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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

Black Bear Hydro Partners
Davenport Street
Milford, ME 04461

Wednesday, January 17, 2013

The above-entitled matter came on for Scoping Meeting,
pursuant to notice, at 9:10 a.m., Nick Palso, FERC Moderator.

1 PROCEEDINGS

2 MR. PALSO: Good morning, everyone. We'll
3 begin. I thought there might be some other people trickling
4 in later.

5 Just with the set-up, I'm going to stay seated
6 here so I don't get in front of the projector.

7 My name is Nick Palso. I'm with the Federal
8 Energy Regulatory Commission, and I'm the coordinator for
9 the re-licensing of the Ellsworth Hydroelectric Project.

10 And thank you all for coming in this weather.
11 You know, where we come from, Washington, D.C., you know
12 they'd probably call off the meeting for a couple of
13 flurries like this. So I know in Maine they're a little
14 hardier.

15 I'll briefly go through here what we'll cover
16 in the meeting. We'll have an introduction. Then I'll
17 briefly discuss the pre-filing process, explain the purpose
18 of scoping, because this is the scoping meeting. Then we'll
19 have Black Bear Hydro jump on and give a description of the
20 project for those who aren't familiar with it. Then I'll go
21 over the request for information and studies; also then
22 explain the resource issues that we're looking to study.
23 And at the end we'll take any comments. And you can also
24 have questions for me or for Black Bear Hydro.

25 A little housekeeping here. Please make sure
26

1 you sign in. There's a sign-in sheet there. There's
2 another one floating around. That helps us keep track of
3 people who make comments on the record. And it can also --
4 I don't think this is going to be too big of a meeting, but
5 if more people show up it can help us know how many people
6 plan to make comments so we can help schedule for that.

7 We have a court reporter with us. And it might
8 be a little difficult with the noise of the turbines right
9 outside. But please be sure to speak into a microphone if
10 you're going to make any comments. There's one at the table
11 and we have one that will be passed around.

12 Also, state your name and affiliation before
13 you speak so that we can keep track of everyone who's making
14 the comments.

15 The comments are due on February 21st. You
16 know, you can say anything you want here. It goes on the
17 record; it's as good as a written comment. But I know many
18 agencies like to sit down and file more formal comments.
19 You may do that by February 21st, or you can also send FERC
20 an email for a less formal comment. And that all --
21 everything goes on the record and they all are treated
22 equally.

23 We also have a mailing list. If you'd like to
24 be on that please let me know. I think we have many of the
25 agencies on there already.

26

1 A very brief overview here of the integrated
2 licensing process. This is the process that Black Bear has
3 chosen to use for their re-licensing. And this is a
4 deadline-based process that we have developed at FERC. So
5 there is a very laid-out schedule there. It's in the back
6 of the scoping document, what we, you know, have proposed so
7 far for the schedule. There's certain time periods for each
8 step.

9 Currently we're in the scoping here. They
10 filed their NOI, their Notice of Intent, and then their PAD,
11 their Pre-Application Document back in October. So we're
12 here now at the pre-filing stage. We're getting them all
13 the information they need so they can put it together and
14 come up with their application.

15 We're looking at getting the study plan
16 development, which is what Black Bear will study for a year
17 or two to get the information to put into their application.
18 That should start in September and then, like I say,
19 continue for a year or two. After that they'll file their
20 application.

21 And then we go -- the next step is FERC will
22 look over the application. If there's all the information
23 there, if it's all there then we'll say it's ready for
24 environmental assessment. Then the FERC staff will prepare
25 the environmental assessment.

26

1 And I'll let us introduce ourselves again.

2 I'm Nick Palso. I'll be doing recreation,
3 cultural -- that's, you know, historical and archeology --
4 and aesthetics.

5 MS. CLARKIN: I'm Carolyn Clarkin. And I will
6 be doing the -- I'm the attorney for the projects.

7 MR. CONNELLY: I'm Bill Connelly, and I'll be
8 working on the aquatic part of the project.

9 MR. PALSO: And back in the office in D.C. --
10 they couldn't make it up -- we'll have Amy Chang working on
11 terrestrial biology and Mike Watts will be our engineer. So
12 we'll, you know, as everything stands now, we'll be the team
13 actually doing the environmental assessment.

14 And then once we get that issued, if it says
15 that there should be an order, we'll go ahead and we also
16 come up with the order. And the order is the license for
17 the project.

18 The scoping process. The reason why we're here
19 is to solicit input and comments. You know, we work in
20 Washington, D.C. We try to be as informed as we can about
21 the areas. I've been to Maine several times so I'm really
22 getting to know the area. But we don't have the same local
23 knowledge that the local agencies and other stakeholders
24 have. So we come up here and try to get the input from you
25 guys.

