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Before the

FEDERAL ENERGY REGULATORY COMMISSION

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In Re:) Project #

CANNONSVILLE HYDROELECTRIC) 13287-004

PROJECT)

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SCOPING MEETING

June 13, 2012

1:00 p.m. (scheduled)

Homewood Suites

Hotel

3603 Vestal Parkway

Vestal, NY

13850

Reported by:

CHARLES D. HOFFMAN

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Presiding

JOHN MUDRE, Project Manager, FERC

ANDREW BERNICK, FERC

GAYLORD HOISINGTON, FERC

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PROCEEDINGS

(1:12 p.m.)

MR. MUDRE: My name is John Mudre with the Federal Energy Regulatory Commission, and I am the project coordinator for the relicensing, licensing of the Cannonsville Hydroelectric Project. I want to welcome everyone here. This is our public scoping meeting that we are conducting under NEPA. It's going to guide our environmental analysis as the process continues.

So as most of you probably know, but for those of you that don't, the FERC is an independent agency that regulates electric power and natural gas, oil pipelines and the hydroelectric industry. The Commission is composed of five commissioners that are appointed by the President and confirmed by the Senate and the President designates the chairman.

The Office of Energy Projects is one of the offices within FERC, and that's where the hydropower is regulated. We administer nonfederal hydropower and gas projects. As far as hydropower goes, we're divided into three divisions: the Division of Hydropower licensing, which is the one that I am in; Division of Hydropower Compliance and Administration. That is the group that once the

1 licenses is issued, they track the license is in
2 compliance and make sure that they are doing
3 everything that the license requires of them. We
4 also have a vigorous Dam Safety and Inspection
5 Program to make sure that public safety is
6 maintained throughout the course of the license.

7 Our main office is in Washington DC. We have
8 five regional offices that mainly consist of
9 engineers and dam safety people. And the one that's
10 in this area is the New York Regional Office, so
11 that's our regional office that has oversight over
12 projects in New York.

13 And we license nonfederal hydro projects.
14 Licenses range in terms from 30 to 50 years.
15 License projects serve the public interest, not just
16 about generating the most electricity you can, but
17 we take other factors into consideration. And all
18 in all, there's about 2,600 licensed and exempted
19 projects over the U.S..

20 So, briefly going to go over the licensing
21 process, so everyone gets a general idea of where we
22 have been and where we're going. Once we receive a
23 license application, and in this case, I think it
24 was February 29th of this year, we received an
25 application for the license for the Cannonsville
26

1 Project. We issued a public notice that an
2 application had been filed, and we requested
3 comments and additional study requests within 60
4 days. And that deadline was April 30th.

5 We reviewed the application for adequacy, to
6 make sure that all the required components are in
7 there. And once they are, the issuing notice and
8 the application has been accepted, and we request
9 any protests or motions to intervene. And those are
10 due 60 days after the notice, which was June 1st.

11 So while that's going on, FERC staff prepared
12 Scoping Document 1, which hopefully you all have
13 seen. If you don't have it, I've got one copy here,
14 and I can e-mail copies to people, or as this goes
15 on, I'll tell you other ways you can get it
16 yourself.

17 So, we issued Scoping Document 1. We are
18 conducting scoping meetings today. Comments, spoken
19 comments are due 30 days after today, which I think
20 is July 13th. Then once we get those comments in
21 and everything, we'll determine whether or not we
22 need additional information based on what we see in
23 the application and on the comments we received.
24 And then we may issue a Scoping Document 2 if we
25 learn things that we didn't know originally. And
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1 so, we will incorporate that into the scoping
2 document, and we'll issue any additional information
3 requests if something comes up where we see where we
4 are going to need information to proceed with our
5 environmental analysis.

6 And then once we have all the information that
7 we need, we'll issue a notice that the application
8 is ready for environmental analysis, called the REA
9 notice, and then any comments, agency
10 recommendations are due 60 days after that notice.
11 Deadline for amendments to the application are 30
12 days from the REA notice, and the applicant must
13 apply for a water quality certificate no later than
14 60 days after the REA notice.

15 And I guess it's my understanding that you guys
16 have already filed your application for 401
17 certification? And then we put together an
18 environmental assessment at this point, and we'll
19 issue it as a draft for public comment. Those
20 comments are due within 30 days after we issue that.

