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UNITED STATES OF AMERICA

FEDERAL ENERGY REGULATORY COMMISSION

Lake Lynn Hydroelectric : P-2459-279
Project

PUBLIC SCOPING MEETING

(EVENING SESSION)

Monday, September 25, 2023
Cranberry Hotel
Morgantown, WV 26508

The public scoping session, pursuant to notice, convened
at 6:00 p.m. (EST)

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

2 6:00 p.m.

3 MR. CREAMER: Welcome to everybody. If you can
4 please quiet down we will get started here. Okay. Welcome.
5 If everybody will quiet down we'll get started with the
6 meeting. Welcome to the scoping meeting for the Lakeland
7 Hydroelectric project. Thank you for joining us this
8 evening. Speak up.

9 Okay. Thank you for joining us today, or this
10 evening, actually. My name is Allan Creamer. I am with the
11 Federal Energy Regulatory Commission. I am the project
12 coordinator and a fish biologist, and so I will be
13 responsible for the aquatics associated with the project.

14 Go ahead. So, what I want to start with a little
15 bit of the agenda for the meeting today, or this evening.
16 I'll start with introductions as far as the Commission staff
17 who are here, and who will be working on the project. We'll
18 go through some meeting protocols. I'll explain who FERC is
19 and why we're here. I'll give you a little bit, a brief
20 overview of the relicensing process.

21 I will ask Lakeland Generation to provide a brief
22 description of the project and its operations. We'll go
23 through the purpose of scoping, which is why we're actually
24 here. We'll go through a short discussion of the resource
25 issues as we have identified them to date. We'll go through

1 a little bit of the procedures for comments, and staying
2 involved in the process.

3 And then finally some important dates, and then
4 we'll have a final question and answer session. So just by
5 way of introduction again. My name is Allan Creamer. I am
6 a fish biologist. I am the project coordinator, and I'll be
7 responsible for water, fish, aquatic resources and the
8 aquatic threatened and endangered species.

9 We also have with us, she is in the back, Indigo
10 Brown. She is a staff attorney with the Commission. Not
11 with us today is Sara Salazar, she is our terrestrial
12 resources biologist. And so, she will be addressing all
13 terrestrial resource issues, and threatened and endangered
14 species, where it concerns the wildlife side of it.

15 Mike Spencer, he is our engineer. He will be
16 handling the developmental analysis and the economics.
17 Dustin Wilson, who was supposed to be here today, but
18 couldn't make it. He is our recreation person, so he'll be
19 handling the recreation, land use issues, cultural resource
20 issues, and the environmental justice issues.

21 AUDIENCE MEMBER: Dustin Wilson, you mentioned at
22 the last meeting that he sent you a text this morning saying
23 he couldn't make it.

24 MR. CREAMER: Yeah. So he just can't be here.

25 AUDIENCE MEMBER: Is there a reason?

1 MR. CREAMER: There is, but I'm not at liberty to
2 discuss it and I won't. Thank you. And Catherine Roberts,
3 who is -- she is a new staff. She's an archeologist, and so
4 she'll be working with Dustin on the cultural resources. We
5 also have a couple of other individuals here with us.
6 Prabha Madduri, she is in the back. She is an engineer, and
7 on the computer here advancing the slides is Dave Gandy.
8 He's a fish biologist.

9 Okay. Just so, we'll go through some meeting
10 protocols, and we'll revisit some of this later again.
11 Before we get started with the presentation, I want to run
12 through some meeting protocols. If you haven't already done
13 so, and this is important. I would ask that there are
14 sign-in sheets in the back, and I apologize for not being
15 here sooner.

16 But it's important from the standpoint if you
17 plan to speak, so that we know who all is planning to speak,
18 and how many people, so that we can kind of put our time
19 together in terms of how long our comments will be. We have
20 a court reporter who is transcribing the meeting, so there
21 will be a -- yes?

22 (Off mic question from the audience.)

23 MR. CREAMER: Okay. We have a court reporter
24 with us here today, so he is transcribing the meeting, so
25 there will be a transcript that will come out of this, so it

1 will be maybe available in a week or so. So if you plan on
2 speaking, I would ask that you use a microphone, and what
3 will happen -- and when I am done, I'm going to turn the
4 microphone around.

5 And if you plan to speak I'm going to ask that
6 you come to the microphone, so that the court reporter can
7 record everything. Speak clearly and audibly. Please give
8 your name, affiliation, and if asked spell your name because
9 not all names are not easy to figure out how to spell some
10 names. Be respectful. There will be time limits for the
11 comments, depending upon how many people actually speak.

12 And I do -- this meeting is two hours, and within
13 that time constraint I do encourage that if you have
14 comments feel free. There will be hopefully some time at
15 the end for questions and answers as well. So, a little bit
16 who FERC is. FERC is an independent federal agency that is
17 led by five Commissioners that are appointed by the
18 President, and we currently only have four.

19 The Commission is supported by 12 offices with a
20 staff of somewhere in the neighborhood of 1,500 employees.
21 And that includes the Office of Energy Projects, which is
22 the office where -- that handles the licensing of
23 hydropower. The Office of Energy Projects has somewhere in
24 the neighborhood of 450 or so staff.

25 The Commission's jurisdiction for hydropower

1 comes from the Federal Power Act. So in addition to
2 regulating interstate transmission and sale of electricity,
3 and natural gas, and interstate transmission of oil by
4 pipeline, FERC also regulates and licenses non-federal
5 hydropower projects.

6 And that responsible for handling that lies
7 within the Office of Energy Projects. Specifically with the
8 jurisdiction -- FERC has jurisdiction over state, municipal
9 and privately owned hydropower projects that are, or would
10 be located on navigable waterway, occupy federal land, use
11 surplus water from a federal dam, or otherwise affect
12 interstate commerce by being connected to the interstate
13 electricity grid.

14 Okay. So why are we here? The crux of it is to
15 gather information from you all on the effects of
16 relicensing the Lakeland Project. What we are doing here
17 today is scoping, and it is something that's required by the
18 National Environmental Police Act, so it's something that we
19 must go through in this process.

20 Okay. The current license expires in November
21 2024, so we have basically a year. We're a little over a
22 year away from the current license expiring, so there will
23 be quite a bit that will happen over the next 8 to 12 months
24 as far as the environmental review, and putting a NEPA
25 document on the street.

1 The licensing process, just real briefly, I
2 mentioned this earlier, it's a fairly complicated, or
3 complex process, so I won't go into any detail, but if
4 anybody has questions, you know, I'm happy to answer them.
5 So the prefiling process starts three and a half years prior
6 to filing their application.

7 And this is where the applicant prepares and
8 files the application itself, and that's the point where
9 they also went out and conducted studies to support that
10 application. Once they file the application we start, we
11 enter what we call post-filing process. That includes
12 additional information gathering, which is the scoping
13 process, public comment periods, and there are multiple
14 comment periods throughout this process.

15 Preparation of an environmental document. I
16 eluded to that earlier. You know, once we feel like we have
17 all the information we need to have, we will issue a ready
18 for environmental assessment notice. And that will begin
19 our time process for developing the environmental document.

20 The licensing process itself ends when the
21 Commission actually makes a decision on the license
22 application. And within that there will be terms,
23 conditions for how the project would be operated. And there
24 would be environmental protection mitigation and enhancement
25 measures that will be part of a license that would be

1 issued.

2 So to date what have we done so far since the
3 license application was filed? This just gives you an idea,
4 so in November of 2022 Lakeland Generation did file their
5 application. In December of 2022, we issued the notice that
6 that had been filed, which is what we call a tendering
7 notice.

8 In January of 2023 we had determined there were
9 deficiencies in the application, and there was additional
10 information needs that we had, so we sent them a letter.
11 They filed that. They corrected the deficiencies. So, in
12 June of 2023 we accepted the license application.

13 So, by doing that basically we said that they
14 have, according to the regs, they now had everything that
15 the regs required in the application. That does not mean
16 that there wasn't additional information needs out there.
17 So in July we actually issued a supplemental additional
18 information request that was partly based on the previous
19 one, and then there was some new things that we identified
20 that we needed to have.

21 That has now been filed. In August we issued a
22 scoping document, and that leads us to where we are today
23 with the scoping meetings. As far as the next steps, just
24 to get an idea, I'll give you all an idea of where we're
25 headed. So once we get through this scoping, we will review

1 all the comments, whether they be comments provided here
2 during the meeting, or written comments that are filed.

3 We'll review all of those and make a
4 determination as to whether or not we need to issue a
5 scoping document two that addresses any additional things
6 that need to be looked at. We could also, if during this
7 process there's additional information needs identified, we
8 could also, if necessary, require or issue another
9 additional information request.

10 That remains to be determined. And then at some
11 point in the near future we'll decide whether the
12 application is ready for environmental analysis. And once
13 we make that determination we'll issue a notice that will
14 indicate whether we issue -- whether we'll prepare an
15 environmental assessment, or an environmental impact
16 statement.

17 And then, we will then also issue the ready for
18 environmental review, what we call the REA notice. And then
19 once that's issued there's an opportunity to provide
20 comments, terms and conditions, the application will have an
21 opportunity to respond to those, and then at that point we
22 will then take all this information and start preparing the
23 environmental document.

24 Okay. So this slide basically kind of says a
25 little bit about what I just was talking about. We will

1 issue the NEPA document, and that's another opportunity for
2 the public to provide comments on what is in the
3 environmental document, and what we may, as Commission
4 staff, recommend to the Commission be included in the
5 potential new license.

6 There's also a process as once the environmental
7 document is issued, that we go through with federal and
8 state resources agencies that if they have a recommendation
9 that for whatever reason we determine was inconsistent with
10 the Federal Power Act under Section 10-J, there's a 90 day,
11 120 day, I'm not really -- I don't remember off the top of
12 my head.

13 But anyway, there's a process we have to go
14 through with them to try to resolve what we consider an
15 inconsistency with their recommendation. So once all of
16 that is done then, go ahead, next, we get to the final part,
17 which is the Commission then will based on the environmental
18 document, and all the other information in the record, and
19 that includes comments that you all provide throughout the
20 process.

21 The Commission will look at all that, and they
22 will make their licensing decision, or they would issue a
23 license order. And within that order would be the
24 requirements for how this project would operate into the
25 future for whatever time period that license might be issued

1 for. A big part of this part of the process, this is where
2 the Commission, one of the unique situations with the
3 Commission is that we are required under the Federal Power
4 Act, to balance competing interests.

5 So, there's a lot of stakeholders, and everybody
6 comes to the table with different interests and what they
7 want, and what they may want to see, and that includes
8 everybody from the applicant, people, you know, folks like
9 you all, the resource agencies that are interested in
10 particular things.

11 And the Commission then is required to actually
12 put all that together and balance all of those competing
13 interests in their decision. And that falls under, hold on.
14 There's actually two sections of the Federal Power Act that
15 come into play here. Section 4E of the Federal Power Act,
16 the Commission is required to give equal consideration to
17 energy conservation, and environmental resources, as well as
18 developmental values like power production.

