the benefit

1 side, we have this alleged societal benefits. There
2 isn't a lot of power being generated here. There is a
3 lot of people living in Connecticut. A lot more homes
4 than 36 homes. This is a very modest amount of
5 electricity. So this societal benefit is very vague and
6 nebulous and I think it's more of a feel good thing than
7 a real thing, but the costs are real.

8 And on the other, the benefit side is Andy gets to
9 make some money selling it back to the power grid,
10 probably doesn't make that much money selling it back to
11 the power grid.

12 So I see two very small wins. One is a win that I
13 don't even really understand, the societal benefit
14 thing, terribly. I did the math on it, in terms of what
15 percentage of Connecticut's power consumption we would
16 be providing, and I was going to do a pie square
17 analysis to see if statistically, if it's statistically
18 significantly. I stopped myself when I saw the number.
19 Point, nine zeros and a two. That is a very small
20 percentage. We are not talking about a really
21 meaningful societal benefit. I don't think CL&P would
22 even recognize if his generation is on or off.

23 So, then moving on, Mr. Peklo has made a number
24 of -- oh, let me talk about the deeds for a second.
25 Andy has made many representations about his deeded

1 rights and water rights, he bought the water rights to
2 make these dams. You look into the deeds in this area
3 and it gets very complicated. Originally, in 1903 he
4 refers back to, that parcel was 50 acres large, and that
5 has been since subdivided into many, many properties.
6 So these deeded rights that he refers to actually don't
7 just belong to him, they belong to Anne and Rosemary and
8 Tom, many people own those rights, and these people also
9 own on both sides of the river. If they had the
10 inclination to do so, they too could build a dam,
11 capture the water and produce a plant. So Mr. Peklo
12 asserting his right is a direct infringement on Tom and
13 Anne, and Anne and Anne, I am sorry, Anne and Rosemary.
14 So this notion that he, it was his and only his deeded
15 rights to creat power at that site is really not true.
16 The deeds are extremely complicated, the parcel that,
17 the land has been parceled out many times. Actually in
18 1907, the deed that is, the direct lineage of Mr.
19 Peklo's deed, only gives him one-half right to the deed
20 to, the Phelps Far deed, which is the direct antecedent
21 or precedent of Mr. Peklo's deed, actually only gives
22 him one-half right to the water rights. It is
23 complicated. So this notion that these are his rights,
24 is really not true. I encourage you to go into town
25 records or borrow a copy from us who have made copies.

1 Okay. The second lot, which is the wetlands lot
2 immediately across the from the us, did the research on
3 that, there is no historic commercial use there. It is
4 a wetlands lot. It is well established as a wetlands
5 lots, as of the Frekus in the early 2000's and it's in a
6 residential area. So that is an issue. So Mr. Peklo
7 has made a hardship argument, which is, I bought a
8 property, which has these water rights. I am allowed to
9 today do this, and if I can't do this, I have a
10 hardship. So actually, if you look at the history of
11 Mr. Peklo's ownership of the property, you decide for
12 yourself if he has experienced a hardship. He bought
13 the lot in 1980 for \$60,000. It was a warehouse in a
14 residential lot. There was no hydro potential at the
15 lot on that time. There was a history, as all these
16 properties have history. He as a dam for sure. And --

17 MR. EASTON: Can you focus on the issues in the
18 rest of the property, if not, then --

19 MR. ELWELL: Well, but he makes a hardship argument
20 in the proposal.

21 MR. EASTON: Well, but that isn't really the focus
22 of the forum --

23 MR. ELWELL: Okay. So moving onto the next one.
24 The conflicted interested. Once he gets this thing
25 built with the gates on the east and west side, he will

1 have the potential to manipulate the flow of the river.
2 At that point, it becomes a matter of trust as to
3 whether the run of the river actually happens as stated
4 in the proposal and I think we all have issues there, in
5 terms of, if there is a conflicted interest. At that
6 point, Mr. Peklo will be in the business, in the
7 business of making power. And manipulating the flow of
8 the river will be in the best interest of the business
9 at times. And I have an issue with an unregulated, I
10 know there is regulation that goes with being
11 unregulated, but unregulated facility where the
12 controller of the valves is also the same person who is
13 responsible for controlling run of the river. That
14 seems a direct conflict of interest, and I am troubled
15 by it. If I were more comfortable with the way this
16 process unfolded, I might be less troubled by it, but I
17 don't like the way it unfolded.

18 The, I think a comparison to Sandy Hook is in
19 order. Sandy Hook, there is a hydro plant down there.
20 It is similar in size to the proposed size, and it
21 should be noted that Sandy Hook, and no other hydro
22 plant in Connecticut that I have yet found, I have
23 called a number of them, proposed to take 100 percent of
24 the falls, as Mr. Peklo does. For, at any moment in
25 time. Sandy Hook must have 15 percent, Sandy Hook's

1 case, and I don't necessarily endorse that example, but
2 15, in Sandy Hook's case, there must be at least 15
3 percent of the water going over the falls at all times
4 minimum. So they never lose their falls. They never
5 lose their scenic site at any one moment in time. Mr.
6 Peklo is talking about up to 90 percent of the time
7 losing 100 percent of the falls. That seems to be
8 unprecedented for the State of Connecticut. I don't
9 know why that should, why we should bare the burden of
10 unprecedented collection of water. Also at Sandy Hook,
11 they are not tax exempt, and I think there is good
12 comparisons there.

13 Over at Bulls Head, I think it was the Housatonic,
14 they have to let 90 percent of the falls go over at any
15 one moment in time. That is obviously a bigger body of
16 water.

17 And also there is an issue with how this started.
18 The, FERC laid out their process, and step two was Mr.
19 Peklo was required, not, it wasn't a courtesy that he
20 might do things in a good mood. It was required that
21 Mr. Peklo inform, make a good faith effort to inform and
22 involve the community in this. The, we all can see how
23 many people care about this project, a lot of us. In
24 the public meeting in 2008 had three people present, and
25 I don't think they were the only three people there,

1 because only three people cared. I think it was because
2 people didn't know about it. I learned about it two
3 days before the, before the Thanksgiving break, right at
4 the end of the fast track process. So I think that this
5 notion that we have all been properly informed that the
6 FERC process has been respected, is not true. And I
7 have a problem with, I do have a problem with that. I
8 think all the neighbors, it was a shock to our
9 neighborhood to learn that a hydro facility was going to
10 go in and we didn't even get the courtesy of a, hey,
11 here's the proposal. And we have got a meeting coming
12 up on the, in 2008.

13 So anyway, these are my objections. And thank you
14 for the time.

15 MR. HALEN: My name is George Halen, I am a
16 Woodbury resident, and a member of the Board of
17 Selectman. I have two questions. One is a follow-up to
18 the gentleman's comment about the taxes, is that
19 accurate, that the application includes a request to be
20 exempt from property taxes of the town?

21 MR. KORTALIA: That would have nothing to do with
22 our authority. We wouldn't be able to exempt him from
23 anything locally in the way of taxes. I don't know
24 what, you know --

25 MR. EASTON: That would be, if there is a proposal

1 out there to -- that is not included in the application
2 that is pending before us. And we would not review
3 that. That is not part of, we might address it in the
4 environmental assessment as an affect, if that's
5 something that we have information about in the record,
6 but it wouldn't be part of anything that the Federal
7 Energy Regulatory Commission would either approve or
8 deny.

9 MR. HALEN: So, so that request is not part of the
10 application no you?

11 MR. EASTON: No.

12 MR. HALEN: Is there -- Andy, do you want to
13 comment on that, is there an application for that
14 somewhere.

15 MR. PEKLO: No. It is something that I am
16 investigating.

17 MR. HALEN: Okay. My second question is, does FERC
18 have the authority, and do they trump the local land use
19 boards and commissions, does this application need to go
20 through our regular land use application process that
21 any new business would, or change of use or expansion of
22 use, require?

23 MR. EASTON: Any project that would be approved by
24 us would still need to comply with any local or State or
25 Federal Laws.

1 MR. HALEN: It would?

2 MR. EASTON: Yes.

3 MR. HALEN: Okay. Thank you.

4 MS. SORENSON: My name is Carol Weiner Sorenson and
5 I live right at the end of Pomperaug Avenue. I think
6 some of you know the red barn that sits back, that is
7 Country Loft Antiques. I happen to be a resident here
8 since 1984, and the, I a business owner and vice
9 president of the Woodbury Antique Dealers Association.
10 And I have walked and driven on that road numerous
11 times, and the waterfall is a majestic, like my pond,
12 which you are all welcome to. And I know when I went
13 through zoning, which you all know, or I am sure you
14 read some of it in the newspaper, it was 17 months
15 before our local board, the Historic Commission, the
16 Planning Commission, the Zoning Commission and most
17 importantly, the Wetlands. I have almost a three acre
18 pond that has been there for 250 years, and I am not
19 allowed to do anything with it other than give it to the
20 Town of Woodbury when I leave this earth. So, why Mr.
21 Peklo would be able to adjust this wetland that is
22 across the bridge, on the other side, and I am sorry, I
23 was out of town today and couldn't see it, and I have
24 seen it many times, but I see a lot of water, because I
25 look at it every time I do my dishes. I think that this

1 is absolutely imperative that this entire situation is
2 reviewed thoroughly when one person is allowed to alter
3 a wetland and another person isn't. Especially when
4 it's 250 years, and our town is historic.

