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BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION  
  
TYPE OF FILING: NOTICE OF INTENT TO FILE LICENSE  
APPLICATION  
  
FOR A NEW LICENSE AND COMMENCING LICENSING

PROJECT NUMBER: P-2985-004

APPLICANT: MEADWESTVACO

PROJECT NAME: WILLOW MILL HYDROELECTRIC PROJECT

July 13, 2006

10:01 a.m.

First Congregational Church of Stockbridge  
4 Main Street  
Stockbridge, Massachusetts 01262

Maureen A. Cournoyer, Notary Public and Professional  
Shorthand Reporter,  
within and for the Commonwealth of Massachusetts.

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APPEARANCES :

ON BEHALF OF FERC:

KRISTEN MURPHY

TIM KONNERT

MIKE SPENCER

ON BEHALF OF GOMEZ AND SULLIVAN:

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SCOTT PHELPS

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South Lee, Massachusetts 01260

413.243.5963

1 SCOPING MEETING

2 JULY 13, 2006

3 MS. MURPHY: Good morning  
4 everybody. Welcome to the Scoping Meeting  
5 for the Hydroelectric Project. I'm  
6 Kristen Murphy and I'm from the Federal  
7 Energy Regulatory Commission, FERC, and  
8 since this is kind of a small group, why  
9 don't we just go around and do introduce  
10 -- introductions, and who you're  
11 representing.

12 We'll start with the FERC people.

13 MR. SPENCER: I'm Michael  
14 Spencer, I'm a FERC engineer.

15 MR. KONNERT: I'm Tim  
16 Konnert, I'm a fish biologist for FERC.

17 MS. MAROLD: I'm Misty-Anne  
18 Marold, I'm with the Division of Fisheries  
19 & Wildlife Endangered Species Program.

20 MR. PHELPS: I'm Scott  
21 Phelps, I'm the project engineer for  
22 MeadWestvaco, the applicant for the dam.

23 MR. GRANT: I'm Dan Grant,  
24 doing environmental compliance for  
25 MeadWestvaco.

1                   THE REPORTER: I didn't hear  
2 you, doing what?

3                   MR. GRANT: Daniel -- Mead  
4 -- environmental compliance.

5                   MR. LEVY: My name's Alex  
6 Levy, I'm a biologist for Gomez and  
7 Sullivan.

8                   MR. SMITH: I'm Kirk Smith  
9 with Gomez and Sullivan as well, and I'm a  
10 consultant for MeadWestvaco.

11                   MS. GRADER: I'm Melissa  
12 Grader with U.S. Fish and Wildlife  
13 Service.

14                   MR. SLATER: I'm Caleb  
15 Slater with Mass Division of Fisheries and  
16 Wildlife.

17                   MS. MURPHY: Thank you all  
18 for coming.

19                   Well, I'd like to go over what we  
20 have for the handouts and kind of our  
21 agenda for today.

22                   So after the introduction, I'd like  
23 to give a little bit of a licensing  
24 process overview -- actually I think that  
25 might be in one of the handouts.

1           Were any of you at the training  
2           that we provided -- I think it was about  
3           a year ago in Albany, the integrated  
4           licensing process?

5           So this is kind of new to you all.  
6           You've been involved in FERC projects  
7           before. You have. Okay, probably using  
8           the traditional licensing process.

9           Okay. This is a little bit  
10          different, so I'm gonna go over kind of  
11          the flowchart, which is this handout,  
12          which appears very complicated, so I'll  
13          simplify it a little bit and focus on the  
14          next few steps.

15          Then I'll go over the purposes of  
16          this -- this part of the process, which is  
17          scoping, and then Kirk will present  
18          information on the project itself and with  
19          the proposed study.

20          And then we'll kind of open up the  
21          floor for any interest that you'd like to  
22          bring up. We'll probably divide it into  
23          -- go resource by resource.

24          And then I'd like to go over the  
25          handout, the "Study Request Workshop."

1           We actually gave a workshop on how  
2           to write study requests, which I'm going  
3           to abbreviate and just kind of go through  
4           this handout with you, 'cuz you can just  
5           kind of guide it when you do want to  
6           write a study request.

7           And then we'll just go over the  
8           process plan, which is the next few  
9           milestones.

10           And actually before I move on, this  
11           is our scoping document, which I also have  
12           copies of, which we sent out in June;  
13           hopefully you got it.

14           And if you want to file written  
15           comments, on Pages .13 through 15 it says  
16           our address and how to mail them, or you  
17           can e-file, which is a little bit easier  
18           because you don't have to file eight  
19           copies; which you do if you mail it.

20           And if you check on Page .18, this  
21           is the FERC mailing list. If you're not  
22           on here, but you want to be, if you could  
23           fill out the registration form that we  
24           have with your address and check the box  
25           that you want to be on the mailing list

1 -- because I know MeadWestvaco has their  
2 own mailing list, so you may have gotten  
3 documents through them, but I'm not sure  
4 if you're all on our list.

