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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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BALL MOUNTAIN DAM HYDROELECTRIC PROJECT : Docket Number
TOWNSHEND DAM HYDROELECTRIC PROJECT : P-13226-003
: P-13368-002
- - - - - -x

Vermont Agricultural Business
Education Center
Marla Lawrence Room
8 University Way
Brattleboro, Vermont
Wednesday, May 11, 2011

The above-entitled matter came on for scoping
meeting, pursuant to notice, at 11:00 a.m., moderator,
Nicholas Palso.

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

2 MR. PALSO: Good morning, everyone. I'm Nicholas
3 Palso with the Federal Energy Regulatory Commission from
4 Washington, D.C. And welcome to our morning scoping meeting
5 for the Ball Mountain and Townshend Projects.

6 We're going to have a court reporter here and we
7 have microphones, so it's very important that everyone
8 speaks into the microphone for this meeting so that he can
9 record it and it goes on the official record.

10 I'm just going to give a little brief run-through
11 of the agenda here. We're in the introduction now. Then
12 we'll go to the process, that's our FERC's NEPA process --
13 that's National Environmental Policy Act process, which is
14 what we're currently in for the relicensing. The purpose of
15 this scoping meeting.

16 Then we'll go have the Corps briefly explain the
17 existing facilities at both of their dams. Blue Heron will
18 then come in and explain their proposed projects. And then
19 we'll lay out some of the issues that we have come up with
20 and see what -- if anyone has any comments about them and if
21 they have any other issues they'd like to state.

22 Then we just briefly will have some important
23 dates in our licensing process here, due dates for comments
24 and everything like that. And at the end we'll leave it
25 open for any more questions and comments.

1 Some important stuff. Please be sure to register
2 if you haven't already. We have forms out at the desk on
3 the corner there to fill out. And it also helps us know if
4 you intend to make, you know, oral or written comments.

5 As I said before, we have an independent court
6 reporter. So before you speak, or right as you start
7 speaking please state your name and your affiliation so that
8 he's able to keep track of who everyone is. And also,
9 please spell out your last name if it's anything even, you
10 know, slightly -- I guess not straightforward. It makes it
11 much easier for the court reporter.

12 Also, if you're using any acronyms or, you know,
13 any words that are slightly confusing, you may want to spell
14 those out or just help to define those. It helps to make
15 things much more clear.

16 Please talk one at a time, too. That makes it a
17 lot easier for him.

18 Also, after the meeting there will be, you know,
19 plenty of time to hang around for informal one-on-one
20 conversations that, you know, since it's after the meeting
21 they won't be on the record so you don't need -- if you, you
22 know, feel like you don't want it on the record, you don't
23 need to come up and state it.

24 We're accepting comments. We're taking them
25 spoken and written. Both have the same weight so it doesn't

1 matter which method you use. Spoken, of course, will be
2 given at the meeting today.

3 And written, you can send those in to FERC. We
4 take them -- you'll see in the scoping document it lists out
5 everything. There's e-filing; there's the address for the
6 Secretary. So you can do it online, you can do it in the
7 mail.

8 And there is a due date which we'll get to later.
9 So please have anything submitted by the due date. But, you
10 know, we go through this transcript and look at also all the
11 spoken comments. So they all get the same weight when we do
12 our evaluations.

13 Oh. And you're also allowed to, you know, if you
14 make a spoken statement now and you think of something you
15 want to say later, you're certainly allowed to submit
16 another written statement with that.

17 In these two projects the U.S. Army Corps of
18 Engineer here is a cooperating agency. That means they're
19 going to work with us for the NEPA process. They requested
20 cooperating agency status on December 20th and we finalized
21 our agreement with them in a letter of understanding on
22 February 3rd.

23 We're going to provide them with draft copies of
24 the NEPA documents for their review. And they'll let us
25 know, you know, any changes and suggestions they want to

1 make to them.

2 We're also free to communicate with each other
3 during the preparation of these NEPA documents. So we don't
4 need to have public meetings if we want to discuss with each
5 other about these because we're cooperating. But as a
6 result, they can't be intervenors; they gave up that
7 opportunity to be intervenors to the proceedings.

