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BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: :

FAIRLAWN HYDROELECTRIC COMPANY, LLC : Project No.

: P-12715-001

- - - - - x

Will O' The Wisp Hotel  
20160 Garrett Highway  
Oakland, Maryland

Monday, June 16, 2008

The above-entitled matter came on for scoping meeting, pursuant to notice, at 6:05 p.m., Michael Spencer, Project Coordinator, presiding.

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

2 (6:05 p.m.)

3 MR. SPENCER: I think if no one else objects I'll  
4 go ahead and commence the meeting. I'd like to welcome you  
5 all to the evening meeting for scoping for the Jennings  
6 Randolph Hydroelectric Project, FERC Project Number 12715.

7 (Slide.)

8 MR. SPENCER: Here's our agenda for our meeting.  
9 First of all introduction, process overview, discuss a  
10 little a bit about the purpose of scoping, then we will  
11 change over to Fairlawn. They will give us a project  
12 overview, project description and we'll come back for the  
13 finish of our presentation, which will be discussion of the  
14 issues, then the important upcoming dates to be met. And  
15 then we'll open it up for questions.

16 (Slide.)

17 MR. SPENCER: I would like to mention that we  
18 have registration and sign-in, in the back. I think you've  
19 all signed in. We do have a court reporter present who will  
20 be recording everyone's statements. Please, when you do  
21 speak, identify yourself and your affiliation before making  
22 your statement, and please don't talk over each other. It's  
23 very difficult to record those statements.

24 There is an opportunity to provide written  
25 comments in the next 30 days on scoping and on the PAD and

1 for the requests for additional studies or upcoming studies,  
2 and we do have a mailing list that you can become a part of.

3 (Slide.)

4 MR. SPENCER: This is a very simple box, template  
5 of our integrated licensing process, which we are following  
6 for this project. The Applicant has filed, starting with  
7 the upper left-hand corner, the Applicant has filed an NOI  
8 and PAD. We're in the scoping process right now, developing  
9 upcoming, the study plans and this will be working towards  
10 creating the application of what we've filed beginning the  
11 first year of this, for the first year of study, developing  
12 the study plan and then doing the study. There may be an  
13 extra one or two years for the study seasons at which time  
14 when the application has been developed the lower left  
15 block, the application will be filed. It should be up to  
16 about one and a half years from the filing until we reach an  
17 order process.

18 We will issue an REA notice, which is a Ready For  
19 Environmental Assessment notice. We will produce an  
20 environmental assessment or an EIS if necessary and then  
21 proceed on to final Commission action issuing an order.

22 (Slide.)

23 MR. SPENCER: For the scoping process, this is  
24 where the FERC is trying to identify issue. We try to give  
25 a preliminary identification of the issues and then see if

1 anyone in the public or the resource agencies have  
2 additional issues or issues that they feel haven't been  
3 raised. We discuss the existing conditions and information  
4 and explore additional information needs and discuss the  
5 upcoming process plan.

6 At this point is where I would like to switch  
7 over. David Sinclair will give a presentation from  
8 Fairlawn's point of view on the actual project description.  
9 David?

10 (Slide.)

11 MR. SINCLAIR: My name is David Sinclair. I'm  
12 the president of Advanced Hydro Solutions, which is the  
13 parent company of Fairlawn Hydroelectric Company. You may  
14 hear me talk in both context. We're here to talk about the  
15 project and describe some of the things we thought about,  
16 some of the things we anticipate in the project going  
17 forward.

18 (Slide.)

19 MR. SINCLAIR: Just a little background for those  
20 who aren't familiar with hydropower. It is the largest  
21 renewable resource we have in this country. About 7 percent  
22 of our nation's energy comes from hydro. It certainly plays  
23 an important part of the infrastructure building of the  
24 country. That's why you see so many old hydro plants along  
25 side rivers next to paper mills and other things of that

1 nature. It provides a stable and predictable energy.  
2 That's one of the reasons why I'm in this business.