5           So -- you can also -- let's see,  
6 on Page .15 it describes how to  
7 e-subscribe, so if you prefer to get  
8 e-mail notifications of filings, the  
9 instructions are also in this written  
10 document.

11           So here we have kind of a stylized,  
12 simplified version of the flowchart. So  
13 the Notice of Intent to Apply in the  
14 pre-application document was filed by  
15 MeadWestvaco on April 14th of this past  
16 year; that kind of summarizes the existing  
17 and relevant information about the project.

18           We're now in the scoping segment of  
19 the process which is when we gather input  
20 and kind of identify any gaps, what's in  
21 the PAD, what's not in the PAD that should  
22 be there, what is there that could be  
23 refined a little bit.

24           The next stage, which we'll be  
25 working on for the next few months is the

1 study plan development, and that's  
2 necessary because we'll be going -- we'll  
3 be -- MeadWestvaco has to put together an  
4 application two years before the license  
5 expires, which I believe is in April --

6 MR. PHELPS: 2011.

7 MS. MURPHY: -- 2011. It  
8 expires -- this application will come in  
9 April of 2009.

10 So we'll be putting together a  
11 study plan kind of package that will be  
12 necessary in order to print the  
13 information to form that application.

14 The application will come in in  
15 2009 -- and this is all the approved  
16 filing process, which is probably familiar  
17 to you if you've been through FERC  
18 licensing before.

19 The staff will review the  
20 application. And if it's complete, we  
21 will issue a Ready for Environmental  
22 Analysis Notice and we'll be soliciting  
23 terms and conditions and interventions.

24 And then, when we receive them,  
25 we'll do a Willow Mill environmental

1 assessment, and then you would expect the  
2 licensing committee to come before the  
3 expiration in 2011.

4 And that's kind of a breeze through  
5 about four or five years. Does anybody  
6 have any questions at this point?

7 So FERC is here because under the  
8 Federal Power ACT, we have the authority  
9 to regulate and license non-federal  
10 hydroelectric projects. And if you want  
11 to learn more about our mission, it's  
12 [www.ferc.gov](http://www.ferc.gov), and under the National  
13 Environmental Policy ACT, we're required to  
14 conclude the environmental affects of our  
15 licensing action, and so as I mentioned,  
16 we intend to do an environmental  
17 assessment for this project.

18 We're here to hear from you -- I'd  
19 like this to be informal, if you ever have  
20 any questions, just go ahead and ask.

21 We want to hear, as I said --  
22 hopefully you've had a chance to look at  
23 the PAD, if there's anything in it that  
24 you think should be refined, if there's  
25 existing information -- for example,

1 studies or reports that you know of that  
2 is not in the PAD that would be relevant  
3 to this -- to this process, we'd love to  
4 hear about that, and any gaps in  
5 information.

6 So an example of a gap would be if  
7 you're a white -- if you're representing a  
8 white-water building group and you think  
9 there needs to be, you know, more  
10 facilities there, but there's no  
11 information about the usage or the numbers  
12 that use that currently, than that would  
13 be a gap in the information that would  
14 warrant further studies.

15 So those are the types of things  
16 that we're looking for. And as I  
17 mentioned, at the end we'll go over the  
18 process plan, which is kind of a master  
19 schedule; I want to make sure everybody's  
20 on board with that.

21 And at this point, I'd like to turn  
22 it over to Kirk who will explain a little  
23 bit about the project itself.

24 MR. SMITH: Okay. Again,  
25 my name is Kirk Smith from Gomez and

1 Sullivan Engineers; we're the consultants  
2 for MeadWestvaco. I want to do a couple  
3 of things: First, I'm gonna try to give a  
4 quick overview of the project; its  
5 features, its operation and also touch  
6 upon some of the proposed studies that  
7 MeadWestvaco is proposing to support its  
8 license application.

9 I think most of you know there was  
10 a site visit yesterday, for those of you  
11 -- for those of you who didn't make it, I  
12 thought I eavesdropped and heard Scott and  
13 Melissa talking about maybe doing a little  
14 informal tour today, so if anybody wanted  
15 to latch on to that, I think -- just go  
16 ahead and talk to Scott about that and  
17 coordinate it. Okay?

18 The project itself, this is sort of  
19 an aerial overview of the Housatonic  
20 River. This is the Willow Mill paper  
21 processing facility. The Willow Mill Dam.  
22 Basically, water is diverted from the  
23 project impoundment here underneath the --  
24 the Willow Mill Dam -- I mean, the Willow  
25 Mill Paper Mill and the turbines and

1 generating facilities are located  
2 underneath that right here near the  
3 tailrace.

4 This sort of blue area that you see  
5 here is the FERC project boundary --

6 THE REPORTER: The what  
7 project?

8 MR. SMITH: The FERC project  
9 boundary. -- that extends about 1,400 feet  
10 downstream here and goes up approximately  
11 about a mile upstream.

