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VERBATIM TRANSCRIPT OF:  
FEDERAL ENERGY REGULATORY COMMISSION (FERC)  
PUBLIC SCOPING MEETING

FOR THE MATTER OF:  
PEABODY'S PROPOSED TROUT CREEK RESERVOIR  
HYDROELECTRIC PROJECT P-14446

Held Wednesday, October 24, 2012, 7:08 P.M.  
at the Steamboat Springs Community Center  
1605 Lincoln Avenue, Steamboat Springs, Colorado

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S P E A K E R S

Staff:

Shana Murray, FERC  
Joe Hassell, FERC  
Brian Yansen, Peabody  
Dave Merritt, URS/Peabody

Audience Members:

William Chase, Creek Ranch  
Andy Poirot  
Kevin McBride, Upper Yampa Water Conservancy District  
John Patrick  
Jacqueline Ramirez, Property Owner  
Jan Ruby, Routt County Road and Bridge

1                                   OCTOBER 24, 2012, 7:08 P.M.

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

3                                   MS. MURRAY: All right. Well, good evening,  
4 everybody. I'm so glad to see more faces than just FERC  
5 and Peabody. We were worried that the snow would keep  
6 you all away.

7                                   My name is Shana Murray. I work at the  
8 Federal Energy Regulatory Commission. Next to me is my  
9 colleague Joseph Hassell. He is also on the FERC team,  
10 and he will be speaking a little later in the  
11 presentation.

12                                   But basically tonight what we're doing is  
13 holding a public meeting for the proposed Trout Creek  
14 Reservoir Project proposed by Peabody. This is a  
15 meeting to give you an idea of who FERC is, what we do,  
16 who we regulate, how this project fits into our process.

17                                   Peabody will also have a chance to explain  
18 exactly what they are proposing, and to inform you how  
19 to be involved in the process, what the next steps are.  
20 And, of course, the whole point is to scope issues, and  
21 when I say "scope," we're trying to identify all the  
22 potential effects of the proposed project on  
23 environmental resources.

24                                   So with that -- with that I should learn how  
25 to --

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1 MR. MERRITT: Just press the "next" button.

2 MS. MURRAY: I'm just not pressing it hard  
3 enough.

4 So this is the agenda. Like I said, we're  
5 here to talk about who FERC is and who we regulate, our  
6 hydropower program. You know, some of you might be  
7 familiar with it, some of you may not, so we don't  
8 expect everyone to know this, which is why we're here.

9 Our licensing processes, the basic licensing  
10 steps for this project, of course, like I said, the  
11 Applicant will talk about their proposed project, what  
12 they're proposing. Then we're going to scope for  
13 potential issues. Once FERC goes through the issues we  
14 have identified, or possible issues, excuse me, we have  
15 identified in our scoping document, we'll open it up for  
16 public comment and see if any of you might have  
17 additional issues that we didn't identify or comments on  
18 the project or questions. Then, of course, we want to  
19 talk about next steps, because our main goal here is to  
20 keep you involved, and the only way to stay involved is  
21 to know what is going to happen next. And then of  
22 course we'll close the meeting.

23 Now I do want to know we have a court  
24 reporter. At these public scoping meetings we like to  
25 have everything on record, so then everything is by  
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1 transcript. A transcript will be filed with FERC, I  
2 think, it's two weeks after this meeting, and it will be  
3 on our E-library system, which I will explain a little  
4 later. So if you want to go back and see exactly what  
5 was said verbatim, the transcript will be on our  
6 website.

7 I must not have enough thumb power. There  
8 we go.

9 So let's talk about the Federal Energy  
10 Regulatory Commission. We are an independent agency.  
11 We're comprised of five commissioners, and they are each  
12 appointed by the President. FERC regulates electric  
13 transmission lines. We regulate hydropower, natural gas  
14 and oil pipe lines. But of course tonight, here, we  
15 want to talk about hydropower.

16 So what is FERC's hydropower jurisdiction?  
17 The Commission has authorization for nonfederal  
18 hydropower projects. These are projects that are  
19 located on navigable waterways, on public hands of the  
20 United States, meaning the Forest Service or BLM lands,  
21 that use surplus water from a federal dam or which have  
22 Commerce Clause jurisdiction. And basically the  
23 proposed Trout Creek project falls under our  
24 jurisdiction.

25 I need someone to work this. In our  
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1       hydropower program, we're under the Office of Energy  
2       Projects. That's gas and hydropower. Within the  
3       hydropower program we're comprised of three offices.  
4       Joe and I are part of the Division of Licensing, so if  
5       you want to propose a hydropower project and get an  
6       authorization from FERC to build and operate it, you  
7       come to us. Once a license is issued, if a license is  
8       issued, our License Administration and Compliance  
9       Division makes sure that the requirements in the license  
10      are complied with. Basically, once we issue a license  
11      we have certain licensing requirements, and it's that  
12      office's job to make sure that the licensee stays within  
13      compliance of that license.

14                 Then, of course, we have dam safety. That  
15      is a separate office under our hydropower program,  
16      because, obviously, there is always concerns with dam  
17      safety. We want to make sure that the environment are  
18      safe, number one the public are safe, so there is  
19      certain regulations and standards within that office as  
20      far as building a dam or with an existing dam.

21                 So when talking about a project license and  
22      applying for a license, we have three different  
23      processes. The default process is our integrated  
24      licensing process. We call that ILP, and you are going  
25      to hear a lot of acronyms tonight. I'll try and say all  
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1 of them and not speak in letters, because it gets  
2 confusing. We also have the traditional licensing  
3 process and the alternative licensing process. All  
4 three processes have the same prefiling and post filing  
5 steps. When I say prefiling, this is anything before a  
6 final license application is filed.

7 Now, to be clear, Peabody has filed a  
8 preapplication document. This is their initial  
9 proposal. It's not a final license application. So  
10 right now we're in the prefiling stages. Once a license  
11 application is filed, we'll be in post filing. Within  
12 the prefiling stages we want to consult with interested  
13 parties on all the issues. There may need to be  
14 additional information that's not in the PAD gathered to  
15 have a complete idea of what's existing and what the  
16 proposal entails.

17 Of course, this can lead to further studies.  
18 Sometimes applicants come in and they have already done  
19 studies, but sometime additional studies are identified  
20 and they have to go out and do more studies. This is  
21 pretty common. And then, of course, all of this informs  
22 the final license application. We're taking the  
23 preapplication document, all the comments from  
24 interested parties and stakeholders like yourselves, and  
25 the studies, the information from the studies conducted,  
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1 and putting them into a final proposal, a final license  
2 application.

3           Once that's filed, FERC will seek comments  
4 from interested parties on the final proposal. We  
5 basically take all of the comments, all of the  
6 conditions filed by agencies, and prepare and  
7 environmental assessment, which is an EA, or an  
8 environmental impact statement, which is an EIS.

9           We issue that. We seek more comments,  
10 because sometimes people don't agree with our analysis  
11 in our environmental documents, and we issue a final  
12 environmental document. And then based on that, we  
13 weigh all the information and either go to Commission  
14 decision. So we either recommend a license or we don't.

15           Did I skip one?

16           So we have a handout out on the table. This  
17 crazy colorful handout full of boxes is the integrated  
18 licensing process, and this is the process that Peabody  
19 has chosen for the Trout Creek project. Of course, it's  
20 our default process, so a lot of people go through the  
21 integrated licensing process. Or I may slip and call it  
22 the ILP, which it's called at FERC.

23           So all the blue boxes are the pre-filing,  
24 which we're in now. All the green and pink boxes are  
25 post filing. It's a bit of a crazy schematic. I don't

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1 expect you all to memorize it, because it's -- yeah,  
2 there are a lot of steps. But they can easily be broken  
3 down into four basic steps, pre-filing and post filing.

4 Again, we have the initial proposal and  
5 information document, which is the PAD that's already  
6 been filed, scoping meetings and public comment, which  
7 right now is our scoping meeting. Then the next step  
8 would be the study plan development, which will lead to  
9 the Applicant conducting studies and developing a final  
10 license application.

11 Once that final license application is  
12 filed, FERC will seek public comment, seek comments and  
13 conditions from the agencies. We will take all of that  
14 into review and issue a final environmental document.  
15 And then based on that environmental document and  
16 comments on that document, it will go to either an  
17 authorization or not an authorization. So we're at the  
18 first step, like I said, the initial proposal.

