

March 9, 2018

Secretary Kimberly D. Bose
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: Gregory B. Jarvis, Hinckley Reservoir Project, FERC No. P-3211
Comments to the New York Power Authority's (NYPA) proposed study plan

Dear Secretary Bose:

I have reviewed the New York Power Authority's (NYPA) Proposed Study Plan for their Jarvis Hydroelectric Project at Hinckley Reservoir (Hinckley Lake). I, as a representative of the Citizen's of Hinckley, the property owners, and the general public, have many concerns and questions about NYPA's proposal and the current relicensing process. I, as well as many others, believe NYPA's Jarvis Project relicensing process needs to be integrated with Brookfield Power's West Canada Creek Project (P-2701) relicensing for many obvious reasons.

My comments are broken down based on each section of NYPA's proposal document. If I did not comment on a section, I left it out of this document because I did not have enough knowledge on that particular area to comment on or I just did not have any comments towards that particular section.

General Comments on Relicensing/Study Plan

Before the amendments made to the Federal Power Act in 1986, dam licenses issued by FERC were primarily issued based on a river's power generation potential. The 1986 amendments now require FERC to consider power generation, protection of fish and wildlife, recreational opportunities, protection of general environmental quality, as well as other areas. It is quite evident that with the original FERC license given to NYPA in 1982 for the Jarvis Project at Hinckley, that power generation potential of the West Canada River and Hinckley Reservoir were the main focus as all other areas of concern were not given equal consideration at the time. It is obvious that with NYPA's recent proposed study plan that they would like to continue to ignore the obvious abuse of Hinckley Lake and the entire West Canada River watershed and continue to produce power using the current operating diagram. While NYPA continues to state that they do not have any authority to deviate from the current operating diagram, they do manipulate the releases in a way that does impact the reservoir through their peaking operation. NYPA states that their peaking operation has no to very little impact on the lake and the West Canada down stream. How has NYPA come to this conclusion?? There definitely needs to be more evidence on NYPA's part to prove their statement to be true, as it has been observed by the recreational users and landowners of Hinckley that their peaking production combined with the overall water level management using the 2012 Operating Diagram does indeed impact our shorelines and recreation. If peaking production impacts recreation and our shorelines, it must also impact the fisheries and have other environmental impacts. The studies FERC has requested of NYPA all must be done and not pushed to the side as NYPA is attempting to do. NYPA should not ignore the abuse and neglect that continues to get worse on this waterway. They

either are a part of the solution or a part of the problem. Right now they are a part of the problem. This is another example of how decisions have been made over the years on the management of the lake and the river system without truly understanding the impacts these decisions have. In NYPA's defense of this though, NYPA should not solely be responsible for all of the studies as Brookfield Power should also be responsible as their legal settlement's with the New York State Canal Corporation (NYSCC) are directly tied to the management of Hinckley Lake and are a major issue as well. And for many obvious reasons, continuing to produce power under the current 2012 Operating Diagram would not be in the public's best interest.

As an advocate for Hinckley Lake, I represent the hundreds of property owners of the lake as well as the thousands of visitors the lake has each year. There are many reasons why FERC should integrate the re-licensing process of the Jarvis project (P-3211) with Brookfield Power's West Canada Creek Project (P-2701) as much as possible. Brookfield's predecessor forced the hand that created the original 1920 Operating Diagram for Hinckley Lake and Brookfield forced the creation of the current, and even worst, 2012 Operating Diagram. The legal settlements tie Brookfield Power directly to the management of Hinckley Lake's water level and both the Jarvis Project and the West Canada Creek Project impact each other and could be managed together in a more efficient manner in the future. It has been FERC's policy since 1994 to coordinate relicensing projects with other licensees that impact each other in the same river basin so they can streamline the relicensing process, which can be a cost savings, and a comprehensive environmental analysis of impacting projects can be done, as well as other obvious benefits. There have been many decisions made on the management of Hinckley Lake due to legal battles throughout its history that have negatively impacted the fisheries, landowners, recreation, local economy, etc. all due to the greed of the entities involved and all without any input from FERC, the general public, and environmental agencies. It has been devastating to this waterway. It is in the public's best interest to streamline as much of this process as possible and to come up with a solution that has a healthy balance in which our environment can be healed and generations to come can benefit from.