12 So there you have like the aerial  
13 overview of the aerial shot.

14 In terms of the project features,  
15 we have the dam itself, which is a shot  
16 looking upstream. On this side we have  
17 these north flood gates; those are used  
18 during times of excess flow to pass high  
19 flows. They're also used during times of  
20 excessive low flows when the level drops  
21 below the crest of the spillway.

22 The minimum flow sometimes passed  
23 through here during that situation; they're  
24 cracked a little bit to allow the minimum  
25 flow to pass through.

1           They're also used during  
2           impoundment refill. There's certain --  
3           certain times -- it's not very common, but  
4           the -- a few years ago, there was some  
5           dam recap work done, so when the  
6           impoundment is de-watered for maintenance  
7           purposes, during the refilling of that, we  
8           adjust the minimum flow that has to be met  
9           and is passed through these gates at that  
10          time as well.

11          Over on this side we have our  
12          canal, the intake where water is directed  
13          into the power house. There are trash  
14          tracks here with one inch clear spacing.

15          This is a little boring; I don't  
16          have a picture, but it's the project  
17          impoundment, there's about 11 acres in the  
18          service area, and it extends about --  
19          roughly half a mile or so upstream in  
20          length.

21          Here's a shot of our canal. It's  
22          a masonry-line canal; same kind of  
23          construction as the dam. It's about 50  
24          feet long, and again, it's the beginning  
25          point of the water conveyance into the

1 power house.

2 So water's conveyed to the canal  
3 and then it enters this headway, which is  
4 about 260 feet long; it's completely --  
5 almost completely underground, you can  
6 basically think of it as a tunnel  
7 underneath the -- the Willow Mill Paper  
8 Plant.

9 Water from the tailrace is then  
10 conveyed into two steel penstocks, this  
11 smaller one here is operable in a sense  
12 that it conveys water to a 100kw turbine  
13 unit.

14 The larger penstock here is watered  
15 up and it's basically capped at its most  
16 downstream end, but because of the turbine  
17 -- the larger turbine, the 260kw unit,  
18 which has been inoperable for quite some  
19 time, since 1966, it's not -- it's not  
20 used. Its only purpose now is that it's  
21 been tapped and water is withdrawn from it  
22 for process water for the paper making  
23 facility.

24 So we eluded to the turbines  
25 before; there's two of them, there's this

1 larger unit, which was installed in nine  
2 -- early 1900s, and ceased operation in  
3 1966 because of a major mechanical failure  
4 and it hasn't operated since.

5 The smaller unit, the 100kw, in  
6 operation since 1930, recently there were  
7 some problems with it -- I think maybe  
8 within the last year or so, so it was  
9 shut down for repairs. The repairs were  
10 made, but when the turbine was -- when the  
11 tests were made to be started, it didn't  
12 and there have been some other issues  
13 identified.

14 Right now sort of in the short  
15 term, maybe within the next year or year  
16 and a half or so, there's been a request  
17 by MeadWestvaco made to their corporate  
18 office to allocate funds to make the  
19 additional repairs to get the unit back  
20 online.

21 So once water goes through the  
22 turbines it goes through the tailrace,  
23 again, it's masonry-lined, it's about 160  
24 feet long, again, the majority of it is  
25 underground.

1           This photo right here, we just see  
2           the -- where it exits the underground  
3           tunnel, if you will, back into the  
4           Housatonic River. And this water  
5           diversion around the dam, through the  
6           power house creates a bypass channel of  
7           about 700 feet long, which is the shot  
8           here.

9           For folks who do go out to the  
10          site today, just to kind of generally  
11          describe it, this up here is kind of sort  
12          of super grated, kind of rippled. In  
13          here, this picture, you see sort of like a  
14          run sort of habitat.

15          I guess during higher flows,  
16          there's a constriction downstream, so  
17          during higher, more extreme flows, there's  
18          -- the back water tends to get up pretty  
19          high -- or fairly high into the bypass  
20          channel, just some background information  
21          for you guys when you go to take a look  
22          at it.

23          The operation of the project, it's  
24          operated as a running-river facility, so  
25          there's basically little or no water level

1 fluctuation in the impoundment due to the  
2 project operation. The current minimum  
3 flow in the bypass reach is 1.4 cfs.

4 And as I mentioned earlier, during  
5 impoundment refill, there's a 122 cfs  
6 minimum flow. So basically that's  
7 necessary so -- you know, if you're  
8 draining the impoundment, you wouldn't cut  
9 off water completely while you refill the  
10 impoundment in this situation.

11 This happens -- or this is useful  
12 in that -- you know, 122 cfs in the flow  
13 is passed and any remaining water is then  
14 used to fill the impoundment more slowly.