19 In Section 10A, requires that a project be in
20 the judgement of the Commission, best adapted to a
21 comprehensive plan for improving or developing a waterway
22 for beneficial public purposes. And that includes the
23 improvement and utilization of water power development, the
24 adequate protection mitigation and enhancement of fish and
25 wildlife, and irrigation, flood control, water supply,

1 recreational and other purposes.

2 So you can see in effect, it essentially means
3 that the Commission has to carefully balance all of this
4 when it reaches a decision in a relicensing. Your comments
5 here today help the Commission to kind of focus and
6 determine what that balance, that best balance might be. So
7 your comments are whether they're provided here today, or
8 provided in written comments, rest assured they are
9 important, and they don't fall on deaf ears because we will
10 -- all of them get looked at, all of them get considered,
11 all of them get reviewed.

12 And to the extent issues come up and you know,
13 comments and the issues that are important, they end up you
14 know, we look at these things in the environmental document,
15 so and if for some reason we don't, we are actually required
16 to explain why we don't, so.

17 With that, I'm going to switch gears and ask Jody
18 and Joyse to provide a brief description of the project.

19 MS. SMET: Thanks Allan. I literally backed
20 myself into a corner back there. I had to make our way up
21 here. So I'm going to -- okay, can you hear me now? All
22 right. My name is Jody Smet. I'm a chief compliance
23 officer and Senior Vice President with Eagle Creek Renewable
24 Energy and Lakeland Generation.

25 I want to start by introducing our team members

1 here. So what does regulatory affairs mean? Probably not
2 much to you guys. That means I'm responsible for the
3 Federal Energy Regulatory Commission licensing and license
4 compliance for the company. We have about 85 of these
5 project licenses, or exemptions that we have to renew and
6 maintain compliance with.

7 So I work with the licensing and compliance team.
8 Joyse Foster is a member of that team. She's our Director
9 of Licensing and Compliance. Ben Lens is way in the back,
10 is a licensing and compliance manager. We're also joined
11 this evening by a couple of our operations team. Dale
12 Short, I see his hand in the very back. He is a division
13 manager on our operations team for the area.

14 And then Bob Flickner is our local kind of plant
15 manager. I see Bob back there. So I wanted to start if you
16 can flip, there's been a lot of interest in who we are. So
17 I wanted to address this straightaway. Eagle Creek
18 Renewable Energy is a privately owned entity, and a wholly
19 owned subsidiary of Ontario Power Generation.

20 You might have heard them referred to as OPG.
21 Eagle Creek has a bunch of affiliates and subsidiaries that
22 own these 85 hydro projects throughout the United States.
23 In fact, we're in 18 different states. Several projects
24 here in West Virginia. So we generate about 2.7 billion
25 kilowatt hours of renewable energy each year.

1 We have corporate offices in Bethesda, Maryland.
2 We also have office locations in North Carolina, New Jersey
3 and Wisconsin, and yes we do have a control center that's
4 manned 24/7 out of Tennessee. So further down in this
5 corporate structure is Lakeland Generation. Lakeland
6 Generation is the actual licensee of the Lakeland
7 Hydroelectric Project. So it's an independent U.S.
8 company, and it's been the owner, operator of the project
9 since 2015.

10 Next slide. Project overview, we have the
11 capability to generate just over 51 megawatts of renewable
12 energy, constructed back in 1926, so we're not quite 100
13 years old, but getting there. The last license was issued
14 in November 1994, for a term of 30 years. It will expire
15 next November, 2024.

16 As you all know, we're located on the Cheat River
17 in Mon County, West Virginia and Fayette County,
18 Pennsylvania. This list here is a list of the project
19 facilities that would be included in our project license.
20 If you all are joining us on our site visit tomorrow you'll
21 have an opportunity to see many of these.

22 Up in the right-hand corner is a picture of our
23 dam and powerhouse, so you can see we have 120 foot high
24 dam. It's 1,000 feet long, and has 26 different gates along
25 that spillway area. Up in the lake, kind of in the

1 headwaters there, we have a log boom and trash rakes that
2 help kind of filter debris and trash as we withdraw water
3 from Cheat Lake into our generating units.

4 We do have four generating units to make that 51
5 megawatts of power. We have 8 penstocks, so they're
6 basically water conveyance into the lake into the
7 powerhouse, big tubes. And then how do we get the power
8 that we're generating in the powerhouse out to the grid, and
9 ultimately to your homes? We have two transformers that
10 step up to a transmission line that moves from the
11 powerhouse to a first energy substation directly adjacent
12 to the powerhouse.

13 You all are probably most familiar with the Cheat
14 Lake, so that is our 13 mile long, about 1,700 acre lake
15 that's impounded by the dam. This is just an aerial
16 overview of our project facilities, so you can see the dam
17 going across the Cheat River there, the powerhouse on the
18 right side, that substation by First Energy, our power goes
19 from the powerhouse up to that substation.

20 The area below the powerhouse we refer to as the
21 tailwater area. We have a fishing area there. That is
22 where we'll meet tomorrow at 9:30 for the site visit, and
23 then of course Cheat Lake is upstream of the dam, just to
24 orient you. All right. Existing project operations, which
25 will also be proposed project operations. We're not

1 changing any -- proposing any changes to how we operate the
2 project.

3 So it is a dispatchable peaking, hydroelectric
4 facility. We do have storage in Cheat Lake. We have
5 operators onsite Monday through Friday from 6:00 a.m. to
6 4:00 p.m., but after hours, so that would be evenings and
7 weekends. It is controlled by the control center there in
8 Tennessee 24/7. So they have eyes on the lake, and the
9 tailwater, and what our units are doing.

10 Again, if you've been living around the lake, you
11 know it's operated seasonally at different levels, really
12 maintained higher during the spring spawning, and the
13 recreation season during the summer. And then it's lowest
14 through the winter period. We do have a minimum flow
15 requirement to discharge from the project, so at any time
16 it's going to be 100 cfs, regardless of what inflow is, but
17 we have the 12 -- the 212 cubic feet per second minimum
18 flow, but we cannot go lower than the 100.

19 High flow operations, anytime we have a high flow
20 event, our plant operators are onsite, no matter what day of
21 the week it is, or what time of the day. We do have an
22 emergency action plan that FERC's Division of Dam Safety
23 reviews and approves.

24 That tells us how to operate these facilities
25 during high flow events. We use the U.S. geological survey

1 gauges on the river, and rainfall gauges to kind of monitor
2 what type of, or amount of inflow is coming in to the lake,
3 to let us know when we might anticipate these high flows.

4 And again, we'll use our Tennessee control center
5 and a service called Code Red, to make sure that our project
6 communities and our emergency responders are notified if
7 there are high flow events. Finally, we have a public
8 safety plan, which outlines all the public safety measures
9 that we have in place, not only at the powerhouse and the
10 dam, but all of our recreation areas.

11 So these might be lights, sirens, signage, those
12 sorts of things. Next slide. All right. Now Joyse and I
13 are going to switch into the proposed project. What I mean
14 by proposed project, this is what we've put in our
15 application that we're proposing to FERC.

16 So as I said, we're not proposing any changes to
17 the operation of the project. So what you've kind of been
18 used to for the last 30 years is what you could expect in
19 terms of lake levels, and that sort of thing. We're not
20 modifying any of those project facilities that we talked
21 about, so the dam, the powerhouse, the transmission lines,
22 the rec areas, all of those are staying the same.

23 We are proposing to adjust the project boundary.
24 I know this is of great interest to everyone. We are
25 proposing to remove just over 300 acres of non-contiguous

1 Lakeland Generation owned parcels from the FERC boundary.
2 They are not required to public, or project purposes, or
3 operation, and the land will be retained by Lakeland
4 Generation.

5 We will not sell the land. This next slide will
6 show you a map to give you a sense for the parcels being
7 proposed. There we go. You could see they're
8 non-contiguous. It's not a large 300 acre parcel that's
9 being proposed. And it's probably hard for you guys to see,
10 especially in the back, but there's a big, thick black line
11 around the lake. That is our project boundary.

12 And so you can see for the most part, it is
13 following the contour line of the high reservoir elevation.
14 And so what we were really proposing was an administrative
15 change to bring all parts of the project boundary into that
16 highest contour line. I want to highlight what's not coming
17 out, because I think there's confusion here. Cheat Lake
18 Park is not coming out of our project boundary. It's a
19 beautiful public access area, that will remain in the
20 project boundary.

21 And the beach area, yes.

22 (Addressing an off mic audience member).

23 MS. SMET: I appreciate your questions. Let me
24 finish the presentation. I want to make sure we can wrap
25 up, so we can hear more from you guys. That's what we're

1 really here to do. But I understand your concerns. So what
2 else is staying? There's a couple of the nature viewing
3 areas, so the Cheat Haven nature viewing area, which is at
4 the terminus of that south trail will remain in the project
5 boundary, will continue to be a recreation source, as will
6 the Tower Run nature viewing area, which is kind of on the
7 opposite side of the lake, just upstream of the dam, kind
8 off Steward Town Road.

9 Sunset Marina, the public boat launch in the
10 marina will remain part of the project boundary. It's not
11 going anywhere. And the tailwater fishing access that
12 you'll see on the site visit tomorrow remains within the
13 project boundary. Next slide. All right.

14 My colleague, Joyse Foster is going to walk us
15 through some of the other proposed measures in the project
16 license.

17 MS. FOSTER: Thanks for coming out tonight. So
18 the first proposed protection mitigation enhancement measure
19 we had -- oh sorry, whoa, that's loud, is to develop an
20 operation plan. So really an operation plan is looking at
21 documenting compliance with operational requirements.
22 Pretty standard at FERC hydropower projects.

23 The second one, we already have a water quality
24 monitoring plan in place right now under the existing
25 license, but we're proposing to develop a new monitoring

1 plan, a water quality monitoring plan that would focus on
2 the monitoring the reservoir, and the tailwater dissolved
3 oxygen and water temperatures.

4 And all of these plans I'd just note be developed
5 in consultation with federal and state agencies. You guys,
6 most of you already know, we have an existing recreation
7 management plan at the project. We're planning to develop a
8 new one for the new license term, so it mainly consists of
9 existing facilities, recreation facilities, pretty similar,
10 but maybe some new things in there.

11 We plan to address any of the Sheepskin Trails.
12 There's been a lot of interest for folks, and we've always
13 had a commitment to look at connecting, and how we can
14 connect to that trail, so that would be addressed in that
15 plan, or before if necessary.

16 We heard this morning that might be coming to
17 fruition sooner rather than later. The next one is, if you
18 can go to the next slide please, developing the shore line
19 management plan. We currently don't have a shore line
20 management plan at the project, and what this would do is
21 document permitting procedures for any shore line uses or
22 activities, within the FERC project boundary, and that would
23 be developed in accordance with what's called the FERC
24 standard land use article.

25 We currently have a FERC standard land use

1 article in our license, and we would have another one in a
2 new license, but this will outline some guidelines and
3 procedures. And again, this will be developed in
4 consultation with state, federal agencies, other interested
5 parties, NGOs around the reservoir as well.