The Citizens of Hinckley Lake and the general public understand that Hinckley Lake was built to supply water to the NY State Canal Corporation or the Rome summit of the canal. It also has recent legal settlements to allow the Mohawk Valley Water Authority (MVWA) to take up to 75cfs a day. It is also understood that the Canal Corporation must supply water downstream to the Brookfield Power Dams (West Canada Creek Project) using the 2012 Operating Diagram. Any deviation from the operating diagram results in the Canal Corporation having to compensate Brookfield Power with money. There is no equity amongst all interests at Hinckley. In fact, there are too many entities profiting off Hinckley and they all turn their heads and avoid the major concerns and issues on the abused waterway that it has become. While we disagree with how the MVWA worked its way into taking water from Hinckley, we understand that their max water allowance combined with what the Canal Corporation historically uses equals to a fairly small amount compared what is being released from Hinckley for power production. The main problem continues to be the fact that the 2012 Operating Diagram is legally connected to Brookfield Power's West Canada Creek Project down below Hinckley and that is what the majority of the water is released for. The NYSCC has two main reservoirs that they rely on for the summit of the Canal in Rome, NY. It is Hinckley and Delta Reservoirs. Delta is connected to many more reservoirs north of it, while Hinckley is not. The Canal Corporation's other reservoirs are managed in more of a river of flow and only does the water drop at Delta later in the dryer summer months when the water is needed for the canal summit in Rome. The reason for Delta Reservoir's steadier water levels is due to the fact they have no power generation

plants there. The Canal Corporation's reservoirs could all be used in a much more balanced and healthier way without legal ties to Brookfield Power at Hinckley and with a change to the operating diagram. With that said, Brookfield Power needs to be included with NYPA in these studies of Hinckley Lake.

Study Plan Comments

In NYPA's Jarvis Study Plan proposal, dated December 12, 2017, I question some of the reliability of their information, and their reasoning for ignoring some of the study requests from FERC.

Information that NYPA has incorrect in their study plan proposal

- *NYPA states that Hinckley Reservoir is owned by the New York State Canal Corporation (NYSCC).* Hinckley Reservoir is actually owned by the People of the State of New York and is under the jurisdiction of the New York State Canal Corporation. It is not owned by the NYSCC.
- *NYPA states numerous times that "normal pool elevation" of the reservoir is at 1225'.* 1225' is actually the crest of the dam but it is far from "normal pool elevation" of the reservoir, especially since the 2012 operating diagram was put into use. Water is drastically and quickly dropped from the 1225' elevation. "Full pool elevation" would be a more correct term for when water level is at 1225'.

Specific Comments on NYPA's response to FERC's Additional Information Requests (Section 2 in NYPA's proposed study plan)