21 Agencies can file revised terms of conditions
22 within 45 days of the draft EA. We'll look over the
23 recommendations from the Fish and Wildlife Agencies,
24 called 10(j) recommendations. That's a process
25 where we are required, under the Federal Power Act,
26

1 Section 10(j), to put in conditions that are
2 recommended by the agencies, provided that . . .
3 they are not mandatory conditions, but we have to
4 give them due deference. If we don't include them,
5 we have to explain why. We have a process to try to
6 work out any differences, and that is this 10(j)
7 process. We would do that, and then we'll issue a
8 final EA. And if it turns out that we find it is a
9 significant federal action, then we will have to do
10 an EIS. So, that door is open.

11 Once our final NEPA document is issued, the
12 Commission is then able to issue a license order,
13 provided that they do have a water quality
14 certificate. We can't issue a license without that.
15 If there are parties to the proceeding, people that
16 have intervened, that they don't like the outcome of
17 the license order, they can file for a rehearing.
18 They do it within 30 days of when the order comes
19 out.

20 Okay, so to get to today's topic, which is
21 scoping. What we want to do is make sure we
22 identify all the significant issues that we want to
23 analyze in our environmental document. We want to
24 identify any resources that might be cumulatively
25 affected by the proposed project. We want to
26

1 identify reasonable alternatives for analysis, if
2 there are any. And lastly, if there are issues that
3 do not require detailed analysis, we would like to
4 go ahead and agree on that, identify those and not
5 spend time analyzing things that really wouldn't be
6 affected by the project.

7 We also are requesting any available
8 information that is out there that might help us in
9 our analysis: any report's, data or professional
10 opinion that may have a bearing on the environment
11 in the vicinity of the project, federal, state or
12 local resource plans and future project proposals,
13 something that may be going on in the future that we
14 don't know about. This information could relate
15 potentially to cumulative effects down the road, so
16 we want to take a look at those and know about them.

17 Okay, just for your information, we have
18 resources for people that want to participate in the
19 process as it moves along. We have a website,
20 www.ferc.gov, that has a lot of information on it
21 about our processes and all that. But I'll just
22 point out two things:

23 One, we have something called elibrary, which,
24 all the documents that come in or go out are stored
25 there, and you can log on into elibrary and search
26

1 for any documents that are related to this
2 particular project. Again, anything that comes in
3 or goes out is there, so you can find it, and it
4 works pretty well. We get a lot of compliments on
5 it.

6 But even better, I think, is what is called
7 esubscription. If you are interested in a project
8 in particular, this project, our project number for
9 this is P-13287. So what you can do, you log on to
10 our site, navigate to a place that I forget exactly
11 where it is at, but you look for esubscription.
12 What you do, you punch in that number, give them
13 your e-mail address, and then anytime something
14 comes in or goes out, you'll get an e-mail with a
15 link saying this document has been filed. If it
16 looks like something of interest to you then you
17 click on it, and it just pops up. So, you don't
18 have to search for stuff. You will be notified as
19 it comes in. That's very convenient.

20 We have a hydro electric project relicensing
21 handbook on our website, again, also just
22 information on the different licensing processes.
23 This particular proceeding involves the traditional
24 licensing process. But others of you may know we
25 have an integrated licensing process and alternative
26

1 one. But a lot of information and also have a FERC
2 public reference room, which I think is pretty much
3 out of date now that we have all this electronic
4 stuff. It used to be where you would go to get
5 information, and you still can. But it's not as
6 quick as just a few clicks on your computer.

7 All of this information is in Scoping Document
8 1, so you can . . . if you didn't jot it down in
9 time, you can look at it there, or give me a call
10 and I can answer questions also.

11 Procedurally speaking, I think everyone saw the
12 sign in sheets and if you didn't, we would
13 appreciate if you could sign in.

14 MR. HOISINGTON: For late comers.

15 MR. MUDRE: We do have a court reporter
16 here today, so everything that is being said is
17 going to be recorded and put into the record of this
18 proceeding. There will be transcripts that will be
19 put up on our elibrary website, and you can get them
20 from there. It takes a couple of weeks to get them
21 there. So if you need it quicker, you can talk to
22 the court reporter and that can be arranged to get
23 them quicker if there is anything really exciting
24 that we are saying.