6 Lastly, developing a historic properties
7 management plan, or an HPMP, and that's really looking at
8 the project, historic properties within the FERC project
9 boundary, and that would be developed in consultation with
10 the West Virginia and Pennsylvania State Historic
11 Preservation offices and tribes.

12 We currently don't have one. We have what's
13 called a cultural resources management plan that we operate
14 under. That was developed during the parks, so there's a
15 need to improve that an update it. But I would just note
16 too that we also always consult, whenever we're doing work
17 on the trail, we've done, repaired some washouts of the
18 trails historically, or any work on the powerhouse we
19 consult with the appropriate agencies as well for that.

20 Next slide. Oh, the context, I've got we just
21 added a slide with my name and email address and Jody's.
22 Our website for the project Cheat Lake today, and we just
23 reiterated the FERC e-library docket, and the number is
24 P-2459. And I know Allan will be talking a little bit more
25 about that later, so.

1 MR. CREAMER: Okay. So I'm going to go through a
2 series of slides here now that it's going to be fairly
3 quick, and it's going to present a lot of information, but
4 certainly if you have questions feel free to stop me, and
5 ask your question. We can address whatever is going on.

6 So, the purpose of scoping essentially it's to
7 solicit public comment. So part of the process here is
8 coming out to the public to get information about what we
9 think are important resource issues based on our review of
10 an application. And so that's what we're doing today, and we
11 issued the scoping document. We're going to go through a
12 list of issues that we identified, and hopefully it captures
13 everybody's interest.

14 But it may not. If not, then that's part of what
15 we want to hear back from everybody is whether we did
16 capture the issues that are important to you. So I
17 mentioned to identify environmental issues and concerns, the
18 potential effects of project environmental resources, and
19 the human environment.

20 And we're wanting to identify what these things
21 are. What we need to address in the environmental document.
22 We're also, one of the purposes of scoping is requesting
23 additional information. So if there is information that is
24 out there that somebody is aware of, like a resource study,
25 or an environmental document, or a comprehensive plan, some

1 management plan that will help us in our environmental
2 review of the proposed action, the proposed project.

3 That's information we want to have on the record
4 so that we have the complete picture of what's going on with
5 not only the project as it is the environment now, but what
6 we may be looking at in the future.

7 Scoping also involves identifying and receiving
8 input on the resources that may be cumulatively affected, so
9 what I mean by this is the best case example that I
10 typically use is water quality. There are a lot of projects
11 that we have that I've worked on in the past where there are
12 impacts on dissolved oxygen below the generating station.

13 That has its own separate set of environmental
14 impacts. Well when you put that with another say wastewater
15 treatment input for something like that, or acid mine
16 drainage or something. Collectively, or cumulatively they
17 have a different level of impact on a resource.

18 So when I talk about cumulatively affected that's
19 what I'm kind of referring to. The effect of a project in
20 context with what else is going on in the basin, and you
21 look at it kind of holistically like that, and there's a
22 level of effect associated with it.

23 Reasonable alternatives to the project, and the
24 applicant's proposed action, so we certainly are interested
25 to hear if somebody has a different idea about, you know,

1 how the project is operated, environmental measures to be
2 looked at in the environmental document. We're certainly,
3 that's one of the things that we want to know. We want to
4 know so that we can do a complete look at a proposed action,
5 and potential alternatives to it in our environmental
6 document.

7 And the other thing that we try to strive for
8 during the scoping process is what resource issues that
9 we've identified may not be necessarily -- they may not
10 require detailed analysis in the environmental document.
11 I'm not saying they wouldn't be important, but they may not
12 require detailed analysis.

13 And so, we are certainly interested, and based on
14 in looking at this, and looking at the resource issues we
15 have identified, maybe there's something there that just
16 doesn't really kind of fit the bill for this particular
17 project, and so the level of analysis might be reduced in
18 the environmental document.

19 Okay. So I mentioned kind of going through the
20 preliminary list of resource issues. So, this is where
21 we're going through things quickly. And if there were
22 copies of the scoping document in the back, but I'm not sure
23 that there are anymore, but certainly if you're interested
24 in getting one come see me, and we can make sure that you
25 get a copy.

1 Section 4.2 of the scoping document lays out the
2 resource issues as we see them today, based on our review of
3 the application, and other information in the record. We'll
4 go through the resources, resource by resource, and we're
5 going to structure this in such a way that we go through
6 based on how we do our environmental review, how the
7 resources are put together.

8 And as we go through here, I would emphasize
9 there's things that I really hope that you all would be
10 thinking about, and that is if for a particular resource, if
11 you don't see an issue up there that you think is important,
12 we need to know that. That's number one.

13 And number two, is if there is any issues up
14 there that you disagree with, we want to know that, and we
15 want to know why. That would help us better define what our
16 environmental review will look like.

17 Okay. So I mentioned we're going to go resource
18 by resource. So we're going to start with the geology and
19 soils. Based on our review we identified there's two
20 things, we're going to look at the effects of continuing to
21 operate the project in a peaking mode on shore line erosion
22 and sedimentation in Cheat Lake, and downstream along the
23 Cheat River.

24 And then the second thing that we're going to
25 look at is the effects of shore line development on erosion

1 and sedimentation in Cheat Lake. Okay. Water and aquatic
2 resources. There are multiple issues that we've identified
3 here, a lot of these are you know, kind of resource issues
4 that we see a lot, then there's maybe some that are a little
5 more unique.

6 But okay, so the effects of continuing to operate
7 the project in a peaking mode on water quantity and flow in
8 the Cheat River, yes?

9 AUDIENCE MEMBER: Off mic question.

10 MR. CREAMER: Okay. The question was defining
11 peaking. So a definition of peaking is when a project
12 generally speaking, it follows peak load periods, so it will
13 generate during peak load periods, and it will not generate
14 during off peak times.

15 That's generally how we define a peaking project.
16 Okay. Effects of continuing to operate the project in a
17 peaking mode on water quality. In this particular instance
18 what we've identified so far is Geo, water temperature and
19 erosions like sedimentation, both in Cheat Lake and in the
20 Cheat River downstream from Lakeland Dam.

21 The effects of continuing to operate the project
22 in a peaking mode on littoral zone habitat in Cheat Lake,
23 and aquatic habitat for fish and macroinvertebrates in Cheat
24 Lake and downstream in the Cheat River. And when I'm
25 speaking of littoral habitat, that is generally the habitat

1 on the fringe, down to a certain elevation where light
2 penetrates into the reservoir.

3 So, those will be fringe type areas that would be
4 like wetlands, or other areas like that that are around the
5 reservoir, but not necessarily in the water. Those are also
6 habitats that are important for spawning fish, and nursery
7 habitat for fish. Another issue that we've identified, the
8 effects of current licensed lake level elevations on fish
9 and aquatic habitat in Cheat Lake, and the need for changes
10 to those lake level targets.

11 The effects of continuing to operate the project
12 on movement of American eels and other fish species in the
13 Cheat River. And I would make note here that you'll notice
14 that that particular bullet has an asterisk after the end of
15 it. Those are issues that we have identified as an issue
16 that we would look at from accumulative effects perspective.

17 So again, like fish movement in a river, you
18 know, you could be in a river with multiple dams, and both
19 those dams, because the dams themselves have a different
20 effect, and so if you've got a species that needs to pass
21 three dams, then you know, there's going to be a level
22 effect for each one of those dams.

23 And so, American eel is one of those species that
24 does require migration. They move up and down, and so it is
25 one that we typically would look at from a cumulative

1 effects perspective. Effects of continuing to operate the
2 project on fish impingement, entrainment and survival at the
3 project.

4 Another issue effects of continuing to operate
5 the project on aquatic invasive species within Lakeland
6 Project boundary, including Cheat Lake, and the river
7 downstream from Lakeland Dam, and then finally we have the
8 effects of the proposed land removals on the water quality
9 in Cheat Lake.

10 Now that is one that was not included in the
11 scoping document. It was inadvertently left out, but I've
12 included it here because it is relevant, and will be carried
13 through.

14 (Off mic question from the audience.)

15 MR. CREAMER: When I mean inadvertent, it was an
16 honest omission. It was inadvertent. We just didn't include
17 it, even though it should have been. You also noticed that
18 for other resource areas that we believe it's relevant. It
19 is and it was in the scoping document. This is just one
20 that for whatever reason we missed it in this particular
21 issue resource.

22 Okay. So terrestrial resources. These are
23 wildlife, upland habitats, plants, trees. We have --
24 there's five issues that we've identified. The effects of
25 peaking operation on shore line, riparian, wetland and

1 littoral vegetation, community types. The effects of
2 project operation and maintenance activities, and project
3 related recreation on vegetation and wildlife habitat.

4 The effects of project operation and maintenance
5 on avian species, including electrocution inclusion with
6 project transmission facilities. We have effects of project
7 operation and maintenance activities, and project related
8 recreation on non-native, invasive, botanical and wildlife
9 species.

10 And then finally, this is one where you'll see
11 we're going to look at the effects of the proposed land
12 removals on terrestrial resources, including vegetation,
13 wildlife and their habitats. Threatened and endangered
14 species, we refer to them as T&E species.

15 There is currently five that are listed by Fish
16 and Wildlife Service as either they're listed as engaged or
17 threatened, They are proposed for listening, or they're
18 candidate species. And those five species are listed here.
19 So we are going to look at the effects of ongoing project
20 operation maintenance and project recreation on those
21 federally proposed, listed and candidate species.

22 And then we're going to look at the effects of
23 the land removal proposal on those species. Recreation,
24 land use and esthetics. We've got several issues here,
25 effects of continuing to operate, and maintain the project

1 on project recreation facilities in our use.

2 We're going to look at the adequacy of the
3 existing project recreational facilities to meet existing
4 and future recreation demand and capacity requirements.
5 We're going to look at the adequacy of measures contained in
6 Lakeman Generation's current recreation management plan, and
7 consider the need for changes to the proposed plan.

8 Adequacy of existing shore line protection
9 measures to control non-project uses of project lands, such
10 as you know, for example boat docks, piers, and other
11 facilities of that type. And then finally again, this is
12 another one where you'll see we've identified the effects of
13 the proposed removal of land from the project boundary on
14 recreation opportunities at the project.

15 (Off mic audience question)

16 MR. CREAMER: Yes, in the back. Okay hold on, so
17 the question was the land that we're talking about that's
18 being proposed for removal, the question is whether that
19 land would be put underwater, correct? Or if it would
20 remain outside.

21 (Off mic audience question)

22 MR. CREAMER: So okay, so just so folks
23 understand. A project boundary is just an administrative
24 line that's drawn around a project that is supposed to
25 encompass the lands and waters necessary for its operation

1 and maintenance. And my understanding if you look at what
2 they're proposing to do, the lands that they're talking
3 about removing are not -- they're meets and bounds
4 properties.

5 So those lands would remain where they are.
6 They're not going to be put underwater or anything of that
7 nature. It's just they're changing that black line that
8 defines the boundary. I believe that's all that's
9 happening. If you remove land from project boundary it
10 would in fact remove it from FERC jurisdiction, which is why
11 we are looking at for all of these resources, the potential
12 effects on those resources of doing that because you know,
13 there could be historic properties.