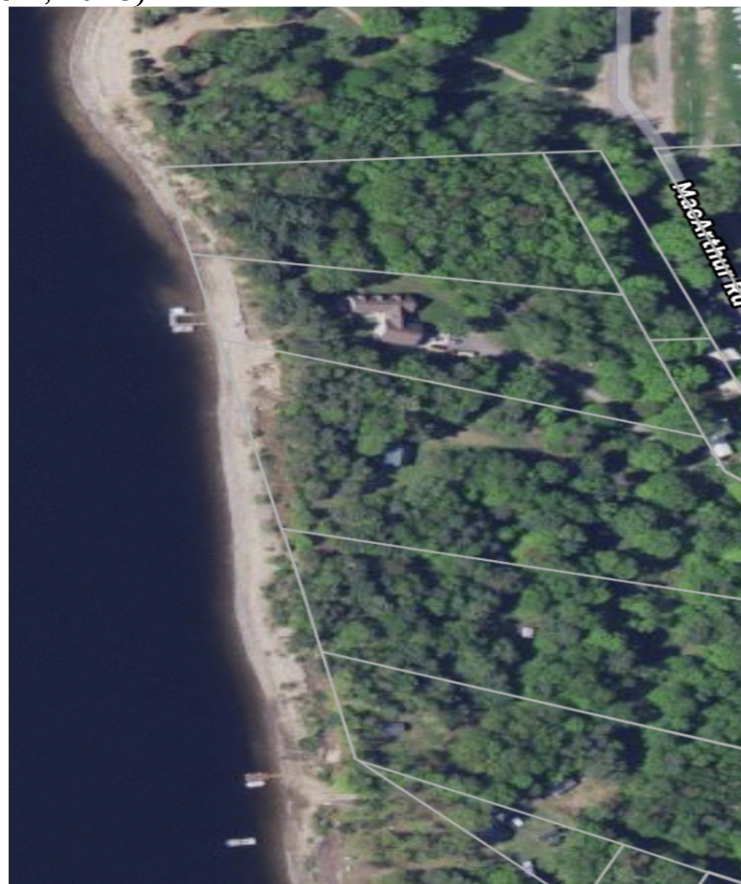
2.5 FERC AIR No. 5: Geology and Soils

NYPA continues to state that there is "minimal to no shoreline erosion throughout the reservoir". One of the major concerns of property owners is the continuous erosion along shorelines. Some property owners have lost many feet of property and/or leased land due to erosion. Even some of the cement monuments placed in the ground by surveyors to mark out the original state land over 100 years ago to make up the reservoir boundary have fallen down into the lake. As seen in the pictures below (photo 1 and photo 2), the property lines now go out into the lake due to erosion. There once was a buffer of state land between these private properties surrounding the entire lake. The state land is the land that can be leased by the property owners bordering the lake and their property. As is evident by just the two examples below, that buffer of state land has eroded into the lake in many areas. This has occurred all over the lake. It seems to be common sense that the erosion along with the sediment inflow from the rivers has slowly filled in the lake over the years. I am emphasizing this all to show that there has been infilling of the lake over the years and that the bathymetric survey is well overdue. If the survey is done correctly, it should show that there has been a filling in of the lake and that it does not hold as much water as originally was estimated over 100 years ago.

Photo 1 (Zillow.com, 2018)



Photo 2 (Zillow.com, 2018)



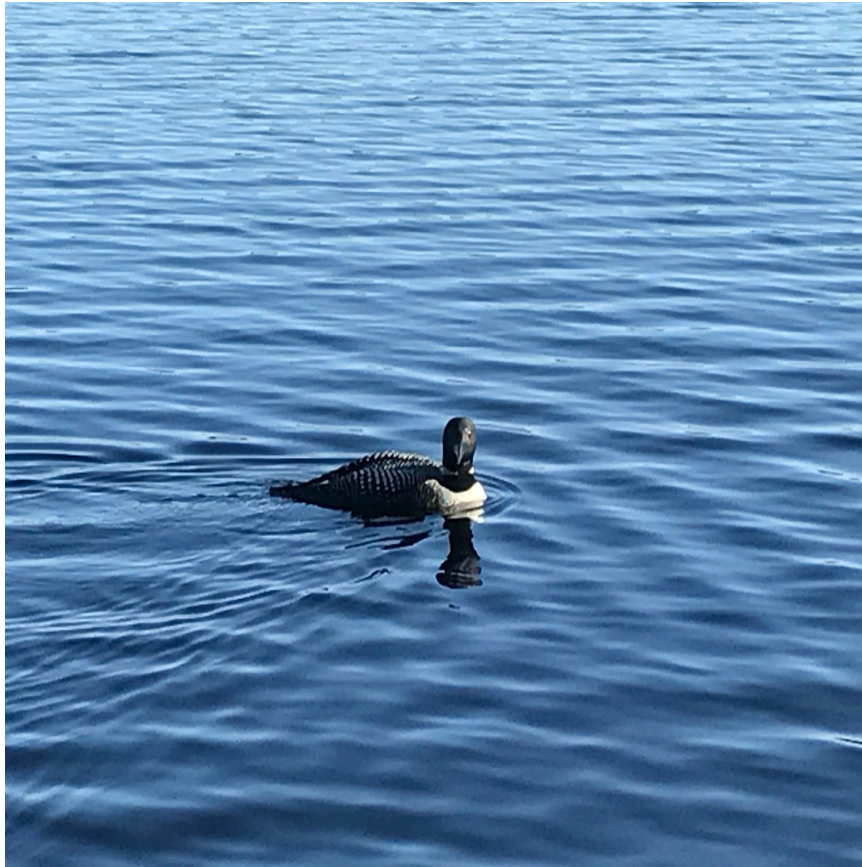
2.9 FERC AIR No.9: Terrestrial Resources

