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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: : Docket Number
ELLSWORTH HYDROELECTRIC PROJECT : P-2727-086
- - - - -x

Ellsworth City Hall
One City Hall Plaza
Ellsworth, ME 04605

Tuesday, January 15, 2013

The above-entitled matter came on for Scoping Meeting,
pursuant to notice, at 7:00 p.m., Nick Palso, FERC Moderator.

1 PROCEEDINGS

2 MR. PALSO: Good evening, everyone. My name is
3 Nicholas Palso, with the Federal Energy Regulatory
4 Commission in Washington, D.C. And we're here for the
5 Ellsworth Hydroelectric Project scoping meeting.

6 This is our -- what we call the public scoping
7 meeting. We like to have one in the morning -- or in the
8 afternoon for agencies can easily attend when they're on
9 working hours. And we also like to have one in the evening
10 where it's easier for the public to attend so that we can
11 maximize the range of information and attendance.

12 I'll briefly go through the agenda here. We'll
13 start with an introduction. Then I'll describe the
14 pre-filing process, discuss what this scoping meeting's
15 about and how it fits into the pre-filing process.

16 Then we'll have a project description. I'll
17 have Black Bear Hydro come up and give a little talk and
18 describe the Ellsworth Project. Then I'll explain what kind
19 of information and studies FERC is here looking for. We can
20 discuss the resource issues that we cover. And then we can
21 take questions and comments at the end.

22 Important -- Very important: Please, everyone
23 who's here, make sure you sign in. I had Carolyn going
24 around getting everyone's signature that she could. And
25 otherwise I put it up front. That helps us know how many
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1 people intend to make comments. And also if they make
2 comments, we can get their name for the record.

3 We have it all on the record. So we've got a
4 court reporter with us. So, please, if you're going to say
5 anything, state your name and affiliation before you go on
6 and talk so that we know who's talking on the record and on
7 the transcript. And also speak into the microphone.

8 We'll have a microphone up here at the podium
9 and we'll also have a portable microphone going around. So
10 when you talk into it, it won't project out to the audience.
11 This seems like a pretty small room so we can all hear each
12 other. But it will go on to the recorder so that we'll have
13 it in the transcript when we go back and look at the
14 comments.

15 If you're going to make a written comment --
16 and those are as good as spoken ones, so you can say
17 whatever you want here or you can -- if you don't want to
18 talk in public, you can file a written comment with us -- or
19 you can do both. But written comments are going to be due
20 by February 21st. And, like I said, we'll take written or
21 spoken. And I'll describe later how you can go ahead and
22 submit written comments.

23 I would also like to point out that if you
24 aren't already on our mailing list, our e-Subscription;
25 there are instructions in the scoping document on how to get
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1 on that. That's a system that they have set up at FERC
2 where every filing, every official filing that goes on the
3 FERC record, you'll get e-mailed a link to it. You'll get
4 e-mailed the exact same link that I get e-mailed on my
5 computer. So it allows you to keep up to date with
6 everything that's going on.

7 And I mentioned the scoping documents. Those
8 were put on, you know, FERC's record. If you don't have a
9 copy, I've got several copies up there on the corner. So
10 you can take one now or take one to go home with you.

11 As I mentioned before, my name's Nick Palso.
12 I'm the licensing coordinator for the project. So I'll be
13 putting it all together during our licensing process. I'll
14 also be dealing with recreation, cultural, and aesthetic
15 resources.

16 I've got two other FERCers with me, and I'll
17 let them introduce themselves.

18 MS. CLARKIN: Hi. I'm Carolyn Clarkin. I'm an
19 attorney with the Office of General Counsel.

20 MR. CONNELLY: I'm Bill Connelly. I'm the fish
21 biologist. I'll be covering the aquatic resources.

22 MR. PALSO: And back in Washington, D.C. we
23 have Amy Chang, who will be handling terrestrial. That's
24 anything that breathes air, like fuzzy creatures, basically.
25 And Mike Watts, our engineer. They couldn't make it up to
26

1 the trip with us.

2 Now I mentioned before I'm with the Federal
3 Energy Regulatory Commission, or FERC. How many people here
4 have never heard of FERC before coming to this scoping
5 meeting.

6 Wow. Nobody. That's -- Oh, a few? Okay.
7 There's a few. Usually we get a lot more hands.

8 FERC is a rather lesser known agency. Just a
9 little background. We were founded in 1920 as the Federal
10 Power Commission. We regulate the development of energy
11 infrastructure. So that for us is natural gas pipelines and
12 non-federal hydropower projects. So federal projects like
13 the Hoover Dam or Army Corps of Engineer dams, we do not
14 regulate those.

15 Other people in FERC, they ensure energy rates
16 and delivery are reasonable. They look at natural gas and
17 oil transmission and electricity transmission and
18 reliability, and look at the rates people are charging for
19 that and making sure that everyone's getting their
20 electricity.

21 Looking at hydropower licensing, which is why
22 we're all here, the big purpose of this is to maximize the
23 benefits of hydropower. Hydropower is a, you know, fairly
24 -- very clean energy source. It could have some
25 environmental issues. So our job is to make sure that those
26

1 issues are minimized and taken care of so that we can get
2 the biggest benefit out of this clean energy source.