5 And the other most important point, are the
6 residents. The people who have purchased their homes,
7 they reside there, they have raised their children
8 there, they have their families there, they spend as
9 much time as possible there because that is why they
10 chose to live there. And I think it would be a terrible
11 injustice if this is not reviewed thoroughly so that it
12 benefits everyone.

13 MS. ANDERSON: Cathy Anderson. I reside her in
14 Woodbury. My question is, of the in perpetuity part,
15 phase of this. If the property should change hands,
16 either because Mr. Peklo should sell it or it goes to
17 his heirs, does that mean they have to continue with the
18 hydro project? And if not, what happens then to the
19 fish racks and what have you.

20 MR. EASTON: It would not have to continue.
21 There's a process called surrender where the proposal,
22 the person, the entity operating the facility would
23 basically file an application with the Commission to
24 surrender the project. The Commission potentially would
25 do an environmental review of that, determine what the

1 effects would be, and if it was approved, then, which in
2 most cases surrenders are, because when entities want to
3 walk from a project, it is hard to force them to stay in
4 place, obviously, but then what happens is, it's the,
5 you, any terms of that surrender would include
6 conditions like, well you must do this, you must do
7 that, this is how you would proceed with removal of
8 facilities or continuation of environmental things that
9 need to be maintained or whatever. You know, that would
10 be a part of that review process. And actually, we
11 don't deal with the surrender process, we, that is
12 actually the other division I was referring to about the
13 division of Hydropower Administration and Compliance,
14 that group deals with surrenders, we deal with the
15 approvals that authorize development.

16 MS. ANDERSON: Thank you.

17 MS. WOLCOT: I am Terry Wolcot, and I am an
18 adjoining land owner as well. I just have a follow-up
19 question to that one. If the project were to be
20 surrendered, and it got stuck in this whole process of
21 deciding what to do with it, we could potentially be
22 talking about a rather lengthy, long length of time
23 where it is in limbo and nobody is maintaining the
24 gates, and to nobody is maintaining the fish ladders,
25 and it is just sitting there while the Government is

1 trying to figure out what is going to happen to it next,
2 is that what you are saying?

3 MR. EASTON: Typically, during the process, the
4 review of a surrender application, the projects continue
5 to operate, and there is FERC oversight requiring
6 continued maintenance and, you know --

7 MS. WOLCOT: On site?

8 MR. EASTON: Well, you mean, the FERC's --

9 MS. WOLCOT: I mean, is there a FERC person there
10 every day to see if the river's flooding and the gates
11 are clogging up, is there somebody there checking it?

12 MR. EASTON: No. No. No. The owner entity would
13 continue to operate the project in the case, if it was
14 Mr. Peklo and we were 20 years into the future, he was
15 deciding he wanted to surrender it, at that time he
16 would continue to operate it or just, he could
17 potentially, I guess, shut down the hydropower
18 generating facilities and maintain the other
19 requirements of his exemption, in terms of, like, fish
20 passage and water quality and any other requirements
21 that there are in that. That should continue during the
22 time while it is being reviewed.

23 MS. WOLCOT: I guess I bring --

24 MR. EASTON: I mean, it's sort of a --

25 MS. WOLCOT: On South Pomperaug Avenue there was

1 an industrial building that had contaminated the ground.
2 And when we purchased our property over 20 years ago, it
3 was a real eye sore, and when we thought about buying
4 that property, we thought, how long is it going to take
5 for this building to be torn down, and it was almost
6 12 years before the building was torn down. Because it
7 was stuck in the government, and different tests had to
8 be run, and year after year, after year before they
9 could do anything about it, and so for 12 years, we
10 looked at an eye sore because we were waiting for an
11 answer.

12 MR. EASTON: I can't speak to that scenario
13 obviously. And I can't give you any certainty
14 associated with, I mean, as I said, I don't work on
15 surrenders. I can say that the environmental review and
16 decision making process that goes with that, typically
17 would be in the matter of months to maybe a year or a
18 year and a half or something like that. It is typically
19 a quicker process. It wouldn't take 12 years.

20 MS. WOLCOT: Okay.

21 MR. EASTON: Obviously there are, any environmental
22 review can always get bogged down. I mean, everybody
23 knows about things like snail duggers and stuff like
24 that, so, but in a typical case you wouldn't expect it
25 to be like that.

1 MS. WOLCOT: Okay.

2 MS. DENVER: Eileen Denver, I am a resident of
3 Woodbury. I am not a resident of that area there. I
4 moved to Woodbury because it was very beautiful. It has
5 a lot of gorgeous sites in it, but the most beautiful
6 site of all is that waterfall, and that little road
7 there. It is just beautiful. I take people there all
8 the time. I walk there. I go to look at it, to
9 contemplate. When there's a flood it's the first place
10 you go to look. The thought that that thing can be just
11 turned off and that beauty ended for 90 percent of the
12 time is an awful thought.

13 The thought as well, that a fish ladder will be
14 imposed on that landscape there, don't exactly know what
15 a fish ladder looks like, but it didn't look very pretty
16 in that drawing. And so instead of looking across there
17 and seeing the rocks and the stones and the beautiful
18 trees above it and Andy's beautiful mill and this
19 beautiful waterfall, we will see the waterfall with no
20 water, and this sort of strange aluminum fish ladder.
21 By the way, I don't quite know how the eel ladder is
22 going to work or where that is. But, I am rambling, I
23 do like to ramble down by that road there, and I am
24 going to miss being able to do that if Andy does what he
25 wants to do.

1 MR. SHERWOOD: My name is Lee Sherwood. I live at
2 27 Pomperaug Road in Woodbury. I am an adjoining
3 neighbor. And I have known Mr. Peklo for 30 years. My
4 late father advocated and his behalf, and my family has
5 supported his endeavors in the past when they made
6 sense. Interestingly enough, and as hard as that may be
7 to believe, they did occur. More recently however,
8 things have been a little bit different. Now, you have
9 asked us to stick to the points of the program, and out
10 of respect for you, I will indeed do that. But it does
11 appear to me that FERC seems very focussed on the
12 project, which is a good thing. But in the process of
13 doing so, I don't know if they're actually considering
14 the integrity and character of the applicant. And I
15 submit that is a real issue. If you really know the man
16 and really know the history.

17 Now, I don't, I don't want to get into character, I
18 think it is very relevant --

19 AUDIENCE MEMBER: It's a personal attack.

20 MR. SHERWOOD: It is not that.

21 AUDIENCE MEMBER: It has nothing to do with this.

22 MR. SHERWOOD: And it has everything to do with
23 this.

24 MR. EASTON: Please, just focus on the issues
25 related to the proposal.

1 MR. SHERWOOD: Well, I agree. And if I am you, you
2 want the honest answers, and honest evaluations from Mr.
3 Peklo.

4 MR. EASTON: This is not about personal attacks.

5 MR. SHERWOOD: It is certainly not. No, it is not.

6 MR. EASTON: So focus on the project.

7 MR. SHERWOOD: He stood here today, and he told you
8 that he has been making us, his neighbors, aware of this
9 endeavor for 30 years. That is not the case. He might
10 have talked about casually making power in the past to
11 some of, although he never mentioned it to me. The fact
12 of the matter is, at no time to any of us, as neighbors,
13 did he ever say, I am going to have to cease the
14 waterfalls from flowing to make that occur. He has led
15 you to believe in the application that there was no
16 scenic value in the proposal of the falls whatsoever.
17 You came here today, I dare say, I think you probably
18 would agree otherwise.

19 Some of the surveys that are done, Mr. Peklo
20 obviously financed. Maybe he is obligated to do that,
21 but if he is financing the research, don't you think he
22 is more than likely to get the results that he is hoping
23 to obtain. Those issues, these are the questions I
24 would ask you to consider. That is all I am asking you
25 to consider.

1 MR. EASTON: I appreciate your concern in that
2 regard, and I would also appreciate if you get back to
3 focusing on the effects of the project that you are
4 directly concerned with.