In response to FERC's request about the Common Loon sightings at Hinckley, NYPA states that they "examined several sources" in regard to Hinckley supporting the Common Loon. NYPA states that there have been no Loon sightings at Hinckley over the last few years. I, as well as others, find NYPA's census to be incomplete and most definitely not true. Loons are seen in various sections of the lake from around the time the ice melts in early spring to the late fall time, when they then migrate south. It is currently estimated that there are 4-6 loons that return to Hinckley each year on a consistent basis. It is of great concern that the combination of NYPA's peaking process and the water management using the 2012 operating diagram that their breeding time of May/June is negatively impacted by the rapid reduction of water in the lake. Below are two pictures (Photo 3 and Photo 4) of a Loon that was seen in the part of Hinckley that spans from the shoreline of Huther Point to the Trails End Beach shoreline. It was one of two Loons seen in just that part of the lake through the 2017 spring, summer, and fall months. There have been Loon sightings consistently in this part of the lake for many years now. There have been many Loons spotted and observed in other sections of Hinckley Lake throughout 2017 and in the past as well. Sightings of the Loons, along with Bald Eagles, are very popular and considered unique amongst the people that live, camp, and recreate at Hinckley Lake.

Photo 3 (Photo Credit: David Waters, Hinckley Lake 2017):



Photo 4 (Photo Credit: David Waters, Hinckley Lake 2017):



2.10 FERC AIR No.10: Land Use

There are many private properties that are adjacent to the reservoir and Project lands. Private property owners lease the land that is a buffer around the lake, from the state through the NYSCC and are able to use it as their own use and to access the lake through. Some private properties now go right into the lake due to erosion of the buffer state land over the years. The combination of NYPA's peaking production and the management of lake water levels using the 2012 Operating Diagram have major impacts on the shorelines and the properties that border the project boundary. There are camps, vacant land, and beautiful year round homes that surround the lake, with potential for more development in the future. There are 100's of private properties surrounding the lake in which the Jarvis project and the operating diagram impacts. Some properties are rental properties in which people come from all over the country to enjoy the Lake at. Amongst the other properties there are two private campgrounds, a state beach managed by the NYSDEC, and a camp for kids with special needs (Camp Northwood). There are a variety of properties along the shoreline of the lake. It is not quite understood why NYPA is ignoring FERC's request for the number and type of properties that border Hinckley Lake when NYPA's peaking process does impact the shoreline of these properties. But yet again, NYPA should not solely be responsible for this study and some of the other studies as Brookfield's West Canada Creek project impacts the entire Lake due to their legal ties to the water management.

Specific Comments on NYPA's Proposed Studies (Section 3 in NYPA's proposed study plan)

NYPA 3.1 Hinckley Reservoir Bathymetric Survey

This study is very much needed as is evident by my previous comments. (2.5 FERC AIR No. 5: Geology and Soils) In just two examples of properties in the satellite view pictures, I showed a tremendous amount of erosion that has occurred in just those small sections of the lake. Between the shoreline erosion of the entire lake and sediment flowing into the lake by the rivers and other small streams, there has been considerable filling in of the lake in the 100 plus years of its existence.

NYPA 3.1.6 Project Nexus

NYPA states, "there is no nexus between the requested survey and the continued operation of the Jarvis Project". This is not true as the combination of NYPA's peaking process and the use of the 2012 Operating Diagram does impact all areas of Hinckley Lake in many ways. This will be explained more in depth in my comments on the peaking process later in this document.

NYPA 3.4 Recreation & Public Access

NYPA's peaking process combined with the use of the 2012 Operating Diagram have a major impact on the entire Hinckley Lake. Yet they only want to conduct a study on their small boat launch area near the dam. There are many areas of the lake that are impacted by a combination of the peaking process and the operating diagram. There is another public boat launch at Trails End Campground, the island is a popular place for people, a beach where boaters often pull up to so they may enjoy the sand and water ("Boaters Beach"), the NYSDEC park, as well as many other areas that the public enjoy when water levels allow. There needs to be an extensive and comprehensive study done on recreation and public access and the impacts the power production has on this. Power production has damaged this aspect of the lake for too long and it is evident that NYPA's peaking process with the Jarvis Project combined with the 2012 Operating Diagram does impact all areas of the lake, including recreation. Also, Brookfield Power should most definitely be involved and share the cost of this study due to their legal connection of the water management at Hinckley Lake.