19 Basically, the purpose of the PAD is to  
20 bring all the existing information on the project and in  
21 the area right now. What do we know? It's to identify  
22 where there are information gaps. Okay, based on what  
23 we know, what don't we know. And then, of course, it  
24 sets up the schedule for this licensing process.

25 So the next step, which we're in now, is the  
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1       scoping meeting. And, like I said, the point of the  
2       scoping meeting is to learn more about what's being  
3       proposed and to identify potential effects or issues  
4       with the proposed project of what we know now.

5               Well, it just had a red box on there. I'm  
6       not good with this remote.

7               So the next step after the scoping, after  
8       these meetings, is to go into study plan development.  
9       What is yet to be studied? What do we need to know that  
10      we don't already know? And then, of course, that will  
11      lead to the Applicant conducting their studies.

12              Now, studies, usually they are anywhere from  
13      one to two years. That's not to say it's definitely  
14      only two years if something comes up in between the  
15      study seasons, but generally most projects it's one  
16      study season or two. Once a year studies that have been  
17      completed, we have an initial study report from the  
18      Applicant, and at that time the public can comment  
19      again, saying, hey, you know, through this year of study  
20      we found out another species is here and we need to  
21      study that. Or, hey, you said you were going to study  
22      the river this way, but you didn't do it, you need to go  
23      back and do it. It's kind of a checks and balances.  
24      It's a way to check are the studies going according to  
25      plan, what have they found out so far, have we found out  
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1 something new that would lead to a different or new  
2 study. It's just a good way to check in.

3 So after the studies the Applicant will take  
4 all of that information and develop a preliminary  
5 licensing proposal or a draft license application. You  
6 might be asking what's the difference. A preliminary  
7 licensing proposal is all the environmental -- the  
8 Exhibit E. It's the environmental effects of the  
9 project, the project proposal. It doesn't include  
10 exhibits like the drawings or the Exhibit G maps.

11 A draft license application is everything.  
12 It's like here is our first test run and this is our  
13 license application. And people will have a chance to  
14 comment. What that does is, one, if you see something  
15 in that draft license application or preliminary  
16 licensing proposal that's missing, you have the chance  
17 to tell the Applicant before they file the final, hey,  
18 you forgot to add in results from this study report, or  
19 hey, I still see an issue with Trout Creek, you didn't  
20 propose mitigation for this, this still concerns me.  
21 It's kind of a last chance to tell them, hey, these are  
22 my concerns or I think you need to add this, and they  
23 can take that into consideration before they file the  
24 final application with FERC.

25 It also gives FERC a chance to look at it,  
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1 and we view it as if it was going to be a final license  
2 application. So if we see additional information that  
3 we need to know, or they may be deficient in some areas,  
4 it's a chance for us to let the Applicant know so they  
5 fix that before the final.

6 So now we're into post filing. The  
7 Applicant will file the final license application.  
8 Again, FERC will review all the public comments, the  
9 agency comments. And I know I keep repeating these  
10 steps. Maybe I'm just kind of subconsciously trying to  
11 make you all memorize them tonight. I'm not really.  
12 But it does get confusing when you see all those boxes.

13 And then, of course, this leads to our NEPA  
14 document. So staff will prepare, like I said, an  
15 Environmental Assessment or an Environmental Impact  
16 Statement. We'll issue a draft statement. This means  
17 we issue our initial analysis, what we think of the  
18 project proposal, the recommendations from agencies and  
19 from stakeholders, our recommendations from the staff,  
20 and then everyone has a chance to comment. You know,  
21 sometimes people disagree with what we're recommending.  
22 Hey, I don't -- you know, I don't think they should do  
23 this environmental measure, I think they should do this.  
24 Or sometimes it's, hey, I don't think they should have a  
25 license, you shouldn't recommend that. It's another

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1 chance for you to kind of look at how FERC evaluated  
2 things and share your thoughts and recommendations.  
3 Then we'll issue a final environmental document based on  
4 those comments and recommendations, and then, of course,  
5 like I said before, it will lead to a commission  
6 decision, which is the last box.

7           So if a Commission decision leads to a  
8 license, basically we'll issue a license order. Within  
9 this license order, as I said before, there are certain  
10 requirements. The licensee, now the Applicant, will  
11 have to abide by or comply with -- and I should state  
12 this, I should have stated this up front: Our licenses  
13 are anywhere from 30 to 50 years. So the term for this  
14 license could be, because it's a new, unconstructed  
15 project, anywhere between 30 and 50 years. So that  
16 means everything in this license kind of has to cover  
17 that time period. It also is a chance, once a license  
18 is issued, we ask for final drawings and final exhibits.  
19 The reason we don't ask for final exhibits before the  
20 license, the Applicant can make their proposal, but  
21 based on agency, stakeholder and staff recommendations  
22 from FERC, that could change. Which means their  
23 drawings might change, and we don't like to make people  
24 do those twice.

25           Obviously, they have to submit drawings and  
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1 maps of what they are proposing, but the final-final  
2 drawings come after the license. And we approve those  
3 design drawings through DHAC and our dam safety.

4 There is always a chance that someone may  
5 not agree with the license that's been issued. Again,  
6 here is another chance to file. It's what we call a  
7 rehearing. So if, within 30 days of the license being  
8 issued, a party to the proceeding -- which I'll get to  
9 that later, what an intervenor is -- can file a  
10 rehearing, saying, hey, FERC, I don't agree with certain  
11 measures in your license order for this project. I  
12 think it should be, you know, X, Y and Z. Or, hey, I  
13 don't agree that we have to, you know, do certain water  
14 quality standards on the reservoir for the next 30  
15 years. I think it should be this. It's another chance  
16 to, you know, raise concerns with the order, with the  
17 license order.

18 What FERC will do is evaluate those comments  
19 and then issue a decision on the rehearing. Either  
20 saying, okay, I see your point, I agree with you, we're  
21 going to change the license order, or, you know, I hear  
22 what you are saying but we stand by our decision.

23 So we are back to this box. We are at  
24 scoping right now. Just to kind of give you an idea,  
25 because we zipped through a lot of boxes. But we are  
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1 still early in the prefiling stage. Like I said, the  
2 whole point of this meeting is to understand what's  
3 being proposed and talk about potential effects or  
4 issues.

5 So, with that, I am going to hand this over  
6 to Brian Yansen, and he'll introduce his team and talk  
7 about the project.

8 MR. YANSEN: Thank you.

9 I'm going to switch the projector. Bear  
10 with me one second.

11 Welcome everyone. I'm Brian Yansen with  
12 Peabody Energy out of the St. Louis office. I'm going  
13 to introduce some of the team members that are working  
14 on the project with me. Many of them are here tonight.

15 That is sticking.

16 MS. MURRAY: Yes. I'm glad it wasn't just  
17 me.

18 MR. YANSEN: Yeah, I was going to say it was  
19 just you, but --

20 MS. MURRAY: Well, I've got a tough thumb,  
21 I'm telling you.

22 MR. YANSEN: There we are.

23 So, obviously, I'm the project manager for  
24 the project. Jerry Nettleton is with us. He's from  
25 Twentymile. He's our manager of Environmental Affairs.

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1 We have Beth Sutton with us in the audience as well.  
2 She's our communications and corporate relations. I  
3 have Bill Caile that's behind me hiding. He's our  
4 project attorney, as well as Sandi Snodgrass over there  
5 in the corner. David Merritt is there with our  
6 consultant with URS that has been the one working on the  
7 PAD for us for the last six months or so, as well as  
8 Jody and David are in the audience in the back row. So  
9 that's kind of team in a nutshell.

10 Moving forward here, I'm not going to take a  
11 lot of time.

12 This thing just doesn't really work, does  
13 it?

14 Kind of to go over a little bit on who  
15 Peabody is, many of you know who we are and what we do,  
16 but Peabody Energy and the planned \$16 million project  
17 we're going to talk about tonight, which is at the Trout  
18 Creek Reservoir. You know, Peabody has a long record of  
19 a safe sustainable mining operation, and we have been  
20 here for over half a century, and we would like to be  
21 here just as long going forward.