5 MR. SHERWOOD: The other effects of the project,
6 are as other people have stated. We live in a great
7 neighborhood, the falls are a big part of that. Mr.
8 Peklo actually led the drive to have that road
9 determined to be a scenic road, and now all of a sudden
10 he is willing to sacrifice that on the behalf of the
11 opportunity that pursue this electrical program that I
12 don't see really benefitting anybody.

13 And I just felt that it would be somewhat pertinent
14 that you consider the overall quality of the product,
15 the quality of the application, because I think there is
16 some real hard questions that you are going to have to
17 ask yourself here. That's it for me.

18 MR. BLUM: I am Fred Blum, and I am a Woodbury
19 resident. I've got a home over near the north cemetery,
20 and I have piece of industrial property on South
21 Pomperaug, so I am a neighbor. I have some history in
22 Woodbury. I returned after many years away and I am
23 living in the same house I lived in in the late '50's.
24 I am very proud of Woodbury. I learned a lot of things
25 here. Some of which are going to make me feel like a

1 Republican talking at the Democratic National
2 Convention, but from what I have heard, I can't sit
3 there and just be quite. I learned things like,
4 property rights. We didn't hunt or fish or trespass on
5 other people's property. If you had a home with a
6 beautiful view, and you didn't own that, between your
7 house, somebody could buy it. They could build whatever
8 they wanted to on it. If you are enjoying a beautiful
9 pasture with horses in it, and the farmer decides to
10 sell the horses, you can't sue him. I am a property
11 rights advocate. I have similar problems to what I hear
12 Mr. Peklo going through. I have industrial property,
13 zoned industrial, and I have a neighbor that has just
14 moved in, in the past, let's say, few years, that
15 doesn't want me to mow my lawn on Saturday. He doesn't
16 want diesel trucks to deliver my raw materials, like
17 they have been for, you know, I lived at the property
18 for the past 60 years. The only diesel trucks allowed
19 on South Pomperaug, according to this gentleman, are the
20 fuel trucks that deliver the fuel oil.

21 The mentality was, our neighbors took care of each
22 other. We were a lone people. I have been gone for
23 many years, I come back and I find a new mentality. The
24 mentality that wasn't here until a lot of people came in
25 to move into Woodbury because it is a picture post card.

1 Well, basically, based in tradition unhampered by, you
2 know, 300 years of progress. And --

3 MR. EASTON: I hate to cut you off, but do you have
4 some concerns about the project?

5 MR. BLUM: I'll get right to the point. The
6 property rights don't mean everything you can see and
7 hear. There have been a lot of things that have been
8 said here that just aren't true. Back in 1980 my father
9 tried to buy that mill, and he worked there in his
10 younger years when they were generating electricity and
11 running the machinery off the water power, and it
12 diverted through that big tunnel and it used almost all
13 of the water. When Mr. Peklo bought it, my father and
14 he discussed often putting in hydroelectric. My father
15 was going to put in hydroelectric. This has been no
16 secret to me even in the years that I was away. I have
17 been back, oh, around ten years now. Mr. Peklo has
18 talked to me about this often. I have offered him
19 machining capabilities, and trying to help him with this
20 project in any way I could. And my point is that, just
21 because you say it, doesn't make it true. And I have
22 heard a lot of things said here, like nobody knew and
23 all of this, it just isn't so.

24 Mr. Peklo has been very up front. Anybody who would
25 talk to him about it, he has been enthusiastic about it.

1 AUDIENCE MEMBER: Well, who did he inform?

2 MR. EASTON: Well, let's not get in to an argument.
3 This is not the forum for that. I understand there is a
4 lot of emotions here. So, just stay on point and keep
5 focus on the effects of the project. So if you got any
6 specific concerns --

7 MR. BLUM: I wholeheartedly support the project.
8 When I look at South Pomperaug, I have been walking down
9 there for exercise for the past 10 years, there is only
10 two or three property owners that really have a view.
11 It is not like our view. They have never invited me
12 onto their back porch to watch the view. If I am
13 driving my car and I divert my attention to the
14 waterfall, I might as well be talking on my cell phone.
15 It just isn't highly visible. It is like, you know, the
16 American side of Niagara Falls, you got to go to Canada
17 to see it. And as far as water, I don't see anything
18 happening. The water level goes to the top of the dam,
19 the turbine shuts off. The impoundment area is going to
20 stay the same. The amount of water that comes in, goes
21 out. The water level, the underage is going to be the
22 same. I just don't understand how people can make up
23 these stories about the damage that is being done based
24 on wishes, intangible self desires. So, I
25 wholeheartedly support this project. And I would like

1 to see some other people support it too.

2 A couple of months ago we had a power failure
3 lasted for over a week. I would have been thrilled for
4 access to that electricity.

5 AUDIENCE MEMBER: You won't have it.

6 MR. BLUM: Pardon me?

7 MR. EASTON: Stick to the point.

8 AUDIENCE MEMBER: Well, the point is you wouldn't
9 access to that electricity.

10 MR. EASTON: All right. All right.

11 MR. KORTALIA: There is no way all this, there is
12 no way all this can get into the transcript. Please
13 limit your comments.

14 MR. BLUM: If Mr. Peklo had that capability, the
15 power company could cut off the end of Pomperaug and he
16 could have supplied ed every house on Pomperaug with
17 electricity.

18 MR. EASTON: Are you done with your comments?

19 MR. BLUM: I am about done.

20 MR. EASTON: Are you done?

21 MR. BLUM: I am done enough.

22 MR. KORTALIA: Okay. Thank you. I think the woman
23 behind you, Sir, has been waiting, and then you can be
24 next.

25 MS. CASEY: Hi, my name is Anne Casey. I live on

1 Pomperaug Road. I know you are going to do -- I have
2 lived there for almost six years, and I know you are
3 going to do an environmental assessment, and one of the
4 issues I have, you know, reading through the application
5 is the age of the documents that were submitted to you,
6 by Curtis Wood and some other people that Andy had
7 brought in to actually see what wildlife lived there.
8 But in the times that I have been there, and lived here
9 and walked down the road, which is at least three times
10 a day, sometimes more depending on the weather, there
11 are several species of animals, and birds particularly,
12 because I am bird watcher, that are listed on the
13 Connecticut State Environmental Endangered and
14 Threatened Species list, as well at the Litchfield
15 County Endangered and Threatened Species list of which
16 are completely eliminated or not on the lists at all. I
17 mean, I can list them off for you, but primarily these
18 are regular visitors during migratory season. I have no
19 idea whether they nest there or not. But we do have,
20 which is very exciting, the Snowy Egret, which is on the
21 threatened species list for the State of Connecticut.
22 The Pied Billed Grebe which is on both lists, the common
23 Loon Litchfield County, the Sharp Shin Hawk, Litchfield
24 County, these are all wildlife and birds that are in the
25 area which Andy specifically says in all three of his,

1 whoever, I can't remember who exactly provided the
2 information, states specifically there are nothing,
3 nothing to worry about. No endangered, no threatened,
4 no special concerns. And my concern is, are you going
5 to do a really thorough.

6 MR. EASTON: I would suggest that in order to
7 insure the record is complete, that you file your list
8 of species that you observed there, and to the extent
9 that we have information to evaluate that, we will do so
10 in the environmental assessment.

11 MS. CASEY: I have done that with the Connecticut
12 Audubon Society and been in touch with them quite a bit.

13 MR. EASTON: Well, have you filed it with us?

14 MS. CASEY: Not yet.

15 MR. EASTON: Okay. That is --

16 MS. CASEY: I will formally file it.

17 MR. EASTON: Yeah, if it's not in the record, than
18 we don't have it.

19 MS. CASEY: These were specifically omitted, and
20 they have been there ever since I have been there, which
21 is six years so. Thank you.

22 MR. KORTALIA: Sir.

23 MR. HEWLITT: My name is Tom Hewlitt. My address
24 is Two Pomperaug Road. I am fairly new to town, been
25 like, think about 26 years, so by Woodbury standards

1 that is new. To comment to the gentleman that preceded
2 Anne, I first learned of this project about a month ago.
3 So, and I recall years ago when I wanted to put up a
4 shed on my property, and a carport, I had to send
5 letters to all of any neighbors indicating that that was
6 my desire. I mean, it is just appalling to me that we
7 didn't have advanced warning of this, and now it has
8 come to this point where we are all stressed, and at
9 this point in time. So that is all I have to say.

10 MR. KORTALIA: Yes.

11 MS. GIULIANO: Rosemary Giuliano, 47 Pomperaug
12 Road. As a follow up to Tom's question, do the FERC
13 regulations require an applicant to give notice to
14 possibly interested parties.

15 MR. EASTON: Direct notice?

16 MS. GIULIANO: Any notice.

17 MR. EASTON: There is a requirement where the
18 public meeting is held early in the process, which I
19 assume was the meeting that was held back in 2008.
20 There is a requirement to notice that in a local paper.
21 And that would be within the county of the proposed
22 project. It is our understanding, based on what is in
23 the record, that that notice within the paper was issued
24 back then, and for that meeting. And so the procedures
25 were followed, as far as we can tell based on what the

1 in the record.