25 Let's see, transcripts, okay. What we are
26

1 going to do next is have, the licensee is going to
2 give a brief description of the proposed project.
3 Then, we will just briefly go over the issues that
4 we identified in Scoping Document 1, and then open
5 it up for agency and public input to get your
6 thoughts. If we missed any issues that might arise,
7 any concerns, then we can go ahead and get those
8 added, if it's something that we may want to
9 incorporate into the Scoping Document 2, if there is
10 a particular thing that we missed. So, we would
11 like to hear those. Okay, that's all I have for
12 now.

13 MR. HOISINGTON: John, this is Gaylord
14 Hoisington. When you stand up to talk, or if you
15 are going to say a question, just make sure the
16 court reporter . . . state your name before you
17 speak, so that the court reporter can make sure it's
18 you who is talking. Because that is going on the
19 record.

20 MR. MUDRE: And I'll mention further, we
21 do have a podium that has a microphone on it, just
22 to make sure that he gets accurately down what is
23 being said. So if you don't mind, please come up to
24 the podium, so we make sure that we get what you're
25 saying because we want to know about it. Go ahead,
26

1 you guys go.

2 MR. FIORI: Good afternoon, I am Anthony
3 Fiori, Chief of Staff for Operations with New York
4 City Department of Environmental Protection and
5 managing this project for the agency. I think I
6 know just about everybody in the room, and some of
7 you I met earlier today at the site visit. I'm just
8 going to give you a brief overview of the project.
9 I would like to give you a status update on where
10 the project is, a brief overview of the project
11 facilities. We will discuss the operating regime
12 that's proposed and just list the studies that we
13 have completed in support of our license
14 application.

15 So on February 29th of this year, we filed our
16 license application with the Federal Energy
17 Regulatory Commission. That license application is
18 available both on FERC's website and on the New York
19 City DEP's website. If you go to our website
20 www.dep.nyc.gov, on the left-hand side, there is an
21 A-Z selection. Click on that, and under H, you'll
22 see Hydro; click on that and all of our documents
23 are there, including our preliminary permit
24 application, all the presentations that we have
25 given at public meeting meetings so far. You can
26

1 find all of our presentations there.

2 On March 13th, FERC issued a notice soliciting
3 additional study comments. I think John mentioned
4 that. They were due, I think you had April 30th.
5 We did get one additional request from U.S. Fish and
6 Wildlife Service, and that was in regards to dwarf
7 wedge mussels. We've gotten three proposals from
8 three different companies that do this type of work,
9 and we will be awarding that in the next week or so.
10 So, that study should get underway this season.

11 On April 9th this year, FERC issued a notice
12 accepting the license application. They, in turn,
13 asked us for some additional information, some minor
14 information that wasn't included in the license
15 application: a proof of service of the publications
16 that we noticed, slightly revised maps and drawings,
17 changes to the titles, turbine ratings in Brooks
18 Reservoir, storage capacity. We filed those,
19 additional information, on May 1st of 2012. And
20 finally on May 14th, FERC issued notice of scoping
21 meetings, which brings us here today to Scoping
22 Document 1, as John just described.

23 This may look familiar to a lot of people. It
24 has been in past presentations, and it was a topic
25 of discussion this morning. This is the project
26

1 location. It's on Cannonsville Reservoir. The
2 reservoir is on the right hand side of the screen.
3 We have a lower-level release down here that
4 discharges to the west branch of the Delaware.
5 Those releases are for conservation purposes. Also,
6 directed releases to keep certain flow targets in
7 the main stem of the Delaware River and water that
8 may otherwise spill.

9 What we are proposing to do is to put a new
10 powerhouse that is adjacent to the existing
11 lower-level release works. That powerhouse will
12 connect into a conduit that is bringing water from
13 the reservoir to the existing lower-level release
14 works.

15 We tap into it somewhere here, so there is no new
16 intake structure, no new facilities within the
17 reservoir for this project.

18 There will be some work that occurs in the
19 river channel for the new powerhouse and pen stock
20 there, tail race. The tail race will combine with
21 the existing tail race. So, there will be one
22 common tail race.