22 We are the number one coal producer in the  
23 State of Colorado. We create a lot of jobs out here,  
24 350 jobs, and about \$790 million of economic impact.  
25 The Trout Creek Project continues our long-term

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1 investments in Colorado, the State and the region. And  
2 this will create an enhanced wildlife habitat,  
3 obviously, and then it's a long-term water supply for  
4 our future mining operations, so --

5 Peabody has a pretty global footprint here.  
6 You can see we have mines throughout the United States  
7 as well as Australia. The box down in the corner kind  
8 of talks about where we are in positions -- number one  
9 positions in the Powder River Basin, the Midwest Region,  
10 the Southwest, as well as Colorado, all number one  
11 positions. As well as Australia footprint, we're number  
12 five. We are the world's largest private sector coal  
13 company and we're one of the US leaders in the industry.

14 As we discussed here the number one position  
15 in those regions, with 30 operations both in the United  
16 States and as well as in Australia, our footprint is  
17 pretty big. This year -- or last year, the 2012 results  
18 are in, was our safest year in our history. We're a  
19 129-year-old company, so that really kind of stands on  
20 itself.

21 But our reputation of environmental  
22 excellence, many of you know that deal with us here  
23 locally, this is continued across all of our operations.  
24 With have been honored for our sustainable mining  
25 practices, as well our corporate responsibility.

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1                   One of the things we always like to tell  
2 people is our safety record. Our safety record is by  
3 far something we stand behind, and we're very proud of.  
4 Our 2011 global incident rate is about 1.92, which is  
5 nearly 30 percent better than the prior year. Every  
6 year we're trying to be the safest company out there.  
7 You know, you can kind of see our record from 2010 to  
8 2011, and continuously we have been improving our safety  
9 performance at all of our operations. So Trout Creek  
10 Project is going to be like anything else that we  
11 operate. It's going to be safe, and we're going to  
12 strive to be as safe and operating it as safe as we  
13 possibly can.

14                   Kind of where we fall here with our  
15 Twentymile operation out there now, everybody is pretty  
16 familiar with Twentymile, you know, Colorado's largest,  
17 most productive mines. When we say that we're -- you  
18 know, we've been recognized by the State as the safest  
19 operation. In 2011 we did 7.5 million tons of coal  
20 which were shipped out of Twentymile. So that kind of  
21 tells you that that coal is coming out of there, and  
22 there is a lot of coal out of there. Again, 30 percent  
23 safer than the industry average.

24                   And then any land that we touch we restore  
25 it back, and so the land is four times more productive  
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1 than the natural or the native range land. So we're  
2 really proud of that as well.

3 Our investments into Twentymile Sage Creek  
4 Mine, many of you, if you are familiar with the area and  
5 drive out here, the new roundabout that's being built on  
6 27, that will be our entrance into our new Sage Creek  
7 portal area, which is an expansion of Twentymile. But  
8 our Sage Creek production is targeted 2015, 2016, is  
9 kind of based -- it's a little fluid -- it's based on  
10 the market conditions. But basically that represents a  
11 \$200 million capital investment in that facility down  
12 there. You know, and that's secured up by a 16-year  
13 agreement with the Hayden Power Plant to supply coal  
14 there, as well as other export contracts that we have in  
15 place.

16 So that's a future mine of ours. It's being  
17 constructed currently. Permits are in place for the  
18 longwall development, which is the underground mine.  
19 It's a large underground mine that will access about 105  
20 million tons of reserves in the ground. So this will be  
21 a counterpart to the Twentymile operation, and be in  
22 conjunction with the Twentymile operation.

23 Kind of went through this already, but it  
24 kind of tells you our footprint and what we do for the  
25 area out here. Our direct and indirect costs,

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1 basically, the \$790 million of economic benefit  
2 represents about \$200 million for us, and then that  
3 spreads out into the county, and we use the multiplier  
4 on it. But basically that builds on half a century of  
5 our commitment out here.

6 Our Sage Creek Mine is a \$200 million  
7 investment, and, again, we're about 350 jobs in the  
8 region. So we have a pretty heavy footprint out here in  
9 our operations.

10 Where the project is located, what we're  
11 talking to tonight about, is the planned Trout Creek  
12 Reservoir Project. It is out along many of the boards  
13 here, if you guys had a chance to look, have a little  
14 more detail, they are probably a little easier to read,  
15 but it's basically in between Steamboat and Hayden,  
16 basically south of Milner, about 8, 10 miles south of  
17 Milner, sitting on Trout Creek Reservoir -- or Trout  
18 Creek. So it's kind of halfway between --  
19 geographically, that is a good location for us. It's an  
20 old water right from 1977 we are using to build this  
21 reservoir, and the location is good for our future  
22 mining operations as far as geographically placed.

23 The Trout Creek Project itself, it's  
24 developed using a sustainable model. Everything we do  
25 we want to make sure it's done right, and Trout Creek is  
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1 not an exception. We want to make sure it's got  
2 long-term benefits. Like Shana was talking about, you  
3 know, this could be potentially a 50-year license on  
4 this. This has got to live for 50 years at least and  
5 then continue to a relicense at that point.

6 So this is a long period on this project.  
7 This thing is -- looking at many of the boards in here  
8 you can see today -- but basically it creates a, give or  
9 take, approximately about a 400-acre lake with enhanced  
10 wildlife. So, you know, a big nice body of water out  
11 here in the middle of the range land.

12 It provides a long-term water supply for  
13 Peabody, for our future Colorado mining activities. As  
14 well it's, why FERC is involved, we have decided to put  
15 a small hydroelectric plant on the dam side of the  
16 project. This is very similar to the Stagecoach  
17 project. We're about a third of the size, the volume,  
18 about a third of the footprint of the lake at  
19 Stagecoach, and a little less than a third of the  
20 hydropower as well. So we're much smaller than that,  
21 but the same principles apply.

22 We have a source of water that we need for  
23 mining. We're going to put the hydroelectric plant to  
24 it. It's going to be wildlife, recreational, as well as  
25 the land that we control along the perimeter of it,

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1 develop it as a long-term residential project with  
2 fishing and boating activities as well.

3 Kind of why we're here tonight, why we're  
4 having the scoping meeting, basically to talk about the  
5 micro or small hydroelectric plant. We anticipate right  
6 now off of the preliminary designs about 1 million  
7 kilowatt hours annually. To put that in -- if you are  
8 not in that realm, I'm always, like, many of houses can  
9 that power? So basically it powers about 125 homes a  
10 year. That's how much power we're creating off of this.

11 On a small powerhouse side, smaller than a  
12 two-car garage. Basically, there will be a turbine in  
13 there, 125 kilowatt turbine. One of them, as the water  
14 flows through there, it will create the electricity for  
15 125 -- the average home, 125 homes per year.

16 You know, it's just another green  
17 initiative. Again, it goes back to Colorado's Renewable  
18 Energy Initiative. They are promoting it. We felt like  
19 we needed to basically be a part of that, and we have  
20 encouraged and decided to do the small hydro piece to  
21 it.

22 As well as the Project offers other avenues,  
23 both land and water, that we're still looking at how  
24 that could benefit the community as well.

25 The footprint here, I don't know if that's  
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1 dark or not, but that map is back there if anybody wants  
2 to study it a little bit more. It kind of gives the  
3 footprint here of the dam itself. Let me see here, I  
4 don't have laser.

5 To kind of give you an idea of the  
6 footprint, it's going to be an earthen dam, about  
7 78 feet tall to 80 feet tall. And it will be located  
8 down here where the water right is. It will have an  
9 emergency overflow off to the side of it.

10 Basically, the footprint here shows about  
11 385 acre feet of surface water, and holds back almost  
12 12,000 acre feet of water within the pool itself.  
13 Basically, it has a designed elevation of 6,669 feet in  
14 elevation. That's where we're at today. That could  
15 tweak over time as we go through this process. It will  
16 evolve and things will change, and we'll have a final  
17 version as we apply for the final thing. But for now  
18 that's kind of the footprint, and that kind of looks  
19 where we're at.

20 The blue line in there represents the pool  
21 of water itself, the blue line, as well as there is a  
22 project boundary part of the process that we'll design  
23 as what FERC mandates is everything inside that red line  
24 on this project will be something that they help control  
25 and they will enforce through the applications and  
26

1       licensing process.

2                   A little dark photo, but this is the valley  
3       out there today. We took a tour. Many of you were on  
4       the tour today before the snow, so we got to see this  
5       photo before it was white. But it's a big hay meadow  
6       out there. It's grazed, it's grazed annually, as well  
7       as the hay. It's irrigated off of several ditches out  
8       there, as well as the creek meanders through there, and  
9       there is several old creek alignments and oxbows out  
10      there in the thing.