26

1 We'd like you to identify the issues and tell
2 us what, you know, resource issues are important regarding
3 this project. For every, you know, hydroelectric project
4 there's regular issues that we look into and cover. But,
5 you know, every project's unique. So there might be some
6 issues that are, you know, more important than others or
7 some that really stand out. So we would like you to tell us
8 about that.

9 We also need information on the existing
10 conditions -- like what's the environment like here already.
11 And also information needs: What information isn't out
12 there currently that could be gathered by studies as part of
13 this licensing process.

14 To keep yourselves informed, we have
15 e-Subscription and e-Library. And both of these are
16 available from FERC at www.ferc.gov. That takes you to our
17 home page and you'll see links there.

18 E-Subscription is a service where anything
19 that's going to go up on -- any document that's going to get
20 filed with the Commission, as soon as it's filed you'll get
21 emailed a link to this document. And it's the exact same
22 email that like will pop into my inbox. And this will keep
23 you up to date. It will let you know, you know, as soon as
24 something's filed, what's been filed.

25 E-Library is the big list of all the things
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1 that have been filed related to the project. So if you go
2 to that site -- you know, you can sign up for e-Subscription,
3 you get everything as it comes out. But for anything in the
4 past you can go to e-Library and it has every single
5 document that has been filed for this project. And there's
6 instructions when you go on there on how to use it.

7 It's a pretty simple search engine. And you
8 put in the project number and there you can follow it up.
9 So if there's any background information you need, you can
10 look for it there.

11 Now I'll let Scott Hall come up and he'll give
12 a brief description of the project.

13 MR. HALL: Two things before I get started.
14 Bathrooms there; coffee and donuts over there. Help
15 yourself while Lauren brings up our presentation.

16 We actually put this particular PowerPoint
17 together largely for the public meeting because I think
18 everybody here kind of has a little bit better sense for the
19 project and what's going on. So we'll flip through a couple
20 of these slides fairly quickly.

21 So again, what we did was we started out just
22 giving people a general sense for who Black Bear is. I
23 think folks in the room have a pretty good sense for that at
24 this point.

25 From the re-licensing team, TRC's helping us
26

1 for overall kind of project management and some specific
2 resource issues. And then Kline Schmidt is also here to
3 assist us with some of the energy and hydrology, and HDR
4 largely for the fisheries components.

5 From a watershed standpoint, this just gives a
6 quick depiction of the overall watershed. You'll see it
7 reaches up quite a bit above Route 9. And that includes
8 some of the area lakes that drain into the Union River.

9 Project boundary-wise, it's essentially Graham
10 Lake and Leonard Lake above the Ellsworth Dam, so Graham
11 Lake being the storage reservoir and Leonard Lake being the
12 generating facility.

13 This is just some quick background information
14 on the two dams within the project. The original project
15 was constructed, Bar Harbor and Union River Water Power
16 Company, I think it was. It was then subsequently purchased
17 by Bangor Hydro. That was built in 1907.

18 That's kind of the original powerhouse and the
19 three units in that. And then some time in the teens and
20 '20s -- Dick may remember -- the additional unit was put in.
21 So there's actually four units there now.

22 And Graham Lake is the earthen dam that was
23 built in 1923 to effectively capture the flood waters and
24 then kind of meter them out over the course of the year.
25 There's also a concrete flood control structure downstream
26

1 of the earthen dam at Graham Lake. And again -- but that's
2 -- the function of that is largely -- is entirely flood
3 control.

4 This is just a quick overhead of the Ellsworth
5 Dam itself and Leonard Lake up above it. As you can see,
6 it's kind of tucked away in a gorge when it was originally
7 built, just upstream from the city downtown area, if you
8 will, of Ellsworth.

9 It was -- At the time that the Graham Lake
10 flood control dam was built in the early '90s, this -- which
11 is an Ambursen designed dam, which is, you know, hollow --
12 was filled with concrete. So it's basically a mass concrete
13 gravity dam now. So it's got a lot of concrete in it; it's
14 not going anywhere any time soon.

15 And again, this is just a picture of the
16 Ellsworth powerhouse itself. The main powerhouse was the
17 original one with the kind of three windows. That had three
18 units. And then the light slightly different colored on the
19 right is where we look -- what we call unit number one
20 powerhouse, which was put in in the teens or '20s.

21 MR. CONNELLY: I have a question.

22 MR. HALL: Yep.

23 MR. CONNELLY: Bill Connelly.

24 So there's a fish-trapping facility here
25 somewhere?

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1 MR. HALL: Yes. If you look, the entrance is
2 actually right at the corner of the -- the downstream corner
3 of the larger powerhouse structure.