NYPA states that they estimate that their boat launch has been used at less than 50% capacity. How did they come up with this estimate and what process was used to come up with this? Was weather and lake level put into consideration when coming up with this estimate? Was time of week put into consideration? In my observation when the weather is ideal for recreation and lake levels are at an adequate level to support recreation, NYPA's boat launch is used at more than 100% capacity on those days. Automobiles and trailers fill the parking lot to maximum capacity to the point that they are often parked on land across the road, along the road and down along the shoreline. Trails End Campground's boat launch, which is open to the public, is also at more than 100% capacity on ideal recreational days. Beaches along the shoreline are often full, the island can be found with many boaters

pulled up to it and Boaters Beach is generally full of boaters and people on these ideal days. Through my observation, as well as many others, public access is inadequate during these times.

The NYPA boat launch is of lower quality compared to other launches on similar lakes in the area. Parking is limited and there are no courtesy docks. NYPA disregards winter recreation in their study plan proposal as well. There are many people that ice fish, snowmobile, snowshoe, and cross-country ski on the lake during the winter months. The management of the lake levels due to power production negatively impacts all of this. A more comprehensive study that involves all areas of recreation including all public boat launches, campgrounds, public access beaches, winter recreation, etc. needs to be conducted. NYPA's peaking process combined with the use of the 2012 Operating Diagram has a major impact on all areas of recreation. Brookfield Power should also be involved and share the cost of this study due to their legal connection to the 2012 Operating Diagram.

NYPA 4 Discussion of Proposed Requests Not Adopted

NYPA stated that they did not adopt various studies requested by the FERC because there is no nexus between their Jarvis Project and the studies requested. NYPA continued on to state that their peaking operations have no to little impact on Hinckley Reservoir water levels. This is most definitely not true and NYPA's peaking process combined with the 2012 Operating Diagram does indeed have an impact on Hinckley Lake water levels. The studies that FERC requested and NYPA is stating do not have a nexus; do indeed have a nexus to Jarvis operations. These studies need to be done. In NYPA's defense though, Brookfield Power should share the cost and conduct these studies as well due to their legal connection to lake operations and their West Canada Creek Project being impacted by the Jarvis Project operations.

NYPA 4.1.2 Effects of Jarvis Peaking Operations on Water Level Fluctuations

As stated previously, NYPA's Jarvis operations do impact the water level and the entire Hinckley Lake. NYPA has always stated that they have no impact on anything in regards to the lake. Anytime there is concern over the water levels at Hinckley, NYPA states they only release what they are told to release based on the 2012 Operating Diagram. Yet, it has been found that they do in fact have an impact on water level with their peaking process. Through their manipulation of water releases and the combination of water management using the 2012 Operating Diagram, they create many difficult situations. One major issue that is created by their peaking process is when they release the maximum of 1800cfs over a four-hour period. It has been observed often during this peaking time that boats become stranded on shore due to the excessive releases. Boats parked on shore and left for that short amount of time have become so stranded that it takes many people to help push the boats off and/or the boat operator has to put the lower unit down and use the propulsion of the prop to help force the boat off shore, causing damage to the lower unit and the bottom of the boat. This makes having docks on shore more difficult as well as they have to be moved constantly due to the four hour rapid drop in water or they become stranded on shore as well. This would not happen if the water were released on a slower steadier manner instead of in a peaking type release. This issue due to peaking is usually observed in the evening time and when lake levels are below elevation 1220'. When the lake level is above

1220' the peaking process of excessive releases is not really noticed along the shoreline and we do not experience these problems, most like due to the larger surface area of the lake at those higher levels. If the peaking process impacts boats, docks, and other recreational aspects along the shoreline, then it can almost certainly be assumed it impacts the fisheries and have other environmental impacts as well.