8 And this is the schedule, rough schedule of
9 FERC's traditional licensing process, which Blue Heron has
10 requested for the licensing of both of these projects.
11 You'll see they requested in July 2009 -- that was the start
12 of their process with us -- they made the request for the
13 traditional licensing process instead of FERC's standard
14 integrated licensing process.

15 And they submitted their notice of intent to file
16 and their pre-application document. They had a study
17 meeting and a visit in November of 2009. Then study
18 requests and studies conducted were sent in in November
19 2009.

20 By July 2010, Blue Heron had put together a draft
21 application for FERC to do a review on. They filed their
22 final application in November of last year.

23 And currently at this point we're at the scoping
24 documents and scoping meeting. The scoping document went
25 out a month ago.

1 And as it moves forward, we'll be working on the
2 environmental assessment. That's the document that FERC and
3 the Corps will produce with our analysis of the relicensing
4 process. That we're expecting in fall of 2011.

5 And then after that the Commissioners of the
6 Federal Energy Regulatory Commission would, you know, issue
7 an order possibly. And that's when the license would be
8 granted for the proposed projects.

9 The scoping process we're in, the purpose is to
10 discuss the existing conditions and information we know
11 about the Ball Mountain and Townshend Dams, identify any
12 issues and alternatives because, you know, there's no way
13 for FERC to know everything about the project. So we come
14 to state, local, regional agencies and the public to give us
15 some input so we can get the most information possible. And
16 that will help us in our environmental analysis.

17 Now I'm going to hand it over to the Corps so
18 they can briefly describe the two existing dams.

19 MR. WILLIAMS: Okay. Good morning. Can everyone
20 hear me?

21 I'm Bruce Williams. I'm with the Army Corps of
22 Engineers. I work at New England District Office.

23 And I'm the hydropower coordinator for New
24 England District.

25 As Nick said, you know, we're looking at two

1 projects here today, Ball Mountain and Townshend Dams.
2 They're both on the West River. They were built in -- well,
3 construction was completed in 1961. It was started several
4 years before that.

5 These two dams operate in conjunction with 12
6 other Corps of Engineer dams to provide flood control on the
7 Connecticut River. Our Corps dams in New England are on the
8 tributaries and not on the main stem.

9 So that, you know, you can see the Connecticut
10 River projects on that map. We'll start with Union Village
11 and then go downstream from there.

12 There's three authorized project purposes.
13 There's flood control, there's recreation, and natural
14 resource management are the three congressionally authorized
15 purposes for the projects.

16 Starting upstream, I guess, Ball Mountain Dam. I
17 don't know how many of you went on the site visit yesterday.
18 But most of you have probably already seen -- been up to the
19 dams.

20 Ball Mountain Dam is a fairly tall dam. It's 260
21 foot high, 915 foot long. Elevation at the top of the dam
22 is over 1000 feet, 1052 above sea level. It's got a 235
23 foot long spillway on the right abutment, which you can see
24 in the photograph on the bottom left. The spillway is on
25 the left side of the photo.

1 It's got a 13 and a half foot conduit to get the
2 water through the dam through the inlet-outlet works, and it
3 has got an outlet channel on the downstream side. So that's
4 kind of the basics of Ball Mountain Dam.

5 How it operates. There's three 5 foot 8 by ten
6 foot gates that are in the control tower, which you see a
7 better view of there on the right-hand photo. It has a
8 small permanent pool which we keep throughout the year. The
9 Vermont rivers are pretty flashy, so we try to maintain as
10 much storage as we can availability. That's one reason why
11 you don't see the larger conservation pools you might see at
12 other Corps dams because we need all the storage we can get.

13 Okay. During the wintertime we keep a 35 foot
14 pool. During the summertime it comes up to a 65 foot summer
15 conservation pool. And during the spring from 1 April to
16 about 15 June we drop the winter pool down to 25 foot to
17 allow for out-migrating salmon smolt. It's part of the
18 Connecticut River salmon restoration program.

19 The project's been pretty much run that way for
20 its entire life. You have the acre feet of storage there
21 that it's capable of.

22 Townshend Dam is downstream of Ball Mountain,
23 still on the West River. It's a longer dam, 1700 foot long
24 but not nearly as high. It's got a 439 foot spillway
25 channel. I guess you can barely see it there on the left-

1 hand side on the bottom. It's got the same intake tower
2 that's out in the pool and a 360 foot long, 20 foot diameter
3 conduit that gets water through the dam. And then you've
4 got the outlet channel works down below.