14 There could be teeny species, there could be
15 recreation that could be impacted by removing those. And
16 so, we want to be able to document any of that, and be
17 transparent about the potential effect of doing it. And
18 then that will help the Commission make a decision as to
19 whether they will in fact, grant that proposal to remove
20 that land.

21 So the environmental document, we'll look at
22 things. We'll do an assessment of all these resources, and
23 based on that we will make a staff recommendation, and I
24 would like to think typically this is the way it works, is
25 our recommendations are in the NEPA document. They're in if

1 it's an environmental assessment they'll be in section 5.

2 And so, we'll have that recommendation there, and
3 you all will have a chance to comment on whatever that is,
4 just like when Generation will have an opportunity to
5 comment on whatever our recommendation may be. But as of
6 now, no decisions about whether this is going to be taken
7 out have been made.

8 It won't be made until we do the environmental
9 assessment that would support whatever our recommendation
10 would be. Yes.

11 (Off mic question from audience.)

12 MR. CREAMER: Once it's removed from the project
13 boundary, what the licensee does with it, we don't typically
14 get involved with. Can we finish going through this, and
15 then we'll revisit this issue?

16 I really kind of want to get through this so we
17 can get to the comment portion, and we can really hear what
18 everybody has to say. Okay. Recreation -- go to the next
19 slide. Cultural resources. Effects of continuing to
20 operate the project and maintain the project on properties
21 that are included in, or eligible for inclusion in the
22 National Register of Historic Places.

23 And again, there's a bullet here that we're
24 proposing to address the effects of the proposed removal of
25 land from the project boundary on archeological sites and

1 cultural resources at the project. Environmental justice,
2 relatively new thing for us just in the last year or so.

3 But what we're proposing to do in the
4 environmental document is look at the effects of continued
5 project operation and maintenance on minority and low-income
6 communities in the project affected area, which could
7 potentially be subject to disproportionately high, adverse
8 human health or environmental effects.

9 And lastly, the developmental resources. What
10 we'll do is look at the effects of proposed or recommended
11 environmental measures on the project's generation and
12 economics. That includes any potential changes that we do
13 look at with regards to how the project itself is operating.

14 Okay. Wrapping up, submitting comments. So you
15 can provide your comments here during oral testimony, or if
16 you choose not to do that your written comments can either
17 be provided to the court reporter today, or they can be
18 mailed to FERC or filed electronically through FERC's
19 website on their FERC online page.

20 The instructions for mailing comments and filing
21 comments electronically can be found in the scoping
22 document, or in the scoping notice. And again, if you're
23 interested in filing comments, and do not have a copy of the
24 scoping document, then please come see me, and I'll get your
25 information and make sure that you do get a copy of it, so

1 you have that information to know how to file your comments.

2 I would also say please remember to address your
3 comments to the Secretary of the Commission, not to
4 Commission staff. Something comes directly to us, we cannot
5 file as comments in a proceeding, so we would come back to
6 you and say could you please file it with the Commission,
7 the Secretary.

8 So that's something that's important to keep in
9 mind. Filing comments electronically is really the fastest
10 and easiest way to file comments. We have IT staff who are
11 available to help with the e-filing, and their contact info
12 is on this slide, FERC online support at FERC.gov.

13 You can go to them, and they can help you through
14 the process if you have any questions. That information is
15 also included in the scoping document, and the scoping
16 notice. Please remember to include docket -- the project
17 number, which we call a docket. It is P-2459-279. That
18 docket and sub-docket is important to make sure your
19 comments get put into the right proceeding.

20 Again, the deadline for filing comments, and this
21 has been corrected from the earlier meeting, is October 25th
22 of this year. So it would be 30 days from today. How to
23 stay informed and participate in the process, I mentioned
24 this in the agenda. So there are several ways. I would
25 encourage anyone interested in staying involved to

1 e-subscribe to the project. That is something that could be
2 done on FERC's online page.

3 And basically what that will do is once you're
4 registered, whatever is filed with the Commission, or issued
5 by the Commission pertaining to this project and this
6 particular docket, you will get an email notification of it.
7 And it will have a link that you can go to, whatever that
8 filing, or issuance is, and you can open up and see it.

9 So it's kind of a direct access to the
10 information. E-library, this is basically it's the
11 repository for all public comments.
12 Anything, excuse me, filed or issued by the Commission for
13 any project, whether it be hydro or gas, or electric, or
14 whatever it is. It is housed on e-library. And again, if
15 you search, if you go to the e-library page, you search for
16 the project.

17 2459, and you would typically put that in without
18 the -279 and it will give you everything that's filed or
19 issued for that project, and then if you have an idea of
20 when that was issued you can search by date to narrow your
21 search. And so you can find anything you want with regards
22 to the project there.

23 Mailing list, the scoping document included a
24 mailing list in the back of it. If you got a copy of that
25 scoping document and looked at it, if you did not see your

1 name on that mailing list, and you want to be on the mailing
2 list, that is something that you would also request.
3 Request to be added, removed, or updated an address, and
4 that would also be something that would go, you would send
5 that request to FERC online support at FERC.gov.

6 And then finally, this is the newest office that
7 we have, the Office of Public Participation. Yeah, in the
8 back?

9 (Off mic question from audience.)

10 MR. CREAMER: Okay. Well that's something we
11 need to correct. But what's interesting is that mailing
12 list came off of FERC's official mailing list, so somewhere
13 along the way somebody didn't update that mailing list, so
14 we'll make sure that gets corrected.

15 Back where I was. Office of Public
16 Participation. This is a new office that we have, and its
17 mission is to empower, promote and support public voices at
18 the Federal Energy Regulatory Commission. So if you feel as
19 those your voice is not being heard at any point in this
20 process, you can contact what is actually called OPP, the
21 Office of Public Participation, and you can contact them and
22 they will help you through the process, understand the
23 process, and guide you through the steps of the process.

24 And their information, you can look on the FERC's
25 website, www.ferc.gov/opp. That will give you a direct

1 link to them, and all the information about that particular
2 office. This slide, I just put this in here simply as a
3 slide that shows you FERC's online webpage, and what it
4 would typically look like. And so it has that home page.

5 It has different links to it like e-subscription,
6 e-filing, there is multiple e-service lists, e-mailing, and
7 so whatever you might be interested in, if you wanted to
8 file something you would go to this page and click on say
9 e-filing, and it would step you through that process to file
10 whatever comments you were interested in filing.

11 There is also an opportunity, something called
12 e-comments, where you don't actually have to register with
13 the Commission on the website. They allow you to provide
14 comments, up to 6,000 characters I believe if you have a
15 particular issue that you want to put out there, you want us
16 to know about, you can actually do it through e-comment,
17 instead of actually filing a document.

18 Next. Okay. So that is all I had. I am going
19 to before we get into comments, open the floor for the
20 comments, I do have a list somewhere of people who signed up
21 to talk, but then there will also be an opportunity if you
22 don't hear your name called, you'll have an opportunity to
23 actually comment.

24 Procedures, I'm going to revisit this.
25 Procedures for commenting. Using the microphone, speaking

1 clearly and audibly, stating your name and affiliation, who
2 you're representing, spelling some names that aren't obvious
3 for the court reporter. So if you have a name that's not
4 obvious, I would ask that you spell it.

5 If you use an acronym along the way, please
6 define that acronym. Speak one at a time. So if somebody
7 is at the microphone and speaking, please refrain from
8 saying or commenting, anything while they are speaking, so
9 that will help the court reporter in putting this record
10 together. And then the last thing I want to reiterate is to
11 be respectful. With that, I will shift gears.

12 I'm going to move this microphone because I am
13 going to ask people to come up to the microphone, so that
14 the court reporter can actually record what's being said.
15 Yes?

16 (Off-mic question from the audience.)

17 MR. CREAMER: Okay. The question was our
18 comments are due October 25th, so what provisions are out
19 there for if the government shuts down. That's a good
20 question. My guess is, and I'm going to say this is a guess
21 at this point, I can't say for certain. But there would be
22 provisions, most likely to if the government were to shut
23 down, if the Commission was part of it, there would likely
24 be provisions that would extend the comment period.

25 That's my guess. I can't say that for certain.

1 It's the best answer I have for you right now. Okay. Based
2 on the list that we have I mean I only see a couple people
3 that actually marked yes to comment. So we're going to
4 start with those individuals, and then we'll open the floor.
5 It's important to me, and I do this with any of these type
6 of meetings.

7 It's important that everybody has a chance to
8 comment and say what they want to say. So if I don't call
9 your name, that does not mean that you cannot actually
10 speak, and so when this list is done, there's only like a
11 couple people, I will open the floor. And if you want to
12 say something I'm going to ask that you come up here, so
13 that it could be recorded. Otherwise the court reporter
14 cannot register what you're saying, so with that.

15 Okay. So typically we do not get into the habit
16 of PowerPoint presentations beyond what we do and what a
17 licensee may do. When we ask for public comment, and given
18 the size of this room here, I'm going to guess that there's
19 going to be multiple people that want to talk. So I'm going
20 to establish time limits, and I don't think you can do a
21 PowerPoint presentation in the time limits that I establish.

22 Now, that doesn't mean you can't get up here and
23 summarize what it says and file it to the record. You can
24 always do that, it can be filed in the written record, and
25 that PowerPoint will be there for eternity, or at least

1 until -- the time limit. Okay. What time is it? Okay. So
2 I don't know when they'll kick us out of this room, but I am
3 willing to go as long as I need to go until they do kick us
4 out.

5 So what I'm going to do right now is I'm going to
6 say five minutes, and then we'll see where we go to from
7 there. And if folks don't take five minutes that's fine,
8 but I want people that want to say something to say whatever
9 they want to say. Whatever their comments are. It's
10 important to me. It's important to those of us working on
11 this project.

12 But as far as the PowerPoint goes I would
13 probably -- we've never done that. I would say file that to
14 the written record, and please summarize it here. So with
15 that, Adam Polinski.

16 MR. POLINSKI: Hello. My name is Adam Polinski,
17 and I'm a local resident. I was involved to a degree during
18 the Cheat Lake Trail time period 30 years ago. I've been
19 receiving mailings for quite some time. I've used the park
20 intermittently over many years.

21 Like several people, I'm here because I saw the
22 pink highlights on the map, and I know how that 300 plus
23 acres contributes to Cheat Lake Park, Cheat Lake Trail,
24 Cheat Lake and the experience of a lot of people on the lake
25 in the park, on the trail, not to mention that there's you

1 know, plenty of aesthetic and biological considerations.

2 I don't know a whole lot about how this all
3 exactly goes on, but just by being here tonight I'm still a
4 little up in the air about what the long-term fate of those
5 lands are. It seems like they could go up for sale if they
6 leave the hands of FERC.

7 I want to see those lands go to the county
8 government, or to a land trust in the State of West
9 Virginia, if at all possible, and I don't want to see them,
10 you know, get sold and turned into neighborhoods, or to
11 marinas, or anything else that would change their current
12 very, very natural character. Thank you.