11                   Another photo, next one, this kind of shows  
12      -- this is the Middle Creek in the middle of the lake.  
13      Middle Creek and Trout Creek confluences in the center  
14      of the dam or the lake itself. Both of the streams are  
15      kind of entrenched. This one happens to be Middle  
16      Creek. Middle Creek this year with the drought actually  
17      completely dried up. This year Trout Creek was still  
18      flowing.

19                   Go ahead.

20                   This is a shot of Trout Creek itself off of  
21      an overpass, but basically looking down at kind of the  
22      thing. You can see both grounds hay as well as grazed  
23      and then the Trout Creek itself kind of entrenched and  
24      highly eroded in some sections. You can see one there,  
25      but, basically, you know, not a super great environment.

26

1                   As we look forward many of these things  
2           Shana was talking about studies, studies and studies.  
3           We have done a lot of studies. We have been on the  
4           ground doing some studies, and basically we have put all  
5           that together. We have done environmental studies,  
6           really to get to the baseline of what is out there today  
7           and how it's working. We have done surveying and field  
8           assessments. I've been part of that as well as  
9           engineering. Several of the boards you see back there  
10          actually layout what the dam looks like, the height  
11          where the hydro plant is, some of the pipe intakes from  
12          a program point of view.

13                   But we still have to do several other  
14          studies. One study we have to do is the electric  
15          transmission lines. There are three large transmission  
16          lines that cross over the top of the water. We're  
17          working with those power companies, getting  
18          determinations on where those power lines actually fall  
19          in relationship to the body of water.

20                   Obviously, 90 days ago, give or take, we  
21          submitted our FERC application document to FERC that  
22          started this whole thing tonight. This is really the  
23          first step of the process.

24                   Go ahead.

25                   So basically Peabody is seeking a hydro  
26

1 license to add the hydropower to the lake project  
2 itself. FERC is the lead agency, and they are going to  
3 talk a little bit more about it.

4 The couple of things that I liked about this  
5 in the ILP process, the integrated licensing, they  
6 really look at the project as a whole. What are you  
7 doing with the water? What are you doing with the  
8 shoreline? What's in the water, fishes, recreation?  
9 They look at everything as one project or a whole. We  
10 really liked that. It was a desired development  
11 approach. It was more than just the one use. It was  
12 what are you doing with everything? How are you handing  
13 it? Like Shana said, it's basically 50 years, so we got  
14 to look out and make sure we have things planned out for  
15 50 years as much as we possibly can.

16 So as we go through, you know, we have  
17 involved stakeholders. Many of you received letters,  
18 agencies, as well as this is the first of many public  
19 hearings we're going to have.

20 The one thing I want to kind of point out,  
21 all the material in the room tonight, all of these  
22 boards, we have a website as well as Shana is going to  
23 talk about how FERC handles the way that they keep track  
24 of stuff on their side. We have a  
25 peabodytroutcreekreservoir.com that has documents. It  
26

1 will have this presentation. It will have the photos  
2 that we talked about tonight. It will have a timeline,  
3 and it will have contacts. You are able to interact  
4 with us through e-mail. You can log on here. You can  
5 call -- I think David's name is out there as well as  
6 Jody's out online. So you can interact with us through  
7 e-mail, you can call us, however. And then FERC is  
8 going to tell you how you can interact more with their  
9 website as well.

10 So, with that said, I'm going to turn it  
11 back over to her to finish up as well as Joe, and they  
12 are going to go through that, and then we will open it  
13 up to questions.

14 MS. MURRAY: So as we have been talking  
15 about it tonight, the things that FERC looks at in our  
16 NEPA documents are our Environmental Analysis, we're  
17 looking at water quality, fisheries, soils and geology,  
18 the wildlife and vegetation, cultural resources,  
19 historical, archeological. Of course, recreation and  
20 land use, what exists, what are the future needs for  
21 recreation or land use, aesthetics and socioeconomics.  
22 All of these in addition to the proposed project and the  
23 proposed operation of that project.

24 So Joe and myself, we wanted to go through  
25 the scoping bullets or effects that we saw under each  
26

1 resource quickly for you. They are also in our scoping  
2 document, which there is a hard scope or handout on the  
3 table if you want to look at them or have them as a  
4 take-home later.

5 So with that we'll go to Joe.

6 MR. HASSELL: Thank you, Shana.

7 The first bullet is geologic and soil  
8 resources. Anytime you build a dam you are going to  
9 have a lot of construction activity out there. You are  
10 going to have potential for erosion. Also, you are  
11 going to have changes in sediment dynamics, and the  
12 reservoir itself is going to create a sediment trap and  
13 stop the sediment from moving down Trout Creek.

14 So these are the issues that -- and the  
15 other issue I would say is the operation of Trout Creek  
16 as a water-supply reservoir for the mining operations  
17 will probably cause a drawdown and refill of the  
18 reservoir, and that can cause erosion too. So these are  
19 the four bullets that we have identified for geologic  
20 and soil resources.

21 Can I have water quality? Thank you.

22 Water quality. Okay. There is potential  
23 for contamination of the water of Trout Creek during  
24 construction due to all the construction activities out  
25 there using petroleum and lubricants. There is also,  
26

1       you know, disturbing the soil as you build the dam.  
2       There is erosion and sedimentation as you build the  
3       power plant, the powerhouse downstream. There is  
4       erosion and sedimentation control. I'm not familiar  
5       with Colorado's erosion and sedimentation control  
6       regulations, but these are some of the things that we  
7       will consider in our license.

8                   The other big water-quality impact is when  
9       you change a water body from a free-flowing stream to a  
10      reservoir, you can change the retention time. You are  
11      blocking up the stream. The water is more stagnant.  
12      And what happens, and especially in a reservoir, is you  
13      have thermal stratification, basically. Cold water  
14      sinks to the bottom; warm water stays on the top. Cold  
15      water is more dense than warm water. The cold water is  
16      not in contact with the atmosphere. It loses its  
17      oxygen. And so it's cold, but doesn't have dissolved  
18      oxygen in it. And on the other hand, you have a warm  
19      water layer at the top. It's well oxygenated, but it's  
20      hot. And Colorado will have certain water quality  
21      standards for Trout Creek. And it's a cold water  
22      stream, which is intended to support cold water species,  
23      which means it needs and require cool temperatures and  
24      high dissolved oxygen. So we need to study what Trout  
25      Creek Reservoir is going to do, and the release of Trout  
26

1 Creek water -- release of water from Trout Creek  
2 Reservoir is going to do to Trout Creek itself.

3 And the other impact is there are -- I don't  
4 know, Brian, how many acres? 80, 90 acres?

5 MR. YANSEN: 50 to 70 acres.

6 MR. HASSELL: 50 to 70 acres of identified  
7 wetlands, mostly emergent wetlands, in the cool of Trout  
8 Creek Reservoir that are going to be inundated.  
9 Wetlands have water quality functions that need to be  
10 replaced. General speaking the Corps of Engineers takes  
11 the lead in this, but we're hoping to do a cooperative  
12 NEPA document with them, and they will cover these  
13 issues. However, we won't ignore them if they don't.

14 Oh, yeah, this is the big one. Effects of  
15 Project Operations on stream flow and aquatic habitat in  
16 Trout Creek. Trout Creek is going to -- Trout Creek  
17 reservoir is going to be operated, so we'll have a water  
18 supply for the mining operations, not really for  
19 irrigation, so it's more of a constant draw or a  
20 constant need for water. But nevertheless, with the  
21 hydrologic regime that we have in Colorado, with the  
22 snow melt runoff, most of the water comes through and  
23 then you have the summer and then it drops down. That,  
24 with the constant draw on the reservoir, is going to  
25 cause the reservoir to draw down, and it is also going  
26

1 to change the hydrologic regime downstream of the dam.  
2 Basically, when you put a reservoir in for a water  
3 supply project in this kind of a geographic setting, you  
4 will be capturing the runoff of the snow melt, and you  
5 will be augmenting the water supply in the Trout Creek  
6 in the warmer months, so it's going to change things  
7 from what it is naturally.