23 There will be new electric lines that run up to
24 some outbuildings that we have at the top of the dam
25 in this area. Currently, there is an electric line
26

1 there. The new line will be a slightly higher
2 voltage. That may mean that the poles that support
3 that line might be of different height. That's not
4 fully determined yet. But it is a consideration,
5 and avian protection is also in consideration with
6 those new poles. There are eagles in the area. For
7 whoever was on the site visit today, we got quite
8 good views of them.

9 Then, there will be a new connection, from this
10 substation that we propose, to an existing high
11 tension line that's depicted by the green line
12 there.

13 Some other features that will be in place
14 during the construction period is a sedimentation
15 pond to dewater this area while we do the tail race
16 work and the powerhouse work. That area, right now,
17 is currently what has been categorized as a
18 low-quality wetland. It has an invasive floral
19 species in it. That area will be affected during
20 the construction of this project. It will be pumped
21 out into the sedimentation basin. Then, we have
22 three construction staging areas for the materials,
23 and they are depicted by the red shapes on here.
24 And finally, the spoilage disposal area for what's
25 taken out for the new powerhouse.

26

1 Okay, so a little bit more description about
2 the project facilities. As I said, it's going to
3 be, a new powerhouse will be located directly
4 adjacent to the existing lower-level release works
5 that currently feed those release valves. This is a
6 separate intake than the intake that is used for
7 water supply purposes. That intake is several miles
8 up reservoir from the dam.

9 We are proposing four turbines with a total
10 capacity of approximately 14.08 megawatts, with a
11 total maximum hydraulic capacity of 1,500 CFS.
12 There will be two turbines with an electrical
13 capacity of 1.185 megawatts, with an operating range
14 between 50 and 125 CFS, and two additional turbines
15 with an electrical capacity of 5.855 megawatts at an
16 operating range between 250 and 625 CFS. These are
17 approximate sizes. As we get further into the
18 design and actually bid out the turbine generators,
19 each manufacturer is a little bit differently sized.
20 So, this is the range that we're looking at. It
21 will be contained in the new powerhouse, and as I
22 mentioned on the slide before, the discharge will be
23 merging into a common tail race. The powerhouse
24 footprint will be approximately 168 feet by 54 feet,
25 and I will show you what that kind of looks like on
26

1 the next slide.

2 I mentioned the new power line that will follow
3 the existing path. That's a 12.47 kV power line
4 replacing an 4.8 kV power line. And there will be a
5 new substation, as I pointed out in the previous
6 slide, right next to those outbuildings that are
7 currently there. And then, that will connect into
8 New York State Electrical Gas Corporation's existing
9 46 kV line that traverses the property.

10 So, this is just a rendering that shows you
11 what the new powerhouse may look like. On the right
12 here is the existing low-level release works. So,
13 this is here; this is the tail race for that. This
14 building with the four windows is the new
15 powerhouse. You can see the tail race from that.
16 It merges together to form one common tail race.

17 The operating regime. This project was modeled
18 based on the current flexible flow management
19 operations support tool flow regime. From that, we
20 have got an estimated annual output of about 42,000
21 megawatt hours per year. The plan for this project
22 is to operate it in accordance with the requirements
23 of the applicable protocol, currently the FFMPOST.
24 And that flow regime is worked out between the
25 decree parties from the 1954 Supreme Court decree.

26

1 So, this project is meant to work in accordance with
2 what that flow regime is set at. The water that is
3 available is, as I mentioned earlier, water that was
4 already spilled from conservation releases and from
5 directed releases. We don't plan on changing the
6 release pattern in any way for hydroelectric. The
7 magnitude, the timing, the frequency, duration of
8 releases will be the same as currently under the
9 protocol. We don't plan on changing anything for
10 hydropower. And the maximum discharge from this
11 reservoir currently is 1,500 CFS, and that's what we
12 plan on being with the hydro project.