5 Another feature you have at Townshend dam is
6 immediately downstream from the outlet channel you'll see an
7 electric fish barrier for trapping and trucking salmon
8 smolts upstream around both dams. So the sea run adult
9 salmon come up the West River, we'll capture them downstream
10 of Townshend and then release them either upstream of
11 Townshend or upstream of Ball Mountain Dam during the spring
12 or even in the fall if they're returning upstream.

13 Townshend Dam is operated similar to Ball
14 Mountain except a lot of the water is just passed through.
15 It's not, you know -- it's got storage capacity, but our
16 normal operation out of it is just to catch water that comes
17 into the West River downstream of Ball Mountain Dam.

18 It's got three 7 foot by 17 foot gates in the
19 tower. It's got a permanent pool -- conservation and
20 recreation pool that's 21 foot that's maintained year-round
21 at Townshend Dam. And it's got not quite the same net
22 storage as Ball Mountain.

23 Any questions from anyone on how -- you know, how
24 the dams operate or what they're for?

25 (No response.)

1 MR. WILLIAMS: Okay.

2 MR. PALSO: Okay. Thank you.

3 Now we'll ask Blue Heron to come up and give
4 their presentation about their projects.

5 I think -- just in view of the layout of the
6 room, would you be able to stand or do you want to sit?
7 We'll just have to turn the computer around for you.

8 MS. BARG: Yeah.

9 Well, I think everybody here is fairly familiar
10 with the project.

11 I'm Lori Barg, Blue Heron Hydro, principal of
12 Blue Heron Hydro.

13 And I think I'm going to just start by saying I'm
14 scared and nervous today because I feel like these two days
15 of meetings are where we decide whether or not these
16 projects are able to move forward or are not able to move
17 forward because of the timing constraints on these projects.

18 The other -- the one item that was missing from
19 Nick's great timeline was our request to FERC for expedited
20 consideration because of the federal and state incentives
21 that are out there. Unless these projects are licensed by
22 this fall we won't be able to move forward financially with
23 these projects. And we started the projects in 2008, so
24 we're three years into this at this moment.

25 I think this is some of the best power that we

1 can get in this area, over three megawatts of
2 environmentally sound renewable power at existing dams.
3 We're not proposing to change anything.

4 We're proposing to use the water that's currently
5 passing through the dams and make power with it. It offsets
6 over 10,000 tons of carbon a year, provides power for more
7 than 3000 homes, and it has the potential to offset over \$70
8 million in transmission upgrades in the southern loop. This
9 is according to a letter received by Brian Keith of Central
10 Vermont Public Service last August 2010.

11 We all talk renewables. Everybody talks
12 renewables. If I knew before I got into this how difficult
13 it is to actually get through the riskiness of the licensing
14 process, not to mention everything else going on in my life,
15 I can understand why it's so difficult to get renewable
16 power going.

17 So while we want renewables, while the state
18 supports renewables through the Vermont Speed Program, and
19 the Feds do through the Section 1603 incentives, this is a
20 risky business getting through licensing. But there's
21 economic benefits to producing power in the state and to
22 making this happen.

23 The other thing, even though we have no one from
24 the towns here today, I'll just say that there would be
25 income for the towns through taxes or pilot payments to each

1 of the towns that would be based on kilowatt hours of
2 production.

3 So other benefits are we think this project
4 actually improves fish passage with surface passage at each
5 turbine module at Ball Mountain at the 35 foot stage. This
6 is also consistent with the Corps determination; in the
7 1980s they did feasibility studies on both of these projects
8 and said yes, hydro is feasible at both sites.

9 And I saw the new MOU that's up there on the
10 table between the FERC and the Corps. And the Corps also
11 signed another MOU last March saying, 'Yes, we want hydro
12 power at existing non-power dams.'

13 I'll just kind of briefly go through this again.
14 I think the only thing new here is we worked with Alden
15 Laboratories out of Holden, Mass, with U.S. Fish & Wildlife,
16 Vermont Fish & Wildlife, Vermont A&R to develop downstream
17 fish passage that was acceptable. We have applied under
18 Rule 5.500 for how to interconnect with the grid. And those
19 have been submitted and accepted by CVPS.