15 Average generation over the past  
16 ten years or so has been about 338  
17 megawatt hours.

18 In terms of proposed studies or  
19 information gathering exercises that  
20 MeadWestvaco is sort of proposing at this  
21 point, is a supplement inflation  
22 application and a couple of things;  
23 potential water quality monitoring, the  
24 perimeters would dissolve oxygen and  
25 temperature, and that monitoring would be

1 done, of course, in the project waters, an  
2 evaluation of potential minimum close to  
3 the bypass reach.

4 Also a possible reconnaissance  
5 level certainly of an impoundment for  
6 vegetation, species, wetland areas and that  
7 sort of thing.

8 And also during the PAD --  
9 development of the PAD, we identified some  
10 endangered species which may inhabit the  
11 area; they're certainly in the vicinity of  
12 the area, namely some mussels. And  
13 they've identified potential surveys with  
14 those as well.

15 And also sort of take a look at  
16 recreation access at the site and see if  
17 there's any possibility to sort of enhance  
18 that as well.

19 And finally, take a look at some of  
20 the facilities -- project facilities, and  
21 see if they meet the eligibility criteria  
22 for the National Register of Historic  
23 Places.

24 THE REPORTER: National  
25 what?

1                   MR. SMITH: National  
2 Register of Historic Places.

3                   So do you have any questions?

4                   MS. GRADER: I have one.  
5 Prior to the --

6                   MS. MURPHY: Please state  
7 your name.

8                   MS. GRADER: Oh, I'm Melissa  
9 Grader with the U.S. Fish and Wildlife  
10 Service.

11                   THE REPORTER: You need to  
12 be a little bit louder, please.

13                   MS. GRADER: Melissa Grader,  
14 U.S. Fish and Wildlife Service. Prior to  
15 the larger unit being capped off and used  
16 -- using that for project water, how --  
17 how were -- how often was the mill getting  
18 process water?

19                   MR. PHELPS: I was not  
20 there in 1966. I don't know. I know  
21 that since I went there in 1970, we've  
22 been getting the process water in that  
23 way.

24                   MS. GRADER: You don't know  
25 of any other structure that would allow

1 process -- if you refurbish that larger  
2 unit, then how would you be getting the  
3 process water?

4 MR. PHELPS: I'm sure it  
5 would be coming out of the -- the river  
6 in some fashion. Probably just a  
7 different pipe --

8 THE REPORTER: Different  
9 what?

10 MR. PHELPS: Just a  
11 different pipe line for the pump suction,  
12 I would think.

13 MS. MURPHY: Any other  
14 questions for Kirk about project  
15 operations?

16 MR. KONNERT: Actually, I --  
17 for the 1.4 cfs for the minimum flow, how  
18 was that chosen? What was the basis for  
19 that; do you know?

20 MR. SMITH: I --

21 MR. PHELPS: I know they  
22 had correspondence back and forth with  
23 Gordon Becket (phonetic), and I don't  
24 remember what the title of his agency is.  
25 It was -- it was, something to do with

1 Fish & Wildlife.

2 MS. GRADER: He was my  
3 supervisor previously.

4 MR. PHELPS: And that's --  
5 somehow they -- they came up with an  
6 agreement and allowed us to show that  
7 history; that was before my time.

8 MS. GRADER: I probably have  
9 that information in the project file; I  
10 have not had a chance to review it yet.  
11 When we submit our formal comments, we --  
12 we will provide that information.

13 MR. KONNERT: Okay. And  
14 also while we're at it, the 122 cfs, I  
15 know you said in the PAD that -- that you  
16 think it was chosen based on the Fish &  
17 Wildlife Service half a square -- or half  
18 a cfs for every square foot of drainage  
19 area; is that correct?

20 MS. GRADER: Yes.

21 MR. KONNERT: Okay.

22 MS. MURPHY: Well --

23 MR. SMITH: Actually, I  
24 don't know if I was clear about -- the  
25 122 cfs, that's -- that does not

1 necessarily have to be a bypass flow; it's  
2 a combination of flow either through the  
3 power house or spilled over the dam.

4 MR. KONNERT: I thought in  
5 the PAD that you said that during refill  
6 that the turbines weren't -- it wasn't  
7 operating, I thought, in terms of --

8 MR. PHELPS: Our practice is  
9 that we do not operate the turbine at any  
10 time that the water is below the spillway.

11 MR. KONNERT: Okay.

12 MR. PHELPS: Our first --  
13 our first action to make sure we maintain  
14 a minimum flow is to shut down the  
15 turbines and that diverts that water  
16 automatically over the spillway.

17 And then if we have drawn it down  
18 for maintenance, we maintain the gate  
19 openings to provide that 122 cfs minimum  
20 in relation to the upstream hub.

21 MR. KONNERT: So the -- so  
22 during refill, it would all be at the dam,  
23 then, the 122?

24 MR. PHELPS: Yes.

25 MR. KONNERT: Okay.

1 MS. MURPHY: Well, if  
2 everybody has the -- the scoping document,  
3 I'd like to just kind of go through the  
4 issues one by one. And if you have  
5 anything to add to them, just go ahead and  
6 chime in.