3 Our licenses, what we're here -- this is the
4 licensing process. To operate a non-federal hydropower
5 project the applicant needs to have a license from us.
6 These last about from 30 to 50 years, depending on various
7 aspects of the project.

8 And the licenses, they set the operating
9 conditions, including environmental protection measures,
10 recreation protection measures, what the applicant will do
11 to protect historic structures, et cetera. So it tells the
12 applicant how they need to run this project to protect
13 various resources.

14 And these licenses are developed through the
15 NEPA process. And NEPA is the National Environmental Policy
16 Act. And this process is, you know, what we're all here a
17 part of. There is -- we go through and make the license and
18 it's all about analyzing the different environmental factors
19 and coming up with what conditions should go into the
20 license to help protect various things.

21 And this table here shows our pre-filing
22 process. Don't worry: You don't need to memorize it.
23 There's no test. It's a little daunting. But to give you
24 an idea, this is the pre-filing. There's a whole other
25 section after they file their license application.

26

1 So this just goes into what's going to go into
2 the license application. And we are right here. We are
3 very near the beginning at the scoping process. So there's
4 a several-year process -- it's two or three years at least
5 that will go into this. So there's a lot of work; a lot of
6 time is spent making -- putting into these licenses.

7 The scoping process, very early, this is when
8 we come and we want to solicit input and comments from
9 agencies and the public, all stakeholders. We want to find
10 out information that we may not be able to, you know, easily
11 get in Washington, D.C., where we work. We want to identify
12 issues that could affect the project.

13 We also want to discuss existing conditions and
14 information needs: what are some questions that people
15 might have about the project and the answers aren't readily
16 there; that may be something we have to study.

17 I mentioned before there's e-Subscription.
18 There's also e-Library. e-Subscription sends you a link to
19 every filing that goes on FERC's record as it is filed.
20 e-Library, which you can access -- and both of these you can
21 access at www.ferc.gov.

22 E-Library allows you to go and look at every
23 filing all lined up. So you'd enter the project name.
24 There's a little search screen, and once you put it in it
25 will put up every filing. So if you're not up to date on
26

1 the project you can go back and read everything that's been
2 filed in the past relating to it. And then everything new
3 will get added to that e-Library page.

4 Now I'll let -- Is it Scott Hall? Are you
5 going to come up and talk?

6 Scott will come up and give a brief discussion
7 of the Ellsworth Project in case anyone's not familiar with
8 it.

9 MR. HALL: Being as, frankly, inept as I am, I
10 want you to help me, actually.

11 Do you need me to come up there?

12 MR. PALSO: Yes, please speak into the
13 microphone.

14 MR. HALL: What we're going to do is just give
15 folks a quick kind of overview of the project. Probably
16 most people are familiar. I did want to also introduce the
17 people that are here today as part of our relicensing team
18 that will be helping us with many of the same issues that
19 Nick mentioned.

20 Just a real brief background on Black Bear
21 Hydro. We were actually talking earlier, a number of us
22 came from Bangor Hydro many years ago that are employees of
23 Black Bear Hydro. Basically Black Bear owns all the
24 projects -- all the hydro projects that Bangor Hydro used to
25 own. And there's been a couple of different owners since
26

1 then, but suffice it to say that Dick Fennelly and myself
2 have been working on these projects for 20, 25 years now.
3 And in fact, when I first started the Ellsworth Project had
4 just freshly been re-licensed back in 1987.

5 This just shows you real briefly what -- other
6 projects that we own. Obviously the Ellsworth Point is the
7 only one on the Union River. The others are on the
8 Penobscot and on the Androscoggin River.

9 The next one.

10 Today with us we have our re-licensing team.
11 And again, my name is Scott Hall. And Dick Fennelly is here
12 as well from Black Bear Hydro. We have Dave Darmonie and
13 Lauren and Bud from TRC, who's helping us with a whole list
14 of issues, as you can see. And then we also have Kelly
15 Maloney from Kline Schmidt helping us with some of the
16 energy hydrology issues. And Peter Brown from HDR on the
17 fisheries issues, particularly endangered species and
18 consulting -- the consultation process there.

19 Next one.

20 Again, we'll kind of flip through these fairly
21 quickly. The Union River watershed is basically all the
22 area that drains into Union River. So it's not by any means
23 the biggest watershed in Maine, but at the same time there's
24 a lot of kind of bits and pieces that are affected, and some
25 of which we'll talk about here in a little bit.

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1 In terms of the Ellsworth Project, the project
2 boundary is essentially Graham Lake Dam, and then downstream
3 at the Leonard Lake Dam, which is the impoundment upstream
4 of the Ellsworth. So -- and we'll talk a little bit in a
5 second about the -- how the two work together.

6 In terms of the project itself, the Ellsworth
7 Hydro Project again consists of two dams. Graham Lake Dam
8 is the storage project where we store flood waters and then
9 release them over time throughout the year; and the
10 Ellsworth on Leonard Lake Dam is where we have the
11 generating capacity.

12 We have four turbine generator units. And
13 again, the maximum capacity is 8.9 megawatts. Typically we
14 do considerably less than that. That's when we have a lot
15 of spring flows, for example, and the gates are wide open at
16 Graham Lake; we've released water down to Ellsworth and
17 generate it from there.