2 MS. GIULIANO: Okay. I have reviewed the
3 regulations, and they seem to indicate that there is,
4 there is a requirement and in fact they state that he
5 has given notice to possibly interested parties. My
6 question would be, in your opinion is an adjoining
7 landowner a possibly interested party.

8 MR. EASTON: Well, I am not going to speak to that.
9 I honestly don't know exactly how that part of the
10 regulation reads, so I would have to go back and look at
11 it, without the attorneys here to assist me with that.
12 We will look at that when we go back, I can tell you
13 that.

14 MS. GIULIANO: Okay. If I, if I may then address
15 that. Angelo and I are the adjoining property owners
16 immediately south of the project. As such, I would
17 maintain that we are not possibly interested parties, we
18 are definitely interested parties. We found out about
19 this not through receiving copies of the applications
20 that Mr. Peklo filed, one of which was filed in the year
21 2008, we found out about it through third parties
22 approximately 60 days ago. The application is in excess
23 of 200 pages and it involves issues regarding land use,
24 energy utilities and also issues of title. Despite the
25 fact that we, and many of the other neighbors who were

1 affected by this, have retained experts, hired
2 attorneys, it has been simply impossible in the last
3 60 days for us to be able to gain the necessary
4 information to properly respond to this. It has been
5 virtually impossible.

6 Mr. Peklo began the process with his proposed
7 application three years ago. So for three years, and I
8 understand it was his right, he was contacting agencies,
9 communicating with people, getting information,
10 responding. We have not had that same privilege, and I
11 maintain as an adjoining property owner, and I agree
12 with Mr. Peklo, we are at the site of the primary mill,
13 turbines are under our deck, and I maintain that we have
14 property rights that are equal to or in excess of his
15 property rights, and he has not demonstrated in the
16 application or any materials, he has not done a
17 qualified title search, he has only looked at his own
18 title. He hasn't looked at the title of the adjoining
19 property owners. So when this gentleman says he is an
20 advocate of property rights, well, so am I sir. I am an
21 advocate of my property rights, and the property rights
22 of the adjoining owners who I maintain have equal rights
23 to access to that water. And I ask him, because he has
24 the burden of proof under law, to show us that we do not
25 have equal property rights in excess to that water.

1 Thank you.

2 MR. EASTON: The only, I am sorry, the only
3 follow-up I would like to add, is that we will go back
4 and we will make sure that the requirements of the
5 regulations have been adhered to in that regard.

6 MS. GIULIANO: Thank you.

7 MR. KORTALIA: Way in the back. You can decide who
8 goes first. You might want to come forward before --

9 MS. SIPERLY: Janice Siperly, 451 Main Street,
10 Woodbury. I just don't understand why are you doing
11 this. What gives, what is the purpose of all this, for
12 a group of people who don't want it anyhow. Why? Tell
13 me. That's it. What are you doing or trying to do?
14 What you are talking about? I don't understand.

15 MR. EASTON: Is that question directed at Mr.
16 Peklo, or --

17 MS. SIPERLY: Yes. Why? What is the purpose of
18 it. For a small group of people who obviously don't
19 want it. I don't want it. I don't want to see anything
20 like that, but why? Why don't you just drop the whole
21 thing, really. I think it is ridiculous.

22 MR. EASTON: That's -- I am sorry, but he doesn't
23 have to answer that question --

24 MS. SIPERLY: All I want to know is what is the --

25 MR. EASTON: -- at these proceedings. He is not on

1 hearing, he is not on trial. This -- if you have -- -

2 MS. SIPERLY: But what's the purpose --

3 MR. EASTON: Excuse me. If you have questions or
4 comments about the project itself, the design, the
5 process, that we are going through or your concerns
6 about the effects, please, you know, describe those.
7 Otherwise, I mean, he is not on trial here. He doesn't
8 have to answer it.

9 MS. SIPERLY: He is not on trial. But it sure
10 seems an awful silly thing to waste your time on.

11 MR. KORTALIA: The woman in the back.

12 MS. PETER: Lisa Peter, Woodbury. If this project
13 is approved by FERC, does that, is there part of this
14 process by which the hydroelectric dam can become a
15 public utility.

16 MR. EASTON: Yeah, I am not even sure I can answer
17 that. I am not sure how you mean that. The
18 authorization would be to Mr. Peklo, because his
19 application is what is pending. That is what we would
20 approve at the time. If there was a transfer of the
21 exemption to another entity at some point in the future,
22 that would be another process that would have a separate
23 application and separate Commission decision associated
24 with it.

25 MS. PETER: Could he become a public utility?

1 MR. EASTON: I believe that would work through the
2 state public utilities commission, and we don't oversee
3 that.

4 MS. PETER: Okay. And as a public utility is he
5 exempt from local land use rights or is that again,
6 state or local --

7 MR. EASTON: Yeah. That would be, if he were to
8 become a public utility, which I have no idea if that,
9 that is outside of our jurisdiction. It has nothing to
10 do with the Commission, so I can't answer that.

11 MS. PETER: So that is more of a state
12 regulatory --

13 MR. EASTON: Yeah. There are, obviously I don't
14 want to, there are numerous laws out there that have
15 nothing to do with FERC, and some of them are energy
16 related and the public utilities commissions there are
17 some integration and relationship to FERC, but not in
18 regard to this exemption application that is pending
19 before us.

20 MS. PETER: Okay. Thank you.

21 MR. KORTALIA: I am sorry, I think you were --

22 MS. HEWITT: This is, I am Ruby Hewitt. Two
23 Pomperaug Road, Woodbury, Connecticut. This is in,
24 actually, a response to when he submitted -- questions
25 were asked by FERC regarding some discrepancies as to,

1 regarding the riparian rights and what have you, and his
2 deeded rights. And his answer to this, on October 11th,
3 he said, the riparian rights, again there are no
4 specific references, references in any record and are a
5 general catch all phrase. Although there may be rights
6 by others, none have been found. None have been
7 presented. And the applicant holds the water and
8 impoundment rights as documented by Walter Kazerski,
9 appendix number two. Well, in looking at what the 250
10 page document included, the submissions by Mr. Walter
11 Kazerski included additional deeded rights by other
12 people. Along with Mr. Peklo's, there were three others
13 that I printed out. And each of them, they were not
14 catch all phrases, there were points specifically noted.
15 And it says in 1968, it will say in there immediately
16 prior to execution and delivery of this instrument, the
17 premises remains free and clear of all encumbrances and
18 restrictions, except the following. And it starts to
19 note, A, B, C D, and in particular F, it says, riparian
20 or flowage rights of others in and to the Pomperaug
21 River. It states this in the 1968 to the property
22 owners that purchased it then. 1974, the same thing is
23 put in that, not a catch all phrase, but very
24 specifically. In his deed, very specifically.

25 So when he answered this, and because there were

1 regulations, that I saw lists and I'll be glad to find
2 that and submit it again, but there is a regulation that
3 says that he has to notify adjoining property owners.
4 Well, these people are adjoining property owners. I am
5 not an adjoining property owner, so maybe he forgot to
6 mention it to us, and he didn't mention it to us. But
7 he did not inform the adjoining property members on the
8 river. David Sewell, Rosemary, Anne, it's just. It is
9 incredible to me, to say this. And then he submitted
10 along with this, some, what I call, bogus document, that
11 you can't even read as to, this is the answer of what
12 the deed says. There are documents that were submitted.

13 So I ask you to really, consciously look at these
14 statements, because they are false statements over and
15 over again that concern us. The fact that you cannot
16 see the falls from the road, these are all pertinent I
17 believe, so I am not trying to go somewhere else.

18 MR. EASTON: I am not trying to cut you off, what I
19 was going to suggest is, that to the extent that there
20 are things that have been filed that you are concerned
21 are inaccurate or misrepresented, I think you should
22 highlight those, you should file something with us, and
23 highlight those, and we will go back and look at those
24 and make sure we got those things right.

25 MS. HEWITT: Well, that is what I am referring to

1 here, because I do want to point out what is specific.
2 I am not trying to, these are actual, I am not making
3 these up. These are documents. They were submitted by
4 the applicant in a response to not having submitted
5 something, something that they wanted more, they have
6 information on. So I think they are pertinent here.