4 MR. CONNELLY: Okay.

5 MR. HALL: Yep.

6 MR. CONNELLY: Yeah. Okay.

7 MR. HALL: And then it's a series of vertical
8 slot fishway pools --

9 MR. CONNELLY: Okay.

10 MR. HALL: -- into a trap.

11 MR. CONNELLY: Okay.

12 And how about the downstream?

13 MR. HALL: The downstream is surface weirs, a
14 series of surface weirs across the intakes --

15 MR. CONNELLY: Okay.

16 MR. HALL: -- on the upstream that -- two of
17 which empty into a pit and then through a pipe, which
18 empties on that. You can see where that whitewater coming
19 down.

20 MR. CONNELLY: Right.

21 MR. HALL: And then another one is right at the
22 head of that immediately adjacent to the intake of the other
23 unit.

24 MR. CONNELLY: Okay.

25 MR. HALL: So they're basically surface weir
26

1 bypasses.

2 MR. CONNELLY: Okay.

3 I have one more question about the fish
4 trapping facility. I saw I guess for salmon in your reports
5 you operate it every other day during the salmon run?

6 MR. HALL: Unless we catch one.

7 MR. CONNELLY: Right.

8 MR. HALL: Which -- and again, we didn't --

9 MR. CONNELLY: It hasn't happened in a while.

10 MR. HALL: We didn't catch one for many years
11 until this year when we actually had a catch of three --

12 MR. CONNELLY: Oh, wow.

13 MR. HALL: -- that were aquaculture fish,
14 aquaculture escapees. So they weren't --

15 MR. CONNELLY: Right. Okay.

16 But is -- do you operate it the same way for
17 alewives?

18 MR. HALL: For alewives, the alewife season is
19 much more confined, as you know. And the way that -- we
20 take responsibility for stocking fish through -- and we
21 actually end up using the same contractor that the City of
22 Ellsworth uses. The City of Ellsworth has been granted the
23 rights to harvest alewives by the state. So their
24 contractor operates the fishway.

25 Typically it's, you know, it could start as
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1 early as late April, but usually it's early May to early to
2 mid-June.

3 MR. CONNELLY: That's every day?

4 MR. HALL: And they will -- early on it's not
5 necessarily every day. Basically they'll do it when there's
6 enough fish, when, you know, the fish are starting to run.
7 The way the Comprehensive Fishery Management Plan works is
8 we stock the first 100,000 fish that come back --

9 MR. CONNELLY: Right.

10 MR. HALL: -- regardless. And then the rest
11 are essentially sprinkled over the run to try to get a bit
12 of diversity over the course --

13 MR. CONNELLY: Right.

14 MR. HALL: -- with early run fish, late run
15 fish --

16 MR. CONNELLY: Right.

17 MR. HALL: -- and perhaps blueback herring in
18 the latter part of the run. So they will run it more or
19 less every day except for Sundays -- on Saturdays, I'm
20 sorry. And the reason there is they will -- they'll harvest
21 throughout the week, especially if the fish are there
22 they'll always have a market because there's always lobster
23 --

24 MR. CONNELLY: Right.

25 MR. HALL: -- fishermen who want the bait. But
26

1 that time of year typically lobstermen will use the bait
2 fresh --

3 MR. CONNELLY: Okay.

4 MR. HALL: -- not salted or freezer or
5 anything.

6 MR. CONNELLY: Right.

7 MR. HALL: And in Maine from four o'clock on
8 Saturday afternoon until essentially Monday, lobster
9 fisheries close so the lobstermen can't go out and fish
10 their traps.

11 MR. CONNELLY: Right.

12 MR. HALL: So they don't want the bait.

13 MR. CONNELLY: Right. Okay.

14 MR. HALL: So that's essentially -- it's kind
15 of a relic of --

16 MR. CONNELLY: Yeah, right.

17 MR. HALL: -- a different industry. But that's
18 why it's oftentimes, if we're not stocking fish, if the
19 stocking has been completed or if they're -- you're kind of
20 in the interim period while waiting for the later run fish,
21 they won't necessarily --

22 MR. CONNELLY: Okay.

23 MR. HALL: -- operate and harvest it every day.

24 MR. CONNELLY: Cool. Thank you.

25 MR. HALL: And then again, this is just a quick
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1 shot of Leonard Lake. Leonard Lake is very, very stable
2 largely because we can control the water flow coming down.

3 UNIDENTIFIED PARTICIPANT: Want to bring the
4 lights down?

5 MR. HALL: Yeah, if it will help.

6 UNIDENTIFIED PARTICIPANT: Ok.

7 MR. HALL: Yeah, it's a little bit better.

8 And it only extends a little over a mile or so
9 upstream in terms of the impoundment. Again, this is a very
10 steep gorge originally, you know, back when it was initially
11 constructed. So it doesn't extend that far upstream.

12 And then this is the gate structure at Graham
13 Lake. You can actually see a portion of the concrete
14 gravity dam that's downstream of the grass, the grassy
15 knoll, if you will, which is the earthen dam. It has --
16 that's essentially to kind of retard flood flows in the
17 event of an earthen dam failure. And again, that was built
18 back in the early '90s.