18 So next.

19 Now I'll just kind of flip through a few quick
20 pictures. This is the Leonard Lake or Ellsworth Dam. And
21 Leonard Lake was -- the dam itself was built in 1907, and it
22 was originally intended to generate electricity for the
23 Ellsworth area. It was removed from Bangor Hydro-Union
24 River Waterpower, Union Waterpower --

25 UNIDENTIFIED PARTICIPANT: Bar Harbor and Union
26

1 River Power.

2 MR. HALL: Bar Harbor was the original owner.
3 Then Bangor Hydro bought in the early '20s.

4 Next one.

5 So this is just another review kind of from the
6 river level. You can see there's the original powerhouse.
7 And actually on the right looks like a little bit lighter
8 color building: that was an additional powerhouse that was
9 with one more unit. So there's a total of four units
10 installed there today.

11 And Leonard Lake, it's a very stable
12 impoundment, largely because we almost always are able to
13 control the river flow to that site, so the impoundment
14 level is fairly stable. It was built right in the gorge, so
15 it's a fairly high dam. It's 60-plus feet high. But
16 upstream is -- because it was so steep the impoundment
17 itself only stretches a little over a mile upstream.

18 And then Graham Lake Dam, this is the gate
19 structure itself at Graham Lake. This is where we release
20 water. The dam itself is an earthen structure. And then
21 downstream of the earthen structure is a concrete dam that
22 was put in in the early '90s for flood control purposes,
23 just in the event that something ever happened to the
24 earthen dam it would retard flows and flood flows going
25 downstream of that cliff or otherwise affect the City of
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1 Ellsworth and beyond.

2 Now Graham Lake itself, I think the previous
3 slide talked -- showed that it was about a 9000 acre lake
4 when it's full. And it was -- excuse me, it was built in
5 1923 when they realized that there were a lot of times when
6 there was way too much water to be able to control,
7 particularly for flood control purposes. And so they built
8 the Graham Lake Dam to be able to hold that water, store
9 that water.

10 So we have impoundment fluctuation that allows
11 us to basically draw down in the winter-early spring to
12 catch all that flood flow, the in-flow from snowmelt and the
13 rains in spring. And without that there would certainly be
14 times where a number of places in Ellsworth itself would be
15 under water just from natural floods.

16 Project operations. Again, it's basically run
17 as a coordinated system. So we store water at Graham Lake.
18 We manage the impoundment level so that in the springtime
19 again, when we know that there's a lot of snow in the woods,
20 we're going to get spring rains, we have room to fill up
21 Graham Lake and then release it over a period of time
22 throughout the summer. The license actually allows us up to
23 an eleven foot impoundment fluctuation. Typically it's only
24 -- we only go seven to nine feet.

25 And then we have minimum flow requirements

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1 largely geared towards fisheries, particularly alewives and
2 the migration in spring, which is the additional flow.
3 Although in reality we end up passing considerably more than
4 that almost all the time. But there have been years when we
5 had real dry years, like early 2000s where we had to -- we
6 were only able to pass the minimum flow just to keep flow
7 going down through the river without drawing down Graham
8 Lake to -- to levels that would be too low.

9 This just kind of gives you a real general
10 sense. This is our operating Rule Curve. And the straight
11 line is the Rule Curve, and then the jagged line is actually
12 the elevations in 2011. So you can see we still didn't get
13 down to the bottom elevation in 2011. And you notice the
14 big dip; that's basically again we tended to capture -- to
15 have enough room in Graham Lake to capture that flood flow.

16 One of the pieces of this process is we have,
17 as some of you are familiar with, a comprehensive fishery
18 management plan for Union River drainage. Again, it was
19 developed with a whole bunch of stakeholders, some of which
20 are in the room. And the intent is to try to manage
21 fisheries in the Union River for, you know, for kind of the
22 benefit of all.

23 There's obviously a highly active commercial
24 fishery for alewives that the City of Ellsworth has the
25 rights to, and draws lobster fishermen from all over the
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1 state for bait. And this is something that we have
2 concurrent plans. And it's a kind of a dynamic process and
3 dynamic document. So we expect that will continue in the
4 future as well.

5 And I wanted to real brief -- and I don't know
6 how this fits in with yours, Nick -- but I just thought we'd
7 just give you a quick sense for the kind of standard studies
8 that we would be performing this year. There's actually a
9 couple of additional ones that in -- sense we put together
10 the Pre-Application Document with additional consultation
11 with agencies and interested parties that we would likely be
12 pursuing as well. If I can do two things at once, I'll talk
13 about those.

14 So a couple of these are, you know, the
15 archeological and historic resources, those surveys are
16 things that I don't think we have included in the PAD, but
17 they are things that we actually -- that we do intend to do.
18 And that's part of the standard process.

19 And then in addition to this listing one of the
20 other things that we will likely add is basically a study to
21 assess the opportunities to enhance generation. As Nick
22 mentioned earlier, there are -- you know, its clean,
23 renewable hydropower. And to the extent we can maximize the
24 use of the water, and make the highest and best use of it,
25 if you will. And that's something else that we likely will
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1 look at, be it at Graham Lake or at Ellsworth, just
2 opportunities to enhance generation going forward.