7 If you go on Page .12. And I also  
8 actually want to promote first that on  
9 Page .11 we identify the geographic scope  
10 to this and the study development period.  
11 This is under the paragraph that says  
12 "Geographic Scope."

13 The scope of our cumulative  
14 analysis is proposed to encompass the  
15 Housatonic River from the upstream reach  
16 of the project reservoir, located  
17 approximately .6 miles upstream to the  
18 Glendale dam, which is about 6.7 miles  
19 downstream. Specifically this -- this  
20 site was chosen for water quality and  
21 aquatic resources.

22 So if you have any comments on the  
23 geographic scope, now would be a great  
24 time or in your written comments.

25 So on Page .12 under "Water

1 Resources," we identified "Effects of  
2 continuing project operation or changes in  
3 project operation or facilities on water  
4 availability and water quality of the  
5 Housatonic River and the impoundment, the  
6 bypassed reach, and downstream of the  
7 project."

8 Under "Aquatic Resources."  
9 "Effects of continuing project operation or  
10 changes in project operation or facilities  
11 on entrainment and turbine induced  
12 mortality of resident fish, and on the  
13 quantity and quality of the aquatic  
14 habitat in the Housatonic River in the  
15 impoundment, the bypassed reach, and  
16 downstream of the project."

17 For "Terrestrial Resources" we --

18 THE REPORTER: For what  
19 resources?

20 MS. MURPHY: Terrestrial.

21 THE REPORTER: Terrestrial.

22 MS. MURPHY: -- we  
23 identified the effects on wildlife and  
24 their habitat, which include wetlands, and  
25 the effects of any invasive aquatic

1 species on native plant and wildlife  
2 species at the project.

3 We also identified effects on  
4 threatened and endangered species.

5 MS. MAROLD: The applicants  
6 were in contact with the endangered  
7 species program here in this state a  
8 couple years back, and we actually just  
9 filed an updated letter to the FERC e-file  
10 system, apparently it worked; I got a  
11 confirmation saying -- I'm to let you know  
12 there's actually been a -- we have more  
13 information about different endangered  
14 species that are in the Housatonic River  
15 and so -- the -- the way the Commonwealth  
16 State Endangered Species Act works is that  
17 the filing for this is based on areas  
18 we've mapped within the state.

19 And so if your project occurs  
20 within one of those published polygons,  
21 then that area's been mapped as habitat  
22 for a particular species.

23 It's only when we're asked, okay,  
24 so what's here; we'll tell people what the  
25 species is. You can't go into a public

1 forum, because it is endangered species,  
2 click on a polygon and say, oh, well,  
3 there's -- you know, endangered bog  
4 turtles right here, let me go and collect  
5 them.

6 And so we have new information that  
7 there's actually a larger variety of  
8 endangered species that would be in the  
9 vicinity and are likely to be impacted  
10 then you had previously been told because  
11 of the time difference between when you  
12 asked and now -- or a couple years later,  
13 and so the additional species would be the  
14 wood turtles, which is *Glyptemys insculpta*.

15 I can show you the letter.

16 The Arrow Clubtail, which is  
17 *Stylurus spiniceps*, which is an en --  
18 threatened dragonfly. And the Stygian  
19 Dragonfly, which is a special concern  
20 dragonfly.

21 And so those would be -- this dam  
22 goes upstream and downstream, it will be  
23 mapped as habitat for those species. It's  
24 the area primarily upstream of the dam  
25 that we've currently mapped as the three

1 species we already knew about, which is  
2 the Creeper, the Triangle Floater, which  
3 is a special concern mussel and the  
4 Longnose Sucker, which is a special  
5 concern fish.

6 And so we do have some concerns and  
7 I've described them in our letter. We're  
8 sort of -- how does the dam and the  
9 various ways it's currently being operated  
10 and being supposedly operated affect the  
11 critical distribution of wood turtles.

12 So we know we have -- for example,  
13 wood turtles up river. We know we have  
14 wood turtles down river. So it's really  
15 unclear if the dam poses a mortality risk  
16 or a barrier to movement.

17 As the turtles -- you know, come up  
18 to this velocity change, how are they  
19 behaving and if -- if they're getting out  
20 of the water, are they moving around.

21 And so we'd like to -- we ask that  
22 surveys be conducted for wood turtles and  
23 some radio telemetry be done to look at  
24 how the turtles are dealing with the dam.

25 In the case of the other species,

1 we'd like some -- perhaps some studies  
2 done looking for the dragonflies and the  
3 mussels. And the mussels surveys were  
4 already proposed, not -- I mean we don't  
5 have the details for it.

6 So the state listed -- you know,  
7 state suspected there was a wider variety  
8 of species than you had known about  
9 previously.