19 So the gate structure itself is three tainter
20 gates, as well as you can notice all the way to the left of
21 the gate structure is a -- there used to be an old broom
22 gate in there, and that was replaced several years ago. And
23 we actually have a slot there that we -- for downstream fish
24 passage at that site as well.

25 MR. CONNELLY: Okay.

26

1 MR. HALL: And again, just a quick picture of
2 Graham Lake. It's obviously a very large, wide lake that is
3 intended -- that is used to essentially capture spring rains
4 and snowmelt to retard floodwaters downstream.

5 From an operational standpoint, again the two
6 dams are really operated in concert with each other. The
7 Leonard Lake impoundment is very stable because we do
8 control the flows. Graham Lake over the course of the year
9 -- and I'll show you the operating Rule Curve -- we
10 typically -- it's a seven to nine foot fluctuation. Really
11 it's this time of year when we're starting to draw down to
12 capture the spring flows. And then it comes up fairly
13 quickly over the course of less than a month, usually.

14 Next one.

15 And this is the curve itself with the 2011
16 elevations on it. And you can see how we more or less
17 followed the curve that year. We knew that we were going to
18 get -- we were getting an early melt, so we drew it down.
19 We were pretty much on the curve. But then it filled very
20 quickly.

21 And you can see basically from the bottom to
22 that first peak is only a matter of two or three weeks. So
23 it, you know, we went from, you know, a little over
24 elevation 95 to a little over 103. So about an eight foot
25 increase in just a matter of three weeks. That's how
26

1 quickly that lake can fill up with flood flows.

2 And with additional water, when we get to a
3 point where we're at the top of the curve and we have a lot
4 -- continuing to have in-flow, particularly rainfall, and we
5 have to release more water than we can actually use at
6 Ellsworth, that will affect local roads. Shore Road will be
7 under water, a portion of Shore Road will be under water
8 even by holding this back.

9 So there are times where even that amount of
10 fluctuation isn't quite enough. But it makes a significant
11 difference. If it was all unimpeded spring flow then there
12 will be areas down in Ellsworth that would -- you wouldn't
13 want to build a house there. It would be under water.

14 A couple of the components that we have at this
15 particular project, the Comprehensive Fishery Management
16 Plan is again, as I think most people are aware, is a
17 management plan that has kind of five-year cycles, but we
18 meet every year to talk about things like stocking fish and
19 how many are stocked. We made an adjustment -- what was it,
20 John, a couple of years ago now?

21 Two or three years ago we went from 100,000 to
22 150,000, actually in concert with IFW and DMR and NOAA and
23 Fish & Wildlife Service, trying to get more fish up there
24 but being sensitive to resident species. And so that's
25 something obviously that we expect to continue, that kind of
26

1 collaborative effort, to make some decisions as to how we --
2 and, you know, in that instance we made a decision kind of
3 mid-five-year cycle to make an adjustment to the number of
4 fish that are stocked.

5 And last year we -- 150,000 were stocked and a
6 total run of a little over 1.2 million returned. That's
7 alewives.

8 Now we put this together just to give people a
9 general sense for the studies. Obviously these are some of
10 the ones that were included in the PAD. But we have a
11 couple of additional ones that I'll talk about in a second
12 that weren't included in the PAD but have since been kind of
13 developed.

14 You know, in the PAD, for example, we said we
15 should consult with the SHPO on archeological and historic
16 resources. Well, we've done that. We have a pretty good
17 sense for what we're going to do. So we'll include those in
18 our actual study plan proposal which we'll put forth here in
19 the next few months.

20 One other one that we'll also include that's
21 not on this list is kind of the standard, you know,
22 evaluation for generation enhancements, other opportunities
23 for enhancing generation at this site, just like we do at
24 every other site. So that will be -- we'll have a study
25 plan that will say we're going to -- essentially say we're
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1 going to assess generation enhancement opportunities at the
2 project.

3 So this is really the next steps. And Nick's
4 going to talk about this as well, so I won't spend much time
5 here. But kind of the idea is we'll put together study
6 plans that will then be available for comment.

7 And then -- and we may actually start some of
8 the work this year. Some of the stuff that we absolutely
9 know we're going to do are things that -- and the study plan
10 itself is very straightforward and standard; it's, you know,
11 the typical DEP, water quality sampling, those kinds of
12 things are things that we may get a jump on this year to
13 start that process.

14 And then, you know, if folks have questions,
15 everybody here knows how to reach us. So with that, unless
16 there are questions, I'll hand it back to Nick.