3 And then I think the next steps -- we put this
4 in here, but I'm presuming that Nick's going to cover this
5 so I won't spend an awful lot of time. But basically
6 suffice it to say that there are plenty of opportunities for
7 participation. And we expect to be, you know, doing some of
8 our studies in this next field season, particularly the
9 water quality-related things. This time of year is not
10 really the best time to be out sampling, there's all rocks
11 and the like.

12 And then again, we'll be here tonight. And
13 obviously if you have any questions, I think most folks know
14 how to get a hold of us. But if you don't, then feel free
15 to see me sometime today or get our contact information and
16 we can answer questions as they come up.

17 MR. PALSO: Okay. Thank you, Scott.

18 And to give you some idea of, you know, how
19 long these licenses last, he said it was last licensed in
20 1987. And I was in second grade then and had a lot more
21 hair.

22 (Laughter.)

23 MR. PALSO: So these licenses last for many,
24 many years. And that's why we take many years to go through
25 the process of coming up with a license, to make sure we can
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1 cover everything.

2 The resource issues we look at during the
3 licensing -- or in this case re-licensing process -- are:

4 Geologic and soil resources;

5 Aquatic resources -- and that includes fish,
6 invertebrates, water quality;

7 Terrestrial resources -- like I said, that's
8 birds, mammals, reptiles, plants;

9 Recreation and land use -- you know, a lot of
10 these projects recreation is a big component so we make sure
11 that those resources are protected;

12 Aesthetic resources. We look at how the
13 project could affect scenery in the area.

14 There's also cultural resources, including
15 historic structures as well as archeological sites; and
16 developmental resources. That includes the economics of the
17 project.

18 Now a request for information and studies --
19 and the big reason we're here. We're coming here to get the
20 information from the stakeholders so that we know what
21 issues to look at. We're looking for information that may
22 help define the geographic and temporal scope of the
23 analysis: You know, how far into the future should we look
24 and how wide an area should we look at.

25 And we also want to identify significant
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1 environmental issues; you know, what are the big things this
2 project could be affecting. We're also looking for any data
3 that would help describe the existing environment, what's
4 already there, and also the effects of the project and other
5 developmental activities on the environment and
6 socioeconomic resources. So if the applicant's proposing to
7 build something, how could this affect different resources.
8 We're looking for information on that.

9 We're also looking for identification of any
10 federal, state, or local resource plans, and any future
11 project proposals in the affected resources. So if there's
12 some comprehensive plans that relate to the Union River that
13 we haven't identified in our scoping document, please let us
14 know about them.

15 We're also looking for any documentation
16 showing why any resources or identified issues should be
17 excluded from further study or consideration. So, just as
18 we're also -- we're looking for what issues are important.
19 If there's some issue we're talking about in our scoping
20 document that really isn't relevant any more, please let us
21 know that and please point us in the direction of
22 information that would show us why it's not relevant.

23 And we're also looking for study requests that
24 would help provide a framework for collecting information on
25 resources affected by the project.

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1 And looking at study requests, in this
2 pre-filing process we're going to -- the applicant is going
3 to develop a study plan. They're going to list out what
4 they're going to study, what issues could be affected by the
5 project that require more information. And they're going to
6 work with FERC and with the public and with resource
7 agencies to come up with these studies.

8 So if any of you have a study that you think,
9 you know, is important, some information needs to be
10 gathered, we have a couple criteria we need. So please
11 don't just write in saying that, you know, 'Hey, you need to
12 study fish.' That's not good enough for us. We need to
13 have these -- you need to, you know, go through these
14 criteria and list these all out. And then we can, you know,
15 come up with a suitable study for it.

16 And the first one of these criteria is:

17 Describe the goals and objectives of the study
18 proposal. What is the study you're proposing; what
19 information is it trying to get.

20 Explain relevant resource management goals:
21 What is the information from the study going to help to
22 protect?

23 Explain relevant public interest
24 considerations. How is this in the public's best interest;
25 how is protecting a certain resource going to help the
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1 public?

2 Describe any existing information -- you know,
3 what's already known about this -- and then also describe
4 the need for additional information: What's missing from
5 the existing information that should be gathered by the
6 study.

7 Also explain the nexus between project
8 operations and effects and how the study results would
9 inform license requirements. So here, what is the
10 connection between the information that the study would
11 gather and the licensing process; how is this information
12 you gather going to help the license and protect a resource.

13 Another very important one: Describe
14 methodology and how it's consistent with accepted practice.
15 So, you know, give an idea of what the applicant should be
16 doing in this study to gather the information and how this
17 is a normally-accepted way to gather such information.

18 And finally, describe the consideration of
19 level and effort and cost of the study. Here you come up
20 with an estimate of how much you think this study is going
21 to cost in terms of money and in time, and why you think
22 it's worth it for, you know, that time and money to be spent
23 to get that information.

24 And these criteria, they're all listed out in
25 the scoping document. So you don't need to be, you know,
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1 memorizing them here. But if you are going to file a study
2 request, please make sure it follows these criteria. If you
3 just want to file a comment, don't worry about these
4 criteria.