20 Our final application, as Nick said, last six --
21 almost seven months ago now and -- because we're worried.
22 We made the request for expedited consideration.

23 Both of these projects have received 401 water
24 quality certificates from the State of Vermont. And these
25 contain almost 20 conditions. And if people hadn't known

1 this, the new impaired waters list suggests delisting the
2 West River below Ball Mountain Dam for sediment because it's
3 meeting biological criteria for fish and benthic macro
4 invertebrates. So that's still the 303(D) draft 2010 list.

5 Recreation. As projects that aren't proposing to
6 change anything, spring and fall white water releases date
7 back to the 1960s. It's economically important to the area.
8 There's been some studies on that. And there would be no
9 impact to the beach at Townshend.

10 A quick overview of why this design. Ball
11 Mountain, as most people here know, was previously licensed
12 using traditional hydropower design a penstock through the
13 dam, a powerhouse down below, permanent 65 foot pool. And
14 that's very similar to a design that the Corps had proposed
15 at Colebrook, Connecticut. And when they went to bid it out
16 -- this is in the '80s -- it was so expensive they couldn't
17 do it.

18 So they looked for a designer, building, engineer
19 to come up with a different design. And a fellow named
20 Henry Obermeyer designed and built the Colebrook project
21 that's been operating successfully for over two decades in
22 Colebrook.

23 And I don't think of this as a traditional
24 hydropower project. I think of this as an equipment
25 installation, lowering turbine generating units to the

1 bottom of the dam. So these are pictures of Colebrook.
2 You've probably seen them, operating for over two decades.

3 They've had to lift them four times since
4 installation for flood control. And they just lift them
5 about 20 feet. They lock them into the stoplog slots; they
6 don't pull them all the way up during flood control.

7 And so you're looking into the runner there.
8 Those are the generators on Tim's left. And the draft tubes
9 to Tim's right. And the runner, the kind of propeller
10 blades are near Tim's head there. And they have units of
11 three; we would have a six pack in each gate slot.

12 So the turbine generating units slide into the
13 gates, the existing stoplog slots that are upstream of the
14 Corps gates. We would be doing the same. They're submerged
15 in the bottom of the lake, the generators themselves are
16 submerged. And the units are lifted with a hydraulic hoist
17 system.

18 The electricity will be carried along the outside
19 of the service bridges to small control buildings proposed
20 along the access roads that we pointed out where they would
21 be yesterday. And then it would interconnect with the
22 existing distribution system, which is three phase
23 distribution at both sites. I think it's 12.47 kV.

24 The Corps' authorized purposes are primary.
25 Hydro is an incidental use. The FERC license sets

1 conditions for operation. And I believe standard to FERC
2 licenses are to within I think 90 and 180 days, something
3 like that, we need to sign MOUs with the Corps for
4 construction access and for operations.

5 So the reason I'm so nervous and scared about
6 this is our financing package requires the FERC licenses are
7 issued this year. I would like October 6th. That would be
8 the date that I would like because that's the 50 year
9 anniversary of the ribbon-cutting at the dams.

10 Both of these projects have speed contracts,
11 which mean that we have to be putting power on the grid by
12 the end of next year. We can do that. So next summer we
13 would be doing onsite construction and installation.

14 We need to start building everything this year,
15 so we need to get licensed in order to get financing because
16 the Section 1603 incentives expire. And these projects are
17 financially not able to move forward without the federal
18 incentives and without the state fixed price 20 year
19 contract that comes with these projects. And over this next
20 winter we would be building the modules, the turbine
21 generating units.

22 Is this timeline possible? We're three years
23 into this process. FERC has issued licenses in as little as
24 six months -- for example, the Bowersock Mills project. The
25 Corps signed a letter of understanding in April of last

1 year, and by August of last year FERC had issued the
2 license. So -- which is why we had made the request for
3 expedited consideration.