17 MR. PALSO: Okay. Thanks, Scott.

18 Now I'll go over what kind of information and
19 studies we're looking for. We want information that may
20 help define the geographic and temporal scope, and identify
21 any significant environmental issues. So if you know -- if
22 there's any -- I guess it says right there:

23 Environmental issues, any resource issues
24 that's significantly impacted by the project, please let us
25 know that. And also, if you want, let us know how
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1 far-ranging you think the effects of the project could be,
2 both in terms of area and then like time into the future.

3 Please give us any data that would help to
4 describe the existing environment and the effects of the
5 project and other developmental activities on environmental
6 and socioeconomic resources.

7 Identify any federal, state or local resource
8 plans or future project proposals and the affected
9 resources. Like let us know if you know of another project,
10 some kind of like maybe a hydropower dam, maybe a port,
11 something else that could be going in there that we're not
12 aware of that cumulatively we could have impacts.

13 And also we have a list in the scoping document
14 of comprehensive plans we identified we think that apply to
15 the project. If you know of any comprehensive plans that
16 aren't in there, please let us know.

17 We're also looking for any documentation
18 showing why any resources or identified issues should be
19 excluded from further study or consideration. So we have a
20 list of different resources in the scoping document that we
21 think, you know, should be studied. If for some reason you
22 think that this resource isn't as important or it's been
23 taken care of, please let us know and please give us some
24 information showing us why, and maybe we can take that out
25 of consideration.

26

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

4 And going into study requests, these are the
5 studies that Black Bear Hydro will perform during their
6 study seasons to gather information that will go into their
7 application. When we're looking for study requests, there
8 are seven criteria that I have listed here, and they're in
9 the scoping document as well. And every study request needs
10 to have these seven criteria. So, please, if you're going
11 to formulate a study request, make sure it follows this.

12 If you need examples of previous study requests
13 you can contact me. My email and phone number are on the
14 scoping document. And I can send you out a former study
15 request another agency has done or other study plans that
16 lay these all out.

17 Going through these criteria, the first is:

18 Describe the goals and objectives of the study.
19 You know, just define what you hope the study -- what kind
20 of information it will gather.

21 And then: Explain the resource management
22 goals. So what is the information gathered; how is that
23 going to affect managing the resource that it pertains to?

24 Explain relevant public interest
25 considerations. So let us know how it's in the public
26

1 interest to perform this study.

2 Also, describe any existing information. So
3 let us know what's already known about this resource, and
4 then also let us know what isn't known and why the study
5 needs to be performed to gather that information that's not
6 known.

7 We also need a nexus between project operations
8 and how study results would inform license requirements. So
9 how is the information to be gained by this study going to
10 -- how would it like to into the study plan process and the
11 license. So how is it relevant to what they need to put in
12 their application.

13 Also, describe methodology and how it's
14 consistent with accepted practice. So, you know, give an
15 example of what you think the method should be to get this
16 information, and then also tell us like how this is an
17 accepted method. You can cite previous studies that have
18 used the same methodology.

19 And finally, describe the level of effort and
20 the cost, and why alternative study is possibly needed. So
21 let us know how much you think this study is going to cost
22 in terms of both money and time; and if there is an
23 alternative way to do the study, you can also let us know
24 about that.

25 The requests for information and studies again

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1 are due February 21st. They need to be filed by that date
2 for us to consider them. When you send in your electronic
3 or mail filing, please be sure to put on the first page that
4 it's for the Ellsworth Hydroelectric Project, and put FERC's
5 project number there, which is 2727-086.

6 You may file these electronically. There's an
7 e-filing link on the FERC homepage at www.ferc.gov. And if
8 you have any trouble there is a phone number there that will
9 take you to someone in IT who can explain how to do this.

10 You can also file them by mail. And the
11 address is there. It's also in the scoping document. And
12 please make sure that any filings are addressed to our
13 secretary, Kimberly Bose.

14 If you have any questions or comments about the
15 process or dates or anything like that that isn't a filing
16 on resource issues, you can always contact me. My number
17 and email address are in the scoping document, and I can
18 help you with any of that stuff.

19 Just a recap of the resource issues that we're
20 going to be studying -- and these are the things we'll
21 analyze in our environmental assessment:

22 We look at geologic and soil resources;

23 We look at aquatic resources, including fish
24 and water quality;

25 Terrestrial resources, including reptiles,
26

1 mammals, birds, as well as plants;

2 Recreation and land use;

3 Aesthetic resources -- we look at scenery
4 concerns there;

5 Cultural resources, concerning both historical
6 sites and archeological sites and Tribal resources;

7 And then also developmental and economic
8 resources.

9 Important dates. Again, comments are due --
10 scoping comments are due on February 21st. Black Bear Hydro
11 will have their proposed study plan by April 7th.

12 There will be a study plan meeting by May 7th.
13 And that's when agencies and stakeholders can get together
14 and have an open discussion about the proposed study plan.