8 So we need to study the effects of that  
9 project on the stream flow, and stream flow affects  
10 aquatic habitat. Contrary to what some people may  
11 think, more water is not better. I mean, no water is  
12 not good, but the indigenous species has evolved to  
13 survive this hydrologic regime as it is now. If we put  
14 the reservoir in there, it's going to alter it somewhat.

15 And I have already touched on the  
16 temperature.

17 I'm not a fishery biologist, but I pretend  
18 to be one at FERC. So we're going to study the effect  
19 of the project on the loss of riverine habitat. We're  
20 going to lose, I guess, about two miles of stream. I  
21 think about 10,000 feet, something like that. We're  
22 going to convert that into a lake. So we're going to --  
23 we're going to create a lake, though. We're going to  
24 have an additional lacustrine habitat ecosystem, and  
25 we're going to have a different fishery assemblage in  
26

1       there, probably comparable to any of the numerous  
2       reservoirs that you have in Routt County.

3               Then we have to study the effects of  
4       entraining fishes through the project works.  
5       Entrainment is basically taking the fish in and passing  
6       them through the project works. And fish do not really  
7       do well going through project works. I mean, there will  
8       be changes in pressure, you know, just it tears them up.

9               Then we have to study -- we don't have  
10       Northern Pike and Smallmouth Bass there now, because  
11       it's not where they live. It's a stream now. But we  
12       have this problem, and in other lakes in Routt County,  
13       such as, I guess, Catamount, there is Northern Pike, and  
14       I guess some of the others, Stagecoach perhaps, have  
15       Northern Pike, who are not indigenous to this area that  
16       are predators of some of the endangered species of the  
17       Yampa River.

18               So how do we keep these predatory, nonnative  
19       species out of Trout Creek Reservoir to start with, and,  
20       if they get there, how do we keep them from going down  
21       Trout Creek and into the Yampa River and preying on the  
22       endangered species, indigenous endangered species. Of  
23       the Yampa River?

24               And, lastly, I guess the effects of dam  
25       construction. When you build a dam, fish cannot migrate  
26

1 up and down. And some fish their life cycle requires  
2 them to move up and downstream. I'm not an expert on  
3 what we have here and what needs to go up and down, but  
4 that's another issue that needs to be studied.

5 Thank you.

6 Water quality, I have sort of covered. It  
7 goes with the physical habitat. If you don't have water  
8 there you don't have the physical habitat for the fish,  
9 so that's probably one of the things that's going to be  
10 required to be studied. I have sort of covered water  
11 quality and temperature and dissolved oxygen.

12 The last one is the effect of the  
13 project-related evaporative water losses on native  
14 fishes. When you build a reservoir when you have a  
15 stream there and now all of a sudden you have a 400-acre  
16 reservoir, you are going from, oh, I don't know,  
17 100 acres of -- less, 40 acres of stream water surface,  
18 and now you've created a 400-acre water surface. The  
19 evaporative loss, which is a consumptive loss, is going  
20 to increase. So that's a cumulative impact to the loss  
21 of water in the Yampa River downstream.

22 Thank you.

23 MS. MURRAY: Thank you, Joe.

24 One thing I want to note, and Joe sort of  
25 touched on it, the FERC team on this project is not just  
26

1 me and Joe. I would love to say we're that brilliant,  
2 but I'm not. I handle the recreation land use and  
3 aesthetics. I'm also the project coordinator. Joe is  
4 working on geology and soils and water quality.

5 MR. HASSELL: Water quality and -- well,  
6 just water resources.

7 MS. MURRAY: We also have a fish biologist,  
8 Matt Buhyoff -- and we'll get you that spelling later --  
9 who is working fishery resources. He have an  
10 archeologist, Frank Winchell. He is working on cultural  
11 resources. I am going to go over terrestrial and  
12 threatened and endangered species. That is Carolyn  
13 Templeton, also on our team.

14 So we have -- usually on these projects we  
15 have a FERC team and we have a resource person for each  
16 resource that specializes in those resources.  
17 Thankfully, Joe could be three different resources on  
18 this trip. And I'm going to be two or three tonight.

19 So, with that, the terrestrial resources, we  
20 have identified are: Some vegetation removal during  
21 construction on wildlife species and their habitat. The  
22 inundation of the riverine, riparian and wetlands, and  
23 upland habitats on wildlife. We have the effects of  
24 noise, traffic, human activity, of course, from  
25 construction on wildlife. We also have possibly the  
26

1 introduction of, or spread of, noxious or invasive weed  
2 species due to construction, operation and maintenance  
3 of the project.

4 Of course, the effects of maintenance  
5 activities, which would be road maintenance,  
6 transmission line maintenance, rights of way, normal  
7 day-to-day maintenance and project-related recreation on  
8 wildlife habitat.

9 We have the effects of project construction,  
10 operation and maintenance on migratory game birds or  
11 residence birds. Of course, with the proposed  
12 transmission lines, there is also the possibility of  
13 collision or electrocution of birds.

14 And then, of course, we have the effects of  
15 project construction and operation and maintenance on  
16 special status plants and species listed.

17 And, like I said, we also have a hard copy  
18 of this scoping document where all of these are listed.  
19 These are bullets that will take you directly from our  
20 scoping documents.

21 So threatened and endangered species, we  
22 have listed the Canada lynx, the pikeminnow, the  
23 razorback sucker, the humpback chub and the bonytail  
24 chub. Of course, the effects of construction, operation  
25 and maintenance of the proposed project on these  
26

1 species.

2 For recreation land use and aesthetics, you  
3 know, a lot these are project construction and operation  
4 on public access to recreational opportunities. We  
5 specifically listed hunting and fishing because that  
6 appears what's going on out here, but there may be more  
7 that we're unaware of. The adequacy of the proposed  
8 public access and recreational facilities within the  
9 project to meet existing or future recreational demands.  
10 Of course, we have the effects of project operations on  
11 the quality and availability of flow-dependent  
12 recreation. Again, we're talking about fishing there.

13 For land use, we have the effects of the  
14 project on livestock grazing areas. Then, of course, we  
15 have the effects of project construction on existing  
16 roads, the effects of constructing new roads with the  
17 proposed project, and then the effects of project  
18 construction and operation, including transmission line  
19 on visual resources in the project. Because, of course,  
20 there is a reservoir and a hydropower project where  
21 there is not right now, so the visuals might change.

22 For cultural resources, we have the effects  
23 of construction and operation of the proposed project on  
24 historic archeological and traditional cultural  
25 resources that may be eligible for inclusion to the

26

1 Natural Register of Historic Places.

2 Then, finally, as far as developmental  
3 resources, we have the economics of the proposed project  
4 and its effects of any recommended environmental  
5 measures on the projects' economics.

6 So, with that, we're going to open it up.  
7 These are things that -- go to the next slide. Thank  
8 you -- that FERC has identified as potential effects or  
9 issues of the proposed project. But part of us coming  
10 out here is to hear from you all if you possibly have  
11 something you would like to say. Last time I looked at  
12 the speaker sheet no one had signed up, so I guess I'm  
13 putting it out there to see if any of you have changed  
14 your mind.

15 The one thing I will ask is that I know it's  
16 not always people's favorite thing to do, but to come up  
17 to the podium because we do have a court reporter. And,  
18 if you do speak, to just say your name, spell your last  
19 name if it's complicated, and your affiliation. And I  
20 know we talked to some people, affiliation, you can be a  
21 public citizen, a private citizen, a land owner. I  
22 think someone said a future boater. I thought that was  
23 funny. I liked that.

24 So do we have any interest in public  
25 comments tonight? Yeah, I feel like I hear crickets.

26

1                   I'm going to move forward. One thing I will  
2 say, though, you know, sometimes it's not everyone's  
3 thing to come up here and talk. That doesn't mean you  
4 can't give comments, and I'm going to go over that,  
5 because you can always file them with FERC. You don't  
6 have to speak in front of this large group.

7                   Next slide, please.

8                   So talking about next steps and all of these  
9 lovely boxes, tonight we're in the scoping meeting and  
10 we're getting public comment, or maybe not, public  
11 comment tonight. But the next step is the study plan  
12 development. And I wanted go over some specifics with  
13 the study plan. Because, basically, Peabody is going to  
14 development a study plan, but in order to do that we're  
15 asking if anyone has a study request to file that with  
16 FERC, and then Peabody will take that into consideration  
17 when developing their proposed study plan.