13 MR. CREAMER: Thank you, Adam. The other person
14 that I have here was Roger Phillips.

15 MR. PHILLIPS: Yeah, Roger Phillips. I didn't
16 really expect to get called up here, but here we are. Yeah,
17 I know. So, one of the things that watching this, you were
18 talking about the water temperature at the lake, and how it
19 affected the oxygen in the water, blah, blah, blah.

20 And a couple years ago everyone had to pull their
21 boat out of the water because they needed to drain the lake
22 down to oxygenate the water downstream. Do you recall that?
23 Am I correct? Okay. You're darn right I am. So anyways,
24 what I -- what concerns me about it is they said the water
25 temperature.

1 If there a certain water temperature it needs to
2 be? Or can somebody just say okay, it's July, the water is
3 72 degrees, it really needs to be 70, and we're going to
4 pull all the boats of the lake and change the temperature of
5 the water? I mean how does that work? Or is that only
6 affected through drought when we don't have a lot of rain?
7 That would be about -- that's one of my concerns.

8 It's because they pulled the boats out of the
9 water, and then they never really dropped the lake. They
10 dropped the lake about a foot. So everybody that complied
11 had their boats sitting at their house, and everybody else
12 was out on the lake running around. No answers? We're
13 just going to leave me hanging here?

14 MR. CREAMER: No. We're not going to leave you
15 hanging.

16 MR. PHILLIPS: And I'm going to go stand back
17 there, and I didn't know there were eels in the lake, and
18 I'm selling my boat now.

19 MR. CREAMER: I didn't say anything about eels
20 being in the lake. Anyway, Jody and Joyse, you can correct
21 me if I'm wrong, but my understanding of that is its an
22 operational procedure they put in place during times of
23 drought, or low flow periods when dissolved oxygen becomes
24 an issue.

25 And so, what they're trying to do the state,

1 through their 401 certification process, requires that
2 there's a standard of I believe 5 milligrams per liter. And
3 when the DO gets to a point where it starts to drop down
4 towards 5 or below, they implement this operations
5 procedure, and that's typically something that happens only
6 during drought times, and it's something that they worked
7 out with the agencies as a way of mitigating that dissolved
8 oxygen issue downstream.

9 So you all can correct me if I'm wrong. Okay.
10 Those were the only two names that actually marked yes on
11 the sign-in sheet, so.

12 (Off mic question from the audience.)

13 MR. CREAMER: We'll get there. And we will start
14 with you. So at this point what I'm going to do, is I will
15 open up the floor and when I see a hand go up, we'll go in
16 order. I see hands, and you're welcome to come up here, and
17 again your name, affiliation and you know, whatever your
18 comment happens to be. So with that said.

19 MR. BACKWATERS: And is it possible we could
20 make history and do a PowerPoint for the first time ever?
21 No. No PowerPoint. It's available on the link. Okay.
22 Thank you. My name is Captain Cheat Backwaters. I'll spell
23 that for the reporter. C-A-P-T-A-I-N Cheat, C-H-E-A-T,
24 Backwaters, B-A-C-K-W-A-T-E-R-S.
25 I'm the organizer of Save Cheat Lake Campaign. I

1 would like to address the 300 acres, which I think a lot of
2 people are concerned about. While I can't show you, it is
3 available online. We're on Facebook at Save Cheat Lake.
4 You say that the park will not be affected with these 300
5 acres. However, this land has -- is right beside the trail,
6 correct?

7 Up there, okay. So when you stand at the
8 playground, we've all been to the winter dock there at Cheat
9 Lake Park. And everything you see across from the beach,
10 all those trees, all the fall foliage that's coming in just
11 this season will be gone. If you look to your right,
12 towards the north trail, which is where the dam is, all that
13 acreages will be gone as well.

14 Some of us consider that part of the park itself
15 here. We won't have control over the trees because it will
16 be outside the project boundary.

17 (Off mic question from audience.)

18 MR. BACKWATERS: Something could be built there.
19 I mean a lot of possible outcomes could happen. And that's
20 why we're concerned is there's no guarantee, so. Okay. So
21 about this land being removed, which some of it 5.95 acres
22 includes Sunset Marina. Now they say the ramp is going to
23 stay public access.

24 However, the land that they're removing is
25 parking lot. Is that correct?

1 (Off mic audience member.)

2 MR. BACKWATERS: Okay. Thank you. Regarding the
3 park land --

4 MS. FOSTER: So, for Sunset Beach Marina the
5 parking lot is remaining in the project boundary. There was
6 a mistake in the final license application, where the entire
7 parking area was inadvertently put in the application, as
8 proposed for removal. It's been corrected on the FERC
9 docket and FERC record in the additional information
10 requests one and two responses.

11 (Off mic audience member.)

12 MR. BACKWATERS: So, there's been a question over
13 what happens when this land is removed from the boundary,
14 and I think Allan eluded to it before, but I'll read the
15 official statement. If the Commission removes land from the
16 project boundary, it is placing the land outside of its
17 jurisdiction. Could you confirm that?

18 MR. CREAMER: So again, to reiterate, and I said
19 this before. If the Commission decides to remove, and it
20 doesn't have to be this project. It could be any project.
21 If the Commission removes land from the project boundary, it
22 removes it from federal protection, so the Commission no
23 longer has jurisdiction over it. It doesn't change what you
24 know, the licensee may opt to leave it as it is, they may
25 retain it, and leave it exactly the way it is, it's just

1 outside of that administrative boundary of land that the
2 Commission may say isn't necessary for project purposes any
3 longer.

4 But I mean we have in two different additional
5 information requests, have asked for clarity on this, and so
6 it's an issue that is important, and we fully understand
7 that, and it will be carefully looked at in the
8 environmental document.

9 So again, I cannot reiterate this enough. No
10 decisions on what is happening with this land has been made,
11 regardless of anything that might be out there, that you
12 might hear, we will not make that determination until we get
13 to a licensing decision. And that will be based on what we,
14 as Commission staff, have analyzed in the environmental
15 document, and all the other comments that come in on the
16 issue.

17 So it's something that's important to understand.
18 No decisions on this have been made.

19 (Off-mic audience question.)

20 MR. CREAMER: So what is the benefit? The
21 benefit to the power company for having them removed. I
22 cannot speak for that. That would have to be something that
23 would come from the applicant.

24 (Off-mic audience question.)

25 MS. FOSTER: So in 1927, different licensees,

1 there was transmission lines also in the project boundary.
2 I really can't speak for the previous licensees. At one
3 point there were project transmission lines within the
4 project boundary. We don't own any transmission lines
5 passed getting to the first energy substation when we get to
6 the grid.

7 So I think that might have been why there was a
8 lot of project land in the project boundary previously.

9 MS. SMET: I missed the question in trying to get
10 up here, but you know, why are we changing it? As I
11 explained before it's largely administrative. We need a
12 simple project boundary, and typically FERC, you know,
13 requires it be to a contour.

14 When we have all these different meets and bounds
15 at different parts of the lake, it's hard for us to know
16 whether we're inside or outside, so it was really just
17 intended to be a simplification. If you recall that project
18 boundary map I showed you, you'll see that largely the
19 project boundary is that high water contour elevation.

20 We were just looking to bring all these other
21 weird areas into that. There's nothing -- 870 is what I
22 heard.

23 (Off-mic audience question.)

24 MS. SMET: Yes sir. Okay. I'm can't speak to
25 all the leases around the lake. Happy to look at those one

1 on one with anybody. Again, it's been through various
2 ownerships, and those leases have moved forward. But our
3 full pool elevation is 870. Now we might have flood rights.

4 (Off-mic audience question.)

5 MS. SMET: That's what it is, largely today.
6 This was your comment period.

7 (Off-mic audience question.)

8 MS. SMET: You guys have this figured out, so
9 I'll leave it to you, but we said in the application that --

10 (Off-mic audience question.)

11 MS. SMET: We put in the application that
12 Lakeland Generation would retain the lands period. I mean I
13 don't know how to get more clear than that.

14 (Off-mic audience question.)

15 MS. SMET: Sir, we are not removing public access
16 lands. I've said repeatedly that the recreation areas are
17 going to stand. These other areas are steep mountainsides.
18 I haven't seen anybody recreating on them. We're not taking
19 Sunset Beach Marina out here. I put it in writing, and I
20 said it.

21 (Off-mic audience question.)

22 MS. SMET: No. I live in Virginia.

23 (Off-mic audience question.)

24 MS. SMET: I have.

25 (Off-mic audience question.)

1 MS. SMET: Do you want the microphone? Do you
2 have a question for me?

3 (Off-mic audience question.)

4 MS. SMET: Well come on up.

5 MS. WATSON: I just have a few things. My name
6 is Patty Watson. I was born in Morgantown. I was raised in
7 Point Marion, and I currently reside in Fair Chance. And
8 again, lifelong resident, both of my daughters here learned
9 to swim in that lake. I learned to swim in that lake.

10 I feel like that lake belongs to me and my girls,
11 the way it belonged to my dad and my grandfather, just like
12 it belongs to each one of you that are out there on that
13 lake every day, every weekend, whenever. And I do, I've got
14 questions. I've got questions about restricting waterways.

15 At this property around the edges that you're
16 looking to get rid of, well excuse me, that you're taking,
17 but you want to get outside of the boundary lines. If you
18 guys do sell those off, the people you're selling that off
19 to could then restrict our right for access to those
20 waterways, through those areas now.

21 Not only that, but property value. What do you
22 think that that's going to do to some of the people's
23 property values around the lake area. Yet. So far. Let me
24 see here. The ghost crews. I was around for the flood of
25 85. And without the dam even giving away, okay, the dam

1 held, and the water came halfway up the inside of the food
2 land and Point Marion.

3 If one of those dams ever gave, the water would
4 crest somewhere around Herrod's, and that's just Point
5 Marion. We're not taking into consideration what happens to
6 Greensboro, we're not taking into consideration what happens
7 to Brays Landing, and everything else that comes on down
8 that river. Okay?

9 Ghost crews. If something does happen there, how
10 close are your first responders that can get to that dam to
11 do something in case of a malfunction? Or God forbid,
12 because it's all controlled by everybody on the internet or
13 whatever from Tennessee, what says we couldn't get hacked?
14 That's a major thing too.

15 What if that dam gets hacked? You're talking
16 about a bunch of people's lives that are going down river
17 from there, and that's very, very unsettling to me.
18 Millions of dollars put into a trail, a bike trail that has
19 now last I saw it's blocked access, and we're being told
20 that the company, the consulting company TRC, that came in
21 to figure out whether or not they wanted to open the gate or
22 not.

23 Somebody that works for Ontario Power, or Eagle
24 whatever, is our own Joyse here, and to me that feels like a
25 conflict of interest to have a consulting company come in

1 that you used to work for, for about five and a half years I
2 think. So that's just a conflict of interest to me in my
3 own heart of hearts.

4 No disrespect by any means, it just seems like a
5 conflict of interest. But like I said, born and raised here
6 my whole life, and I'm not going to sit down. I'm not going
7 to stand back and watch these lands around this lake, things
8 that we've all taken you know, to heart for so many years,
9 just be twiddled away by somebody who is going to go back to
10 Virginia, go back to wherever you guys are from.