4 Our required incentives are expiring. And we
5 have tried to do whatever we could do to move this project
6 forward while paying attention to everybody's concerns. And
7 we ask you to let FERC know, ideally today, that you support
8 these projects. And I feel like we're at that moment of,
9 you know, Cinderella: at midnight are we going to turn into
10 a pumpkin and these projects are going to disappear, or are
11 we going to be like on the right-hand side where we get to
12 be installing the units at Townshend and Ball Mountain Dams.
13 And that's a picture of the units being installed at
14 Colebrook on the right.

15 That's it. Do I take questions now or--

16 MR. PALSO: No, we'll do that afterwards.

17 Thank you, Lori.

18 Okay. We have here a list of the issues that we
19 look at in our environmental analysis.

20 Since it doesn't seem like there's many members
21 of the public here, I think the easiest thing to do, instead
22 of just going straight down the row here and taking comments
23 on all of them, is we have a list of people who would like
24 to make oral testimony. So we'll just go through that and
25 let you make any statements. And then when we're done we'll

1 see if anybody has anything else they would like to say.

2 We'll have to bring the mike over there so that
3 you can speak into it. And I think we'll just go
4 alphabetically here. We'll start with John Bennett, Windham
5 Regional Commission.

6 MR. BENNETT: Thank you.

7 I am John Bennett with the Windham Regional
8 Commission. And actually my comments might be most
9 efficiently made if I deferred this place in line until
10 after some of the professional resource agency folks have
11 commented.

12 MR. PALSO: Okay.

13 Then why don't we go to David Deen.

14 MR. DEEN: My name is David Deen. And I am here
15 as river steward for the Connecticut River Watershed Council
16 and as a state representative who represents the Town of
17 Dummerston. And I will identify those of my concerns that --
18 for each of the hats that I've just stated.

19 As the representative from Dummerston who was in
20 the legislature in 1987 when the Townshend Dam over-topped,
21 and knowing the power of the West River, I have been asking
22 about a concern of what will the additional stress on the
23 control tower structure do to the operations over the long
24 term. We're talking about additional galvanized steel
25 working platforms, a turbine hoist mechanism.

1 And that may not be a FERC concern, but I have
2 been asking this project -- and presumably through them the
3 Corps of Engineers -- since 2009. And I have not heard any
4 word yet.

5 These dams were built for a reason. They have to
6 operate. And this is a significant change in my opinion,
7 having seen the West River at full flood that I want to know
8 what is happening with those structures.

9 As River Steward, we're relying on the U.S. Fish
10 & Wildlife Service for the fish passage. And we're in an
11 unusual position for our organization in having to take the
12 word of the U.S. Fish & Wildlife Service. Not that we don't
13 like what they normally do, or trust what they normally do.
14 But normally we get to take a look at design.

15 And in this case we're talking about fish passage
16 design that was in fact classified as CEII. And I am fully
17 aware of the process under FERC for getting hold of CEII
18 information. I have had a standing request for Figures 1
19 and 2 in the application, in the amendment to the
20 application, since September 2010. I have not heard back
21 from anybody at the CEII office.

22 And I would like to see those plans or be told
23 that I can't see them because they're top secret and there's
24 so much at stake in terms of the physical security of
25 Windham County, Vermont, that I shouldn't see them. But

1 I've been waiting since September for some kind of response.

2 Non-governmental organization involvement past
3 the issuance of the license. There are two outstanding MOUs
4 with the Corps of Engineers that will affect some other --
5 potentially could affect some of the conditions in the
6 state-issued 401 water quality certification.

7 In a letter between myself and the Agency of
8 Natural Resources there was a process that was suggested in
9 terms of how those of us interested in rivers might in fact
10 remain involved with that ongoing revision of the 401 based
11 on the memorandum of understanding with the Corps of
12 Engineers in this project for operations and construction.
13 And again I have not seen those MOUs.

14 So once they're in hand I, as the Watershed
15 Council, would very much like to stay involved with any
16 modifications to the 401. And what I will do in my written
17 response is submit that letter as an attachment and ask that
18 it be entered into the record.

19 All right. The last point as River Steward.
20 This project is a human endeavor, and it's just not going to
21 last forever. Even the license you're talking about is a --
22 or the reimbursement financing scheme that's being talked
23 about is 20 years. Our question is who is responsible to
24 decommission the structures from the hydro facilities, for
25 the hydro facilities, in terms of money, plans, and waste

1 disposal.