7 MR. EASTON: I understand.

8 MS. HEWITT: The fact that you cannot, the
9 applicant says that you cannot see the falls from the
10 road, there are insignificant. Excuse me? For everyone
11 that walks down that road they are not, they are visible
12 from the road. You have been here yourself, and you can
13 see them for yourself as you walk down there. They are
14 very visible. They are not insignificant. It could
15 not, there are qualifications that designate this as a
16 scenic road. You don't just say, this is a scenic road
17 just because you feel like it. It is very specific.
18 There are reasons for that. So to disregard the
19 esthetic value, and what this means, you can not just
20 ignore them. And I ask you to carefully look at all of
21 these things, because there is lot of false statements,
22 because it may look good on paper, but if you're not
23 really looking at it, they you are going to miss, you
24 are going to say, oh, well, why not. Let's let that
25 happen. But I can't stress enough how important this

1 is, because there is a pattern here. And the
2 consistencies continue. So it doesn't give us much
3 comfort to think that we can trust someone to follow
4 through, to go along with the compliance with all the
5 regulations that you have listed, because it is a pick
6 and choose what I want to address and what I don't want
7 to address. I don't think that is proper or accurate.

8 MR. EASTON: Thank you.

9 MR. RANELLI: Okay. Good evening. My name is Matt
10 Ranelli from Shipman and Goodwin, and I am, I represent
11 Peter and Karen Wolcot, from 15 Pomperaug Road. First
12 of all, thank you for the opportunity to have this
13 hearing tonight for the neighborhood and frankly to
14 express their concerns about the application. As you
15 can see, it is a pretty robust turn out, and I think
16 there is a lot of interested parties, which really goes
17 to the first issue. But before I get into that, I
18 think, I think everyone wants to be clear that this
19 really isn't a requiem on hydropower. It is a requiem
20 on protecting the existing environmental conditions at
21 the site, and we just don't think the applicant's
22 materials that he has submitted to date, satisfy his
23 burden to prove that he has both the right to the water
24 and also that he has taken adequate steps to protect the
25 environment.

1 So, I think if I had to divide my comments up I
2 have some procedural concerns, but also some substantive
3 concerns. But, so first, the procedural concerns. As
4 has been discussed this evening, this is an application
5 for an exemption which is, in your own words, slightly
6 less requirements than the licensing requirements, that
7 is the way you explained it in the beginning. I see you
8 don't like that description, but certainly it is not the
9 same as licensing, otherwise we, there would be no,
10 there would be no need for it. I think the words you
11 used for, I think it was, that it was, there were, there
12 was less requirements on the applicant. The point is,
13 that, that if we are going to go through a procedure
14 where there might be somewhat less requirements, the
15 notice requirement has a heightened importance. And I
16 think you have heard loud and clear tonight, we think
17 there has been a real failure of notice. This project
18 has been allowed to evolve over three or four years
19 without accurate notice. And I do think, I think you
20 already said, and I would commend you to go and look at
21 those regulations, because I think there is a
22 requirement that the applicant notify abutting property
23 owners for a small, low flow hydro project, is the one
24 of the listed criteria. And if you look at, the list
25 says, of ten types of entities that should get, that

1 should get notice, and if you look at the service list
2 on the application, nine of the categories of entities
3 were contacted, only one category wasn't, and that's the
4 abutting property owners. So, that is either an
5 oversight or it's an attempt to secret the application
6 until we got to this point, but either way, what it has
7 done is leaves those with maybe the most immediate
8 concerns the least amount of time to prepare. And I
9 know you guys do this for a living but these people
10 don't, and this really is a concern.

11 Frankly, leaving the comment period open until
12 February 17th is not enough for people to have a chance
13 to respond. I would suggest that if you, upon reviewing
14 the regulations, you find that notice was inadequate or
15 even either as a matter of the letter of law, or the
16 spirit of the law that you either deny the application
17 without prejudice and tee it up again or extend the
18 comment period.

19 My understanding of the FERC process, for the
20 exemption, is this type of application is not exempt
21 from FERC consultation requirement and each step of that
22 requires notice. And it requires notice to the people
23 who were, who were consulted. So in each step, the
24 abutting property owners, and others presumably, would
25 have gotten that notice in each step in the process so

1 far, they haven't. So I won't belabor the point, but I
2 think notice is extremely important in an instance where
3 you are dealing with an exemption. Also, where you are
4 dealing with properties, that are in such close
5 proximity to each other, especially here where the
6 original mill property has been subdivided several
7 times. So it is not some other projects as clean, where
8 you have a single property that goes back, you know, the
9 deed goes back long enough. Here the subdivision was
10 fairly recent, as Mr. Peklo indicated in his
11 presentation. The main mill, which also generated
12 energy historically, was actually not in the location of
13 his property. It was somewhere else. So you have to,
14 so I don't think any further proof is needed that other
15 parties, historically used that, used that property to
16 generate energy. They obviously had the property rights
17 to do it then, the burden of proof here is on the
18 applicant. So I would think that FERC should request
19 information, additional information, again, from the
20 applicant, to prove that those encumbrances that are
21 listed on his deed are, in fact, have been extinguished
22 or provide him with the right. And if you go through
23 the hundreds of pages of documents or 200, these
24 encumbrances there is nothing in those documents. So
25 that is not a task to task the general public with.

1 That is a task to task the applicant with.

2 Secondly, the size of the generator unit itself, I
3 am not, obviously, an engineer, but I have done some
4 quick numbers, I would, I would like to know from the
5 applicant whether it's even possible to generate 76
6 kilowatts with 100 cubic square feet flow per second on
7 the head of 11.6, or 11 feet 6 inches. I don't think
8 those numbers true out, if that's all the head you have.
9 So I would think that FERC would want to ask the
10 applicant for his calculations to determine the
11 generation side, because that is an important issue. If
12 the generator is oversized, the sweet spot efficiency
13 point is not going to be achieved enough, and it also is
14 going to create pressure to get more flow into that
15 unit. So I would think that is an issue, although you
16 might say, well, that is not our issue, he can't
17 generate 76, that's fine. But I think it is your issue
18 that that be properly sized. And, maybe I missed it,
19 but in the application material, I did not see the
20 capacity calculations to show that you could actually
21 achieve 76 kw with that much head, and that much, that
22 much quantity of water.

23 And if it should be, and I think it sort of
24 dovetails into my next point, and even if it could be
25 done, and I really don't think that it can, I think you

1 are going to need more like 19 feet of head, which was
2 very interesting to hear Mr., I forgot your name, his
3 comments, because interestingly the numbers he was
4 giving actually had it up to near 19 feet. I am not
5 suggesting that is the intent, but I am just saying that
6 number seems high, and I think that we should get, we
7 should be able to see the calculations.

8 And it dovetails into this point of bypass. I
9 agree with earlier comments that there really ought to
10 be, and should be, a minimum mandatory bypass that flows
11 over that falls. There is no reason not to have it,
12 because it is clear. I mean, we all visited the site
13 today, it is hard to deny that there is an esthetic
14 component to that falls. It is important to not just
15 the immediate community, but the community at large.
16 That is an asset to one of your criteria for
17 consideration is esthetic asset. That is, there is just
18 no doubt that is an asset. And that can be maintained
19 by requiring bypass which is commonly required around
20 Connecticut on other dams. So there is no reason that
21 we shouldn't. If you look at the flow duration curve,
22 and I, again, there seems to be confusion, and I think
23 this hearing tonight is really an opportunity to give a
24 clear answer. The flow duration curve seems to suggest
25 that 65 percent of the time the river flows above 100

1 CFS. So if the applicant's intent is to use 100 CFS
2 whenever it is available, then 65 percent of the time
3 the applicant will be consuming 100 percent of the flow.
4 So we have heard 50 percent, we have heard 90 percent,
5 it seems like, and I am not, you know, I am sort of
6 asking, and I think now is the time to clarify it. That
7 seems to be about right, 65 percent of the time.

8 Now, arguably there will be no generation if you
9 are below 10 CFS, so they can map that out, but probably
10 nothing coming over the dam when you are below 10 CFS
11 either. So I think in terms of the evaluating the
12 impact on that esthetic resource, you can say that it
13 will be destroyed 65 percent of the time, and that's not
14 going to be, you know, that is probably going to be
15 seasonal. You are going to have high flow periods and
16 lot flow periods. That is another thing that the
17 applicant probably could give us a better idea about,
18 using the historic flows of that river during what time
19 periods that will occur.