15 I believe we're also during the study plan
16 meeting time we're planning to have a site visit where Black
17 Bear will take people around the dam sites and give them a
18 tour. Normally we have that during the scoping process.
19 But as you can see outside, January in Maine is not a really
20 good time to go checking out a dam.

21 The revised study plan where Black Bear will
22 take all the comments given by various stakeholders, both at
23 the study plan meeting and during another comment period,
24 and they will try to fix up the study plan if it needs to be
25 to incorporate comments.

26

1 And then in September 4th is when the Office of
2 Energy Projects Director at FERC will make the determination
3 on what will be in the final study plan. And then that will
4 set forth what Black Bear Hydro will go and study for the
5 next year or two to put in their application.

6 And now we can take any questions or comments.
7 Bill will be running around with the microphone. So please
8 remember, if you have a question or comment, just raise your
9 hand and Bill will come to you. And state your name and
10 affiliation and speak into the microphone, please.

11 MS. HOWATT: Kathy Howatt with Maine Department
12 of Environmental Protection.

13 With my review of the preliminary application
14 document and the scoping document, I see that the scoping
15 document says that there's going to be an environmental
16 assessment to cover many resources -- the ones listed on
17 your slide presentation. But the proposed studies that are
18 listed in there do not include study of any of the resources
19 that would provide that information.

20 So because I guess I'm new to this process, I
21 wonder if you can explain that disconnect between what the
22 SD-1 proposes for studies and the data that will be
23 collected for the environmental assessment.

24 MR. PALSO: Sure. It's all part of the process
25 there. The scoping document puts out what we know so far.

26

1 And their proposed study plans in the Pre-Application
2 Document, or PAD, is so far what they're proposing to study.
3 That's not everything that's going to be in the study plan.

4 The next step is we take study comments and
5 study plan requests. And Black Bear will then come up with
6 the study plan, or their proposed study plan. And that
7 should be enough to cover all the resource areas. If it
8 isn't, then stakeholders can make comments on that; there
9 will be a comment period for that, and also during the
10 meetings. And then Black Bear will have a revised study
11 plan after that.

12 The revised study plan, again, that, you know,
13 with all the comments taken, that should be enough to cover
14 all the different areas. And if there's still dispute over
15 that then it falls on our Director at the Office of Energy
16 Projects at FERC to finalize what the study plan should be.

17 MS. HOWATT: So in Black Bear's presentation
18 you described a few of the elements of water quality --

19 MR. HALL: Correct.

20 MS. HOWATT: -- that you were going to study.
21 Those don't entirely cover the Department's need in order to
22 satisfy the 401 certification. And so is it better for you,
23 for the project, for us to work directly with you prior to
24 development of the study plans to get that information to
25 you, or is it better for you and the project for us to
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1 submit those requirements as comments? Or I could do both.

2 MR. HALL: Yeah. And I can maybe answer from
3 our perspective, anyway.

4 You're absolutely right. The PAD is just kind
5 of a quick, you know, these are the general categories.
6 What we showed here, as I mentioned earlier, is actually,
7 you know, kind of an update of the PAD. And it was really
8 just intended to depict general categories, if you will.

9 At the same time, while we do think we have a
10 real good understanding, because it's very clear in the
11 regulations exactly what the resource issues, you know, the
12 rock baskets and the, you know, DO and all the stuff that
13 would have to be done. So our expectation is we will in
14 fact have that detailed study plan -- that will be one of
15 the study plans that will be included when we file that in
16 April.

17 In the meantime, you know, you -- the DEP
18 providing that regulatory information that we're already
19 aware of but just, you know, for the record is fine. And so
20 it's kind of we can -- we've got to do both. You know,
21 while we like to think we know everything that the DEP
22 requires --

23 MS. HOWATT: You don't.

24 MR. HALL: -- to the extent that you tell us
25 what -- and it's not in that. It's not in this

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1 documentation, you know. We also like to think we're smart
2 enough to know we don't know everything.

3 So to the extent that you have that
4 information, absolutely share it with us now and down the
5 road so when we put together our study plans we would much
6 prefer to make sure that they are complete so that, you
7 know, when Nick and the folks come back up in May that's not
8 anything we need to worry about wasting time discussing
9 because we've already included everything we need pursuant
10 to the requirements.

11 MS. HOWATT: Okay. Great. Thank you.

12 MR. PALSO: And if you have any information
13 that you want to share with Black Bear and you don't mind if
14 everyone else knows it, then please also go ahead and file
15 it with FERC. And it will pop up there related to the
16 project. And that would be a help for us.

17 Are there any other questions or comments?

18 MR. LEINBAUGH: I'm George Leinbaugh with the
19 Downeast Salmon Federation.

20 If the dam proves to be not cost effective
21 after all the studies and everything are done, will the
22 option be out to close the dam and sell it to an NGO?