5 As I mentioned earlier, the information and
6 studies -- information and comments, and then any study
7 requests are due February 21st. So please make sure you
8 have, if you're going to send them in, please make sure
9 they're sent in by the 21st.

10 When you send in your information clearly
11 identify on the first page that it's for the Ellsworth
12 Hydroelectric Project and its FERC Number is 2727-086. You
13 can file these electronically on the internet or you can do
14 it through the mail.

15 If you're going to file it electronically you
16 can go to www.ferc.gov and right on the front page there's
17 information there on submissions. And it will walk you
18 right through. There is also a telephone number, if you
19 have any difficulty with it. It will connect you to someone
20 in our office who can help you file your information.

21 If you're going to send any -- or mail us any
22 information, the address here is to our secretary. And this
23 is also in the scoping document so you don't need to write
24 down the address.

25 Some important dates. Again, comments are due
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1 by the 21st of February. The applicant will have the
2 proposed study plan by April 7th. This is where they'll
3 propose, you know, go on the comments and propose what
4 studies they're going to have.

5 Then on -- by -- sorry -- by May 7th we'll have
6 the study plan meetings. And the applicant will hold the
7 meetings with stakeholders. And here they can discuss the
8 applicant's study plans. And it's a good place to have lots
9 of back and forth discussion. It helps to mold the study
10 plans to get more at the information stakeholders are
11 looking for.

12 I also believe we might possibly have a site
13 visit then in May. Normally we have a site visit together
14 with the scoping meetings, where we can go -- the public can
15 go and look at the project and get a tour of it. But since
16 this is January and this is Maine, it's probably not a good
17 idea to go out right now. It would be pretty slippery. So
18 we'll push that forward to May.

19 Then at the end of summer, August 5th, the
20 applicant will have a revised study plan where they
21 incorporate all the comments they got at the study plan
22 meetings. And that study plan then goes to the FERC, the
23 head of our Office of Energy Projects. And there's a
24 determination made that -- what -- that's where you finalize
25 what studies are going to be, you know, studied, what the
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1 final study plan is. And then the applicant will spend the
2 next year or two out in the field gathering information
3 based on those studies.

4 And that's all I have.

5 Now we'll open it up to questions and comments.

6 Bill, if you could help with the microphone.
7 Please, you know, raise your hand; Bill will come to you.
8 And please speak into the microphone. And before you say
9 anything, give us your name, spell it if it's a name that
10 people usually misspell, and also state your affiliation.
11 And then go ahead and make comments.

12 MR. WHITING: I'm Mark Whiting. I'm a resident
13 of Ellsworth. And I have a question maybe for Scott.

14 I notice that you're doing a study on water
15 quality monitoring. And I notice that chlorophyll is one of
16 the things that you're looking at. I was thinking that both
17 Leonard's Lake and Graham Lake have some algae problems from
18 time to time, especially Leonard's Lake. And if you just
19 added total phosphorus and total nitrogen to the study then
20 it would help people understand why these lakes can get a
21 little scummy from time to time.

22 I've seen blue-green algal blooms. Not very
23 serious, but I've seen them nevertheless in Graham Lake.
24 And Leonard's Lake in particular can get really green in the
25 summertime. So I think just by expanding that study a

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1 little bit, you know, you might get more interesting and
2 useful information.

3 MR. HALL: The quick answer is obviously we'll
4 consider all of those factors. I mean the baseline
5 evaluation will conform to the DEP's requirements for water
6 quality sampling. To the extent that there's opportunities
7 to collect additional information while we're there, then
8 that's certainly something that we would, you know, continue
9 that discussion so we understand the specifics.

10 And obviously the other thing would be
11 understanding where you might have seen some of those things
12 so that we can kind of -- you know, that's part of the --
13 it's one thing to say you're going to go out and study; it's
14 another thing if you have targeted areas. So to the extent
15 we can have some -- a little bit of additional dialogue
16 about the locations that would be helpful.

17 MR. WHITING: Sure.

18 MR. KANE: I'm Allen Kane, better known as
19 Chubba, C-h-u-b-b-a. And I'm a resident of Gouldsboro, but
20 I also represent the Atlantic Salmon Federation Maine
21 Council and the Downey Salmon Federation.

22 And what I'd like to say about fishery studies,
23 that when this was first licensed in '87 and prior to that,
24 we didn't consider the anadromous species or trash --
25 so-called trash fish the way we do now. And that issue has
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1 come front and center.

2 To give you an idea of the species I'm talking
3 about, alewives are a huge issue. You spoke briefly about
4 that. The number of alewives that we're trucking up over
5 the dam is -- on the best year was in the neighborhood of
6 400,000. But we're looking at the possibility, with proper
7 fish passage, at up to two million alewives in just Graham
8 Lake. And as you know, the watershed is even larger than
9 that. So it could possibly go beyond that.

10 Also, another species we may look at for better
11 fish passage, elvers, or eels. Last year we had a
12 tremendous, tremendous economic boost to this area by
13 elvers. And south of here they're scarce, they're
14 endangered; they're not harvested. And we need to look at
15 that in this area, what we can do to possibly increase that
16 species for economic development in the area because, you
17 know, the fisheries -- the lobstering's good -- the elvers
18 was one of the highest cash crops for fisheries on the Maine
19 coast in the last year.