3 It is certainly always that we've had, thanks to  
4 USGS, gauges on our rivers for a long time so we know their  
5 ebbs and flows. We know what a good year looks like and a  
6 bad year. So it is something that we can do and use  
7 predictably. It has no waste products. It simply does not  
8 produce anything and it is not consumable of anything except  
9 the energy that's in the water. And we have a limited  
10 impact as in addition to an existing dam structure. So  
11 we're not doing anything to change what's around the dam,  
12 building dams. We're using dams today that are not  
13 producing hydroelectric power and at the same time by  
14 producing a renewable energy resource we get to offset some  
15 of the carbon-based production, energy production in this  
16 country.

17 (Slide.)

18 MR. SINCLAIR: The project's output, we believe  
19 to about 13.5 megawatts and generate 52 million kilowatt  
20 hours a year. Again, using the discharge data from the  
21 Corps of Engineers for about the last 26 years that's the  
22 figure that comes as the average annual energy potential  
23 generation. From our point of reference, that's sufficient  
24 energy for about 500,000 homes. Most homes consume, normal  
25 homes consume between 10 and 12,000-kilowatt hours a year.

1           The offsets that go with that amount of energy  
2 generation, when you look at them, of the actual components  
3 of gas emissions 107 million pounds of CO2 would be saved  
4 along with 678,000 pounds of SO2 and 305,000 pounds of Nox.

5           (Slide.)

6           MR. SINCLAIR: One of the very key aspects of a  
7 project of this nature the landlord is the Corps of  
8 Engineers. Their purpose on this dam is not to make  
9 hydroelectric power. So while we've become an appendage to  
10 their dam, while we lease part of the land, if you like and  
11 access to the dam, we have no right to change anything at  
12 the dam. They will make no changes in terms of releases, no  
13 changes in pool level management, et cetera. All we can do  
14 is to tap the water that they were going to release and to  
15 take the energy out of it before it's released. And so,  
16 there is no change in lake levels, there's no change in  
17 storage requirements or water rights that have been  
18 established by contract and through Congress.

19           Any existing arrangements continue for fishing,  
20 kayaking, et cetera. We simply are using, as I said, part  
21 of the energy that comes out of the dam. We cannot affect  
22 the dam. How much power we make today is decided by God and  
23 the Corps of Engineers, hopefully, in that order.

24           One of the things will we will do is we will be  
25 drilling a hole into the dam. So we will be creating an

1 additional outlet as it goes from the lake, but we're not  
2 doing it through the dam itself. We're doing it through a  
3 rock shoulder into the side of the dam. So we will not  
4 affect the structural integrity of the dam whatsoever. And  
5 our current thinking is actually to make the connections to  
6 the grid to carry the electricity away on the core property.

7 (Slide.)

8 MR. SINCLAIR: To give you a little view from an  
9 overhead of the sort of structure we're thinking about,  
10 again, a lot of this may be subject to change as we go  
11 through the study process and do further engineering on the  
12 project. Our concept here is the dam here to put a tunnel  
13 through this rock shoulder adjacent to the dam, coming out  
14 of that tunnel at about the corner of this hairpin bend on  
15 the road that goes down the dam. Then there will be a steel  
16 pipe, penstock, as we call it, which comes down, which would  
17 deliver the water to a new powerhouse, which we'll construct  
18 a couple of 100 feet down from the existing outlet. So  
19 coming back into the same storage basin where the water  
20 comes out today. The water today comes through this  
21 discharge tunnel.

22 We will create an alternative path. We will  
23 build in the lake an intake structure that will allow us to  
24 draw the water and do so at different levels so we can  
25 follow a similar profile in terms of quality releases to

1 that used by the Corps today. Any questions at this point  
2 in terms the layout.

3 MR. ZBEL: My name is Roger Zbel, a commercial  
4 whitewater outfitter. Everything you've said so far sounds  
5 fine to me except for with your new structure there is the  
6 Corps going to abandon their outlet, too.

7 MR. SINCLAIR: No.

8 MR. ZBEL: It doesn't seem if they release from  
9 their tube and you guys are trying to release from yours  
10 it's going to be double the water coming out or one gets to  
11 release it one time and one gets to release it the other.