20 But I think most people who lived by can live by
21 the river, probably have a good sense of that. So that
22 point is that, that we think bypass would preserve that
23 resource. The other thing bypass would preserve is, you
24 know, it gets short shrift. There is no way that the
25 draft pipe is going to backwater that pond area. We

1 were out there again, today, and even on Mr. Peklo's,
2 the one cut view, profile view he had of the site, the
3 bottom of the pond basin, as you go to the west,
4 elevates that rock outcrop, so it goes without saying
5 the water is not going to climb the rocks, so that area
6 is going to be dewatered. The application material says
7 that it will backwater the pond area but that is not
8 going to happen. The water is going to flow down
9 stream. So certainly along the base of the dam for that
10 65 percent of the time it is going to be dropped.
11 Whatever is growing under there now, I think there is
12 some photos, there is some, there is some vegetation on
13 the bottom of the dam, probably will die. The habitat
14 area, in that area, it has to be, ought to be quantified
15 by the applicant, there is not going to be habitat to
16 the area because the water is just not going to back up
17 there, and then probably as you go east along the bottom
18 of the dam, that sliver will diminish until you get to
19 the edge of the mill, where it probably will backwater.
20 So we need to know the, sort of, the elevations along
21 the bottom of the river. That is something the
22 applicant should supply, and then, and then we will have
23 a better understanding of what is going to happen to
24 that habitat area, that recreation area that is
25 currently watered, and whatever vegetation is living

1 under that. So bypass also would address that issue by
2 restoring or keeping even that portion, or a portion of
3 the dam wet. Where the applicant, even under ideal
4 circumstances, his plan would not.

5 MR. EASTON: If could interrupt, just a quick
6 second. I just want to find out how many other people
7 are thinking about speaking tonight. Okay. We are
8 probably okay then. We probably get everybody in.

9 MR. RANELLI: Okay. The protection against
10 drawdown of the impoundment, you know, a run of the
11 river is a really important thing, and I am not sure, I
12 didn't see anywhere in the plan, the flow management,
13 impoundment monitoring plan, exhibit 11, how that is
14 going to be enforced. I think the Fish and Wildlife
15 Service said that plan was inadequate, it's still
16 inadequate. The applicant hasn't addressed it, but yet
17 it is going, we are going to coast through the end of
18 this comment period without having a new plan. So we
19 are never going to have a chance to see the new plan or
20 comment on it. And that is another problem.

21 So that, that plan, that has to be the, the town's
22 fish and wildlife service has to be addressed with
23 regard to that plan in a meaningful manner that gives
24 the public time to look at them, because if the
25 impoundment does get drawn down, obviously it is shallow

1 enough as it is, that is going to change a lot of
2 things. That is going to change the temperature of the
3 water, that can change the turbidity of the water. It
4 is going to decrease the size of the habitat area. So I
5 think that --

6 MR. EASTON: I would like to clarify one thing.
7 Any plan that would be require by a FERC authorization
8 would need to be approved by FERC. To the extent that
9 it would be an adequate plan at the time it is before
10 the Commission, it could be approved based on the
11 authorization for development is given. But it also
12 might be that an authorization exemption could be issued
13 and authorized, but it would require plans to be
14 developed in consultation with the agency's after that
15 point and filed back with the Commission for approval at
16 a later date. That process there is obviously, if there
17 is a pending plan that could be commented on right now,
18 and any plans that would be developed after
19 authorization would be available for comment.

20 MR. RANELLI: Well, I understand that, but the Fish
21 and Wildlife comments were dated December 1st. Now if
22 the, if the public can be expected to respond and get
23 their comments in by February 17th, certainly that plan
24 could be updated before then. So it is not a matter of,
25 I know that administratively things happen at certain

1 times and at some point, but here it's avoidable. The
2 applicant shouldn't run out the clock in not responding
3 to a comment during our period to review. So he has had
4 since December 1st, there is no reason that that can't
5 be done before our comment period closes. So we do have
6 a chance to look at it. It may be that changes are made
7 after that, I understand that, but that's not the case,
8 that is the not facts here. The fact here is he has had
9 the comment and can respond.

10 MR. EASTON: Until there is an authorization for a
11 development, there is no obligation for him to keep
12 modifying his plan. There is no, while the fish and
13 wildlife service may be dissatisfied with his plan, they
14 can't direct him to over and over again make
15 modifications to it. What it might mean in the
16 proceeding, before the, before FERC, we have a plan from
17 Mr. Peklo, and we have comments from the Fish and
18 Wildlife agency that says they are dissatisfied with the
19 plan. We would review the, and maybe comments from some
20 of you on the plan, we would review all those, and as we
21 move forward, both through our environmental assessment,
22 we would talk to, discuss to some extent in that
23 document, the appropriateness and adequacy of the plan.
24 And then if we were to authorize the development, we
25 would either, at that point, approve a pending plan that

1 is before us, or say we are dissatisfied with the plan
2 that is pending before us at this time, you need to go
3 and develop another plan. And through consultation with
4 the agencies come up, come back with something that
5 meets these requirements, and here is why your
6 previously plan is inadequate.

7 MR. RANELLI: But those rules are in place to
8 insure that the administrative process is orderly and
9 can come to conclusions. But the spirit is to allow
10 people to have information to comment on, just like you
11 have interim responses to comments which occur all the
12 time in your applications. There is nothing that
13 prevents the information from flowing in a more adequate
14 fashion. It may strategically be better to wait, to run
15 out the clock, or it may be by necessity that you
16 respond after the fact, but there is certainly, I guess
17 my point is, you are asking for our comments. My point
18 is that in the spirit of getting up to speed on, for
19 people who haven't been here, those comments should be
20 addressed, to the extent they can be, before your
21 comment period closes. Because it provides a more
22 meaningful opportunity to comment. Is there a legal
23 requirement to do it, no, but then you don't get the
24 benefit of public input on this plan. And the comments
25 has been out there now for, you know, 45 days, which is

1 plenty of time to respond to that comment.

2 So I understand your point that it could happen
3 late, there is no requirement, but I think the spirit of
4 the public comment period is to, is to allow iterative
5 flow of information, not everybody dump it in. And
6 we'll analyze it in the end.

7 The eel ladder, I don't think there is adequate
8 plans or, to address that. There is a sketch, one
9 sketch in there. I don't think that there has been any
10 discussion about how or when it would be implemented.
11 And so it is another comment that I think needs to be
12 addressed in time for people to comment on it. And to
13 insure that the location of the eel way is, in fact,
14 entirely located in an area where the applicant has
15 appropriate property rights.

16 The scenic value and recreational value of the
17 falls, I think has been addressed by other folks, and by
18 my earlier comments. But I think that, you know, I have
19 been to Woodbury a few times, and as member of the
20 public say it is possibly the most beautiful site in
21 Woodbury is really a strong phrase, because there are a
22 lot of beautiful sites. So I think that this, in this
23 case where there is a public road right abutting it,
24 that factor should get significant weight in your
25 analysis.

1 And noise, I know the applicant's interim response
2 says that he has every incentive to contain the noise
3 from the generation unit because the applicant lives
4 there, but obviously this exemption would be in
5 perpetuity. The applicant wouldn't live there in
6 perpetuity, and in fact, would need to live there for
7 any period of time beyond what he chooses. So I don't
8 think that is adequate protection. I would think that
9 given the, again, the proximity of neighbors to this
10 site, that, and the proximity of the scenic road, that
11 people use to walk on, that there really ought to be a
12 decibel limit at the property line. That sort of a
13 standard that has to be met. One that is an objective
14 standard.

15 And then just one, I think one other comment, I
16 just noticed in Mr. Peklo's presentation tonight, I
17 don't know the significance of it, there was a slight
18 difference in the table that he put up for the
19 impoundment area. In his application materials it lists
20 the impoundment area as four acres, and in the project
21 boundaries in the application, clearly it shows what
22 looks like about four acres. But on the table that was
23 put up tonight, the impoundment area he listed was
24 27,000 square feet. I am not sure why the difference,
25 but that is, that is not what is in the application

1 material.

2 Thank you very much. I have no other comments.

3 MR. KORTALIA: Yes, sir.

4 MR. SEWELL: David Sewell, 14 Pomperaug Road. I
5 live, my house is the only house that is on the pond
6 above the dam. And my concern is, is one, is the width
7 of it half an inch, Andy of the grate of the intake.

8 MR. PEKLO: Three-quarters of an inch.

9 MR. SEWELL: I am concerned about all the aquatics,
10 all the aquatic species including little fish that would
11 slip in between.

12 AUDIENCE MEMBER: I think it is a half inch.

13 MR. PEKLO: Three quarters of an inch.

14 MR. SEWELL: And there's a suction there, the old
15 suction, but in the summer, in the summer when I can
16 hear frogs and the little creatures, and they do,
17 including small fish that are spawned, there are also
18 two, two lagoons which are fed by the, by water coming
19 off of the ridge. And there's a positive out, you can
20 fit there's a very slow out flow to the river, and those
21 are spawning grounds. And I also have problems with the
22 raising and the lowering of the river. It would drain
23 most everything, and there would be, it just wouldn't,
24 it just wouldn't be good to do. Thank you very much.