20 Another one is rainbow smelts. The smelts used
21 to -- right behind the old Morrison car lot, we used to
22 smelt right there. And so we could possibly bring --
23 increase that species with better fish passage by, you know,
24 going upstream.

25 And then possibly -- we could possibly bring
26

1 back shad into the area and short nose sturgeon. And so we
2 could really do a number on economic development by better
3 fish passage. We need to look at that to help out the
4 habitat and enable them to get upstream.

5 And I'll mention these last but not least
6 because I'm on councils of Salmon Federations. There is a
7 possibility, if we have proper fish passage here, we could
8 get a hatchery and we could possibly bring salmon back here
9 with fish passage going up, because this could happen.
10 There's a lot of good habitat in the Union River. And this
11 used to be, prior to damming it up, used to be a good salmon
12 river.

13 So we need to look at these because the
14 parameters we're looking at today are different than what we
15 looked at in '87. We didn't look at these species the same
16 way.

17 And I think it's eminently economically viable
18 to look at them today because they are valued. And it goes
19 beyond just what economic value directly we're talking
20 about. We're not going to bring back the cod and the
21 haddock offshore unless we keep a viable population of
22 alewives swimming in the Gulf of Maine. And so by taking
23 another one of our rivers and restoring that population to
24 historic numbers, we're enabling ourselves to the
25 possibilities of bringing back our offshore fisheries.

26

1 So the whole thing, the whole thing ties in,
2 and it's intricate in looking at the big picture.

3 So thank you for your time.

4 MR. HALL: Just to clarify for Mr. Kane, in
5 terms of the number of alewives stocked, the comprehensive
6 fishery management plan used to call for 100,000 alewives
7 stocked above Ellsworth, and now it's 150,000 per year. And
8 the remainder of those alewives -- this year there was a run
9 of over 1.2 million. The remainder of those were harvested
10 for lobster bait.

11 So the fisheries agencies and the management
12 plan itself actually limits the stocking to 150,000. But
13 that has resulted over the last several years -- and last
14 year in particular resulted in 1.2 million alewives
15 returning to the harbor.

16 MR. KANE: Well, a lot of those management
17 plans are being looked at were limiting the amount of
18 alewives. But that's critical for offshore fisheries. If
19 they have fish passage we can increase that number
20 exponentially.

21 MR. HALL: Again, just so that you understand,
22 the fishery management plan won't allow more than that to be
23 stocked. But in fact we could stock every fish that comes
24 back: we could stock 1.2 million. But the fisheries
25 agencies --

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1 MR. KANE: Well, this isn't stocking; this is
2 natural returns.

3 MR. HALL: The fish still get upstream. But,
4 you know, we don't have to have that discussion here. But I
5 just wanted to make sure you understood that currently the
6 state and federal fisheries agencies in the comprehensive
7 fishery management plan calls for 150,000 to be stocked
8 upstream.

9 MR. KANE: That management plan was developed
10 because they put in the dams, and you're putting them up
11 there. The management plan can be adjusted so we can put
12 more fish up there. That's what I'm saying. We need to
13 study that and look at that.

14 You know, we need to look at the big picture is
15 what I'm saying. And not to say that it's going to be done,
16 but I think it warrants a discussion and warrants looking
17 at.

18 MR. CLINE: So good evening. My name is Ken
19 Cline, C-l-i-n-e. And I'm affiliated with the Maine Sierra
20 Club and also the Union River Watershed Coalition.

21 And I guess I have sort of four points tonight,
22 though I probably will elaborate on these in written
23 comments afterwards if I can. I guess, you know, just as a
24 preface, I mean the licensee has been an incredibly good
25 corporate citizen. And I've worked with them

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1 collaboratively over the years.

2 On the other hand, this is probably the only
3 chance in my lifetime to participate in a re-licensing to
4 think about maybe rebalancing some things on the Union. So
5 these aren't meant as direct criticisms, you know, Scott and
6 Dick.

7 In no particular order, just a couple things
8 that I think that the -- I don't know if you call it a PAD,
9 but the Pre-Application Document doesn't explore as deeply
10 as it should.

11 In terms of recreation, there is a reasonably
12 popular and significant whitewater boating run from Route 1A
13 down to the Leonard Lake Dam or from Graham Lake Dam down to
14 Leonard Lake Dam. People run different stretches.

15 And I think looking at the amount of use that
16 that gets, you know -- informally over the last week I have
17 called boaters that I know and, you know, my estimate from
18 talking to them is that it's probably used, you know, four
19 days a month with between three and six boaters. That's
20 with an unpredictable release schedule. If you had a, you
21 know, a predictable weekend release schedule, it would
22 actually be used a lot more than that. It's a class two run
23 with some class three features at certain water levels.

24 And that would be something to look at further,
25 and, you know, from -- and the runs are April to October.

26

1 And I have some ideas about how you might study that, but
2 you guys have done a lot more of that than me. So that's
3 one thing.