13 And finally, just a list of the studies that
14 were completed in support of the license
15 application: We have done containment studies; we
16 have looked at impingement and locality as well.
17 Wetlands, wildlife and rare, threatened and
18 endangered species, corrosion studies, aesthetics,
19 cultural resources and socio-economics as a result
20 of doing the construction project. And this shows
21 where each of these studies can be found in our
22 license application. Again, all of this is on both
23 FERC's website and on our website. So, it's readily
24 accessible to you. And if you can't access it
25 through the internet for some reason, you can call
26

1 me. We can always get you a copy. That does it for
2 me.

3 MR. MUDRE: Thanks Anthony. I guess
4 before we go any further, does anyone have any
5 questions at this point for either myself or
6 Anthony? I'll mention that there are restrooms down
7 the hall. I failed to mention it, but if someone
8 needs them, they are out the door to the right.

9 Okay, in Scoping Document 1, we have a list of
10 resource issues that involve, we categorize them as
11 geologic and soil resources. We want to consider
12 the effects of project construction, operation and
13 maintenance on soil resources.

14 As far as aquatic resources go, we are going to
15 look at the effects of project construction on
16 aquatic resources in the west branch of the Delaware
17 River below the dam and the effects of project
18 operations, specifically entrainment and entrainment
19 mortality on fish resources in the reservoir and in
20 the west branch of the Delaware River. Terrestrial
21 resources, look at the effects of construction and
22 maintenance of the proposed powerhouse and overhead
23 and underground transmission lines. On the creation
24 of the spoilage disposal area on wildlife and
25 mechanical resources. Also the effects of the

26

1 construction and maintenance of the powerhouse and
2 the transmission lines on the spread of invasive
3 species. Also going to look at the effects of
4 construction, operation and maintenance of the
5 powerhouse and excavation including the use of the
6 siphon on wetlands, riparian and littoral habitat.
7 And also want to consider the potential for raptor
8 electrocution on the new power lines. We are going
9 to consider the effects of the project on threatened
10 and endangered species, including the federally
11 endangered dwarf ridge mussel, which we talked about
12 earlier. They are going to do additional study to
13 address that species.

14 We want to look at the effects of the project
15 on noise, air quality, land use and effects on local
16 traffic and transportation, with respect to the
17 construction traffic and things like that. So, we
18 will consider that as well in our environmental
19 document.

20 We want to consider the effects of project
21 construction, operation and maintenance on cultural
22 resources and on scenic views, aesthetics around the
23 reservoir, the powerhouse, transmission lines, the
24 effects of the project on the local economy by the
25 construction and operation.

26

1 And then finally, we look at, in our licensing
2 process, the effects of proposed and recommended
3 environmental measures on the economics of the
4 power, of the project itself.

5 So that's, those are the resources that we
6 identified. We're also interested, as I mentioned
7 before, in cumulative affects, the resources that
8 might be cumulatively affected by construction and
9 operation of the project in association with other
10 things going on in the watershed. We didn't come up
11 with any in our development of SUL. Couldn't think
12 of any, but if people have some ideas about
13 resources that might be cumulatively impacted, we
14 would like to hear about that, so we can analyze
15 that as well. Okay, I think at this point then, we
16 will turn it over to the people here, agencies and
17 any members of the public that have ideas on issues
18 that need to be considered or any other comments
19 that people may have.

20 I guess we don't have a list of people that
21 wanted to talk, so it will just be first come, first
22 served if there are people that have some ideas on
23 things that we need to consider as this moves
24 forward. Any other just questions in general?
25 Process or whatever. Stand here, give your name.

26

1 MR. WO: My name is Jeremy Wo, I am from
2 the Nordell (ph) Conservancy. I have a general
3 process question. There is another agency that
4 governs this process called the Delaware River Basin
5 Commission. As governed by their compact, any
6 hydroelectric project that takes place in the basin
7 requires their approval to move forward. My
8 question is that, and it's a general question, at
9 which stage of the FERC process will this
10 application be filed? Because my organization would
11 hate to see the wasted resources should the FERC
12 process be completed and then the River Basin
13 Commission require any types of modifications to the
14 project presented. So, that is my general
15 procedural question.

16 MR. MUDRE: Okay, I can try to answer it.
17 I do understand, I have read the compact and
18 understand that there may be concurrent jurisdiction
19 for this project. I am not aware of their process,
20 in particular, what steps in the timing. They have
21 been informed of what is going on here. No one from
22 the Commission, that I know of, is here today. But
23 I think that the city may have some more information
24 on that.