25 MS. HEWITT: Just, Ruby Hewitt, again from

1 Woodbury. I just have one other thing that I would like
2 to state for the record. That I would like to at least
3 explore to validate the commercial property zoning that
4 he has stated in his presentation tonight. And so I
5 would like to have the records checked by the town to
6 find out, because we are residentially zoned, as far as
7 I know. And I would like to find out the actual
8 validation of commercial zoning for the venture that he
9 is involved in.

10 MR. EASTON: Well, you would need to contact the
11 town.

12 MS. HEWITT: I know, but I want it for the record
13 that we want to validate that, because he made it like
14 it was the truth, and I want to be sure.

15 MR. EASTON: Okay. Thanks. I just wanted to
16 clarify that that is not something we would consider.

17 MS. HEWITT: Yeah.

18 MR. SEWELL: I'm sorry. I forgot to mention. I
19 understand that some of the species are endangered
20 species. And I understand that some of the endangered
21 species are not even publicly disclosed because, you
22 know, to avoid people coming and collecting. So it's a
23 very tender area. And it's, well, that's all. Thanks
24 again.

25 MR. KORTALIA: Yes, sir.

1 MR. MCDOUGAL: Want me to come up front?

2 MR. KORTALIA: Can you repeat your name, please.

3 MR. MCDOUGAL: Duncan McDougal. I live across from
4 our river. I live on Middlebrook Turnpike. When I
5 moved to town, I looked at that building and it was
6 fallen down, and nobody in this town had the guts to
7 restore that old mill. I use that in the old mill, as
8 part of as part of this hearing. Nobody had the guts to
9 fix that building, but Peklo. When I looked at it, I
10 looked at it as a source of power, you know, 40 years
11 ago. It was a source of power. This is nothing new.
12 How this is being done now, bothers me a little bit. I
13 was a full time naturalist for the National Audubon
14 Society. The lady that stood up and talked about the
15 birds that would be disturbed. That is a misnomer, that
16 is incorrect. Those birds are seasonal in town. Even
17 to tear that place apart for six months, if you tore
18 that, had to tear it apart to do this job, you know,
19 those birds would still come back. So I hope that you
20 will take that kind of information and look at it very
21 cautiously.

22 The people we should listen to are those that are
23 immediate and adjacent landowners tto that thing, where
24 noise, or the level of the water is going to be
25 disturbed. And those requests from those people haven't

1 been answered, they should be answered. But if this
2 country is ever going to get their feet on the ground
3 again, there is probably a thousand places in the State
4 of Connecticut that have decent size streams that could
5 generate hydroelectric power, and the people the pounded
6 this thing were smart enough to use it under. We are
7 not smart enough, we are dumb. We want to keep buying
8 all of our energy from Asia and Europe, wherever it is
9 coming from. And it's costing us a fortune, more than
10 50 percent of our gross national goes to buying fuel,
11 are we nuts? And you guys have got to look long term
12 for what we need to do in this State, and you can't
13 listen to people who don't own the property adjacent to
14 it, who might walk down there periodically one or two
15 times a month, a week or a year, and look at, and look
16 at what this thing is doing.

17 And if you stop it here, you are going to stop it
18 in the next town, because people are going to stand up.
19 How many people here own land adjacent to this project?
20 How many of you. Okay. That is a third of the people
21 that are here, so listen to those people. All right.
22 Take their comments, and take them seriously.

23 MR. EASTON: Well, I can assure you we are going to
24 listen to all of your comments. We will go back and we
25 will view them all and we will make sure we do our best

1 to address them all.

2 MR. MCDOUGAL: Thank you.

3 MR. EASTON: Yes, sir. Peter Wolcot 15, Pomperaug
4 Road. One of the things that troubles me about this
5 application is that when -- the application seems to
6 have a lack of engineering input on this. The applicant
7 mentioned even earlier in his presentation this is an
8 engineering issues, I think, two times. I believe the
9 applicant is a licensed architect, the drawings are done
10 by a licensed architect. My concern is that this is a
11 hydroelectric generating station and it is really a
12 complex thing. It doesn't appear thus far with the
13 applicant comments that this had any kind of engineering
14 input. There is no licensed engineering stamp on the
15 drawings at all. And so I am not sure if all of the
16 material that has been put together is actually done by
17 a qualified engineer that knows hydraulics to be able to
18 give input on this. Even if it's correct. Even the
19 calculations, that we are talking about, you know, are
20 they correct? Were they done by a licensed engineer.

21 So, from the start we mentioned that, is the
22 process correct, is the application complete. You know,
23 being one of the landowners nearby, I can also tell you
24 that I was not contacted directly about the project.
25 There were 44 letters sent out before the meeting, there

1 was one ad in the paper that has pretty circulation, not
2 many people read it. And only three people, and these
3 three people that showed up, were people that got
4 personal letters. None of the surrounding property
5 owners got letters, and in the letter it says that you
6 are getting this letter for interested party. And I,
7 again, I just reiterate what other people say, we are
8 all interested parties because we are neighboring
9 property owners.

10 So again, the application throughout it, the lack
11 of engineering input on it, and the design, some of the
12 questions related, some of the calculations and also
13 some of the inconsistent statements in the application
14 are troubling, as well. In one of part of the
15 application it says that the flow would only be affected
16 during low flow period times will be noticed that water,
17 it will be only noticed at low flow period of time with
18 less water being, flowing over the dam. But then we
19 have been told subsequently and through the minutes in
20 the meeting, that probably up to 65 percent of the time
21 there would be no water. So the application is
22 inconsistent.

23 So I, you know, I am not against hydroelectric
24 power. I am not against some kind of a compromise here,
25 but I think we got to take a step back, get the

1 application so it's complete. It is completely
2 engineered, resubmit it and reevaluate it. Thank you.

3 MR. EASTON: Is there anyone else who would like to
4 make a comment tonight. Okay. Let Mr. Cooper go.
5 Okay. I didn't see another hand.

6 MR. COOPER: I just had a procedural question. .as
7 I understood, the, once the comment period which is now
8 scheduled for the 17th of February, is over, and then
9 you would prepare the environmental assessment, and then
10 there would be further comments upon that?

11 MR. EASTON: Yeah, any environmental assessment
12 that was issued would be issued with a comment period
13 associated with it.

14 MR. COOPER: Okay. I would like to agree with Mr.
15 Ranelli's observation that wouldn't it be better to get
16 all of the unresolved matters which the governmental
17 agencies have raised, which the NGO's have raised, try
18 to get all of those unanswered questions and issues
19 completed together, come before you in a complete form
20 where it would be fully understood, then you could make
21 a real decision and then there would be comments upon
22 that?

23 MR. EASTON: One of the things that is happening in
24 this proceeding is, as we went forward, reviewing the
25 application. We did a notice back in February of 2011

1 when the application was first filed, at the time some
2 comments were filed, mostly, I believe, by Fish and
3 Wildlife agencies at that point, the proceeding looked,
4 shall I say, innocent. At this point we moved forward.
5 We got to a point where we felt like we asked for
6 information. He did his studies that we asked him to
7 do. We thought we were at a point where we decided, we
8 were ready to do an environmental analysis, we issued
9 another notice. That notice typically solicits motions
10 to intervene, notifying that we are considering waiving
11 scoping, that we are ready for environmental analysis
12 and soliciting the terms and conditions from the Fish
13 and Wildlife agency and comments from the public.
14 Comments were filed, a lot of comments came in. At this
15 point, we would normally be ready to move forward and go
16 straight to an environmental assessment. In this case,
17 we made an adjustment because the comments that came in,
18 it was clear there was a lot more interest in this
19 project than what we had recognized earlier when the
20 application first came in. So we held this meeting.

21 The meeting now provides us with a lot of new
22 information, and a lot of things to think about. We are
23 going to take all this, it is all in the record now. It
24 is written down. We are going to go back. We are going
25 to work our way through it, we are going to tease out

1 all the issues that we think are related to the decision
2 that we are making. Some of the things that have been
3 brought up here tonight, I think are outside of FERC's
4 jurisdiction. But the things that are within our
5 jurisdiction, and are things that we are responsible for
6 evaluating, we are going to look at those. The concerns
7 people have about steps that haven't been properly taken
8 towards, to get to this point, we are going to go back
9 and make sure we got things right when we got to this
10 point.

11 Yeah, there is another comment period between now
12 and February. There is also potentially another comment
13 period after we issue an environmental assessment.
14 Another thing to consider is the fact that FERC's docket
15 is open. So while we may not be soliciting comments
16 continuously, comments can be filed at any time. So if
17 information comes up, something that you think is
18 related to the proceeding, there is nothing to restrict
19 you from filing that at any particular time in the
20 proceeding. Just because we haven't solicited those
21 comments, doesn't mean you can file. Is that, I hope
22 that is clear. Okay. So there is, there is a long way
23 to go on this. We definitely have a lot of information
24 from you here tonight, that we need to go back and
25 digest and we got some things we got to go back and

1 check and make sure we got right. And I hope everybody
2 has felt like they have gotten a chance to say what they
3 want to say tonight. Because, you know, one of the
4 important things about holding these public meetings is
5 that this is a public process. Everybody should get a
6 chance to say their piece. I think it is unfortunate
7 that we have had some personal back and forth tonight.
8 There is no, I am not a good police officer, I don't
9 think, so I don't know how to regulate and control that
10 type of stuff. And it caught me a bit, more off guard
11 than I would have liked. But hopefully you all got a
12 chance to say what you wanted to say. I think we have
13 one more person that wants to speak. Do you feel that
14 you need to speak, Mr. Nolan?