2 You know, our landscape, our riverine landscape
3 is just dotted with what were considered at the time, you
4 know, economic development interests, whether it was direct
5 hydro power or small electric hydro power. And in fact
6 those works sit idle and littering the landscape.

7 So potentially -- and this will involve some
8 discussion -- potentially the Watershed Council will be
9 asking for someone to step up to the plate -- whether it's
10 the Corps and it's the tax-payers who are going to pay for
11 removal when re-establishment of the facility to its
12 original condition, or whether it's the project developer
13 who would pay those funds.

14 But I think that people interested in the river,
15 the dam, and the future, deserve some kind of answer from
16 someone. I don't even know who might give an answer at this
17 point.

18 All of that said I was involved with a project
19 that attempted to put hydroelectric stations at these two
20 dams. And quite honestly, I am hopeful that the federal
21 offices involved, the Corps of Engineers and FERC, will be
22 able to get what's needed in place so that this project can
23 move forward.

24 So I am supportive with conditions.

25 MR. PALSO: Okay. Thank you very much.

1 We'll now go to Brian Fitzgerald, moving down
2 alphabetically.

3 MR. FITZGERALD: Thank you. I am Brian
4 Fitzgerald. That is Brian with an 'i,' and "Fitzgerald" the
5 way it sounds.

6 I'm the Stream Flow Protection Coordinator for
7 the Vermont Agency of Natural Resources. And on behalf of
8 the agency, thank you for the opportunity to comment today.

9 We've reviewed the scoping documents -- the
10 scoping document, and in general think it does a good job of
11 identifying the issues. As with every project, a thorough
12 NEPA analysis is an important part of this process.

13 While I have oral comments today, we will be
14 following up in writing with all of this and in more detail.
15 And we'll certainly do that by the June deadline.

16 A couple of points that bear mentioning is the
17 agency, as noted earlier, the agency did issue Section 401
18 water quality certifications for both of these projects in
19 July of 2010. Those certifications contained conditions
20 that required subsequent approval of various plans and
21 studies. That is to say that all of the water quality --
22 all the issues associated with water quality on aquatic
23 resources have not been sort of settled with finality at
24 this point.

25 Among the information that has to be submitted at

1 a later time are a flow and water level management plan,
2 monitoring plan for flow and water level management, the MO
3 -- memoranda of agreement that -- or I guess there are a
4 couple of them at least between the Corps and Blue Heron
5 Hydro that are subject to review by the agency.

6 The applicants will do a dissolved oxygen study,
7 also a water temperature study at Ball Mountain. And
8 finally, fish passage plans for both projects and fish
9 passage effectiveness studies once the fishways are in and
10 operating. And, of course, depending on the outcome of some
11 of these things, dissolved oxygen, temperature and fish
12 passage could require additional mitigation that has not
13 been identified at this point.

14 Also it's worth noting that the fish passage
15 design has to my knowledge not received conceptual approval.
16 And as indicated yesterday, the design at Townshend is
17 somewhat in flux at this point pending further discussions
18 with the Corps of Engineers.

19 Next I'll just go to the document itself. We
20 have several comments on -- some minor corrections to the
21 document. And I'll just run through those in sequence.

22 Section 3.1.2 on page seven, recently the 25 foot
23 stage in the spring to facilitate the smolt out-migration
24 has commenced on April 1st. I believe that's been done for
25 at least the last two years.

1 Also in that same section, yesterday a Corps
2 staff indicated that the winter pool is maintained a bit
3 higher than the 35 feet indicated in the Corps out-flow
4 guidance, and it's more in the range of 40 to 45 feet. And
5 I guess that point needs to be clarified I think for the
6 analysis.

7 That same section on page eight, I just observe
8 that there have been no scheduled spring whitewater events
9 for the last two years.

10 And also this section should note that except for
11 flood control and special operations, the Corps out-flow
12 guidance for both projects calls for run of river operation.

13 And at Townshend Dam there's an error in the
14 description of the conservation -- seasonal conservation
15 flow requirements at Townshend. And I believe the winter
16 flow is from October to April and the spring flow in April,
17 May, early June have been flipped, because actually they're
18 higher in the spring than they are in the winter and that's
19 not how they're described here.