18                  Next slide.

19                  So we have a list of specific study  
20 criteria. There are seven main criteria. When you are  
21 requesting a study, not only for FERC, but it's helpful  
22 for the Applicant, to know what the goals and objectives  
23 are of the study proposal. It's easy to say, okay, you  
24 should do a study on fish. Okay, well why? What's the  
25 point of that study? What fish are you looking at? Why  
26

1 do we need to look at fish? How are going to look at  
2 fish? So we want to know the goals and objectives of  
3 the study.

4 Explain relevant resource management goals.  
5 Sometimes there are not any, but there are a lot of  
6 existing plans to point to.

7 Explain relevant public interest. Again,  
8 why are we looking at fish? And I'm just using fish as  
9 an example, because that's a common theme when we're  
10 dealing with hydropower and water.

11 Describe existing information and the need  
12 for more information. So, you know, the PAD is the  
13 existing information. Why do we need more information  
14 on this species or on this resource?

15 Also, explain the nexus to the project,  
16 operations and effects. And how this study results  
17 would influence license requirements. Basically these  
18 studies, we hope that we're gathering enough information  
19 so you figure out the effects of the project and how  
20 they may be able to be mitigated for.

21 Of course, describe the methodology: Be as  
22 detailed as you can. This is something that it's a  
23 common topic in the study plan meetings. A lot of times  
24 that's a discussion. There may be different  
25 methodologies to studying the same thing. So it's open  
26

1 for discussion, but do the best you can.

2 The other thing is describe the  
3 consideration of level of effort and cause. So we asked  
4 for this because sometimes, you know, you get a study  
5 and it's \$2 million. Okay. Or there could be a study  
6 that's, you know, maybe only, I don't know, \$50,000, and  
7 we're trying to figure out the level of effort and cost  
8 it's going to be to conduct the study and is that  
9 reasonable. And, of course, the Applicant is taking  
10 that into consideration as well.

11 So why are these important? Of course, it's  
12 increasing understanding of the stakeholder information  
13 and needs. We're trying to figure out, you know, not  
14 only Peabody, but FERC, is also trying to figure out  
15 what stakeholders' needs are as far as information,  
16 knowing more about the project, possible mitigation down  
17 the road. These criteria help to develop more focused  
18 studies.

19 When you provide a request that's detailed,  
20 you've already done half the work. We see a lot more  
21 efficiency, I guess, with already having a detailed  
22 study on the table to talk about, rather than, well, I  
23 think we should study migratory birds, but where do we  
24 start? You know, there is a lot of work to be done to  
25 even get to talking about what kind of methodology or  
26

1 what the goals would be.

2 And then, of course, better study plans.  
3 It's more -- like I said, it's more efficient use of the  
4 time.

5 Yes, Bill. Did you have a -- wait, will you  
6 please state your name and your affiliation for our  
7 court reporter?

8 MR. CHASE: My name is William Chase. I'm  
9 the River Keeper at the Creek Ranch, which is the  
10 upstream property.

11 This study request criteria, where is that  
12 available to us, or do I have to write very fast?

13 MS. MURRAY: No, you do not. I will go over  
14 that. You have several options. The best place to get  
15 it -- well, I don't know if that's the best place to get  
16 it. The second place to get it is the FERC website. We  
17 have all of this information on our website, and I  
18 certainly can work with Peabody to get a link to post  
19 off your website. So if you go to their project  
20 website, you're able to click on the link, and there is  
21 the criteria.

22 MR. CHASE: Is this, like, in a booklet form  
23 of all the things that we're going to go over here so we  
24 don't have to go to fifteen different places?

25 MS. MURRAY: I'm not sure if it's in our  
26

1       how-to-get-involved booklet, the exact criteria, but  
2       yes, we do have a booklet of it, which I can also mail  
3       you. I was going to say, the other -- I was going to  
4       say, the best place or the best resource is me. I put  
5       my card out there.

6                   The whole purpose of me being here, being  
7       with this project is that you can pick up the phone or  
8       e-mail me, call me, ask me about anything to do with  
9       this process, and I can lead you into the right  
10      direction. Or if you are on your computer and I'm on my  
11      computer and you call me, I can get you to where you  
12      need to go.

13                   MR. CHASE: Can we, like, Skype?

14                   MS. MURRAY: Well, I guess we could. That  
15      would be a first, but I'm not going to say no. Yeah, we  
16      could, like, Skype.

17                   MR. MERRITT: Shana, we could post your  
18      entire presentation on our website.

19                   MS. MURRAY: Yeah, yeah. And if that would  
20      be helpful, I'll be more than happy, because you will  
21      have a copy of this. They can post the presentation  
22      here so you will have all the criteria. There is  
23      several spots to get it, so don't write fast. You don't  
24      have to memorize.

25                   MR. CHASE. Thank you.

26

1 MS. MURRAY: But with the study plan  
2 development, once we all -- and when I say "we,"  
3 stakeholders, agencies, FERC, we all have the chance to  
4 make studies requests if we feel that a study request  
5 needs to be made. We will file that with the FERC, and  
6 I will get to how to file things. And then the  
7 Applicant has 45 days to take all of that into  
8 consideration and to develop a proposed study plan.

9 Now, I'm going to note, and Brian already  
10 noted this, they have a list of studies they have  
11 already done and some work they have already done. So  
12 I'm not saying, okay, because they have already done  
13 these studies you can't propose more. I'm just saying  
14 look at what's being done before you request a study  
15 because it might have already been done. It's just the  
16 existing information versus what don't we have that we  
17 still need.

18 Once they the issue, or once they file a  
19 proposed study plan, that kicks off the study plan  
20 development period. So it's 90 days of meetings. These  
21 are Applicant-led meetings. They are required to have  
22 one meeting, but from what I gather from Peabody, I  
23 think there will probably be several, depending on, you  
24 know, what's being requested. But the whole point is  
25 to, again, come together as a group, talk about, okay,  
26

1       what needs to be done, how does it need to be studied,  
2       can we reach an agreement on this?

3                 Yeah, Bill, go ahead.

4                 MR. CHASE:  Again, Bill Chase, Creek Ranch.

5                 So we're in a situation here where we look  
6       at what the proponent has done, and this looks pretty  
7       good, but there are a couple of things that we think are  
8       missing which don't require a study plan.  But how do we  
9       know if we send them an e-mail or send you an e-mail  
10      that says, hey, we think they missed this, this and  
11      this, and we think these are extremely important.  They  
12      don't need a study plan.  Does everything that comes to  
13      you have to be in study plan request?

14                MS. MURRAY:  No.

15                MR. CHASE:  Or can it just be in a series of  
16      written observations?

17                MS. MURRAY:  Yeah.  You are a step ahead of  
18      me.  I was going to say, that's your MO tonight, you're  
19      just one step ahead of me, Bill.

20                MR. CHASE:  I'm sorry.

21                MS. MURRAY:  No, no, that's good, though.  
22      This is a good question, because, no, it's not all in  
23      study requests.  I'm going to reserve that thought  
24      because I'll get to it.

25                But, basically, we'll go through the study  
26

1 plan meetings. Agencies and stakeholders have one final  
2 chance at the end of those 90 days to say, okay, here  
3 are our final thoughts on the development of a final  
4 study plan.

5 Again, the Applicant will look at those and  
6 file a revised study plan with FERC. Then FERC has  
7 30 days to take everything that was filed from you, the  
8 stakeholders, and the agencies, and what's filed by the  
9 Applicant, the revised, and make a determination.

10 So the OEP director, Office of Energy  
11 Projects Director, will make a determination. Here is  
12 your study plan, Peabody. This is what you are required  
13 to do.

14 Next slide.

15 Sometimes when this happens people aren't  
16 happy with what FERC decides. They say, hey, wait. For  
17 an example, a mandatory conditioning agency. When I say  
18 mandatory conditioning agency, I'm talking about those  
19 agencies that are able to require conditions in the  
20 license. So in this case it would be BLM, because there  
21 is BLM land within the proposed project boundary, the  
22 water quality agency that will issue water quality  
23 certs.

24 I don't know if I'm forgetting another  
25 issue.

26

1                   MR. HASSELL: I don't know what the acronym  
2 is, Colorado DQ --

3                   MR. POIROT: CDPHE-WQCD.

4                   MS. MURRAY: Those are a lot of numbers  
5 (sic).

6                   MR. POIROT: Colorado Department of Public  
7 Health and Environment, Water Quality Control Division.  
8 My name is Andy Poirot, P-o-i-r-o-t.