11 You guys aren't going to be here. The only
12 people that are going to be here is your ghost crew.

13 MR. BACKWATERS: Can you comment on how many
14 people are physically at the dam at night and weekends?

15 MS. SMET: As I said in our presentation we have
16 our staff there from 6:00 a.m. until 4:00 p.m. every day,
17 Monday through Friday. And then it's remotely, we have
18 people on call 24/7 from Tennessee. Yeah, there are no
19 people after 4:00 p.m.

20 (Off-mic audience questions.)

21 MS. SMET: We have operators that live in
22 Morgantown, and as we said in our presentation during high
23 flow events we are onsite no matter the hour or the day of
24 week. So if there are high flow events that you would be
25 concerned about, we have people on staff, or onsite for

1 those.

2 FERC also regulates dam safety and flood events.

3 And as I was saying, we have an emergency action plan that

4 dictates how we have to respond during those events.

5 (Off-mic audience question.)

6 MS. SMET: Yes.

7 MR. BACKWATERS: I think if we could elaborate on
8 these crews not being there, and what the concern is. We
9 had an incident on May 30 of 2022 at 9:37 p.m. A warning
10 alarm was set off in Lake Lynn, Cheat Lakes dam control
11 room. According to Joyse Foster, "On duty operation's staff
12 failed to observe the activated alarm until over four hours
13 later, at nearly 2:00 a.m." That's why we're concerned
14 about people not being there.

15 Further, we had an oil spill in Point Marion.
16 Oil from one of the machinery from the dam was spilled into
17 Cheat Lake, excuse me, Cheat River, downstream. And you
18 talk about emergency protocols, well the Point Marion city
19 water was not notified of the oil spill. And the problem
20 with that is their intake is right where the oil spilled.
21 So what happened?

22 A city water official was driving by, saw that
23 there was oil containment buoys in the water, and they said
24 whoa. That's not good. What's this about? So they called
25 Eagle Creek, and then they were informed that oil was

1 currently being sucked into the city drinking water supply.

2 If we could go back to the property removal. It
3 seems there's a misconception over this is a private
4 company, and like most businesses in America if you have a
5 private company you can do what you want. But this case is
6 a little different because it's a manmade lake okay? And
7 that's why FERC has all these rules.

8 So, the Federal Energy Regulatory Commission when
9 issuing a license for a hydropower project requires the
10 licensee to undertake appropriate measures to promote both
11 developmental, which is power generation, and
12 non-developmental uses of a waterway, and they specifically
13 state scenic, recreation and environmental.

14 Well if scenic, and I can't pull up the picture,
15 but I invite you to go online and look at it, part of what
16 we stand in Cheat Lake Park and look at, is part of these
17 300 acres. It's part of the scenery. And if someone gets a
18 hold of it and builds there, or does whatever they want to
19 do, it will damage the scenic beauty of our park.

20 Further, a project boundary must enclose only
21 those lands necessary for the operation and maintenance of a
22 project, and for other project purposes such as recreation,
23 shore line control, or protection of environmental
24 resources.

25 Project boundaries may be changed, but such

1 changes are approved only upon a determination that the
2 lands are either needed, or not needed for project purposes,
3 including operation and maintenance of a project,
4 recreation, public access and protection of environmental
5 resources and shore line control.

6 It is state law for them to have what Allan
7 called a balanced view when they look at this proposal to
8 remove 300 acres. And going back to --

9 (Off-record audience question.)

10 MR. BACKWATERS: I have one more issue. I will
11 wrap up.

12 MR. CREAMER: No. You can wrap up when these
13 gentlemen are done. Thank you.

14 MR. MCGRAW: Thank you. I won't take long. I'm
15 here as a private citizen, an owner of lakefront property on
16 Cheat Lake. Chair of the Committee that oversees Forks of
17 Cheat Forest Nature Preserve on Cheat Lake, which preserves
18 over a thousand feet of lake frontage. And as a professor
19 emeritus of biology at West Virginia University, and
20 conservation biologist. My name is James McGraw,
21 M-C-G-R-A-W.

22 Captain James -- no. I believe the recreational,
23 scenic and wildlife values of Cheat Lake to the local
24 community are immense, and not adequately addressed in the
25 FERC application. As time is limited, I'm only going to

1 address the wildlife value, which my expertise allows me to
2 comment on.

3 And as such, my biggest concern is this issue of
4 land divestment from the project area. I think I'm with
5 everyone who's spoken so far that I'm concerned that even if
6 we were to trust the current owners of the dam, we couldn't
7 trust future owners of the dam not to divest themselves of
8 that property. There's nothing preventing them from doing
9 so, and there's no one to hold their feet to the fire to
10 keep it for public good in the future.

11 That land offers a green buffer of forest around
12 the lake, which is not only scenic, but it acts as a buffer
13 for lake -- potential lake pollution from surrounding areas.
14 These forests act as a wildlife corridor, allowing movement
15 of large animals, nesting birds, et cetera. In that area we
16 have a number of areas of old growth forest, very large
17 trees, which are unusual.

18 If you've been to the arboretum along the Mon
19 River, we have forests that consist of trees that large, or
20 larger right along Cheat Lake, and it's part of what gives
21 it its character. That gives nesting habitat for important
22 raptors, and perching places for species such as a bald
23 eagles and osprey, if any of you spent a lot of time on the
24 lake I'm sure you've seen them.

25 Without those large trees and perching places we

1 wouldn't have birds like that. If you notice the pink areas
2 are in long stripes along the lake. That provides a
3 corridor for species like beaver, bear, which we've seen in
4 our neighborhood, fishers.

5 Some of you probably don't know
6 what they even are, bobcats, most of you know what those
7 are, but a number of species like that require areas that
8 are bigger than individual patches of land, and these
9 stripes of pink connect them, so they're very important for
10 wildlife.

11 And therefore, if lands are allowed to be removed
12 from the public area, it should not be for any purpose but
13 the public good, which includes the good of green space and
14 wildlife. They cannot be allowed to be developed, timbered,
15 coal mined. If any of that is a possibility, they should
16 not be removed, because that area has been essentially a
17 public park for about 100 years.

18 As soon as it was set aside and taken by eminent
19 domain it became essentially a park. And so removing those
20 lands is essentially removing a park, which is our public
21 good, that may of us have enjoyed, even if we've only looked
22 at it, and we haven't swung from rope swings on the side.
23 Okay, so I'll end there, thanks.

24 MR. CREAMER: Thank you. There was a gentleman
25 also back there that had your hand up?

1 (Off-mic audience question.)

2 MR. CREAMER: Oh okay. Yeah I'm going to go to
3 this gentleman over here with the West Virginia hat on, all
4 right?

5 MR. MOSSOR: My name is Mike Mossor, Morgan
6 Mossor, I live in Warmhalla Association Community, and I'd
7 like to for the record submit a couple letters that many
8 people have turned into Ms. Smet, and to Allan on the issue
9 of the hydrilla that's creeping up in our lake, hindering
10 our boating, et cetera, so I won't belabor this anymore.
11 I'm going to submit these letters to the record.

12 MR. CREAMER: Okay. I've got a gentleman in the
13 back. Do you want to come forward?

14 MR. MAY: Good evening. My name is John May.
15 Could you tell me what the power companies expending in
16 terms of time, funding and effort right now to maintain
17 those lands that you want to remove?

18 MS. SMET: No. I don't have that information,
19 sorry.

20 MR. MAY: Okay. I'm at a loss to understand as
21 to why you want it removed. I really am.

22 MS. SMET: I've explained it several times, and
23 it doesn't seem to be accepted, then that is fine, but I
24 don't need to repeat myself.

25 MR. MAY: Okay. Well thank you for coming.

1 MR. CREAMER: Yes, the gentleman right here?

2 MR. MULLETT: Chuck Mullett, M-U-L-L-E-T-T. Is
3 there a process in -- is there a mechanism in this process
4 to use the public's interest as leverage to allow the right
5 of first refusal for a land grant alliance, such as the
6 Western Union Land Grant Alliance, I think, I was just
7 googling it to I guess purchase the right of first refusal
8 to purchase the property if that would be durable beyond
9 your all's ownership so that we would all be reassured that
10 the land would stay natural forever and ever. Does my
11 question make sense?

12 MS. SMET: It is possible. We've done land
13 donations, land preservation at many of our relicensing, so
14 preservation and conservation of the lands is not out of
15 question. Does that answer it?

16 MR. MULLETT: It does. So potentially if we had
17 a group that was willing to buy that option, like a land
18 trust alliance, we could advocate and get an agreement with
19 the power company that would reassure us all? Yes?

20 MS. SMET: If it was outside the project
21 boundary. I can't give it to anybody inside the project
22 boundary.

23 MR. MULLETT: Okay. Understood. Thank you all.

24 MS. SMET: He asked me if we could sell it to a
25 land conservation group, and I said we cannot if it's inside

1 the project boundary. Yes. We haven't said what we're
2 going to do with it. We just are saying that it's not
3 needed for project operations, and it does not need to be
4 part of the boundary. I appreciate the suggestion, yeah.
5 This is the first time that we're hearing that there's
6 interest, so it's good to hear.

7 MR. CREAMER: Yes. This gentleman right back
8 here.

9 MR. BURDETTE: Bob spelled with a Bob Burdette.
10 Sooner or later Cheat Lake is going to be its own community.
11 Why don't we buy the property? There's enough of us here
12 that could put money into this, and we can control our own
13 area. Now you say you can't sell it to individuals, is that
14 my understanding?

15 MS. SMET: Not if it's inside the project
16 boundary.

17 MR. BURDETTE: Well we don't want to buy it
18 inside the project boundaries. We want to buy the 300 and
19 some acres.

20 MS. SMET: Right, but you're telling us you don't
21 want us to take it outside the project boundary.

22 MR. BURDETTE: Well I only hear half of what's
23 going on. I don't hear so well. All I know is the folks
24 that have come up here that want to preserve this 300 acres,
25 they're absolutely right. The government took it a long

1 time ago for the good of the people. For the good of the
2 people give it back.

3 Let us buy it back. Let us take control of our
4 own community out here at Cheat Lake. So whatever we can
5 do, allow us to start forming as a group, to purchase that
6 300 acres, or whatever other acreage you have, have got to
7 come to us first to buy it. Does that make any sense? I
8 don't know.

9 Well it's easy to say donate when you're talking
10 to corporations, you know. Well if they can donate that's
11 fine, that's great. But if they won't, then let's together
12 and just buy it. It's outside the boundary, that's what
13 we're interested in.

14 (Off-mic audience comments.)

15 MR. CREAMER: Thank you. Is there anyone else?
16 Yes, the gentleman right here.

17 MR. FIELD: My name is Bradley Field. A lot of
18 suggestions here. I like the idea. If the power company
19 would agree to it, if they could gift it, that would make a
20 beautiful state park. My thought is Mason Dixon State Park
21 that's right on the line. I think Governor Justice is an
22 outdoors person. I think if somebody pressed the right
23 button with him, I think he would jump on the chance.