NYPA states that with the peaking process they impact the water levels with up to a 3-inch vertical drop in a four-hour period. With some arithmetic, you can see that this equals to a much larger drop on a shoreline. A 3-inch vertical water level drop on a shoreline that has a 20-degree angle slope towards the water equals to about a 9-inch drop in that area of shoreline. If a shoreline has a 10-degree angle slope towards the water, a three-inch vertical drop would equal to about a foot and a half of water dropping on that area of shoreline. A two-inch vertical drop on a shoreline anywhere from a 20 to 10-degree angle slope towards the water would equal somewhere from about 6 inches to 1 foot of a drop along the slope of a shoreline. Obviously the shoreline slopes range in various degrees throughout the lake. Some are even shallower slopes than the examples I gave which would mean an even larger area of shoreline would become exposed with the drastic vertical drops of water in such a short period of time. As stated before, this becomes worst as the overall lake levels lower, most likely due to the smaller surface area of the lake. There is also the issue of the plateaued areas that are under the surface of the lake. These often become marsh type areas once the lake water is no longer over it. If there are a few inches of water over these fairly flat marsh areas and then suddenly NYPA drops the water drastically during their peaking process; this must negatively impact the fisheries, birds, and other nature that rely on these areas for habitat, food, and reproduction. These examples I used are based off of NYPA's data of their peaking process in their Proposed Study Plan document. I believe their information is based off the original capacity of the Lake. With that in mind, the impacts of their peaking is probably worst than my examples show due to the filling in of the lake over all these years. But again, this is why the combination of the 2012 Operating Diagram and NYPA's peaking process negatively impacts the Lake in many ways.

Conclusion/General Comments

It is quite obvious that there are many reasons why NYPA's Jarvis project (Hinckley Reservoir) and Brookfield Power's West Canada Creek Project (P-2701) should be integrated and licensed together. All of these studies that the FERC requested NYPA to perform need to be done. Yet NYPA should not be the only entity responsible for them as Brookfield Power's West Canada Creek Project is directly connected to the management of Hinckley Lake because of their legal ties to the 2012 Operating Diagram. These two projects are directly connected to each other as well and in Brookfield's Pre-Application Document Filed in February 2018; they state that they manage their project based off of the peaking releases of the Jarvis Project. They are run in conjunction with each other.

All of the other reservoirs that the NYSCC manages, including Delta Reservoir, are managed at more of a river of flow during the summer months unless the more water is needed for the canal. The only reason Hinckley is not managed in that way is due to the production of power. The management of Hinckley can be managed in a much more respectful and balanced manner and even in more of a river of flow without disrupting the amount of

water the Mohawk Valley Water Authority (MVWA) is legally allowed to take. And the NYSCC obviously would still be allowed to take what they need for canal operations. It is FERC's policy to do what is in the best interest of the public when relicensing projects. Integrating the Jarvis Project and West Canada Creek Project would be in the best interest of the public. It would allow for a more cost effective and comprehensive process in an efficient manner.

The Great Sacandaga Lake Project (P-12252) is a perfect example of FERC doing what is in the best interest of the public by creating a basin wide settlement amongst all of the downstream entities as well as between Brookfield Power's E.J. West Project (P-2318) and the state entity, Hudson River Black River Regulating District (HRBRRD). The Great Sacandaga Lake Project process was very similar to the issues we face at Hinckley with the Jarvis Project and the West Canada Creek Project. Like Hinckley Lake, the Great Sacandaga Lake is owned by the People of the State Of New York and is under the jurisdiction of the state entity, HRBRRD to manage the Hudson River. Before the FERC settlement in 2002, the Great Sacandaga Lake was managed in a very similar way in which Hinckley Lake is currently managed in that water levels were drawn down drastically early in the summer months due to power production at its Conklingville Dam and down stream dams. Brookfield Power produces power through the E.J. West Powerhouse at the Conklingville Dam and Brookfield's predecessors wanted to re-license only the powerhouse and not include the HRBRRD and the entire Great Sacandaga Lake because they said the Great Sacandaga Lake was non-hydropower and they just used whatever the HRBRRD released from the lake. But FERC decided that it was not in the best interest of the public and made all entities and the stakeholders come up with an agreement to manage the lake and manage all projects in a way that had a healthy and equal balance. The entire FERC relicensing of the Great Sacandaga Lake Project and EJ West Project in conjunction with the entities with projects in close proximity downstream took 10 years due to many of the entities making it a difficult process. I do not believe anyone involved with Hinckley Lake and the West Canada Creek projects want this process to take any longer than it has to. Thus, with that said, it would be in the best interest for FERC to bring all of the entities, all stakeholders, including the general public together and integrate this process as much as possible so that it is cost and time effective, overall efficient, and in the best interest of the public in the end.

I appreciate your time and appreciate the fact that FERC takes into consideration the important views of the people these decisions impact most. If you have any questions or would like any further information, please contact me at anytime.

Sincerely,

Blake Bellinger
Hinckley Lake Property Owner
Citizens of Hinckley
Bla19ke@yahoo.com

Document Content(s)

NYPA Study plan comments.DOCX.....1-10