4 A second one that's harder but is probably
5 building off a little bit about what Mark asked in terms of
6 water quality studies. The Union River Watershed Coalition
7 had done some baseline water monitoring. I will provide
8 that to FERC and also to the licensee. It may be useful.
9 They looked at a set of parameters between 2003-2008. You
10 had some of that information in the Pre-Application Document
11 from 2005.

12 One of the things that's striking in that is
13 that the Union River has incredibly high water quality. All
14 the upper tributaries, the West Branch, the East Branch, the
15 Middle Branch, you know, top of the scales. The pH is a
16 little bit low, which is true for rivers down east. But
17 otherwise the water's exceptional.

18 Coming out of the Graham Lake Dam it's not as
19 exceptional. The turbidity, the total suspended solids, the
20 temperature, some indication in terms of nutrients, those
21 are all elevated as a result of having a 12-mile long
22 reservoir that's shallow with fluctuating water levels.

23 I don't know that there's anything that can be
24 done about that in terms of the erosion, in terms of the
25 stirring up of sediment. That may be a geologic feature
26

1 that we're just stuck with here. But it is probably the
2 thing, in terms of the overall water quality as they've
3 moved the sewage treatment plant out of the estuary, that's
4 probably the single thing that you could do to improve water
5 quality is somehow address that. I think looking at
6 nutrients in particular would be valuable.

7 A third thing is fish passage, which has
8 already been mentioned. I think particularly -- I know that
9 that's been contentious. There's been lawsuits about this
10 in the past.

11 There is existing fish passage for some
12 species. Eels are a concern, particularly downstream
13 migration of eels. But also alewives, smelts, and then, you
14 know, salmon. So, you know, looking particularly at some of
15 the downstream fish passage, how effective they are, what
16 kind of associated mortality there might be would be
17 helpful, particularly with eels.

18 And then I guess the last thing, which is
19 pretty minor, but some of the studies you've done looking at
20 historic, you know, artifacts and structures, there's
21 nothing that's mentioned about any of the historic dam
22 structures that are in the river bed between the Graham Lake
23 Dam and Leonard Lake. It would be amazing if somebody could
24 document those.

25 Obviously they're in a river bed; they're not
26

1 going to be there forever. But Ellsworth's early history is
2 documented there through all the foundations of the old
3 dams, a lot of the structures that were there. And it would
4 be great to get those documented before they disappear.

5 Thank you.

6 MR. PALSO: Thank you.

7 Anybody else have any comments?

8 MR. SHAW: My name is Dwayne Shaw, D-w-a-y-n-e
9 Shaw, with the Downey Salmon Federation. And I have a
10 question about the process in general. I'm sorry, I came in
11 a little bit late.

12 But as FERC looks at the license, do they do --
13 or is the applicant required to participate in some type of
14 a cost-benefit analysis that looks at all of the possible
15 options that are on the table? In other words, as we look
16 at the benefits of a restored river system and the fisheries
17 associated with it and the economic and social benefits are
18 those weighed against the benefits of having the
19 hydroelectric facilities in place to begin with? And then a
20 decision made at some point whether to allow a re-license at
21 all?

22 MR. PALSO: We look at all the resource areas
23 there. And they're all given equal consideration with
24 hydropower development.

25 Normally in at least the ones I've been in the
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1 past we haven't looked at the total picture like you're
2 describing, with it restored. But I don't believe that we
3 cannot look at that; that's just never come up before. So
4 if you were to give us some more information on that, that
5 is something that we could study. It's not -- I believe
6 it's not out of the realm of what we can study.

7 MR. SHAW: So more specifically an example here
8 in Maine is, obviously, the Edwards Dam, which was, as I
9 understand it, not re-licensed and ultimately removed. I'm
10 not suggesting that that's the best outcome here. But that
11 may be one of the things that FERC should be looking at.

12 And when you look at the cost of -- or the
13 market for power at this point, the prices are so low for
14 hydropower that the cost of -- and the liability -- that the
15 owners have responsibility to bring it up to standard that
16 is equitable and consistent with other hydro developments
17 across the nation. Is it actually viable?

18 And then when you look at potentially the other
19 income sources and benefits to society, such as Allen Kane
20 pointed out, the elvers, for instance, there was most likely
21 over a million dollars' worth of elvers harvested from a
22 river that's quite impaired. If it weren't impaired, how
23 many tens of millions perhaps could be coming in as an
24 income stream? That's just one example.

25 So I would encourage FERC to look at that and
26

1 if we need to somehow actively suggest that that be done and
2 FERC's not going to do it on their own, can you specify what
3 we would need to do?

4 MR. PALSO: Oh, I was just asking if you had
5 any information on it.

6 Like, we will analyze that -- you know we do
7 socioeconomic analysis in our environmental assessments.
8 But if you have any information -- normally we don't look at
9 those issues. So if you could provide us with some
10 information, what things specifically to look at, then it
11 will be easier for us to put it in there.

12 MR. SHAW: Okay.

13 MR. FENNELLY: I think Dwayne stepped in just
14 after you gave the presentation on the process to follow.
15 So he missed that.