15 MR. NOLAN: Well, I just want to explain that -- I
16 am Paul Nolan. I am a private attorney that has been
17 doing hydro since 1985. I have learned about this
18 project from the Federal Register, public notices, saw
19 that it was in Woodbury. My family is from Middlebury.
20 I stood up at the thing I would say, you know, my name
21 is Paul Nolan, and I am a Nutmegger. I was born in
22 Grace Hospital. My father went to Crosby High. I
23 became involved because, you know, I called Andy and
24 said, you know, heard from this area, I think the only
25 thing I want to echo is, you should get on the mailing

1 list. If you are not a party, at least get on the
2 mailing list. Get on the email subscription list so you
3 are aware of this. If you made comments, go ahead and
4 put them in writing and put them in, because the written
5 comments makes it easier to address, you know, if there
6 is something you want to respond to sooner. And like I
7 said, you know, keep comments coming in and replies will
8 keep going out. Keep the process going dynamic.

9 So, I don't think you should, feel you are
10 disenfranchised if you aren't an intervener or are not
11 party yet, at least get on the mailing list or at least
12 subscribe to the FERC docket so you stay involved with
13 this process. Because I think as more information that
14 goes back and forth maybe some more trust can come in.
15 I happen to trust more when you get a DEP or someone
16 says that there is going to be a monitoring plan. The
17 monitoring plan, to answer your question, even if FERC
18 approves it, if the agency don't like it, they can
19 certainly ask for a hearing. There is other ways that
20 these makes these available, but I understand that you
21 say you want to see them sooner than later. So I
22 understand those issues, but at least make sure you are
23 staying involved with the process, because if you just
24 end now and you, you know, by the time we get the
25 transcript, come back, I don't how long it is going to

1 take, it's going to be harder for someone to respond
2 back and get the question answered. So that is all I
3 had to say.

4 MR. EASTON: I do have a couple things to follow-up
5 on there. You mentioned the mailing list, if you look
6 at the website, our website, FERC.gov, you can or,
7 actually, the easiest way to do it is probably to call
8 Steve here, you have got his number, and he can guide
9 you to where you need to go. I can do that kind of
10 thing since he works for me. But the mailing list, if
11 you want to get mailed out filings sent to you, things
12 that FERC is issuing sent to you, you should get on the
13 mailing list. The really, the easiest way to keep track
14 of what going on with this proceeding, is to get on the
15 website, find the e-subscription link, and that is
16 basically like an e-mail hot button. And that thing,
17 any time anything gets filed in the record, whether it's
18 from you, from Mr. Peklo, from the Fish and Wildlife
19 Agencies or a document that FERC issues, an e-mail comes
20 and hits you and says, hey, there is something that is
21 there, you click on it, you can open it up, often it
22 will be a pdf file, and it will take a few seconds, but
23 basically you get everything. So you will be notified
24 continuously of stuff, and with this proceeding you
25 might be getting a lot of e-mails. So I would recommend

1 if you want to track it, e-subscription really is the
2 best way to do it. The mailing list is another way to
3 make sure you are getting all the FERC issuances.

4 MS. DELO: Anne Delo, Pomperaug Road, Woodbury.
5 What does the status of interveners do in terms of
6 access to information, or, so why would, why would
7 people believe they need to go to the trouble to file
8 for that when, in fact, it sounds like comments from any
9 party have equal weight at FERC.

10 MR. EASTON: Well, comments will be considered no
11 matter who they came from. What an intervention allows
12 you to do, if you filed an intervention and it's
13 granted, and the Commission has issued a decision on
14 this, and you don't like that decision, there is a
15 30-day period after that issuance that allows for a
16 filing of rehearing. So, if you have legal complaints
17 and you think some part of the decision is essentially
18 illegal or some, FERC has made some sort of mistake, and
19 you want us to reconsider it, that is during that 30-day
20 period, interveners can file for rehearing.

21 AUDIENCE MEMBER: Quick question, one group of some
22 individuals have filed motions to intervene, when will
23 they be acted upon?

24 MR. EASTON: The motions that have been filed
25 timely, I believe are granted automatically. Notices of

1 intervention which come in from the State and Federal
2 agencies, are typically granted automatically, as long
3 as they have been filed timely. Late, any late motions
4 to intervene that have been filed, those, I believe,
5 will get decided at a later time. And I am not sure if
6 they started looking at those. That generally happens
7 through our Office of General Counsel.

8 MR. NOLAN: If I could, I believe the Commission's
9 already granted the only late interveners that have been
10 filed. I think it was these two women, they have
11 already been granted interventions.

12 MR. EASTON: Okay.

13 MR. NOLAN: And I think everyone --

14 AUDIENCE MEMBER: If I might say, if I understand,
15 which is why I thought I should ask the question,
16 because a number of people have filed, and there seems
17 to be no feedback through as to why it is granted in one
18 instance, and not in another. And also it was noted
19 that ours was filed late, when, in fact, in fact, Steve,
20 you and I had a discussion, about the posting system,
21 whatever it is, tagged ours as filed late, when it was,
22 in fact, filed within 30 days of November the 3rd. And
23 yet, if you go look at your roster register, it says it
24 is late.

25 MR. EASTON: Yeah, I would have to go, we'll go

1 back and we'll look at that. The attorneys that is,
2 they handle that separately. We are fish biologists.
3 We look at the environment, and we are here to receive
4 your public comment. That is why there have been a
5 couple questions where you have gotten sort of out of my
6 realm and, I'm having a hard time answering some of
7 this stuff. We tried to get the attorneys to come, they
8 don't like to come.

9 So no, anyway, we will go back and we will
10 investigate that to determine what went on. If you had
11 a filing, a motion to intervene and it was filed late,
12 typically a response goes back out to that. If there is
13 a motion to intervene, and it is filed timely, because
14 it is granted essentially automatically, there is no
15 response. It is just how, it is a legal thing.

16 MS. HEWITT: Ruby Hewitt. I just have one question
17 with regard to, just the comments, if we had a motion to
18 intervene and now we want to comment now after this
19 meeting, is it a motion to intervene or is it just
20 comments

21 MR. EASTON: Just comments. Once someone has, an
22 entity has filed a motion to intervene --

23 MS. HEWITT: Thank you.

24 MR. KORTALIA: Is there anyone else who would like
25 to make a comment tonight? One more in the back.

1 MR. SORENSON: My name is Robert Sorenson I live on
2 Old Sherman Hill Road. I am not a Nutmegger, because I
3 have only been in town for about 11 years, but my roots
4 run deep here. My first cousin, eight generations ago
5 was the first blacksmith of Woodbury. I just discovered
6 that this last year on my family tree. But I love
7 fishing, and I lived on a, one to three quarter acre
8 pond that feeds into that beautiful, majestic property
9 that Mr. Peklo did all the beautiful landscaping. And
10 it's absolutely the most scenic area that we have,
11 besides where I live, which is a magnificent pond. But
12 that water goes down there, I love fishing, and I can't
13 imagine that it is not going to affect the fishing in
14 that area. I have never fished right there, but I can't
15 imagine, but I haven't heard anything about this until,
16 I don't know, maybe less than a week ago. You know, all
17 these people that are neighbors of ours haven't heard
18 anything. They got, they got no notice. I would think
19 you would reject -- I am so glad you guys are here,
20 thank you -- but I would think you would just, on that
21 note alone, the heart of his need to even tell his one
22 neighbor or two neighbors or three, they didn't even
23 know. And I think that should completely be rejected.
24 It should start from the beginning. I know people that
25 live here that live in Florida part time, they don't

1 even know about this. They are not going to be back,
2 some of them, until June. Some are gone for eight
3 weeks, you know. We want a a chance to tell you that,
4 we are glad your are here, and oh, my gosh, thank you
5 for listening. But I just can't believe that he would
6 even be able to have an application without telling his
7 neighbors. That is just, that is a shock to me. This
8 is the first I have heard of, that's why I came tonight,
9 so thank for listening.

10 MR. KORTALIA: Any other comments. Well, thank you
11 for taking time to come tonight. We are adjourned.

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13 (Whereupon the hearing ended at 9:02 p.m.)

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