12 MR. SINCLAIR: I got you. Today, the water  
13 quality releases are up to 750 cubic feet per second. They  
14 come through the control tunnel and out through here,  
15 governed by the position of those gates. We will be taking  
16 about 700 cfs maximum through our facility. Anything over  
17 700 cfs will come through their facility. But you're right  
18 in that up to 700 cfs it will be coming through us as  
19 opposed to coming through them.

20 MR. ZBEL: Second question, in the past, and I'm  
21 not sure it's still there, I know we had some problems with  
22 the trout hatchery that was basically right at the base of  
23 their existing discharge tube, which would be upstream of  
24 your power plant. Has that hatchery been abandoned?

25 MR. SINCLAIR: It's been moved. The people that

1 are at the dam today told us that the basin is essentially  
2 toxic and they found no way to remove that, so they've  
3 removed that. They're looking at other alternatives.

4 MR. ZBEL: That was one of the best hatcheries in  
5 the state up until that point.

6 MR. SINCLAIR: That's the Maryland DNR. Next  
7 slide.

8 (Slide.)

9 MR. SINCLAIR: Looking down from the top of the  
10 dam, here's the pipe coming down the hill from the tunnel,  
11 then along here to the new powerhouse this is the old river  
12 before the dam was built and the state border actually runs  
13 through there where the old river ran. This portion will  
14 probably be what we call a "cut and cover" where we dig a  
15 trench, lay the pipe in the trench, and then cover it with  
16 soil. Next slide.

17 (Slide.)

18 MR. SINCLAIR: Then looking at it from the other  
19 bank, this will be sort of a view of the powerhouse. There  
20 will be a cut tank underneath the powerhouse where the water  
21 will discharge.

22 (Slide.)

23 MR. SINCLAIR: The equipment we plan to use is  
24 two traditional designs called a Francis design. There will  
25 be two different-sized machines. One a 250 cfs. There's a

1 lot of days where you've got between 2 and 300 cfs coming  
2 out of the dam, so one machine sized for that continuous  
3 purpose, then a larger machine for the higher discharges up  
4 to 700 cfs.

5 MR. ZBEL: What about the days when you have  
6 really low flow. Last summer, early spring they struggled  
7 sometime to reach 180 cfs.

8 MR. SINCLAIR: The smaller machine at 250 cfs  
9 will run down to about 50, then we give up.

10 MR. ZBEL: Are those machines also -- we work  
11 with a power plant that peels off of this lake and within  
12 the last two years they've gotten into this new way that  
13 they sell their electricity. One, they can go to the day  
14 market where they just straight up, whatever they can do  
15 with that 18 megawatts. But where they really make the  
16 money is what they decided with the modulation release or  
17 regulation release they'll buy into the grid at 14  
18 megawatts, but it could vary between 18 and 10. So  
19 basically, it's a load-balancing capacity that they do.  
20 Will you guys have that kind of capacity there, too?

21 MR. SINCLAIR: Probably not. Again, we're taking  
22 the release of whatever the Corps gives us. It will depend  
23 on the contract we have with the purchasing utility. But we  
24 will not be able to affect what we make each day because the  
25 Corps will tell us you can have 300 cfs or 400 cfs.

1           MR. ZBEL:  What if they say you can have 300 cfs,  
2           but you only need to take 150 and you can bounce around in  
3           between?  What we found here at Deep Creek is that it's made  
4           a big difference with the quality of the whitewater  
5           experience when you're expecting to get 600 and it varies  
6           through down to 500 and it goes up to 700.  It's very  
7           noticeable, especially in the lower flows.  And at Jennings  
8           Randolph, I mean it seems like if we have 300 and you have  
9           the ability to vary it from a hundred up to 300 and fall to  
10          200 in between, if you did that variation in flow, it seems  
11          like it pays twice as much if you would just buy in the day  
12          market, and I assume you're going to be selling to PJM who's  
13          going to buy it.

14          MR. SINCLAIR:  I'm not, at this point, actually  
15          connected to PJM.  But who the customers would be, our  
16          customer is not clear at this point and I'm not familiar  
17          with what you're talking about, but thank you for bringing  
18          this point up.

19          MR. ZBEL:  I think it's something you need to  
20          look into because they make twice the amount of money.