20 This section should also clarify that the
21 Townshend whitewater event is the same that occurs at the
22 same -- exactly the same days as the Ball Mountain event.
23 It's not a separate whitewater release.

24 And some further explanation of why the 21 foot
25 pool relationship -- or the 21 foot pool at Townshend is

1 related to Ball Mountain Dam risk reduction. I mean what's
2 stated is correct, but it's not exactly clear from reading
3 it, you know, why that is the case.

4 On to page eleven, Section 3.2.2. I should note
5 that the water quality certifications for both projects
6 require run of river operation. And that's defined in the
7 certifications as on an instantaneous basis out-flow equal
8 to in-flow.

9 On page 13, Section 4.1.1, I recommend that
10 cumulative effects in addition to those listed, cumulative
11 effects analysis should include dissolved oxygen and
12 temperature.

13 And the following section on the geographic scope
14 of the cumulative effects analysis, what's proposed is good
15 for the fish resources listed. For the water quality items
16 I just noted the geographic scope should probably be the
17 West River.

18 In Section 4.2.1, the resource issues, it's worth
19 noting that the water quality certs require fall passage in
20 addition to spring passage.

21 Also when aquatic resources are analyzed there
22 are some inaccuracies in the license applications with
23 respect to fisheries and the Atlantic salmon program. And I
24 recommend that you refer to the relevant findings in the
25 certifications for accurate information on those issues.

1 And finally, in Section 4.2.3, it's correct that
2 there are no federally listed threatened and endangered
3 species. But there are state species, both state rare and
4 threatened, three invertebrate species, some plants, and
5 there are also significant natural communities on the river.
6 And we'll submit more details on that in our written
7 comments.

8 And that's all I have.

9 MR. PALSO: Okay. Thank you.

10 And please hand it to John Warner.

11 MR. WARNER: My name is John Warner, U.S. Fish &
12 Wildlife Service.

13 I don't have any prepared comments really. We'll
14 probably be providing at least some written comments.

15 Our major role in this proceeding is really
16 relevant to fish passage, as David noted.

17 I will note, David, that we didn't really receive
18 drawings that are, you know, substantially informative
19 either.

20 So the sentence on fish passage is a little
21 confusing, or appears to be confused.

22 So I will address the drawings question.

23 Initially a lot of the drawings have been labeled CEII. I
24 tried to get drawings from FERC as well and couldn't get
25 them. The Corps had determined that they actually weren't

1 of concern to them because they are really sketches and not
2 functional, you know, structural designs. And I received
3 most of the preliminary sets from the Corps.

4 The most recent set of drawings we have is dated
5 December 2010. Those drawings do not answer the questions
6 that we asked in October. My engineer still does not feel
7 we have sufficient information on fish passage.

8 So that's sort of a general statement.

9 There's also some concerns relative to the
10 proposed design at Townshend and the proposed operation of
11 Townshend which need to be cleared up before we can really
12 provide adequate passage comments.

13 First is the proposal for adding Obermeyer
14 inflatable weir on top of the existing weir at Townshend
15 appears to be the preferred alternative by the applicant.
16 My understanding is that may or may not be acceptable to the
17 Corps. If that is installed the design theoretically could
18 work.

19 However, for that design to function fully it has
20 to be held to the top of the new crest, which is higher than
21 the current weir. And that sort of confounds the issue of
22 the operation of the project, which is either run of river
23 at the weir crest or it follows the pool elevation that's
24 historically been followed by just the sort of natural flow
25 regime and how the weir and the pond elevation reacts to

1 flow.

2 Until we get these things resolved -- until there
3 is some clarity on actually what the operation is going to
4 be and what the Corps will accept, it's really difficult for
5 us to sort of -- I feel like it's a moving target. We don't
6 know what the proposed project necessarily is, to be honest,
7 and we don't know what the project that could come out from
8 an MOA with the Corps could be.

9 So this puts us in a difficult position because
10 we have folks like the state, and David noted they're
11 looking to us for feedback on fish passage operations. We
12 have -- we will be required to provide, you know, some sort
13 of final comments. And given the uncertainty I think we're
14 going to have to develop a fishway prescription of some
15 form. But it's still difficult to hit a moving target.