23 MR. PALSO: There is -- I'm not sure about
24 selling it to an NGO. I mean I'm just -- I'm not sure of
25 that myself.

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1 There is an option to surrender the license, in
2 which case it would be, you know, they could operate it for
3 like -- just run the dam, have non-hydro. Or they could,
4 you know, exchange hands with it. Or, you know, there's a
5 decommissioning process.

6 And we do look at when we examine in our EA we
7 will look at, you know, what's the benefit -- or we examine
8 taking out the dam, decommissioning the project. We also
9 look at running it exactly as it is now; no change in the
10 license. And then we analyze what any, you know, proposed
11 changes in the license, look at that option. So we have
12 those three options we examine.

13 MR. LEINBAUGH: Thank you.

14 MR. CONNELLY: Bill Connelly.

15 I had some questions about the comprehensive
16 fish management plan. I wasn't sure who to address this to.

17 So I saw on some -- one of the reports there is
18 an assessment of salmon habitat in the West Branch of the
19 Union River. But I never really saw later the results of
20 that assessment. So I just wanted to ask if those results
21 are available.

22 MR. HALL: You guys may know better than I. I
23 know DMR had done some assessments; I'm not sure what they
24 may have -- We don't have anything that they may have
25 published, and I'm not sure what the status of that is.

26

1 MR. CONNELLY: Yeah.

2 MR. HALL: But you guys may know more than I.

3 MR. SHEPARD: Steve Shepard, U.S. Fish &
4 Wildlife Service.

5 I'm not familiar with a habitat assessment in
6 the West Branch of the Union. Just generally, there is --
7 that is the branch of the Union that has the lesser amounts
8 and lesser quality of salmon habitat.

9 Oh, I'm sorry. I got it backwards. West
10 Branch is the good habitat; the East Branch is the poor
11 quality habitat.

12 MR. CONNELLY: Okay.

13 MR. SHEPARD: But also the West Branch has been
14 stocked with salmon at various times, most recently fall
15 2011 or -- Yeah, fall 2011, when I think 240 or so brood
16 stock were released there. And it has been stocked at
17 various times with fry and other life stages.

18 So it is the emphasis of the salmon program as
19 far as stocking and habitat issues.

20 MR. HALL: But to your question, if -- DMR
21 would have been the one doing that assessment, by and large,
22 so we can certainly follow up with them --

23 MR. CONNELLY: Okay.

24 MR. HALL: -- and see what they have -- what
25 they have, if they have anything additional for information.

26

1 MR. CONNELLY: Right.

2 And I also had a question about -- I guess that
3 they propose to do some diagnosis of alewives from Graham
4 Lake. I was curious if that data is available, as well as
5 -- the reports mentioned some alewife like frequency, but I
6 never saw the data in the future reports.

7 MR. HALL: Yeah. Again, some of that is work
8 that DMR has done in the past. And we'll have to follow up
9 and see what they have available for information.

10 MR. CONNELLY: Okay.

11 MR. HALL: Some of it was mostly just, you
12 know, kind of an assessment based on returns.

13 MR. CONNELLY: Right.

14 MR. HALL: And we do have that information.

15 MR. CONNELLY: Yeah. Right.

16 MR. HALL: We have provided that.

17 And in fact, I just -- we'll be filing our 2012
18 -- our report on 2012 activities --

19 MR. CONNELLY: Right.

20 MR. HALL: -- in another month, give or take.

21 MR. CONNELLY: Okay.

22 MR. HALL: So that will be available.

23 MR. CONNELLY: Excellent. Thank you.

24 MR. PALSO: Anyone else?

25 MR. MURPHY: I guess I can go. I'm Jeff Murphy

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1 with NOAA's National Marine Fisheries Service.

2 The Ellsworth project is within the geographic
3 range of listed Atlantic salmon, as well as its designated
4 critical habitat. And operation of the project has the
5 potential to significantly impact Atlantic salmon and
6 critical habitat. Listed Atlantic sturgeon and short-nose
7 sturgeon could potentially be in the estuary downstream.

8 Before FERC can issue a license for the project
9 there will need to be a Section 7 consultation on the
10 Endangered Species Act. That consultation will very likely
11 be formal.

12 We're presently working with Scott and Black
13 Bear hydro to develop a species protection plan. We're
14 hopeful that we'll be able to complete that effort, which
15 will form the basis of the consultation with FERC.

16 We will also likely provide comments on alosids
17 under the Magnuson-Stevens Fishery Conservation Act. And we
18 will be providing formal study requests by the deadline.

19 MR. PALSO: And what are those? I'm not a fish
20 guy.

21 MR. MURPHY: River herring --

22 MR. PALSO: Okay.

23 MR. MURPHY: -- spirit shad.

24 MR. PALSO: Thanks.

25 MR. MURPHY: I did have a couple questions. I
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1 wondered how FERC plans to disseminate critical energy
2 information to us. It's problematic. We have to request
3 these individually. And our preference would be not to have
4 to do that. It typically takes three to four weeks. It can
5 be very time-consuming. I just wondered if you could
6 address that.