21          MR. PHILLIPS:  I know what he's talking about and  
22          Brookfield can buy power plants off the balance sheet.  We  
23          have to finance.

24          MR. ZBEL:  Brookfield's all about the real  
25          estate.  Power is only 10 percent of their business, but

1 they're trying to make money.

2 MR. PHILLIPS: They can do it because they don't  
3 have a mortgage on that facility. We're going to have a  
4 mortgage on the facility.

5 MR. ZBEL: It might be something you look into.  
6 They make twice as much money when they sell electricity  
7 into the regulation market as they do when just go straight  
8 into PJM>

9 MR. LORIE: Lorie, Mark Lorie. I don't think  
10 they'll have the ability to adjust the flow like that.

11 MR. ZBEL: Three hundred has to go straight out.

12 MR. SINCLAIR: The Corps has to let the rest of  
13 it go.

14 MR. DORMAN: That's an important point to  
15 emphasize. Operation remains exactly the same.

16 MR. ZBEL: I know it's something that downstream  
17 fishermen who aren't represented here tonight are going to  
18 make a lot of noise about because they're very concerned  
19 about what happens on this 20 miles downstream of the dam.  
20 If the flow stayed varied like that throughout the day, it  
21 would affect them greatly.

22 (Slide.)

23 MR. SINCLAIR: I really shouldn't talk much about  
24 this licensing process because, obviously, the FERC  
25 representatives here will cover that in some detail. We

1 filed our pre-application document in March and that really  
2 kicks off the process. We'll be working on the studies as  
3 required and we determine what those studies should be, and  
4 then of course, remediation plans if there are any. All  
5 through that process there will be meeting with  
6 stakeholders, public meetings and of course, documentation  
7 of the results and conclusions.

8 (Slide.)

9 MR. SINCLAIR: The studies that we anticipate so  
10 far, certainly, a water quality release. This is  
11 particularly relevant because of the different water quality  
12 release gates at different levels that the Corps of  
13 Engineers use and we need to design a power structure that  
14 is of a similar capability so that we can copy what they're  
15 doing. Certainly, as part of that we want to make sure that  
16 we do an impingement and entrainment study to make sure we  
17 don't draw fish into the intake, rare and endangered species  
18 surveys and the wetlands delineation.

19 One of the things that we're blessed with here is  
20 that between the DNRs of both states and the Corps of  
21 Engineers there's a huge amount of data. It makes it much  
22 easier because there's so much data that's been collected.

23 (Slide.)

24 MR. SINCLAIR: As part of the pre- and post-  
25 project implementation there will be a water quality-

1 monitoring plan. We'll install instrumentation. There will  
2 be erosion and sediment control during construction and the  
3 same thing, of course, after construction. We'll have to  
4 have memorandums of agreement with the Corps of Engineers  
5 for both construction and operations. Then with all the  
6 DNRs and EPAs, there will be Section 401 and 404  
7 certifications. And of course, on the other side a  
8 transmission interconnection study with PJM.

9 (Slide.)

10 MR. SINCLAIR: This is a brief overview of the  
11 next steps, but I imagine you're going to skip pass this  
12 because you're going to cover this in much more detail. Any  
13 more questions for me? I'll be here. And there are all  
14 four of you here, so you can get me at any time during the  
15 meeting. Anything you would need me to use this slide for  
16 in terms of additional questions?

17 MR. ZBEL: Just one, our transmission lines, is  
18 it going to be above ground or underground to get to the  
19 connection?

20 MR. SINCLAIR: Probably above ground, they're  
21 around the bend across the core property.

22 MR. ZBEL: This is just 13 megawatts. It's not  
23 that big of a line.

24 MR. SINCLAIR: No, and it will connect into the  
25 138 kV. That's what we're looking at right now, the

1 existing line that goes along the north side of the core  
2 property. Thank you.

3 (Slide.)

4 MR. SPENCER: For our issues as we see them, we  
5 have aquatic resources, terrestrial, threatened and  
6 endangered, recreation, land use, archeology and historic  
7 and developmental resources identified.