9                   MS. MURRAY: So, yes, that's what I mean by  
10 the water quality agency. That is a long name.

11                   They may have requested a study and gone  
12 through all of this. Peabody decides I don't think we  
13 need to do that. And FERC, in their determination,  
14 agrees with Peabody. It doesn't require that of the  
15 study plan. The water quality agency can come back and  
16 say, hey, FERC we really think this is necessary. We're  
17 disputing your decision on this study plan, and then we  
18 go into a dispute-resolution process. It's a panel,  
19 with not just FERC, but two other agency  
20 representatives, and there is a whole process of the  
21 panel -- speaking to the panel why there should be a  
22 study or why there shouldn't be a study, and then they  
23 write a decision, a panel -- a collective panel  
24 decision, and then, again, the office director will make  
25 another decision. Okay, you know, I hear what you are  
26

1 saying, yeah, we'll require it, or, no, we stand by our  
2 decision.

3 Yeah, go ahead. Will you state your name.  
4 Before you speak?

5 MR. McBRIDE: Kevin McBride, Upper Yampa  
6 Water Conservancy District. So I just -- if, indeed,  
7 the Water Quality Control Division had an issue, but  
8 still has to issue the 401 water quality certification,  
9 the fact that they would get a license would not  
10 preclude the need for the 401 water quality  
11 certification; is that correct? Or is there federal  
12 primacy here?

13 MS. MURRAY: Well, I think I'm getting what  
14 you are saying. FERC cannot issue a license until we  
15 receive the water quality cert from the water quality  
16 agency. We can't issue anything until we have that.

17 MR. McBRIDE: So you just talked about a  
18 situation where the Applicant would decide they didn't  
19 agree with that need and FERC would agree with that?  
20 And I'm just trying to sort out --

21 MS. MURRAY: No, you are right. I mean, it  
22 gets a little confusing. I would like to say so far we  
23 haven't -- well, no, I'm not even going to go there,  
24 because I would have to go back.

25 You're right. With the water quality  
26

1 agency, they need to issue a water quality certification  
2 for the project in order for us to issue a license. So  
3 if they are requesting a study that they want done and  
4 FERC disagrees with it, FERC may not require it in our  
5 study determination for whatever reason. We may not  
6 find a nexus to it. However, Peabody has to weigh,  
7 well, the water quality agency is telling me we can't  
8 issue a water quality cert until you do this study.

9 So Peabody may decide to do that study, but  
10 it may not be required by FERC. Is that confusing  
11 everybody?

12 I mean, I would like to think, hopefully, in  
13 an ideal situation, that doesn't happen and there is  
14 agreement on studies. But, you are right, that can  
15 happen, and that -- basically that's a business decision  
16 between Peabody and the water quality agency. Because  
17 FERC is trying to make the best decision on what we  
18 think has a nexus to hydropower, and sometimes we would  
19 say we received studies that appear that they don't have  
20 a nexus to the project and may just be research.

21 And I'm not saying that happens all the  
22 time, it just -- sometimes there is difference of  
23 opinions.

24 MR. McBRIDE: But generally people could be  
25 fairly confident that agency directives will be followed

26

1 through this process?

2 MS. MURRAY: Yeah. I think that's fair to  
3 say.

4 So we're going to go to the next slide.

5 We'll get out of this study dispute because,  
6 we're going to be optimistic that everyone comes  
7 together and can find a compromise and agree.

8 So here is the big picture of, you know, all  
9 of this jabbering I've been doing all night.

10 How to get involved. You know, we're at the  
11 beginning of this process. There is a difference of  
12 opinion whether it's long or short, but it is up to five  
13 years, five and-a-half years, and we're just at the  
14 beginning. I think it's important, as you, as  
15 stakeholders know where to get involved, when to get  
16 involved. This is kind of an overview at each point in  
17 the process.

18 Prefiling and post filing there is  
19 stakeholder involvement. It's all through the  
20 integrated licensing process, which is why we like the  
21 license -- integrated licensing process.

22 So we'll go to the next slide.

23 The first way to get involved is to get on  
24 the mailing list. Getting on the mailing list, you get  
25 a hard copy, so paper copy in the mail of everything

26

1 that's issued or filed under this project. So if Betty  
2 Smith files a comment letter on the project, you would  
3 get that in the mail. If Peabody files their proposed  
4 study plan, you get that in the mail.

5 I want to note something very important  
6 here: Because this is a new project, there is no  
7 mailing list right now. Some of you I don't know if you  
8 are on the mailing list. Some of you might be on a  
9 distribution list, and you may have got our scoping  
10 document. That's the only thing you are going to get  
11 unless you put yourself on the mailing list.

12 So in order to do that you can send an  
13 e-mail to [efiling@ferc.gov](mailto:efiling@ferc.gov), or send a request by mail to  
14 our secretary, and you just need to be specific that you  
15 want to be on the Peabody Trout Creek reservoir  
16 hydropower project and the project number.

17 Now again, Dave said he would put my  
18 presentation up on their website. We have the scoping  
19 document with the project number. We also have those  
20 blue booklets that lays out these steps as well. So  
21 there is several -- and on our website. So there are  
22 several different places. You don't need to memorize  
23 this or write it down tonight. We have it available in  
24 several different spots.

25 Next slide.

26

1           The other way to get involved is to be an  
2           intervenor. I know I mentioned this earlier. It's a  
3           party to the proceeding. Basically, when you are an  
4           official party to the proceeding you get to participate  
5           in hearings as a party member. You get to file briefs.  
6           You can file for rehearing. This is different. If you  
7           are just a public citizen commenting on the process, you  
8           don't have that ability to file rehearing. You have to  
9           be an intervenor. You have to have that status. It  
10          also gives you legal standing to be heard by a court of  
11          appeals.

12                 This doesn't mean you can't comment if you  
13          are not an intervenor, it just gives you these rights, I  
14          guess. If you are a cooperating agency, which I don't  
15          know if we have agency folks here, they do not get  
16          intervenor status, because they are cooperating with us  
17          on our analysis, which means -- yeah. They don't have  
18          the right to be an intervenor under our process.

19                 And, of course, if you are an intervenor you  
20          have to file a motion with FERC saying you want to be an  
21          intervenor. Again, this is in our blue book in more  
22          specific detail, or if this is something you decide you  
23          want, give me a call and I can walk you through the  
24          steps.

25                 Next slide, please.

26

1 Bill, have you got a question?

2 MR. CHASE: Intervenors, will you publish  
3 who are the intervenors in an area, a geographic area,  
4 that has to do with a project?

5 MS. MURRAY: What happens is in order to be  
6 an intervenor you have to file a motion with FERC, and  
7 that goes on the public records under the project  
8 number. So anyone on the mailing list will see you're  
9 an intervenor. Anyone who e-subscribes, which I will  
10 get to, will see you are an intervenor. So, basically,  
11 everyone who is involved with the project will see it.  
12 And then when we go into the NEPA document, we list  
13 everybody who filed a motion to intervene.

14 MR. CHASE: Okay. Historically, are  
15 intervenors an agency person or a law firm or something  
16 of that nature that can be accessed by individuals who  
17 don't want intervenor status but feel they have  
18 something really important where they would like to --

19 MS. MURRAY: We have seen all of the above.  
20 We have seen agencies who will intervene, and usually  
21 BLM or Forest Service will file an intervention. We  
22 have seen law firms do it. We have seen nongovernmental  
23 organizations, for example, American White Water or  
24 American Rivers, they have filed.

25 MR. CHASE: Okay.

26

1 MS. MURRAY: Or private citizens. But you  
2 are exactly right, if someone -- if, let's say, American  
3 Rivers files to be an intervenor, okay, you know they're  
4 an intervenor, so if you would rather talk to them and  
5 go through that channel with your concerns, that's one  
6 way to look at it.

7 MR. CHASE: Thank you. That's clear.

8 MS. MURRAY: Yep.

9 So, again, I'm sort of jumping around here,  
10 jumping past the intervenor part, just to file comments,  
11 anything on tonight, any issues that we may not have  
12 identified, things you see missing from the PAD, study  
13 requests. Or, as Bill was saying, something -- items  
14 that are important that you see missing but aren't  
15 necessarily study requests, all of the above.