7 MR. PALSO: I, you know, myself, can't do
8 anything about the critical energy information. That's a
9 different office at FERC.

10 I can certainly forward your comment to them.
11 Sometimes for me it can be difficult to get that if it's,
12 you know, tied up with our security issues. But, you know,
13 I can certainly talk to higher-ups and see if we can make it
14 easier for you to get the information, because I am aware
15 that that can be a difficulty.

16 MR. MURPHY: Yeah. As a federal agency it
17 would be much more convenient for us, certainly, not to have
18 to request this individually.

19 MR. PALSO: Yes.

20 MR. HALL: And just to expand a little bit on
21 Jeff's point about working, we've been working with the
22 agencies on the, you know, draft EA development of species
23 protection plan. And we were also designated as FERC's, you
24 know, non-federal representatives in their formal
25 consultation back in like May or June of '11. So
26

1 process-wise we've kind of checked those boxes.

2 And now we're working on -- then Peter's been
3 helping us with that. So we have had a lot of discussions
4 about the timing of that and how it fits into the process.
5 And so suffice it to say we're, you know, we're actively
6 engaged in that.

7 MR. PALSO: Anyone else?

8 MS. HOWATT: This comment is more
9 administrative. I wonder if you might be able to make your
10 presentation material available to the agencies.

11 MR. PALSO: Yes. I can file this PowerPoint
12 presentation up there on the -- on our e-Library. And, you
13 know, if you need help subscribing, I can, you know, explain
14 how to do that. And then everyone will have access to it.

15 MS. HOWATT: I'm on the subscription.

16 MR. PALSO: You are?

17 MS. HOWATT: So I can get it from there --

18 MR. PALSO: Okay.

19 MS. HOWATT: -- if it's filed.

20 MR. PALSO: Yeah.

21 MS. HOWATT: So thank you.

22 MR. PALSO: I'll file it. And also the
23 transcript from this meeting should pop up in two or three
24 weeks. So everything else will be there.

25 MR. SHEPARD: Steve Shepard, U.S. Fish &

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1 Wildlife Service again.

2 Largely because of the listed salmon issues,
3 fish passage issues are likely to play a prominent role in
4 the studies for this project. And I guess for the benefit
5 of FERC and other people who perhaps are not familiar with
6 some of the project structures, the downstream passage
7 system in place at the generating station also dates to the
8 time of the renovations that Scott described earlier when
9 the dam was filled with concrete and the changes were made
10 at Graham Lake. And I think among the agencies, we'll
11 probably be requesting studies related to assessing the
12 effectiveness of that facility specifically for salmon,
13 possibly other species.

14 Likewise, the upstream passage facility.
15 Again, just to give background for everybody's benefit, it's
16 a little different from other fish passage facilities in
17 Maine that handle alewives and where harvests occur. And
18 that is alewives are harvested directly out of this fishway,
19 which is not the common practice of Maine Department of
20 Marine Resources. They typically don't allow that.

21 So there might be some reassessment of how the
22 harvest management goes on. Because it currently is largely
23 a sole species fish passage facility it is a little
24 different and it does have the historic practice of doing it
25 that way. And there are a lot of site constraints related
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1 to this.

2 But we certainly will be looking at upstream
3 passage again, how those fish are handled, how salmon could
4 be handled there, what changes perhaps need to be made.

5 So, you know, we can provide more background to
6 the FERC staff on this or discuss it further. But largely
7 many of the studies will focus on those issues; perhaps to
8 some extent habitat in the watershed and, you know, the
9 overall salmon program, how that may change, what recovery
10 actions are going to occur. We're close to completing a
11 recovery plan for salmon.

12 And again, as background, the Union River is
13 part of the Down East SHRU. I don't know if anybody looked
14 at that. But it contains a large quantity of habitat in a
15 SHRU that otherwise has fairly limited habitat on the other
16 streams. So the Union could figure prominently in recovery
17 actions for salmon.

18 MR. PALSO: Any other comments, or questions?

19 (No response.)

20 MR. PALSO: Okay, then. I'd like to thank
21 Scott for allowing us to use this meeting room. I have
22 never been at a meeting right next to the turbines.

23 (Laughter.)

24 MR. PALSO: So that's kind of interesting to
25 see the electricity being made right next door.

26

1 And thanks again, too, for coming on this snowy
2 day.

3 Please, if you didn't already, please sign in.
4 The sign-in sheets are right there on the table. And
5 there's also copies of the scoping document, if you would
6 like some.

7 And that's it. Thank you very much.

8 (Whereupon, at 9:52 a.m., the scoping meeting
9 in the above-entitled matter was adjourned.)

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