8 Tonight, our aquatic resource person for the team  
9 is Tim Konnert. He's present. And for terrestrial,  
10 threatened and endangered, recreation and land use and  
11 historic it's Carolyn Templeton. For the developmental  
12 resources it's myself, Michael Spencer. If you have any  
13 questions about those or any issues you'd like to bring up,  
14 please do.

15

16 MR. SPENCER: To request studies, we have seven  
17 criteria which you need to address when you submit your  
18 study request. You need to identify the goals and  
19 objectives, consider the resource management goals, consider  
20 the public interest, consider the existing information  
21 that's available to be used, provide us with the nexus to  
22 project operations and effects, provide a methodology that's  
23 consistent with accepted practice and show a consideration  
24 of the level of effort and costs, and why alternative  
25 studies would not suffice.

1 (Slide.)

2 MR. SPENCER: The upcoming important dates are  
3 the study requests need to be submitted by July 17, 2008.  
4 That's when we want the studies really flushed out, but  
5 there is some leeway. Upcoming there will be a study plan  
6 even after that date, which is shown in the middle date,  
7 then the study plan meetings. We're hoping to get the study  
8 requests by July 17, 2008. Then Fairlawn will supply the  
9 proposed study plan by August 31. Then we'll hold a study  
10 plan meeting to discuss those studies and the refinement or  
11 adjustment of what needs to be added to it, where it needs  
12 to be conducted, who is going to be conducting it on  
13 September 30. That will all play into revising the study  
14 plan and Fairlawn is supposed to file or will file its  
15 revised study by December 29 of this year.

16 Then taking all that into account, and there is a  
17 period for comments to be filed on the revised study plan.  
18 Then the FERC will take all this into account and issue a  
19 study plan determination letter by January 28 of next year  
20 for the upcoming June study plan season.

21 (Slide.)

22 MR. SPENCER: I'll now open it to any questions  
23 you may have. Obviously, with our process, and of course,  
24 David said any additional questions you may have for --

25 MR. PHILLIPS: You might mention that there is a

1 copy of the scoping plan available.

2 MR. SPENCER: Yes, I have additional scoping  
3 documents in the back for anyone who wants one.

4 MR. KONNERT: A scoping document has a complete  
5 list of upcoming milestones in terms of comment periods.  
6 Requesters are expected to provide those study requests by  
7 really from now until when an application is file, when the  
8 milestones, so you know when to expect your input if you're  
9 going to be following with this project.

10 We've touched on the big milestones, but every  
11 milestone is covered in that scoping document.

12 MR. LORIE: So I'll say a bunch of things.

13 MR. SPENCER: Give your name again.

14 MR. LORIE: Mark Lorie from the Interstate  
15 Commission on the Potomac River Basin. I'll address two  
16 sort of areas of interest that I'm here to speak for. One  
17 is the general Potomac River Basin Commission you're going  
18 to hear a lot about. I just wanted to be on record  
19 expressing interest -- the recreational access issues, all  
20 those kinds of things should be studied, both for the  
21 construction phase because I imagine that will have some  
22 impacts on the ability to release in certain ways in terms  
23 of select withdrawal and that kind of thing if and when the  
24 project is developed and there's ongoing operation.

25 More specifically, I actually work with a major

1 water suppliers in the Washington, D.C. region, WSSC,  
2 Fairfax Water, who own almost half the water in Jennings  
3 Randolph. They would have concerns of both operations  
4 during constructions and operations once the project is in.  
5 Data about getting this later on the water suppliers would  
6 potentially want to pursue, they'd certainly want to engage  
7 in discussions with the proponent and the Applicant and  
8 perhaps develop some kind of agreement on protections that  
9 they can get that water when they need it. So that would be  
10 a significant concern of theirs. I just wanted to voice  
11 that as well.

12 MR. PHILLIPS: There was a prior license on this  
13 facility that was never constructed. In that license, they  
14 were anticipating using the discharge tunnel as their supply  
15 for the turbines. Therefore, during construction they had  
16 to line that tunnel. They had to figure out some way to  
17 pump water sufficient to be able to get out of the tunnel if  
18 there was a significant release event.