10 MS. MURPHY: Okay. You  
11 might want to think about writing a study  
12 that questions these. I'm not sure how in  
13 depth you got in that letter, but you can  
14 submit it by the next deadline, which is  
15 August 12.

16 MS. MAROLD: Okay.

17 MS. MURPHY: We'll talk  
18 about this later.

19 So on Page .13 under "Recreation and  
20 Land Use."

21 We identified the effect on  
22 recreational resources, access, and land  
23 use in the project area. And the adequacy  
24 of existing recreational access at the  
25 project.

1           The "Cultural Resources," the  
2           effects on historic properties and  
3           archeological resources and the potential  
4           for project structures to be eligible for  
5           inclusion in the National Register of  
6           Historic Places.

7           "Aesthetic." Pretty general,  
8           effects on aesthetic resources within the  
9           project area.

10           And under "Developmental Resources,"  
11           we have the effects of any rehabilitation  
12           of the generating units on project  
13           economics. And the effects of any  
14           recommended environmental measures on  
15           project economics.

16           Any more comments or questions on  
17           our identified issues?

18           Then I'll go ahead and move on to  
19           the next step -- and actually, if you look  
20           at the back page of the Scoping Document,  
21           this lays out all the dates specifically  
22           for the Willow Mill re licensing, and it  
23           identifies the responsible entities,  
24           MeadWestvaco or FERC or all stakeholders.

25           The only thing I would change that

1 I just see is under the shaded area which  
2 describes our formal review process, which  
3 I didn't really get into, but you see it's  
4 actually on the -- the more complete  
5 flowchart.

6 That says interior, comma, CORPS,  
7 this is actually for any mandatory  
8 conditioning agency, so that would be  
9 anybody with 4E conditioning authority or  
10 fish way prescriptions --

11 THE REPORTER: Fish way  
12 what?

13 MS. MURPHY: Fish way  
14 prescription.

15 -- or the water quality, the  
16 defining agency, which I don't think is  
17 here today, right?

18 So actually the CORPS is not  
19 involved here, but it would -- what agency  
20 is that?

21 MS. MAROLD: It's the  
22 Massachusetts Department of Environmental  
23 Protection; they enact the 401 and 441  
24 quality programs in the state. There's  
25 also the state water quality laws as part

1 of the Wetlands Protection Act. So it  
2 goes under federal and state.

3 And they're -- they go under the  
4 column D.E.P.

5 MS. MURPHY: That would  
6 actually be interior and D.E.P., then.

7 So you can see from this, that the  
8 next step after scoping is on August 12th,  
9 and it says file comments in the PAD or  
10 SD1, which is our scoping document. And  
11 any requested studies, so that's the next  
12 deadline.

13 And with the I.L.P, the integrated  
14 licensing process, we're really putting a  
15 lot of kind of forethought into this  
16 process and asking a lot from the agencies  
17 in terms of these study requests. But  
18 this is really the only window for  
19 requesting studies. From this point on,  
20 you can tweak and you can modify what  
21 MeadWestvaco comes up with, but it's more  
22 difficult to ask for studies later on.

23 So in order for the associates --  
24 the study requests they came up with these  
25 seven criteria.

1           And how about we refer to this  
2           handout in the "Study Request Workshop," I  
3           actually listed on Page .2, these are the  
4           seven criteria as the regs describe.

5           Basically it's really important  
6           because it conveys the golden objectives  
7           of the study, the particular resource  
8           management goals of your agency. If  
9           you're not an agency, you'd want to  
10          consider the public interest.

11          You should describe existing  
12          information, the connection to project  
13          operation -- that one's particularly  
14          important.

15          We want you to suggest a  
16          methodology, if possible -- as complete as  
17          possible. And also a consideration of the  
18          level of effort and cost and why  
19          alternative studies would not suffice.

20          That one's kind of tricky. I know  
21          it's difficult to do a level of effort and  
22          cost, but we just want to know generally  
23          if you have a dollar sign figure, that  
24          would be great, or if you think it would  
25          take one complete season of studies or two

1 complete seasons, just anything you can  
2 tell us about the level of effort would be  
3 great.

4 So I just want to go through this  
5 so you do know what's in here when -- if  
6 and when you decide to write a study  
7 request.

8 This has the regs for the criteria.  
9 The next page has what the regulations  
10 require of the applicant, so MeadWestvaco  
11 when they take the study request and what  
12 they propose to study and put them all  
13 into one package which we call a "proposed  
14 study plan," they'll need to address  
15 actually the same criteria, so I just put  
16 this in here so you could see there's a  
17 direct link there that's parallel in terms  
18 of what's required.