16 Your time to file is now. We're accepting  
17 those comments on all of the above study requests,  
18 comments on the PAD, comments on our scoping document,  
19 anything that we missed in scoping of the issues.

20 And the filing date is December 4th. That  
21 date is working off of when the meeting was supposed to  
22 happen. Peabody was required to have a public meeting  
23 like this by November 5th, I think it was. So you guys  
24 get an extra week in there, so I think it's -- instead  
25 of 30 days, it's 40 days. But the main point what of I  
26

1 am trying to say is all comments are due December 4th  
2 and you can file those with FERC.

3 Again, one way to do that is paper  
4 correspondence, and that's filing you're comments with  
5 the secretary. And that's her address.

6 Next slide.

7 But I personally think this is the best way  
8 to get involved. We have several web resources on our  
9 website. The first one is our licensing web page.  
10 Everything I went through on process, criteria for study  
11 requests, more on the ILP, that's all under our website  
12 at ferc.gov.

13 The other part is eLibrary. This is a  
14 searchable database, so when you type in that project  
15 number, P-14446, everything that's been filed or issued  
16 on that project is under the record. You'll see  
17 everything that's been issued by FERC, filed by Peabody,  
18 filed by anybody.

19 If you don't want to go into eLibrary every  
20 week or every day just searching for new filings, you  
21 can go to eSubscription, also on our FERC website. What  
22 that does is you sign up under the project number, which  
23 this would be the Trout Creek Reservoir project number.  
24 And that means anytime someone files something having to  
25 do with this project, you get an e-mail. That e-mail  
26

1 will be sent to you, and it will have a link that you  
2 click on, and there is, you know, Joe Hassell's study  
3 request or there is FERC's determination on the study  
4 plan or there is John Smith's comments on the PAD.

5 You get to see everything that way, but you  
6 don't have to keep coming back to the FERC website. We  
7 e-mail you, and so you are always are in the know.

8 And if you don't want to look at it, you can  
9 just delete it, or if you just, you know, want to see  
10 everything, I think that's the best way to stay involved  
11 and really know what other people are saying and what's  
12 going on.

13 Like I said, the last thing is eFiling. If  
14 you don't want to file your comments by paper, you can  
15 file them electronically under the same website under  
16 the same system. You'll sign into our eFiling, and you  
17 are able to attach either, if it's a Word document or if  
18 it's a PDF, and file your comments electronically with  
19 FERC.

20 The paper one, it usually takes a couple of  
21 days because of the mail to show up. You know, it's got  
22 to get to FERC and then be filed. With eFiling you can  
23 file it at 10 in the morning and you'll probably see it  
24 by 2 or 3 in the afternoon. It's very quick. You see  
25 it right away. I highly suggest this. And, again,

26

1 those blue books out there, they really give a  
2 step-by-step detail on how to do this. But there is my  
3 card out there. You can call me, I will walk you  
4 through it if that's the way you want to go.

5 So next slide.

6 So with that I'm sure you are all tired of  
7 hearing my lovely voice, but I will leave my contact,  
8 name, number and e-mail. Like I said, my cards are out  
9 there. That is all we had for tonight. But I want to,  
10 before we kind of wrap this up, I wanted to see if --  
11 you know, I threw a lot out at you this evening. If  
12 there is any additional questions for myself about the  
13 process or anything I just went over or for Peabody and  
14 their presentation and their proposal at this point?

15 Yeah. And when you stand up, if you could  
16 state your name and your affiliation loudly for the  
17 court reporter.

18 MR. PATRICK: My name is John Patrick. I'm  
19 just an interested person. I wondered why Peabody  
20 needed the water flow and how are they going to use it?  
21 Is it going to being as polluted as the effluent?

22 MR. YANSEN: You know, we're very early into  
23 the project itself, and the qualities of water and what  
24 we need are basic. We've got about four steps out here  
25 for the use of the water. One is to obtain a long-term  
26

1 supply of water for our operations. Obviously, through  
2 that process we have the ability to generate the  
3 hydroelectric as well as recreational wildlife. So with  
4 all of those put together, as well as a residential  
5 component, that's what FERC is here to help us with is  
6 the whole entire project as a whole.

7 The numbers aren't set yet. That's  
8 something to be determined later, and it's dependent on  
9 market conditions and when mining operations will engage  
10 over time.

11 MR. PATRICK: I'm still confused. What are  
12 you going to do with the water?

13 MR. YANSEN: Well, we went through it that  
14 the water is going to be used for operations. It will  
15 be released --

16 MR. PATRICK: For washing coal?

17 MR. YANSEN: Yes, it will be for all of the  
18 above. It will be used for entire operations at our  
19 locations currently now at Sage Creek as well as future  
20 operations. Also with that water is going to be a  
21 recreational piece, a residential piece as well as the  
22 hydropower piece. Obviously, that water will be used  
23 over and over again for all four of those pieces. And  
24 there might be even more things that will be further  
25 developed as this process goes. We're very early on in  
26

1 the process, though.

2 Does that answer it?

3 MR. PATRICK: Yes.

4 MS. MURRAY: We have another question.

5 Go ahead.

6 MS. RAMIREZ: Jacqueline Ramirez, property  
7 owner out by Creek Ranch Headquarters.

8 Is there a study that's been done on the  
9 impact of traffic on Twentymile Road due to this  
10 project?

11 MS. MURRAY: From my understanding, I mean,  
12 you all have it -- from my understanding, no.

13 MS. RAMIREZ: Will there be?

14 MR. YANSEN: It's something we can take into  
15 consideration, yes.

16 MS. RAMIREZ: Well, the reason I ask is, I'm  
17 a property manager in Creek Ranch, Deer Wood, and I also  
18 have properties on the north side of Steamboat.  
19 Twentymile Road I do between 300 and 500 miles a week is  
20 what I am going back and forth. And I'm just curious,  
21 with that being a two-lane road, what kind of impact  
22 we're going to be seeing out there, because it's already  
23 a difficult road. It can be dangerous at times,  
24 especially with the bikers, cyclists in the area, and  
25 you add a lot of big machinery, what are we looking at?  
26

1 MS. MURRAY: Well, and I think you bring up  
2 an excellent point. It sounds like this is the  
3 beginning of your study request. I mean, that's exactly  
4 what it is.

5 MR. YANSEN: Sounds like a study to me.

6 MS. MURRAY: Yes, Brian is right. It's very  
7 early in the process. We haven't -- they haven't even  
8 developed a proposed study plan. That's the kind of  
9 stuff we're looking for. So I -- yes, I would highly  
10 suggest for you to file that study request. And you  
11 would file it with FERC so it's on the record, and then  
12 they have to take that into consideration when putting  
13 together the proposed study plan.

14 Yeah, go ahead.

15 MS. RUBY: Jan Ruby, Routt County Road and  
16 Bridge.

17 Just as a follow up to that, that's probably  
18 something that we'll ask for at some point.

19 MS. MURRAY: Well, that's another great  
20 point. Some of these study requests, sometimes we see  
21 different agencies or different groups or just citizens  
22 filing the same thing. If you have an idea and an  
23 interest, and this is just a suggestion, it's not a  
24 requirement, that you both see a need for this study,  
25 it's helpful to work together so then you are filing one  
26

1 study together. I mean, you certainly can file  
2 separately, but, yeah, easing the workload, I guess.  
3 Just a thought.

4 MS. RUBY: That's why I wanted to make that  
5 comment, because we'll probably -- I mean, you can  
6 request it, certainly, but we'll probably have a more  
7 detailed scope of what we will be looking for in the  
8 area.

9 MS. MURRAY: Yeah, and that's helpful to  
10 know.

11 Do we have any more questions?

12 Okay. With that, I'm going to officially  
13 close this meeting.

14 MR. MERRITT: Well, I want to point out that  
15 we do have copies of the CD in the back if anybody needs  
16 a copy and did not receive a copy.

17 MS. MURRAY: Of the PAD?

18 MR. MERRITT: Of the PAD, yes.

19 MS. MURRAY: Okay. Good to know.

20 Anyway, I was going to say just before I  
21 close Peabody, FERC, all of us will be around once we  
22 close, so it's not like we're closing and then kicking  
23 you all out. So if you have questions still as we kind  
24 of clean up here, please come up and talk to us.

25 Thank you all for coming. I really

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1 appreciate it. We look forward to working with you.

2 (The hearing was concluded at 8:32 p.m.)

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