16 MR. CLINE: Sorry to take the floor again. Ken
17 Cline with Sierra Club.

18 Perhaps you can answer this, or maybe --
19 Carolyn is the attorney?

20 Following up on Dwayne's question, with the
21 NEPA analysis, either with an environmental assessment or an
22 environmental impact statement, will you look at removing
23 the dams as one of the alternatives studied in the NEPA
24 process?

25 MR. PALSO: Yeah. That's always one of the
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1 options we consider. In most of the projects that just --
2 you know, we look at that and can easily determine that's
3 not the case. But in other ones -- I mean there have been
4 some dams removed out west; I believe there they went
5 through that process. So we look at that.

6 We look at, you know, dam removal. We look at
7 leaving the license exactly as it is no changes. And then
8 we can also look at any changes the applicant is proposing
9 for this new license.

10 MR. SHAW: In the case of the dams out west,
11 were the dam owners compensated at their market value for
12 the dams if they're not re-licensed?

13 MR. PALSO: I am not sure about that. I know
14 we have -- there's different processes. Some of them,
15 they're just -- the license isn't renewed. In think in
16 those cases the -- I'm not certain, but I believe in at
17 least some of them the dam owners were ready to surrender
18 the dams. So they went through a process of taking them
19 down.

20 MR. KANE: To get away from that a little bit,
21 in the case of fish passage are there ways that we could
22 have other agencies or teamwork this with fisheries agencies
23 to help remediate the cost of the power company to put in
24 the fishways, because it's going to be to the advantage of
25 the entire community.

26

1 We might want to look at that; because it's an
2 economic development, we might want to look at other
3 agencies and bring in other entities so that, you know, all
4 right, we don't just say to the people, 'Oh, well they've
5 got to put in a two million dollar fish passage.' 'We can't
6 afford this.' But if we get other agencies involved --
7 because it's economic development, it helps offshore
8 fisheries -- we could remediate that and just have them as a
9 participant in helping with fish passage and also eliminate
10 the cost of the trap and trucking, which is expensive.

11 We might want to explore that option in the
12 licensing, just, you know, if the dam's going to stay in
13 place let's look for a best case scenario where we can do
14 teamwork with the community as well as producing power.

15 I just thought I would run that by because I'm
16 not up here saying let's tear out the dam because you have
17 to put in fish passage; I'm looking for viable options for a
18 win-win situation for everybody.

19 MR. PALSO: That is certainly something that
20 could happen.

21 FERC cannot command the different agencies to
22 help out. But the agencies could propose -- come up with
23 their own proposals working together with Black Bear, and
24 they could come up with an agreement that could become part
25 of the license.

26

1 MR. KANE: Okay.

2 MS. SHLEPR: Hi. My name is Kate Shlepr from
3 -- S-h-l-e-p-r. I'm a resident of Bar Harbor. And just
4 another clarifying question.

5 I'm wondering who actually does the
6 environmental assessment. And if it is Black Bear Hydro,
7 then how does FERC assure that it's an objective study?

8 MR. PALSO: Oh. We do the environmental
9 assessment, you know. Bill and I will -- he'll be writing
10 the aquatic section; I'll be writing the recreation and
11 historic and aesthetics areas. And I'll be proofreading it
12 and putting it all together as coordinator. So we actually
13 -- we do that.

14 MR. ZEGERS: Hi. My name is Jerry Zegers. I'm
15 with the County Salmon Federation, and also the Maine
16 Council for Atlantic Salmon Federation.

17 There are a number of issues about upstream and
18 downstream fish passage that have already been mentioned
19 tonight. So I won't really go address those.

20 But there are seven, eight, nine, depending on
21 how you count them, anadromous fish species involved here.
22 Many of them have recently been documented to be declining.
23 By the time this license is up, we know a couple of them --
24 maybe all of them -- will be endangered species.

25 My concern right now is on the comprehensive
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1 management plan that's been cited in this document in this
2 process. That seems to be a governing and perhaps limiting
3 document. If that's the case, if the parameters, for
4 example, for alewives passage are governed by this document,
5 I'd like to see it completely updated to today's standards
6 and today's populations for all of those anadromous species
7 if that document really is going to drive this.

8 Thank you.

9 MR. PALSO: Anyone else?

10 (No response.)

11 MR. PALSO: Okay, then.

12 Just to wrap up, please, if you haven't signed
13 in, please sign in. The sign-in sheet is up at the front.

14 We're having another meeting tomorrow. It's at
15 9:00 a.m. It's going to be at Black Bear Hydro's
16 headquarters up in Milford, Maine, near Bangor. That one is
17 for what we -- we design it for the agencies, so there will
18 be state and federal and other -- possibly Tribal agencies
19 there. But the public is welcome. So if any of you wish to
20 attend you can, you know, show up and give comments just
21 like you did here.

22 And my information, my contact information is
23 there in the scoping document. If you need a copy, they're
24 up front. And they're also online. So if you have any
25 questions you can contact me.

26

1 If you're going to make any comments or study
2 plans, don't send them to me; send them to FERC's secretary.
3 But if you have any questions about the process or, you
4 know, anything about the re-licensing, you can certainly
5 contact me.

6 So with that, I'll adjourn the meeting. Thank
7 you very much.

8 (Whereupon, at 7:53 p.m., the scoping meeting
9 in the above-entitled matter was adjourned.)

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