25 MR. FIORI: Anthony Fiori, New York City
26

1 DEP. Just to address that a little bit further, we
2 have been actively talking about when we should file
3 that application. The application is only good for
4 a short period of time. So, we don't want to file
5 it too early, and then it expires and have to
6 refile. So, we are going to wait a little bit
7 longer before we actually file that so as we get
8 closer to actually constructing the project, that we
9 fit within their window. I think it's two years,
10 three years?

11 MR. WO: I don't remember. Yeah, three
12 years.

13 MR. FIORI: So, we are going to wait a
14 little bit longer and make sure that, as we go
15 through this process, we have a better understanding
16 of how long it might take to actually have a license
17 issued before we file an application.

18 MR. WO: Okay, and that makes sense. I
19 have one other question regarding the flow regime
20 and how it is going to be governed by the current
21 FFMP. Last year, a conditional storage objective
22 was added to the FFMP and from time to time and
23 essentially with the conditional storage objective
24 as an objective freeboard target, certain times of
25 the year for reservoir capacity, with this freeboard
26

1 objective as a ten percent capacity objective during
2 I think three to five months of the year.

3 Unfortunately, there are times when the current
4 release structure of the reservoirs can't achieve
5 that target, that ten percent target, and the
6 conditional storage objective sometimes calls for
7 3,500 CFS, which is almost impossible, well is
8 impossible with the current release mechanisms.

9 Since the new turbines in Cannonsville will
10 increase the ability to release up to I think 2,600
11 CFS, based on the intake valve's of the current
12 structures, Cannonsville structure, will there be
13 increased releases when called for by the CSO that
14 can't be made now with the current release
15 structure?

16 MR. FIORI: The hydro project is going to
17 operate in accordance with what the flow regime is.
18 So, it's not going to operate outside of that flow
19 regime.

20 MR. WO: Okay, so if it calls for let's
21 say 3,500, will the city endeavor to get us as close
22 to that as possible with the new release works?

23 PUBLIC SPEAKER: That's a better question
24 for the decree parties and the DRBC Working Group.
25 I can't answer that.

26

1 MR. WO: Okay, thank you.

2 MR. MUDRE: But it would have the
3 capability to release more water than it does now.

4 MR. FIORI: Yes, that part is true.

5 MR. WO: Thank you.

6 MR. MURPHY: Tom Murphy, New York City
7 DEP. As has been stated, we're not going to operate
8 differently than what our agreement with the other
9 decree parties called for. And the CSO, it is a
10 target storage capacity. So, we would expect to hug
11 it basically for the most part like we do now.
12 There will be times when there is just a large storm
13 event, which would push us above it. We go to the
14 1,500 CFS, the highest releases. And as long as
15 we're seeing that we are making progress to get back
16 down to the CSO, that's currently the way we
17 operate, and that's the way we would continue to
18 operate. We would not operate it feeling like we
19 had to drop immediately back down to it. You come
20 up, and then you work your way back down. And we
21 manage it not just through releases but also
22 diversions for water supply. So, depending on what
23 the needs are for demand, we could move more into
24 the system.

25 MR. MUDRE: Okay, good.

26

1 MS. BELLINGER: Martha Bellinger, New York
2 State DEC. Back in December, we sent a letter to
3 DEP with some concerns that we had. A few of the
4 concerns were siphon use during construction, siphon
5 use during operational ability and the increasing
6 capacity from 1,500 CFS to 3,000 CFS.

7 The city did respond. We had a meeting with
8 them, and it did respond to our comments. And staff
9 are still looking at the responses, and we will get
10 those to you in writing. We will get our concerns
11 and responses to you in writing by July 13th, right?
12 Okay.

13 MR. MUDRE: Great. Anyone else? Other
14 comments or questions? Any follow-up discussions
15 from the site visit earlier today? We have a little
16 extra time if there were any. If not, we're having
17 another scoping meeting this evening in the Village
18 of Walton at 7:00 o'clock, and you all are invited
19 to come there if you like. It will be the same
20 presentation basically. Hopefully, there'll be some
21 different faces there too as well.