19 We are not anticipating using the discharge  
20 tunnel, so there should be during construction no change in  
21 operation from the Corps' standpoint, the discharge  
22 standpoint. We are interested in working with you on the  
23 water monitoring to maintain water quality and temperature,  
24 pH, all those things. That's the design of our intake  
25 structure, to be able to mimic in some fashion what they're

1       doing, and David will be working with the Corps of  
2       Engineers to establish that.

3               MR. LORIE: You'll probably hear more about it  
4       tomorrow, but they have a lot of data on the impacts of the  
5       different controls the selective withdrawal system has on  
6       temperature and the effect on fish. The DNR is working on  
7       that. We can just talk again. The water suppliers may  
8       want to enter into some sort of agreement just to make sure.

9               MR. SINCLAIR: If there was an impact, I'm sure  
10       it has something to do with seasonality and timing.

11              MR. LORIE: So far, it's been a fairly rare  
12       thing that they call on that water. The reservoir, as you  
13       know, has been in place since the early '80s, and they've  
14       only needed it during 2006, '99 and 2002. But as their  
15       demands grow, and Washington's more and more likely to use  
16       that water to augment flows, it's not good.

17              MR. SINCLAIR: Again, we don't own the lake.  
18       That's probably one of the biggest differences. We don't  
19       own the lake or the dam.

20              MR. ZBEL: They have all the liability.

21              (Laughter.)

22              MR. LORIE: I work with the Corps closely, so  
23       I'll be really tuned into this.

24              MR. SINCLAIR: Great. Thank you.

25              MR. ZBEL: Have you guys looked into the

1 possibility of making a couple of larger turbines? Because  
2 I know during spring events -- and it may not be cost  
3 effective -- but about two weeks ago they were releasing  
4 almost 3,000 in 24 hours. Certainly, in other periods they  
5 do these big clean out releases, I guess, to get rid of the  
6 nitrogen. There's a layer of nitrogen, I guess, that  
7 settles on the lake that they blow out. There are at least  
8 5 to 6,000 at a time for a couple of hours just to get rid  
9 of that layer in the lake and dissolve it.

10 MR. SINCLAIR: What we do is we plot the flow  
11 duration curve for the last 26 years, looking at all of the  
12 releases on a daily basis for that period of time and then  
13 typically that's an asymptotic curve. We pick a point on  
14 the knee, at least a preliminary capacity, the higher you go  
15 the less often you're going to need the equipment, so you  
16 don't get the return on investment. There's quite a bit of  
17 duration that has to be gone through in terms of equipment  
18 sizing to maximize utilization of the equipment as well as  
19 the production. And then there's a lot of studying that we  
20 do in terms of the sizing to get that best return on  
21 investment. At least with today's tools, we can do that.  
22 But if we go up to those much higher flows, we're not going  
23 to be operating very often and that's a lot of capital  
24 equipment sitting there.

25 MR. ZBEL: I imagine too with Jennings Randolph,

1       which is different from Deep Creek, there's a lot of periods  
2       where this power plant sits idle due to lake levels. All  
3       the houses had a tight rule band they have to operate in,  
4       especially, in summertime like the drought year it was last  
5       year from the early part of the spring they did not release  
6       for discretionary power. They cancelled several whitewater  
7       releases and the only release that takes protocol over lake  
8       level or anything is temperature in the river just to keep  
9       the fish alive to enhance the trout population and those are  
10      like two-hour, three-hour slugs of water in the hottest part  
11      of the day.

12                   Now, with Jennings Randolph it seems like they  
13      run 24/7, at least 300, 200 to 300 around the clock. I  
14      guess you guys would be able to generate straight through  
15      all that?

16                   MR. SINCLAIR: Yes.

17                   MR. ZBEL: That would great.

18                   MR. SINCLAIR: Thank you.

19                   MR. SPENCER: Any additional questions or  
20      thoughts?

21                   (No response.)

22                   MR. SPENCER: If there aren't any, I'll go ahead  
23      and adjourn the meeting at this time and we'll have our  
24      second scoping meeting tomorrow at 10:00 a.m. in this room.  
25      Thank you all for coming.

1                   (Whereupon, at 6:35 p.m., the above-entitled  
2 matter was concluded.)

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