19 MS. MAROLD: I have a  
20 question. The first process, because it's  
21 a public process, one of the questions we  
22 have is typically -- we'll -- it's public  
23 at the state level what we ask, as I  
24 said, we don't disclose the actual  
25 locations of endangered species for

1 protection of the species purposes, so  
2 would the results of the study that might  
3 be pertinent if it was reviewed that you  
4 had radio telemetry would have actual  
5 G.P.S. coordinates of where the turtle is  
6 and its actual radio frequency. Would  
7 that have to be disclosed in a public  
8 forum act -- we ask the public  
9 information law -- tell a judge or are we  
10 -- because under the state act of exempt  
11 from the public information law, you  
12 actually have to go to a judge and get  
13 judgment from the judge to get locational  
14 information, so it's a higher standard  
15 than everything else we do.

16 MS. MURPHY: Right. That's  
17 something that you could either put right  
18 in your request under method, specify what  
19 you want taken out, because that -- we can  
20 definitely do that. You would --  
21 MeadWestvaco has filed the results of this  
22 still that they'd separate out.

23 MS. MAROLD: Okay. And  
24 you're allowed to redacted parts of that.

25 MS. MURPHY: Exactly, you'd

1 redact and file it under non-Internet  
2 public, probably.

3 So just make sure that you're  
4 involved in -- and check out that final  
5 plan to make sure everything is separated  
6 out.

7 MS. GRADER: Excuse me. So  
8 if the applicant has proposed the study  
9 that you agree with, you still have to  
10 request it even though --

11 MS. MURPHY: No. What we  
12 do is if they -- if they proposed it,  
13 we're gonna assume that it will be in the  
14 proposed study plan. The only reason then  
15 that I would recommend you do this is if  
16 you have a specific way you want to see  
17 it done, go ahead and give them a request.

18 MS. GRADER: Okay.

19 MS. MURPHY: And then the  
20 way it works is, they may or may not  
21 accept these requests, but if they don't,  
22 they have to go back to this same criteria  
23 and explain why, justify why they're not  
24 doing that.

25 And then afterwards, there's a

1 three-month informal resolution period,  
2 which you'll see in the packet, where they  
3 have meetings and try to resolve  
4 informally any disputes.

5 At the end of this period, it goes  
6 to the commission to resolve any further  
7 disagreements and we, again, look back to  
8 these same criteria in order to justify  
9 which we go with on the issue of study  
10 plan determinations.

11 MR. SMITH: Just sort of  
12 from the FERC processing aside, I think  
13 from the MeadWestvaco prospective, you  
14 know, it would be helpful to sort of get  
15 those things from you, so we're on the  
16 same page and we're dealing with the same  
17 thing.

18 MS. GRADER: Through this  
19 process or just having separate studies  
20 and --

21 MR. SMITH: No, I think  
22 through this process. We -- even though  
23 they propose something, I think it would  
24 be more ideas for a potential  
25 methodologist or whatever to refine it

1       some more, I think, would be helpful to  
2       us.

3                   MR. KONNERT:  Yeah, I was  
4       gonna say something like you proposed in  
5       the PAD, water quality study, you know,  
6       specifics that you want out of a water  
7       quality study, you can put that in a study  
8       request.

9                   If you don't want to do that, you  
10       can do it during the informal resolution  
11       period, that's when you kind of hash out  
12       -- you can hash out details of studies  
13       that have been proposed.

14                  So if you don't want to put in a  
15       study request specify it at this time, and  
16       it's already proposed, something as general  
17       as a water quality study, you can hash out  
18       the details in that informal period.  Does  
19       that make sense?

20                  MS. GRADER:  Yeah.  Yeah.  
21       Just in the old process, you know, we  
22       would submit a draft plan for us, we'd  
23       comment on it and, you know, in some  
24       respects, that's efficient assuming we all  
25       agree that that study needs to be done,

1       you know, rather than waiting for the  
2       imposed timeline, you know, but that's --  
3       that's fine. Either way the end result is  
4       the same, it's just which way is more  
5       efficient.

6                   THE REPORTER: It's just  
7       what?

8                   MR. SLATER: Which way is  
9       more efficient.

10                  THE REPORTER: Thank you.

11                  MS. MURPHY: If you have  
12       specifics in mind basically, I'd definitely  
13       recommend you submit something now just to  
14       make it easier for everybody.

15                  MS. MAROLD: Let's see if I  
16       understand this then, so the burden of  
17       developing this study and its methodology  
18       is upon the requesting agency as opposed  
19       to other systems where we can say we want  
20       a study to achieve these goals and, you  
21       know, if it was just a State Endangered  
22       Species Act issue and we were to hear of  
23       the things we want, you have to have a  
24       credible biologist do it, but they would  
25       actually do the developmental study and

1 submit comments on it, so now it's shifted  
2 to us -- am I understanding we have to  
3 develop it?

4 MS. MURPHY: Exactly.

5 MS. MAROLD: Okay.

6 MS. MURPHY: Which is why  
7 we stress -- you know, these criterias so  
8 much and try to have workshops; it's so  
9 different.