16 So that's just sort of the status of the
17 situation.

18 Blue Heron has been communicating with us
19 recently trying to resolve this. And hopefully we can, at
20 least to the point of us understanding what they're
21 proposing. And we'll go from there, I guess.

22 I don't have any other concerns. I think Brian
23 touched on some other issues that we would look at. But,
24 like I say, that fish passage thing is still outstanding.
25 And we'll see how that progresses.

1 MR. PALSO: Okay. Thank you very much.

2 Would you please hand it to John Bennett again.

3 MR. BENNETT: Thank you.

4 Thank you again -- or thank you from me for the
5 first time, but thanks for the opportunity to comment and to
6 participate.

7 As -- Similar to John, I don't have prepared
8 comments. But we will be providing some written comments
9 before the June deadline. But that having been said, there
10 were a couple of items that did not get touched on by other
11 folks in their comments offered. So bear with me as I flip
12 to find my notes.

13 Most of the comments that we had actually were
14 touched on. But I will sort of reiterate a concern in
15 Section 3.2.3 under Aquatic Resources. And specifically the
16 second bullet point regarding consultation with the Fish &
17 Wildlife Service and Vermont DEC.

18 It would be desirable to have the Vermont
19 Department of Fisheries and Wildlife specifically named as
20 someone to be consulted. And it's not clear the DEC may be
21 more Brian and water quality. But we have very interested
22 state fisheries biologists who are very knowledgeable,
23 interested and concerned.

24 And I would note that that bullet does refer only
25 to the spring out-migration season. It doesn't refer either

1 to a standard fall season as referenced in the 401 water
2 quality certification as September 15th to November 15th.
3 And there's also a concern if there are adult salmon above
4 the dam then there should be continued fall out-migration
5 season -- actually that one overlaps the other one -- but
6 from October 15th to December 31st.

7 Regarding Section 4 -- I guess it's 4.1.1,
8 resources that could be cumulatively affected, there is an
9 issue, a water quality related issue having to do with
10 sediment accumulated, particularly behind Ball Mountain Dam.
11 There have been a couple of catastrophic releases of
12 sediment, unintentional releases of that sediment that
13 essentially smothered the aquatic habitat downstream of Ball
14 Mountain. So that is an issue that people should be aware
15 of and management prescriptions should be sure to try to
16 address.

17 And related to that, in Section 5.0, request for
18 information, there is existing information about that
19 sediment accumulation. The Corps of Engineers did a study I
20 believe it was in 1996 that documented -- or it might have
21 been late 1990s -- that did document hundreds of thousands
22 of cubic yards of accumulated sediment and analyzed possible
23 ways to deal with it, none of which have taken place. So it
24 seems to be still an issue that needs to be addressed.

25 So that concludes my not prepared comments. But

1 we will be having a written submittal later.

2 Thank you.

3 MR. PALSO: Okay. At this point is there anybody
4 else that would like to make a comment?

5 (No response.)

6 MR. PALSO: No? Okay.

7 Then we'll move on to share some important dates
8 with the licensing process. Our scoping documents -- I'm
9 sorry, scoping comments are due on June 8th. So please have
10 your written comments all sent in either by mail or on e-
11 Library. And again the instructions are in the scoping
12 document.

13 Possibly we may do a revised scoping document in
14 June to see based on the comments we receive if we needed to
15 include more information, if there's more stuff that needs
16 to come out. Then we'll have the ready for environmental
17 analysis we're anticipating in June 2011. That means that
18 we have received all of the comments and information we need
19 on the project so that we can move forward and start doing
20 our NEPA analysis and drafting the environmental analysis.

21 Deadline for any terms and conditions to be
22 included in our EA, the environmental analysis, would be
23 August of 2011, this year. And we expect to have the EA
24 completed some time in the fall.

25 Lori.

1 MS. BARG: It says June 7, 2011.

2 MR. PALSO: Oh. For scoping comments? Okay.
3 I'm sorry. Then, yes, they're due on June 7th, not June
4 8th.

5 And right now if there's any questions or
6 additional comments we can take them. Otherwise, thank you
7 very much for coming in and commenting. And be sure to fill
8 out a registration form if you haven't done it already.

9 Thank you very much.

10 (Whereupon, the scoping meeting in the above-
11 entitled matter was adjourned.)

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