22 MR. BERNICK: Actually, I have a quick
23 question. I'm Andy Bernick, I'm a wildlife
24 biologist on the project for FERC. And at the site
25 meeting today, I understood that there was a

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1 disturbance permit associated with the bald eagle
2 nesting activity there. And I just wondered if you
3 could speak a little bit more about what that is,
4 and what sort of activities are going to be covered
5 under it and if they include activities associated
6 with the proposed hydropower project. I would
7 appreciate that.

8 SPEAKER: The State of New York has a
9 taking permit for incidental take of endangered
10 species. And-

11 MR. HOISINGTON: Did you say your name?

12 MR. CLARKE: Sorry, Bill Clarke with the
13 State Conservation Department. I am their regional
14 permit administrator. The state has what is called
15 an incidental take permit, called Part 182 under
16 Article 11 of the conservation law. And basically,
17 what that governs is that if there is going to be
18 activities that could cause a disturbance for
19 example to a habitat, in this case nesting birds,
20 then a permit has to be obtained. We've issued a
21 permit at the Gilboa Dam Project, which is a
22 reconstruction project, set in place conditions that
23 restrict activities during the critical times of
24 January through mid summer, assuming the nest is
25 successful. If the nest is not successful then

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1 those restrictions don't apply.

2 Restrictions which are focused upon two
3 critical zones of a 330 zone and a 660 zone, and
4 essentially, the idea is to minimize and eliminate
5 disturbances within those zones, based upon certain
6 activities. So for example, you don't want people
7 walking around, you don't want backup alarms going
8 off within those zones, sharp noises.

9 Some activity can occur during that, and the
10 birds can tolerate it. So in this particular case,
11 we now have two nests that have been discovered at
12 Cannonsville. The more immediate concern is to come
13 up with a plan that addresses the ongoing
14 maintenance activity and also the maintenance
15 construction activity that has to occur as well,
16 improvements. So, things like mowing and
17 inspections are an ongoing activity that has to go
18 on throughout even the critical periods, because the
19 nests are successful in that case. And the other
20 are construction activities that probably could
21 occur outside that window. So right now, we expect
22 to be seeing an application dealing with the
23 operational maintenance aspects immediately, and
24 we'll deal with that. The construction of this
25 project, we'll have to deal with that as a separate
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1 matter. That will have to be part of the
2 application. We are in close coordination with U.S.
3 Fish and Wildlife Service, so there's no daylight
4 between our requirements. Our requirements are
5 entirely in sync between the two agencies, and we
6 discuss this with them before we finalize our
7 requirements.

8 MR. BERNICK: Thank you.

9 MS. DORAN: Hi, Sandie Doran, U.S. Fish
10 and Wildlife Service. Thanks, I just wanted to add
11 onto that, with the authority of the U.S. Fish and
12 Wildlife Service in regards to the eagles, would be
13 the Bald and Golden Eagle Protection Act. And we
14 also have disturbance permits and take permits. We
15 work very closely with the DEC, and the permits come
16 out of our regional office in Hadley.

17 So, we did send a letter, and we made some
18 recommendations on how to minimize impacts to eagles
19 and incorporate some conservation measures during
20 the construction. The eagles are being monitored.
21 We were there today, we saw adult eagles and young.
22 And so, there are those same zones; we use the same
23 distances of 330 and 660 on what type activities can
24 be done.

25 And in regards to the dwarf wedge mussels, in
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1 our letter of April 26, also we have recommended a
2 survey for the mussel site. Since I am up here, I
3 will talk about that. They occur right now in the
4 Delaware and Neversink in certain areas in certain
5 habitats, and so FERC and DEP will be conducting
6 surveys for those.

7 PUBLIC SPEAKER: Perhaps you want to
8 discuss some additional activities besides-

9 MR. HOISINGTON: What is your name? Your
10 name, please.

11 MR. VICKERS: My name is John Vickers. I
12 am asking my regional manager if he wants to give us
13 some more-

14 MR. HOISINGTON: Right. The court
15 reporter needs to report everything, so.

16 MR. DANVETZ: Mark Danvetz, New York City
17 DEP. The additional, and we talked today at our
18 site meeting, additional things that we need to do.
19 In addition we needed mowing, string trimming,
20 things that have to be done to perform our dam
21 inspections. We need to do some maintenance on the
22 dam. We have, as we discussed, we have a weir that
23 is needed to measure some seepage along where the
24 abutments.