10 So that the remaining section of  
11 the handout is simply each criteria  
12 separated out with a little paragraph of  
13 status on that. And I might even have --  
14 you all -- the three of you from the  
15 agencies, you probably anticipate writing  
16 study requests. Would it be helpful if I  
17 read through an example one or if I just  
18 gave you maybe project numbers to look up  
19 in our -- on our e-library to use as a  
20 template?

21 MS. MAROLD: That would be  
22 okay.

23 MR. SLATER: That's fine.

24 MS. MURPHY: Okay. I'll  
25 give Packwood Lake, and this -- if you go

1 to FERC dot gov, e-library, are you  
2 familiar with that?

3 MS. MAROLD: Yes.

4 MS. MURPHY: Okay. So this  
5 is -- it will ask you for the Docket  
6 P-2244. And these are some of the  
7 requests that we wrote at FERC, at this  
8 point, we're kind of considered the  
9 stakeholder, too.

10 And that was filed -- or issued  
11 March 2005 and it's titled -- titled  
12 "Additional Information Request," but it  
13 includes the study request which I  
14 referred to in it.

15 And I'll give you the Metro  
16 Project, too, which is P-12484 which was  
17 August 30th -- 30th of '05, and again  
18 that's labeled additional information  
19 request. And it has the study request in  
20 it.

21 People tend to organize it, you  
22 know, with these headings, Goals and  
23 Objectives and kind of go through all  
24 seven criterias.

25 So if you go back to the proposed

1 process plan, you can see the next few  
2 dates that these study requests are due  
3 August 12th. The proposed study plan will  
4 be put together and filed on September  
5 26th. And then the regulations require  
6 that MeadWestvaco hold at least one  
7 meeting to discuss it, and that would be  
8 more on or before October 26th.

9 A lot of applicants have felt that  
10 more -- more meetings are warranted. I've  
11 seen in some projects where they've had 20  
12 meetings, some where they've had -- a  
13 single one was enough, so it really  
14 depends on the interest in the issue  
15 involved.

16 So hopefully by the end of that  
17 kind of three-month period, you'll have an  
18 agreement and MeadWestvaco will -- will  
19 file the revised study plan in which they  
20 address all the comments that have come  
21 in, both written and through the meetings,  
22 and then FERC looks at the record and  
23 makes any final determination on any  
24 disagreements and files a Study Plan  
25 Determination on February 23rd of '07.

1                   MS. MAROLD: Does FERC order  
2 a study request, or...

3                   MS. MURPHY: The letter --  
4 but it's a determination and at that point  
5 the study has to be followed according to  
6 that.

7                   It's the Director of the Office of  
8 Energy Projects at FERC.

9                   THE REPORTER: The director  
10 of what?

11                   MS. MURPHY: The Director of  
12 the Office of Energy Projects.

13                   So if any agency comes in with a  
14 dispute, at that point, it's a dispute  
15 with FERC; it's not a dispute with the  
16 applicant and it's on our studies and  
17 determination.

18                   That's all I have. Are there any  
19 more questions?

20                   Anything more you want to say?

21                   MR. KONNERT: Just if you  
22 could file -- if you could find -- in  
23 terms of the minimum flow requirement for  
24 the 1.4 cfs, in terms of how you came up,  
25 I guess, with that flow, that would

1       probably be helpful in us coming up with  
2       any study requests involving the minimum  
3       flows for the project.

4               Just knowing how that was  
5       determined -- if you have it, but I'm just  
6       saying --

7               MS. GRADER:  Yeah, I'm sure  
8       we do and I can pretty much guarantee it  
9       wasn't through a study.

10              MR. KONNERT:  Okay.  I  
11       didn't know if it was based on -- I  
12       didn't know if --

13              MS. GRADER:  Which doesn't  
14       surprise anybody.

15              MR. KONNERT:  -- it was  
16       based on a specific target species or  
17       anything.

18              MS. GRADER:  No.  It was  
19       probably system leakage.

20              MR. KONNERT:  Okay.

21              MS. GRADER:  Can I throw  
22       that out as a highly likely probability?

23              MR. SLATER:  There's no way  
24       any study would come up with 1.4 for the  
25       Housatonic river, so...

1                   MR. KONNERT: I understand  
2           that.

3                   MS. MAROLD: It's gonna be  
4           higher or lower.

5                   MR. SLATER: It's gonna be  
6           a lot higher.

7                   MS. MURPHY: Any more  
8           questions? In that case, meeting  
9           adjourned.

10                   (Meeting adjourned at 10:43  
11           a.m.).

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COMMONWEALTH OF MASSACHUSETTS

I, Maureen A. Cournoyer, a Shorthand Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the witness whose deposition is hereinbefore set forth, was duly sworn and that such deposition is a true record of the testimony given by the witness.

I further certify that I am neither related to or employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand and seal this      day of  
2006.

Maureen A. Cournoyer  
Notary Public

My commission expires March 31, 2011