24 We're talking millions of dollars to bring it up
25 to state requirements, and maybe the road into Morgan Run

1 would be a requirement to make it a state park as well. But
2 I think it's doable. I know we've got another state park
3 right up the road, Cooper's Rock, but you know, the park
4 area would make a great area for state park, and if we could
5 add the trails to it that would be great.

6 That doesn't take into consideration the other
7 non-contingent areas, contiguous areas. And if it doesn't
8 work out, the state's got a little more money than the
9 county does, but we have a county park up at Chestnut Ridge,
10 we have a county park at Dorsey's Knob, we have Mason Dixon
11 Park.

12 Somebody approached the County Commission. I
13 think they would like to have this. I think this might be a
14 win for the power company. You all spend a lot of money
15 maintaining that park with security. It's about to need a
16 bunch of maintenance on the fishing piers and all that,
17 they've been there 30 some years. It would be a win for you
18 if the state took that over, or the county took it over.

19 I don't know if the County Commissioners have
20 that kind of money, but they might be able to get some grant
21 money. And I think there's some state community money that
22 can be given back for such an endeavor. That would be up to
23 approaching the power company to do that.

24 MR. CREAMER: Thank you. I've got a gentleman
25 back here, and then you're next.

1 MR. CONLEY: The name is Jamison Conley.
2 J-A-M-I-S-O-N, last name C-O-N-L-E-Y. And I have a, I
3 guess, reiterating the clear consensus of the desire to keep
4 the land natural, and a simple question perhaps piggybacking
5 off of Dr. McGraw's comments, wondering if the Avian
6 Conservation Center for Appalachia has been approached as a
7 potential stakeholder and interested party in this process.
8 Thank you.

9 MS. SMET: No. It doesn't mean we won't talk to
10 them, but no.

11 MS. CREAMER: Yes. Ms. Weems?

12 MS. WEEMS: This is very exciting. Lots of great
13 ideas. My name is Donna Weems. I'm a member of CLEAR Cheat
14 Lake Environmental and Recreation Association. My one
15 concern with this would be that because that land was taken
16 by eminent domain by farmers, towns were taken by eminent
17 domain.

18 So this land should be used for the public good.
19 It should be in public hands. It should not be in private
20 hands, and so we have a lot to do in a year because that is
21 when the relicensing takes place. And the only way I would
22 feel comfortable about saying yes, it's okay to take it out
23 of project lands, if we can put a stipulation in there
24 saying no matter what happens, it has to be in public hands.

25 It has to be for the public good. It cannot go

1 into the private lands because we cannot get all this done
2 before the relicensing. There has to be strong stipulations
3 about that.

4 MR. CREAMER: Thank you. Just one comment with
5 regards to land removal, or retention within the boundary.
6 If the Commission were to determine that that land should
7 remain within the project boundary, it would do so in a new
8 license, and that would be for whatever term.

9 And if the current applicant were to sell the
10 land, that license transfers, and all the requirements of
11 that license will transfer, which means at least through the
12 next licensed term it would be in public, you know, it would
13 be something that the Commission would still have
14 jurisdiction over.

15 Now, that doesn't mean that these other ideas are
16 all great ideas, and certainly if Lakeland Generation
17 chooses to go down that road, that's fine. You know,
18 certainly it's something you're absolutely right, based on
19 where we are in the process, it is something that may or may
20 not happen before we get to that point of making a licensing
21 decision.

22 But they are all certainly great ideas, so.
23 There was another hand I saw. Yes. Mr. Nichols.

24 MR. NICHOLS: Thank you very much. My name is
25 Duane Nicols. I live in Stewartstown. I'm here tonight

1 having been here 30 years ago. Perhaps others of you were
2 here too at that dedication. Allegheny Energy put a tent
3 right up on the project land. We had a tremendous turnout
4 on a tremendous day, and since then the opportunity to use
5 the trail it's had some problems as you know.

6 Sometimes trees fall. There was a washout. So
7 maintenance and systematic and effective and prompt
8 maintenance, are things that are needed not just for the
9 trail, but for the entire park. And that's why I have, and
10 the people that I know have been promoting an employee on
11 hand that is competent and trained in recreation.

12 I would ultimately like to see a bicycle venue
13 where somebody can come down and pick up a bicycle for two
14 hours. We already have in Morgantown something called the
15 bicycle shop. You may know where it is for used bicycles.
16 But more than that, what's coming up here is the need for a
17 new recreation plan, and the new shore line management plan.

18 And if we could change the schedule for those,
19 instead of doing them two years from now, if a new
20 management plan for the shore line is done within the next
21 six months it can verify and include these lands we're
22 talking about right here today.

23 And it will reveal, I'm convinced, the utility
24 of, the significant of, and the need to keep those lands.
25 So for that reason, I'm strongly supporting starting already

1 on an update to the rec plan, and since we don't have a
2 shore line management plan at all, get it. Let's get it
3 going because that's so much in need.

4 I want to conclude by saying that question, it's
5 been referred that some of the land that's in question is
6 above 870 on the elevation. Is 870 the number that has been
7 suggested? So that's the high mark on the water, and all
8 the land is above 870 right?

9 AUDIENCE MEMBER: Yes.

10 MR. NICHOLS: So does that mean you're proposing
11 to eliminate all of the land above 870? Well why is the
12 number 870 in question here?

13 MS. SMET: I don't know that it is Duane. We
14 would have to look at the contour. We've got it in GIS.
15 Oh.

16 MR. NICHOLS: I'm sorry.

17 MS. SMET: So Duane's asking what the actual
18 contour project boundary is, and I don't have that top of
19 mind. We have to file that electronically with FERC, GO
20 referenced. So I can't answer that question Duane.

21 (Off-mic audience question.)

22 MS. SMET: Yeah. Okay.

23 MR. CREAMER: Do we have a lady back here?

24 MS. LUPTON: Hi. My name is Teah Lupton.

25 T-E-A-H, last name Lupton, L-U-P-T-O-N. I'm a Cheat Lake

1 resident, home owner on the lake. I wanted to just draw a
2 little bit further attention to the hydrilla issue that I
3 think Mr. Mossor identified earlier.

4 That is already a pretty significant
5 environmental concern. Invasive plant that is really
6 creating an issue, a habitat issue for our fish and wildlife
7 in the lake. And I don't think it is currently being
8 adequately addressed. I know that I, and several other
9 Cheat Lake residents have sent letters to the power company
10 encouraging collaboration with DNR, who has identified it as
11 a major issue for Cheat Lake, that is only going to get
12 worse if we don't address it.

13 And so I think one of the concerns I have is it's
14 already not being addressed, and there are other resource
15 issues that we feel like are not being addressed maintenance
16 issues, that if this land that is at issue now somehow gets
17 out of FERC jurisdiction, whether you intend to sell it, or
18 you know, a later owner does, that is only going to increase
19 the potential for this hydrilla growth, that will eventually
20 take over many aspects of our lake, and make boating very
21 problematic for many people, and create a major wildlife
22 catastrophe for fish.

23 So I don't know if everybody here is familiar
24 with this hydrilla issue, but it is growing rapidly. It's
25 getting worse every year. I would encourage you,

1 particularly you know, if you were on the lake to do a
2 little bit of research on it. Try to encourage the power
3 company to engage with DNR, which I think does have some
4 ideas about how to address it.

5 Because if we don't, and certainly if additional
6 land gets outside of FERC jurisdiction and falls into the
7 hands of private development, that further increases the
8 potential for the hydrilla growth, so that's all I have.

9 MR. CREAMER: Thank you. The gentleman right
10 here. Can you come up to the microphone please.

11 MR. BROWN: We had spoken earlier about the
12 Sunset Beach is not part of the removal. Is there any other
13 areas on the project map that's not?

14 MS. SMET: Yeah. So not part of the removal.
15 The entirety of Cheat Lake Park, so all the facilities
16 there, the four and a half mile trail, the playground, the
17 beach, the bathrooms, all of that will remain in the project
18 boundary. Two of the nature viewing areas, Cheat Haven
19 Peninsula, at the end of the south trail will remain in the
20 project boundary, as will the Tower Run nature viewing area,
21 which is on the opposite side of the lake.

22 The tailwater fishing area below the powerhouse
23 remains inside the project boundary. I think that was all
24 of them. So all of the current recreation areas stay within
25 the project boundary. Did that help?

1 MR. BROWN: Now you said project area C, which
2 I'm actually a lessee back here in Jordan Harbor, you said
3 about 870. That's where we're at. We're at 870 back there.
4 You have our property am I correct? We're 870.

5 MS. SMET: So we looked at that with the last
6 question. And so when I say 877 before, I believe that's
7 where the project contour is, the project boundary. But our
8 full pool reservoir elevation is the 870 number.

9 (Off-mic audience question.)

10 MS. SMET: Yes. I mean it's not new in some
11 areas, it's what it is, but that's what we bring it down.
12 The high water mark is 870 full pool, correct, and that's
13 what's in the license application.

14 (Off-mic audience question.)

15 MS. SMET: I would have to look at that area
16 specifically. I don't have the elevation data at hand. But
17 Jordan's Harbor, I know we own 10 acres there that we lease
18 to private individuals.

19 MR. BROWN: Ten acres?

20 MS. SMET: In Fayette County. I believe that's
21 what's on the GIS record.

22 MR. BROWN: I didn't think that was that big of a
23 property back through there.

24 MS. SMET: With contours, oh okay. He said is
25 there a map available of the areas to be removed with the

1 contour elevation? Joyse, I don't think the maps in the
2 license application are to the contour, but we can look at
3 that, or I don't know submit it to FERC. We can look at
4 that, get that to you guys.

5 MR. CREAMER: Thank you. The lady right back
6 here. Can you step up the mic please.

7 MS. SWIGER: Jackie Swiger. I'm a resident of
8 Cheat Lake, and my question is does the power company ever
9 have to dredge the lake because Cheat Lake Island gets
10 bigger every year.

11 MS. SMET: I don't believe there's a current
12 license requirement for dredging. In my tenure here we have
13 dredged near Sunset Beach the boat launch. That's the only
14 one to my knowledge.

15 MR. CREAMER: Thank you. Do we have anyone else?
16 It's approaching 8:10, so yes?

17 MR. SCOTT: My name is Richard Scott. Five, six
18 years ago you had a community meeting at the fire hall. And
19 at that meeting you stated, or someone stated that you're
20 looking at dredging the lake, but you were having the
21 sediment analyzed to see if it was toxic before you could
22 make a decision on dredging.

23 This is West Virginia. It's 90 percent strip
24 mined. You've got to think what's in there, even if it's a
25 little bad, it's better than what most of the soil samples

1 are. You want capacity to turn power requires water.
2 You've got more water. You got more power to generate
3 without dropping the level of the lake.

4 It's the same thing two summers ago when you had
5 to make the water downstream, what about the water upstream?
6 You drained the lake, the stream coming in, the Cheat River
7 coming in drops to nothing. What about the aquatic life up
8 there?

9 MS. SMET: So you have the state water quality
10 standards apply to the project in the discharge. You know,
11 we're concerned about water quality and aquatic life in the
12 project boundary. I can't speak to draining the lake.