25 We have to do some construction work. Some of
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1 it can be done outside of the nesting time for the
2 baby eagles, which is putting a new roof on some
3 facilities up on top of the hill. We also have
4 stairs that had to be repaired on our release
5 chamber. It is outside of the 660 foot circles that
6 are from the nests, and it is going to take a small
7 amount of jackhammering possibly. But we need to
8 have a cement truck and things like that in there to
9 fix those because we're getting to the point we
10 can't get in, and the frame and the door are being
11 replaced as well.

12 We also have to do some cutting of the woody
13 debris, I'm sorry, woody growth on the face of the
14 dam, on the water side, the reservoir side. It's
15 getting pretty long, we really need to take care of
16 that. And we are going to be cutting that. We want
17 to cut that down and spray it, so that it doesn't
18 grow back. It can become a real issue with the
19 stability of the dam. So, that is something we
20 really want to get done. That's going to take some
21 chainsaws. I don't know if there is really any way
22 of doing it any quieter than that.

23 And all of those things are being addressed in
24 the permit. All of the items are listed. Snow
25 removal, we are going to need to plow, trucks. We
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1 are going to have to maintain our access to the
2 facilities as well. We need to access our
3 facilities that we are going to have the roofs put
4 on. We need to just get in there, because there's
5 storage facilities. So, we need to get our
6 equipment out of there. In addition to the snow,
7 any snow removal, we have other equipment that is
8 used at the site that we need to use over there.

9 Off the top of my head, I'm not sure if I
10 missed anything.

11 MR. VICKERS: Emergency gate tower?

12 MR. DANVETZ: Emergency gate tower,
13 correct. We spoke about that too. There is going
14 to be a need to . . . normally we have a, we
15 annually do exercise of this gate tower, which
16 closes off the flow between the reservoir and the
17 release works. That is there in case we need to do
18 repairs on the valving or the piping. So, that
19 could be done after the eagle nesting time. That's
20 not a problem, but we may need to use it during an
21 emergency. So at that time, we are going to have to
22 come in and bring a crane in. I think we usually
23 use about a 60 ton crane. But it's not a very noisy
24 piece of equipment. We just drive slowly by, just
25 like we do when our vehicles go up to the emergency
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1 gate tower, where we run from there.

2 I think that about covers it.

3 MR. VICKERS: What about depression repair
4 in the spring?

5 MR. DANVETZ: What?

6 MR. VICKERS: Depression repair in the
7 spring.

8 MR. DANVETZ: Well yes, correct. In
9 addition to mowing, which the mowing is needed to
10 perform our inspections, which are critical. We
11 have to inspect the dams. Right now, even now, the
12 grass is so long . . . we were out there. You can't
13 even walk on the dam, let alone inspect it. We
14 really need to get that taken care of as soon as
15 possible. We need to make repairs for animal
16 burrows and depressions that we have. They were
17 noted on the DEC's biannual inspection that was done
18 in April.

19 So, we have those all mapped out, and there
20 will always be additional animal burrows and
21 depressions that we need to take care of. And also
22 we have monitoring wells as well. Somebody needs to
23 go up and take readings from those wells to check on
24 the water column within the dam to see what level
25 the water is inside the dam.

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1 MR. MUDRE: I would just add that these
2 activities he just described are sort of independent
3 of their licensing process at this point. So,
4 they're not normal operations that would be
5 occurring whether or not they're going to be asking
6 for a license to build a hydro project. Just so
7 there's no misunderstanding.

8 MR. DANVETZ: Correct. Some things will
9 cause similar issues, but yeah, they're separate.

10 MR. MUDRE: As time wears on, there will
11 be things that may need to be done under the
12 license, like the dam safety stuff. That stuff we
13 will be looking at that, once the license is issued
14 if the license is issued. Anyone else? Okay, well
15 if not, we're going to go ahead and adjourn this
16 meeting. Again, 7:00 o'clock in the Village of
17 Walton, we're in another meeting. Thank you very
18 much for coming.

19 (WHEREUPON, The proceedings were concluded at 2:06
20 p.m.)

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