13 MR. CREAMER: Okay. Do we have anyone else? All
14 right. I don't see any other hands.

15 MR. BACKWATERS: Could I just say one last thing?
16 I promise it's short.

17 MR. CREAMER: Three minutes.

18 MR. BACKWATERS: I won't even take three. Could
19 I ask why the 300 acres wasn't mentioned in stage one or two
20 of this project? The back gentleman said they met at the
21 fire department back in 2019 when this process started. How
22 come we only learned about the 300 acres in stage three?

23 MS. SMET: We hadn't evaluated the project
24 boundary at the start. It wasn't a consideration. It
25 wasn't a proposal. There's honestly nothing nefarious going

1 on here.

2 MR. BACKWATERS: And concerning the historic
3 properties management plan, that will be done after the
4 license is granted?

5 MS. SMET: Currently as proposed, the resource
6 management plans in the application would be post-license
7 issuance, which is fairly typical. There are four that are
8 proposed within a year, and then I think the fifth has two
9 years.

10 MR. BACKWATERS: And the problem with doing that
11 plan after the license is two of the parcels have historic
12 structures on them. The 69.42 acres, and the 76.66 acres.
13 So if we're only going to do the historic properties
14 management plan after we've removed those from the
15 boundaries, then shouldn't we do that before because the
16 historic structure is there. That's a rhetorical question.
17 I'll finish up.

18 We do have concerns about rusty metal, dead
19 trees, lights not working, water fountains don't work. The
20 men's day use bathroom, both sinks don't work. You can't
21 wash your hands. So we have concerns about the Cheat Lake
22 Park because we care about that park. Also, the Office of
23 Auditor General of Ontario has said that Ontario power
24 generation has a backlog of 9,500 maintenance work orders at
25 the end of 2021.

1 We're concerned about that. And finally, Dustin
2 Wilson with FERC, that was supposed to be here to speak to
3 recreation and land use, which is the main topic here. You
4 stated at the last meeting he texted you this morning and
5 said he couldn't come in. And I just want to say we're
6 disappointed we couldn't speak to our government officials
7 about recreation and land use, particularly the guy that's
8 in charge of that.

9 Thank you, and we love Cheat Lake, that's why
10 we're here. That's why anyone came to this meeting tonight
11 on a Monday at six o'clock. We love Cheat Lake. We want to
12 work with you guys, work with us. Take the olive branch and
13 we'll all have a great lake. Thank you.

14 (Off-mic audience question.)

15 MR. CREAMER: Yes.

16 AUDIENCE MEMBER: And you're taking testimony
17 from an individual who has not supplied a true valid name or
18 address, or who he represents.

19 MR. CREAMER: That is correct. So what I will
20 speak to in that regard is these are public hearings, and we
21 are -- we let everyone speak that wants to provide comments.
22 And I've been to meetings where people don't give us their
23 names, or you know, and we get anonymous comments all the
24 time. So, that being said, an individual's name, while it's
25 important, it doesn't negate the -- what we try to achieve

1 with these scoping meetings, and that is hearing from
2 everyone who has something they want to say.

3 I've been to many meetings where that has not
4 happened, and we hear about it. And that's not necessarily
5 a good thing when your government agency, or you're
6 representing, what quite frankly, those of us here we work
7 for a federal agency, that we are actually working for the
8 people of the country.

9 So I work on projects all over the country.
10 Primarily in the south, but I work on projects all over the
11 country. And I try to represent in an unbiased manner.
12 That's what we're supposed to do, so recognizing the fact
13 that he did not give us his real name, that I understand
14 that, but it doesn't negate his comments for what they are.

15 Now, speaking to a couple things. One, historic
16 properties management plan. If you remember right in the
17 bullets that were up there when we talked about the resource
18 issues, and things that we plan to address, we plan to
19 address the removal of land on potentially affected
20 resources, and that includes cultural resource, historic,
21 archeologic sites.

22 So even though there is no historic properties
23 management plan right now, that does not mean that we will
24 not be addressing the potential removal of those lands on
25 any of those sites that might be on those parcels of land.

1 That will still occur. That will actually feed into
2 potentially, what may happen in a historic properties
3 management plan, and a programmatic agreement.

4 That's something that's done under Section 106 of
5 the National Historic Preservation Act, and it lays out
6 exactly the stipulations that a licensee must follow in
7 preserving archeological and historical properties. As for
8 Dustin not being here. He regrets not being here.

9 He was actually hoping to be here tomorrow. But
10 yeah, he could not be here, and it was for no reason of his
11 own. That's all I will say. I cannot divulge anymore. So
12 please don't take that just because he was not here meaning
13 that you couldn't talk to him. Dustin is available. If
14 anybody wants to talk to Dustin Wilson, I can give you an
15 email address, I could give you a phone number.

16 You're free to contact him at any time. He just
17 could not be here tonight even though he was planning to.
18 Something came up unforeseen, and probably you know, it's
19 regrettable, but it's just things happen. So, with that is
20 there any other comments that anybody? Questions or
21 comments? All right, yes?

22 (Off-mic audience question.)

23 MR. CREAMER: Can you come up here please? Thank
24 you.

25 MS. STROSNIDER: Dawn Strosnider.

1 S-T-R-O-S-N-I-D-E-R. Now the public safety measures that
2 you take now, the signage, lights, et cetera, that will not
3 be expanded upon, correct?

4 MS. SMET: If there's a determination that
5 additional public safety measures are needed, we would put
6 them in the plan.

7 MS. STROSNIDER: In the event of a catastrophic
8 failure though, that would stay as is?

9 MS. SMET: You're confusing two of the plans.
10 It's an emergency action plan, the EAP that governs the high
11 flow events and a potential failure of the dam or
12 powerhouse. FERC reviews and approves that plan, and then
13 we have to be in compliance with it.

14 MS. STROSNIDER: Is it in place now, or will it
15 be restructured?

16 MS. SMET: It's in place now, and it's approved
17 by FERC.

18 MS. STROSNIDER: Is it somewhere that it can be
19 accessed?

20 MS. SMET: I don't know if that's publicly
21 available. I'd have to check the FERC docket, just because
22 there's certain critical energy infrastructure information
23 that needs to be protected.

24 MS. STROSNIDER: Okay.

25 MS. SMET: But FERC does govern dam safety, and

1 our operation of the project.

2 MS. STROSNIDER: And you have mentioned the
3 Sheepskin Trail connection that you had heard it's happening
4 sooner? How were you given that confirmation, just because
5 I was with Fayette County Commissioners earlier.

6 MS. SMET: Ella Belling with the Mon Trails
7 Conservancy, she came in and she was talking about I don't
8 know state funding or something that the time is now.

9 MS. STROSNIDER: Did you apply for it, and then
10 --

11 MS. SMET: I am not going to speak to that. I
12 don't think that I can answer that correctly. I would ask
13 you to speak to Ella.

14 MS. STROSNIDER: Okay.

15 MS. SMET: But we've been cooperating with her on
16 the Sheepskin Trail connection.

17 MS. STROSNIDER: All right. That's all I need to
18 know. Okay. Thank you.

19 MR. CREAMER: Thank you. Anyone else have
20 questions or comments before I wrap up? Yes?

21 MR. RICHARDSON: Hi. I'm Garrett Richardson with
22 Friends of the Cheat. I just want to let everyone else talk
23 before me because also we've submitted our comments, and
24 have been writing them, but I just wanted to let you guys
25 know some of the stuff we've already looked into. A lot of

1 it is concerns like you all, but specifically we looked into
2 some standard operating like procedures.

3 We've kind of gone into the nitty gritty of how
4 things are reported, how they're going to be reported with
5 PhD's dissolve oxygen, and with the recreation stuff we
6 definitely support a recreation management plan to be a
7 component of the NEPA process.

8 Shore line management plan be developed as a
9 component of the NEPA process, and we request that the
10 cumulative effects analysis of the next 30-50 years of this
11 licensing look into the future flood resiliency of the Cheat
12 River discussion on climate change in West Virginia, and the
13 effects that involve things like the invasives, and have had
14 -- for other rare, endangered and other species.

15 So we kind of have a detailed one, but I'm here
16 and just wanted to let you guys know some of the stuff that
17 we're working on in depth, so thank you.

18 MS. SMET: The hydrilla, the invasive aquatic
19 plant species has come up several times, so I wanted
20 everybody to speak to that, then I could respond. So, so
21 far we've had several conversations with the West Virginia
22 DNR. We actually partnered with them recently. They did an
23 aquatic vegetation survey of the lake to map the hydrilla
24 for us.

25 So we're currently waiting on that map, BGO

1 reference for us to understand the extent. The email I got
2 from them said it's similar to last year. What Joyse and I
3 have seen, and what we heard from folks, you know, it feels
4 and seems like it's greater. If there's any good news here,
5 we as a company, I've worked personally on hydrilla
6 management at another of our projects pretty successfully
7 for at least 13 years now.

8 And so that's what we came to the state DNR
9 talking to them about because we have cooperative
10 relationships in North Carolina with the Wildlife Resources
11 Commission there, North Carolina State, where it's a
12 cooperative program where we address the hydrilla through
13 chemical and biological means.

14 So it would be like herbicide applications. In
15 North Carolina, we introduced grass carp to eat all the
16 hydrilla. I'll say West Virginia DNR is very nervous about
17 that. It's not something they're comfortable with doing.
18 So we would have to explore the management alternatives, but
19 there's not really a mechanical alternative to kind of rake
20 it and keep it out.

21 So I will say that the chemical and the
22 biological treatment in our North Carolina lakes was very
23 effective. We went to a lot of acres to none in probably
24 five years of hydrilla, so. If it's any comfort, we have
25 experience with it. We're watching it. We've started

1 cooperating with the state. I don't think the DNR has a
2 robust program dealing with aquatic invasives, and so this
3 will be an opportunity for both of us.

4 (Off-mic audience question.)

5 MR. CREAMER: Thank you. Any other -- it's 8:20,
6 and I think we're supposed to be out of here technically by
7 8:30, so any other comments or questions real quick before I
8 wrap up? Okay. Seeing none, on the screen as I said, as
9 the project coordinator I am available if there's any
10 questions that come up along the way, feel free to reach
11 out.

12 My email is there, as well as my phone number. I
13 have cards in the back, and if there's not let me know
14 because I have more. So with that I certainly appreciate
15 everybody coming out in the interest. Certainly there was a
16 lot more people here than I expected to be, but that's a
17 good thing, so thank you very much.

18 (Whereupon the Scoping Meeting concluded at 8:25
19 p.m.)

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1 CERTIFICATE OF OFFICIAL REPORTER

2

3 This is to certify that the attached proceeding

4 before the FEDERAL ENERGY REGULATORY COMMISSION in the

5 Matter of:

6 Name of Proceeding:

7 Lake Lynn Hydroelectric Project

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11

12

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14 Project No.: P-2459-279

15 Place: Morgantown, WV

16 Date: Monday, September 25, 2023

17 were held as herein appears, and that this is the original

18 transcript thereof for the file of the Federal Energy

19 Regulatory Commission, and is a full correct transcription

20 of the proceedings.

21

22

23 Larry Flowers

24 Official Reporter

25